



Shire of Coorow

TOWN PLANNING SCHEME No 2

District Zoning Scheme

AMENDMENT No 5

- 1. Re-zone Lot 41 Nairn Street, Leeman from Special Use Zone - Hardware to Store to Residential R15 with an addition use of Shop & Showroom**

APRIL, 2006

INTRODUCTION

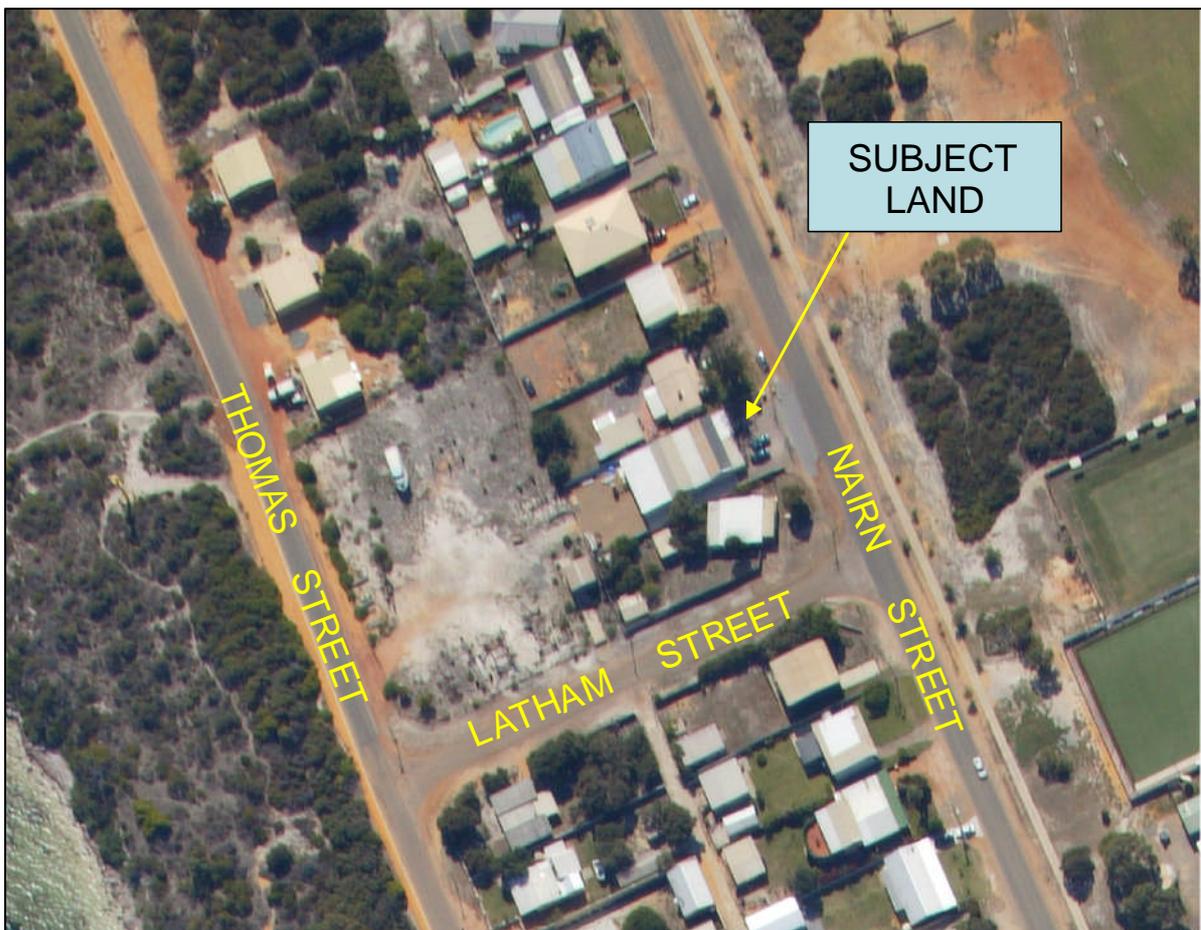
The Shire of Coorow seeks the WA Planning Commission's support and the Hon. Minister's approval to a Scheme Amendment that seeks to rezone Lot 41 Nairn Street, Leeman, from 'Special Use – Hardware Store' zone to 'Residential' zone; add an R Code of 'R15' to Lot 41 Nairn Street, Leeman, and to insert a new Additional Use to Schedule 2 to permit a shop and showroom on Lot 41 Nairn Street, Leeman, as more clearly shown on the Scheme Amendment Map.

COMMENT

The land subject to this is located within a Residential Area and faces the Council's recreation complex on the east side of Nairn Street.

The property is zoned as Special Use Site with the term 'Hardware Store' used to describe the uses to which the site may be put.

FIGURE 1 – AERIAL PHOTOGRAPH OF THE SUBJECT LAND



Source: Wings, May 2005

A special use site is one of a number of special classification types provided for in the Town Planning Scheme, these are shown in the following Scheme extracts:

4.5. ADDITIONAL USES

Despite anything contained in the Zoning Table, the land specified in Schedule 2

may be used for the specific use or uses that are listed in addition to any uses permissible in the zone in which the land is situated subject to the conditions set out in Schedule 2 with respect to that land.

Note: An additional use is a land use that is permitted on a specific portion of land in addition to the uses already permissible in that zone that applies to the land.

4.6. RESTRICTED USES

Despite anything contained in the Zoning Table, the land specified in Schedule 3 may only be used for the specific use or uses that are listed and subject to the conditions set out in Schedule 3 with respect to that land.

Note: A restricted use is the only use or uses that is permitted on a specific portion of land and other uses that would otherwise be permissible in the zone are not permitted.

4.7. SPECIAL USE ZONES

4.7.1. Special use zones are set out in Schedule 4 and are in addition to the zones in the Zoning Table.

4.7.2. A person must not use any land, or any structure or buildings on land, in a special use zone except for the purpose set out against that land in Schedule 4 and subject to compliance with any conditions set out in Schedule 4 with respect to that land.

Note: Special use zones apply to special categories of land use which do not comfortably sit within any other zone in the Scheme.

As the intent of the existing zone is to restrict the use of the land to a Hardware Store, it is not permissible to consider any use other than the one specified. This does not allow the consideration of other development without resort to a Scheme amendment in every instance.

The property owner has identified that the current restrictive zoning may not be helping in his endeavours to sell the premises.

A number of options exist in terms of rezoning the site.

OPTION 1. Do nothing -

Strategically the site use is an anomaly, and as a result if the Shire does not rezone the site now, it will likely need to rezone the site sometime in the future. As a result doing nothing is not ultimately not an option.

OPTION 2. Apply extra uses to the Special Use Zoning

The allowed uses could be expanded to include uses such as caretakers dwelling, expanded options for commercial use etc. This sort of action would not remove the fundamental problem with it having a restrictive zoning.

OPTION 3. Rezone the land to Residential

The existing shop use would then become a non-conforming use and the following Town Planning Scheme Provisions would apply;

4.8. NON-CONFORMING USES

Except as otherwise provided in the Scheme, no provision of the Scheme is to be taken to prevent —

- (a) the continued use of any land for the purpose for which it was being lawfully used immediately prior to the Gazettal date;
- (b) the carrying out of any development on that land for which, immediately prior to the Gazettal date, an approval or approvals, lawfully required to authorize the development to be carried out, were duly obtained and are current; or
- (c) subject to clause 11.2.1, the continued display of advertisements which were lawfully erected, placed or displayed prior to the Gazettal date.

Note: "Land" has the same meaning as in the Town Planning Act and includes houses, buildings and other works and structures.

4.9. EXTENSIONS AND CHANGES TO A NON-CONFORMING USE

4.9.1. A person must not —

- (a) alter or extend a non-conforming use;
- (b) erect, alter or extend a building used in conjunction with or in furtherance of a non-conforming use; or
- (c) change the use of land from a non-conforming use to another non-conforming use,

without first having applied for and obtained planning approval under the Scheme.

4.9.2. An application for planning approval under this clause is to be advertised in accordance with clause 9.4.

4.9.3. Where an application is for a change of use from an existing non-conforming use to another non-conforming use, the local government is not to grant its planning approval unless the proposed use is less detrimental to the amenity of the locality than the existing non-conforming use and is, in the opinion of the local government, closer to the intended purpose of the zone.

4.10. DISCONTINUANCE OF NON-CONFORMING USE

Where a non-conforming use of any land has been discontinued for a period of 6 months the land must not be used after that period otherwise than in conformity with the provisions of the Scheme.

4.11. TERMINATION OF A NON-CONFORMING USE

The local government may effect the discontinuance of a non-conforming use by the purchase of the land, or by the payment of compensation to the owner or occupier or to both the owner and occupier of that land, and may enter into an agreement with the owner for that purpose.

Note: Section 13 of the Town Planning Act enables the local government to purchase, or, with the consent of the Governor, compulsorily acquire land for the purpose of a town planning scheme, subject to Part 9 of the Land Administration Act 1997, that section and the Scheme.

4.12. DESTRUCTION OF NON-CONFORMING USE BUILDINGS

If a building used for a non-conforming use is destroyed to 75% or more of its value, the building is not to be repaired, rebuilt, altered or added to for the purpose of being used for a non-conforming use or in a manner not permitted by the Scheme, except with the planning approval of the local government.

Basically it would allow more flexibility on the site use, and would allow residential development on the site.

It must be said however that the rezoning would most likely lead to the site becoming residential in the long term, particularly if sewerage is ever extended into the locality. Until that time the site could only be used for a single residence anyway.

However, as a non-conforming use there will remain some commercial uncertainty about the ability to develop or change business on the site.

OPTION 4. Rezone the site to Residential and apply an Additional Use to the property.

Such additional use need not specifically be hardware store. It could be framed in such a way to allow a range of potential uses to avoid having to enact a scheme amendment for every change of use if the use of the premises were to evolve over time.

For example the additional use could be “Shop and Showroom”. The TPS defines these uses as follows:

“Shop” means a premises used to sell goods by retail, hire goods, or provide services of a personal nature (including a hairdresser or beauty therapist) but does not include a showroom or fast food outlet)

“Showroom” means premises used to display, sell by wholesale or retail, or hire, automotive parts and accessories, camping equipment, electrical light fittings, equestrian supplies, floor coverings, furnishings, furniture, household appliances, party supplies, swimming pools or goods of a bulky nature;

Conditions can also be applied to an Additional Use with the aim of keeping the use acceptable within the locality. Conditions suggest in this instance are as follows;

- Hours of opening are to be in the range of 8.00am to 5.00pm. (*Currently the business is open seven days on occasion*).
- Premises is not to be used for the sale of food, unless it is only incidental to the predominant use on the site.
- The premises is not to employ the use of noisy machinery, except to the extent that might be expected of a handyman in a residential area.
- Business is to be operated in a manner that remains cognisant of the fact that it is located in a residential zone, and not do anything that might downgrade the amenity of the area.
- The business is not to undertake any activity that might require a Dangerous Goods

Licence unless the planning approval of Council has first been obtained.

- Any change of use of the premises is to require the planning approval of Council. The Council will refuse any change of use where such new use is likely to be more damaging to the amenity of the residential area than the previous use.

The council has determined that **Option 4** is the more appropriate option.

Applying an additional use to the site will allow greater commercial certainty than all the previous options. It will present better chances for the use of the site to evolve over time without necessarily requiring a scheme amendment in every instance.

The conditions to be applied to the additional use will however ensure that the commercial activity remains acceptable in the residential zone.

THE AMENDMENT

PLANNING & DEVELOPMENT ACT 2005 (AS AMENDED)

RESOLUTION DECIDING TO AMEND A PLANNING SCHEME

Shire of Coorow

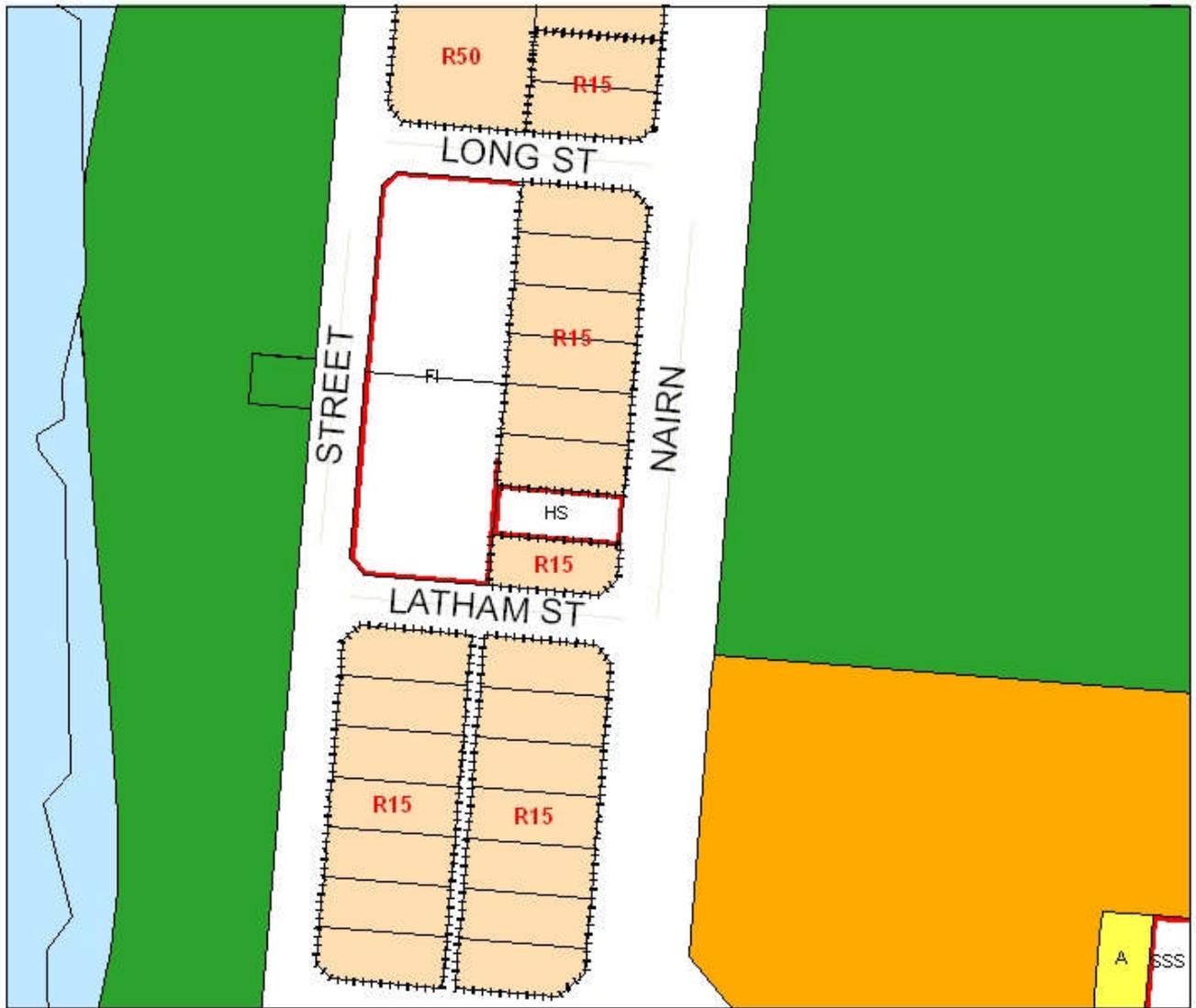
TOWN PLANNING SCHEME No. 2

AMENDMENT NO. 5

RESOLVED that the Council, in pursuance of Part 5 of the Planning and Development Act 2005 (as amended), amend the Shire of Coorow Town Planning Scheme No 2 by:

- a) rezoning Lot 41 Nairn Street, Leeman, from 'Special Use – Hardware Store' zone to 'Residential' zone,
- b) Adding an R Code of 'R15' to Lot 41 Nairn Street, Leeman, and
- c) Adding a new additional Use to Schedule 2 by inserting the following;

	No	Description of Land	Additional Use	Conditions
A4	4	Lot 41 Nairn Street, Leeman	Shop Showroom	<ul style="list-style-type: none">• Hours of operation of the business are to be between the hours 8.00am to 5.00pm.• The premises are not to be used for the sale of food, unless it is only incidental to the predominant use on the site.• The premises are not to employ the use of noisy machinery, except to the extent that might be expected of a handyman in a residential area.• Business is to be operated in a manner that remains cognisant of the fact that it is located in a residential zone, and not do anything that might downgrade the amenity of the area.• The business is not to undertake any activity that might require a Dangerous Goods Licence unless the planning approval of Council has first been obtained.• Any change of use of the premises is to require the planning approval of Council. The Council will refuse any change of use where such new use is likely to be more damaging to the amenity of the residential area than the previous use.



Shire of Coorow

TOWN PLANNING SCHEME No 2 AMENDMENT No 5



Legend

ZONES

- Residential
- Commercial
- Place of Public Assembly
- Industrial
- Tourist Accommodation
- Rural
- Rural Residential
- Special Use

- SS Service Station
- F&TD Fuel & Transport Depot
- MR Machinery Repairs
- R Associated with Fishing Industry
- HS Hardware Store
- CP Civic Purposes
- SSS Service Station & Shop
- ESC Emergency Service Centre
- GR&AP Grain Receiptal & Associated Purposes
- FI Fishing Industry

LOCAL SCHEME RESERVES

- Private Clubs & Institutions
- Parks and Recreation
- Nature Reserves/National Parks
- Major Road
- Railway
- Ocean
- Public Purposes

- USB Use & Benefit of Aborigines
- G Gravel
- MRD Quarry (MRD)
- GR Government Requirements
- Q Quarry
- S School Site
- P Police Station
- H Hall Site
- CO Council Office
- HP Harbour Purposes
- NB Navigation Beacon
- WS Water Supply
- R&SD Rubbish & Sanitary Disposal

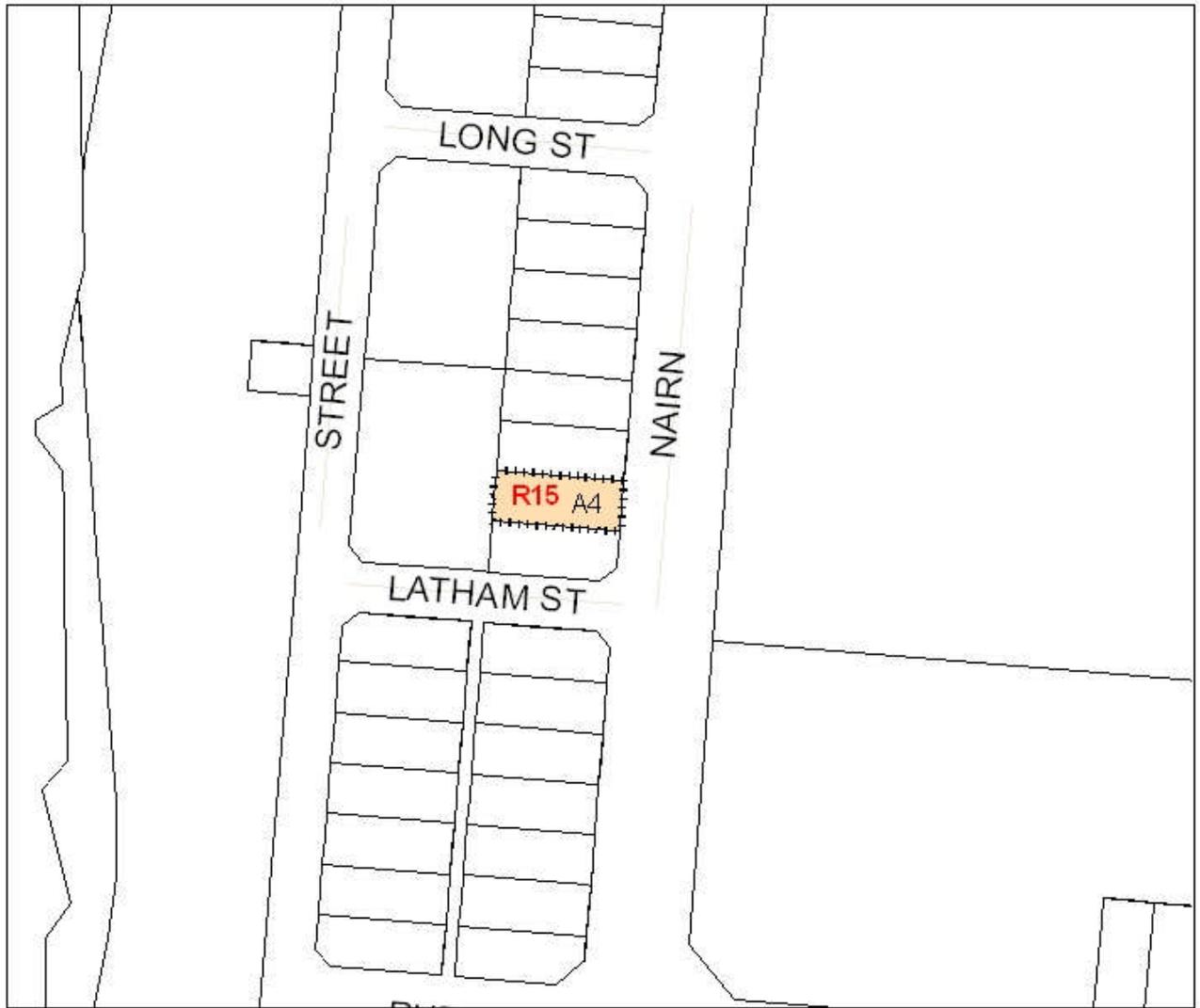


OTHER

- R15 R Code

- SPS Sewerage Wastewater Treatment Site
- EX Country Automatic Exchange
- A Ambulance Sub Centre/Drain
- SPS Sewerage Pumping Station
- D Drain
- LG Landing Ground
- T Travellers
- CW Camping & Water
- TS Trig Station
- RC Public Recreation and Camping
- S School
- U Utility

EXISTING ZONING MAP



Shire of Coorow

TOWN PLANNING SCHEME No 2
AMENDMENT No 5



Scale 1: 2,500



Legend

ZONES

 Residential

OTHER

 R Code

A4 Additional Use No 4

SCHEME AMENDMENT MAP

~~Dated this 14th day of December, 2005~~ Dated this 12th Day of April 2006

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G A Sherry Date
Chief Executive Officer

PLANNING & DEVELOPMENT ACT 2005

SHIRE OF COOROW

TOWN PLANNING SCHEME No. 2

AMENDMENT NO. 5

The Shire of Coorow under and by virtue of the powers conferred upon it in that behalf by the Planning and Development Act 2005 hereby amends the above local planning scheme by:

1. Rezoning Lot 41 Nairn Street, Leeman, from 'Special Use – Hardware Store' zone to 'Residential' zone.
2. Adding an R Code of 'R15' to Lot 41 Nairn Street, Leeman, and
3. Adding a new Additional Use to Schedule 2 by inserting the following;

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Shire of Coorow

TOWN PLANNING SCHEME No 2 AMENDMENT No 5



Legend

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- HS Hardware Store
- CP Civic Purposes
- SSS Service Station & Shop
- ESC Emergency Service Centre
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LOCAL SCHEME RESERVES

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- Parks and Recreation
- Nature Reserves/National Parks
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- Ocean
- Public Purposes

- USB Use & Benefit of Aborigines
- G Gravel
- MRD Quarry (MRD)
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- Q Quarry
- S School Site
- P Police Station
- H Hall Site
- CO Council Office
- HP Harbour Purposes
- NB Navigation Beacon
- WS Water Supply
- R&SD Rubbish & Sanitary Disposal

OTHER

- R15 R Code

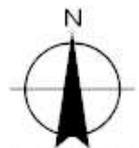
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- D Drain
- LG Landing Ground
- T Travellers
- CWV Camping & Water
- TS Trig Station
- RC Public Recreation and Camping
- S School
- U Utility

EXISTING ZONING MAP



Shire of Coorow

TOWN PLANNING SCHEME No 2
AMENDMENT No 5



Scale 1: 2,500



Legend

ZONES

 Residential

OTHER

 R Code

A4 Additional Use No 4

SCHEME AMENDMENT MAP

PLANNING & DEVELOPMENT ACT 2005 (AS AMENDED)

SHIRE OF COOROW

TOWN PLANNING SCHEME No.2

AMENDMENT NO 5

Adopted by resolution of the Council of the Shire of Coorow at the meeting of the Council held on the 12th day of April, 2006

M. J. GIRANDO
SHIRE PRESIDENT

DATE

G SHERRY
EXECUTIVE OFFICER

DATE

FINAL APPROVAL

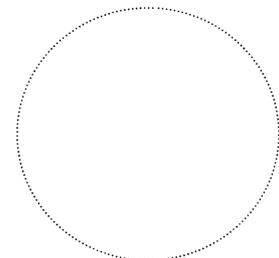
Adopted for final approval by resolution of the Shire of Coorow at the meeting of the Council held on the day of 20 , and the Seal of the Municipality was pursuant to that resolution herewith affixed in the presence of

M. J. GIRANDO
SHIRE PRESIDENT

DATE

G. SHERRY
CHIEF EXECUTIVE OFFICER

DATE



Recommended/Submitted for Final Approval by the Western Australian Planning Commission

CHAIRMAN
WA PLANNING COMMISSION

DATE

Final Approval granted

MINISTER FOR PLANNING AND INFRASTRUCTURE

DATE