RESOLVED That Council in pursuance of Part 5 of the Planning and Development Act 2005 (as amended) amend the above Local Planning Scheme by:

1. Inserting a new clause 5.56.6.5 to enable R60 development to occur without the need for a commercial element for Commercial zoned land along Collins Street between Reserve and Station Streets.
2. Amend clause 5.54.8.1 to change the side and rear setback requirements to a uniform 20m standard.
3. Amend SU1 in Schedule 5 Special Use Zone by inserting additional conditions to control development such as defining maximum number of dwellings and specifying minimum development standards and controls that will apply.
4. Amending clause 5.52.3.1 to remove potential to create lots below 1ha within established Rural Residential areas.
5. Amending Schedule 12 by inserting "moveable signs" with associated criteria and maximum sizes.
6. Amending clause 5.44.2 (iii) by deleting the words "6.9" and replacing with "6.11".
7. Inserting a new clause 5.23.3 to add floor area limits and wall heights for outbuildings for residential zoned land.

Dated this.................................. day of.................................. 2015

______________________________
CHIEF EXECUTIVE OFFICER
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SCHEME AMENDMENT REPORT

1.0 INTRODUCTION AND BACKGROUND

Local Planning Scheme No.7 (LPS7) was gazetted 19th September 2014.

Since this time, in administering LPS7, a number of issues have come to light and a number of changes are required to assist in achieving good planning outcomes.

The proposed changes relate to text changes and are summarised as:

1. Inserting a new clause 5.56.6.5 to enable R60 development to occur without the need for a commercial element for Commercial zoned land along Collins Street between Reserve and Station Streets.
2. Amend clause 5.54.8.1 to change the side and rear setback requirements to a uniform 20m standard.
3. Amend SU1 in Schedule 5 Special Use Zone by inserting additional conditions to control development such as defining maximum number of dwellings and specifying minimum development standards and controls that will apply.
4. Amending clause 5.52.3.1 to remove potential to create lots below 1ha within established Rural Residential areas.
5. Amending schedule 12 by inserting “moveable signs” with criteria;
6. Amending clause 5.44.2 (iii) to include the correct cross reference;
7. Inserting a new clause 5.23.3 to add specific limits to outbuilding floor areas and wall heights within the Residential zone.
2.0 PLANNING CONTEXT AND JUSTIFICATION

The following section introduces the proposed elements of this amendment and provides planning justification and context.

2.3 Retaining streetscape character on Collins Street between Reserve and Station Streets.

The Commercial zoned land along Collins Street between Station and Reserve Streets contain a number of character homes (see Figure 1 – location plan and photos). These homes provide a unique sense of place. These qualities have been acknowledged by Council when it adopted a Local Development Plan for this area.

To assist in creating incentives to retain and enhance this streetscape, it is proposed to nuance the existing provisions.

Clause 5.56.6.1 provides residential density incentives for creating mixed developments. It allows for residential development densities of R60 if there is a non-residential component.

To assist in retaining these existing character homes, it is proposed to enable the R60 code to apply, without the need for a non-residential use.

This arrangement will ensure that the owners are not disadvantaged by retaining their dwellings which provide a public benefit.

2.4 Unifying requirements between side and rear setbacks for “Agricultural” zoned land

LPS7 differentiates setback requirements between side and rear boundaries for “Agricultural” zoned land. A 30m setback applies to a rear boundary while a 10m setback applies to a side boundary.

There is no practical reason or explanation to justify this difference.

A review of other local planning scheme’s in the South West Region shows that most apply a uniform 20m setback.

This approach is considered appropriate and will remove the need for Council to enforce a requirement that is not backed with a properly articulated logic.

2.3 Increasing planning controls for Special Use 1.

SU1 applies to Lots 8123, 8124 and 8125 Astrip Road, Balingup. The site is located to the west of the Balingup Townsite on Local Planning Scheme Map No.3. The site reflects a historical situation and contains a community that was established to promote an alternative lifestyle model. Figure 2 shows the location and character of the site.
The site contains a number of dwellings (approximately 14) as well as an assortment of supporting outbuildings/community facilities.

At some time in the past, there was an agreement to limit development to a maximum of 16 houses. This agreement has not been sighted or located for some considerable time.

As far back as 1995, the agreement was not able to be found. At that time, Council decided it could not be relied on when giving planning advice for a proposed 15th dwelling.

There are a number of concerns regarding servicing and safety issues with the community that should be addressed.

In particular, Airstrip Road runs through the middle of the property and connects the community to the wider locality. This section of road consists of a narrow, winding gravel track with limited ability to accommodate two way traffic or providing turning space.

The site abuts and contains areas of heavy vegetation. There is no fire management plan or co-ordinated measures in place to control or manage fire risk.

Historically, the development has occurred in an organic way. This reflected the mindset of the founding community members. However, there was no overall spatial vision. This has resulted in the location of dwellings in an ad-hoc manner, serviced by a webbed tangle of driveways and cross overs.

It is proposed to add controls to guide and ensure that any new development will be appropriately located and serviced. This is intended to limit potential for ad-hoc expansion and increased and unplanned demands for services outside existing town-sites.

The proposed provisions are to:

- Limit number of dwellings (maximum 15 dwellings);
- Require future development to be generally be in accordance with an approved Structure Plan;
- Ensure suitable water supply and effluent disposal; and
- Require preparation and implementation of a fire management plan.

2.4 Removing potential to create Rural Residential infill lots below 1ha.

This proposal is linked to a recent structure plan modification request that sought to create 4 lots of 5000m². LPS7 provided opportunity for Council to support this form of subdivision - in limited circumstances. This proposal created a strong level of community resentment and Council formed the opinion that there that infill subdivision that creates lots below 1ha was not appropriate within established Rural Residential areas.
The proposal brought into light the practical implications of what the LPS7 enables and the consequences of this form of development. The result was that it views the creation of lots below 1ha as being unpalatable on the grounds that it has significant adverse consequences for local character and amenity. The resulting development is considered to represent such a departure in density from the established areas that it would fundamentally change and erode the existing characters and values. In short, it will create a form of development that takes away the reasons why existing landowners moved to the area in the first place.

It is proposed to delete and replace clause 5.52.3.1 (iv) as follows:

"notwithstanding clause 5.52.3.1 (iii), a reduced lot size below 1 hectare, may be considered if it is a minor departure, no greater than 10% and is necessary to reflect existing natural features or enable desirable features of the site to be retained within established Rural Residential areas. Lots no less than 5,000m² may be considered for Rural Residential zoned land outside existing developed areas where:

(a) The requirements of clauses 5.52.3.1 (i) and (ii) are satisfied to the satisfaction of the local government and the Commission pertaining to the reduced lot size;
(b) The topography, landscape or road alignments, provide settings that will create attractive higher density nodes that do not materially erode the established and immediate surrounding character of the locality or increase the visibility of higher density built form on the streetscape;
(c) Supported by landscaping and building envelop plans that provide a clear direction on how additional built form will be screened and sensitively located to mitigate impacts of built form intrusion on the natural setting;
(d) Supported by land capability assessments to confirm suitability to accommodate on-site effluent disposal."

The intent of this change is to:

- Provide some flexibility in lot design to ensure that subdivision design responses reflect on-ground realities and good planning outcomes as opposed to satisfying artificially imposed rules about absolute minimum lot sizes;
- Enable infill subdivision to occur to improve land use and service provision efficiencies and not remove existing landowner rights and opportunities;
- Allow new greenfield or future Rural Residential sites to be developed at a higher density. This acknowledges that these sites will not have the same degree of impact on existing and established landowners, their aspirations and lifestyle choices. This provides opportunity to create new areas that can include a more diverse range of approaches that can lead to better and more efficient land use and subdivision outcomes.
2.5 Exempting the need to obtain planning approval for moveable signs

Moveable signs are a temporary low cost item used by many businesses to promote their activities and services. The need to obtain a planning approval, which often costs as much as the sign itself; cannot be considered reasonable. Other mechanisms are available such as the Shire’s Local Planning Policy on Signage control.

The proposal is to remove the need to obtain planning approval for a single moveable sign by adding to “Schedule 12 – Exempted Signs”.

It is proposed to ensure a suitable level of control by adding criteria in which the exemption applies. These criteria include:
- a) Limits (one sign per business only);
- b) Satisfying location criteria contained in the Shire’s Local Planning Policy; and
- c) Ensuring the sign is constructed and designed to a suitable standard.

2.6 Correcting a clause cross reference

Clause 5.44.2 (iii) includes an incorrect cross reference. It is proposed to amend the text to ensure that the cross referencing clause is correct.

2.7 Adding controls for outbuildings within the Residential zone

The Shire has a policy that provides some control and guidance on the assessment of outbuildings. There is currently an increase in requests for Council to vary the policy which is making it difficult to fairly and consistently apply the objectives or defend decisions.

Outbuildings can play a significant role in streetscape presentation and local amenity. Larger sheds have the potential to dominate the landscape and erode residential aesthetics and character.

It is proposed to include definitive limits on shed sizes to protect residential character and amenity and provide a level of certainty for landowners and decision makers.

The proposed clause seeks to set defined limits to wall height and floor areas.
3.0 CONCLUSION

The proposed amendments are minor in nature and will enable the Shire to better ensure orderly and proper planning outcomes.
Figure 1 – Character Houses along Collins Street

Location Plan

Examples of character houses
Figure 2 – SU1 Site

Aerial Map

Extract from Scheme Map
Photo's of buildings along Airstrip Road
PLANNING & DEVELOPMENT ACT 2005 (AS AMENDED)

SHIRE OF DONNYBROOK-BALINGUP
LOCAL PLANNING SCHEME NO. 7
AMENDMENT NO. 4

The Donnybrook-Balingup Shire Council under and by virtue of the powers conferred upon it in that behalf by the Planning and Development Act 2005 (as amended) hereby amends the above Town Planning Scheme by:

1. Inserting a new clause 5.56.6.5 as follows:

   "5.56.6.5 Notwithstanding clauses 5.56.6.1 and 5.56.6.3, for lots on Collins Street between Station Street and Reserve Street, Council will consider residential development in accordance with the R60 where the existing facades and character of the existing dwelling is to be retained, without the need to contain a commercial component to the development."

2. Amend clause 5.54.8.(ii) and (iii) by replacing the words "10" and "30" and replacing with "20".

3. Amend SU1 of Schedule 5 Special Use Zone by deleting the words "As determined by the local government" and replacing with:

   "1. A maximum of 15 dwellings;
   2. Development of the land shall generally be in accordance with an approved Structure Plan.
   3. The development is to be supplied with an adequate potable water supply sufficient to support the development continuously without failure to the satisfaction of the local government.
   4. Disposal of on-site effluent is to be provided to the requirements and satisfaction of the local government and the Department of Health prior to occupation.
   5. The landowner(s) to prepare and implement a fire management plan to the satisfaction of the Fire and Emergency Services authority of Western Australia. Details to be submitted to an approved by the local government prior to the issued of a planning consent for any development."

4. Deleting clause 5.52.3.1(iv) and replacing with:

   "notwithstanding clause 5.52.3.1 (iii), a reduced lot size below 1 hectare, may be considered if it is a minor departure, no greater than 10% and is
necessary to reflect existing natural features or enable desirable features of the site to be retained within established Rural Residential areas. Lots no less than 5,000m² may be considered for Rural Residential zoned land outside existing developed areas where:

(a) The requirements of clauses 5.52.3.1 (i) and (ii) are addressed to the satisfaction of the local government and the Commission pertaining to the reduced lot size;
(b) The topography, landscape or road alignments, provide settings that will create attractive higher density nodes that do not material erode the established and immediate surrounding character of the locality or increase the visibility of higher density built form on the streetscape;
(c) Supported by landscaping and building envelop plans that provide a clear direction on how additional built form will be screened and sensitively located to mitigate impacts of built form intrusion on the natural setting;
(d) Supported by land capability assessments to confirm suitability to accommodate on-site effluent disposal."

5. Amending Schedule 12 by inserting the following:

| Moveable signs | (i) Limited to one sign; (ii) Complies with Council Policy; and (iii) Constructed and designed to a professional standard. | 1.5m² |

6. Amending clause 5.44.2 (iii) by deleting the words "6.9" and replacing with "6.11"

7. Inserting a new clause 5.23.3 as follows:

"5.23.3 The development of outbuildings in the Residential zone shall conform to the following standards:

<table>
<thead>
<tr>
<th>Lot Size</th>
<th>Maximum Outbuilding Area (m²)</th>
<th>Maximum Wall Height (m)</th>
</tr>
</thead>
<tbody>
<tr>
<td>• less than 1200m²</td>
<td>70</td>
<td>3.5</td>
</tr>
<tr>
<td>• greater than 1200m² and less than 2000m²</td>
<td>90</td>
<td></td>
</tr>
<tr>
<td>• greater than 2000m²</td>
<td>108</td>
<td></td>
</tr>
</tbody>
</table>
EVIDENCE OF ADOPTION
13 (1)

Adopted by resolution of the Council of the Shire of Donnybrook-Balingup at the ordinary meeting of the Council held on the __________ day of ___________________.

SEAL

______________________________
SHIRE PRESIDENT

______________________________
CHIEF EXECUTIVE OFFICER

FINAL APPROVAL REGULATION
21 (2), 22 (1) & (2)

Adopted for final approval by resolution of the Shire of Donnybrook-Balingup at the ordinary meeting held on the __________ day of __________ 201__ and the Seal of the Municipality was pursuant to that resolution hereunto affixed in the presence of:

SEAL

______________________________
SHIRE PRESIDENT

______________________________
CHIEF EXECUTIVE OFFICER

RECOMMENDED/SUBMITTED FOR
FINAL APPROVAL

______________________________
for CHAIRPERSON OF THE WESTERN AUSTRALIAN PLANNING COMMISSION

Date ______________________

FINAL APPROVAL GRANTED

______________________________
DELEGATED UNDER S16 OF PLANNING AND DEVELOPMENT ACT 2005

Date ______________________

______________________________
MINISTER FOR PLANNING

Date ______________________