

Rise Urban.



Lot 8021 (27) Waterville Road, Neergabby

Additional Use Scheme Amendment - Light Industry

Vintian Construction Pty Ltd

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Lot 8021 (27) Waterville Road, Neergabby

Proposed Amendment to Shire of Gingin Local Planning Scheme No. 9

Additional Use for Light Industry – Assembly of Transportable Buildings

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Planning and Development Act 2005

FORM 2A

RESOLUTION TO ADOPT AMENDMENT TO LOCAL PLANNING SCHEME

Shire of Gingin Local Planning Scheme No. 9
Amendment No. 24

Resolved that the local government pursuant to section 75 of the *Planning and Development Act 2005*, support Amendment 24 to the above Local Planning Scheme to:

Include an 'A28' notation over the relevant part of Lot 8021 Waterville Road, Neergabby and introduce into 'Schedule 2 – Additional Uses' the following:

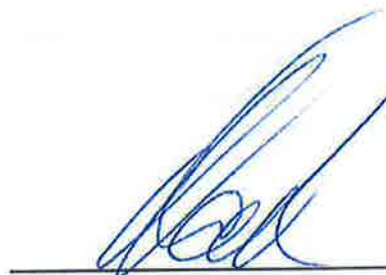
No.	Description of lands	Additional Use	Conditions
28	Part of Lot 8021 Waterville Road, Neergabby	Industry – Light	<ol style="list-style-type: none">1. Development is not permitted unless the local government has exercised its discretion by granting development approval.2. Development approval is to be time limited to an initial period of 10 years. Further time extensions are not to exceed 5 years and will be subject to an assessment of the development against the planning framework as it applies at that time.3. The development is to remain as a secondary use to the primary agricultural use of the land at all times.4. The development is restricted to the assembly of modular/transportable buildings, associated structures and any incidental operations to the satisfaction of the local government.5. The development area is to be located in one contiguous area within the lot that meets the following criteria:<ol style="list-style-type: none">a. partially located on land that is not required for the primary agricultural use of the lot;b. does not conflict with any area of consolidated remnant native vegetation or habitat of the Carnaby black cockatoo;c. is not visible from any adjoining lot or public road; and

			<p>d. is set back a minimum of 500m from any lot boundary.</p> <p>6. The development area is limited to a maximum area of 3 hectares.</p> <p>7. Access and egress for the development is limited to Waterville Road.</p> <p>8. The presence of the development is not grounds to progress subdivision of the land.</p>
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The Amendment is standard under the provisions of the *Planning and Development (Local Planning Schemes) Regulations 2015* for the following reason(s):

1. The proposal will have a minimal impact on land in the Scheme area that is not the subject of the amendment, and may not result in any significant environmental, social, economic or governance impacts on land in the Scheme area.

Dated this 29 day of 11 2023



(Chief Executive Officer)

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2. Attachment 2 – Proposed Scheme Map (Rise Urban, 2023)

1. Purpose

The purpose of this amendment is to create an Additional Use over part of Lot 8021 (27) Waterville Road, Neergabby ("the subject land") such that hardstand can be constructed on a small area of the subject land for the specific purpose of assembling transportable buildings for use off site.

2. Background

The following sections set out the background to this proposal, including the context / objectives of the amendment and the current site context.

2.1 About Vintian Construction

Vintian Construction is a new construction company partially owned by Enzo Scarvaci, a registered builder of 16 years. Enzo is the son of Giuseppe Scarvaci, the owner of the subject land.

Vintian Construction has recently been incorporated with the intent to construct transportable buildings. Initially, the business intends to construct transportable accommodation for use by the mining industry but intends to grow over time and construct transportable buildings for other purposes and industries including rural and agri-industries. Vintian intends to assemble and sell the buildings on a to-order basis and expects most of the buildings that it assembles to form part of orders for multiple buildings.

Given the business has been recently incorporated, it is unable at this early stage to justify purchasing or leasing a large site in an industrial area, given the likelihood that the business will generate irregular income during its early operational period. To overcome this obstacle, Enzo and Giuseppe have agreed that Vintian Construction may lease a small part of Lot 8021.

Should the business grow beyond the capacity of the subject land in the future, Vintian Construction may relocate to a purpose-built facility in a well-located industrial area if the company's finances and turnover allow.

2.2 About the Grazing Operation

The subject land is owned by Giuseppe Scarvaci and Carolina Nobile. Giuseppe has grazed cattle on the land since the Scarvaci family first purchased the property in the 1970's – for approximately 45 years.

As of late the family has found it increasingly difficult to graze the land in a financially viable way due to increased costs, a reduction in annual rainfall, and other external market factors. In addition a significant amount of fencing around the property is failing and the grazing operation does not generate enough income to cover the costs of replacing and upgrading the fencing.

Increasing the intensity of the grazing operation is not an option given the land is not suitable for a water licence, it is unlikely that approval would be issued to clear any areas of remnant vegetation, and the landowners are not as physically capable as they once were.

Given Enzo's skill and experience as a registered builder, there is an opportunity for Vintian Construction to lease a small part of the subject land to undertake its operations. The rent paid by Vintian Construction will provide the Scarvaci family with the financial stability necessary to

continue grazing the land, including well overdue upgrades to fencing and farm machinery. Without this proposed Additional Use, the Scarvaci family would no longer be able to afford to continue to graze the land and it would likely become a disused retirement property. The land holds strong sentimental value to the Scarvaci family, and so selling or subdividing is not an option.

2.3 Site Description

Lot 8021 Waterville Road, Neergabby is a 635ha parcel of land located approximately 2km north of Gingin Brook Road and immediately adjacent to the west of Cowalla Road in Neergabby. A site context plan is shown at Figure 1 below.



Figure 1 – Site Context Plan – 27 Waterville Road, Neergabby (source: MNG Access, 2023)

The land forms part of a broader north-south ridge east of Moore River that travels from a point east of Lancelin to Gingin Brook. The elevation on the subject land ranges from 25-35m Australian Height Datum (AHD) along the west boundary at Telephone Road, rising to 105m AHD at the homestead and falling to 70-80m AHD along the east boundary at Cowalla Road.

The north-eastern third of the landholding (approximately 210ha) is cleared farmland with sparse paddock trees. The remainder of the subject land (approximately corresponding with the western and southern halves) is remnant and degraded native vegetation. A rectangular fenced 2ha area in the central east part of the lot contains the homestead and associated outbuildings, storage areas and gardens. The homestead and associated outbuildings and gardens occupy approximately 6,000m² of the 2ha homestead area, with the remainder (to the west, east and south of the homestead) disused.

The soils in the part of the lot used as farmland are mapped as Spearwood phase 2 or 3, comprising yellowish brown weak clayey sand with some areas of limestone. The Scarvaci family has advised that the majority of the soil on the subject land is sandier than this mapping suggests, and comprises yellow sand in some places. Approximately half of the farmland is mapped by the Department of Primary Industries and Regional Development (DPIRD) as being located in an area where over 70% of the land has low to very low capability for grazing, and the other half of the farmland is mapped as being located in an area where over 70% of the land has moderate to very high capability for grazing.

The DPIRD mapping showing the subject land is provided at Figure 2 below. The area where over 70% of land has low capability for grazing is coloured purple, and the area where over 70% of the land has moderate to very high capability for grazing is coloured yellow.

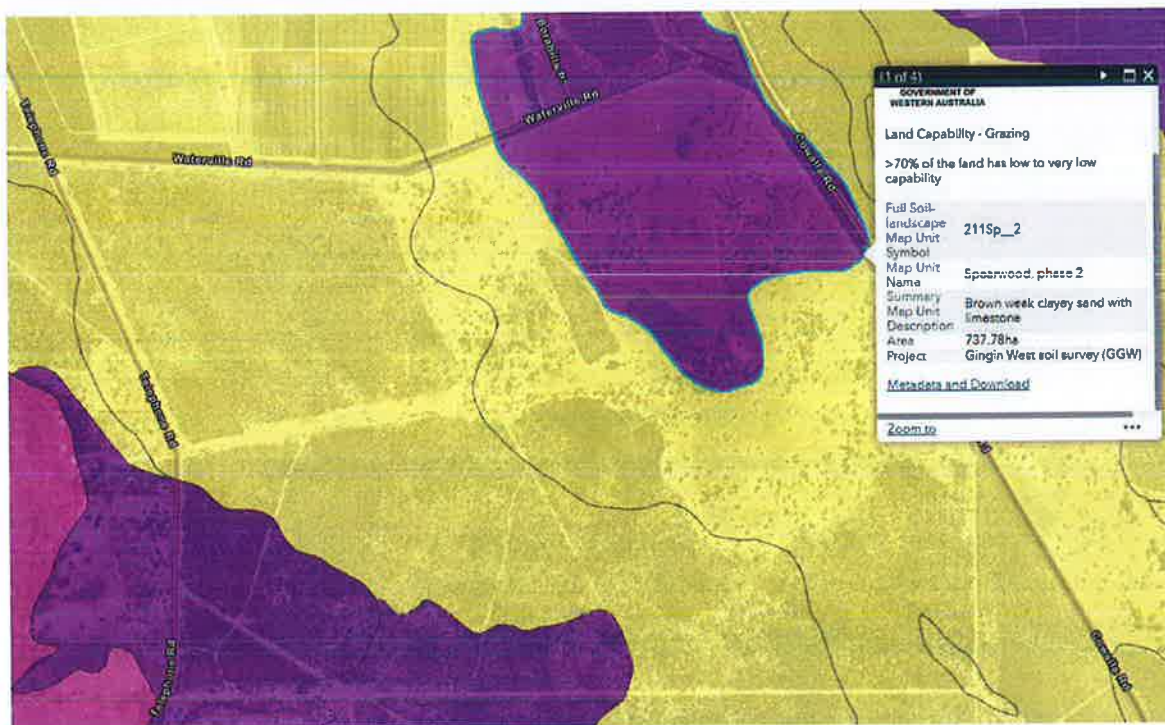


Figure 2 – Grazing Land Capability Map (Department of Primary Industries and Regional Development, 2023)

The base dataset for this rating includes the following qualification: "Capability ratings do not take into account factors such as the availability and quality of water supplies for irrigation or climatic risks such as frost or heat stress." This means that the dataset does not take into account that this lot does not have a water licence. In addition, the experience of the Scarvaci family is that water has become increasingly scarce on the subject land over the last few years and as described above, the soil conditions are sandier than the mapping suggests.

It is due to this combination of factors that the Scarvaci family is now finding it difficult to graze the land in a financially viable way.

3. The Proposal

The purpose of this amendment is to put in place the statutory planning framework required to enable transportable buildings to be assembled on hardstand in this area.

The proposed assembly area is intended to be primarily located in the disused area to the east of the homestead. Currently, Vintian Construction is intending to propose the following:

- Approximately 1ha of hardstand in and/or adjacent to the homestead area;
- No new buildings or structures except for a transportable staff room, office and ablutions to be assembled on site by Vintian Construction;
- Use of an existing disused roofed shed (340m²);
- Upgrade and use of the existing driveway connecting to Waterville Road;
- Assembly of an average of 180 buildings per year;
- Approximately 20 employees and contractors on site at any given time, with people living locally to be sought as employees or contractors as a priority; and
- 1-2 truck movements in and out of the site per week are anticipated in the first year, with potential to grow to approximately four afterwards. The largest truck anticipated to access the site is a semi-trailer.

Assembly of the buildings will require use of a forklift and water cart, with all other machinery to be of a smaller scale (eg. handheld). It is anticipated that each transportable building will take approximately 1 month to build, with approximately 10-20 buildings to be under construction at any given time.

The above details are indicative forecasts given the proposal is currently at a preliminary stage. The site area/location and operational details will be finalised for inclusion in the development application.

Although the exact boundaries and size of the assembly area are yet to be finalised, the preliminary site concept plans at Attachment 1 show the likely initial extent of the assembly area as well as the access driveway. Once constructed, it is intended that the transportable staff room, office and ablution blocks will be positioned on the hardstand and any required car bays and circulation areas will be marked on the hardstand.

As this area is currently disused and is located on the part of the site that is mapped as having a low to very low capability for grazing, it is well suited for use by Vintian Construction to ensure no loss of productive farmland.

As Vintian Construction intends to employ and contract local workers as much as possible, this proposal will not generate a need for workforce accommodation. It is intended that employees will commute to the site via private vehicle. No form of subdivision is intended or required to facilitate use of the land by Vintian Construction.

4. The Proposed Amendment to LPS3

This amendment proposes the following two modifications to LPS 9:

- i. Insert Additional Use No. 28 in Schedule 2 – *Additional Uses* as shown below.

Schedule 2 – Additional Uses

No.	Description of land	Additional use	Conditions
28	Lot 8021 Waterville Road, Neergabby	Industry – Light	<ol style="list-style-type: none"> 1. A development application is required. Any development approval issued pursuant to this Additional Use is to be time limited to a maximum of 10 years from the date of the approval. A time extension of no more than 5 years may be sought prior to the expiry of any approval, subject to the applicant demonstrating to the satisfaction of the Shire that any approved 'Industry – Light' use continues to meet all other Conditions associated with the Additional Use. 2. The Additional Use may only operate while the primary use of the land is for agricultural purposes, and is to remain a secondary use of the land at all times. 3. The processes undertaken as part of the Additional Use are restricted to assembly of structures and equipment, and incidental operations. Fabrication and any equivalent processes listed in the 'industry' definition in this Scheme are not permitted to be carried out pursuant to this Additional Use. 4. The Additional Use is to be located in one contiguous area within the lot that meets the following criteria: <ul style="list-style-type: none"> • at least partially located on land that is not required for the primary agricultural use of the lot; • does not conflict with any area of consolidated remnant native vegetation; • is not visible from any adjoining lot or public road; and • is set back a minimum of 500m from any lot boundary. 5. The site area of the Additional Use is limited to a maximum area of 3ha. 6. No subdivision of the site for the purposes of this Additional Use is permitted. 7. Access and egress for the Additional Use shall be limited to the existing driveway connecting to Waterville Road.

- ii. Amend the Scheme Map to designate the Additional Use by including an 'A28' notation over Lot 8021 Waterville Road, Neergabby.

The proposed amendment to the Scheme Map is shown indicatively at Attachment 2.

4.1 Land Use

As noted previously, the purpose of this amendment is to facilitate development of an assembly area for transportable buildings. On 3 February 2023, Vintian Construction provided a site plan showing an indicative 7,550m² of hardstand adjacent to the homestead and the following supporting information to the Shire of Gingin:

"The proposed area will be used to manufacture accommodation buildings, we would be looking at producing around 15-20 per month 180-240 modules per year. No new permanent structures would be built on the property."

We understand that based on the site plan and the above information, the Shire obtained legal advice stating that the development would be classified as an 'Industry – General' land use.

The information provided as part of this Scheme amendment report is substantially more detailed than the information on which the above legal advice was based, and therefore the legal advice is not based on the complete operational context of the proposal. On this basis, we are of the view that the Shire should place greater weight on the information provided in this Scheme amendment report than the legal advice in determining the most appropriate land use to apply to this proposal.

The proposal cannot reasonably be classified as a rural industry as the transportable buildings are not intended to be primarily used in rural settings. In this regard, the Shire of Gingin Local Planning Scheme No. 9 ("LPS 9") defines 'Industry – Light' and 'Industry – General' as follows:

"Industry – light means an industry —

- (a) in which the processes carried on, the machinery used, and the goods and commodities carried to and from the premises do not cause any injury to or adversely affect the amenity of the locality;*
- (b) the establishment or conduct of which does not, or will not, impose an undue load on any existing or proposed service for the supply or provision of essential services;"*

"Industry – general means an industry other than a cottage, extractive, light, mining, rural or service industry;"

This proposal would most appropriately be classed as 'Industry – Light' (and therefore not 'Industry – General') on the basis that it meets the 'Industry – Light' land use definition. The proposal meets both criteria required for the 'Industry – Light' use to apply as follows:

'Industry – Light' Criteria	Comment
(a) An industry in which the processes carried on, the machinery used, and the goods and commodities carried to and from the premises do not cause any injury to or adversely affect the amenity of the locality;	<p>Materials used to assemble the buildings (eg. walls, flooring, roofing and fixings) will be delivered to the site. On this basis the processes carried on as a result of this proposal will be limited to assembly, which has lesser impacts than fabrication or manufacturing – which are not proposed and are prevented by condition 3.</p> <p>Assembly of transportable buildings includes use of hand-held power tools and light industrial vehicles and machinery on the proposed hardstand.</p> <p>The assembly area will be located approximately 1km from the nearest lot and 1.5km from the nearest off-site dwelling. The</p>

assembly area will not be visible from outside of the lot. These setbacks and lack of visibility will ensure that the proposal does not cause injury to or adversely affect the amenity of the locality. This proposal will not generate odour, gas or other types of emissions, and will likely be far less impactful on the amenity of the area than some agricultural pursuits such as the existing poultry farm to the south-west of the site.

This proposal will also necessitate trucks to deliver materials and dispatch the buildings. The trucks will travel between the existing driveway entrance at Waterville Road and Gingin Brook Road via Cowalla Road. As the trucks required by this proposal will be smaller than the trucks that already use Cowalla Road, and as this proposal is anticipated to only generate a comparatively small number of trips each day, truck movements generated by this Additional Use will not adversely affect the amenity of occupants of lots adjoining Cowalla Road.

(b) the establishment or conduct of which does not, or will not, impose an undue load on any existing or proposed service for the supply or provision of essential services;	<p>Establishment of the proposal is limited to construction of hardstand, which does not require use of any essential services.</p> <p>The conduct (operation) of the proposal is only anticipated to require a power connection at the homestead and will not draw enough power from the local network to necessitate any upgrades. Telecommunications requirements will be met using the existing NBN connection at the site. Water and sewerage associated with the ablutions and office are intended to be delivered and collected from the site respectively.</p>
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On this basis, it is clear that the proposal is consistent with the 'Industry – Light' land use rather than 'Industry – General'.

4.2 Special Conditions

The amendment proposes to include seven special conditions in Schedule 2 to apply to the site intended to:

- a) ensure that the primary function of the land remains as rural / agricultural;
- b) remove the potential for approval of the Additional Use to impact on the amenity of the locality; and
- c) ensure that this proposal will not act as a precedent for industrial development on rural land elsewhere in the Shire of Gingin.

The following table summarises and justifies each of the proposed conditions.

Proposed Condition	Comment
1. A development application is required. Any development approval issued pursuant to this Additional Use is to be time limited to a maximum of 10 years from the date of the approval. A time extension of no more than 5 years may be sought prior to the expiry of any	This is to ensure that all relevant development-related aspects of the proposal, such as the final extent and location of the hardstand, staff amenity building locations, parking, traffic movements, stormwater and the like can be assessed by the Shire.

<p>approval, subject to the applicant demonstrating to the satisfaction of the Shire that any approved 'Industry – Light' use continues to meet all other Conditions associated with the Additional Use.</p>	<p>The time limitation is proposed in recognition that this proposal is intended to support operation of the agricultural use, and that this type of support is unlikely to be required in perpetuity. It is also reflective of Vintian Construction's vision to outgrow this site and relocate to an industrial area in the future.</p>
<p>2. The Additional Use may only operate while the primary use of the land is for agricultural purposes, and is to remain a secondary use of the land at all times.</p>	<p>This condition will ensure that the scale of the use is limited to an extent where it can support the primary agricultural use on the subject land, rather than become a separate and/or competitive use in its own right. This will ensure that the overall use of the land remains consistent with the LPS 9 General Rural zone objectives and the relevant provisions of the Local Planning Strategy.</p>
<p>3. The processes undertaken as part of the Additional Use are restricted to assembly of structures and equipment, and incidental operations. Fabrication and any equivalent processes listed in the 'industry' definition in this Scheme are not permitted to be carried out pursuant to this Additional Use.</p>	<p>This is to ensure that the nature and effect of the operations associated with any 'Industry – Light' use on the subject land are commensurate to that described by this Scheme amendment proposal, being assembly as opposed to potentially intensive and impactful operations such as fabrication, manufacturing, processing or treating.</p>
<p>4. The Additional Use is to be located in one contiguous area within the lot that meets the following criteria:</p> <ul style="list-style-type: none"> • at least partially located on land that is not required for the primary agricultural use of the lot; • does not conflict with any area of consolidated remnant native vegetation; • is not visible from any adjoining lot or public road; and • is set back a minimum of 500m from any lot boundary. 	<p>These location requirements are proposed to ensure that the Additional Use does not impact any adjacent or nearby landowners or rural land uses, maintains the visual amenity of the locality and minimises use of agricultural land.</p> <p>Restriction of the Additional Use boundary on the Scheme map to a specific area within the lot is not preferred as it would be difficult to identify the exact location of the boundaries, and would risk inadvertently limiting any potential future expansion of the hardstand within (and not beyond) the 3ha limit required by Condition 5.</p>
<p>5. The site area of the Additional Use is limited to a maximum area of 3ha.</p>	<p>This limitation is proposed to ensure that the extent of any 'Industry – Light' use on the subject land is consistent with that described by this Scheme amendment, and will also support Conditions 2 and 4.</p> <p>The 3ha area is reflective of the potential for extra hardstand to be required to support the land use in the future, but also ensures that the proposal occupies less than 1% of the property at an absolute maximum.</p>
<p>6. No subdivision of the site for the purposes of this Additional Use is permitted.</p>	<p>This is to prevent any subdivision for the purposes of this Additional Use, which would be inconsistent with the Shire's Local Planning</p>

	Scheme and Strategy and the WAPC's Subdivision of Rural Land operational policy.
7. Access and egress for the Additional Use shall be limited to the existing driveway connecting to Waterville Road.	This is to support Condition 4 and ensure that the use is located and operated in such a manner that does not conflict with the primary agricultural use on the subject land.

These conditions will limit the scale of any light industrial proposal to that required by Vintian Construction to prevent further unplanned industrial development, ensure that the location of the proposal will not impact the rural amenity or character of the locality or nearby properties, and ensure that the predominant use of the subject land for agricultural purposes is not undermined.

These conditions ensure that this proposal is consistent with the intent and objectives of the applicable planning framework, including the Shire of Gingin's Local Planning Strategy and Local Planning Scheme No. 9. On this basis this application seeks for the Shire of Gingin and Western Australian Planning Commission to holistically assess this proposal, inclusive of the proposed land use as limited by the proposed conditions.

4.3 Nature of Scheme Amendment

Having regard to regulation 34 of the *Planning and Development (Local Planning Schemes) Regulations 2015*, we are of the view that the proposal meets the relevant criteria for a 'Standard' amendment as it:

- a) is consistent with the objectives of the General Rural zone of the Shire's LPS 9 as detailed in section 5.2 of this report below;
- b) is consistent with the Shire of Gingin Local Planning Strategy as detailed in section 5.1 of this report below;
- c) will have minimal impact on land in the scheme area that is not the subject of the amendment as detailed above in relation to the 'Industry – Light' land use criteria and due to the limitations of the proposed conditions;
- d) will not result in any significant environmental, social, economic or governance impacts on land in the scheme area as:
 - The proposal will have an indirect positive environmental impact by enabling the agricultural use of the land to continue and the remnant native vegetation on the lot to remain undisturbed;
 - Removal of a small number of paddock trees to accommodate an expansion of the hardstand is possible under the proposed conditions, however this is not a 'significant' environmental impact;
 - The proposal will have a positive social impact by generating local employment opportunities;
 - The proposal will have a positive economic impact by supporting an existing agricultural business as well as a new industrial business; and
 - There will be no governance impacts associated with this proposal through limitation of the additional use to the subject land only and application of stringent conditions to ensure that the Additional Use remains the secondary use on the subject land, does not form a viable precedent for other industrial uses and ensure that the use does not impact adjoining or nearby landholdings.

It is also noted that Amendment 19 to LPS 9, which added additional uses of 'Warehouse/Storage', 'Office' and 'Roadhouse' into the General Rural zone, was treated as a Standard amendment. 'Warehouse/Storage' and 'Office' are both not permitted in the General Rural zone, consistent with 'Industry – Light' as proposed by this Scheme amendment. This is a precedent for this Scheme amendment to be treated as a Standard amendment.

5. Planning Justification

The following subsections set out the justification for the proposed amendment in the context of the applicable strategic planning framework.

5.1 Shire of Gingin Local Planning Strategy

The Shire of Gingin Local Planning Strategy ("the Strategy") sets out the Shire's long-term vision for land use and development within its boundaries. The Strategy map identifies the subject land as 'Rural smallholding', which is reflective of the surrounding fragmented rural land. Unlike most other land identified as 'Rural smallholding', the subject land has not been subdivided in recent decades due to its poor soil composition and restricted access to water.

The lack of water licence for the subject land, as well as the need to preserve the areas of consolidated remnant native vegetation on the subject land, confirm that subdivision of the site is not the best approach even though it is contemplated by the Strategy.

The following subsections detail how this proposal is consistent with and/or addresses the relevant provisions of the Local Planning Strategy.

Key Provisions – Rural Land

The following relevant issues and objectives are listed in the Strategy in relation to Rural land:

- Issue: "*The importance of rural land as a resource for sustaining diverse agriculture and other rural uses, and its importance for long term growth and development.*"
- Issue: "*The need for local employment opportunities.*"
- Objective: "*Protect the rural land in order to provide for a wide range of land uses associated with primary production.*"

The associated Policy Position and Actions for the Rural Smallholding zone do not exclude industrial development proposals from Rural zoned areas. Notwithstanding, conditions are proposed to be applied to the Additional Use ensuring that the agricultural use will continue to be the primary use of the land, limiting the size of the assembly area and ensuring that it is located to minimise usage of land that is used for agricultural purposes. The proposal will also generate substantial employment opportunities for local residents. On this basis, the conditions ensure that the proposal is consistent with the key issues and objectives for Rural zoned land.

Key Provisions – Economy

This proposal is also consistent with the relevant economic objectives of the Strategy as follows:

- "*Ensure that the use and development of rural land is both compatible and complementary to agricultural activities;*"
- "*Promote the establishment of processing and value adding industries in the Shire;*"
- "*Promote the Shire of Gingin as an opportune location for regional development of industry, infrastructure and other specialised regional facilities.*"

Physical development associated with this proposal only includes hardstand and small transportable buildings, which are compatible with the agricultural activity on the subject land. It will complement and sustain the primary agricultural use of the subject land by providing the financial support that the use requires to continue to be viable. This proposal also represents a vote of confidence by Vintian Construction in the Shire of Gingin as an ideal area for an industrial use in a manner that does not compromise the planning intent of the Rural Smallholding zone under the Strategy.

The relevant economic Policy Position and Actions are as follows: "*Direct non-rural development away from agricultural land towards townsites*" and "*Support the appropriate placement of rural industries / processing within the rural zone*". Although targeted at rural industry, the second policy requirement is addressed by the proposed conditions, which limit the size of the operation associated with the Additional Use and ensure that its location is prioritised for land that is not used for agricultural purposes.

It is not possible for this proposal to directly address the first policy requirement, as locating the assembly business anywhere but the subject land would result in the agricultural use on the subject land ceasing due to lack of financial viability, and the subject land becoming disused as a result. This scenario is inconsistent with the Local Planning Strategy.

This proposal seeks for the proposed non-rural development to be accepted on land used for agricultural purposes and away from townsites for the following reasons:

- This outcome is the best and most viable option to ensure continuation of the agricultural use of the site, which is the key intent of the Local Planning Strategy for rural land
- The proposed conditions meet and address all other relevant objectives, issues and policy statements in the Local Planning Strategy, including maximising use of non-agricultural land, ensuring no impacts to surrounding rural-based uses and maintaining the agricultural use as the primary use on the subject land.

Other Relevant Provisions

The following relevant excerpts from the Strategy also support this proposal, as detailed below:

s.	Excerpt	Comment
2.5.2	<p>The continued use of rural land for production is paramount to the economic future of the Shire. ... The future growth and viability of diversified agriculture in the Shire is dependent on numerous factors, many of which are unique to the Gingin Shire, including:</p> <ul style="list-style-type: none"> • availability of adequate water supply; ... • availability and cost of good agricultural land; • freedom from conflict with other land uses; and • sustainability of production in terms of the physical environment. 	<p>This proposal will support the continued use of this rural land for primary production by ensuring its financial viability. Conditions have been proposed to ensure that the operation of the Additional Use is limited to this purpose, is sized, located and operated in a manner that does not conflict with the primary agricultural use or impact nearby agricultural uses, and maximises use of the subject land for agriculture.</p> <p>The key reason for the agricultural use not being financially viable is the poor soil conditions and lack of water supply, given no water licence is available. The Strategy acknowledges that this is an issue in section 2.6.2. This issue is responsible for the need for this Additional Use.</p>

2.5.5	The Shire generally lacks General Industry zoned land. Increasing the diversity of industrial activity will undoubtedly contribute to growth in local employment and economy...	This proposal will contribute to growth in local employment and the economy, and represents increased diversity of industrial activity.
2.5.7	The key issues for Gingin Shire's economy include:	See below.
	There is a need to increase local resident employment opportunities and reduce the need for residents to leave the Shire for work. This will be partly facilitated through the retention and promotion of a variety of employment opportunities in existing and new developments;	This proposal will contribute to growth in local employment.
	Introduction of non-rural land uses, such as rural living, residential, and tourist facilities, adjacent to diversified agricultural land uses may create conflicts between each of the different activities;	Conditions are proposed to ensure that there are no conflicts between the Additional Use and the agricultural use on the subject land as well as nearby land. The development and operation of the Additional Use will be compatible with the agricultural use, and the limitation of operations to assembly will ensure that the nature of the industrial activities undertaken will not create conflicts.
	The protection of quality agricultural land is important to ensure the long-term sustainability of agricultural land use as an important economic and employment base for the Shire within its regional context;	As detailed in this report, the soil profile and water availability of the subject land does not match the characteristics of quality agricultural land. Notwithstanding, the location of the Additional Use is proposed to be prioritised for an area of the subject land that is not currently used for agriculture so as to protect and retain agricultural land.
	Untapped opportunity for regional industrial development and institutions to take advantage of Gingin's proximity to Perth, availability of unconstrained land and opportunity for regional infrastructure development;	The subject land is suitable for the proposed Additional Use due to its proximity to Perth.
2.6.6	The quality of the landscape setting of the Shire of Gingin is a natural asset and community resource. The maintenance and protection of the rural nature of the Shire, including the open pasture, natural bushland, river environment and dynamic landform are worthy objectives.	Conditions are proposed to ensure that the Additional Use does not affect the rural nature or amenity of the area, and is not visible from adjacent roads or properties.
2.6.9	The key issues for Gingin Shire's environment include:	See below.

Encouragement of land use and land management which is environmentally and ecologically sustainable;	The current agricultural land use would require a water licence or approval to clear the areas of consolidated remnant vegetation to expand or become financially viable, both of which are not environmentally or ecologically sustainable. On this basis, this proposal is a better environmental outcome for the subject land.
Protection of natural resources, including soil, waterways and wetlands, significant vegetation including old growth trees, flora and fauna;	Conditions are proposed to ensure that the Additional Use does not impact the areas of consolidated remnant native vegetation on the subject land.
Management of diverse and dynamic rural landscapes, and maintenance of visual qualities of areas surrounding townsites and areas adjacent to major tourist routes;	Conditions are proposed to ensure that the Additional Use does not affect the rural nature or amenity of the area, and is not visible from adjacent roads or properties.

3.1 Priorities for the Shire are: See below.

Protection of agricultural land, broad acre grazing and crop production areas due to their economic significance.	The location of the Additional Use is proposed to be prioritised for an area of the subject land that is not currently used for agriculture so as to protect and retain agricultural land.
Enhanced visual quality and character of the rural landscape, coastal environs and heritage features.	Conditions are proposed to ensure that the Additional Use does not affect the rural nature or amenity of the area, and is not visible from adjacent roads or properties.

This proposal is consistent with the Local Planning Strategy on the basis that it will support the continued primary agricultural use of the subject land. Conditions are proposed requiring any approval to be time limited, enabling the Additional Use to operate only while the primary use of the land is for agricultural purposes, and ensuring that the proposal is located and operated to minimise impacts on the agricultural use.

5.2 Shire of Gingin Local Planning Scheme No. 9

The subject land is zoned 'General Rural' under LPS 9. The following table details how the proposal meets the General Rural zone objectives.

Objectives	Comment
(a) Manage land use changes so that the specific local rural character of the zone is maintained or enhanced.	A condition is proposed requiring the Additional Use to be located such that it is limited to assembly, will not be visible from any adjacent or nearby road reserves or lots, and is set back from lot boundaries to minimise noise transmission outside the subject land. This will ensure that the local rural character is maintained.

(b) Encourage and protect broad acre agricultural activities such as grazing and more intensive agricultural activities such as horticulture as primary uses, with other rural pursuits and rural industries as secondary uses in circumstances where they demonstrate compatibility with the primary use.	The intent of this proposal is to encourage and protect the predominant broadacre agricultural activity on the subject land (grazing), which is confirmed by the proposed condition enabling the Additional Use to operate only while the primary use of the land is for agricultural purposes. Other conditions ensure that the proposed secondary Additional Use will be compatible with the primary use.
(c) Maintain and enhance the environmental qualities of the landscape, vegetation, soils and water bodies, to protect sensitive areas especially the natural valley and watercourse systems from damage.	A proposed condition requires the Additional Use to be located in an area on the subject land that does not impact any existing remnant native vegetation worthy of protection. The hardstand is proposed to be located on a plateau to ensure no need for cut and fill. No impacts to soils or water bodies are anticipated.
(d) Provide for the operation and development of existing, future and potential rural land uses by limiting the introduction of sensitive land uses in the General Rural zone.	The proposal will ensure the ongoing operation of the existing rural land use into the future by ensuring its financial viability, and is not a sensitive land use.

The proposal is also consistent with relevant Scheme aims as follows:

Aims	Comment
(h) Facilitate more intensive and diversified use of rural land for higher value products, including horticulture, intensive animal husbandry and farm forestry, which are compatible with surrounding farming practices.	The proposal represents diversification of the use of rural land, however due to the limitation of the use as secondary to a primary agricultural use, it will not affect (and will in fact support) use of the subject land for rural purposes on an ongoing basis.
(i) Ensure that the use and development of rural land is both compatible and complementary to traditional livestock, grazing and agricultural activities.	Physical development associated with this proposal is limited to hardstand, and in this regard is compatible with the agricultural activities. The operation of the use will not impact the agricultural activities either. This will be enforced by the proposed conditions.
(o) Promote Gingin Shire as an opportune location for regional development of industry, infrastructure and other specialised regional facilities.	This aim mirrors an economic objective in the Local Planning Strategy, which this proposal will meet.
(q) Promote sustainable management and land use to ensure the quality and adequate supply of groundwater and surface water bodies within the scheme area.	This proposal will not affect quality or supply of groundwater or any surface water bodies. The proposed location of the hardstand on a plateau at the top of the ridgeline crossing the subject land will ensure land that is closer to groundwater is only used for agricultural purposes.

(r) Protect the natural environment and biodiversity while ensuring appropriate development opportunities within the scheme area are realised.	A condition requires the Additional Use to be located in an area on the subject land that does not impact any existing native vegetation worthy of protection. The location of the hardstand will also minimise removal of paddock trees as a bonus.
(s) Minimise land degradation and vegetation loss through integration of landcare principles within the planning process.	The only works associated with this proposal comprise hardstand, which will not degrade the land in the long term. A condition requires a development application to be submitted, which could address drainage from the hardstand to minimise impacts to adjacent soil.

A condition is proposed to apply to the Additional Use preventing subdivision for industrial purposes in recognition that this proposal does not fit within the circumstances listed in Development Control Policy 3.4 – Subdivision of rural land, as referred to by clause 4.8.6.1 of LPS 9.

5.3 State Planning Policy 2.5 – Rural Planning

The Western Australian Planning Commission's (WAPC) State Planning Policy 2.5 – Rural Planning (SPP 2.5) applies to all rural land in the state. One of the key objectives of SPP 2.5 is to support primary production by protecting rural land. This proposal meets the associated policy requirements as follows:

Policy Requirement	Comment
5.1 The WAPC will seek to protect rural land as a State resource by:	
(a) requiring that land use change from rural to all other uses be planned and provided for in a planning strategy or scheme;	This is the intent of this Additional Use proposal.
(b) retaining land identified as priority agricultural land in a planning strategy or scheme for that purpose;	Conditions are proposed to address this as follows: <ul style="list-style-type: none"> • Prioritisation of the location of the Additional Use on land that is not used for agricultural purposes. • Application of a time limit to the Additional Use to ensure that the land continues to be used for agricultural purposes in the long term. • Ensuring that the Additional Use only operates to support the agricultural use.
(c) ensuring retention and protection of rural land for biodiversity protection, natural resource management and protection of valued landscapes and views;	Conditions are proposed to address this as follows: <ul style="list-style-type: none"> • Prioritisation of the location of the Additional Use on land that is not used for agricultural purposes.

		<ul style="list-style-type: none"> The location of the Additional Use is to be set back 500m from lot boundaries, not conflict with areas of consolidated remnant native vegetation and not be visible from adjoining or nearby roads or properties.
(d)	protecting land, resources and/or primary production activities through the State's land use planning framework;	As confirmed above, the proposal will protect the primary production activity undertaken on this land by ensuring its financial viability, while remaining a secondary use and being at least partially located on land that is not used for agricultural purposes.
5.5	The WAPC's decisions will be guided by the need to provide economic opportunities for rural communities and to protect the State's primary production and natural resource assets. WAPC policy is to:	This proposal represents an economic opportunity to provide local employment for residents of the Shire, and will protect and support the primary production use and remnant native vegetation on the subject land.
(a)	continue to promote rural zones in schemes as flexible zones that cater for a wide range of land uses that may support primary production, regional facilities, environmental protection and cultural pursuits;	The unique characteristics of this proposal and the subject land in particular warrant flexibility to enable the 'Industry – Light' land use to support the primary production use of the subject land. Limitation of the operations to assembly only will also protect the agricultural use of the land by restricting the intensity of the land use.
5.12.1	where a development is proposed for	The proposed Additional Use is located such that it will not generate noise and visual amenity impacts, and it does not give rise to the need for any buffers. Conditions are proposed requiring these matters to be addressed and confirmed through lodgement of a development application.
(b)	a land use that may generate off-site impacts, there should be application of the separation distances used in environmental policy and health guidance, prescribed standards, accepted industry standards and/or Codes of Practice, followed by considering – <ul style="list-style-type: none"> (i) whether the site is capable of accommodating the land use; and/or (ii) whether surrounding rural land is suitable, and can be used to meet the separation distances between the nearest sensitive land use and/or zone, and would not limit future rural land uses; and (iii) whether if clauses (i) and/or (ii) are met, a statutory buffer is not required; 	<p>The subject land is capable of accommodating the proposed Additional Use by virtue of the lot size and through inclusion of a condition limiting the size and scale of the use to a negligible proportion of the lot (less than 1%).</p> <p>To meet consideration (ii), a condition is proposed requiring the location of the Additional Use to be set back 500m from lot boundaries and not visible from adjoining or nearby roads or properties, to ensure that the rural amenity of the area is maintained and nearby dwellings or rural land uses are not impacted.</p>

5.4 Local Planning Policy No. 4.1 – Industrial Development in Rural Areas

Although Local Planning Policies are not typically assessed as part of Scheme amendment proposals, Local Planning Policy 4.1 – Industrial Development in Rural Areas (“LPP 4.1”) is directly relevant to this proposal and will need to be addressed by any development application made pursuant to the proposed Additional Use. In this regard, this proposal is capable of meeting the relevant requirements of LPP 4.1 as follows:

Policy Requirement	Comment
3.1 Industrial Developments in the rural areas will be considered if they fall within one of two broad categories:	
(a) Noxious Industries and other industries that require extensive areas of land for buffer areas or the disposal and management of effluent; and	As described above, this land is well suited to the proposed industrial use due to its size and the availability of land that is not used for agricultural purposes in the centre of the property, which enables a condition to be proposed requiring a substantial buffer of 500m around the assembly area.
(b) Light manufacturing industries that may be producing farm equipment and operates in conjunction with the rural activities of the property.	<p>Although the proposed light industry is not initially intended to produce farm equipment, it will operate in conjunction with the rural activity of the property by generating the financial stability required for those rural activities to be undertaken. Conditions associated with the Additional Use will ensure that it will operate in such a manner that does not affect the rural activity. On this basis the proposal meets the intent of this requirement.</p> <p>It is noted that the term “may” does not limit light manufacturing industries in rural areas to production of farm equipment. It should also be noted that transportable buildings are often in demand by primary producers as accommodation for seasonal workers, and it is anticipated that Vintian Construction will service this market once operational.</p>
3.2 Generally light manufacturing type industries will be considered in accordance with the Light Industry provisions of the Scheme.	This proposal falls within the broad ‘light manufacturing type industry’ category. The proposed conditions will effectively require this proposal to comply with the relevant Light Industry development requirements. Car parking will be confirmed at development application stage.
3.4 All industrial developments in rural areas should be located and incorporate landscape elements to ensure they do not visually intrude on the rural landscape.	A proposed condition will ensure that the proposal complies with this requirement by ensuring that it is not visible from any adjacent or nearby roads or properties. On this basis the proposal will not visually intrude on the rural landscape.

6 Next Steps

This Amendment, if approved, does not in and of itself enable development or the assembly operation to occur on the subject land, given a development application will also be required to be lodged with the Shire. Once the amendment is further progressed to the point that it has been advertised and is considered to be 'seriously entertained', and it is clear that both the Shire and WAPC are supportive of the proposed additional use and associated conditions, we will proceed to lodge a development application seeking approval to construct the hardstand and commence operation of the 'industry – light' land use.

The development application will build on the information included in section 3 of this report and include confirmation of the area and boundaries of the hardstand, and all relevant details regarding the operation of the business, including truck movements to and from the site.

7 Conclusion

In the context of potential industrial operations this proposal is very limited in nature, and the lack of need for buildings and limited anticipated truck movements will ensure that this proposal does not undermine the objectives of the zone or the relevant intentions and provisions of the Local Planning Strategy. The special conditions associated with the Additional Use reflect its site-specific nature and will ensure that approval of the Scheme amendment will not set any form of precedent for other 'Industry – Light' uses within the General Rural zone.

The intent of this proposed Scheme amendment is to facilitate an arrangement between a father and his son that will enable the son to start and grow a transportable building assembly business, with some of the profits to be paid as rent to the father to enable him to continue to graze the family farm until retirement. Due to the poor soil conditions and lack of water licence for the land, without the transportable building assembly business the family would no longer be able to afford to continue to graze the land and it would become a disused retirement property owing to the family's strong sentimental attachment to the land.

This Scheme amendment proposal is unique in that the reason it is being proposed is to enable an agricultural use to continue to operate on land zoned General Rural. This proposal is therefore consistent with the intent of the strategic planning framework for rural uses such as agriculture to be supported and protected in rural areas. On this basis this proposal would most appropriately be classified as a 'Standard' amendment.

The proposed Additional Use will only be applicable to the subject land, and only while the land is used for agricultural purposes. Seven stringent and restrictive conditions are proposed to apply to the Additional Use to ensure the operation is limited to that described in this submission and does not have any unforeseen impacts on the subject land and maintains the rural amenity of the locality. These conditions are essential to ensuring that this proposal is consistent with the intent and objectives of the applicable planning framework, including the Shire of Gingin's Local Planning Strategy and Local Planning Scheme No. 9.

On this basis it is requested that the Shire of Gingin proceeds to initiate the standard amendment to create this additional use over Lot 8021 Waterville Road, Neergabby, and the Western Australian Planning Commission supports this proposal through the Scheme amendment process to a determination by the Minister for Planning.

Rise Urban.

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Planning and Development Act 2005

RESOLUTION TO AMEND LOCAL PLANNING SCHEME

Shire of Gingin Local Planning Scheme No. 9 Amendment No. 24

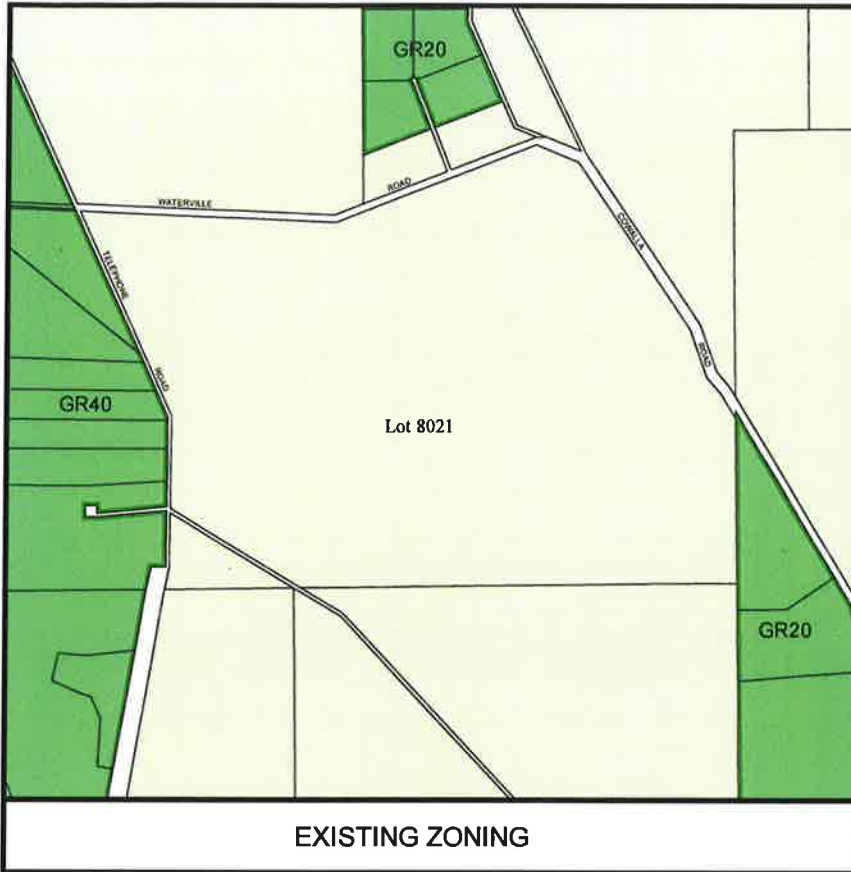
Resolved that the Local Government pursuant to section 75 of the *Planning and Development Act 2005*, amend the above Local Planning Scheme by:

Include an 'A28' notation over the relevant part of Lot 8021 Waterville Road, Neergabby and introduce into 'Schedule 2 - Additional Uses' the following:

No.	Description of lands	Additional Use	Conditions
28	Part of Lot 8021 Waterville Road, Neergabby	Industry - Light	<ol style="list-style-type: none"> 1. Development is not permitted unless the local government has exercised its discretion by granting development approval. 2. Development approval is to be time limited to an initial period of 10 years. Further time extensions are not to exceed 5 years and will be subject to an assessment of the development against the planning framework as it applies at that time. 3. The development is to remain as a secondary use to the primary agricultural use of the land at all times. 4. The development is restricted to the assembly of modular/transportable buildings, associated structures and any incidental operations to the satisfaction of the local government. 5. The development area is to be located in one contiguous area within the lot that meets the following criteria: <ol style="list-style-type: none"> a. partially located on land that is not required for the primary agricultural use of the lot; b. does not conflict with any area of consolidated remnant native vegetation or habitat of the Carnaby black cockatoo; c. is not visible from any adjoining lot or public road; and


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			<p>d. is set back a minimum of 500m from any lotboundary.</p> <p>6. The development area is limited to a maximum area of 3 hectares.</p> <p>7. Access and egress for the development is limited to Waterville Road.</p> <p>8. The presence of the development is not grounds to progress subdivision of the land.</p>
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LEGEND

LOCAL SCHEME RESERVES

 ROADS


LOCAL SCHEME ZONES

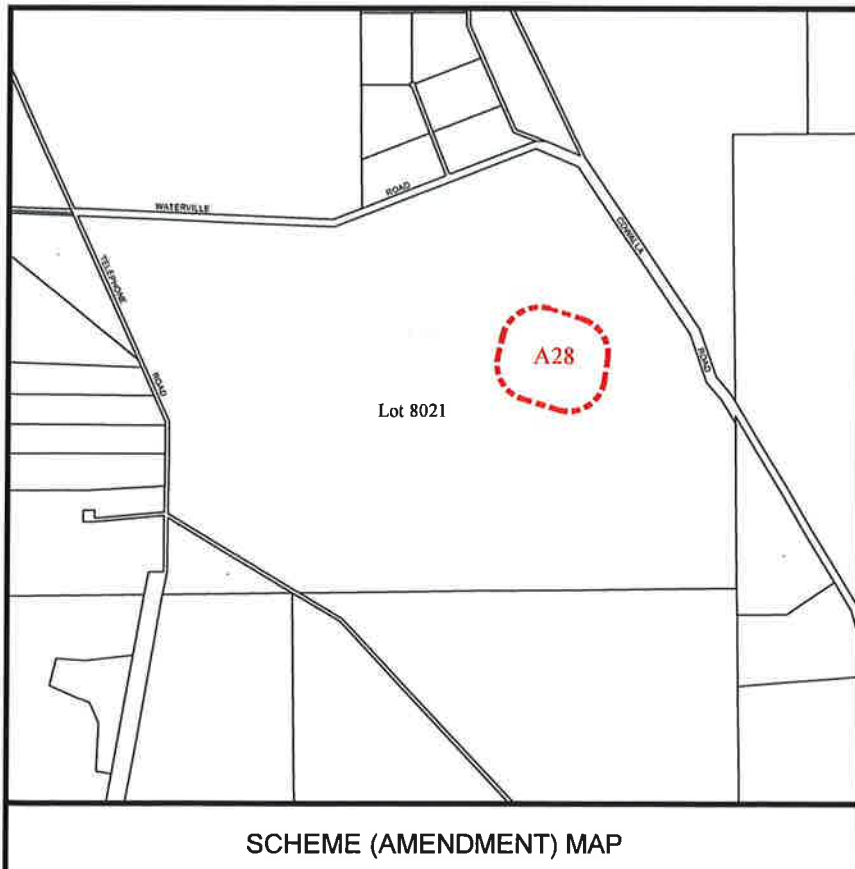
 GENERAL RURAL - CODED

 GENERAL RURAL

OTHER CATEGORIES

(see scheme text for additional information)

 **A28** ADDITIONAL USES



COUNCIL ADOPTION

This Standard Amendment was adopted by resolution of the Council of the Shire of Gingin at the Ordinary Meeting of the Council held on the 18 day of July, 2023.



.....
MAYOR/SHIRE PRESIDENT



.....
ACTING CHIEF EXECUTIVE OFFICER

COUNCIL RESOLUTION TO ADVERTISE

by resolution of the Council of the Shire of Gingin at the Ordinary Meeting of the Council held on the 18 day of July, 2023, proceed to advertise this Amendment.



.....
MAYOR/SHIRE PRESIDENT



.....
ACTING CHIEF EXECUTIVE OFFICER

COUNCIL RECOMMENDATION

This Amendment is recommended for support by resolution of the Shire of Gingin at the Ordinary Meeting of the Council held on the 21 day of November, 2023 and the Common Seal of the Shire of Gingin was hereunto affixed by the authority of a resolution of the Council in the presence of:



225.




.....
MAYOR/SHIRE PRESIDENT



.....
ACTING CHIEF EXECUTIVE OFFICER

OFFICIAL

WAPC ENDORSEMENT (r.63)


.....
**DELEGATED UNDER S.16 OF
THE P&D ACT 2005**

DATE..... 2 July 2024

APPROVAL GRANTED

.....
MINISTER FOR PLANNING

It is hereby certified that this is a true copy of the
~~Scheme~~ Amendment, final approval to which was
endorsed by the Minister for Planning on *4/7/2024*

DATE.....

Certified by *AS*.....

Officer of the Commission Duty authorised pursuant
to Section 24 of the Planning and Development Act
2005 and Regulation 32(3) Scheme and Regulation
63(3) (Amendment) of the Planning and Development
(Local Planning Scheme) Regulations 2015.

