

## Draft Local Planning Scheme No.9 (LPS No. 9) Frequently Asked Questions

*The information contained in the FAQs aims to simplify what can be technical and sometimes complicated concepts regarding draft LPS No. 9. This information is provided as general guidance only and individuals are encouraged to investigate individual circumstances. Please also note that the formally advertised documents and statutory framework take precedence above these FAQs.*

### What is the purpose of a Local Planning Scheme?

The Planning and Development (Local Planning Schemes) Regulations 2015 requires all local governments to maintain and develop a Local Planning Scheme, a legal document that regulates what we can and can't do on our properties.

The Scheme regulates the zoning of all land within the local government, the uses that are appropriate in certain areas and sets residential design codes in residential areas. This legal document therefore imparts land use rights to every property in the Shire and provides the implementation methodology for all planning decisions made by the Shire. The Scheme needs to align with the local government's Local Planning Strategy.

The main purposes of draft LPS No. 9 is to:

- reflect the strategic land use direction as provided for in the Shire's Local Planning Strategy (adopted in 2013); and
- set aside land as local reserves for public purposes; and
- zone land for the purposes defined in the Scheme; and
- control and guide development including processes for the preparation of structure plans, activity centre plans and local development plans; and
- set out procedures for the assessment and determination of development applications; and
- make provision for the administration and enforcement of the Scheme; and
- address other matters referred to in Schedule 7 of the Planning and Development Act 2005.

### Why are we updating our current Planning Provisions?

LPS No. 9 will replace (current) Local Planning Schemes No. 5 and No. 7 which are the operative planning schemes within the Derby townsite. LPS No. 9 will also zone land outside the Derby townsite currently subject to Interim Development Order No. 9. LPS No. 9 has taken amendments that have occurred in LPS No. 5 and 7 into consideration and sets out the way land is to be used and developed, classifies areas for land use and includes provisions to coordinate infrastructure and development within our Shire.

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#### Fitzroy Crossing

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## Where can I view a copy of draft LPS No. 9?

LPS No. 9 is available for viewing on the Shire's website and at the Shire's administration offices in Derby and Fitzroy Crossing.

## Who is the approval authority of LPS No. 9?

The Western Australian Planning Commission recommend the outcome to the Minister for Planning. However, the Minister is the overall approval authority for LPS No. 9.

## Will the Scheme change from now until it is approved?

Draft LPS No. 9 has the potential to change, subject to the submissions received throughout the advertising period. This is why all stakeholders, including landowners in the Shire, are encouraged to make a submission on the prescribed form available on our website and in hardcopy at the Shire administration office.

Under the *Planning and Development (Local Planning Schemes) Regulations 2015*, all local governments are required to advertise for 90 days. Please note that submissions received outside of these dates cannot usually be accepted as part of this process.

Can I meet with the officers to explain the implications on my property?

Residents are encouraged to read draft LPS No. 9 documents and maps to gain a better understanding of their purpose and implications. Frequently Asked Questions have been developed to respond to the most common queries and may be able to assist with your answering your questions.

As part of the public advertising process, the Shire will hold several information sessions in Derby and Fitzroy Crossing scheduled as follows:

- Derby Civic Centre: Between 11am - 2 pm on Tuesday, 21 March 2023
- Derby Civic Centre: Between 4pm - 7 pm on Tuesday, 21 March 2023
- Fitzroy Crossing Visitors Centre: Between 11am - 2 pm on Wednesday, 22 March 2023; and
- Fitzroy Crossing Visitors Centre: Between 4pm - 7 pm on Wednesday, 22 March 2023.

## What happens if my application is already lodged?

Once the LPS No. 9 comes into operation, all applications for a development approval (DA) must be determined under the new Scheme and new planning policies, even if your application has already been lodged with the Shire.

The reason for this is that land use rights may have been added to your property or some that you may have had previously may have been removed. This would not affect the majority of landowners but there are properties that will be impacted.

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## What happens if I have an approval that is not in accordance with the Scheme?

If an existing approval of a use is no longer a use that can be approved under LPS No. 9, the Scheme allows for 'non-conforming uses' which is the continued use of land which has been approved in a previous version of the scheme. This situation should be the exception rather than the rule, but is a possible outcome.

## How will LPS No. 9 affect my property?

LPS No. 9 may or may not have direct impact on your property as not all zones within Derby are being changed or rezoned. Some properties may have a new zone name; however the intent will be the same as the current zone. Some properties are indicated for change and have been rezoned to improve the overall land uses in the Shire. This may affect the implication on the type of development and future use that can be undertaken on the specific land (which has been rezoned).

For land currently under the Interim Development Order, new zones will apply. For much of Fitzroy Crossing, the new zone is intended to be flexible and for development to be guided by the Fitzroy Futures Town Plan.

The map, which shows the zoning and density codes for LPS No. 9 can be found on the Shire's website and is available at the Shire administration offices. Furthermore, land use permissibility of land has changed in some areas. The changes will affect what kinds of land uses you can conduct from your property. In some instances, the changes may enable future subdivision potential within particular areas due to the relaxation of constraints on lot sizes and land uses permitted within the particular zone.

## Can I still lodge a Scheme Amendment application to Local Planning Schemes No. 5 and 7?

Yes, a scheme amendment can be lodged for LPS 5 and 7 as no moratorium has been placed on the submission of amendments. The suggested course of action is to prepare a submission to modify draft LPS No. 9 rather than a complete scheme Amendment to either LPS No. 5 or 7.

Applications for Scheme amendments can then be lodged once the Western Australian Planning Commission has made a final determination on draft LPS No. 9.

## What can I do if I do not like the changes to draft LPS No. 9?

Once the advertising process has commenced, you have the right to submit a formal submission in relation to your specific property being affected and the reasons as to why you think it should or should not be changed.

The submissions will be collated and responded to after closing of the formal advertising period. This will be presented to the Council in the New Year and potential modifications will be suggested to draft LPS No. 9.

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# Shire of Derby / West Kimberley

Council's resolution and all potential changes will then be sent to the Western Australian planning Commission for their consideration as the statutory decision-making authority. The Minister for Planning will make the final decision over LPS No. 9.

## How can I make a submission?

Submissions on draft LPS No. 9 must be lodged in writing and include the scheme name and number, the property affected, details of the submission as well as the submitters name and contact details. Submissions addressed to the Chief Executive officer on or before 26 May 2023 can be made by either:

- Email: [lps9submissions@sdwk.wa.gov.au](mailto:lps9submissions@sdwk.wa.gov.au); or
- By hand at either:
  - Derby Administration Office, 30 Loch Street, Derby; or
  - Fitzroy Crossing Visitors Centre, Flynn Drive, Derby; or
  - Mail to: PO Box 94 Derby WA 6728:

## What will happen to my submission?

All submissions will be compiled into a stakeholder submission register and reviewed by Shire staff. It is anticipated that these submissions will be summarised and this will be presented to the Council in June or July 2023 and potential modifications will be suggested to draft LPS No. 9. This process will be undertaken after the 90-day advertising period and take several months to ensure all submissions are considered. The Council resolution and all potential changes will then be sent to the Western Australian Planning Commission for their consideration as the decision-making authority.

## What is the timeframes for draft LPS No. 9?

*The timeframe is subject to change due to the Shire not being the approval authority for draft LPS No. 9, however the following timeframe as per the figure below provides an indicative guide:*

### Derby

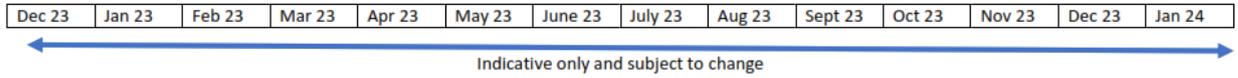
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Formal Advertising	[Blue bar spanning Dec 23 to Apr 23]												
Information Sessions	[Blue bar spanning Mar 23 to Apr 23]												
Consideration of Submissions	[Blue bar spanning May 23 to July 23]												
Council Resolution	[Blue bar spanning July 23 to Aug 23]												
Resolution of WAPC	[Blue bar spanning Aug 23 to Dec 23]												
Minister's Decision	[Blue bar spanning Dec 23 to Jan 24]												

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