



# **DISTRICT PLANNING SCHEME No. 2**

Amendment No. 171

*Planning and Development Act 2005*

**RESOLUTION TO ADOPT AMENDMENT TO  
LOCAL PLANNING SCHEME**

**CITY OF WANNEROO**

**DISTRICT PLANNING SCHEME NO. 2 - AMENDMENT NO. 171**

RESOLVED that the local government pursuant to section 75 of the *Planning and Development Act 2005*, amend the above local planning scheme by:

1. Amending Schedule 2 – Section 1 (Clause 3.20) – Additional Uses to insert the following:

NO		STREET/LOCALITY	PARTICULARS OF LAND	ADDITIONAL USE AND CONDITIONS (WHERE APPLICABLE)
A41	1-41	Prindiville Drive, Wangara	Lot 7 on Strata Plan 18103 Certificate of Title Volume 2132 Folio 388 (No.20)	Restricted Premises – ‘D’ use Conditions: Operating hours between 10am and 5pm Monday to Saturday and 12 noon to 5pm on Sundays.

and the Scheme Map accordingly.

2. The Amendment is standard under the provisions of the *Planning and Development (Local Planning Schemes) Regulations 2015* for the following reason:

*The proposed Amendment proposes a land use that would not result in any significant environmental, social, economic or governance impacts on land in the scheme area.*

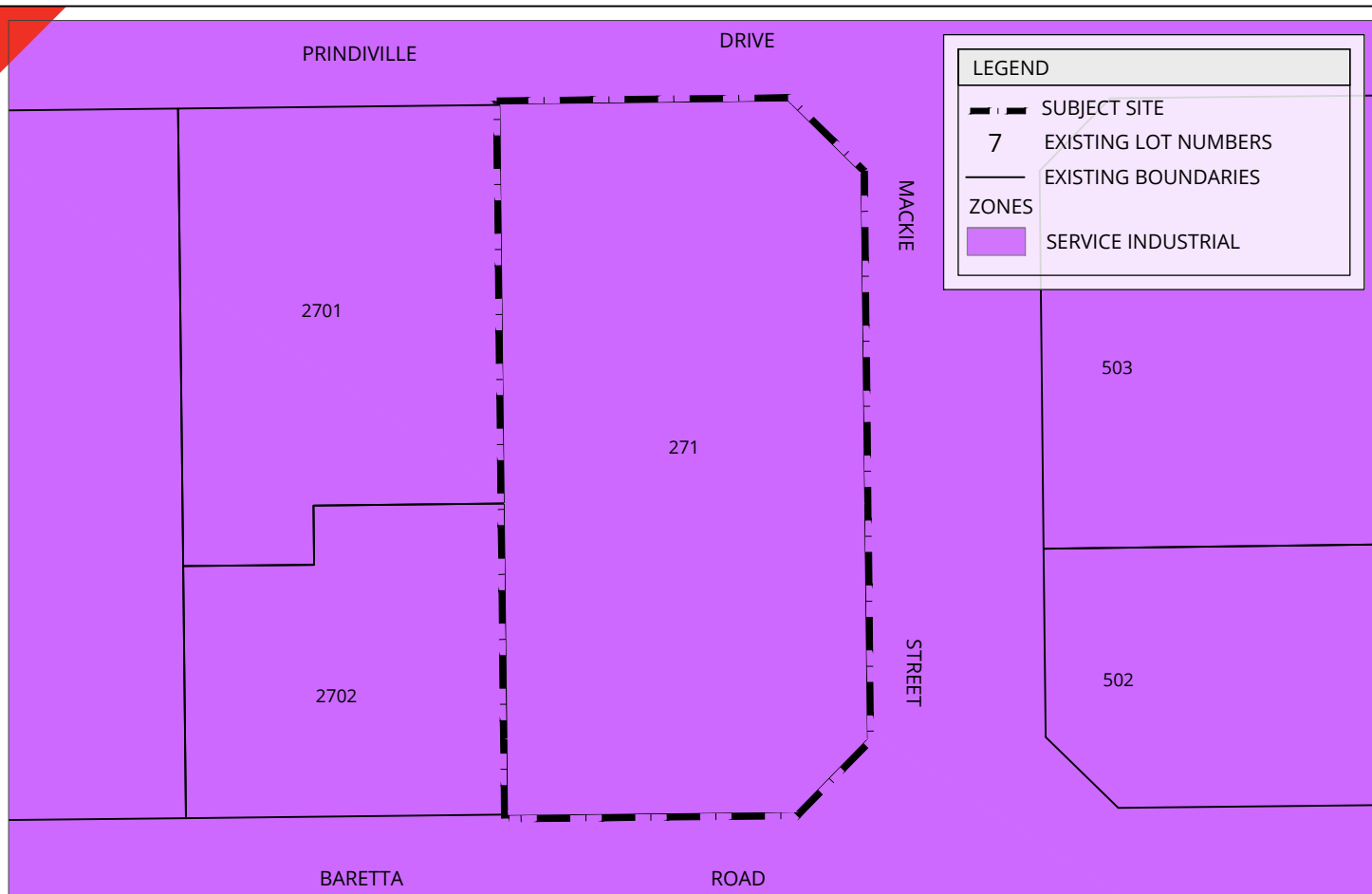
Date of Council Resolution.....

.....  
(Chief Executive Officer)

Dated this ..... day of ..... 20.....

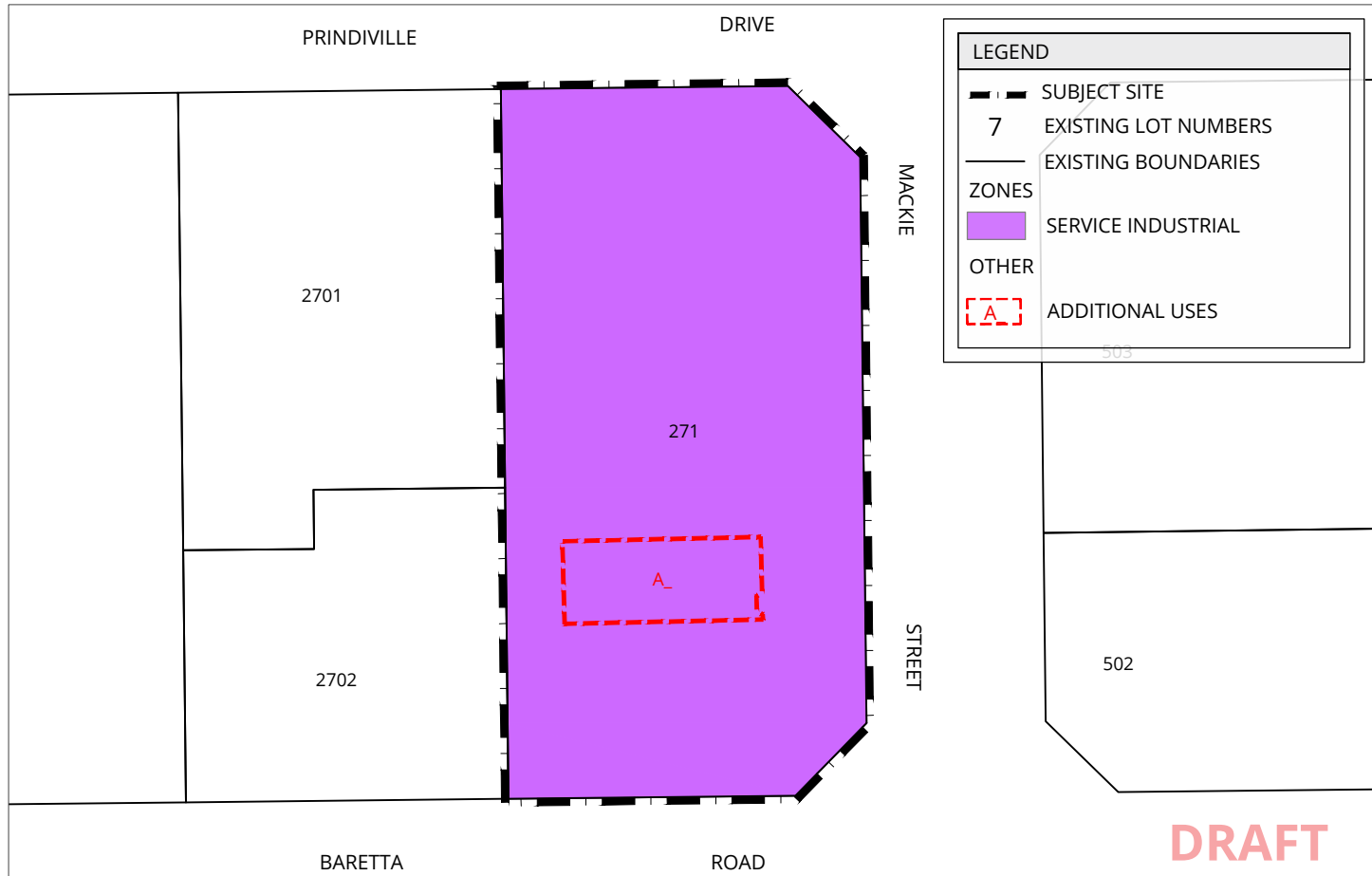
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8890-FIG06A\_20181206\_Wangara (LPS REZONING) - DRAWN: W. CLEMENTS - DATE CREATED: 2018.12.06 - PROJECTION: MGA50 GDAS4 - CADASTRE: LANDGATE - N:TOWN:PLANNING\8890\8890\8890\DRAWING\A-CAD - WILLIAM CLEMENTS - 2018.12.06



LEGEND	
	SUBJECT SITE
7	EXISTING LOT NUMBERS
	EXISTING BOUNDARIES
ZONES	
	SERVICE INDUSTRIAL

EXISTING DPS No. 2 ZONING

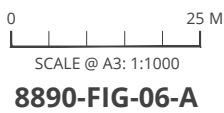


LEGEND	
	SUBJECT SITE
7	EXISTING LOT NUMBERS
	EXISTING BOUNDARIES
ZONES	
	SERVICE INDUSTRIAL
OTHER	
	ADDITIONAL USES

**DRAFT**

PROPOSED DPS No. 2 ZONING

**PROPOSED DPS No. 2 REZONING**  
 LOT 271 (No. 20) PRINDIVILLE DRIVE (STRATA LOT 7)  
 WANGARA



## CITY OF WANNEROO

### DISTRICT PLANNING SCHEME NO 2 - AMENDMENT NO. 171

#### SCHEME AMENDMENT REPORT

##### 1.0 Subject Site

The property was originally described as Lot 271 on Diagram 52482 Certificate of Title Volume 1476 Folio 715. The development was subsequently strata titled, with the subject tenancy described as:

- Lot 7 on Strata Plan 18103 Certificate of Title Volume 2132 Folio 388

The subject site is one of 6 units within a larger single storey building located on the western side of Mackie Street between Prindiville Drive and Baretta Road.

Refer Figure 3 – Site Plan.

##### 2.0 Current Use

The subject site is currently occupied by a commercial activity known as ‘Absolutely Adult’ which sells adult products both online and in store. The business has been trading at this location since December 2011.

The front portion of the tenancy is occupied by the shop floor where products are displayed and can be purchased by the public. The rear of the tenancy is used for warehousing of products. ‘Absolutely Adult’ also supplies other adult stores in the metropolitan region with products via wholesale sales and distribution.

##### 3.0 Town Planning Considerations

###### Metropolitan Region Scheme

Under the Metropolitan Region Scheme (MRS), the subject land is zoned ‘Industry’.

Refer Figure 4 – Metropolitan Region Scheme Map.

###### City of Wanneroo District Planning Scheme No.2

Under the City’s District Planning Scheme No.2 (DPS2), the subject site is zoned ‘Service Industrial’.

Refer Figure 5 – District Planning Scheme No.2 Map.

Clause 3.12 relates to the ‘Service Industrial’ zone and reads as follows (our emphasis):

‘3.12.1 The Service Industrial Zone is intended to provide for a wide range of business, industrial and recreational developments which the local government may consider would be inappropriate in Commercial, Business and General Industrial Zones and which are capable of being conducted in a manner which will prevent them being obtrusive, or detrimental to the local amenity.

3.12.2 The objectives of the Service Industrial Zone are to:

(a) accommodate a range of light industries, showrooms and warehouses, entertainment and recreational activities, and complementary business services which, by their nature, would not detrimentally affect the amenity of surrounding areas;

(b) ensure that development within this zone creates an attractive façade to the street for the visual amenity of surrounding areas.'

The business currently operating at the subject site is considered a 'Restricted Premises' which is defined under DPS2 as;

*'any premises used or designed to be used primarily for the sale by retail or wholesale, or the offer for hire, loan or exchange, or the exhibition, display or delivery of:*

*(a) publications that are classified as restricted publications pursuant to the Indecent Publications and Articles Act 1902 (as amended); or*

*(b) materials, compounds, preparations or articles which are used or intended to be used primarily on or in connection with any form of sexual behaviour or activities.'*

It is worthy of note that the land use of 'Restricted Premises' is unique in that it does not distinguish between the retail and wholesale sale of products, with both methods of sale being captured within the definition.

The Zoning Table within DPS2 identifies the 'Restricted Premises' as an 'X' Use within all zones except for the 'Commercial' zone, meaning that it is prohibited within the 'Service Industrial' zone applicable to the subject site.

#### **4.0 Proposed Scheme Amendment**

This Scheme Amendment seeks to include Strata Lot 7 within No.20 Prindiville Drive, Wangara into Schedule 2 of DPS2 with an 'Additional Use' of 'Restricted Premises' to facilitate the continued operation of the 'Absolutely Adult' business. It is proposed that the 'Additional Use' will cover only Strata Lot 7, rather than Lot 271 in its entirety. This would consist of an entry in Schedule 2 – Section 1 as follows:

NO		STREET/LOCALITY	PARTICULARS OF LAND	ADDITIONAL USE AND CONDITIONS (WHERE APPLICABLE)
A41	1-41	Prindiville Drive, Wangara	Lot 7 on Strata Plan 18103 Certificate of Title Volume 2132 Folio 388 (No.20)	Restricted Premises – 'D' use Conditions: Operating hours between 10am and 5pm Monday to Saturday and 12 noon to 5pm on Sundays.

The proposed permissibility of the additional use as a 'D' use is identical to the permissibility for the use within the 'Commercial' zone. The process for dealing with a 'D' use is described in Clause 6.2.2 of DPS2 and states that Council in exercising discretion as to the approval to the use shall have regard to the provisions of Clause 67 of the deemed provisions and may also consult with the public prior to making its determination.

## Rationale, Planning Justification and Assessment

The Planning and Development (Local Planning Schemes) Regulations 2015 (Regulations) set out what constitutes a basic, standard and complex Scheme Amendment.

The proposed Amendment does not constitute a basic amendment in that it does not intend to correct an administrative, grammatical or basic content matter within the Scheme. The proposed Amendment does not constitute a complex amendment in that it does not propose a land use or zoning that is inconsistent with the Local Planning Strategy.

The Amendment will have minimal impact on the land that is not subject of the Amendment and as such is considered a to be standard amendment in accordance with Clause 34 of the Regulations.

## Objectives of the Zone

Clause 3.12 relates to the 'Service Industrial' zone and reads as follows (our emphasis):

'3.12.1 The Service Industrial Zone is intended to provide for a wide range of business, industrial and recreational developments which the local government may consider would be inappropriate in Commercial, Business and General Industrial Zones and which are capable of being conducted in a manner which will prevent them being obtrusive, or detrimental to the local amenity.

3.12.2 The objectives of the Service Industrial Zone are to:

*'(a) accommodate a range of light industries, showrooms and warehouses, entertainment and recreational activities, and complementary business services which, by their nature, would not detrimentally affect the amenity of surrounding areas;*

*'(b) ensure that development within this zone creates an attractive façade to the street for the visual amenity of surrounding areas.'*

The use of the subject site for a 'Restricted Premises' is consistent with Clause 3.12 as described above for the following reasons:

- The inclusion of the use would be consistent with the objective of providing a wide range of businesses within the zone;
- The operation of the 'Restricted Premises' would not detrimentally affect the amenity of the area through aspects such as vehicle traffic, car parking or noise;
- The warehouse component of the operation would ordinarily fit within the 'Warehouse' use class which is a 'P' use within the Service Industrial zone. However, owing to the products which are to be stored within the Warehouse component, the activity falls within the use class of 'Restricted Premises'.
- The 'Restricted Premises' operates primarily as a wholesale provider to other similar businesses. The majority of the floor space is occupied by warehousing functions where products are stored for distribution. The shop front is considered incidental to this; representing only approximately one third of the overall floor area; and
- The shop front of the 'Restricted Premises' will display modest, tasteful images and advertising of the business. In addition, when closed the front façade is covered by opaque security shutters covering the window display.

### Suitability of the Use

As previously noted, presently within DPS2 the 'Restricted Premises' use is only capable of approval within the 'Commercial' zone, where it is considered as a 'D' (Discretionary) use. Whilst its inclusion within this zone may reflect the retail component of the use, it means that the use may only be established within a Shopping Centre or commercial centre. This may potentially have an undesirable impact in that the premises would be highly visible to passing pedestrian traffic, including the elderly, teenagers, students or young children.

By virtue of its location, the subject site is considered to be preferred for the following reasons:

- By not relying on passing pedestrian traffic, customers wishing to attend the premises must travel directly to the premises, meaning that it is unlikely to be viewed by sensitive audiences who may be shopping for other purposes;
- The location does not result in broad exposure to the public, with frontage to a secondary street where no pedestrian footpath is provided; and
- The site is not in proximity to schools, churches or other public locations.

### Surrounding Land Uses

We note that the area surrounding the subject site comprises a range of service industrial land uses including;

- Tyrepower Wangara;
- Seabreeze Boating;
- Just Mechanics;
- Dial A Glass;
- ELV & Electronics Specialists
- Perth Eagle Blinds & Flooring showroom/warehouse
- Wangara Fire Station
- Numerous vehicle sales yards

The operation of the Restricted Premises does not negatively affect the amenity of the abovementioned businesses, nor is it adversely affected by any surrounding activities.

The Theatrix Performing Arts Studio recently opened within Strata Lots 3 and 4 of No.20 Prindiville Drive, which holds classes for all ages. We consider that the proximity of the Restricted Premises to this activity is acceptable for the following reasons:

- The operation of the Restricted Premises does not result in any noise or other impacts which would potentially be disruptive to the operation of the performing arts studio;
- The performing arts studio and its associated parking are at the front of the premises, whilst the subject site is located to the secondary street frontage facing west. As such, patrons of the studio are unlikely to pass the subject site upon entry or exit to the studio;
- The entry doors for the Restricted Premises and the dance studio are separated by two tenancies which represents a distance of over 30m. As such, its patrons are unlikely to be impacted by the subject site;

- The signage and display window for the Restricted Premises presents in a reserved and tasteful manner, which is covered with security shutters when the premises is closed; and
- The Restricted Premises will be open during normal trading hours (i.e 10:00am until 5:00pm Monday –Saturday and 12:00 until 5pm Sunday). A review of the performing arts studio website shows that the majority of classes occur in the afternoon/evening period during the week. As such, the Restricted Premises would most likely be closed for the majority of the operating hours of the dance studio.

## **5.0 Conclusion**

This Scheme Amendment Request seeks approval for an ‘Additional Use’ over Lot 7, No.20 Prindiville Drive, Wangara to facilitate the ability for approval to a ‘Restricted Premises’ within the tenancy.

The proposed Scheme Amendment is considered to be consistent with the objectives and intent of the ‘Service Industrial’ zone and will not detrimentally impact upon the amenity of the area.

On the basis of the information provided above it is respectfully requested that the City give support to initiation of the Scheme Amendment, where it will be subject to public consultation prior to further consideration by Council.



PLANNING AND DEVELOPMENT ACT 2005

CITY OF WANNEROO

DISTRICT PLANNING SCHEME NO. 2 - AMENDMENT NO. 171

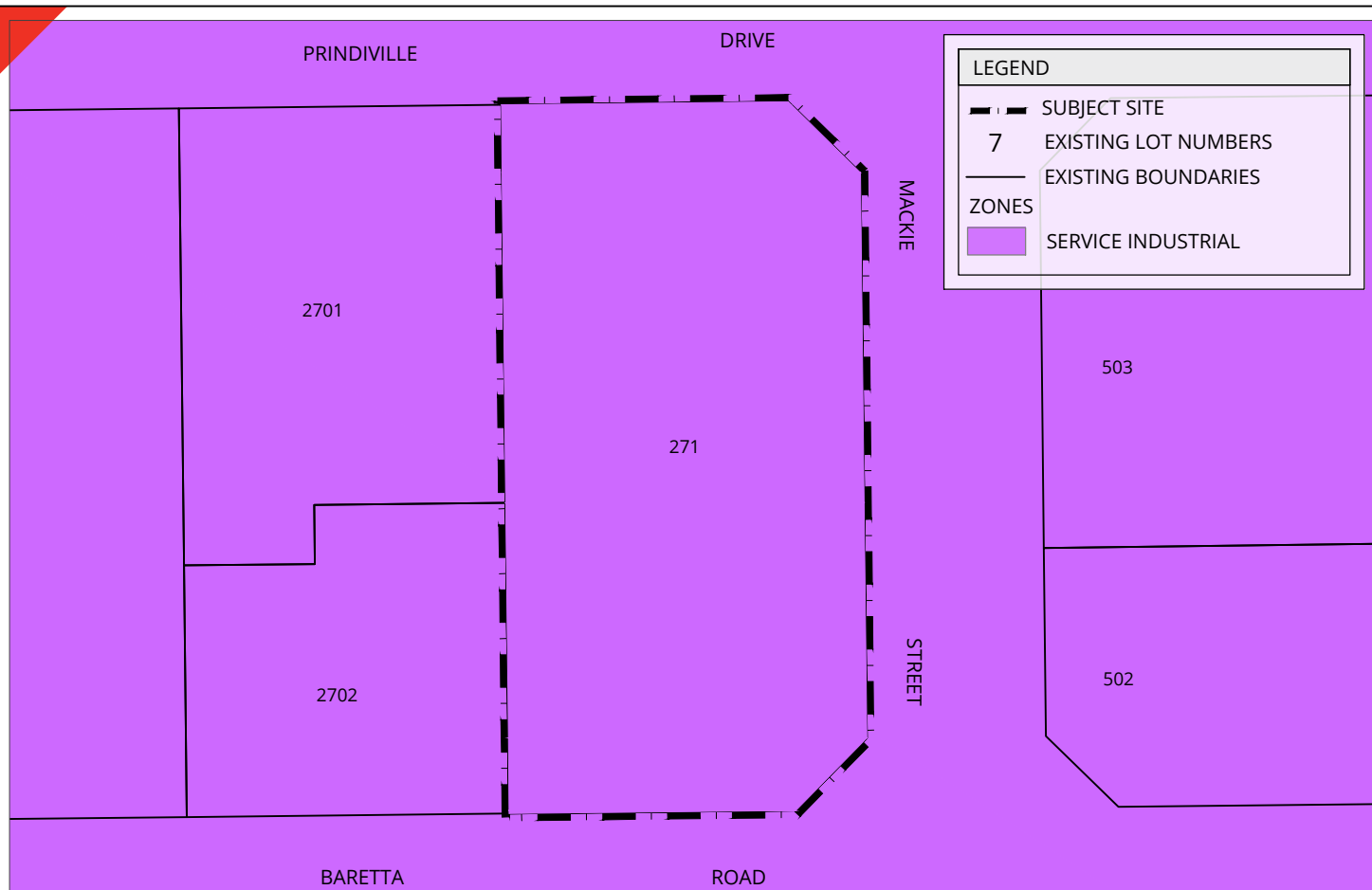
RESOLVED that the City of Wanneroo under and by virtue of the powers conferred upon it in that behalf by the Planning and Development Act 2005 hereby amends the above local planning scheme by:

1. Amending Schedule 2 – Section 1 (Clause 3.20) – Additional Uses to insert the following:

NO		STREET/LOCALITY	PARTICULARS OF LAND	ADDITIONAL USE AND CONDITIONS (WHERE APPLICABLE)
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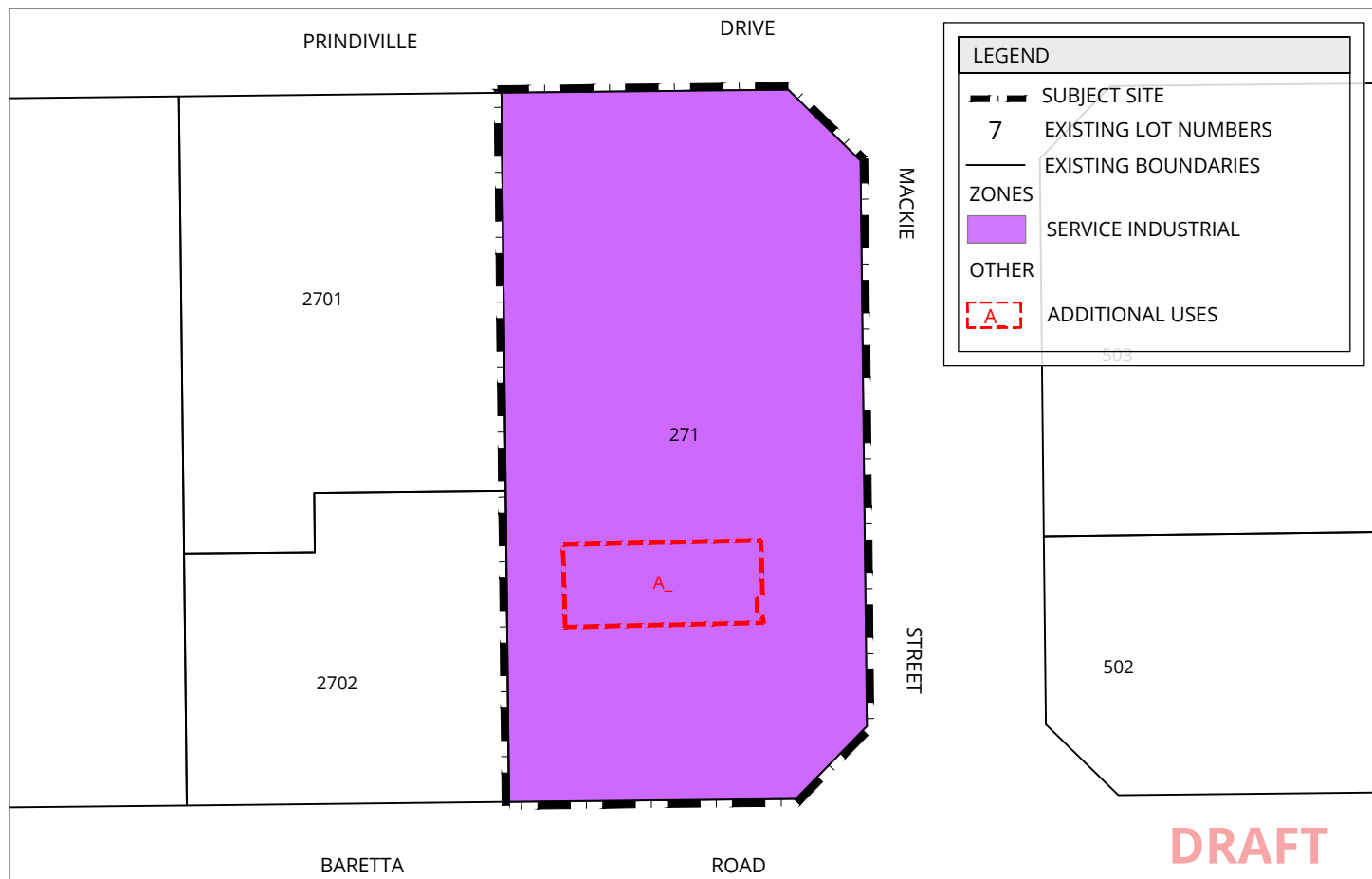
and the Scheme Map accordingly.

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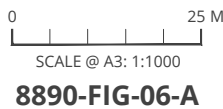


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PROPOSED DPS No. 2 ZONING

**PROPOSED DPS No. 2 REZONING**  
 LOT 271 (No. 20) PRINDIVILLE DRIVE (STRATA LOT 7)  
 WANGARA



**ROWE**  
GROUP

8890-FIG06A\_20181206\_Wangara (LPS REZONING) - DRAWN: W. CLEMENTS - DATE CREATED: 2018.12.06 - PROJECTION: MGA50 GDA94 - CADASTRE: LANDGATE - N:TOWN PLANNING\8890-8998890\DRAWING\A-CAD - WILLIAM CLEMENTS - 2018.12.06

**COUNCIL ADOPTION**

This Standard Amendment was adopted by resolution of the Council of the City of Wanneroo at the Ordinary Meeting of the Council held on the 5th day of March 2019

.....  
MAYOR

.....  
CHIEF EXECUTIVE OFFICER

**COUNCIL RESOLUTION TO ADVERTISE**

By resolution of the Council of the City of Wanneroo at the Ordinary Meeting of the Council held on the 5th day of March 2019, proceed to advertise this amendment.

.....  
MAYOR

.....  
CHIEF EXECUTIVE OFFICER

**COUNCIL RECOMMENDATION**

This Amendment is recommended for \_\_\_\_\_ by resolution of the City of Wanneroo at the Ordinary Meeting of the Council held on the \_\_\_\_\_ day of \_\_\_\_\_, and the Common Seal of the City of Wanneroo was hereunto affixed by the authority of a resolution of the Council in the presence of:

.....  
MAYOR

.....  
CHIEF EXECUTIVE OFFICER

**WAPC RECOMMENDATION FOR APPROVAL**

.....  
DELEGATED UNDER S.16 OF  
PD ACT 2005

DATE .....

Approval Granted

.....  
MINISTER FOR PLANNING, LANDS AND  
HERITAGE

DATE .....