

LOCAL PLANNING SCHEME NO. 4

AMENDMENT NO. 328

March 2025



PLANNING AND DEVELOPMENT ACT, 2005
RESOLUTION TO PREPARE
AMENDMENT TO A LOCAL PLANNING SCHEME

SHIRE OF MURRAY
LOCAL PLANNING SCHEME NO. 4
AMENDMENT NO. 328

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

1. Inserting a new Special Control Area under Clause 6.14.1.1(c) Canal Frontage Lots
2. Inserting a new Clause 6.14.4 Canal Frontage Lots
3. Inserting new sub clause 6.14.4.1 Canal Frontage Lots

Name of Area	Purpose	Objectives	Additional Provisions
SCA1 Canal Frontage Lots	To provide development control that protects the character and amenity of the canals and canal frontage lots.	<p>(1) To ensure the visual amenity and open natured character of the canal frontage area is not compromised.</p> <p>(2) To ensure boating facilities do not adversely impact navigation within an artificial canal waterway and pose a navigation hazard.</p> <p>(3) To ensure canal wall replacements are generally consistent in appearance.</p>	<p>(1) Notwithstanding any other provision of the Scheme, all proposed development within SCA 1 requires the development approval of the local government, unless the development is specified as a type that does not require development approval in a local planning policy.</p> <p>(2) In determining an application for development approval, the local government may have regard to advice from the Department of Transport and/or any other relevant agency.</p>

4. Amending the scheme maps by including a Special Control Area hatching to Canal Frontage Lots.

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

- It will have minimal impact on land in the scheme area that is not the subject of the amendment; and
- It does not result in any significant environmental, social, economic or governance impacts on land in the scheme area

Dated this 27th day of March 2025.

CHIEF EXECUTIVE OFFICER

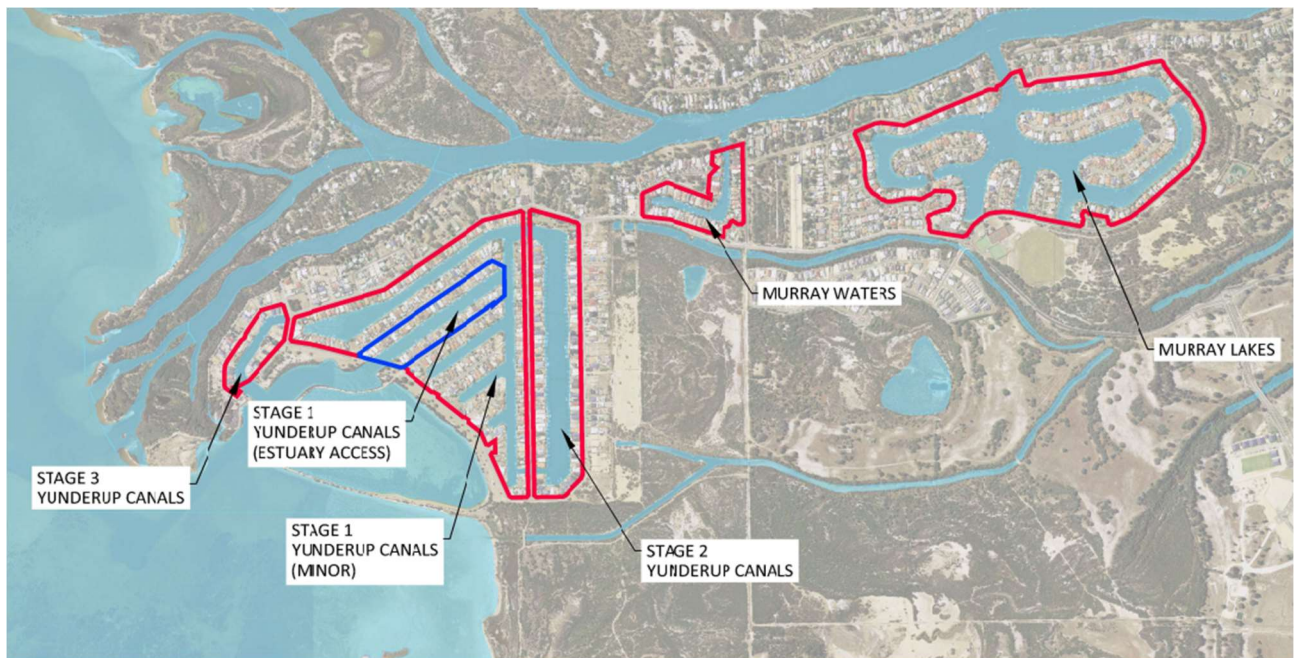
REPORT

- | | |
|--|---|
| 1. LOCAL AUTHORITY | Shire of Murray |
| 2. DESCRIPTION OF TOWN
PLANNING SCHEME: | Local Planning Scheme No. 4 |
| 3. TYPE OF SCHEME: | Local Planning Scheme |
| 4. SERIAL NO. OF AMENDMENT: | Amendment No. 328 |
| 5. PROPOSAL: | Initiating an Amendment to insert a
Special Control Area for Canal Frontage
Lots. |

1.0 Introduction

The purpose of this Scheme Amendment is to introduce a Special Control Area (SCA) to canal frontage lots that will require development approval for all development on canal frontage lots, unless it is specifically exempted by a local planning policy. It is intended that the provisions of the existing local planning policies will continue to apply, exempting the need for approval that meets the current development standards.

This will ensure a continuation of current practice which will maintain the existing character and amenity of the canals and ensure no further regulatory burden on residents in the area. It will essentially have no impact on the way things have operated to date, however, it will ensure that a sound statutory basis to protect the amenity of the area.



1. Land proposed to be covered by the SCA

2.0 Background

In June 2016, Council initiated an amendment to the Shire's Local Planning Scheme No.4 (LPS4) that, amongst other things, removed the development standards applicable to residential development on canal frontage lots in South Yunderup. This amendment was gazetted in March 2017.

The relevant development standards were updated and transferred into two new local planning policies:

- Boating Facilities and Moorings
- General Development Requirements for Properties Abutting an Artificial Canal Waterway.

An amended Canal Walls – Yunderup Canals Stage 1 Local Planning Policy was also adopted as part of the suite.

The intention behind placing the relevant development standards in a local planning policy was to make the process of periodic changes simpler and provide greater flexibility for amendments as required over time to ensure that the development standards remained up to date and relevant.

The development standards in the local planning policies seek to provide a distinct character that is open natured, with large setbacks to the canal frontages.

A recent decision handed down by the Supreme Court of Western Australia (McComish -v- Shire of Peppermint Grove [2024] WASC 502), has highlighted that, where an approval exemption exists under the *Planning and Development (Local Planning Schemes) Regulations 2015*, a local planning scheme or policy cannot require an approval, unless the land is located within a SCA.

Essentially this means that development of single houses and ancillary development in the canal areas no longer need to consider the requirements of the local planning policies, provided that they comply with the Residential Design Codes. Some implications of this include:

- Single houses can be developed closer to the canal frontage;
- 1.8m high solid fencing can be provided up to the canal frontage; and
- Outbuildings can be located between the house and the canal frontage.

Consequently, there is a risk that the unique character of the canals will be compromised.

3.0 Amendment Type

As per Part 5 of the Regulations, there are several amendment types: basic, standard and complex. These are defined in Part 5, Division 1, Regulation 34.

Regulation 35(2) requires the local government to specify in its resolution to prepare or adopt an amendment what type of amendment it is, as well as the explanation for forming that opinion.

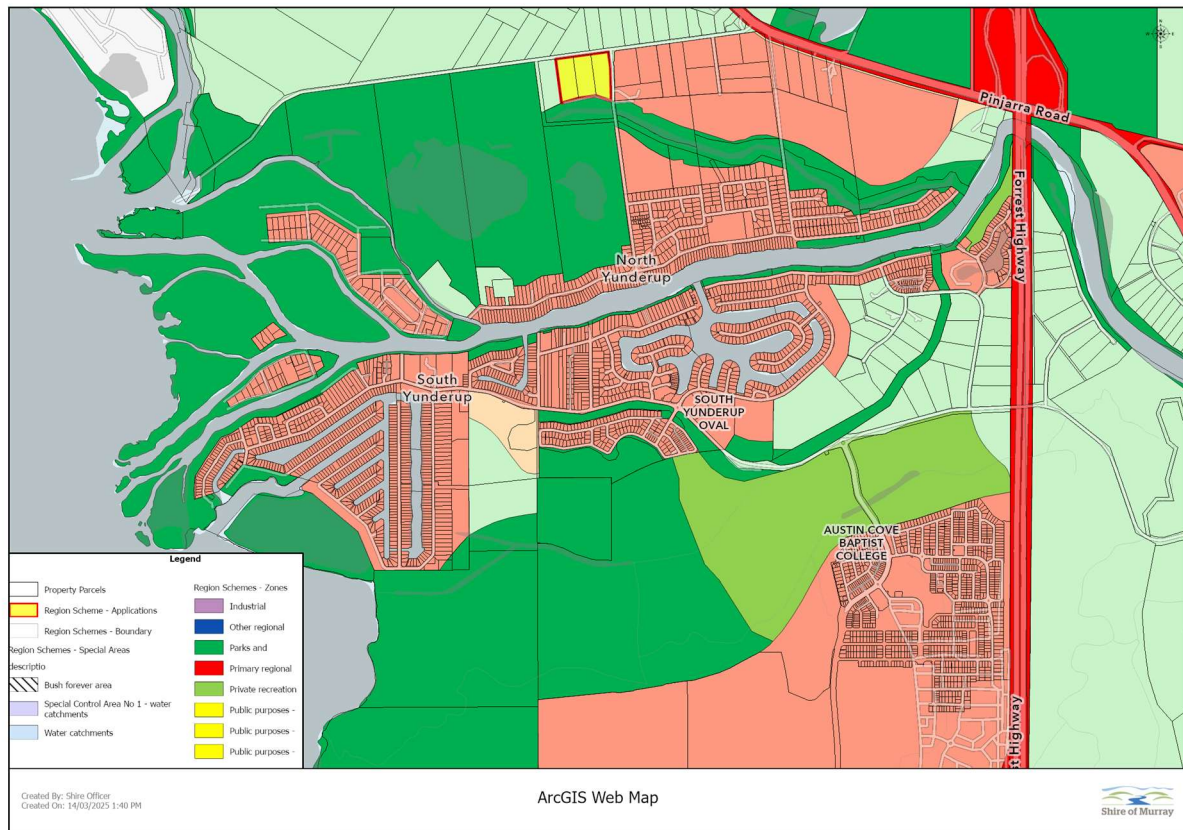
This proposed amendment is a 'standard' amendment, under the provisions of the *Planning and Development (Local Planning Schemes) Regulations 2015* as it is

- consistent with the applicable region planning scheme;
- will have minimal impact on land in the scheme area that is not the subject of the amendment; and
- does not result in any significant environmental, social, economic or governance impacts on land in the scheme area.

4.0 Town Planning Context

4.1 Peel Region Scheme

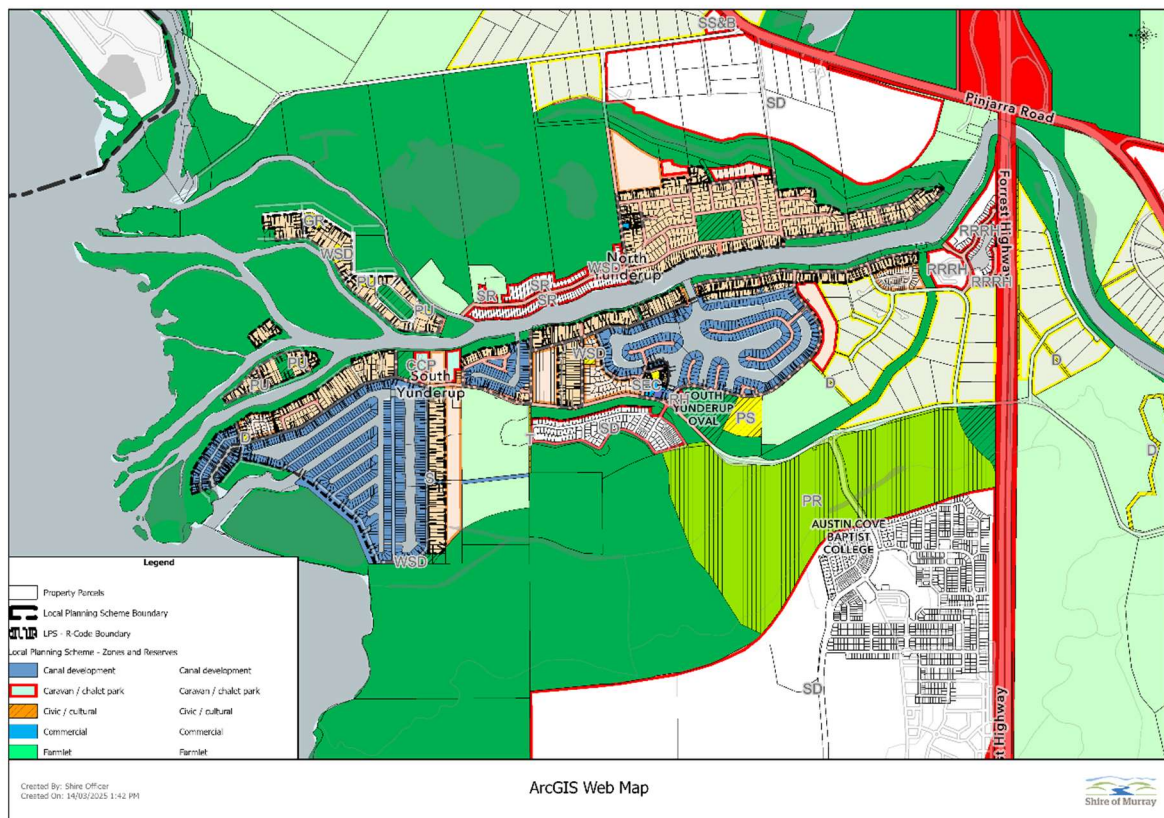
The subject land is zoned 'Urban' under the provisions of the *Peel Region Scheme* ('PRS').



2. PRS Zoning

4.2 Shire of Murray Local Planning Scheme No. 4

The subject land is zoned Canal Development Zone under the *Shire of Murray Local Planning Scheme No.4*. It has an R-Coding of R15.



3. LPS4 Zoning

Clause 6.2.3 of LPS4 states that residential development is to occur in accordance with the R-Codes unless otherwise stipulated in this Scheme or an approved local development plan or local planning policy.

The recent Supreme Court decision has made clear that this clause no longer has an effect.

4.3 Development control policy 1.8 - Canal estates and artificial waterway developments

This policy sets out requirements of the WAPC for assessment of canal estate proposals and was utilised in the establishment of the South Yunderup Canals. Appendix 2 of the Policy sets out development standards for canal development that are to be included within local planning frameworks.

The existing and proposed planning framework has had regard to these standards.

5.0 Proposal

The purpose of this Scheme Amendment is to amend LPS 4 by:

1. Insert a new Special Control Area under Clause 6.14.1.1(c) Canal Frontage Lots
2. Insert a new Clause 6.14.4 Canal Frontage Lots
3. Insert new sub clause 6.14.4.1 Canal Frontage Lots

Name of Area	Purpose	Objectives	Additional Provisions
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4. Amending the scheme maps by including a Special Control Area hatching to Canal Frontage Lots.

6.0 Justification

It is proposed to introduce a SCA to the canal frontage lots that will require development approval for all development on canal frontage lots, unless it is specifically exempted by a local planning policy. It is intended that the provisions of the existing local planning policies will continue to apply, exempting the need for approval that meets the current development standards.

This will ensure a continuation of current practice which will maintain the existing character and amenity of the canals and ensure no further regulatory burden on residents in the area.

It will essentially have no impact on the way things have operated to date, however, it will ensure that a sound statutory basis to protect the amenity of the area.

7.0 Conclusion

The recent Supreme Court decision has highlighted the fact that a single house and ancillary development are exempt from the need to obtain development approval if a development meets the relevant acceptable development criteria under the Residential Design Codes. Consequently, the introduction of a SCA is necessary to preserve the character of canal frontage lots. For the public there will be no change to current practice, however the introduction of a SCA is necessary to ensure a continuing sound statutory basis to apply the canal related development standards.

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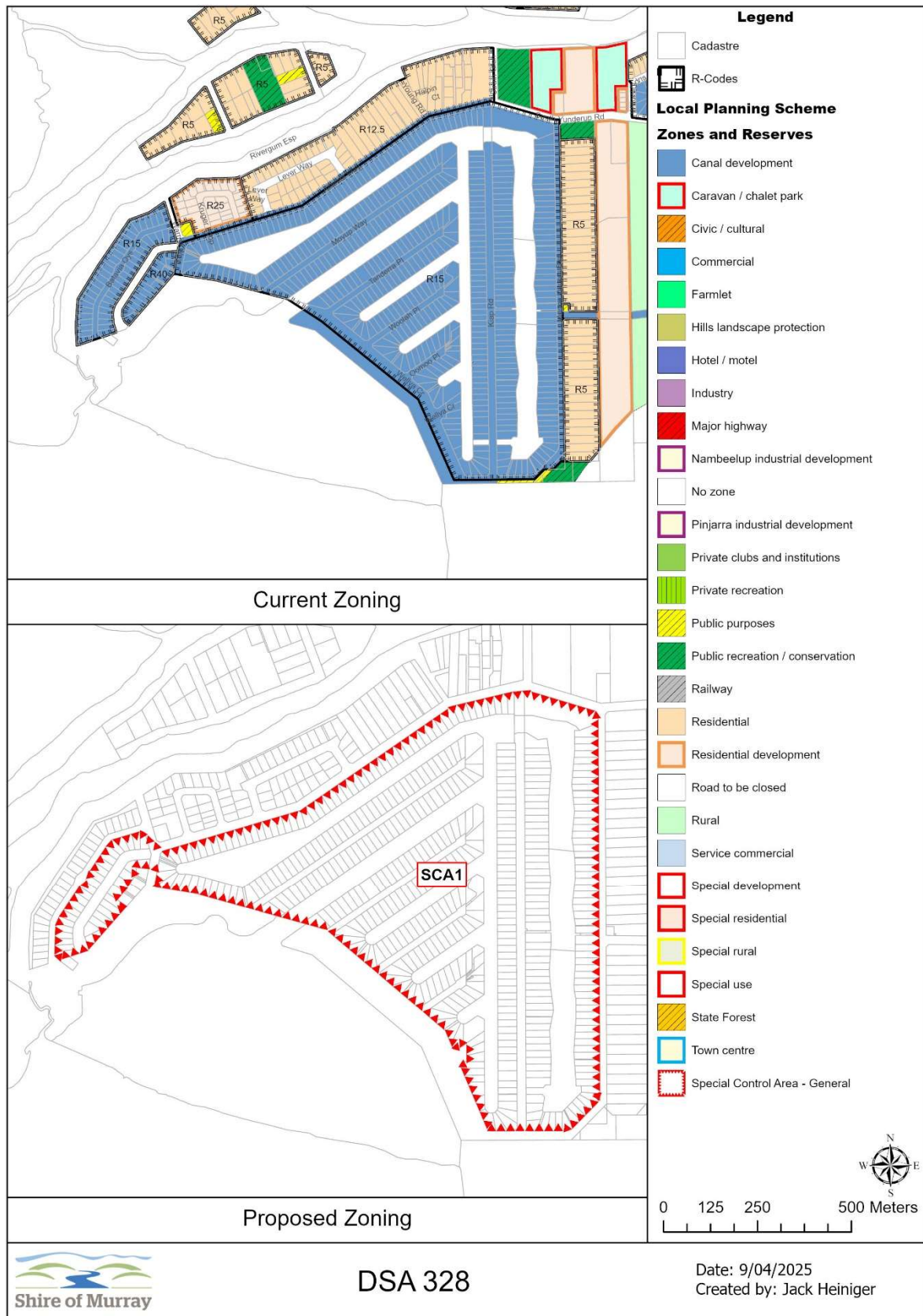
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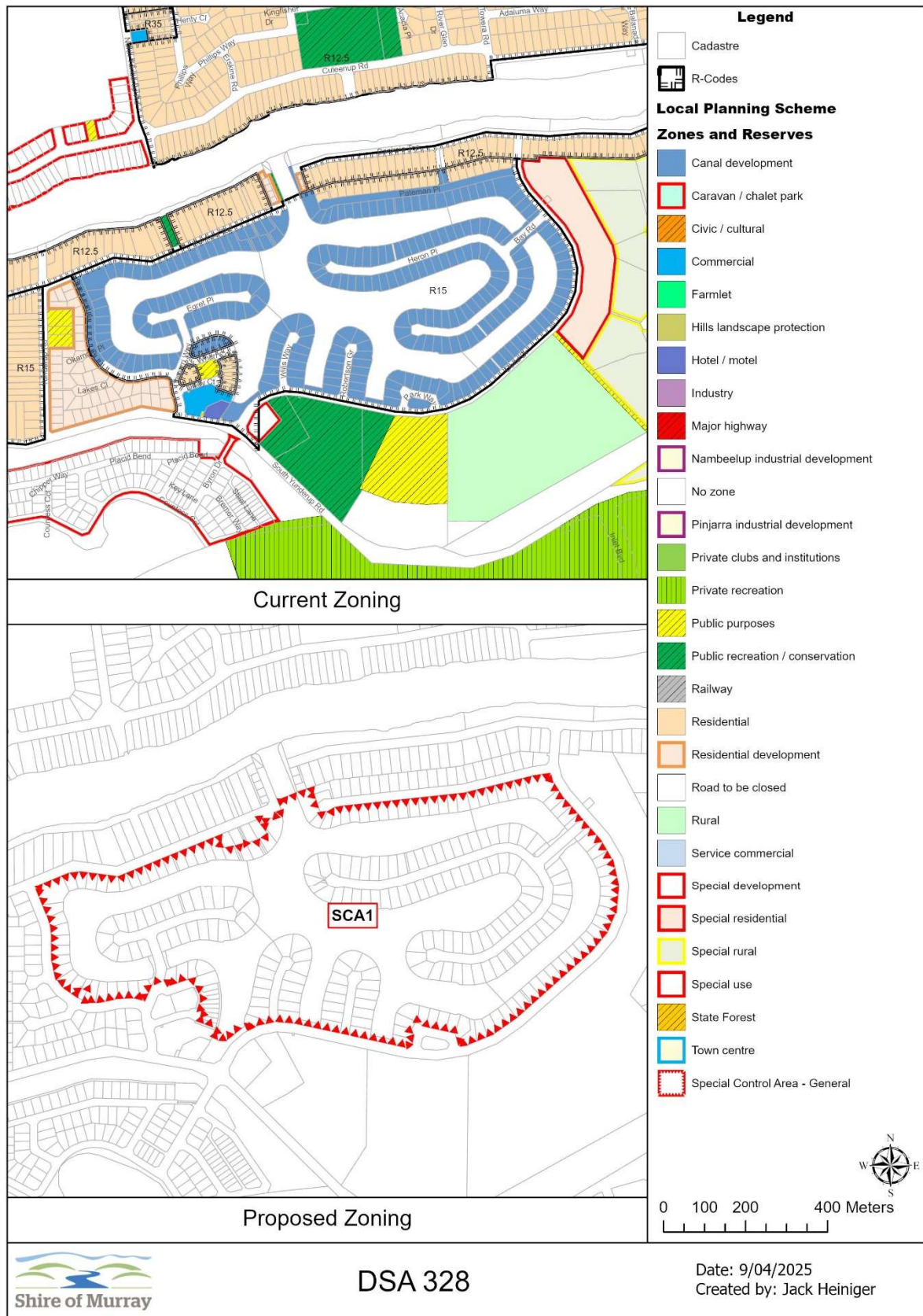
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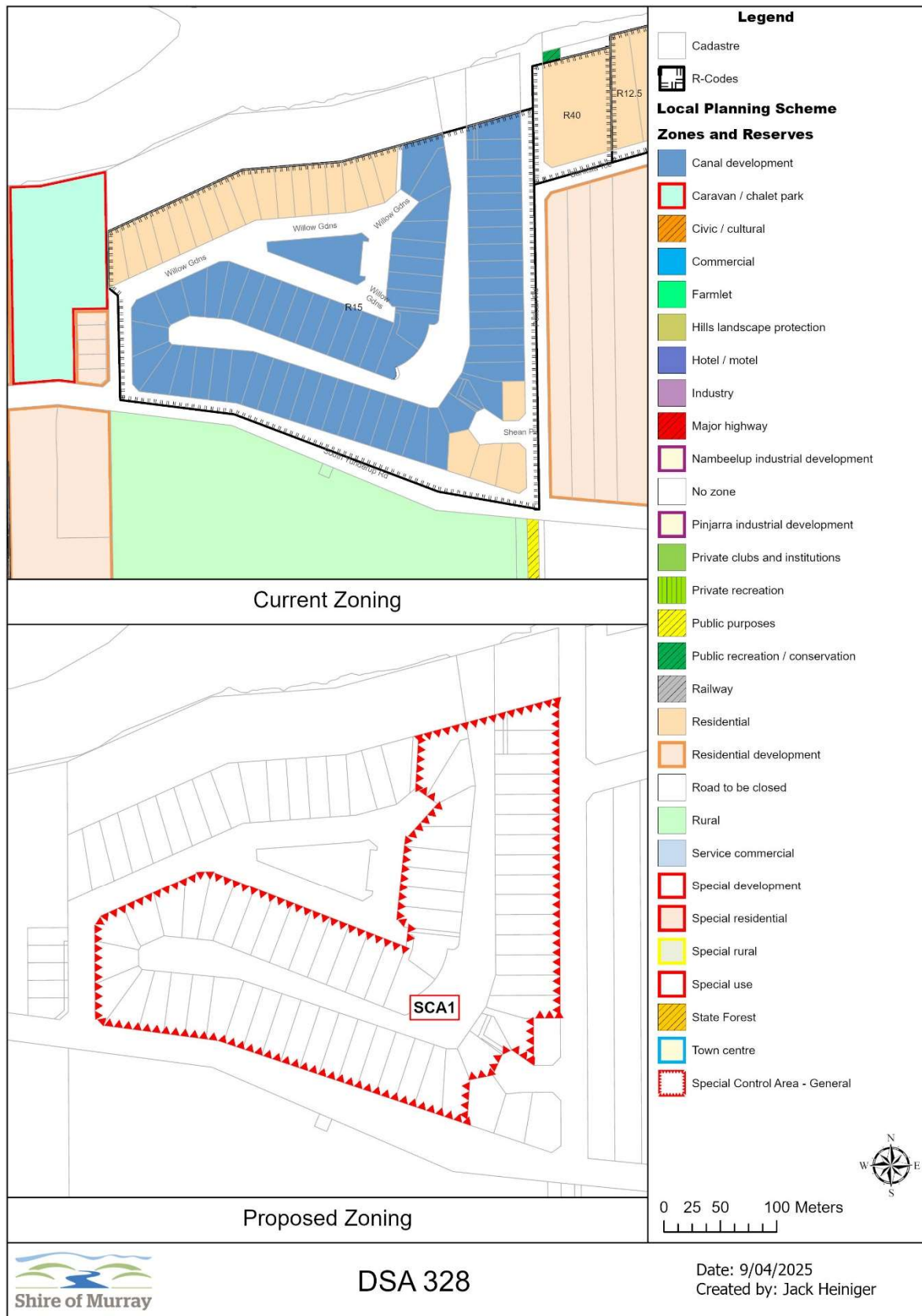
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4. Amending the scheme maps by including a Special Control Area hatching to Canal Frontage Lots.







COUNCIL ADOPTION

This Standard Amendment was adopted by resolution of the Council of the Shire of Murray at the Ordinary Meeting of the Council held on the 27th day of March 2025.

SHIRE PRESIDENT

CHIEF EXECUTIVE OFFICER

COUNCIL RESOLUTION TO ADVERTISE

by resolution of the Council of the Shire of Murray at the Ordinary Meeting of the Council held on the 27th day of March 2025, proceed to advertise this Amendment.

SHIRE PRESIDENT

CHIEF EXECUTIVE OFFICER

COUNCIL RECOMMENDATION

This Amendment is recommended for support by resolution of the Shire of Murray at the Ordinary Meeting of the Council held on the ____ day of _____ 202__ and the Common Seal of the Shire of Murray was hereunto affixed by the authority of a resolution of the Council in the presence of:

SHIRE PRESIDENT

CHIEF EXECUTIVE OFFICER

WAPC ENDORSEMENT (r.63)

.....

DELEGATED UNDER S.16 PLANNING
AND DEVELOPMENT ACT 2005

DATE.....

Approval Granted

.....

MINISTER FOR PLANNING

DATE.....

