

MINUTES

Council Meeting 27 May 2010

CONFIRMATION OF MINUTES

These minutes comprising page 1 - 78 were confirmed by the Council
on 24 June 2010
as a true and accurate record.

.....
Barbara Dunnet
SHIRE PRESIDENT

1. DECLARATION OF OPENING/ANNOUNCEMENT OF VISITORS	1
2. RECORD OF ATTENDANCE/APOLOGIES/LEAVE OF ABSENCE	1
3. RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE	1
4. PUBLIC QUESTION TIME	1
5. APPLICATIONS FOR LEAVE OF ABSENCE	2
6. PETITIONS/DEPUTATIONS/PRESENTATIONS	2
7. CONFIRMATION OF MINUTES OF PREVIOUS MEETINGS	2
8. ANNOUNCEMENTS BY PRESIDING MEMBER WITHOUT DISCUSSION	2
9. REPORTS BY MEMBERS ATTENDING COMMITTEES	2
10. REPORTS OF OFFICERS	

Minute No.	Agenda No.	Description	Page No.
8384	10.1	Subdivision WAPC 141769: Lot 500 Mount Leewin Loop Road	3
8385	10.2	Development Contribution for Infrastructure (DCI)	9
8386	10.3	Application for transitional period of 12 months AS3969 2009	15
8387	10.4	Request to Initiate Amendment 9 to Local Planning Scheme No3	17
8388	10.5	Update Amendment No10 to Local Planning Scheme No3	26
8389	10.6	Monthly Financial Statements for 30 April 2010	42
8390		Procedural Motion	43
8391	10.7	Local Government Initiatives Fund	43
8392		Procedural Motion	43
8393	10.8	Proposed 2010/11 Fees and Charges	46
8394	10.9	Budget Review	49
8395	10.10	Community Group Grants 2010/11	54
8396		Procedural Motion	56
8397	10.11	2010/11 Draft Cash Budget	56
8398		Procedural Motion	65
8399	10.12	Rates in the Dollar	65
8400	10.13	Bushfire Advisory Committee Meeting	71
-	10.14	Local Emergency Management Committee Council Representative	74
8401	10.15	Accounts for Payment	75

11. NEW BUSINESS OF AN URGENT NATURE INTRODUCED BY DECISION OF MEETING	77
---	-----------

12. ELECTED MEMBERS MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN	77
8402 12.1 Community Resource Centre	78
13. QUESTIONS BY MEMBERS OF WHICH DUE NOTICE HAS BEEN GIVEN	78
14. CLOSURE OF MEETING	78

Minutes

1. DECLARATION OF OPENING/ANNOUNCEMENT OF VISITORS

The Chairperson declared the meeting open at 4.17pm.

2. RECORD OF ATTENDANCE/APOLOGIES/LEAVE OF ABSENCE (previously approved)

Councillors Dunnet, Boulter, Camarri, Dean, Gilbert, Lorkiewicz, Mellema and Pinkerton.

Craige Waddell – Acting Chief Executive Officer.
Kevin Waddington – Acting Manager Corporate Services.
Ewen Ross – Manager Development Services.
Chris Wade – Works Manager.

VISITORS

13

APOLOGIES

Nil.

LEAVE OF ABSENCE (previously approved)

Nil.

3. RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE

Nil.

4. PUBLIC QUESTION TIME

M Loveland questioned what action Council will Take to remove a hazard (bitumen) on the Warren Road footpath.

Works Manager responded that the bitumen will be removed during normal maintenance work.

5. APPLICATIONS FOR LEAVE OF ABSENCE

Nil.

6. PETITIONS/DEPUTATIONS/PRESENTATIONS

Nil.

7. CONFIRMATION OF MINUTES OF PREVIOUS MEETINGS

8383 BOULTER/LORKIEWICZ

That the Minutes of the Ordinary Council Meeting of the Shire of Nannup held in Council Chambers on 22 April 2010 be confirmed as a true and correct record.

CARRIED 8/0

8. ANNOUNCEMENTS BY PRESIDING MEMBER WITHOUT DISCUSSION

Nil.

9. REPORTS BY MEMBERS ATTENDING COMMITTEES

FESA Workshop on fire danger threat assessment
Arboretum (Tree Trails Group) meeting
Sports Precinct Committee meeting
Evacuation Plan meeting
South West Development Commission Regional Priorities program
Water Quality program

10. REPORTS OF OFFICERS

AGENDA NUMBER: 10.1
SUBJECT: Subdivision WAPC 141769: Lot 500 Mount Leewin Loop Road
LOCATION/ADDRESS: Nannup
NAME OF APPLICANT: Cardo (WA) Pty Ltd
FILE REFERENCE: A711
AUTHOR: Ewen Ross – Manager Development Services
DISCLOSURE OF INTEREST: Nil
DATE OF REPORT: 21 April 2010

Attachments: 1. Location Map WAPC 141769
2. Subdivision Plan
3. LPS No3 A3
4. Certificate of title 2228 x 3
5. Vegetation Risk

BACKGROUND:

1. The proposal is to subdivide Lot 500, D99533 (Previous Nelson location 11193), MOUNT LEEWIN LOOP ROAD, CARLOTTA, (Certificate of Title 2228/374/375/376) into four lots. (Attachments 1 & 2);
 - a. Proposed Lot 1 – 34.3442 Hectares
 - b. Proposed Lot 2 – 10.0799 Hectares
 - c. Proposed Lot 3 – 14.099 Hectares
 - d. Proposed Lot 4 – 34.1249 Hectares

Currently there are two substantial "dwellings" with numerous outbuildings on the proposed lots 1 and 2. There is a smaller building on proposed lot 3.

Lot 500 MOUNT LEEWIN LOOP ROAD was an amalgamation of locations 11193 and 11203 approved 29 October 1999. This allowed for 30 hectares to be subdivided into Lot 501, with the balance being amalgamated with Lot 500.

COMMENT:

2. Nelson Location D99533, Lot 500 MOUNT LEEWIN LOOP ROAD is zoned "Agriculture Priority 2" with "Additional Use 3" (A3) under the Shire of Nannup Local Planning Scheme No3 (LPS No3). The Additional Use 3 in LPS no3 acknowledges that the property is subject to joint ownership and under the previous Town Planning Scheme No1 Schedule VI, Rural – Multiple Occupancy Zone – Special Provisions was acknowledged. The LPS No3 provisions provides for "Additional dwellings to allow for a maximum of four dwellings in total" (Attachment 3).
3. The current Certificate of Title (Attachment 4) is divided into 46 shares with three owners having 5, 7 and 34 undivided shares. All three shared titles have two owners in common. It is noted these titles are dated 5 January 2005, and

appear to be a combination of four certificates of title (1890-565, 1890-564, 1638-338, 1638-337) which would be consistent with the drafting of LPS No3 over a number of years prior to gazettal in December 2007.

4. The LPS No3 supports up to four dwellings on this lot and also indicates that it may be subdivided. Accepting the Additional use 3, this would override the provisions of LPS No3 Agricultural Priority 2; the Local Planning Strategy for LPS No3 and the Warren Blackwood Rural Strategy with regards the criteria for subdivision of agricultural land. Accordingly, justification or refusal based on the subdivision of agricultural land and minimum lots sizes has not been considered in detail.
5. It would be logical in regards land ownership and management that it be subdivided into three lots (not four). This would ensure consistency when considering other lots within the Shire with the same complication of multiple ownerships.
6. It is considered that as the redrafting of LPS No3 did not rezone the subject land from "Agricultural Priority 2 and that it is not in a "Special Rural Policy Area" the intent was not necessarily to subdivide this lot into further small lots. The previous subdivision and amalgamation involving the subject land (formation of lot 501 MOUNT LEEWIN LOOP ROAD WAPC 110826) did consider the minimum lot sizes, resulting in Lot 500 being increased in size. Historically, the Department of Agriculture has not supported small lots sizes. The counter argument which has some merit is that LPS No3 identifies the land, permits up to four dwellings and in the conditions infers that subdivision is four lots with a minimum of 5 hectare would be a reasonable expectation.
7. With regards the adoption of LPS No3, the zone has remained Agricultural Priority 2, therefore there is no issue of conflict in land use, rather loss of agricultural land and increased density. With regards these outcomes the Shire may support that the land has limited agricultural potential and the increased density is supporting the growth of the Shire.
8. There are no Shire records of the current dwellings and outbuildings on lot 500. It would be opportune to require confirmation of all buildings on the lot and that the dwellings are certified as complainant with BCA requirements. It should also be noted that approval for subdivision will permit only one dwelling with associated outbuildings per lot approved.
9. In considering the application for subdivision Council will need to consider LPS No3 Schedule 14, Process for Dealing with Subdivision and Development Guide Plans and in this application the specific requirements of A3 as follows:
 - a. **Vegetation:** Existing tree cover is to be retained unless the removal of trees is authorised by the local government in a particular instance to

carry out approved development or comply with the provisions of the Bush Fires Act. The current lot has approximately 80% natural bush cover with proposed lot 1 having 15% farmland and proposed lot 4 the balance 5%. Proposed lots 2 & 3 are 100% natural bush cover. The neighbour's lots are WAPRES plantations on the north and eastern boundaries, farmland on the western boundary and natural bush to the southern boundary. (Attachment 5) The contour of land from 180 metres to 250 metres. Both vegetation and contour will impact on fire risk. With regards loss of agricultural land this would be limited given the current vegetation and terrain.

- b. **Sewerage/Stormwater:** All stormwater and sewerage is to be disposed of on-site and leach drains are not to be constructed closer than 50 metres to any river, stream or other surface water body. With increasing subdivision the disposal of liquid and/or solid wastes has included conditions that the installation of an effluent disposal system approved by the Health Department of WA and the Council. Alternative effluent disposal units should be used where a 2 metre vertical separation from groundwater and a 100 metre horizontal separation from any watercourse or dam cannot be achieved in order to maintain water quality.
- c. **Lot size:** In considering any applications for subdivision of the land the local government's recommendation to the Commission will be to only support applications proposing a maximum of four lots with a minimum lot size of five hectares. The proposal meets this requirement.
- d. **Feeder Roads:** The need to upgrade feeder roads was acknowledged in LPS No3 A3. With regards CHALWELL ROAD (proposed Lot 1 legal road frontage) as the existing dwelling is in place, no road upgrading is recommended. With regards the MOUNT LEEWIN LOOP ROAD previous subdivision on this road required upgrading of the road. As proposed Lots 2, 3 & 4 will have legal road frontage and access from MOUNT LEEWIN LOOP ROAD it will need to be upgraded to a 6.0 metre gravel formation, drained by culverts and table drains. Council is advised to impose a crossover condition. *"That the developer constructs all new crossovers to each lot at their cost to the satisfaction of the local government."*
- e. **Fire Management Plan:** Given the vegetation and contour of the land the provision of a fire management plan is important. The extreme fire risk with regards the plantations and natural bush cover would need to be addressed for proposed building sites and existing. Consistent with Shire's policy and the Planning for Bush Fire Protection (WAPC/FESA) a 100 metres setback from extreme fire hazard would be necessary. The fire management plan also needs to address, compliance with AS3959

1999, water supply for fire fighting, Building Protection Zones, Hazard Separation within the subdivision and Hazard Separation Zones together with fire breaks all which should be included in the subdivision structural plan. It would be appropriate that building envelopes also be included in the plan to confirm setbacks and vegetation clearance areas.

10. Other areas that would need to be addressed include:
 - a. Further subdivision: The Council should not approve any further subdivision than the three lots supported.
 - b. Lot size: Minimum lot size shall be should be kept as 30 hectare.
 - c. Water supply: All dwelling houses should have a potable water supply, which shall be in the form of a water tank with a minimum capacity of 135,000 litres and shall be linked to a suitable rainfall catchment with a surface area of not less than 150 square metres. Council may consider a smaller capacity tank, if a permanent alternative water source is available. The supply tanks within each lot should be fitted with couplings compatible with the Bushfires Board requirements and a 25% reserve (draw off point) to ensure that the tank capacity is available for the purposes of fire fighting at any time.

Conclusion

11. Considering the cornerstone of planning, (social, environmental and economic) together with the expectation given in LPS No3 and shared ownership, the application for subdivision is supported. For consistency with other multiple ownership lots, and maintenance of a minimum lot size of 30 hectare, subdivision into three lots is recommended over the four that the proponent has applied for.

STATUTORY ENVIRONMENT:

Planning and Development Act 2005 and Local Planning Scheme No3

POLICY IMPLICATIONS:

Council's Local Planning Strategy details the objectives and policies relating to subdivision and development within the Shire of Nannup. LPS No3 details the matters that Council should consider (clause 10.2) and Schedule 14.

FINANCIAL IMPLICATIONS: Nil.

STRATEGIC IMPLICATIONS:

Council needs to be consistent with other lots with multiple ownership and subject to additional uses. It also needs to consider "fairness" to owners and the long term impact, in this case the reduction in lot sizes of agricultural land and increased density.

RECOMMENDATION:

That Council has no objection in relation to the WAPC approving subdivision application 141769, subject to the inclusion of the following conditions:

1. The subdivision is limited to three lots of not less than 30 hectares.
2. The upgrading of MOUNT LEEWIN LOOP ROAD from the northern boundary of proposed lot 2, south to GRAPHITE ROAD to the local government satisfaction.
3. The applicant providing crossovers to each lot at their cost to the satisfaction of the local government.
4. The applicant providing a detailed fire management plan to the local government satisfaction.
5. The buildings (dwelling and outbuildings) on the lot are confirmed through lodgement of a survey site plan for each approved lot detailing the existing buildings, that they comply with BCA and proposed building envelopes.
6. All dwellings are provided with adequate potable water to the local government's satisfaction.
7. No further subdivision of the lots will be supported.

8384 BOULTER/CAMARRI

That Council has no objection in relation to the WAPC approving subdivision application 141769, subject to the inclusion of the following conditions:

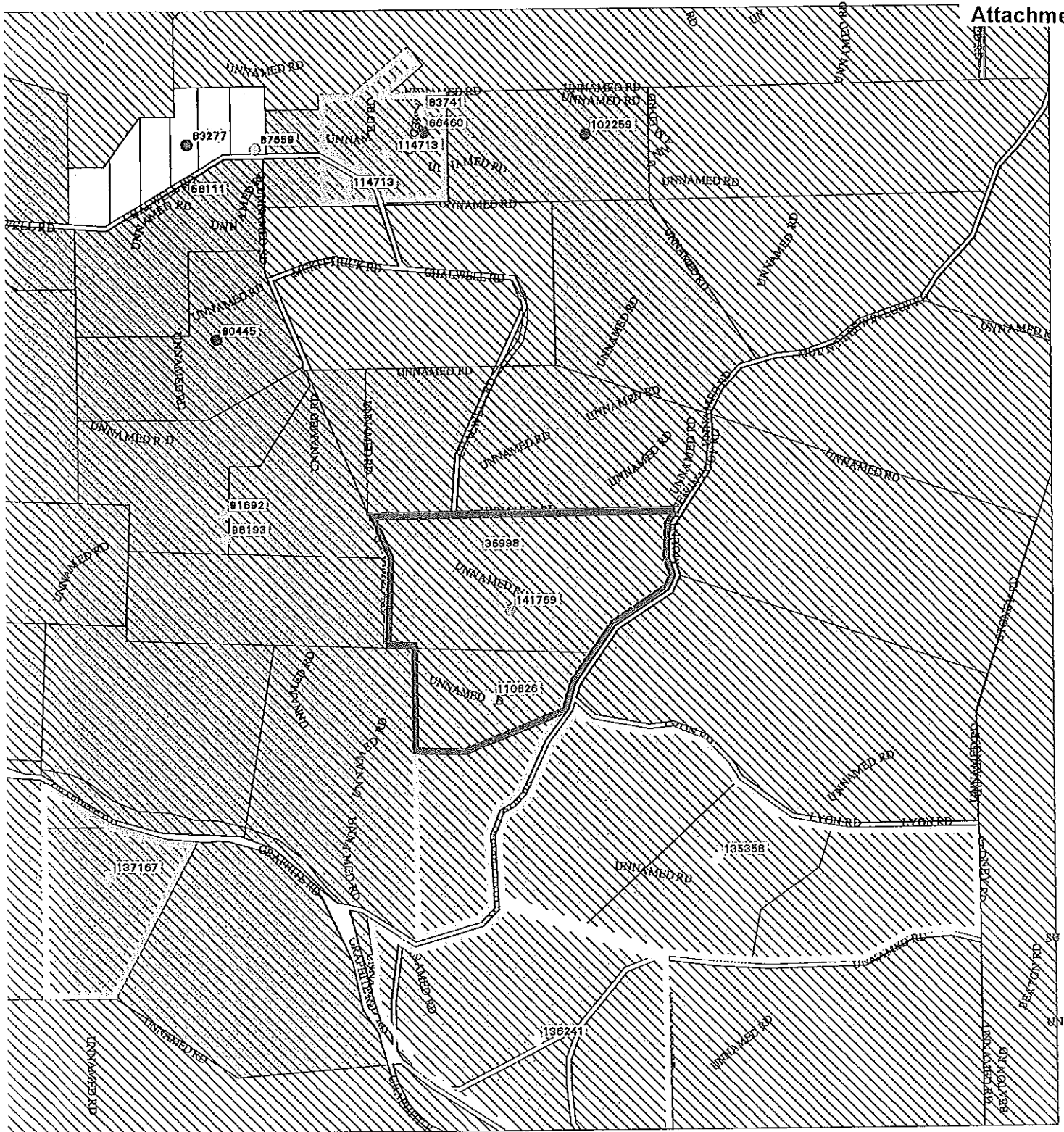
1. The subdivision is limited to three lots of not less than 30 hectares.
2. The upgrading of MOUNT LEEWIN LOOP ROAD from the northern boundary of proposed lot 2, south to GRAPHITE ROAD to the local government satisfaction.
3. The applicant providing crossovers to each lot at their cost to the satisfaction of the local government.
4. The applicant providing a detailed fire management plan to the local government satisfaction.

5. The buildings (dwelling and outbuildings) on the lot are confirmed through lodgement of a survey site plan for each approved lot detailing the existing buildings, that they comply with BCA and proposed building envelopes.
6. All dwellings are provided with adequate potable water to the local government's satisfaction.
7. No further subdivision of the lots will be supported.











CARRIED 7/1

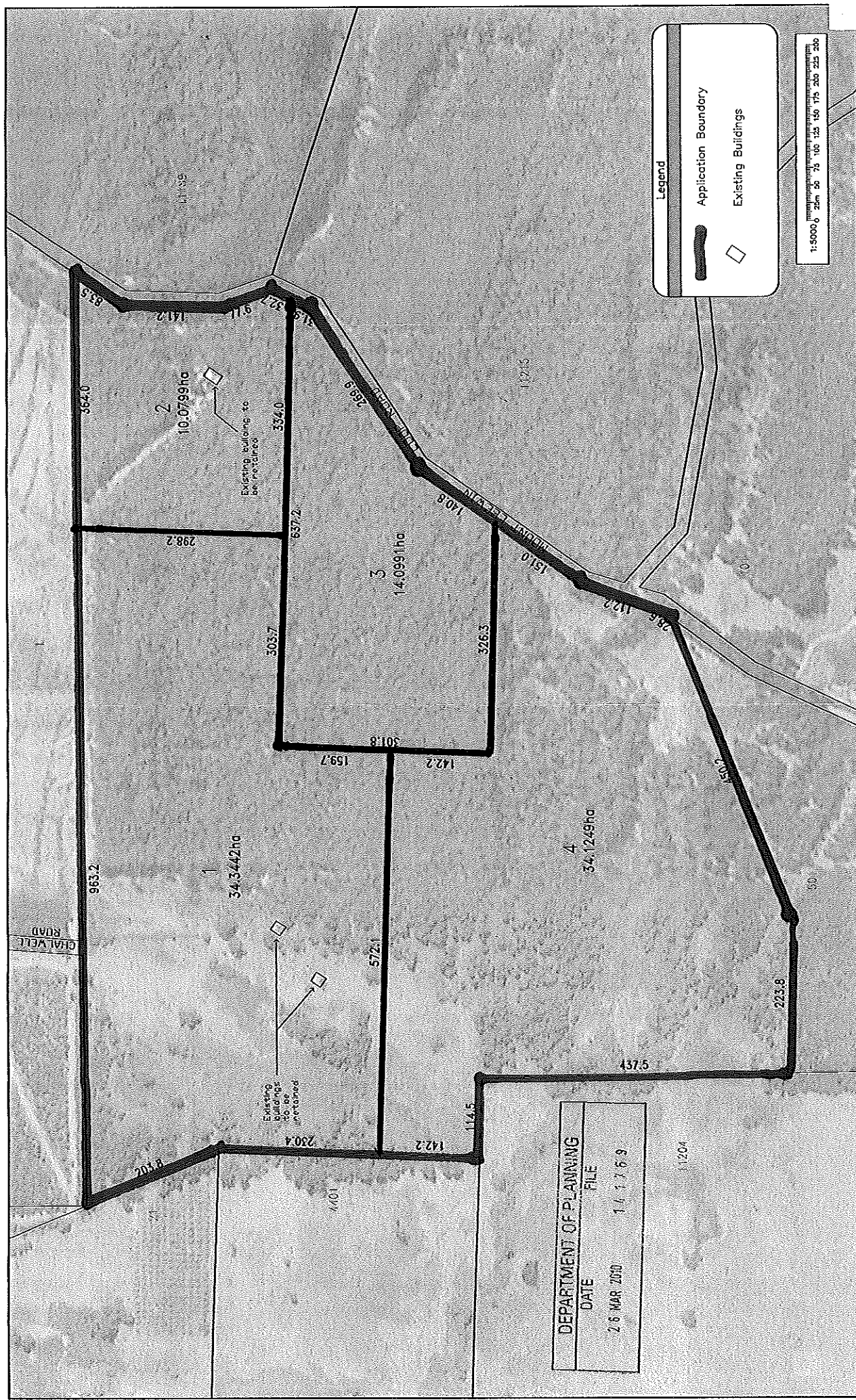
Councillors voting for the motion: Boulter, Dean, Dunnet, Camarri, Gilbert, Lorkiewicz and Pinkerton.

Councillor voting against: Mellema.



subdivision Application 141769 (MGA ref 390572mE 6226912mN Zone 50)
 This data is to be used for the processing of subdivision applications only.

-  CADASTRAL BOUNDARY
-  OUTSTANDING
-  APPROVED
-  OUTSTANDING
-  APPROVED
-  REFUSED
-  R CODE BOUNDARY
-  STATE FOREST
-  AGRICULTURE PRIORITY 2
-  SPECIAL RURAL



DEPARTMENT OF PLANNING
 DATE 2.6 MAR 2010
 FILE 141769

Legend

- Application Boundary
- Existing Buildings

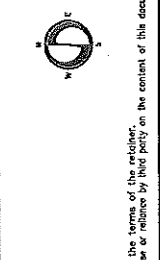
1:50000, 25m 50 75 100 125 150 175 200 225 250

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Date 11.02.10
 Drawn SD
 Checked
 Approved
 Sheet 01
 Project = P10002 - 001 - SK01
 Plan Number

Cardno
 CONSULTING ENGINEERS
 TOWN PLANNERS
 PROJECT MANAGERS
 LAND CONSULTANTS
 LEASING DESK



PROJECT 11193 Mount Leewin Loop Road, Nannup
 DRAWING TITLE Subdivision Plan
 PRINCIPAL Shane Chidwell

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DATE	No.	ACTIVITY - REVISION DESCRIPTION	BY	CHKD	APPD

ATTACHMENT 3

Local Planning Scheme No3 Additional Use A3 Conditions

A3.	Nelson Location 11193 Mount Leeuwin Loop Road	Additional dwellings (to allow for a maximum of four dwellings in total).	<ol style="list-style-type: none">1. Existing tree cover is to be retained unless the removal of trees is authorised by the local government in a particular instance to carry out approved development or comply with the provisions of the Bush Fires Act.2. All stormwater and sewerage is to be disposed of on-site and leach drains are not to be constructed closer than 50 metres to any river, stream or other surface water body.3. In considering any applications for subdivision of the land the local government's recommendation to the Commission will be to only support applications proposing a maximum of four lots with a minimum lot size of five hectares.4. At the time of considering any applications for subdivision of the subject land the local government will consider requesting the Commission impose conditions addressing the following matters: upgrading of feeder roads servicing (i) the land; and (ii) the need for a fire management plan.
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WESTERN



AUSTRALIA

REGISTER NUMBER N/A	
DUPLICATE EDITION N/A	DATE DUPLICATE ISSUED N/A

RECORD OF CERTIFICATE OF TITLE
UNDER THE TRANSFER OF LAND ACT 1893

VOLUME 2228 FOLIO 375

The person described in the first schedule is the registered proprietor of an estate in fee simple in the land described below subject to the reservations, conditions and depth limit contained in the original grant (if a grant issued) and to the limitations, interests, encumbrances and notifications shown in the second schedule.

REGISTRAR OF TITLES

**THIS IS A SHARE TITLE****LAND DESCRIPTION:**

5/46 UNDIVIDED SHARES OF
LOT 500 ON DIAGRAM 98533

REGISTERED PROPRIETOR:
(FIRST SCHEDULE)

GEOFFREY JAMES CHARLES ALDRIDGE
CECELIA DOROTHY ALDRIDGE
BOTH OF CARE OF POST OFFICE, NANNUP
AS JOINT TENANTS

OF THE SHARE SHOWN IN THE LAND DESCRIPTION

(A J140637) REGISTERED 5 JANUARY 2005

LIMITATIONS, INTERESTS, ENCUMBRANCES AND NOTIFICATIONS:
(SECOND SCHEDULE)

Warning: A current search of the sketch of the land should be obtained where detail of position, dimensions or area of the lot is required.
* Any entries preceded by an asterisk may not appear on the current edition of the duplicate certificate of title.
Lot as described in the land description may be a lot or location.

-----END OF CERTIFICATE OF TITLE-----

STATEMENTS:

The statements set out below are not intended to be nor should they be relied on as substitutes for inspection of the land and the relevant documents or for local government, legal, surveying or other professional advice.

SKETCH OF LAND: D98533 [SHEET 1].
PREVIOUS TITLE: 1890-565, 1890-564, 1638-338, 1638-337.
PROPERTY STREET ADDRESS: NO STREET ADDRESS INFORMATION AVAILABLE.
LOCAL GOVERNMENT AREA: SHIRE OF NANNUP.

WESTERN



AUSTRALIA

REGISTER NUMBER N/A	
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UNDER THE TRANSFER OF LAND ACT 1893

VOLUME **2228** FOLIO **374**

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EG Roberts



REGISTRAR OF TITLES

THIS IS A SHARE TITLE

LAND DESCRIPTION:

34/46 UNDIVIDED SHARES OF
LOT 500 ON DIAGRAM 98533

**REGISTERED PROPRIETOR:
(FIRST SCHEDULE)**

SHANE THOMAS SAMUEL CHALWELL
AS ADMINISTRATOR OF THE WILL AND ESTATE OF KATHLEEN RUBY ERNESTINE, WHO DIED 2.11.1998
IN 1/2 SHARE
SHANE THOMAS SAMUEL CHALWELL
AS EXECUTOR OF THE WILL OF HAROLD LESLIE CHALWELL WHO DIED 14.1.2003, LEAVE BEING
RESERVED TO ROBIN CLIVE CHALWELL AND BRYONY KATHLEEN CHALWELL TO COME IN AND PROVE. IN
1/2 SHARE
BOTH OF 1 AMETHYST PLACE, MAIDA VALE
AS TENANTS IN COMMON
OF THE SHARE SHOWN IN THE LAND DESCRIPTION
(A J140637) REGISTERED 5 JANUARY 2005

**LIMITATIONS, INTERESTS, ENCUMBRANCES AND NOTIFICATIONS:
(SECOND SCHEDULE)**

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LOCAL GOVERNMENT AREA: SHIRE OF NANNUP.

WESTERN



AUSTRALIA

REGISTER NUMBER N/A	
DUPLICATE EDITION N/A	DATE DUPLICATE ISSUED N/A

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 UNDER THE TRANSFER OF LAND ACT 1893

VOLUME 2228 FOLIO 376

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B. Roberts



REGISTRAR OF TITLES

THIS IS A SHARE TITLE

LAND DESCRIPTION:

7/46 UNDIVIDED SHARES OF
 LOT 500 ON DIAGRAM 98533

**REGISTERED PROPRIETOR:
 (FIRST SCHEDULE)**

LYELL JAMES SCRIVENER
 HILDEGARD ELISABETH SCRIVENER
 BOTH OF CARE OF POST OFFICE, KOORDA
 AS JOINT TENANTS

OF THE SHARE SHOWN IN THE LAND DESCRIPTION

(A J140637) REGISTERED 5 JANUARY 2005

**LIMITATIONS, INTERESTS, ENCUMBRANCES AND NOTIFICATIONS:
 (SECOND SCHEDULE)**

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-----END OF CERTIFICATE OF TITLE-----

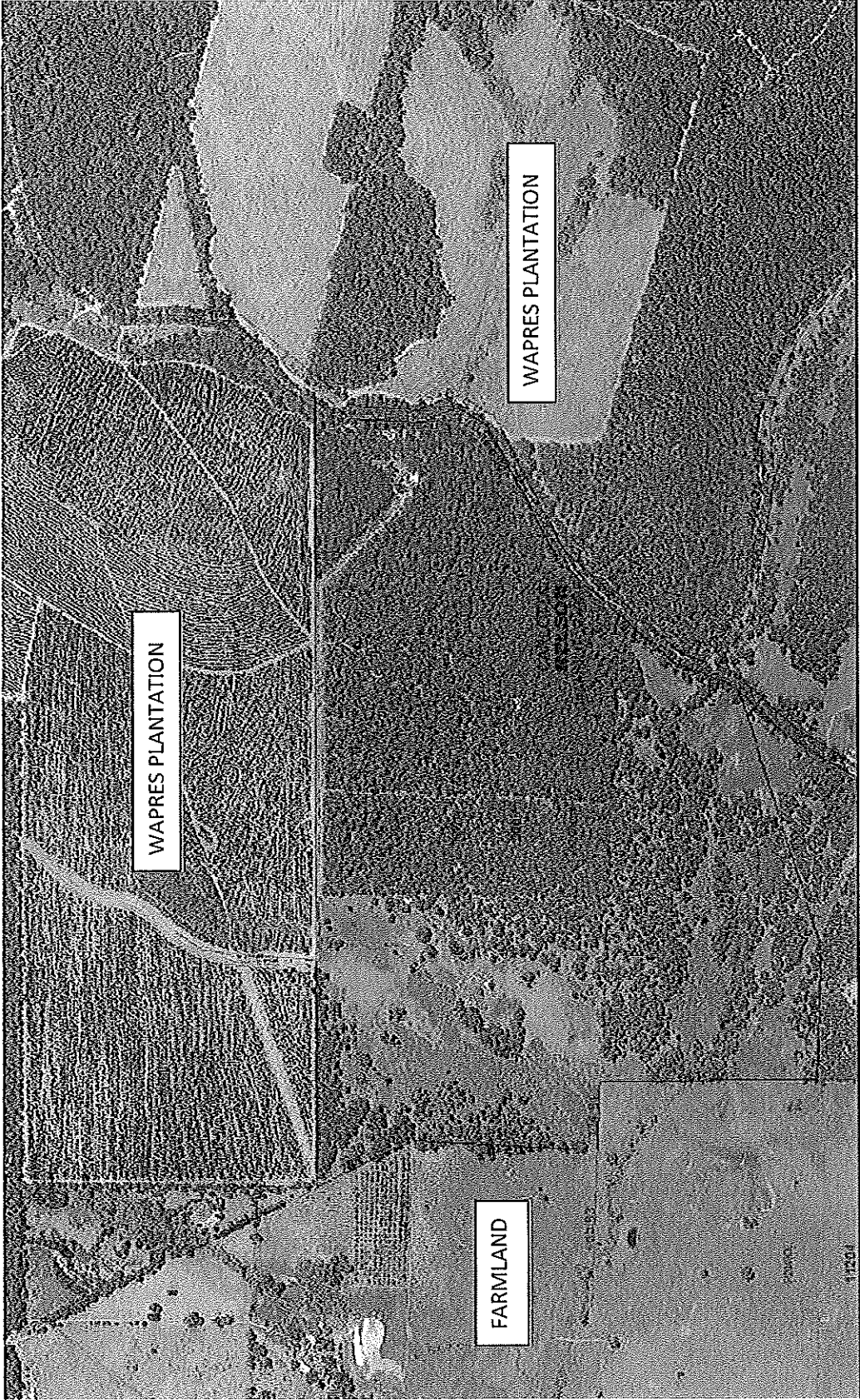
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 LOCAL GOVERNMENT AREA: SHIRE OF NANNUP.

ATTACHMENT 5

SUBDIVISION APPLICATION WAPC 14769 LOT 500 MOUNT LEEWIN LOOP ROAD: VEGETATION/FIRE RISK



AGENDA NUMBER:	10.2
SUBJECT:	Development Contribution for Infrastructure (DCI)
LOCATION/ADDRESS:	Shire of Nannup
NAME OF APPLICANT:	N/A
FILE REFERENCE:	TPL10
AUTHOR:	Ewen Ross – Manager Development Services
DISCLOSURE OF INTEREST:	NIL
DATE OF REPORT:	7 th May 2010

Attachment: WAPC Planning Bulletin 100 – State Planning Policy 3.6 Development Contributions for Infrastructure (Nov 09)

BACKGROUND:

1. Local governments in Western Australia have for some time been struggling to meet the increase in demand for the provision of Community Infrastructure as a result of (in most cases) rapid urban development within their areas. In the past, there has been no set procedure for local governments to negotiate developer contributions to assist in providing community infrastructure, leaving some local governments unable to negotiate sufficient contributions to provide facilities identified as being necessary for new development areas. As a result, some local governments have either had to increase rates, borrow or reduce the size of the facility to cover the shortfall in funding or abandon the project altogether until such time as funding could be secured through other avenues.

COMMENT:

2. The Western Australian Planning Commission (WAPC) has developed and had adopted State Planning Policy 3.6 (SPP 3.6) Development Contributions for Infrastructure (DCI) (20th November 2009) that sets in place the process local government have to undertake in order to obtain funding from developers for community infrastructure outside normal infrastructure provided as a result of the subdivision process (ie. car parking, community centres, recreation centres, sporting facilities, libraries, child care centres etc).
3. An essential component of SPP 3.6 is that local governments can only seek contributions for such items to the extent that they have been identified in a development contribution plan which has been incorporated into a local planning scheme, or otherwise through voluntary agreement with relevant developers.
4. The Western Australia Local Government Association is working on providing advice to Councils, which is six months away. However, the direction of the WAPC and WALGA is clear and following the model that I am familiar with in New Zealand under the New Zealand Local Government Act and the use of Long Term Council Community Plans (LTCCPs). These effectively combine

asset and financial management and through legislative consultation process provides ten year community plans.

Development Contributions for Infrastructure

5. A Development Contributions for Infrastructure (DCI) requires that:
 - a. There is a clear and sound basis with linkages to the local government's strategic and financial planning processes, with all assumptions documented and justified;
 - b. There is justification for the infrastructure identified in the development contribution plan and identifies the authority responsible for providing the infrastructure;
 - c. The costs of infrastructure are appropriate and includes an annual adjustment for inflation;
 - d. There is a commitment to providing the infrastructure within a reasonable period;
 - e. The development contribution area to which the development contribution plan for infrastructure applies is appropriate and the proposed location/s of the infrastructure project/s is/are identified;
 - f. Cost sharing arrangements between owners in the development contributions plan area are transparent, fair and reasonable; and
 - g. There is adequate consultation with the owners affected by the DCPI and with the wider community, as part of the Local Planning Scheme amendment process.

6. A DCI comprises the following:
 - a. **Community Infrastructure Plan (CIP)** which identifies the community infrastructure needs and determines the catchment area for each item of infrastructure; A CIP for an area is to identify the services and facilities required over the next 5 to 10 years (must be supported by demand analysis and identification of service catchments). This should be supported by growth figures including the number of new dwellings to be created at catchment level (suburb or district);

 - b. **Capital Expenditure Plan (CEP)** which determines the costs of providing the infrastructure; A CEP (for at least five years future requirements) for an area must identify the capital costs of facilities and the revenue sources (including capital grants) and programs to be provided; and

- c. **Cost Apportionment Methodology (CAM)** which apportions costs by using demand analysis and portion of demand attributable to existing and new development areas. As part of the calculation of how to apportion costs, local governments have to identify:
 - a. Demand for a facility that is generated by the current population;
 - b. Demand generated by external usage (ie drawn from outside the development catchment area); and
 - c. Projected future usage (ie that is, or will be, generated from outside the development contribution plan timeframe.
7. Both a and b have to be excluded from the figures used to calculate the need for a facility as they do not relate to the development area for which the DCI is being developed. Once these plans have been finalised, they must be incorporated into the LPS No3 before they can be implemented.
8. The requirements of SPP3.6 DCI is local government needs to ensure that they have in place detailed (and fully costed) plans supporting their Forward Plan. In order for the Shire of Nannup to prepare a DCI for new development areas, the following will be required:
 - a. An infrastructure audit to identify all existing infrastructure, it's current condition, expected useful life; (This is under action with grant funding to undertake an asset management review of the Shire);
 - b. A survey of current usage and the associated catchment areas of such usage;
 - c. An analysis of future infrastructure required as a direct result of new developments within the district, when such infrastructure will be required, how it is to be funded and over what timeframe; and
 - d. Detailed needs analysis, capital cost estimations (by an independent quantity surveyor) and recurrent (5 to 10 year period) cost estimations of each infrastructure project identified, (Note: costs to be calculated to the time when the relevant works are to be undertaken. Costs to include refurbishing, extending or replacing the asset and the timeframe for all or any of them).
9. The new development areas currently proposed are:
 - a. Folly Estate – currently associated with Amendment No.3;
 - b. Possible rezoning/subdivision with in the Agricultural Priority 1, Scott Coastal Plain; and

- c. Subdivision of larger lots in all zones and particularly infill subdivision within the Townsite.
10. Once Council has identified (process as detailed above) what infrastructure will be required as a result of new development areas being created, how it is to be funded and when (all of which will be detailed in 5 to 10 year plans supporting Council Forward Plan) this will support long term planning and development. The experience shown in New Zealand where the consultation requirements make the LTCCPs a tool for long term planning as the needs and outcomes are identified and costed, funding is allocated and change to the plan can only be done through public consultation process.
11. This highlights the importance of Council having detailed policies and procedures that allow for infrastructure, and like projects, to be subjected to due process to ensure that situations like the Timewood Centre, up-grade of the Community Recreation Centre and road dedications do not occur in the future.
12. Council needs to identify what the community needs (separate from the community wants), prioritise these needs as part of their 5 to 10 year Infrastructure Plan, incorporate the associated costs into the 5-10 year Financial Plan which in turn will flow through to Council's 5 to 10 year Forward Plan. The Infrastructure Plan must include all levels of infrastructure (road assets, built assets and land (including reserve and freehold) that help communities and neighbourhoods to function effectively.
13. Road assets also include the costs associated with taking on new dedicated roads, all costs associated with risk assessment, remedial works to address any identified risk on all Council's roads (not limited to new dedicated roads). Built Assets are also included, such as new buildings, renovations, extensions or modifications to buildings and playground equipment.
14. Council has sought quotes from planning consultants to prepare a development contribution for infrastructure local planning policy however feedback received indicates that until Council has properly identified projects that will be required as a result of new development areas there is little point in submitting a quote as any such local planning policy should be directly related to a development area and not be "generic" in nature. There was a nil response for the call for quotes.
15. Council is recommended to commence the preparation of the DCI in-house by:
 - a. Developing a 5 to 10 year CIP supported by a demand analysis, growth figures for the development areas including the number of dwellings to be created in each development area and the identification of service catchments documents;

- b. Developing a 5 to 10 year CEP that fully identifies all the capital costs associated with providing the infrastructure, the revenues sources (including capital grants) and other programs that may provide funding;
- c. Develop a CAM to be used for determining the proportion of costs of community infrastructure to be attributed to growth and that attributed to existing areas.

STATUTORY ENVIRONMENT:

16. Legislative requirements:

- a. Planning and Development Act 2005
- b. SPP 3.6 Development Contributions for Infrastructure
- c. Shire of Nannup LPS No3

POLICY IMPLICATIONS:

17. Council currently does not have a LPP relating to development contributions for infrastructure. A development contribution for infrastructure policy is not necessary until such time as each development area has been identified and the infrastructure requirements determined which is targeting the 'Folly development. This will be addressed also through the planning process which will require a "Structural Plan", however the DCI will need to be informed of this structural plan.

FINANCIAL IMPLICATIONS:

18. Council will need to make provision within its budget to engage the services of suitably qualified persons/companies to undertake the reviews and analysis required for the preparation of a DCI and its associated sub-plans. The funding required will need to be investigated prior to any funding being included in the budget to ensure that sufficient resources can be engaged. The cost of preparing a DCI should provide a future financial return (by way of securing infrastructure contributions from developers) to the Council thereby offsetting the initial outlays.

STRATEGIC IMPLICATIONS:

19. The agenda item has been tested against the cornerstones of planning:
- a. **Environmental:** Any development contribution plan should take into account any potential for adverse environmental impact/s and ensure that any such impact/s is/are minimised.

- b. **Economic:** By developing a DCI, Council may be able to access significant funding that could be used to provide community infrastructure within a shorter time frame than previously possible. Accessing such funding would reduce the pressure on the budget to provide community infrastructure within a reasonable timeframe.
- c. **Social:** The community would benefit from the Council preparing DCI for the new development areas within the Shire as it would enable the provision of improved (either upgraded or new) facilities for residents quicker than may otherwise been available.

RECOMMENDATION:

That Council prepare a "*Development Contributions for Infrastructure*" strategy by developing a 5 to 10 year integrated Development Contribution for Infrastructure Plan, supported by a Community Infrastructure Plan, Capital Expenditure Plan and Cost Methodology Plan as required by State Planning Policy 3.6 Development Contributions for Infrastructure

8385 BOULTER/DEAN

That Council prepare a "*Development Contributions for Infrastructure*" strategy by developing a 5 to 10 year integrated Development Contribution for Infrastructure Plan, supported by a Community Infrastructure Plan, Capital Expenditure Plan and Cost Methodology Plan as required by State Planning Policy 3.6 Development Contributions for Infrastructure

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PLANNING AND DEVELOPMENT ACT 2005

STATE PLANNING POLICY 3.6

**DEVELOPMENT CONTRIBUTIONS
FOR INFRASTRUCTURE**

PREPARED UNDER SECTION 26 OF THE *PLANNING AND
DEVELOPMENT ACT 2005* BY THE WESTERN AUSTRALIAN
PLANNING COMMISSION.

PLANNING AND DEVELOPMENT ACT 2005

State Planning Policy 3.6

DEVELOPMENT CONTRIBUTIONS FOR INFRASTRUCTURE

1. Citation
 2. Introduction and background
 3. Application of the policy
 4. Objectives of the policy
 5. Policy measures
 - 5.1 Scope
 - 5.2 Principles underlying development contributions
 - 5.3 Imposition of development contributions
 - 5.4 Characteristics of a development contribution plan
 - 5.5 Process for determining development contributions for community infrastructure
 - 5.6 Form of contributions
 - 5.7 Development contributions not to be imposed as a condition of rezoning
 - 5.8 The application of a credit in a development contribution plan
 6. Implementation
- Appendix 1—Standard development contribution requirements
- Appendix 2—Draft model text provisions for incorporation of development contribution plans into local planning schemes
- Appendix 3—Methodology for developing *community infrastructure* development contribution plans

PLANNING AND DEVELOPMENT ACT 2005

State Planning Policy 3.6

DEVELOPMENT CONTRIBUTIONS FOR INFRASTRUCTURE

1. CITATION

This state planning policy is made under section 26 of the *Planning and Development Act 2005*. This policy can be cited as *State Planning Policy 3.6 Development Contributions for Infrastructure*.

2. INTRODUCTION AND BACKGROUND

This policy sets out the principles and considerations that apply to development contributions for the provision of infrastructure in new and established urban areas.

The careful planning and coordination of infrastructure is fundamental to the economic and social well-being of any community. New urban development and redevelopment needs to ensure the cost-efficient provision of infrastructure and facilities, such as roads, public transport, water supply, sewerage, electricity, gas, telecommunications, drainage, open space, schools, health, community and recreation facilities. All of these utilities and services greatly influence the standard of living, mobility and lifestyle choices of a community.

Public infrastructure is funded through various sources including state government taxes, local government property rates, federal assistance grants, user and access charges, fees and charges, and development contributions. In Western Australia, development contributions for infrastructure have long been accepted as an essential part of the planning system. Land developers are responsible for the provision of standard infrastructure, including water supply, sewerage and drainage, roads and power, and for some community infrastructure, including public open space and primary school sites which are necessary for the development. The scope of such contributions is defined in a WAPC policy adopted in 1997 which is set out in *Planning Bulletin 18 Developer Contributions for Infrastructure*. Development contributions are usually by way of land, works, or payments towards the provision of infrastructure. Requirements for development contributions are imposed by way of conditions on subdivision, strata subdivision or development or, in areas of fragmented ownership where cost sharing arrangements are necessary, by development schemes or development contribution arrangements made under local government schemes. The WAPC adopted draft model provisions for local government schemes in 2000 which are set out in *Planning Bulletin 41 Draft Model Text Provisions for Development Contributions*, which are now superseded by appendix 2 to this policy.

In WA, as in other Australia states, local governments face increasing pressures on the services they provide. These pressures arise from population and economic growth, and increasing expectations of the community for new and upgraded infrastructure.

Examples of these pressures are—

- Greenfield development of land for urban purposes, where there are standard requirements for infrastructure and facilities which are imposed by the WAPC as conditions on the subdivision or strata subdivision of the land, but where local governments may require infrastructure or facilities over and above the common standards.
- Infill development and redevelopment, where common standard conditions of subdivision, strata subdivision or development still apply, but where significant changes in the type or intensity of land use may require new infrastructure and facilities or the augmentation of existing infrastructure and facilities beyond the normal scope of standard subdivision conditions.

The capacity of local governments to provide the additional infrastructure and facilities necessary to accommodate future growth and change is limited by the available financial resources. As a result, local governments are increasingly seeking to apply development contributions for the construction of infrastructure and facilities beyond the standard requirements, such as car parking, community centres, recreation centres, sporting facilities, libraries, child care centres, and other such facilities.

Local governments have indicated that they need more guidance on the scope and framework for development contributions of this nature. The development industry has also pointed to the need for greater consistency and transparency in charging developers because of the potential impacts on housing affordability and to avoid inequities arising from new residents subsidising existing residents.

This policy follows a joint study into development contributions undertaken by the Urban Development Institute of Australia (UDIA), Western Australia Local Government Association (WALGA) and the Department for Planning and Infrastructure (DPI). It replaces *Planning Bulletins 18* and *41* and sets out the standard development contributions for infrastructure applied by the WAPC on the subdivision, strata subdivision, or development of land. It also provides a consistent, accountable and transparent system for local governments to plan and charge for development contributions over and above the standard provisions through development contribution plans.

The policy has taken into account the recommendations of the Public Accounts Committee—*Inquiry into Developer Contributions for Costs Associated with Land Development (2004)*. The inquiry, among other things, recommended that local governments should have the capacity to recoup infrastructure costs and that this should be by way of provisions in local planning schemes. Under this policy, local government planning schemes will set out the system of charging through development contribution plans. This provides an equitable system for planning and charging development contributions across defined areas, and provides certainty to developers, infrastructure providers and the community about the charges which apply and how the funds will be spent.

The key principle is that the 'beneficiary' pays. Sometimes benefits will be largely confined to the residents of a new development. Sometimes, the benefits will accrue to both existing and new residents. Consistent with this principle, developers will only fund the infrastructure and facilities which are reasonable and necessary for the development and to the extent that the infrastructure and facilities are necessary to service the development. Development contribution plans will, therefore, need to identify growth trends based on service catchment areas, translate these trends into the infrastructure and facilities necessary to meet these increasing needs within the catchment, and allocate the costs of meeting these needs to existing residents and new residents proportional to their contribution to the need for the infrastructure and facilities. This will ensure fairness and equity. It will mean that existing residents through councils and new residents (through developers) will share the burden of the cost of the additional infrastructure and facilities proportional to their need.

A fundamental prerequisite of these plans is that local governments will need to plan ahead. The development contribution plan must have a strategic basis and be linked to the local planning strategy and strategic infrastructure plan and program which identify the infrastructure and facilities required over the next 5-10 years and the cost and revenue sources for the provision of the infrastructure. In this way, those contributing towards the development contribution plan will be assured that the funds will contribute to the local government's longer term planning and programming of infrastructure in an integrated and coordinated way.

This policy set out the principles underlying development contributions and the form, content and process for the preparation of a development contribution plan under a local planning scheme. Also attached are standard WAPC requirements for development contributions (appendix 1), draft Model Scheme Text development contribution plan provisions (appendix 2) and a template for a local government strategic infrastructure plan and program (appendix 3).

3. APPLICATION OF THE POLICY

The policy applies throughout Western Australia.

4. OBJECTIVES OF THE POLICY

The objectives of this policy are—

- to promote the efficient and effective provision of public infrastructure and facilities to meet the demands arising from new growth and development;
- to ensure that development contributions are necessary and relevant to the development to be permitted and are charged equitably among those benefiting from the infrastructure and facilities to be provided;
- to ensure consistency and transparency in the system for apportioning, collecting and spending development contributions;
- to ensure the social well-being of communities arising from, or affected by, development.

5. POLICY MEASURES

5.1 Scope

Development contributions can be sought for items of infrastructure that are required to support the orderly development of an area. This includes the standard requirements for infrastructure contributions as outlined in appendix 1. In addition, local governments can seek contributions for the capital costs of *community infrastructure* which is defined as: *'the structures and facilities which help communities and neighbourhoods to function effectively, including—*

- *sporting and recreational facilities*
- *community centres*
- *child care and after school centres*
- *libraries and cultural facilities; and*
- *such other services and facilities for which development contributions may reasonably be requested, having regard to the objectives, scope and provisions of this policy.'*

Development contributions can be sought for—

- a new item of infrastructure;
- land for infrastructure;
- an upgrade in the standard of provision of an existing item of infrastructure;

- an extension to existing infrastructure;
- the total replacement of infrastructure once it has reached the end of its economic life;
- other costs reasonably associated with the preparation, implementation and administration of a development contribution plan.

The contributions are for the initial capital requirements only and not for ongoing maintenance and/or operating costs of the infrastructure.

5.2 Principles underlying development contributions

Development contributions must be levied in accordance with the following principles—

1. Need and the nexus

The need for the infrastructure included in the development contribution plan must be clearly demonstrated (need) and the connection between the development and the demand created should be clearly established (nexus).

2. Transparency

Both the method for calculating the development contribution and the manner in which it is applied should be clear, transparent and simple to understand and administer.

3. Equity

Development contributions should be levied from all developments within a development contribution area, based on their relative contribution to need.

4. Certainty

All development contributions should be clearly identified and methods of accounting for escalation agreed upon at the commencement of a development.

5. Efficiency

Development contributions should be justified on a whole of life capital cost basis consistent with maintaining financial discipline on service providers by precluding over recovery of costs.

6. Consistency

Development contributions should be applied uniformly across a Development Contribution Area and the methodology for applying contributions should be consistent.

7. Right of consultation and arbitration

Land owners and developers have the right to be consulted on the manner in which development contributions are determined. They also have the opportunity to seek a review by an independent third party if they believe that the calculation of the contributions is not reasonable in accordance with the procedures set out in the draft Model Scheme Text in appendix 2.

8. Accountable

There must be accountability in the manner in which development contributions are determined and expended.

5.3 Imposition of development contributions

Development contributions may relate to the requirements of public utility providers (such as water, sewerage, and electricity), state government requirements and the requirements of local government.

Where local governments are seeking development contributions beyond the standard provisions outlined in appendix 1, they must be supported by a development contribution plan which identifies the need for such infrastructure for the relevant development contribution area or by a voluntary agreement between a developer and the relevant local government. This need may not arise where there is one development and the need for the development contribution is created by that development. Any condition for contributions in this case must be consistent with the principles outlined in section 5.2.

There are three stages to the imposition of development contributions.

5.3.1 Development contributions are formulated and agreed.

The development contribution plan is used to prescribe the cost contributions for owners in a development contribution area. Areas requiring a development contribution plan, and the infrastructure needs and costs for such area, will generally be identified as part of the process of developing or amending planning schemes.

5.3.2. Development contributions are calculated and applied.

Development contributions are generally calculated and applied by way of conditions of subdivision, strata subdivision or development, particularly in greenfield areas. Development contributions may also be sought in infill and redevelopment areas at the time of subdivision, strata subdivision or development.

They may be calculated and applied as—

- standard conditions of subdivision or strata subdivision;
- conditions of development.

Alternatively, contributions can be implemented through voluntary legal agreements.

This applies to subdivisional works such as roads, drainage and the provision of power, water and telecommunications and other items outlined in appendix 1. They may also be applied as conditions of development. The calculation will be to apply the detail of the developer contribution plan to the development, including any offsets for the ceding of land or construction of infrastructure.

5.3.3. Development contributions become due and payable.

Development contributions become due and payable as part of the subdivision clearance process or prior to the commencement of development. Clearance of deposited plans, or strata plans as the case may be, to enable the issuance of titles, should not occur until full payment, as calculated and applied, has been finalised. Development contributions are only payable on the proportion of land within a plan being requested for clearance in a development.

5.4 Characteristics of a development contribution plan

Development contribution plans require that—

- there is a clear and sound basis with linkages to the local government's strategic and financial planning processes;
- there is justification for the infrastructure identified in the plan;
- the costs of infrastructure are appropriate;
- there is a commitment to providing the infrastructure in a reasonable period;
- the development contribution area to which the plan applies is appropriate;
- cost-sharing arrangements between owners in the development contribution area are fair and reasonable; and
- there is consultation with the owners affected by the plan.

Development contribution plans prescribe the cost contributions for land owners in a development contribution area. Development contributions can only be for the provision of capital items. The costs associated with design and construction of infrastructure (including land costs) and the cost of administration are considered capital items and can be included in the development contribution plan.

A development contribution plan does not have effect until it is incorporated into a local planning scheme. As it forms part of the scheme, the *Town Planning Regulations 1967*, including advertising procedures and the requirement for Ministerial approval, will apply to the making or amendment of a development contribution plan.

A development contribution plan is to be prepared for a development contribution area. This area must be identified on the scheme map and within the text. Draft Model Scheme Text provisions for development contributions can be found at appendix 2. Development contribution plans are to be incorporated into schemes via special control areas and set out in Schedule ZZ.

In interim situations, where a local government has received consent to advertise a development contribution plan, land within that development contribution area will be considered to be subject to a development contribution plan. Development contributions can be calculated but cannot be collected prior to the gazettal of the plan. The local government shall not withhold its support for subdivision, strata subdivision or refuse to approve a development solely for the reason that a development contribution plan is not in effect, there is no approval to advertise a development contribution plan, or that there is no other arrangement with respect to an owner's contributions towards the provision of community infrastructure.

The infrastructure costs and estimates are not to be incorporated in Schedule ZZ as part of the scheme but shall be formulated and advertised with the scheme report or scheme amendment report which introduces the development contribution plan and shall be reviewed annually.

Local governments may also enter into voluntary arrangements with developers for contributions for the provision of community infrastructure. Such agreements should reflect the principles outlined in section 5.2.

5.5 Process for determining development contributions for community infrastructure

Local government requirements for development contributions for community infrastructure should be calculated on the basis of—

1. the need for that infrastructure based on an analysis of the demand;
2. the nexus where the relationship between the need for infrastructure and the new development is clearly established;
3. catchment areas that the infrastructure would service, identifying both existing demand and new demand that is associated with the development; and
4. the cost of providing the infrastructure, which should be based on the latest or best estimates available to the local government and should include provision for regular adjustments to account for cost escalation over time.

Where a local government is seeking contributions for community infrastructure, these need to be supported by—

- a community infrastructure plan for the area, identifying the services and facilities required over the next 5 to 10 years (supported by demand analysis and identification of service catchments);
- a capital expenditure plan (with at least 5 out years), which identifies the capital costs of facilities and the revenue sources (including capital grants) and programs for provision;
- projected growth figures, including the number of new dwellings to be created at catchment level (suburb or district); and
- a methodology for determining the proportion of costs of community infrastructure to be attributed to growth and the proportion to be attributed to existing areas.

The process for determining development contributions for community infrastructure is outlined at appendix 3.

5.6 Form of contributions

Conditions relating to development contribution requirements can be satisfied by—

- the ceding of land for roads, public open space, primary school sites, drainage and other reserves;
- construction of infrastructure works which are transferred to public authorities on completion;
- monetary contributions to acquire land or undertake works by or on behalf of public authorities; or
- a combination of the above.

5.7 Development contributions not to be imposed as a condition of rezoning

Local governments are not to impose development contributions beyond the scope of Western Australian Planning Commission policy as conditions or prerequisites for rezoning. The rezoning process is not to be used to impose unreasonable demands on land development outside the scope of Western Australian Planning Commission policy.

Development contributions must be formulated through an open and transparent process, with the opportunity to comment in accordance with the process specified in 5.3, or through development contribution plans or voluntary agreements that are transparent and follow the due planning process.

5.8 The application of a credit in a development contribution plan

A development contribution plan may identify infrastructure that—

- needs to be actioned with the first development in a development contribution area, such as a major road extension/connection;
- is predominantly located on the developer's land, such as construction of a recreation facility to service the larger development contribution area.

The local government may mandate that this work is undertaken, creating an in-kind contribution above that identified in the development contribution plan for that area (for example, the provision of physical infrastructure). In this instance the developer and the local government must negotiate a fair and reasonable outcome in relation to this credit. Appropriate negotiated outcomes may include—

- Where a developer has other land holdings in the area, the credit is held by the local government until it is required to be used by the developer to offset future contributions.
- Where a developer has no further holdings in the area, the amount is held by the local government as a credit to the developer until payments into the development contribution plan are received from subsequent developers. The credit is then reimbursed to the developer.
- Where the development contribution plan is in credit from developer contributions already received, the credit should be reimbursed on completion of the works/ceding of land.

Any indexing of the developer contribution scheme should be equally applied to such credits.

6. IMPLEMENTATION

Implementation of this policy will primarily be through local planning strategies, structure plans and local planning schemes and the day-to-day consideration of zoning, subdivision, strata subdivision and development proposals and applications, together with the actions and advice of agencies in carrying out their responsibilities.

7. REVIEW

This policy shall be reviewed within 3 years of the date that it is published in the *Government Gazette*.

Appendix 1—Standard development contribution requirements

Land contributions	Infrastructure works	Monetary contributions
<p>Public open space Public open space equivalent to 10 per cent of the gross subdivisible area, or alternatively, a cash-in-lieu contribution, in accordance with WAPC policies and the <i>Planning and Development Act 2005</i>.</p> <p>Foreshore reserves Certain land for foreshore reserves on the coast, rivers and lakes in accordance with WAPC policies.</p> <p>Primary schools Land for government primary schools.</p> <p>Roads Land for widening existing roads, where the proposal induces additional traffic movements and/or benefits from it; land for new local streets where required; land for district distributor roads in new development areas that expand the urban front or where linkages to these areas is justified; and/or land for primary distributor roads, including primary regional roads and railway reserves where justified by the subdivision. Other contributions as provided for in WAPC policies.</p>	<p>Public utilities Infrastructure for—</p> <ul style="list-style-type: none"> • water; • sewerage; • drainage works; • electricity supply infrastructure; and • other public utilities. <p>This covers on-site works as well as off-site capital works, such as major pump stations, trunk sewers or transmission lines that are necessary to, or contribute to, the subdivision and/or development, and the planning and implementation of urban water requirements. Note that these works are in addition to monetary charges by the Water Corporation and Western Power for off-site major infrastructure.</p> <p>Roads All roads and traffic works required within the subdivision and linked to a constructed public road. These roads provide access to individual lots and allow utility services to be reticulated in the road reserves; Footpaths, pedestrian access ways and shared paths, where required. Upgrading, construction and widening of existing roads and laneways to accommodate additional traffic generated by a subdivision and/or development; and/or new district distributor roads including earthworks for the whole road reserve, the construction of one carriageway comprised of two lanes and associated drainage works. In addition, where set out in a structure plan for the area, grade-separated pedestrian crossings and shared paths may be required as a contribution. Other contributions as provided for in WAPC policies.</p>	<p>Standard water, sewerage and drainage headworks charges for off-site major infrastructure works; and if an area is in fragmented ownership, monetary or in-kind contributions can be required in lieu of land or infrastructure works with reimbursement for other owners where costs are shared. Other contributions as provided for in WAPC policies.</p>

Appendix 2—Draft model text provisions for incorporation of development contribution plans into local planning schemes

6.1 Operation of special control areas

6.1.1 The following special control areas are shown on the scheme map—

- (a) development areas shown on the scheme map as DA with a number and included in schedule XX.
- (b) development contribution areas shown on the scheme map as DCA with a number and included in schedule YY.

6.1.2 In respect of a special control area shown on a scheme map, the provisions applying to the special control area apply in addition to the provisions applying to any underlying zone or reserve and any general provisions of the scheme.

6.2 Development areas and structure plans

Insert here revised provisions on structure plans as set out in appendix 1 to the revised version of Planning Bulletin 37 (February 2000) (available at the offices of the Western Australian Planning Commission).

6.3 Development contribution areas**6.3.1 Interpretation**

In clause 6.3, unless the context otherwise requires—

- ‘Administrative costs’ means such costs as are reasonably incurred for the preparation and (with respect to standard infrastructure items) implementation of the development contribution plan.
- ‘Administrative items’ means the administrative matters required to be carried out by or on behalf of the local government in order to prepare and (with respect to standard infrastructure items) implement the development contribution plan, including legal, accounting, planning engineering, and other professional advice.
- ‘Cost apportionment schedule’ means a schedule prepared and distributed in accordance with clause 6.3.10.
- ‘Cost contribution’ means the contribution to the cost of infrastructure and administrative costs.
- ‘Development contribution area’ means shown on the scheme map as DCA with a number and included in schedule ZZ.
- ‘Development contribution plan’ means a development contribution plan prepared in accordance with the provisions of *State Planning Policy 3.6 Development Contributions for Infrastructure* and the provisions of this clause 6 of the scheme (as incorporated in schedule ZZ to this scheme).
- ‘Development contribution plan report’ means a report prepared and distributed in accordance with clause 6.3.10.
- ‘Infrastructure’ means the standard infrastructure items (services and facilities set out in appendix 1) and community infrastructure, including recreational facilities; community centres; child care and after school centres; libraries and cultural facilities and such other services and facilities for which development contributions may reasonably be requested having regard to the objectives, scope and provisions of this policy.
- ‘Infrastructure costs’ means such costs as are reasonably incurred for the acquisition and construction of infrastructure.
- ‘Local government’ means the local government or local governments in which the development contribution area is located or through which the services and facilities are provided.
- ‘Owner’ means an owner of land that is located within a development contribution area.

6.3.2 Purpose

The purpose of having development contribution areas is to—

- (a) provide for the equitable sharing of the costs of infrastructure and administrative costs between owners;
- (b) ensure that cost contributions are reasonably required as a result of the subdivision and development of land in the development contribution area; and
- (c) coordinate the timely provision of Infrastructure.

6.3.3 Development contribution plan required

A development contribution plan is required to be prepared for each development contribution area.

6.3.4 Development contribution plan part of scheme

The development contribution plan is incorporated in schedule ZZ as part of this scheme.

6.3.5 Subdivision, strata subdivision and development

The local government shall not withhold its support for subdivision, strata subdivision or refuse to approve a development solely for the reason that a development contribution plan is not in effect, there is no approval to advertise a development contribution plan, or that there is no other arrangement with respect to an owner's contribution towards the provision of community infrastructure.

Comments

A development contribution plan is only enforceable once it is incorporated into the scheme. This has two major implications—

- *all advertising and other provisions under the Town Planning Regulations 1967 applicable to the making of schemes and amendments will apply; and*
- *any amendment to a development contribution plan will require a scheme amendment in order to become enforceable.*

6.3.6 Guiding principles for development contribution plans

The development contribution plan for any development contribution area is to be prepared in accordance with the following principles—

- (a) **Need and the nexus**
The need for the infrastructure included in the plan must be clearly demonstrated (need) and the connection between the development and the demand created should be clearly established (nexus).
- (b) **Transparency**
Both the method for calculating the development contribution and the manner in which it is applied should be clear, transparent and simple to understand and administer.
- (c) **Equity**
Development contributions should be levied from all developments within a development contribution area, based on their relative contribution to need.
- (d) **Certainty**
All development contributions should be clearly identified and methods of accounting for cost adjustments determined at the commencement of a development.
- (e) **Efficiency**
Development contributions should be justified on a whole of life capital cost basis consistent with maintaining financial discipline on service providers by precluding over recovery of costs.
- (f) **Consistency**
Development contributions should be applied uniformly across a development contribution area and the methodology for applying contributions should be consistent.
- (g) **Right of consultation and review**
Owners have the right to be consulted on the manner in which development contributions are determined. They also have the opportunity to seek a review by an independent third party if they believe the calculation of the costs of the contributions is not reasonable.
- (h) **Accountable**
There must be accountability in the manner in which development contributions are determined and expended.

Comments

Apportionment of infrastructure costs based on area assumes that the land concerned has fairly common characteristics. Therefore, development contribution areas should be identified, as far as possible, with common characteristics so that cost contributions reflect future development potential. Where it is not possible to identify land with fairly common characteristics throughout the whole of the development contribution area, consideration may be given to dividing the area into contribution precincts or cells, or to apportioning infrastructure costs based upon land valuation (though the latter may have increased administrative and other costs).

6.3.7 Recommended content of development contribution plans

6.3.7.1 The development contribution plan is to specify—

- (a) the development contribution area to which the development contribution plan applies;
- (b) the infrastructure and administrative items to be funded through the development contribution plan;
- (c) the method of determining the cost contribution of each owner; and
- (d) the priority and timing for the provision of infrastructure.

Comments

A suggested outline of a development contribution plan is contained in schedule ZZ.

6.3.8 Period of development contribution plan

A development contribution plan shall specify the period during which it is to operate.

Comments

A development contribution plan must specify the period during which it is to operate. However, any extension of the period of operation of a development contribution plan requires a scheme amendment which will, in turn, require the approval of the Minister. The recommended maximum period is 5 years (to coincide with the scheme review), but a longer or shorter period may be appropriate depending upon the particular circumstances of the development contribution area (e.g. size of the development contribution area, number of owners and nature of the infrastructure to be funded). If the period is 10 years or longer, then reviews should occur at 5 year intervals (with the cost apportionment schedule to be reviewed at least annually).

6.3.9 Land excluded

In calculating both the area of an owner's land and the total area of land in a development contribution area, the area of land provided in that development contribution area for—

- (a) roads designated under the _____ Region Scheme as primary regional roads and other regional roads;
- (b) existing public open space;
- (c) existing government primary and secondary schools; and
- (d) such other land as is set out in the development contribution plan,

is to be excluded.

6.3.10 Development contribution plan report and cost apportionment schedule

6.3.10.1 Within 90 days of the development contribution plan coming into effect, the local government is to adopt and make available a development contribution plan report and cost apportionment schedule to all owners in the development contribution area.

6.3.10.2 The development contribution plan report and the cost apportionment schedule shall set out in detail the calculation of the cost contribution for each owner in the development contribution area, based on the methodology provided in the development contribution plan, and shall take into account any proposed staging of the development.

6.3.10.3 The development contribution plan report and the cost apportionment schedule do not form part of the scheme, but once adopted by the local government they are subject to review as provided under clause 6.3.11.

Comment

A suggested outline of a cost apportionment schedule is attached at appendix 3. The cost apportionment schedule is adopted by the local government but does not form part of the scheme.

6.3.11 Cost contributions based on estimates

6.3.11.1 The determination of Infrastructure costs and administrative costs is to be based on amounts expended, but when expenditure has not occurred, it is to be based on the best and latest estimated costs available to the local government and adjusted accordingly, if necessary.

6.3.11.2 Where a cost apportionment schedule contains estimated costs, such estimated costs are to be reviewed at least annually by the local government—

- (a) in the case of land to be acquired, in accordance with clause 6.3.12; and
- (b) in all other cases, in accordance with the best and latest information available to the local government,

until the expenditure on the relevant item of infrastructure or administrative costs has occurred.

6.3.11.3 The local government is to have such estimated costs independently certified by appropriate qualified persons and must provide such independent certification to an owner when requested to do so.

6.3.11.4 Where any cost contribution has been calculated on the basis of an estimated cost, the local government—

- (a) is to adjust the cost contribution of any owner in accordance with the revised estimated costs; and
- (b) may accept a cost contribution, based upon estimated costs, as a final cost contribution and enter into an agreement with the owner accordingly.

6.3.11.5 Where an owner's cost contribution is adjusted under clause 6.3.11.4, the local government, on receiving a request in writing from an owner, is to provide the owner with a copy of estimated costs and the calculation of adjustments.

6.3.11.6 If an owner objects to the amount of a cost contribution, the owner may give notice to the local government requesting a review of the amount of the cost contribution by an appropriate qualified person ('independent expert') agreed by the local government and the owner at the owner's expense, within 28 days after being informed of the cost contribution.

6.3.11.7 If the independent expert does not change the cost contribution to a figure acceptable to the owner, the cost contribution is to be determined—

- (a) by any method agreed between the local government and the owner; or
- (b) if the local government and the owner cannot agree on a method pursuant to (a) or on an independent expert, by arbitration in accordance with the *Commercial Arbitration Act 1985*, with the costs to be shared equally between the local government and owner.

6.3.12 Valuation

6.3.12.1 Clause 6.3.12 applies in order to determine the value of land to be acquired for the purpose of providing Infrastructure.

6.3.12.2 In clause 6.3.12—

'Value' means the fair market value of land, at a specified date, which is defined as the capital sum that would be negotiated in an arms length transaction in an open and unrestricted market, assuming the highest and best use of the land with all its potential and limitations (other than the limitation arising from the transaction for which the land is being valued), wherein the parties act knowledgeably, prudently and without compulsion to buy or sell.

The net land value is to be determined by a static feasibility valuation model, using the working sheet model attached to this scheme as schedule [X]. As part of that feasibility an appropriate profit and risk factor is to be determined from which a 10 per cent profit factor is to be excluded from the calculation.

'Valuer' means a licensed valuer agreed by the local government and the owner, or, where the local government and the owner are unable to reach agreement, by a valuer appointed by the President of the Western Australian Division of the Australian Property Institute.

6.3.12.3 If an owner objects to a valuation made by the valuer, the owner may give notice to the local government requesting a review of the amount of the value, at the owner's expense, within 28 days after being informed of the value.

6.3.12.4 If, following a review, the valuer's determination of the value of the land is still not a figure acceptable to the owner, the value is to be determined—

- (a) by any method agreed between the local government and the owner; or
- (b) if the local government and the owner cannot agree, the owner may apply to the State Administrative Tribunal for a review of the matter under part 14 of the *Planning and Development Act 2005*.

6.3.13 Liability for cost contributions

6.3.13.1 An owner must make a cost contribution in accordance with the applicable development contribution plan and the provisions of clause 6.3.

6.3.13.2 An owner's liability to pay the owner's cost contribution to the local government arises on the earlier of—

- (a) the Western Australian Planning Commission endorsing its approval on the deposited plan or survey strata plan of the subdivision of the owner's land within the development contribution area;
- (b) the commencement of any development on the owner's land within the development contribution area;
- (c) the approval of any strata plan by the local government or Western Australian Planning Commission on the owner's land within the development contribution area; or
- (d) the approval of a change or extension of use by the local government on the owner's land within the development contribution area.

The liability arises only once upon the earliest of the above listed events.

6.3.13.3 Notwithstanding clause 6.3.13.2, an owner's liability to pay the owner's cost contribution does not arise if the owner commences development of the first single house or outbuildings associated with that first single house on an existing lot which has not been subdivided or strata subdivided since the coming into effect of the development contribution plan.

6.3.13.4 Where a development contribution plan expires in accordance with clause 6.3.8, an owner's liability to pay the owner's cost contribution under that development contribution plan shall be deemed to continue in effect and be carried over into any subsequent development contribution plan which includes the owner's land, subject to such liability.

Comments

The local government may wish to give consideration to other forms of development, of a minor or incidental nature, that should be excluded for the purpose of triggering liability under clause 6.3.13 (e.g. the erection of a boundary fence).

6.3.14 Payment of cost contribution

6.3.14.1 The owner, with the agreement of the local government, is to pay the owner's cost contribution by—

- (a) cheque or cash;
- (b) transferring to the local government or a public authority land in satisfaction of the cost contribution;
- (c) the provision of physical infrastructure;
- (d) some other method acceptable to the local government; or
- (e) any combination of these methods.

6.3.14.2 The owner, with the agreement of the local government, may pay the owner's cost contribution in a lump sum, by installments or in such other manner acceptable to the local government.

6.3.14.3 Payment by an owner of the cost contribution, including a cost contribution based upon estimated costs in a manner acceptable to the local government, constitutes full and final discharge of the owner's liability under the development contribution plan and the local government shall provide certification in writing to the owner of such discharge if requested by the owner.

6.3.15 Charge on land

6.3.15.1 The amount of any cost contribution for which an owner is liable under clause 6.3.13, but has not paid, is a charge on the owner's land to which the cost contribution relates, and the local government may lodge a caveat, at the owner's expense, against the owner's certificate of title to that land.

6.3.15.2 The local government, at the owner's expense and subject to such other conditions as the local government thinks fit, can withdraw a caveat lodged under clause 6.3.15.1 to permit a dealing and may then re-lodge the caveat to prevent further dealings.

6.3.15.3 If the cost contribution is paid in full, the local government, if requested to do so by the owner and at the expense of the owner, is to withdraw any caveat lodged under clause 6.3.15.

6.3.16 Administration of funds

6.3.16.1 The local government is to establish and maintain a reserve account in accordance with the *Local Government Act 1995* for each development contribution area into which cost contributions for that development contribution area will be credited and from which all payments for the infrastructure costs and administrative costs within that development contribution area will be paid. The purpose of such a reserve account or the use of money in such a reserve account is limited to the application of funds for that development contribution area.

6.3.16.2 Interest earned on cost contributions credited to a reserve account in accordance with clause 6.3.16.1 is to be applied in the development contribution area to which the reserve account relates.

6.3.16.3 The local government is to publish an audited annual statement of accounts for that development contribution area as soon as practicable after the audited annual statement of accounts becomes available.

6.3.17 Shortfall or excess in cost contributions

6.3.17.1 If there is a shortfall in the total of cost contributions when all cost contributions have been made or accounted for in a particular development contribution area, the local government may—

- (a) make good the shortfall;
- (b) enter into agreements with owners to fund the shortfall; or
- (c) raise loans or borrow from a financial institution,

but nothing in paragraph 6.3.17.1(a) restricts the right or power of the local government to impose a differential rate to a specified development contribution area in that regard.

6.3.17.2 If there is an excess in funds available to the development contribution area when all cost contributions have been made or accounted for in a particular development contribution area, the local government is to refund the excess funds to contributing owners for that development contribution area. To the extent, if any, that it is not reasonably practicable to identify owners and/or their entitled amount of refund, any excess in funds shall be applied, to the provision of additional facilities or improvements in that development contribution area.

6.3.18 Powers of the local government

The local government in implementing the development contribution plan has the power to—

- (a) acquire any land or buildings within the scheme area under the provisions of the *Planning and Development Act 2005*; and
- (b) deal with or dispose of any land which it has acquired under the provisions of the *Planning and Development Act 2005* in accordance with the law and for such purpose may make such agreements with other owners as it considers fit.

6.3.19 Arbitration

Subject to clauses 6.3.12.3 and 6.3.12.4, any dispute between an owner and the local government in connection with the cost contribution required to be made by an owner is to be resolved by arbitration in accordance with the *Commercial Arbitration Act 1985*.

SCHEDULE X

STATUTORY STATIC FEASIBILITY ASSESSMENT MODEL

Gross realisation

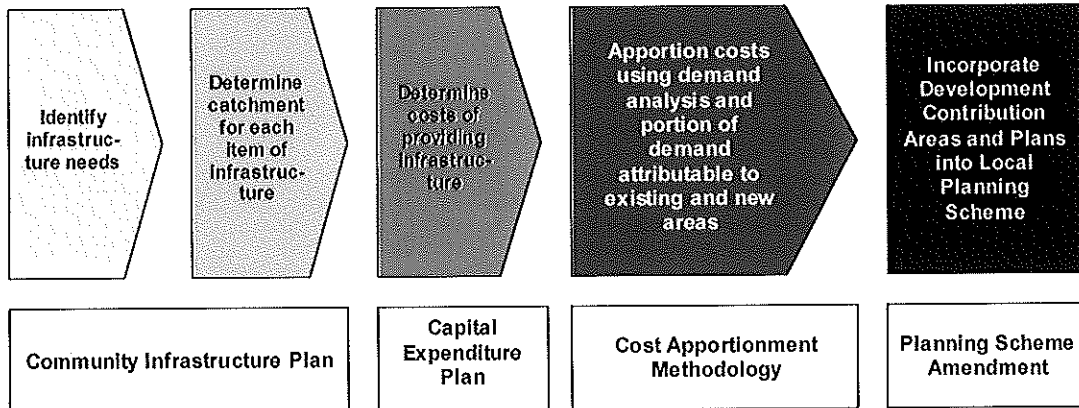
Net lot yield @ average market value per lot			
"X" lots @ "\$Y" per lot	\$		(1)
Less GST @ standard / normal rates			
(1) Multiplied by GST rate/(100+GST rate)	\$		(2)
(1-2)		\$	(3)
Less selling, marketing, advertising & settlement fees			
@ market % multiplied by (1)	\$		(4)
Add back Input Tax Credit on selling fees			
(4) Multiplied by GST rate/(100+GST rate)	\$		(5)
(4-5)		\$	(6)
Balance after selling costs etc & Input Tax Credit (3-6)		\$	(7)
Less adjusted profit & risk allowance as per SPP 3.6			
Market determined profit & risk allowance		%	(8)
Less fixed profit allowance per SPP3.6		$\frac{10\%}{100}$	(9)
Risk rate applied (8-9)		= %	(10)
EXPLANATION: (10) to be expressed as a whole number eg 15% = 15			
ie Risk = (7) multiplied by (10)/100+(10)			(11)
Balance after profit & risk factor (7-11)		\$	(12)
Less development costs @ "X" lots multiplied by "\$Z" per lot	\$		(13)
Add back Input Tax Credit on (13)			
(13) Multiplied by GST rate/(100+GST rate)	\$		(14)
Development cost after Input Tax Credit (13-14)	\$		(15)
Add interest on net development costs (15)			
For 1/2 development & 1/2 selling term			
@ Applicable market rates			
(15) Multiplied by % rate	\$		(16)
(15+16)		\$	(17)
Balance after deduction of development costs & interest (12-17)		\$	(18)
Less interest on land value, rates & taxes and stamp duty			
Assessed over 1/2 development and 1/2 selling term			
@ Applicable market rates			
(18) Multiplied by (% rate/100+%rate)		\$	(19)
Balance after interest on the land (18-19)		\$	(20)
Less rates & taxes		\$	(21)
Balance after rates & taxes (20-21)		\$	(22)
Less Stamp Duty @ current statutory rates			
(22) Multiplied by stamp duty rate/(100+stamp duty rate)		\$	(23)
Residual Land Value prior to GST considerations (22-23)		\$	(24)
Add GST (24) + GST at prevailing statutory rate		\$	(25)
ASSESSED STATUTORY CONTRIBUTION PER SPP 3.6 (22+23)	\$		

The Static Feasibility Model is based upon—

- (i) The number of lots yielded from the land will have a gross sale price which, when multiplied by the number of lots created, establishes the Gross Realisation (i).
- (ii) GST will be calculated by the standard/normal method.
- (iii) Selling, marketing, advertising and settlement fees expressed as a percentage shall be added and then expressed as a total percentage against the gross realisation.
- (iv) The adjusted risk component applied in the model is the established market profit and risk at the date of valuation less the fixed 10 per cent profit applied in SPP 3.6.
- (v) Development costs will be established as an appropriate servicing cost per lot at the date of valuation, multiplied by the lots realised from the land.
- (vi) Interest against the development costs will be established by the application of bank lending rates for such projects at the date of valuation.
- (vii) Interest against the land in development will be established by the application of bank lending rates for such development acquisitions at the date of valuation.
- (viii) Rates and taxes will be applied for the full term of acquisition, development and sale.
- (ix) Stamp Duty will be applied at the statutory rate as applicable at the date of valuation.
- (x) GST will be applied at the appropriate rate adopted at the date of valuation.

Appendix 3—Methodology for developing *community infrastructure* development contribution plans

Local governments need to establish a clear strategic framework for applying for development contributions for community infrastructure, which is infrastructure over and above standard developer contributions set out in appendix 1.



The framework should be supported by—

1. a **community infrastructure plan** for the area, identifying the services and facilities required over the next 5 to 10 years (supported by demand analysis and identification of service catchments). This should be supported by projected growth figures including the number of new dwellings to be created at catchment level (suburb or district);
2. a **capital expenditure plan (with at least five out years)** which identifies the capital costs of facilities and the revenue sources (including capital grants) and programs for provision;
3. **projected growth figures**, including the number of new dwellings to be created at catchment level (suburb or district); and
4. a **methodology** for determining the proportion of costs of community infrastructure to be attributed to growth and the proportion to be attributed to existing areas.

Community infrastructure development contribution plans

Development contribution plans must specify—

- (a) the development contribution area that a plan applies to. This should be indicated on the scheme map as a development contribution area;
- (b) the infrastructure and administrative costs to be funded through the plan. Only community infrastructure that is identified in the local government's community infrastructure plan can be included in the development contribution plan;
- (c) the methodology for determining the cost contribution of each owner towards the infrastructure to be funded through the plan;
- (d) the priority and timing for the provision of infrastructure; and
- (e) the period during which it is to operate

A development contribution plan does not have effect until it has been incorporated into a local planning scheme as a schedule. An example of a plan can be found at attachment A3.1

Development contribution plans must comply with the principles specified in *State Planning Policy 3.6 Development Contributions for Infrastructure*.

Development contribution plans are to be supported by a cost apportionment schedule (see attachment A3.3) and a development contribution plan report (see attachment A3.2). These do not form part of the local planning scheme but need to be made available to landowners within 90 days of the gazettal of a development contribution plan.

Where a cost apportionment schedule contains estimated costs, these costs are to be reviewed by the local government at least annually. An owner may request that the local government have these estimated costs independently certified by an appropriately qualified person.

Where cost contributions have been calculated on the basis of estimated costs, a local government can either adjust the cost contribution of any owner in accordance with revised estimated costs (or final expenditure), or accept a cost contribution based on an estimated cost as a final cost contribution from an owner.

Owners become liable to pay their costs (once only) on the earlier of—

- subdivision or strata subdivision;
- development; or
- changing or extending a use.

Owners may pay their cost contributions by money, land or some other method acceptable to the local government. The amount of any unpaid cost contribution is a charge on the owner's land and the local government may register a caveat against the certificate of title of the owner's land.

Local governments are required to credit development contributions to a reserve account for the purpose of cost contributions only.

ATTACHMENT A3.1
SCHEDULE ZZ

Note: This must be incorporated into the scheme.

**COMMUNITY INFRASTRUCTURE DEVELOPMENT CONTRIBUTION PLAN FOR
DEVELOPMENT CONTRIBUTION AREA XX**

Reference No.	DCP1
Area name:	DCA XX
Relationship to other planning instruments	The development contribution plan generally conforms to, the <i>Plan for the Future</i> , the <i>10 year Financial Management Plan</i> and the <i>Community Infrastructure Plan</i> .
Infrastructure and administrative items to be funded:	<p>1. District community centre—</p> <ul style="list-style-type: none"> • Single storey, xm², plot ratio floor area building with x parking spaces situated on lot x, x st, x suburb <ul style="list-style-type: none"> i. planning and design ii. site acquisition iii. earthworks and site (including servicing); iv. construction of facility (including associated tender) v. associated parking vi. associated landscaping <p>2. Administrative costs including—</p> <ul style="list-style-type: none"> • costs to prepare and (for standard items only) administer the plan during the period of operation (including legal expenses, valuation fees, proportion of staff salaries, computer software or hardware for purpose of administering the plan) • costs to prepare and review estimates • costs to prepare the cost apportionment schedule • valuation costs
Method for calculating contributions	<p>The council's community infrastructure plan identified the needs that impact on the development contribution plan. The contributions outlined in this plan have been derived based on the need for facilities generated by additional development in the development contribution plan. This calculation excludes the—</p> <ul style="list-style-type: none"> • demand for a facility that is generated by the current population; • demand created by external usage—the proportion of use drawn from outside of the main catchment area; and • future usage—the proportion of usage that will be generated by future development outside of the development contribution plan timeframe.
Period of operation:	X years
Priority and timing:	District community centre year X
Review process	<p>The plan will be reviewed when considered appropriate, having regard to the rate of subsequent development in the area since the last review and the degree of development potential still existing.</p> <p>The estimated infrastructure costs shown as schedule ZZ will be reviewed at least annually to reflect changes in funding and revenue sources and indexed based on the Building Cost Index or other appropriate index as approved by the qualified person undertaking the certification of costs referred to in MST clause 6.3.11.3 (appendix 2).</p>

DEVELOPMENT CONTRIBUTION PLAN REPORT

Note: This report does not form part of the scheme but provides the rationale and justification for the development contribution plan, the calculation of costs, and the cost apportionment schedule specifying the costs for each owner.

Development contribution area	The development contribution area is shown on the scheme map as: DCA 1
Purpose	<p>The purpose of this development contribution plan report is to—</p> <ol style="list-style-type: none"> (a) enable the applying of development contributions for the development of new, and the upgrade of existing infrastructure, which is required as a result of increased demand generated in the development contribution area; (b) provide for the equitable sharing of the costs of infrastructure and administrative items between owners; (c) ensure that cost contributions are reasonably required as a result of the subdivision and development of land in the development contribution area; and (d) coordinate the timely provision of infrastructure.
Period of the plan	X years from June 30 20XX to June 30 20XX
Operation of the development contribution plan	The plan has been prepared in accordance with <i>State Planning Policy 3.6 Development Contributions for Infrastructure</i> . It will come into effect on the date of gazettal of the local planning scheme or amendment to the local planning scheme to incorporate the plan.
Application requirements	Where a subdivision, strata subdivision or development application or an extension of land use is lodged which relates to land to which this plan applies, council shall take the provisions of the plan into account in making a recommendation on or determining that application.
Principles	<p>Development contributions will be applied in accordance with the following principles—</p> <ol style="list-style-type: none"> 1. Need and the nexus The need for the infrastructure included in the plan must be clearly demonstrated (need) and the connection between the development and the demand created should be clearly established (nexus). 2. Transparency Both the method for calculating the development contribution and the manner in which it is applied should be clear, transparent and simple to understand and administer. 3. Equity Development contributions should be levied from all developments within a development contribution area, based on their relative contribution to need. 4. Certainty All development contributions should be clearly identified and methods of accounting for escalation agreed upon at the commencement of a development. 5. Efficiency Development contributions should be justified on a whole of life capital cost basis consistent with maintaining financial discipline on service providers by precluding over recovery of costs. 6. Consistency Development contributions should be applied uniformly across a development contribution area and the methodology for applying contributions should be consistent. 7. Right of consultation and arbitration Land owners and developers have the right to be consulted on the manner in which development contributions are determined. They also have the opportunity to seek a review by an independent third party if they believe the calculation of contributions is not reasonable in accordance with the provisions set out in the draft Model Scheme Text in appendix 2. 8. Accountable There must be accountability in the manner in which development contributions are determined and expended.
Items included in the plan	<p>Administration costs</p> <ul style="list-style-type: none"> • costs to prepare and administer the development contribution plan • costs to prepare and review estimates • costs to prepare the cost apportionment schedule • valuation costs

Infrastructure elements

- *list of infrastructure required and basis for its inclusion*

Details of the cost apportionment can be seen in the cost apportionment schedule.

Review

The development contribution plan will be reviewed when considered appropriate having regard to the rate of subsequent development in the area since the last review and the degree of development potential still existing.

The estimated infrastructure costs as shown in the cost apportionment schedule will be reviewed at least annually to reflect changes in funding and revenue sources and indexed based on the Building Cost Index or other appropriate index as approved by the qualified person undertaking the certification of costs referred to in MST clause 6.3.11.3 (appendix 2).

COST APPORTIONMENT SCHEDULE

Note: This schedule does not form part of the scheme

LANDOWNER CONTRIBUTIONS FOR DC1—AAAAAA	\$ est.
Land acquisition costs	
<i>District community centre</i>	\$
Planning and design costs	
<i>District community centre</i>	\$
	\$
Construction costs	
<i>District community centre</i>	\$
	\$
Landscaping costs	
<i>District community centre</i>	\$
	\$
Parking provisions	
<i>District community centre</i>	\$
	\$
etc	\$
Administration costs	
<i>Costs to prepare the plan (and for standard infrastructure items) and administer</i>	\$
<i>Costs to prepare and review estimates</i>	\$
<i>Costs to prepare the cost apportionment schedule</i>	\$
<i>Total projected demand for the district community centre</i>	XX,XXX
<i>Less demand from existing residents</i>	X,XXX
<i>Less demand from external users</i>	XXX
<i>Less future demand outside of the development contribution plan timeframe</i>	X,XXX
Total demand associated with development contribution plan	X,XXX

Lot description	Demand generated	Infrastructure requirement	Percent of total demand %
1
2
3
4
5
6

AGENDA NUMBER: 10.3
SUBJECT: Application for transitional period of 12 months AS3959 2009
LOCATION/ADDRESS: N/A
NAME OF APPLICANT: N/A
FILE REFERENCE: BLD9
AUTHOR: Ewen Ross - Manager Development Services
DISCLOSURE OF INTEREST:
DATE OF REPORT: 2 May 2010

BACKGROUND:

The BCA 2010 took effect on the 1st May 2010 which calls up the new bushfire standard AS3959 2009. There has been some discussion on this standard and already there is a formal Amendment No1 approved and further expected.

COMMENT:

1. The implication regarding implementation of Part 3.7.4 & Part G5 of the BCA 2010 and AS3959 2009 to the Shire of Nannup is limited as there has been no declared bush fire prone land within the Shire. However, the AS3959 is used in rezoning and development applications, therefore confirmation of which standard to be implemented is required.
2. The Building Regulations 1989 *regulation 6 (2)* allow a transition period (up to 12 months) prior to enforcing this new standard if approved by Council.

"6 Savings and transitional provisions

- (2) *Where plans, drawings and specifications relating to the construction or alteration of a building on a site are submitted to the local government for its approval then, notwithstanding that those plans, drawings and specifications do not comply with these regulations or the Building Code as in operation, at the time of their submission, in the district or in that part of the district in which the site is located, the local government may approve of those plans, drawings and specifications if the local government is satisfied that —*
 - (a) *if those same plans, drawings and specifications had been submitted to the local government at some time during the period of 12 months prior to the date of their actual submission they would have complied with the local laws, regulations and the Building Code as in operation in the district or that part of the district; and*
 - (b) *no undue delay has been occasioned in the submission of those plans, drawings and specifications to the local government."*
3. At this stage Part 3.7.4 & Part G5 of the BCA 2010 & AS3959 2009 will not be enforced until the transition period ceases on 1st MAY 2011, to allow at least 12 months for builders & designers to design new buildings to suit these

new requirements. It would also allow further time for AS3959 2009 to be tested. This in effects delays implementation untill 1st May 2012 as Building Regulations 1989 s6 (1) allows a transitional period of 12 months.

STATUTORY ENVIRONMENT: Building Regulations 1989

POLICY IMPLICATIONS: Nil.

FINANCIAL IMPLICATIONS: Nil

STRATEGIC IMPLICATIONS:

Environmental: No land in the Shire of Nannup has been declared bush fire prone and transitional period will allow for implementation of the higher standard.

Economic: Adoption of 12 month transitional period would assist builders, developers and designers to apply the new standard.

RECOMMENDATION:

That Council approves under the Building Regulations 1989 s6 (2) a transitional period of 12 months for application of Part 3.7.4 & Part G5 of the BCA 2010 and AS3959 2009.

8386 CAMARRI/BOULTER

That Council approves under the Building Regulations 1989 s6 (2) a transitional period of 12 months for application of Part 3.7.4 & Part G5 of the BCA 2010 and AS3959 2009.

CARRIED 8/0

AGENDA NUMBER: 10.4
SUBJECT: Request to Initiate Amendment 9 to Local Planning Scheme No3
LOCATION/ADDRESS: Nelson Location 8271, BROCKMAN HIGHWAY, Nannup
NAME OF APPLICANT: Harley Global: Owner - HENRY/PAKI
FILE REFERENCE: A 105
AUTHOR Ewen Ross: Manager Development Services
DISCLOSURE OF INTEREST: Nil
DATE OF REPORT: 6 May 2010

- Attachments: 1. Location Plan.
2. Submission from Harley Global.
3. LPS No3 Schedule 14
(*Information Required for Development Guide Plans*)

BACKGROUND:

1. Nelson Location 8271 CT 1047/353 is located southwest of Nannup on BROCKMAN HIGHWAY, NANNUP ('Subject Land') and is currently used for a large hobby farm. The subject land has been requested to be subdivided on two previous occasions (last reference Oct 92), gaining Council support but not approved by the Minister for Planning. There have been considerable changes since this date with the Nannup Planning Strategy for the Local Planning Scheme No3 and adoption of Local Planning Scheme No3 in December 2008.
2. Due to its size it would have limited uses for most forms of agriculture and has on its southern boundary Special Rural Area 12.
3. A request to initiate an amendment to *Local Planning Scheme No. 3* (LPS No3) has been made that would result in the rezoning of approximately 10.7 ha of land from 'Agriculture' zone to "Special Rural" zone that would potentially allow up to 5 lots of a minimum of 1.99 hectare on the subject land (Attachment 1 provides the Location Plan). The proponents basis of this request is summarised:
 - a. The 5 lots will be provided with potable water (rain water), on site waste disposal, singular road access, maintenance of environment status quo and addressing the requirements for bush fire protection.
 - b. The Warren Blackwood Rural Strategy (2004) states "Rural-residential or rural smallholdings subdivisions will not be supported unless the land is designated for the purpose in the local planning strategy or rural strategy and until the land has been rezoned for that purpose". As the Local Planning Scheme No3 has identified the land as appropriate for being used for rural residential purposes, as it is in the Special Rural

- Policy Area, the proposed zoning is deemed to comply with this strategy.
- c. Subdivision of the subject land would meet the requirements of State Planning Policy 2.5 and WAPC Development Control Policy 3.4 as LPS No3 identifies the subject land as within the Special Rural Policy Area and is within proximity of Nannup;
 - d. The Shire of Nannup Local Planning Strategy identifies the subject land within Rural Planning Precinct NR5 supports rural-residential subdivision in areas close to town where permitted under the Town Strategy. With regards to the Nannup Townsite Strategy the subject land is identified within policy area 6 which supports special rural/residential development subject to assessment and rezoning.
 - e. The subdivision of the subject land is consistent in all regards to LPS No3.
 - f. There is demand for a supply of rural residential land in Nannup.
5. A copy of the consultant submission is included as Attachment 2, which is comprehensive regarding the subject land and the relevant detail has not been rewritten into this report.

Local Planning Scheme No3

6. The LPS No3 includes the subject land as "Agriculture" zone and is also located within a special control area known as "Special Rural Policy Area" (section 6.2.2) which states:

6.2.2 Special Rural Policy Area

- 6.2.3.1 *The purpose of identifying land on the Scheme Map as being within the Special Rural Policy Area is to enable the planned and progressive development of the land for rural residential purposes in a manner and at a time appropriate to the orderly and proper planning and development of the land, the locality and the District.*
- 6.2.3.2 *Where land is identified on the Scheme Map as being within the Special Rural Policy Area, the local government will require the rezoning of the land in accordance with the requirements of sub-clause 4.13.10.2 of the Scheme.*
- 6.2.3.3 *Where land is identified on the Scheme Map as being within the Special Rural Policy Area, the local government will require the rezoning of the land consistent with the proposed uses and the preparation of a*

comprehensive Development Guide Plan for the land and the endorsement of the Plan by it and the Western Australian Planning Commission prior to the local government supporting any subdivision or development of the land.

- 6.2.3.4 *The local government may require the Development Guide Plan to have regard for adjacent lands. Such Development Guide Plan shall be prepared in accordance with Schedule 14.*
- 6.2.3.5 *The subdivision or development of the land the subject of the Development Guide Plan shall generally be in accordance with the endorsed Development Guide Plan.*
- 6.2.3.6 *Notwithstanding the foregoing, the local government may approve any development in a manner consistent with the underlying zone without requiring a Development Guide Plan where, in the opinion of the local government, such development is of a minor nature and will not adversely affect the future subdivision or development of land within the zone.*
- 6.2.3.7 *A dwelling house may be erected on an existing allotment of land within the Special Rural Policy Area where the local government is satisfied that the siting of the dwelling house is unlikely to prejudice the future development of the land or other land in the vicinity.*

Local Planning Strategy for the Local Planning Scheme No3 and Townsite Strategy

7. The principle 'strategic' document in support of the proposed rezoning of the subject land is the Shire of Nannup Local Planning Strategy. The relationship between the Local Planning Strategy and the Nannup Townsite Strategy is outlined in the Local Planning Strategy as such:

"In addition to the recommendations of the Townsite Strategy, Council, via this Local Planning Strategy, has adopted a philosophy of encouraging infill and consolidation of the townsite strategy area instead of identifying additional land for settlement outside of these areas."

8. The subject land is located within Planning Precinct NR5 of the Local Planning Strategy, the objectives of which are to:
- *"allow for rural-residential subdivision in areas close to the town where permitted under the Townsite Strategy"*
 - *"discourage additional rural-residential development at Darradup and Jalbarragup due to remoteness from services"*

- *“provide for the sustainable use of land within the agricultural zones and outside the Townsite Strategy Area, for a range of rural pursuits”*
9. The subject land is included in the Nannup Townsite Strategy as *Policy Area No.4* (Note Attachment 4) which has few limitations in respect to rural-residential development, with the exception of proximity to the Blackwood River and potential for inundation, and possible constraints on servicing. However, the subject land is not specifically identified as flood prone land and the land can be serviced by road, power and telecommunications with access to an alternative supply of potable water also achievable.
 10. The Strategy also specifies that subdivision into 1 hectare lot sizes are permissible for land with reticulated water and subdivision into lot sizes of 2 hectares are encouraged for land without reticulated water. Given that the subject land is located within an established rural-residential area, the proposal to rezone the subject site to ‘Special Rural’ will be consistent with surrounding land uses.

Warren-Blackwood Rural Strategy

11. The Warren Blackwood Rural Strategy (‘WBRS’) was developed as a collaborative overarching approach to strategic planning for the Warren Blackwood region, with many of those outcomes embodied within LPS No3. The WBRS does make some observations from a strategic perspective that are of relevance to the future subdivisions and development of the subject land, and the place of the proposed Special Rural zoning within the general objectives for the region.
12. The WBRS suggests that lots sizes ranging between 1 hectare and 4 hectares should be provided in rural-residential areas. This is considered necessary so as to produce lots large enough to satisfy the lifestyle, amenity and privacy of owners, however not wasting the land resource by creating lots beyond the capability of landowners to manage in a sustainable manner. Furthermore, the WBRS states that rural-residential development should occur within 5 kilometres of an urban area, which the subject land does.
13. The Warren-Blackwood region is divided into several planning units, the subject land being located within the “Blackwood” Planning Unit. One of the planning objectives of this Unit relating the rural-residential development is that it should be restricted to a specifically identified zone or policy area, which the subject land is within.

Development Guide Plan

14. LPS No3 includes at Schedule 14, specific requirements for the preparation of SP (Note Attachment 3). Its purpose is to demonstrate how the subject land can be logically subdivided into rural residential lots in a coordinated manner with consideration to the adjoining water course, land capability and surrounding locality. The SP process is to be run concurrently with this amendment as a component of amending documentation. The issues identified by Schedule 14 have been addressed in the SP.
15. The amendment and draft SP proposes to create 5 rural residential lots ranging in area from 1.99ha to 2.0182ha, with an overall average of 2ha (subject to foreshore area being ceded). The 1ha minimum lot size, without connection to reticulated potable water is consistent with the objectives, actions and provisions of the WAPC's DC 3.4. Building envelopes of 2,000m² have been identified on the draft SP which would ensure that no clearing is to be undertaken outside the building envelope, therefore, protecting the remnant vegetation and environmental attributes existing on the subject land.
16. A foreshore reserve has been identified where the northern boundary of the subject land abuts the Blackwood River. The depth of this varies from 0-20 metres and would limit pedestrian access along the BLACKWOOD RIVER. The provision of the Foreshore Reserve of 20metres should be requested, contributed free of cost by the owner through the subdivision process.
17. Under the Amendment, development is only applicable to be within the development envelope. As required by Council, provisions associated with the development of land have been stated on the SP.

COMMENT

Preliminary Advice

18. The Shire administration discussed the submission concept with the proponent and recommended a number of amendments which some have been incorporated into this revised submission. It is recommended that there is further amendment to the proposal prior to initiating or final adoption (post the consultation process), to address issues in the planning assessment.

Considerations of Council

19. Lot size: Council will need to consider the size of lots to be approved. The Local Planning Strategy refers to lots of 1 – 3 hectares. However, in most rezoning and subsequent subdivision the minimum size has been limited to 2 hectares. The most recent subdivision in DEAN ROAD did permit lots down to 1.06/1.4 and 1.46 hectares. Council needs to consider if the reduction in lot

sizes below 2 hectares will increase the urban density and change the "rural" perspective of the area surrounding the Nannup Townsite.

20. Adjacent land: Under LPS No3, clause 6.2.3.4 there is provision for;

"The local government may require the Development Guide Plan to have regard for adjacent lands. Such Development Guide Plan shall be prepared in accordance with Schedule 14."

In this case the proposal has not considered the adjacent land with regards to future development. With the already approved Special Rural 12 (Amendment No26 Nelson Location 8270), the area to the south of Nannup Townsite is being slowly developed. To ensure a coordinated development and to avoid land use conflict in this case development of lots 2, 501 and 8273 BROCKMAN HIGHWAY could be incorporated into the Structure Plan. This would avoid piecemeal development and could provide for a more cohesive long term development. In this case the Structure plan could allow for roads, foreshore access and pathways (footpaths/cycle paths) to link with future development on the western side of BROCKMAN HIGHWAY back towards the townsite of Nannup.

21. An area not addressed in the submission is the current status of buildings on proposed lot 5.
- a. The "dwelling" identified is a transported structure (ambulance hall) which has a building permit issued as a "storage facility" class 10a (non-habitable building) There appears to be no record of change of classification or that this buildings meets the requirements of BCA as a "dwelling".
 - b. The "outbuilding" adjacent the storage facility, there appears no record of this in the Shire's files and is in a state of disrepair.
 - c. The original dwelling has been converted into a shed/workshop without any records of change in classification being obtained. There is a building permit for an extension of the shed on file. This shed is being used as a "workshop" servicing motor bikes, motor vehicles and includes a limited engineering capacity, which is consistent with LPS No3 "Agricultural" or "Special Rural" zoning. This activity should cease under current zoning and should the proponent wish to conduct this type of business subsequent to rezoning to "Special Rural" it would need to be addressed in the application of initiation of the amendment prior to Councils final approval.
22. Areas to be addressed in the proposal include:
- a. The use of "Development Guide Plan" is changed to "Structural Plan"

- b. reflecting changes in terminology and additional notation added.
 - b. The Structural Plan includes the foreshore reserve, required setbacks and fire management plan requirements.
 - c. Status of current buildings be confirmed and upgraded as required.
 - d. Use on lot 5 is confirmed.
 - e. Access to the foreshore reserve to be 6 metres.
 - f. The onsite disposal capacity of the land and type of disposal is confirmed.
 - g. The Fire Management Plan be amended to reflect the requirements of "Planning for Bush Fire Protection" prepared by FESA and Department of Planning. This would include agreement with regards Building Protection Zones and Hazard Protection Zones and application of AS3959 1999 level 2, provisions for water for fire fighting purposes and access agreements to the "dam" if required.
 - h. A stormwater management plan is included to identify the addition in water discharge from buildings, roads and driveways/paths.
 - i. A landscape plan being provided for proposed lots 1 and 3 fronting onto BROCKMAN HIGHWAY.
23. Council may feel that these requirements are addressed in the consultation process; however it is preferable that they be included from the outset and not as conditions in the final approvals.

Strategic Context

24. The subject land is included in "Special Rural Policy Area" in the LPS No3 (which has also been endorsed by the WAPC). In particular, the LPS No3 states:

The Special Rural Policy Area has been selected on the basis of the proximity to the urban services of Nannup Townsite, and purposefully do not extend into the identifiable broad acre agricultural land within the Shire, thus protecting such land from incompatible rural-residential subdivision". The

25. The LPS accordingly strategically identifies rural residential and rural small holding areas and provides a clear settlement strategy, including supporting subdivision/development in and around the town of Nannup. The LPS is a strong determinant of where rural residential development and subdivision should be encouraged within the Shire. The LPS was prepared subsequent to the *Nannup Townsite Strategy* and essentially reflects the same policy direction.

Conclusion

26. The proposal is within the requirements of the Nannup's Planning Strategy and LPS No3. There are some areas that require addressing which is preferable before initiation, however they can be addressed during the consultation process as they are not significant enough to not initiate the amendment.

STATUTORY ENVIRONMENT:

27. Following statutory considerations:
- a. Planning and Development Act and Town Planning Regulations
 - b. Shire of Nannup Local Planning Scheme No. 3

POLICY IMPLICATIONS:

28. The proposal is within the *LPS No3, Nannup Local Planning Strategy, Townsite Strategy, Warren Blackwood Rural Strategy* and the WAPC's "*Agriculture and Rural Land Use Planning*" - *Statement of Planning Policy 2.5.*

STRATEGIC IMPLICATIONS:

29. Consideration as if this proposal is to be approved on its own merits or that it includes development of other lots 2, 501 and 8273 BROCKMAN HIGHWAY.

SUSTAINABILITY IMPLICATIONS

Environmental: A range of environmental issues have been considered in the proponent's submission and in the planning assessment. These will be considered in greater detail at the development application and potentially, at subdivision stage by relevant agencies and the Council.

Economic: Adoption of the Amendment could result in opportunities for additional rural residential development which can assist in providing economic benefits to the local economy.

Social: The proposal will provide additional rural residential opportunities.

FINANCIAL IMPLICATIONS:

30. \$3,300 scheme amendment fees received in accordance with Council's fees and charges.

RECOMMENDATION:

That Council resolve to initiate Scheme Amendment No. 9 to the Shire of Nannup Local Planning Scheme No. 3 ('LPS No3') to amend LPS 3 by rezoning Lot 8271 BROCKMAN HIGHWAY, Nannup from 'Agriculture' to "Special Rural" to facilitate subdivision development (via an approved Structure Plan).

8387 BOULTER/MELLEMA

That Council resolve to initiate Scheme Amendment No. 9 to the Shire of Nannup Local Planning Scheme No. 3 ('LPS No3') to amend LPS 3 by rezoning Lot 8271 BROCKMAN HIGHWAY, Nannup from 'Agriculture' to "Special Rural" to facilitate subdivision development (via an approved Structure Plan).

CARRIED 8/0



SHIRE OF NANNUP LOCAL PLANNING SCHEME NO.3

AMENDMENT NO.9



PREPARED FOR MR B HENRY
FEBRUARY 2010

PLANNING AND DEVELOPMENT ACT 2005
RESOLUTION DECIDING TO AMEND A LOCAL PLANNING SCHEME
SHIRE OF NANNUP

LOCAL PLANNING SCHEME NO. 3

AMENDMENT NO. 9 (LPS 3)

RESOLVED that the Council, in pursuance of Section 75 of the Planning and Development Act 2005, amends the above local planning scheme by:

1. Rezoning Lot 8271 Brockman Highway, Nannup (as depicted on the Scheme Amendment Map) from the 'Agriculture' zone to the 'Special Rural' zone.
2. Amending the Scheme Text Schedule 12 (Schedule of Special Rural Zones) by including Lot 8271 Brockman Highway, Nannup together with reference to a Development Guide Plan and special provisions referring to the subject land.

Dated this _____ day of _____ 20____.

CHIEF EXECUTIVE OFFICER

MINISTER FOR PLANNING

PROPOSAL TO AMEND A TOWN PLANNING SCHEME

LOCAL AUTHORITY:	SHIRE OF NANNUP
DESCRIPTION OF TOWN PLANNING SCHEME:	LOCAL PLANNING SCHEME NO.3
TYPE OF SCHEME:	LOCAL PLANNING SCHEME
SERIAL NO. OF AMENDMENT:	AMENDMENT NO. 9
ASSET NO:	A105
PROPOSAL:	REZONE NELSON LOCATION 8271 BROCKMAN HIGHWAY FROM <i>AGRICULTURE</i> ZONE TO <i>SPECIAL RURAL ZONE AND INCLUDE THE LAND WITHIN AREA SR12.</i>

SCHEME AMENDMENT REPORT

1.0 INTRODUCTION

1.1 Purpose and Objectives

The purpose of this amendment to Shire of Nannup Local Planning Scheme No.3 is to rezone Nelson Location 8271 from the *Agriculture Zone* to the *Special Rural Zone* and include the land within Special Rural Area No.12 of the Scheme.

The key objectives of the rezoning are to:

- Provide for rural living opportunities within close proximity to the Nannup town site on land identified by the Shire of Nannup Local Planning Scheme No.3 for this use;
- Allow a small number of rural residential lots in an area that is already characterised by this land use; and
- Allow the subdivision of land capable for rural residential use.

The purpose of this report is to outline the Amendment and identify the strategic and statutory environment affecting it.

2.0 SITE DETAILS

2.1 Location

The site is located approximately 3 km via Brockman and Vasse Highways from the Nannup town centre (see Figure 2.1).

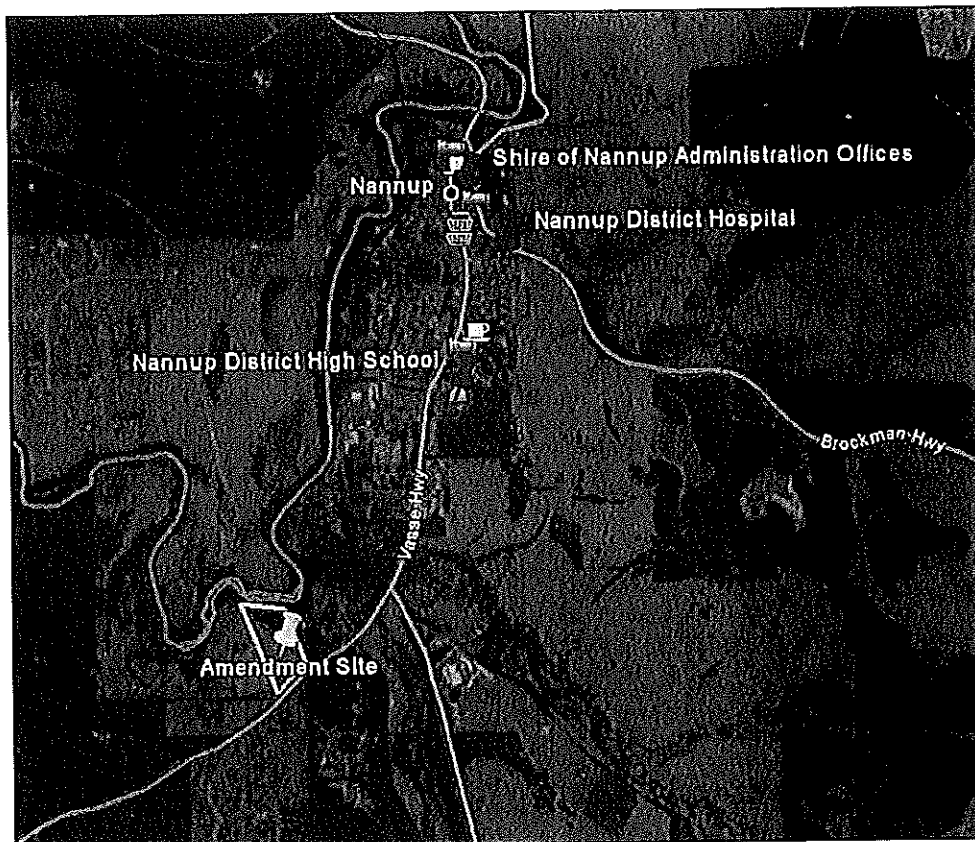


Figure 2.1: Location Plan (Google Earth)

For a view of surrounding land uses, refer to Figure 2.2 below.

The site is well located in close proximity to the Nannup town site, with the Nannup District High School being located approximately 1.8 km away.

The site is well located for rural residential land uses, given the close location of the nearby Nannup town site and the similar nature of surrounding rural residential development. This rezoning will complement land uses existing and proposed on surrounding properties.

2.2 Title and Ownership Details

The amendment site is shown as Lot 8271 on Deposited Plan 201619. The registered proprietors of the amendment site are Benjamin Rodger Henry, Carl Carisbrook Henry and Miriama Paki. A copy of the current Certificate of Title is included in Appendix A.

2.3 Land Area

The Amendment Site comprises a total of 10.7 ha. A site plan including aerial photography is shown overleaf.

2.4 Current Land Use of Site

The Amendment Site is essentially a large hobby farm. Given its relative small lot area and proximity to the town site and surrounding residential areas, it is not suitable for most forms of agriculture. There are a number of sheds and one dwelling on the property (Plates 1 and 2).



Plate 1: House and shed currently in use on the subject site. These will be located on proposed Lot 5.



Plate 2: Group of sheds located on proposed Lot 5. Part of the shed complex was the original house.

2.5 Surrounding Zoning and Land Use

The current town planning scheme zonings surrounding the site are shown on the rezoning map.

Directly to the north of the Amendment Site is land reserved for *Water Course* being the Blackwood River. This includes a riparian vegetation reserve and the actual water course. Land to the north of this river is predominantly *Special Rural* zoned.

Directly to the south of the Amendment Site is land zoned *Special Rural*. This area is being developed for rural residential land uses with lot sizes generally varying from 1-2 ha.

Directly to the east of the Amendment Site is land zoned *Rural*. Important to note is that this area still has relatively small lot sizes, significantly smaller than the Amendment site. There is also an area reserved for *Parks and Recreation*.

Directly to the west of the Amendment Site is land zoned *Special Rural*. Other reserved land in the vicinity of the Amendment Site generally indicates remnant vegetation to be conserved or *State Forest*.

A mitigation zone between the new *Special Rural* zone and neighbouring agricultural pursuits is not necessary in this instance given that the only activities coded 'P' by the zoning table in the Scheme text are 'agriculture-extensive', 'single dwelling', 'home office' and 'rural pursuit', none of which realistically will have an adverse impact on nearby agricultural pursuits. Any other activities will require Council's consideration, giving them the opportunity to decide on a case-by-case basis whether a mitigation zone is necessary. It should also be noted that land to the south and west is also zoned *Special Rural* and land to the north, while zoned *Rural*, is separated from the subject site by the Preston River reserve.

2.6 Vehicular Access

Access to the Amendment Site is from Brockman Highway. This road is of good quality and is sealed from the Amendment Site to Nannup.

In order to consolidate vehicle movements from the land, it is proposed to provide an access road into the amendment site. This is likely to consist of a 20 m wide road reserve, containing within it a 6 m wide sealed road with 1.2 m gravel shoulders. This would be approximately 250 m in length. Individual lot access to Brookman Highway, except for emergency purposes, is to be restricted.

The point at which this new road accesses Brockman Highway is 200m east of the nearest intersection (Rinns Road) and 750m west of the important Vasse Highway intersection. The stretch of highway onto which the subject site has frontage is almost straight, with no significant curves. Mains Roads Western Australia has indicated that it has no issue with the location of the proposed road intersection on Brockman Highway.

Given the size of proposed lots, it is not proposed to provide a separate pedestrian access, as it is expected traffic volumes would be sufficiently low on this access road to accommodate pedestrian traffic. However, so that access is maintained to the Blackwood River a 3m wide easement for access is present on the Development Guide Plan from the end of the cul-de-sac.

It has been suggested that provision for a future access road to adjoining Lot 2 (to the east) be investigated as part of this application. This reflects the possibility of Lot 2 being similarly rezoned in future. As the preference of the Shire of Nannup is for lots with a minimum size of 2ha in this zone, without connection to reticulated sewerage, it is unlikely that subdivision potential for Lot 2 exists, as it is only 3ha in area. We do not believe that Lot 2 has future subdivision potential, hence have not provided for a through road in the Development Guide Plan.

2.7 Services

2.7.1 On-site Effluent Disposal

The use of on-site effluent disposal on the amendment site has occurred for some time. As proven in the land capability section later in this report, the amendment site is capable of supporting on-site effluent disposal. Soils are permeable and groundwater is not close to the surface of the amendment site. All lot sizes proposed exceed the minimum for lots not connected to a reticulated sewerage system (2000m², as specified by the Draft Country Sewerage Policy). It should also be noted that the subject site is not located in a Public Drinking Water Source Area (PDWSA), where this minimum lot size becomes 2ha.

It is expected that the appropriate location of an on-site effluent disposal system will be identified in collaboration with the Shire's Environmental Health Officer at the housing development stage.

A new special provision for area SR12 prohibiting effluent disposal systems within 100m of the Blackwood River is proposed.

2.7.2 Potable Water Supply

Reticulated water is not currently connected to the Amendment Site. Potable water is supplied from a well located near the shed complex (Plate 2). This water is regularly tested and is suitable for drinking water.





Plate 3: Bore site that provides potable water for the property.

In accordance with the existing Clause 5.8.3 of the Scheme, it is proposed that each dwelling will be required to construct and connect a rainwater tank of not less than 135,000 litres prior to the approval of the dwelling for human occupation. This is to be to the satisfaction of the Shire of Nannup and the Health Department of Western Australia, whose requirements are based on those in the Australian Drinking Water Guidelines.

The suitability of the land for the use of on-site rainwater capture and storage is evidenced by:

- An average annual rainfall of 934 mm recorded at the nearby station of Jarrahwood; and
- Sufficient statutory power of the Council to require installation and operation of water tanks for households prior to occupation as contained in Clause 5.8.3 of the Scheme.

WAPC DC 3.4 states that

"When approving lots for rural-residential development (1-4ha) the WAPC will generally require connection to a reticulated water supply where it is practical and reasonable to do so. Where it is not practical or reasonable for lots to connect to a reticulated water supply the WAPC may consider an alternative water supply. In determining whether provision of a reticulated water supply is reasonable, the WAPC may consider the cost differential between a reticulated and alternative water supply, and the reliability of an alternative water supply. The reliability of alternative water supplies in different localities needs to be confirmed by available models."

Connection to reticulated water is not a viable solution for this lot, given the nearest potable water supply is located in the Nannup town site. Therefore, it is believed that it is fair and reasonable to have a potable water supply provided on-site.

Additional water for non-potable uses is available from the existing dam / soak located on proposed Lot 5 (Plate 4).

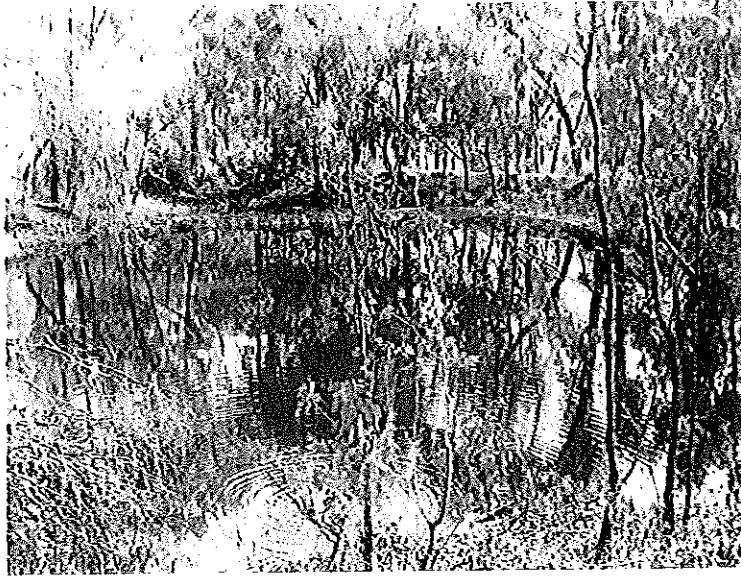


Plate 4: Soak dam located on proposed Lot 5.

2.7.3 Stormwater

Currently, stormwater is disposed of on-site due to the favourable soil conditions in the area. Given that the land uses provided for by this rezoning and subdivision are similar to the existing uses, additional stormwater management measures are not required. Runoff from the access road will be disposed of via a roadside drain connected to that along Brockman Highway.

2.7.4 Electricity

Power is supplied via aerial lines (Plate 5), which cross the site from the east before heading south along the western boundary to service the special rural area to the south. The current landowner has previously purchased a 35kV(A) transformer, which is located on the amendment site (Plate 6).



Plate 5: Existing aerial power lines that cross the amendment site. This photo is taken at the transformer pole site and is looking east towards Lot 2 and Brockman Highway.



Plate 6: The 35kV transformer installed by the landowner located on the western boundary of the amendment site, approximately 315m from Brockman Highway.

The future subdivision will be serviced by Western Power approved underground mains.

2.7.5 Telecommunications

Telecommunications are connected to the current dwelling on the amendment site. It is expected that services are of sufficient capacity to service the proposed Amendment and should be easily extended into the Amendment Site.

2.7.6 Reticulated Gas

Reticulated LP Gas is not currently available from in the Nannup area. Should household appliances require reticulated gas, this would be delivered using gas bottles.



3.0 ENVIRONMENTAL CONSIDERATIONS

3.1 Topography

The Amendment Site can be described as flat to gently undulating. The highest point on the site is located on the western boundary, with an approximate height of 85 m AHD.

The site slopes down to its middle and then towards the north. The lowest point of the Amendment Site is located in its northern portion, adjoining the Blackwood River reserve and has a height of approximately 59 m AHD. No watercourses are located on the amendment site.

3.2 Vegetation

The site contains a variety of vegetation such as Marri and Jarrah, with associated understorey. The majority of this vegetation is located adjacent to the Blackwood River.

The proposed Amendment does not seek to modify the majority of this vegetation. However, a relatively small area of clearing will be required to establish a building envelope on proposed Lot 4 of the Development Guide Plan. The purpose of this clearing is for location of a future dwelling as well as fire protection and management on this lot, given the close proximity to remnant vegetation.

Liaison has occurred with FESA, which has indicated that it will require the establishment of 20m wide Building Protection Zones around all dwellings. This will be an extension of the existing cleared area demonstrated below in Plate 7 for the development of a house and outbuildings. The implementation of fire protection measures is outlined in the Fire Management Plan appended to this Amendment.



Plate 7: The cleared area on proposed Lot 4 formerly used for horticulture (berry farming).

3.3 Land Capability

Nelson Location 8271 has been classified by Agricultural Western Australia's Land Resource Series No.10 as being within the Blackwood Plateau Soil Landscape System.

The Blackwood Plateau System can be further broken down into several subsystems and phases. The Amendment Site contains the Blackwood Subsystem and in particular the BK2 and BK3 phases.

BK2 – Blackwood Gentle Slopes have a relief of 10-30 m and gradients of 3-10 %. BK3 – Blackwood Low Slopes have a relief of 20-50 m and gradients of 5-20 %.

The Amendment Site also contains the Kingia Subsystem, which does not have any phases identified.

The boundary between BK2 and BK3 can generally be described as the interface between the lower area adjacent to the Blackwood River and the higher area near the existing house. The Land Resources Report describes the land capability for the Blackwood Subsystem as

“Most land is well drained. The sandy gravels and sand have poor to moderate moisture retention. There is a moderately high risk of soil erosion under cultivation where slope gradients exceed 10%.”

The Land Resources Report describes the land capability for the Kingia Subsystem as

“Most land is well drained. Some areas of shallow gravels and ironstone duricrust have limited agricultural use.”

The following table identifies the limitations associated with Rural Residential Development within the identified soil types:

Table 1: Soil Limitations Table

Map Unit	Degree of Limitation	Housing and Roads		Septic Tanks	
		% area	Limitations	% area	Limitations
BK2	Minor	60%		80%	
	Moderate	35%	Xewi	15%	P
	Major	5%	xec	5%	Ax
BK3	Minor	50%		85%	
	Moderate	40%	Exw	10%	P
	Major	10%	exb	5%	Xa
KI	Minor	65%		65%	
	Moderate	20%	X	20%	Pa
	Major	15%	x	15%	Xa

Limitations Key

a – soil absorption, b – land instability hazard, e – water erosion hazard, l – site drainage, w – wind erosion hazard, x – ease of excavation.

As shown by the above table, the degree of limitation on Housing and Roads and Septic Tanks are Minor in most circumstances. All of the proposed building envelopes are located within the BK3 and Kingia sub-systems, which have an 85% and 65% area subject to Minor limitations that would impact the effective use of septic tanks. It is anticipated that all building envelopes have an area suitable for the disposal of effluent. It is likely that septic or effluent disposal placement will be assessed by Shire of Nannup at the time of development, determining whether a septic effluent disposal unit would operate effectively for the proposed development or require the use of a phosphate-retention ATU. However, at this stage, it is not anticipated that issues with effluent disposal would impact the five (5) proposed rural residential lots.

As evidenced by soils classing and surrounding 'Special Rural' development, it is considered that the Amendment Site will be generally capable of supporting rural residential land uses. However, further site investigation will be required at the development stage to identify the type and location of effluent disposal system in the normal manner for development in this locality.

3.4 Foreshore Reserve

Discussions with the Shire of Nannup and Department of Water have revealed that there is a need to widen the foreshore reserve adjoining the Blackwood River. This is due to the impact the area of flood risk may have on adjoining properties. The Department of Water has indicated that it will require all of the land within the Flood Risk Special Control Area identified in LPS 3 to be included in the Foreshore Reserve. It has also indicated that it will require all land within 30m of the river to be included if this falls outside of the flood risk area. The foreshore reserve is depicted on the Development Guide Plan and will be ceded to the Crown at the time of subdivision.

4.0 STATUTORY AND STRATEGIC PLANNING CONSIDERATIONS

4.1 Warren Blackwood Rural Strategy (2004)

The Strategy guides the subdivision and development of rural and rural residential land in the Warren-Blackwood catchment, being the Shires of Nannup, Bridgetown-Greenbushes, Manjimup and Boyup Brook. It addresses the broad rural planning issues and provides a framework for the continued use of rural land in the Strategy area. In relation to rural residential development, the strategy states that:

“Rural-residential or rural smallholdings subdivisions will not be supported unless the land is designated for that purpose in the local planning strategy or rural strategy and until the land has been rezoned for that purpose.”

The proposed rezoning to *Special Rural* will appropriately identify the land for rural residential purposes, of which further subdivision and development will follow, in accordance with the Strategy. This land has been identified through the Nannup Townsite Strategy, Shire of Nannup Local Planning Strategy and Shire of Nannup Local Planning Scheme No.3 as appropriate for being used for rural residential purposes, as it is within the Special Rural Policy Area of LPS 3.

The proposed rezoning is deemed to comply with the Warren Blackwood Rural Strategy.

4.2 WAPC Development Control Policy 3.4 – Subdivision of Rural Land

WAPC Development Control Policy 3.4 and its parent State Planning Policy No.2.5 provide guidance on the subdivision of rural land. The Policy outlines a general presumption against rural subdivision, due to the impact it has on farm management, efficiency and overall productivity of agriculture. However, it does outline exceptions to this presumption.

One of these exceptions is that the land is appropriately planned for closer subdivision and development through a Scheme Amendment or Local Planning Strategy. The proposed rezoning of the amendment site is properly planned and has been identified by the Local Planning Strategy as being suitable for *Special Rural* rezoning. This is also evidenced by the abundance of rural residential land uses immediate adjacent to and in the vicinity of the Amendment Site.

The proposed rezoning is deemed to comply with the requirements of WAPC DC 3.4 *Subdivision of Rural Land*.

4.3 Nannup Local Planning Strategy (2007)

The Nannup Local Planning Strategy was developed during the preparation of Shire of Nannup Local Planning Scheme No.3 and is a comprehensive review of the Council's planning documents and policies. It seeks to provide strategic guidance for the growth and development of the Shire of Nannup for the preceding 10 to 15 years.

The Local Planning Strategy identifies Rural Planning Precincts, of which the Amendment Site is included in NR5. One of the defining features of the NR5 Rural Planning Precinct is that it is a

“Central western portion of the Shire centred on the Lower Blackwood catchment and encompassing the main areas of Special Rural zones around the Darradup and Jalbarragup localities and to the west of Nannup townsite.”

NR5 is described as lying to the southwest of the Nannup town.

This precinct has objectives to:

“Discourage additional rural-residential subdivision at Darradup and Jalbarragup due to remoteness from services. Allow for rural-residential subdivision in areas close to town where permitted under the Townsite Strategy.”



Provide for the sustainable use of land within the agricultural zones, and outside the Townsite Strategy Area, for a range of rural pursuits."

The amendment site is located close to the Nannup town site and should be considered appropriate for a *Special Rural* rezoning, as it is included in the Nannup Townsite Strategy.

The following guidelines of the Local Planning Strategy relate to settlement within the NR5 Rural Planning Precinct.

"Support investigations of precincts identified in the Townsite Strategy as being provisionally suitable for various forms of rural settlement.

Refer proposals for subdivision and development within Townsite areas affected by designated flood risk SCA, or other possible flood risk areas downstream, to the Water and Rivers Commission for specific advice.

Incorporate water sensitive urban design principles where possible for drainage management within relevant portion of Nannup townsite and associated rural-residential developments."

The Amendment Site is identified as suitable for rural settlement by Shire of Nannup Local Planning Scheme No.3. Should it be required, we welcome the referral of the proposed rezoning to the Waters and River Commission, as the flood affected area of the Amendment Site is located at its rear, in an area that is not able to be developed due to remnant vegetation. It is expected that this rezoning will not have any impact on flood impacted land.

On-site drainage capture and dispersal will be a key consideration of this rezoning proposal. All on-site drainage will be captured and dispersed on-site.

4.4 Nannup Townsite Strategy (2000)

The Amendment Site is located within Policy Area 6 – Nannup South of the Nannup Townsite Strategy.

The Strategy identifies that primary Land Uses for the Policy Area are:

- Single Dwelling
- Agriculture
- Intensive Agriculture
- Rural-Residential

In addition the Strategy has a Policy Statement as follows:

"Notwithstanding the existence of smaller 'Rural Living' lots within the policy area, Council will not support 'urban' style development of subdivision within the policy area.

Subject to detailed assessment and rezoning, Council may permit rural-residential development."

Based on the primary uses above, the Policy Statement for Area 6 and the adoption of this Amendment completes the transformation of the site to accommodate rural residential land uses in accordance with the Nannup Townsite Strategy.

4.5 Shire of Nannup Local Planning Scheme No.3 (LPS 3)

The amendment site is currently zoned *Agriculture* by Shire of Nannup Local Planning Scheme No.3 and included within the *Special Rural Policy Area* of LPS 3. It is proposed that the amendment site be rezoned to *Special Rural* in accordance with the objectives of the Scheme and the Nannup Local Planning Strategy and Nannup Townsite Strategy.



Shire of Nannup LPS 3 has the following specific objectives in relation to the 'Special Rural' zone:

- a) *"To select land within the Scheme Area wherein closer subdivision may be permitted to provide for rural-residential retreats and hobby farms on land which is suitable for such purpose and does not result in the removal of prime agricultural land or impact upon the continuation of established or potential agricultural use;*
- b) *To provide for a range of land uses compatible with the residential occupation of the land while providing for agricultural production on smaller lots where such production does not interfere with the amenity or rural residential character of the area;*
- c) *To provide for a range of housing choice and hence, lifestyle opportunities, within relatively close proximity to the town centre or main transport connections to the town centre;*
- d) *To encourage alternative rural-residential settlement patterns, including cluster subdivision patterns that provide opportunities for agricultural production, landscape protection and conservation; and*
- e) *To establish minimum development standards to ensure development is consistent with, and does not detract from, the rural character or landscape qualities."*

The proposed rezoning of the amendment site will meet all of the above criteria of LPS 3, as evidenced by the following:

- The land is identified by LPS 3 as being within the Special Rural Policy Area, identifying the land as being suitable for 'Special Rural' rezoning. The Amendment Site is located in close proximity to the Nannup town site and is not removing prime agricultural land, as it is not identified for these uses by LPS 3;
- The proposed rezoning will enable the creation of rural residential lots with a lot size of 2 ha and above. These are of sufficient size to warrant small hobby farming activities which will complement the desired lifestyle on the lots;
- The proposed rezoning provides for a range of housing choice in close proximity to the Nannup town site; and
- Minimum development standards for the lots are contained on the Development Guide Plan and within Schedule 12 - Special Rural Zones, in particular those provisions relating to Special Rural Area No.12.

LPS 3 also identifies the minimum requirements for rezoning to 'Special Rural', which are:

- a) *"Special Rural Zones shall be restricted to land within the Special Rural Policy Area shown on the Scheme Map.*
- b) *Before making provision for a Special Rural Zone the local government will prepare, or require the owner(s) of the land to prepare a submission supporting the creation of the Special Rural zone and such submission shall include:*
 - (i) *A statement as to the purpose or intent for which the zone is being created.*
 - (ii) *The reasons for selecting the particular area the subject of the proposed zone with particular reference as to how this relates to the local government's Local Planning Strategy and the Nannup Townsite Strategy, and the capability of the land for such use.*
 - (iii) *Information regarding the method whereby it is proposed to provide a potable water supply to each lot.*
 - (iv) *Information regarding the methods of wild fire protection proposed to be implemented for the subdivision.*

- (v) Any matters listed in Clause 6.2.3; and
 - (vi) Any other information which the local government considers relevant to the land.
- c) For each Special Rural Zone the proponent shall prepare, or have prepared, a Subdivision Guide Plan containing the information set out in Schedule 14."

The proposed rezoning complies with the rezoning requirements outlined in LPS 3, as evidenced by the following:

- The land is included within the 'Special Rural Policy Area of LPS 3;
- The intent and justification for the rezoning are clearly outlined by this Amendment. The land has been justified as capable of supporting 'Special Rural' land uses;
- Potable water supply has been addressed in Section 2.7.2;
- Wild fire protection is outlined in Section 4.6 Planning for Bushfire Protection;
- Matters in Clause 6.2.3 have been addressed; and
- The Development Guide Plan has been developed in compliance with Schedule 14 of LPS 3.

The proposed rezoning of the amendment site to *Special Rural* complies fully with the Shire of Nannup Local Planning Scheme No.3.

4.6 Planning for Bush Fire Protection

'Planning for Bushfire Protection' is an adopted policy of the Western Australian Planning Commission (WAPC) and the Fire and Emergency Services Authority (FESA). This document forms the basis for fire risk management within Western Australia for land development. It provides performance criteria and acceptable solutions to minimise the impact of fire on communities. A Fire Management Plan (FMP) addressing the requirements of 'Planning for Bush Fire Protection' and AS 3959-1999 has been provided with this Amendment and is attached at Appendix D.

It provides a number of minimum criteria for development in fire prone areas. These include:

- Safe access and egress for residents on the amendment site;
- A maximum cul-de-sac length of 200 metres in locations that are prone to fire; and
- A quick travel time from the nearest local Fire Station.

For the purposes of this Amendment, the following information is provided:

- The Nannup Fire and Rescue Service is located in Adam Street; and
- It is likely that the vegetation on the Amendment Site would have a 'High' or 'Extreme' Bush Fire Hazard Rating.

To combat fire risk on the Amendment Site, the following measures are provided:

- A 20 metre Building Protection Zone (BPZ) to buildings should be provided to all lots. In this area bush fire fuels will have to be maintained below 10cm in height, trees and branches which could fall onto buildings must be removed and lower branches of existing trees must be trimmed. The size of the BPZ has been confirmed with FESA;
- Easy access and egress to the amendment site via the access cul-de-sac. Although this slightly exceeds the desired maximum 200 metre length (it is approximately 250 metres), it is believed that safe access and egress can be achieved from the Amendment Site. The fire source and risk both originate on the Amendment Site and it is believed that a severe bush

fire would not eventuate from this risk. Cul-de-sac length has been kept to the minimum possible, given it is not likely that dual access and egress could be achieved on this site;

- Access to the amendment site will meet the constructed requirements of Planning for Bush Fire Protection;
- The Nannup Fire and Rescue Service is located approximately 3.5 kilometres from the end of the proposed access cul-de-sac. A travel time of less than 5 minutes is achievable to the furthest part of the subdivision; and
- A suitable water supply for firefighting is provided in the Nannup town site.

The measures outlined in this section are included on the Fire Management Plan, which is attached at Appendix D of this report. It is believed that the Amendment Site complies with the relevant Planning for Bush Fire Protection criterion.

4.7 Visual Landscape Planning in Western Australia 2007

The landscape that the subject land is located in has been identified as a *rural riverine and estuarine setting* as defined by the *Visual Landscape Planning in Western Australia* manual. Consequently, we have assessed the proposal against the considerations listed in the manual.

The factors to be considered in rural river settings are:

- *setback*
- *remnant vegetation, including the retention of trees and flood fringes*
- *roads and bridges*
- *public infrastructure*
- *flood levees*
- *intensity of agricultural use*
- *subdivision*
- *land clearing and fencing*
- *billabongs and oxbows*
- *wetlands and confluence areas*
- *environmental flow (impact of agricultural dams)*
- *stocking rates.*

The amendment site slopes steeply from the Blackwood River before flattening out. The combination of steep slope and vegetation allocated in the floodplain and slope areas effectively screens the site from the river. It is noted that this part of the river is not readily accessible for recreation, thereby reducing the visual impact as no major public areas are affected.

All development of the amendment site will be located on the flat areas away from the river. Therefore, the greatest visual impact will be from Brockman Highway, which is a major tourist route. Existing verge and boundary vegetation will remain unaffected by the amendment and future subdivision. This effectively screens the majority of the site from prominent view.

Given the large areas of cleared land on the amendment site, the rezoning and subdivision into smaller rural residential lots will provide an impetus for revegetation and a general improvement in the visual presentation of the site. A Landscape Protection Plan will be prepared prior to the subdivision of the land proceeding.



5.0 DEVELOPMENT GUIDE PLAN

A Development Guide Plan (DGP) is included as part of the proposed rezoning. Correspondence with Shire of Nannup officers has indicated that a preferred minimum lot size of 2 ha is established by the DGP. The DGP also takes into account the requirements outlined in Schedule 14 of the Shire of Nannup Local Planning Scheme No.3. Please find the DGP attached at Appendix B of this report.

The DGP has been kept deliberately simple, to allow for ease of use in the future. Its key aspects include:

- A minimum lot size of 1.8ha with the subdivision of the Amendment Site into 5 lots;
- Retention and fencing of remnant vegetation;
- A single point of access to and from the Amendment Site from the access cul-de-sac;
- A 3m easement for access to the Blackwood River over Lot 4 for benefit of Lots 1, 2 and 3. Please note that the Department of Water has advised that a Foreshore Reserve is likely to be required;
- A 20m Foreshore Reserve to be ceded at the time of subdivision;
- Exclusion of development from the Flood Risk Special Control Area identified in LPS 3; and
- A practical design that takes into account the opportunities and constraints of the Amendment Site.

We have provided building envelopes as per the requirements of the Shire of Nannup. The envelopes have been selected such that areas with remnant vegetation, high fire risk and/or steep slopes are avoided. The relative locations of Brockman Highway and the Brockman River have also been considered. A building envelope has not been allocated for Lot 5 as it contains existing buildings distributed across the lot that are unable to be contained within a reasonably sized building envelope.

With the exception of Lot 4, no envelope is less than 20m from any boundary. This envelope has been placed close to the boundary to minimise the clearing of remnant vegetation required to establish a building envelope and Building Protection Zone. Building envelopes are not provided within 50m of Brockman Highway to provide an adequate setback from this arterial road. This also provides at least a 50m setback from any State forest, a requirement imposed on other *Special Rural* developments in the Shire.



6.0 JUSTIFICATION

The proposed rezoning is justified by the following:

1. *The proposal allows rural residential land uses in an ideal location.*

The Amendment Site is in an area that is characterised by *Special Rural* zone land. This includes land directly to the south and west of the proposed Amendment. The Amendment Site is conveniently located only 2 kilometres south of the Nannup town site, hence provides a rural lifestyle in close proximity to a service centre.

2. *The Amendment Site has demonstrated that the land is capable and suffers from few site constraints.*

The majority of the Amendment Site is contained within the Blackwood Plateau System. This system generally has a high capability of supporting rural residential development. Other site constraints, such as remnant vegetation, fire hazard and flooding have been identified and addressed through the Development Guide Plan and Scheme Provisions for Special Rural Area No.12.

3. *The Amendment Site is identified by various documents and strategies for this use.*

The Amendment Site is identified by the Shire of Nannup Local Planning Scheme No.3, Local Planning Strategy and Nannup Townsite Strategy for the subdivision and development of rural residential land uses. The rezoning of the Amendment Site simply facilitates this.

4. *The proposal will rezone existing under-utilised land within the agricultural area in close proximity to Nannup.*

The area of the Amendment Site is approximately 10.7ha, which is not a size that is conducive of efficient or viable agricultural production. Also, given the presence of remnant vegetation, it can be argued that the actual productive area of the land would be less. The proposed Amendment will give the land a higher and better use.

5. *The proposal will create further housing choice in Nannup.*

The proposed Amendment will improve housing choice in Nannup and the Shire by providing a lifestyle option of existing and future residents.

7.0 CONCLUSION

This report has demonstrated that the proposal to rezone Nelson Location 8271 from *Agriculture* to *Special Rural* is consistent with adopted planning strategies and principles. The rezoning will allow the development of rural residential land uses in close proximity to the Nannup town site.

The proposed Amendment will:

- Provide for rural residential land uses in an area already characterised by these land uses;
- Utilise land that is not efficient for agricultural for the provision of rural residential lots;
- Provide housing choice for existing and proposed residents of Nannup;
- Make land uses consistent in this area, reducing the possibility of land use conflict; and
- Providing for the expansion and growth of the Nannup town site and supporting its role.

It is respectfully requested that Council and the Western Australian Planning Commission support the proposed Amendment, rezoning Nelson Location 8271 from *Agriculture* to *Special Rural* in Shire of Nannup Local Planning Scheme No.3.

PLANNING AND DEVELOPMENT ACT 2005
SHIRE OF NANNUP

LOCAL PLANNING SCHEME No.3

AMENDMENT No.9 (LPS 3)

RESOLVED that the Council, pursuant to Section 75 of the Planning and Development Act 2005 (as amended), amends the above local planning scheme by:

1. Rezoning Lot 8271 Brockman Highway, Nannup (as depicted on the Scheme Amendment Map) from the 'Agriculture' zone to the 'Special Rural' zone.
2. Amending the Scheme Text Schedule XX (Schedule of Special Rural Zones) by including Lot 8271 Brockman Highway, Nannup together with reference to a Development Guide Plan and special provisions referring to the subject land as follows:

NO.	DESCRIPTION OF LAND	CONDITIONS
SR 15	Lot 8271 Brockman Highway, Nannup	<ol style="list-style-type: none"> 1. Subdivision and development of the site shall be generally in accordance with the Development Guide Plan and Fire Management Plan adopted by the Local Government and endorsed by the Chief Executive Officer. 2. Subdivision and development may be considered by the Shire as a variation from the Development Guide Plan provided that, in the opinion of the Shire, such development would not compromise the intent of the Development Guide Plan. 3. Any variation to the endorsed Development Guide Plan not within the general intent of the Development Guide Plan will require consideration and endorsement of a new Development Guide Plan in accordance with Schedule 14. 4. Subdivision and development shall generally be in accordance with the Development Guide Plan adopted by the Local Government for the zone under Local Planning Scheme No. 3. 5. Prior to subdivision or development, the following will be prepared and/or undertaken to the satisfaction of the Local Government: <ul style="list-style-type: none"> • A foreshore management plan for the riparian zone adjacent to the Blackwood River shall be prepared to the requirement of the DoW and DEC. • A Landscape Protection Plan. 6. A 20 metre foreshore reserve along the northern boundary of the subject land as depicted on the Development Guide Plan is to be ceded free of cost to the Shire of Nannup or other relevant agency at the time of subdivision. 7. All new buildings and structures shall be contained within the building envelope area as depicted on the Development Guide Plan. 8. Notwithstanding Clause 5.8.3 of the Scheme, each dwelling shall be provided with a water supply with a minimum capacity of 135,000 litres, and adequate roof catchment to supply the water tank, or

		<p>alternative source of water approved by the Council. This may be supplied from the Water Corporation licensed underground water supplies or rainwater storage systems to the satisfaction of Council and the Health Department of Western Australia.</p> <p>9. All dwellings shall be designed and constructed in accordance with the requirements of Standards Australia AS3959-1999 "Construction of Buildings in Bush Fire Prone Areas" (Level 2) construction standards.</p> <p>10. On-site effluent disposal systems will be provided to the satisfaction of the Department of Health and Council standards and shall be setback 100m from the Blackwood River in accordance with the Department of Water's Water Quality Protection Note for Wastewater Treatment - On Site Domestic Systems.</p> <p>11. All stormwater shall be disposed of on-site to the satisfaction of the Local Government.</p> <p>12. No lot shall have direct access to Brockman Highway.</p>
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PLANNING AND DEVELOPMENT ACT 2005
SHIRE OF NANNUP

LOCAL PLANNING SCHEME No. 3

AMENDMENT No.9 (LPS 3)

ADOPTION:

Adopted by resolution of the Council of the Shire of Nannup at the meeting of the Council held on the _____ day of _____ 200__:

Shire President

Chief Executive Officer

FINAL APPROVAL:

Adopted for final approval by resolution of the Shire of Nannup at the meeting of the Council held on the _____ day of _____ 200__ and the Common Seal of the municipality was pursuant to that resolution hereunto affixed in the presence of:

Shire President

Chief Executive Officer

RECOMMENDED / SUBMITTED FOR FINAL APPROVAL:

Delegated under s.16
of the PD Act 2005

Date

FINAL APPROVAL GRANTED:

Minister for Planning

Date

APPENDIX A
Certificate of Title





REGISTER NUMBER 8271/DP201619	
DUPLICATE EDITION N/A	DATE DUPLICATE ISSUED N/A

RECORD OF CERTIFICATE OF TITLE
UNDER THE TRANSFER OF LAND ACT 1893

VOLUME **1047** FOLIO **353**

The person described in the first schedule is the registered proprietor of an estate in fee simple in the land described below subject to the reservations, conditions and depth limit contained in the original grant (if a grant issued) and to the limitations, interests, encumbrances and notifications shown in the second schedule.

R. Roberts
REGISTRAR OF TITLES

LAND DESCRIPTION:

LOT 8271 ON DEPOSITED PLAN 201619

REGISTERED PROPRIETOR:
(FIRST SCHEDULE)

BENJAMIN RODGER HENRY
IN 50/200 SHARE
CARL CARISBROOK HENRY
IN 75/200 SHARE
MIRIAMA PAKI
IN 75/200 SHARE
ALL OF UNIT 7/21 STORTHE'S STREET, MOUNT LAWLEY
AS TENANTS IN COMMON

(T J795166) REGISTERED 21 JUNE 2006

LIMITATIONS, INTERESTS, ENCUMBRANCES AND NOTIFICATIONS:
(SECOND SCHEDULE)

- *J795167 MORTGAGE TO BANK OF WESTERN AUSTRALIA LTD REGISTERED 21.6.2006.

Warning: A current search of the sketch of the land should be obtained where detail of position, dimensions or area of the lot is required.
* Any entries preceded by an asterisk may not appear on the current edition of the duplicate certificate of title.
Lot as described in the land description may be a lot or location.

-----END OF CERTIFICATE OF TITLE-----

STATEMENTS:

The statements set out below are not intended to be nor should they be relied on as substitutes for inspection of the land and the relevant documents or for local government, legal, surveying or other professional advice.

SKETCH OF LAND: 1047-353 (8271/DP201619).
PREVIOUS TITLE: This Title.
PROPERTY STREET ADDRESS: NO STREET ADDRESS INFORMATION AVAILABLE.
LOCAL GOVERNMENT AREA: SHIRE OF NANNUP.

NOTE 1: A000001A LAND PARCEL IDENTIFIER OF NELSON LOCATION 8271 (OR THE PART THEREOF) ON SUPERSEDED PAPER CERTIFICATE OF TITLE CHANGED TO LOT 8271 ON DEPOSITED PLAN 201619 ON 24-MAY-02 TO ENABLE ISSUE OF A DIGITAL CERTIFICATE OF TITLE.

END OF PAGE 1 - CONTINUED OVER

RECORD OF CERTIFICATE OF TITLE

REGISTER NUMBER: 8271/DP201619

VOLUME/FOLIO: 1047-353

PAGE 2

NOTE 2:

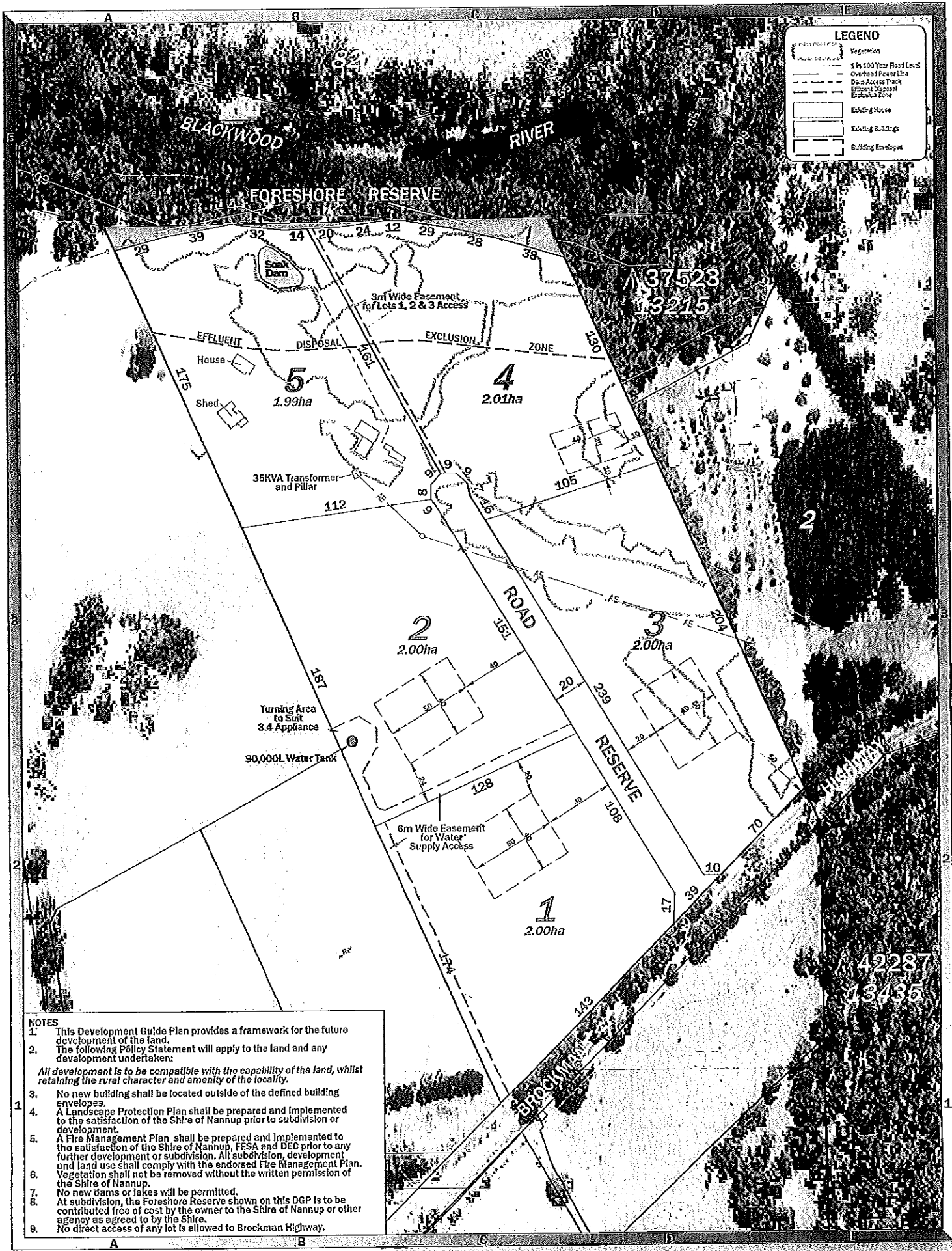
THE ABOVE NOTE MAY NOT BE SHOWN ON THE SUPERSEDED PAPER CERTIFICATE
OF TITLE OR ON THE CURRENT EDITION OF DUPLICATE CERTIFICATE OF TITLE.

NOTE 3:

DUPLICATE CERTIFICATE OF TITLE NOT ISSUED AS REQUESTED BY DEALING
J795167

APPENDIX B

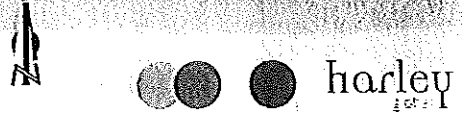
Development Guide Plan



LEGEND

	Vegetation
	1 in 100 Year Flood Level
	Overhead Power Line
	Dam Access Track
	Effluent Disposal Exclusion Zone
	Existing House
	Existing Buildings
	Building Envelopes

- NOTES**
- This Development Guide Plan provides a framework for the future development of the land.
 - The following Policy Statement will apply to the land and any development undertaken:
All development is to be compatible with the capability of the land, whilst retaining the rural character and amenity of the locality.
 - No new building shall be located outside of the defined building envelopes.
 - A Landscape Protection Plan shall be prepared and implemented to the satisfaction of the Shire of Nannup prior to subdivision or development.
 - A Fire Management Plan shall be prepared and implemented to the satisfaction of the Shire of Nannup, FESA and DEC prior to any further development or subdivision. All subdivision, development and land use shall comply with the endorsed Fire Management Plan.
 - Vegetation shall not be removed without the written permission of the Shire of Nannup.
 - No new dams or lakes will be permitted.
 - At subdivision, the Foreshore Reserve shown on this DGP is to be contributed free of cost by the owner to the Shire of Nannup or other agency as agreed to by the Shire.
 - No direct access of any lot is allowed to Brockman Highway.



APPENDIX C
EPA Checklist



Referral of a Scheme to the EPA and Environmental Checklist

REFERRAL OF
A SCHEME



Environmental Protection Authority

Referral of a Scheme to the Environmental Protection Authority

PURPOSE OF THIS GUIDE

Referral requirements are set out in the planning legislation relevant to the scheme*, and include a requirement that the EPA is given such written information about the scheme as is sufficient to enable the EPA to comply with section 48A of the *Environmental Protection Act 1986* i.e. to decide whether or not to assess the scheme.

The purpose of this guide is to help clarify referral requirements.

Whilst the EPA has some general information for each municipality, it often does not have local or site specific information. Under the relevant planning legislation, it is the role of the authority responsible for the scheme to provide sufficient information. The information that is likely to be sufficient in most instances is indicated in this guide. The EPA will advise if further information is required. Upon receiving sufficient information, the EPA must make a decision within 28 days on whether or not to assess the scheme.

A referral must contain:

- A copy of council's resolution to prepare or adopt the scheme. Referral upon adoption is preferred as more information is usually available at that time.
- Scheme documentation - a hard copy of the referral of the scheme (as defined under the *Environmental Protection Act 1986*), text and map/s, together with an electronic copy of the documentation (see Spatial Data for Environmental Impact Assessment attached), as follows:
 - a compact disc version of the scheme, or scheme amendment, in PDF (Portable Document Format) file format, contained in a soft clear plastic adhesive-backed envelope;
 - spatial data (GIS or CAD) on CD, depicting the scheme/amendment extent, geo-referenced and conforming to the following parameters:
 - Datum: GDA94;
 - Projection: Geographic (latitude/longitude) or Map Grid of Australia (MGA);
 - Format: Arcview shapefile, Arcinfo coverages, Microstation or AutoCAD.
- Sufficient information for the EPA to decide whether or not to assess the scheme. This will usually be a completed **Environmental Checklist** (see over), and, in cases where the scheme may have environmental implications, the following:
 - clear identification on a map of the location of the land to which the scheme applies
 - an outline development plan or subdivision guide plan, where appropriate
 - information on relevant items in the environmental checklist (see over)
 - when electronic documentation is not available, additional copies of the scheme documentation for the EPA Service Unit to forward to the Department of Environment and Conservation and other agencies for technical advice.

If the information submitted to the EPA is not sufficient for the EPA to decide whether or not to assess the scheme, the EPA may request additional information.

The EPA Service Unit's Planning and Infrastructure Branch can advise on referral requirements and issues of environmental significance. Liaison with the EPA Service Unit may be particularly helpful in the following instances - schemes raising potentially significant environmental issues, and whole-of-municipality town planning schemes. The Planning and Infrastructure Branch can be contacted by ringing 6364 6500 and asking for an environmental officer who deals with the region.

* In this form, the term scheme has the same meaning as in *Environmental Protection Act 1986*, and includes town planning schemes, regional planning schemes and their amendments.

Referral of a scheme to the Environmental Protection Authority

ENVIRONMENTAL CHECKLIST

Title of scheme*: Shire of Nannup Local Planning Scheme No.3 (Amd 9)

This checklist is intended to assist authorities responsible for schemes to identify potential environmental issues, and to supply the information that the EPA requires to decide whether or not to assess a scheme.

Please tick the appropriate box and supply the information indicated at Section D below to the EPA. For clarification of any terms or descriptions used, please refer to EPA Guidance No. 33 'Environmental Guidance for Planning and Development' or the Planning and Infrastructure Assessments Branch of the EPA Service Unit.

A. Biophysical factors

	Yes	No	Unsure
1. Does the area to which the scheme applies contain or adjoin any of the following?			
a) bushland. If yes, identify	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b) a wetland (includes seasonally damp land), watercourse or river - if yes, identify	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
c) an estuary or inlet. If yes, identify	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
d) coastal area or near-shore marine area. If yes, identify	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
e) a public water supply area. If yes, identify	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
f) a landform of special interest, for example, karst, beach ridge plain. If yes, identify	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
2. Is any area to which the scheme applies in a catchment that is of particular environmental concern or interest?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
If yes, identify the catchment:			
Lake Clifton catchment	<input type="checkbox"/>		
Swan Coastal Plain catchment of the Peel-Harvey Estuary	<input type="checkbox"/>		
Swan and Canning Rivers catchment (other than Ellenbrook catchment)	<input type="checkbox"/>		
Ellenbrook catchment	<input type="checkbox"/>		
Other catchment (please name)	<input type="checkbox"/>		
3. Is the land to which the scheme applies the subject of any significant or potentially significant soil or land degradation issues, for example, salinity, waterlogging, erosion, acid sulphate soil?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
If yes, identify issue/s: _____			

B. Pollution management

4. Does the scheme allow for a land use that will or could discharge a significant quantity of a potential pollutant to the air, surface water, soil or groundwater?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
If yes, please identify the land use/s, and associated pollutants:			

NOTE: In this form, the term 'scheme' has the same meaning as in *Environmental Protection Act 1986*, and includes regional and town planning schemes and their amendments.

	Yes	No	Unsure
5. Does the scheme allow for a land use that could require a buffer over adjoining land? that is, does it allow for uses that may affect adjoining land (including land that may be used for future residential use) due to gases, noise, vibration, odours, light?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

If yes, please identify land use/s, and off-site areas that may be affected:

What is the distance to the nearest residences?

6. Would the scheme allow a residential area or sensitive land use (e.g. school) to be located in an area likely to be affected by emissions (e.g. gases, noise, odour) from industry, agriculture or infrastructure (e.g. landfill site)?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
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If yes, please identify:

7. Does the scheme apply to a site that has been used for a past land use which may have contaminated the soil or groundwater, for example, market garden, industrial use, fill?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
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If yes, please identify:

8. Does the scheme apply to any land with a high watertable?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
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C. Social surroundings

9. Does the scheme raise any issues known to be of concern to the public?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
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If yes, is the concern to the public related to an environmental issue?

Please specify the environmental issue(s) of concern

10. Is the scheme likely to raise heritage or cultural issues due to impacts on the biophysical environment?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
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If yes, please identify

11. Does the scheme apply to areas of land where there are existing or potential land uses associated with high levels of risk, for example, a high pressure gas pipe line, heavy industry	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
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If yes, please identify:

D. Additional information

- If all answers to the questions above are 'no', no other environmental information is required to accompany this checklist.
- If answers include 'yes' or 'unsure', please provide information for those items on:
 - o the existing environment
 - o potential environmental impacts and their magnitude/significance
 - o how the impacts will be managed to ensure a good environmental outcome.

The EPA will review the checklist and information submitted and if not sufficient for the EPA to decide whether or not to assess the scheme, the EPA may request additional information.

Name of person completing form: Roy Winslow Date: 30/06/2009
 Position: Planning Consultant Contact: _____ Phone/Email: 9792 6000

APPENDIX D

Fire Management Plan



FIRE MANAGEMENT PLAN
LOT 8271 BROCKMAN HIGHWAY, NANNUP



PREPARED FOR MR B HENRY
FEBRUARY 2010

1.0 INTRODUCTION

This Fire Management Plan has been prepared in conjunction with the proposed rezoning and subdivision of Lot 8271 on Deposited Plan 201619 Brockman Highway, Nannup. The purpose of this plan is to identify the fire risk for the subdivision and to implement practices to mitigate and manage this risk.

2.0 STATUTORY CONDITIONS

This Fire Management Plan has been prepared to address the Shire of Nannup's requirements and is aligned to *Planning for Bush Fire Protection* and Australian Standard 3959-1999 *Construction of Buildings In Bushfire-Prone Areas*.

Australian Standard 3959-2009 was published recently. However, AS 3959-1999 has been used in this instance because the Fire and Emergency Services Authority (FESA) has advised that there are a number of unresolved issues with the new standards and they are yet to be adopted by FESA.

3.0 SITE DETAILS

The subject site is Lot 8271 on Deposited Plan 201619 Brockman Highway, Nannup. It is located approximately 2.5km south-south-west of the Nannup Townsite.

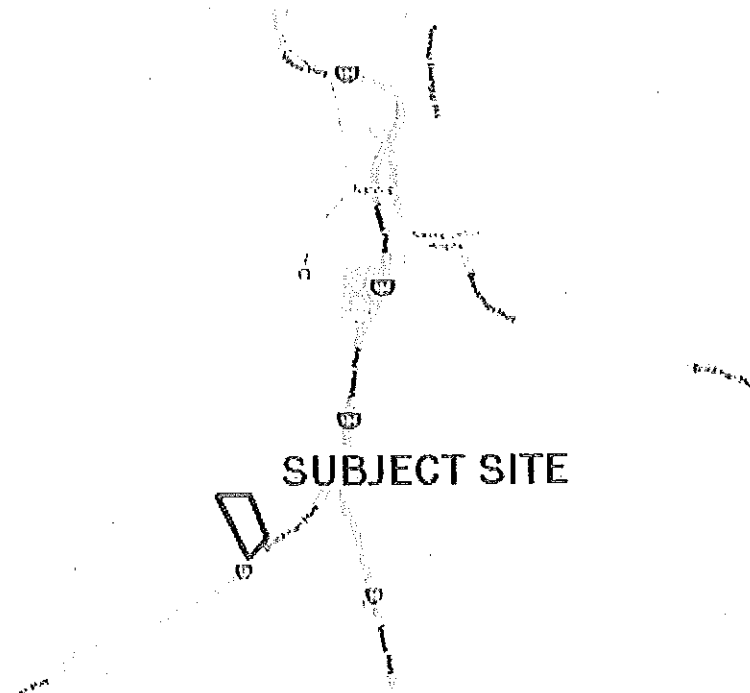


Figure 1: Location Plan.

The subject site is 10.7334ha in area. Approximately one-third of the site remains under native vegetation, whose coverage includes the Blackwood River and its floodplain. The remainder of the site is under pasture, with linear occurrences of mature trees along the driveway linking dwellings and outbuildings on the site to Brockman Highway.

The land is currently subject to rezoning and a subdivision application. This Fire Management Plan is being prepared to satisfy the requirements of the Shire of Nannup in considering these proposals.

4.0 SURROUNDING LAND USE AND VEGETATION

The subject site is abutted to the north by the Blackwood River and its associated floodplain, both of which are Unallocated Crown Land (UCL). This area contains mature native trees, including jarrah and marri, and associated undergrowth. Much of this undergrowth has been damaged by grazing livestock and for the horticultural activity previously conducted on the site.

Brockman Highway forms the southern boundary of the subject site. Over the highway, Lot 39 is cleared and under pasture in a similar fashion to the majority of the subject site. A reserve (Reserve 42280 on Plan 190666) is located to the south-east and is under undisturbed native vegetation.

Adjacent land to the east is predominantly cleared and in use for horticulture. A small (9,840m²) reserve (Reserve 37523 on Diagram 61201) is located abutting the Blackwood River UCL and carries good quality native vegetation, similar to part of the subject site and along the Blackwood River

Land to the west of the subject site is cleared and under pasture, currently for horses.

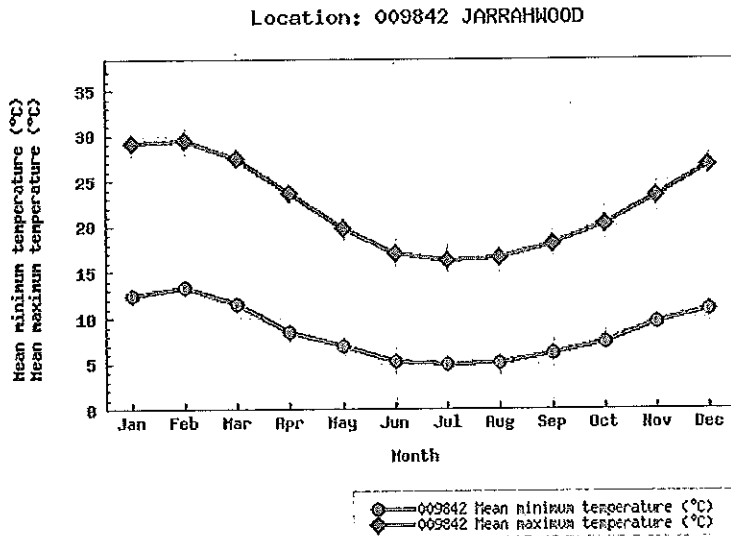


Figure 2: Aerial photograph of the subject site and its surrounding land.

5.0 CLIMATE

The Nannup district is characterised by a mild Mediterranean climate characterised by cool wet winters and warm dry summers. Jarrahood is the nearest Bureau of Meteorology weather station, located approximately twenty kilometres to the north of the subject site and opened in 1975.

- The warmest month is January, with an average maximum temperature of 29.5°C and an average minimum temperature of 13.4°C;
- The coolest month is July, with an average maximum temperature of 16.3°C and an average minimum temperature of 5.0°C.



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Figure 3: Mean monthly temperatures for Jarrahood, 1975-2000. Source Bureau of Meteorology, 2009

An annual mean rainfall of 933mm falls in Jarrahood. Fifty-four per cent of this precipitation falls during the winter months (June, July and August). July is the wettest month, receiving 179.0mm or rain and January is the driest, with 12.7mm. Figure 4 below shows annual rainfall patterns by month for Jarrahood.

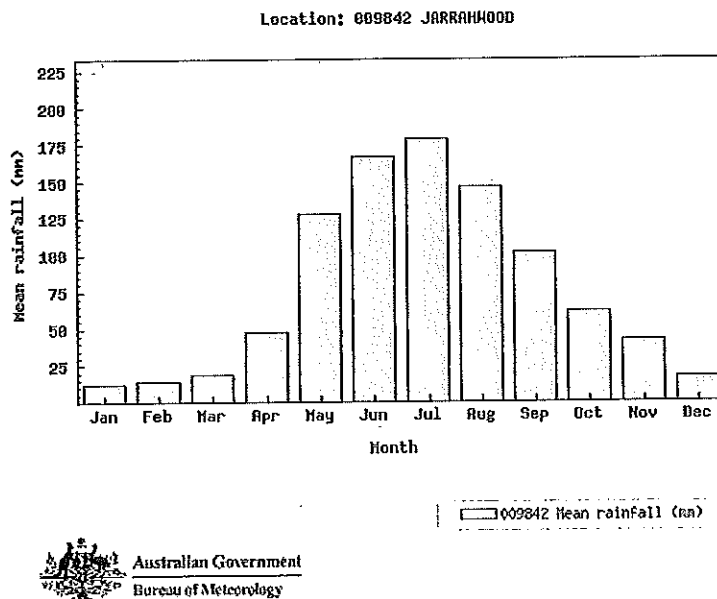


Figure 4: Mean monthly rainfall totals for Jarrahood, 1975-2000. Source Bureau of Meteorology, 2009

The fire season in Western Australia generally occurs from early December until late March when conditions are hot and dry. Wind, in conjunction with hot, dry weather is a serious fire hazard because it has the potential to fan flames and transport burning embers from the fire front. Information on prevailing winds is therefore essential to effective fire planning. 'Wind roses' are published by the Bureau of Meteorology to show the direction and strength of winds at weather stations around the country for given periods of time. Wind roses for 9am and 3pm in January and February for the period 1975-2008 ('the time') at the Jarrahdale weather station are shown at Figures 5 and 6 respectively.

At 9am on days in January, prevailing winds at Jarrahood are south-easterlies between 0 and 10km/h (occurring 30% of the time). Southerlies and south-westerlies of similar velocity are each predominant for approximately 18% of the time. In the afternoon, the well-known West Australian sea breeze is dominant. South-westerly winds occur 35% of the time, and for half this time they exceed 10km/h.

February morning conditions are broadly similar to those in January, with a slight increase in the incidence of north-easterly winds being the only notable difference. At 3pm, the main change is a decrease in the dominance of the sea breeze. South-westerlies occur some 28% of the time, with a more common incidence of south-easterly winds. Air conditions are calm for less than one per cent of the time for both months.

Overall, southerly winds prevail in January and February in the Jarrahood district. This wind direction is not conducive to the movement of fire from the forested land along the Blackwood River and on Reserve 37523; it is much more likely to fan it towards the cleared land further north during the peak of the fire season. However, these southerly winds have the potential to spread a fire toward the subject site from Reserve 42287, a well vegetated reserve to the south-east of the subject site on the other side of Brockman Highway.

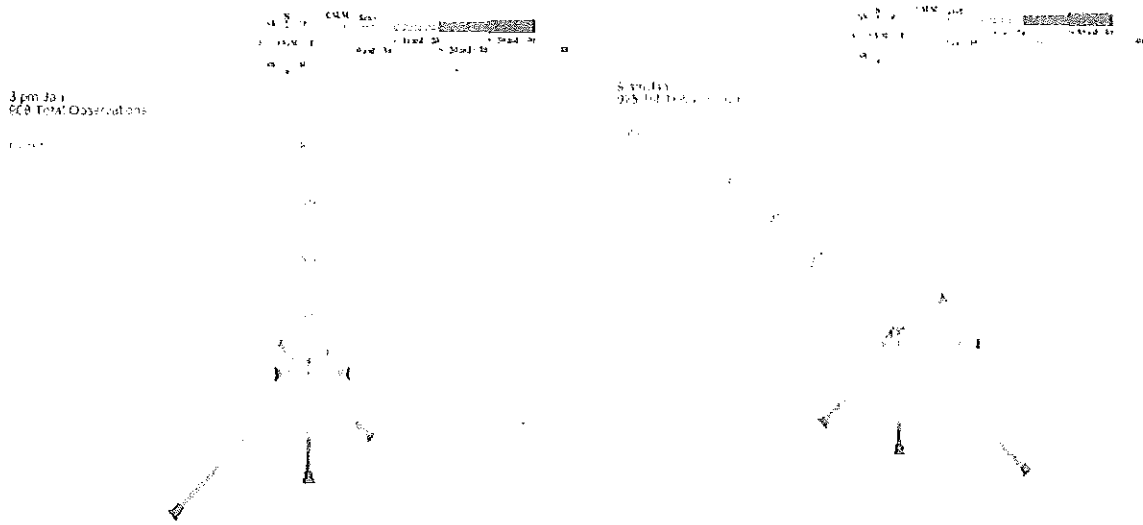


Figure 5: Wind rose for Jarrahwood at 9am (left) and 3pm (right) for January in the period 1975-2008.
Source: Bureau of Meteorology, 2008

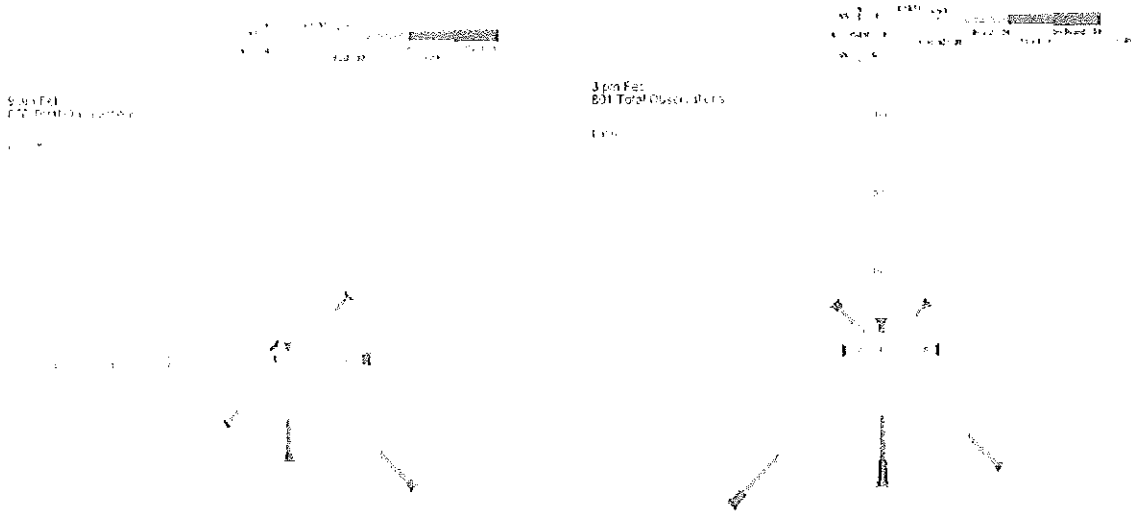


Figure 6: Wind rose for Jarrahwood at 9am (left) and 3pm (right) for February in the period 1975-2008.
Source: Bureau of Meteorology, 2008

6.0 PREVAILING FIRE WEATHER

As mentioned previously, fire season in the south-west of Western Australia is in summer and autumn when conditions are generally hot and dry. Rainfall is minimal, humidity low and average daily temperatures are in the vicinity of 25-30°C, leading to dry bushland and pastures providing ample fuel for bushfires. Persistent wind (conditions are listed as 'calm' less than one per cent of the time at Jarrahwood in January and February) poses a danger in fanning flames and spreading fire fronts, including through movement of burning embers.

Fire weather in this region is prompted by mid-level disturbances across the south-west of the State, bringing unstable atmospheric conditions (thunder and lightning) from the north and north-west. Risk of lightning strikes, spark ignition, arson and other causes of fire give rise to bushfires under these unstable, hot and dry conditions.

Given the subject site is located in an area with a variety of land uses – residential (in the Nannup Townsite), agriculture and bushland, it may be susceptible to fires started by lightning strike, spark ignition and arson.

7.0 BUSHFIRE HAZARD ASSESSMENT

Because FESA has advised that AS 3959-2009 is not to be used as yet, *Planning for Bush Fire Protection* forms the basis of the bushfire risk assessment for the subject site.

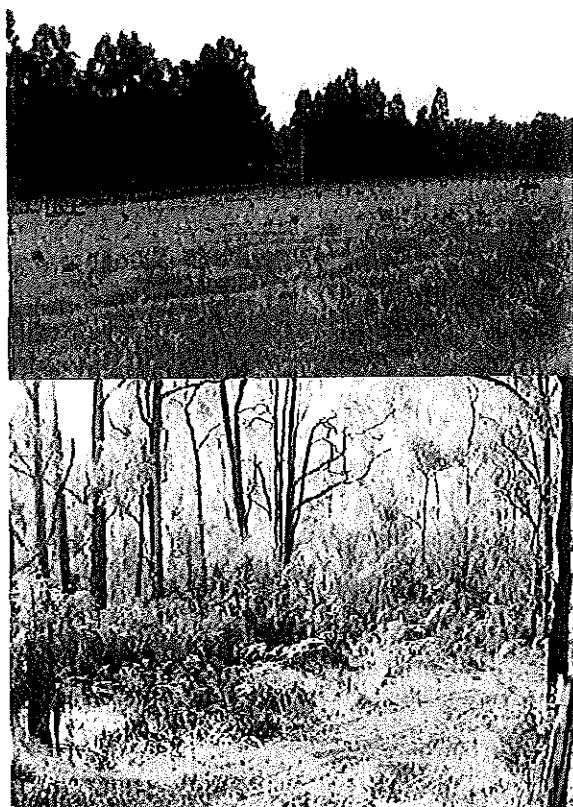


Figure 7 (left), showing the cleared area with a 'Low' fire hazard, and Figure 8 (right), showing the remnant vegetation located in the north-east third of the site ('Extreme' fire hazard). Source: author

With respect to *Planning for Bush Fire Protection*, the subject site can be divided into two physically distinct sections (see Figures 7 and 8 above for details):

- Section A: a south-western majority portion characterised by a gentle south-west to north-east slope of approximately 1:32, or 2°; and
- Section B: one-third of the property in the north-eastern corner that is predominantly covered by remnant native vegetation, including an intact understorey, on a slope of 1:7, or 15%.

Approximately two-thirds of Section B lies within proposed lot 4, with the balance falling in proposed lots 3 and 5. Lots 1 and 2, along with the remainder of lots 3 and 5 lie within Section A, which includes the existing sheds and dwelling.

Planning for Bush Fire Protection specifies a number of criteria by which land is classified, according to its susceptibility to fire.

Section A is a 'Low' fire hazard, being an area with slopes less than 10° and "devoid of standing vegetation", which also describes land beyond the western boundary and south of Brockman Highway.

Section B is an 'Extreme' fire hazard, reflecting its character as a "forested area with dense understorey" and an "area of woodland where a hazard reduction program is not in place or implemented" and having a slope exceeding 10°.

Possible sources of external fire risk are the vegetated areas along the Blackwood River (including Reserve 37523) and to the south-east (R 42287).

The Blackwood River reserve and Reserve 37523 abut Section B, which is on a 1:7 slope and considered an 'Extreme' fire risk. However, the linear nature of the Blackwood River vegetation and associated Reserve 37523 limits the spread of a potential bushfire to the immediate vicinity of the river, provided that adjoining land (including pasture) is kept at 'Low' levels. Furthermore, prevailing southerly, south-westerly and south-easterly winds at the peak of the fire season could be expected to fan flames away from the subject site.

Reserve 42287 is more of a concern to the subject site given the prevalence of southerly winds. This reserve represents a 'High' fire risk and there is potential for it to be a source of burning embers and (in extreme conditions) direct spread of flames, should southerly or south-easterly winds coincide with a fire event on the land. The presence of Brockman Highway (which acts like a firebreak) and cleared land on the nearest parts of the subject site to the reserve help mitigate this risk at present.

Discussion with FESA indicates that they expect all buildings on the site to be constructed to Level 2 standard. According to AS 3959-1999 *Construction of Buildings in Bushfire-Prone Areas*, this standard is "for the category of high bushfire attack". FESA's decision to apply Level 2 rather than Level 3 ("for areas of extreme bushfire attack") reflects the following:

- Although in themselves representing an 'Extreme' fire risk, the aforementioned 'Section B' hazard areas are isolated and surrounded by cleared land under pasture, which represents a 'Low' fire risk;
- The relatively small size of the fire hazards ensure that regular prescribed burning is practical, to ensure that fuel for fires is minimised;
- Detection of a bushfire is likely to be prompt given the number and proximity of dwellings in the immediate area;
- The subject site is within five minutes' travelling time from the Nannup Bush Fire Brigade station, ensuring a rapid response time (especially given that a major road provides access); and
- The main 'Extreme' fire hazard is located downwind of prevailing summer winds thereby reducing the likelihood of bushfire attack.

8.0 FIRE MANAGEMENT PLAN

8.1 Australian Standard 3959-1999: Construction of Buildings in Bushfire-Prone Areas

As noted in Section 7.1 above, the building standards, as prescribed by Australian Standard 3959-1999: *Construction of Buildings in Bushfire-Prone Areas* must be adhered to. On FESA's advice, all buildings on the site must be constructed to Level 2 standard, which relates to "the category of high bushfire attack". Its application in this instance is a realistic reflection of the predominantly 'Low' bush fire risk on the site combined with the undeniable risk posed by the remnant vegetation in the north-eastern corner of the lot (see Section 7 above).

8.2 Planning for Bush Fire Protection

As part of the subject site has been deemed to have an 'Extreme' fire risk, all six Performance Criteria listed in *Planning for Bush Fire Protection* are relevant to this Plan.

PC 3.1: Fire Protection Information Requirements

PC 3.1.1 requires that "rezoning, subdivision and development proposals [are] to adequately address fire protection issues." This Fire Management Plan is designed to address this criterion, namely its requirements to include information on:

- Bush fire hazard and land suitability assessment;
- Subdivision and development design in terms of access, hazard separation and building protection;
- Water supply;
- Building siting;
- Maps and plans of fire protection measures.

PC 3.2: Fire Suppression Response

The proposed subdivision is less than three kilometres by road from the Nannup Bush Fire Brigade base. As such, travel time to the subject site will not exceed five minutes. Although in a rural area, local tracts of bushland are in close proximity to a number of dwellings, ensuring that any fire can be promptly detected and managed.

PC 3.3: Subdivision and Development Design

Only one point of access/egress for fire crews and local residents is provided in the subdivision plan. This is sufficient because it is located at a point on the property well away from the predominant fire risk (bushland along the Blackwood River and on Reserve 37523) and opens onto a sealed highway (Brockman Highway). This provides a safe and fast escape route from areas where fire risk is highest. A secondary fire risk to the subject site exists in the form of Reserve 42287 to the south-east of the property. Although close to the proposed point of access/egress, Brockman Highway provides an escape route from the subdivision to the south-west in the event of a fire.

PC 3.4: Access

The Policy requires that two access/egress options be provided to the developing area to ensure that should one become blocked by fire, the other remains useable. One point of access/egress is provided to the subject site which in this case is acceptable because it is distant from the predominant fire hazard and opens onto a major road, providing a safe and rapid thoroughfare for escaping traffic.

Design limitations make it impossible for a public road to surround the area of 'Extreme' fire hazard on the site. It is envisaged that Hazard Separation Zones, Building Protection Zones and firebreaks will provide adequate protection.

Fire service access will be provided by the proposed public road and private driveways, all of which will be constructed to a standard suitable to accommodate '3.4' appliances, as described

in the Guidelines. General access will be designed and constructed to the minimum standards specified by Section PC 3.4 of the Guidelines.

The proposed cul-de-sac exceeds the maximum desirable length by some fifty metres (250m, as opposed to a maximum desirable length of 200m). However, FESA has advised that it is not concerned about this variation. Other standards include:

- Minimum trafficable surface (width): 6m;
- Minimum horizontal clearance: 6m;
- Maximum grade: 1:8;
- Maximum grade over <50m: 1:7;
- Minimum weight capacity: 15 tonnes;
- Maximum crossfall: 1:33;
- Curves minimum inner radius: 12m;
- Minimum cul-de-sac diameter: 21m.

Given the layout of the proposed subdivision, an alternative emergency access route is not practicable because only one boundary is formed by an existing road (Brockman Highway) and this is already utilised by the primary road reserve for the subdivision.

With regard to driveways, Table 8 of *Planning for Bush Fire Protection* notes that "constructed driveways are required where house sites are more than 50m from a public road", which may be the case for some lots depending on the wishes of future landowners. The following standards are specified for such accesses:

- Minimum trafficable surface: 4m;
- Horizontal clearance: 6m;
- Maximum grade: 1:8;
- Maximum grade over <50m: 1:5;
- Maximum average grade: 1:7;
- Minimum weight capacity: 15 tonnes;
- Maximum crossfall: 1:33;
- Curves minimum inner radius: 12m;
- Turn around areas (suitable for a '3.4' appliance): within 50m of a house.

All gates on the site must be of sufficient width (minimum 3.6m) to accommodate a '3.4' appliance and will be appropriately signposted.

No battleaxe accesses, other emergency access-ways or passing bays are considered necessary or proposed for this subdivision.

PC 3.5: Water Supply

The subject site is not connected to reticulated scheme water, the nearest mains being located approximately 1km away. As such, there will be no hydrants.

The Guidelines stipulate that a 50,000 litre water tank per 25 lots is the minimum requirement for water supply for fire fighting purposes. Alternatively, a dam containing 200m³ of water per 25 lots all year round is also an acceptable measure.

The proposed Amendment is committed to good fire planning outcomes. Therefore, we propose the existing 90,000L concrete tank located on the western boundary of proposed Lot 1 can be used as a source of water for fire fighting purposes. For the use of this water tank for fire fighting purposes to eventuate, it is likely that the following upgrades or installations will be required:

- Easement benefit for access for Shire of Nannup and FESA over proposed Lot 1;
- Constructed access to be established from Brockman Highway to the requirements of the Shire of Nannup and FESA;
- Standpipe to be installed, capable of a flow rate of 50L/min;

- Gate restricting access to the water tank; and
- Relining of the tank to prevent leaking.

This tank is to be kept full of water at all times to ensure a reliable supply in case of fire, in accordance with AS 3.5.3. The advantages of locating access to this water tank on Brockman Highway include:

- It is easily accessible to the proposed Amendment Site; and
- It can be accessed for sites surrounding, or in close proximity to the Amendment Site.

The use and upgrade of the existing substantial concrete water tank on the Amendment Site should be sufficient for fire fighting measures on the site and in the surrounding vicinity.

PC 3.6: Siting of Buildings

PC 3.6.1 specifies that a Hazard Separation Zone (HSZ) of 100m is to separate 'Extreme' bush fire hazards from buildings, otherwise houses are to be constructed to bush fire prone requirements of AS 3959-1999.

A Building Protection Zone (BPZ) of at least 20m (dependent on slope) is to be provided to all buildings and must be maintained in accordance with PC 3.6.2 as follows:

- Bush fire fuels must be maintained below 10cm in height – following consultation with the Shire of Nannup this requirement will be 5cm in this case;
- Trees and branches which may fall onto a house must be removed;
- Lower branches of the remaining trees (all those less than 2m from ground level) must be trimmed.

As shown on the Development Guide Plan, building envelopes have been allocated to each of the proposed lots. All buildings will be provided with a minimum 20m Building Protection Zone.

9.0 SUMMARY AND REQUIREMENTS

In summary, there are fire risks in vicinity of the subject site, in the form of UCL along the Blackwood River, Reserve 37523 and Reserve 42287. The hazard posed by these areas of remnant vegetation and the hot, dry fire season experienced in this area between December and March must be addressed.

In addition to the fire management measures incorporated in the plan of subdivision, the following actions must be taken by the subdivider and subsequent landowners to further mitigate the bushfire hazard.

Subdivider Requirements:

The following requirements are the onus of the subdivider and are to be addressed as part of the subdivision works. It is anticipated that the Western Australian Planning Commission will incorporate appropriate conditions on any future subdivision approval for the benefit of the Shire of Nannup and / or FESA.

1. The cul-de-sac must be constructed in accordance with the specifications of Table 8 of *Planning for Bush Fire Protection* listed in Section 8.2 above, with the exception that a length of 250m will be permitted.
2. Refurbishment of the 90,000L concrete water tank located on proposed Lot 2 to provide fire fighting water supply to the specifications of section 3.5 of *Planning for Bush Fire Protection*, including the installation of a standpipe.
3. Provision of 4m wide gravel access roads within a 6m wide easement along the western boundary of proposed Lots 1 and 2 and the southern boundary of proposed Lot 2 to link the fire fighting water tank supply to Brockman Highway and the internal cul-de-sac road.

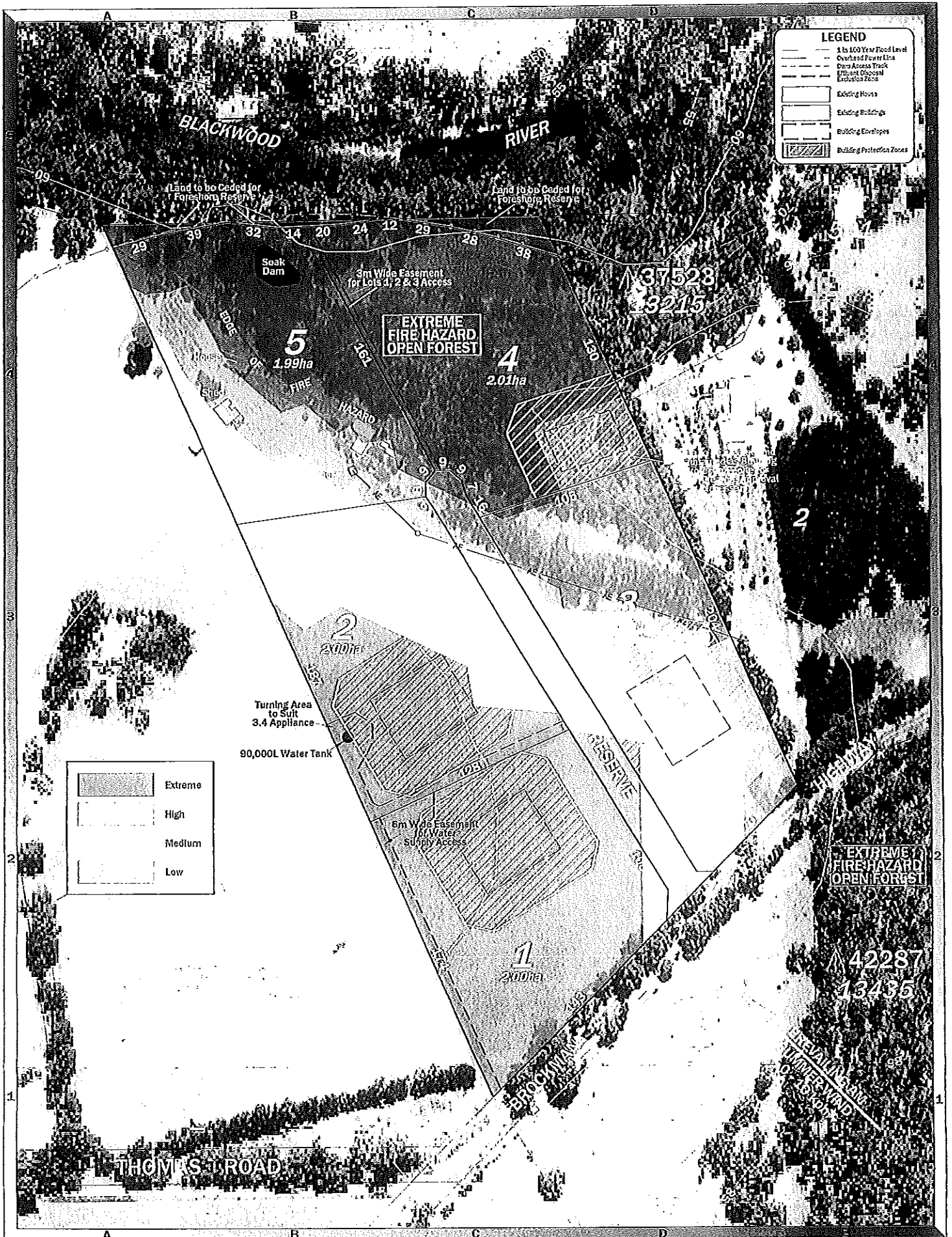
The access, including turning circle around the tank site to comply with section 3.4 of Planning for Bush Fire Protection.

4. Ensure that all prospective purchasers of the lots are provided with a copy of this Fire Management Plan, including ensuring each is aware of their obligations under the Plan.

Owner / House Construction Requirements:

The following requirements are the onus of the purchaser / owner of each proposed lot and are to be either met during construction of housing on the property or during ongoing maintenance.

1. All housing to be constructed to Level 2 standard, as specified by FESA. Australian Standard 3959-1999 stipulates the requirements associated with the Level 2 standard;
2. Private driveways shall be maintained in a condition suitable for safe traversing by emergency vehicles. Their construction must be in accordance with Table 8 of *Planning for Bush Fire Protection*, whose provisions are listed in Section 8.2 of this Fire management Plan;
3. Gates must be no narrower than 3.6m and be of a design approved by the Shire of Nannup. Fire service access gates may only be locked if a common key available to local fire services is used;
4. Building Protection Zones (BPZ) are to be maintained around all building envelopes as follows:
 - o Minimum of 20m in depth around the house and any attached outbuildings (garages, carports, patios, etc);
 - o Bush fire fuels must be maintained below 5cm in height within the BPZ;
 - o Trees and branches which may fall onto a house must be removed;
 - o Lower branches (<2m above ground level) of the remaining trees must be trimmed.
5. Compliance with the Shire of Nannup's Annual Firebreak Notice.



LEGEND

- 1 in 100 Year Flood Level
- Overhead Power Line
- Drive Access Track
- Easement or Special Exclusion Zone
- Existing House
- Existing Buildings
- Building Envelopes
- Building Protection Zones

Fire Hazard Legend

- Extreme
- High
- Medium
- Low

**LOCAL PLANNING SCHEME No3:
SCHEDULE 14 – PROCESS FOR DEALING WITH SUBDIVISION AND
DEVELOPMENT GUIDE PLANS**

1. Background

A key component of the town planning scheme amendment documentation for the rezoning of land for further subdivision or intensive development is the preparation of a development guide plan. The local government or Commission may require the preparation of a Development Guide Plan as a precursor to subdivision or development of land in other zones, where the characteristics of the land, or the type of subdivision proposed, raise issues that require preparation of an overall plan to guide the subdivision.

2. Information Required for Development Guide Plans

In addition to any other requirements in the Scheme, the Development Guide Plan shall detail and make recommendations on the following:

- a) The physical, topographical, water resources and environmental characteristics of the land including its slope, soil type, vegetation, drainage characteristics and visually prominent areas, clearly indicating those features it is intended to preserve and the methods by which preservation will be achieved;
- b) The ultimate subdivision including, lot yields, lot sizes and the location, width and standard of proposed roads, pedestrian access and other movement systems within the area the subject of the subdivision and their connection with the road and public recreation network in the locality;
- c) Natural vegetation within the Plan Area and the extent of clearing and earthworks required to implement the Development Guide Plan;
- d) Areas that should be retained for conservation, active and passive recreation, community facilities and other facilities, as required;
- e) Details of drainage and other services necessary to implement the Development Guide Plan, including provisions to ensure that run-off entering any water system within the locality is sufficiently filtered to avoid any adverse environmental impact;
- f) The need for adequate provision of community and physical infrastructure;
- g) Mechanisms for the control of land uses and development to ensure that the purpose of the zone, scenic quality and rural or residential amenity are not impaired;

- h) Preparation and implementation of a foreshore management plan where land abuts the coast or stream, such foreshore management plan to include access linkages, open space improvements, ecological links and conservation strategies to nearby vegetation where required;
- i) An analysis of heritage significance of building or places within the subject land, where required by the local government;
- j) the management of environmental sensitive locations, including identification of buffers, vegetation and habitat corridors;
- k) the proposed provision of community and service facilities;
- l) proposals for the provision of public utilities and services;
- m) adequate data identifying the physical and environmental characteristics of the land;
- n) where required under the intended zoning of the land, building envelopes are to be identified for each proposed lot;
- o) The proposed staging of the subdivision, where relevant; and
- p) Any special provisions required by the local government that are appropriate to secure the objectives of the zone or any Local Planning Policy adopted in accordance with the Scheme.

3. Adoption and Approval of Development Guide Plans Not a Component of an Amendment to Town Planning Scheme

- 3.1 A Development Guide Plan may be prepared by a Proponent or the local government. Where prepared by a Proponent, the proposed Development Guide Plan shall be submitted to the local government.
- 3.2 Upon receiving a proposed Development Guide Plan, the local government shall either:
 - (a) determine that the Development Guide Plan is satisfactory for advertising;
 - (b) determine that the Development Guide Plan should not be advertised until further details have been provided or modifications undertaken; or
 - (c) the Development Guide Plan is not satisfactory for advertising, giving reasons to the Proponent
- 3.3 If within 60 days of receiving a proposed Development Guide Plan for approval for advertising, or such longer period as may be agreed in writing between the Proponent and the local government, the local government has

not made one of the determinations referred to in clause 3.2, the local government is deemed to have determined that the Development Guide Plan is not satisfactory for advertising.

- 3.4
- (a) Where the Proponent is aggrieved by a determination of the local government made or deemed to have been made under clauses 3.2 or 3.3, the Proponent may request the local government, by notice in writing, to forward the proposed Development Guide Plan to the Commission.
 - (b) Within 21 days of receiving notice from the Proponent under clause 3.4(a), the local government shall forward to the Commission:
 - (i) a copy of the proposed Development Guide Plan;
 - (ii) details of the local government's determination including any modifications to the proposed Development Guide Plan required by the local government; and
 - (iii) any other information the local government considers relevant to the Commission's consideration of the proposed Development Guide Plan for advertising.
 - (c) Upon receiving a Proposed Development Guide Plan in accordance with clause 3.4(b), the Commission is to make one of the determinations referred to in clause 3.2 and advise the local government and the Proponent accordingly.
 - (d) If the Commission requires modifications to the proposed Development Guide Plan, the Commission shall consult with the local government prior to making its determination under sub-clause 3.4(c);
 - (e) If within 60 days of receiving a proposed Development Guide Plan under clause 3.4(b), or such longer period as may be agreed in writing between the Proponent and the Commission, the Commission has not made one of the determinations referred to in clause 3.2, the Commission shall be deemed to have determined that the proposed Development Guide Plan is not satisfactory for advertising.
- 3.5
- Where the local government, or the Commission, has determined that the proposed Development Guide Plan may be advertised, the local government shall:
- (a) advertise, or require the Proponent to advertise, the proposed Development Guide Plan for public inspection by one or more of the methods of advertising proposals for development as set out in clause 9.4 of the Scheme; and

- (b) give notice, or require the Proponent to give notice in writing to:
 - (i) all landowners affected by the proposed Development Guide Plan; and
 - (ii) such public authorities and other persons as the local government nominates,

with advertisements and notices explaining the scope and purpose of the proposed Development Guide Plan, when and where it may be inspected, and inviting submissions to the local government by a specified date not being less than 21 days from the date of the notice and advertisement with advertising costs to be borne by the Proponent.

- 3.6 Within 14 days of determining that a proposed Development Guide Plan is satisfactory for advertising, the local government shall forward a copy of the proposed Development Guide Plan to the Commission for its information.
- 3.7 The local government shall consider all submissions received and within 60 days of the latest date specified in the notice under clause 3.5 shall either:
 - (a) adopt the proposed Development Guide Plan with or without modifications; or
 - (b) refuse to adopt the proposed Development Guide Plan, giving reasons to the Proponent.
- 3.8 If within the 60 day period, or such further time as may be agreed in writing between the Proponent and the local government, one of the determinations referred to in clause 3.7 has not been made, the local government is deemed to have refused to adopt the proposed Development Guide Plan.
- 3.9 Within 21 days of a determination made, or deemed to have been made under Clauses 3.7 or 3.8, the local government shall forward to the Commission:
 - (a) a summary of all submissions and comments received within the advertised period in respect of the proposed Development Guide Plan, and the local government's decisions or comments in relation to the submissions;
 - (b) the local government's recommendation to the Commission that the proposed Development Guide Plan either be approved, approved with modifications or refused; and
 - (c) any other information the local government considers relevant to the Commission's consideration of the proposed Development Guide Plan.

- 3.10 On receipt of the information described in clause 3.9, the Commission shall either:
- (a) approve the proposed Development Guide Plan with or without modifications; or
 - (b) refuse to approve the proposed Development Guide Plan and give reasons for its decision to the Proponent and the local government.
- 3.11 If within 60 days of receiving the information referred to in clause 3.9 or such further time as may be agreed in writing between the Proponent and the Commission, the Commission has not made one of the determinations under clause 3.10, the Commission is deemed to have refused to approve the proposed Development Guide Plan.
- 3.12 If the Commission approves the proposed Development Guide Plan, it is to notify the local government and the Proponent of its decision within 14 days of the date of the Commission's decision.
- 3.13 If the Commission requires modifications of the proposed Development Guide Plan, the Commission shall consult the local government prior to approval of the proposed Development Guide Plan under clause 3.10.
- 3.14 If, following consultation with the Commission, the local government forms the opinion that any modification to the proposed Development Guide Plan is substantial, it may:
- (a) re-advertise the proposed Development Guide Plan; or
 - (b) require the Proponent to re-advertise the proposed Development Guide Plan,
- and, thereafter, the procedures set out in clause 3.5 onwards apply.
- 3.15 As soon as practicable after receiving notice of the approval of the proposed Development Guide Plan by the Commission, the local government shall adopt the proposed Development Guide Plan and forward a copy of the adopted Development Guide Plan to:
- (a) the Proponent;
 - (b) the Commission; and
 - (c) any other appropriate person or public authority likely to be affected or have an interest.
- 3.16 An adopted Development Guide Plan shall be kept at the local government's administrative offices, and shall be made available for inspection by any member of the public during normal office hours.

4. Change to, or Departure from Development Guide Plans

- 4.1 The local government may accept a minor change to, or departure from an adopted Development Guide Plan if, in the opinion of the local government, the change or departure does not materially alter the intent of the Development Guide Plan.
- 4.2 (a) The local government shall forward a copy of the minor change or departure to the Commission within 14 days of the date of adopting the minor change or departure.
- (b) If the Commission considers that the change or departure adopted by the local government under clause 4.1 materially alters the intent of the Development Guide Plan, then the Commission:
- (i) may require the local government to follow the procedures set out in clause 3.5 onwards in relation to the change or departure; and
- (ii) shall notify the local government of this requirement within 14 days.
- 4.3 Any change to, or departure from a Development Guide Plan that is not within clause 4.1 is to follow the procedures set out in clause 3.1-3.15 of Schedule 14.

5. Operation of Development Guide Plan

- 5.1 A Development Guide Plan commences operation on the date it is adopted by the local government pursuant to clause 3.15.
- 5.2 If a Development Guide Plan imposes a classification on the land included in it by reference to reserve, zones or Residential Design Codes, then
- (a) the provisions of the Development Guide Plan apply to the land as if its provisions were incorporated into the Scheme and it is binding and enforceable in the same way as corresponding provisions incorporated in the Scheme; and
- (b) provisions in the Scheme applicable to land in those classifications under the Scheme apply to the Development Guide Plan Area.
- 5.3 Without limiting the generality of clause 5.2, under a Development Guide Plan:

- (a) in the areas designated as zones, the permissibility of uses is to be the same as set out in the Zoning Table as if those areas were zones under the Scheme having the same designations;
- (b) the standards and requirements applicable to the zones and Residential Design Codings under the Scheme apply to the areas having corresponding designations under the Development Guide Plan;
- (c) the planning approval procedures including the procedures for the approval of uses and developments under the Scheme are to apply as if the land were correspondingly zoned or reserved under the Scheme; and
- (d) any other provision, standard or requirement in the Development Guide Plan is to be given the same force and effect as if it were a provision, standard or requirement of the Scheme.

5.4 A Development Guide Plan, adopted and approved under the Scheme, will be used by the local government as a guide for the assessment of Applications for Planning Approval under the Scheme and of Applications for Approval to Subdivide Land under and by the Commission as a guide for the assessment of Applications for Approval to Subdivide Land under provisions of Part 10 of the Planning and Development Act.

6. Right of Review

6.1 The Proponent may seek a review, in accordance with Part 14 of the Planning and Development Act, any:

- (a) determination or decision made by the Commission;
- (b) requirement imposed by or modification sought by the Commission; or
- (c) determinations deemed to have been made by the Commission under clause 3.4(e) or 3.11.

6.2 The Proponent may seek a review, in accordance with Part V of the Town Planning Act, any decision made by the local government under clause 3.5 and 3.6.