



## Statutory Planning Committee

Notice is hereby given that the next meeting of the Statutory Planning Committee will be held on:

**Tuesday 10 May 2011  
10.00 am**

**5th Floor Conference Room, Albert Facey House,  
469 Wellington Street, Perth**



**Tony Evans  
Secretary**

Please convey apologies to Leah Carr on 9264 7656 or email  
[leah.carr@planning.wa.gov.au](mailto:leah.carr@planning.wa.gov.au)

# Statutory Planning Committee

## Membership:

Member	Representation – <i>Planning and Development Act 2005</i>	Term of office ends
Mr Gary Prattley	Chairman Section 10(1)(a) or Schedule 2 clause 4 (2)(a)	20/4/2013
Mayor Carol Adams	Local Government nominee Schedule 2 clause 4 (2)(f)	1/2/2012
Mr Ian Holloway	Urban and regional planning representative Schedule 2 clause 4 (2)(e)	1/2/2012
Ms Sue Burrows	Department of Planning nominee Schedule 2 clause 4 (2)(b)	Ex-officio
Cr Corinne MacRae	WAPC Nominee Schedule 2 clause 4 (2)(g)	1/2/2012
Ms Elizabeth Taylor	Community representative Schedule 2 clause 4 (2)(d)	1/2/2012
Vacant	Regional Minister nominee Schedule 2 clause 4 (2)(c) or Schedule 2 clause 4 (3)	

## Quorum: 4

In accordance with the WAPC Standing Orders 2009, 3.7 - Quorum for meetings:

- (2) A quorum for a meeting of a committee is at least 50% of the number of offices (whether vacant or not) of members of the committee.

## Role:

Schedule 2(4)(4) of the *Planning and Development Act 2005*

The Statutory Planning Committee is the WAPC's regulatory decision-making body and performs such of the statutory planning functions of the Commission under the *Planning and Development Act 2005* and Part II of the *Strata Titles Act 1985* as are delegated to the Statutory Planning Committee under section 16 and such other functions as are delegated to it under that section. These functions include approval of the subdivision of land, approval of leases and licenses, approval of strata schemes, advice to the Minister for Planning on local planning schemes and scheme amendments, and the determination of certain development applications under the Metropolitan Region Scheme.

## Delegated Authority

- 2.1 Power to determine applications for approval to commence and carry out development lodged with or referred to the WAPC pursuant to the provisions of a region scheme.
- 2.2 Power to approve detailed plans requiring the subsequent approval of the WAPC as a condition of development approval pursuant to the provisions of a region scheme and power to confirm that conditions imposed by the WAPC on a development approval pursuant to the provisions of a region scheme have been complied with.
- 2.3 Power to determine whether or not proposals and the ongoing implementation of a region scheme comply with conditions (if any) applied pursuant to sections 48F and 48J of the *Environmental Protection Act 1986*.
- 2.4 Power to determine whether or not applications to commence and carry out development are of State or regional importance, or in the public interest, pursuant to any resolution of the WAPC made under a region scheme requiring such determination.
- 2.5 Power to request the Minister for Planning to approve the WAPC disregarding the advice of the Swan River Trust in whole or in part in relation to the approval of development of land within the Riverbank or Development Control Area as defined under the *Swan and Canning Rivers Management Act 2006* where the determining authority is the WAPC.
- 2.6 All functions of the WAPC as set out in -
  - (i) Sections 14(a), 14(c), 34, 97, 98, 100, 104, 105, 106, 107, 109, 110, 111, 134, 135, 136, 138, 139, 140, 142, 143, 144, 145, 147, 151, 153, 154, 157, 169, 185, 214, 215, 216 of the Act;
  - (ii) Town Planning Regulations 1967;
  - (iii) Regulations 21, 22, 24 and 27 of the Planning and Development Regulations 2009;
  - (iv) *Strata Titles Act 1985* or the provisions of a strata or survey-strata scheme;
  - (v) Strata Titles General Regulations 1996;
  - (vi) Section 52 and section 85 of the *Land Administration Act 1997*;
  - (vii) Section 40 of the *Liquor Control Act 1988*;
  - (viii) *Perry Lakes Redevelopment Act 2005*.
- 2.7 Power to determine requests for variations to plans of subdivision where WAPC approval is required pursuant to the provisions of an approved local planning scheme.
- 2.8 Power to provide comment on and grant approval to plans known generally as outline development plans, structure plans and similar plans, and to planning policies and similar documents or amendments thereto, requiring the approval or endorsement of the WAPC pursuant to the provisions of a local planning scheme.
- 2.9 Power to provide comments or advice on behalf of the WAPC to a local government or a redevelopment authority where a provision of a local planning scheme or a redevelopment scheme requires comments from the WAPC.

- 2.10 Power to execute and accept the benefit of easements in gross, covenants in gross, records on title and other instruments for dealings in land for subdivisions, strata subdivisions and developments in accordance with any applicable policy and legislation.
- 2.11 Power to make recommendations to the Minister for Planning in relation to requests from local governments to expend monies paid by subdividing land owners in lieu of setting aside free of cost to the Crown, areas of land for public open space, where such recommendations are in accordance with WAPC policy.
- 2.12 Power to determine whether or not a proposal is likely to have a significant effect on the environment pursuant to section 38(1) of the *Environmental Protection Act 1986* and to refer such proposal to the Environmental Protection Authority.
- 2.13 Power to waive or clear conditions affixed as conditions of approval.
- 2.14 Power to endorse diagrams and plans of survey and deposited plans involving the acquisition and resumption of land created pursuant to Part 11 of the Act and the *Land Administration Act 1997*.
- 2.15 Power to advise the Minister for Planning on any appeal or matter arising therefrom pursuant to Part 14 of the Act.
- 2.16 Power to defend and otherwise deal with applications for review lodged with the State Administrative Tribunal and to appeal, defend, respond and otherwise deal with any matter that may be appealed to the Supreme Court on a question of law.
- 2.17 Power to defend, respond, appeal and otherwise deal with legal proceedings.
- 2.18 Power to prepare and approve, subject to the prior approval of the Minister for Planning, policies relating to planning matters and/or the functions of the WAPC, save and except for State Planning Policies under Part 3 of the Act.

**This meeting is not open to members of the public.**

## RELEVANT INFORMATION FOR MEMBERS

### Disclosure of interests

In accordance with the *Planning and Development Act 2005* and Part 6 of the Standing Orders 2009, members of Committees (and certain employees) are required to disclose the following types of interests that they have or persons closely associated to them, have:

- direct and indirect pecuniary interests (financial);
- proximity interests (location); and
- impartiality interests (relationship).

A “**direct pecuniary interest**” means a relevant person’s interest in a matter where it is reasonable to expect that the matter if dealt with by the board or a Committee, or an employee in a particular way, will result in a financial gain, loss, benefit or detriment for the person.

An “**indirect pecuniary interest**” means a relevant person’s interest in a matter where a financial relationship exists between that person and another person who requires a board or Committee decision in relation to the matter.

A “**proximity interest**” means a relevant person’s interest in a matter if the matter concerns -

- (i) a proposed change to a planning scheme affecting land that adjoins the person’s land;
- (ii) a proposed change to the zoning or use of land that adjoins the person’s land; or
- (iii) a proposed development, maintenance or management of the land or of services or facilities on the land that adjoins the person’s land.

“**Impartiality interest**” means an interest that could, or could reasonably be perceived to, adversely affect the impartiality of the member having the interest and includes an interest arising from kinship, friendship, partnership or membership of an association or an association with any decision making process relating to a matter for discussion before the board or a Committee.

Members disclosing any pecuniary or proximity interests for an item can not participate in discussion or the decision making procedure relating to the item and must leave the meeting room during the discussion of the item. Members disclosing an impartiality interest in an item must also leave the room during the discussion or the decision making procedure relating to the item unless the Committee, by formal resolution, allows the member to remain. The reason to allow a member to remain must be stated in the formal resolution and will be minuted.

### Disclosure of representations

Where a member has had verbal communication with or on behalf of a person with an interest in a matter which is before a meeting, the member is to disclose the interest.

Where a member is in receipt of relevant written material (including email) from or on behalf of a person with an interest in a matter which is before a meeting, the member is to table the material at the meeting for the information of members and relevant employees.

# ORDER OF BUSINESS

1. **Declaration of opening**
2. **Apologies**
3. **Members on leave of absence and applications for leave of absence**
  - Cr MacRae
4. **Disclosure of interests**
5. **Declaration of due consideration**
6. **Deputations and presentations**
  - 6.1 **Shire of Denmark; Draft Local Planning Strategy - Consent to Advertise**

Presenters: Cr Ross Thornton - President Shire of Denmark  
Mr Dale Stewart - CEO Shire of Denmark  
Ms Annette Harbron - Director of Planning/Sustainability Shire of Denmark  
(defer to later in the meeting - presenters will arrive at 11am)
7. **Announcements by the Chairperson of the board and communication from the WAPC**
8. **Confirmation of minutes of 27 April 2011**
9. **Reports (see attached index of reports)**
10. **Confidential items (see attached index of reports)**
11. **General business**
12. **Items for consideration at a future meeting**

<b>Item No</b>	<b>Report</b>	<b>Request</b>	<b>Report Required by</b>
7416	Directions 2031	Planning Director - 2031 to brief the Committee after release of WA Tomorrow 2011	July/August 2011
13. **Closure - next meeting to be held on 24 May 2011**

## Statutory Planning Committee

### Minutes

of ordinary meeting 7423  
held on Wednesday 27 April 2011

#### Attendance

##### Members

Mr Gary Prattley	WAPC Chairman (Presiding Member)
Mayor Carol Adams	Local Government nominee
Mr Ian Holloway	Professional representative
Ms Sue Burrows	Nominee of the Director General, Department of Planning
Cr Corinne MacRae	WAPC nominee
Ms Elizabeth Taylor	Community representative

##### Officers

Ms Judi Bell	<b>Department of Planning</b> Director, Schemes and Appeals	Items 9.1 & 10.1
Mr Ryan Del Casale	Planner, Schemes and Amendments	Items 9.1 & 10.1
Mr David Igglesden	Planning Manager, Infrastructure Planning & Coordination	Item 9.4
Mr Eric Lumsden	Director General	Item 9.1
Mr Ryan Taylor	Principal Planning Officer, Central Regions	Item 9.2 & 10.3

##### Observers

Mrs Mara Vlaar (in part)	<b>Department of Planning</b> A/Manager WAPC Secretariat
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##### Presenters

Ms Robyn Barrow	<b>Department of Planning</b> Director Special Projects
Mr Stephen Ferguson	Senior Policy & Legislation Officer

##### Committee Support

Ms Leah Carr	Committee Secretary - Department of Planning
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#### 1 Declaration of Opening

The Presiding Member declared the meeting open at 10.09 am, acknowledged the traditional owners and custodians of the land on which the meeting is taking place, welcomed Ms Burrows to her inaugural meeting and welcomed Members.

# Statutory Planning Committee

Minutes  
of ordinary meeting 7423  
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## 2 Apologies

Nil.

## 3 Members on Leave of Absence and Applications for Leave of Absence

Mayor Carol Adams applied for a leave of absence for the Statutory Planning Committee meetings scheduled during the period from 3 to 30 July 2011.

### Resolved

#### Moved by Mr Holloway, seconded Cr MacRae

That the approval for a leave of absence be granted to Mayor Adams for the Statutory Planning Committee meetings to be held on 12 and 25 July 2011.

*The motion was put and carried.*

## 4 Disclosure of Interests

Member	Minute No.	Page No.	Nature of Interest
Ms Sue Burrows	9.1	3	Impartiality
Ms Elizabeth Taylor	9.1	3	Impartiality

Declaration of Interest forms were completed by Ms Burrows and Ms Taylor and given to the Presiding Member.

## 5 Declaration of Due Consideration

No declarations were made.

## 6 Deputations and Presentations

### 6.1 Amended Planning Bulletin 93/2011 Presenter Director Special Projects

A verbal update on Planning Bulletin 93/2011 covered the new parts that were added regarding cost recovery by WAPC and introduction of Development Assessment Panel application fees. This update is linked to Item 9.3

**Moved to Item 9.3**

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### 7 Announcements by the Chairperson of the Board and communication from the WAPC

The Department of Planning will be moving to its new premises at One Forty William Street, over the May/June period. All meetings normally held in Albert Facey House will continue to be held there until 10 June 2011.

### 8 Confirmation of Minutes

#### 8.1 Minutes of the Statutory Planning Committee meeting held on Tuesday 12 April 2011

**Resolved**

***Moved by Ms Taylor, seconded by Mayor Adams***

*That the minutes of the Statutory Planning Committee meeting held on Tuesday 12 April 2011, be confirmed as a true and correct record of the proceedings.*

***The motion was put and carried.***

### 9 Reports

#### A Policy

#### 9.1 Shire Of Kalamunda Local Planning Strategy

File	TPS/0407/1
Agenda Part	A
Reporting Officer	Director Schemes and Appeals

**Ms Burrows and Ms Taylor disclosed a interest, took no part in discussion and did not vote on this item.**

<b>Member</b>	<b>Nature of Interest</b>
Ms Burrows	Impartiality
Ms Taylor	Impartiality

**Ms Burrows and Ms Taylor left the room at 10.15 am.**

**Resolved**

***Moved by Mayor Adams, seconded by Mr Holloway***

*That the Western Australian Planning Commission resolves to certify that the local planning strategy is consistent with regulation 12A(3) of the Town*

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*Planning Regulations 1967 (as amended) subject to the modifications outlined in the Schedule of Modifications (Attachment 1) being undertaken prior to advertising, and is to be advertised for not less than 21 days.*

***The motion was put and carried.***

**Ms Burrows and Ms Taylor returned to the room at 10.37 am.**

### **9.2 City Of Geraldton-Greenough Interim Commercial Activity Centres Strategy**

File 757/3/1/2PV2  
Agenda Part A  
Reporting Officer A/Manager Statutory Planning Central Regions

**Resolved**

***Moved by Ms Taylor, seconded by Mr Holloway***

*That the Western Australian Planning Commission resolves to:*

1. *endorse the Interim Commercial Activity Centres Strategy;*
2. *advise the City of Geraldton-Greenough that:*
  - a) *it should liaise with the Department of Planning to correct grammatical errors within the strategy; and*
  - b) *it proceeds in developing a Local Planning Strategy that includes a comprehensive commercial activity centre strategy component.*

***The motion was put and carried.***

**Moved to Item 9.4**

### **9.3 Amended Planning Bulletin 93/2011**

File DP/151/1/1/75P27V  
Agenda Part A  
Reporting Officer Senior Legislation and Policy Officer

**Resolved**

***Moved by Ms Taylor, seconded by Mr Holloway***

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*That the Western Australian Planning Commission resolves to approve amended Planning Bulletin 93/2011 – Planning and Development Regulations 2009 (Part 7 Local Government Planning Charges).*

***The motion was put and carried.***

**Moved to Item 7**

### **G Developments / Subdivisional Strata Items**

#### **9.4 Multi-Deck Car Park At QEII Medical Centre - Lots 8699 & 9075 Winthrop Avenue, Nedlands**

File 08-597-23  
Agenda Part G  
Reporting Officer Planning Manager Metro Planning Central

**Resolved**

***Moved by Ms Taylor, seconded by Mr Holloway***

*That the Western Australian Planning Commission (WAPC) resolves to approve the proposed development of the multi-deck car park at the QEII Medical Centre - Lots 8699 and 9075 Winthrop Avenue, Nedlands in accordance with the plans submitted thereto subject to the following conditions and advice:*

#### **CONDITIONS**

- 1. The materials and finishes to be used in the external elevations of the proposed development are to ensure that the building resembles an occupied building and not a decked car park to the specification of the City of Subiaco and the satisfaction of the WAPC.*
- 2. The number of car bays to be provided within the QEII site to be restricted to 5,350 (inclusive of 150 exempt bays), with 4,000 made available for staff parking, unless otherwise approved by the WAPC.*
- 3. Stormwater being contained on-site, or connected to the local drainage system, after passing through an appropriate water quality improvement treatment device to the specification of the City of Subiaco and the satisfaction of the WAPC.*

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4. *The proponent to prepare and implement a construction management plan in liaison with the City of Subiaco and to the satisfaction of the WAPC.*
5. *The proponent to prepare and implement a landscape management plan for the Winthrop Avenue frontage to the specification of the City of Subiaco and the satisfaction of the WAPC.*
6. *The proponent to design and construct the proposed fully signalised intersection on Winthrop Avenue in accordance with the requirements of Main Roads WA, the City of Subiaco and the City of Perth to the satisfaction of the WAPC.*

### **ADVICE**

1. *The proposed development is to comply with all relevant Acts and Regulations.*
2. *With regard to Condition 4, the construction management plan is to address the following matters, but not limited to: construction access, noise, vibration, hours of work and dust control. The proponent is advised to liaise direct with the City of Subiaco in this regard.*
3. *The Trust is advised that it needs to continue to develop a strategic approach to the provision of public transport on site.*

### **Advice to Local Government:**

*The City of Subiaco is advised that the proposed vehicle access from Winthrop Avenue to the QEII site was identified within the QEII MC Access and Structure Plan adopted by the WAPC in 2007 and was supported by traffic assessment. Main Roads WA has also advised of its consideration of and acceptability of the signalised intersection on Winthrop Avenue. Accordingly, the WAPC supports the proposal for the multi-deck car park incorporating a new fully signalised intersection on Winthrop Avenue.*

***The motion was put and carried.***

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### 10 CONFIDENTIAL ITEMS

#### B Local Planning Schemes / Local Planning Scheme Amendments

##### 10.1 City Of Fremantle Local Planning Scheme No.4 Amendment No.46 - For Consent To Advertise

File TPS/0541/1  
Agenda Part B  
Reporting Officer Manager Schemes and Amendments

**THIS ITEM IS CONFIDENTIAL**

#### E Minor Local Planning Schemes / Local Planning Scheme Amendments

##### 10.2 Shire Of Broomehill-Tambellup No. 3. Resolution To Prepare A New Local Planning Scheme

File TPS/0465/1  
Agenda Part E  
Reporting Officer Director Southern Regions

**THIS ITEM IS CONFIDENTIAL**

##### 10.3 Shire Of Perenjori Local Planning Strategy And Local Planning Scheme No 2 - Final Approval

File 853/03/15/0002PV  
Agenda Part E  
Reporting Officer Manager Statutory Planning

**THIS ITEM IS CONFIDENTIAL**

##### 10.4 Shire Of Denmark Local Planning Scheme Amendment No. 106 - For Final Approval

File 853/5/20/7P106  
Agenda Part E  
Reporting Officer A/Director Southern Regions

**THIS ITEM IS CONFIDENTIAL**

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### 10.5 City Of Albany Town Planning Scheme No. 3 Amendment 296 - For Final Approval

File TPS/0205/1  
Agenda Part E  
Reporting Officer Planning Manager Regional Planning and Strategy

**THIS ITEM IS CONFIDENTIAL**

### 10.6 Shire Of Bruce Rock Local Planning Strategy And Local Planning Scheme No.3 - For Final Approval

File TPS/0194/1  
Agenda Part E  
Reporting Officer Director Southern Regions Planning

**THIS ITEM IS CONFIDENTIAL**

### G Developments / Subdivisional Strata Items

### 10.7 Sat S31 Reconsideration Of Conditions Of Approval For Freehold Subdivision - Shire Of Jerramungup, Goorie Way, Bremer Bay

File 142080  
Agenda Part G  
Reporting Officer Regional Manager Great Southern Planning

**THIS ITEM IS CONFIDENTIAL**

### 11 General Business

Nil.

### 12 Items for Consideration at a Future Meeting

Item No	Report	Request	Report Required by
7416	Directions 2031	Planning Director - 2031 to brief the Committee after release of WA Tomorrow 2011	July/August 2011

**Statutory Planning Committee**

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**13 Closure**

The next ordinary meeting is scheduled for 10 am on 10 May 2011.

There being no further business before the Committee, the Presiding Member thanked members for their attendance and declared the meeting closed at 11.02 am.

**PRESIDING MEMBER** \_\_\_\_\_

**DATE** \_\_\_\_\_

UNCONFIRMED

# INDEX OF REPORTS

<b>Item</b>	<b>Description</b>
<b>9</b>	<b>REPORTS</b>
<b>D</b>	<b>General Items / Other Matters</b>
9.1	SHIRE OF DENMARK: DRAFT LOCAL PLANNING STRATEGY - CONSENT TO ADVERTISE <i>(presentation from Shire of Denmark)</i>
<b>H</b>	<b>Subdivisional / Survey Strata Items</b>
9.2	SUBDIVISION TO CREATE TWO LOTS FOR RESIDENTIAL PURPOSE - 23 MAIDA VALE, KALAMUNDA SHIRE
<b>10</b>	<b>CONFIDENTIAL ITEMS</b>
<b>E</b>	<b>Minor Local Planning Schemes / Local Planning Scheme Amendments</b>
10.1	SHIRE OF NAREMBEEN LOCAL PLANNING SCHEME NO.2 AMENDMENT 4 - FOR FINAL APPROVAL
10.2	SHIRE OF NORTHAMPTON LOCAL PLANNING SCHEME NO.10 - FOR FINAL APPROVAL
<b>G</b>	<b>Developments / Subdivisional / Survey Strata</b>
10.3	DEVELOPMENT APPLICATION AT JAMES POINT PORT - RECLAMATION WORKS (AND ASSOCIATED FILL AND DREDGING) - RECONSIDERATION UNDER STATE APPEALS TRIBUNAL ACT



## ITEM NO: 9.1

### SHIRE OF DENMARK: DRAFT LOCAL PLANNING STRATEGY CONSENT TO ADVERTISE

**WAPC OR COMMITTEE:** Statutory Planning Committee

REPORTING AGENCY: Department of Planning  
REPORTING OFFICER: Regional Manager, Great Southern  
AUTHORISING OFFICER: E.D. Regional Planning and Strategy  
AGENDA PART: E  
FILE NO: DPI/09/01134/1  
DATE: 27 April 2011  
ATTACHMENT(S):  
1. WAPC letter to Council Nov 2005  
2. Shire letter Mar 2011  
3. Draft LPS Plan 1  
4. Draft LPS Plan 2  
5. Draft LPS Plan 3  
6. Endorsed settlement strategy plan for Denmark  
7. Previous 2003 draft LPS map  
8. Agricultural land of State and Regional Significance  
9. Minister's letter Amdt 99  
10. Amendment 93 map  
11. Draft old hospital Adaptive Reuse plan  
12. Schedule of Modifications

**RECOMMENDATION:**

***That the Western Australian Planning Commission resolves to grant consent to advertise the draft Denmark Local Planning Strategy, subject to the attached schedule of modifications being effected.***

**SUMMARY:**

The key points relating to this report are:

- the draft Denmark Local Planning Strategy requires modification prior to advertising; and
  - Council representatives have informally agreed to all modifications in the Schedule of Modifications except the removal of rural residential and rural smallholding designations extending away from Denmark townsite.
-

## **BACKGROUND:**

The Shire of Denmark submitted a draft Local Planning Strategy (LPS) to the WAPC for consent to advertise in September 2003.

In November 2005 the WAPC granted consent to advertise the LPS subject to a letter from the WAPC being advertised at the same time (rather than undertaking modifications prior to advertising) which highlighted the issues the WAPC required to be addressed (Attachment 1).

The WAPC's advice, amongst other matters, suggested to delete substantial areas of land designated for Rural Residential and Rural Small Holdings to the west and east of Denmark.

The Council subsequently advertised the document predominantly unchanged from December 2005 to February 2006, made some but not all changes to the document in response to the WAPC's concerns following advertising, and sent the document to the WAPC for final endorsement.

A draft report was prepared in 2007 for WAPC's consideration, however prior to this occurring, the Shire indicated that they did not wish the draft LPS to be considered by the WAPC and indicated Council would review the LPS.

DoP met with the Shire in March 2010 advising what would be acceptable to the WAPC in the LPS. Particular reference was made at the meeting to SPP 3, SPP 2.5 and DC 3.4 and the WAPC's position of not supporting rural living expansion, favouring compact consolidated settlements either in Denmark, or other settlements where the WAPC support alternative infrastructure.

The Shire submitted a totally revised draft LPS for consent to advertise on 31 March 2011, and requested a timeframe that allowed it to finalise the adoption of the LPS prior to Council elections in October 2011 (Attachment 2). The draft Schedule of Modifications was discussed with Council representatives on 18 April 2011 with all modifications subsequently informally agreed to, except the removal of additional designated areas east and west of Denmark for rural residential and rural smallholdings respectively.

## **LEGISLATION / STRATEGIC PLAN / POLICY:**

### **Legislation**

Section:

*Town Planning Regulations 1967 as amended*

Clause 12A, 12B and 12C

### **Strategic Plan**

Strategic Goal:

1. Building Relationships
2. Planning

Outcomes:

1. Excellence in Service
2. Planned Local Communities

Strategies:

1. Develop Connected and Accessible Communities
-

## **Policy**

Number and / or Name: SPP 2.5 Land Use Planning in Rural Areas  
SPP 3 Urban Growth and Settlement  
DC 3.4 Subdivision of Rural Land

## **DETAILS**

The LPS comprises Part 1 (which provides the strategic direction) and Part 2 (which provides the background and analysis). Three plans (town centre, urban areas, and whole shire) provide spatial representations of the land use designations (Attachments 3, 4 and 5).

The key elements of the new draft LPS are:

- The identification of Urban Residential areas, with minor additions, in accordance with the endorsed Settlement Strategy for Denmark (Attachment 6);
  - The identification of a Future Urban area as a significant extension of the existing urban area to the east of the township on State land used by the Denmark Agricultural College;
  - The identification of Special Residential areas on currently identified or rezoned land;
  - The identification of Rural Residential areas on existing estates and also on rural land adjacent to Wilson Inlet to the east of Denmark;
  - The identification of Rural Small Holdings areas over existing estates and also on rural land to the west of Denmark;
  - An expanded town centre commercial area over Crown owned parks and recreation reserves along South Coast Highway and the former hospital site, and the identification of a Town Centre Inner Core;
  - Identification of a 6ha Bulky Goods site over Crown land approximately 2.2 kms to the east of the town centre;
  - The identification of approx 42 ha for a new industrial estate east of town in accordance with the then Minister's instruction, over Crown and private land;
  - The identification of the existing industrial estate in town as a Mixed Business area for showroom, service and light industries, and supporting the relocation of the Shire's and Main Road's depots and other inappropriate industries to the new industrial estate once available;
  - The promotion of tourism in the Shire;
  - The promotion of community, educational, cultural and heritage matters in the Shire;
  - The identification of Peaceful Bay, Nornalup and Bow Bridge (and the removal of Kenton) as Rural Nodal Settlements requiring preparation of a Structure Plan endorsed by the Commission prior to development and utilising alternative infrastructure;
  - Promoting natural resource management and visual landscape protection;
  - Identifying High Quality Agriculture and General Agriculture land for the consideration of specific land uses and subdivision;
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- The identification of Regional Roads, trails, and paths and a proposed Northern Link Road north of Denmark incorporating upgrading an existing alternative crossing to the Denmark River;
- Promoting the provision of infrastructure (water, sewer, electricity, phone coverage, waste transfer) in the Shire; and
- An indicative timing schedule for the triggering of development in the Shire.

### **GOVERNMENT AND CORPORATE IMPLICATIONS:**

The draft Denmark Local Planning Strategy is a key strategic planning document to ensure orderly and proper planning within the Shire.

The LPS proposes expanded rural residential areas to the east of Denmark and expanded rural smallholding areas to the west of Denmark. Although rural smallholding areas currently exist in the west of Denmark, and the Shire consider the proposed additional development to constitute "infill" development, the majority of the land is priority agricultural land of State and regional significance. Also providing for additional living opportunities in this area would provide for additional dispersed living areas removed from the service and community centre of Denmark. The WAPC and the Minister have recently reiterated the need to protect rural land, and State Planning Policy 3 clearly states the need to create compact consolidated settlement forms, as opposed to providing for settlements that develop away from service and community centres. The area proposed for rural residential development to the east of Denmark would also extend the rural living areas away from the service and community centre of Denmark.

### **CONSULTATION:**

Consultation on going with the Shire since 2003.

DoP officers recently met with the Shire in February 2011 to discuss the policy positions that the WAPC would support in the LPS.

### **DETAILS**

The draft LPS has been prepared having consideration to relevant State Planning Policies, and the Lower Great Southern Strategy 2007 as required by *Regulation 12 A (3) of the Town Planning Regulations (as amended)*. The draft LPS sets out the long term planning direction for the local government to 2031, and provides the rationale for zones and other provisions intended in a new planning scheme to be prepared to implement the draft LPS.

Of particular relevance to the assessment of the draft LPS are State Planning Policy 3 (SPP 3) which promotes a consolidated settlement form, and State Planning Policy 2.5 (SPP 2.5) and Development Control Policy 3.4 (DC 3.4) (existing and draft) which seek to protect rural land particularly agricultural land of State significance, and set parameters for the location and development of rural residential and rural smallholdings.

The majority of the designations are over land currently identified in endorsed strategies or over land currently zoned or reserved for the intended land use.

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Major issues relevant to the draft LPS are as follows.

**Future Urban:** Part 2, S 6.4 of the draft LPS states that the Urban Residential and Special Residential designations will provide enough land to meet the housing needs of the Shire for the next 20 years (not counting the existing vacant land stock of 300 urban and 185 special residential lots).

Notwithstanding the above, the Future Urban designation, referred to as Townsite East, has been included to show future intent. The designation is approximately 220ha over land owned by the State and used by the Denmark Agricultural College. Part of the land is affected by the Denmark Airstrip Buffer (Attachment 4). A similar proposal was put to a local referendum approximately 10 years ago with the community against such a proposal.

The development of the land as urban is contiguous with the urban areas of the existing township. It is uncertain the extent to which the proposal has been discussed with the Education Department. The draft LPS contains a provision stating that rezoning of the land will not occur until 50% of the designated urban areas are developed. The proposal, although futuristic and unlikely to be required with the draft LPS planning timeframe, can be supported for the purposes of advertising only. (The timeframe requested by the Shire for processing of the draft LPS prevents conclusive dialogue with the Education Department prior to consideration by the WAPC.)

**Rural Residential (1- 4ha):** No assessment of the existing number of vacant rural residential lots has been provided in the draft LPS, similar to that which has been provided for urban residential. Additional land designated Rural Residential is located east of Denmark (Attachment 5). The draft LPS indicates potable water shall be via roof water catchment and storage which is consistent with the current SPP 2.5 and DC 3.4 where costs are prohibitive, but contrary to draft SPP 2.5 and DC 3.4 which in general require reticulated potable water to all new rural living proposals.

This land was previously shown as Rural Smallholdings in the 2003 draft LPS (Attachment 7) with the WAPC requiring it to be excluded from this designation and included in an agriculture designation.

The land includes some agricultural land of State and regional significance (Attachment 8), extends the rural living areas away from Denmark, does not support a compact settlement footprint, and is not supported.

**Rural Smallholdings (4- 40ha):** No assessment of the existing number of vacant rural smallholdings lots has been provided in the draft LPS, similar to that which has been provided for urban residential. Additional land designated Rural Smallholdings is located west of Cussons Road (Attachment 5). The draft LPS indicates potable water shall be via roof water catchment and storage which is consistent with the current SPP 2.5 and DC 3.4, but contrary to draft SPP 2.5 and DC 3.4 which in general require reticulated potable water to all new rural living proposals.

This land was previously shown as Rural Residential, Rural Smallholdings and Landscape Protection in the 2003 draft LPS (Attachment 7) with the WAPC requiring it to be excluded from these designations and included in an agriculture designation

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(Attachment 8). The land includes land to the east of Sunrise Road previously proposed to be rezoned via Amendment 99 to Rural Residential but refused consent to advertise by the Minister (Attachment 9).

The majority of the land is identified as agricultural land of State and regional significance (Attachment 8), extends the rural living areas away from Denmark, does not support a compact settlement footprint, and is not supported.

**Commercial, Mixed Use, and Inner Core:** Part 2, S 6.5.2 of the draft LPS indicates a need for approximately 3.6ha of commercial land in the next 20 years, and that the identified Commercial and Mixed Use areas will provide for approximately 4.3ha of land (Attachment 3).

The Commercial designation includes part of the previous hospital site which was rezoned from Public Use Reserve to Parks and Recreation as part of the amendment to establish the new hospital on the riverside parkland opposite (Attachment 10). The Commercial designation also includes the Fire and Emergency Service Authority (FESA) site and together total 2.66ha. The Inner Core covers part of the previous hospital site (approx 6000m<sup>2</sup>) as well as the existing reserve 257 for FESA's fire station (approx 5400m<sup>2</sup>).

Given that the previous hospital site was essentially a swap for parkland taken by the new hospital, inclusion of the majority of this land as Commercial cannot be supported. Discussions with Council indicate that Council wish to reuse the existing hospital buildings for community and minor commercial uses (art gallery and cafe, community centre with offices etc) in accordance with a proposed draft Adaptive Reuse plan for the site (Attachment 11). Use of the site for this purpose is supported for the purposes of advertising.

A reduced Inner Core designation over part of the old hospital land and FESA land south of the existing Millars Creek (approximately 3000m<sup>2</sup>) may be a suitable area for commercial expansion as it contiguous with the existing commercial area and, being either cleared or already built on, does not compromise existing environmental values of the old hospital site.

The Commercial designation is also proposed over part of an existing parks and recreation reserve (approx 2000m<sup>2</sup>) fronting South Coast Highway directly to the east of a 1ha site approved for a new shopping centre (Attachment 3).

Because the above two commercial designations, as amended, will promote a consolidated commercial area they can be supported for the purposes of advertising.

**Bulky Goods Site:** A Bulky Goods site has been designated approx 2.2 km to the east of the town centre (Attachment 4). The site is approx 6ha, owned by the Crown, vested with the local government for livestock sales and transport purposes, but leased for minor industrial uses (transport, storage). Existing surrounding land uses include Denmark Agricultural College buildings, cemetery, golf course, agricultural and rural land, and stage one of a Special Residential development. Development of the site is not linked to development of the adjacent Future Urban area, but is required by

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the draft LPS to provided services including reticulated sewer which is currently not generally available east of the Denmark River.

Bulky Goods is defined in the draft LPS as typical large format retailing. Discussions with Council representatives indicates that not all the uses in the definition are suited to the site, some better located within the town centre. Council representatives are agreeable to modifying the term "Bulky Goods" to " Service Park " so that uses best established in the town centre cannot be considered on this site. The suggested definition (and revised designation on the draft LPS map) is:

*"Service Park" – development form comprising service and rural related businesses (e.g. hardware stores, nurseries) that require large areas for the delivery, handling, display or storage of products.*

The designation of the site out of town as "Service Park" will not adversely affect uses established within the town centre and can be supported.

**Rural Nodal Settlements:** The settlements of Peaceful Bay, Nornalup and Bow Bridge are identified as nodal rural settlements which require the preparation of a Structure Plan endorsed by the Commission prior to development or subdivision (Attachment 5). The rural villages are to be developed in the above order, with Peaceful Bay identified for alternative infrastructure in Council's Peaceful Bay Pre-Feasibility Servicing Report.

The Department of Agriculture and Food's (DAFWA) analysis prepared for DoP indicates that all 3 settlements can provide potable water via roof water storage and collection taking into account climate change within reasonable parameters (275m<sup>2</sup> roof area/ 85Kl storage provides 98% reliability for domestic purposes).

The draft LPS provides for rural residential development outside endorsed Structure Plan areas for these villages. This cannot be supported as the extent of the settlement footprint including rural residential areas needs to be clearly defined and be a part of the Structure Plan approved by the Commission.

The draft LPS proposed a "Development Area" zone for rural villages. The Council could be requested to consider using a "Rural Village" zone as this zone has been approved in Albany City and proposed in Plantagenet Shire, and provides a regional approach to the development of rural villages.

**Subdivision of Rural Land:** Section 4.8 Clause 4 indicates that the draft LPS will not support subdivision of rural land unless in accordance with Commission's Policy DC 3.4, with the following exception: *unless it can be demonstrated that resultant lot size and characteristics are consistent with the locality.*

In the current WAPC policy DC 3.4 the subdivision of rural land via prevailing lot size applies only to broadacre farming areas. Clause 4.3 of draft DC 3.4 requires a minimum 100ha in broadacre farming areas, however enables the Commission to consider smaller lot sizes "where local conditions require" and is provided for in a WAPC endorsed local planning strategy.

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The proposed clause provides a vehicle for subdivision (i.e. via prevailing lot size) throughout the Shire where numerous lots of varying sizes currently exist. The avenue of providing for additional subdivision is contrary to the protection of agricultural land and is not supported.

The draft LPS also needs to make a clear statement that subdivision of rural land is in accordance with this strategy only, as this will clarify that the previous strategies are not relied on for rural land (whereas for urban residential land the previous strategies are relied on).

**Timing Schedule:** The draft LPS provides a broad timing framework for the development of particular components of the strategy. For residential and rural residential, rural smallholdings and industrial development it omits the need to have the required infrastructure in place at the rezoning stage, and this omission needs to be rectified via modification.

**Modifications:** The above modifications are reflected in the Schedule of Modifications, as well as minor textual modifications which provide the document with more clarity and consistency (Attachment 12). All modifications have informally been agreed to by Council representatives, except the removal of additional designated areas east and west of Denmark for rural residential and rural smallholdings respectively.

**CONCLUSION:**

The draft LPS is, subject to the attached schedule of modifications, consistent with *Regulation 12A (3) of the Town Planning Regulation (as amended)*. Consent to advertise can be granted by the WAPC. In granting consent to advertise the Commission advise the Shire that due to the condensed assessment time frame requested by the Council, the Commission has supported the draft LPS for the purposes of advertising, and will give further consideration to the draft LPS following consideration of submissions.

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ATTACHMENT 1

Our Ref: 801/5/7/12  
Your Ref: PLN46 V2 PD/CV  
Enquires: Stephen Petersen (9841 8122)

Chief Executive Officer  
Shire of Denmark  
PO Box 183  
DENMARK WA 6333

Dear Sir/Madam

**REQUEST TO ADVERTISE DRAFT LOCAL PLANNING STRATEGY: SHIRE OF DENMARK**

I refer to your correspondence dated 8 September 2003 regarding the above matter. In this regard, the Commission resolved to:

1. Certify the draft Denmark Local Planning Strategy as being consistent with Regulation 12A(3) of the Town Planning Amendment Regulations 1999 for the purposes of advertising the strategy for public comment subject to deletion of the potential dam sites from the strategy maps and where referred to in the text (S 4.4.2.12).
2. Advise the Shire of Denmark in the following terms:
  - (a) The Commission has resolved to certify the Draft Denmark Local Planning Strategy as being consistent with Regulation 12A(3) of the Town Planning Amendment Regulations 1999 for the purposes of advertising the strategy for public comment.
  - (b) The Commission in examining the strategy has identified several departures from state and regional policies and other matters requiring further consideration. The Commission has, accordingly, recommended several modifications to the strategy and other matters for the Council to consider which are set out in the accompanying "Advice to the Shire of Denmark on the Assessment of the Draft Local Planning Strategy" and accompanying Schedule 1. The Commission is agreeable to the strategy proceeding to advertisement for public comment subject to the attached advice to the Council and Schedule 1 being made available with the strategy for public comment. This will then enable public comment on the strategy proposals and modifications proposed by the Commission. The Commission has further recommended several more detailed modifications to provide greater clarity and assist understanding of the strategy. These are contained in Schedule 2. The modifications in Schedule 2 do not need to be advertised with the strategy but should be considered by the Council in preparing the final version of the strategy.
  - (c) The strategy should be advertised for a minimum 42 days and follow the procedures set out in Regulation 12B of the Town Planning Amendment Regulations 1999.



Albert Facey House, 469 Wellington Street (cnr Forrest Place), Perth, Western Australia 6000  
Tel: (08) 9264 7777; Fax: (08) 9264 7566; TTY: (08) 9264 7535; Infoline: 1800 626 477  
e-mail: corporate@wapc.wa.gov.au; web address: <http://www.wapc.wa.gov.au>  
ABN 35 482 341 493

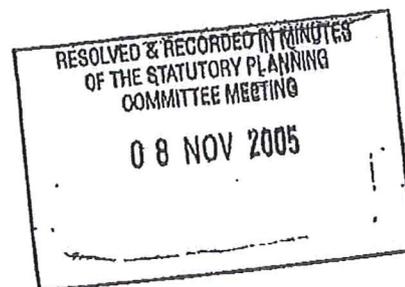
- (d) The strategy should be forwarded to the following agencies for consideration and comment during the advertising period: Department of Agriculture, Department of Environment, Department of Conservation and Land Management, Department of Industry and Resources, Department of Indigenous Affairs, Western Australian Tourism Commission, Main Roads WA, Water Corporation, Western Power, Department of Health and Heritage Council of WA, Department of Education, FESA, Department of Water and Department of Fisheries.
- (e) In forwarding the final version of the LPS to the Commission for its endorsement the Council is to advise how the modifications recommended by the Commission have been addressed.
- (f) The Commission has reserved its decision on the proposed new Industrial site at the intersection of Denmark-Mt Barker Road/Kernutts Road pending consideration of Amendment No. 71 to the Shire of Denmark Town Planning Scheme.
- (g) A recommendation on the consolidated town planning scheme will be made by the Commission to the Minister when the LPS is ready for final endorsement by the Commission and the Shire and Commission are satisfied that the consolidated scheme enables satisfactory implementation of the LPS.
3. Advise the Minister of the Commission's decision to certify advertising of the local planning strategy and the terms of the Commission's decision.

Yours faithfully



for Ray Stokes  
Acting Secretary  
Western Australian Planning Commission

9 November 2005



**ADVICE TO THE SHIRE OF DENMARK ON THE ASSESSMENT OF THE LOCAL PLANNING STRATEGY AND CERTIFICATIONS BY THE WA PLANNING COMMISSION ON ADVERTISING FOR PUBLIC COMMENT.**

1. Under the Town Planning Regulations local governments are required to prepare a local planning strategy (LPS) with new town planning schemes to set out the local government's general aims and intentions for future long term growth and change of the municipality. The Regulations also allow for a LPS to be prepared and adopted independently of a scheme. This applies in the case of the Shire of Denmark where the local government is consolidating an existing scheme rather than preparing a new scheme.
2. Under Regulation 12A(3), the LPS is required to set out the long term planning directions for the Shire; apply state and regional policies; and provide the rationale for the zones and other provisions of the scheme. The Commission is required to certify that the LPS is consistent with Regulation 12A(3) prior to the LPS being advertised for public comment.
3. The Commission has examined the Shire of Denmark LPS and has identified certain departures from adopted state and regional policies and other matters requiring further consideration. The Commission has accordingly recommended several modifications to the LPS to address matters of consistency with state and regional policy which are listed in the attached Schedule 1.
4. The Commission acknowledges that the Shire has invested considerable resources in the preparation of the LPS and is keen to progress quickly to advertising, consideration of comments from the community, and finalisation of the LPS. The Commission further acknowledges that the Council considers that there are special circumstances in the Shire which justify certain departures from Commission policies. The Commission, accordingly, is prepared to certify the LPS as being consistent with Regulation 12A(3) subject to the Council advertising this advice and the attached schedules of proposed modifications to the scheme with the LPS for public comment. This will then enable relevant state government agencies, stakeholder groups, ratepayers and other interested parties to comment on both the LPS and the Commission's recommended modifications to the LPS.
5. In forwarding the final version of the LPS to the Commission for its endorsement, the Council is to advise how the modifications recommended by the Commission have been addressed.
6. The Commission has not yet considered Amendment 71 for the proposed new industrial area on the corner of Denmark-Mt Barker Road/Kernutts Road and associated buffer. The provisions of the LPS with regard to this industrial area may require modification when a decision on the amendment has been made by the Minister.

7. The Commission will make a recommendation to the Minister on approval to the consolidated town planning scheme when the LPS has been finalised. This will enable the Council and Commission to be satisfied that the consolidated scheme will be able to implement the LPS effectively.

(ca)

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**Schedule 1: Modifications proposed by the WA Planning Commission to the Shire of Denmark Local Planning Strategy**

1. The Council should consider designating the cleared farmland north of Planning Units A and B on Plan 3 for future fully serviced residential development.

**Reason:**

The Commission's policy is that new residential areas should be serviced by reticulated sewerage except in special circumstances such as small infill subdivisions in existing unsewered areas, large lot subdivisions where there is no likely detriment to the environment or opportunity for further subdivision without sewerage, and remote and isolated subdivisions where sewerage services are unavailable and impractical within the foreseeable future. The draft LPS includes provision for numerous unsewered special residential lots in Planning Units A -K. The Commission notes that the preferred emphasis in Planning Units B, C and G is now on achieving fully serviced urban residential lots. Also, the provision of infill sewerage to established residential areas will be important in containing urban sprawl although the timing at this stage is uncertain. The Commission, therefore, recommends that consideration be given to including the cleared farmland north of Planning Units A and B for future residential development. It is understood that this area can be provided with reticulated water and sewerage and, if required, can assist in accommodating future population growth on fully serviced residential lots.

2. The Urban Settlement Plan (Plan 3) should be modified or supplemented by a plan which distinguishes between the different types of residential development (urban residential, special residential and rural residential) as well as other existing and preferred land uses (e.g. commercial, industrial etc) and identifies the future intentions regarding those areas shown blank.

**Reason:**

The modification is proposed in order to ensure the strategic planning framework for the Denmark townsite is complete and more readily understandable by the public.

3. The Council review the proposed staged subdivision process for the creation of the new rural settlement at Bow Bridge.

**Reason:**

The Commission supports the principle of establishing new rural settlements in order to provide alternative lifestyle options, manage the growth of the Denmark townsite and provide services and facilities to the more outlying parts of the Shire. The proposed staged subdivision of Bow Bridge, however, is not consistent with Statement of Planning Policy No. 2.5: Agricultural and Rural Land Use Planning Policy which only allows subdivisions down to a

minimum 4 ha without reticulated water. Also, fragmentation of the land into 6000m<sup>2</sup> – 3ha lots would make further subdivision and provision of services more difficult. The Council is, accordingly, requested to review the process for achieving development of this settlement to its full potential.

4. The LPS should be accompanied by the plan from the Lower Great Southern Regional Strategy showing agricultural land of state and regional significance. There should be a presumption against further subdivision of this land consistent with Statement of Planning Policy No. 2.5: Agricultural and Rural Land Use Planning. The rural smallholding areas 1,2,3,4,5,9,10,11,12 and 13 should be identified for long term agriculture with a presumption against further subdivision unless it can be justified that subdivision will not pre-empt the long term use of the land for agriculture. The specific comments of the Department of Agriculture should be sought in this regard. The rural smallholding areas 14, 15, 16 and 17 around Bow Bridge and Peaceful Bay should be reconsidered given the long timeframes before these settlements are fully developed. The Council should also reconsider the proposed designation of the additional areas for rural residential/landscape protection east of Sunrise Road and south of Mt Shadforth Road which is also agricultural land of state and regional significance. Council should also give consideration to deleting the proposal that Landscape Protection zones may be considered outside the designated areas where they are in close proximity to a nodal rural settlement or the Denmark township.

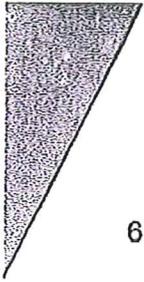
Reason:

Statement of Planning Policy No.2.5 requires local planning strategies to identify and protect agricultural land of state and regional significance as well as areas of local agricultural significance by appropriate zonings and avoid zoning such areas for rural residential or rural small holdings.

5. The LPS should be modified to increase the size of the proposed conservation lots.

Reason:

The draft LPS proposes that lots having a minimum 75% coverage of vegetation of high conservation and aesthetic value (based on the Denmark Greening Plan) may be subdivided once, into two conservation lots ranging in area down to a minimum 4.5 ha. The Commission's policy DC 3.4 Subdivision of Rural Land provides for the creation of conservation lots in the Wheatbelt down to a minimum area of 40 hectares. This is to ensure retention of adequate vegetation with catchment and land management benefits. The conservation lots proposed in the LPS would be inadequate as the bushfire hazard reduction measures in Commission policy DC 3.7: Fire Planning for Bushfire Protection would require 3 hectares of parkland clearing around a dwelling which on a 4.5 ha lot would remove the conservation value of the lots.

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6. The LPS provisions whereby rural residential or landscape protection lots are not required to be connected to a potable reticulated water scheme should be removed for lots of less than 4 hectares unless it can be demonstrated that a variation from current state policy is justified.

Reason:

Statement of Planning Policy No.2.5 Agricultural and Rural Land Use Planning requires mandatory connection to potable reticulated water for rural residential lots up to 4 hectares in area. This is to ensure provision of services consistent with normal residential housing and promotes a more compact settlement form. Whilst the draft LPS suggests that the high rainfall in the Shire provides adequate potable water by way of roof collection into water tanks, the Water Corporation has advised that there are no impediments to providing reticulated water in Denmark and reticulated water is a guaranteed supply which is consistent with current expectations of residential property owners. Statement of Planning Policy No. 2.5 was gazetted on 12 March 2002. The Commission would be prepared to consider concessions for commitments made by way of scheme zonings or the current local rural strategy prior to this date. Otherwise further justifications should be provided to vary from the policy including community comment.

7. The LPS should be modified to reflect Statement of Planning Policy No.2.6: State Coastal Planning Policy and particularly to promote tourist developments on the coast in the identified nodes and avoid coastal strip development.

Reason:

For consistency with SPP 2.6: State Coastal Policy.

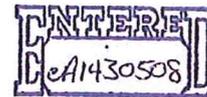




ATTACHMENT 2

953 South Coast Highway, Denmark Western Australia 6333

Tel (08) 9848 0300 Fax (08) 9848 1985



**Our Ref:** File PLN.46  
**Enquiries:** Annette Harbron

DEPARTMENT OF PLANNING ALBANY OFFICE
31 MAR 2011
FILE: DP1/09/01134

31 March 2011

Western Australian Planning Commission  
PO Box 1108  
ALBANY WA 6330

Attn: Steve Petersen

Dear Mr Petersen

**Re: Shire of Denmark Draft Local Planning Strategy (March 2011) – Referral to Western Australian Planning Commission for Certification Purposes**

At the Ordinary Meeting of Council on 22 March 2011, Council considered the draft Local Planning Strategy and resolved as follows:

“That Council with respect to the draft Local Planning Strategy (March 2011) as amended as at the 22 March 2011:

1. Approve it for consent to advertise, subject to the following modification – that number 6 page 13 reads as follows “Council use local provenance or native vegetation species in the revegetation of road reserves and waterway foreshore reserves where practical and where biodiversity values are being promoted”.
2. Subject to part 1, refer it to the Western Australian Planning Commission for certification as being consistent with regulation 12A(3) of the Town Planning Regulations 1967 in order to facilitate commencement of public advertising;
3. Upon certification being received from the Western Australian Planning Commission, it be advertised for a minimum period of 60 days; and
4. The document is to remain ‘Confidential’ until such time as the public advertising period commences.

CARRIED 10/0  
RES: 310311”

*In line with Council's resolution and regulation 12A(1)(b) of the Town Planning Regulations 1967, please find attached three (3) copies of the Shire of Denmark's Draft Local Planning Strategy (March 2011) for the Western Australian Planning Commission's certification.*

*As you are aware the Council has expended a considerable amount of time and resources in progressing the draft Local Planning Strategy to this point, and with local government elections occurring in October 2011 the Shire is keen to receive the Western Australian Planning Commission's certification to the draft Local Planning Strategy as soon as possible in order to achieve Council's ideal aim of considering endorsement of the final Local Planning Strategy in August 2011 – refer attached timeframes document. Council's timeframes associated with the Local Planning Strategy are to be the subject of a meeting with Mr Eric Lumsden, Director General of the Department of Planning scheduled for today, where the Shire will be seeking a commitment to timely consideration by the Western Australian Planning Commission.*

*Should you require any further information or clarification to progress consideration of the document accordingly, please do not hesitate to contact the undersigned on telephone (08) 9848 0300 or email [planner1@denmark.wa.gov.au](mailto:planner1@denmark.wa.gov.au).*

*Yours faithfully*



*Annette Harbron*  
**Director of Planning and Sustainability**

Enc. 3 x bound copies of Draft Local Planning Strategy (March 2011)  
LPS Critical Timeframes

## LPS Critical Timeframes

### ➤ Worst Case Scenario Timeframe

27 September 2011

- Council Meeting Where LPS To Be Considered for Endorsement
- Required to be considered at this Meeting given Local Government elections are being held in October 2011

8 September 2011

- Agenda Cut-off for September Council Meeting
- All submissions to have been analysed; likely that Councillor Briefing Sessions will be needed to be conducted prior to agenda cut-off and during the lead up to Council's formal consideration of LPS

8 August 2011

- 60 day advertising period closes

Week of 1 June 2011

- Commence advertising, noting ad will only appear in Denmark Bulletin on 9 June 2011 (cut-off is 3 June for paper)
- 3 public workshops scheduled to occur during advertising period (NB: School hols from 8/7-25/7)

By 31 May 2011

- WAPC certification received to enable advertising to commence (provides for 60 day turn-around timeframe)

By 1 April 2011

- Final Draft LPS Document to be referred to WAPC for certification to advertise purposes

➤ Ideal Scenario Timeframe

23 August 2011

- Council Meeting Where LPS To Be Considered for Endorsement
- Provides ability for document to be endorsed by Council prior to Local Government elections which are being held in October 2011 – in event there are delays is the opportunity for consideration at September Council meeting

4 August 2011

- Agenda Cut-off for August Council Meeting
- All submissions to have been analysed; likely that Councillor Briefing Sessions will be needed to be conducted prior to agenda cut-off and during the lead up to Council's formal consideration of LPS

11 July 2011

- 60 day advertising period closes

Week of 3 May 2011

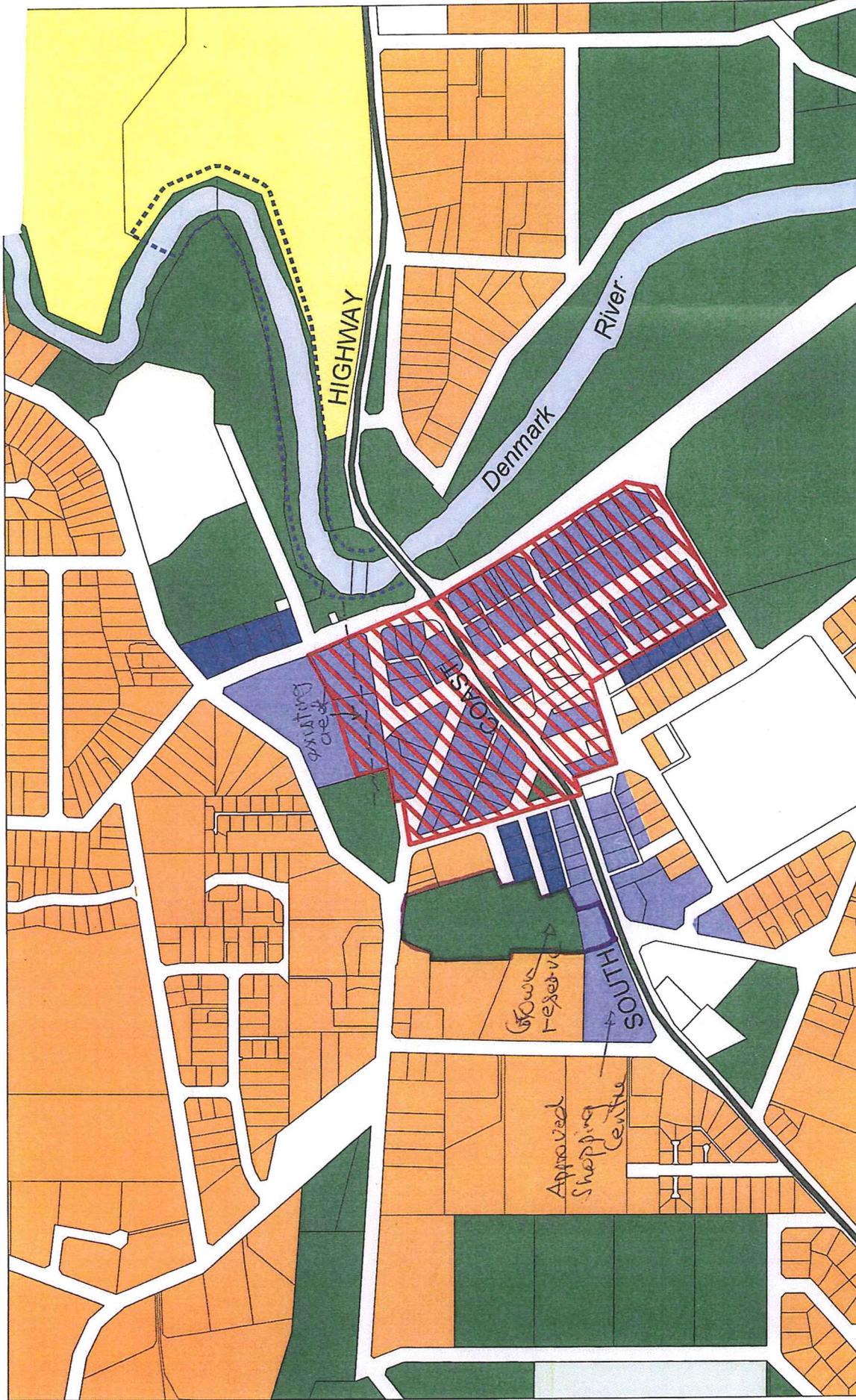
- Commence advertising, noting ad will only appear in Denmark Bulletin on 12 May 2011 (cut-off is 6 June for paper)
- 3 public workshops scheduled to occur during advertising period

By 29 April 2011

- WAPC certification received to enable advertising to commence (provides for 30 day turn-around timeframe)

By 1 April 2011

- Final Draft LPS Document to be referred to WAPC for certification to advertise purposes



**SHIRE OF DENMARK  
LOCAL PLANNING STRATEGY  
TOWN CENTRE - PLAN 1**

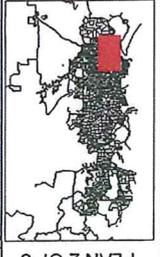
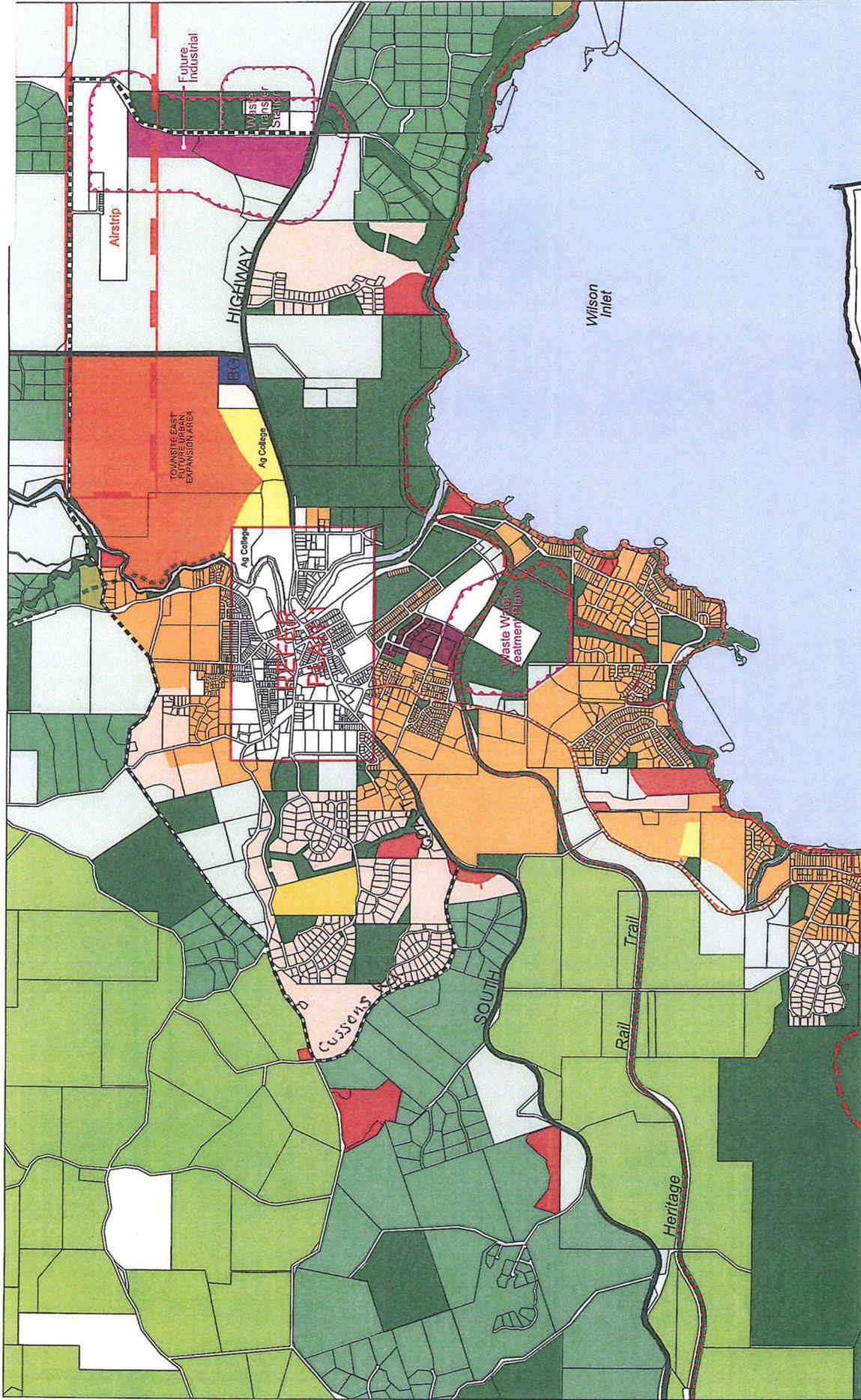
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**LEGEND**

	TOWN CENTRE - INNER CORE		PARKS AND RECREATION
	MIXED USE		PUBLIC USE
	COMMERCIAL		REGIONAL ROAD
	URBAN RESIDENTIAL		SHARED PATHWAY
	SPECIAL RESIDENTIAL		NIKKARE WALK TRAIL
	EDUCATION PRECINCT		PROPOSED SHARED PATH
	WATERWAYS		

Referenced by the Shire of Denmark Council for the Meeting of Council held on \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_  
Shire President  
Civ. Executive Officer  
Endorsed by the Water Management Planning Commission on \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_

**PLAN 1 OF 3**



PLAN 2 OF 3

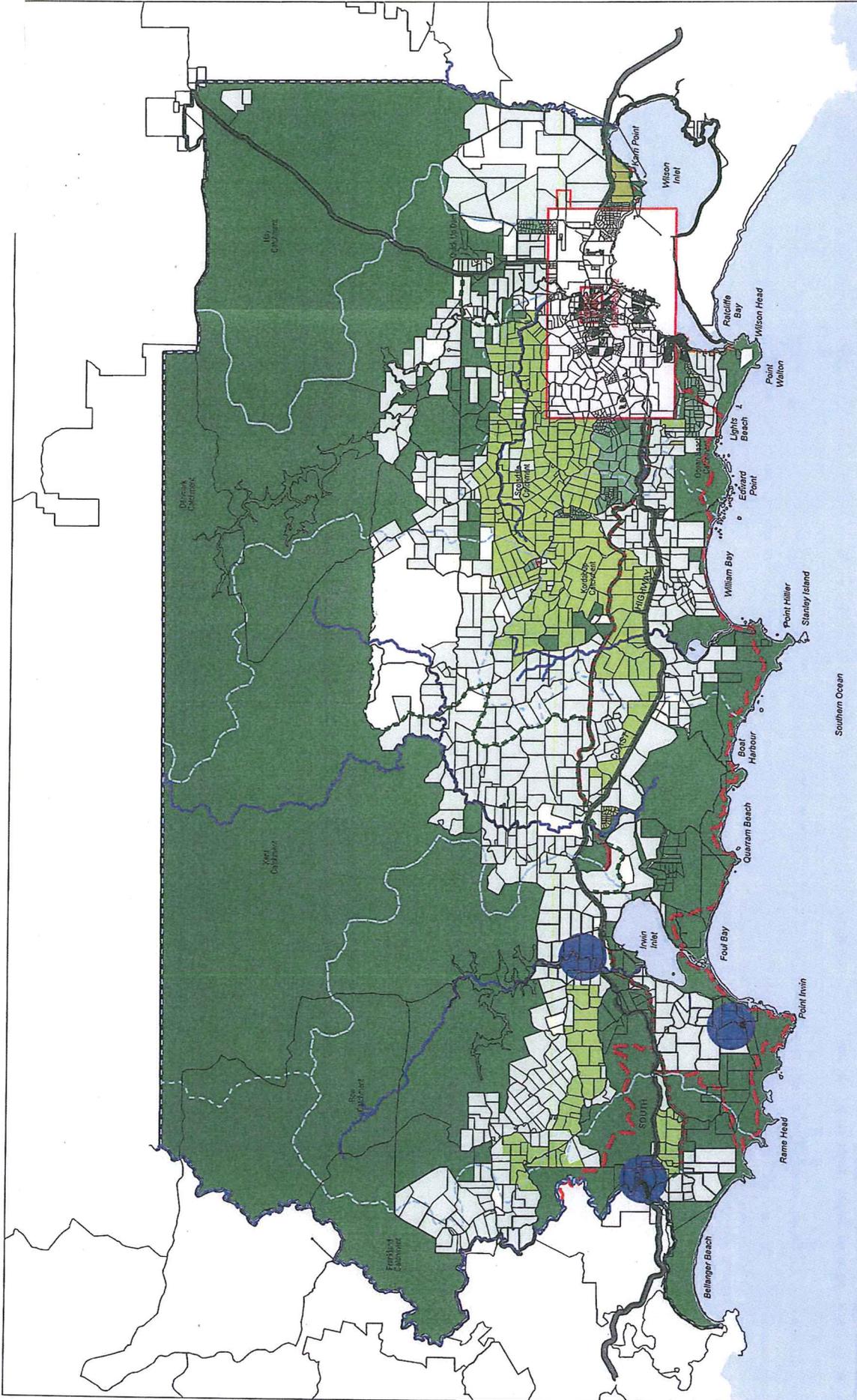
Entered by Resolution of the Council at the Meeting of Council held on \_\_\_\_\_ of \_\_\_\_\_ 20\_\_\_\_  
 Shire President:  
 Chief Executive Officer:  
 Entered by the Western Australian Planning Commission on \_\_\_\_\_ of \_\_\_\_\_ 20\_\_\_\_

**LEGEND**

LAND USE DESIGNATIONS	
[Orange]	COMMERCIAL
[Light Green]	URBAN RESIDENTIAL
[Light Blue]	SPECIAL RESIDENTIAL
[Light Yellow]	RURAL RESIDENTIAL
[Light Purple]	RURAL SMALL HOLDINGS
[Light Green]	HIGH QUALITY AGRICULTURE
[Light Green]	GENERAL AGRICULTURE
[Light Green]	BUSINESS PARKS
[Light Blue]	EDUCATION PRECINCT
[Light Blue]	FUTURE URBAN
[Light Blue]	WATERWAYS
[Light Blue]	INDUSTRIAL
[Light Blue]	BULKY GOODS
[Light Blue]	NORTHERN LINK ROAD
[Light Blue]	REGIONAL ROAD
[Light Green]	SHARED PATH
[Light Green]	HERITAGE RAIL TRAIL
[Light Green]	BIBULALUN TRACK
[Light Green]	PROPOSED NAUDA BIDDI TRAIL
[Light Green]	AIRPORT BUFFER
[Light Green]	MTS BUFFER AREA
[Light Green]	WWTP BUFFER AREA
[Light Green]	PARKS AND RECREATION
[Light Green]	PUBLIC USE
[Light Green]	TOURIST
[Light Green]	LANDSCAPE PROTECTION RURAL LIVING

**SHIRE OF DENMARK  
 LOCAL PLANNING STRATEGY  
 URBAN AREA - PLAN 2**

0km 500m 1000m  
 1:30 000 @ A3



### SHIRE OF DENMARK LOCAL PLANNING STRATEGY DENMARK SHIRE - PLAN 3

1:200 000 @ A3

### LEGEND

<p><b>LAND USE DESIGNATIONS</b></p> <ul style="list-style-type: none"> <li><span style="display: inline-block; width: 15px; height: 10px; background-color: #006400; border: 1px solid black; margin-right: 5px;"></span> RURAL RESIDENTIAL</li> <li><span style="display: inline-block; width: 15px; height: 10px; background-color: #90EE90; border: 1px solid black; margin-right: 5px;"></span> RURAL SMALL HOLDINGS</li> <li><span style="display: inline-block; width: 15px; height: 10px; background-color: #9ACD32; border: 1px solid black; margin-right: 5px;"></span> HIGH QUALITY AGRICULTURE</li> <li><span style="display: inline-block; width: 15px; height: 10px; background-color: #FFFFFF; border: 1px solid black; margin-right: 5px;"></span> GENERAL AGRICULTURE</li> </ul>	<p><b>WATERWAYS</b></p> <ul style="list-style-type: none"> <li><span style="display: inline-block; width: 15px; height: 10px; background-color: #ADD8E6; border: 1px solid black; margin-right: 5px;"></span> INDICATIVE RURAL</li> <li><span style="display: inline-block; width: 15px; height: 10px; background-color: #4169E1; border: 1px solid black; margin-right: 5px;"></span> NODAL SETTLEMENT</li> </ul>	<p><b>REGIONAL ROAD</b></p> <ul style="list-style-type: none"> <li><span style="display: inline-block; width: 15px; height: 10px; background-color: #808080; border: 1px solid black; margin-right: 5px;"></span> HERITAGE RAIL TRAIL</li> <li><span style="display: inline-block; width: 15px; height: 10px; border-bottom: 1px solid red; margin-right: 5px;"></span> PROPOSED BIBULMUN TRACK</li> <li><span style="display: inline-block; width: 15px; height: 10px; border-bottom: 1px dashed red; margin-right: 5px;"></span> MUNDA BIDDI TRAIL</li> <li><span style="display: inline-block; width: 15px; height: 10px; border-bottom: 1px dotted red; margin-right: 5px;"></span> CATCHMENT BOUNDARY</li> <li><span style="display: inline-block; width: 15px; height: 10px; border-bottom: 1px dashed black; margin-right: 5px;"></span> AIRPORT BUFFER</li> </ul>
<p><b>PARKS AND RECREATION</b></p> <ul style="list-style-type: none"> <li><span style="display: inline-block; width: 15px; height: 10px; background-color: #008000; border: 1px solid black; margin-right: 5px;"></span> PUBLIC USE</li> <li><span style="display: inline-block; width: 15px; height: 10px; background-color: #FF0000; border: 1px solid black; margin-right: 5px;"></span> TOURIST</li> </ul>		

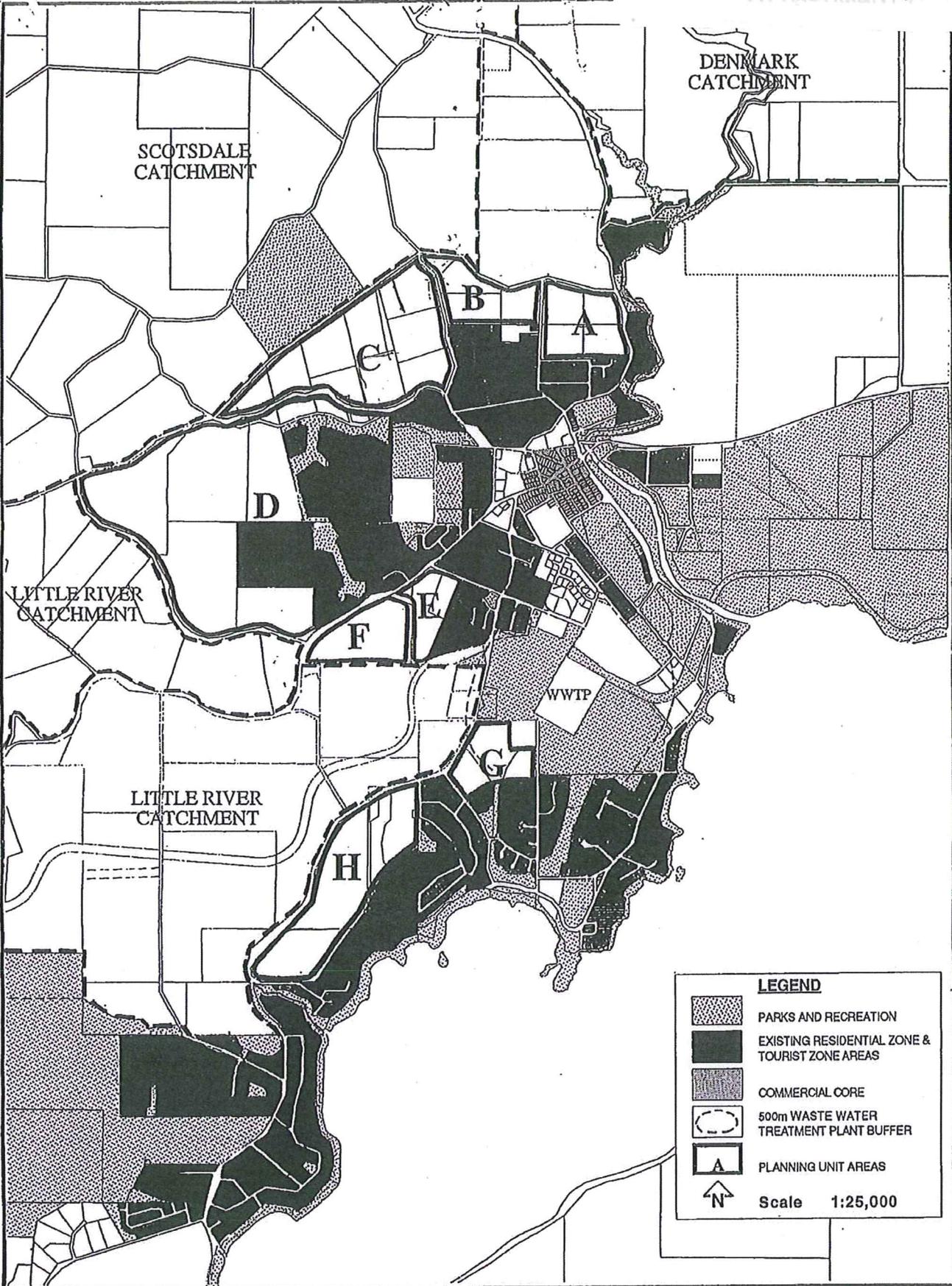
Referenced to the Council of the Shire of Denmark at its Meeting of Council held on \_\_\_\_\_ of \_\_\_\_\_ 20\_\_\_\_

Shire President \_\_\_\_\_

CME Executive Officer \_\_\_\_\_

Endorsed by the Watercare Agencies Planning Committee on \_\_\_\_\_ of \_\_\_\_\_ 20\_\_\_\_

**PLAN 3 OF 3**



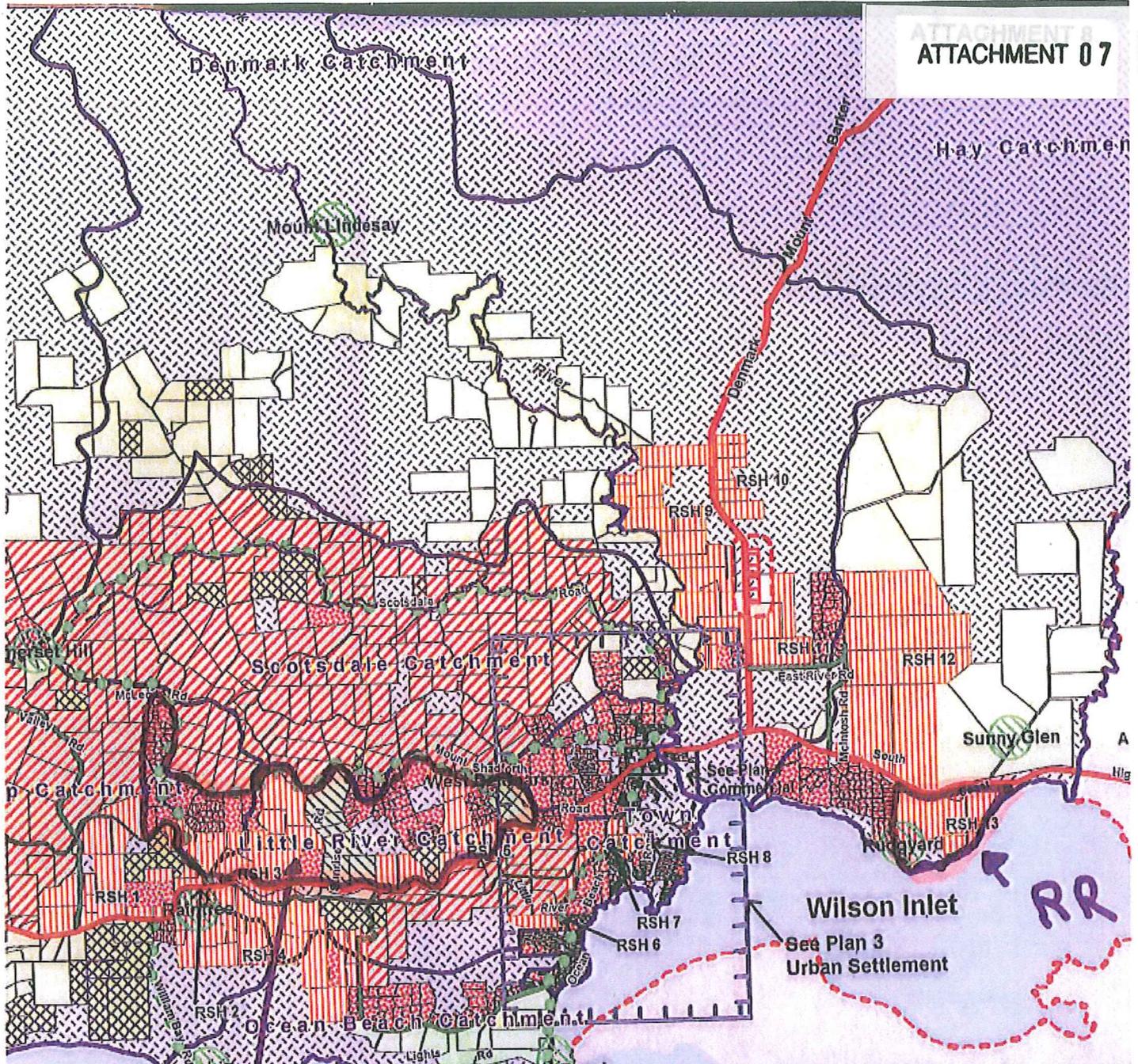
**LEGEND**

- PARKS AND RECREATION
- EXISTING RESIDENTIAL ZONE & TOURIST ZONE AREAS
- COMMERCIAL CORE
- 500m WASTE WATER TREATMENT PLANT BUFFER
- PLANNING UNIT AREAS
- Scale 1:25,000

**SHIRE OF DENMARK SETTLEMENT STRATEGY**

June 1998

Figure 3



**Legend**

	Priority Agricultural Land		Tourist Node
	Urban/Non Rural/Rural Residential		Crown Land Buffer 300 m
	Nodal Rural Settlements		River Catchment Boundaries
	Future Rural Residential/Landscape Protection		Major Highway
	General Agriculture		Tourist Route
	Conservation Lots		Important District Boundary
	Rural Small Holdings		Rivers
	Industry		Denmark-N Rail Trail

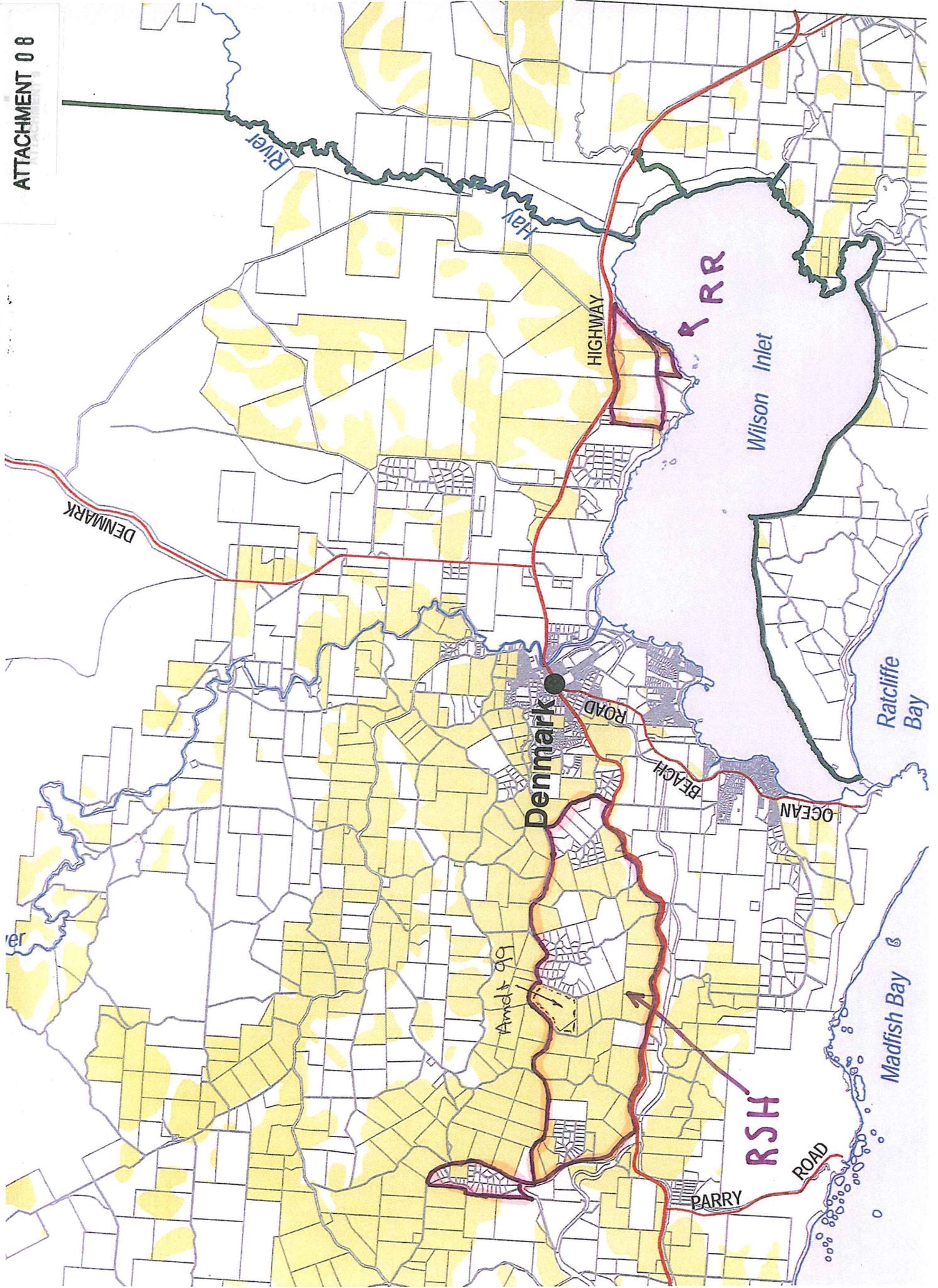
Scale: 0 1 2 Kilometres

William Bay **RSH**

SOUTHERN OCEAN

**STRATEGIC PLAN 2 RURAL DISTRICTS**

*Strategic Plan: Rural Districts  
DLPS - 2003*



Our Ref: 853/5/7/3 Pt 99  
Your Ref: TPS3/A99 PS/rm  
Enquiries: Stephen Petersen (9892 7300)

14 May 2008

Chief Executive Officer  
Shire of Denmark  
PO Box 183  
DENMARK WA 6333

Dear Sir

**TOWN PLANNING SCHEME No 3  
AMENDMENT No 99**

I refer to your letter of 19 October 2007 relating to the above amendment.

It is advised that the Minister for Planning and Infrastructure has withheld consent for the amendment to be advertised for public inspection for the following reasons:

1. The proposal is contrary to the endorsed policy positions of the Commission (Lower Great Southern Strategy, Denmark Rural Settlement Strategy) which do not support the development of the land for rural residential purposes.
2. The proposal will facilitate the further westward expansion of rural residential development away from the service centre of Denmark which is not provided for in the current Commission endorsed Rural Settlement Strategy.
3. The site is assessed by the Department of Agriculture and Food (AGWA) under State Planning Policy (SPP) 2.5 as Agricultural Land of State and Regional Significance and the development as proposed would be contrary to that SPP.

Council is further advised that the Western Australian Planning Commission noted that Council is reviewing the rural components of its draft Local Planning Strategy.

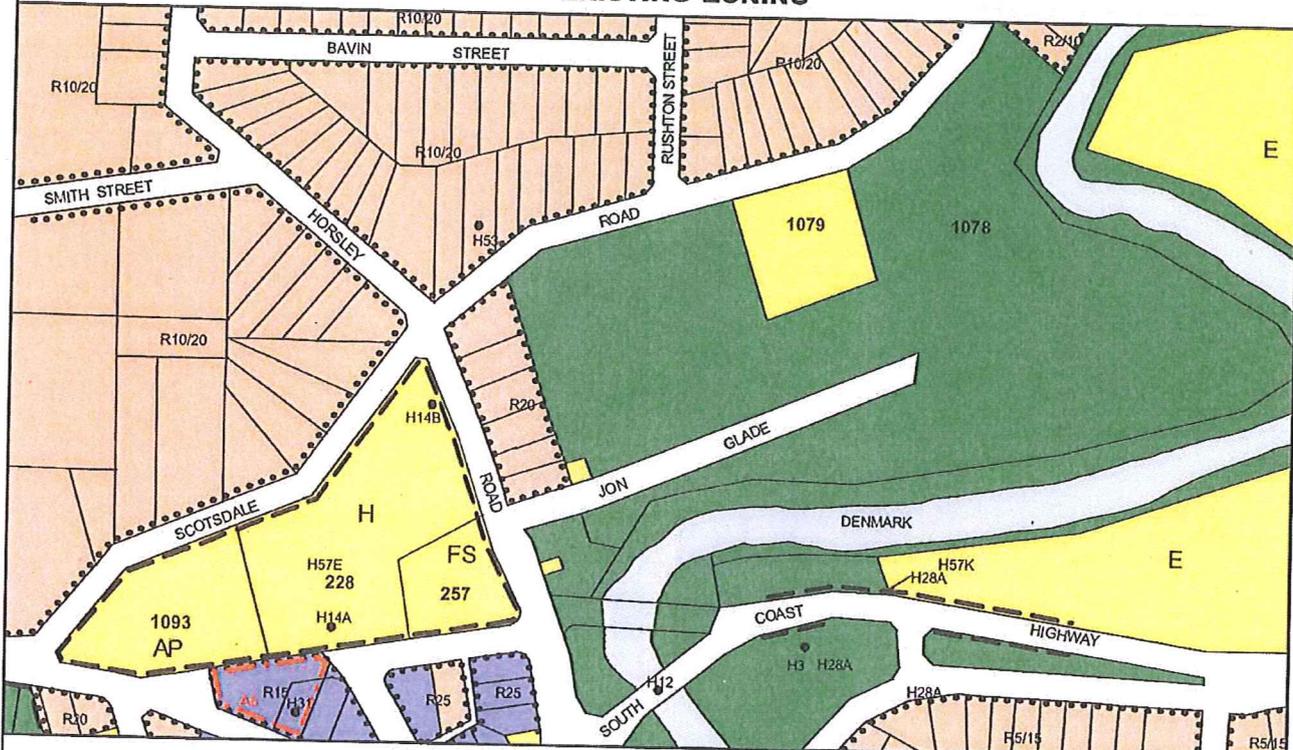
Yours faithfully



FOR MOSHE GILOVITZ  
SECRETARY  
WESTERN AUSTRALIAN PLANNING COMMISSION

Copy to: Taylor Burrell Barnett ✓

SHIRE OF DENMARK  
TOWN PLANNING SCHEME No. 3  
AMENDMENT No. 93  
EXISTING ZONING



PROPOSED ZONING

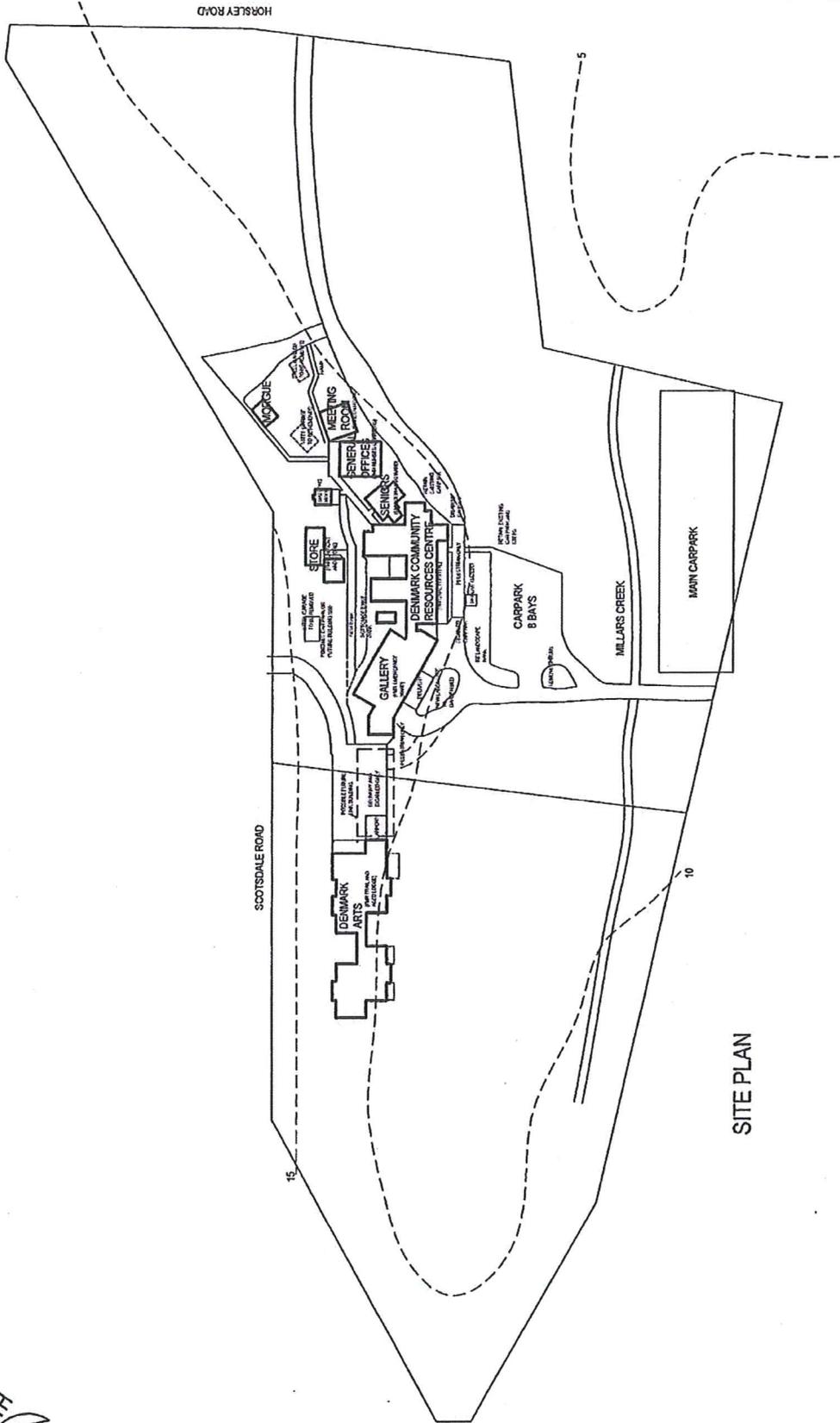


KEY

Public Use	Parks and Recreation	R Code
Hospital Site	Commercial	District Heritage Boundary
Fire Station	Residential	Additional Uses
Aged Persons Home	Drainage and Waterbodies	Parks and Recreation

SCALE  
1:5000  
C93A4  
05/05/01/14

# ATTACHMENT 1 1

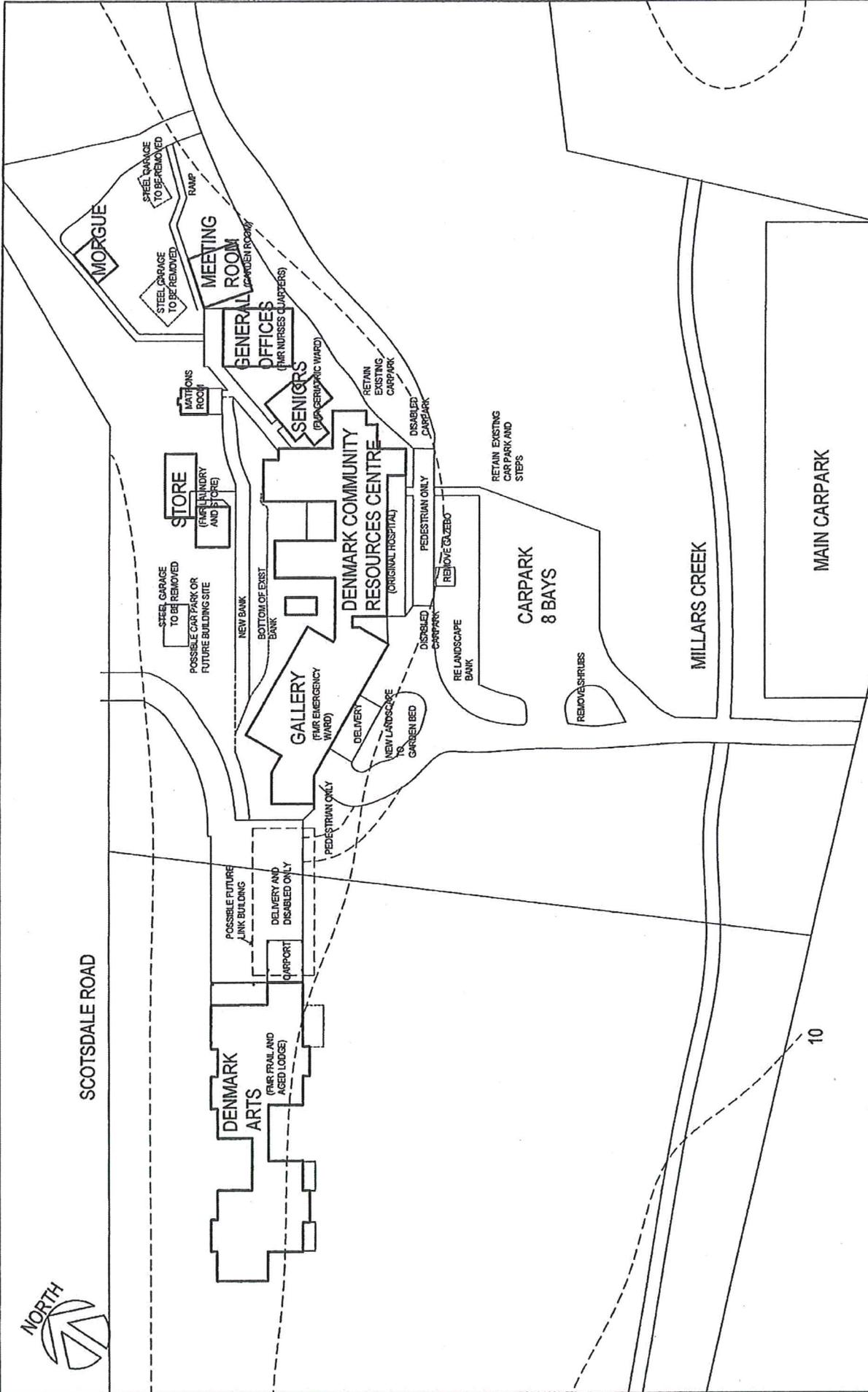


SITE PLAN

	drawing	SITE PLAN	
	drawn	LF	project num
<p>project</p> <p><b>DENMARK HOSPITAL FMR ADAPTIVE RE USE STUDY</b></p>		<p>client</p> <p><b>LYNNE FARROW Architect</b> 19 WYLLIE CRESCENT ALBANY WA 6330 T (08) 9841 7024</p>	



SCOTSDALE ROAD



project <b>LYNNE FARROW Architect</b> 19 WYLLIE CRESCENT ALEXANDRIA WA 6000 T: (08) 9641 7004	drawing <b>PART SITE PLAN</b>	scale 1:500
		date DEC 2010
drawing <b>DENMARK HOSPITAL FMR ADAPTIVE RE USE STUDY</b>		sheet no. A2
drawing LF		rev.

10

**DRAFT DENMARK LOCAL PLANNING STRATEGY (MARCH 2011)**  
**SCHEDULE OF MODIFICATIONS**

<b>NO.</b>	<b>MODIFICATION</b>	<b>REASON</b>
1	S 4.1 Objective, after "special residential" add "future urban" and delete "and rural residential".	Section deals with urban residential issues and rural residential is covered in S 4.9.
2	S 4.1, a: after "townsite east", add " future urban".	Makes reference to designations on LPS Plan 2.
3	S 4.1, b: delete "townsite east", add "the townsite east future urban area"	As per 2 above.
4	S 4.1, c: delete, and delete terms "rural residential and rural smallholdings" from S 4.1 1.	Rural residential and rural smallholdings dealt with in S 4.9.
5	S 4.1, d: add a copy of Planning Unit areas (Figure 3) from 1998 strategy into document.	Assistance to readers.
6	S 4.1, 2: delete "residential expansion", add " undeveloped urban residential".	Clarity.
7	S 4.2: second Objective, delete "Bulky Goods" and replace with "Service Park" or similar term.	The establishment of a Bulky Goods site on the edge of town will undermine the compactness of the town centre. However the site is suitable for large uses such as hardware, nursery, etc that are not suited to the centre of town and would not normally be known as bulky goods.
8	S 4.2, h: modify term "Bulky Goods".	As per 7 above.
9	S 4.2, 3: first sentence a) after "rezoning" delete "all or", and b) add at the end of the sentence a statement indicating reuse of the existing hospital site and buildings.	For the purposes of advertising, use of part of the reserve may be considered for reuse of the hospital site for community and similar purposes.
10	S 4.2, 7, 8, 9, and 10: modify term "Bulky Goods".	As per 7 above.
11	S 4.6, e: delete.	The structure plan for each rural village will determine the extent of the village inclusive of any rural residential areas. Development outside these areas will not be supported.

12	S 4.6, 2 and 3: consider use of Rural Village zone in lieu of "Development Area zone."	The Commission has supported the use of Rural Village zones in adjacent local government schemes and this will create consistency throughout the region.
13	S 4.8, 4: after "Policy 4.3" delete following text being "unless it can be demonstrated that resultant lot size and characteristics are consistent with the locality".	The Commission does not support further subdivision of rural land via prevailing lot sizes outside broadacre farming areas where sufficient variety of lot sizes already exist.
14	S 4.8, Implementation: Include a clear statement that subdivision of rural land is to be in accordance with this strategy only.	Clarifying that the previous strategies are not relied on for rural land.
15	S 4.9 Objective: delete "rural living lifestyle" and replace with "rural residential and rural small holdings".	Clarity.
16	S 4.9 b: delete "expansion".	Clarity.
17	S 4.9 c: after "rural residential" add "rural small holdings".	Clarity.
18	S 5.0 Future Urban Rezoning Timing: delete "expansion" and replace with "undeveloped urban residential".	Clarity.
19	S 5.0 in Rezoning Timing for Future Urban, Rural Residential, Rural Smallholdings and Industrial Park add "and infrastructure is available".	Relevant infrastructure is required to be demonstrated at the time of rezoning land.
20	S 5.0 modify term "Bulky Goods" in the table.	As per 7 above.
21	S 7.2 modify name of maps to "Local Planning Strategy Modifications" or similar. Amend maps to be consistent with above modifications.	To distinguish between these maps which contain the modifications, and the LPS maps.
22	Part 2, S 6.5.4 modify term "Bulky Goods" heading, text and definition to delete those uses that should be established in the town centre. Modify S 8.0 definition also.	As per 7 above.
23	Part 2, S 6.5.6 dot point 3 modify term "Bulky Goods".	As per 7 above.
24	Part 2, S 6.12.1 delete 3rd para commencing "The main rural residential etc".	The expansion of rural residential areas is not supported.
25	Part 2, S 6.12.2 delete 4th para commencing " In Denmark there are etc".	The expansion of rural smallholding areas is not supported.
26	Part 2, S 6.12.2 in para 6 commencing "It is acknowledged.." include statement that lots shall	Clarity.

	be a min of 4 ha.	
27	Part 2, S 8.2 delete heading 8.2 Land Use Definitions and combine with terms in 8.1 and reorder alphabetically.	Some terms used in 8.2 are not land use definitions.
28	LPS Plan 1: a) restrict the Town Centre- Inner Core to south of existing Millars creek; b) delete the old hospital reserve not included in the modified Town Centre Inner Core from the Commercial designation and include in community designation or similar.	For the purposes of advertising, a) provides for expansion of commercial area, and b) reuse of existing hospital buildings largely consistent with Amendment 93.
29	LPS Plan 2: a) delete Bulky Goods site and show as "Service Park" or similar; b) delete Rural Smallholdings west of Cussons Road and show as rural; c) in legend change Business Park to "Mixed Business"; d) delete land shown as Landscape Protection Rural Living and show as Special Residential, and in legend delete Landscape Protection Rural Living.	a) As per 7 above; b) the expansion of rural smallholding areas is not supported; c) terminology is compatible with that used in text; d) text does not support Landscape Protection.
30	LPS Plan 3: a) delete Rural Smallholdings west of Cussons Road and b) delete Rural Residential adjacent to Wilson Inlet, and show as rural.	a) As per b) above b) the expansion of rural residential areas is not supported.



## ITEM NO: 9.2

### SUBDIVISION TO CREATE TWO LOTS FOR RESIDENTIAL PURPOSE - 23 MAIDA VALE, KALAMUNDA SHIRE

**WAPC OR COMMITTEE:** Statutory Planning Committee

REPORTING AGENCY: Department of Planning  
REPORTING OFFICER: A/Planning Manager  
AUTHORISING OFFICER: Planning Director  
AGENDA PART: H  
FILE NO: 143157  
DATE: 19th April 2011  
ATTACHMENT(S): Attachment 1: Subdivision Plan  
Attachment 2: Zoning Map/Location Plan  
Attachment 3: Battleaxe Calculator  
Attachment 4: Subject Street Block  
REGION SCHEME ZONING: MRS: Urban, Abuts Parks & Recreation,  
Bush Forever Site Abuts\_316  
LOCAL GOVERNMENT: Shire of Kalamunda  
LOCAL SCHEME ZONING: Residential  
LGA RECOMMENDATION: Refusal  
REGION DESCRIPTOR: Perth Metro North East  
RECEIPT DATE: 8th November 2010  
PROCESS DAYS: 162  
APPLICATION TYPE: Subdivision  
DESCRIPTION OF PROPOSAL: Subdivision To Create Two Lots For Residential Purpose.  
CADASTRAL REFERENCE: Lot 23 Acacia Road, Maida Vale

#### RECOMMENDATION:

***That the Western Australian Planning Commission resolves to approve subdivision application 143157 for Lot 23 Acacia Road, Maida Vale into two lots for residential purposes subject to the following conditions and advice notes:***

#### CONDITIONS

- 1. All buildings and effluent disposal systems having the necessary clearance from the new boundaries as required under the relevant legislation. (Local Government)***
-

2. ***The land being filled and/or drained at the subdivider's cost to the satisfaction of the Shire of Kalamunda. (Local Government)***
3. ***Stormwater being contained on-site, or connected to the local drainage system, after passing through an appropriate water quality improvement treatment device. (Local Government)***
4. ***Redundant crossovers no longer required to be removed and the verge reinstated with grass or landscaping to the specifications of the local government. (Local Government)***
5. ***Suitable arrangements being made with the local government for the provision of vehicular crossover(s) to service the lot(s) shown on the approved plan of subdivision. (Local Government)***
6. ***All buildings, outbuildings and/or structures being demolished and materials removed from proposed Lot 2. (Local Government)***
7. ***The subdivision, including construction, access, drainage and ongoing maintenance, shall not result in the clearing and/or disturbance of existing vegetation within Bush Forever Area 316. (Western Australian Planning Commission)***
8. ***No development, including fill, construction materials, rubbish or any other deleterious matter shall be deposited in Bush Forever Area 316. (Western Australian Planning Commission)***
9. ***If not already in place, uniform fencing that is compatible with the natural environment, is to be provided along the western boundary of proposed Lot 2 and Bush Forever Area 316. (Western Australian Planning Commission)***
10. ***Suitable arrangements being made with the Water Corporation so that provision of a suitable water supply service will be available to lots shown on the approved plan of subdivision. (Water Corporation)***
11. ***Arrangements being made to the satisfaction of the Western Australian Planning Commission and to the specification of Western Power for the provision of an underground electricity supply service to the lots shown on the approved plan of subdivision. (Western Power)***

#### **ADVICE**

1. ***The approval to subdivide issued by the WAPC should not be construed as an approval to commence development on any of the lots proposed. Approval to Commence Development may be required to be issued by the local government.***
  2. ***With regard to Condition 1, the applicant is advised it will be necessary to expose the effluent disposal system prior to contacting the Shire's Health Service to confirm its location. Should the system not have the necessary***
-

*clearances to the proposed boundaries a new effluent disposal system may need to be approved and installed to meet this condition.*

3. *With regard to Condition 6, all material known or suspected to contain asbestos is to be removed and disposed of in accordance with the Environmental Protection (Controlled Waste) Regulations 2004 and the Health (Asbestos) Regulations 1993.*
4. *The applicant is advised that the Department of Environment has prepared dust control guidelines for development sites, which inter alia, outline the procedures for the preparation of Dust Management Plans for development sites. Further information on the guidelines can be obtained from the Department of Environment.*
5. *With regard to Condition 10, Water Corporation policy and practice for the locality may involve the provision of land (for plant and works), easements and/or the payment of financial contributions towards infrastructure. The applicant is advised to contact the Water Corporation.*
6. *Upon the receipt of a request from the subdivider, a Land Development Agreement under section 67 of the Water Agencies (Powers) Act 1984, will be prepared by the Water Corporation which will document the specific requirements for the proposed subdivision.*
7. *With regard to Condition 11, Western Power provides only one point of electricity supply per freehold (green title) lot and requires that any existing overhead consumer service is required to be converted to underground.*
8. *If an existing electricity cable servicing the land the subject of this approval crosses over a proposed lot boundary as denoted on the approved plan of subdivision satisfactory arrangements will need to be made for the removal and location of that cable.*

## **INTRODUCTION**

The application proposes to subdivide a 2028m<sup>2</sup> lot to create two residential lots with areas of 970m<sup>2</sup> and 1058m<sup>2</sup> in a battleaxe configuration. An existing dwelling is to be retained within proposed Lot 1 and all outbuildings are proposed to be demolished from proposed Lot 2. The subject site achieves access via Acacia Road, a dedicated and constructed road. (**Attachment 1**).

The subject land is zoned 'Urban' under the Metropolitan Region Scheme (MRS) and 'Residential' with a density code of R10 under the Shire of Kalamunda Local Planning Scheme No. 3 (LPS 3) (**Attachment 2**).

## **CONSULTATION**

The Shire of Kalamunda has recommended refusal as the application does not comply with the small infill criteria of the Government Sewerage Policy *Perth Metropolitan*

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*Region (GSP)* as there is the potential for more than four additional lots to be created in the immediate vicinity (subject street block). The Shire has provided conditions of approval should the WAPC be of a mind to support the proposal, and has confirmed that on-site effluent disposal can be achieved.

Western Power and the Water Corporation have raised no objections to the proposal, subject to servicing conditions.

The WAPC's State Strategic Policy (Bush Forever) team raised no objection to the proposal, subject to conditions.

The Department of Health (DOH) do not support the proposal, advising that the subject site is in a street block which has the potential for the creation of more than four lots and as such, does not comply with the small infill criteria of the GSP.

## **COMMENTS**

### Residential Design Codes 2010 (R-Codes)

The proposal is consistent with the minimum (925m<sup>2</sup> required, 970m<sup>2</sup> proposed) and average (1000m<sup>2</sup> required, 1017m<sup>2</sup> proposed) lot size requirements for battleaxe subdivision under the R10 coding of the R-Codes.

The plan complies with the battleaxe requirements, in accordance with Table 1 of the R-Codes, for single dwellings in a Residential R10 coding. The battleaxe lot also satisfies Element 6.1.2 of the Acceptable Development provisions of the R-Codes, which states that in the case of a rear battleaxe site, the access leg should contribute no more than 20% of the minimum lot area required. The proposal is consistent with this requirement (refer to battleaxe calculation - **Attachment 3**).

### Government Sewerage Policy Perth Metropolitan Region (GSP)

The GSP, adopted by the WAPC in March 1982 and revised in October 1995, applies throughout the Perth Metropolitan Region and with the exception of stated exemption, requires the provision of reticulated sewerage to all subdivision or density development. The key objective of the GSP, as applicable to the current proposal, is as follows:

*"To provide flexibility in the control of subdivision or density development for which reticulated sewerage is unlikely to be available for some time."*

The subject site is located within the Outer Metropolitan Area, as defined within the GSP. Within the Outer Metropolitan Area, the GSP provides for subdivision without reticulated sewerage, subject to specified circumstances. In this instance, clause 5.2.1 'Small Infill' is applicable, which states that subdivision is supported where:

- *Proposals for small infill subdivision or development do not have potential for the creation of more than four additional lots, dwellings or single residential equivalents respectively, in the immediate vicinity (generally interpreted as*
-

*within the street block), so that the proposal completes rather than extends an existing pattern of subdivision or development; and*

- *Lot sizes and land use shall be consistent with the existing pattern of subdivision or development.*

In regard to clause 5.2.1, the GSP does not clearly identify whether the four additional lots are inclusive of the additional lot proposed by the current subdivision application. However, in a recent State Administrative Tribunal (SAT) decision (WASAT 187, 2007) it was determined that the 'subdivision/development potential' be calculated without the number of lots being created by the subject application being included. The application has therefore been assessed in accordance with the direction provided by the SAT.

The street block that encompasses the subject site comprises a total of 26 lots (**Attachment 4**). Of the 26 lots, three lots (Lots 20, 21 and 22) are compliant with the recommended minimum (875m<sup>2</sup>) and average (1000m<sup>2</sup>) lot sizes and battleaxe requirements stipulated by the R-Codes for an R10 lot.

A further two lots (Lots 42 and 43) do not meet the recommended average lot size referred to above (1000m<sup>2</sup> required, 977.5m<sup>2</sup> provided). However, clause 6.1.3 of the R-Codes enables the WAPC to exercise discretion where the recommended average lot size requirement is not met, subject to any shortfall being no more than 5% of the required lot area and subject to certain criteria as follows:

- *Be no more than five per cent less in area than that specified in Table 1; and*
- *Facilitate the protection of an environmental or heritage feature; or*
- *Facilitate the retention of a significant element that contributes toward an existing streetscape worthy of retention; or*
- *Facilitate the development of lots with separate and sufficient frontage to more than one public street; or*
- *Overcome a special or unusual limitation on the development of the land imposed by its size, shape or other feature; or*
- *Allow land to be developed with housing of the same type and form as land in the vicinity and which would not otherwise be able to be developed; or*
- *Achieve specific objectives of the local government's scheme and, where applicable, the local planning strategy.*

In this instance, the variation equates to a shortfall of 0.25% and could be considered to meet the above criteria by enabling land to be developed with housing of the same type and form as land in the vicinity (Lots 20-23), and which would not otherwise be able to be developed. Accordingly, subject to the exercise of discretion by the WAPC, potential exists for the creation of five additional lots within the street block, being one more lot than permitted by the GSP.

Notwithstanding the above, it is noted that any planning policy is a guide to a planning decision, and does not fetter the WAPC's determination of a subdivision application. In this instance, refusal of the application would set a precedent that prevents any proposed future subdivision of the five aforementioned lots, i.e. the policy is not written to enable approval of the first four subdivision applications received within the street block.

---

The application, while not meeting the small infill criteria of the GSP, is consistent with the objectives of the GSP by providing flexibility for further subdivision, where reticulated sewerage is not available for some time. Significantly, if the application were to be refused, it would encumber all potential future subdivision within the street block.

It is further noted that four of the lots with subdivision potential are located side by side (Lots 20-23), and opposite a previously approved battleaxe subdivision. The proposal therefore achieves an appropriate, consolidated pattern of subdivision.

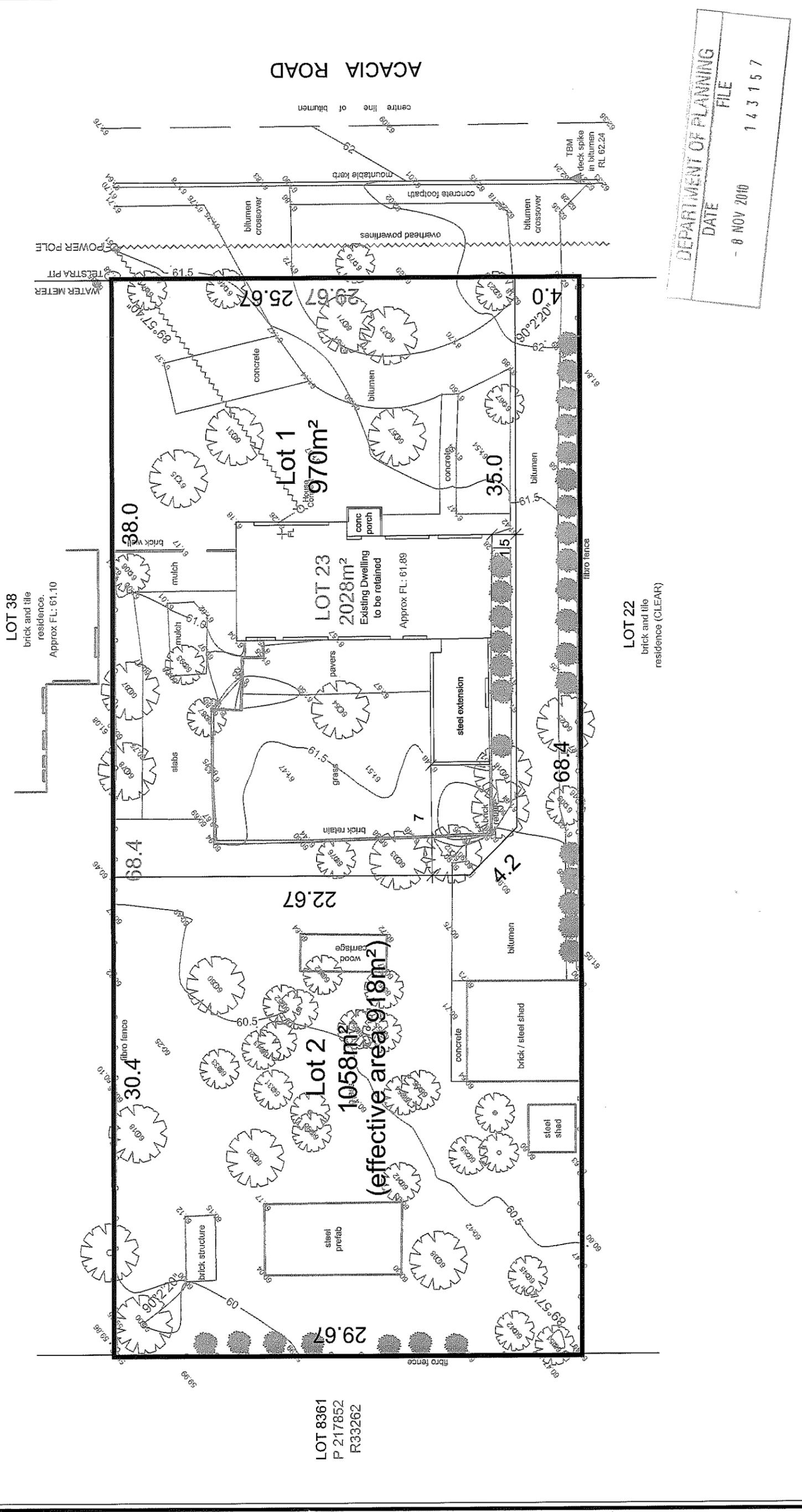
## **CONCLUSION**

The application is referred to the Statutory Planning Committee given that the proposal does not meet the small infill criteria of the Government Sewerage Policy as there is the potential to create more than four additional lots within the subject street block.

Approval of the subdivision is an efficient use of the land, that is consistent with the R-Codes and key WAPC strategic planning documents such as Directions 2031 and is appropriate given that on-site effluent disposal can be achieved.

Conditional approval is recommended.

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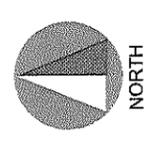


**PROPOSED SUBDIVISION**

LOT 23 (No. 29) ACACIA ROAD  
MAIDA VALE  
Shire of Kalamunda

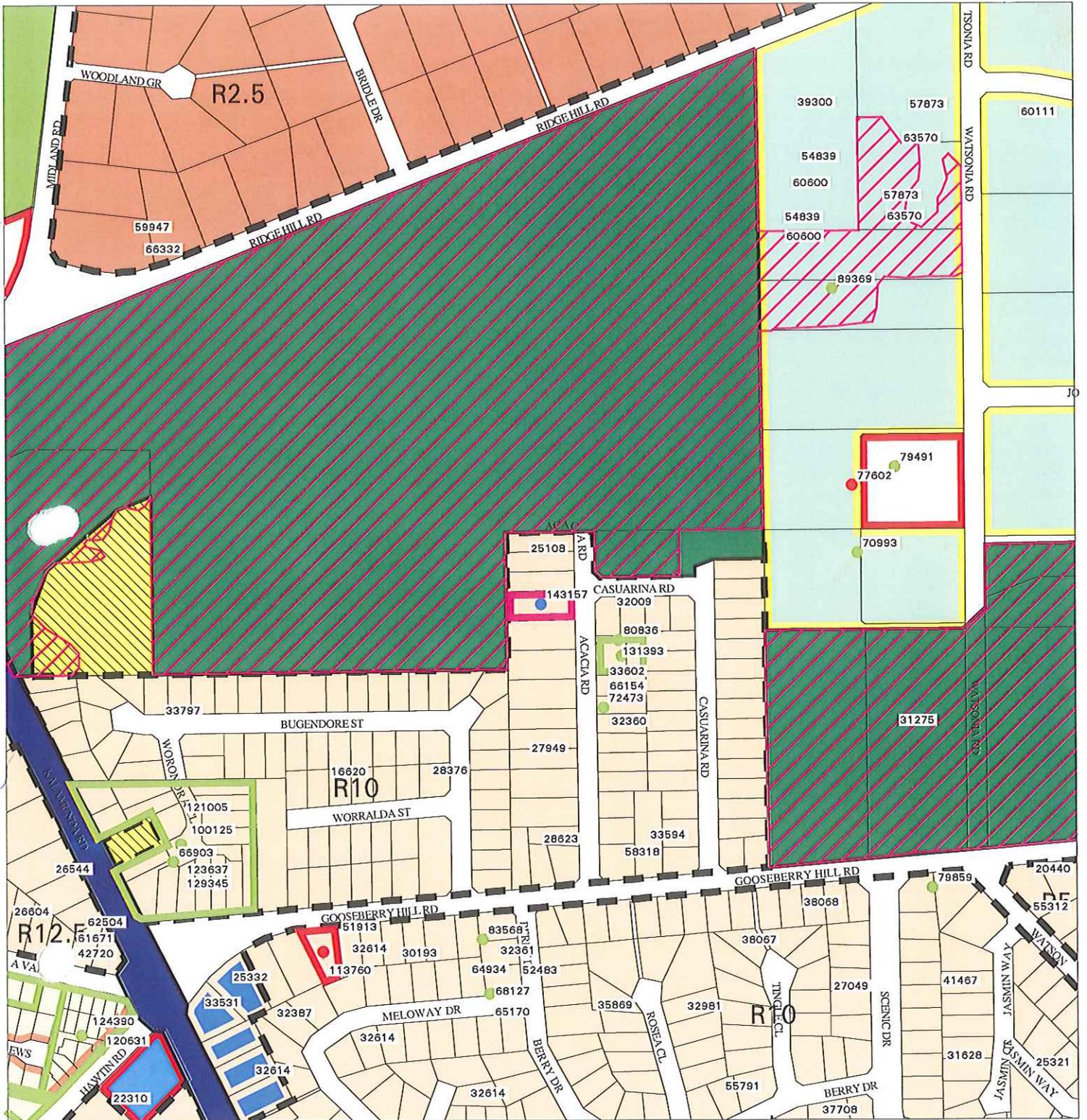
**LEGEND:**  
Subject Land.....

**NOTE:**  
1. Areas and dimensions are subject to survey.  
2. All structures on proposed rear lot are to be demolished.



Base Mapping Prepared By The Land Division  
DATE: 26.10.2010

**THE LAND DIVISION**  
PLANNING & SURVEYING DIVISION  
PO Box 614, Welshpool WA 6986  
T: 9353 6554 | F: 9353 6640 | M: 0417 917 262



**Subdivision Application 143157 (MGA ref 408139mE 6464771mN Zone 50)**

**This data is to be used for the processing of subdivision applications only.**

- |                         |                                    |                                |
|-------------------------|------------------------------------|--------------------------------|
| OTHER REGIONAL ROADS    | OUTSTANDING                        | RESIDENTIAL                    |
| PARKS & RECREATION      | APPROVED                           | URBAN DEVELOPMENT              |
| CADASTRAL BOUNDARY      | CANCELLED                          | MIXED USE                      |
| BUSH FOREVER 2000 SITES | REFUSED                            | SERVICE STATION                |
| OUTSTANDING             | R CODE BOUNDARY                    | LOCAL OPEN SPACE               |
| APPROVED                | SPECIAL RURAL                      | RESIDENTIAL BUSHLAND           |
| CANCELLED               | SPECIAL USE                        | PUBLIC PURPOSES PRIMARY SCHOOL |
| REFUSED                 | PUBLIC PURPOSES TELEPHONE EXCHANGE | PRIVATE CLUBS & INSTITUTIONS   |

## BATTLEAXE LOT AREA CALCULATIONS - UPDATED NOVEMBER 2010

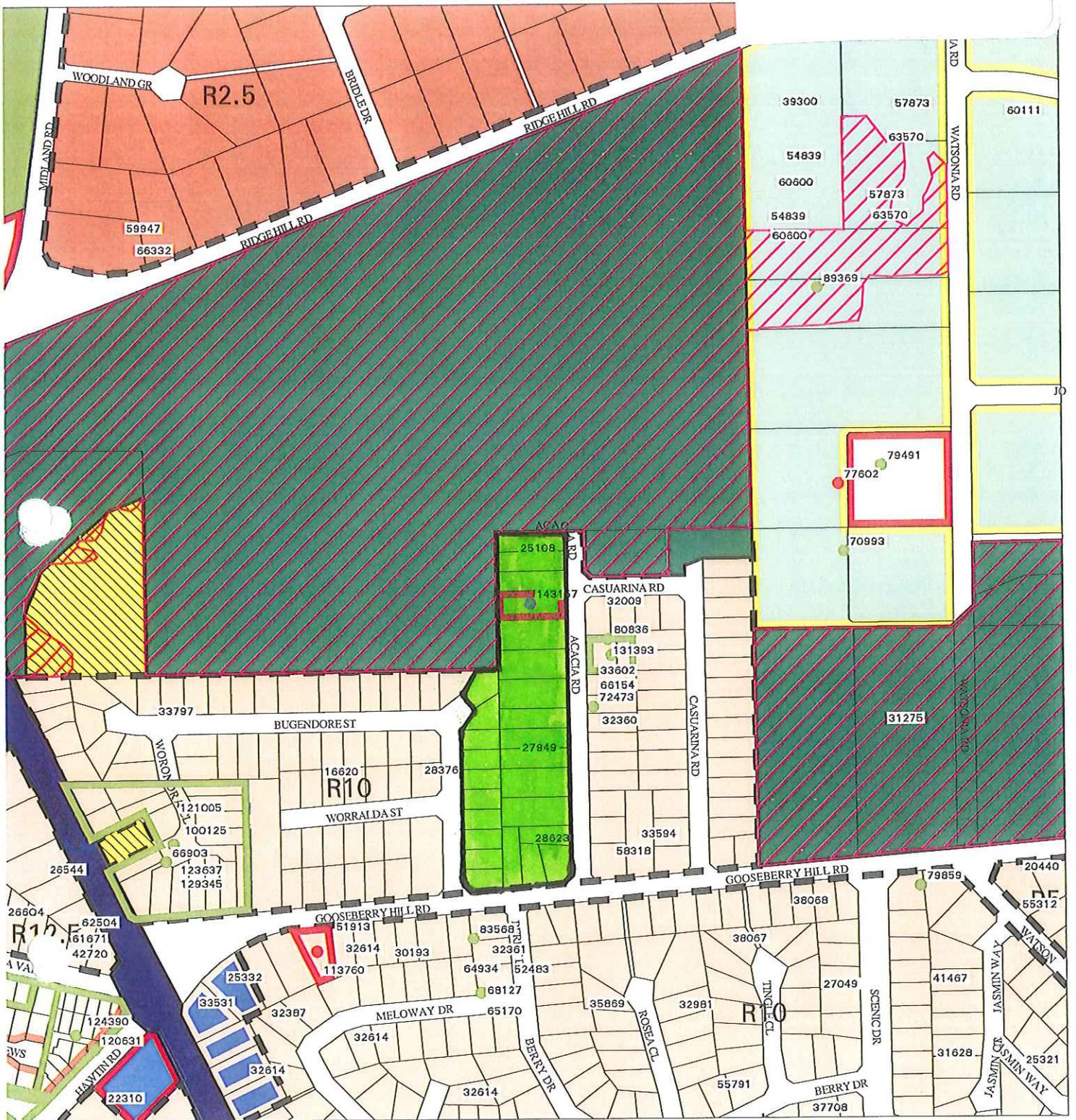
## Clause 6.1.2 of the Residential Design Codes (2010)

143157

## INSERT R CODE, PROPOSED LOT AREA AND ACCESS LEG/ TRUNCATION DETAILS

R Coding	R 10	Proposed Lot Area	1058 m <sup>2</sup>
Road Reserve Truncation	0 m side - ie	0.00 m long	
Rear Lot Truncation	3 m side - ie	4.24 m long	
Access Leg Width	4 m	Access Leg Length	38 m

1. Proposed Lot Area = 1058 m<sup>2</sup> (a)
2. Minimum Area Rear Battleaxe = 925 m<sup>2</sup> (b)
3. Maximum Access Leg Credit = (20% of (b)) = 20% of 925 m<sup>2</sup> (b)  
= 185 m<sup>2</sup> (c)
4. Actual Access Leg Area = 156.5 m<sup>2</sup> (d)
5. Dead Area of Access Leg = (d) - (c)  
= No Dead / m<sup>2</sup> (e)
6. Area to be credited under the current application = (a) - (e)\*  
\* if (e) is more than 0 otherwise (a)  
= 1058 m<sup>2</sup> (f)
7. Minimum Lot Area for rear battleaxe lot coded R 10 is 925 m<sup>2</sup>
8. Effective Area = (a) - (d)  
= 901.5 m<sup>2</sup>
9. Effective Lot Area requirement = 740 m<sup>2</sup>
10. Does the rear lot area comply?
11. Does the Effective Lot Area comply?
- 12 Application Complies if calculation at 6 exceeds minimum battleaxe lot size requirement in Table 1 of 2010 Residential Design Codes.



Subdivision Application 143157 (MGA ref 408139mE 6464771mN Zone 50)

This data is to be used for the processing of subdivision applications only.

- |                         |                                    |                                |
|-------------------------|------------------------------------|--------------------------------|
| OTHER REGIONAL ROADS    | OUTSTANDING                        | RESIDENTIAL                    |
| PARKS & RECREATION      | APPROVED                           | URBAN DEVELOPMENT              |
| CADASTRAL BOUNDARY      | CANCELLED                          | MIXED USE                      |
| BUSH FOREVER 2000 SITES | REFUSED                            | SERVICE STATION                |
| OUTSTANDING             | R CODE BOUNDARY                    | LOCAL OPEN SPACE               |
| APPROVED                | SPECIAL RURAL                      | RESIDENTIAL BUSHLAND           |
| CANCELLED               | SPECIAL USE                        | PUBLIC PURPOSES PRIMARY SCHOOL |
| REFUSED                 | PUBLIC PURPOSES TELEPHONE EXCHANGE | PRIVATE CLUBS & INSTITUTIONS   |

SUBJECT STREET BLOCK