


Council Forum

Notes

4 December 2018

Unconfirmed Notes

These notes were approved for distribution on 6 December 2018.



Stan Scott
CHIEF EXECUTIVE OFFICER

When the Chief Executive Officer approves these Notes for distribution they are in essence "informal notes."

At the next Ordinary Meeting of Council the Notes will be received, subject to any amendments made by the Council.

The "Received" Notes are then signed off by the Presiding Person.

Attachments that formed part of the Program, in addition to those tabled at the Council Forum are put together as attachments to these Notes with the exception of Confidential Items.

Confidential Items or attachments that are confidential are compiled as a separate Confidential Noted Program Item.

Received Notes

These notes were received at an Ordinary Meeting of Council held on 18 December 2018.

Signed: 

Note: The Presiding Member at the meeting at which the notes were received is the person who signs above.

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Shire of Toodyay

COUNCIL FORUM – 4 DECEMBER 2018

NOTES

1. DECLARATION OF OPENING

Cr Rayner, Shire President, declared the meeting open at 4.05pm.

The Shire President advised those present that all mobile phones and recording devices be switched off and advised that the recording of any part of the meeting was not allowed.

The Shire President advised those present the location of the exit doors in case of an emergency.

2. RECORDS OF ATTENDANCE/APOLOGIES

Cr B Rayner	Shire President
Cr T Chitty	Deputy Shire President
Cr J Dow	
Cr P Greenway	
Cr B Manning	
Cr E Twine	
Cr R Welburn	

Staff

Mr S Scott	Chief Executive Officer
Ms A Bell	Manager Community Development
Mr G Bissett	Manager Planning & Development
Mr S Patterson	Manager Works and Services
Mrs M Rebane	Executive Assistant

Visitors

Nil

2.1 APOLOGIES

Nil

2.2 LEAVE OF ABSENCE

Cr C Brook

3. DECLARATIONS OF INTERESTS

The Chairperson advised that no disclosures of interest in the form of a written notice had been received prior to the commencement of the meeting.

4. PRESENTATIONS

4.1 Proposed Rural Pursuit (Micro Herb Farm)

Presenter: A Christofides

A visual presentation was shown (refer to the attachments to these notes).

5. PUBLIC QUESTIONS (relating to the contents of the program)

5.1 RESPONSES TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE

At the Council Forum held on 13 November 2018 there were no questions taken on notice.

5.2 PUBLIC QUESTION TIME

Nil

6. PUBLIC SUBMISSIONS (relating to the contents of the program)

Nil

7. AGENDA FORUM MATTERS

7.1 Staff Policy Update

OFFICER'S RECOMMENDATION

That Council:

1. Approve the rescinding of 2010 policies A3 Sexual Harassment Policy & A9 Equal Employment Opportunity Policy; and
2. Approve the adoption of HR 3 as the replacing policy date effective being OCM meeting date it is approved.

The CEO provided an overview of the policies included in the program for the Council Forum.

Points raised as follows:

- Statement of main changes be included when transitioning from a previous policy to a new policy;
- Behaviour that constitutes bullying extremely broad;
- Incorporation of old information into a new policy format; and
- Results of information briefings/workshops to be encapsulated in a paragraph within the Officer Report when bringing the matter back to Council for a decision.

Guidance from Elected Members

That a report be presented for consideration by Council at the December 2018 Council Meeting.

7.2 Finance Policy Update

OFFICER'S RECOMMENDATION

That Council provide advice on:

1. Rescinding the following policies:
 - F1 – Capitalisation of Assets;
 - F4 – Superannuation;
 - F7 – Employee Gratuity;
 - F10 – Natural Disaster Recovery Management Account;
 - F13 – Light Vehicle Fleet Replacement;
 - F14 – Purchasing (Environmental);
 - F15 – Fair Value Accounting;
2. Approving the following policies:
 - Authorised Signatories;
 - Purchasing;
 - Debt Collection;
 - Significant Accounting;
 - Investment of Surplus Funds;
 - Corporate Credit Cards;
 - Disposal of Property;
 - Financial Governance;
 - Borrowing Management; and
 - Long Term Financial Planning

The Shire President ruled that if Elected Members see any glaring errors in any of these policies they need to advise the CEO via email by 7 December 2018.

Guidance from Elected Members

That a report be presented for consideration by Council at the December 2018 Council Meeting.

7.3 Lot 111 Macdonald Retreat, Dumbarton – Proposed Rural Pursuit (Micro Herb Farm)

OFFICER'S RECOMMENDATION

That Council, in relation to the proposed rural pursuits land use (micro herb farm) and associated greenhouse to be located at Lot 111 MacDonald Retreat, as detailed in the application received 30 October 2018, provide any feedback on this proposal prior to the preparation of a formal Council report for presentation at the Ordinary Council Meeting on 18 December 2018 in relation to:

1. The appropriateness of the land use;
2. Development outside of the building envelope;
3. Development of additional buildings before a dwelling; and
4. Any further request for clarification.

The Planning Officer provided an overview of the submissions received by two neighbours.

Points raised as follows:

- Clarification of whether what is being proposed fulfils the definition on page 22 of rural pursuit from the Local Planning Strategy;
- Qualification of Intensive agriculture;
- Determination whether appropriate use that parcel of land;
- Concern with truck movements subject to the success of the business;
- Well-being of residents if there may be noise issues related to the development of the business;
- More inclined to look at a smaller operation;
- Rural pursuit development of sheds existing vs the new ones proposed and the accommodation / living arrangements of the property; and
- Two Officer Recommendations (main one and an alternate) that offers up options.

Clarification was sought.

Guidance from Elected Members

That a report be presented for consideration by Council at the December 2018 Council Meeting.

The Shire President ruled that the meeting go behind closed doors at 5.00pm.

Council Chamber doors were closed at 5.00pm. There were no public present.

The CESM departed Council Chambers at 5.01pm.

The Managers remained in Council Chambers.

The Shire President ruled that Item 10.1 Lot 111 Cobbler Pool Road, Morangup – Reconsideration Report – Extractive Industry Licence – Boral be considered.

The meeting went behind closed doors.

Note: The Confidential Matter is minuted and indexed separately.

The Shire President ruled that the CESM be invited to come into the meeting behind closed doors at 5.40pm.

The CESM returned to Council Chambers at 5.40pm.

J Algeri departed the Council Chambers at 5.40pm.

The Shire President ruled that Concept Forum Item No. 8.2 Verge Spraying Maintenance be considered as the next item of business at 5.43pm.

The meeting continued behind closed doors.

Note: The Concept Matter is minuted and indexed separately.

The Shire President adjourned the meeting at 6.15pm.

The Shire President resumed the meeting at 6.45pm.

The Shire President ruled that the meeting come from behind closed doors at 6.45pm to discuss Program Item No. 7.4 and 7.5 under the heading “Agenda Forum Matters”.

7.4 Revised State Planning Policy 2.4: Basic Raw Materials

OFFICER’S RECOMMENDATION

That Members Consider the Draft State Planning Policy SPP 2.4 Basic Raw Materials Policy and Guidelines currently out for public comment and give guidance to the administration on what it would like to see in the submission to come back to Council in addition to the following matters;

1. That the resource mapping improvements be extended to outside the Perth Peel Regions to a radius of 100km to cover areas such as Toodyay which have significant resources.
2. The policy Provisions make it clear that the post extraction rehabilitation and subsequent uses should not include use as a waste disposal site without it being part of a properly considered wider strategy that identifies and considers all the issues and risks round this.
3. Council supports the strengthening of the policy provisions round environmental considerations.

The Manager Planning and Development provided an overview in relation to Extractive Industry policy.

Points raised as follows:

- Include comments with respect to how increased truck movements can restrict tourism;
- Mapping has not been improved in the regional areas surrounding the metropolitan area, given the amount of extractive industries in the area;
- No encouragement to use holes as land-fills;
- Improving mapping might more clearly define the resources to assist with information from which to make better decisions; and
- Examples of uses of holes other than pits (e.g. filling with water being the more popular choice, subject to the depth of the hole).

Clarification was sought.

Guidance from Elected Members

That a report be presented for consideration by Council at the December 2018 Council Meeting.

7.5 Short Stay Accommodation – WA Parliamentary Inquiry

OFFICER'S RECOMMENDATION

That members give guidance on how the Administration should respond to the Economics and Industry Standing Committee of the WA Parliamentary Legislative Assembly in relation to Short Stay accommodation based on the draft submission labelled **Attachment 3**.

The Manager Planning and Development provided an overview.

The CEO also provided information in relation to this inquiry.

Clarification was sought.

Points raised as follows:

- Technology creates intricacies in respect to government policy;
- Regular health checks are performed with respect to food and water testing;
- Health resources stretched;
- If a landholder is running a bed and breakfast they require planning approval;
- Air B&B's use marketing channels;
- Officers don't look for issues on the web but do respond to complaints made; and
- Complaint follow-up with regard to standard of accommodation does not fall under the realms of local government responsibility.

Guidance from Elected Members

That a report be presented for consideration by Council at the December 2018 Council Meeting.

8. CONCEPT FORUM MATTERS

The Shire President ruled the meeting go behind closed doors to discuss confidential business.

The Council Chambers were closed to members of the public at 7.04pm.

The Concept Forum Matter listed below are minuted and indexed separately.

8.1 DRAFT WA Cultural Infrastructure Strategy

8.2 Verge Spraying Maintenance

9. CHIEF EXECUTIVE OFFICER'S UPDATE

The CEO provided a verbal update behind closed doors, minuted and indexed separately.

10. CONFIDENTIAL MATTERS

The Confidential Matter listed below is minuted and indexed separately.

10.1 Lot 111 Cobbler Pool Road, Morangup- Reconsideration Report - Extractive Industry Licence – Boral

11. SHIRE PRESIDENT'S UPDATE

The Shire President provided a verbal overview of public engagements, and meetings attended since the last Council Forum.

12. REPRESENTATIVE UPDATES

The Elected Members provided a verbal overview of public engagements, and meetings attended since the last Council Forum.

13. STATUS REPORTS

13.1 COMMITTEE MEETING STATUS REPORT

The report was reviewed.

The Shire President ruled the meeting come from behind closed doors.

The Council Chambers were re-opened to members of the public at 8.00pm.

14. MEETING CLOSURE

The Shire President declared the meeting closed at 8.02pm.

Attachments to Notes

Council Forum

4 December 2018

PRESENTATIONS

4.1 Proposed Rural Pursuit (Micro Herb Farm) 1

Attachments that formed part of the Council Forum Program

Attachments to the December 2018 Council Forum Program 2
Note: These attachments contain their own numbering



Application for Planning Approval (Greenhouse) and Rural Pursuits

Lot 111 McDonald Retreat, Dumbarton
Glencoe Estate

Summary

- Property was my late fathers, who passed away in 2013
- I have held the property with plans to build a home and eventually bring the property to life in the way my father had envisioned
- I had started looking at home builders in 2015 with plans to start building by 2016/2017

Approval of Industrial – General, Lot 38 Tannin Place

- May 2016 the council approved the General Industry Block Paver Manufacturer less than 80 metres from my property
- The community consultation period was conducted over a 14 day period whilst my mother was in hospital
- After many conversations with the planning department, on the 20th July 2016, I was advised by Graeme Bissett;

"We are currently reviewing the planning scheme and will consider modifying the use/zoning requirements to take into account the concerns you have raised. I will admit to this being the first application for this area that has caused this concern and in light of this I think is important to review zoning to investigate if future changes are needed to fine tune the zoning along the interfaces of the two zones affected".

Opportunity to enhance land use

- Earlier this year, a friend of mine, who is a Micro Green and permaculture enthusiast, has offered to support me in using my land to begin growing micro greens.
- This has reignited my interest to develop the property and recommence my process of saving to build a home.

Vision

- Short term (2019): to set up a greenhouse and grow microgreens and heirloom vegetables for sale at the Toodyay Farmers Markets and to local restaurants and stores.
- Mid Term (2021): to build a home
- Long term (2022) to leverage my experience in the training sector and (with required approvals), target the Agri-tourism/Agri-education sector.

Application for planning approval – Rural Pursuits and Greenhouse

- I contacted the planning department in August for advice on necessary approval
- Proposal sent to Hugo in September
- Main concerns;
 - Outbuilding before Dwelling
 - There is already a shed on the property
 - Plans in Local Planning Strategy to change Rural Pursuits to X for Glencoe Estate (from Special Residential to Residential)
 - It would not be feasible to build a home without an alternative use with the noise disturbance of the neighbouring factory
 - The size of the greenhouse
 - View Option A and B
 - Landowners seeking quieter existence and not wish to have customers or trucks frequent the property
 - Public consultation has returned no negative feedback
 - Immediate neighbours are in support
 - No trucks or heavy vehicles will be required
 - My developing of the property will create a sound barrier for the neighbours
 - Flood zone
 - DWER does not object to proposal
 - Commercial usage of road network
 - No trucks or heavy vehicles will be required

Shire of Toodyay

COUNCIL FORUM PROGRAM 4 DECEMBER 2018

1. **DECLARATION OF OPENING**
2. **RECORD OF ATTENDANCE/APOLOGIES**
3. **DECLARATIONS OF INTEREST**
4. **PRESENTATIONS**
 - 4.1 **Proposed Rural Pursuit (Micro Herb Farm)**

Presenter: A Christofides

5. **PUBLIC QUESTIONS (relating to the contents of the program)**

Questions can be made ad hoc, but it is preferred that notice be given by midday on the day of the Council Forum.

6. **PUBLIC SUBMISSIONS (relating to the contents of the program)**

A submission can be made ad hoc, but it is preferred that notice be given by midday on the day of the Council Forum.

7. **AGENDA FORUM MATTERS**

The Agenda Forum Matters listed below are attached.

- 7.1 **Staff Policy Update** **1**

Attachment 1 - A3 Sexual Harassment Policy; 3
Attachment 2 - A9 Equal Opportunity Policy; and 7
Attachment 3 - HR3 Prevention of Discrimination, Harassment and Bullying Policy. 11

- 7.2 **Finance Policy Update** **17**

Note: The following attachments will be provided as a separate document

Attachment 1 - Authorised Signatories Policy;
Attachment 2 - Purchasing Policy;
Attachment 3 - Debt Collection Policy;
Attachment 4 - Significant Accounting Policy;
Attachment 5 - Investment of Surplus Funds Policy;
Attachment 6 - Corporate Credit Cards Policy;
Attachment 7 - Disposal of Property Policy;
Attachment 8 - Financial Governance Policy;
Attachment 9 - Borrowing Management Policy; and
Attachment 10 - Long Term Financial Planning Policy

PROGRAM FOR COUNCIL FORUM
TO BE HELD IN COUNCIL CHAMBERS ON 4 DECEMBER 2018

7.3 Lot 111 Macdonald Retreat, Dumbarton – Proposed Rural Pursuit (Micro Herb Farm) 20

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7.4 Revised State Planning Policy 2.4: Basic Raw Materials 65

Attachment 1 – DRAFT SPP 2.4 – Basic Raw Materials Policy;	70
Attachment 2 – Draft Basic Raw Materials Guidelines;	84
Attachment 3 – Current SPP 2.4 - Basic Raw Materials Policy; and	101
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7.5 Short Stay Accommodation – WA Parliamentary Inquiry 133

Attachment 1 - WALGA Discussion Paper	136
Attachment 2 - Shire Information Sheet	161
Attachment 3 - Draft Submission	163

8. CONCEPT FORUM MATTERS

The Concept Forum Matters listed below are provided to Council as a separate confidential attachment, indexed separately.

8.1 DRAFT WA Cultural Infrastructure Strategy

8.2 Verge Spraying Maintenance

9. CHIEF EXECUTIVE OFFICER’S UPDATE

The CEO’s Update is provided to Council as a separate confidential attachment, indexed separately.

10. CONFIDENTIAL MATTERS

The Confidential Matter listed below is provided to Council as a separate confidential attachment, indexed separately.

10.1 Lot 111 Cobbler Pool Road, Morangup- Reconsideration Report - Extractive Industry Licence – Boral

11. SHIRE PRESIDENTS UPDATE

The Shire will provide a verbal update at the forum.

12. REPRESENTATIVE UPDATES

The Elected Members will provide a verbal update at the forum.

13. STATUS REPORT

13.1 Committee Meeting Status Report 165

14. MEETING CLOSURE

AGENDA FORUM DISCUSSION PAPER

Date of Report:	28 November 2018
Name of Applicant / Proponent/s:	Shire of Toodyay
File Reference No.:	PCY2
Author:	T Phillips Manager People and Projects
Responsible Officer:	S Scott; Chief Executive Officer
Previously Before Council:	13 May 2010 (OCM)
Nature of Council's Role in the matter:	Nil
Attachments:	Executive
Read by:	<ol style="list-style-type: none">1. A3 Sexual Harassment Policy;2. A9 Equal Opportunity Policy; and3. HR3 Prevention of Discrimination, Harassment and Bullying Policy.

7.1 STAFF POLICY UPDATE

PURPOSE OF THE DISCUSSION PAPER

To facilitate the changes required to rescind A3 and A9 as separate policies and approve HR3.

BACKGROUND

All Shire Policies are currently under review to move towards a more streamlined structure of information and areas of relevance. These two policies are outdated and do not reflect contemporary requirements.

CONSULTATION IMPLICATIONS

The proposed policy HR3 has been reviewed by the senior management team. This policy is an internal operational policy and does not require public consultation.

STRATEGIC IMPLICATIONS

There are no adverse strategic implications envisaged from this report.

POLICY IMPLICATIONS

There are no adverse policy implications envisaged from this report.

FINANCIAL IMPLICATIONS

There are no adverse financial implications envisaged from this report.

7.1 Staff Policy Update - continued

LEGAL AND STATUTORY IMPLICATIONS

There are no adverse legal nor statutory implications envisaged from this report. The intent of update is to comply with statutory requirements.

RISK IMPLICATIONS

Current policies are outdated and do not reflect some aspects of the working environment. The updated HR 3, addresses this.

SOCIAL IMPLICATIONS

There are no adverse social implications envisaged from this report.

ENVIRONMENTAL IMPLICATIONS

There are no adverse environmental implications envisaged from this report.

ECONOMIC IMPLICATIONS

There are no adverse economic implications envisaged from this report.

OFFICER COMMENT / DETAILS

The policy has been upgraded to reflect contemporary requirements and remove outdated components. Procedures are separated out from policy.

OFFICER'S RECOMMENDATION

That Council:

1. Approve the rescinding of 2010 policies A3 Sexual Harassment Policy & A9 Equal Employment Opportunity Policy; and
2. Approve the adoption of HR 3 as the replacing policy date effective being OCM meeting date it is approved.

ADMINISTRATION POLICY

POLICY NO	A.3
POLICY SUBJECT	SEXUAL HARASSMENT
FILE NUMBER	STF 4
ADOPTION DATE	11 June 1998
LAST REVIEW	13 May 2010

STATEMENT OF INTENT

This policy states Council's position with regard to sexual harassment and the procedure to be followed when a complaint of sexual harassment is made.

OBJECTIVES

- To ensure that all persons employed or engaged by Council understand Council's commitment to an environment free of sexual harassment.
- To make people aware of what constitutes sexual harassment.
- To provide for a grievance procedure to be followed in the event of a complaint of sexual harassment.

POLICY STATEMENT

An employee whose health or work performance has been affected by sexual harassment will not have their employment status or conditions disadvantaged in any way.

Sexual Harassment

Council strongly supports the concept that every employee, elected member and member of the public employed by or engaged in business with the Council, has a right to do so in an environment which is free from sexual harassment and the Council is committed to providing such an environment.

Council considers sexual harassment to be an unacceptable form of behaviour which will not be tolerated and recognises that sexual harassment is unlawful.

Sexual harassment is any conduct of a sexual and/or sexist nature (whether physical, verbal or non-verbal) which is unwelcome and unsolicited and rejection of which may disadvantage a person in their employment or their life in general. The following examples may constitute sexual harassment when they are considered offensive to an employee, elected member or member of the general public:-

- Deliberate and unnecessary physical contact such as patting, pinching, fondling, kissing, brushing against, touching.
- Subtle or explicit demands for sexual activities or molestation.
- Intrusive enquiries into a person's private life.
- Uninvited and unwelcome jokes that have a sexual and/or sexist undertone.
- Unsolicited leers and gestures of a sexual nature and the display within the workplace of sexually offensive material.

Council recognises that sexual harassment can undermine health, performance and self-esteem of individuals and has the potential to create a hostile and intimidating environment. Council is therefore committed to any action which ensures the absence of sexual harassment in the workplace including general training of the workforce and specific training for officers identified to deal with complaints. Appropriate disciplinary action will be taken against any individual found to be engaging in such conduct.

Any complaints of sexual harassment made against another person associated with the Council will be viewed seriously, treated confidentially and thoroughly investigated by appropriately trained persons.

Any person making a claim of sexual harassment will be protected at all times. No transferring of staff or face to face meetings between the complainant and the person whose behaviour has been found to be unwelcome will occur without the prior consent of both parties.

Complaint Procedure for Sexual Harassment

INTRODUCTION

All complaints of sexual harassment will be treated confidentially and resolved promptly.

Wherever possible, the handling of complaints and resolution of such will be at the workplace where they occurred. Care will be taken throughout the investigation to ensure that neither the complainant nor the alleged harasser are victimised.

It is recognised that cases of sexual harassment may occur between supervisor and employee and as such, alternative methods of raising complaints are provided for by this procedure.

PROCEDURE

1. A complaint of sexual harassment may be lodged with any of the following persons:-

- a) Immediate Supervisor/Manager (except where this person is the alleged harasser)
 - b) Directors (except where this person is the alleged harasser)
 - c) Chief Executive Officer
 - d) Union Shop Steward
 - e) President (only if the alleged harasser is the Chief Executive Officer)
2. A person receiving a complaint of sexual harassment will:-
- a) Decide, in consultation with the complainant, whether the matter can be resolved at this level or whether it should be referred to a more senior level of management.
 - b) Assure the complainant that all details of the complaint will be treated confidentially and allow the person to decide on procedure.
 - c) Prepare a confidential report to the Chief Executive Officer on the nature of the complaint and ensure follow-up reports are provided until the matter is resolved.
 - d) Ensure no information regarding the complaint is discussed outside this procedure.
 - e) In a case where a union shop steward receives the complaint, the divisional manager and/or grievance officer is to be advised of the details of the complaint.
3. The person handling the complaint, whether it is the person who received the complaint or a more senior person, will, with the approval of the complainant:-
- a) As soon as possible, advise the alleged harasser of the nature of the complaint and provide an opportunity for that person to comment. Where appropriate the alleged harasser should be invited to discontinue any perceived unwelcome behaviour.
 - b) Advise the alleged harasser of their right to contact their Union for advice and representation.
 - c) Advise the alleged harasser that no disciplinary action will be taken without the person being given the opportunity to be heard.
 - d) Keep simple, brief notes of the facts of the interviews held with both the complainant and alleged harasser.
4. If it is not possible to resolve the complaint simply by discussion with the complainant and the alleged harasser:-
- a) The matter will be investigated and where the complainant or the alleged harasser is a member of a Union, the Union will be party to the investigation.

- b) All documentation relating to the complaint will remain confidential and will not be produced or made available for inspection, except on the order of a Court or a request from the Commissioner of Equal Opportunity.
5. During the period of the investigation of a case of serious sexual harassment alternative working arrangements may be made if requested by either party or by management,
6. If, following investigation and resolution, a complaint is judged to have foundation:-
- a) Appropriate remedial action will be taken including where appropriate disciplinary/counselling action appropriate to the circumstances and/or seriousness of the matter.
 - b) A record of the detail of the disciplinary action will remain on the employee's personal file for a period of 12 months, whereupon the record will be destroyed unless otherwise decided by the Chief Executive Officer.
7. If, following investigation, a complaint is judged to have no foundation:-
- a) The complainant will be counselled and if it is considered that the complaint was made frivolously or maliciously, disciplinary action may be taken against the complainant.
 - b) Continued reference to a complaint and its aftermath could be considered as either a continuing or new incident of harassment.

Reviewed Council Meeting 24 November 2005

Reviewed Council Meeting 16 November 2006

Reviewed Council Meeting 15 November 2007

Reviewed Council Meeting 21 May 2009

Reviewed Council Meeting 13 May 2010

ADMINISTRATION POLICY

POLICY NO	A.9
POLICY SUBJECT	EQUAL EMPLOYMENT OPPORTUNITY
FILE NUMBER	STF4
ADOPTION DATE	19 April 2007
REVIEW DATE	13 May 2010

STATEMENT OF INTENT

This policy outlines Council's commitment to equal opportunity as an employer and as a service provider to the community.

OBJECTIVES

- To ensure that all persons employed or engaged by Council understand Council's commitment to equal employment opportunities.
- To make people aware of what constitutes equal employment opportunities.
- To provide guidelines to ensure the principles of equal employment opportunity are adhered to.

POLICY STATEMENT

Council recognises its legal obligations under the Equal Opportunity Act 1984 (as amended) and will actively promote the principles of equity and diversity in the workplace. This means that Council aims to provide a work environment that fosters good working relationships where employees, contractors and volunteers are treated fairly and equally and that unlawful discrimination does not take place.

Equal Employment Opportunity

Council aims to be respected for its commitment to equal opportunity as an employer and as a service provider to the community by adopting the following practices;

1. Appointments, promotion and training:

Access to employment, contracts, promotion and training is to be fair and equitable. Decisions on matters affecting (prospective and current) employees, contractors and volunteers will be made on merit and are based on relevant experience, skills and ability required for the role. No decisions will be made on the basis of nepotism or patronage.

2. Diversity:

Council recognises, values, and respects social, cultural and linguistic diversity. Where it can reasonably be achieved, assistance will be provided to employees and volunteers with special needs in order to assist them in undertaking their roles effectively.

3. Discrimination and harassment free environment:

Council promotes an environment where people are able to work effectively without the fear of unlawful discrimination or harassment. Discrimination is treating one person less favourably than another because of a personal attribute which is covered by equal opportunity laws, and includes: gender, marital status, pregnancy, family responsibilities or status, race, religious and/or political conviction, impairment, age, gender history and sexual orientation.

Discrimination is unlawful. Harassment is also not tolerated. Harassment is defined as any unwelcome, offensive action or remark concerning a person's gender, race, age, impairment or one of the other attributes as covered in the Equal Opportunity legislation.

4. Good working relationships:

Council aims to provide an enjoyable, challenging and harmonious work environment. Workplace bullying is one activity that detracts from this environment. It can create a risk to health and safety and will not be tolerated.

Workplace bullying is defined as repeated, unreasonable behaviour directed towards a person or a group of persons at a workplace.

5. Responsibilities:

All employees, volunteers and contractors have a shared responsibility to apply and promote the equal opportunity principles.

6. Grievances:

Grievances in relation to discrimination, harassment and bullying will be dealt with fairly, quickly and confidentially by the Equal Opportunity Co-ordinator in accordance with the following grievance procedure. The Equal Opportunity Co-ordinator will receive appropriate training to undertake this role.

The Deputy Chief Executive Officer is appointed as the Equal Opportunity Co-ordinator for the Shire of Toodyay.

GRIEVANCE PROCEDURE

The Equal Opportunity Co-ordinator will not take sides in complaints, advocate for or represent either the complainant or respondent.

Confidentiality

The Equal Opportunity Co-ordinator is required to protect the confidentiality of complaints. This requirement means information about a complaint cannot be revealed to the media or any person, other than parties to the complaint or those required to provide evidence about the complaint.

Complaints are more likely to be resolved easily and satisfactorily if the complaint is kept confidential.

Investigation

The purpose of an investigation is to allow both parties to submit evidence to reveal facts. This process is both impartial and confidential.

The Equal Opportunity Co-ordinator may request additional information to support the complaint. Such information may include the dates of specific incidents or witness statements.

Depending upon the circumstances a written statement of the allegations is provided to the respondent who is then required to provide a written response.

Conciliation

Generally the written response is relayed to the complainant. If the complaint remains unresolved a conciliation conference may be arranged between the parties.

Complaint Outcomes

The options for finalising complaints are listed below.

- The complaint may be withdrawn at any time by the complainant.
- Conciliation can successfully take place and the parties reach a satisfactory agreement.
- When a complaint appears to have substance and attempts at conciliation have failed, the Equal Opportunity Co-ordinator must refer the complaint to the Chief Executive Officer for inquiry, unless the complainant does not wish to continue with the complaint.

- The Equal Opportunity Co-ordinator may dismiss the complaint at any stage if he/she is satisfied the complaint is misconceived, lacks substance, is frivolous, vexatious or relates to an act that is not unlawful by reason of a provision of the Act.
- A complainant can require the Equal Opportunity Co-ordinator to refer any dismissed complaint to the Chief Executive Officer for independent inquiry.

Onus of Proof

Under the Act the onus of proof rests with the person who has made the complaint.

Victimisation

It is against the law for anyone to threaten, harass or subject a person to a detriment because they have made a complaint or intend to make a complaint.

This protection is also afforded to anyone giving evidence about a complaint, or to someone who complains about unlawful discrimination, even if they have not made a complaint to the Equal Opportunity Commission.

Reviewed Council Meeting 15 November 2007
Amended Council Meeting 21 May 2009
Reviewed Council Meeting 13 May 2010

Prevention of Discrimination, Harassment & Bullying Policy

Introduction

The Shire of Toodyay is committed to its responsibility to maintain a healthy and positive workplace that is free from behaviours that could be described as discriminatory, harassing or bullying in nature. The Shire recognises the impact that inappropriate conduct may have and has a zero tolerance stance on such behaviour.

Application

This policy applies to all employees/elected members, volunteers and contractors engaged by the Shire.

Purpose

The purpose of this policy is to define what is deemed unacceptable behaviour/s in the workplace, outline the process to manage such conduct; and any potential consequences of breaching this policy.

Policy

Equal Employment Opportunity and Anti-Discrimination

- ❖ Access to employment, promotion and training is to be fair and equitable. Decisions on matters affecting (prospective and current) employees, contractors and volunteers will be made on merit, taking into account relevant experience, skills and ability required for the role. No decisions will be made on the basis of nepotism or patronage.

Diversity

- ❖ The Shire recognises, values and respects social, cultural and linguistic diversity. It will consider diversity in its recruitment and promotion activities.
- ❖ Where it can reasonably be achieved, assistance will be provided to employees/workers with special needs in order to assist them in undertaking their roles effectively.

Anti-Bullying

- ❖ The Shire has a zero tolerance stance on such behaviour and will take all reasonable steps to comply with its duty of care to provide a safe and positive environment that is free from this totally unacceptable behaviour in the workplace.

Discrimination and Harassment

Discrimination is defined as treating one individual less favourably than another because of a personal attribute stated under legislation.

Harassment is defined as any unwelcome, offensive action or remark concerning a person. Unlawful harassment is dealt with under the anti-discrimination laws rather than through specific harassment legislation.

Discrimination or harassment can be direct or indirect. It is covered by both State and Federal legislation. Such current attributes are as follows.

- ❖ Age
- ❖ Medical Record
- ❖ Criminal Record (Spent Convictions)
- ❖ Impairment/Physical disability
- ❖ Marital Status/Family Responsibilities/Breastfeeding
- ❖ Mental, intellectual or psychiatric disability
- ❖ Nationality/National extraction or Social Origin
- ❖ Sexual orientation/Gender/Gender identify/Intersex Status
- ❖ Trade Union Activity

Sexual Harassment

Sexual harassment can be defined as an unwelcome sexual advance, unwelcome request for sexual favours or other unwelcome conduct of a sexual nature which makes a person feel offended, humiliated or intimidated, where a reasonable person would anticipate that reaction in the circumstances. It can be a single incident or a persistent pattern of behaviour.

Sexual harassment involving a physically violent and or/coercive component or threats of physical violence such as physical molestation or assault, persistent following or stalking and indecent exposure, may be considered sexual assault and possibly a criminal offence. Examples of sexually harassing behaviour include but is not limited to:

- ❖ Unwanted and unwelcome touching, staring or leering or sexually explicit physical contact
- ❖ Sexually explicit pictures or posters, emails, text or SMS messages
- ❖ Unwanted and unwelcomed invitations to go out on dates or requests for sex
- ❖ Intrusive questions about a person's private life or body
- ❖ Insults, taunts based on sex

What Sexual Harassment is not?

It is not deemed sexual harassment if the attraction is mutual and consensual involvement. However, if the nature of the interaction changes from being based on mutual attraction and consent to non-consensual, unwelcomed and unreciprocated behaviour it may constitute sexual harassment.

What is Bullying Behaviour?

Bullying is defined as repeated and unreasonable behaviour directed towards an employee or a group of employees **and**; that behaviour creates a risk to health and safety.

This type of conduct amounts to behaviour that a reasonable person in the circumstances would see as unreasonable.

Examples of behaviour towards an individual or group include (but are not limited to):

- ❖ aggressive or intimidating conduct
- ❖ belittling or humiliating comments
- ❖ spreading malicious rumours
- ❖ teasing, practical jokes
- ❖ exclusion from work-related events
- ❖ unreasonable work demands
- ❖ pressure to behave in an inappropriate manner.

Reasonable Management Action:

Bullying does not include reasonable management action carried out in a reasonable manner. This is defined as reasonable management action. Examples of this can include (but are not limited to):

- ❖ Participation in a performance management processes
- ❖ Disciplinary action towards a worker for work related matters/misconduct
- ❖ Informing a worker about unsatisfactory work performance or inappropriate work behaviour
- ❖ Directing a worker to perform duties in keeping with their job
- ❖ Maintaining reasonable workplace goals and standards.

For reasonable management action to be seen as such, management actions must be conducted in a reasonable manner. If not, it could be deemed bullying.

How to report a concern or lodge a complaint.

The Shire takes all complaints seriously and will take action as required or appropriate. Please refer to the HR8: Resolving workplace grievances and complaints procedure for detailed advice and information. This document is readily available on internal staff drive and includes advice on both internal and external options.

If you wish to seek some prior advice you are encouraged to do so. This can be from HR, a nominated safety rep or external party such as:

- Member Associations/Unions
- The Fair Work Commission/Ombudsman
- Australian Human Rights Commission
- Relevant WA State based anti-discrimination agency.
- State Safety and Health regulator (if applicable).

For complaints relating to matters below, please note they are covered by a different process or jurisdiction.

Issue	Refer to...
Work Safety and Health Matters (other than bullying)	OSH Consultation Procedure and incident/hazard reporting process is to be used.
Matters arising between Elected Members	The President/CEO, Department of Local Government, who will deal with such matters.
Matters arising out of Awards or other industrial instruments and agreements with regard to entitlements and conditions of employment.	Relevant industrial instrument and its defined process applies.

Roles and Responsibilities

Employer (Shire)

- Must take all reasonable steps consistent with its duty of care to provide a work environment that is free from behaviour that could be described as harassing, discriminatory or bullying in nature.
- Will provide an environment where people are confident to raise concerns regarding matters in the workplace; and have robust systems, and procedures in place to address issues raised.
- Has a responsibility to promote and support this policy by modelling behaviour that is respectful and mindful of cultural and social differences and to ensure staff do not engage in any action or behaviour that could be described discriminatory, harassing or bullying in nature.
- Will act promptly to initiate action as a result of an observed incident and or lodgement of grievance (complaint) as and when required.

Managers

- Will model appropriate behaviours at all times.
- Will ensure they and employees in their area of responsibility are familiar with this policy.
- Will take prompt action when a concern is raised or they have been made aware of a matter whether a complaint has been lodged or not. This includes appropriate support for all parties.
- Will undertake timely, corrective action to deal with behaviour that is not appropriate to the workplace.

Workers (Employees/Volunteers/Contractors)

- Will not engage in behaviour that could be deemed harassing, discriminatory or bullying in nature.
- Will foster and be responsible for a positive and safe environment for themselves and others.
- Will report behaviour that is not appropriate to the workplace and support a culture of respect and accountability.

Breach of this Policy

Any individual found to be in breach of this policy may face a range of corrective actions such as counselling or training, or disciplinary action up to and including termination of employment.

Note: The Shire may also have a positive obligation to report any such behaviour or consequences to the Public Sector Commission or Corruption and Crime Commission.

Reference Information

Related Documents

Procedure – Resolving workplace grievances and complaints

Associated Forms

Complaints/Grievance Lodgement Form

Related Legislation

Local Government Act 1995 (WA) & regulations
Fair Work Act 2009 (Cth)
Occupational Safety and Health Act 1984 (WA) & 1996 Regulations
Equal Opportunity Act 1984 (WA)
Racial Discrimination Act 1975 (Cth)
Sex Discrimination Act 1984 (Cth)
Disability Discrimination Act 1992 (Cth)
Age Discrimination Act 2004 (Cth)
Public Sector Management Act 2003 (WA)
Public Interest Disclosure Act 2003 (WA)

Document Category	HR/OSH
Document Title	Prevention of Discrimination & Harassment
Document ID	HR:3
Version No.	V:1
Archived and previous version	A3 Sexual Harassment Policy A9 Equal Employment Opportunity Policy
Access restrictions	Internal only
Author (position title)	MPP
Approved by	Council
Date of Approval (OCM)	
Date of last review	2018
Date of next review	2020 (unless legislated changes apply)

AGENDA FORUM DISCUSSION PAPER

Date of Report:	28 November 2018
Name of Applicant / Proponent/s:	Shire of Toodyay
File Reference No.:	PCY2
Author:	Chileya Luangala Manager Corporate Services
Responsible Officer:	S Scott; Chief Executive Officer
Previously Before Council:	N/A
Nature of Council's Role in the matter:	Executive
Attachments:	<ol style="list-style-type: none">1. Authorised Signatories Policy;2. Purchasing Policy;3. Debt Collection Policy;4. Significant Accounting Policy;5. Investment of Surplus Funds Policy;6. Corporate Credit Cards Policy;7. Disposal of Property Policy;8. Financial Governance Policy;9. Borrowing Management Policy; and10. Long Term Financial Planning Policy

to be
provided
separately

7.2 FINANCE POLICY UPDATE

PURPOSE OF THE DISCUSSION PAPER

To facilitate the changes required to rescind the following policies:

- F1 – Capitalisation of Assets;
- F4 – Superannuation;
- F7 – Employee Gratuity;
- F10 – Natural Disaster Recovery Management Account;
- F13 – Light Vehicle Fleet Replacement;
- F14 – Purchasing (Environmental);
- F15 – Fair Value Accounting;

And approve the following policies:

- Authorised Signatories;
- Purchasing;
- Debt Collection;
- Significant Accounting;

7.2 Finance Policy Update - continued

- Investment of Surplus Funds;
- Corporate Credit Cards;
- Disposal of Property;
- Financial Governance;
- Borrowing Management; and
- Long Term Financial Planning.

BACKGROUND

All Shire Policies are currently under review to move towards a more streamlined structure of information and areas of relevance. These policies to be rescinded are outdated and do not reflect contemporary requirements.

CONSULTATION IMPLICATIONS

The proposed policy updates were reviewed by the Council and senior management team at a workshop on 26 September 2018. The policy are internal operational policy and does not require public consultation.

STRATEGIC IMPLICATIONS

There are no adverse strategic implications envisaged from this report.

POLICY IMPLICATIONS

There are no adverse policy implications envisaged from this report.

FINANCIAL IMPLICATIONS

There are no adverse financial implications envisaged from this report.

LEGAL AND STATUTORY IMPLICATIONS

There are no adverse legal nor statutory implications envisaged from this report.

RISK IMPLICATIONS

There are no adverse risk implications envisaged from this report.

SOCIAL IMPLICATIONS

There are no adverse social implications envisaged from this report.

ENVIRONMENTAL IMPLICATIONS

There are no adverse environmental implications envisaged from this report.

ECONOMIC IMPLICATIONS

There are no adverse economic implications envisaged from this report.

OFFICER COMMENT / DETAILS

The policy has been upgraded to reflect contemporary requirements and remove outdated components.

7.2 Finance Policy Update - continued

OFFICER'S RECOMMENDATION

That Council provide advice on:

1. Rescinding the following policies:
 - F1 – Capitalisation of Assets;
 - F4 – Superannuation;
 - F7 – Employee Gratuity;
 - F10 – Natural Disaster Recovery Management Account;
 - F13 – Light Vehicle Fleet Replacement;
 - F14 – Purchasing (Environmental);
 - F15 – Fair Value Accounting;
2. Approving the following policies:
 - Authorised Signatories;
 - Purchasing;
 - Debt Collection;
 - Significant Accounting;
 - Investment of Surplus Funds;
 - Corporate Credit Cards;
 - Disposal of Property;
 - Financial Governance;
 - Borrowing Management; and
 - Long Term Financial Planning

AGENDA FORUM DISCUSSION PAPER

Date of Report:	28 November 2018
Name of Applicant / Proponent/s:	A Christofides
File Reference No.:	A4145/111MAC/IPA54940
Author:	H de Vos - Planning Officer
Responsible Officer:	G Bissett – Manager Planning and Development
Previously Before Council:	Nil
Nature of Council's Role in the matter:	Executive
Attachments:	<ol style="list-style-type: none">1. Option A - Lot 111 MacDonald Retreat - Micro Herb Farm - Larger Greenhouse2. Option B - Lot 111 MacDonald Retreat - Micro Herb Farm - Smaller Greenhouse3. MAP Lot 111 MacDonald Retreat, Dumbarton

**7.3 LOT 111 MACDONALD RETREAT, DUMBARTON
– PROPOSED RURAL PURSUIT (MICRO HERB
FARM)**

PURPOSE OF THE DISCUSSION PAPER

To accompany the presentation to Forum by the applicant regarding a proposed Rural Pursuit land for the creation of a micro herb farm at Lot 111 MacDonald Retreat in Dumbarton for early Council consideration.

BACKGROUND

The Shire of Toodyay received an application for development approval on 30 October 2018 for a Rural Pursuit land use at the abovementioned lot.

The applicant intends to create a Micro Herb Farm on the property.

As well as the Rural Pursuit land use, Council is also being asked to consider the development of a greenhouse structure which forms part of the overall proposal.

The applicant is presenting two options:

Option A – 30.0m x 13.8m (414.0m²) greenhouse – See **Attachment 1**.

Option B – 22.0m x 9.0m (198.0m²) greenhouse – See **Attachment 2**.

Lot 111 MacDonald Retreat in Dumbarton is a 1.002 hectare property located in the Glencoe Estate subdivision. The property is zoned Special Residential under the Shire of Toodyay Local Planning Policy No. 4. For more details please see **Attachment 3**.

**7.3 Lot 111 MacDonal Retreat, Dumbarton - Proposed
Rural Pursuit (Micro Herb Farm) - continued**

At present the only structure on the property is a 15m x 9.5m (142.5m²) shed which was approved by the Shire in 2007.

There is no dwelling on the property at this time.

A large portion of the lot (including the building envelope) is within the area affected by flooding during major river flows.

Development must pay due regard to the provisions of the Local Planning Policy No. 18 – Glencoe Estate Design Guidelines.

Lastly, the property is located in the Avon River Valley Special Control Area which means that development approval is mandatory.

In accordance with Section 75(1)(a) of the *Planning and Development (Local Planning Schemes) Regulations 2015*, the application must be determined within 90 days which is by 28 January 2019.

The application is currently scheduled to be determined at the Ordinary Council Meeting on 18 December 2018.

The applicant is presenting to Council at this meeting which gives members an opportunity to give guidance on this proposal prior to it coming back for further consideration.

CONSULTATION IMPLICATIONS

The proposal has undergone a Level C public consultation process. This included a mail out of the development proposal to adjoining neighbours and also the plans were sent to the Department of Water and Environmental Regulation. The 14 day period expired on 19 November 2018. The Shire received one submission from an adjoining landowner and one from the Department of Water and Environmental Regulation.

STRATEGIC IMPLICATIONS

Shire of Toodyay Local Planning Strategy 2017

The Shire of Toodyay Local Planning Scheme has identified this land for potential rezoning to Residential in the future.

POLICY IMPLICATIONS

Local Planning Policy No. 18 – Glencoe Estate Design Guidelines.

Setbacks and Building Envelopes

1. All buildings, including outbuildings, within the policy area shall be located within the building envelopes nominated on the Subdivision Guide Plan.

The proposal is seeking a variation to this.

2. No buildings or structures may be constructed within 50 metres of the Northam Toodyay Road or the Avon River Foreshore Reserve. This setback shall be measured from the outer boundaries of the road and foreshore reserves.

*7.3 Lot 111 MacDonal Retreat, Dumbarton - Proposed
Rural Pursuit (Micro Herb Farm) - continued*

The proposed location of the greenhouse is within 50m of the foreshore reserve.

Buildings

9. Outbuildings shall not exceed a floor area of 150m², a wall height of 4.0m or a ridge height of 5.0m, without the prior written consent of Council.

FINANCIAL IMPLICATIONS

There are no adverse financial implications envisaged from this report.

LEGAL AND STATUTORY IMPLICATIONS

The proposal constitutes development under the *Planning and Development Act 2005* and requires planning approval under the Shire's *Local Planning Scheme No. 4 (LPS4)*.

The proposal has been assessed against relevant clauses and requirements of LPS4 as noted in this report.

The land use under consideration is Rural Pursuits.

This is defined in the Shire of Toodyay Local Planning Scheme No 4 as:

"rural pursuit" means any premises used for —

- (a) the rearing or agistment of animals;
- (b) the stabling, agistment or training of horses;
- (c) the growing of trees, plants, shrubs or flowers for replanting in domestic, commercial or industrial gardens; or
- (d) the sale of produce grown solely on the lot,

but does not include agriculture – extensive or agriculture – intensive;

Currently this land use is listed as a "D" use under the LPS4, however it is recommended to become an "X" use for the Special Residential zone in Scheme No. 5.

RISK IMPLICATIONS

There are no adverse risk implications envisaged from this report.

SOCIAL IMPLICATIONS

There are no adverse social implications envisaged from this report.

ENVIRONMENTAL IMPLICATIONS

There are no adverse environmental implications envisaged from this report.

ECONOMIC IMPLICATIONS

There are no adverse economic implications envisaged from this report.

*7.3 Lot 111 MacDonald Retreat, Dumbarton - Proposed
Rural Pursuit (Micro Herb Farm) - continued*

OFFICER COMMENT

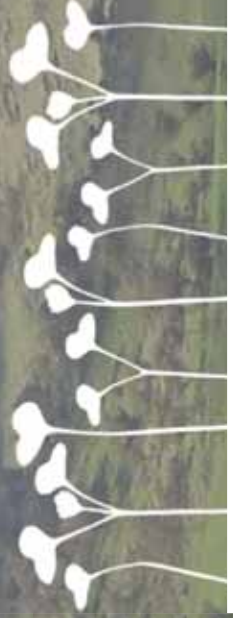
Officers have a number of concerns about the scale, location and potential conflicts of this proposal in relation to its setting. This will be detailed in the report to Council.

The applicant has, however, specifically requested the chance to make a submission prior to Council considering this matter at a formal meeting. Members are asked to review the information presented and give any feedback as outlined in the recommendation.

OFFICER'S RECOMMENDATION

That Council, in relation to the proposed rural pursuits land use (micro herb farm) and associated greenhouse to be located at Lot 111 MacDonald Retreat, as detailed in the application received 30 October 2018, provide any feedback on this proposal prior to the preparation of a formal Council report for presentation at the Ordinary Council Meeting on 18 December 2018 in relation to:

1. The appropriateness of the land use;
2. Development outside of the building envelope;
3. Development of additional buildings before a dwelling;
4. Any further request for clarification.



TOODYAY MICRO FARM

111 MACDONALD RETREAT

01 PROJECT BRIEF

INSPIRATION & VISION



This Property was my late fathers who had planned to semi retire in Toodyay. He was a restaurateur in Perth, and it was his dream to build a house and use the land to grow his own produce, and commonly mentioned that he would serve his produce in a restaurant that he would one day open in Toodyay. Like my father, I have a keen passion for sustainable living and growing my own.

Unfortunately my father's dream was not fulfilled, as he passed away in 2013. Since then I have held the property with plans that once financially able, I would build a home and eventually bring the property to life in the way my father had envisioned. My longer term desires were to build a robust permaculture garden that would feed my family as well as the local restaurants.

I had started saving for the build but was discouraged (and somewhat disheartened) by the recent approval of paver manufacturer on the property next door, in the light Industrial precinct. This stalled my plans.

After much thought and contemplation, an opportunity has presented itself; a friend of mine, who is a Micro Green and permaculture enthusiast, has offered to support me in using my land to begin growing micro greens. This has reignited my desire to develop the property and recommence my process of saving to build a home.

02 THE VISION

TO CREATE THE TOODYAY
MICRO FARM

What is a Micro Farm?

The term microfarm, sometimes expressed as two words: micro farm, is used to describe agriculture that is done on a smaller scale in urban and suburban areas. As the name suggests, microfarms typically operate in small land areas of five acres or less.

Microfarms are some of the best small scale agricultural gardens you can build because they are helpful, sustainable, environmentally friendly, and a great way to increase agricultural output in our modern lifestyle.

Commercial microfarmers often focus on high-dollar specialty crops because they don't produce large enough quantities to provide staple veggies like lettuce or tomatoes. As a result, they almost always sell to niche markets. For example, microgreens are an excellent crop choice for microfarms, as are mushrooms, garlic, and herbs. Aquaponics also make nice microfarms because they make a good use of space, combining fish and plants in one system.



02 THE VISION

SHORT, MID & LONG TERM PLANS

My short term vision (2019) is to set up a greenhouse and grow Micro Greens and Heirloom Vegetables for sale at the Toodyay Farmers Markets and to local restaurants and stores. I would like to create a partnership with the local businesses, where they can be actively involved in the produce we grow for them creating a real 'Farm to Plate' environment that they can promote in their own restaurants.

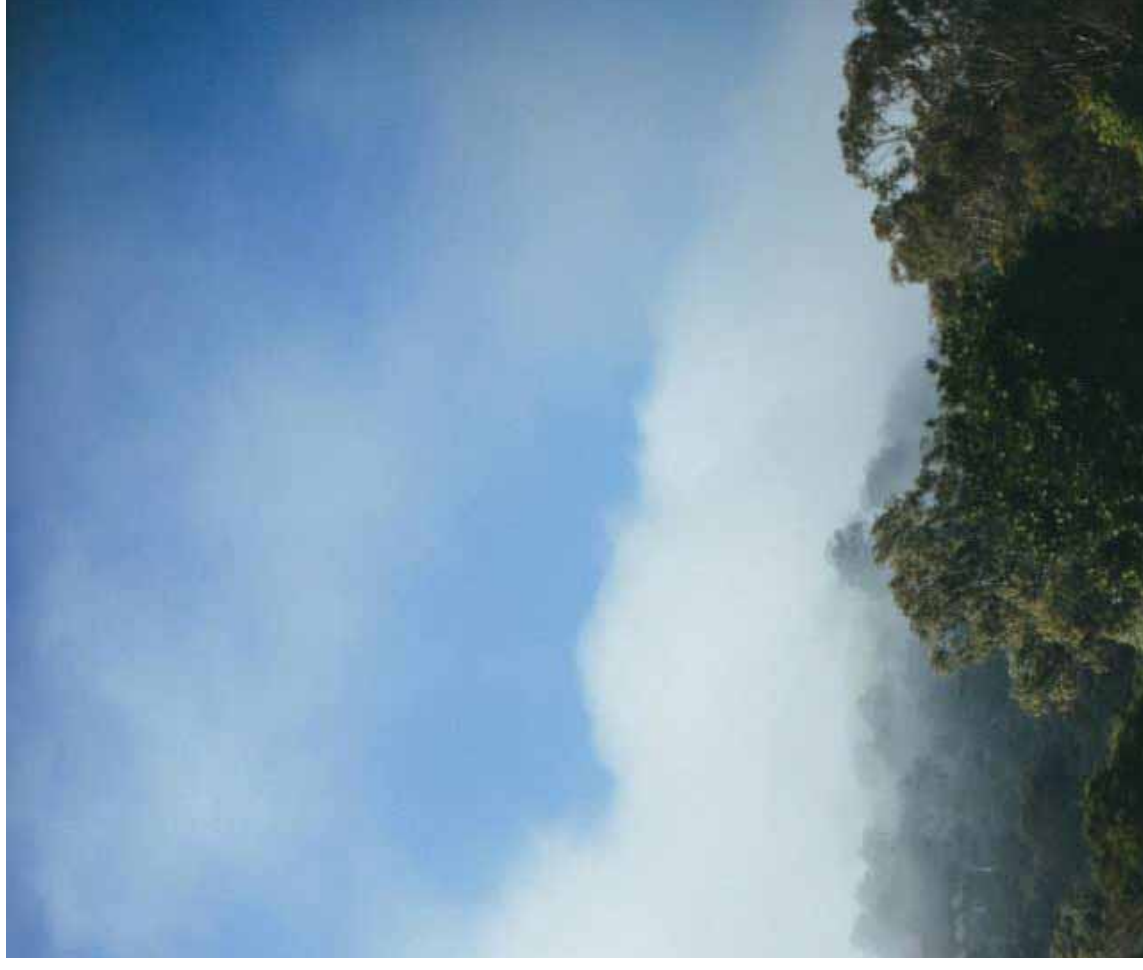
My Mid to long term vision (2021) is to build a home and surround it with permaculture designed gardens. Further to this, I would like to leverage my many years of experience as the owner of a training organisation and with the required approvals, to target the Agritourism sector. I would love to deliver workshops to tourists and locals interested in the practices of permaculture design and the growing of microgreens. Once again, I would do this in partnership with local businesses and potentially provide study groups with visits to the Micro Farm, followed by lunches at local restaurants. The Micro Farm concept would be well suited to owners of urban blocks who are wanting to learn how to grow their own, bringing the Urban and Rural themes together, which is very representative of the Glencoe Estate.

I feel that with the necessary approvals that this could be a win-win for all concerned. My property which sits on the edge of the Glencoe Estate, closest to (and most impacted by) the industrial hub, would act as a buffer between the noise of the factory and the rest of the estate. The Micro Farm will bring employment to the region and opportunity for future tourism in a sector that is being encouraged in the local planning strategy.

To achieve the short term vision, I request approval for;

1. Rural Pursuit zoning, and
2. The development of a large structure greenhouse

You will see in the below proposal that the Greenhouse I am requesting approval for, sits outside the current building envelope, and is larger than the 150Sqm guidelines.



02 THE VISION

CONCEPT

The site at 111 MacDonald Retreat in Toodyay is proposed to be developed for Rural Pursuits. The proposed Residential property development will offer a variety of sustainable agricultural typologies to enhance and promote sustainable growth within the unique Toodyay region.

The intended development of the Toodyay Home Farm will incorporate the construction of an Australian-style country home with a Permaculture Model comprised of a Green House used for the production of microgreens.

The house will have a street-facing frontage and will be situated towards the south of the site, within the building envelope. This is the prime location for the house as it is the highest point on the site allowing the residents to take full advantage of the spectacular outlook.

The Green House will be located further north of the house ensuring that they are less noticeable from the street due to their distance and the downward sloping topography.



02 THE VISION

OBJECTIVES

The objective of Toodyay Home Farm is to connect people, locals and tourists, with Toodyay through the production and distribution of locally grown organic microgreens.

“We are a vibrant rural community that celebrates our past and embraces a sustainable future.” Shire of Toodyay Vision

SUSTAINABILITY

Toodyay Micro Farm feels very strongly about the importance of sustainability and will ensure all practices are eco friendly, including the use of rain water, solar panels and a pesticide free growing environment.

INNOVATION

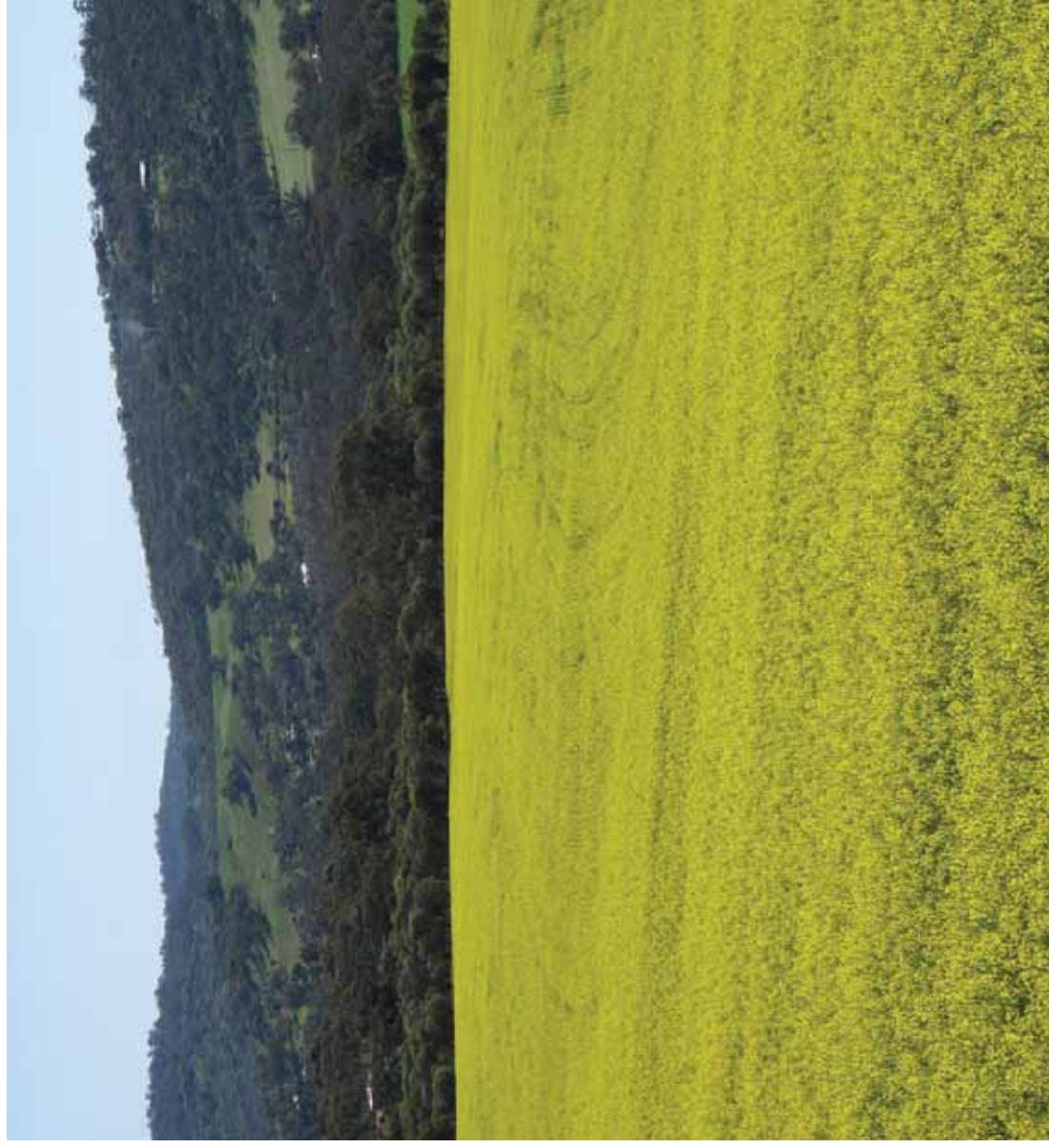
We are looking to use a Permaculture system to produce the highest quality microgreens. This will ensure that there are unlimited opportunities for high-quality growth with the ability to strive for perfection.

ECONOMIC DIVERSIFICATION

As per the Toodyay Local Planning Strategy, we are striving to meet the objective to provide for economic diversification by providing small scale tourism and business opportunities compatible with the surrounding areas.

PASSION

The knowledge of permaculture and microgreen production that Toodyay Micro Farm acquires, we endeavor to pass on to others to teach and inspire.



03 LOCAL CONTEXT

LOCALITY



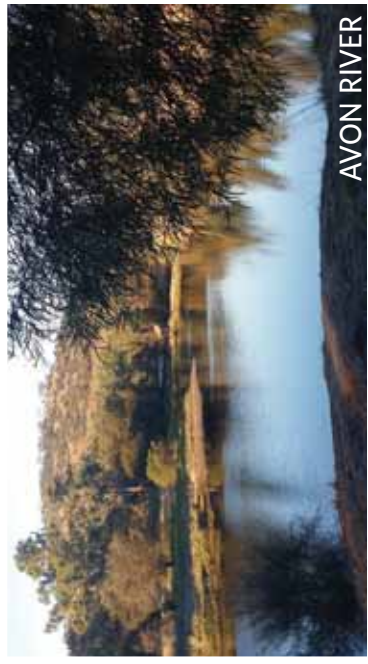
Toodyay is one of the oldest inland towns in Western Australia with much of its heritage preserved. Toodyay's heritage combined with the natural beauty of the rolling hills and Avon River is one of the reasons why Toodyay is so unique. Situated only 1.5 hours from Perth city, Toodyay is the ideal location to produce and promote the sustainable agricultural practices of the region.

Being only an hour out of Perth, Toodyay is a rural town within reach of the tourists and locals of Perth. This makes Toodyay an ideal location for agritourism style activities, in line with the mid and long term plans.

03 LOCAL CONTEXT

LANDSCAPE

Toodyays beautiful landscape of rolling hills and tree lined streets will be appreciated by those who come to visit the Toodyay Micro Farm, contributing to the experience. The Toodyay Micro Farm backs on to the Avon River with recreational picnic spaces within the Estate.



03 LOCAL CONTEXT

URBAN

Toodyay Micro Farm will connect with the Urban Context of Toodyay by providing local businesses with locally grown microgreens and heirloom vegetables. Toodyay Micro Farm will also sell produce at local Farmers Markets and potentially road side stalls.



04 PRECEDENTS

FAIR HARVEST

MARGARET RIVER, WA

Fair Harvest, 5km out of Margaret River, is an established permaculture farm. Fair Harvest also provide permaculture classes, and groups frequently visit the property.



KABUU SUSTAINABLE FOOD GARDENS

BANYULE & NILLUMBİK, VIC

KABUU Sustainable Food Gardens are based in Banyule and Nillumbik, Victoria and comprise of a micro-nursery growing vegetables, herbs, baby salads and microgreens. Kabuu are aspiring ecological urban farmers who are committed to growing sustainably and who supply quality fresh food to local communities.



05 GREENHOUSE



The proposed design will include facilities that enable diversification and will benefit the community. The Greenhouse facilitating the growth of microgreens will provide organic produce to the local community. These concepts will reflect the Planning Strategies of Toodyay by assisting and promoting sustainable growth and catering for the needs of communities.

DISTRIBUTION

The produce will be available to the community via:

- Toodyay Home Farm stalls at local markets
- Providing produce to local restaurants/wineries
- Providing produce to regional restaurants/cafes

[FUTURE] MICROGREEN & PERMACULTURE DESIGN COURSES

Knowledge will be provided to the community via:

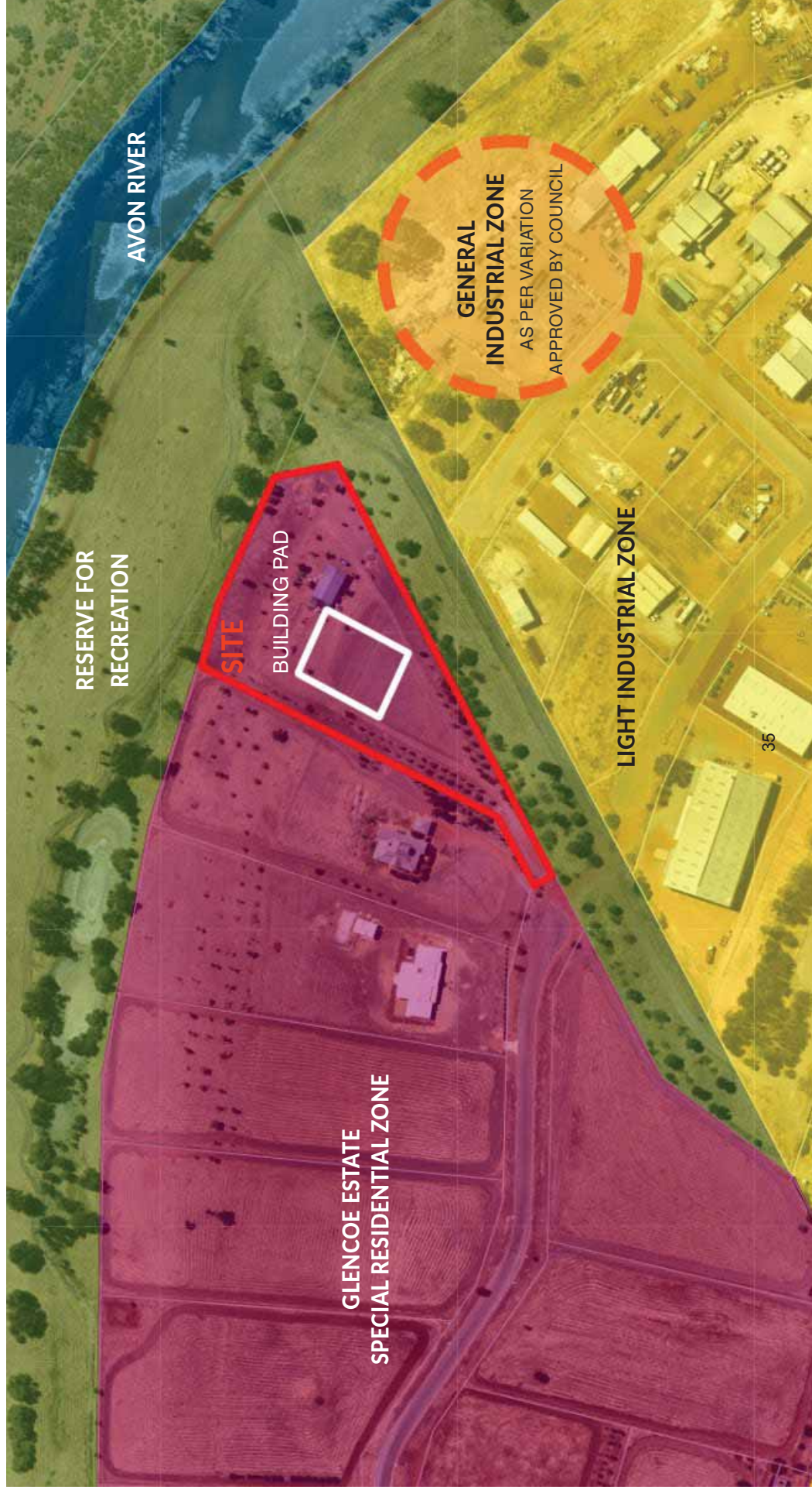
- Workshops provided to local restaurant staff
- Workshops provided to school teachers & staff
- Workshops provided for tourism

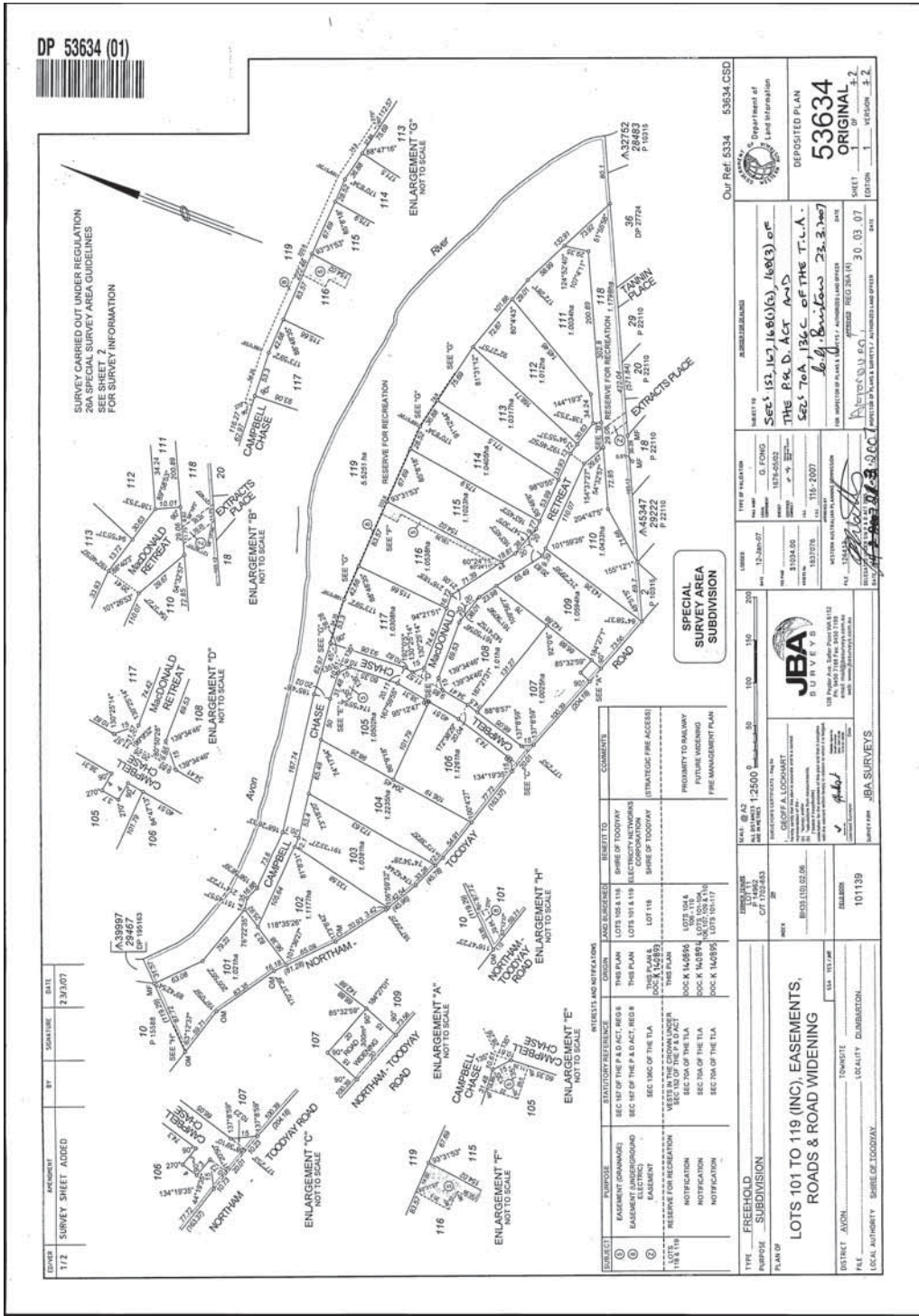


06 SITE ANALYSIS

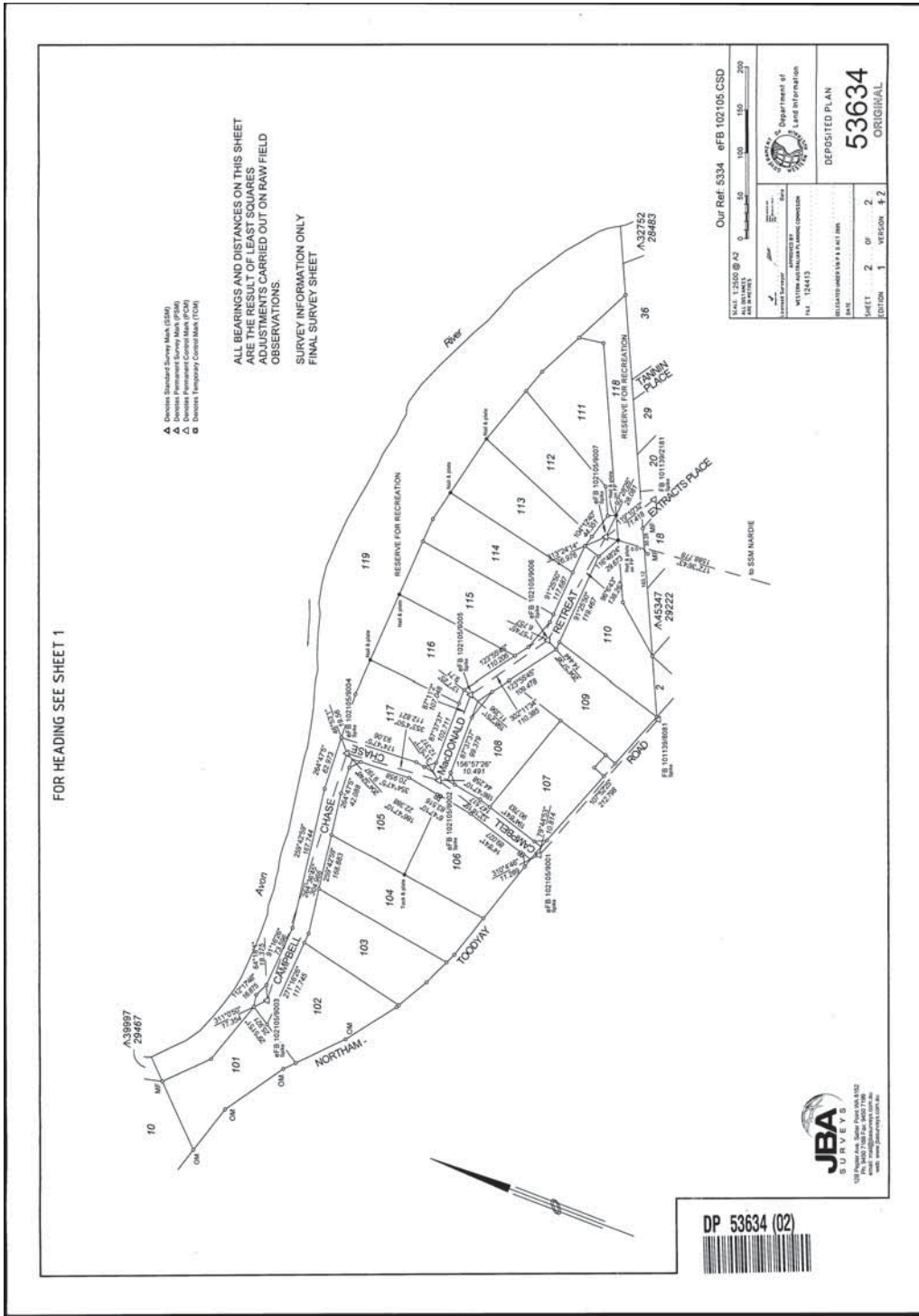
The site at 111 MacDonald Retreat is located only 6 minutes away from the Town Centre.

- Site Area: 10,034m²
- View corridor to the hills
- Adjacent to Avon River Foreshore Reserve along North-East
- Adjacent to Reserve for Recreation along the South-East
- Sloped towards River

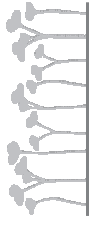
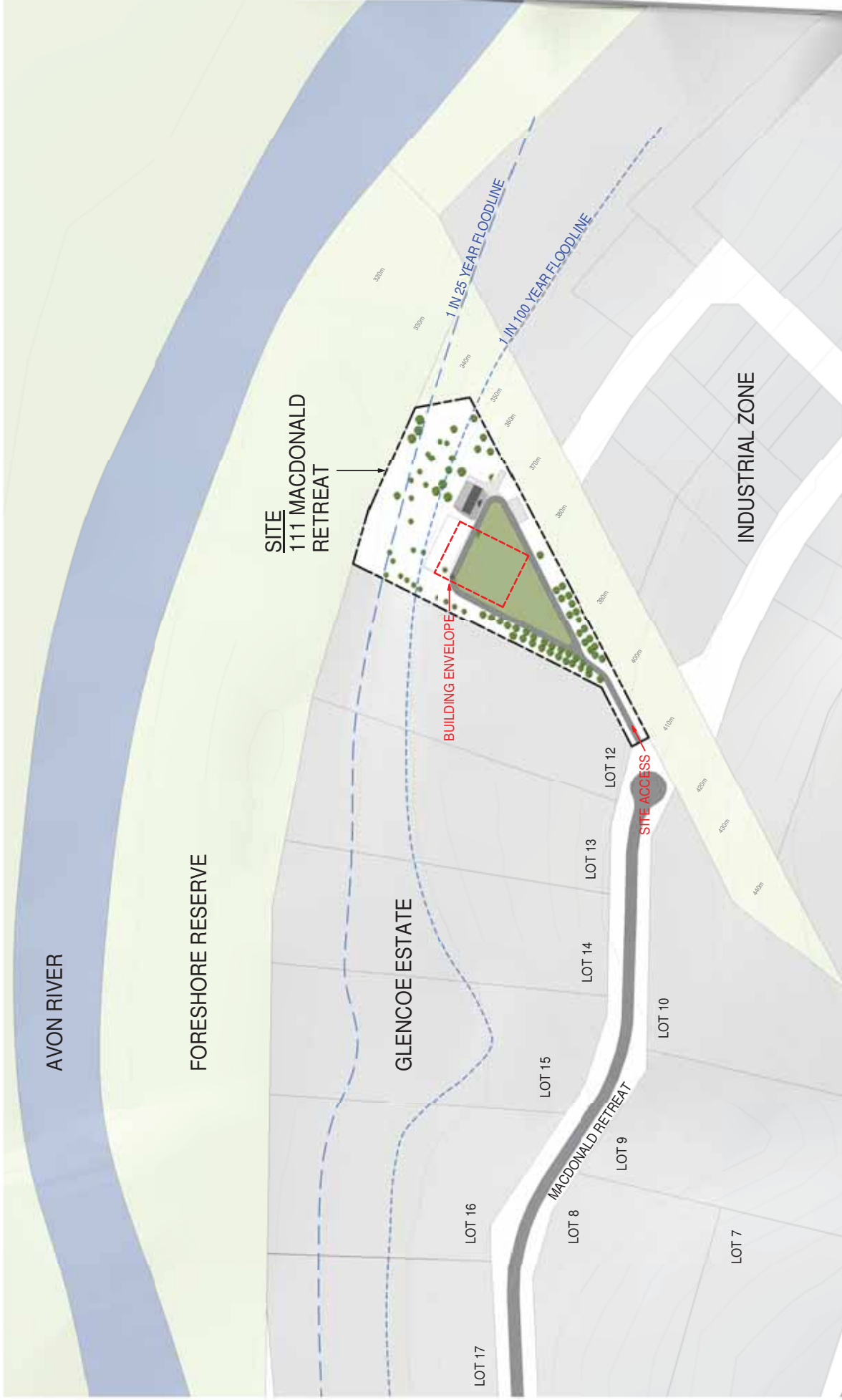




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TOODYAY
MICRO
FARM

ADDRESS:
111 MACDONALD
RETREAT
DUMBARTON
WESTERN AUSTRALIA
6566

DWG NAME LOCATION PLAN
NORTH POINT
DWG NO. A100
SCALE @ A1 1 : 1000
DRAWN BY CPA
DATE 09/10/18



TOODYAY MICRO FARM

ADDRESS:

111 MACDONALD
RETREAT
DUMBARTON
WESTERN AUSTRALIA
6566

DWG NAME

SITE PLAN

NORTH POINT

DWG NO.

SCALE @ A1

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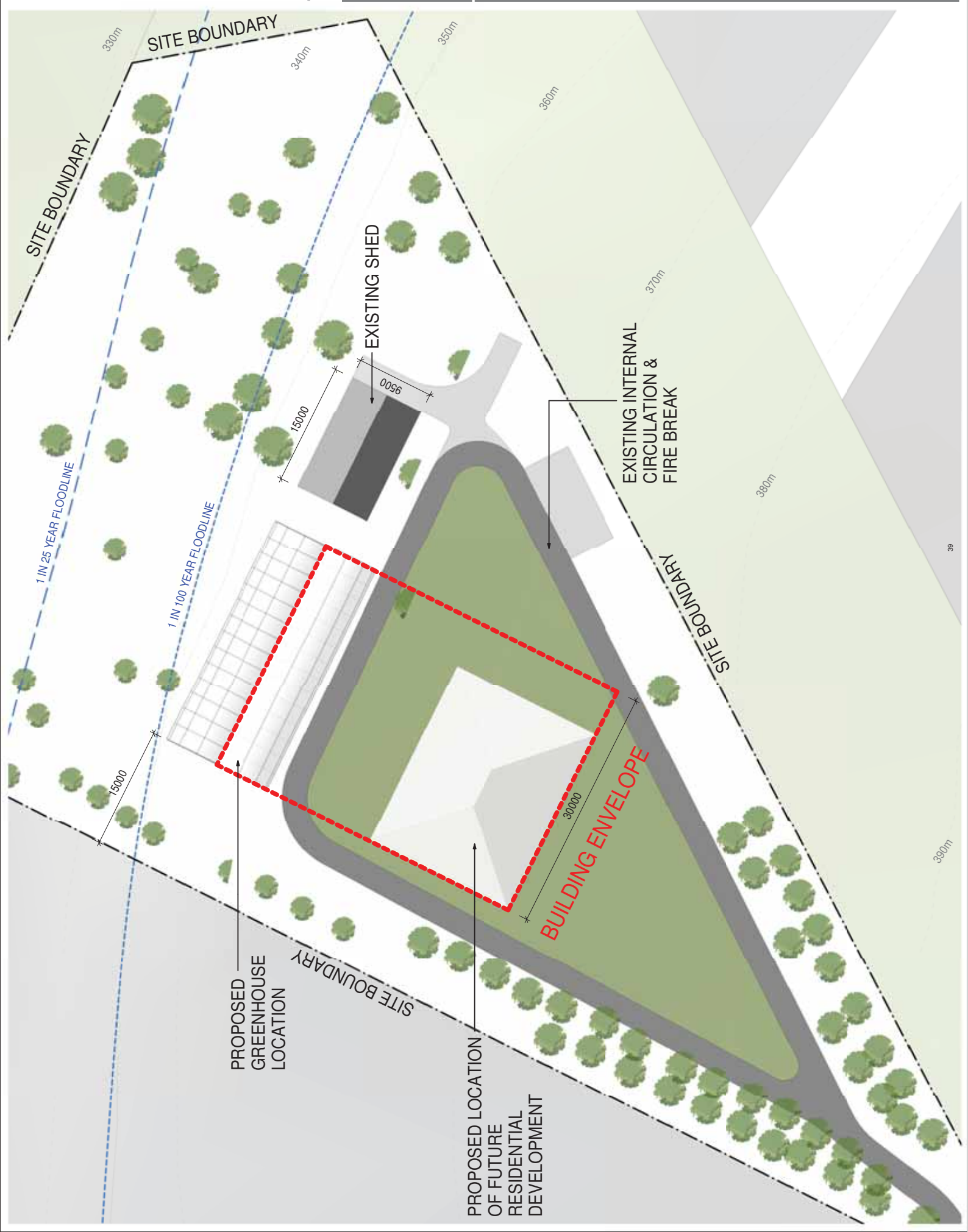


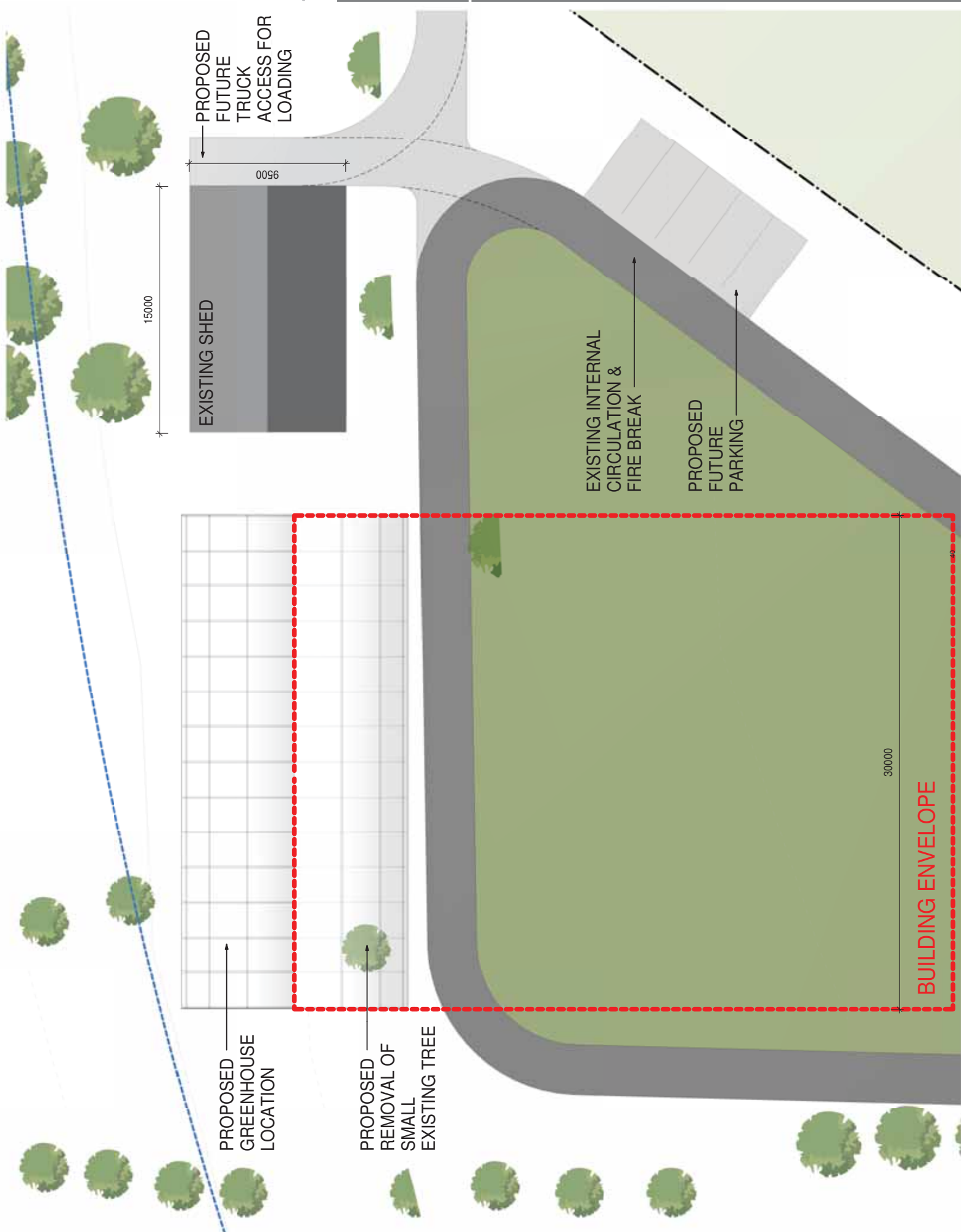
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PROPOSED FUTURE TRUCK ACCESS FOR LOADING

9506

EXISTING SHED

15000

PROPOSED GREENHOUSE LOCATION

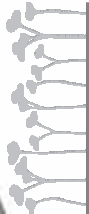
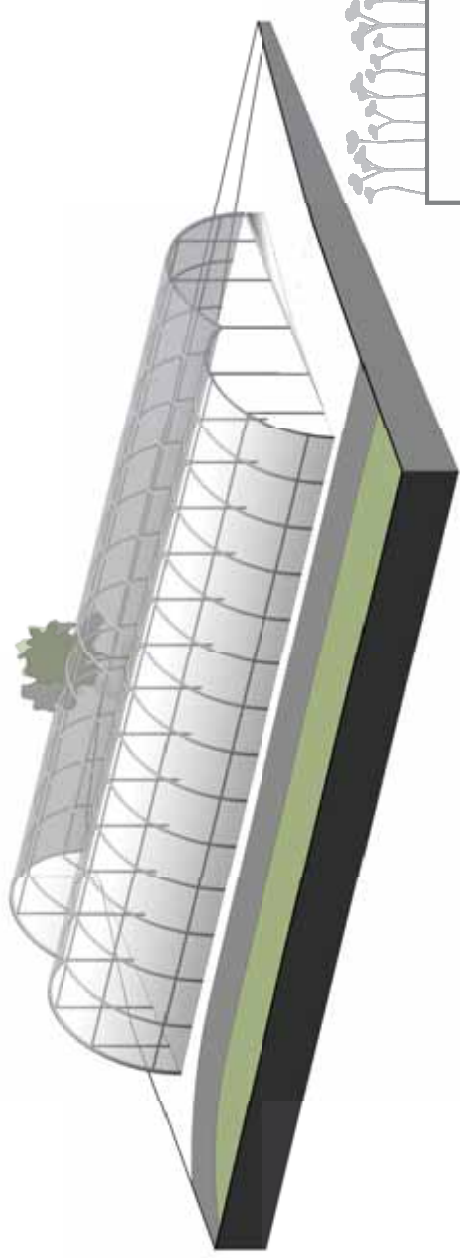
PROPOSED REMOVAL OF SMALL EXISTING TREE

EXISTING INTERNAL CIRCULATION & FIRE BREAK

PROPOSED FUTURE PARKING

30000

BUILDING ENVELOPE



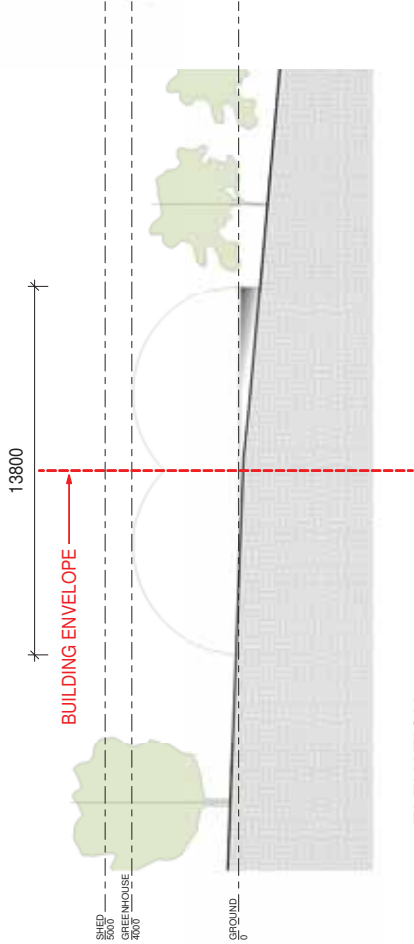
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ADDRESS:

111 MACDONALD
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WESTERN AUSTRALIA
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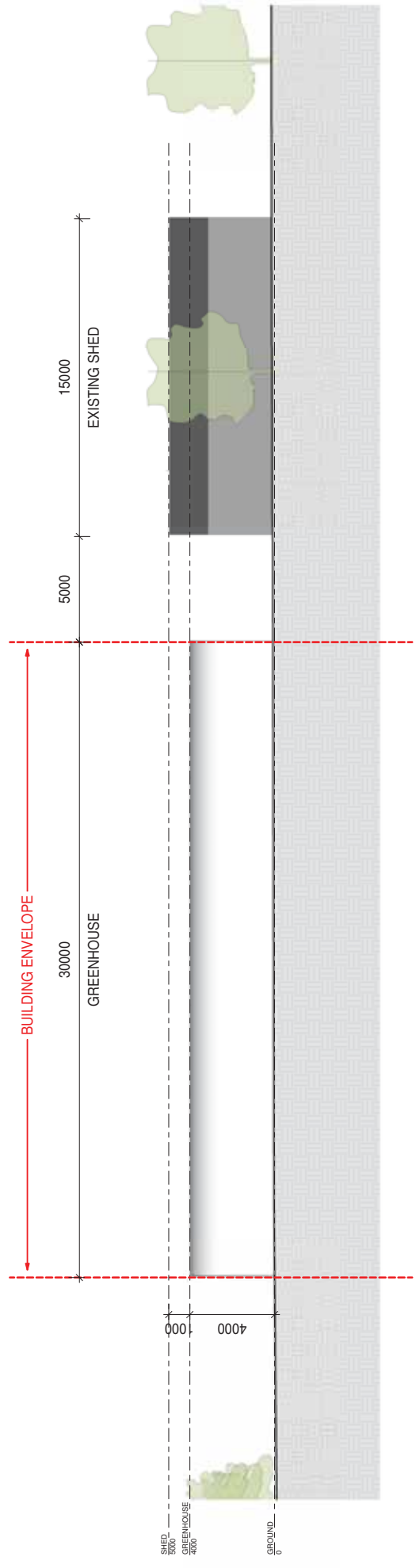
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ELEVATIONS

DWG NO. A201
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DRAWN BY CPA
DATE 08/28/18



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1 : 100

3 AXONOMETRIC



2 ELEVATION 02
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TOODYAY MICRO FARM

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111 MACDONALD
RETREAT
DUMBARTON
WESTERN AUSTRALIA
6566

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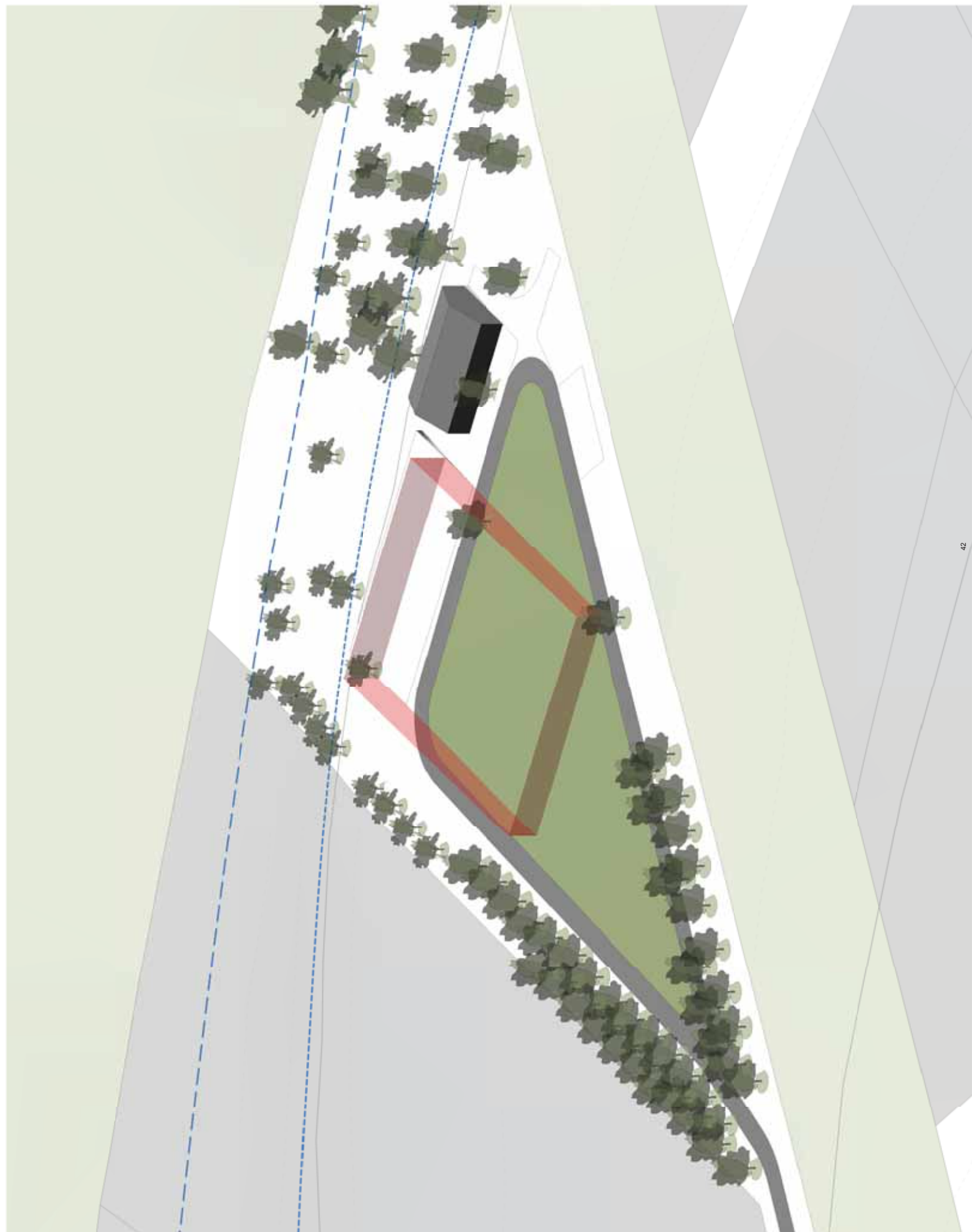
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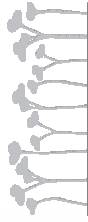
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DATE 01/25/07





TOODYAY MICRO FARM

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DUMBARTON
WESTERN AUSTRALIA
6566

DWG NAME

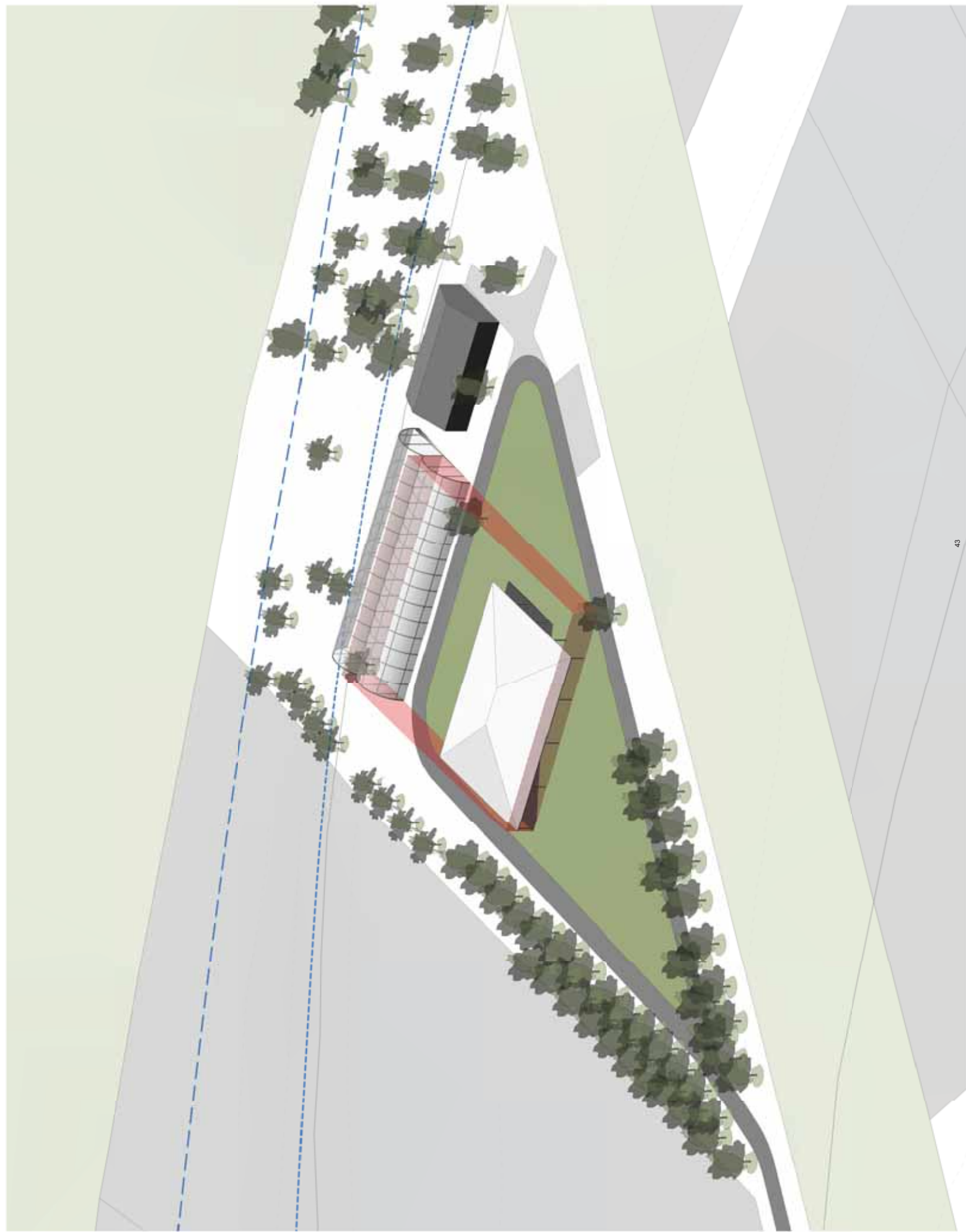
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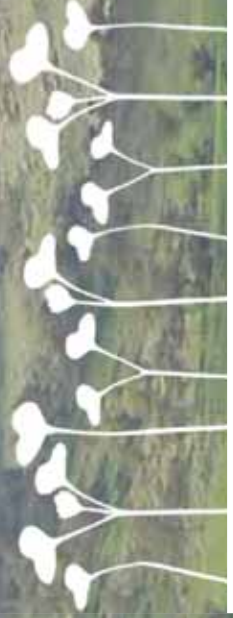
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DATE 08/13/18





TOODYAY MICRO FARM

111 MACDONALD RETREAT

01 PROJECT BRIEF

INSPIRATION & VISION



This Property was my late fathers who had planned to semi retire in Toodyay. He was a restaurateur in Perth, and it was his dream to build a house and use the land to grow his own produce, and commonly mentioned that he would serve his produce in a restaurant that he would one day open in Toodyay. Like my father, I have a keen passion for sustainable living and growing my own.

Unfortunately my father's dream was not fulfilled, as he passed away in 2013. Since then I have held the property with plans that once financially able, I would build a home and eventually bring the property to life in the way my father had envisioned. My longer term desires were to build a robust permaculture garden that would feed my family as well as the local restaurants.

I had started saving for the build but was discouraged (and somewhat disheartened) by the recent approval of paver manufacturer on the property next door, in the light Industrial precinct. This stalled my plans.

After much thought and contemplation, an opportunity has presented itself; a friend of mine, who is a Micro Green and permaculture enthusiast, has offered to support me in using my land to begin growing micro greens. This has reignited my desire to develop the property and recommence my process of saving to build a home.

02 THE VISION

TO CREATE THE TOODYAY
MICRO FARM



What is a Micro Farm?

The term microfarm, sometimes expressed as two words: micro farm, is used to describe agriculture that is done on a smaller scale in urban and suburban areas. As the name suggests, microfarms typically operate in small land areas of five acres or less.

Microfarms are some of the best small scale agricultural gardens you can build because they are helpful, sustainable, environmentally friendly, and a great way to increase agricultural output in our modern lifestyle.

Commercial microfarmers often focus on high-dollar specialty crops because they don't produce large enough quantities to provide staple veggies like lettuce or tomatoes. As a result, they almost always sell to niche markets. For example, microgreens are an excellent crop choice for microfarms, as are mushrooms, garlic, and herbs. Aquaponics also make nice microfarms because they make a good use of space, combining fish and plants in one system.

02 THE VISION

SHORT, MID & LONG TERM PLANS

My short term vision (2019) is to set up a greenhouse and grow microgreens and heirloom vegetables for sale at the Toodyay Farmers Markets and to local restaurants and stores. I would like to create a partnership with the local businesses, where they can be actively involved in the produce we grow for them creating a real 'Farm to Plate' environment that they can promote in their own restaurants.

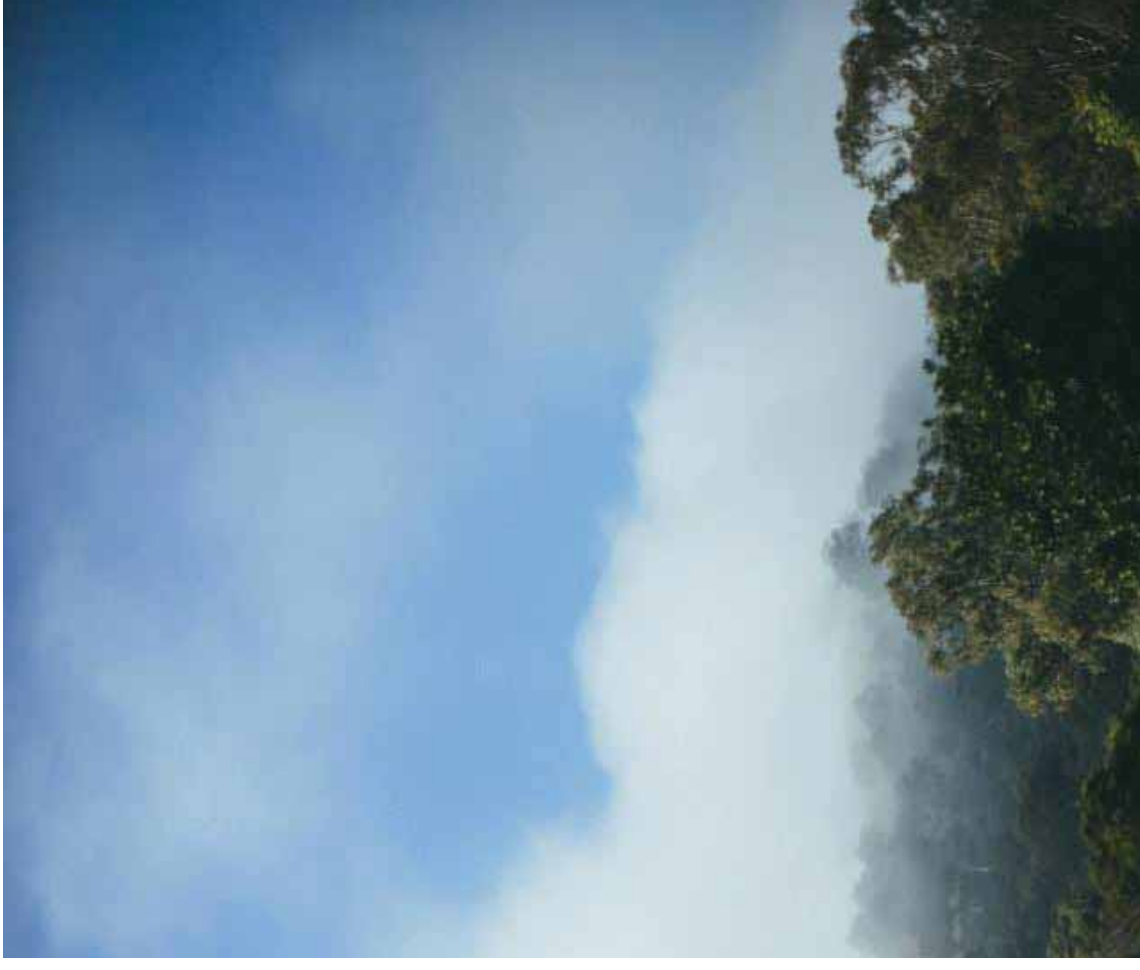
My Mid to long term vision (2021) is to build a home and surround it with permaculture designed gardens. Further to this, I would like to leverage my many years of experience as the owner of a training organisation and with the required approvals, to target the Agritourism sector. I would love to deliver workshops to tourists and locals interested in the practices of permaculture design and the growing of microgreens. Once again, I would do this in partnership with local businesses and potentially provide study groups with visits to the Micro Farm, followed by lunches at local restaurants. The Micro Farm concept would be well suited to owners of urban blocks who are wanting to learn how to grow their own, bringing the Urban and Rural themes together, which is very representative of the Glencoe Estate.

I feel that with the necessary approvals that this could be a win-win for all concerned. My property which sits on the edge of the Glencoe Estate, closest to (and most impacted by the industrial hub), would act as a buffer between the noise of the factory and the rest of the estate. The Micro Farm will bring employment to the region and opportunity for future tourism in a sector that is being encouraged in the local planning strategy.

To achieve the short term vision, I request approval for;

1. Rural Pursuit zoning, and
2. The development of a large structure greenhouse

You will see in the below proposal that the greenhouse I am requesting approval for, sits outside the current building envelope, and is larger than the 150Sqm guidelines.



02 THE VISION

CONCEPT

The site at Lot 111 MacDonald Retreat in Toodyay is proposed to be developed for Rural Pursuits. The proposed Residential property development will offer a variety of sustainable agricultural typologies to enhance and promote sustainable growth within the unique Toodyay region.

The intended development of the Toodyay Micro Farm will incorporate the construction of an Australian-style country home with a Permaculture Model comprised of a Green House used for the production of microgreens.

The house will have a street-facing frontage and will be situated towards the south of the site, within the building envelope. This is the prime location for the house as it is the highest point on the site allowing the residents to take full advantage of the spectacular outlook.

The greenhouse will be located further north of the house ensuring that they are less noticeable from the street due to their distance and the downward sloping topography.



02 THE VISION

OBJECTIVES

The objective of Toodyay Micro Farm is to connect people, locals and tourists, with Toodyay through the production and distribution of locally grown organic microgreens.

“We are a vibrant rural community that celebrates our past and embraces a sustainable future.” Shire of Toodyay Vision

SUSTAINABILITY

Toodyay Micro Farm feels very strongly about the importance of sustainability and will ensure all practices are eco friendly, including the use of rain water, solar panels and a pesticide free growing environment.

INNOVATION

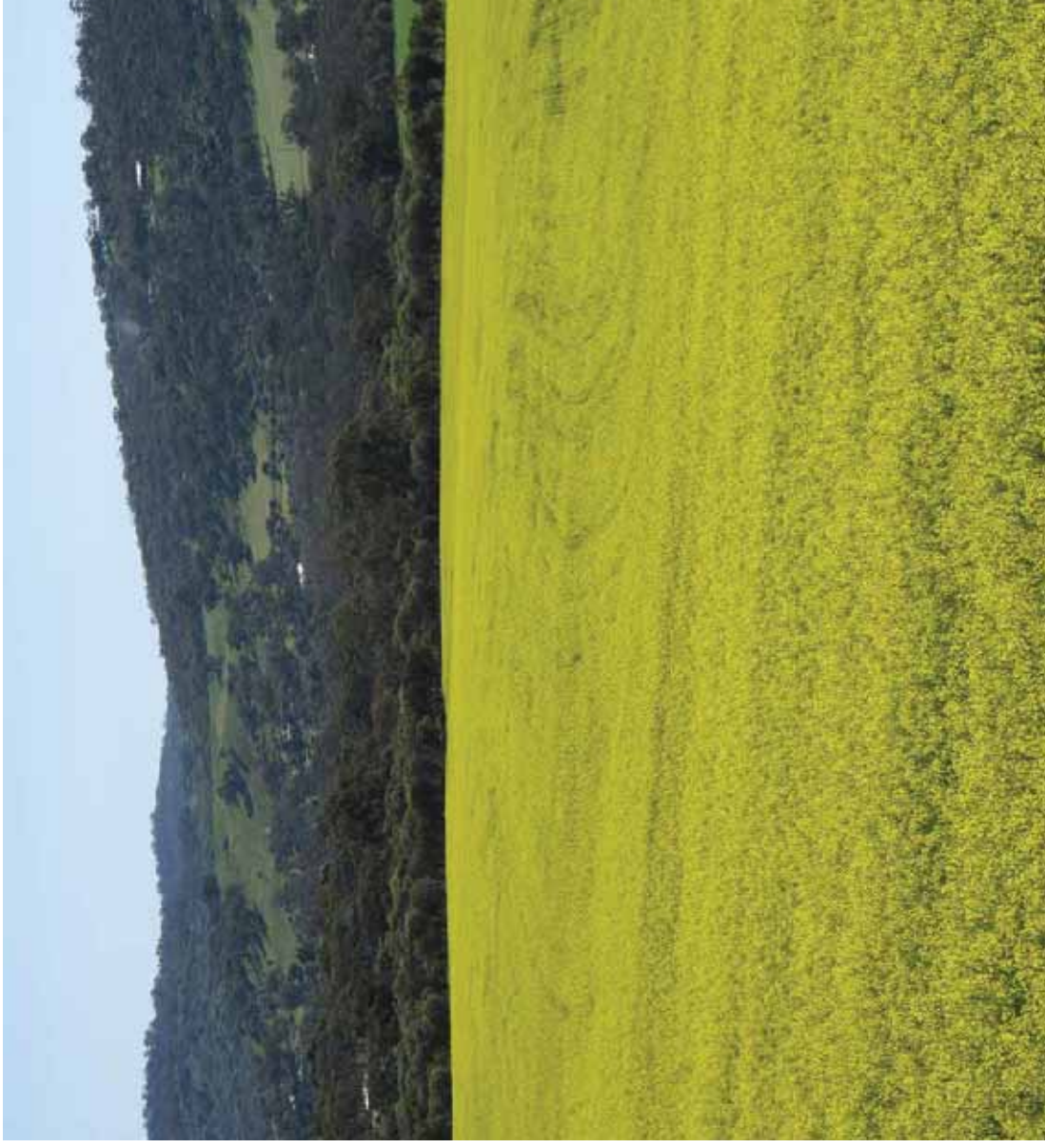
We are looking to use a Permaculture system to produce the highest quality microgreens. This will ensure that there are unlimited opportunities for high-quality growth with the ability to strive for perfection.

ECONOMIC DIVERSIFICATION

As per the Toodyay Local Planning Strategy, we are striving to meet the objective to provide for economic diversification by providing small scale tourism and business opportunities compatible with the surrounding areas.

PASSION

The knowledge of permaculture and microgreen production that Toodyay Micro Farm acquires, we endeavor to pass on to others to teach and inspire.



03 LOCAL CONTEXT

LOCALITY



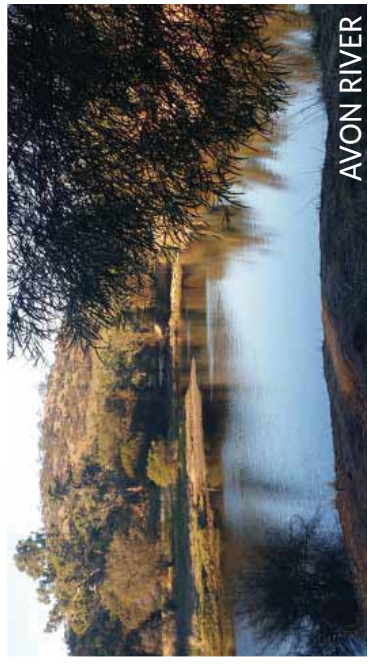
Toodyay is one of the oldest inland towns in Western Australia with much of its heritage preserved. Toodyay's heritage combined with the natural beauty of the rolling hills and Avon River is one of the reasons why Toodyay is so unique. Situated only 1.5 hours from Perth city, Toodyay is the ideal location to produce and promote the sustainable agricultural practices of the region.

Being only an hour out of Perth, Toodyay is a rural town within reach of the tourists and locals of Perth. This makes Toodyay an ideal location for agritourism style activities, in line with the mid and long term plans.

03 LOCAL CONTEXT

LANDSCAPE

Toodyays beautiful landscape of rolling hills and tree lined streets will be appreciated by those who come to visit the Toodyay Micro Farm, contributing to the experience. The Toodyay Micro Farm backs on to the Avon River with recreational picnic spaces within the Estate.



03 LOCAL CONTEXT

URBAN

Toodyay Micro Farm will connect with the Urban Context of Toodyay by providing local businesses with locally grown microgreens and heirloom vegetables. Toodyay Micro Farm will also sell produce at local Farmers Markets and potentially road side stalls.



TOWN CENTRE



HERITAGE ACCOMMODATION



FARMERS MARKET



FOOD FESTIVAL



LOCAL BAKERY

04 PRECEDENTS

FAIR HARVEST

MARGARET RIVER, WA

Fair Harvest, 5km out of Margaret River, is an established permaculture farm. Fair Harvest also provide permaculture classes, and groups frequently visit the property.



KABUU SUSTAINABLE FOOD GARDENS

BANYULE & NILLUMBİK, VIC

KABUU Sustainable Food Gardens are based in Banyule and Nillumbik, Victoria and comprise of a micro-nursery growing vegetables, herbs, baby salads and microgreens. Kabuu are aspiring ecological urban farmers who are committed to growing sustainably and who supply quality fresh food to local communities.



05 GREENHOUSE



The proposed design will include facilities that enable diversification and will benefit the community. The Greenhouse facilitating the growth of microgreens will provide organic produce to the local community. These concepts will reflect the Planning Strategies of Toodyay by assisting and promoting sustainable growth and catering for the needs of communities.

DISTRIBUTION

The produce will be available to the community via:

- Toodyay Micro Farm stalls at local markets
- Providing produce to local restaurants/wineries
- Providing produce to regional restaurants/cafes

[FUTURE] MICROGREEN & PERMACULTURE DESIGN COURSES

Knowledge will be provided to the community via:

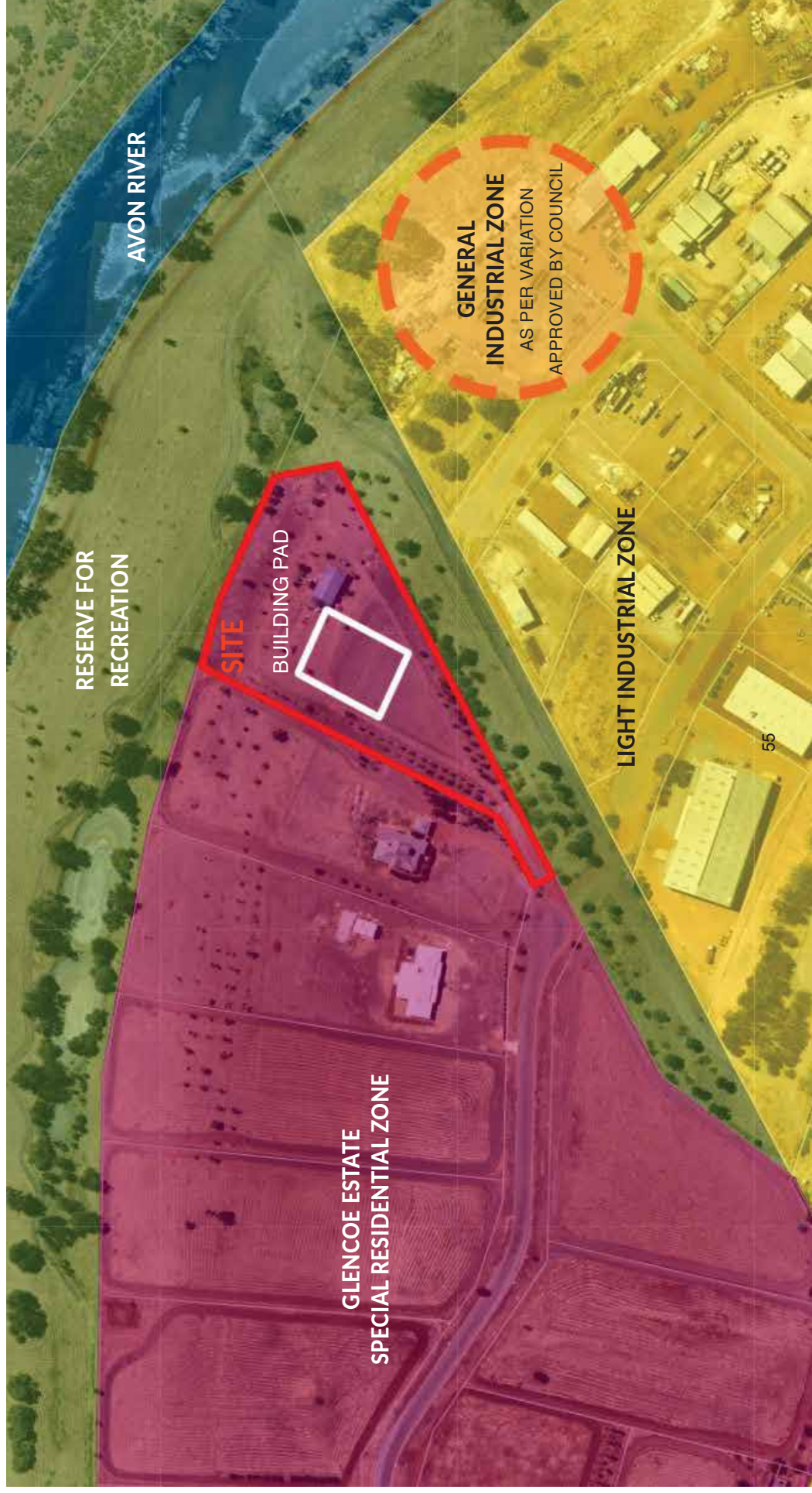
- Workshops provided to local restaurant staff
- Workshops provided to school teachers & staff
- Workshops provided for tourism



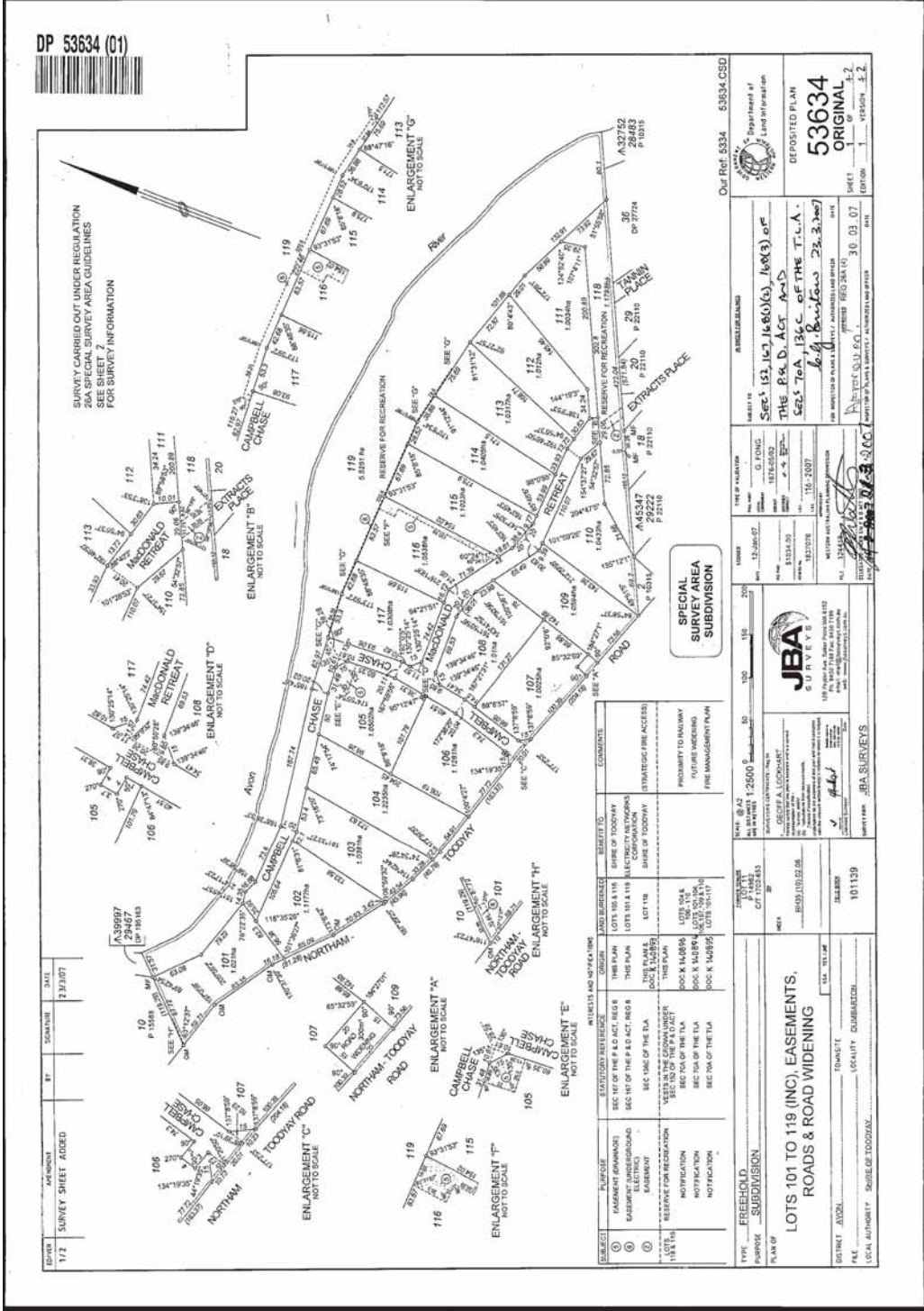
06 SITE ANALYSIS

The site at Lot 111 MacDonald Retreat is located only 6 minutes away from the Town Centre.

- Site Area: 10,034m²
- View corridor to the hills
- Adjacent to Avon River Foreshore Reserve along North-East
- Adjacent to Reserve for Recreation along the South-East
- Sloped towards River



07 APPENDIX

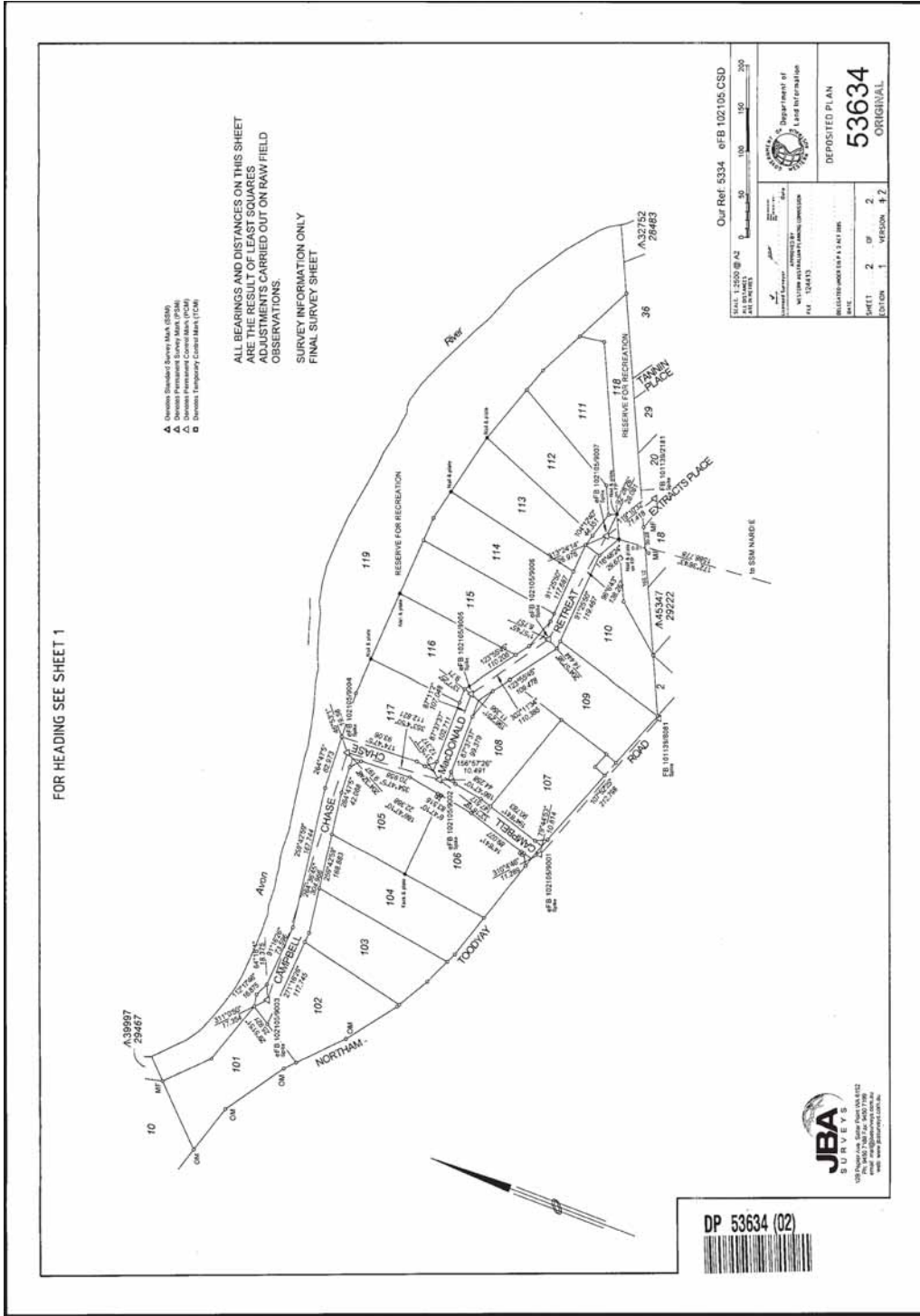


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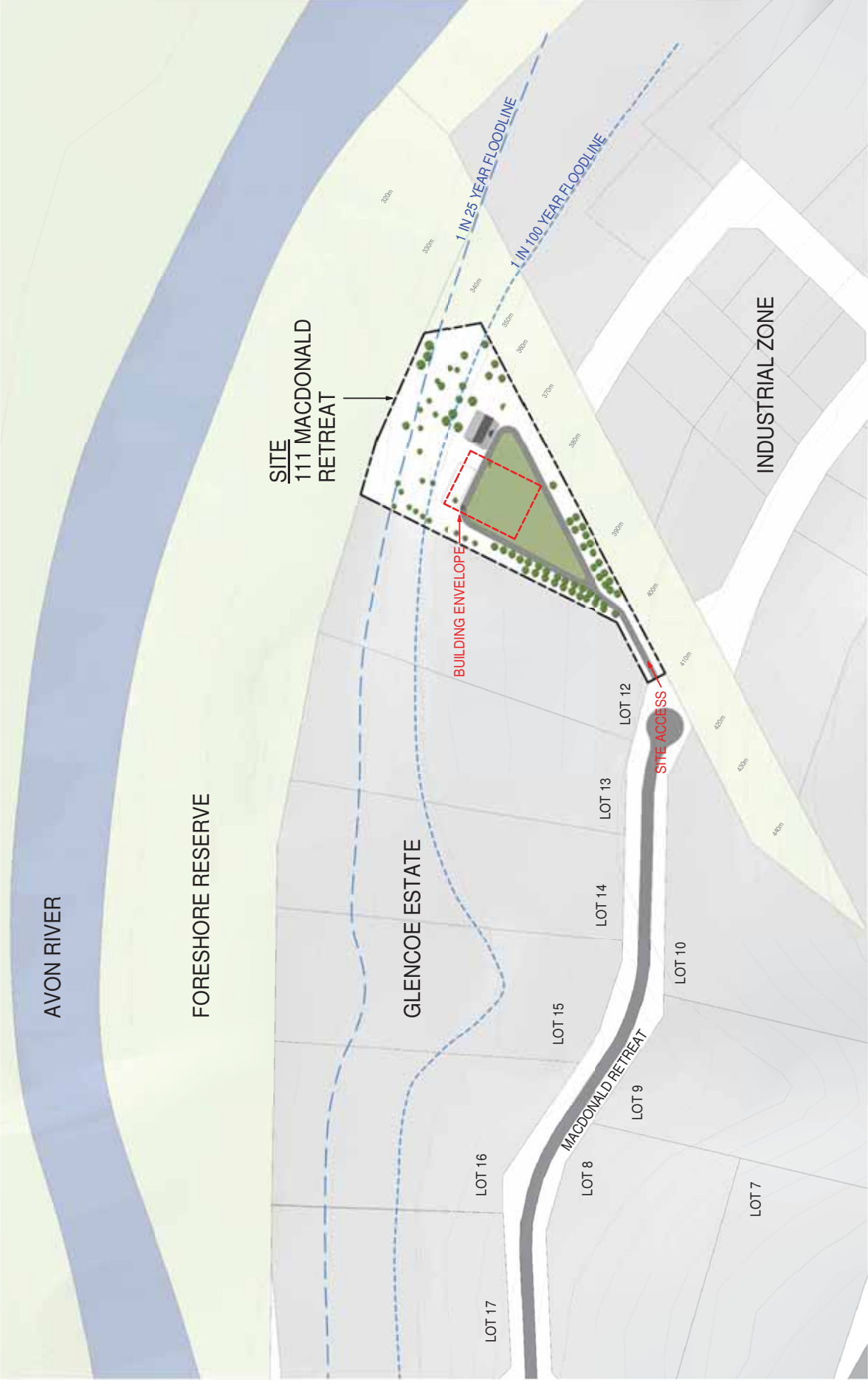
Toodyay Micro Farm
 111 Macdonald Retreat, Dumbarton

07 APPENDIX



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Landgate
www.landgate.wa.gov.au



**TOODYAY
MICRO
FARM**

ADDRESS:
111 MACDONALD
RETREAT
DUMBARTON
WESTERN AUSTRALIA
6566

DWG NAME	LOCATION PLAN
NORTH POINT	
DWG NO.	A100
SCALE @ A1	1 : 1000
DRAWN BY	CFA
DATE	10/10/18



TOODYAY MICRO FARM

ADDRESS:

111 MACDONALD
RETREAT
DUMBARTON
WESTERN AUSTRALIA
6566

DWG NAME

SITE PLAN

NORTH POINT

DWG NO.

SCALE @ A1

DRAWN BY

DATE

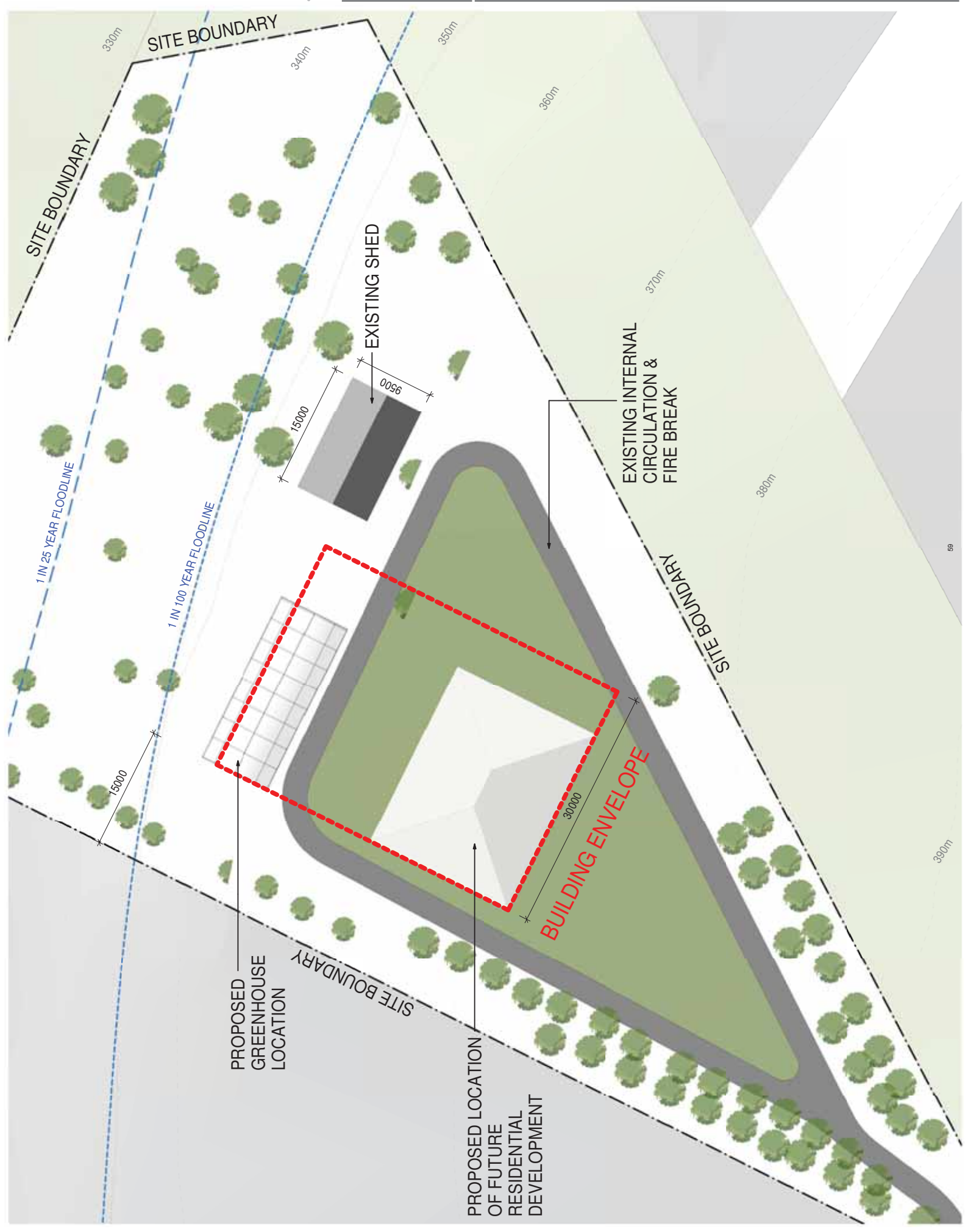


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TOODYAY MICRO FARM

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111 MACDONALD
RETREAT
DUMBARTON
WESTERN AUSTRALIA
6566

DWG NAME

FLOOR PLAN

NORTH POINT

DWG NO.

SCALE @ A1

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EXISTING SHED

6500

15000

22000

6000

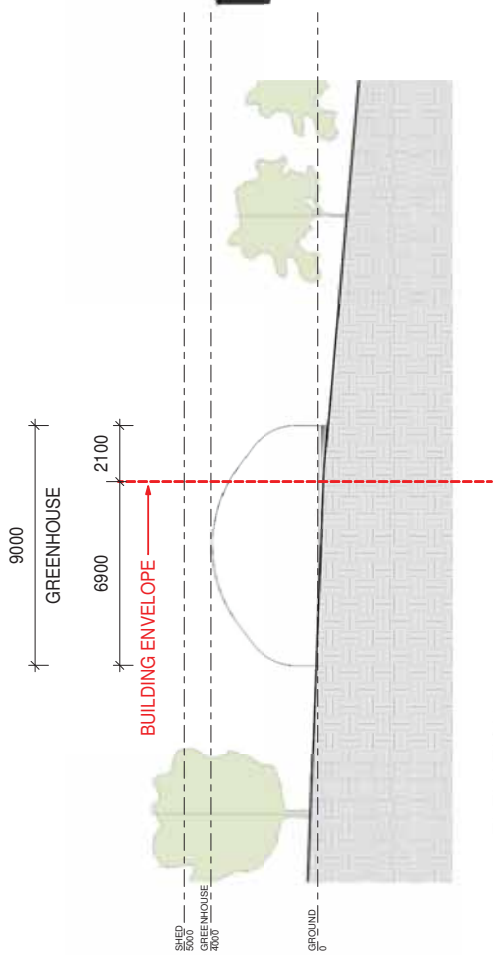
PROPOSED GREENHOUSE LOCATION

PROPOSED REMOVAL OF SMALL EXISTING TREE

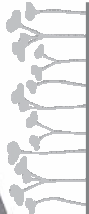
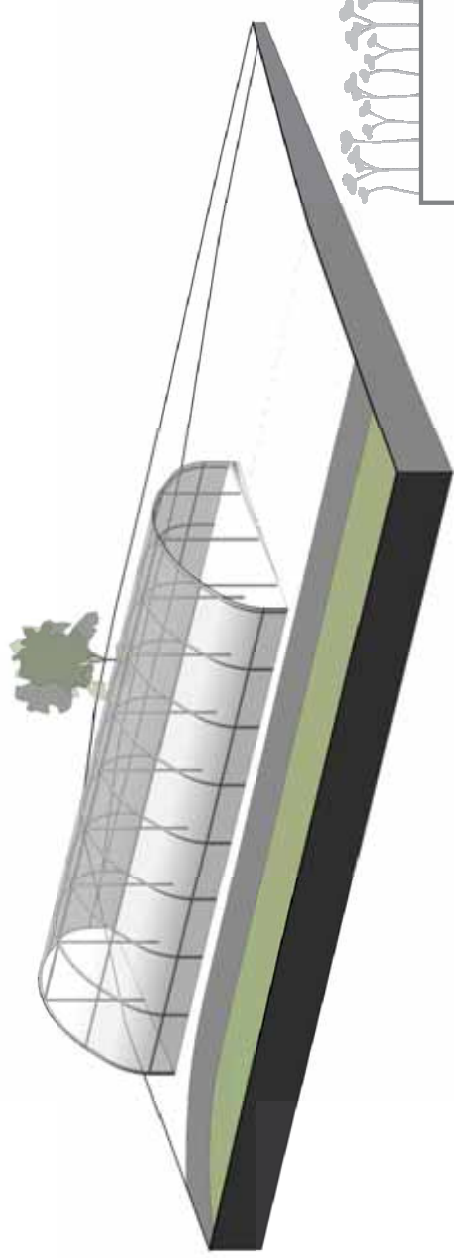
EXISTING INTERNAL CIRCULATION & FIRE BREAK

30000

BUILDING ENVELOPE



1 ELEVATION 01
1 : 100



TOODYAY
MICRO
FARM

3 AXONOMETRIC

ADDRESS:

111 MACDONALD
RETREAT
DUMBARTON
WESTERN AUSTRALIA
6566

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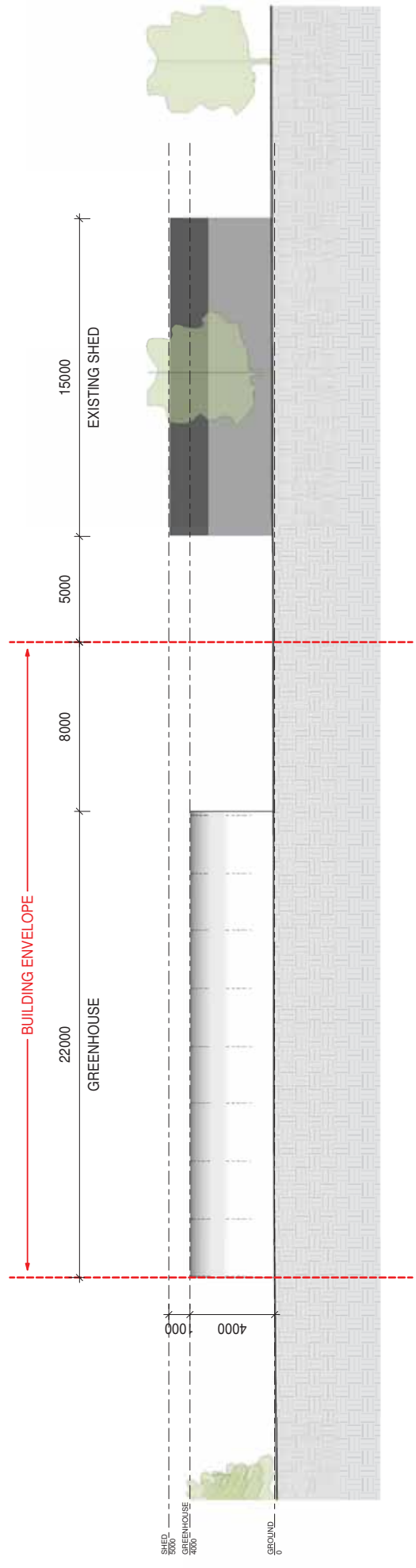
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DATE 10/10/18



2 ELEVATION 02
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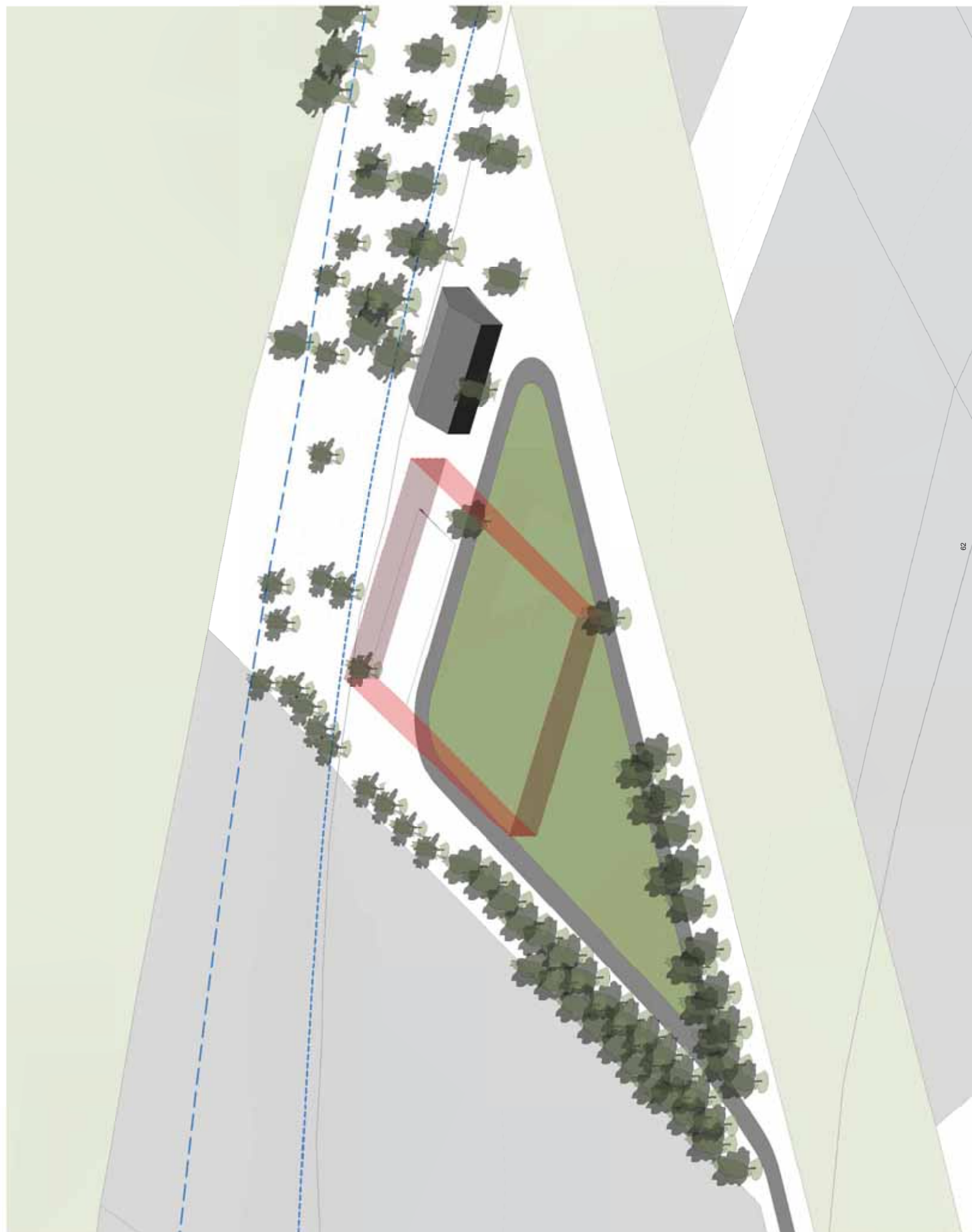
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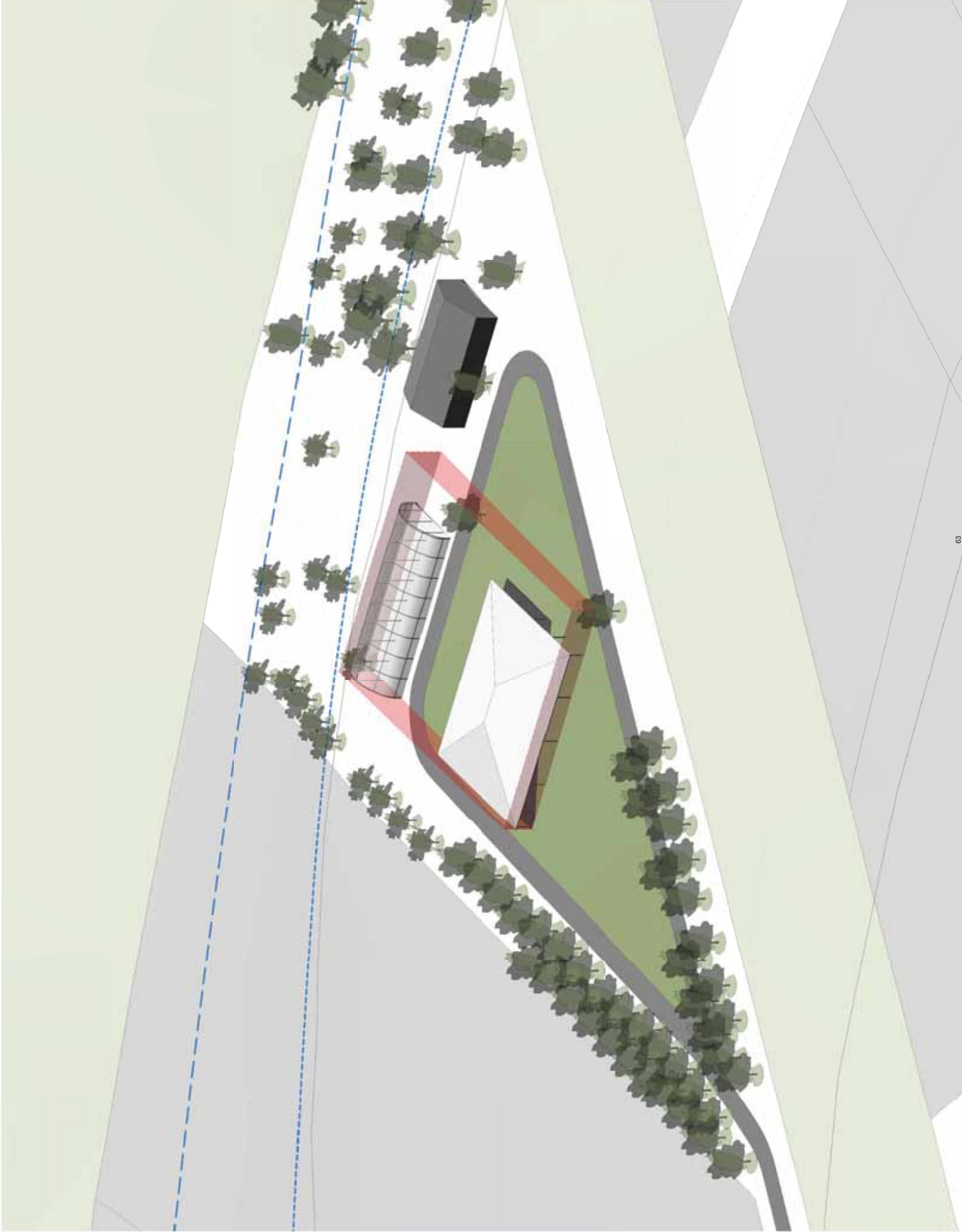
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DATE 10/10/18



**LOT 111 MACDONALD RETREAT
DUMBARTON**



Legend

- Building Envelope
- Existing Shed
- Extent of Flooding
- Extent of 100yr ARI Flooding
- Extent of 10yr ARI Flooding
- Extent of 25yr ARI Flooding
- Lot 111 MacDonald Retreat



AGENDA FORUM DISCUSSION PAPER

Date of Report:	28 November 2018
Name of Applicant / Proponent/s:	The Western Australian Planning Commission (WAPC)
File Reference No.:	PLA5/EXT1
Author:	G Bissett – Manager of Planning and Development
Responsible Officer:	S Scott – Chief Executive Officer
Previously Before Council:	13 November 2018 - CEO Report
Nature of Council's Role in the matter:	Advocacy
Attachments:	<ol style="list-style-type: none">1. DRAFT SPP 2.4 – Basic Raw Materials Policy;2. Draft Basic Raw Materials Guidelines;3. Current SPP 2.4 - Basic Raw Materials Policy; and4. SPP 2.5 – Rural Planning.

7.4 DRAFT SPP 2.4 – BASIC RAW MATERIALS POLICY & GUIDELINES

PURPOSE OF THE DISCUSSION PAPER

For Council to consider the Draft SPP2.4 – Basic Raw Materials Policy and Basic Raw Materials Guidelines currently out for public comment prior to determining their submission at a Meeting.

BACKGROUND

The Western Australian Planning Commission is seeking comment on proposed changes to the State Planning Policy 2.4 Basic Raw Materials (SPP 2.4) and associated guidelines (**Attach 1 & 2**). The revised policy aims to introduce new Basic Raw Materials (BRM) supply categories and a new BRM footprint.

The current SPP 2.4 was gazetted in July, 2000 (**Attach 3**). The new draft SPP 2.4 and guidelines significantly revise the provisions.

Basic Raw Materials are essentially what the Shire identifies as materials obtained from extractive industries on freehold land under the *Planning and Development Act 2005*. BRM's extracted from Crown Land are regulated by the *Mining Act 1978* requiring a granted mining tenement.

7.4 DRAFT SPP 2.4 - Basic Raw Materials Policy and Guidelines - continued

A key objective of the revised SPP 2.4 is to enable the responsible extraction of basic raw materials used in building and development while ensuring the protection of people and the environment.

This policy sets out the matters which are to be taken into account and given effect to by the WAPC and local governments in considering zoning, subdivision and development applications for extractive industries.

The objectives of this policy

- the location and extent of known basic raw material resources;
- protect priority resource locations, key extraction areas and extraction areas from being developed for incompatible land uses which could limit future exploitation;
- ensure that the use and development of land for the extraction of basic raw materials does not adversely affect the environment or amenity in the locality of the operation during or after extraction;
- provide a consistent planning approval process for extractive industry proposals including the early consideration of sequential land uses.

In partnership with the Department of Mines, Industry Regulation and Safety (DMIRS) and following interagency and public consultation for the Perth and Peel Regions, associated mapping has also been developed and is available for comment.

Associated BRM resources mapping is available to view via their website at:

<https://www.planning.wa.gov.au/publications/10774.aspx>

Currently the shire is covered by the requirements covered by SPP 2.5 – Rural Planning which was introduced as a stop gap measure in 2016. If Draft SPP 2.4 is adopted as intended this would replace the current BRM provisions within SPP 2.5.

CONSULTATION IMPLICATIONS

Submissions close at 5pm 25 January 2019. This item is for Council to consider this matter and provide guidance before bringing it back to a meeting for formal direction.

STRATEGIC IMPLICATIONS

Shire of Toodyay Local Planning Strategy 2017

The Shire's Local Planning Strategy indicates that extractive industries are an important feature of the Shire of Toodyay.

Planning for the rural areas of the Shire must have regard to the potential for extraction of basic raw materials and accommodate suitable buffer areas between sensitive land uses and extraction sites in accordance with the

7.4 DRAFT SPP 2.4 - Basic Raw Materials Policy and Guidelines - continued

provision of the WAPC's State Planning Policy No. 2.5 – Rural Planning. The priority resource and extraction sites identified in SPP 2.5 are shown on the Local Planning Strategy Map No. 3. Further, Section 6.4 of SPP2.5 guides the implementation of the provisions of the policy into local planning schemes, which has been taken into account in this Strategy and will be implemented into LPS5.

Extractive industries are a discretionary land use in the Local Planning Scheme No. 4 and this Strategy proposes to maintain this level of permissibility.

POLICY IMPLICATIONS

The Shire of Toodyay Members Policy M.2 – Public Consultation Formal Matters (M2) applies this requires consultation in accordance with Level E – Locality.

The Shire's Local Planning Policy LPP 7 Extractive Industries Road – Contributions requires road maintenance and capital replacement contributions to be made by operators of extractive industries.

FINANCIAL IMPLICATIONS

There are no adverse legal nor statutory implications envisaged from this report.

RISK IMPLICATIONS

There are no adverse risk implications envisaged from this report.

SOCIAL IMPLICATIONS

There are no adverse social implications envisaged from this report.

ENVIRONMENTAL IMPLICATIONS

There are no adverse environmental implications envisaged from this report.

ECONOMIC IMPLICATIONS

There are no adverse economic implications envisaged from this report.

OFFICER COMMENT / DETAILS

The new requirements are broadly consistent with those within SPP 2.5 – Rural Planning but significantly expanded with more emphasis on the protection of the environment. This is seen as a positive step forward with the exception of the new mapping component. The new expanded mapping has only been provided for the Perth Peel area. It is seen as essential this greater level of mapping be provided also for areas such as Toodyay which are equally impacted by BRM issues. This is recommended to be part of the Shire's submission.

7.4 DRAFT SPP 2.4 - Basic Raw Materials Policy and Guidelines - continued

The new Draft SPP 2.4 identifies two supply categories for BRM:

- Significant Geological Supplies (SGS) are identified as the highest priority extraction areas for BRM. SGS are BRM identified by the Department of Mines, Industry Regulation and Safety (DMIRS). They represent strategic, long-term supplies of BRM materials requiring protection. The designation of an SGS area does not obligate a private landowner or State agency to extract these resources, nor does it presume that extraction would be environmentally acceptable or that subsequent approvals for extraction or environmental approvals are guaranteed.
- Extraction Sites (ES) - comprise all commercial BRM Extraction Sites and BRM quarries used by government for infrastructure. These may overlap SGS areas. ES include proposed, approved and operating commercial (extractive) industries under the Planning and Development Act 2005, the Local Government Act 1995 ,the Mining Act 1978 or a combination of these

While the Shire's Planning Strategy does align with this policy its mapping will need to be amended to include ES and SGS sites including buffers if adopted. The Shire's Strategy mapping already identifies geological resources based off the Department of Mines, Industry Regulation and Safety (DMIRS) The Shire's draft scheme provisions are consistent with the new draft provisions. As part of the Shire's policy review provisions around strengthening buffer provisions will also be looked at.

There were some comments made at the November 2018 Forum round the impacts of extractive industries and benefits to the local area with a need for more provisions to enable more financial benefits to come back into local communities. This has been considered and it should be noted there is no precedent for requiring such provisions. This would require treating such industries differently to others. As with any industry there is the possibility of indirect positive contributions through employment and the purchase of local products, it would be however unreasonable to single on type of business over others.

A significant concern for the Shire in relation to this matter is the post extraction use after the resource has been removed. The particular concern is around filling up excavations with waste rather than rehabilitating and reusing for other purposes. It is proposed that the Shire's Submission include this as a concern that can be noted and taken into account.

OFFICER'S RECOMMENDATION

That Members Consider the Draft State Planning Policy SPP 2.4 Basic Raw Materials Policy and Guidelines currently out for public comment and give guidance to the administration on what it would like to see in the submission to come back to Council in addition to the following matters;

1. That the resource mapping improvements be extended to outside the

*7.4 DRAFT SPP 2.4 - Basic Raw Materials Policy and
Guidelines - continued*

Perth Peel Regions to a radius of 100km to cover areas such as Toodyay which have significant resources.

2. The policy Provisions make it clear that the post extraction rehabilitation and subsequent uses should not include use as a waste disposal site without it being part of a properly considered wider strategy that identifies and considers all the issues and risks round this.
3. Council supports the strengthening of the policy provisions round environmental considerations.

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GAZETTAL DATE: FRIDAY 28 JULY 2000, SPECIAL GAZETTE NO.150

WESTERN AUSTRALIAN PLANNING COMMISSION

STATEMENT OF PLANNING POLICY No. 2.4

BASIC RAW MATERIALS

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III. BACKGROUND

- 3.1 Basic Raw Materials
- 3.2 Availability
- 3.3 Previous Policies

IV. APPLICATION OF THE POLICY

- 4.1 Local Governments
- 4.2 Extraction on Crown Land

V. OBJECTIVES

- 5.1 The Objectives of the Policy

VI. POLICY MEASURES

- 6.1 Policy Areas
- 6.2 Local Planning Scheme Provisions
- 6.3 Relevant Considerations in Determining Applications
- 6.4 Requirement for Management Plan
- 6.5 Sequential Land Use
- 6.6 Other Relevant Approvals and Key Policies
- 6.7 Planning Considerations

APPENDIX 1

Definitions

APPENDIX 2

Basic raw materials Special Control Area Model Provisions

MAPS

- Figure 1. Local Governments included in the Policy
- Figure 2 Resource Protection Map

1. CITATION

This is a Statement of Planning Policy made under section 5AA of the *Town Planning and Development Act 1928*. The policy may be cited as *Statement of Planning Policy No 2.4 Basic Raw Materials*.

2. PURPOSE

This policy sets out the matters which are to be taken into account and given effect to by the Commission and local governments in considering zoning, subdivision and development applications for extractive industries (for the extraction of basic raw materials) and zoning, subdivision and development applications in the vicinity of identified basic raw material resource areas.

VII. BACKGROUND

3.1 Basic Raw Materials

Basic raw materials means sand (including silica sand), clay, hard rock, limestone (including metallurgical limestone) and gravel and other construction and road building materials. These materials are produced relatively cheaply, with the major cost being the transport to the construction site. A ready supply of basic raw materials close to established and developing parts of the metropolitan region is, therefore, essential in keeping down the costs of land development and contributing to affordable housing.

3.2 Availability

The availability of basic raw material resources close to Perth is declining as the City expands. Many sites which would otherwise be suitable occur in locations where planning and environmental impacts preclude or severely constrain extraction.

3.3 Previous Policies

3.4.1 The former State Planning Commission released the *Basic Raw Materials Policy Statement for the Perth Metropolitan Region* in 1992. This policy has been reviewed in the light of concerns that urban expansion together with increased conservation and protection of natural environments is reducing the availability of basic raw materials close to the sources of demand.

3.4.2 The report *Managing the Basic Raw Materials of Perth and the Outer Metropolitan Region (1996)* adopted and released by the Chamber of Commerce and Industry drew attention to the declining supply of basic raw materials particularly building sand, concrete sand, low grade limestone and plastic clays.

- 3.4.3 The *State Gravel Supply Strategy (1998)* has highlighted the difficulties of obtaining lateritic gravel supplies from the forested water catchments of the eastern metropolitan region which may place increasing pressures on industry and local government for the supply of manufactured gravel from hard rock quarries.
- 3.4.4 The Commission has reviewed and updated the *Basic Raw Materials Policy Statement for the Perth Metropolitan Area (1992)* as a Statement of Planning Policy in response to the increasing evidence that planning measures need to be taken to protect basic raw material resources within non-urban zones of the metropolitan region and in local governments districts abutting or close to the metropolitan region.
- 3.4.5 The policy is designed to facilitate the extraction of basic raw materials close to the major markets in the metropolitan region and to avoid sensitive development close to basic raw material resources which could otherwise inhibit extraction of the resource. The policy also recognises the importance of ensuring the extraction of basic raw materials occurs with minimum detriment to the local amenity and environment, including regionally significant vegetation identified in *Perth s Bushplan*, and in a manner which allows for future use and development consistent with long-term planning intentions for the area.
- 3.4.6 In identifying resource extraction areas this Policy does not remove the requirement of local government authorities or proponents to meet their obligations to identify environmental constraints that may determine the extent and/or manner in which a proposal can be implemented. Environmentally significant sites are likely to require referral to the Environmental Protection Authority.

VIII. APPLICATION OF THE POLICY

4.1 Local Governments

This policy applies to the local governments shown in Figure 1. These include the following local governments with land zoned Rural in the Metropolitan Region Scheme (MRS):-

City of Joondalup	City of Swan
City of Wanneroo	Shire of Kalamunda
Shire of Mundaring	City of Armadale
City of Gosnells	Town of Kwinana
City of Cockburn	Shire of Serpentine-Jarrahdale
City of Rockingham	

together with the following local governments outside but abutting the Metropolitan Region Scheme boundary:-

Shire of Gingin	City of Mandurah
-----------------	------------------

4.2 Extraction on Crown Land

Extraction of basic raw materials on Crown Land (National Parks, State Forests and other Crown reserves) are subject to Section 24 of the *Mining Act, 1978*, and require the approvals of the relevant Ministers and Government authorities. Extraction in these areas is likely to be subject to assessment under Part 4 of the *Environmental Protection Act, 1986*.

5. OBJECTIVES

5.1 The objectives of this policy

- identify the location and extent of known basic raw material resources;
- protect Priority Resource Locations, Key Extraction Areas and Extraction Areas from being developed for incompatible land uses which could limit future exploitation;
- ensure that the use and development of land for the extraction of basic raw materials does not adversely affect the environment or amenity in the locality of the operation during or after extraction;
- provide a consistent planning approval process for extractive industry proposals including the early consideration of sequential land uses.

IX. POLICY MEASURES

6.1 Policy Areas

6.1.1 The policy identifies the following areas, as shown generally in Figure 2 and in greater detail in the Commission's *Resource Protection Working Plans of Perth Metropolitan Region and Outer Areas* and the *Inventory of Current Extractive Operations* (which plans and inventory may be amended by the Commission from time to time and are available upon request), -

- **Priority Resource Locations.** These are the locations of regionally significant resources which should be recognised for future basic raw materials extraction and not be constrained by incompatible uses or development.
- **Key Extraction Areas.** These are areas of recognised regional resources providing for the long term supply of basic raw materials. These areas should be protected in relevant town planning schemes.
- **Extraction Areas.** These are existing extractive industries operating under the *Mining Act 1978*, the *Local Government Act 1996*, a regional planning scheme or a town planning scheme. They should be protected in the short term but will eventually be replaced by other uses or reserves.

6.1.2 The Resource Protection Working Plans include an ‘Environmental and Conservation Reference Chart’ which is to assist in identifying possible environmental and conservation constraints to the extraction of basic raw materials from an area identified on the maps.

6.1.3 Any proposals within these areas considered to be environmentally significant need to be carefully reviewed and include detailed discussion of environmental values. Proposals in these areas are likely to be subject to environmental impact assessment and may be considered environmentally unacceptable.

6.2 Local Planning Scheme Provisions

6.2.1 Proposals in local planning schemes, to prohibit extractive industries in zones that permit broad rural land uses (in future referred to as a Rural zone), will not be supported without adequate justification being provided. Extractive industry could also be a permitted use in other zones, subject to the location of these zones in relation to sensitive uses.

6.2.2 Where considered appropriate planning schemes should show the use “industry - extractive” as a P use, or a use that is permitted in the scheme, a D use, which is a use that is not permitted unless the local government has exercised its discretion by granting planning approval, or an A use, which is a use that is not permitted unless the local government has exercised its discretion after giving notice as outlined in clause 9.4 of the Model Scheme Text, in the Rural zone.

6.2.3 This policy does not preclude the extraction of basic raw materials on land which is not identified as a Priority Resource Location, Key Extraction Area or Extraction Area subject to the extraction proposal complying with planning and environmental requirements.

6.2.3 Key extraction areas should be protected by appropriate zones in town planning schemes, priority resource areas and extraction areas should be identified as a Special Control Area in local planning schemes. The Special Control Area should set out the appropriate land use and development controls, arrangements for the referral of applications where appropriate, and specify matters to be considered before deciding on a planning proposal. Suggested Special Control Area provisions are attached at Appendix 2.

6.2.4 The Special Control Area provisions should, where appropriate, include extractive industry as the only Permitted (“P”) use in key extraction areas and priority resource areas designated on the policy map.

6.3 Relevant Considerations in Determining Applications

6.3.1 Before determining an application for an extractive industry operation the

Commission and/or local government should consider as appropriate:

- the significance of the resource in terms of its positioning in a priority resource location, key extraction area, or extraction area;
- the effect of the proposed extractive industry on any native flora and fauna, the natural landscape, groundwater quality, quantity and use, surface drainage and surface water quality, and sites of cultural and historic significance on and near the land. An application in an environmentally significant area may require referral to the Department of Environmental Protection (refer to the Environmental and Conservation Reference Chart located on each of the Resource Protection Working Plans);
- the effect of the proposed extractive industry on agricultural land;
- the effect of vehicular traffic, noise, blasting, dust and vibration on the amenity of the surrounding area having regard to existing and future uses;
- the ability to rehabilitate the land to a form or for a use which is compatible with the long-term planning for the site and surrounding area;
- the availability and suitability of road access;
- the ability to stage the extraction operations to avoid conflicts with adjacent land uses.
-

6.3.2 Before determining an application for a sensitive land use, such as residential, rural- residential or a land use with a substantial residential or rural-residential component (refer to Appendix 1) within 1000 m of a basic raw materials extraction area, the Commission and/or local government must consider the following, as appropriate. An application in an environmentally significant area may require referral to the Department of Environmental Protection.

- the significance of the resource in terms of whether it is a key extraction area, priority resource area or extraction area;
- the likely effects of vehicular traffic, noise, blasting, dust and vibration arising from the extractive industry on the proposed use or development.

6.3.3 There should be a presumption against the introduction of sensitive land uses which could be adversely affected by existing or potential future extractive industries unless appropriate measures can be taken to ameliorate the adverse impacts.

6.4 Requirement for Management Plan

6.4.1 Applications for extractive industry operations are to be accompanied by a management plan and report which:

- demonstrates that sensitive land uses within 1,000 m of the proposal will not be adversely affected by the extractive industry operations;
- identifies appropriate buffer distances, these being distances required for extraction that are needed to buffer the impact of operations to adjacent land uses.
- provides details of the proposed use, development and management of the site

- including the environmental and water resource management standards, quarry areas, stock piles, machinery maintenance areas, processing plants, fuel storage and on-site access roads, parking for cars and other vehicles used on the site, and proposals for landscaping to screen activity on the site;
- describes arrangements for access to the site, including the roads which it proposes will provide the main vehicular access and likely traffic flows; and
- sets out proposals for the progressive and ultimate rehabilitation of the site for its intended long-term use.

In some cases, depending on the nature of the resource and the location, further information may be required.

6.5 Sequential Land Use

6.5.1 In order to facilitate the exploitation of basic raw materials whilst supporting future long- term development for urban and other purposes, sequential land use planning should be a requirement whereby extraction and rehabilitation can take place on a programmed basis in advance of longer-term use and development.

6.5.2 The Western Australian Planning Commission may favourably consider limited extraction operations on land reserved or proposed to be reserved in region schemes for State forest or other public purposes, where the purpose and values for which the land is reserved ~~is~~ are not jeopardised.

6.6 Other Relevant Approvals and Key Policies

6.6.1 Extractive industry operations will need the relevant approvals of, and comply with relevant legislation, policies and guidelines of other agencies including the Department of Minerals and Energy, the Water and Rivers Commission, the Department of Conservation and Land Management the National Parks and Nature Conservation Authority, the Lands and Forests Commission and the Environmental Protection Authority. Relevant policies and guidelines include, but are not limited to:-

- Policy and Guidelines on *Construction and Silica Sand Mining in Public Drinking Water Source Areas (1999)* Water and Rivers Commission;
- *Environmental Protection (Swan Coastal Plain Lakes) Policy 1992.* (Department of Environmental Protection)
- *Environmental Protection (Gnangara Mound Crown Land) Policy 1992* (Department of Environmental Protection)
- Basic raw materials policies of the Land and Forests Commission and the National Parks and Nature Conservation Authority. (Department of Conservation and Land Management)
- Perth's Bushplan (Ministry for Planning)
- The *Wetlands Conservation Policy for Western Australia (1997)*(Department of Conservation and Land Management)
- *Quarry Rehabilitation Guidelines (1990)* (Department of Minerals and Energy)

- *The State Industrial Buffer Policy (1997)* (Western Australian Planning Commission)
- Environmental Protection (Noise) regulations.
- *Dust Control Guidelines (1990)*: guidelines for assessment and control of dust and wind-borne material for land development sites. (Department of Environmental Protection)
- *Land Development Sites and Impacts on Air Quality Guidelines(1999-Draft)* (Department of Environmental Protection)

6.7 Planning Considerations

6.7.1 In determining planning proposals or applications for extractive industry, the Commission and local government may apply conditions which cover, but are not limited to, the following:

- minimise air, water, noise and visual pollution;
 - stabilise excavations, stock piles and over-burden dumps;
 - protect the amenity of adjacent land uses in the local community; and
 - ensure the rehabilitation of the land is consistent with its long-term future use.

APPENDIX 1

DEFINITIONS

Basic raw materials means sand, (including silica sand) clay, hard rock, limestone,(including metallurgical limestone) gravel and other construction and road building materials.

Commission means the Western Australian Planning Commission constituted under the *Western Australian Planning Commission Act 1985*.

Environmentally Significant Areas are those areas where the land could be subject to restriction on the extraction of basic raw materials for an environmental or conservation reason.(Refer to Environmental and Conservation Reference Chart on each of the Resource Protection Working Plans)

Industry - Extractive means an industry which involves the extraction, quarrying or removal of sand, gravel, clay, hard rock, stone or similar materials from the land and includes the treatment and storage of those materials, or the manufacture of products from those materials on, or adjacent to, the land from which the materials are extracted, but does not include industry - mining.

Industry - Mining means land used commercially to extract minerals from the land.

Land Use Table Definition.

‘A’ means that use is not permitted unless the local government has exercised its discretion by granting planning approval after giving special notice in accordance with clause 9.4 (of the Town Planning regulations);

‘D’ means that use is not permitted unless the local government has exercised its discretion by granting planning approval;

‘P’ means that use is permitted by the Scheme providing the use complies with the relevant development standards and the requirements of the Scheme;

Sensitive Land Use in this Policy means those uses that are sensitive to noise or other nuisances resulting from the extraction industry. Generally all forms of residential use, uses involving children such as kindergartens and schools and those involving doctors, hospitals and aged care facilities.

APPENDIX 2

BASIC RAW MATERIALS SPECIAL CONTROL AREA

MODEL PROVISIONS

X. Basic Raw Materials Special Control Area

The Basic Raw Materials Special Control Area is shown on the Scheme Map as:

- 1.1 **Priority resource locations.** These are the locations of regionally significant resources which should be recognised for future basic raw materials extraction and not constrained by incompatible uses or development.
- 1.2 **Key extraction areas.** These areas of recognised regional resources providing for the long term supply of basic raw materials. These areas should be protected in relevant town planning schemes.
- 1.3 **Extraction areas.** These are existing extractive industries operating under the *Mining Act 1978*, the *Local Government Act 1996*, a regional planning scheme or a town planning scheme. They should be protected in the short term but will eventually be replaced by other uses or reserve

2. Purpose

- 2.1 To implement *Statement of Planning Policy No. 2.4*
- 2.2 To identify areas where Basic Raw Materials resource and extraction areas need to be protected from incompatible land uses.
- 2.3 To ensure that future land development or rezoning recognises the need to protect the basic raw material resource and extraction areas.

XI. Matters Relating to Application

- 3.1 Priority Resource Locations.

There will be a general presumption against the intrusion of proposed ~~new~~ uses which are not compatible with extractive industry operations. The onus will be on the proponent of a new use to demonstrate that the use will be compatible

- 3.2 Key Extraction Areas

Non-compatible uses should be excluded from key extraction areas to ensure that the areas are available for the long term supply of basic raw materials. They should be

protected by appropriate zones in relevant town planning schemes

3.3 Extraction Areas

These are existing extraction areas. Adjacent uses need to comply with buffer distance requirements set by the Department of Environmental Protection in accordance with the *WAPC Statement of Planning Policy No. 4.1 State Industrial Buffer Policy*.

XII. Relevant Considerations

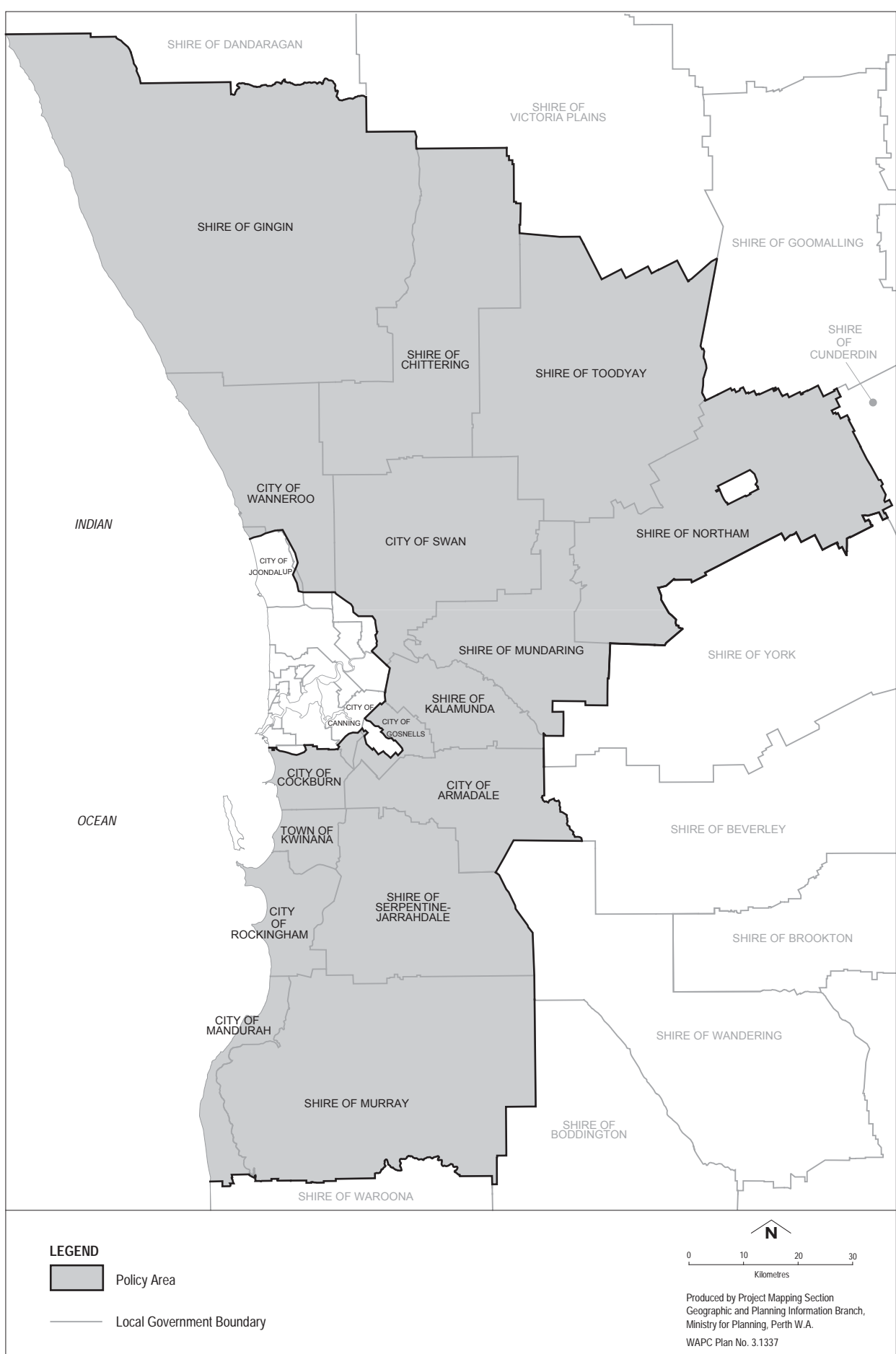
In considering any re-zoning request, development application, providing comment to the Commission on subdivision applications or for uses other than those related to basic raw materials, the Council will have regard to:

- *Statement of Planning Policy No. 2.4*
- Comment from the Department of Minerals and Energy.
- Whether any proposed change in land use, buildings or works would jeopardise the continued extraction of basic raw materials, taking into account the future life of the extraction area.
- The expansion of the nearest urban zone, and whether the future demand for development of land within this zone warrants the gradual phasing out of the extraction area.

XIII. Referral of Applications

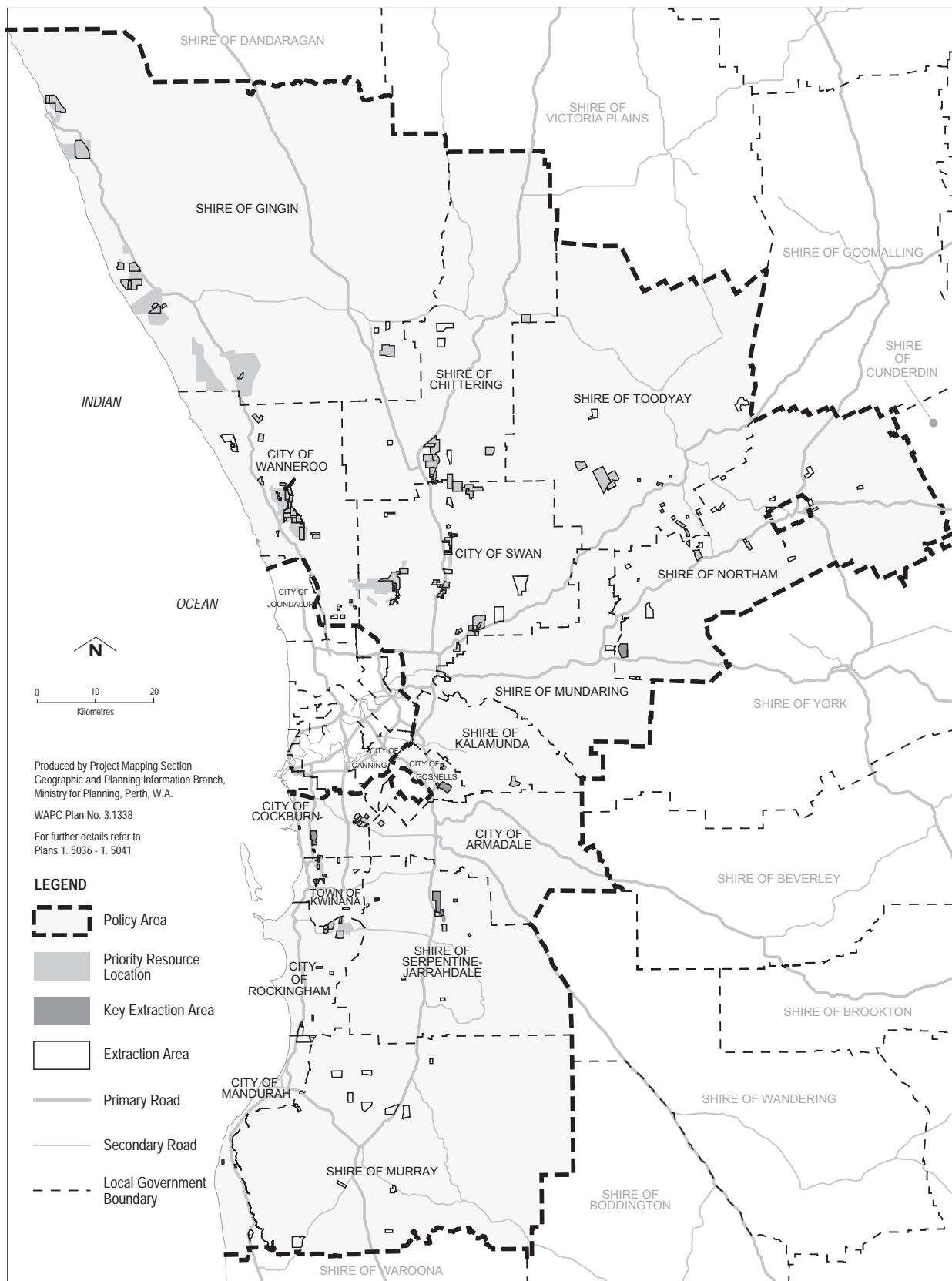
Any re-zoning request or development application that effects a priority resource location, a key extraction area or an extraction area will be referred to the Western Australian Planning Commission for advice unless Council is satisfied that the scheme amendment application or development should be refused.

The Planning Commission may then refer the application to other relevant Government agencies prior to giving that advice.



Local Governments Included in Policy

Figure 1



Resource Protection Map

Figure 2



Department of Planning,
Lands and Heritage



Basic Raw Materials Guidelines

October 2018

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website: www.dplh.wa.gov.au
email: info@dplh.wa.gov.au

tel: 08 6551 8002
fax: 08 6551 9001
National Relay Service: 1 3 36 77

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1 BACKGROUND

This set of planning guidelines should be read in conjunction with the Western Australian Planning Commission's (WAPC) State Planning Policy 2.4 Basic Raw Materials (SPP 2.4). The guidelines supersede the WAPC's Fact Sheet Basic Raw Materials. They address planning matters relating to Basic Raw Materials (BRM). Other extraction issues may be addressed by the Department of Mines, Industry Regulation and Safety (DMIRS).

The guidelines generally support BRM proposals on all land. Where BRM occur on Crown land (unallocated, reserve or pastoral leases) extraction for commercial sale requires a mining lease. Mining tenements are issued under the *Mining Act 1978* and are administered by DMIRS.

Where BRM occur on private land (freehold) they are not defined as a mineral for the purposes of the *Mining Act 1978*. However, extraction does require approval under the *Planning and Development Act 2005* and is administered by local government, normally through the grant of an Extractive Industry Licence and planning approval.

The guidelines outline a range of land use planning considerations relevant to the establishment, expansion or modification of BRM operations in Western Australia and are structured into two key sections:

PART 1. Information for proponents to gain a general understanding of the land use planning system and requirements associated with basic raw materials proposals.

PART 2. Guidance for planning authorities when determining BRM proposals.

BRM extraction also has environmental and transport implications that need consideration.

2 WHAT ARE BASIC RAW MATERIALS?

State Planning Policy 2.4 defines basic raw materials as:

- sand (including silica sand¹)
- clay²
- hard rock (including dimension stone)
- limestone (including metallurgical limestone and agricultural lime)
- gravel
- gypsum
- substitute basic raw materials.

BRM proposals on private (freehold) land are defined as 'development' requiring planning approval under the *Planning and Development Act 2005* (PD Act). Approval is required for the "development or use of any land" including:

- (a) demolition, erection, construction, alteration of or addition to any building or structure on the land;
- (b) undertaking excavation or other works on the land.

The excavation and building components of an extractive industry application such as offices, fuel storage, hardstand areas and ablation facilities require planning approval.

¹ Note: the *Mining Act 1978* covers silica, mineral and garnet sands on all land holdings.

² Note: the *Mining Act 1978* covers kaolin, bentonite, attapulgite and montmorillonite clays on all land holdings.

PART 1

In Western Australia BRM development approval on freehold land is made under the local scheme. The WAPC delegated some decision-making to local government through their region schemes, where they exist. Where regions scheme do not exist local government maintain the approval authority under their local schemes, however collaboration with the WAPC on approvals is commonplace. See Section 4.0.

The *Planning and Development (Local Planning Schemes) Regulations 2015* model text provisions for local planning schemes define extractive industries as:

premises, other than premises used for mining operations, that are used for the extraction of basic raw materials including by means of ripping, blasting or dredging and may include facilities for any of the following purposes —

- (a) the processing of raw materials including crushing, screening, washing, blending or grading;
- (b) activities associated with the extraction of basic raw materials including wastewater treatment, storage, rehabilitation, loading, transportation, maintenance and administration.

In addition, BRM operations may include:

- clearing and stockpiling vegetation, top soil and overburden
- pit creation and dewatering
- staged excavation of BRM
- an average of 2-6 truck movements per hour, depending on the scale of the operation
- refuelling, cleaning and servicing of vehicles and machinery
- warehousing and/or stockpiling of BRM
- rehabilitation of closed pits.

3 GUIDANCE FOR PROPONENTS

Establishing a BRM operation will generally require a number of different approvals, from different agencies, such as a vegetation clearing permit required under the *Environmental Protection Act 1986* (EP Act) in addition to planning approval.

BRM supplies in Western Australia have been grouped into two categories being Significant Geological Supply (SGS) areas and Extraction Sites (ES). In Perth and Peel, the State Government has undertaken strategic BRM planning and mapping in preparation for a population of 3.5 million people. SGS areas and ES have been more accurately identified and BRM exclusion areas identified. Other regions of the state should have similar BRM categories and these may be less accurately defined, spatially.

When developing BRM proposals proponents should consider the following:

3.1 GENERAL REQUIREMENTS

3.1.1 Become familiar with relevant legislation, policy and guidelines

The relevant legislation, policy and guidelines provide information of an application and the issues to be addressed by proposals. These can potentially avoid delays. See SPP 2.4 BRM Appendix 2 for governing legislation.

3.1.2 Site selection considerations

SGS are identified as the highest priority extraction areas for BRM by the Department of Mines, Industry Regulation and Safety (DMIRS). They provide a strategic, long-term supply of BRM materials requiring protection.

The designation of an SGS area does not obligate the landowner to extract these resources nor guarantee that extraction approval would be granted.

ES comprise all licensed commercial extraction areas for BRM. These may overlap SGS sites. ES are operating commercial industries (extractive) under the *Planning and Development Act 2005*, the *Local Government Act 1995*, the *Mining Act 1978* or a combination of these Acts.

BRM extraction within SGS areas is preferred as these areas have been set aside as strategic geological supply nodes. However, extraction can occur outside SGS areas, subject to approvals and licensing. In Perth and Peel, BRM exclusion areas have been identified due to their environmental values, resource conflicts or for land use planning reasons.

Extractive industry proposals are encouraged to adhere to the BRM resource mapping in Perth and Peel given the strategic planning already undertaken and may require environmental approvals and a clearing permit from DWER where a proposal clears native vegetation.

It is necessary to consider any environmental issues associated with a site to reduce the chance of future conflicts which may lead to delays or refusal. A list of land use planning site selection considerations is provided in section 5.0 Checklist 1 of these guidelines.

3.1.3 Consult relevant authorities issuing required approvals

Consult with the relevant local government before submitting an application to help clarify what is expected from the proponent in terms of information, applications for approvals, consultation with other agencies and relevant guidelines. Having a draft proposal will enable feedback to be more specific to your case.

Local governments may have different requirements for establishing an extractive industry (for example policies, development approval, licences). On freehold land, local governments and the WAPC both issue planning approvals in collaboration.

3.1.4 Consultation on environment and natural resource issues

The Department of Water and Environmental Regulation (DWER) and the Department of Biodiversity Conservation and Attractions (DBCA) may need to be contacted for environmental advice in relation to site selection, protection of environmental assets (wetlands, waterways, native vegetation, Threatened Ecological Communities and DBCA-managed lands) plus the management of water quality impacts including groundwater vertical separation.

It is important to establish what approvals will be required in terms of clearing vegetation, industry licence or works approval; license to take water and water resource management issues, including groundwater clearance requirements.

Any BRM extraction from waterways is an activity that will require careful assessment of the suitability of the location, management and rehabilitation to minimise environmental risks. Further information can be found in *Water Quality Protection Note 15 Extractive Industries near sensitive water resources* (WQPN 15).

3.1.5 Allocate sufficient time for approvals

Allow time to address contingency issues that may not be identified until applications are submitted and a more thorough assessment commenced. For instance, further flora assessments may be required during spring, which may delay consideration of the proposal.

3.1.6 Appeal rights

A proponent can seek a review by the State Administrative Tribunal (SAT) of part or all of a decision by the WAPC or a local government, under the *Planning and Development Act*, should the proponent disagree with a decision. (for example conditions imposed). However, SAT does not deal with appeals to decisions made under the *Environmental Protection Act*.

4 GUIDANCE ON PLANNING INSTRUMENTS

4.1 PLANNING AND DEVELOPMENT ACT (2005)

The *Planning and Development Act 2015* enables the creation of local and regional planning schemes that have the effect of law. Some areas have region schemes and most areas have local planning schemes. These schemes require development to be approved before it can proceed.

4.2 PLANNING POLICIES

State planning policies (SPPs) provide planning policy control and guidance in Western Australia and are prepared under Part 3 of the *Planning and Development Act 2005*. There are a number of SPPs which may be applicable to land use planning related to BRM extraction. These include but are not limited to:

- 2.0 Environment and Natural Resources Policy
- 2.1 Peel-Harvey Coastal Plain Catchment
- 2.2 Gnangara Groundwater Protection
- 2.3 Jandakot Groundwater Protection
- 2.4 Basic Raw Materials
- 2.5 Rural Planning
- 2.6 State Coastal Planning
- 2.7 Public Drinking Water Source
- 2.8 Bushland Policy for the Perth Metropolitan Region

- 2.9 Water Resources
- 3.4 Subdivision of Rural Land
- 4.1 State Industrial Buffer
- 5.4 Road and Rail Transport Noise and Freight Considerations in Land Use Planning

The SPPs most relevant to extractive industries include SPP 2.4 - Basic Raw Materials, SPP 4.1 – Industrial Buffer Policy and SPP 5.4 Road and Rail Transport Noise and Freight Considerations in Land Use Planning. These policies help protect basic raw material resources and minimise conflict between extractive industries, community amenity and surrounding land uses. Other SPPs may also apply to a specific BRM proposal.

Local governments may also prepare local planning policies under their schemes and local laws on subjects that relate to BRM proposals

4.3 REGION SCHEMES AND FRAMEWORKS

A region scheme provides a statutory mechanism to assist strategic planning, the coordination of major infrastructure and sets aside areas for regional open space. A region scheme usually covers more than one local government area. The content of the scheme may vary for each region, and set out broad land use zones or policy areas and identify land required for regional purposes. BRM extraction is undertaken on land zoned for rural purposes but can occur, as a sequential land use, on land considered for other purposes.

The WAPC prepare region schemes for parliamentary approval. There are currently three region schemes in operation in Western Australia – the Metropolitan Region Scheme (MRS) Peel Region Scheme (PRS) and the Greater Bunbury Region Scheme (GBRS).

The MRS and PRS align with the *Perth and Peel@3.5million* suite of strategic land use planning and infrastructure frameworks. The four frameworks provide strategic guidance to State and local governments on land use, land development, environmental protection and physical and community/social infrastructure to prepare for a population across Perth and Peel of 3.5 million people by 2050.

4.4 LOCAL PLANNING SCHEMES AND STRATEGIES

Local governments are responsible for planning their local communities by ensuring appropriate planning controls exist for land use and development. They do this by preparing and administering local planning schemes and strategies. Local government schemes and strategies are required to be consistent with the broad land uses under the MRS, PRS and GBRS.

Local planning strategies set out the long-term planning directions for the local government, apply State and regional planning policies, and provide the rationale for the zones and other provisions of the local planning scheme and should include relevant BRM resource mapping and local Extraction Sites.

Local planning schemes usually contain provisions to manage land use and development, including zoning maps and a land use table which specifies permissible uses in each zone including BRM extraction on land zoned for rural purposes or considered for sequential land use. Planning schemes also reflect State Planning Policies (SPPs).

Local planning schemes, strategies and SPPs can be viewed at: www.dplh.wa.gov.au



4.5 PLANNING CONSIDERATIONS

The WAPC and local governments will give due regard to relevant planning policy when making decisions on BRM proposals, particularly the impacts on sensitive land uses³. Approvals may be subject to conditions to be met prior to and during operation of an extractive industry. Other planning considerations include the location and use of existing or future current infrastructure, the siting of facilities such as ablutions, temporary offices, mechanical workshops and the like.

Proponents are encouraged to undertake pre-referral of their Traffic Impact Assessment to the relevant authorities, particularly where access and proposed haulage routes include major and regional roads. This will assist in improving referral response times on the final proposal when assessed by the relevant decision maker and in determining any road upgrading requirements. A Transport Impact Assessment should consider traffic volumes plus the impacts of noise associated with heavy haulage traffic.

See SPP 5.4 Road and Rail Noise - <https://www.planning.wa.gov.au/State-planning-framework.aspx>

Transport Impact Statement - <https://www.dph.wa.gov.au/publications/1197.asp>

For proposals for hard rock or materials which require blasting during the extraction process, a blasting plan should accompany the application. The plan should detail

the blasting method, including directed blasts, frequency and the expected fly rock range and subsequent exclusion zones for blasting.

4.6 SEPARATION DISTANCES AND BUFFERS

Separation distances and buffers apply to land use and development on land in proximity to BRM activities. Separation distances inform the development of buffers to separate potential impacts from activities that may affect human health and amenity.

Buffers to sensitive land uses are influenced by: site characteristics; the proposed location of infrastructure, access routes, pits and stockpiles; and the extraction method.

The EPA's Guidance for the Assessment of Environmental Factors: Separation Distances between Industrial and Sensitive Land Uses (2005) include recommendations for separation distances from sensitive land uses.

The recommended separation distances should be applied to all planning proposals.

While the presence of sensitive land uses and development is a consideration for site selection, to expedite the assessment and provide context to management plans (see 4.7 below), a spatial plan identifying sensitive or potentially sensitive land uses is required to accompany all proposals for and adjacent to BRM operations.

Buffers are also required to protect water quality in nearby waterways and wetlands. The buffer will depend on the design and layout of quarry sites, the risk of water contamination, and the management measures used to protect the waterway or wetland.

The following is a general guide to buffer distance measured from quarrying operations to the likely area affected within a sensitive land use:

- One kilometre (or greater if applicable to the proposal) of hard rock quarries where blasting, crushing or screening are involved
- 300-500 meter buffer of sand and limestone quarries (with buffers distances determined by proposed activities, on an individual basis)

Separation and subsequent statutory buffers are relevant for the duration of quarrying operations and determined from quarrying operations to the sensitive land use. SPP 2.4 - Basic Raw Materials and SPP 4.1 – Industrial Buffer Policy provide further information on separation distances and the establishment of buffers. These policies are available at:

<https://www.planning.wa.gov.au/State-planning-framework.aspx>

BRM extraction proposed in a public drinking water source area will require achieving separation distances to the highest groundwater level to protect water quality. Separation distances and other management measures to protect water resources should be addressed in the mine planning stage.

³ Sensitive land uses comprise land uses that are residential or institutional in nature, where people live or regularly spend extended periods of time. These include dwellings, short-stay accommodation, schools, hospitals and childcare centres. Generally excludes commercial or industrial premises.

4.7 MANAGEMENT PLANS AND PROCEDURES

In some instances management plans may contain information relevant to and submitted with a planning application. Planning applications for extractive industries require a comprehensive management plan which provides details of the proposed use, development and management of the site. Issues relevant to planning approvals may include, but are not restricted to the following:

- operational areas including:
 - extraction and stock piles areas
 - crushing/screening process areas
 - machinery maintenance areas, plant and fuel storage
- separation distances or any predetermined buffers
- environmental management requirements
- surface and ground water management
- secure water supplies to meet domestic and operational demands
- measures to mitigate impacts on surrounding land from dust, noise and flying rock
- landscaping to screen activity on the site
- on-site access roads, parking for cars and other vehicles used on the site.

Section 8.0 Management Plans provides further detail on the matters a management plan should address.

It is helpful for proponents to submit all required

applications simultaneously, to save time and assist the relevant agencies assessing your proposal. A covering letter referencing any other approvals being sought from different approval authorities should be attached to the planning proposal to avoid communication overlaps or misunderstanding among different approval authorities.

4.8 STRATEGIC BRM RESOURCE MAPPING IN PERTH AND PEEL

Strategic BRM resource mapping in Perth and Peel has been developed to enable adequate supply of BRM to meet future demands beyond a population of 3.5 million. The mapping considers the quality and quantity of resources available, BRM exclusion areas, Significant Geological Supply (SGS) areas and Extraction Sites (ES). Exclusion areas are likely to have protected environmental values or are excluded for planning or infrastructure reasons.

Extractive industry proposals that adhere to the BRM resource mapping in Perth and Peel are more likely to be granted environmental and planning approval. A clearing permit is also still required from DWER for extractive industry proposals.

In the Bunbury and Busselton area current and future supplies of BRM were assessed in 2012. While significant sand and other BRM supplies in the area are constrained by environmental factors, substantial potential supplies to meet future demand for all BRM products except limestone, including lime sand, and clay, exist.

Digital BRM resource mapping is maintained by DMIRS and accessible via the DMIRS website. The mapping identifies SGS areas and known ES.

4.9 BASIC RAW MATERIAL SUBSTITUTES

The use of substitutes for BRM, that have been approved for use through the State's environmental regulation and have demonstrated structural or engineering requirements, public health and environmental approvals are encouraged for use to reduce future demand on sand, limestone, gravel and rock.



5 SITE SELECTION CHECKLISTS

Applicants should consider the following two checklists when preparing an extractive industry proposal.

- **Checklist 1** - ‘Site selection considerations’ includes issues that should be considered when selecting a site for extractive industries.
- **Checklist 2** - ‘Application submission checklist - local government’ includes standard requirements for local government development applications, which would also apply to applications referred to the WAPC for determination.

These checklists highlight the issues most local governments will consider when assessing proposals for extractive industries, and will help to ensure submissions are complete. Local governments may have specific requirements not included in these checklists, so applicants should contact the relevant local government to find out if there are any additional requirements. Local governments may wish to adapt checklist 2 to address any specific variations within their municipality.

Checklist 1

Site selection considerations		Tick
Environmental attributes		
• The site is not listed for conservation purposes		
• The site provides recommended setback to existing wetlands, water courses and drainage lines		
• The proposal will not involve clearing of native vegetation. That is, the site is bare of vegetation from previous uses or does not contain bushland of significant quantity		
• The proposal will not involve the disturbance of acid sulfate soils		
• The site is not considered priority agricultural land		
• The site is not in the flood plain or has a high ground water table		
Planning considerations		
• The site has not been denoted as unacceptable or mapped as an exclusion Area for BRM extraction and proposals aligns with defined SGS areas or ES. Note: outside defined SGS areas or ES approvals may be more difficult		
• The nature of the proposed activity is consistent with the current and proposed zoning or represents a sequential land use opportunity for future development, considering future timeframes		
• The timeframe of the proposed activity considers the long-term impacts on local communities and future land uses proposed within the vicinity or separation distances to sensitive land uses		
• Appropriate separation distance to existing infrastructure such as public drinking water supply bores, water mains are maintained		
Site location considerations		
• The proposed activity is compatible with surrounding land uses		
• The site does not contain any heritage, Aboriginal or European		
• The proposed activity will not cause disturbance to the amenity of the area		
• The site has safe access to major roads, and existing roads are in good condition. The access roads proposed are suitable for the volume of traffic and type of heavy vehicles		
• The site is not in a visually significant location, such as on a ridge, or visible from major roads and will not have a negative visual impact on major roads, scenic areas or adjoining properties		
• The site provides an adequate separation distance to sensitive land uses such as (but not limited to) residential or special rural area, existing dwellings in a rural area, schools or hospitals. Depending upon the nature of the BRM operations separation distances should be 300 metres to 1000 metres		
• Scheme water availability and the potential a ground or surface water license under the <i>Rights in Water and Irrigation Act 1914</i>		
• Operational issues such as hours of operation, noise and dust monitoring and site access are addressed with the view to minimising any potential noise or dust issues for surrounding sites		
• Other relevant State and local planning policies and strategies, including but not limited to the following have been addressed: <ul style="list-style-type: none"> - <i>State Planning Policy 2.4 Basic Raw Materials</i> - <i>State Planning Policy 4.1 State Industrial Buffer Policy</i> - extractive industry local laws - local planning scheme provisions - region scheme planning provisions 		



5.1 SUBMISSION PROCEDURES

The following BRM procedural requirements apply across Western Australia.

- (a) Extractive industry applications on freehold land will be submitted directly to the relevant local government for assessment and approval based on relevant local planning scheme provisions, policies or strategies, where applicable.
- (b) Region schemes in WA have different approaches to extractive industries. Extractive industry applications on freehold land within the area covered by a region scheme may also require WAPC approval in accordance with the region scheme and any delegations or notification made under that scheme. Where WAPC approval is required by a region scheme, the relevant local government is required to forward the application to the WAPC for determination.

Checklist 2

Application submission checklist – local government

Note: refer to the relevant local government's local law and local planning schemes for more specific application requirements. Applicants will need to provide all of the following information. If the information is not provided, approval is likely to be delayed while further enquiries are made.

Legal considerations

- written consent from owners of site
- DWER approval – clearing permit, Rights in Water and Irrigation licensing (where applicable)
- extractive industry license
- local government submission form and fees
- WAPC submission form and fees (where applicable)
- certificate of title

Site details

- existing and proposed land contours
- description of land – roads, boundaries, fences, existing buildings, water resources including groundwater levels, ridge lines and existing vegetation

Proposed extractive industry details and staging plan

- location, total area and depth of proposed excavation including appropriate vertical separation between the highest groundwater table, during and post BRM extraction
- location and proposed maximum height of stockpiles
- how much material is proposed to be extracted (on an annual and total basis)
- method and route(s) of proposed vehicle access to and from the site
- location of proposed buildings, treatment plants and tanks

Details of management of operation

- management of impacts on water quality, particularly if within a Public Drinking Water Supply Area
- noise and vibration attenuation – hours of operation, types of activities such as drilling or blasting, type of vehicles to be used, maximum number of truck movements per day, earth bund locations
- screening – location of screening and species to be planted, staging of operations
- dust management plan - dust suppression methods, location of stockpile areas relative to prevailing winds
- environmental management - measures to protect existing vegetation, manage acid sulfate soil, control dieback, manage fire and flood risk, manage storm water run-off and water quality, drainage details, and treatment of wastes
- rehabilitation plan

PART 2

6 GUIDANCE FOR PLANNING AUTHORITIES

6.1 STRATEGIC BRM PLANNING

Strategic BRM planning has been undertaken in the Perth and Peel regions to provide industry proponents and decision-makers information on where BRM resources are located and where extractive industries are best located and excluded. This has resulted in BRM resource mapping in Perth and Peel.

Local government is encouraged to undertake a similar process for BRM resources in regional areas where strategic planning can help avoid future land use conflicts, ensure the protection of strategic BRM supplies and protect regional land biodiversity and environmental values.

In the Greater Bunbury region, the Greater Bunbury Region Scheme (GBRS) identifies areas of known minerals and basic raw materials, as well as areas constrained for extraction and others designated as strategic resource areas.

SPP 2.4 Basic Raw Materials provides policy objectives and measures to assist with strategic BRM planning. Advice from the relevant government agencies on geological supplies, environmental values and planning matters should be sought from the appropriate agencies. BRM resource mapping provides for the mapping of geological resources plus the identification of SGS areas, ES and exclusion areas.

6.2 MAKING AND AMENDING PLANNING INSTRUMENTS

Implementation of SPP 2.4 Basic Raw Materials will occur through planning and decision-making processes at both the State and local government levels, particularly the assessment and determination of subdivision and development applications. These processes are informed by State and local government planning instruments, such as schemes, local planning strategies, policies and structure plans, and these instruments should include provisions that:

- reflect and accord with SPP 2.4 Basic Raw Materials and the Planning and Development (Local Planning Schemes) Regulations 2015;
- recognise SGS areas, relevant separation distances and subsequent buffers for sensitive land uses;
- identify land for 'sequential land use' as such until the basic raw material has been extracted or development is anticipated on the site;
- ensure extractive industries can be undertaken within confirmed SGS areas and approved ES while recognising associated separation distances/buffers;
- have due regard to SPP 2.4 Basic Raw Materials and provisions related to BRM when assessing extractive industry proposals, and development applications within, adjacent to or in close proximity to SGS and ES; and
- have due regard to the EPA's Guidance Statement No. 3: Separation Distances between Industrial and Sensitive Land Uses and recommended separation distances.

Instruments related to the Perth and Peel regions should also align to the BRM resource mapping in Perth and Peel, identified SGS and ES, sequential land uses plus areas denoted as exclusion areas for BRM extraction.

6.3 ASSESSMENT OF PROPOSALS FOR BRM EXTRACTIVE INDUSTRIES

Planning authorities' assessment of proposals to establish, extend or expand an extractive industry should consider the following issues:

- align proposals to DMIRS BRM resource mapping in Perth and Peel, SGS and ES and extractive industry exclusion areas;
- the significance of the resource if identified as a SGS area and local basic raw material requirements;
- the quantity and quality of resource availability from the existing or proposed extractive industry operation;
- finished ground levels in relationship to groundwater, infrastructure and engineering requirements, subsequent land use and sequential development;
- management of resource extraction, and related site rehabilitation and restoration to:
 - maintain appropriate horizontal separation between extraction and water supply infrastructure;
 - avoid groundwater exposure and ensure an appropriate vertical separation distance to groundwater is achieved to enable sequential land use; and
 - protect groundwater quality.

- the site's potential for sequential land use and the ability to rehabilitate the land to a form or for a use which is compatible with the local planning scheme;
- the effect of vehicular traffic, noise, blasting, dust and vibration on the amenity of adjacent land uses in the local community having regard to existing and future uses;
- the ability to stage the extraction operations to avoid conflicts with any adjacent sensitive land uses;
- the effect of the proposed extractive industry on agricultural land;
- the availability and suitability of road access;
- the effect of the proposed extractive industry on any native flora and fauna; landscape; water resources, groundwater quality, quantity and use; surface drainage and surface water quality;
- sites of cultural and historic significance on and near the land, having regard to how they are likely to be integrated with subsequent land uses;
- potential impacts on fragmentation and connectivity of remnant vegetation;
- location and stability of excavations, stock piles and overburden dumps; and
- rehabilitation of the land consistent with its long term future use.

Further explanation of these and other relevant assessment considerations are outlined below.

7 ASSESSMENT CONSIDERATIONS

7.1 LIFESPAN OF A PROJECT

All BRM operations have an estimated extraction rate per year and overall lifespan based on the amount of BRM available and surrounding land use pressures. In the Perth and Peel regions, for land that is to be used sequentially, development time frames, extraction license duration and planning approvals need to be considered together with finished levels for the subsequent land use.

7.2 PIT DESIGN

BRM proposals may include plans for several pits staged over the lifespan of the operation. Smaller pits may achieve better environmental outcomes as the removed top soil is returned within a shorter time period. Pit rehabilitation generally follows excavation; however planning authorities need to be aware of the proposed arrangements.

Further guidance is available in the *Guidelines for the Management and Rehabilitation of Basic Raw Material Pits 2008*. These guidelines outline best practice that may assist proposals on private land. The custodian of the guidelines is now DBCA and can be access via:

- www.dpaw.wa.gov.au/images/documents/conservation-management/forests/FMP/preparing_FMP_2014-23/guideline_brm_rehabilitation.pdf

7.3 OPERATING HOURS

Operating hours are generally between 5am and 5pm, 6 days a week, however may vary for instance major infrastructure projects may require operations on Sunday. Operating hours may be addressed by a condition of approval.

7.4 CONSERVATION VALUES

BRM operations have the potential to disturb native vegetation, including Declared Rare Flora (DRF) and priority flora, as well as threatened and priority fauna species. Clause 51C of the EP Act outlines circumstances when the clearing of native vegetation is permitted.

7.5 WATER SUPPLY AND AVAILABILITY

Water is needed for cleaning machinery and trucks, domestic uses and in processing BRM. Access to scheme water is usually required.

- BRM operations may also impact on nearby surface water and groundwater resources. *Water Quality Protection Note 15 Extractive industries near sensitive water resources*, produced by the Department of Water and Environmental Regulation (DWER), contains information on operations near sensitive water resources. If located in a Public Drinking Water Source Area *Statewide policy no. 1: Policy and guidelines for construction and silica sand mining in public drinking water source areas* (DWER) should be adhered to.
- Dewatering may be included in the proposal. DWER Water Quality Protection Note 13 provides best management practices for the dewatering of soils.

A licence to dewater or to gain access to water may be required under the *Rights in Water and Irrigation Act 1974*.

- Determination of extraction finished levels should consider advice regarding groundwater levels.

7.6 BUFFERS AND SEPARATION DISTANCES

Buffer distances are influenced by site characteristics, the proposed location of infrastructure, access routes, pits and stockpiles and the extraction method.

- Separation between extractive industries and sensitive land uses in accordance with EPA's *Separation Distances between Industrial and Sensitive Land Uses (GS3)* should guide the establishment of formal buffers to protect community health, safety and amenity. These are available on:

http://www.epa.wa.gov.au/sites/default/files/Policies_and_Guidance/GS3-Separation-distances-270605.pdf

- Buffers are also required to protect water resources, including water quality in nearby waterways and wetlands. The buffer will depend on the design and layout of the premises, the risk of water contamination, and the technology and management measures used to protect the waterway or wetland.
- Extraction of BRM will normally be subject to achieving vertical separation distances to the groundwater table to protect water quality. The separation distance will vary based on the value of the groundwater resource (for example, public drinking water source areas).

Further information on buffers can be found in SPP 2.4 Basic Raw Materials.

7.7 TRANSPORT MANAGEMENT

Extractive industries can have significant impacts on roads, other road users, community amenity and safety, and the environment. Due to these factors the availability and suitability of road access is an important consideration and may require a Transport Impact Assessment and management plan. These studies are usually undertaken by/on behalf of a proponent and consider the following:

- road suitability and the number of truck movements;
- frequency and size of truck movements;
- load considerations;
- route selection and any road upgrading requirements;
- impacts on sensitive land uses and other roads users;
- likely noise impacts;
- safety and sight distance in both directions from the proposal's access to a road; and
- safety and road crossing.

See Attachment 1.

A pre-assessed Transport Impact Assessment can assist decision makers in determining the need for future transport studies particularly where access and proposed haulage routes are frequent and include major and regional roads.



7.8 VISUAL IMPACTS

Preserving existing vegetation can assist in minimising visual impacts from roads, adjoining properties and other key viewing locations. DWER recommends a vegetative screen of at least 150m between adjoining roads and pits. The WAPC's Visual Landscape Planning in WA (2007) contains detailed guidance on addressing visual impacts, including ways to minimise the visibility of operations.

7.9 NOISE AND DUST

Noise from BRM extraction is subject to the EP Act and the prescribed standards under the *Environmental Protection (Noise) Regulations 1997*. As excavation work may require blasting, the air blast of which is also subject to prescribed standards, the consideration of blasting areas will assist in defining appropriate buffers to reduce disturbance to any neighbouring sensitive land uses.

Dust can be generated in a number of ways including:

- blasting and extraction
- stockpiling of material
- processing of material
- transport movements
- soil erosion.

Noise impacts to sensitive land uses can be reduced through choice of quieter equipment, enclosing fixed plant, construction of barriers such as bunds, 'best practice' site management practices, and appropriate buffers.

7.10 IMPACTS ON AGRICULTURE

Dust is believed to have a number of both direct and indirect effects on production systems located in an area influenced by elevated dust deposition (McCrea 1990). The proponent may consider the possible effects below:

- reduced photosynthesis leading to loss of plant yield;
- increased pest and disease incidence causing yield losses and reduced quality of horticultural produce;
- dust contamination reducing fruit and vegetable attractiveness;
- dust hindering the pollination of small seeded fruits causing abortion and deformed fruit; and
- the possibility of animal health problems such as ovine pneumonia and pinkeye.

7.11 IMPACTS ON COMMERCIAL ENTERPRISES

Dust can also impact on commercial enterprises that are sensitive to dust, such as spray painting and electronics assembly plants. These commercial activities require a dust-free environment to operate. Elevated dust levels in the area would prohibit their operations.

8 MANAGEMENT PLANS

An application for the establishment, extension or expansion of an extractive industry should be accompanied by a management plan and should typically address:

- site description and analysis;
- consideration of statutory and strategic planning;
- management and operations of the proposal;
- consideration and management of impacts on amenity;
- biosecurity measures to prevent the spread of weeds and diseases; and
- environmental impact assessment and management.

Critical elements of management plans may also be addressed as conditions of approval.

Other important elements that may need to be considered depending on the site location and circumstances include:

- (a) demonstration that the existing sensitive land uses within the guidance separation distance of the extractive industry will not be unduly affected by the extractive industry operations;
- (b) identification and justification of appropriate buffer distances;
- (c) identification of any environmental values requiring protection under Commonwealth and State legislation and appropriate strategies to protect the values.



- (d) in the Perth and Peel Regions, proposals aligned with the BRM resource mapping will help address (c) above.
- (e) details of the proposed use, development and management of the site including the environmental and water resource management standards, quarry areas, stock piles, machinery maintenance areas, processing plants; fuel storage and on-site access roads, parking for cars and other vehicles used on the site, and proposals for landscaping to screen activity on the site;
- (f) details of arrangements for access to the site, including the roads which it proposes will provide the main vehicular access and likely traffic flows; and
- (g) consideration of sequential land use by establishing a plan for the progressive and ultimate rehabilitation of the site for its intended long term use.

9 ENVIRONMENTAL LICENSING AND WORK APPROVAL

Under sections 52 and 53 of the EP Act a works approval is required for the construction of prescribed premises or to carry out certain work on existing prescribed premises.

BRM extraction is not listed in Schedule 1 of the *Environmental Protection Regulations 1987*. However some associated operations (for example screening, washing, crushing grinding, sizing or separation of material) may be prescribed and require authorisation under Part 3 Division 2 of the EP Act.

In *Guidance Statement: Land Use Planning (2015)*, DWER outlines its policy of assessing applications under Part V Division 3 of the EP Act concurrently with applications for planning approval and making a determination once relevant planning decisions have been made.

9.1 CONDITIONS OF APPROVAL

Approval of an application for an extractive industry may include conditions which cover, but are not limited to:

- minimisation of air, water, noise and visual pollution;
 - stabilisation of excavations, stock piles and over-burden dumps;
 - protection of the amenity of existing adjacent land uses in the local community;
 - protection of the environment and ensuring the rehabilitation of the land is consistent with its long-term future use;
- mitigation measures such as earth mounding, landscaping, or design and construction measures should be incorporated to minimise the adverse impacts associated with noise, dust, vibration, traffic and visual amenity; and
 - annual reporting of production to the agency responsible for the administration of the *Mining Act*.



10 OTHER GOVERNMENT ADVICE

State and local government should assist the implementation of SPP 2.4 Basic Raw Materials by:

- giving advice, support and information to the general public in relation to the development and land uses within, adjacent to or in close proximity to *Significant Geological Supplies*, *Extraction Sites* and associated separation distances/buffers;
- ensuring streamlined exchange of information on the location of extractive industries approved by local government through the establishment of data protocols; and
- monitoring and assessing the application of the policy.



ATTACHMENT 1

Summary - Extracted from Main Roads WA Heavy Vehicle Services Standard Restricted Access Vehicle (RAV) Route Assessment Guidelines.

COMMUNITY CONSIDERATIONS

Decision-makers need to consider potential community impacts as part of assessing route suitability. The following factors are considered in determining potential community impacts:

NOISE

- In determining noise impacts in relation to RAVs, the following issues are considered:
- areas sensitive to road traffic noise, including residences, schools and hospitals;
 - the likely number of RAVs in comparison to existing number of large trucks (three or more axles);
 - factors contributing to noise generated by RAVs such as gradients, acceleration/deceleration areas, and road pavement irregularities; and
 - factors mitigating RAV noise impact (distance, topography, bunds, cuttings or walls).
- The main criterion for noise impact assessment is the change in the numbers of large trucks. Where noise impacts are expected to be significant mitigating measures such as the following will be considered:
- approved noise reduction request signs;
 - a curfew for RAVs during night time hours;

COMMUNITY CONSULTATION

In line with Government policy, Main Roads may require a route that has been given a favourable assessment to undergo community consultation. Main Roads and local government will determine the need for community consultation.

ALTERNATIVE TRANSPORT MODES

Alternative transport modes need to be considered to ensure RAV road transport is the most effective form of transport available for the particular operation.

FURTHER ASSISTANCE

Additional information and guidance is available from Main Roads Heavy Vehicle Services.

- consideration of alternative routes;
- noise certification of RAVs as a condition of access; and
- speed restrictions.

Where noise impacts are expected to remain significant despite mitigation actions, Main Roads will consult with the relevant local government and consider a route noise impact study.

DUST AND DIRT

Where the RAV route passes close to abutting development there may be adverse impacts upon people and property due to dust, especially where a route is unsealed. The decision-maker shall consider whether the introduction of the RAVs onto the route has potential to cause significant dust impact by considering:

- distance to buildings and their use;
- likely numbers of RAVs using the route;
- likelihood and amount of dust being produced by RAVs; and
- spreading dust impacts from RAVs entering onto a sealed road from a dirt road.

Where dust and dirt impacts are expected to be significant, the decision-maker will consider options such as alternative routes, speed restrictions and possibly sealing road sections. For short-term projects, when sealing the road is not practical, the proponent shall consider dust suppression (water or chemical stabilisation) and wheel washing at site exit.



Department of Planning,
Lands and Heritage



Draft State Planning Policy 2.4 Basic Raw Materials Policy

October 2018

*Prepared under Part Three of the Planning and Development Act 2005
by the Western Australian Planning Commission*

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Disclaimer

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Gordon Stephenson House
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website: www.dplh.wa.gov.au
email: info@dplh.wa.gov.au

tel: 08 6551 8002

fax: 08 6551 9001

National Relay Service: 13 36 77

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1 CITATION

This is a State Planning Policy made under Part 3 of the *Planning and Development Act 2005*. The policy may be cited as *State Planning Policy No 2.4: Basic Raw Materials (SPP 2.4)*.

This policy replaces *State Planning Policy No. 2.4: Basic Raw Materials (2000)* and the associated mapping plus the basic raw material (BRM) components of *State Planning Policy No. 2.5: Rural Planning (2016)*.

2 POLICY INTENT

Enable the responsible extraction of BRM, while ensuring the protection of people and the environment. Ensuring broad compatibility between land uses is essential to delivering this outcome.

3 BRM IN WESTERN AUSTRALIA

BRM are essential for the construction of buildings, roads, other infrastructure and also for agricultural production. In Western Australia BRM on freehold land are recognised as an extractive industry under the *Planning and Development Act 2005*. On freehold land local governments and the WAPC both issue planning approvals in collaboration. Extraction of BRM on Crown land is regulated under the *Mining Act 1978* and requires a granted mining tenement. Planning advice is commonly sought from the WAPC.

This policy recognises that BRM is a finite resource and promotes the importance of ensuring a continuing supply of BRM for extraction in support of regional development and agriculture.

Identification of BRM sites does not presume that extraction would have acceptable community amenity, health or environmental impacts nor that approval for extraction would be guaranteed.

3.1 Supply Categories for BRM

This policy identifies two supply categories for BRM:

- *Significant Geological Supplies (SGS)* - are identified as the highest priority extraction areas for BRM. SGS are BRM identified by the Department of Mines, Industry Regulation and Safety (DMIRS). They represent strategic, long-term supplies of BRM materials requiring protection.

The designation of an SGS area does not obligate a private landowner or State agency to extract these resources, nor does it presume that extraction would



be environmentally acceptable or that subsequent approvals for extraction or environmental approvals are guaranteed.

- *Extraction Sites (ES)* - comprise all commercial BRM Extraction Sites and BRM quarries used by government for infrastructure. These may overlap SGS areas. ES include proposed, approved and operating commercial (extractive) industries under the *Planning and Development Act 2005*, the *Local Government Act 1995*, the *Mining Act 1978* or a combination of these legislations.

3.2 BRM Resources Mapping

This policy operates in association with BRM resources mapping which may be updated over time.

BRM resources mapping in Perth and Peel identifies SGS areas, known, proposed, approved and operating ES and areas excluded from BRM extraction (exclusion areas) due to environmental values, resource conflicts or for planning reasons. The mapping in Perth and Peel provides a higher degree of certainty than other areas of Western Australia but still requires regulatory approvals. BRM Resources Mapping outside of Perth and Peel identifies SGS areas and may include known ES and unless assessed and approved have mainly been defined by the geological resource. For practical reasons, it is not intended for this mapping to include all ES, as these are administered by different agencies and in some cases can change within a short timeframe.

4 APPLICATION OF THIS POLICY

This policy provides the foundation for land use planning to address the sustainable management of BRM in Western Australia.

4.1 Where this policy applies

This policy applies across Western Australia to the:

- preparation of high order strategic planning documents such as frameworks, region schemes and sub-regional structure plans;
- preparation of local planning strategies and schemes, and corresponding local planning policies;
- determination of applications by the Western Australian Planning Commission (WAPC), local governments and State Administrative Tribunal;
- development applications for extractive industries where approval is required under the *Planning and Development Act 2005* and/or the *Local Government Act 1995*;
- planning matters related to the extraction of basic raw materials on Crown land (national parks, State forests, other Crown reserves and unallocated Crown land).

The policy is to be considered in conjunction with strategic regional BRM mapping products and strategic planning documents and maps and should be read in conjunction with the Basic Raw Materials Guidelines. Additional legislative and policy requirements are outlined in Appendix 2.

4.2 Policy exemptions

This policy does not apply to:

- mining that is in accordance with the *Mining Act 1978*, with the exception of BRM (as defined by this policy) on Crown land (as defined in the *Mining Act 1978*);
- areas subject to State Agreement Acts;
- the dredging of material from the bed of tidal waters under the *Mining Act 1978*;
- existing planning and environmental approvals for BRM, and matters dealt with by other Acts.

4.3 When this policy should be applied

This policy is to be applied to planning decision-making for:

- region schemes, improvement schemes, regional strategies or frameworks, sub-regional strategies, local planning strategies and schemes and structure plans, and to any amendments to these instruments, which include extractive industries or land that may be impacted by such proposals;
- subdivision applications for land zoned or otherwise that may be adjacent to or impacted by extractive industries;
- development applications for extractive industries or sensitive land uses that may be adversely impacted by existing BRM activities or off site impacts.

Guidance on appropriate scientific methods for determining the risk and extent of off-site impacts from BRM activities is not the subject of this policy. Planning decision-makers should seek advice from the relevant government agencies, as outlined in this policy, in relation to the appropriateness/acceptability of technical studies provided by proponents in support of planning proposals.



5. POLICY OBJECTIVES

The objectives of this policy are to:

- (a) provide guidance to facilitate the planning of BRM extraction from sites, where such extraction is considered appropriate on planning and environmental grounds;
- (b) protect BRM in SGS areas by avoiding encroachment from incompatible land uses and associated conflicts until the resources have been extracted;
- (c) ensure considerations relating to the extraction of BRM and the regional importance of the materials are taken into account in the early stages of the planning process including scheme amendments, planning strategies and structure plans;
- (d) support the efficient and sustainable use of BRM by ensuring land use planning and zoning decisions are cognisant of likely requirements for BRM in site preparation and construction recognising that BRM are finite resources;
- (e) prioritise the extraction and availability of BRM through the identification of sequential use sites and planned extraction and remediation as appropriate for the final intended land use;
- (f) ensure that the use and development of land for extraction of BRM, during or after extraction, avoids, minimises and mitigates detrimental impacts on the community and environment, including water resources and biodiversity values, while allowing for future use, consistent with long term planning.

6 POLICY MEASURES

Land use conflict should be considered at each stage of the planning framework. Strategic planning documents and planning schemes should address land use conflict and not defer its resolution or management to subdivision approval or development assessment stage, where mitigation options are limited and expectations may have been raised by previous decisions.

6.1 Planning decisions

In general, planning decisions that incorporate BRM, are impacted by or impact upon BRM operations need to comply with the following policy measures:

- (a) land use planning and development proposals should aim to minimise use of BRM by avoiding low lying areas that require large volumes of fill, by using different design and construction methods plus alternative earthwork strategies such as subsoil drainage;
- (b) SGS areas and existing ES should be the initial sources for BRM materials. In Perth and Peel, areas identified on mapping for BRM Exclusion should be avoided;
- (c) as far as practical the location of SGS areas and ES should focus on local sources to reduce transportation and manage related community, amenity, safety and environmental impacts;
- (d) SGS areas, and ES plus their buffers are not developed for other purposes until the resource is extracted, or unless proposed development is compatible with the extraction of the resource;

- (e) sequential land use planning is strongly encouraged whereby extraction and appropriate rehabilitation can take place on a programmed basis in advance of longer term use and development;
- (f) sensitive zones and/or land uses may be approved only where it can be demonstrated there are no human health implications and they will not limit the existing or potential extraction of BRM from known SGS areas and ES;
- (g) where practicable, BRM extraction should be located such that synergistic and compatible activities can be facilitated within the buffer;
- (h) ensure consistency with land use zoning and conditions of approvals are not impeded;
- (i) where a BRM resource is located with native vegetation, clearing of the native vegetation is likely to require authorisation and/or protection of other environmental assets;
- (j) where a BRM resource is located in an area with significant biodiversity values, clearing may not be authorised or protection of environmental assets required through environmental offset;
- (k) BRM extraction proposed in a public drinking water source area will require achieving separation distances to the highest groundwater level to protect water quality. Separation distances and other management measures to protect water resources, should be addressed in quarry planning stage;
- (l) planning decision-makers are to have due regard to advice from environmental agencies and consider potential impacts on fragmentation and connectivity of remnant vegetation.



6.2 Regional and sub-regional planning strategies

Region schemes and regional and sub-regional strategic planning strategies should:

- (a) identify SGS areas and known ES along with an indicative separation distance or buffer;
- (b) where practical seek to avoid the zoning of land for development in low lying areas that require large volumes of fill; and
- (c) Identify BRM sites appropriate for sequential land use opportunities and development.

Region Scheme text can include further guidance for BRM use, including specific guidance or requirements for specified locations.

6.3 Local planning strategies and schemes

Local planning strategies and schemes should:

- (a) identify known BRM SGS areas, ES and other significant BRM resources as required;
- (b) seek to avoid urban and industrial zoning and development of land requiring large amounts of fill;
- (c) include provisions to identify and protect SGS areas and ES and known buffers or land suitable for providing appropriate separation distances;
- (d) avoid development of sensitive land uses within the separation distances or determined buffers identified for SGS and/or ES, and plan for compatible land uses;
- (e) where applicable, allow sequential land use on SGS and ES, including their corresponding separation distances or buffers following extraction to agreed levels and site remediation;

6.4.2 How statutory buffers should be applied

Where a statutory buffer is required it should relate to planning scheme provisions and depending on the circumstances or surrounding land uses may take the form of a Special Control Area. Buffers for SGS areas and ES may be identified and reflected in other local planning instruments and mapping products.

6.4.3 Compatibility of land uses within statutory buffers

The following principles should be applied in planning decision-making involving land within a statutory buffer:

- (a) Special Control Area scheme provisions for statutory buffers should identify incompatible land uses within the buffer based on the nature of the impacts affecting the surrounding land. The following land uses should not be considered in statutory buffers:
 - i. sensitive land uses;
 - ii. land uses with off-site impacts or other requirements that may constrain the operations of the existing buffered BRM operations, or the future planned development/expansion of the BRM operations within a SGS site; and
 - iii. other land uses considered incompatible with the off-site impacts arising from BRM extraction.
- (b) local planning schemes should establish compatible land use zones and/or reserves in buffers, consistent with clause (a) and the strategic planning for the area;
- (c) statutory buffers should not affect a non-conforming use that was previously allowed under zoning regulations;

- (f) enable the extraction of BRM identified as SGS and ES, subject to analysis of environmental, water resources, infrastructure or planning constraints and subsequent approvals; and

- (g) permit land uses related to SGS and ES consistent with the model provisions in Schedule 1 of the "Planning and Development (Local Planning Schemes) Regulations 2015."

Local planning strategies and schemes should contain or be supported by such information as set out in the Basic Raw Materials Guidelines.

6.4 Protecting Significant Geological Supplies or Extraction Sites through statutory buffers

6.5.1 Where statutory buffers should apply

A statutory buffer should be designated for BRM where:

- (a) existing and approved SGS areas have been identified;
- (b) known ES for commercial extractive operations that may generate off-site impacts affecting community health and amenity; and
- (c) as determined by the Minister for Planning on advice from the WAPC.



- (d) a notification on title pursuant to relevant legislation should be required where a subdivision (including strata title) or development is approved within a defined buffer area in order that prospective purchasers and successors in title are made aware of the existence of the buffer area and relevant factors affecting the use of the land;
- (e) for BRM sites with programmed extraction and known impacts statutory buffers may comprise a number of transitional areas (identified by separate Special Control Areas) to prescribe different levels of development control depending on the distance from the source of emissions and to promote a transition of compatible land use zones and/or reserves; and
- (f) protection zoning around a public drinking water source.

6.5 Subdivision and development within Significant Geological Supplies or Extraction Sites

Subdivision and development within SGS areas and ES including corresponding separation distances or buffers, needs to be assessed in the context of the following considerations:

- (a) proposed or approved extraction of BRM resources;
- (b) restricting extraction of the resource until the area has been fully utilised and/or identified in Regional or Local Planning Strategies for a higher and better use;
- (c) the impact the proposal would have on current or future BRM extraction operations; and
- (d) increasing the number of people living, working or congregating within the area of the separation distance or buffer.

Any development within a separation distance or determined buffer of an ES should:

- (e) be consistent with relevant strategic planning documents detailing existing and future settlement patterns, and other relevant planning instruments
- (f) have regard for relevant documents such as EPA Guidance Statement No 3 - Separation Distances between Industrial and Sensitive Land Uses; SPP 2.7 Public drinking water source policy and Water Quality Protection Note no. 25; Land use compatibility tables for public drinking water source areas.

A development approval may require a 'notification on title' advising of the proximity and location of existing or potential future extractive industry activity and potential adverse impacts resulting from the activity.

6.6 Development, expansion and modification of an extractive industry

Extractive industry operations and related site rehabilitation, whether it is located within or outside SGS areas and ES should be managed to:

- (a) provide finished levels compatible with groundwater, infrastructure and engineering requirements for the intended long-term use, determined by reference to the Basic Raw Materials Guidelines and advice from relevant government authorities;
- (b) facilitate sequential land use by rehabilitating the land to a form or for a use which is compatible with the planned long-term development for the site and surrounding area;

- (c) avoid and mitigate conflicts with and detrimental effects on existing and future sensitive land uses and agricultural land in the surrounding areas (noise, dust, vibration, blasting and vehicular traffic);
 - (d) avoid and mitigate transport related community and amenity impacts while operating in a safe manner. Depending on the size, number of truck movements, location and intended transport routes an operation may require a Transport Impact Assessment and Management Plan;
 - (e) minimise detrimental impacts on any native flora and fauna or ecological/wildlife corridors including the fragmentation and connectivity of remnant vegetation;
 - (f) minimise and mitigate detrimental impacts on landscape, surface drainage and surface water quality, public drinking water supply areas, sites of cultural and historic significance on and near the land, having regard to the likely impacts of any subsequent land use;
 - (g) maintain groundwater quality, quantity and appropriate vertical separation between the highest groundwater table, during and post BRM, having regard for relevant DWER policy and guidance; and
 - (h) provide appropriate horizontal separation between extraction and water supply infrastructure.
- Determination of extraction finished levels should consider advice regarding hydrogeology, infrastructure and engineering requirements for the intended long-term use. All extractive industry proposals should also be determined in accordance with Commonwealth and State environmental approvals and land uses for *Perth and Peel* at 3.5 million.



6.7 Conditions of approval for BRM proposals

State and local government decision-makers may include detailed requirements, such as modifications and/or conditions on strategic planning proposals, subdivision and development applications, to achieve the policy measures set out above. On private land, local governments and the WAPC both issue planning approvals in collaboration.

6.8 Advice on environmental protection

Decisions on strategic planning proposals, subdivision and development applications should seek and have regard for advice from relevant State agencies to ensure landscape amenity, environmental protection, public drinking water source protection and biodiversity conservation values are considered where:

- (a) it is proposed to clear native vegetation and/or;
- (b) an area of particular value is identified for protection from BRM extraction, retention or is identified as unacceptable for BRM extraction under WAPC endorsed mapping under this policy and/or;
- (c) development abuts vegetated land managed by that authority.



APPENDIX 1: DEFINITIONS

The terms used in this policy complement those contained in the *Planning and Development (Local Planning Schemes) Regulations 2015* Model Scheme Text. The following additional definitions apply within this policy:

Basic Raw Materials (BRM)

For the purpose of this policy, BRM include:

- sand (including silica sand¹);
- clay²;
- hard rock (including dimension stone);
- limestone (including metallurgical limestone);
- agricultural lime;
- gravel;
- gypsum;
- other construction, road building and materials;
- materials which may substitute BRM.

Buffer

Buffers comprise of the strategic or statutory designation of land in which sensitive land uses are constrained or prohibited. The extent of a buffer depends on the following elements:

- the type and scale of the proposal
- Government policy on separation distance

- existing or potential requirement for environmental licensing and/or works approval
- industry-specific guidelines
- technical studies
- potential cumulative impacts
- amenity, visual impact
- environmental and topographic features
- cadastre

the continuation and/or expansion of the land use in the context of surrounding land uses.

A buffer is measured from activity to activity, and does not necessarily relate to cadastral boundaries. A strategic buffer is one shown in a local planning scheme or other strategic planning document where there are land use planning controls that give effect to the buffer.

Government policy on separation distances (defined below) is a consideration in determining a buffer.

Exclusion areas

Exclusion areas contain known BRM resources but are considered unfavourable for excavation. These areas are likely to have protected environmental values or are excluded for planning or infrastructure reasons.

Extraction Sites (ES)

Extraction Sites comprise all commercial extraction areas for BRM and BRM quarries used by government for infrastructure. ES include operating, approved and proposed commercial (extractive) industries under the *Planning and Development Act 2005*, the *Local*

Government Act 1995, the *Mining Act 1978* or a combination of these legislations. They may occur wholly or partly within or outside of SGS areas. Where they occur outside of Significant Geological Supplies they provide important local supplies and in some cases provide for a specific market niche over the short to medium term.

Fully utilised

A resource that has been fully or extracted to economically practical levels or has been extracted as per a sequential land use plan. Fully utilised can also apply to the availability of new information that demonstrates that the resource is no longer suited for its intended use.

Industry – extractive

Means premises, other than premises used for mining operations that are used for the extraction of basic raw materials including by means of ripping, blasting and may include facilities for any of the following purposes –

- (a) the processing of raw materials including crushing, screening, washing, sterilising, blending or grading;
- (b) activities associated with the extraction of basic raw materials including wastewater treatment, storage, rehabilitation, loading, transportation, maintenance and administration.

¹ The *Mining Act 1978* covers silica, mineral and garnet sand on most land holdings – except certain pie 1899 land titles that hold Mineral to Owner rights.

² The *Mining Act 1978* covers kaolin, bentonite, attapulgite and montmorillonite clays on all land holdings.



Rehabilitation

Activities related to site restoration during or following BRM extraction activities. Rehabilitation will take into account short-term requirements, the intended final (sequential) land use of the site and conditions placed on operations. This should consider land form and finished floor levels, groundwater protection, management of air and water erosion, and future infrastructure requirements. Where appropriate, environmental rehabilitation should maximise the return of biodiversity by reinstating self-sustaining and functional ecosystems based on local species.

Separation distances

As defined in Government environmental policy, a separation distance is a recommended distance necessary to separate a source of emissions (gaseous and particulate emissions, dust, odour and noise) from sensitive land uses in order to avoid impacts to human health and amenity. A separation distance is an important consideration in determining a buffer.

Vertical separation distances also apply to the finished floor level of a quarry and the allowable distance from the highest groundwater level as advised by the DWER.

Sensitive land use

Sensitive land uses comprise land uses that are residential or institutional in nature, where people live or regularly spend extended periods of time. These include dwellings, short-stay accommodation, schools, hospitals and childcare centres. Generally excludes commercial or industrial premises.

Significant Geological Supplies (SGS)

BRM areas identified by DMIRS as having State significance due to the size of the resource, relative scarcity, demand and/or location near growth areas and transport routes.

Special Control Areas

Special control areas (SCAs) are intended to control particular types or characteristics of development associated with a factor which does not generally coincide with a zones or reserve. The control may apply to only part of a zone or reserve or may overlap zone and reserve boundaries. Special control areas may also overlap each other where more than one issue applies to the land.

Transport Impact Assessment

A Transport Impact Assessment (TIA) determines the types and level of transport related impacts on the community and amenity that may be generated from development and necessary mitigation actions. TIA guidelines support transport planning information, the level of information required and the format in which it should be presented for consideration.

See: <https://www.dplh.wa.gov.au/publications/1197.aspx>

APPENDIX 2: RELEVANT LEGISLATION AND POLICIES

Various regulations and guidelines complement and overlap with the planning system, and some proposals require approvals by other decision-makers. Proponents should seek appropriate professional advice in this regard. This section outlines factors and approvals related only to proposals for BRM activities that may require consideration in planning decision-making. Compliance with other legislation should not be interpreted as approval by the WAPC under the *Planning and Development Act 2005*.

State environmental legislation

- (a) The Environmental Protection Authority (EPA) considers the environmental impacts of planning schemes and scheme amendments under Part IV, section 48A of the *Environmental Protection Act 1986*. Schemes and scheme amendments must be referred to the EPA prior to being advertised for public comment to determine if the scheme should be assessed or not, or is incapable of being made environmentally acceptable. Individual development proposals that are likely to have a significant effect on the environment are also required to be referred to the EPA under Part IV, section 38 of the *Environmental Protection Act 1986*.
- (b) The EPA's *Guidance Statement No.3 Separation Distances Between Industrial and Sensitive Land Uses* provides advice on which land uses require separation, and recommends the appropriate separation distances. The guidance outlines the EPA's expectations on the application of separation

distances for schemes and scheme amendments in the environmental impacts assessment process. The guidance also supports strategic and statutory land use planning and development decisions by planning authorities where proposed land uses have the potential to adversely impact on human health and amenity.

- (c) In considering a clearing matter under Part V Division 2 of the EP Act the CEO shall have regard to any planning instrument, or other matter, that the CEO considers relevant.
- (d) Part V Division 3 of the *Environmental Protection Act 1986* makes it an offence to cause an emission or discharge from activities carried out on a prescribed premises unless a works approval or licence is held for the premises. Prescribed premises are listed in Schedule 1 of the *Environmental Protection Regulations 1987* and may include activities undertaken by extractive industries. See the Department of Water and Environmental Regulation (DWER's) *policy Guidance Statement: Land Use Planning 2015* to assess applications under Part V Division 3 of the *Environmental Protection Act 1986* concurrently with applications for planning approval and to make a determination once relevant planning decisions have been made.
Licences and works approvals may be granted subject to conditions to prevent, control, abate or mitigate pollution or environmental harm. Licences may be granted for up to 20 years, depending on the risk to public health and the environment posed

by the premises as well as the duration of other statutory approvals, including planning approvals. Any changes to operating prescribed premises that may alter emissions must seek a licence amendment.

Commonwealth environmental approvals

- (e) Under the Commonwealth *Environment Protection and Biodiversity Conservation Act 1999* approval is needed from the Commonwealth Minister for any proposal or action that has, will have, or is likely to have a significant impact on any of the matters of national environmental significance.

Water resources

- (f) DWER seeks to conserve, protect, manage and assess water resources and provide for the sustainable use and development of water resources under the *Water Agencies (Powers) Act 1984*, *Rights in Water and Irrigation Act 1914* and *Waterways Conservation Act 1976*. Water resource availability is informed by allocation plans and limits under the *Rights in Water and Irrigation Act 1914*.
- (g) If abstraction or dewatering is required to enable the extraction to occur, this could result in significant environmental effects (such as impacts on native vegetation, wetlands or waterways), the Department of Water and Environmental Regulation may need to refer the proposal to the Environmental Protection Authority under s38 of the *Environmental Protection Act 1986*.

- (h) Public drinking water source areas are defined by DWER and proclaimed as water reserves, catchment areas or underground water pollution control areas under the *Metropolitan Water Supply, Sewerage and Drainage Act 1909*, or water reserves or catchment areas under the *Country Areas Water Supply Act 1947*. Land use and development in public drinking water source areas is guided by the following documents:
- DWER Statewide Policy No 1 Policy guidelines for construction and silica sand mining in public drinking water source areas;
 - WAPC State Planning Policy 2.7: Public Drinking Water Source Policy;
 - WAPC State Planning Policy 2.2: Gnangara Groundwater Protection;
 - WAPC State Planning Policy 2.3: Jandakot Groundwater Protection; and
 - State Planning Policy: 2.9 Water Resources;
 - DWER Water Quality Protection Note no. 25: Land use compatibility tables for public drinking water source areas;
 - Sub-regional planning frameworks, region and local planning schemes.
- (i) While the Minister for Mines and Petroleum, the Warden or the Mining Registrar will take into account planning for a mining tenement, a planning instrument cannot operate to prohibit or affect the grant of such tenement.
- (j) Industries involving explosives and other dangerous goods, including extractive industries with potential off-site risks are regulated by the DMIRS under the *Dangerous Good Safety Act 2004* and the *Mines Safety and Inspection Act 1994*. Information on the types of goods and the critical qualities which require licensing are listed in the DMIRS's Safety Guidance Minimum separation distances between explosive facilities and various categories of incompatible land uses are provided in Australian Standard AS2187.1:1998 and the DMIRS's Dangerous Goods Safety Guidance Note – Storage of explosives.

State mining legislation

- (i) Where a planning proposal may be negatively impacted by a BRM mining operation undertaken through the *Mining Act 1978*, the planning decision-maker should seek advice from DMIRS regarding the risk and acceptability of potential offsite impacts.



Department of
Planning



State Planning Policy 2.5

Rural Planning

December 2016

Prepared under Part Three of the Planning and Development Act 2005 by the Western Australian Planning Commission

Replaces State Planning Policy 4.3 as published in the Government Gazette on 18 December 1998 and 19 September 2003

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website: www.planning.wa.gov.au
email: corporate@planning.wa.gov.au

tel: 08 6551 9000
fax: 08 6551 9001
National Relay Service: 13 36 77
infoline: 1 800 626 477

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1 CITATION

This is a State Planning Policy made under Part 3 of the *Planning and Development Act 2005*. This policy may be cited as *State Planning Policy No. 2.5: Rural Planning (SPP 2.5)*.

This policy replaces *State Planning Policy No. 2.5: Land Use Planning in Rural Areas (2013)* and repeals *State Planning Policy 4.3: Poultry Farms Policy (1998)*.

This policy supersedes *State Planning Policy 2.4: Basic Raw Materials (2000)* for the shires of Gingin, Chittering, Northam and Toodyay.

2 POLICY INTENT

The purpose of this policy is to protect and preserve Western Australia's rural land assets due to the importance of their economic, natural resource, food production, environmental and landscape values. Ensuring broad compatibility between land uses is essential to delivering this outcome.

3 BACKGROUND

The changes in land use in Western Australia in the years since European settlement in 1829 have been dramatic. Clearing, subdivision, development, and use of land for settlement and agriculture provided significant economic and social benefits to the expanding Western Australian community.

Western Australia's population is expected to increase to more than five million people by 2061. Demand pressures associated with economic and population growth are occurring in an environment where the quality and availability of rural land has declined, due largely to settlement pressure, natural resource degradation and climate change.

A growing economy and population will increase the pressure on rural land to be used for a wide variety of purposes including urban settlement, economic development, infrastructure and utilities, essential services such as water supply, areas for conservation, cultural and recreational purposes, and food production.

Rural land accommodates significant environmental assets and natural landscape values, and areas with mineral, petroleum, geothermal energy and basic raw materials resources, which need to be factored into planning for rural areas.

As a result of the State's growth, rural land resources are becoming increasingly contested leading to increased competition and conflict. Sustainable planning requires decision-makers to be fully informed and requires economic, environmental and social issues to be taken into account. This policy aims to support rural land and land uses to cater for both anticipated and unexpected future needs.

3.1 Where this policy applies

This policy applies to rural land and rural land uses in Western Australia, in particular:

- (a) land zoned for rural or agricultural purposes in a region or local planning scheme;

- (b) land identified or proposed for rural living in an endorsed scheme or strategy;
- (c) rural land uses on rural zoned land;
- (d) rural land uses on land that is not zoned for rural purposes; and
- (e) land that may be impacted by rural land uses.

There is a relationship between this policy and the Western Australian Planning Commission (WAPC)'s State Planning Policy 4.1, which applies to industrial land and land uses, in that both policies deal with separation distances and buffers.

Due to their size, scale and potential level of impact, some rural land uses could be considered industrial, some rural land uses are located on industrial land, and some industrial land uses are on rural land. Decision-makers will need to consider policy application in the context of the proposal.

3.2 Policy exemptions

This policy does not apply to:

- (a) the extraction of basic raw materials within the Perth and Peel planning regions;
- (b) areas subject to State Agreement acts;
- (c) mining that is in accordance with the *Mining Act 1978*, with the exception of basic raw materials on Crown land;
- (d) existing approvals in retrospect, including structure plans, subdivisions and development; and
- (e) matters dealt with by the *Swan Valley Planning Act 1995* (or superseding legislation).



3.3 When this policy applies

This policy is to be applied to State and local government planning decision-making for:

- (a) the preparation or assessment of region schemes, regional strategies or frameworks, sub-regional strategies, local planning strategies and schemes and structure plans or to any amendments to these;
- (b) subdivision proposals for rural zoned land, in tandem with *Development Control Policy 3.4: Subdivision of rural land*; and
- (c) development proposals on rural zoned land; and for rural land uses on land zoned for other purposes, in accordance with region and local scheme requirements, which can include diversification permits issued under Part 7 of the *Land Administration Act 1997* and other development on Crown land.

Where there is no WAPC endorsed strategic or statutory planning instrument in place to guide WAPC decision-making, the intent and measures of this policy shall apply. Where an endorsed strategy conflicts with the intent of State policy, this policy shall prevail, unless a regional variation has been approved by the WAPC.

3.4 Other relevant regulation and policies

Other regulations and policies overlap with the planning system, and some proposals may require approvals outside the planning system. This section outlines other factors and approvals that may be required for proposals on rural zoned land or for rural land uses:

- (a) The *Environmental Protection Act 1986* defines a proposal as a project, plan, program, policy,

operation, undertaking or development, or change in land use, or amendment of any of these, but does not include a scheme. Proposals that are likely to have significant environmental impacts are required to be referred to the Environmental Protection Authority (EPA) under Part IV of the *Environmental Protection Act 1986*.

Under s81 of the *Planning and Development Act 2005*, schemes and amendments are referred to the EPA under s48A of *Environmental Protection Act 1986*, therefore environmental consideration and/or formal assessment precedes planning decision-making.

Where environmental impacts may be significant (such as impacts on native vegetation, wetlands or waterways), local governments are required to refer the proposal to the EPA under s38 of the *Environmental Protection Act 1986*. A proponent may also elect to refer a proposal to the EPA under s38.

(b) Environmental impacts for proposals that do not require assessment under Part IV of the *Environmental Protection Act 1986* may be subject to regulation under Part V of the *Environmental Protection Act 1986*, including the requirement for a works approval and licence. Prescribed premises are listed in Schedule 1 of the *Environmental Protection Regulations 1987*.

Where proposals are not referred to the EPA under s48A or s38 of the *Environmental Protection Act 1986*, planning decision-making should precede environmental works approval and licensing. However, this can vary under certain circumstances.

The Department of Environmental Regulation's *Guidance Statement on Land Use Planning* (2015) outlines an implementation approach where environmental regulation and planning approval is required.

(c) Noise sensitive premises are defined in the *Environmental Protection (Noise) Regulations 1997*. The regulations define noise sensitive premises and outline allowable noise impacts on these areas. Under the regulations assigned noise levels for sensitive premises are informed by zonings in planning schemes. The definition is generally consistent with the definition of 'sensitive land uses' used in this policy.

(d) The clearing provisions of the *Environmental Protection Act 1986* require that the Chief Executive Officer has regard to planning instruments when making a decision on a clearing permit application. Planning instruments include State Planning Policies, planning schemes and local planning strategies. Clearing native vegetation is prohibited, unless undertaken with a clearing permit, or the clearing is for an exempt purpose. The first type of exemption is found in Schedule 6 of the *Environmental Protection Act 1986* and mainly refers to clearing that is required under other laws. The second type of exemption is found in the *Environmental Protection (Clearing of Native Vegetation) Regulations 2004* and mainly refers to clearing for routine low impact land management practices. Unless exempt, development applications may require a clearing permit.

(e) There are nineteen separate regulations that fall under the *Environmental Protection Act 1986*. These relate to matters such as abattoirs, abrasive blasting, rural landfill, packaged fertiliser and concrete batching. This policy does not duplicate these regulations, but provides a framework for planning decision-making that is cognisant of other regulatory requirements. As there is no regulation that specifically deals with odour, this policy provides direction on the matter.



- (f) The Environmental Protection Authority's *Environmental Protection Guidance Statement No. 3: Separation Distances between Industrial and Sensitive Land Uses* provides guidance on recommended separation distances between many rural land uses and sensitive land uses. This guidance statement assists in the determination of land use buffers and planning decision-making.
- (g) A range of rural land uses are not 'Prescribed Premises' under the *Environmental Protection Regulations 1987*, though they may still generate environmental impacts. This includes poultry farms, crushing and screening components of basic raw material extraction and composting under certain thresholds. These land uses and their impacts are regulated entirely by planning processes, and therefore require special consideration by planning decision-makers.¹
- (h) Schedule 2 of the *Health Act 1911* includes a list of 'Offensive Trades', including abattoirs, piggeries, rendering plants, tanneries and manure works. Part VII Division II of the Act requires local governments to approve and then register any offensive trades, and provides the ability for local governments to make local laws relevant to such trades. From a planning perspective, 'offensive' land use impacts can be managed by approvals issued by local governments under the *Health Act 1911*, in addition to planning controls. Registrations are renewed annually, and a local government may refuse to renew a registration if the premises are not operated in accordance with

the relevant local laws. This provides an opportunity for local governments to manage and monitor the operation of 'offensive' premises.

- (i) The Department of Health has *Guidelines for Separation of Agricultural and Residential Land Uses (2012)*, which seeks to minimise health and nuisance impacts from chemical use, spray drift and dust. Single residential dwellings located in land zoned Rural, Agricultural or equivalent in local and regional planning schemes are excluded from the guidelines. These guidelines articulate the Department of Health's position when providing advice on planning referral processes, where there are possible conflicts with existing agricultural land uses. In addition, the use of pesticides is regulated under the *Health (Pesticides) Regulations (2011)*.
- (j) Agencies and industry bodies may also produce guidelines and Codes of Practice to assist the industry in achieving well designed, located and managed rural activities and to reduce the potential for health, environment and nuisance related impacts on nearby land. Such guidelines may be an adjunct in the determination of land use buffers and planning decisions.
- (k) The Department of Water seeks to conserve, protect, manage and assess water resources and provide for the sustainable use and development of water resources under the *Water Agencies (Powers) Act 1984*, *Rights in Water and Irrigation Act 1914* and *Waterways Conservation Act 1976*. Water resource availability is informed by allocation plans under the *Rights in Water and Irrigation Act 1914*, and is subject to allocation limits. The Department of Water's support for a plan or development would be influenced by whether or not water is available. If abstraction

of the required water would result in significant environmental effects (such as impacts on native vegetation, wetlands or waterways), the Department of Water may need to refer the proposal to the Environmental Protection Authority under s38 of the *Environmental Protection Act 1986*.

- Public drinking water source areas are defined by the Department of Water and proclaimed as water reserves; catchment areas or underground water pollution control areas under the *Metropolitan Water Supply, Sewerage and Drainage Act (1909)*, or water reserves or catchment areas under the *Country Areas Water Supply Act (1947)*. Land use and development in public drinking water source areas is guided by the WAPC's *State Planning Policy 2.7: Public Drinking Water Source Policy, State Planning Policy 2.2: Gnangara Groundwater Protection, State Planning Policy 2.3: Jandakot Groundwater Protection, and State Planning Policy: 2.9 Water Resources*; through sub-regional planning frameworks, region and local planning schemes.
- (l) Documents prepared in relation to the Strategic Assessment of Perth and Peel under Part 10 of the *Commonwealth Environment Protection and Biodiversity Conservation Act 1999* are to be read in conjunction with this policy.
- (m) Under the *Commonwealth Environment Protection and Biodiversity Conservation Act 1999* approval is needed from the Commonwealth Minister for any proposal or action that has, will have or is likely to have a significant impact on any of the matters of environmental significance.
- (n) *State Planning Policy 2: Environment and Natural Resources, State Planning Policy 2.1: Peel-Harvey Coast*

¹ The *Biosecurity and Agriculture Management Act 2007* provides a basis for the *Biosecurity and Agriculture Management Plan (StableFly) Regulations 2013*. These apply in 13 urban and peri-urban local governments and may affect composting potential in those areas.



Plain Catchment, State Planning Policy 2.7: Public Drinking Water Source Policy; State Planning Policy 2.9: Water Resources and State Planning Policy 2.10: Swan Canning River System contain specific requirements for proposals within the catchment areas of estuaries, rivers, wetlands and other water bodies. These policies are to be read and applied in conjunction with this policy.

5 POLICY MEASURES

The WAPC seeks to protect and preserve rural land for rural purposes including primary production, basic raw materials, regional facilities, and protection of biodiversity and landscape. Rural land accommodates a diverse range of land uses, primarily associated with primary production. There are also rural areas with suitable soils, climate, water (rain or irrigation) and access to services such that the land is considered to be high quality agricultural land. The intent of this policy is therefore to protect rural land and encourage a diversity of compatible rural land uses.

- (e) creating new rural lots only in accordance with the circumstances under which rural subdivision is intended in *Development Control Policy 3.4: Subdivision of rural land*;
- (f) preventing the creation of new or smaller rural lots on an unplanned or ad-hoc basis, particularly for intensive or emerging primary production land uses;
- (g) comprehensively planning for the introduction of sensitive land uses that may compromise existing, future and potential primary production on rural land; and
- (h) accepting the impacts of well-managed primary production on rural amenity.

4 POLICY OBJECTIVES

The objectives of this policy are to:

- (a) support existing, expanded and future primary production through the protection of rural land, particularly priority agricultural land and land required for animal premises and/or the production of food;
- (b) provide investment security for existing, expanded and future primary production and promote economic growth and regional development on rural land for rural land uses;
- (c) outside of the Perth and Peel planning regions, secure significant basic raw material resources and provide for their extraction;
- (d) provide a planning framework that comprehensively considers rural land and land uses, and facilitates consistent and timely decision-making;
- (e) avoid and minimise land use conflicts;
- (f) promote sustainable settlement in, and adjacent to, existing urban areas; and
- (g) protect and sustainably manage environmental, landscape and water resource assets.

5.2 Rural land in the Perth and Peel planning regions

The Perth and Peel planning regions will continue to accommodate the majority of the State's population growth. Rural land will become more contested, as the land may be required for environmental protection, basic raw material extraction, infrastructure or urban purposes. Opportunities for additional rural living zoning will become more limited.

WAPC policy for rural land in the Perth and Peel planning regions is:

- (a) rural residential proposals for rural land that do not align with endorsed sub-regional planning frameworks are considered inconsistent with the policy objectives and shall not be supported;
- (b) rural smallholdings proposals for rural land will be considered by exception in planning strategies and schemes, where topography, biodiversity values,

5.1 Protection of rural land and land uses

The WAPC will seek to protect rural land as a State resource by:

- (a) requiring that land use change from rural to all other uses be planned and provided for in a planning strategy or scheme;
- (b) retaining land identified as priority agricultural land in a planning strategy or scheme for that purpose;
- (c) ensuring retention and protection of rural land for biodiversity protection, natural resource management and protection of valued landscapes and views;
- (d) protecting land, resources and/or primary production activities through the State's land use planning framework;



bushfire risk, environmental matters and servicing can be managed in accordance with this and other State policies;

- (c) established rural land uses of State significance, including animal premises and food processing facilities, should be protected from urban and rural living encroachment due to their critical food production and economic roles;
- (d) priority agricultural land is to be preserved for that purpose due to its proximity to major population centres; and
- (e) conversion of land from priority agriculture to other uses must be appropriately planned in strategies or schemes, where such conversion is required as a matter of State significance.

5.3 Rural living

The WAPC recognises there is a market for rural living development, and that it provides for a range of housing and lifestyle opportunities. However, rural living estates must be carefully planned, as they can be an inefficient means of accommodating people. Once rezoned, rural living estates consume and sterilise what was rural land, and may have unintended or adverse social, environmental, servicing or management impacts.

State Planning Policy 3 Urban Growth and Settlement provides strategic direction for settlement planning in Western Australia and specific guidance in relation to establishing rural living estates or areas where rural living is to be developed. For the purposes of this policy, a rural living proposal is:

- the designation of rural living precincts in a local planning strategy, scheme or structure plan; or

- an amendment to a strategy or scheme to provide for, or extend, a rural living precinct; or
- a subdivision application for land zoned for rural living purposes.

The following policy measures apply in regard to decision-making for rural living proposals:

- (a) rural living proposals shall not be supported where they conflict with the objectives of this policy or do not meet the criteria listed at 5.3 (b) and (c);
- (b) the rural living precinct must be part of a settlement hierarchy established in an endorsed planning strategy;
- (c) the planning requirements for rural living precincts are that –

- (i) the land be adjacent to, adjoining or close to existing urban areas with access to services, facilities and amenities;
- (ii) the proposal will not conflict with the primary production of nearby land, or reduce its potential;
- (iii) areas required for priority agricultural land are avoided;
- (iv) the extent of proposed settlement is guided by existing land supply and take-up, dwelling commencements and population projections;
- (v) areas required for urban uses are avoided;
- (vi) water supply shall be as follows –
 - where lots with an individual area of four hectares or less are proposed and a reticulated water supply of sufficient

capacity is available in the locality, the precinct will be required to be serviced with reticulated potable water by a licensed service provider. Should an alternative to a licensed supply be proposed it must be demonstrated that a licensed supply is not available; or

- where a reticulated supply is demonstrated to not be available, or the individual lots are greater than four hectares, the WAPC may consider a fit-for-purpose domestic potable water supply, which includes water for fire fighting. The supply must be demonstrated, sustainable and consistent with the standards for water and health; or
- the development cannot proceed if an acceptable supply of potable water cannot be demonstrated;

(vii) electricity supply shall be as follows –

- where a network is available the precinct is to be serviced with electricity by a licensed service provider, or
- where a network is not available, the precinct is to be serviced by electricity from renewable energy source/s, by a licensed service provider, and this has been demonstrated;

(viii) the precinct has reasonable access to community facilities, particularly education, health and recreation;

- (ix) the land is predominantly cleared of remnant vegetation, or the loss of remnant vegetation



through clearing for building envelopes, bushfire protection and fencing is minimal and environmental values are not compromised;

- (x) the proposal demonstrates and will achieve improved environmental and landscape outcomes and a reduction in nutrient export in the context of the soil and total water management cycle, which may include rehabilitation as appropriate;
- (xi) the land is capable of supporting the development of dwellings and associated infrastructure (including wastewater disposal and keeping of stock) and is not located in a floodway or an area prone to seasonal inundation;
- (xii) the land is not subject to a separation distance or buffer from an adjoining land use, or if it is, that no sensitive land uses be permitted in the area of impact;
- (xiii) the lots can be serviced by constructed road/s capable of providing access during all weather conditions, including access and egress for emergency purposes; and
- (xiv) bushfire risk and natural hazards can be minimised and managed in accordance with State policy, without adversely affecting the natural environment. Proposals in areas of extreme bushfire risk will not be supported;
- (d) development standards for rural living zones are to be included in local planning schemes;
- (e) further subdivision of existing rural living lots into smaller parcels is not supported, unless provided for in a local planning strategy and/or scheme; and

- (f) rural strata proposals with a residential component are considered to be rural living and will be considered in accordance with the criteria listed at clauses 5.3 (a), (b) and (c) of this policy.

Where there may be a conflict between endorsed planning strategies, the higher order and/or more recent document shall prevail.

5.4 Rural lots that may be created under the exceptional circumstances of *Development Control Policy 3.4: Subdivision of rural land*

Many rural lots in Western Australia were created prior to planning legislation and policy. Former townships that are no longer settled may also have converted to rural zoning. As a result there is a vast array of rural lot sizes, including many small rural lots that are incapable of supporting primary production. Although these lots are small, and may be used primarily for residential purposes, they are not rural living lots as they are not identified or zoned as such, and they remain rural lots.

Development Control Policy 3.4: Subdivision of rural land outlines the range of exceptional circumstances where the WAPC will consider the subdivision of rural land, particularly where such subdivision may achieve land management, environmental, social or cultural benefit.

There is potential for rural subdivision to result in the creation of rural lots which are similar in size to lots in rural living zones, where residential use is the likely or intended long-term purpose. In such cases, WAPC policy is:

- (a) the form of subdivision must be capable of approval under the exceptional circumstances and requirements of *Development Control Policy 3.4: Subdivision of rural land*;

- (b) the resultant lot/s will not interfere with primary production, will have legal access to a constructed road and will achieve sound environmental outcomes; and
- (c) the lot/s are not to be zoned for rural living.

5.5 Regional variation, economic opportunities and regional development

Western Australia is a large and diverse State with regional variations of climate, economic activity, cultural values, demographic characteristics and environmental conditions. The WAPC's decisions will be guided by the need to provide economic opportunities for rural communities and to protect the State's primary production and natural resource assets. WAPC policy is to:

- (a) continue to promote rural zones in schemes as flexible zones that cater for a wide range of land uses that may support primary production, regional facilities, environmental protection and cultural pursuits;
- (b) support small rural communities by providing for rural enterprise zones which combine light industry and housing, provided they are carefully planned; in general proximity to urban areas; serviced; and have design features that address buffers and amenity;
- (c) support small scale tourism opportunities, such as bed and breakfast, holiday house, chalet, art gallery, micro-brewery and land uses associated with primary production, within the rural zone; and
- (d) recognise the differing needs of the various regions, and consider regional variations where they meet the stated objectives of this policy and are supported in strategies and schemes.



5.6 Tree farming

Tree farming is an umbrella term used to describe the planting of trees to generate economic return and/or environmental benefits. It has been a rapidly emerging industry in a number of rural locations across the State. Usually this has involved the planting of trees for harvest. However, more recently the planting of trees for carbon sequestration has emerged as a new rural land use. Tree farming which involves harvesting is a primary production activity that also sequesters carbon. The different types of tree farms, i.e. integrated, chip logs or saw logs, require varied planning approaches.

WAPC policy in regard to tree farming is:

- (a) tree farming is supported and encouraged on rural land as a means of diversifying rural economies and providing economic and environmental benefit;
- (b) tree farming should generally not occur on priority agricultural land;
- (c) tree farming should generally be a permitted use on rural land, except where development of a tree farm would create an extreme or unacceptable bushfire risk or when responding to specific local circumstances as identified in a strategy or scheme;
- (d) local governments should manage the location, extent and application requirements for tree farming in their communities through local planning strategies, schemes and/or local planning policies;
- (e) in planning for tree farming, local government considerations should include but are not limited to, potential bushfire risk, environmental and economic factors, water availability and recharge,

visual landscape impacts, transport impacts of tree farming (where harvesting is proposed), planting thresholds, appropriate buffers, and location relative to conservation estates and sensitive land uses;

- (f) where tree farm proposals are integrated with farm management for the purpose of natural resource management and occupy no more than 10 per cent of the farm, the proposal should not require local government development approval; and
- (g) the establishment of tree farms does not warrant the creation of new or smaller rural lots.

5.7 Animal premises

Animal premises are important contributors to the food needs of Western Australia's residents and to the State's economy. In order to operate effectively they require ready access to consumers, access to services and freight, appropriate environmental or climatic conditions, and the ability to respond to changes in the market. As a result, animal premises are generally located in the vicinity of road, rail and port infrastructure and population centres. Relocation of existing animal premises away from approaching urban fronts will not be possible for all businesses, nor is it a reasonable expectation.

Many animal premises are subject to environmental regulation, but others, most notably poultry farms, are not. Where animal premises are not subject to environmental regulation, planning decision-makers may need to consider a broader range of environmental factors and resolve potential land use conflict.

WAPC policy in regard to animal premises is:

- (a) animal premises are a rural land use, and are generally supported and encouraged on rural land provided rural amenity and environmental impacts can be effectively managed;
- (b) animal premises that require large sites or buffers, and could limit existing or potential industrial land uses, should generally not be located in State strategic industrial areas or within their buffers;
- (c) expansion of existing animal premises may be supported where off-site impacts (such as odour, dust or noise) are mitigated or managed to achieve maintenance or reduction of impacts, in accordance with an accepted code of practice;
- (d) in addition to environmental issues, planning decision-makers must consider the following matters in assessing proposals –
 - (i) the staging of the proposal and ultimate design capacity;
 - (ii) the transport of animals to and from the site;
 - (iii) the handling and disposal of deceased or 'retired' animals on or off-site;
 - (iv) the transport, handling and/or disposal of animal feed and/or waste on or off-site;
 - (v) outdoor pens or roaming areas for animals;
 - (vi) the potential impacts of operating hours;
 - (vii) shed configuration, including rotation and/or automation;
 - (viii) servicing, including location and size of effluent disposal ponds; and



- (ix) biosecurity (based on advice from the industry); and
- (e) where an animal premises proposal may affect the nutrient load of a river, estuary or associated tributary and the system and/or its receiving water body has no further capacity to assimilate nutrients without an adverse impact on ecosystem health, a reduction in nutrient export is to be demonstrated.

5.8 Intensive agriculture

Intensive agricultural products are important contributors to the State's economy and are sold to domestic and export markets. Several localities in Western Australia produce much of the State's produce, including Carabooda, Gingin Brook, Perth Hills, Nowergup, Myalup, Manjimup, Donnybrook, Margaret River, Carnarvon, and Ord River. In addition, there are other dedicated sites that may produce a high percentage of a particular commodity in the context of State supply.

In order to operate effectively, producers may require areas of high agricultural productivity, water availability, suitable climatic conditions and ready access to markets and freight networks.

WAPC policy in regard to intensive agriculture is:

- (a) intensive agriculture is generally supported and encouraged on rural land provided rural amenity and environmental impacts can be effectively managed;
- (b) intensive agriculture sites of State significance should be protected from encroachment;
- (c) in considering buffer distances between intensive agriculture and sensitive land uses, the requirements of clause 5.12 should be observed, and the following matters may also affect the buffer –

- (i) types of chemicals used and their method of application;
- (ii) the characteristics of the site/s, including vegetation, topography and prevailing winds;
- (iii) potential mitigation approaches, including fencing, vegetation buffers, open space, road reserves and other compatible uses; and
- (iv) potential staging and/or expansion intention of the intensive agriculture operator; and
- (d) where an intensive agriculture proposal may affect the nutrient load of a river, estuary or associated tributary and the system and/or its receiving water body has no further capacity to assimilate nutrients without an adverse impact on ecosystem health, a reduction in nutrient export is to be demonstrated.

5.9 Basic raw materials outside the Perth and Peel planning regions

Basic raw materials are essential for the construction of buildings, roads and other infrastructure, and also for the sustainability of agricultural production.

Identification of basic raw material sites does not presume that extraction would be environmentally acceptable or that subsequent approval for extraction would be guaranteed. Nor does it remove the requirement of local government authorities or proponents to meet their obligations to identify those environmental constraints which may determine the extent and/or manner in which a proposal may be implemented.

WAPC policy for basic raw materials located outside the Perth and Peel planning regions is:

- (a) Significant Geological Supplies and their buffers are not to be developed for other purposes until the resource is extracted, or unless development is compatible with the future extraction of the resource;
- (b) Significant Geological Supplies and significant basic raw material resources, and an indicative separation distance or buffer, should be identified in sub-regional and/or local planning strategies;
- (c) region and local planning schemes should identify Significant Geological Supplies and significant basic raw material resources, and include provisions for their protection, access and use;
- (d) basic raw material resources and sites should be identified in local planning strategies and schemes as required;
- (e) region and local planning schemes should not generally prohibit the extraction of basic raw material resources;
- (f) sequential land use planning is encouraged whereby extraction and appropriate rehabilitation can take place on a programmed basis in advance of longer-term use and development;
- (g) sensitive zones and/or land uses may be approved where it can be demonstrated they will not limit the existing or potential extraction of basic raw materials;
- (h) where a basic raw material resource is located with native vegetation or significant biodiversity values, extraction of the resource may require referral under Part IV or Part V of the *Environmental Protection Act 1986*. Environmental regulation of the proposal may require vegetation retention and/or protection of other environmental assets;



- (i) planning decision-makers are to have due regard to advice from environmental agencies and consider potential impacts on fragmentation and connectivity of remnant vegetation; and
- (j) where a basic raw material resource is located in a public drinking water source area, extraction of the resource may be subject to achieving separation distances to the groundwater table to protect water quality. Separation distances from water supply infrastructure, and other management measures to protect water quality, should be applied in planning decision-making.

5.10 Managing and improving environmental and landscape attributes

The planning system is well-placed to address environmental and landscape values when land use change is contemplated, to ensure that negative impact from development is minimised.

Environmental and landscape attributes will be managed and improved by:

- (a) supporting and promoting private conservation areas within Western Australia in addition to State and local government conservation reserves;
- (b) supporting the establishment of environmental corridors in strategies and schemes, including connection of State and local reserves and waterways and wetlands within private conservation areas;
- (c) considering future ownership and management arrangements prior to the zoning of land for conservation purposes;

- (d) supporting rural living proposals with a conservation theme that result in improved environmental outcomes, where that land is identified as suitable for future rural living subdivision in a strategy or scheme, in accordance with the policy requirements of clauses 5.2 and 5.3;
- (e) supporting the inclusion into strategies and schemes of provisions that promote protection of valued landscape and views, as required; and
- (f) making planning decisions that support the protection of water resources and their dependent environments in order to maintain or improve water quality.

5.11 Regional facilities

Some rural land may be suitable to accommodate facilities that serve a regional or sub-regional catchment. This could include regional attractors or facilities such as sporting or entertainment venues, places of worship, prisons, cemeteries and waste facilities.

As these land uses serve a regional or sub-regional function, the WAPC recommends that sites for regional facilities be subject to scheme amendment processes to allow for early environmental referral and public advertising.

Where amendments are proposed, or in situations where a development application is lodged, the following requirements apply:

- (a) facilities should be located on a main road or on a road that is of a suitable standard and treatment, to accommodate significant increase in traffic volumes and freight tasks which may be generated by the proposal;

- (b) facilities should contain or satisfactorily manage potential environmental (including water resources), noise, amenity and air quality impacts on the landholding without affecting nearby rural land uses;
- (c) facilities should not be visually dominant within key viewsheds, and should be visually compatible with surrounding land uses and development; and
- (d) facilities should be provided with essential services commensurate with the intended land use.

5.12 Preventing and managing impacts in land use planning

One of the key elements in achieving the objectives of this policy is ensuring that zones and sites are suitable for their intended purpose. As a result, at each stage of the planning framework, planning decision-makers need to consider the broad suitability of land uses and the ability to manage offsite impacts prior to determining whether the use of a buffer is necessary.

5.12.1 Avoiding land use conflict

Planning decision-makers shall take the following approach to avoid land use conflict:

- (a) where an existing land use that may generate impacts is broadly compatible with surrounding zones and land uses, a separation distance should be indicated in a local planning strategy so there is broad awareness of the land use;
- (b) where a development is proposed for a land use that may generate off-site impacts, there should be application of the separation distances used in environmental policy and health guidance,



prescribed standards, accepted industry standards and/or Codes of Practice, followed by considering –

- (i) whether the site is capable of accommodating the land use; and/or
- (ii) whether surrounding rural land is suitable, and can be used to meet the separation distances between the nearest sensitive land use and/or zone, and would not limit future rural land uses; and
- (iii) whether if clauses (i) and/or (ii) are met, a statutory buffer is not required;

(c) where a development is proposed for a land use that may generate off-site impacts and does not meet the standard outlined in clause 5.12.1 (b) then more detailed consideration of off-site impacts will be required, in accordance with clause 5.12.3 of this policy; and

(d) where a development is proposed that could be contemplated in the zone, and has been assessed under clause 5.12.3 as having unacceptable off-site impacts that cannot be further mitigated or managed, the proposal should be refused.

5.12.2 Planning approach for sensitive land uses in rural zones potentially affected by a rural land use

This policy seeks to limit the introduction of sensitive land uses that may compromise existing and future primary production on rural land. In considering these zones and land uses, WAPC's position is that:

- (a) single dwellings on rural land are a sensitive land use;

(b) single dwellings and other sensitive land uses on rural land should be afforded a reasonable standard of rural amenity;

(c) the introduction of single dwellings and other sensitive land uses should not occur where they would limit primary production;

(d) the extent of a sensitive land use on rural land is a distance (as opposed to the property boundary) from the perimeter of the use that provides a reasonable standard of rural amenity;

(e) where primary production sites require caretakers' dwellings for management or operational purposes, these dwellings should not be considered a sensitive land use, noting that occupational health and workplace safety requirements will apply;

(f) rural land uses are compatible with the preservation of rural character and amenity in rural zones;

(g) where single dwellings or other sensitive land uses are proposed in an area potentially impacted by a primary production site of State significance, prospective purchasers may be advised of potential impacts by notifications on title at subdivision stage.

5.12.3 Determining a buffer

In addition to those matters required under a scheme, where detailed consideration of off-site impacts is required in accordance with clause 5.12.1 (c), determination of a buffer should, take into account:

- (a) separation distances recommended in Government policy and guidance;
- (b) whether the design and/or operation of the proposal is in accordance with prescribed standards, accepted industry standards or codes of practice;

(c) whether, prior to issuing an approval, any management plans associated with the proposal are capable of being implemented;

(d) the existing or potential requirement for environmental licensing and/or works approval;

(e) potential cumulative impacts;

(f) whether modelling is required where impacts on sensitive land uses outside the property boundary are anticipated to exceed the parameters used in environmental policy, prescribed standards, accepted industry standards and/or codes of practice; and

(g) odour modelling, when required, is to be undertaken in accordance with a methodology outlined in Government policy or guideline, or an agreed equivalent, by the proponent of the primary production or the proponent of the sensitive zone or land use.

5.12.4 Planning approach for buffers

Where a buffer has been determined in accordance with clause 5.12.3 and off-site impacts can be managed by planning controls, planning decision-makers should adopt the following approach as applicable:

- (a) for a scheme review or amendment, generally a statutory buffer should be applied and take the form of a special control area with related scheme provisions;
- (b) for a structure plan, designate buffers, noting that their effect is one of 'due regard';
- (c) for a subdivision, include a condition that notifies prospective purchasers of either a statutory buffer, or a land use that may affect residential amenity; and



- (d) for a development application, the requirements of clause 5.12.1 (b) must be satisfied, as it is not possible to implement a statutory buffer through a development application. Where clause 5.12.1 (b) cannot be satisfied, a scheme amendment may be required.

Where the right to construct a single dwelling on rural land exists in a scheme, it cannot be extinguished over the entire site by a statutory buffer.

5.12.5 Planning approach for managing land use transition

Rural land may transition to other zones, such as urban, residential, commercial and industrial. In such cases, it is necessary for land use transition to be managed, such that existing operators can continue to function and new landowners have reasonable expectations. In such cases, WAPC policy is:

- (a) where an area is transitioning from a rural zoning to urban, buffers may be required during the transition, to manage the change and allow producers to continue operations until such time as production ceases or relocation occurs;
- (b) where an area is transitioning from a rural zoning and the producers plan to relocate before rezoning, structure planning or subdivision occur, proponents are to provide evidence of the intended closure, such as a statutory declaration, written undertaking by the producer, unconditional offer and acceptance for the sale of the property, or removal of the agricultural infrastructure. In these circumstances a buffer need not be applied;

- (c) prospective purchasers of properties affected by a buffer may be advised of the existence of a rural land use through a condition of subdivision; and
- (d) in accordance with clause 5.2 (c) of this policy, rural land uses of State significance are to be given due regard in decision-making.

6 IMPLEMENTATION

This policy is given effect by the *Planning and Development Act 2005*. The appropriate planning instruments to protect rural land and land uses are State and regional strategies, region schemes, local planning strategies, local planning schemes, local planning policies, structure plans, subdivision and development applications.

As a general principle, rural land and land uses should be considered at each stage of the planning framework, increasing in detail at each level.

6.1 Regional strategic planning for rural land

Regional planning strategies should identify:

- (a) primary production sites that service the region or beyond;
- (b) priority agricultural land;
- (c) the location of Significant Geological Supplies;
- (d) areas of known and important mineral and petroleum resources;
- (e) regionally significant biodiversity, landscape and environmental assets, including water resources; and

- (f) key regional transport routes for transporting agricultural products, basic raw materials, mineral products and other resources.

6.2 Sub-regional and local strategic planning for rural land

Sub-regional and local planning strategies should:

- (a) provide more detailed consideration and guidance in relation to the matters listed at 6.1 of this policy;
- (b) only identify land for rural living zones in accordance with *State Planning Policy 3: Urban Growth and Settlement* and clauses 5.2 and 5.3 of this policy;
- (c) only identify rural land for conversion to other land uses when consistent with the objectives of this policy;
- (d) indicate separation distances and/or buffers for land uses where necessary; and
- (e) provide soil and land capability information regarding the risk of nutrient export where land uses may generate increased nutrient loads in rivers, estuaries or their tributaries.

6.3 Rural land in local planning schemes

When local planning schemes are prepared or reviewed, planning decision-makers shall:

- (a) provide more detailed consideration and guidance to respond to the matters listed at clauses 6.1 and 6.2 of this policy;
- (b) in rural zones, limit the introduction of land uses that may constrain existing or potential future rural land uses;



- (c) only categorise land uses as permissible in rural zones if they are consistent with the objectives of this policy and a local planning strategy;
- (d) generally designate animal premises as 'permitted' or 'discretionary' uses; and
- (e) consider whether sensitive land uses in rural zones serve a secondary function to the purpose of the land for primary production, environment and landscape, and whether they should not be 'permitted' uses in planning schemes.

6.3.1 Use of the terms 'noxious' and 'hazardous' in schemes

A number of schemes describe some land uses as 'noxious' and 'hazardous', based on definitions from environmental and health legislation. When used out of context in planning schemes, these terms imply that, when developed, the land uses will be noxious and hazardous. However, environmental, health and planning controls may have the combined effect of managing impacts to acceptable levels.

WAPC policy is that:

- (a) the terms 'noxious' and 'hazardous' should not be used in region and local planning schemes;
- (b) the terms 'noxious' and 'hazardous' should be removed from schemes when they are reviewed and be replaced by definitions that more accurately describe the land use;
- (c) applications for animal premises should not be assessed as 'noxious' or 'hazardous' industries in the land use zoning table; and

- (d) where these terms occur in existing schemes, and no other land uses could reasonably be applied to a proposal, the land use should be dealt with as a 'use not listed' and assessed under the zone objectives.

6.4 Zoning proposals affecting rural land

In contemplating zoning proposals or amendments to region or local planning schemes, planning decision-makers shall consider:

- (a) the suitability of the site to be developed for the proposed use;
- (b) the siting of the zone/land use in the context of surrounding zones/land uses (existing and proposed);
- (c) the capacity of the site to accommodate the proposed zone/land use and associated impacts and:
 - (i) only support proposals which are consistent with endorsed planning strategies, or in exceptional circumstances, where the proposal meets the objectives and intent of WAPC policy;
 - (ii) only support the introduction of sensitive zones that may affect the existing and future operation of primary production where the management of impacts and/or mitigation approaches have been substantively resolved and are not wholly deferred to later stages of planning;
 - (iii) that the continuation of existing rural land uses are taken into account;
 - (iv) ensure that lifting of urban deferred land in a region scheme is in accordance with clause 6.4 (b);

- (v) ensure that the sensitive zone does not overlap with any buffer determined to be necessary as a result of introducing the new zone, and the area within the buffer should retain its rural zoning until such time as the buffer is no longer required; and
- (vi) ensure that adequate land is identified to contain impacts from existing primary production, before introducing sensitive or industrial zones on rural land.

6.5 Subdivision

It is the view of the WAPC that there are sufficient, suitably sized and located rural lots to cater for intensive and emerging primary production land uses. Creation of new rural lots through ad-hoc, unplanned subdivision will not be permitted.

In contemplating subdivision proposals on rural land, WAPC policy is:

- (a) the creation of new or smaller rural lots will be by exception and in accordance with *Development Control Policy 3.4: Subdivision of rural land*;
- (b) the creation of new or smaller rural lots by exception may be provided for in other State Planning Policies and/or a local planning strategy or scheme;
- (c) no other planning instruments besides those listed at (a) or (b) can provide for the subdivision of rural land; and
- (d) the introduction of new dwelling entitlements or other sensitive land uses should not limit or prevent primary production from occurring.



6.5.1 Servicing conditions

Electricity

For rural and rural living subdivisions, WAPC policy is for electricity supply to be commensurate with the intended land use.

The policy measures are:

- (a) subdivisions involving housing, particularly in a rural residential zone, will generally require a network electricity supply;
- (b) where lots created as a result of a subdivision for a homestead lot, a conservation lot or boundary realignment do not require a power connection to support the land use, an electricity supply condition may not be applied;
- (c) where an existing power connection to a lot is confirmed as meeting safety requirements, an electricity supply condition may not be applied, or may be cleared;
- (d) where connection to a network electricity supply requires an infrastructure upgrade that is not commensurate with the scale of the proposal, the WAPC may not impose, or may clear, a condition of subdivision requiring an electricity supply, provided that:
 - (i) a notification is placed on title advising that an electricity supply is not supplied to the lot/s; or
 - (ii) the subdivider voluntarily places a notification on title advising that an electricity supply is not supplied to the lot/s; and
 - (iii) it is demonstrated that the lot can be serviced by renewable energy source/s;

- (e) where a proposal would intensify development, and there is existing electricity supply infrastructure that traverses the lots/s, the WAPC may require removal or relocation of infrastructure.

Wastewater disposal

For rural and rural living subdivisions, WAPC policy is:

- (a) on-site wastewater disposal is generally acceptable, subject to the appropriate separation from buildings, watercourses, water bodies and/or drinking water sources being demonstrated.

Water supply

The policy provisions relevant to water supply for rural living proposals are outlined in clause 5.3 of this policy.

For rural subdivisions, WAPC policy is:

- (a) where subdivision of rural land occurs in accordance with this policy, a notification may be placed on title where a licensed water supply is not available; and
- (b) a proposed lot may rely on a Service by Agreement supply or rainwater.

6.6 Development

Section 67 of the *Planning and Development (Local Planning Schemes) Regulations 2015* outlines the range of matters to be considered by local governments in determining applications for development approval.

6.7 Local planning policies

Local governments may prepare local planning policies to supplement or elaborate on issues associated with this policy. The scope and effect of local planning policies is outlined in the *Planning and Development (Local Planning Schemes) Regulations 2015*.

6.8 Rural Planning Guidelines

The WAPC's Rural Planning Guidelines provide guidance and further detail for implementing this policy.



GLOSSARY OF TERMS

The terms used in this policy are defined in this section. Some are sourced from the *Planning and Development (Local Planning Schemes) Regulations 2015*. Definitions contained in this policy also apply to *Development Control Policy 3.4: Subdivision of rural land*.

Term	Definition
Basic raw materials	Sand (including silica sand), clay, hard rock, limestone (including metallurgical limestone), agricultural lime, gravel, gypsum and other construction and road building materials. The materials may be of State, regional or local significance depending on the resource location, size, relative scarcity, value and demand for the product.
Buffer	The strategic or statutory designation of land in which sensitive land uses are constrained or prohibited. The extent of a buffer comprises the following elements: <ul style="list-style-type: none"> • the type and scale of the proposal • Government policy on separation distance • existing or potential requirement for environmental licensing and/or works approval • industry-specific guidelines • technical studies • potential cumulative impacts • amenity, visual impact • environmental and topographic features • cadastre • the continuation and/or expansion of the land use in the context of surrounding land uses. A buffer is measured from activity to activity, and does not necessarily relate to cadastral boundaries. A strategic buffer is one shown in a local planning strategy or other strategic planning document. A statutory buffer is one shown in a region or local planning scheme where there are land use planning controls that give effect to the buffer.
Carbon sequestration	Capture and storage of carbon in a manner that prevents it from being released into the atmosphere. Often occurs through tree planting.
Code of practice	Written guidelines issued by an official body or a professional association to its members to express the preferred operating standards for the business.
Abattoir	As per the <i>Planning and Development (Local Planning Schemes) Regulations 2015</i> .
Agriculture – extensive	As per the <i>Planning and Development (Local Planning Schemes) Regulations 2015</i> .
Agriculture – intensive	As per the <i>Planning and Development (Local Planning Schemes) Regulations 2015</i> .
Agricultural land use / agricultural purposes	A subset of rural land used specifically for agricultural purposes including agriculture – extensive, agriculture – intensive, pastoral uses, plantations and agro forestry. May include industry – primary production. Does not include rural living.
Alternative servicing	Provision of services including drinking water, power and sewage disposal by a householder or other body, as opposed to a licensed provider.
Alternative water supply	Water supplied by means other than a licensed water service provider (such as the Water Corporation). Includes potable water for domestic use (where it is approved by the Department of Health) and either potable or non-potable water for fire fighting, including the maintenance of fire retardant vegetation and gardens.
Animal establishment	As per the <i>Planning and Development (Local Planning Schemes) Regulations 2015</i> .
Animal husbandry – intensive	As per the <i>Planning and Development (Local Planning Schemes) Regulations 2015</i> .
Animal premises	An umbrella term which covers the following rural land uses: abattoirs, animal husbandry – intensive (including poultry farms and piggeries), rendering plants and sale yards. Does not include animal establishments, catteries or kennels.



Term	Definition	Term	Definition
Conservation estate	Land with significant conservation values, reserved (or proposed to be reserved) under the National Reserve System or through the <i>Conservation and Land Management Act 1984</i> .	Local planning strategy	A strategy prepared under the <i>Planning and Development (Local Planning Schemes) Regulations 2015</i> Part 3, as amended from time to time, which sets out the long-term planning directions for a local government, applies State and regional planning policies, and provides the rationale for the zones and other provisions of the local planning scheme.
Environmental corridors	A network of native vegetation that maintains some of the ecological functions of natural areas and counters the effects of habitat fragmentation (adapted from the Environmental Protection Authority's Guidance Statement No. 33).	Locally significant	A land use, area or issue that is of significance to a local government, district or townsite by virtue of any or all of the economic, social, cultural or environmental values for that land use, area or issue.
High-quality agricultural land	Land that is identified in a dataset generated by the agency responsible for agriculture and food, based on land capability, water and climate.	Main road	A road that provides for major regional and inter-regional traffic movement and carries large volumes of generally fast moving traffic.
Hobby farm	See Rural Pursuit.	Natural resources	Resources supplied by nature. These are commonly classified into non-renewable resources, such as minerals and petroleum, and renewable natural resources that propagate or sustain life and are naturally self-renewing when properly managed, including plants and animals as well as soil and water.
Identified biodiversity values	A formal indication that the biodiversity values of a site are such that the site should be subject to some form of protection. This could include, but is not limited to, a matter of significance under the <i>Environmental Protection and Biodiversity Conservation Act 1999</i> , a policy or advice from the Environmental Protection Authority or other environmental agency, and a local biodiversity strategy.	Off-site impacts	Impacts such as odour, noise, spray drift, vibration, dust, groundwater, air pollution or light spill that cannot be contained within a property boundary. These are impacts which remain after mitigation and management to regulatory and/or policy standards.
Industry – extractive	As per the <i>Planning and Development (Local Planning Schemes) Regulations 2015</i> .	Pastoral land and purposes	As per part 7 of the <i>Land Administration Act 1997</i> .
Industry – primary production	As per the <i>Planning and Development (Local Planning Schemes) Regulations 2015</i> .	Peri-urban	A general term used to describe land on the outskirts of a major urban area or capital city e.g. Perth, Geraldton, Northam, Kalgoorlie, Bunbury, Albany. Peri-urban land located between the suburbs and the countryside. Combination of the words peripheral and urban. Refers to a general location and is not a land use.
Landscape or bushland protection zone	A land use zone with conservation as the predominant land use. May be a subset of rural living characterised by clustering of residential development/land use on a land parcel(s) containing areas of high environmental and/or landscape value. Also refers to zones including bushland conservation, rural landscape, and rural conservation.	Piggery	A subset of animal premises relating to any land or buildings used for the rearing or keeping of pigs.
Licensed service provider	A provider of services such as electricity, water or wastewater disposal, licensed by the Economic Regulation Authority in accordance with the licensing schemes set out in the <i>Electricity Industry Act 2004</i> , <i>Energy Coordination Act 1994</i> and the <i>Water Services Act 2012</i> .	Poultry farm	A subset of animal premises relating to any land or buildings used for the rearing or keeping of poultry for either egg or meat production.



Term	Definition
Primary production	The carrying out of a business that: cultivates or propagates plants; maintains animals; takes or cultivates aquatic organisms, extracts basic raw materials, and plants, tends, fells and/or transports trees or parts thereof for sale or remuneration. It includes intensive and extensive agriculture, animal husbandry – intensive, animal premises, industry – extractive, tree farms and plantations.
Priority agricultural land	Land of State, regional or local significance for food production purposes due to its comparative advantage in terms of soils, climate, water (rain or irrigation) and access to services. Priority agricultural land is derived from High Quality Agricultural Land data that has been subject to consultation and refinement, and has removed land required for existing and future urban/development areas, public use areas and land required for environmental purposes.
Private conservation areas	Areas with significant conservation value that may be identified in a strategy or scheme and/or zoned for conservation purposes, and are in private ownership.
Reasonable standard	The degree of reasonableness as outlined in the <i>Associated Provincial Picture Houses Ltd v Wednesbury Corporation (1947) 2 All ER 6802</i> decision and used to determine if a condition should not be imposed because it is so unreasonable that no reasonable body or persons could have made the decision.
Regional	Pertaining of, or to, a planning region as defined in the <i>Planning and Development Act 2005</i> .
Regional facilities	Land uses that serve a regional or sub-regional function, with a wide geographic catchment, and which may be suitable in rural areas and/or zones. Includes land uses such as landfills, cemeteries, prisons and places of worship, but does not include public utility infrastructure.
Regional or sub-regional planning strategy	A land use planning strategy, framework or structure plan, usually prepared by the Western Australian Planning Commission, which sets strategic direction over a planning region, sub-region, township or suburb. May include a spatial plan that provides a basis for future zoning.
Regionally significant	A land use, area or issue of significance to a planning region by virtue of any or all of the economic, social, cultural or environmental values for that land use, area or issue.

Term	Definition
Remnant vegetation	Vegetation which is either a remainder of the natural vegetation of the land that was present prior to European settlement, or, if altered, is still representative of the structure and floristics of the natural vegetation, and provides the necessary habitat for native species.
Renewable energy source	Any source of energy that can be used without depleting its reserves. This can include: <ul style="list-style-type: none"> • solar • wind • bioenergy, such as wood, agricultural crops and residues, animal wastes, and municipal solid (green) waste • hydropower • geothermal and hot dry rock • tidal and wave • alternative fuels such as ethanol and biodiesel
Rural amenity	A standard of residential amenity that is rural in nature, which may include impacts from primary production. May also include biodiversity conservation, natural resource management, some public purposes and protection of landscapes and views.
Rural enterprise zone	A predominantly light industrial zone, generally suitable in rural areas, that provides for light industrial land uses and an ancillary residential dwelling on one lot, with lot sizes in the order of one to four hectares. May also be known as rural industry or composite zones.
Rural home business	As per the <i>Planning and Development (Local Planning Schemes) Regulations 2015</i> .
Rural land	Land zoned or identified for agricultural or rural use in a region or local planning scheme or strategy.
Rural land use	Land uses that are rural in nature and that support and are associated with primary production, basic raw material extraction, biodiversity conservation, natural resource management, public purposes (eg. prisons, cemeteries, public utilities and waste management facilities) and protection of landscapes and views. Does not include rural living (see clause 5.3 of this policy).



Term	Definition	Term	Definition
Rural living	An umbrella term used to describe a range of zones that provide for low density residential uses in an estate or precinct, generally characterised by a grouping of lots in the order of one to 40 hectares. Rural living zones include those named rural living, rural retreat, rural residential, special rural, rural smallholdings, rural conservation and landscape protection.	Settlement hierarchy	The designation of land for existing or future settlement, with an intended role and/or functional hierarchy.
Rural pursuit/hobby farm	Although primary production land uses may occur within some rural living zones, they must be incidental to and compatible with the primary rural living intent and purpose of the zone.	Significant Geological Supplies	Basic raw materials identified by the Department of Mines and Petroleum as having State significance due to the size of the resource, relative scarcity, demand and/or location near growth areas and transport routes.
Rural residential zone	As per the <i>Planning and Development (Local Planning Schemes) Regulations 2015</i> .	Special residential zone	A residential land use zone with land parcels from 2,000m ² to one hectare in size.
Rural smallholdings zone	A subset of rural living and a land use zone with land parcels from one to four hectares in size and generally provided with scheme water and reticulated power supply. May also be known as special rural.	State significance	A land use, area or issue that is considered by the State to be of significance to the State of Western Australia by virtue of any or all of the economic, social, cultural or environmental values for that land use, area or issue.
Rural strata	A subset of rural living, except where otherwise identified in a WAPC endorsed strategy or scheme. A land use zone with land parcels from four to 40 hectares in size. May also be known as rural retreat.	State strategic industrial areas	Areas zoned or planned for strategic industry, identified by the agency responsible for State Development.
Sensitive land use	The subdivision of rural land into a number of residential strata lots, with the balance of the land being retained for primary production. The balance of the land is generally owned and operated by the owners of the residential lots.	Strategy or scheme	A general term used to capture a range of documents that guide or direct planning decision-making. Specifically, it refers to: <ul style="list-style-type: none"> • an endorsed regional planning and infrastructure framework • an endorsed sub-regional framework or plan • an endorsed local planning strategy • an endorsed regional planning scheme • an endorsed local planning scheme • any other relevant document endorsed by the Western Australian Planning Commission or Minister for Planning
Sensitive zone	Land uses that are residential or institutional in nature, where people live or regularly spend extended periods of time. These include dwellings, short-stay accommodation, schools, hospitals and childcare centres. Generally excludes commercial or industrial premises.	Tree farm – chip logs	Land used for commercial tree production, generally on a smaller scale, where it is intended that the trees are to be harvested to produce wood chips or wood pulp.
Separation distance	An umbrella term that covers land use zones that specifically provide for development of sensitive land uses. These include urban, urban development, residential, rural living and community purpose zones, and proposals for the lifting of urban deferment.	Tree farm – saw logs	Land used for commercial tree production, generally on a smaller scale, where it is intended that the trees are to be harvested to produce higher quality sawn timber or veneers, such as for furniture or the construction industry.
	As defined in Government environmental policy, a separation distance is a recommended distance necessary to separate a source of emissions (gaseous and particulate emissions, dust, odour and noise) from sensitive land uses in order to avoid impacts to human health and amenity. A separation distance is an important consideration in determining a buffer.	Tree farm – integrated	Tree farm proposals that are small in scale, integrated into existing farming operations, and generally for natural resource management purposes.



Term	Definition
Tree farm – carbon sequestration	Land used for the capture and storage of carbon in a manner that prevents it from being released into the atmosphere. Regulated in Western Australia by the <i>Carbon Rights Act 2003</i> .
Urban uses	A general term used to describe the zones and reserves that are typically found in an urban locality or townsite, such as residential, commercial, industrial and public purposes.
WAPC endorsed	A document endorsed, approved or adopted by the Western Australian Planning Commission.
Water resources	Watercourses and wetlands together with their beds and banks; other surface water; and aquifers and groundwater.
Zone	As per the <i>Planning and Development (Local Planning Schemes) Regulations 2015</i> . For the purposes of this policy it also includes reserves.

AGENDA FORUM DISCUSSION PAPER

Date of Report:	28 November 2018
Name of Applicant / Proponent/s:	Economics and Industry Standing Committee of the WA Parliamentary Legislative Assembly
File Reference No.:	PLA1
Author:	G Bissett – Manager of Planning and Development
Responsible Officer:	S Scott – Chief Executive Officer
Previously Before Council:	Forum Item 7.1 – 8 August 2018
Nature of Council's Role in the matter:	Advocacy
Attachments:	<ol style="list-style-type: none">1. WALGA Discussion Paper;2. Shire Information Sheet; and3. Draft Submission.

**7.5 SUBMISSION ON SHORT-STAY ACCOMMODATION
(WA PARLIAMENTARY INQUIRY)**

PURPOSE OF THE DISCUSSION PAPER

To consider what submission Council makes on Short Term Accommodation to the Economics and Industry Standing Committee of the WA Parliamentary Legislative Assembly.

BACKGROUND

The Economics and Industry Standing Committee commenced an inquiry into short-stay accommodation on 1 November 2018, with the following Terms of Reference:

1. The forms and regulatory status of short-stay accommodation providers in regional and metropolitan Western Australia, including existing powers available to local government authorities;
2. The changing market and social dynamics in the short-stay accommodation sector;
3. Issues in the short-stay accommodation sector, particularly associated with emerging business models utilising online booking platforms;
4. Approaches within Australia and international jurisdictions to ensure the appropriate regulation of short-stay accommodation.

The Committee is keen to hear from Local Governments on this matter and will table its Report on 27 June 2019

CONSULTATION IMPLICATIONS

This report contains no consultation implications.

*7.5 Submission on short-stay accommodation (WA
Parliamentary Inquiry) - Continued*

STRATEGIC IMPLICATIONS

There are no adverse strategic implications envisaged from this report.

POLICY IMPLICATIONS

There are no adverse policy implications envisaged from this report.

FINANCIAL IMPLICATIONS

There are no adverse financial implications envisaged from this report.

LEGAL AND STATUTORY IMPLICATIONS

Typically the *Planning and Development Act 2005* applies in some circumstances and planning approval under the Shire's *Local Planning Scheme No. 4 (LPS4)* can be required.

Other relevant legislation includes:

- The *Health Act and Regulations*
- The *Food Act and Codes*
- The *Building Act and Regulations*

RISK IMPLICATIONS

There is some risk in relation to accommodation businesses that operate in the sharing economy but are not meeting legislative requirements which could include:

- The preparation of food that has not been prepared in compliance with legal requirements;
- The use of unregulated pools and spas;
- The use of non-potable water; and
- Non-compliance with planning provisions.

The risk is of course commensurate with the numbers housed and the frequency of use. It could also be argued in some circumstances where risk is considered low the cost and requirement for compliance is not seen as not reasonable.

SOCIAL IMPLICATIONS

Impacts on neighbours from unregulated behaviour in short-term accommodation could be an undesirable social impact.

ENVIRONMENTAL IMPLICATIONS

There are no adverse environmental implications envisaged from this report.

ECONOMIC IMPLICATIONS

Concerns have been raised that there is potential for adverse economic impacts on accommodation providers operating within the Local Government approval framework. This is alleged because those operating outside the

*7.5 Submission on short-stay accommodation (WA
Parliamentary Inquiry) - Continued*

framework are charging less due to having lower overheads from avoiding compliance costs.

This is anecdotal and makes a number of assumptions but is certainly possible.

OFFICER COMMENT / DETAILS

This matter is of some concern to the Council with general agreement that more clarification from the state government is needed in the form of guidelines, policy and legislation on how to deal with this issue. It is also clear from regulated accommodation providers there is a strong feeling the playing field is not level.

Council considered and gave guidance on a WALGA discussion paper on this same matter via its August 8, 2017 Forum and subsequently considered an information sheet to guide applicants in Toodyay seeking to set up short term accommodation within the Shire (**Attach 1 & 2**).

The officer has prepared a submission for Council to consider and give feedback on (**Attach 3**)

OFFICER'S RECOMMENDATION

That members give guidance on how the Administration should respond to the Economics and Industry Standing Committee of the WA Parliamentary Legislative Assembly in relation to Short Stay accommodation based on the draft submission labelled **Attachment 3**.



Short-term Rental Accommodation and the Sharing Economy **Discussion Paper**

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1.0 Introduction

In recent years there has been an emergence and rapid rise in the ‘sharing economy’ with peer to peer platforms connecting customers and the providers of services such as ride sharing and short-term rental accommodation. In the context of short-term rental accommodation, the key distinction between peer to peer platforms and more traditional forms of tourist accommodation, is that these platforms do not own the properties listed, rather they simply connect customers and providers, facilitating the financial transaction between the two parties. As a result, many of the listings on these platforms have been located in residential buildings and neighbourhoods that have not traditionally contained short-term rental accommodation.

Further, peer to peer platform’s such as Airbnb and Stayz have introduced new forms of short-term rental accommodation with people able to book a spare bed or room within a home as well as an entire home, this is commonly called ‘home sharing’. These new rental accommodation types has led to community concerns arising from issues such as noise, car parking issues and other forms of anti-social behaviours, as well as some strata issues like increased building maintenance.

Whilst the appearance and growth in these platforms has been rapid, legislation governing short-term rental accommodation in Western Australia has not been revised since 2009. The absence of any clear guidance from the State Government about how to manage the sharing economy has been challenging for some Local Governments. Therefore the purpose of this discussion paper is to review the effectiveness of current policy responses concerning short-term rental accommodation with a particular focus on the emerging practices and services offered by online organisations and to identify possible improvements for further consideration.

It is important to note that this report focuses on Local Government responsibilities governing short-term rental accommodation. The intention is not to examine issues beyond this. For example, many have questioned the appropriateness of allowing short-term rental accommodation within apartment developments. The purpose of this report is not consider this issue or whether the powers available to Strata companies to manage and respond to adverse impacts of short-term rental accommodation are appropriate or not. Likewise, the report does not examine the appropriateness of renters offering short-term rental accommodation with or without the consent of the landlord. Rather the focus of the report is on Local Government responsibilities concerning the management of short-term rental accommodation.

For the purposes of this paper, short-term residential accommodation is considered to be the rental for a period of up to three months of properties consisting of, or similar to:

- Bed and breakfast accommodation
- Cabins and chalets (and similar units)
- Holiday homes
- Serviced Apartments Rental of room within a home.

2.0 Existing Short-term Rental Accommodation Controls in Western Australia

2.1.1 State Government Land Use Planning Guidance

The land use planning framework operating in Western Australia offers limited and somewhat contradictory guidance concerning the management of short-term rental accommodation. Local planning schemes are governed by the *Planning and Development (Local Planning Schemes) Regulations 2015*, which contain a series of ‘deemed provisions’ that are automatically applied to all local planning schemes. Amongst the deemed provisions is set of defined land use terms, three of which relate to short-term rental accommodation, these are;

Table 1: Planning and Development (Local Planning Schemes) Regulations 2015, Schedule 2 Deemed provisions for local planning schemes.

<p>Land use terms used If this Scheme refers to a category of land use that is listed in this provision, the meaning of that land use is as follows —</p>
<p>bed and breakfast means a dwelling — (a) used by a resident of the dwelling to provide short-term accommodation, including breakfast, on a commercial basis for not more than 4 adult persons or one family; and (b) containing not more than 2 guest bedrooms;</p>
<p>holiday accommodation means 2 or more dwellings on one lot used to provide short-term accommodation for persons other than the owner of the lot;</p>
<p>holiday house means a single dwelling on one lot used to provide short-term accommodation but does not include a bed and breakfast;</p>

Given the land use terms set out by the Regulations and the type of accommodation offered by peer to peer platforms, there has been some confusion about the validity of ‘home sharing’. As the table above highlights, the difference between providing breakfast or not can be significant and adds further uncertainty for all stakeholders involved. For example, within the City of Busselton, ‘bed and breakfast’ uses are permitted in the Tourist Zone whilst holiday homes are listed as a ‘X’ use and therefore not permitted within this Zone by the Scheme. Issues such as these are discussed in more detail in section 2.1.2 Local Government Responses.

It is also important to note that there is no definition of a ‘dwelling’ provided by the Regulations. However ‘dwelling’ is defined in the Residential Design Codes (R-Codes) as;

“A building or portion of a building being used, adapted, or designed or intended to be used for the purpose of human habitation on a permanent basis by a single person, a single family, or no more than six persons who do not comprise a single family.”¹

This definition provides clearer guidance in relation to the ‘permanent’ use of a dwelling. Including such a definition, or a cross reference to the R-Codes definition within the

¹ WA Planning Commission (2015) State Planning Policy 3.1 Residential Design Codes

Regulations could add clarity as to whether or not short-term rental accommodation, particularly where the renting of a part of a dwelling, is valid or not.

As well as definitions, the Regulation's deemed provisions also prescribe a variety of objectives for various land use zones. The Regulations state that the objectives of the residential zone are to "*provide for a range of non-residential uses, which are compatible with and complementary to residential development*". This leaves the question of whether or not, short-term rental accommodation is appropriate in residential areas unresolved.

Beyond the Local Planning Scheme Regulations, there is no State Planning Policy, or Development Control Policy to set out controls or to provide strategic advice concerning the management of short-term rental accommodation. The guidance that is available is provided by [Planning Bulletin 99, Holiday Homes Guidelines](#), however this guidance is limited and having being adopted in 2009, the Guidelines do not respond to the contemporary practices of home sharing organisations. The Guidelines state that "*the policy excludes short-term accommodation where there is an onsite manager or owner such as bed and breakfast accommodation and guesthouses.*"² As such, the Guidelines do offer not advice concerning all products offered by platforms such as Airbnb, for example whereby a room within a house is let for short stay accommodation purposes.

The Planning Bulletin effectively delegates responsibility for managing short-term rental accommodation to Local Governments, referring decision makers to the provisions of local planning schemes, local planning policies, tourism strategies and any relevant standards. The Guidelines do however state that '*ideally holiday homes should be within preferred areas*' which;

*"As a guide, holiday homes are most appropriate in areas of high tourism amenity and close proximity to key tourism attractions such as the beach, town centre or rural areas. Suburban locations may not be appropriate. In general, holiday homes should be residential dwellings on freehold lots and not units or apartments unless the entire complex is established for this purpose."*³

The Bulletin goes on to state that the use of grouped or multiple dwellings is not supported, unless all owners are in agreement.

Despite the general lack of guidance, the Bulletin does state that a holiday home management plan should be submitted as part of a planning application, or may be required as a condition of approval. Such a plan may include details of how nuisances such as noise will be managed, the nomination of a property manager and a fire and emergency response plan.

Nevertheless, it is important to recognise that development does not have to conform to Planning Bulletin 99 as it purely offers guidance and is not a statutory requirement. The

² WA Planning Commission (2009) Planning Bulletin 99, Holiday Homes Guidelines.

³ Ibid

Local Planning Scheme Regulations do not 'require due regard' to be given to Planning Bulletins. This status, together with the fact that the Bulletin offers limited guidance, has resulted in Local Governments developing their own individual responses to issues associated with short-term rental accommodation and the sharing economy.

2.1.2 Local Government Responses

Local Governments are, by their nature reflective of their communities aspirations each with their own and often unique development pressures and community expectations. Given these differing pressures and the limited State Government guidance relating to short-term rental accommodation, not all Local Governments have adopted Local Planning Scheme provisions or Local Planning Policies (LPP) concerning short-term rental accommodation. However, in areas where short-term rentals are more prevalent, Local Governments are more likely to have adopted a LPP.

LPPs generally focus upon a specific type of development rather than dealing with the issue of short-term rental accommodation more generally. For the purposes of this study, a sample of LPPs relating to short-term rental accommodation has been examined.

Table 2: Local Planning Policy Responses Regarding Short-term Rental Accommodation

Local Government and Local Planning Policy Title	Augusta-Margaret River: Holiday Houses	Bridgetown-Greenbushes: Holiday Accommodation	Broome: Tourist Accommodation Development in Tourist Zone	Capel: Bed & Breakfast Accommodation	Chapman Valley: Rural Tourism Development	Donnybrook-Balingup: Chalet(s) Development & Bed & Breakfast	Exmouth: Bed & Breakfast Accommodation	Exmouth: Holiday Accommodation	Esperance: Holiday Homes – Development Requirements	Geraldton: Holiday Houses	Joondalup: Short-term Accommodation	Perth: Special Residential (Serviced & Short-term Accommodation)	South Perth: Serviced Apartments
Definitions													
Holiday House (or Home)	Y		Y					Y	Y		Y		
Holiday House (Large)	Y							Y					
Holiday Accommodation		Y		Y	Y		Y	Y			Y		
Bed & Breakfast					Y	Y		Y					
Dwelling / Residential						Y	Y	Y			Y	Y	
Guesthouse			Y	Y	Y								
Serviced Apartments			Y									Y	Y
Short-term Accommodation									Y		Y	Y	Y
Other Definitions			Y	Y	Y	Y		Y	Y			Y	Y
Requirements													
Restricted to Certain Zones	Y			Y				Y		Y			Y*
Minimum Lot Sizes / Density Restrictions	Y	Y	Y										
Maximum Occupancy / No. Rooms	Y			Y		Y		Y		Y			
Management Plan			Y	Y	Y			Y	Y	Y	Y	Y	Y
Emergency Response Plan		Y						Y	Y				Y
Annual Renewal of Approval				Y				Y	Y				
Design Provisions	Y	Y			Y		Y	Y		Y		Y	Y
Car Parking		Y	Y	Y	Y		Y	Y		Y	Y	Y	
Landscaping/Screening		Y	Y										
Concentration of Uses		Y											
Strata Restrictions / Evidence of Strata Approval			Y		Y							Y	Y
Maximum Length of Stay		Y							Y	Y			
On-site manager / Located Close by							Y	Y	Y				

Note: Y* Use restricted to grouped and multiple dwellings

Table 2 shows that there is a range of different LPPs dealing with the management of different forms of short-term rental accommodation. Whilst a variety of descriptions and definitions are used, as you would expect, the definitions used closely align with the specific form of development that the LPP seeks to manage. Where the same term or a similar term is used by different Local Governments, there is often a lot of consistency and commonality in the definition adopted to describe the particular form of development.

In line with the definition provided by the R-Codes, all but one of the 13 LPPs examined consider short-term rental to be a different form of development to a residential land use. Bridgetown-Greenbushes definition of holiday accommodation states that *“the short-term rental of residential dwellings to single parties shall not be classified as Holiday Accommodation. Council considers such a use as merely another form of landlord – tenant rental”*. The policy is aligned to developments of up to five chalets and cabins for short-term use of no more than three months by the same occupier.

Table 2 shows that the most popular forms of controls relate to car parking standards and the requirement for a management plan, with almost two-thirds of the local planning policies examined containing provisions relating to these. Following these controls, over half of the policies examined contain provisions relating to development design. Whilst these are somewhat varied, they generally relate to ensuring that the design of development is such that its use for short-term rental accommodation purposes does not adversely impact upon neighbouring land uses. Other common features include the restriction of development to certain zones or areas and the limitation of the number of occupants to six persons.

Typical examples of these controls are set out in table 3 below, whilst a summary of Local Government, LPP provisions relating to short-term rental accommodation is provided in Appendix A. It should also be noted that other Local Governments, such as the City of Fremantle have developed ‘Local Laws’ in relation to the management of short-term rental accommodation. The City’s Local Law contains similar provisions to those included within sample of LPPs examined, requiring short stay dwellings to be registered, with controls relating to the number of occupants, the provision of car parking and a contactable accommodation manager.

Table 3: Examples of Typical Local Planning Policy Definitions and Requirements

Definitions	
Bed & Breakfast Accommodation	Accommodation provided for hire or reward under the main roof of a dwelling house for not more than four (4) adults or one family in the form of a maximum of two (2) guest bedrooms and one (1) guest bathroom.
Holiday House (or Home)	A single house or grouped dwelling which might also be used from time to time for short stay accommodation for no more than six (6) people but does not include a bed and breakfast. “Holiday House (Large)” means premises conforming to the definition of “Holiday House” with the exception that the premises provide short stay accommodation for more than six (6) people but not more than 12 at any one time.

Serviced Apartment	An apartment which is one of a group of two or more apartments on the same lot, used, furnished and equipped to be used on a temporary basis in a manner similar to a Grouped Dwelling or Multiple Dwelling, for which laundry and cleaning services are provided, with or without other ancillary amenities.
Short-term Accommodation	Temporary accommodation provided either continuously or from time to time with no guest accommodated for periods totalling more than three (3) months in any 12 month period.
Requirements	
Concentration of Uses	<ul style="list-style-type: none"> • More than two Bed and Breakfast Accommodation uses within cul-de-sac or small residential streets may not be supported. • Developments should not contribute to a concentration of similar land use activities that would alter the established character of the surrounding area.
Design Provisions	<ul style="list-style-type: none"> • Decks and balconies are located away from the bedrooms of neighbouring dwellings and, if located close to living and dining areas of neighbouring dwellings, suitable screening is provided. • The minimum distance between the external walls of any building and another on the land shall be 10 metres for the purposes of privacy and amenity. • Developments that adjoin residential zoned land shall be designed so as not to impact negatively on the privacy and amenity of the adjoining residents.
Landscaping / Screening	<ul style="list-style-type: none"> • The site shall contain tree cover adequate to provide visual screening.
Management Plan	<ul style="list-style-type: none"> • The Management Plan is to include; <ul style="list-style-type: none"> ○ a code of conduct detailing the expected behaviour and obligations of guests which is to be displayed in a prominent position within the premises ○ a Complaints Management Procedure ○ details regarding guest check-in and check-out procedures ○ details regarding waste management
On-site Manager / Located Close by	<ul style="list-style-type: none"> • Manager or a contactable employee of the manager that permanently resides no greater than 1 hour's drive from the site. • The host is to permanently reside in the dwelling approved for a 'bed and breakfast' establishment. • All Holiday Accommodation is to be managed by local real estate agents, or have a local caretaker / manager living and readily contactable within 10 minutes of the property
Strata Restrictions / Evidence of Strata Approval	<ul style="list-style-type: none"> • The applicant is to provide evidence that: <ol style="list-style-type: none"> (a) the owners of all dwellings on that site have given written consent for the proposed use of particular dwellings as serviced apartments; (b) by-laws have been adopted by the strata company approving the proposed use and requiring the vendor of any existing dwelling on the site to inform all prospective purchasers of the approved use of particular dwellings as serviced apartments; and (c) the strata company has given consent to the management plan.
Other	<ul style="list-style-type: none"> • Amplified music is only played outside of the Holiday House or Holiday House (Large) between the hours of 10am and 10pm. • Written evidence demonstrating that the operator of the special residential use has valid membership to an appropriate professional board or body, which operates within a code of practice or licensing system • A proportion of the short-term and serviced apartments should be designed to accommodate people with a disability.

2.1.3 Building Act

In addition to land use planning controls, it is useful to note the ‘construction’ standards relating to residential and hotel uses. Under the Building Code of Australia, a residential building is either a Class 1 building, a single dwelling, or a Class 2 building, a multiple dwelling whilst a hotel or motel is a Class 3 building. Class 3 buildings are required to have fire-safety and disability access features not required for either Class 1 or 2 buildings. This distinction has added to the confusion and perhaps some of the inconsistency in how Local Governments treat short-term rental accommodation.

The differing construction requirements has created some resentment amongst traditional short stay accommodation providers such as the hotel industry. Some of these operators have argued that these different requirements adds an additional operating costs to their business that short-term rental accommodation providers in dwellings do not experience. Whilst the focus of this paper is not to examine this issue, it should be noted that the State Governments proposed State Planning Policy concerning Apartment Design includes universal design access requirements, which may remove this difference.

In 2012 the Australian Building Code Board stated that it had undertaken an extensive consultation on the issue of whether Class 2 buildings should exclude short-stay accommodation, however it found that the results of the consultation process provided no clear way forward. It was considered that the issue appeared to be focused on amenity issues and commercial interests. The Board concluded that there was no evidence to justify the application of Class 3 building provisions to apartments without imposing significant costs on the design and construction of all apartments for little or no life-safety gains.⁴

3.0 Controls in Other Australian States and Territories

Across Australia, there is very little consistency with regard to how each State, and Local Governments within each State, regulate short-term rental accommodation. The approaches taken are generally split between either the State Government adopting a clear position on short-term renting, or leaving Local Government to choose themselves how to manage short-term rentals.

Nevertheless, there has been an increasing and wide spread acknowledgement that ‘doing nothing’ has created several issues and inconsistencies in the management of short-term rental accommodation. This, alongside growing community concerns has led to both New South Wales and Victoria holding reviews to examine the adequacy of short-term rental accommodation regulations operating in both States. Likewise, the Tasmanian Government included a review of the adequacy of its short-term rental accommodation controls as part of a wider review of the planning system operating within Tasmania. Although these State Governments have yet to adopt a final policy response, the commonality of the issues experienced mean that lessons can be learnt from the findings of each of these reviews.

⁴ Victorian Government, Independent Panel on Short-Stay Accommodation in CBD Apartment Buildings Final Report

Before examining the various policy responses adopted by the other States, for the purposes of comparison, it is worth highlighting the number impact of short-term rental accommodation across Australia. This is highlighted by Table 4, below which shows that in 2015-16, WA recorded the fourth highest number of Airbnb bookings by State. Using the data, the average length of stay per booking is 4.7 nights and the average number of guests per booking is 2.8 guests.

Table 4: Airbnb bookings, by state or territory, 2015-16

State or Territory	Total bookings	Total guests	Total nights booked
New South Wales	289,600	742,800	1,418,900
Victoria	235,900	651,600	1,134,300
Queensland	133,300	343,800	586,700
Western Australia	62,100	171,500	292,900
Tasmania	46,800	124,500	126,300
South Australia	24,400	64,100	109,000
Australian Capital Territory	9,200	20,000	47,300
Northern Territory	4,200	8,800	18,000
Total	805,500	2,127,100	3,733,300

Source: Airbnb cited in Deloitte Access Economics⁵

3.1.1 New South Wales

In New South Wales, the *Environmental Protection Act 1979* (NSW) (EPA) allows Local Government to require or not require, a development approval to let a property as a holiday home. As a result, there is some inconsistency in the application of controls between individual Local Governments across the State. Perhaps as a result of this inconsistency and also given the prevalence of short-term rental accommodation within New South Wales, in 2015, an inquiry was established to inquire into the adequacy of the regulation of short-term holiday letting in New South Wales. This inquiry made a total of twelve recommendations with those relevant to this report set out in Table 5. Although the NSW Government has yet adopt policies concerning the management of short-term rental accommodation, the Government has announced that it is supportive of the majority of the Inquiry's recommendations.

⁵ Deloitte Access Economics (2017) Economic effects of Airbnb in Australia Airbnb Australia www2.deloitte.com/content/dam/Deloitte/au/Documents/Economics/deloitte-au-economics-effect-airbnb-in-australia-240317.pdf

Table 5 NSW Inquiry into Adequacy of the Regulation of Short-Term Holiday Letting, Relevant Recommendations

New South Wales' Legislative Assembly Committee on Environment and Planning: Inquiry into Adequacy of the regulation of short-term holiday letting in New South Wales	
Relevant Recommendations:	NSW Government Response
<p>1 Amend Planning Laws to Regulate Short-Term Rental Accommodation</p> <p>That the NSW Government amends:</p> <ul style="list-style-type: none"> a) the Standard Instrument - Principal Local Environmental Plan to include a definition of short-term rental accommodation in the category of tourist and visitor accommodation b) the State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 to allow short-term rental accommodation. 	<p>Qualified Support</p> <p>Options paper to be developed</p>
<p>2 Allow Home Sharing and Letting a Principal Place of Residence as Exempt Development</p> <p>That short-term letting of rooms in any property where the landlord or host is present be permitted as exempt development.</p>	<p>Qualified Support</p> <p>Options paper to be developed</p>
<p>3</p> <p>That short-term letting of a principal place of residence be permitted as exempt development.</p>	<p>Qualified Support</p> <p>Options paper to be developed</p>
<p>7 Develop a Compliance System</p> <p>That the NSW Government develops a compliance system for short-term rental accommodation under the Environmental Planning and Assessment Act 1979 which considers:</p> <ul style="list-style-type: none"> a) the use of the investigative powers in Division 1C of the Act b) streamlined development assessment (Complying Development Certificates) c) the Holiday and Short-Term Rental Code of Conduct d) 'party house' provision 	<p>Qualified Support</p> <p>Current legislation considered sufficient however will investigate if further regulation is required.</p>
<p>8 Issue Guidance and Provide Education For Councils and the Community</p> <p>That the NSW Government prepares advice to councils and the community outlining the changes which will apply to short-term rental accommodation, and implements a communication and monitoring program.</p>	<p>Support</p>
<p>9</p> <p>That local councils be responsible for communicating with all landowners about their rights and obligations.</p>	<p>Support</p>

Source: Parliament of New South Wales

3.1.2 Queensland

In 2014, amendments were made to the Sustainable Planning Act 2009 in order to regulate 'party houses'. The Act defines party houses as *"a dwelling that is used to provide accommodation or facilities for guests if*

- a) *the premises, or any part of the premises, is regularly used by guests for parties, including, for example, bucks nights, hens nights, raves, wedding receptions or similar parties; and*
- b) *the accommodation or facilities are provided for a period of less than 10 days; and*
- c) *the accommodation or facilities are provided for a fee; and*
- d) *the premises is not occupied by the owner of the premises during the period mentioned"*⁶

The Act provides Local Government the power to require development approval for residential properties regularly leased, hired or rented on a short-term basis for housing parties and set a for assessing such development applications. Local Governments may also identify areas within, or all of its areas covered by its planning scheme as a 'party house restriction area'.

In accordance with these provisions, the City of Gold Coast has adopted a local law to control party houses. In summary, the City's local law seeks to *"ensure that excessive noise is not regularly emitted from a residential property which is made available for short-term rental accommodation."*⁷ The City has declared the entire Local Government area a party house restriction area, thereby requiring development consistent for a party house. Under the provisions of the Local Law, owners of short-term rental accommodation commit an offence if excessive noise is regularly emitted, which is defined as more than twice within a twelve month period.

The New South Wales Inquiry noted, whilst these provisions *"distinguish party houses from short-term rental accommodation, the evidence received by the Committee suggests that similar provisions may be usefully applied to short-term rental accommodation properties in which a predominant or recurring use by renters is the type of functions listed in the Queensland legislation"*.⁸

⁶ Government of Queensland (2009) Sustainable Planning Act 2009

⁷ City of Gold Coast (2013) Local Law No. 19 (Control of Party House Noise) 2013
www.goldcoast.qld.gov.au/local-law-no-19-control-of-party-house-noise-2013-14438.html

⁸ Parliament of New South Wales (2016) Adequacy of the regulation of short-term holiday letting in New South Wales (inquiry)

3.1.3 Victoria

Parallel to the New South Wales Inquiry, in 2015, the Victorian Government established an independent panel to examine the adequacy of regulations concerning [short-stay accommodation in CBD apartment buildings](#). In its report, the Panel noted that the Victorian Civil and Administrative Tribunal (VCAT) consider the Victorian Planning Provisions (VPP) to permit short-term rental accommodation in residential buildings providing that the dwelling is located in an area zoned for housing, the accommodation is self-contained and does not contain more than 10 habitable rooms.

The Panels' report presents a total of 13 options for regulatory reform, however it was somewhat unsurprising that the seven members of the Panel (which each represented a different industry groups) could not all agree on the merit of each of the options presented. Nevertheless, in response to the panel's report, in 2016 the Victorian Government announced that it would introduce new laws seeking to curb bad behaviour within short-term rental accommodation. The proposed measures will make apartment owners and their short-stay guests potentially liable for any damage, noise or loss of amenity caused by their guests. The proposal includes providing VCAT with powers to award compensation of up to \$2,000 to neighbours and ban short stay apartments which are repeatedly used for unruly parties. Guest could be fined up to \$1,100 for a range of anti-social behaviors including, creating unreasonable noise, health, safety or security hazards, damaging property.⁹

On a separate issue, it should also be noted that the Victorian Government signed an agreement with Airbnb to provide housing options for displaced community members and emergency workers during emergency events. A similar agreement was activated during the recent wildfires at Fort McMurray in Alberta, Canada when around 90,000 people were displaced. During the event, Airbnb automatically emailed hosts in surrounding areas asking them to consider listing their property for free. The company also waived all service fees for those affected by the fire.

3.1.4 South Australia

In 2016, a Victorian court decision raised questions as to whether home sharing constituted a change of use and therefore required development approval. In response, the South Australian Government issued a statement announcing that that it was supportive of home sharing and offered clarification that the use of a residential property for short-term stays did not constitute a 'change in use' under the Development Act.¹⁰ This statement appears to be founded upon the existing provisions contained within the South Australian statutory planning legislation as there has been no recent policy response to the issue of short-term rental accommodation.

⁹ Victorian Minister for Consumer Affairs, Gaming and Liquor Regulation, Jane Garrett, Media Release May 2016 www.premier.vic.gov.au/new-laws-for-short-stay-apartments/

¹⁰ South Australian Minister for Planning, John Rau 7 June 2016 Media Release www.premier.sa.gov.au/index.php/john-rau-news-releases/664-airbnb-boost-to-sa-tourism (Accessed 8/5/2017)

3.1.5 Tasmania

The Tasmanian Government is currently undertaking a series of planning reforms that will see the adoption of a State wide planning scheme. As part of the reform measures, the Government announced that up to four rooms can be rented in a home with the need for a permit.

The draft State Planning Provisions identify 'Visitor Accommodation in a dwelling (including a secondary residence)' as an exempt use if the following requirements are satisfied:

(a) the dwelling is used by the owner or occupier as their main place of residence, and only let while the owner or occupier is on vacation; or

(b) the dwelling is used by the owner or occupier as their main place of residence, and visitors are accommodated in not more than 4 bedrooms.¹¹

It is notable that a previous iteration of the draft State Planning Provision included an exemption for 'Visitor Accommodation' in a dwelling for 'no more than 42 nights in any calendar year'. This was removed following public consultation with the Tasmanian Planning Commission noting that *"that enforcement of the 42 day threshold set in the exemption would be difficult, if not impossible, particularly as properties may be multi-listed."*¹² This amendment was supported by the Tasmania Local Government Association who considered that the draft provision would have been difficult for Local Government to manage, however the proposed regulations "finds a good balance between the needs of private individuals and business"¹³

Following the Commission's recommended amendments, the Minister has directed the Commission to amend the 'Acceptable Solution' contained within the draft State Planning Provision, to increase the *"gross floor area from 160m² to 300m² for permitted visitor accommodation within an existing building in the relevant residential zone standards, to provide a better reflection of the size of an average 4 bedroom dwelling"*.¹⁴

¹¹ Tasmanian Government (2017) Tasmanian Planning Scheme www.justice.tas.gov.au/data/assets/pdf_file/0007/370294/State_Planning_Provisions.PDF (Accessed 8/5/2017)

¹² Tasmanian Planning Commission (2016) *Draft State Planning Provisions Report* http://iplan.tas.gov.au/Temp/TrimDownload_906179.PDF (Accessed 8/5/2017)

¹³ ABC News 3 February 2017 *Tasmania eases Airbnb regulations for renting out rooms in sharing economy* www.abc.net.au/news/2017-02-03/tasmanian-government-lifts-red-tape-on-airbnb-rentals/8239486 accessed 10/4/2017

¹⁴ Minister for Planning and Local Government, (2017) Modifications to the Provision of the draft State Planning Provisions. www.justice.tas.gov.au/data/assets/pdf_file/0008/370295/Ministers_Statement_of_Reasons_for_modifications_to_the_provisions_of_the_draft_State_Planning_Provisions.pdf accessed 22/5/17

4.0 International Experience

Opposition to short-term rental accommodation is not confined to Australia. In North American, Local Government concerns with broadly fall into two categories, the impact of short-term rentals on housing affordability as a result of the loss of housing to tourism uses and also the impact of short-term rentals on neighbouring residential properties. There, as within Australia, different responses have been adopted in different jurisdictions.

However, what is important to note from the North American experience is that the management of issues associated with short-term rental accommodation has led to the development of a software, data and consulting services provider, HostCompliance.com. Services provided by the company include the monthly monitoring of short-term rental listings at Local Government level and address identification. Whilst these services have to date only been provided within the United States of America, as a result of the rapid growth experienced by 'home sharing' providers, it is likely that such services will appear within Australia.

4.1 Operators Practices

The two leading platforms offering short-term rental accommodation in Australia are 'Airbnb' and 'Stayz'. In 2015-16 there were some 62,000 bookings were made via Airbnb in WA and there are currently 3,879 properties listed on Stayz¹⁵ across the State.

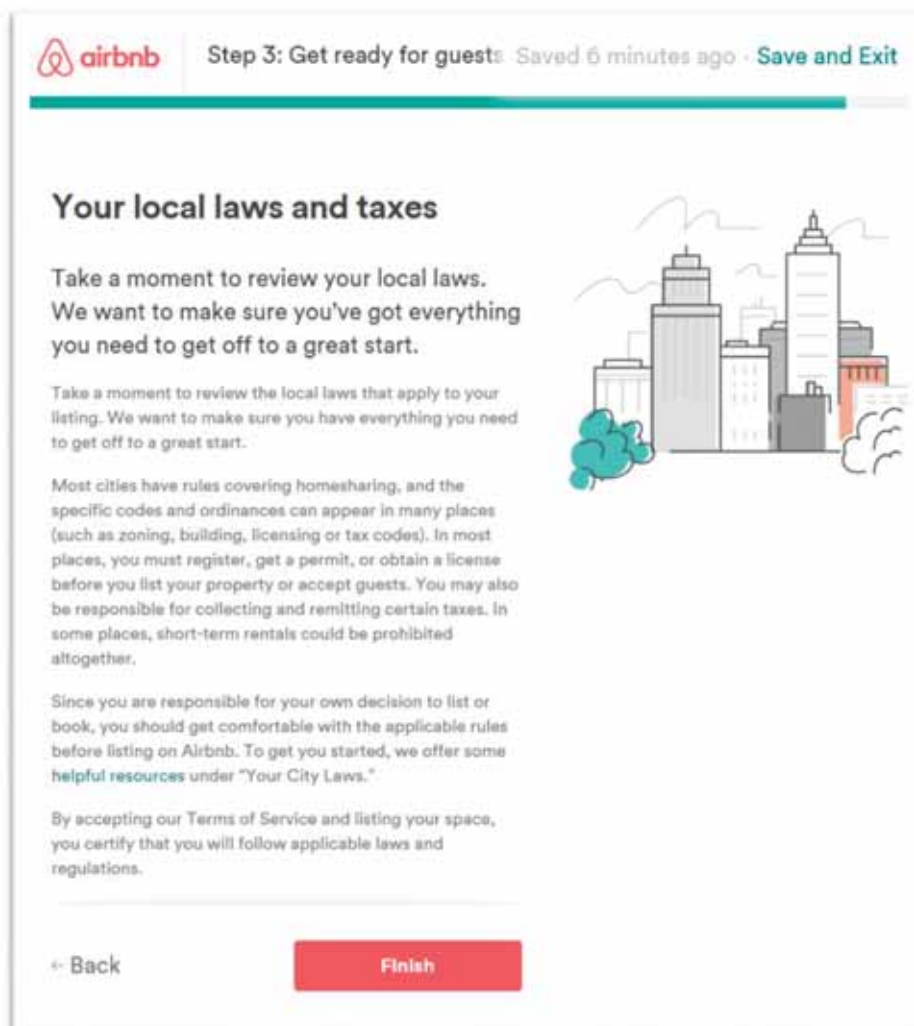
Airbnb invites tourists to 'live like a local' with the theme, "*don't go there. Live there*" running through the company's website and the services that it offers¹⁶. It has been suggested that this notion implies that tourist guests impose no addition burdens on neighbours and communities.¹⁷

In order to make a booking or to list a property on Airbnb, a terms of services agreement 'tick box' requires users to agree to Airbnb's 'Non-discrimination Policy'. This policy relates to non-discrimination by means of ethnicity, religion, sexual orientation, gender or marital status. As part of the home listing process, 'hosts' are not required to demonstrate that they are the property owner, or have their permission or provide evidence that they have any obtained any relevant planning or other necessary approvals. However, Airbnb does ask:

¹⁵ Stayz (2017) www.stayz.com.au/accommodation/wa?page=2 Accessed 31/5/2017

¹⁶ Airbnb (2017) www.airbnb.com.au/livethere 30/5/2017

¹⁷ N Gurran and P Phibbs Journal of the American Planning Association Volume 83, 2017. *When Tourists Move In: How Should Urban Planners Respond to Airbnb?*



Source: Airbnb www.airbnb.com.au/become-a-host/19002297/local-laws

Airbnb's 'helpful resources' link provides users with no further information about any relevant planning and other legislation that they may need to satisfy. Further, it is also important to note that Airbnb's website carries the following disclaimer:

*"Please note that Airbnb has no control over the conduct of Hosts and disclaims all liability. Failure of Hosts to satisfy their responsibilities may result in suspension of activity or removal from the Airbnb website."*¹⁸

As part of the online accommodation booking process, Airbnb guests are required to provide a variety of information including an email, phone number, payment information and confirm how many people are staying together with a check in time. Guest also need to agree to 'house rules', some of which are standard rules selected from a list by a property host whilst

¹⁸ Airbnb (2017) www.airbnb.com.au/help/article/1377/responsible-hosting-in-australia Accessed 31/5/17

bespoke rules can also be added and set by the property host. In addition, Airbnb hosts can also request that guests provide government-issued ID to Airbnb and that they have no negative reviews from other Airbnb hosts. It is not clear if this information would be passed on to any relate authorities should any antisocial behaviour issues arise from the short-term rental of a property.

Similarly ‘Stayz’ also offers limited advice concerning any approvals that may need to satisfied in order list a property for short-term rental accommodation. The company’s website does offer detailed advice concerning the management of a property including how to monitor and record damage to a listed property. With regards to land use planning requirements the website states that *“some councils may require you to seek approval for short-term leasing (i.e. less than 3 months) of your property. Contact your local council for guidelines and further information on approving your holiday rental”*.¹⁹

Nevertheless, as part of the property listing process, Stayz users are required to agree to the the [‘Owner Terms and Conditions’](#), the [Privacy Policy](#) and the [Holiday Rental Code of Conduct](#). Section 2.2.3 of the Holiday Rental Code of Conduct includes the requirement that *“The Property offered must: a) Be offered in a clean, safe and habitable state of repair; and b) Comply with relevant planning, building and fire safety and health regulations.”*²⁰ Whilst users agree to this requirement, they are not required to provide any such evidence in order to list a property.

5.0 Findings and Points for Further Discussion

Managing short-term rental accommodation is challenging for all tiers of Government however given the compliance responsibilities, it is particularly challenging for Local Government to manage. The challenges faced by Local Government are compounded by a lack of guidance from the State Government on the issue. The Local Planning Scheme Regulations fail to clearly define all types of short-term rental accommodation. Further, even though the statutory status of *Planning Bulletin 99, Holiday Homes Guidelines* means that it is somewhat toothless, in any case, it does not respond to the contemporary practices of the ‘home sharing’ industry and therefore fails to offer any meaningful guidance for decision makers. For these reasons it is evident that the current regulatory framework governing the management of short-term rental accommodation in WA should be improved.

Whilst amendments to the current arrangements may be required, it is important that the introduction of any controls governing short-term rental accommodation, either by the State or Local Government, are carefully considered to ensure that requirements are enforceable as well as reasonable. To assist this, another important trait of any legislation is that it should be simple for both the community and providers of short-term rental accommodation to

¹⁹ Stayz (2017) http://support.stayz.com.au/articles/en_AU/Article/How-do-I-list-my-property-on-Stayz-Your-guide-to-holiday-rentals?category=Advertise_a_Property Accessed 31/5/17

²⁰ Holiday Rental Industry Association (2015) *Holiday Rental Code of Conduct*

understand. If requirements are overly complicated and difficult to understand, they are unlikely to achieve appropriate levels of compliance.

Discussion Points:

- Would you support a review of *Planning Bulletin 99, Holiday Homes*?
- If so, should any review also seek to elevate the status of the Bulletin?
- Should the Local Planning Scheme Regulations provide a definition of 'short-term rental accommodation' and a definition, or a cross reference to the definition of a 'dwelling' provided in the R-Codes?

In summary, this study has found that LPP controls relating to short-term rental accommodation generally seek to ensure that development does not adversely impact upon surrounding uses. LPP provisions typically seek to control issues such as car parking and other features relating to design. It is also telling that a number of WA Local Governments differentiate between 'holiday homes' and 'large holiday homes'. The Tasmanian Government, whose policy controls governing short-term rental accommodation are the most progressed, also has a similar scale threshold. Tasmania's 'home sharing' threshold, a maximum of 4 bedrooms or 300m², is generally consistent with that of WA Local Governments who typically permit short stay accommodation for no more than six people.

Another common feature of Local Government controls is the requirement for a management plan. Similarly the Tasmanian requirements are also based on the premise that "*the dwelling is used by the owner or occupier as their main place of residence*". On this basis it is considered that the current controls set out by the R-codes may provide appropriate design controls for home sharing in smaller dwellings where the dwelling is used as main place of residence. Where a property is not a main place of residence or where a property exceeds a scale threshold, operations may be considered to be more commercial in nature and thereby constitute development which requires a development application.

It is also notable that some online short-term rental accommodation listing companies require users listing a property to agree to certain codes of conduct whilst other companies do not have the same requirements. Further these online platforms do not generally require users to provide any evidence that they obtained any necessary approvals to list a property for short-term accommodation purposes.

Discussion Points:

- Would you support the introduction of greater guidance or ‘deemed provisions’ relating to the control short-term rental accommodation?
- If so what controls would you like to see?
- Should the introduction of short-term rental accommodation controls be ‘scale’ based? And if so what should the threshold be?
- Should ‘home sharing’ (the rental of a room(s) within a person’s primary residence) be managed differently to the rental of holiday homes (the rental of properties which are not a primary residence)?
- Should online short-term rental accommodation providers specify that all relevant government approvals have been satisfied and that if required, evidence of this is provided?

Understandably, land use planning controls will not be able to totally resolve the anti-social behaviour issues that have sometimes become associated with short-term rental accommodation. To help overcome the community concerns relating to noise, property damage and other anti-social behaviours Queensland have adopted ‘party house’ laws, whilst the Victorian Government have similarly announced their intention to adopt laws to curb anti-social behaviour within short-term rental accommodation.

The Victorian Government’s Independent Panel investigation into short-term rental accommodation matters was primarily focused on issues within apartment buildings in Melbourne. Although the purpose of this study was to examine wider concerns rather the narrow issue of the appropriacy of short-term rental accommodation within apartment buildings, or strata schemes, it is evident that problems do exist within these forms of development. Accordingly, the Association queries whether the adoption of ‘party house’ laws alongside clearer parameters about what constitutes development would be an appropriate response to the issue. Likewise, it is queried whether it should be at the discretion of individual strata schemes to determine whether or not short-term residential is permitted within a strata scheme, or whether such discretion add further confusion about the validity of home sharing.

Discussion Points:

- Would you support the introduction of ‘party house’ laws in WA to tackle problems with individual properties?
- Should the appropriacy of short-term rental accommodation within strata schemes be solely at the discretion of strata companies?

Feedback in relation to these discussion points or this discussion paper more generally should be provided to Association by **31 July** to planning@walga.asn.au, or to discuss please call 9213 2000.

Appendix 1: Summary of a Selection Local Planning Policy Provisions

Summary of Local Government, Local Planning Policy Provisions

Shire of Augusta-Margaret River

Local Planning Policy: Holiday Houses

“Holiday House” means a single house or grouped dwelling which might also be used from time to time for short stay accommodation for no more than six (6) people but does not include a bed and breakfast.

“Holiday House (Large)” means premises conforming to the definition of “Holiday House” with the exception that the premises provide short stay accommodation for more than six (6) people but not more than 12 at any one time.

Objective: Holiday Houses are located in areas of high tourist amenity and attraction and in proximity to relevant services.

Summary of Requirements

- Located in coastal settlements or low density residential and rural lands.
- Holiday Houses and Holiday Houses Large (limited to 8 persons only) located in urban areas where the property either adjoins, fronts or is within an ‘area of significant tourist attraction’; or comprises an area of not less than 1000m².
- Grouped dwellings are limited to a maximum of 6 occupants (Holiday House).
- Decks and balconies are located away from the bedrooms of neighbouring dwellings and, if located close to living and dining areas of neighbouring dwellings, suitable screening is provided.
- Proposals require an Emergency Response Plan and Fire Management Plan, Management Plan with a manager or a contactable employee of the manager that permanently resides no greater than 1 hour’s drive from the site.
- Amplified music is only played outside of the Holiday House or Holiday House (Large) between the hours of 10am and 10pm.
- Renewals of approvals granted under previous Schemes shall be granted for a one year period unless the Local Government determines otherwise.

Bridgetown-Greenbushes

Local Planning Policy: Holiday Accommodation

“Holiday Accommodation” means accommodation which, by way of trade of business or for the purposes of any trade or business, is held out as being available or is made available for holiday purposes for occupation by persons other than the proprietor.

Holiday Accommodation should conform to either;

- A cabin unit constructed with cooking, toilet, ablution or laundry facilities provided as a communal facility and having a minimum floor area of 9.2m² and a maximum of 40m².
- A chalet – a detached self-contained unit including cooking, toilet and ablution facilities, with optional self-contained laundry facilities, and having a minimum floor area of 40m² and a maximum of 120m²

The short-term rental of residential dwellings to single parties shall not be classified as Holiday Accommodation. Council considers such a use as merely another form of landlord – tenant rental.

Summary of Requirements for Holiday Accommodation

- A site area of not less than 2 hectares.
- The site shall contain tree cover adequate to provide visual screening.
- Developments should not contribute to a concentration of similar land use activities that would alter the established character of the surrounding area.
- The minimum distance between the external walls of any building and another on the land shall be 10 metres for the purposes of privacy and amenity.
- Suitable car parking facilities (minimum 2 bays per unit) shall be provided.
- The same person is limited to stays of no more than three months in any consecutive twelve months

Shire of Broome

Local Planning Policy: Tourist Accommodation Developments (Excluding Caravan Parks) within the Tourist Zone

All accommodation development within a Tourist Zone shall comply with the objectives and guidelines of this policy.

Summary of Requirements

Development principles - Accommodation shall occur in a holiday atmosphere, and will also provide for permanent residents who prefer a more diverse and vibrant environment.

- Long Stay and Permanent Residential development shall be separated from short stay accommodation, so not to impact negatively on short stay holidaymakers.
- Developments that adjoining residential zoned land shall be designed so as not to impact negatively on the privacy and amenity of the adjoining residents.

Shire of Capel

Local Planning Policy: Bed and Breakfast Accommodation

Scheme defines 'Bed & Breakfast Accommodation' as "...accommodation provided for hire or reward under the main roof of a dwelling house for not more than four (4) adults or one family in the form of a maximum of two (2) guest bedrooms and one (1) guest bathroom".

Policy adds 'Bed and breakfast accommodation' means a detached single dwelling, used by a resident of the dwelling to provide short-term accommodation, and which may include the provision of breakfast.

Summary of Requirements

- Annual renewal of planning approval.
- Maximum number of three guest rooms.
- Requirement for on-site management of the establishment is implicit in any approval.
- Single dwellings only – grouped (or strata-subdivided) dwellings is not appropriate. Two (2) spaces for the dwelling and one (1) additional space per guest bedroom
- More than two Bed and Breakfast Accommodation uses within cul-de-sac or small residential streets may not be supported.
-

Shire of Donnybrook-Balingup

Local Planning Policy: Chalet(s)/Chalet Development & Bed and Breakfast Policy

Bed and Breakfast means a dwelling, used by a resident of a dwelling to provide accommodation for persons away from their normal place of residence on a short-term commercial basis and includes the provision of breakfast.

Summary of Requirements

- Bed and breakfast establishment providing accommodation for a maximum of six persons. (Beyond six persons establishments are considered to be lodging houses)
- Planning consent is required for a bed and breakfast establishment.

Shire of Exmouth

Local Planning Policy: Bed & Breakfast Accommodation

Dwelling' means (as per the Residential Design Codes) a building or portion of a building being used or intended, adapted or designed to be used for the purpose of human habitation on a permanent basis by:

- a single person
- a single family
- no more than six (6) persons who do not comprise a single family

Summary of Requirements

- Guest access to a kitchen for preparation of meals is not permitted;
- The host is to permanently reside in the dwelling approved for a 'bed and breakfast' establishment;
- 'Bed & Breakfast' accommodation must be for short-term guests only and not considered as long term permanent accommodation;
- On-site car parking is to be provided at a ratio of one (1) car bay per guest bedroom
- In the case of an existing dwelling (ie, Class 1a building) being granted planning approval for use as a bed and breakfast, the proponent shall make a separate application to the Shire for a 'change of use' to a Class 1b subject to Regulation 22 of the Building Regulations 2012. All works required to satisfy compliance with the Building Code of Australia Volume 2 – Part 3.7.2 Smoke Alarms relating to a Class 1b building shall be completed prior to the 'Bed and Breakfast' use commencing;

Local Planning Policy: Holiday Accommodation

'Holiday Home (standard)' means a single house, which may also be used for short stay accommodation for no more than six people (but does not include a bed and breakfast, guesthouse, chalet and short stay accommodation unit).

'Holiday home (large)' means premises conforming to the definition of holiday home (standard) with the exception that the premises provide short stay accommodation for more than six people but not more than 12 at any one time.

Summary of Requirements

- All Holiday Accommodation is to be managed by local real estate agents, or have a local caretaker / manager living and readily contactable within 10 minutes of the property.
- All planning applications for holiday accommodation shall include a Management Statement that includes a Code of Conduct that outlines occupant rules.
- An emergency response plan is also required.
- Annual permit required.

Shire of Gnowangerup

Local Planning Policy: Tourism Based Land Use Requirements

Bed and Breakfast - A dwelling, used by a resident of the dwelling, to provide accommodation for persons away from their normal place of residence on a short-term commercial basis and includes provision of breakfast.

Summary of Requirements

- Permitted within the Town Centre zone.
- May be considered by Council in the Residential, General Agriculture or Rural Residential Zones.
- Maximum of three bedrooms being used for accommodation purposes and a total number of guests shall not exceed six.
- Off street car parking to be provided at the ratio of one bay for each guestroom.
- A separate toilet, shower or bath and hand basin is to be supplied for guests.

Permit is valid for twelve months and renewable annually by the Shire subject to no complaints being received by the Shire

City of Joondalup

Local Planning Policy: Short-term Accommodation

"Bed & Breakfast" is a dwelling used by a resident of the dwelling to provide short-term accommodation, including breakfast, on a commercial basis for not more than four (4) adult persons or one family; and containing not more than two (2) guest bedrooms.

"Dwelling" as defined by the Residential Design Codes of Western Australia means a building or portion of a building being used, adapted, or designed or intended to be used for the purpose of human habitation on a permanent basis by a single person, a single family, or no more than six persons who do not comprise a single family.

"Holiday house" means a single dwelling on one lot used to provide short-term accommodation but does not include a bed and breakfast.

“Holiday accommodation” as defined by Local Planning Scheme No. 3 means two (2) or more dwellings on one lot used to provide short-term accommodation for persons other than the owner of the lot.

“Short-term accommodation” as defined by Local Planning Scheme No. 3 means temporary accommodation provided either continuously or from time to time with no guest accommodated for periods totalling more than three (3) months in any 12 month period.

Summary of Requirements

- All parking is to be provided on-site
- Management Plan to be provided and will be included as a condition of any development approval issued. The Management Plan is to include;
 - a code of conduct detailing the expected behaviour and obligations of guests which is to be displayed in a prominent position within the premises
 - a Complaints Management Procedure
 - details regarding guest check-in and check-out procedures
 - details regarding waste management
 - compliance with Strata By-Laws (if applicable)
- Guest register, detailing names, addresses and period of stay to be maintained and available for inspection by the City.
- Proposals within residential zones require public consultation and if within a Strata title scheme, the strata body will be consulted. Applicants are encouraged to seek clarification as to whether or not the operation of short-term accommodation is compliant with any by-laws.
- Development applications for a holiday house within an existing dwelling will be processed as a change of use. Development applications for a purpose built holiday house are required to meet the relevant single house requirements.

City of Perth

Local Planning Policy: Special Residential (Serviced and Short-term Accommodation) Policy

Residential Use: means premises providing for long term or permanent residential accommodation including: aged persons dwelling, caretaker’s dwelling, grouped dwelling, single house, multiple dwelling.

Special Residential Use: means premises providing short-term, temporary or specialised residential accommodation including a lodging house, hotel and serviced apartment.

Requirements

- Written evidence demonstrating that the operator of the special residential use has valid membership to an appropriate professional board or body, which operates within a code of practice or licensing system.
- A management plan.
- Applications will need to demonstrate how the amenity and security of all occupants will be protected through the design and management of the development.
- A proportion of the short-term and serviced apartments should be designed to accommodate people with a disability.

City of South Perth

Local Planning Policy: Serviced Apartments

A serviced apartment is an apartment which is one of a group of two or more apartments on the same lot, used, furnished and equipped to be used on a temporary basis in a manner similar to a Grouped Dwelling or Multiple Dwelling, for which laundry and cleaning services are provided, with or without other ancillary amenities.

Summary of Requirements

- Cul-de-sac streets are generally not favoured for serviced apartments.
- A serviced apartment is not permitted to be occupied by the same temporary tenant for more than 6 months within any 12 month period with notice placed on title to inform prospective purchasers of this requirement.

- When the owner of a serviced apartment no longer intends to provide any laundry or cleaning services for temporary tenants; and wishes to extend the period of occupancy beyond the limit referred to in paragraph a planning approval for a change of use of the premises is required.
- Management Plan required.
- Where an application for planning approval is lodged for proposed serviced apartments on a site containing dwellings for long-term occupancy held on strata titles, the applicant is to provide evidence that:
 - (a) the owners of all dwellings on that site have given written consent for the proposed use of particular dwellings as serviced apartments;
 - (b) by-laws have been adopted by the strata company approving the proposed use and requiring the vendor of any existing dwelling on the site to inform all prospective purchasers of the approved use of particular dwellings as serviced apartments; and
 - (c) the strata company has given consent to the management plan.

Do you want to open an accommodation business in Toodyay?

Here's how

Toodyay is open for tourism business. Local businesses open when tourists want to shop, and the Toodyay town centre is busy almost every week end. Some people would like to stay longer and there are opportunities for short term accommodation.

What do we mean by Short Term accommodation?

It means accommodation for less than 3 months, and often will be one or two nights. It may also involve providing meals. Some examples are:

- Bed and Breakfast (including Air BnB)
- Holiday Homes (including Stayz)
- Hostels for no more than 6 persons
- Farm Stay

Other types of accommodation like Motels, Hotels, Holiday Chalets, Boarding Houses and larger Hostels also require approval, but have different approval requirements.

Do I Need Approval?

Short-term accommodation will usually require planning approval from the Shire. Often this will involve the Shire consulting with your neighbours. Depending on complexity your application may be decided by staff, or it may have to go to Council for decision. If it goes to Council you will be able to make submission.

Unless determined exempt, any building work for your project will require a Building Permit.

You do not need planning approval to

- Rent out a house for more than 3 months.
- Have house guests that are friends or family, not paying guests
- Share a house with up to 5 unrelated people
- Take on a boarder for longer than 3 months.

What if I am already operating my accommodation business?

You can apply for retrospective approval. A higher fee applies but the process is the same. You are better seeking approval than waiting for something to go wrong, like a complaint from another business or an accident with a guest.

How do I apply?

You may wish to talk to one of our staff first. If your proposal requires development approval you will need to supply:

- A completed application form (available from the shire office or website).
- The application fee (depends on the value of the development, but for a change of use for an existing building it will be \$295.00)
- A Site plan showing the building and the areas to be used by guests
- A simple management plan (see below)
- Car parking details
- Any proposed sign (see below).

Depending on complexity you may have a decision within 2 or 3 weeks, but if the proposal requires advertising and a council it may take up to 90 days.

What is in a Management Plan?

Usually a management plan is a fairly simple document which shows that you have thought through how the business will work. It should include things like:

- How you plan to run the business, maximum number of guests, whether meals may be provided, potable water etc;
- A simple complaints management procedure, including contact telephone numbers available to neighbours;
- Rules for guests to control any potential anti-social behaviour. Your neighbours may not like loud music late at night.

What signs are allowed?

You do not require a separate application for an exempt sign, that is, a sign on your fence or gate not more than 0.2m². So for example 600mm by 300mm would not require approval. If you need something larger than that separate approval is needed.

You may wish to consider applying for directional signs the blue finger signs on roadways or intersections to help direct guests to your business.

<http://www.toodyay.wa.gov.au/files/sharedassets/public/planning/lpp/lpp.24-directional-signage-and-signage-within-thoroughfares.pdf>

Other approvals

The information above all relates to planning approvals. There are also other requirements that may apply to your proposed business. These are public health requirements.

<i>Do you plan to provide meals to your guests?</i>	If you plan to provide meals for guests like a cooked breakfast you will need a food license. The requirements are risk based and requirements increase with the frequency and assessed risk of the food prepared. If you plan to supply food for guests requiring no preparation or that they cook themselves there may be no additional requirements
<i>Can guests access a Swimming Pool or Spa?</i>	If your proposal includes the use of a swimming pool or spa by guests this will require separate approval. Compliance requirements may be lower for low use pools.
<i>The Provision of Safe Water?</i>	Like much of Toodyay you have no public water supply you will need to provide evidence of how you can provide safe water to your guests. This may be as simple as advising you will supply bottled water or by installing a monitored treatment system. This can be included as part of your management plan.

How Can I Find Out More?

To find out more please contact Planning and Development Services at the Shire. This can be done by phone on 9574 9340 or via email records@toodyay.wa.gov.au. Further information and downloadable forms may also be found on the shire's website at www.toodyay.wa.gov.au.

Marketing your business

We strongly recommend that you consider becoming a partner with the Toodyay Visitor Centre. They can keep you up to date with joint marketing strategies and local events. None of these approvals require Visitor Centre partnership.

The Shire of Toodyay makes the following submission to the Economics and Industry Standing Committee inquiry into short-stay accommodation.

In reference to the way the Shire of Toodyay currently guides proposed short term accommodation providers, a copy of the Shire of Toodyay's information sheet is provided, attached.

The Shire would also point out to the committee its support of a discussion paper on this subject prepared by the Western Australian Local Government Association (WALGA) produced in 2017 entitled *Short-term Rental Accommodation and the Sharing Economy*, a copy of which is also attached for consideration. This paper, and the summary of the submissions received which can be obtained from WALGA cover many of the points raised by your terms of reference.

In line with the issues outlined by this paper the Shire is concerned by the emergence of short term accommodation options which are very difficult to investigate and then regulate if needed. The technology of the internet based platforms that enable these to be accessed, booked and used through third party providers enable this. There is currently little guidance from the state government on what constitutes short term accommodation of the air b n b and similar newer styles that require regulation. There are often barriers to contacting accommodation owners to investigate concerns raised over such accommodation because the third parties involved claim privacy and will not give out owner details.

The issues that can arise from unregulated short-term accommodation are seen as;

- The potential of food that has not been prepared in compliance with legal requirements to cause harm,
- In larger residences short-term hostel/boarder houses can result if more than 6 unrelated persons use a dwelling with the commensurate increase in vehicles and noise. In some cases it has been pointed out party houses with 12 persons or more result with the use of a building becoming illegal.
- Non-compliance with regulatory requirements such as smoke detectors, construction, safety and other building requirements where they have not been assessed
- The inappropriate use of some buildings as de-facto serviced apartments without appropriate safety controls, especially in relation to multi-storey buildings with a mixture of fully tenanted apartments and short term accommodation options,
- The use of unregulated pools and spas and the dangers involved with the same in conjunction with short term accommodation.
- The unregulated use of non-potable water in areas not provided with scheme water,
- Non-compliance with Shire planning provisions,
- Impacts on neighbours from unregulated behaviour or just the impact of many comings and goings of unfamiliar persons in strata title developments; and
- There has even been allegations of unregulated events round the use of such accommodation.

The risk is of course is commensurate with the numbers housed and the frequency of use. It could also be argued in some circumstances where risk and use is considered low the cost and requirements for compliance are seen as not reasonable.

Operators of facilities that are regulated raise the issue of potential for adverse economic impacts on accommodation providers operating within the Local Government approval framework. This is alleged because those seen as operating outside the framework are charging less due to having lower overheads from avoiding compliance costs. This is anecdotal and makes a number of assumptions but is certainly possible.

This is a general dissatisfaction from a number of operators of regulated accommodation over the Shire not effectively regulating those involved in the internet based sharing platforms that they see as avoiding compliance costs.

The Shire is firmly of the view more certainty is needed round definitions of what constitutes short-term accommodation that should be regulated and what does not need to be. As part of this the traditional definition of Bed and Breakfast should be reviewed. Clarification on the use of part of or all of a building and its impact should also be provided.

It is acknowledge that even if more regulation and clarification is provided there will be some cases where it will be neither practical nor reasonable to pursue some forms of short-term accommodation involving low numbers/frequency and risk.

Currently different Councils have different policies in this regards which also brings uncertainty by not having a clear common set of reasonable requirements. Having a common set of requirements based on impact and risk is seen as a reasonable approach.

Given the use of third party providers any regulations should require disclosure of accommodation owners details to enable compliance investigation with it becoming an offence to not disclose such information.

COMMITTEE MEETING STATUS REPORT

Containing Recommendations to Council made by all Committees

Committee Meeting Date	Item / Res Number	Title / Description of Item	Responsible Officer	Recommendation by Committee
6/9/2018 EAC Meeting	6.2	Shire of Toodyay Pest Plant Local Law 1979 – Amendment and Review	MPD	That Council consider an amendment to the Shire of Toodyay Pest Plant Local Law 1979 that would expand upon the List of Pest Plants currently listed in this Local Law and calltrop be removed from the Pest Plants List.
20/11/18 BFAC	4.1.1	Criminal History Checks and Probation Period	CESM	That Council endorse proposed changes to the Shire of Toodyay Bush Fire Operating Procedures as follows: 1. Changes to Section 1, Items 2.1 and 2.2 2. Inclusion of SOP.21 Criminal History Checks (CHC), with amendment.
20/11/18 BFAC	4.1.2	Chainsaws and Nonstandard Stowage	CESM	That Council adopt Standard Operating Procedures (SOPs) as part of the Shire of Toodyay Bush Fire Operating Procedures as follows: 1. SOP.22 Stowage of Non-Standard Items on Appliances, with amendment; and 2. SOP.23 Chainsaws
20/11/18 BFAC	5.1	Brigade roundtable discussion and reporting	CESM	That Council review and adopt changes to the verge spray and maintenance grading program in regards to specification and timing in preparation for next fire season.