

Chief Executive Officer City of Cockburn PO Box 1215 BIBRA LAKE WA 6965

Transmission via electronic mail to: customer@cockburn.wa.gov.au

Dear Sir

**TOWN PLANNING SCHEME No. 3 AMENDMENT No. 117** 

# MINISTERIAL DECISION FOR TOWN PLANNING SCHEME AMENDMENT - APPROVAL

Pursuant to clause 87(2) of the *Planning and Development Act 2005* (the Act), the Minister for Planning has granted final approval to amendment 117 to the City of Cockburn Town Planning Scheme No. 3 on 20 June 2017.

In accordance with clause 87(3) of the Act, the Western Australian Planning Commission (Commission) will cause the amendment to be published in the Government Gazette.

The Commission has forwarded the notice to State Law Publisher and it is the Council's responsibility to make arrangements for the payment of any publication costs. Council is required under clause 87(4B) of the Act, and clause 62(2) of the *Planning and Development (Local Planning Schemes) Regulations 2015*, to advertise and make copies of the amendment available to the public.

For all payment and purchase order queries, please contact State Law Publisher on (08) 6552 6012 or fax (08) 9321 7536. One signed set of the amending documents is returned herewith.

Yours sincerely

Kerrine Blenkinsop

HM Bleskings

Secretary

Western Australian Planning Commission

20 June 2017



Postal address: Locked Bag 2506 Perth WA Street address: 140 William Street Perth WA 6000 Tel: (08) 655 19000 Fax: (08) 655 19001 corporate@planning.wa.gov.au www.planning.wa.gov.au ABN 35 482 341 493

### **PLANNING AND DEVELOPMENT ACT 2005**

# APPROVED TOWN PLANNING SCHEME AMENDMENT CITY OF COCKBURN

### TOWN PLANNING SCHEME No. 3 - AMENDMENT No. 117

Ref: TPS/1929

It is hereby notified for public information, in accordance with section 87 of the *Planning and Development Act 2005* that the Minister for Planning approved the City of Cockburn Town Planning Scheme amendment on 20 June 2017 for the purpose of:

- 1. Including a portion of Lot 1 Ghostgum Avenue and a portion of Ghostgum Avenue, Treeby, as shown on the 'Proposed Zoning Plan' within the 'Development Zone';
- 2. Including a portion of Lot 1 Ghostgum Avenue and a portion of Ghostgum Avenue, Treeby, as shown on the 'Proposed Zoning Plan', within the boundaries of a new 'Development Area 41';
- 3. Inserting a new 'Development Area 41' entry into 'Table 9 Development Areas' as follows:

| Ref. No. | Area               | Provisions   |
|----------|--------------------|--|
| DA 41    | Ghostgum<br>Avenue | An approved Structure Plan together with all approved amendments shall be given due regard in the assessment of applications for subdivision, land use and development in accordance with clause 27(1) of the Deemed Provisions. |
|          |                    | The Structure Plan is to provide for an appropriate mix of residential and compatible land uses.   |
|          |                    | 3. The Structure Plan is to be provided to the Office of the Environmental Protection Agency (OEPA) for consultation and comment as part of the advertising period.  |

4. Removing a portion of Ghostgum Avenue from 'Local Reserve – Local Road'; and

5. Amending the Scheme map accordingly

L HOWLETT JP MAYOR

S GAIN CHIEF EXECUTIVE OFFICER



# PLANNING AND DEVELOPMENT ACT, 2005 RESOLUTION TO AMEND A TOWN PLANNING SCHEME

# CITY OF COCKBURN TOWN PLANNING SCHEME NO 3 AMENDMENT NO. 117

RESOLVED that the Council, in pursuance of Section 75 of the *Planning and Development Act 2005*, amend the City of Cockburn Town Planning Scheme No. 3 by:

- Including a portion of Lot 1 Ghostgum Avenue and a portion of Ghostgum Avenue, Banjup, as shown on the 'Proposed Zoning Plan' within the 'Development' Zone;
- 2. Including a portion of Lot 1 Ghostgum Avenue and a portion of Ghostgum Avenue, Banjup, as shown on the 'Proposed Zoning Plan, within the boundaries of 'Development Area No. 37';
- 3. Removing a portion of Ghostgum Avenue from Local Reserve Local Road; and
- 4. Amending the Scheme map accordingly.

Dated this 11th day of August 2016

CHIEF EXECUTIVE OFFICER

### **REPORT**

1. LOCAL AUTHORITY City of Cockburn

2. DESCRIPTION OF TOWN Town Planning Scheme No. 3 PLANNING SCHEME:

3. TYPE OF SCHEME: District Zoning Scheme

4. SERIAL NO. OF AMENDMENT: Amendment No. 117

5. PROPOSAL: Rezoning Lot 1 Ghostgum Avenue,

Treeby to 'Development' Zone, including

the site in 'Development Area No. 37'

### AMENDMENT REPORT

## 1.0 Introduction

The purpose of this amendment to the City of Cockburn Town Planning Scheme No. 3 ('TPS 3') is to rezone Lot 1 Ghostgum Avenue (previously Lot 821 Armadale Rd), Treeby from 'Resource' Zone to 'Development' Zone and including the subject site in 'Development Area No. 37'.

The amendment will ensure the subject site is zoned appropriately for urban development and is consistent with the 'Urban' zoning assigned to the site as a consequence of MRS Amendment 1289/57, gazetted 20 May 2016.

Extending 'Development Area No. 37' to include the subject site will also ensure the site is included in the overall structure planning landholdings in the locality. This means subdivision and development of the subject site will be coordinated in a consistent manner complementing its surrounds.

# 2.0 Background

The subject site is located approximately 25 kilometres south of the Perth Central Area. The subject site is approximately 20.34ha in area and was utilised as a former sand quarry. The subject site abuts the existing Treeby urban locality to the west, rural landholdings to the east, a 'Parks and Recreation' reservation to the north and Armadale Road (a 'Primary Regional Road') to the south.

Refer Figure 1 - Site Plan.

MRS Amendment 1289/57 was gazetted 20 May 2016. MRS Amendment 1289/57 has rezoned the subject site from 'Rural - Water Protection' Zone to 'Urban' Zone.

Refer Figure 2 - Metropolitan Region Scheme Zoning.

The MRS Amendment Report (which also deemed MRS Amendment 1289/57 as a minor MRS amendment) identified the subject site as being suitable for the MRS 'Urban' Zone for the following reasons:

- The subject land is identified as an 'Urban Expansion' in the draft South Metropolitan Peel Sub-Regional Planning Framework which forms part of the Perth and Peel @ 3.5 Million plan. The proposal therefore has strategic context;
- The subject land is a former sand quarry. Urbanisation would therefore not result in the widespread clearance of vegetation or reduce the amount of vegetation in place over the Jandakot Underground Water Pollution Control Area; and

 The proposed amendment is considered to represent a logical extension of the existing Banjup Urban Precinct, and like that area is within close proximity of the Cockburn Central activity centre and railway station, and regional roads.

The Western Australian Planning Commission ('WAPC') had the option of concurrently rezoning the subject site to 'Development' Zone under the provisions of TPS 3 by utilising Section 126(3) of the *Planning and Development Act 2005*, however the WAPC chose not to seek a concurrent amendment. This Scheme Amendment will facilitate the rezoning of the subject site under TPS 3 to ensure consistency with the MRS.

# 3.0 Amendment Type

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

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

This proposed amendment is considered to be a standard amendment, which Regulation 34 describes as:

standard amendment means any of the following amendments to a local planning scheme —

- a) an amendment relating to a zone or reserve that is consistent with the objectives identified in the scheme for that zone or reserve;
- b) an amendment that is consistent with a local planning strategy for the scheme that has been endorsed by the Commission;
- c) an amendment to the scheme so that it is consistent with a region planning scheme that applies to the scheme area, other than an amendment that is a basic amendment;
- d) an amendment to the scheme map that is consistent with a structure plan, activity centre plan or local development plan that has been approved under the scheme for the land to which the amendment relates if the scheme does not currently include zones of all the types that are outlined in the plan;
- e) an amendment that would have minimal impact on land in the scheme area that is not the subject of the amendment;
- f) an amendment that does not result in any significant environmental, social, economic or governance impacts on land in the scheme area;
- g) any other amendment that is not a complex or basic amendment.

This proposed amendment satisfies c), e), f) and g) of the above criteria. In particular, it is:

- Consistent with the 'Urban' zoning of Lot 1 Ghostgum Avenue,
   Treeby under the provisions of the Metropolitan Region Scheme;
- 2. It is consistent with the designation of Lot 1 Ghostgum Avenue, Treeby as 'Urban Expansion' under the draft South Metropolitan Peel Sub-Regional Planning Framework as contained in the Perth and Peel @ 3.5 Million document;
- 3. The subject site is a former sand quarry. Urbanisation would therefore not result in the widespread clearance of vegetation or reduce the amount of vegetation in place over the Jandakot Underground Water Pollution Control Area; and
- 4. The proposed amendment is considered to represent a logical extension of the existing Treeby urban locality, and like that area is within proximity of the Cockburn Central activity centre, railway station and regional roads.

# 4.0 Town Planning Context

## 4.1 Metropolitan Region Scheme

The subject site is zoned 'Urban' under the provisions of the MRS.

### 4.2 City of Cockburn Town Planning Scheme No. 3

The subject site is currently zoned 'Resource' and is designated within the 'Bushfire Vulnerability Area' ('BVA') Special Control Area.

The purpose of the BVA Special Control Area, as outlined in TPS 3, is to:

- a) implement State Planning Policy 3.7 Planning for Bushfire Risk Management and Guidelines;
- b) identify land that is subject, or likely to be subject, to bushfire hazard; and
- c) ensure that development effectively addresses the level of bushfire hazard applying to the land.
- d) in accordance with the Building Code of Australia activate Australian Standard 3959 which is construction of buildings in bush fire prone areas.

The subject site is also located within Development Contribution Area 13 ('DCA 13'). The purpose of development contribution areas, as outlined in TPS 3, is as follows:

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

# 5.0 Proposal

The purpose of this Scheme Amendment is to rezone Lot 1 Ghostgum Avenue, Treeby from 'Resource' Zone to 'Development' Zone, including the subject site in 'Development Area No. 37'.

Changes to the Bushfire Vulnerability Area (BVA) Special Control Area will be dealt with by the City of Cockburn as part of a dedicated amendment to that matter, in light of the new Bushfire Regulations and revised State Planning Policy.

### 6.0 Conclusion

This Scheme Amendment will ensure the subject site is zoned appropriately for urban development and is consistent with the 'Urban' zoning assigned to the site as a consequence of the recently approved MRS Amendment 1289/57.

Extending 'Development Area No. 37' to include the subject site will also ensure the site is included in the overall structure planning landholdings in the locality. This means subdivision and development of the subject site will be coordinated in a consistent manner complementing its surrounds.

### **POSTSCRIPT: Inclusion of Minister's modifications**

Modifications required by the Minister for Planning were outlined in correspondence dated 11 May 2017 sent to the City of Cockburn and are set out further below.

In carrying out these modifications, the Council resolution dates are not modified, although in this case there are changes to the proposed scheme text from what was set out originally in those Council decisions.

In the interests of posterity and to provide some clarity to persons who may compare the original recommendation and/or Council minutes to these documents and/or the amended version of Town Planning Scheme No. 3, below are the Minister modifications:

# Schedule of Modifications

City of Cockburn Amendment 117 to Town Planning Scheme No. 3

Modify Point 2 of the amendment resolution to read as follows:

Including a portion of Lot 1 Ghostgum Avenue and a portion of Ghostgum Avenue, Banjup, as shown on the 'Proposed Zoning Plan', within the boundaries of 'Development Area 41';

2. Inserting a new Point 3 into the amendment resolution to read as follows:

Inserting a new Development Area 41 entry into Table 9 – Development Areas as follows:

| Ref. No. Area Provisions |                    |  |  |
|--------------------------|--------------------|--|--|
| DA 41                    | Ghostgum<br>Avenue | <ol> <li>An approved Structure Plan together with all<br/>approved amendments shall be given due regard<br/>in the assessment of applications for subdivision,<br/>land use and development in accordance with<br/>clause 27(1) of the Deemed Provisions.</li> </ol> |  |
|                          |                    | <ol> <li>The Structure Plan is to provide for an appropriate<br/>mix of residential and non-residential land uses, in<br/>order to support the objective for a mixed use<br/>neighbourhood.</li> </ol>   |  |
|                          |                    | <ol><li>The Structure Plan is to be provided to the OEPA<br/>for consultation and comment as part of the<br/>advertising period.</li></ol>   |  |

Renumber the remaining Points of the amendment resolution accordingly.

While the intent of the requested modifications is clear, City officers, in liaison with the applicant, feel the proposed wording (borrowed from the DA37 provisions) inadvertently leaves the opportunity open for non-residential land uses.

These are contained in DA37 given there are interface issues with the adjacent industrial area to respond to. DA37 needed that flexibility. However, the ordinary provisions for development areas similar to this site (examples are DA26, DA27 and DA31) would replace the term 'non-residential' with 'compatible land uses' to read as shown below. The full title of the agency in provision 3 is also suggested for clarity.

| Ref. No. | Area               | Provisions   |
|----------|--------------------|--|
| DA 41    | Ghostgum<br>Avenue | An approved Structure Plan together with all approved amendments shall be given due regard in the assessment of applications for subdivision, land use and development in accordance with clause 27(1) of the Deemed Provisions. |
|          |                    | <ol><li>The Structure Plan is to provide for<br/>an appropriate mix of residential and<br/>compatible land uses.</li></ol>   |
|          |                    | <ol> <li>The Structure Plan is to be provided<br/>to the Office of the Environmental<br/>Protection Agency (OEPA) for<br/>consultation and comment as part of<br/>the advertising period.</li> </ol>                             |

The amending resolution page has been updated to ensure the intent of the Minister's modifications have been included, but ensure that the intent for the development of this land is not beyond the scope of what was described in the MRS Amendment (1289/57):

Metropolitan Region Scheme Amendment 1289/57

### Lot 821 Armadale Road, Banjup and Surrounds

### 1 Purpose

The purpose of the amendment is to rezone approximately 21.06 hectares of land in the Banjup locality from the Rural-Water Protection zone to the Urban zone under the Metropolitan Region Scheme (MRS), as shown in the amending figure for Proposal 1. The amendment also seeks to reserve 0.29 hectares as Primary Regional Roads (including Water Catchment reservation adjustment) associated with Armadale Road.

The MRS amendment will allow for the residential development of the subject land, following a local scheme amendment, structure planning and subdivision approval.

### PLANNING AND DEVELOPMENT ACT, 2005

# CITY OF COCKBURN TOWN PLANNING SCHEME NO 3 AMENDMENT NO. 117

The City of Cockburn under and by virtue of the powers conferred upon it by the Planning and Development Act 2005, hereby amend the above Town Planning Scheme by:

- Including a portion of Lot 1 Ghostgum Avenue and a portion of Ghostgum Avenue, Treeby, as shown on the 'Proposed Zoning Plan' within the 'Development Zone';
- 2. Including a portion of Lot 1 Ghostgum Avenue and a portion of Ghostgum Avenue, Treeby, as shown on the 'Proposed Zoning Plan', within the boundaries of a new 'Development Area 41';
- 3. Inserting a new 'Development Area 41' entry into 'Table 9 Development Areas' as follows:

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| DA 41    | Ghostgum<br>Avenue | An approved Structure Plan together with all approved amendments shall be given due regard in the assessment of applications for subdivision, land use and development in accordance with clause 27(1) of the Deemed Provisions. |  |
|          |                    | <ol><li>The Structure Plan is to provide for<br/>an appropriate mix of residential and<br/>compatible land uses.</li></ol>   |  |
|          |                    | <ol> <li>The Structure Plan is to be provided<br/>to the Office of the Environmental<br/>Protection Agency (OEPA) for<br/>consultation and comment as part of<br/>the advertising period.</li> </ol>                             |  |

- 4. Removing a portion of Ghostgum Avenue from 'Local Reserve Local Road'; and
- 5. Amending the Scheme map accordingly

### **ADOPTION**

Adopted by resolution of the Council of the City of Cockburn at the ordinary 

### FINAL APPROVAL

Adopted for final approval by resolution of the City of Cockburn at the Meeting of the Council held on the . St.... day of December 2016, and the Common Seal of the City of Cockburn was hereunto affixed by the authority of a resolution of the Council in the presence of:

(Seal)

Recommended/Submitted for Final Approval

**MAYOR** 

CHIEF EXECUTIVE OFFICER

**DELEGATED UNDER S.16 PLANNING** AND DEVELOPMENT ACT 2005

MINISTER FOR PLANNING

DATE.....

Final Approval Granted

It is hereby certified that this is a true copy of the scheme/Amendment, final approval to which was endorsed by the Minister for Planning on 2016/17.

Certified by .....

Officer of the Commission Duty authorised pursuant to Section 24 of the Planning and Development Act 2005 and Regulation 32(3) Scheme and Regulation Document Set D 63(3) (Amendment) of the Planning and Development Version: 1, Version Date: 26/06/2017

# City of Cockburn - Town Planning Scheme No. 3 Scheme Amendment 117

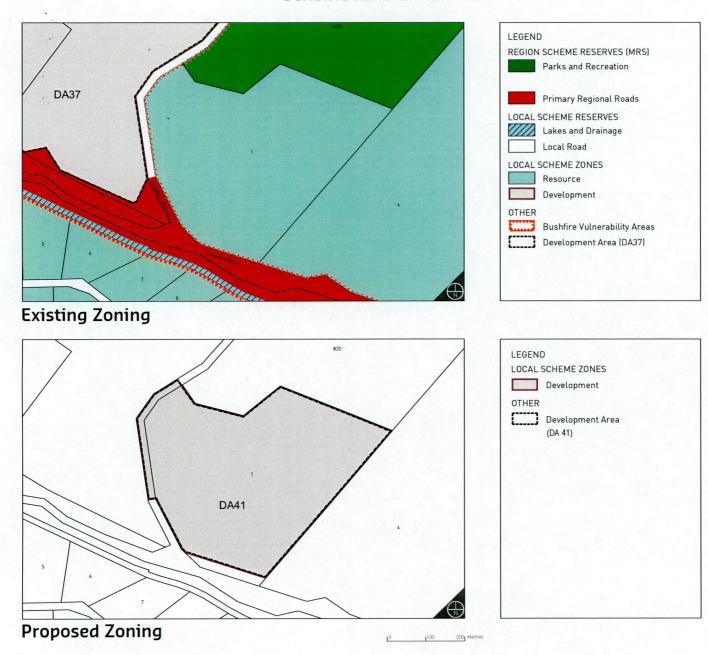


Figure 1 - Site Plan



Lot 1 Ghostgum Avenue

### LEGEND

- Subject Site

Contours

Existing Lot Numbers

**Existing Boundaries** 

#### REVISIONS

| ev | Date       | Drawn       |  |
|----|------------|-------------|--|
|    | 2016.06.17 | M. Sullivan |  |
|    | 2016.12.08 | W. Clements |  |



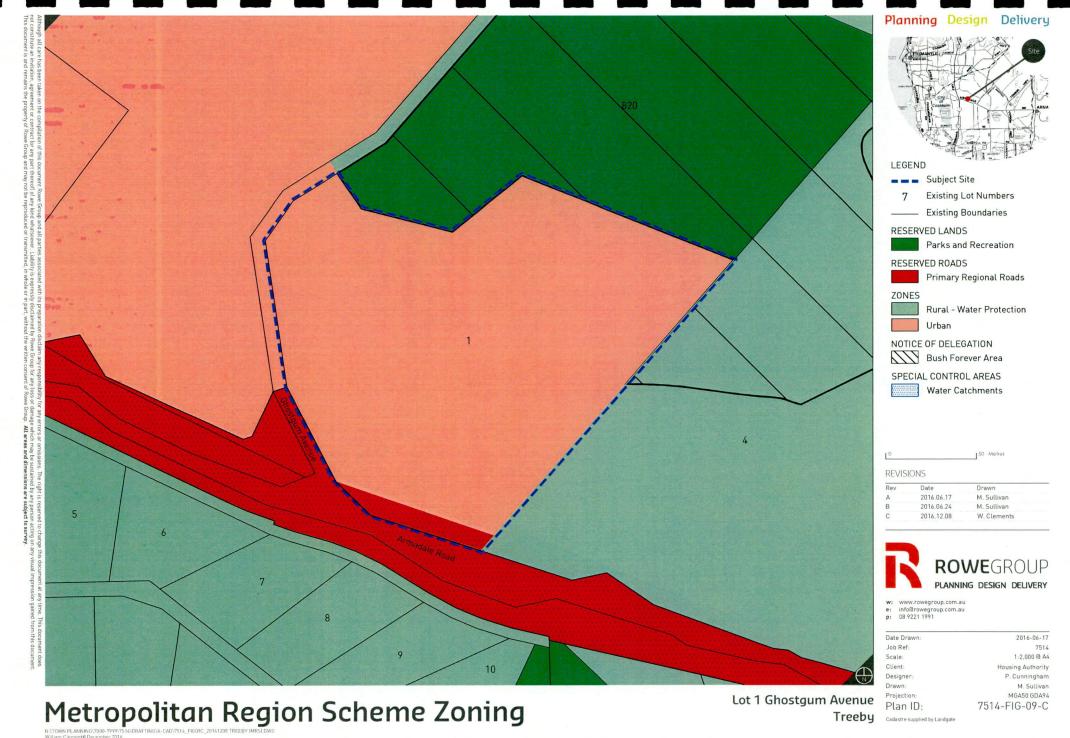
w: www.rowegroup.com.au e: info@rowegroup.com.au p: 08 9221 1991

Date Drawn Job Ref:

2016-06-17 1:2,000 @ A4 Designer M. Sullivan MGA50 GDA94 Plan ID: 7514-FIG-08-B

Treeby Aerial Photography captured and supplied by Nearmap

Figure 2 - Metropolitan Region Scheme Zoning



# Attachment 1: Fire Management Plan (as considered with MRS amendment)



# FirePlan WA

Bill Harris 10 Bracken Rd Thornlie WA 6108

Phone 08 9493 1692 Fax 08 9493 1692 Mobile 0418 941540 Email: firepla@bigpond.net.au ABN 44 116 937 762

18th March 2013

Greg Rowe & Associates Level 3, 369 Newcastle Street NORTHBRIDGE WA 6003 Attention: Kim Kyle

Dear Kim

RE: FMP 1692 - Bush Fire Hazard Assessment - LOT 821 Armadale Road Banjup

I carried out a site inspection of Lot 821 Armadale Road on Monday the 22<sup>nd</sup> February 2013

### 1.0 The Site

The majority of the site was used as a quarry for sand extraction with a fringe of vegetation being retained along the western boundary and a larger area of Banksia Woodland retained to the north of the development site (proposed as Bush Forever).

Fraser Road is along the western boundary of the site which links into Armadale Road to the south and is currently a dead end road to the north of the "Site."

Future urban development is proposed on land to the west of the site by Stockland through the proposed Banjup Quarry LSP currently being considered by Council. We understand Perron Group which retains ownership of the land to the immediate east, is currently making representation to the WAPC for inclusion of the site for urban purposes as part of the Directions 2031 review. This however has yet to be confirmed by the WAPC through the sub-regional structure plan.

The adjoining areas to the west and the east have also be used for sand extraction and are a low hazard with mainly grass and low scrub vegetation.

The slope of the site is flat other than the batters around the sand extraction area.  $O^{\circ}$ -5° has been used to as a factor in determining BAL ratings.

### 2.0 Road System

I

The proposed road system will comply with Acceptable Solution A2.2 and with connection via a neighbourhood connector providing a second access to/from the proposed development (acceptable solution A2.2).

### 3.0 Bush Fire Hazard Assessment

In Planning for Bush Fire Protection Edition 2 2010 Appendix 1, the methodology for classifying bush fire hazard levels is detailed.

The methodology rates bush fire hazard using vegetation type. The methodology is also based on the underlying assumption that land in Western Australia is predominantly undulating. The methodology specifies three bush fire hazard levels, "Low", "Moderate", and "Extreme".

The bush fire hazard for this site is:

Bush Forever - Moderate - Class B Woodland Sand extraction area - Low - Grassland Class D Western strip retained vegetation - Moderate - Class D Scrub

### Adjoining Lots

West - sand extraction - Low
North - woodland (Bush Forever) - moderate
East - sand extraction - low
NE Banksia Woodland - moderate
South - woodland rural zone development- moderate

Due to the Moderate bush fire rating the area is classified as being Bush Fire Prone.



Area west off Fraser Rd



Area east of Fraser Road Retained vegetation







Bush Forever east of Fraser Road

### 4.0 Setback from Vegetation.

A setback of 30 metres from retained vegetation along the northern (Bush Forever) and western boundary will be required to separate the proposed dwellings from the vegetation.

### 4.1 Separation from the Bush Forever.

The 30 metres separation will consist of a road reserve, dual use Pathway/firebreak (along the edge of the Bush Forever) and front setbacks within each Lot. This setback is to be maintained to the Building Protection Zone standard as detailed in Acceptable Solution A 4.3 (*Planning for Bush Fire Protection* Edition 2 2010)

### 4.2 Retained Vegetation along western boundary and proposed Public Open Space.

The proposed Public Open Space along the western boundary of the site and other linear Public Open Space within the site are to be managed to the Building Protection Zone standards as detailed in Acceptable Solution A 4.3 (*Planning for Bush Fire Protection Edition* 2 2010).

#### 5.0 Bushfire Attack Level – BAL

Using Table 2.4.3 of AS 3959 – 2009 (amended November 2011) the BAL level for dwellings adjacent to Bush Forever and Public Open Space site is:

Fire Danger Index - FDI 80

Classified Vegetation Table - Class B Woodland

Distance of proposed dwelling to retained vegetation - 30 metres

Slope - 0° - 5° BAL - **19** 

Construction Standard - AS 3959 – 2009 Sections 3 & 6

or

Fire Danger Index - FDI 80

Classified Vegetation Table - Class B Woodland

Distance of proposed dwelling to retained vegetation - 22 metres

Slope - 0° - 5° BAL - **29** 

Construction Standard - AS 3959 – 2009 Sections 3 & 7

Dwellings that are within 100 metres of vegetation that is classified as moderate or extreme are to be construction to AS 3959. The developer will provide a BAL assessment for Lots affected when a Fire Management Plan for the site is finalised as a condition of subdivision.

### 6.0 Water supplies for Fire Fighting

Reticulated water will be supplied for this site and fire hydrants will be installed and marked by the Developer in accordance with *Water Corporation* 's No 63 Water Reticulation Standard.

Based on the above bush fire hazard assessment setbacks form retained vegetation, management of Public Open Space to Building Protection Zone Standards and BAL determination for dwellings within 100 metres of retained vegetation a Fire Management Plan can be prepared and meet the guidelines detailed in *Planning for Bush Fire Protection* Edition 2 (DFES and WAPC 2010).

Yours faithfully

B.W. Harris AFSM. ACM.

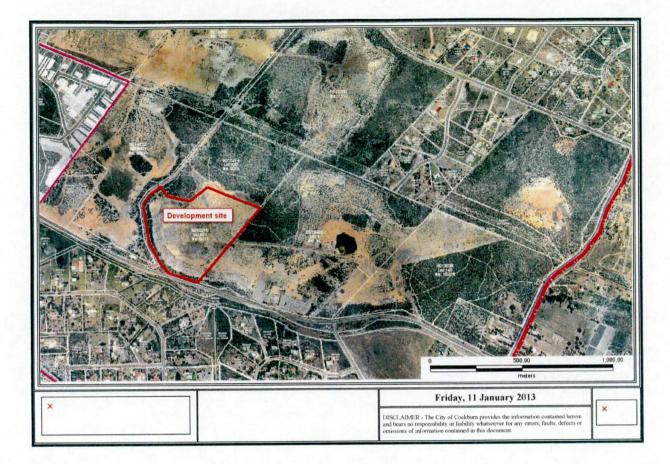
Managing Director FirePlan WA.

Attachments:1 Locality of the Site

2 Concept Plan

Bush Fire Hazard Assessment.

# Attachment 1 Locality Plan



# Attachment 2 Concept Plan.

