



**Development Services Attachments**  
**Wednesday, 21 May 2014**

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# Deed of Indemnification: Lot 841 Chittering Road, Lower Chittering

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Shire of Chittering

Heath Douglas Elkington



**McLEODS**

Barristers & Solicitors

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Ref: FG:CHITT:35400

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## Details

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### Parties

#### Shire of Chittering

of PO Box 70, Bindoon, Western Australia  
(Shire)

#### Heath Douglas Elkington

formerly of 8 Coorong Place, Kallaroo but now of 1884 Chittering Road, Lower Chittering, Western Australia  
(Owner)

### Background

- A The Owner is registered as the proprietor of an estate in fee simple in land being Lot 841 on Deposited Plan 254753 being the whole of the land comprised in Certificate of Title Volume 2611 Folio 90 (**Land**).
- B The Land is located within the flood plain and is affected by flooding.
- C The Owner has applied to the Shire for planning approval to construct a shed and water tank on the Land (**Development**).
- D The Development was approved by the Shire on 13 March 2014 (**Approval**) subject to conditions including the following:
- “5. Prior to submitting a building permit, the landowner shall enter into an agreement with the Shire which shall indemnify the Shire of Chittering of liability of any damage to the shed and water tank as a result of flooding and a caveat to be placed on the property.”
- (Condition 5)
- E The Owner enters into this Deed with the Shire in relation to Condition 5 of the Approval and to satisfy the Shire’s requirements.

### Agreed Terms

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#### 1. Defined terms and interpretation

##### 1.1 Defined terms

In this deed, unless otherwise required by the context or subject matter:

**Deed** means this deed as supplemented, amended or varied from time to time; and

**Dispute** means any dispute, difference of opinion or disagreement between the parties arising out of or in connection with this Deed.

## 1.2 Interpretation

In this Agreement:

- (a) headings have been inserted for guidance only and shall be deemed not to form part of the text;
- (b) where a reference to a party includes more than one person the rights and obligations of those persons shall be joint and several;
- (c) reference to the parties includes their personal representatives, successors and lawful assigns; and
- (d) the Schedule and Annexures (if any) form part of the Agreement.

## 2. Owner's Covenants: Indemnity

The Owner HEREBY COVENANTS AND AGREES TO RELEASE the Shire AND TO FURTHER INDEMNIFY the Shire from or against any liability that might otherwise attach to the Shire by reason of the death or injury to persons or the loss or damage to any building, fixtures, improvements, the Development or property on the Land or any claim, demand or action made or brought against the Shire by any person by reason of any flooding to the Land or any damage, hazard or erosion by water to the Land and/or the Development.

## 3. Restriction on Use of Shed

The Owner COVENANTS AND AGREES with the Shire that the Owner shall not use and shall not permit the use of the shed comprising the Development for habitable purposes or for any other use other than storage purposes.

## 4. Owner's Acknowledgements

The Owner acknowledges and agrees with the Shire that the Land is in close proximity to an existing creek line and is subject to inundation due to the low lying nature of the Land.

## 5. Bar to Claim

The Owner ACKNOWLEDGES AND AGREES with the Shire that this Deed may be pleaded in any Court as a bar to any action, suit, claim, cause of action or proceeding whatsoever commenced or at any time to be commenced by the Owner or any person or body claiming through the Owner or by any person or body whatsoever against the Shire in respect of any damage or loss to persons or property (which shall include the Development) arising out of:

- (a) the use of the Development;
- (b) the construction of the Development with the flood plain; and/or
- (c) any flooding to the Land or any damage, hazard or erosion by water caused to the Land and/or Development.

## 6. Restrictions on disposal

So long as the Development remains in place, the Owner will not sell, transfer, mortgage, lease, charge, assign or otherwise dispose of or encumber the Land or any part or interest therein to any person without the prior written consent of the Shire, which consent shall not be withheld if the person to whom any such right or interest in the Land is to be granted has first executed a Deed of Covenant (or in the case of a mortgagee an undertaking satisfactory to the Shire) to be prepared by the Shire's solicitors at the cost of the Owner whereby that person covenants to observe and perform such of the covenants conditions and stipulations herein contained (including this covenant) as the Shire shall require, as if that person had been a party to this Deed.

## 7. Charge and Caveat

The Owner HEREBY CHARGES the Land in favour of the Shire with the performance of his obligations pursuant to the Deed and with the payment of all moneys owing to the Shire or which may become payable to the Shire pursuant to this Deed and authorises the Shire to lodge an absolute Caveat at the Western Australian Land Information Authority trading as Landgate against the Certificate of Title to the Land or any part thereof for the purpose of securing such obligations.

## 8. Withdrawal of Caveat

Subject to there being no existing or unremedied breach of any condition of this Deed and subject to:

- (a) the Owner complying with **clause 6** of this Deed the Shire will at the request of the Owner and at the Owner's cost provide to the Owner a withdrawal of any caveat lodged by the Shire pursuant to this Deed sufficient to enable the registration of any transfer, mortgage, lease, charge or other encumbrance of the Land provided that the Shire is entitled to relodge its absolute caveat following the registration of any transfer, mortgage, lease, charge or other encumbrance; or
- (b) the Owner having removed the Development to the Shire's satisfaction the Shire will at the request of the Owner and at the Owner's cost provide to the Owner withdrawal of any caveat lodged by the Shire pursuant to this Deed and the provisions of this Deed shall then be of no further force and effect.

## 9. Costs

The Owner shall pay the Shire's reasonable legal costs of and incidental to the preparation (including all preliminary drafts), negotiation, execution and stamping of this Deed and duty payable hereon and the costs of preparing and lodging any Caveat (and any withdrawal or replacement thereof) shall be borne by the Owner.

## 10. Dispute Resolution

- (1) If there is any dispute or difference between the parties hereto as to the interpretation of the terms of this Deed or as to the liability of either party hereunder of the quantum of any amount payable pursuant to this Deed, the dispute or difference shall be referred to the decision of a single arbitrator pursuant to the provisions of the *Commercial Arbitration Act 1985* and the parties may be represented by legal practitioners in such proceedings.



- (2) If the parties fail to agree upon an arbitrator he or she shall be appointed by the President for the time being of the Law Society of Western Australia whose nomination shall be final.

## 11. Variation

A variation to this Agreement must be in writing and signed by the parties.

## 12. Further assurances

Each party must execute and deliver all such documents, instruments and writings and must do and must procure to be done all such acts and things as may be necessary or desirable to implement and give full effect to the provisions and purpose of this Agreement.

## 13. Severance

If any part of this Agreement is, or becomes, void or unenforceable that part is or will be, severed from this Agreement to the intent that all parts that are not, or do not become, void or unenforceable remain in full force and effect and are unaffected by that severance.

## 14. Waiver

The parties mutually covenant and agree that:

- (a) no right under this Agreement is waived or deemed to be waived except by notice in writing signed by the party waiving the right;
- (b) a waiver by one party under **clause 14(a)** of this Agreement does not prejudice its rights in respect of any subsequent breach of this Agreement by the other party; and
- (c) a party does not waive its rights under this Agreement because it grants an extension or forbearance to the other party.

## 15. Applicable law

This Agreement shall be governed by the laws of the State of Western Australia, and where applicable the Commonwealth of Australia.

# Signing page

EXECUTED

2014.

The Common Seal of the Shire of Chittering was hereunto affixed in the presence of -

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

\_\_\_\_\_  
(Print full name)

\_\_\_\_\_  
Chief Executive Officer

\_\_\_\_\_  
(Print full name)

EXECUTED by HEATH DOUGLAS ELKINGTON in the presence of

  
\_\_\_\_\_

Signature of Heath Douglas Elkington

\_\_\_\_\_  
Witness Sign

\_\_\_\_\_  
Full Name of Witness

\_\_\_\_\_  
Address

\_\_\_\_\_  
Occupation

*M. Scott*

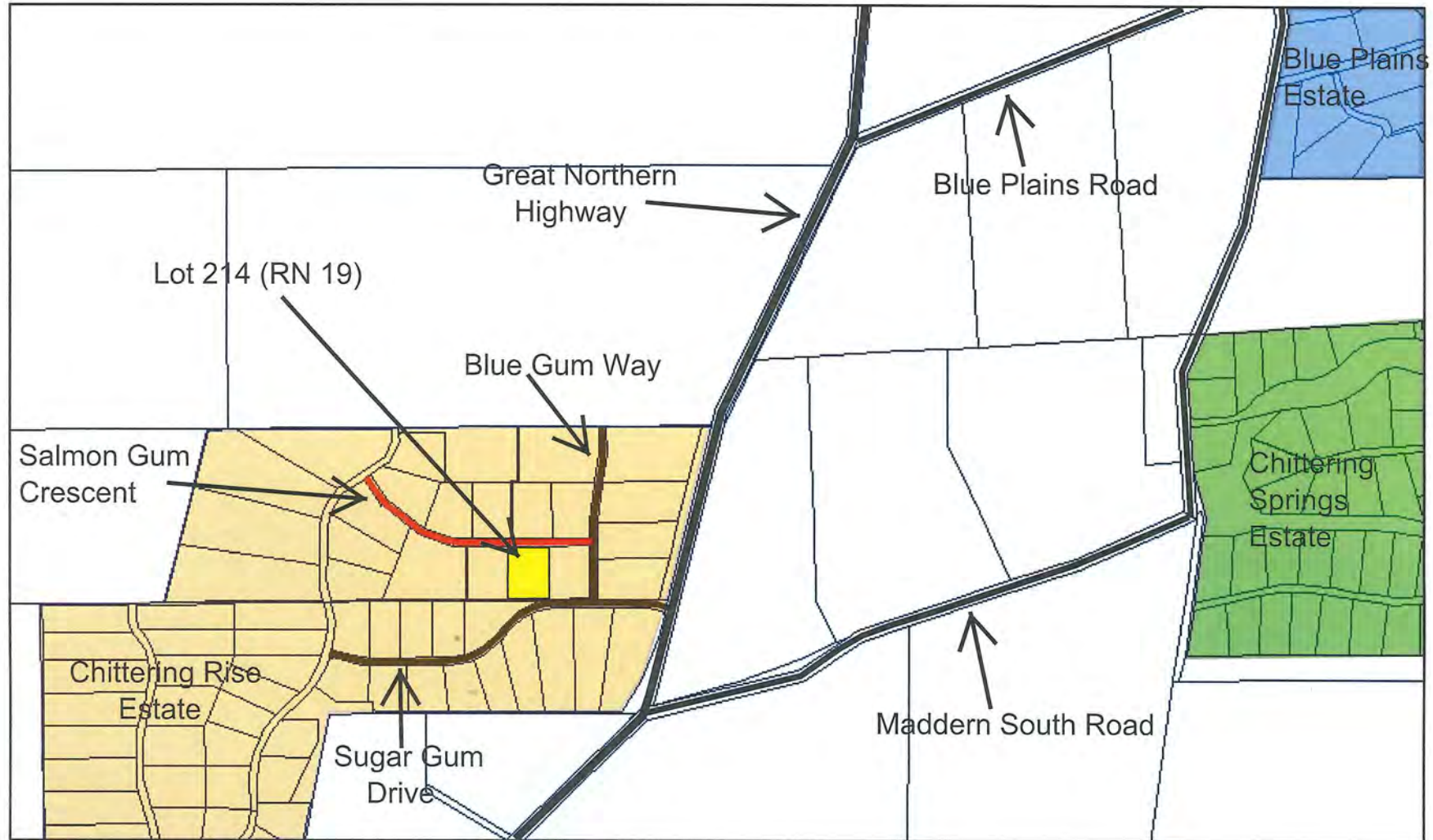
*Michael GLEN Scott*

*5 Coorong PLACE KALLAROO*

*Process Operator*

35400-14.04.07-FG-Deed - amended

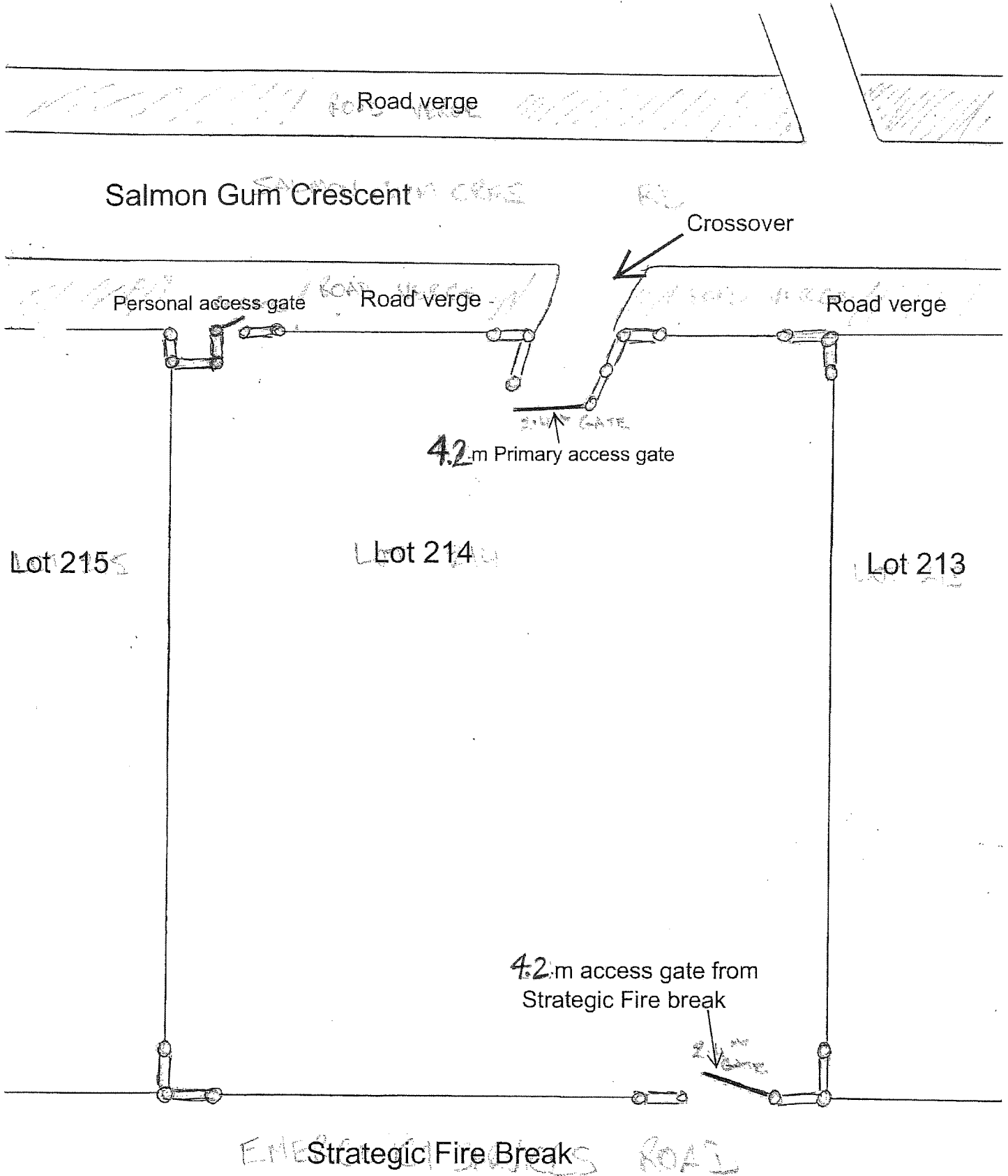
# Attachment 1 Locality Plan - Lot 214 (RN 19) Salmon Gum Crescent, Chittering



The subject property is highlighted yellow. Salmon Gum Crescent is highlighted red.

# Attachment 2 Site Plan

NOT TO SCALE



ADJOINING LOTS 213 \* 215

FENCE TYPE - 10-110-15

1.8<sup>MT</sup> STEEL POSTS CAPPED AT 5<sup>MT</sup>  $\downarrow$

1 TOP PLAIN WIRE TO RETAIN CAPS

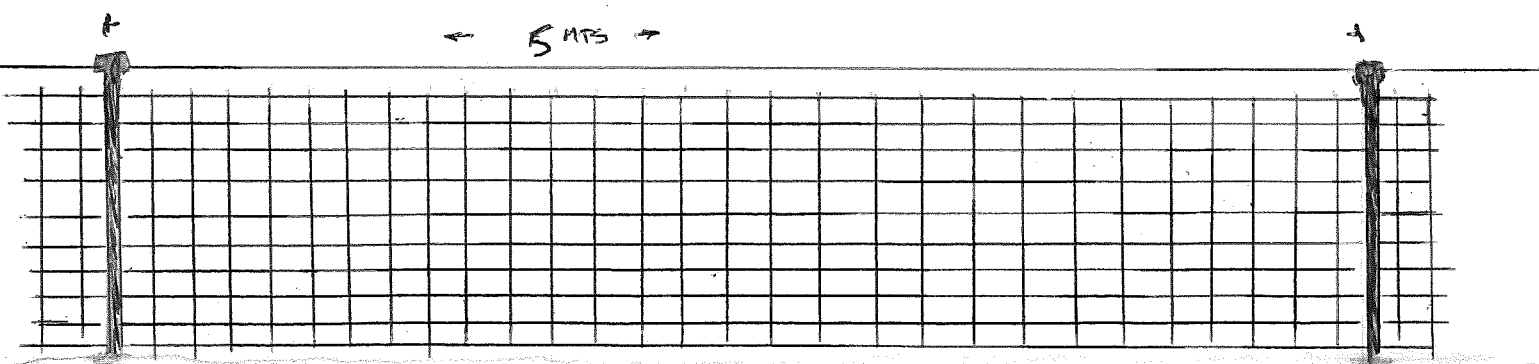
150-175<sup>MM</sup> W x 2.1<sup>MT</sup> L PINE STRAINER POSTS  
ON CORNERS WITH 125-150<sup>MM</sup> W x 2.1<sup>MT</sup> L CROSS RAILS

4.2<sup>MT</sup> SWING GATE AT BACK BOUNDARY FENCE L/HAND  
SIDE (S/EAST CORNER).

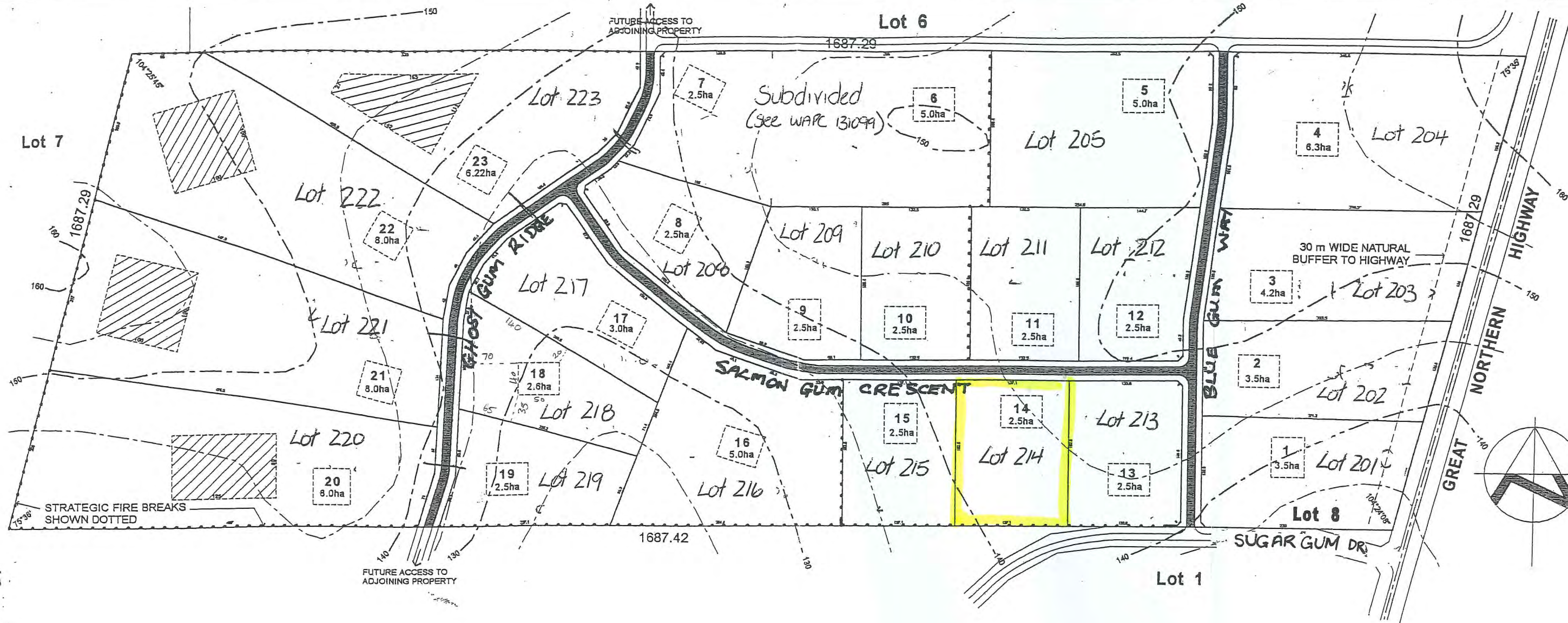
POST \* RAIL ENTERANCE WITH 4.2<sup>MT</sup> GATE OFF  
SALMON GUM CRES. (MAIN ENTERANCE TO PROPERTY)

A PA GATE IN THE FRONT FENCE AT  
R/HAND CORNER (N/WEST CORNER).

THE EMERGENCY SERVICE ROAD IS  
OUTSIDE OF THE BACK BOUNDARY FENCE



NOT TO SCALE



**DEVELOPMENT PROVISIONS**

- (1) **LOT SIZES:**  
In amending development and subdivision, the Scheme requirements for the Rural Living Zone - (Categories 2, 3 and 4) shall apply, and generally to be in accordance with the Development Plan.
- (2) **TREE PRESERVATION:**  
No clearing shall be permitted within the designated building envelopes as depicted on the Development Plan, unless those trees are dead, diseased or present a danger to property.
- (3) **DESACK MANAGEMENT:**  
In preparing the Development Plan, the proponent shall address the issue of "Desack" in consultation with Council and CALM.
- (4) **BUILDING ENVELOPES:**  
Building envelopes are defined on the Development Plan and are not to exceed 2000m<sup>2</sup> without prior approval of the Council and at the advice of the Bush Fire Services WA.
- (5) **CROSSOVERS:**  
Council may require, as a condition of subdivision, the construction of crossovers to each Lot in accordance with Council's specifications.
- (6) **LAND MANAGEMENT:**  
Any remedial or new works depicted in the Development Plan for the purposes of water treatment and management shall be implemented prior to Subdivision.  
The maintenance of any existing and associated tree planting shall be the responsibility of the Owner/Developer.
- (7) **DAMS AND WATER COURSES:**  
The construction of dams and the extraction of ground water is not permitted without the approval of the Council, Water and Rivers Commission and Agriculture WA.
- (8) **FIRE CONTROL:**  
Strategic Fire Breaks as shown on the Development Plan shall be constructed by the Developer and maintained to the satisfaction of the Council and the Bush Fire Services WA.  
A Bush Fire Management plan shall be prepared by the Developer/submitter to the satisfaction of the Bush Fire Services WA and the Council.
- (9) **EFFLUENT DISPOSAL:**  
The use of conventional Septic Tanks shall not be permitted. Only on site, high performance Horizontal Alternating Disposal Systems shall be allowed, and shall be installed to the satisfaction of, and in accordance with Council and Health Department requirements relating to separation from ground waters and water courses etc.
- (10) **PERMITTED USES:**  
The following uses are permitted by Council:  
Single Dwelling  
Rural Use  
Public Utility  
Not more than one single dwelling per Lot shall be permitted.  
The following uses may be permitted by Council subject to Planning Consent:  
Home Occupation  
Rural Pasture  
Manufacture (other than food processing)  
Only one structure of land may be allowed for this purpose and subject to consent of Council, Agriculture WA, and the Department of Environmental Protection.
- (11) **DRAINAGE EASEMENTS:**  
Where an easement for land drainage crosses any lot, the Developer/submitter shall maintain that drainage in accordance with the requirements of the Council.
- (12) **STOCKING RESTRICTIONS:**  
The keeping of stock on any grazing block shall not be permitted.
- (13) **ROOFING MATERIALS:**  
All buildings shall be constructed with roofs of a non-reflecting material.
- (14) **VEHICLE RESPONSIBILITY:**  
The Developer/submitter shall inform prospective purchasers of the Lot, in writing, of the provisions of Council's Town Planning Scheme relating to the use and management of land.

**LEGEND**

- ..... Strategic Fire Break
- Building Envelope - 2000m<sup>2</sup>
- ▨ Cleared Envelope for Horticulture - 1ha maximum
- 25m Road Reserves & Bitumen Road

**LOT 8 : 98.59 ha**  
**AREA MINUS ROADS = 93.23 ha**  
**AVERAGE LOT SIZE - 4.05 ha**

**Lot 8 Great Northern Highway Shire of Chittering**



Date	Revision
2/9/00	REVISION 1- LOT SIZES INCREASED TO 2.5ha
22/12/00	REVISION 2- REDUCED No to 23 LOTS - AVERAGE AREA - 4 ha

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 All dimensions are to be checked and verified on site prior to commencing works or ordering materials.  
 DO NOT SCALE drawings. Use only dimensions shown or calculated.  
 All work whether specifically shown or not shall be carried out in accordance with all relevant By-Laws, codes and regulations.

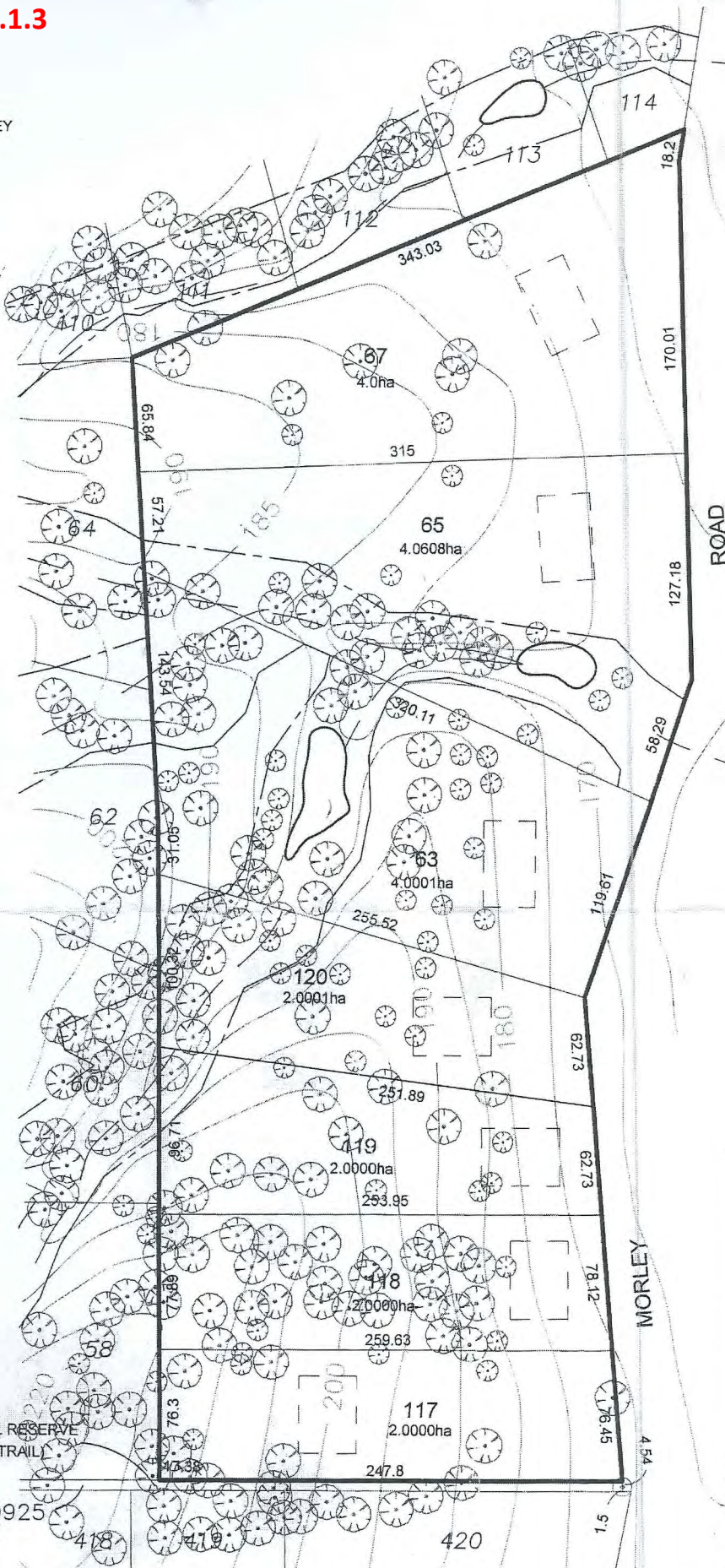
Drawing Title  
**DEVELOPMENT PLAN**  
 Date: SEPTEMBER 2000  
 Scale: 1:2500  
 Drawn: JCP  
 Orig. No.: A1-2R

Job Title  
**PROPOSED Residential Rural Living Subdivision for : Swanwest Pty Ltd.**  
 Job No.: 20-12-1-2R

**JULIAN C. PRICE**  
 Dip. Arch. Dftg.  
 16 RANMORE WAY  
 MORLEY WA 6002  
 TEL/FAX (08) 9446 6636  
 Page 13



SUBJECT TO SURVEY



DEPARTMENT OF PLANNING  
 DATE FILE  
 - 3 APR 2011 14 9 8 07

6m WIDE LOCAL RESERVE  
 (BRIDLE TRAIL)

LEGEND

- DRAINAGE EASEMENT
- EXISTING DRAINAGE EASEMENT TO SHIRE OF CHITTERING
- WATER COURSE
- GATE
- BUILDING ENVELOPES

NOTES:

- ORIGINAL AREA OF LOT 9000/20.0701ha
- LAND IS VACANT

DRAFTED BY

**STATEWEST SURVEYS**

LICENSED SURVEYORS  
 DIRECTORS: RON ROGERS & PAUL INCERTI  
 P.O. Box 1377, Midland W.A. 6936 - 69 Great Northern Highway, Midland W.A. 6056  
 Telephone: (08)9274 3198  
 Email: statewest@statewest.net  
 Website: http://www.statewest.net

PROPOSED SUBDIVISION  
 LOT 9000 MORLEY ROAD  
 LOWER CHITTERING

SCALE	DATE	DRAWN	CHECKED	REF.	SHEET
1:2500 @A3	19-06-13	F.T.		14626	

**DEVELOPMENT PROVISIONS**

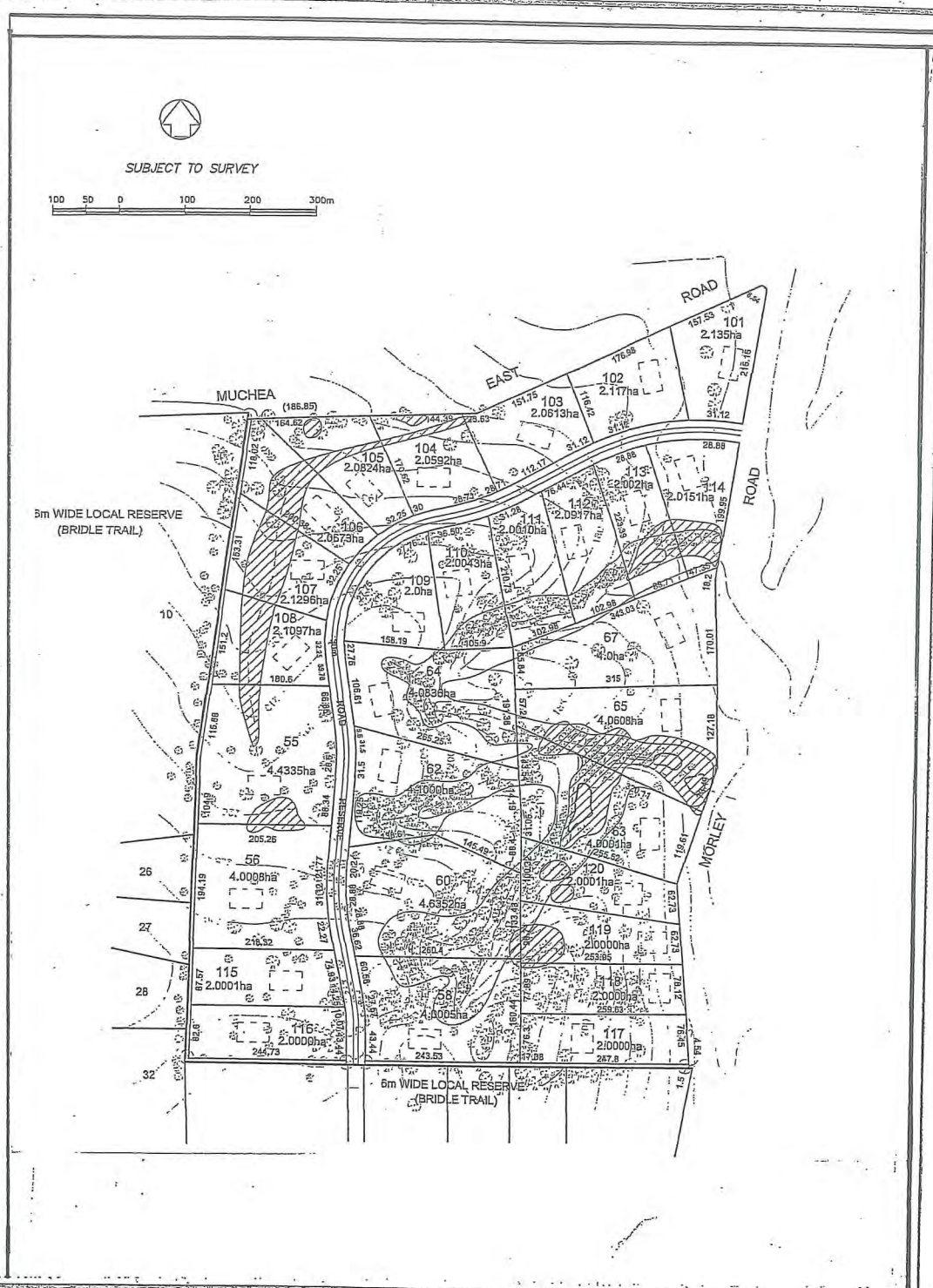
1. **Development Plan:** This Development Plan has been endorsed by the Shire Council and the Western Australian Planning Commission. Subdivision and development should generally be in accordance with this Plan.
2. **Vegetation Protection Areas:** Vegetation Protection Areas are defined on the Development Plan as all naturally vegetated areas. No clearing shall be permitted in the areas identified for vegetation protection. Council may require a landowner, as a condition of building approval, to commence tree planting to its specification and to maintain those trees for a period of not less than two summer seasons.
  - a) Refer to management condition 4 for fencing in Vegetation Protection Areas.
  - b) Refer to the report prepared by Bayley Environmental Services (Report No. J09005, 1 July 2009) for vegetation management and rehabilitation.
3. **Building Envelopes:** Buildings, water tanks, waste disposal and a building protection zone for fire management are to be contained within a cleared area not to exceed a maximum of 2000m<sup>2</sup> without the prior approval of Council; prior to confirming a building clearing area a vegetation survey is to be undertaken to ensure no rare or endangered flora is present; buildings are to have setbacks in accordance with local Planning Policy No. 18 Setbacks, with minimum setbacks from cadastral boundaries as follows:
 

Road	20 metres	Rear	20 metres	Sides	15 metres
------	-----------	------	-----------	-------	-----------
- Clearing outside building envelopes should only occur if the trees are dead, diseased or present a danger to property.
4. **Fencing:** In accordance with Local Planning Policy No. 22 Fences, within a lot the construction of a fence around the building envelope, any previously cleared area and adjoining an authorised fire breaks is permitted. Elsewhere, no boundary fences are permitted in Vegetation Protection areas identified on the Development Plan, without planning consent of the Council. Where a fence crosses a strategic fire break a gate of approved design is to be provided.
5. **Crossovers:** The construction of a crossover to each lot is to be in accordance with Council's specifications.
6. **Potable Water:** Each dwelling is to have a water supply from roof catchment of a minimum 120,000 litres, of which 10,000 litres is to be kept in reserve for fire fighting purposes and fitted with a standard Camlock valve. The size of the collection area is to be based on the following calculations:
 

Collection area (m<sup>2</sup>) = 120000 ÷ 0.85 x (local rainfall - 24mm)

  - (a) The collection area (m<sup>2</sup>) is the minimum area for rain surface runoff that is required to service the water tank.
  - (b) 120000 is the minimum size of the water tank in litres (unless Council has determined an alternative size in accordance with the scheme)
  - (c) 0.85 is the efficiency of the collection meaning a minimum of 85% of the water will be collected (Council may accept a greater efficiency rate if it can be demonstrated through design).
  - (d) Local rainfall is the average annual mean rainfall measured in millimetres (mm) guided by the nearest collection point provided by the Bureau of Meteorology.
  - (e) 24mm is the anticipated loss through absorption and wetting of materials based on 2mm a month.

According to the above formula and the Bureau of Meteorology's mean annual rainfall of 690.1mm for the district, the required roof catchment area is to be a minimum of 212 m<sup>2</sup>.
7. **Land Management:** The maintenance of any drainage swales, easements, fire breaks and Vegetation Protection and Re-vegetation areas on private property is the responsibility of the owner/occupier.
8. **Bores, Dams and Water Courses:** The sinking of bores, construction of dams and extraction of surface water is not permitted without the approval of the Council and relevant State Government department.
9. **Local Reserves - Public Purpose (Fire Break/Bridle Trail):** Strategic Fire Breaks/Bridle Trail as shown on the Development Plan have been constructed by the developer and are to be maintained in accordance with the Fire Management Plan for the estate; individual fire breaks on private property are to be maintained by the owner/occupier to the satisfaction of the Council and the Bush Fires Board.
10. **Permitted Uses:** A single house and associated outbuildings are the only permitted uses. Other uses specified in the town planning scheme may be approved at the discretion of the Council. Approval is required for a home business but not for a home-office. For any use that may result in the degradation of land or water resources or nuisance to neighbours, a management plan may be required as a condition of development approval.
11. **Stocking Restriction:** Grazing animals are permitted to be kept on the cleared land of any lot, in accordance with Local Planning Policy No. 24 Stocking Rates. Should any property become degraded through overgrazing the Council may service notices on the owner/occupier to reduce the number of animals on site or take other remedial action.
12. **Cats** are to be caged or confined indoors.
13. **Poultry:** The keeping of poultry is not permitted.
14. **Non-reflective materials:** All buildings shall be constructed with roofs of non-reflective materials.
15. **Waste Disposal:** Lots 55, 58, 60-65, 67 & 105-114 are required to have alternative effluent treatment disposal units (ATUs) unless the landowners are able to demonstrate to the satisfaction of the Department of Health and the Shire that the soils are suitable for conventional septic tank systems and leach drains, in terms of protecting the nearby creek lines.
16. **Vendor Responsibility:** The developer/vendor shall inform prospective purchasers of the lots, in writing, of the provisions of the Council's Town Planning Scheme relating to the management and guidelines proposed for the protection and maintenance of revegetation areas, swales and detention basins as set out by Bayley Environmental Services (Report No. J09005, 1 July 2009).
17. **Buffer Zone:** As depicted on the Development Plan, a buffer zone, excluding all development, is to be established around the existing vegetation, along the entire Marbling Brook Tributary and other depicted waterways.
18. **Public Open Space:** The Shire and Western Australian Planning Commission agree to accept a cash-in-lieu arrangement for public open space accounting to 10% of the gross subdividable area of the Development Plan. This is to be issued as a condition of subdivision on the first application pertaining to land within the Development Plan.



**ADOPTION**

Adopted by resolution of the Council of the SHIRE OF CHITTERING at the Ordinary Meeting of the Council held on the 15<sup>th</sup> day of May 2013 and the Seal of the Municipality was pursuant to that resolution hereto affixed in the presence of:

*[Signature]*  
PRESIDENT

*[Signature]*  
CHIEF EXECUTIVE OFFICER

16 April 2013  
DATE



**ENDORSEMENT OF MODIFIED DEVELOPMENT PLAN FOR LOT 2(139) MORLEY ROAD, LOWER CHITTERING**

The Western Australian Planning Commission resolved on 13 April 2012 to endorse the modified Development Plan as a guide for future subdivision within the locality.

Signed for and on behalf of the Western Australian Planning Commission

an officer of the Commission duly authorised by the Commission pursuant to section 24 of the Planning of Development Act 2005 for that purpose in the presence of

\_\_\_\_\_  
Witness  
\_\_\_\_\_  
Date

**BRIAN HUNT PTY LTD**

26 Bassendean Road, Bayswater WA 6053  
PO Box 443, Bayswater WA 6933  
T: 61 8 6267 2400; F: 61 8 9370 2088

*Modified by Statewest Planning*

DECEMBER 2012

Cadastral and Contour data and linage supplied by Department of Land Information

**NOTE**

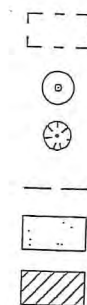
- \* ORIGINAL AREA OF LOT 2 - 85.0649ha
- \* LAND IS VACANT



Shire Of Chittering

**LEGEND**

- BUILDING ENVELOPES TO CONTAIN MAXIMUM CLEARING AREA OF 2000m<sup>2</sup>
- REQUIRED 4.8 METRE GATE IF AJOINING PROPERTY S FENCED
- EXISTING TREES
- CREEKLINE
- 30m EASEMENT EACH SIDE OF WATERCOURSE
- REVEGETATION AREAS. Ref. Bayley Environmental Report



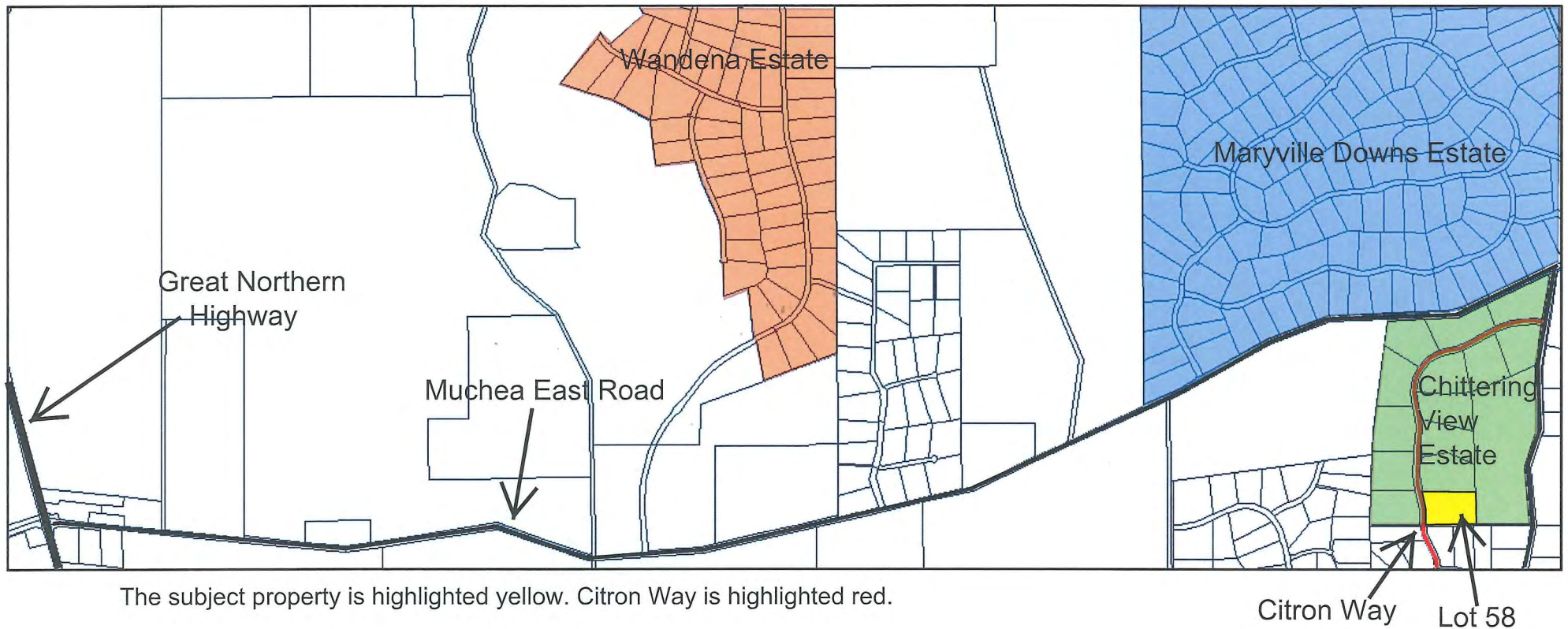
**DEVELOPMENT PLAN**

LOT 2 (139) MORLEY ROAD, LOWER CHITTERING

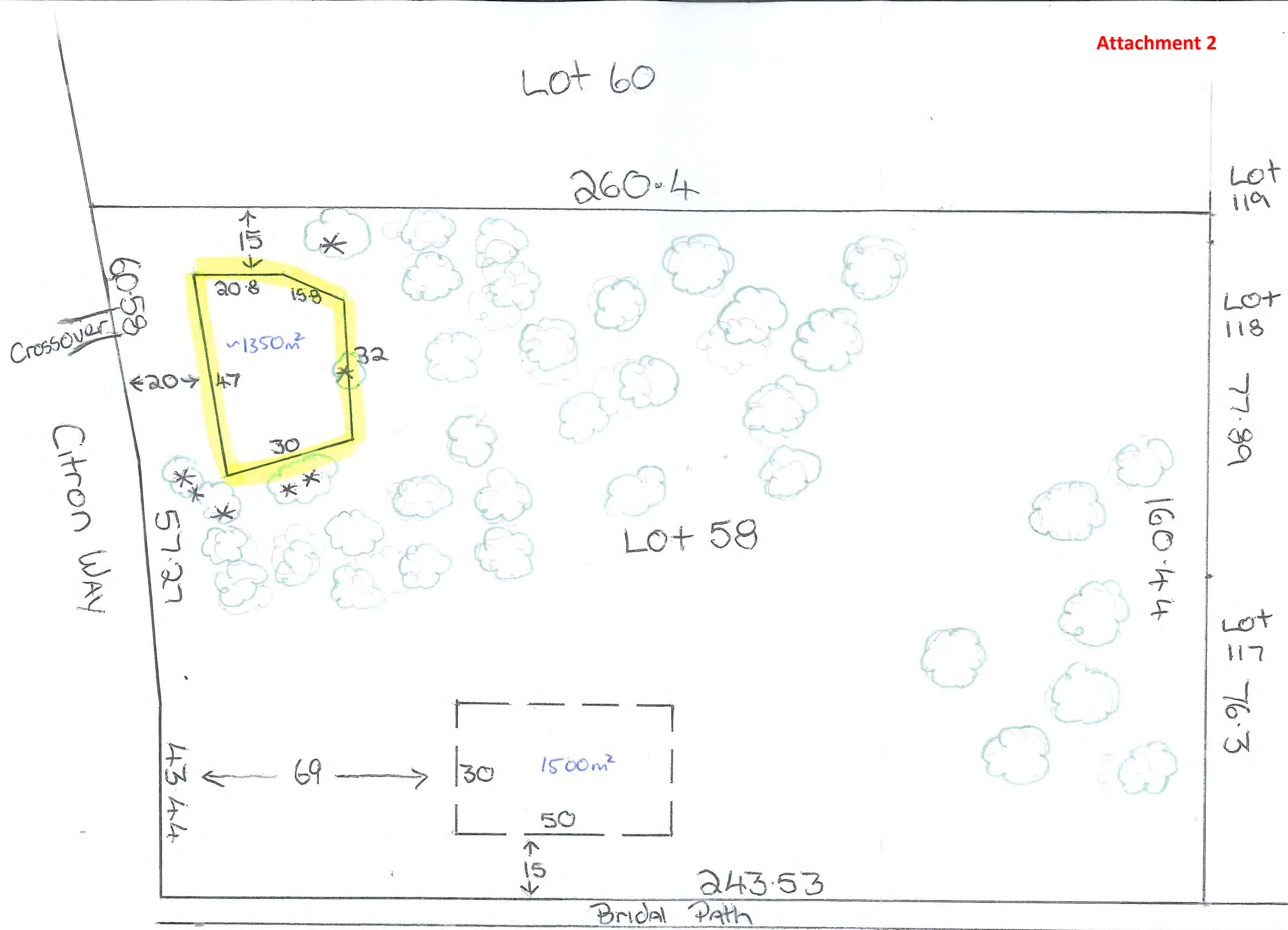
SHIRE OF CHITTERING



# Attachment 1 Locality Plan Lot 58 Citron Way, Lower Chittering

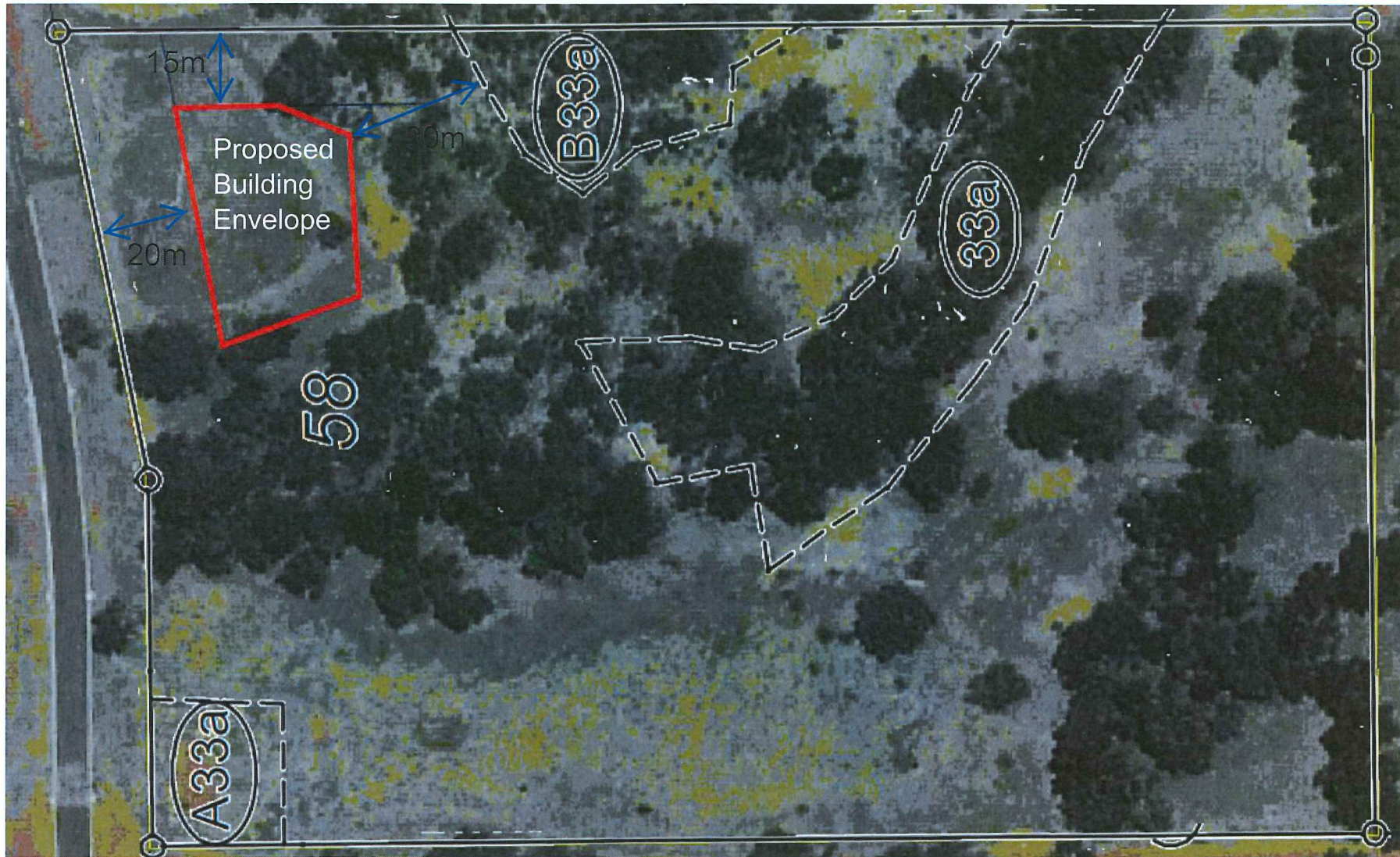


N  
 Scale 1:100  
 \* Tree  
 □ Proposed envelope  
 [ ] Existing envelope



Attachment 2 Site Plan - Proposed Building Envelope Relocation  
 Lot 58 Citron Way

Attachment 3 Aerial Photograph  
Lot 58 Citron Way, Lower Chittering



The B33a areas represent the formal drainage easements present at the property as per the deposited plan associated with the Certificate of Title.

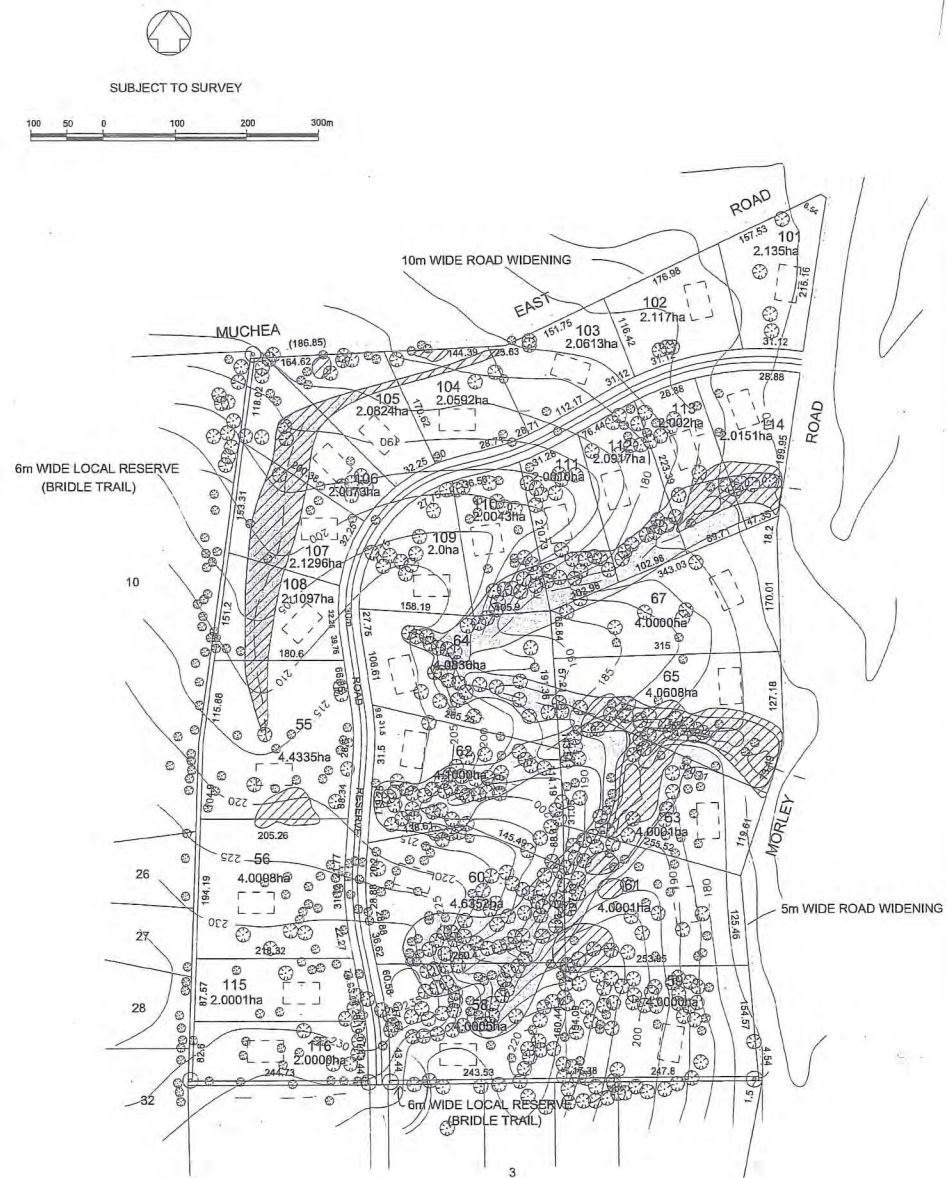
DEVELOPMENT PROVISIONS

1. **Development Plan:** This Development Plan has been endorsed by the Shire Council and the Western Australian Planning Commission. Subdivision and development should generally be in accordance with this Plan.
2. **Vegetation Protection Areas:** Vegetation Protection Areas are defined on the Development Plan as all naturally vegetated areas. No clearing shall be permitted in the areas identified for vegetation protection. Council may require a landowner, as a condition of building approval, to commence tree planting to its specification and to maintain those trees for a period of not less than two summer seasons.
  - a) Refer to management condition 4 for fencing in Vegetation Protection Areas.
  - b) Refer to the report prepared by Bayley Environmental Services (Report No. J09005, 1 July 2009) for vegetation management and rehabilitation.
3. **Building Envelopes:** Buildings, water tanks, waste disposal and a building protection zone for fire management are to be contained within a cleared area not to exceed a maximum of 2000m<sup>2</sup> without the prior approval of Council; prior to confirming a building clearing area a vegetation survey is to be undertaken to ensure no rare or endangered flora is present; buildings are to have setbacks in accordance with local Planning Policy No. 18 Setbacks, with minimum setbacks from cadastral boundaries as follows:
 

Road	20 metres	Rear	20 metres	Sides	15 metres
------	-----------	------	-----------	-------	-----------

Clearing outside building envelopes should only occur if the trees are dead, diseased or present a danger to property.
4. **Fencing:** In accordance with Local Planning Policy No. 22 Fences, within a lot the construction of a fence around the building envelope, any previously cleared area and adjoining an authorised fire breaks is permitted. Elsewhere, no boundary fences are permitted in Vegetation Protection areas identified on the Development Plan, without planning consent of the Council. Where a fence crosses a strategic fire break a gate of approved design is to be provided.
5. **Crossovers:** The construction of a crossover to each lot is to be in accordance with Council's specifications.
6. **Potable Water:** Each dwelling is to have a water supply from roof catchment of a minimum 120,000 litres, of which 10,000 litres is to be kept in reserve for fire fighting purposes and fitted with a standard Camlock valve. The size of the collection area is to be based on the following calculations:
 
$$\text{Collection area (m}^2\text{)} = 120000 + 0.85 \times (\text{local rainfall} - 24\text{mm})$$
  - (a) The collection area (m<sup>2</sup>) is the minimum area for rain surface runoff that is required to service the water tank.
  - (b) 120000 is the minimum size of the water tank in litres (unless Council has determined an alternative size in accordance with the scheme)
  - (c) 0.85 is the efficiency of the collection meaning a minimum of 85% of the water will be collected (Council may accept a greater efficiency rate if it can be demonstrated through design).
  - (d) Local rainfall is the average annual mean rainfall measured in millimetres (mm) guided by the nearest collection point provided by the Bureau of Meteorology.
  - (e) 24mm is the anticipated loss through absorption and wetting of materials based on 2mm a month.

According to the above formula and the Bureau of Meteorology's mean annual rainfall of 690.1mm for the district, the required roof catchment area is to be a minimum of 212 m<sup>2</sup>.
7. **Land Management:** The maintenance of any drainage swales, easements, fire breaks and Vegetation Protection and Re-vegetation areas on private property is the responsibility of the owner/occupier.
8. **Bores, Dams and Water Courses:** The sinking of bores, construction of dams and extraction of surface water is not permitted without the approval of the Council and relevant State Government department.
9. **Local Reserves - Public Purpose (Fire Break/Bridle Trail):** Strategic Fire Breaks/Bridle Trail as shown on the Development Plan have been constructed by the developer and are to be maintained in accordance with the Fire Management Plan for the estate; individual fire breaks on private property are to be maintained by the owner/occupier to the satisfaction of the Council and the Bush Fires Board.
10. **Permitted Uses:** A single house and associated outbuildings are the only permitted uses. Other uses specified in the town planning scheme may be approved at the discretion of the Council. Approval is required for a home business but not for a home office. For any use that may result in the degradation of land or water resources or nuisance to neighbours, a management plan may be required as a condition of development approval.
11. **Stocking Restriction:** Grazing animals are permitted to be kept on the cleared land of any lot, in accordance with Local Planning Policy No. 24 Stocking Rates. Should any property become degraded through overgrazing the Council may service notice on the owner/occupier to reduce the number of animals on site or take other remedial action.
12. **Cats** are to be caged or confined indoors.
13. **Poultry:** The keeping of poultry is not permitted.
14. **Non-reflective materials:** All buildings shall be constructed with roofs of non-reflective materials.
15. **Waste Disposal:** Lots 55, 58, 60-65, 67 & 105-114 are required to have alternative effluent treatment disposal units (ATU's) unless the landowners are able to demonstrate to the satisfaction of the Department of Health and the Shire that the soils are suitable for conventional septic tank systems and leach drains, in terms of protecting the nearby creek lines.
16. **Vendor Responsibility:** The developer/vendor shall inform prospective purchasers of the lots, in writing, of the provisions of the Council's Town Planning Scheme relating to the management and guidelines proposed for the protection and maintenance of revegetation areas, swales and detention basins as set out by Bayley Environmental Services (Report No. J09005, 1 July 2009).
17. **Buffer Zone:** As depicted on the Development Plan, a buffer zone, excluding all development, is to be established around the existing vegetation, along the entire Marbling Brook Tributary and other depicted waterways.
18. **Public Open Space:** The Shire and Western Australian Planning Commission agree to accept a cash-in-lieu arrangement for public open space accounting to 10% of the gross subdividable area of the Development Plan. This is to be issued as a condition of subdivision on the first application pertaining to land within the Development Plan.



ADOPTION

Adopted by resolution of the Council of the SHIRE OF CHITTERING at the Ordinary Meeting of the Council held on the 20 day of MARCH 2013 and the Seal of the Municipality was pursuant to that resolution hereto affixed in the presence of:

*[Signature]*  
PRESIDENT

*[Signature]*  
CHIEF EXECUTIVE OFFICER

22/03/2013  
DATE



ENDORSEMENT OF MODIFIED DEVELOPMENT PLAN FOR LOT 2 (139) MORLEY ROAD, LOWER CHITTERING

The Western Australian Planning Commission resolved on 14 June 2013 to endorse the modified Development Plan as a guide for future subdivision within the locality.

Signed for and on behalf of the Western Australian Planning Commission

*[Signature]*

an officer of the Commission duly authorised by the Commission pursuant to section 24 of the Planning of Development Act 2005 for that purpose in the presence of

*[Signature]* Witness  
17 June 2013 Date

**BRIAN HUNT PTY LTD**

26 Bassendean Road, Bayswater WA 6053  
PO Box 443, Bayswater WA 6933  
T: 61 8 6267 2400; F: 61 8 9370 2088

Modified by Statewest Planning

DECEMBER 2012

Cadastral and Contour data and image supplied by Department of Land Information

NOTE

- \* ORIGINAL AREA OF LOT 2 - 85.0649ha
- \* LAND IS VACANT



Shire Of Chittering

LEGEND

- BUILDING ENVELOPES TO CONTAIN MAXIMUM CLEARING AREA OF 2000m<sup>2</sup>
- REQUIRED 4.8 METRE GATE IF AJOINING PROPERTY S FENCED
- EXISTING TREES
- CREEKLINE
- 30m EASEMENT EACH SIDE OF WATERCOURSE
- REVEGETATION AREAS. Ref. Bayley Environmental Report



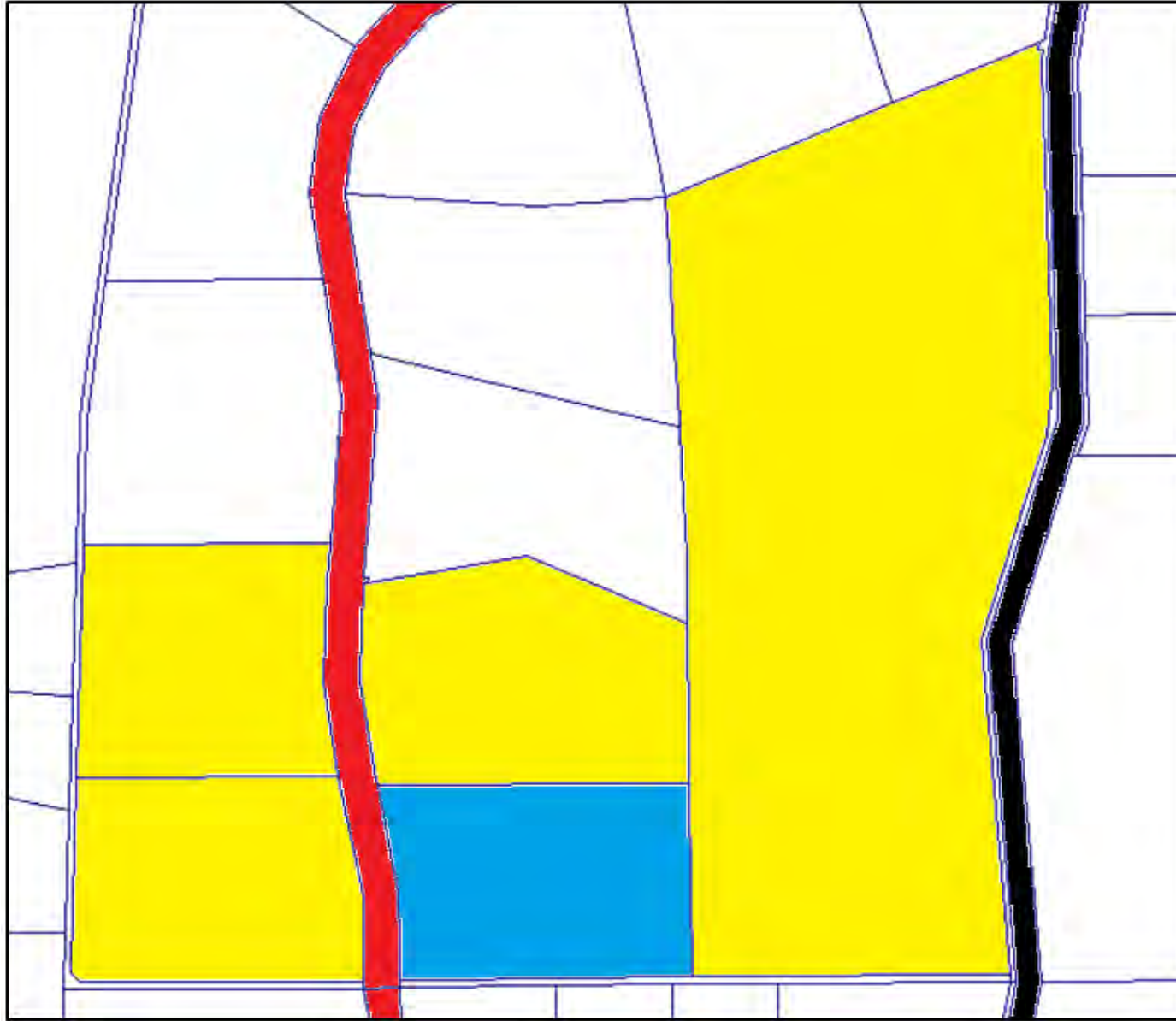
**DEVELOPMENT PLAN**

LOT 2 (139) MORLEY ROAD, LOWER CHITTERING

SHIRE OF CHITTERING

DEPARTMENT OF PLANNING  
15 APR 2013  
FILE SPN/0118

# Attachment 5 Consultation Plan



The subject property is highlighted blue. The properties referred the application are highlighted yellow. Citron Way is highlighted red.



Schedule of Submissions

	<p>3. Further to these issues, the developer was required to submit for approval a Development Fire Management Plan, which was approved by you and the local Bushfire Control Officer on the 28 January 2011. Within this plan is a Bushfire Hazard Assessment that highlights the fire risk within those areas bordering the Section 33c Drainage Easement and Vegetation Protected Area as Extreme, thereby requiring a higher level of assessment when making consideration for the establishment of building envelopes and permits.</p> <p>4. In our case, the Shire required us</p> <ul style="list-style-type: none"> <li>• To maintain a minimum 20 metre exclusion zone between the Vegetation Protected Area and the Building Envelope for the purposes of maintaining an appropriate Building &amp; Hazard Separation Zone as per the Local Fire Management</li> </ul>		<p>3. Noted. The applicant is required to establish a Building Protection Zone in accordance with the Shire’s Fire Notice to mitigate bushfire risk. All remnant vegetation is outlined as Vegetation Protection Areas by the subject Development Plan. The proposed building envelope has the potential to result in the clearing of remnant vegetation for the purpose of establishing a building protection zone. Therefore, it is recommended that the application be approved subject to the requirement that all structures are setback a minimum of 20m from remnant vegetation to prevent the clearing of Vegetation Protection Areas in accordance with the Development Plan.</p> <p>4. Noted. See A3. The recommendation is considered to provide sufficient area for a designated fire break that will not result in clearing should the 20m separation of all structures be maintained from Vegetation Protection Areas.</p>
--	--	--	--

Schedule of Submissions

	<p>Plan for the Lot 2 Morley Road Development.</p> <ul style="list-style-type: none"> <li>To re-assess the east side boundary line of our building envelope as it encroached over the designated firebreak.</li> <li>Maintain a minimum 20 metre Buffer Zone from the Vegetation Protected Area to avoid environmental damage being caused by rainwater runoff and possible sewerage failure as outlined in the Bayley Environmental Report Number J09005.</li> </ul> <p>5. These restrictions were rightfully imposed to avoid any environmental damage occurring to the Section 33c Drainage Easement, the Vegetation Protected Area and to conform to the required Bushfire Hazard Separation Zone, all of which have not been considered for the current application for Lot 58 as follows;</p> <ul style="list-style-type: none"> <li>The supplied plan for Lot 58 fails to identify the exact setbacks/distances to the Vegetation Protected Area on both the south and east boundaries.</li> </ul> <p>6. The building envelope is located with 20m of the Vegetation Protection Area associated with the Section 33c Drainage</p>		<p>5. See A3 and A4.</p> <p>6. The building envelope is located approximately 30m from the formal 33c Drainage Easement</p>
--	--	--	---



Schedule of Submissions

	<p>Easement.</p> <p>7. The North East corner of the building envelope is located within the current Fire Break.</p> <p>8. In the above circumstances and having to rigidly abide by all the conditions of the Development Plan, Local Fire Management Plan, the the Bayley Environmental Plan, I see no reason as to why the owners of Lot 58 should not have to meet the same standards as those imposed on us.</p> <p>9. The most significant component of the Development Plan is for the safety of properties and families should the Section 33c Drainage Easement and Vegetation Protected Area catch on fire, whereby I take no issue with having to abide by the 20 metre Fire Hazard Zone when I made application to relocate our Building Envelope and I see no reason as</p>		<p>outlined on the deposited plan. The minimum required setback from a drainage easement is 10m in accordance with <i>Local Planning Policy 18 Setbacks</i>. Furthermore, the 20m separation from Vegetation Protection Areas is addressed through the officer recommendation.</p> <p>7. See A4.</p> <p>8. Noted. Please note the Bayley Environmental Plan and land Capability report outline no rare or endangered flora in the area that have the potential to be impacted by this proposal. This was also confirmed by Chittering Landcare.</p> <p>9. Noted. See A3 and A4.</p>
--	---	--	---

Schedule of Submissions

	<p>to why not her property owners should not do the same.</p> <p>10. It is my recommendation that before the Shire can approve this application in its current format, the Chief Fire Control Officer would be required to inspect the property and report as to whether the appropriate legislation and Shire policies meet the requirements of the Local Development Plan, Local Fire Management Plan and the Bayley Environmental Service Report J09005.</p> <p>11. Without this report, my wife and I cannot approve this application in its current format as the potential risk from fire is classified as Extreme in our location within Lot 2 Morley Road, Lower Chittering.</p>		<p>10. Noted. See A3. Should the 20m separation be maintained between any structures and Vegetation Protection Areas compliance will be maintained with the Shire’s planning framework and Fire Notice.</p> <p>11. Noted.</p>
--	--	--	---

FORM B2

Page 1 of 7 Pages.

WESTERN AUSTRALIA  
TRANSFER OF LAND ACT 1893 AS AMENDED

Date

**BLANK INSTRUMENT FORM**

GRANT OF EASEMENT

(Note 1)

THIS DEED is made the \_\_\_\_\_ day of \_\_\_\_\_ 2014.

BETWEEN:

THJG PTY LTD (ACN 112 189 367) of 7 Stratford  
Street, Cammeray, New South Wales (Grantor)

AND

SHIRE OF CHITTERING of PO Box 70, Chittering,  
Western Australia (Grantee)

OPERATIVE PART:

1. GRANT OF EASEMENT

The Grantor, being registered as the proprietor of an estate in fee simple in the land described in Item 1 of the Schedule hereto (Servient Tenement) subject to the encumbrances notified hereunder in Item 2 of the Schedule HEREBY TRANSFERS AND GRANTS to the Grantee for the use and benefit of the Grantee and the public at large under and by virtue of the provisions of sections 195 & 196 of the Land Administration Act 1997 an access easement in gross with the full and free right, liberty, power and authority from time to time and at all times hereafter for the Grantee, its authorized officers, employees, agents and other persons from time to time authorized by it to:

- (a) go, pass and repass for fire fighting and fire prevention purposes either with or without vehicles over, along and across that portion of the Servient Tenement as is shown delineated and marked with the letter "E" on Deposited Plan 76418; and

(b) to go, pass and repass for fire emergency access purposes either with or without vehicles over, along and across that portion of the Servient Tenement as are delineated and marked with the letter "E" on Deposited Plan 76418.

(Easement)

2. GRANTOR'S COVENANTS

The Grantor HEREBY COVENANTS AND AGREES with the Grantee that:

(a) Grantor's Power

Notwithstanding anything made, done, omitted or knowingly suffered, the Grantor has full power to make the grant set out herein and assures the Grantee such grant shall remain to and be quietly held and enjoyed by the Grantee and the benefit thereof shall be received and taken accordingly without interruption or disturbance by the Grantor or any person claiming by, through, under or in trust for or in any way against the Grantor.

(b) Indemnity to Other Interest Holders

In the event that the grant set out herein or the lawful use of the Easement impinges on the rights of prior equitable interest holders in the Servient Tenement, the Grantor HEREBY INDEMNIFIES the Grantee against any claim that may arise out of such circumstances.

(c) Grantor to Perfect Grant Where Required

The Grantor and every other person having or rightfully claiming any estate or interest in the Servient Tenement will from time to time and at all times hereafter at the request of the Grantee do all such lawful assurances and things for more perfectly assuring the grant set out herein as the Grantee reasonably requires

(d) No Obstruction of Easement

The Grantor will not construct erect or build or suffer to be constructed erected or built any building structure or obstruction whatsoever on the Easement or any part thereof or use or permit the Servient Tenement to be used in such a way as to obstruct or interfere with the use of the Easement without the consent in writing of the Grantee first being obtained.

(e) Construction and Maintenance of Easement

The Grantor shall ensure that the Easement is constructed and maintained in a trafficable condition. Further, the Grantor or its successors in title as may be appropriate shall bear the responsibility and cost for repair and maintenance of the Easement and the Grantor further assures the Grantee that the Grantee shall not be liable for any costs associated with such repair or maintenance.

3. GRANTEE'S COVENANTS AND ACKNOWLEDGMENTS

The Grantee acknowledges that:

(a) the rights created in the Easement herein are not granted exclusively and are granted by the Grantor in common with the corresponding rights of the Grantor and other persons lawfully entitled to exercise such rights and that where the consent of the Grantee is required pursuant to the terms of this grant, such consent shall not unreasonably be withheld;

(b) in the event of the Grantor needing to obstruct a portion of the Easement temporarily for a purpose associated with the use of the Servient Tenement, the Grantee will not unreasonably withhold its consent PROVIDED THAT access through or to the Easement is not in the opinion of the Grantee unreasonably impeded.

4. COSTS

The Grantor shall pay the costs, including the Grantee's solicitors' costs, of and incidental to the preparation (including drafts), execution, stamping and registration of this Deed and all stamp duties and registration fees payable hereon.

5. INTERPRETATION

Reference to the parties includes their personal representatives, successors and lawful assigns.

Where a reference to a party includes more than one person the rights and obligation of those persons shall be joint and several.

Headings have been inserted for guidance only and shall be deemed not to form part of the context.

The Schedule forms part of this Deed.

SCHEDULE

ITEM 1: THE SERVIENT TENEMENT

Lot 23 on Deposited Plan 76418 and being the whole of the land comprised in

Certificate of Title Volume	Folio
-----------------------------	-------

ITEM2: ENCUMBRANCES

Notification L632265

EXECUTED by the parties as a Deed:

EXECUTED BY THJG PTY LTD (ACN 112 189  
367) pursuant to Section 127 of the Corporations Act:

\_\_\_\_\_  
Full Name of Director

\_\_\_\_\_  
Signature of Director

\_\_\_\_\_  
Full Name of Director/Secretary

\_\_\_\_\_  
Signature of Director/Secretary

(Delete whichever designation is incorrect)

THE COMMON SEAL of the SHIRE OF  
CHITTERING was hereunto affixed in  
the presence of:

\_\_\_\_\_  
SHIRE PRESIDENT

\_\_\_\_\_  
(PRINT FULL NAME)

\_\_\_\_\_  
CHIEF EXECUTIVE OFFICER

\_\_\_\_\_  
(PRINT FULL NAME)



**INSTRUCTIONS**

1. This form may be used only when a "Box Type" form is not provided or is unsuitable. It may be completed in narrative style.
2. If insufficient space hereon Additional Sheet Form B1 should be used.
3. Additional Sheets shall be numbered consecutively and bound to this document by staples along the left margin prior to execution by the parties.
4. No alteration should be made by erasure. The words rejected should be scored through and those substituted typed or written above them, the alteration being initialled by the persons signing this document and their witnesses.

**NOTES**

1. Insert document type.
2. A separate attestation is required for every person signing this document. Each signature should be separately witnessed by an Adult Person. The full name, address and occupation of the witness must be stated.

EXAMINED

OFFICE USE ONLY

LODGED BY Crossland & Hardy Pty Ltd

ADDRESS 177 Railway Pde  
Maylands WA 6051

PHONE No. 9272 2214

FAX No. 9370 3547

REFERENCE No. 7693 DP76418

ISSUING BOX No.

PREPARED BY Crossland & Hardy Pty Ltd

ADDRESS 177 Railway Pde  
Maylands WA 6051

PHONE No. 9272 2214

FAX No. 9370 3547

INSTRUCT IF ANY DOCUMENTS ARE TO ISSUE TO OTHER THAN LODGING PARTY

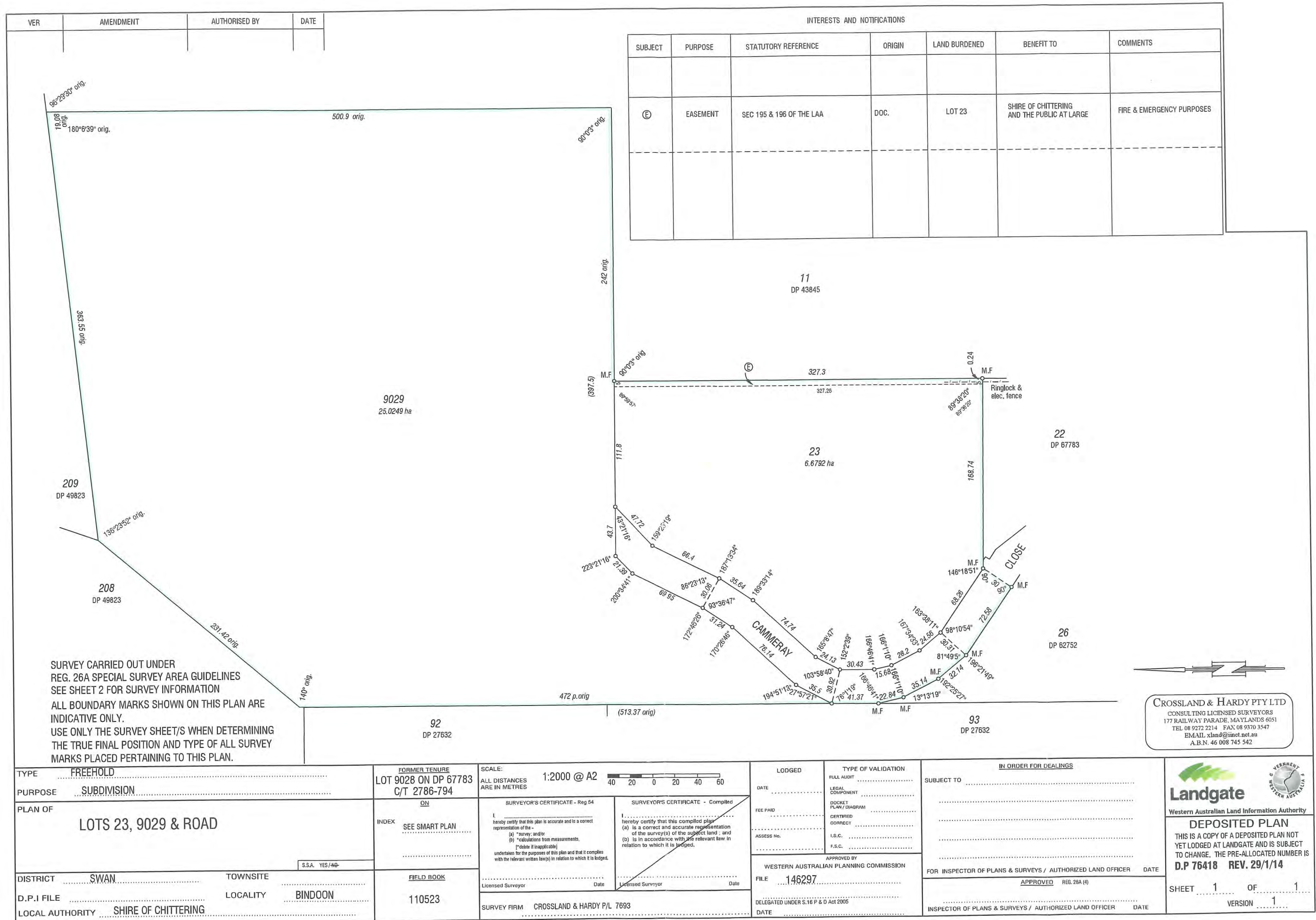
TITLES, LEASES, DECLARATIONS ETC LODGED HEREWITH

1. _____	Received Items
2. _____	Nos.
3. _____	
4. _____	
5. _____	Receiving Clerk
6. _____	

Registered pursuant to the provisions of the *TRANSFER OF LAND ACT 1893* as amended on the day and time shown above and particulars entered in the Register.









Our Reference: 2322Ltr34  
Enquiries: Cameron Leckey

24 April 2014

Chief Executive Officer  
Shire of Chittering  
PO Box 70  
BINDOON WA 6502

Dear Sir,

**Attention: Gary Tuffin**

Dear Gary,

**RE: SHIRE OF CHITTERING TOWN PLANNING SCHEME AMENDMENT 52 – LOT M1313 MUCHEA  
- REQUEST TO MODIFY AMENDMENT TO INCLUDE DEVELOPMENT CONTRIBUTION  
PROVISIONS**

Further to our meeting with your officers and the Department of Planning on 4th April 2014, we are pleased to submit a modified scheme amendment proposal for the Shire's consideration at the May 2014 Council meeting. Enclosed you will find 4 hard copies of Planning Amendment Report CLE ref 2322Rep11C, which includes the modified Scheme provisions as Appendix 1.

It is intended that this modified amendment will supersede the version that was considered and conditionally initiated by the Shire in December 2013. The reason for this is that the proponent and beneficial landowner is unable to meet the Shire's pre-condition of entering into a deed of agreement to secure development contribution payments prior to the rezoning / scheme amendment being progressed.

This situation was discussed at our meeting on 4th April, where it was agreed that, as an alternative, the Shire would be prepared to consider modifying Amendment 52 to include scheme provisions that will:

- a) Create a Development Contribution Area over the Amendment area – thereby triggering the requirement to participate in any future Development Contribution Plan; and
- b) Include statutory provisions within the Scheme that enable the Shire to make "satisfactory arrangements" with the proponent in order to secure infrastructure contributions at subdivision / development stage in the event that a Development Contribution Plan has not come into effect.

The inclusion of these provisions within the Scheme secures the same objective as the deed which was initially proposed, and avoids potential conflict with State Planning Policy 3.6 – Development Contributions for Infrastructure, and in particular, clause 5.7, which states:

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

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

The revised Scheme Amendment text has been prepared in close consultation with the Department of Planning, and we understand that the Department will be writing to the Shire under separate cover confirming their support for the Amendment as proposed. Furthermore, the revised provisions retain all of the key principles and provisions that the Shire considered and initiated in December 2013.

On this basis, we request that the Shire set aside the 18th December 2013 resolution that required a deed of agreement prior to initiation of Amendment 52, and instead, proceed to initiate a modified amendment that includes those administrative provisions included in the attached report.

We look forward to discussing this further with your Council and executive at the briefing session on 14th May. In the interim, should you require anything further please contact Cameron Leckey from this office on 9382 1233 or via email at Cameron@cleplan.com.au.

Yours faithfully,



**Cameron Leckey**  
**Senior Associate**  
**CLE Town Planning + Design**

Enc: 4 copies of 2322Rep11C – Town Planning Scheme Amendment Report

cc: Joel Saraceni – Westbridge Property Group  
Belinda Moharich – Flint Moharich



Government of Western Australia  
Department of Planning

Our ref: DP/11/01176  
Enquiries: Rochelle Van Santen  
Telephone: (08) 6551 9576

Mr Gary Tuffin  
Chief Executive Officer  
Shire of Chittering  
PO Box 70  
Bindoon WA 6502

Dear Gary

**RE: PROPOSED SCHEME AMENDMENT NO. 52  
PART LOT M1313 GREAT NORTHERN HIGHWAY, MUCHEA**

I refer to draft Scheme Amendment No.52 proposing to rezone part Lot M1313 Great Northern Highway Muchea to the 'Industrial Development' zone and include it within a Special Control Area. We understand a revised draft amendment has recently been lodged with Council.

Officers of the Department of Planning have reviewed the revised draft amendment and are generally satisfied with its proposed approach. In particular, the proposed inclusion of the subject area into a 'Special Control Area - Development Contribution Area' and the insertion of standard text into the Scheme in accordance with State Planning Policy 3.6 - *Development Contributions for Infrastructure* is considered to be reasonable. The amendment provides a mechanism for the preparation of a Development Contribution Plan (DCP) that would require development contributions when land is subdivided and developed.

It is our understanding that the DCP is currently in preparation. Given that the rezoning of Lot M1313 and subsequent structure planning may take 18 months or more, it is anticipated that the DCP would be finalised by the time a subdivision application for the lot is lodged.

Should you wish to discuss the above further, please contact Rochelle Van Santen on tel. 6551 9576 or email [rochelle.vansanten@planning.wa.gov.au](mailto:rochelle.vansanten@planning.wa.gov.au)

Yours sincerely

A handwritten signature in black ink, appearing to read 'Pam Baskind'.

Pam Baskind  
*A/Director, Wheatbelt Region*

30 / 4 / 2014

# MUCHEA EMPLOYMENT NODE

Lot M1313 Town Planning Scheme Amendment

April 2014

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CONSULTANT TEAM -

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Planning Assessment and Urban Design - CLE Town Planning + Design

Environmental Assessment - Emerge Associates

Groundwater and Drainage Assessment and Monitoring - Emerge Associates

Engineering Infrastructure and Services - GHD Consulting Engineers

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**REPORT FIGURES**

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Figure 1 – Location Plan

Figure 2 – Site Plan

Figure 3 – Town Planning Scheme 6

Figure 4 – Muchea Employment Node Structure Plan

Figure 5 – Environmental Attributes

Figure 6 – Development Concept Plan

**REPORT APPENDICES**

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Appendix 1 – Proposed Scheme Amendment text

Appendix 2 – District Water Management Strategy

Appendix 3 – Environmental Assessment Report

Appendix 4 – Servicing Strategy

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## 1.0 INTRODUCTION

### 1.1 Executive Summary

CLE Town Planning & Design, on behalf of Westbridge Property Pty Ltd, requests that pursuant to section 75 of the *Planning and Development Act 2005*, the Shire of Chittering amend Town Planning Scheme 6 – District Zoning Scheme (TPS 6) to rezone a portion of Lot M1313 Great Northern Highway from Agricultural Resource to Industrial Development. The Amendment to TPS 6 is the first step towards the statutory implementation of the WAPC's Muchea Employment Node Structure Plan (2011), which identifies approximately 1,100 ha of future of strategic employment land in support of the growing population in the Shire of Chittering and also the north eastern metropolitan corridor.

The Amendment area includes approximately 148 ha of undeveloped land, comprising the southern portion of lot M1313. The Amendment area is generally consistent with the area identified as Precinct 1 (north) A in the Muchea Employment Node Structure Plan (MENSP), and the amendment boundaries have been further refined to recognise existing environmental and drainage features on the site, and landowner intentions to develop for industrial purposes. Westbridge Properties are the beneficial landowners of the entire Amendment area.

Rezoning of the subject land to Industrial Development is consistent with the WAPC's strategic direction to create an industrial estate in the Muchea locality, and has the potential to drive subsequent rezoning and development over the balance of the MENSP area.

The rezoning of this land is a timely response to the recognised statewide shortage of available greenfields industrial land of a suitable scale, and will ultimately enable the development of a high quality industrial precinct that provides opportunities for end users that require large land areas, but do not place an undue load on services or infrastructure. It is envisaged that once zoned appropriately, the precinct will be attractive to transport / logistics users associated with the mining industries in the north-west of the State. This vision is consistent with the anticipated land uses for Precinct 1A as outlined in the MENSP.

The following report elaborates on the work already undertaken as part of the MENSP, and demonstrates the clear suitability of lot M1313 for industrial purposes. Accompanying this report are a number of technical studies and strategies which clearly demonstrate the land's suitability for industrial development, and put in place strategies for the ongoing development and management of environmental, drainage and servicing attributes. These reports include:

- District Water Management Strategy prepared in accordance with WAPC Better Urban Water Management Guidelines and Department of Water requirements;
- Environmental Assessment Report, including flora, vegetation, and wetland assessment, desktop ASS assessment, and desktop heritage review; and
- Servicing and Infrastructure Strategy.

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The proposed Amendment includes the following key components:

Amending the Scheme Map to:

- Rezone Part Lot M1313 Great Northern Highway, Muchea from 'Agricultural Resource' to 'Industrial Development Zone';
- Create a Special Control Area 'Development Contribution Area' (DCA1) over Part Lot M1313;
- Create a Special Control Area 'Muchea Employment Node' (MEN1) over Part Lot M1313; and
- Include 'General Industrial Zone' and 'Industrial Development Zone' in the Scheme Map Legend.
- Amending the Scheme Text to:
  - Insert the enabling provisions for the Industrial Development zone and General Industry zone into the Scheme text.
  - Insert the Model Scheme Text provisions relating to the preparation and approval of structure plans into the Scheme text to provide the Shire with the statutory authority to require and approve structure plans.
  - Delete existing clause 6.7 and replace with the Model Scheme Text provisions relating to the preparation and approval of Development Contribution Plans, including an ability for the local government to make separate arrangements with landowners for the payment of contributions in the event that a Development Contribution Plan is not finalized;
  - Create a new Special Control Area – Muchea Employment Node in Part 6 of the Scheme, and include specific development controls in order to facilitate the objectives of the Muchea Employment Node Structure Plan; and
  - Insert a new Schedule (Schedule 16) into the Scheme that sets out the environmental management framework for the ongoing subdivision and development of the amendment area.

The proposed Amendment text has been prepared collaboratively with the Department of Planning in order to ensure that the operational provisions of the Scheme are consistent with current best practice, and to ensure a robust framework for the delivery of the Muchea Employment Node. A full copy of the draft Amendment text is Appendix 1.

The importance of an industrial precinct in this location is not limited to supporting Western Australia's resource sector, but it also provides a significant employment generator which will assist in meeting the State Government's targets for employment self sufficiency in new urban areas, as well as providing an important employment node for the Shire of Chittering.

The strategic importance of the Muchea Employment Node and suitability of lot M1313 for industrial development is clearly evident:

- The industrial precinct is identified in a number of State strategic planning documents that have been prepared and endorsed by the Shire and WAPC, culminating with the 2011 MENSPP, with lot M1313 being identified as Precinct 1 (north) A.

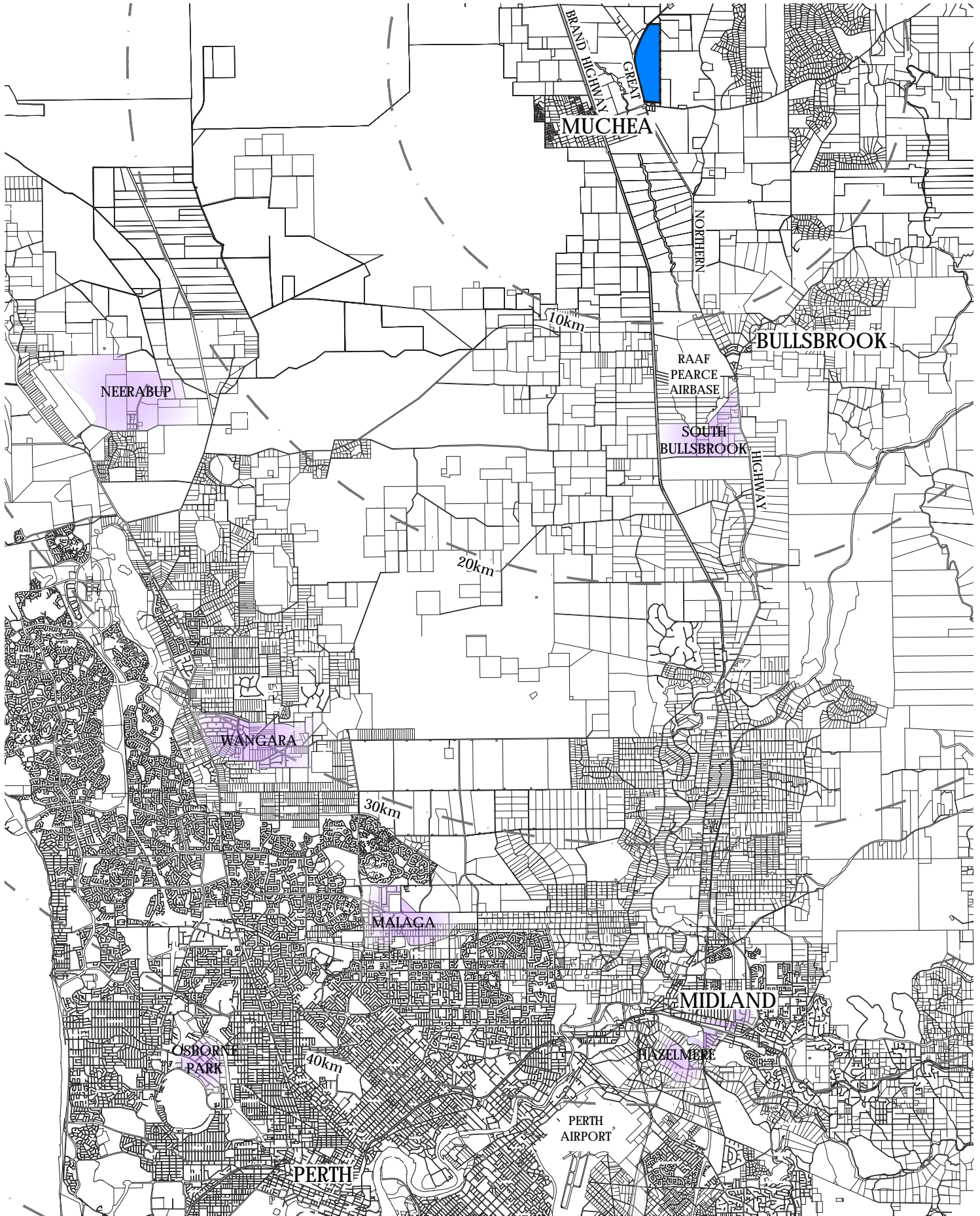
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- The land is sufficiently large, at 148 ha, to be a stand-alone industrial precinct in the short to medium term, and is likely to be a catalyst for subsequent industrial development within other parts of the MENSP area.
- The land is substantially unconstrained and environmental factors affecting the land, including wetlands, waterways, remnant vegetation, groundwater, drainage and stormwater can be managed through the use of conservation areas, buffers, and appropriate interface/ treatments.
- The land is strategically located in close proximity to major freight and transport networks including the Great Northern Highway, Brand Highway, and the future Perth-Darwin National Highway;
- The land is suitably located in proximity to an existing employment catchment, and is of sufficient size to serve as an employment node/activity centre for future urban growth to the south.
- The likelihood of land use conflicts between the industrial precinct and adjoining land uses is minimal, given the rural land uses to the south and west, and range of existing intensive agricultural uses to the east, including a large scale poultry farm and the WAMIA livestock facility.

To demonstrate in broad terms how the industrial development of this land holding can respond to the strategic planning and policy context, as well as the attributes of the site, a concept plan has been prepared and is included as an appendix to this report. This plan is detailed within Section 4 and demonstrates the broad principles and proposed development that will be finalised in the detailed structure planning and subdivision stages to follow this amendment.

The key elements of the concept plan are:

- Provision of a robust urban design that allows for maximum flexibility, and recognises the evolution of industrial areas over time;
- Recognition of significant environmental features, and providing appropriate buffers and interface between environmental features and industrial land;
- Utilisation of existing transport networks in the short term, with provision for access to the future Perth-Darwin National Highway;
- Retention of large lot sizes to allow for significant and strategic industrial land uses of regional importance.
- A clear, permeable and interconnected road layout providing easy access and circulation throughout the industrial precinct.



**LOCATION PLAN**



As demonstrated further in the following sections of this report, the proposed Amendment is a logical extension of the strategic planning work that has previously identified this area as being suitable for industrial development, and will provide the necessary statutory framework to implement the recommendations of the MENSPP. As such, it is requested that the Shire of Chittering proceed to initiate the Amendment, as set out in this report, in order to facilitate the ongoing planning process, and delivery of a strategic employment node.

## 1.2 Purpose

The purpose of this report is to support an amendment to the Shire's Town Planning Scheme 6 – District Zoning Scheme (TPS 6) to rezone the majority of lot M1313 from Agricultural Resource to Industrial Development ('the Amendment').

Once gazetted, the Amendment will facilitate the ongoing planning and development of the site for industrial purposes by providing the statutory framework, as well as providing a template for the planning and development of other land within the MENSPP.

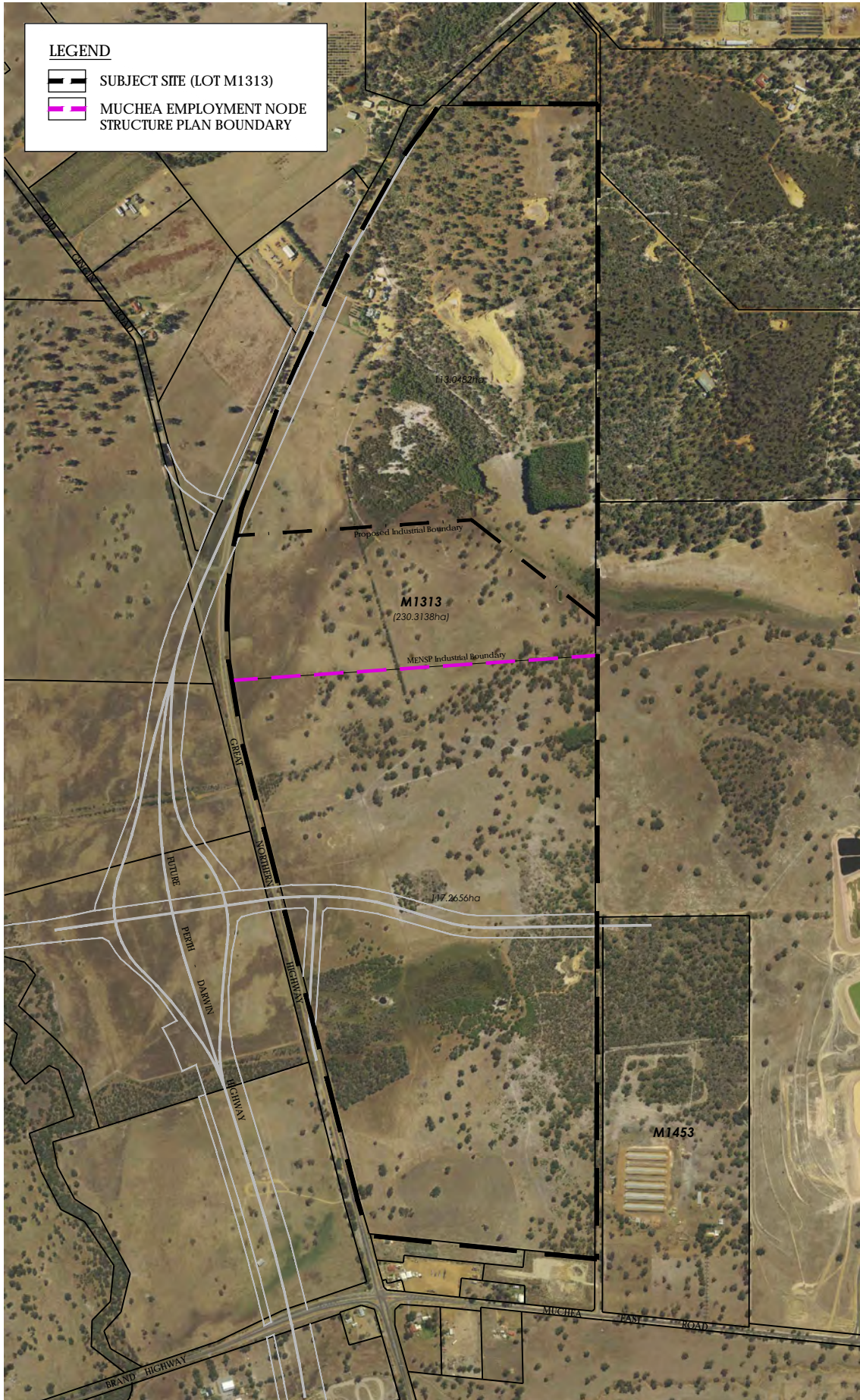
## 1.3 Site Description and Land Ownership

Lot M1313 is a 230 ha land parcel located immediately to the east of the Great Northern Highway, and north of Muchea East Road. A location plan is figure 1.

Consistent with the MENSPP, the Amendment relates to the southern half of lot M1313, comprising 148 ha of the total area. The Amendment area is bounded by the balance of lot M1313 to the north, Great Northern Highway to the west, Gulliente Road, lot M1453 (Inghams Chicken Farm) and lot 5 (WAMIA Muchea livestock centre) to the east, and a small transport depot precinct on the southern boundary between the subject site and Muchea East Road.

Lot M1313 is unimproved rural land and is currently used for livestock grazing. The site is predominantly cleared, with the exception of eastern portions of the site, which contain scattered mature vegetation, and an east-west strip through the centre of the site which includes a resource enhancement category wetland with associated vegetation, and some plantation trees along the western edge of the wetland. A site plan and orthophoto is figure 2. Further discussion on the environmental attributes of the Amendment area is provided in section 3 and Appendix 3.

The portion of lot M1313 that is subject to this Amendment is under the control of Westbridge Property Group. Westbridge is experienced in the industrial land development market, and brings knowledge from other major industrial developments, including the 430 ha South Bullsbrook industrial precinct that has recently been rezoned by the Minister for Planning.





## 2.0 PLANNING CONTEXT

### 2.1 Applicable Statutory and Policy Framework

#### 2.1.1 Region Schemes

The Amendment area is outside of the boundary of the Metropolitan Region Scheme, and does not fall within the jurisdiction of any other operational region scheme. As such, the Shire of Chittering Town Planning Scheme 6 is the primary statutory planning instrument applicable to the Amendment area.

#### 2.1.2 Town Planning Scheme 6 – District Zoning Scheme

The Amendment area is currently zoned Agricultural Resource under TPS 6. A copy of the current TPS 6 zoning map for this area is figure 3a. The Great Northern Highway, which forms the western boundary of the Amendment area, is reserved as 'Highway'.

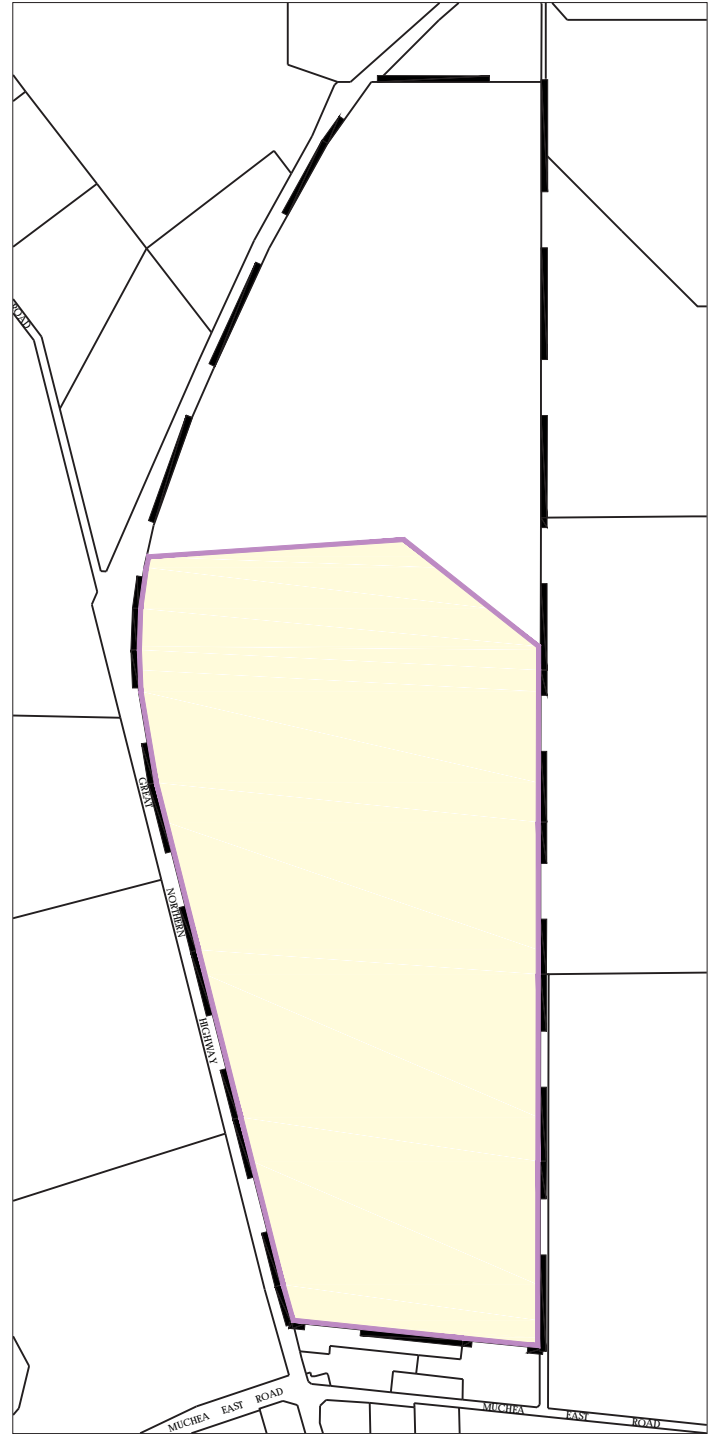
This Amendment proposes to rezone the Amendment area from Agricultural Resource to Industrial Development, refer figure 3b. It is not proposed to make any change to the Highway reserve as part of this Amendment.

The Industrial Development zone, whilst common in a number of local planning schemes in Western Australia, is not an existing zone in TPS 6. As such, it is also necessary as part of this amendment to insert into the scheme text the enabling provisions for the Industrial Development zone, including the objectives of the zone, and the requirement for structure planning as a pre-requisite to subdivision. Furthermore, TPS 6 does not currently include any provisions which enable the Shire and/or WAPC to require and approve structure plans as statutory planning instruments. As such, the proposed Amendment also proposes to insert the Model Scheme Text provisions relating to the preparation and approval of structure plans in order to provide a statutory basis for structure planning. The framework and general approach to this Amendment is entirely consistent with the approach contemplated by the MENSP (section 2.7.1).

The Shire and Department of Planning are currently preparing a Development Contribution Plan (DCP) for the MENSP area. It is understood that the DCP is likely to be initiated as a separate amendment to TPS 6 in June / July 2014. This Amendment deletes existing clause 6.7 of TPS 6, and replaces this clause with the WAPC's Model Scheme Text for the preparation and approval of Development Contribution Plans. This will enable the preparation of a comprehensive and best practice Development Contribution Plan. Included in this Model Scheme Text is a statutory mechanism which allows the Shire to make "satisfactory arrangements" for a developer to pay contributions prior to a Development Contribution Plan being finalised. This provision ensures that developers cannot bypass the need to participate in a DCP, and replaces the need for the Shire to require a proponent to enter into a deed of agreement at the rezoning stage.



Existing Zoning



Proposed Zoning

**LEGEND**

**LOCAL SCHEME RESERVES**

- CONSERVATION
- HIGHWAY
- MAJOR ROAD
- PARKS AND RECREATION
- PUBLIC PURPOSES
- EMPLOYMENT/INDUSTRIAL
- CC
- EC
- FES
- O
- LP
- WPA
- TEL
- PUBLIC PURPOSES - BUREAU OF METEOROLOGY
- WWS
- RAILWAY
- WATER SUPPLY

**ZONES**

- RESIDENTIAL
- TOWNSETTLE
- SPECIAL USE
- LIGHT INDUSTRIAL
- AGRICULTURAL RESOURCE
- RURAL CONSERVATION
- Industrial Development

- RURAL RESIDENTIAL
- RURAL RETREAT
- RURAL TOWNSETTLE
- SMALL RURAL HOLDINGS

**OTHER**

- R20
- ADDITIONAL USES
- RESTRICTED USES
- SCHEME BOUNDARY
- LOCAL GOVERNMENT BOUNDARY
- TOWNSETTLE - LAND ACT
- LANDSCAPE PROTECTION
- WATER FRONT
- BASIC RAW MATERIALS
- MILITARY FORECASTERS
- LAND REFUSE
- WATER SUPPLY
- WATER & WASTEWATER TREATMENT PLANT
- SPECIAL USE AREA (SEE SCHEME TEXT)
- RURAL CONSERVATION AREA (SEE SCHEME TEXT)



At the request of the Department of Planning, this Amendment also proposes to create a new Special Control Area (SCA) in Part 6 of TPS 6. This SCA relates to the Muchea Employment Node, and is intended to ensure that the objectives of the MENSP are given statutory effect, as well as providing appropriate development controls. The SCA will be shown on the Scheme Map over Part lot M1313, with the development controls set out in clause 6.8.

In addition to the rezoning of lot M1313, and the textual amendments to TPS 6, the proposed Amendment also includes a new Schedule (Schedule 16) which sets out the various environmental management strategies and plans that are required to be prepared as development progresses, with each of these strategies / plans being linked to an appropriate stage in the planning and development process. This approach has been successfully implemented elsewhere in the metropolitan area where proposed development abuts sensitive environmental features, and provides certainty to environmental agencies, local government, the community, and the developer that appropriate environmental responses will be provided at the appropriate stage in the planning process.

Incidental to the amendments outlined above, is the introduction of a 'General Industry' zone into the Scheme, and subsequent modifications to the zoning table in order to establish the permissibility of uses within the new zone consistent with the MENSP. The General Industry zone will provide the Shire with a broader discretion to approve larger scale industrial land uses, whilst still ensuring that noxious and hazardous industry uses are not capable of approval in the zone. Importantly, this amendment does not propose to apply the General Industry zone to any particular parcel of land at this stage, with the intention being that the zonings will be put in place as part of future structure plans.

The draft Amendment text has been prepared in close consultation with the Department of Planning in order to ensure that the scheme provisions are in keeping with current best practice, and to minimise assessment timeframes for the Amendment.

#### *Military Considerations (RAAF) Special Control Area*

The Amendment area is located within the Military Considerations (RAAF) Special Control Area as set out under Clause 6.5 of the Shire's TPS6. It is acknowledged that planning approval will be required for any development proposal within the Special Control Area (SCA). As per the provisions of Clause 6.5 the most important considerations for development within the SCA are building height and the potential conflict with the existing flight path over the land, and amenity issues relating to aircraft noise.

Based on the proposed Industrial Development zoning, it is reasonable to expect that any buildings and structures will be low-rise in nature, and are highly unlikely to conflict with the existing aircraft flight path. It is acknowledged that development applications that propose improvements to the land in the form of building and structures may require referral to the RAAF.

Aircraft noise is not a relevant consideration for this Amendment, and industrial areas in general. This is largely due to the absence of a residential population or other sensitive land uses, which are generally prohibited in industrial areas.

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### *Draft Development Contribution Plan*

The Shire of Chittering is currently preparing a draft Development Contribution Plan as part of a separate TPS amendment for the entire Muchea Employment Node Structure Plan Area. Westbridge has no objection in principle to contributions towards the development of essential infrastructure, providing such arrangements are fair, equitable, reasonable, and consistent with Statement of Planning Policy DC3.6: Developer Contributions for Infrastructure.

#### 2.1.3 State Planning Policy 4.1 – State Industrial Buffer

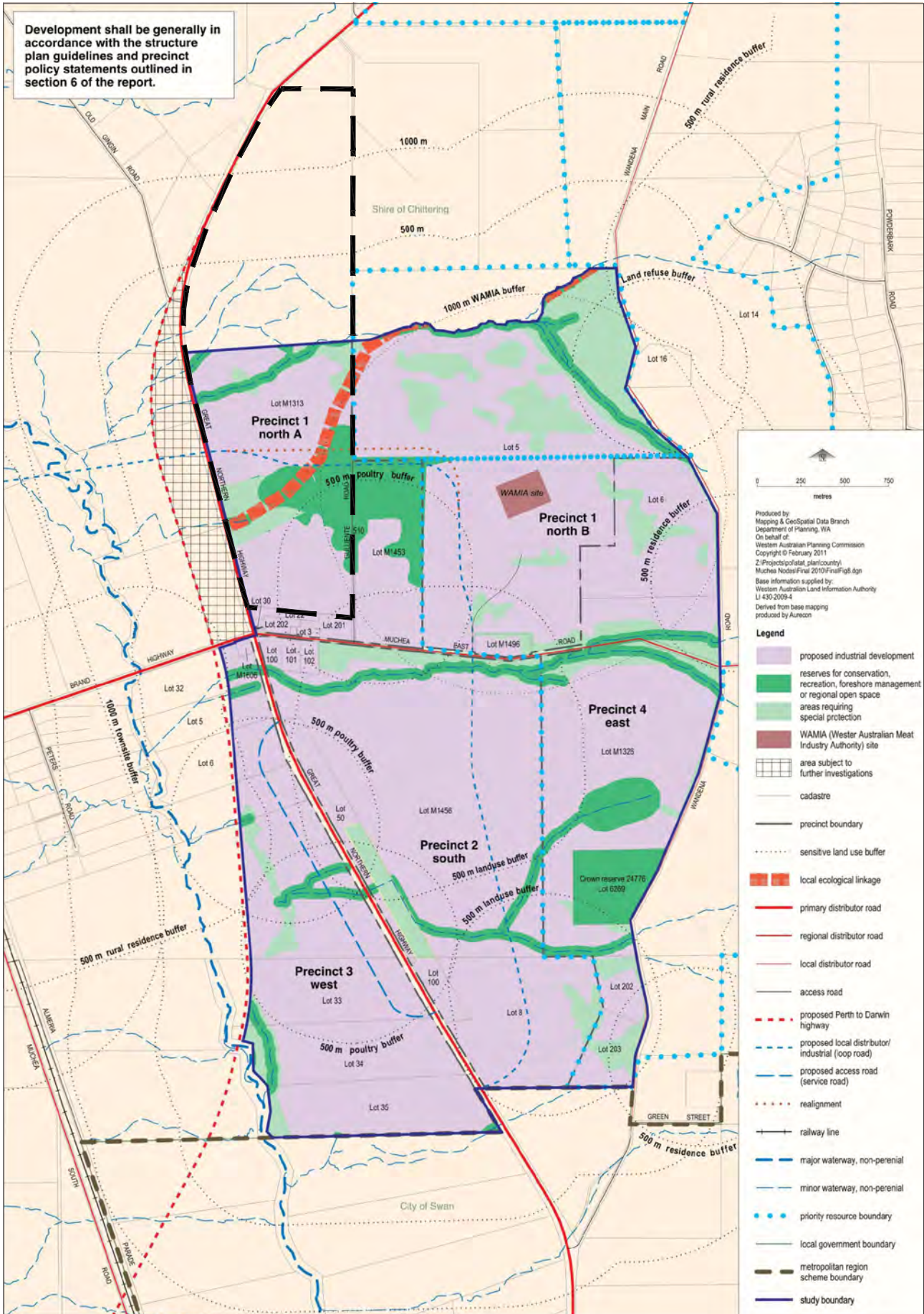
The WAPC's State Planning Policy (SPP) 4.1 provides a framework for protecting strategic industrial areas and essential infrastructure and surrounding sensitive land uses from potential land use conflicts.

The SPP requires that new industry be located to provide and maintain an appropriate buffer between the proposed industrial land uses and nearby sensitive land uses. The SPP notes that 'core' industries should be located towards the centre of industrial areas, with industries with a lesser potential for offsite impacts to be located at the periphery.

The SPP makes specific reference to the EPA's Guidance Statement 3, which defines 'sensitive land uses' and provides separation distances between industrial uses and sensitive land uses.

The SPP notes that land uses are not always certain in the early planning stages, and requires that buffers (if required) are addressed at the local planning scheme amendment and structure planning stages.

The Amendment area is surrounded by rural land, the majority of which is zoned Agricultural Resource. Therefore the number of existing or proposed 'sensitive land uses' as defined in the EPA's guidance statement is very limited, and comprises of not more than 2-3 residential dwellings, which are already within the land use buffers of existing industrial uses. Furthermore, there is no proposed urban development, or intensification of sensitive land uses in the area which would give rise to the need for external buffers. It should also be noted that the planned Perth – Darwin National Highway (PDNH) alignment is located immediately to the west of the existing Great Northern Highway. Once developed, the PDNH will provide a further separation buffer to any future sensitive land uses.



Source: Muchea Employment Node Structure Plan (Figure 8)

**MUCHEA EMPLOYMENT NODE STRUCTURE PLAN**



## 2.2 Strategic Framework

The Muchea area has been identified as a suitable location for future employment and industrial uses in a number of strategic state and local planning documents over the past 10 years, as summarised below.

### 2.2.1 North East Corridor Extension Strategy (WAPC 2003)

The North East Corridor Extension Strategy (NECES) was published by the WAPC in 2003 to provide a context in which to determine the most appropriate use of land within the North East Corridor, and to guide the future urban growth of the North East Corridor. The NECES encompasses the majority of the Ellen Brook catchment, including the Amendment area and surrounds.

The NECES identifies the importance of an employment node being located within the Corridor to provide employment opportunities for the increasing urban population in the southern part of the Corridor. The NECES identifies an area of approximately 1,170 ha across the Swan and Chittering local government areas as an employment node study area. This area is broadly consistent with the MENSF area.

The NECES was advertised for public comment as a draft for an extended period in 2002-2003 before being finalised and published by the WAPC in 2003.

### 2.2.2 Muchea Employment Node Structure Plan (WAPC 2011)

The Muchea Employment Node Structure Plan (MENSF) was prepared by the WAPC in consultation with the Muchea Employment Node Steering Committee, comprising representation from a number of key stakeholders, including the local authorities of Swan and Chittering, environmental agencies, government departments, Landcorp, and Main Roads WA.

The purpose of the MENSF is to elaborate on and refine the potential employment node identified in the NECES (WAPC 2003), and provide a more in-depth analysis of the boundaries of the employment node, the types of land uses within the node, and any physical constraints to development.

The MENSF divides the structure plan area into 5 precincts, and identifies the Amendment area within Precinct 1 (north) A, refer figure 4. Section 6.3.1 sets out the policy statement for Precinct 1 (north) A. Table 1 below outlines the policy statements for Precinct 1 (north) A, and describes how the planning and development of lot M1313 will respond to each statement.

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	Policy Statement	Planning Response
1	<i>The waterways (plus 30m buffer), resource enhancement wetland (plus 50m buffer) and good quality remnant vegetation shall be protected within a reserve for Conservation, Recreation, Foreshore Protection or Public Open Space.</i>	The waterways, wetlands and significant vegetation within the Amendment area are described in Appendix 3 and will be further defined as part of the local structure plan process. The local structure plan and accompanying technical reports / strategies will establish the future zoning / reservation of these areas, as well as confirming buffer distances and management strategies for environmental attributes.
2	<i>Low water use type industries with a minimum lot size of 10,000m<sup>2</sup> may be established in this area unless the developer can demonstrate that wastewater generated can be adequately managed as per the requirements outlines in the water management strategy (April 2008) or a more detailed local water management strategy.</i>	Whilst the MENSP provides scope to consider low water use type developments, the proponent is currently investigating opportunities to deliver a reticulated water supply. Opportunities for further subdivision and / or development of the land will be restricted until such times as a water supply is available. Further investigation into the delivery of an innovative water supply will be carried out prior to final endorsement of the Amendment.
3	<i>For lots that do not require subdivision prior to development occurring, primary wastewater treatment shall be via aerobic treatment units followed by secondary treatment in evaporation ponds due to high groundwater levels.</i>	Whilst the MENSP specifies that aerobic treatment units shall be the primary method of waste water treatment, the suitability of other waste water treatment options such as a reticulated sewerage system or the collection of waste water for reuse is still being investigated. Connection to an innovative sewer treatment system may be required as a condition of subdivision or development approval.
4	<i>Development shall not conflict with the proposed Perth-Darwin National Highway road reserve and requirements external to it such as the interchange embankment build up and ramp constructions.</i>	The development concept plan at figure 6 demonstrates that development of the Amendment area will not compromise the planned Perth – Darwin National Highway, or associated interchange. The precise alignment, reserve width, and land requirements for the DDA road and interchange will be determined at local structure plan and subdivision stage in consultation with Main Roads WA, the Shire of Chittering, and WAPC.

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5	<p><i>The district distributor A loop road shall be designed with provision for potential use as a high wide load route (to MRWA standards). The road shall be constructed as a median separated two-lane road, with an appropriate road reserve to provide for a future four-lane dual carriage way.</i></p> <p>The design vehicle shall be a triple road train and shall cater for nominated high wide load trailers and/or platforms.</p> <p>The design shall be for an operating speed of 60km/h.</p> <p>Drainage of the road shall be through the use of swales.</p> <p>Consideration shall be given to avoidance of identified conservation reserves in the alignment of the loop road.</p> <p>The developer shall construct appropriate access roads, which tie into the loop road, and suit the lot size and layout of the development.</p>	<p>The local structure plan will provide indicative design / cross section for the DDA road, which will then be further refined and confirmed at subdivision / detailed design stage.</p>
6	<p><i>Structures higher than 15, 45 and 90m across the precinct require referral to the RAAF.</i></p>	<p>The local structure plan will include statutory controls that reflect the RAAF height restrictions / referral requirements. Height of structures will be confirmed on a site by site basis at DA stage.</p>

### 2.2.3 Directions 2031 and Beyond (WAPC 2010)

In August 2010 the WAPC and Minister for Planning released the final version of Directions 2031 and Beyond. The 2010 version was released after extensive consultation on the 2009 Draft, and supersedes Network City and Metroplan to become the highest level spatial framework and strategic plan for the metropolitan Perth and Peel region.

Directions 2031 and Beyond recognises the importance of industrial areas as critical employment generators, as well as the important relationship between industrial areas and key transport/freight linkages

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Directions 2031 notes that the population of the north-east sub region in 2008 was 189,000 (73,000 dwellings) and is estimated to be 258,000 (113,000 dwellings) by the year 2031. The document also notes that the north-east sub region currently has a high employment self sufficiency rate (63%) and sets a target of 75% self sufficiency by 2031.

Whilst the Directions 2031 study area is limited to the statutory boundaries of the metropolitan and Peel regions, the Muchea Employment Node, along with South Bullsbrook, is a major strategic employment area that will attract workers from within the north-east corridor, as well as local residents, and will therefore contribute to the employment self sufficiency of the north-east region.

#### 2.2.4 Economic and Employment Lands Strategy (WAPC 2012)

The 2012 Economic and Employment Lands Strategy (EELS) is the final version of the 2009 draft Industrial Land Strategy, and supersedes the draft version. The EELS is the State Government's response to a critical shortage of industrial land in the metropolitan and Peel regions, and puts in place a framework to avoid future shortfalls.

Like Directions 2031, the scope of the EELS is limited to the statutory metropolitan boundary, and therefore does not directly recognise the Muchea Employment Node as a strategic or priority industrial area. Notwithstanding, the supporting background reports to the EELS, including the Industrial Land Capacity Assessment Study prepared by Aurecon recognises the Muchea Employment Node as a substantial strategic employment site, and acknowledges its significance in the context of the north-east corridor, as well as its contribution to industrial land supply in the region.

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### 3.0 ENVIRONMENT & WATER MANAGEMENT

In order to demonstrate the Amendment area's suitability of future industrial development, a number of environmental studies have been undertaken and strategies prepared to ensure that environmental attributes are appropriately managed. These studies inform the alignment of the northern amendment boundary.

These studies / strategies have been prepared by Emerge Associates, and include:

- 1) District Water Management Strategy
- 2) Environmental Assessment Report, which encompasses:
  - Flora and Vegetation Report
  - Fauna Assessment
  - Desktop Acid Sulphate Soil Assessment
  - Aboriginal and European Heritage Assessment

Full copies of the Emerge Associates reports are included as appendices 2 and 3 respectively, and the key findings / recommendations are summarised below.

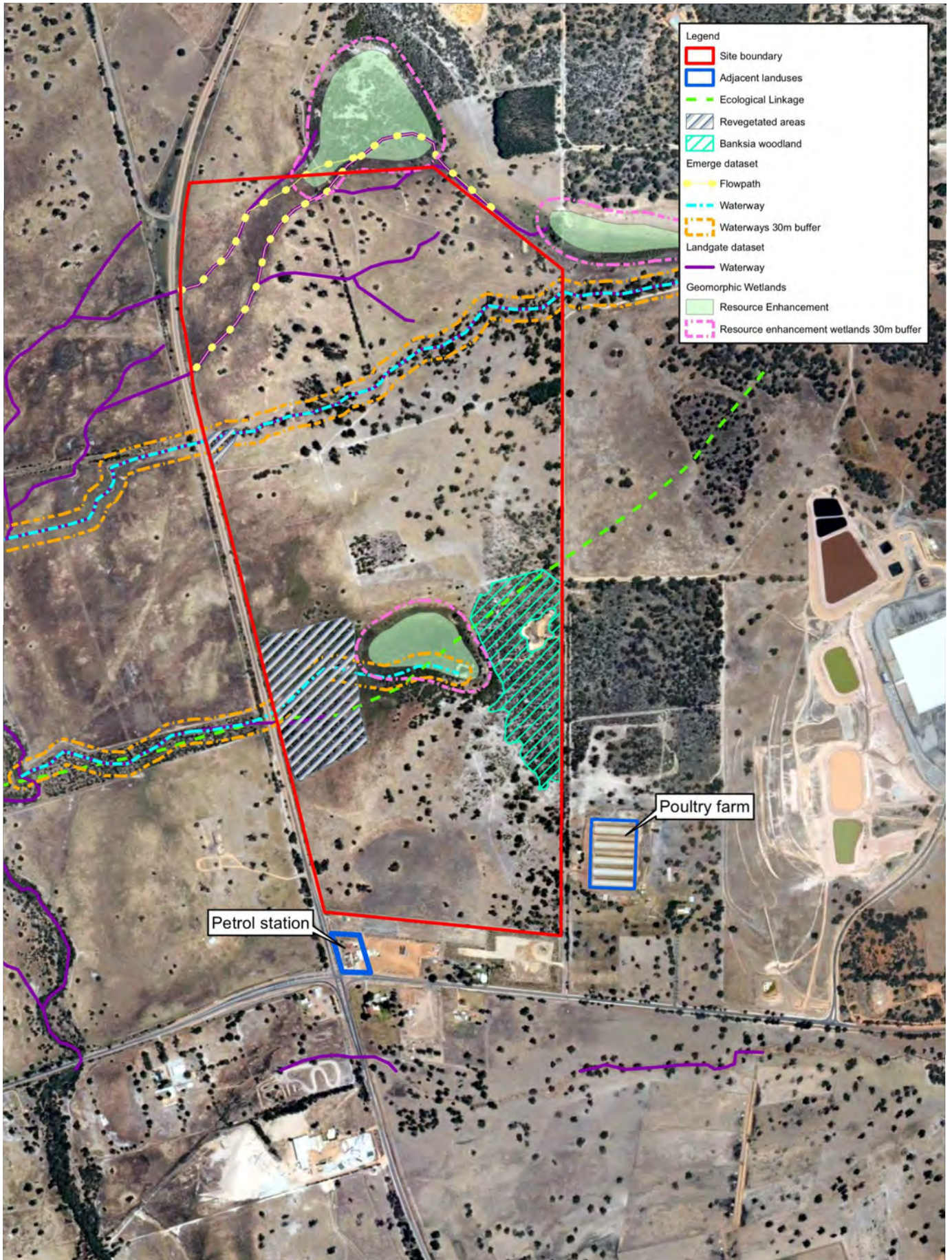
#### 3.1 District Water Management Strategy

A District Water Management Strategy (DWMS) outlines the management approach for flood mitigation and effective stormwater management within the Amendment area consistent with the WAPC and Department of Water's *Better Urban Water Management Guidelines*. The proposed DWMS encompasses the following areas:

- Potable water consumption;
- Groundwater quality management;
- Stormwater quality management; and
- Waste Water.

The criteria proposed in the DWMS are based on the characteristics of the existing environment and a contemporary best-practice approach to integrated water cycle management. A summary of the proposed management strategies to each of the criteria are provided in the sections below, and full copy of the DWMS is included as Appendix 2.

The management strategies outlined below will be implemented through the Local Water Management Strategy and Urban Water Management Plan as planning and development progresses.



Source: Emerge Associates





### 3.1.1 Potable Water Consumption

The proposed Amendment makes provision for the installation of reticulated water infrastructure throughout the amendment area. Supply of and connection to a reticulated water supply will be investigated, and the feasibility of such a supply demonstrated, prior to finalisation of the proposed scheme amendment.

Within the lot, potable water consumption will be reduced by provision of water efficient fittings and appliances, and promotion of waterwise gardens/landscaping. On an estate scale water use will be reduced by use of waterwise landscaping practices including use of native vegetation where possible.

### 3.1.2 Groundwater Management

Groundwater level management focuses on protecting properties from flooding due to inundation by groundwater. Fill will be used where the natural surface levels do not provide adequate clearance to groundwater. The main objective of the management of groundwater quality is to maintain or improve the existing groundwater quality. This will be achieved by reducing the total nutrient load into the groundwater that originates from the development through treatment of surface water runoff prior to infiltration of groundwater and implementation of nutrient minimising landscape management practices.

### 3.1.3 Stormwater Management

Stormwater management focuses on stormwater runoff quantity and quality. The principle behind the stormwater management strategy for the Muchea DSP area is to maintain the existing hydrology by matching pre-development discharge rates and maintaining flow paths across the site. In lot detention areas and road reserve Flood Storage Areas (FSA) will be used to detain flows and will be designed such that all outflows match pre-development flow rates.

Stormwater quality will be addressed using a treatment train approach. The 1 year 1 hour ARI event will be retained as close to source as possible using a combination of soakwells and bio-retention areas within lot and open space areas. Runoff from events greater than the 1 year 1 hour ARI event will be conveyed downstream to the FSA via the road network.

### 3.1.4 Waste Water

As one of its policy statements, the MENSF states that primary waste water treatment 'shall be via aerobic treatment units followed by secondary treatment in evaporation ponds due to high groundwater levels'. The DWMS attached as Appendix 2 to this report outlines the need for a Land Capability Assessment to be carried out in order to determine whether aerobic treatment units are suitable within the site based on existing environmental conditions such as soil types and groundwater levels.

If suitable, it is intended that aerobic treatment units may be used for onsite waste water treatment however, additional investigations are to be undertaken regarding other waste water options that may be more suitable than aerobic treatment units. The findings of these investigations will be provided prior to finalisation of the proposed scheme amendment.

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### 3.2 Environmental Assessment

The following summarises the key findings and recommendations of Emerge Associates' Environmental Assessment Report, refer Appendix 3. A consolidated plan depicting the environmental opportunities and constraints is figure 5.

#### 3.2.1 Flora and Vegetation Assessment

A detailed field survey was undertaken across the Amendment area in 2012, and confirmed the following:

- Vegetation condition across the majority of the site is "Completely Degraded" with only a small portion of Banksia woodland on the eastern edge of the Amendment area being assessed as "Good" condition. This is the highest quality vegetation recorded across the Amendment area.
- No Declared Rare Flora or Priority Flora listed by the DEC or under the EPBC Act were identified on the site during the survey.
- No Threatened Ecological Communities were identified on the site, or within 5km of the site.
- One Priority Ecological Community (priority 3) was identified. This area coincides with the Banksia woodlands on the eastern edge of the Amendment area. Priority Ecological Communities are not afforded statutory protection by either State or Federal government, and require ongoing monitoring.
- There are no declared 'Environmentally Sensitive Areas' within the Amendment area.

#### 3.2.2 Fauna Assessment

The Fauna Assessment identified evidence of two fauna species of conservation significance using the site during the survey, being the forest red-tailed black cockatoo, and the Carnaby's black cockatoo. The rezoning of the land will not in itself impact upon fauna values, however consideration will need to be given to management and protection of habitat at local structure plan and subdivision stage, at which point potential impacts can be quantified.

The proponent is currently seeking separate advice with respect to any environmental approvals required under the EPBC Act, which is a separate process to the planning process, and therefore has no direct relationship to the proposed rezoning.

#### 3.2.3 Wetlands and Waterways

The Environmental Assessment prepared by Emerge Associates identifies a Resource Enhancement Wetland (REW) located in the centre of the Amendment area, with a second REW located predominantly outside of the Amendment area on the northern boundary, with the exception of one small portion of the REW, which encroaches into the Amendment area. Buffers, interface treatments and rehabilitation of REWs will be considered and confirmed at local structure plan stage.

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The remainder of the site is a mapped Multiple Use Wetland (MUW). MUW's typically have few wetland attributes and are recognised as being suitable for development.

Two natural waterways exist within the Amendment area, both of which flow into the Ellen Brook to the west of the Amendment area. Consistent with the management of REWs, buffers / foreshore areas, interface treatments, and opportunities for rehabilitation will be confirmed at local structure plan stage.

The proposed Amendment text (Schedule 14) sets out a hierarchy of management plans that will be required to be prepared at subsequent stages in the planning process. This hierarchy includes an Environmental Assessment Management Strategy in support of the local structure plan, and a Vegetation, Wetland and Waterway Management Plan, which is to be prepared at subdivision stage. These strategies and plans will put in place an appropriate management framework for the ongoing protection and rehabilitation of these wetlands and waterways.

#### 3.2.4 Contamination

The site does not contain any known contaminated sites, and Emerge Associates has concluded that contamination is highly unlikely given the nature of historical land uses, and the absence of any farm buildings etc which may have been used to store potential contaminants.

#### 3.2.5 Acid Sulphate Soils (ASS)

There are no known potential risk ASS locations within the site. Further investigations may be required during subdivision / construction, though this is a common approach, and is not a constraint to development of the land.

#### 3.2.6 Aboriginal Heritage

According to the Department of Indigenous Affairs mapping, there is an Aboriginal Heritage Site and an Aboriginal Heritage Place which have been recorded over a large area that includes the Amendment area. Further details on the precise location of the site and place are not available at present, and it is likely that these sites / places of significance are located outside of the Amendment area. Notwithstanding, it appears as though the site and place are confined to the existing waterways in the area, and as such, if present within the site, will be recognised and retained as part of future structure planning and subdivision.

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#### 4.0 SERVICING STRATEGY

The amendment area is capable of being serviced with an appropriate level of service infrastructure in a timely manner. The project team has been in regular contact with the servicing authorities since the inception of this project, and will continue to liaise with the authorities as the planning process advances.

A detailed servicing strategy has been prepared by GHD engineering consultants, and is included as Appendix 4. The servicing strategy demonstrates that the amendment area is capable of being provided with essential services in the short to medium term. The project team has been working collaboratively with Government and service providers to ensure that the infrastructure can be delivered to the site as a priority. A summary of the servicing strategy and the essential infrastructure is set out in the sections below.

#### 4.1 Waste Water

As is common practice in large scale industrial areas such as this, wastewater will be managed onsite via installation of Aerobic Treatment Units (ATUs). Only Department of Health WA (DoH) approved systems, as listed in the document Approved Aerobic treatment Units (DoH 2011) will be used within the site. Installation will be carried out in accordance with the Code of Practice for the Design, Manufacture, Installation and Operation of Aerobic Treatment Units (DoH 2001).

A Land Capability Assessment will need to be carried out to confirm any site-specific management measures that may be required to ensure the suitability of use of ATUs within the site. The Land capability assessment will consider existing environmental conditions including underlying soil types and groundwater levels.

Treated waste water from ATUs could potentially help to reduce water consumption onsite through its use for irrigation within designated areas of each lot.

#### 4.2 Water supply

The proposed Amendment makes provision for the installation of reticulated water infrastructure throughout the amendment area. Supply of and connection to a reticulated water supply will be investigated, and the feasibility of such a supply demonstrated, prior to finalisation of the proposed scheme amendment.

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### 4.3 Electricity/gas

The amendment area has good access to an existing high voltage power network, and supply is not a constraint to development.

The nearest 132/22kV substation (Muchea) is around 6km from the amendment area. There are currently two 22kV feeders that exit Muchea Zone Substation and supply the area adjacent to the development site. Typically each 22kV feeder is able to service around 10MVA as per Western Power technical guidelines and policies.

Western Power policies state for industrial/commercial lots they must be services based on 200kVA per ha, which is capable of being provided, subject to some future upgrades to the network.

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## 5.0 PLANNING JUSTIFICATION

As demonstrated below, the proposed Amendment is strongly supported by the existing strategic planning framework for the Muchea area, and can be easily justified through the planning merits of the proposal.

### 5.1 Planning Framework

The need for strategically located industrial areas and employment nodes within the north-eastern corridor has been consistently identified in a number of State and local planning strategies over the past 20 years. The nexus between employment nodes and residential populations is becoming more apparent in the government's growth strategies, as traffic volumes and commuting distances continue to increase.

The North East Corridor Extension Strategy (2003) identified the need for a strategic general industrial site/employment node within the Muchea area, and identified approximately 1,100 ha to the east of the Muchea town site as being suitable for further investigation for industrial uses. The Muchea area was recognised as having potential as an industrial area that is well placed to take advantage of long-term transport opportunities offered by the planned Perth-Darwin National Highway.

The Muchea Industrial precinct is also recognised in the WAPC's Economic and Employment Lands Strategy (2012) as an important strategic employment node, and a critical contributor to the overall industrial land supply in the metropolitan region.

The recommendations of the NECES were further refined and elaborated through the WAPC's Muchea Employment Node Structure Plan (2011), which amongst other recommendations, identified the amendment area as being suitable for "low water use type industries with a minimum lot size of 10,000m<sup>2</sup>." The MENSPP also put in place a framework for the implementation of the Structure Plan through TPS6. This amendment proposal is entirely consistent with the implementation strategy outlined in the MENSPP, and is the logical next step towards the realisation of the Muchea employment node.

### 5.2 Employment Node

The interdependency between residential growth and employment areas is recognised in the State's planning framework, with high employment self sufficiency targets set for all of Perth's growth corridors. Whilst not within the boundaries of the metropolitan area, the Muchea employment node will be a significant contributor towards employment self sufficiency in the north-east corridor, and will provide much needed traffic contra-flow away from the metropolitan area.

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A strategic employment node in this location will complement the existing residential population in the Muchea townsite and Shire of Chittering. In addition, the new urban communities within the Swan Urban Growth Corridor, Ellenbrook, the Vines, the Vale/Egerton, and Bullsbrook all stand to benefit from this employment node and will become more self sufficient in terms of employment, thereby reducing vehicle trips to the south east and south west employment areas.

### 5.3 Surrounding Land Uses

The amendment area is ideally situated for industrial development, given the proximity and accessibility to the existing and planned regional road freight network. Access to the Great Northern Highway can be easily gained via the controlled intersection at Muchea Road East, and the amendment area does not rely on further direct access to Great Northern Highway. Furthermore, the planned PDNH is located immediately to the west of the amendment area, with a future district distributor / PDNH interchange passing through the site. The precise alignment and reserve width of the future district distributor road will be determined at structure plan stage as part of a broader traffic analysis.

With respect to other land uses in the locality, the WAMIA livestock facility and the poultry farm to the east of the amendment area both require large land use buffers that overlap the site, with these areas being ideal for industrial uses due to the non-sensitive nature of the land uses.

State Planning Policy 4.1 makes specific reference to the need to adequately separate industrial uses from any sensitive land uses through the imposition of a development buffer or similar. The amendment area is ideally located in that there are no adjoining sensitive land uses that could potentially be impacted upon by an industrial precinct in this location. The WAMIA livestock facility and adjacent poultry farm are mutually beneficial uses, and will not compromise the ability for to operate without land use conflict.

The large majority of the land surrounding the amendment area to the west and south is non-sensitive rural land, and has not been identified for any future urbanisation in the short to medium term. Notwithstanding the absence of any sensitive land uses, the draft Amendment requires that all future land use buffers are contained within the industrial zoned area.

The Amendment area is located approximately 2km to the east of Brand Highway and the Muchea Townsite, while the Great Northern Highway forms the western boundary of the Amendment area. Whilst it is highly unlikely that any future industrial uses will be overly visible from either the Brand Highway or the Muchea townsite, local structure plans should consider provision of an appropriate level of landscaping and other forms of visual screening as part of future subdivision / development approvals, in order to minimise visual impact on users of Great Northern Highway.

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#### 5.4 Environmental Protection

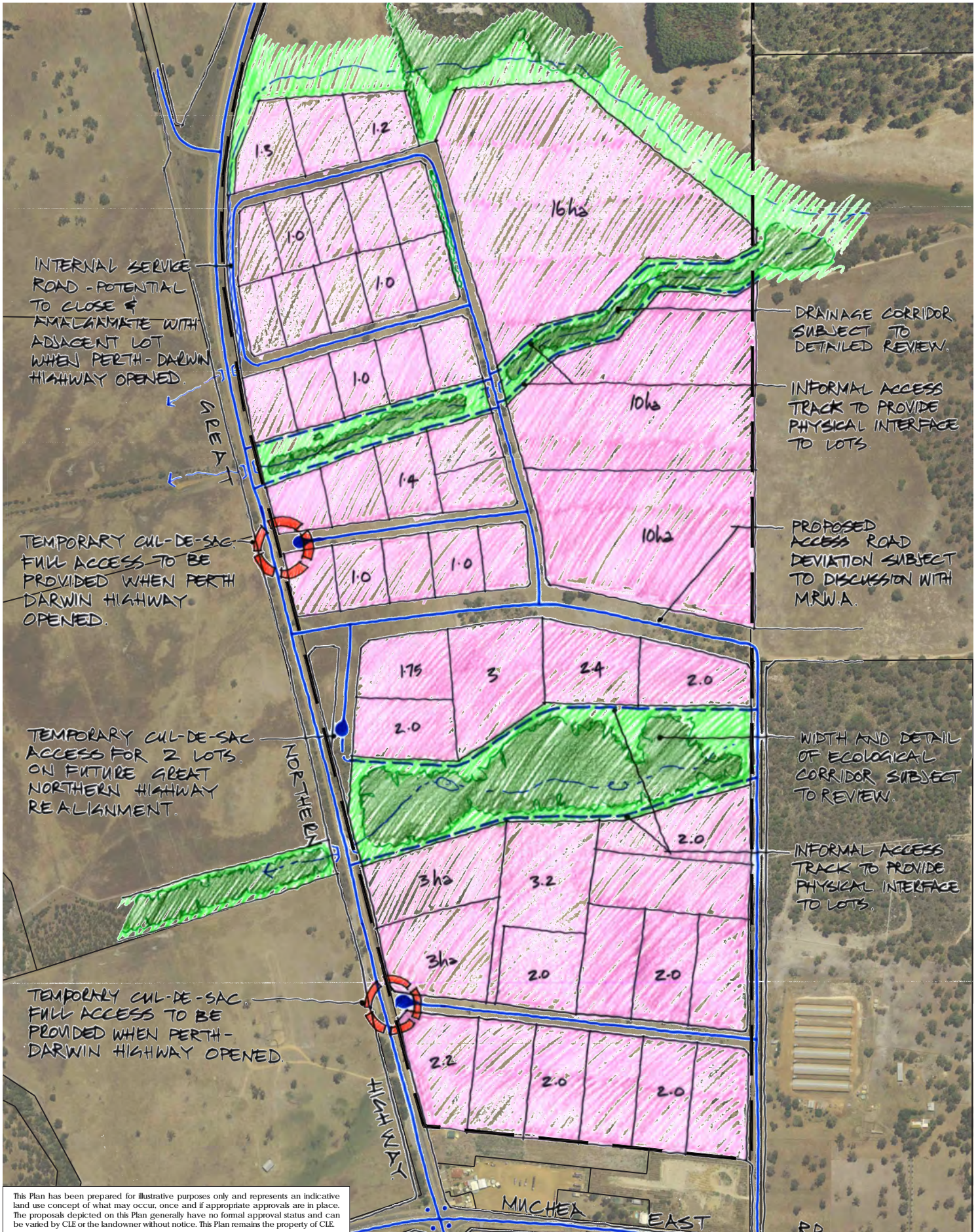
As demonstrated in part 3 of this report and the technical reports appended, with the proper management strategies in place, environmental issues are easily addressed through the subsequent planning and environmental approval processes. Overall, there are limited environmental constraints over the site and the industrial development of the area could be achieved without significant impacts on the environmental features of the area.

#### 5.5 Service Infrastructure

As evidenced in the GHD servicing strategy, the site is capable of being provided with essential service infrastructure.

The MENSF identifies the amendment area as being well suited to industries with low water consumption. Notwithstanding this fact, Westbridge is currently investigating various opportunities to connect the Amendment area to a reticulated water supply. This will provide diversity and flexibility in land uses as it will facilitate land uses with low water consumption requirements (as prescribed by the MENSF) as well as land uses that have a higher water consumption requirement.

With respect to the treatment of waste water, the MENSF identifies the use of Aerobic Treatment Units (ATUs) as the preferred approach due to large lot sizes and the prohibitive cost of installing a reticulated sewer. Whilst the MENSF specifies that aerobic treatment units shall be the primary method of waste water treatment, the suitability of other waste water treatment options such as a reticulated water supply or the collection of waste water for reuse is still being investigated. Connection to an innovative sewer treatment system may be required as a condition of subdivision or development approval, should such a system prove to be viable.



This Plan has been prepared for illustrative purposes only and represents an indicative land use concept of what may occur, once and if appropriate approvals are in place. The proposals depicted on this Plan generally have no formal approval status and can be varied by CLE or the landowner without notice. This Plan remains the property of CLE.





## 6.0 CONCEPT PLAN

The Development Concept Plan (figure 6) has been prepared to demonstrate one possible way in which lot M1313 could potentially be developed into a master planned industrial precinct. The key principles of the Plan are largely guided by the transport networks and environmental constraints outlined in part 4 of this report.

### 6.1 Development Principles

#### *Servicing the north-west*

The Muchea Employment Node is ideally located to provide an industrial staging post between Perth and the north-west of the State. With the increase in resource based projects in the Mid West, Gascoyne, Pilbara and Kimberley regions of WA, the Muchea Employment Node will provide an essential segue between the north-west catchment and the metropolitan freight network through its unimpeded access to major regional road networks.

The Concept Plan has been prepared with the resource sector and associated transport industries in mind as potential end users. The landowners have already commenced discussions and negotiations with several large scale transport and logistics based users, who have expressed a keen interest in establishing themselves in this location, and are looking for large areas of land (approx 2 ha - 10 ha) for storage, road train assembly, and freight logistics. These users typically require large areas of land, but with minimal demand for service infrastructure due to the nature of the business. As such, there is only a very limited demand for water and waste water infrastructure beyond the provision of staff amenities and BCA fire protection requirements.

#### *An evolutionary process*

The Concept Plan recognises that industrial areas evolve over time. It is not reasonable to expect that the Amendment area will become a fully functional industrial precinct in the first generation of development and land use. This is apparent in other established industrial areas throughout the metropolitan area such as Wangara and Malaga, where the types of land uses, lot sizes and infrastructure requirements have changed and refined over time. As such, the Plan has been prepared to provide a network of roads and lot sizes that are flexible in order to ensure that the specific needs of end users can be met, and that land uses can evolve over time.

#### *Consideration of environmental features*

The concept plan recognises the environmental features of the site, including existing waterways, the resource enhancement wetland, and significant remnant vegetation. The Plan provides a suitable development buffer around those areas of significance, with all of the conservation areas being separated from the development area by either a road reserve or other hard edged surface treatment, which will assist to manage the interface between the industrial land and the conservation buffers.

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The plan does not propose any new crossings through the resource enhancement wetland, and makes use of the existing Gulliente Road reserve to link Muchea East Road to the remainder of the site.

Significant remnant vegetation will be retained within the resource enhancement wetland, existing waterways, and buffer areas. In addition, there are opportunities to retain vegetation within road reserves and within private lots where engineering considerations do not impede retention.

*An interconnected road network*

The internal road network will generally follow a grid layout of north-south and east-west connecting roads, allowing for regular shaped lots and easy access to the external road network.

The concept plan restricts access to Great Northern Highway, with opportunities to create connections in the future when the PDNH becomes operational and Great Northern Highway is downgraded. Access to the site is from existing Muchea Road East and the Gulliente Road reserve, which will be upgraded prior to development.



## 7.0 CONCLUSION

The rezoning of the amendment area to Industrial Development, and the insertion of specific planning and environmental reporting requirements into TPS6 provides certainty and a robust statutory framework for future planning and development of lot M1313.

The amendment area is the first stage in an 1,100 ha industrial precinct in the north-eastern corridor, which will service the resource sector in the mid-west and north-west of the State, and will be a substantial asset to the Shire of Chittering in the longer term. As demonstrated in this report and Appendices, the proposed industrial rezoning is not only a significant opportunity to address a critical industrial land shortage whilst implementing the WAPC's strategic vision for the area, but it should be supported for the following reasons:

- The location of the Muchea employment node has been identified in a number of state and local planning strategies since 2003, and has strong support from the current state strategic planning framework.
- As demonstrated by the development concept plan at figure 6, detailed planning is sufficiently advanced to depict an overall indicative design to guide future development of the precinct. The fact that the amendment area can be developed into a stand-alone strategic industrial facility, catering for a multitude of end users whilst not impacting on adjoining land uses is made evident through the concept plan.
- The amendment area is not constrained by any current or potential land use conflicts, and is a compatible land use for the WAMIA livestock facility and poultry farm adjoining the site.
- Environmental constraints have been adequately addressed through detailed investigation and reporting, with all environmental areas being protected by a road interface and appropriately sized buffers where necessary. The Department of Environment, Department of Health, Department of Water, and the Environmental Protection Authority were all consulted in the preparation of this amendment, and were all supportive of the Amendment in principle.
- This amendment has been prepared in close consultation with the Department of Planning in order to ensure that the proposed scheme text meets current best practice and is consistent with the Model Scheme Text where appropriate. The Department of Planning is supportive of the proposed approach, and recognises the significance of this amendment in the context of implementing the Muchea Employment Node Structure Plan recommendations.
- Westbridge Property Group are proven industrial developers, and are committed to delivering a high standard industrial facility in Muchea.

Given the significant opportunities that this site presents for short term industrial development, the support of the strategic planning framework and government agencies, it is imperative that the statutory framework is put in place to allow the ongoing planning and development of the amendment area soon as possible.



APPENDICES





APPENDIX 1

Proposed Scheme Amendment Text

**1. AMEND SCHEME MAP:**

- 1.1 Rezone Part Lot M1313 Great Northern Highway, Muchea to 'Industrial Development Zone'.
- 1.2 Create a Special Control Area 'Development Contribution Area' (DCA1) over Part Lot M1313
- 1.3 Create a Special Control Area 'Muchea Employment Node' (MEN1) over Part Lot M1313
- 1.4 Include 'General Industrial Zone' and 'Industrial Development Zone' in the Scheme Map Legend

**2. AMEND SCHEME TEXT:**

**Insert new clause 4.2.3 and 4.2.4 immediately following existing clause 4.2.2, and renumber subsequent clauses accordingly.**

**4.2.3 General Industrial Zone**

*The objectives of the General Industrial Zone are to:*

- a) *accommodate a range of industrial and related land uses which will not, by the nature of their operations, detrimentally impact upon residential and other sensitive land uses in close proximity;*
- b) *to apply environmental standards and practices that protect the amenity of adjoining areas and support the retention and enhancement of the environmental values of the site and its surrounds.*
- c) *Maintain the visual amenity of the area as seen from major public roads*
- d) *ensure orderly and comprehensive planning and coordinated subdivision and development.*

**4.2.4 Industrial Development Zone**

*The objectives of the Industrial Development Zone are to:*

- a) *designate strategic land areas for future industrial development and employment creation purposes, and prevent such land from being used or developed in a manner which could prejudice its use for this purpose;*
- b) *ensure orderly and comprehensive planning and coordinated subdivision and development through the requirement for the preparation and endorsement of a structure plan in accordance with part 5.18 and any associated provisions contained in Schedule 16 of the Scheme;*
- c) *ensure the coordinated provision of infrastructure, and the equitable sharing of service costs associated with subdivision and development of industrial land;*
- d) *protect the amenity of adjacent properties; and,*
- e) *Protect the environmental assets of the site.*

**Delete clause 5.8.1 in its entirety and replace with the following:**

**5.8.1 Requirement for a Structure Plan**



*Subdivision and development shall be generally in accordance with a Structure Plan prepared in accordance with clause 5.18 of the Scheme.*

**Insert new clause 5.18 following existing clause 5.17.**

**5.18 Structure Plans**

5.18.1 *The local government or the Western Australian Planning Commission may require the preparation of a structure plan prior to considering a subdivision or development proposal for any area or zone in the scheme.*

5.18.2 *Subdivision and development should generally be in accordance with an approved structure plan.*

5.18.3 *A departure from, or alteration to, a structure plan may be permitted if the local government and Western Australian Planning Commission considers the proposed departure or alteration to be minor in nature and it will not prejudice the future subdivision and development of the area.*

**5.18.4 Preparation of proposed structure plans**

5.18.4.1 *Where a structure plan is required, the proposed structure plan may be prepared by:*

- (a) the local government; or*
- (b) an owner.*

5.18.4.2 *A proposed structure plan may be prepared in any zone in the Scheme and for any portion of land.*

**5.18.5 Details of proposed structure plan**

5.18.5.1 *A Structure Plan is to contain such detail as, in the opinion of the local government and Western Australian Planning Commission, is required to satisfy the planning requirements for the structure plan area, and should generally include the following details:*

- (a) a set of maps and a report describing the structure plan area and surrounding land uses;*
- (b) maps are to be of a legible scale for the structure plan area;*
- (c) statutory land use provisions and controls that assume the force and effect of the Scheme once endorsed;*
- (d) key opportunities and constraints of the structure plan area including landform, topography, hydrology, landscape, vegetation, bushfire hazard areas, soils, conservation and heritage values, ownership, land use, roads and services;*
- (e) conservation and environmental values including bushland, wetlands, streams and water courses, foreshore reserves and setbacks, environmental policy areas and urban water management areas;*
- (f) sites and features of Aboriginal and European heritage value;*
- (g) transport routes, including highways, district and neighbourhood roads, public transport routes, cycle routes and railway stations;*
- (h) the planning context for the structure plan including the regional, district and neighbourhood structure, relevant strategies, Scheme*



*provisions and policies and where appropriate, an indication of how the structure plan is to be integrated into the surrounding area;*

- (i) proposed major land uses, in particular, residential and rural residential areas, public open space, school sites, civic and community uses, commercial uses (including the location and hierarchy of commercial centres), mixed use, industrial and mixed business uses;*
- (j) the proposed indicative lot pattern and general location of any major buildings;*
- (k) estimates of future lots, dwellings, population, commercial and industrial floor space;*
- (l) provision for major infrastructure, including water supply, main drainage, sewerage, and other key infrastructure services;*
- (m) the proposed road network and hierarchy, public transport services, and bicycle and pedestrian networks;*
- (n) the timeframe and staging of subdivision and development, and the method of implementation, including any proposals for funding by development contributions; and,*
- (o) such other information as may be required by the local government as a result of the site's characteristics.*

5.18.5.2 *A proposed structure plan may, to the extent that it does not conflict with the Scheme and the underlying zone, impose a classification on the land included in it by reference to reserves, zones or the Residential Design Codes, and where the proposed structure plan becomes a structure plan, the local government is to have due regard to such reserves, zones or Residential Planning Codes when recommending subdivision or approving development of land within the area within which the Structure Plan applies.*

#### **5.18.6 Submission to local government and Commission**

5.18.6.1 *A proposed structure plan prepared by an owner is to be submitted to the local government.*

5.18.6.2 *Within 7 days of preparing or receiving a proposed structure plan which proposes the subdivision of land, the local government is to forward a copy of the proposed structure plan to the Commission.*

5.18.6.3 *The Commission is to provide comments to the local government as to whether it is prepared to endorse the proposed structure plan with or without modifications.*

5.18.6.4 *The Commission must provide its comments to the local government within 30 days of receiving the proposed structure plan.*

#### **5.18.7 Advertising of structure plan**

5.18.7.1 *Within 60 days of preparing or receiving a proposed structure plan that conforms with clause 5.18.5 and complies with the Scheme (or such longer time as may be agreed in writing between the owner who submitted the proposed structure plan and the local government), the local government is to:*



- (a) *advertise, or require the owner who submitted the proposed structure plan to advertise, the proposed structure plan for public inspection by one or more of the following ways:*
  - (i) *notice of the proposed structure plan published in a newspaper circulating in the Scheme area;*
  - (ii) *a sign or signs displaying notice of the proposed structure plan to be erected in a conspicuous place or places in the Structure Plan Area, or part of the Structure Plan Area, to which the proposed structure plan applies; and*
- (b) *give notice or require the owner who submitted the proposed structure plan to give notice, in writing to:*
  - (i) *all owners whose land is included in the proposed structure plan;*
  - (ii) *all owners and occupiers who, in the opinion of the local government, are likely to be affected by the adoption of the proposed structure plan;*
  - (iii) *such public authorities and other persons as the local government nominates.*

5.18.7.2 The advertisement and notice are to:

- (a) *explain the scope and purpose of the proposed structure plan;*
- (b) *specify when and where the proposed structure plan may be inspected; and*
- (c) *invite submissions to the local government by a specified date being not less than 21 days after the giving or erection of the notice or publication of the advertisement, as the case requires.*

#### **5.18.8 Adoption of proposed structure plan**

5.18.8.1 The local government is to consider all submissions received and within 60 days of the latest date specified in the notice or advertisement for the making of submissions is to:

- (a) *adopt the proposed structure plan, with or without modifications; or*
- (b) *refuse to adopt the proposed structure plan and, where the proposed structure plan was submitted by an owner, give reasons for this to the owner.*

5.18.8.2 In making a determination under clause 5.18.8.2, the local government is to have due regard to the comments and advice received from the Commission in relation to the proposed structure plan.

5.18.8.3 If the Commission requires modifications to the proposed structure plan, the local government is to consult with the Commission prior to making a determination under clause 5.18.8.1.

5.18.8.4 If the local government, after consultation with the Commission, is of the opinion that a modification to the proposed structure plan is substantial, the local government may:

- (a) *readvertise the proposed structure plan; or*
- (b) *require the owner who submitted the proposed structure plan to readvertise the proposed structure plan;*



and thereafter, the procedures set out in clause 5.18.8.1 onwards are to apply.

5.18.8.5 If within the period referred to in clause 5.18.8.1, or such further time as may be agreed in writing between the owner who submitted the proposed structure plan and the local government, the local government has not made a determination under clause 5.18.8.1, the local government is deemed to have refused to adopt the proposed structure plan.

#### **5.18.9 Endorsement by Commission**

5.18.9.1 If the proposed structure plan proposes the subdivision of land, then within 7 days of making its determination under clause 5.18.9.1, the local government is to forward the proposed structure plan to the Commission for its endorsement.

5.18.9.2 As soon as practicable after receiving the proposed structure plan, the Commission is to determine whether to endorse the proposed structure plan.

5.18.9.3 The Commission may refuse to endorse the proposed structure plan, or endorse the proposed structure plan with or without modification.

5.18.9.4 The Commission is to notify the local government of its determination under clause 5.18.9.3.

#### **5.18.10 Notification of structure plan**

5.18.10.1 As soon as practicable after adopting a proposed structure plan under clause 5.18.9.2 and if clause 5.18.9.3 applies, as soon as practicable after being notified of the Commission's decision under clause 5.18.9.4, the local government is to forward a copy of the structure plan to:

- (a) any public authority or person that the local government thinks fit; and
- (b) where the structure plan was submitted by an owner, to the owner.

#### **5.18.11 Operation of structure plan**

5.18.11.1 A structure plan comes into effect:

- (a) where the structure plan proposes the subdivision of land, on the day on which it is endorsed by the Commission pursuant to clause 5.18.9.2; or
- (b) on the day on which it is adopted by the local government under clause 5.18.8.1 in all other cases.

5.18.11.2 If a provision of a structure plan is inconsistent with a provision of the Scheme, then the provision of the Scheme prevails to the extent of the inconsistency.

5.18.11.3 Subject to clause 5.18.11.5, if a Structure Plan imposes a classification on the land included in it by reference to reserves, zones, or the Residential Design Codes then:

- (a) *the provisions of the Structure Plan apply to the land as if its provisions were incorporated into the Scheme and it is binding and enforceable in the same way as corresponding provisions incorporated in the scheme; and*
- (b) *the provisions in the Scheme applicable to land in those classifications under the Scheme apply to the Structure Planning Area.*

5.18.11.4 *Without limiting the generality of clause 5.18.11.3, under a Structure Plan:*

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

5.18.11.5 *A Structure Plan may distinguish between the provisions, requirements or standards which are intended to have effect as if included in the Scheme, and any provisions, requirements or standards which are only for guidance or such other purposes as stipulated in the Structure Plan.*

5.18.11.6 *If a provision of a Structure Plan which imposes a classification on the land included in it by reference to reserves, zones or Residential Design Codes is inconsistent with a provision of the Scheme, then the provision of the Scheme prevails to the extent of any inconsistency.*

#### **5.18.12 Inspection of structure plan**

5.18.12.1 *The structure plan and the Commission's notification under clause 5.18.9.3 is to be kept at the local government's administrative offices, and is to be made available for inspection by any member of the public during office hours.*

#### **5.18.13 Variation to structure plan**

5.18.13.1 *The local government may vary a structure plan:*

- (a) *by resolution if, in the opinion of the local government, the variation does not materially alter the intent of the structure plan;*
- (b) *otherwise, in accordance with the procedures set out in clause 5.18.6 onwards.*

5.18.13.2 *If the local government varies a structure plan by resolution, and the variation does not propose the subdivision of land, the local government is to forward a copy of the variation to the Commission within 10 days of making the resolution.*



- 5.18.13.3 *If the local government varies a structure plan by resolution, and the variation proposes the subdivision of land, the local government is to forward a copy of the variation to the Commission within 10 days of making the resolution for its endorsement.*
- 5.18.13.4 *As soon as practicable after receiving the copy of the variation referred to in clause 5.18.13.3, the Commission is to determine whether to endorse the proposed variation.*
- 5.18.13.5 *The Commission is to notify the local government of its determination under clause 5.18.13.4.*
- 5.18.13.6 *A variation to a structure plan by resolution comes into effect:*
- (a) where the variation proposes the subdivision of land, on the day on which it is endorsed by the Commission pursuant to clause 5.18.13.4; or*
  - (b) on the day on which the local government resolves to make the variation under clause 5.18.13.1 (a).*

**5.18.14 Right of Review**

- 5.18.14.1 *The proponent of a structure plan required by this Scheme may make application for review under Part 14 of the Planning and Development Act 2005 on the following grounds:*
- (a) The failure of the local government to make a determination on the content and requirement of a structure plan (or an amendment to a structure plan) within 60 days of the structure plan being lodged pursuant to clause 5.18.6;*
  - (b) A decision by the local government not to adopt a structure plan (or an amendment to a structure plan) pursuant to clause 5.18.8 or 5.18.13;*
  - (c) A decision by the Commission not to adopt a structure plan (or an amendment to a structure plan); and*
  - (d) A decision by the Commission to endorse a structure plan subject to modifications, where the owner is aggrieved by one or more of the modifications required.*

**Delete clause 6.7 in its entirety and replace with the following:**

- 6.7 *Areas within which Development contribution plans apply*
- 6.7.1 *Interpretation*

*In clause 6.7, unless the context otherwise requires:*

*'Administrative costs' means such costs as are reasonably incurred for the preparation and (with respect to standard infrastructure items) implementation of the development contribution plan.*

*'Administrative items' means the administrative matters required to be carried out by or on behalf of the local government in order to prepare and (with respect to standard infrastructure items) implement the development contribution plan, including legal, accounting, planning engineering, and other professional advice.*



*'Cost apportionment schedule'* means a schedule prepared and distributed in accordance with clause 6.7.10.

*'Cost contribution'* means the contribution to the cost of infrastructure and administrative costs.

*'Development contribution area'* means an area shown on the scheme map with a number and included in Schedule 13.

*'Development contribution plan'* means a development contribution plan prepared in accordance with the provisions of State Planning Policy 3.6 Development Contributions for Infrastructure and the provisions of this clause 6.7 of the scheme (as incorporated in Schedule 13 to this scheme).

*'Development contribution plan report'* means a report prepared and distributed in accordance with clause 6.7.10.

*'Infrastructure'* means the standard infrastructure items (services and facilities set out in appendix 1 of State Planning Policy 3.6 Development Contributions for Infrastructure) and community infrastructure, including recreational facilities; community centres; child care and after school centres; libraries and cultural facilities and such other services and facilities for which development contributions may reasonably be requested having regard to the objectives, scope and provisions of this policy.

*'Infrastructure costs'* means such costs as are reasonably incurred for the acquisition and construction of infrastructure.

*'Local government'* means the local government or local governments in which the development contribution area is located or through which the services and facilities are provided.

*'Owner'* means an owner of land that is located within a development contribution area.

#### 6.7.2 Purpose

The purpose of having development contribution areas is to:

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

#### 6.7.3 Development contribution plan required

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

#### 6.7.4 Development contribution plan part of scheme

The development contribution plan is incorporated in Schedule 13 as part of this scheme.

6.7.5 *Subdivision, strata subdivision and development*

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

6.7.5.3 *Where a development contribution plan is required but not yet in effect, , the local government may recommend conditions of subdivision or strata subdivision approval or impose conditions of a development approval requiring the owner to make other interim arrangements, satisfactory to the local government, with respect to the owner's contribution toward the provision of infrastructure, land and administrative items and costs in a development contribution area.*

6.7.6 *Guiding principles for development contribution plans*

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

*(a) Need and the nexus*

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

*(b) Transparency*

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

*(c) Equity*

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

*(d) Certainty*

*All development contributions should be clearly identified and methods of accounting for cost adjustments determined at the commencement of a development.*

*(e) Efficiency*

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

*(f) Consistency*

*Development contributions should be applied uniformly across a development contribution area and the methodology for applying contributions should be consistent.*

*(g) Right of consultation and review*

*Owners have the right to be consulted on the manner in which development contributions are determined. They also have the opportunity to seek a review by an independent third party if they believe the calculation of the costs of the contributions is not reasonable.*

*(h) Accountable*

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

6.7.7 *Recommended content of development contribution plans*

6.7.7.1 *The development contribution plan is to specify:*

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

6.7.8 *Period of development contribution plan*

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

6.7.9 *Land excluded*

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

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

6.7.10 *Development contribution plan report and cost apportionment schedule*

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

6.7.10.2 *The development contribution plan report and the cost apportionment schedule shall set out in detail the calculation of the cost contribution for*

each owner in the development contribution area, based on the methodology provided in the development contribution plan, and shall take into account any proposed staging of the development.

- 6.7.10.3 The development contribution plan report and the cost apportionment schedule do not form part of the scheme, but once adopted by the local government they are subject to review as provided under clause 6.7.11.
- 6.7.11 Cost contributions based on estimates
- 6.7.11.1 The determination of Infrastructure costs and administrative costs is to be based on amounts expended, but when expenditure has not occurred, it is to be based on the best and latest estimated costs available to the local government and adjusted accordingly, if necessary.
- 6.7.11.2 Where a cost apportionment schedule contains estimated costs, such estimated costs are to be reviewed at least annually by the local government:
- (a) in the case of land to be acquired, in accordance with clause 6.7.12; and
  - (b) in all other cases, in accordance with the best and latest information available to the local government, until the expenditure on the relevant item of infrastructure or administrative costs has occurred.
- 6.7.11.3 The local government is to have such estimated costs independently certified by appropriate qualified persons and must provide such independent certification to an owner when requested to do so.
- 6.7.11.4 Where any cost contribution has been calculated on the basis of an estimated cost, the local government:
- (a) is to adjust the cost contribution of any owner in accordance with the revised estimated costs; and
  - (b) may accept a cost contribution, based upon estimated costs, as a final cost contribution and enter into an agreement with the owner accordingly.
- 6.7.11.5 Where an owner's cost contribution is adjusted under clause 6.7.11.4, the local government, on receiving a request in writing from an owner, is to provide the owner with a copy of estimated costs and the calculation of adjustments.
- 6.7.11.6 If an owner objects to the amount of a cost contribution, the owner may give notice to the local government requesting a review of the amount of the cost contribution by an appropriate qualified person ('independent expert') agreed by the local government and the owner at the owner's expense, within 28 days after being informed of the cost contribution.
- 6.7.11.7 If the independent expert does not change the cost contribution to a figure acceptable to the owner, the cost contribution is to be determined:
- (a) by any method agreed between the local government and the owner; or
  - (b) if the local government and the owner cannot agree on a method pursuant to (a) or on an independent expert, by arbitration in

accordance with the Commercial Arbitration Act 1985, with the costs to be shared equally between the local government and owner.

6.7.12 Valuation

6.7.12.1 Clause 6.7.12 applies in order to determine the value of land to be acquired for the purpose of providing Infrastructure.

6.7.12.2 In clause 6.7.12 -

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

Valuation methodology will be defined for each particular arrangement by the applicable Development Contribution Plan Report.

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

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

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

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

6.7.13 Liability for cost contributions

6.7.13.1 An owner must make a cost contribution in accordance with the applicable development contribution plan and the provisions of clause 6.7.

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

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

*(d) the approval of a change or extension of use by the local government on the owner's land within the development contribution area.*

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

6.7.13.3 *Notwithstanding clause 6.7.13.2, an owner's liability to pay the owner's cost contribution does not arise if the owner commences development of:*

*(a) the first single house or outbuildings associated with that first single house on an existing lot which has not been subdivided or strata subdivided since the coming into effect of the development contribution plan;*

*(b) a single dwelling on a single lot and associated outbuildings;*

*(c) a change of use where no development is proposed;*

*(d) a development which is defined as 'public works' under the Public Works Act 1902, but excluding Public Housing;*

*(e) a fence;*

*(f) a home business;*

*(g) a home occupation;*

*(h) a home office; or*

*(i) any development which is permitted and excluded from the requirement for planning consent pursuant to clause 8.2..*

6.7.13.4 *Where a development contribution plan expires in accordance with clause 6.7.8, an owner's liability to pay the owner's cost contribution under that development contribution plan shall be deemed to continue in effect and be carried over into any subsequent development contribution plan which includes the owner's land, subject to such liability.*

6.7.14 *Payment of cost contribution*

6.7.14.1 *The owner, with the agreement of the local government, is to pay the owner's cost contribution by:*

*(a) cheque or cash;*

*(b) transferring to the local government or a public authority land in satisfaction of the cost contribution;*

*(c) the provision of physical infrastructure;*

*(d) some other method acceptable to the local government; or*

*(e) any combination of these methods.*

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

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

6.7.15 *Charge on land*



- 6.7.15.1 *The amount of any cost contribution for which an owner is liable under clause 6.7.13, but has not paid, is a charge on the owner's land to which the cost contribution relates, and the local government may lodge a caveat, at the owner's expense, against the owner's certificate of title to that land.*
- 6.7.15.2 *The local government, at the owner's expense and subject to such other conditions as the local government thinks fit, can withdraw a caveat lodged under clause 6.7.15.1 to permit a dealing and may then re-lodge the caveat to prevent further dealings.*
- 6.7.15.3 *If the cost contribution is paid in full, the local government, if requested to do so by the owner and at the expense of the owner, is to withdraw any caveat lodged under clause 6.7.15.*
- 6.7.16 *Administration of funds*
- 6.7.16.1 *The local government is to establish and maintain a reserve account in accordance with the Local Government Act 1995 for each development contribution area into which cost contributions for that development contribution area will be credited and from which all payments for the infrastructure costs and administrative costs within that development contribution area will be paid. The purpose of such a reserve account or the use of money in such a reserve account is limited to the application of funds for that development contribution area.*
- 6.7.16.2 *Interest earned on cost contributions credited to a reserve account in accordance with clause 6.7.16.1 is to be applied in the development contribution area to which the reserve account relates.*
- 6.7.16.3 *The local government is to publish an audited annual statement of accounts for that development contribution area as soon as practicable after the audited annual statement of accounts becomes available.*
- 6.7.17 *Shortfall or excess in cost contributions*
- 6.7.17.1 *If there is a shortfall in the total of cost contributions when all cost contributions have been made or accounted for in a particular development contribution area, the local government may:*
- (a) make good the shortfall;*
  - (b) enter into agreements with owners to fund the shortfall; or*
  - (c) raise loans or borrow from a financial institution,*
- but nothing in paragraph 6.7.17.1(a) restricts the right or power of the local government to impose a differential rate to a specified development contribution area in that regard.*
- 6.7.17.2 *If there is an excess in funds available to the development contribution area when all cost contributions have been made or accounted for in a particular development contribution area, the local government is to refund the excess funds to contributing owners for that development contribution area. To the extent, if any, that it is not reasonably practicable to identify owners and/or their entitled amount of refund, any excess in*

*funds shall be applied, to the provision of additional facilities or improvements in that development contribution area.*

6.7.18 *Powers of the local government*

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

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

6.7.19 *Arbitration*

*Subject to clauses 6.7.12.3 and 6.7.12.4, any dispute between an owner and the local government in connection with the cost contribution required to be made by an owner is to be resolved by arbitration in accordance with the Commercial Arbitration Act 1985.*

**Insert new Clause 6.8**

**6.8 *Muchea Employment Node***

*The Muchea Employment Node Special Control Area is shown on the Scheme Map. Planning Approval is required for any development within the Special Control Area.*

**6.8.1 *Purpose***

- (a) to provide a basis for the zoning and development of the Muchea Employment Node as an industrial estate in accordance with the Muchea Employment Node Structure Plan;*
- (b) to accommodate industrial impacts within the boundaries of the Muchea Employment Node;*
- (c) to provide a basis for development contributions toward infrastructure in accordance with clause 6.7 and Schedule 13 of the Scheme;*
- (d) to protect and manage the natural environment, landscape values and waterways, resulting in a high quality industrial estate that responds to its natural setting;*
- (e) provide for essential services that provide for a broad range of land uses and protection of the natural environment; and*
- (f) limit the development of land uses that might compromise the intended purpose of the area as an industrial estate.*

**6.8.2 *Planning Requirements***

- 6.8.2.1 *Notwithstanding any other land use permissibility expressed in the Scheme, no residential land uses will be approved in the Muchea Employment Node Area.*



- 6.8.2.2 *In considering zoning proposals for 'Industrial Development' or 'General Industry' within the Muchea Employment Node, Council will require a comprehensive report that addresses the objectives and specific provisions of the Muchea Employment Node Structure Plan, and includes as a minimum:*
- (a) a District Water Management Strategy*
  - (b) An Environmental assessment that includes Flora and Vegetation Survey, Wetland Assessment and Level 1 Fauna Assessment*
  - (c) A desktop Aboriginal heritage assessment.*
- 6.8.2.3 *Subdivision or development of any land within the Muchea Employment Node shall be in accordance with the specific provisions and requirements of Schedule 16 as applicable.*

**Insert the following definitions into Schedule 1 – General Definitions:**

*'owner'* means an owner or owners of land;

*'structure plan'* means a structure plan that has come into effect in accordance with the provisions of this scheme and includes any Outline Development Plan, Development Plan or Subdivision Guide Plan prepared and approved under a previous local planning scheme of the local government

**Amend Schedule 2 – Zoning Table to include columns for Industrial Development Zone and General Industry Zone.**

- Land Use permissibility for Industrial Development Zone across all use classes will be listed as "in accordance with an approved Local Structure Plan".
- Land Use permissibility for General Industry Zone will be as follows:

<b>Permissibility</b>	<b>Use Class</b>
'P' (permitted)	Animal Establishment Aquaculture Builders Storage Yard Car Park Caretakers dwelling Civic Use Community Purposes Exhibition Centre Factory Unit Building Farm Supply Centre Fuel Depot Garden Centre / Plant Nursery Industry - Extractive Industry – General Industry – Light Industry – Rural Industry – Service Landscape Supplies Lunch Bar Motor Vehicle, Boat or Caravan – Sales Motor Vehicle Repair Motor Vehicle Wrecking Open Air Display Public Utility Recycling Centre Roadhouse Salvage Yard Service Station Shop Showroom Storage Telecommunications Infrastructure Transport Depot Veterinary Centre Warehouse
'A' (discretionary requires advertising)	Animal Husbandry – Intensive Stock Yards

**Item 9.1.6**



'X' (prohibited)	Industry - Noxious Industry – Hazardous Industry – Mining Chicken Litter Fired Power plant
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**Rename ‘Schedule 13 – Community Infrastructure Development Contribution Plans for Development Contribution Areas’ to “Schedule 13 – Development Contribution Areas” and insert the following:**

**Schedule 13 – Development Contribution Areas**

<b>NO.</b>	<b>DESCRIPTION OF LAND</b>	<b>DEVELOPMENT CONTRIBUTION PLANS</b>
1	Referred to as Muchea Industrial Precinct 1 North A Part Lot M1313 Great Northern Highway and shown on the scheme map as Special Control Area MEN	A Development Contribution Plan (DCP) for this area is to be prepared in accordance with clause 6.7.

**Insert ‘Schedule 16 – Muchea Employment Node Special Control Area’**

**Schedule 16 – Muchea Employment Node Special Control Area**

<b>NO.</b>	<b>DESCRIPTION OF LAND</b>	<b>CONDITIONS</b>
1.	Referred to as Muchea Industrial Precinct 1 North A Part Lot M1313 Great Northern Highway	<p><b>1. Hierarchy of Plans</b></p> <p>Subdivision and development within the subject area shall be subject to the provisions of Part 5.18 and 6.8 of the Scheme, including the preparation and approval of Structure Plan(s).</p> <p><b>2. Structure Plan</b></p> <p><b>2.1 Structure Plan Preparation</b></p> <p>A Structure Plan(s) shall be prepared in accordance with the provisions of Part 5.18 of the Scheme over the entire area, or over any portion of the area.</p> <p>An approved Structure Plan together with all approved amendments shall apply in relation to the land within the area of the Structure Plan Without limiting the generality of the foregoing,</p>



NO.	DESCRIPTION OF LAND	CONDITIONS
		<p><i>within the zones designated in the Structure Plan the use classes referred to in the Zoning Table shall have the same permissibility spread as set out in that table.</i></p> <p><b>2.2 Environmental Management Plans</b></p> <p><i>The following Environmental Management Plans shall be prepared and used to inform the design and proposed subdivision and development within the Structure Plan area. They shall be submitted as an additional detail of a Structure Plan unless otherwise determined by the Local Authority.</i></p> <p><b>2.2.1 Local Water Management Strategy</b></p> <p><i>The developer shall submit to the Local Authority a Local Water Management Strategy (LWMS) for approval as an additional detail of a Structure Plan pursuant to Part 5.18 in order to ensure that surface and ground waters are managed with the aim of maintaining the natural water balance. The Local Authority must notify and consult with the authority responsible for water and the environment on the proposed strategy in advertising the Local Structure Plan(s) pursuant to clause 5.18.</i></p> <p><i>The LWMS shall be prepared in accordance with Better Urban Water Management or its successor document.</i></p> <p><i>The Structure Plan design shall respond to the LWMS required by 2.2.1 and shall be implemented to the satisfaction of the Local Authority, having regard to any advice from the Department of Water.</i></p> <p><b>2.2.2 Environmental Assessment and Management Strategy</b></p> <p><i>The developer shall submit to the Local Authority an Environmental Assessment and Management Strategy for approval as an additional detail of a Local Structure Plan pursuant to Part 5.17 in order to ensure the local structure plan provides a comprehensive and coordinated response to all environmental features within the Structure Plan area and in accordance with the Muchea Employment Node Structure Plan.</i></p> <p><i>The Environmental Assessment and Management Strategy is to include the following:</i></p> <ul style="list-style-type: none"> <li><i>– Identification of significant environmental features within the local structure plan area</i></li> </ul>

NO.	DESCRIPTION OF LAND	CONDITIONS
		<p>including flora, vegetation, fauna, wetlands and waterways;</p> <ul style="list-style-type: none"> <li>- Identification of appropriate management strategies, consistent with industry best practice, to ensure that the local structure plan responds appropriately to these environmental features. Appropriate management strategies might include identification of buffers / setbacks, potential areas of revegetation / rehabilitation, public open space and fauna relocation; and</li> <li>- Consideration of Acid Sulfate Soils (if present) and identification of the likely requirement for ASS management during future planning stages.</li> </ul> <p>The Local Authority must consult with the relevant environmental agencies regarding the proposed strategy in advertising the Local Structure Plan pursuant to clause 5.18.</p> <p>The Environmental Assessment and Management Strategy shall be consistent with the EPA's current Guidance Statement No.33 Environmental Guidance for Planning and Development, or any successor Guidance Statement.</p> <p>The Environmental Assessment and Management Strategy required by 4.2.2 shall be implemented to the satisfaction of the Local Authority on the advice of the applicable environmental agencies.</p> <p><b>2.2.3 Land Capability Assessment</b></p> <p>The developer shall submit to the Local Authority a Land Capability Assessment for approval as an additional detail of a Local Structure Plan pursuant to Part 5.18 in order to demonstrate that the land is capable of supporting on-site effluent disposal where required.</p> <p>The Land Capability Assessment shall be prepared in accordance with "Land Evaluation Standards for Land Resource Mapping – Assessing Land Quality and Determining Land Capability in South-Western Australia" - Van Gool et al. 2005 or any superseding guideline, as determined by the Department of Food and Agriculture and appropriate environmental agencies.</p> <p><b>2.2.4 Strategic Noise Assessment and Management Strategy</b></p>

NO.	DESCRIPTION OF LAND	CONDITIONS
		<p>The developer shall prepare and submit to the Local Authority a Strategic Noise Assessment and Management Strategy prepared in accordance with EPA guidelines for approval as an additional detail of a Local Structure Plan pursuant to Part 5.18.</p> <p>The Strategic Noise Assessment and Management Strategy will identify any nearby sensitive land uses that are likely to be impacted by noise generated by future industrial land uses, and will identify noise mitigation strategies to be implemented at subdivision and development stages.</p> <p>The Local Authority must consult with the relevant environmental agencies regarding the proposed strategy in advertising the Local Structure Plan pursuant to clause 5.18.</p> <p><b>2.2.5 Strategic Odour Assessment and Management Strategy</b></p> <p>The developer shall prepare and submit to the Local Authority a Strategic Odour Assessment and Management Strategy prepared in accordance with EPA guidelines for approval as an additional detail of a Local Structure Plan pursuant to Part 5.18.</p> <p>The Strategic Odour Assessment and Management Strategy will identify any nearby sensitive land uses that are likely to be impacted by noise generated by future industrial land uses, and will identify noise mitigation strategies to be implemented at subdivision and development stages.</p> <p>The Local Authority must consult with the relevant environmental agencies regarding the proposed strategy in advertising the Local Structure Plan pursuant to clause 5.18.</p> <p><b>2.3 Additional Reports / Strategies</b></p> <p>In addition to the Environmental Management Plans outlined in section 2.2, the local government may also require the provision of the following reports / strategies as an additional detail of a local structure plan:</p> <ul style="list-style-type: none"> <li>• Transport Assessment and Management Strategy</li> <li>• Infrastructure and Servicing Strategy, including</li> </ul>

NO.	DESCRIPTION OF LAND	CONDITIONS
		<p>details for the provision of reticulated water infrastructure within the estate.</p> <p><b>3. Subdivision</b></p> <p><b>3.1 Management Plans</b></p> <p><b>3.1.1 Flora, Vegetation, Wetland and Waterway Management Plans</b></p> <p>Where a proposed subdivision includes significant vegetation, wetlands and / or waterways as identified in the Environmental Assessment and Management Strategy, the developer shall submit to the Local Authority Management Plan(s) for approval as a condition of subdivision approval in order for existing flora, vegetation, wetlands, waterways and their buffers to be implemented as part of development in accordance with the management strategies / plans.</p> <p>The Management Plan(s) shall be consistent with the EPA's current Guidance Statement No.33 Environmental Guidance for Planning and Development.</p> <p>The Management Plan(s) outlined above shall be implemented to the satisfaction of the Local Authority on advice from the appropriate environmental agencies.</p> <p><b>3.1.2 Acid Sulfate Soils (ASS) Site Assessment Management Plan</b></p> <p>The developer shall submit to the Local Authority an ASS Site Assessment and Management Plan for approval as condition of subdivision approval in accordance with the WAPC's Planning Bulletin No.64 or its successor.</p> <p>The ASS Site Assessment and Management Plan shall include, but is not limited to the following:</p> <ul style="list-style-type: none"> <li>a) Detailed field assessment of ASS in proposed disturbance areas;</li> <li>b) The preparation of ASS management plans in accordance with the DEC's current guidelines, and;</li> <li>c) Preparation of a monitoring program for groundwater discharge areas as part of the Urban Water Management Plan.</li> </ul> <p>The ASS Site Assessment and Management Plan</p>

NO.	DESCRIPTION OF LAND	CONDITIONS
		<p>shall be implemented to the satisfaction of the Local Authority on the advice of the appropriate environmental agencies.</p> <p><b>3.1.3 Urban Water Management Plan</b></p> <p>The developer shall submit to the Local Authority an Urban Water Management Plan (UWMP), which is consistent with the LWMS for approval as a condition of subdivision approval.</p> <p>The UWMP required by 3.1.3 shall be implemented to the satisfaction of the Local Authority, on advice from the Department of Water.</p> <p><b>3.1.4 Geotechnical Report</b></p> <p>The developer shall submit to the Local Authority, as a condition of subdivision approval, a Geotechnical Report, certifying that the land is capable of supporting the development proposed.</p> <p><b>3.2 Water Supply and Wastewater Disposal</b></p> <p>3.2.1 Water supply and wastewater systems shall be designed and implemented in accordance with environmental and water management strategies such that groundwater and environmental resources are maintained or improved.</p> <p>3.2.2 Water supply and wastewater disposal systems will be required at the first stage of subdivision.</p> <p>3.2.3 Reticulated water and wastewater systems will be provided by licensed service providers.</p> <p>3.2.4 Provision of water and wastewater systems will be subject to a Development Contribution Plan, prepared in accordance with State Planning Policy 3.6 – Development Contributions for Infrastructure.</p> <p><b>4. Development</b></p> <p><b>4.1 Development Application</b></p> <p>Development of land shall be generally in</p>



NO.	DESCRIPTION OF LAND	CONDITIONS
		<p>accordance with the provisions of the Scheme and approved Structure Plan.</p> <p><b>4.2 Land Use Separation Distances</b></p> <p>All land use separation distances, as defined in State Planning Policy and/or by the Environmental Protection Authority resulting from development proposed within the Special Control Area and determined as part of a development application, are to be contained within the boundary of the Special Control Area to the satisfaction of the Local Authority on advice from the appropriate environmental agencies.</p> <p><b>4.3 Management Plans</b></p> <p>Where it is deemed appropriate and necessary to protect the amenity of the broader Special Control Area and surrounds, the local government may require the proponent of a development application to provide additional technical information and / or management plans in support of a development application. These management plans may include, but are not limited to, the following:</p> <ul style="list-style-type: none"> <li>• Noise management plan</li> <li>• Construction management plan</li> <li>• Odour management plan</li> <li>• Waste management Plan.</li> </ul> <p>The management plans shall be prepared in a manner that is consistent with current government guidelines and / or best practice and are to be implemented as conditions of planning approval.</p> <p><b>4.4 Water Supply and Wastewater Disposal</b></p> <p>4.4.1 Notwithstanding the provisions of Schedule 2 – Zoning Table, in the event that a suitable district water scheme is not available and connected to the estate's reticulated system at the time of development, land uses shall be generally limited to the following:</p> <ul style="list-style-type: none"> <li>• Transport Depot</li> <li>• Storage</li> <li>• Warehouse</li> <li>• Landscape Supplies</li> </ul> <p>Development applications are required to demonstrate that the proposed use / development</p>

**Item 9.1.6**

Shire of Chittering Town Planning Scheme 6  
Lot M1313 Muchea – Proposed Scheme Amendment 52

**Attachment 3**



NO.	DESCRIPTION OF LAND	CONDITIONS
		<i>has an adequate and sustainable water supply to service the day to day operational needs of the land use on an ongoing basis and the proposed use shall be consistent with the objectives of the zone, and any applicable structure plan.</i>



APPENDIX 2

District Water Management Strategy



APPENDIX 3

Environmental Assessment Report



APPENDIX 4

Servicing Strategy



**9.1.5 Proposed Scheme Amendment No. 52 - Rezone from 'Agricultural Resource' to 'Industrial Development Zone' – Lot M1313 Great Northern Highway, Muchea\***

<b>Applicant</b>	CLE Town Planning and Design
<b>File ref</b>	18/03/85; P293/13
<b>Prepared by</b>	Brendan Jeans, Senior Planning Officer
<b>Supervised by</b>	Azhar Awang, Executive Manager Development Services
<b>Voting requirements</b>	Simple Majority
<b>Documents tabled</b>	Nil
<b>Attachments</b>	1. Scheme Amendment documents

**Background**

Council is requested to consider a proposed scheme amendment to rezone a portion of Lot M1313 Great Northern Highway, Muchea from 'Agricultural Resource' to 'Industrial Development Zone'.

The southern 148ha portion of Lot M1313 Great Northern Highway, Muchea is the subject area of this scheme amendment. This area is generally consistent with the boundaries of the Muchea Employment Structure Plan (MENSP) area, taking into account environmental features of the site such as drainage/catchment.

The scheme amendment proposes the inclusion of two (2) new zones into the Town Planning Scheme, as outlined in the MENSP. The Applicant proposes to rezone the subject land to the 'Industrial Development Zone' and include a 'General Industrial Zone' into the Scheme. The Scheme Amendment also includes the provision of a new Schedule which will list land rezoned for 'Industrial Development Zone' and conditions attached to that land for its development.

The Applicant has provided the following information:

- Proposed Scheme Amendment documents (Attachment 1);
- District Water Management Strategy;
  - Potable Water Consumption
  - Groundwater Management
  - Stormwater Management
- Flora and Vegetation Assessment;
- Fauna Assessment;
- Wetlands and Waterways Assessment;
- Contamination Assessment;
- Acid Sulphate Soils documentation;
- Aboriginal Heritage assessment;
- Servicing Strategy for waste water, water supply and electricity and gas; and
- Concept Plan.

**Consultation**

Consultation shall occur in accordance with the *Town Planning Regulations 1967* should Council determine to initiate the scheme amendment. This requires the scheme amendment to be referred to the Environmental Protection Authority prior to commencing public advertising for a period of forty two (42) days.

**Statutory Environment**

*Planning and Development Act 2005*  
*Town Planning Regulations 1967*



Shire of Chittering Town Planning Scheme No 6

The subject property is zoned 'Agricultural Resource'. The objectives of this zone are:

- To preserve productive land suitable for grazing, cropping and intensive horticulture and other compatible productive rural uses in a sustainable manner;
- To protect the landform and landscape values of the district against despoliation and land degradation;
- To encourage intensive agriculture and associated tourist facilities, where appropriate;
- To allow for the extraction of basic raw materials where it is environmentally and socially acceptable.

The scheme amendment area is shown on the Scheme Map to be situated within the 'Water Prone ' and 'Military Considerations' Special Control Areas.

The Applicant proposes to rezone portion of Lot M1313 to a zone which is currently not in the Town Planning Scheme. The proposed zone is:

- *Industrial Development Zone*
  - a) *Designate strategic land areas for future industrial development and employment creation purposes as a priority, and prevent such land from being used or developed in a manner which could prejudice its use for this purpose;*
  - b) *Ensure orderly and comprehensive planning and coordinated development through the requirement for the preparation and endorsement of a structure plan in accordance with part 6.7 of the Scheme;*
  - c) *Ensure the coordinated provision of infrastructure, and the equitable sharing of service costs associated with subdivision and development of industrial land; and,*
  - d) *Protect the amenity of adjacent property owners as well as providing a safe, efficient and predictable context for future industrial development.*

The Scheme Amendment also proposes to include an additional industrial zone, new Scheme provisions, amend the Zoning Table to reflect the new zones and amend the 'Transport Depot' land use definition.

**Policy Implications**

Nil

**Financial Implications**

The proposed Scheme Amendment is not considered to create any financial implications on Council as most of the infrastructure and services will be incorporated in the Developer Contributions Plan, when the Scheme makes provisions to recover such expenses.

**Strategic Implications**

Muchea Employment Node Structure Plan 2011

The property is located within North A of Precinct 1 of the Muchea Employment Node Structure Plan (MENSPP).

6.3 *Precinct policy statements*

*The precinct policy statements prescribe site-specific requirements for future planning and development of individual precincts (Figure 2).*

6.3.1 *Precinct 1 (north A and B)*

1. *The waterways (plus 30m buffer), resource enhancement wetland (plus 50m buffer) and good quality remnant vegetation shall be protected within a reserve for Conservation, Recreation, Foreshore Protection or Public Open Space.*

2. *Low water use type industries with a minimum lot size of 10 000m<sup>2</sup> may be established in this area unless the developer can demonstrate that wastewater generated can be adequately managed as per the requirements outlined in the water management strategy (April 2008) or a more detailed local water management strategy.*
3. *For lots that do not require subdivision prior to development occurring, primary wastewater treatment shall be via aerobic treatment units followed by a secondary treatment in evaporation ponds due to high groundwater levels.*
4. *Development shall not conflict with the proposed Perth-Darwin National Highway road reserve and requirements external to it such as the Interchange embankment build up and ramp constructions.*
5. *The district distributor A loop road shall be designed with provision for potential use as a high wide load route (to MRWA standards). The road shall be constructed as a median separated two-lane road, with an appropriate road reserve to provide for a future four-lane dual carriage way.*
  - *The design vehicle shall be a triple road train and shall cater for nominated high wide load trailers and/or platforms.*
  - *The design shall be for an operating speed of 60 km/hr.*
  - *Drainage of the road shall be through the use of swales.*
  - *Consideration shall be given to avoidance of identified conservation reserves in the alignment of the loop road.*
  - *The developer shall construct appropriate access roads which tie into the loop road, and suit the lot size and layout of the development.*
6. *Structures higher than 15, 45 and 90m across the precinct require referral to the RAAF.*

Section 5 outlines the provision of servicing expectations of stormwater, sewerage, water supply, electricity and gas in the MENSF area.

#### Shire of Chittering Local Planning Strategy 2001-2015

The property is located within the 'Ellen Brook Palusplain' Geographical Unit, identified in the Strategy. The property is zoned 'Agricultural Resource' and therefore Section 8.8 of the Strategy applies to this application. The property is located within the Muchea Employment Node area identified in the Strategy. At the time of adoption of the Strategy, the Muchea Employment Node area was considered as an 'investigation area' only.

As mentioned earlier, the property is situated within the 'Water Prone' and 'Military Considerations' Special Control Areas of the Town Planning Scheme. This is reflected in the Strategy.

#### **Site Inspection**

Site inspection undertaken: Yes

#### **Triple Bottom Line Assessment**

##### Economic implications

It is considered the proposal will increase economic activity for the Shire and provide opportunity for local and regional employment of a large scale.

##### Social implications

As the property is identified in the Muchea Employment Node Structure Plan for industrial development it is considered the proposed Scheme Amendment to rezone the land for that purpose will not result in any social implications.

Environmental implications

It is considered that the advertising process would provide opportunity for the relevant agencies, such as the Department of Environment Regulation, Department of Parks and Wildlife, Department of Water and Chittering Landcare Group, to make submissions on any environmental matters.

**Comment**

Town Planning Scheme No 6

The property is contained within the 'Water Prone Area-Ellen Brook Palusplain' Special Control Area. The Scheme requires consideration of the development to impact on wetlands, risk of nutrient export and the provision of a Catchment Management Plan. The Amendment addresses this by requiring an Urban Water Management Plan as a condition of the development once rezoned.

Clause 6.7 of the Scheme makes provision for development contributions. Until such time as a Development Contributions Plan (DCP) is part of the Scheme, the clause is not effective.

Local Planning Strategy

The relevant sections of the Strategy make reference to the ecological values and water management of the Ellen Brook Palusplain and Water Prone Areas. As the property falls within these areas, it is considered the aims and objectives of the Strategy need to be reflected.

The subject site contains some significant ecologically sensitive areas identified in a number of documents. The Applicant has provided a number of supporting documents for the Amendment which assesses environmental matters. The documents include:

- Flora and Vegetation Assessment;
- Fauna Assessment;
- Wetland and Waterways Report;
- Contamination Assessment; and
- Acid Sulphate Soils Assessment.

As mentioned above, the Amendment addresses this with the provision of an Urban Water Management Plan as a condition of subdivision for the development.

Muchea Employment Node Structure Plan (MENSP)

The MENSP report sets out the expectations of any industrial development in the structure plan area. It is considered that a Scheme Amendment would be guided by the MENSP report. Without listing all the relevant sections of the MENSP report to this Scheme Amendment, the points below make reference to the MENSP report.

Proposed scheme amendment

- Zones

As mentioned throughout the report the Applicant proposes two (2) zones to be introduced into the Scheme; 'General Industrial Zone' and 'Industrial Development Zone'. The Applicant proposes to rezone Lot M1313 from 'Agricultural Resource' to 'Industrial Development Zone':

*"Industrial Development Zone*

*The objectives of the Industrial Development Zone are to:*

- a) *designate strategic land areas for future industrial development and employment creation purposes as a priority, and prevent such land from being used or developed in a manner which could prejudice its use for this purpose;*

- b) *ensure orderly and comprehensive planning and coordinated development through the requirement for the preparation and endorsement of a structure plan in accordance with part 6.7 of the Scheme;*
- c) *ensure the coordinated provision of infrastructure, and the equitable sharing of service costs associated with subdivision and development of industrial land; and*
- d) *protect the amenity of adjacent property owners as well as providing a safe, efficient and predictable context for future industrial development.”*

The proposed ‘General Industrial Zone’ is to read as follows:

*“General Industrial Zone*

*The objectives of the General Industrial Zone are to:*

- a) *Provide for industrial, service and storage activities which, by the nature of their operations, should be isolated from residential and other sensitive land uses;*
- b) *Discourage non-industry related uses within industrial areas that may constrain industrial activities;*
- c) *Provide for the efficient and safe movement and parking of vehicles; and*
- d) *Ensure environmental performance of industry does not detract from the amenity of adjoining sensitive areas and does not prevent industry from conforming with any relevant environmental standards applicable through other legislation.”*

It is viewed that the ‘Industrial Development Zone’ would identify and protect the land for industrial development and would lead into structure planning and rezoning (including staging) of the land to the ‘General Industrial Zone’, which allows subdivision and development/use of the land.

- **Proposed scheme provisions**

The Amendment proposes the inclusion of Scheme provisions relevant to the new zones. The proposed provisions can be viewed in Attachment 1, however in brief the provisions include:

- Insertion of ‘Development Areas’ (as heading) which covers all land zoned ‘Industrial Development’, which will be added as a Schedule into the Scheme.
- Requirement of a Structure Plan and the details of; and
- Process of dealing with a Structure Plan.

- **Permissible uses**

The Applicant proposes to amend the Zoning Table in the Scheme to allow for and control the use of land.

The ‘Industrial Development Zone’ is proposed to be listed as “in accordance with an approved Local Structure Plan”. The land use permissibility for the ‘General Industry Zone’ is proposed as per attachment 1. Section 6.4 of the MENSPP report sets out permitted land uses similar to a zoning table for a Scheme. The proposed Zoning Table in the Amendment differs from section 6.4 of the MENSPP report. It is recommended the Scheme Amendment be modified to make the proposed Zoning Table more consistent with the MENSPP report for land uses permitted.

- **Schedule 15 – Development Areas**

The Amendment includes the insertion of a new Schedule for land referred to as ‘Development Areas’. The Schedule lists the conditions applicable to each ‘Industrial Development’ land/portion approved. This Amendment proposes Part Lot M1313 to be numbered ‘1’ in this Schedule and proposes a number of conditions. Most of the conditions are fairly broad and generic such as

requiring an Environmental Assessment Strategy, Land Capability etc. however condition 6 makes specific reference to water supply and land use buffer requirements for the land.

- **Transport depot definition**

The Amendment proposes to amend the 'Transport Depot' definition in the Scheme. The amended definition differs to the existing by allowing the interim storage of goods associated with the transport of those goods as part of the transport depot operation. The Shire is in the process of amending the 'Transport Depot' definition in a separate Scheme Amendment. It is considered appropriate to remove the proposed definition from this Amendment.

Proposed servicing

The Applicant proposes the site would not be serviced by a reticulated potable water supply. The documents mention the installation of a dormant pipe at the time of subdivision for the possible future connection of potable or non-potable water supply. The Applicant proposes the use of onsite water supply through roof catchment to be adequate for the proposed land uses in 6.4.1 of the Amendment.

The MENSF report covers the requirements for servicing. The report states that rainwater tanks and hardstand harvesting are suitable for supplementary supply and not sufficient as a primary supply of potable water. The report states the recommended option for supply for potable water for the employment node is through water suppliers and utility service providers and that water trading may be an option. The Applicant has provided documentation that discussions have taken place with existing water licence holders however the difficulties being that obtaining the water supply allocation for the development would make it unviable. The Shire acknowledges this however given the objectives set out in the MENSF report it is recommended that the Scheme Amendment be modified to state a reticulated water supply is to be provided. It is then expected that the Applicant may further investigate what options for water supply are available without limiting the land uses for the site. The Shire and Department of Planning are open to innovative ways of providing this water supply and with further information provided, the matter can be reassessed following the advertising process when Council will be required to consider its adoption.

The Applicant also proposes onsite effluent disposal for the Amendment due to the low scale industrial land uses intended for the site. As mentioned above, it is the Shire's view that the Amendment should not limit the land uses by way of lack of water supply. Should water supply be reviewed and investigated as mentioned above, the types of land uses associated with the MENSF area would likely be associated with higher waste. The preferred option for sewerage in the MENSF area is for treatment in a centralised wastewater treatment plant (reticulated sewerage). Similar to the reticulated water supply, it is recommended the Scheme Amendment be modified to require the provision of reticulated sewer. Again the Shire and Department of Planning are open to innovative ways of providing wastewater treatment for the site which may be primarily via a localised treatment plant for the industrial operations and also via on-site wastewater treatment. Should the Applicant further investigate the options of the provision of sewerage following initiation, the Shire can then reassess the information provided and recommend any modifications to the Scheme Amendment regarding this matter.

Without a reticulated water supply and sewer services, the range of industries that can be developed in the Muclea Employment Node will be severely limited.

Buffer requirements

The original Scheme Amendment documents submitted by the Applicant proposed provisions requiring the associated buffers for the land uses are to be contained within the Amendment area but allowed flexibility of the buffer to extend beyond this boundary if it did not impact on sensitive land uses as per *Guidance Statement No 3 Separation Distances between Industrial and Sensitive Land Uses*. The Applicant has since made modifications to the Scheme Amendment documents to remove this flexibility and limit land uses where buffers are to be contained within the Scheme Amendment area. The requirement for buffers to be contained within the Amendment area would likely result in land uses that do not require extensive buffers, unless centrally located in the Amendment area or when surrounding land is rezoned for industrial development.

Developer contributions

The Shire is in the process of preparing a Scheme Amendment for Developer Contributions, which will bring the existing Scheme provisions for Developer Contributions into effect and 'workable' by including a Developer Contributions Plan that outlines the costs for development, in this case, in the Muchea Employment Node Structure Plan area, to which this Scheme Amendment is relevant. To protect the Shire's interests to ensure the Developer Contributions is applied to this development and future developments in the MENSF, it is recommended that a Deed of Agreement be entered into between the Applicant and the Shire. It is intended the Deed would require a provisional cost contribution likely in the form of a bank guarantee, which is calculated to be at a higher rate (set in the Deed) than the likely contribution required at time of subdivision to ensure any shortfall is captured.

**9.1.5 OFFICER RECOMMENDATION / COUNCIL RESOLUTION - 081213**

**Moved Cr Gibson / Seconded Cr Rossouw**

**That Council:**

- 1. prior to initiation, request the following modifications to the Scheme Amendment:**
  - a. Modify 'Schedule 15' to 'Schedule 16' due to the consideration of Scheme Amendment No 49.**
  - b. Delete Point 5 from the Scheme Amendment regarding the amendment to the 'Transport Depot' definition due to the consideration of Scheme Amendment No 49.**
  - c. Amend the Zoning Table to be consistent with 6.4 of the *Muchea Employment Node Structure Plan 2011* report.**
  - d. Clause 5.3 be amended to read:**

***"5.3 Water Supply and wastewater disposal***

    - Water supply and wastewater systems shall be designed and implemented in accordance with environmental and water management strategies such that groundwater and environmental resources are maintained or improved.***
    - Water supply and wastewater disposal systems will be required at the first stage of subdivision.***
    - Reticulated water and wastewater systems will be provided by licensed service providers.***
    - Provision of water and wastewater systems will be subject to a Development Contribution Plan, prepared in accordance with State Planning Policy 3.6 – Development Contributions for Infrastructure.***
  - e. Clauses 6.4.1 and 6.4.2 be amended as follows:**
    - Move 6.4.2(a) and (b) into clause 6.4.1.**
    - Delete the opening paragraph of 6.4.2.**
    - Delete 'fuel depot' from 6.4.1.**
    - Modify 6.4.1 to delete 'permissible' and change to 'A' use in accordance with 4.3.2 of the Scheme.**



- Change title of 6.4 to 'water supply and wastewater disposal'.
  - f. Modify references in the supporting documentation, in particular 'Policy Statement 3' on page 27 and Appendix 2 that refers only to the use of Aerobic Treatment Units to the effect, but not explicitly, 'that a reticulated water supply or collection of waste water for reuse are still being investigated and that connection to an innovative sewer treatment system may be required as a condition of subdivision and development approval.
  - g. Insert further wording into section 3.1 of the supporting documentation that waste water disposal is not limited only to the use of Aerobic Treatment Units but that additional investigations are being undertaken for other options and that this information is required prior to the finalisation of the Scheme Amendment.
  - h. Modify references in the supporting documentation referring to allowing low water use industrial development until such time as a district water supply is available, in particular 'Policy Statement 2' on page 27 and section 4.2 and delete references to "dormant pipes". These sections should make it clear that subdivision and development will be constrained until a connection is available and that a demonstrated supply and connection is required prior to finalising the rezoning amendment.
2. prior to initiation, require the Applicant to enter into a Deed of Agreement relating to the requirement for development contributions and authorise the Chief Executive Officer and Shire President to sign and affix the Common Seal to this Deed.
  3. Subject to 1 and 2 above being met, in pursuance of section 75 of the *Planning and Development Act 2005*, support the initiation, subject to the modifications in accordance with 1 above, of amending the Shire of Chittering's *Town Planning Scheme No 6* as per Appendix 1 'Scheme Amendment Text' of Attachment 1.
  4. number the proposed amendment as 'Amendment No 52' of the Shire of Chittering *Town Planning Scheme No 6* and forward to the Environmental Protection Authority for assessment in accordance with section 81 of the *Planning and Development Act 2005*, prior to advertising in accordance with the *Town Planning Regulations 1967*.

THE MOTION WAS PUT AND DECLARED CARRIED 6/0