

## Local Planning Policy 16 – Subdivision for Conservation

AMRShire Local Planning Policy

December 2016

This Policy was adopted by Council to give guidance as to how discretion under a town planning scheme or other regulatory instrument may be exercised. It also serves to help proponents, landowners and the community understand how decisions are likely to be reached.

### Authority

This Policy provides guidance for the recommendations of Council to the Western Australian Planning Commission on subdivision applications where the purpose of subdivision is to facilitate the protection and enhancement of flora and fauna habitat which have significant conservation value. This policy forms part of the Local Planning Strategy and is considered in context to the broader rural subdivision criteria specified in the Local Planning Scheme.

### Application

This Policy applies to rural land within the Priority Agriculture and General Agriculture Zones of Local Planning Scheme No. 1, as identified in Appendix 1. This Policy does not apply to the following:

- land within the Southern Ocean Foreshore Protection Zone;
- land within the Leeuwin Naturaliste Ridge Conservation or Leeuwin Naturaliste Ridge Landscape Amenity Zones;
- land within the area of the Augusta-Walpole Coastal Strategy: <http://www.planning.wa.gov.au/publications/737.asp>;
- where subdivision for conservation is otherwise provided for under Western Australian Planning Commission Development Control Policy 3.4 as one of the created lots is considered an agriculturally viable unit.

### Objectives

1. To recognise a general presumption against the subdivision of rural land for non-agricultural purposes through minimising fragmentation and ad-hoc settlement of rural areas for residential accommodation.
2. To encourage the voluntary conservation and protection of natural areas on private land, which have high environmental, conservation, and biodiversity values, by providing a limited subdivision incentive through the creation of conservation lot(s).
3. To give the preservation of natural areas an economic value by providing a limited subdivision incentive, through the creation of conservation lots, in exchange for protecting natural areas.
4. To facilitate the implementation of mechanisms including restrictive covenants that provide for long-term protection, enhancement and management of biodiversity and conservation value on private land.

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5. To ensure the viability of agricultural production and environmental value is not compromised through subdivision, while encouraging diversification in production size and intensity through viable and sustainable farming practises.
6. To ensure that provision for additional access, fire management and facilities doesn't compromise environmental value.
7. To encourage and facilitate conservation with specific focus of Threatened Flora, Priority Flora and/or Threatened Ecological Communities (TEC), and regional environmental corridors/linkages to the conservation reserve systems.
8. To ensure that subdivision for conservation results in a nett environmental benefit whereby the fragmentation and settlement of an additional rural property is offset by greater protection, long term maintenance and management of significant environmental areas.

## Policy

### Subdivision Incentive

9. The Local Government will support the limited creation of additional allotments in the General Agriculture and Priority Agriculture Zones of Local Planning Scheme No. 1 in the following situations:
  - a. Where a lot contains not less than 30ha of remnant vegetation in "good" or better condition, or a higher amount as determined by the Department of Environment and Conservation (DEC), the creation of one additional lot; or
  - b. Where a lot contains 20ha or greater of remnant vegetation in "very good" or better condition, the creation of one additional lot, providing the lot contains one of the following:
    - Threatened Ecological Community/Communities (which includes habitat of threatened or endangered fauna);
    - Threatened Flora;
    - Priority flora;
    - Poorly represented vegetation, with a minimum of 4ha of Poorly Represented Vegetation in any 20ha or greater total of vegetation;
    - Native vegetation that is located within a Regional Environmental Corridor

The condition of vegetation relevant to each property will be assessed in accordance with '*Appendix 2: Keighery Condition Rating Scale*'. An indicative representation of lots that may qualify is included as Appendix 3. This indication requires further evaluation on a site by site basis and some lots identified as complying with the above criteria may not, and there may be additional lots that qualify that are not identified.

The Balance Lot can also be supported for conservation, subject to conforming to either of the above criteria.

### Qualifications

10. The subdivision incentive will only be supported by the Local Government where:
  - a. The proposed conservation lot(s) are appropriately designed and configured with regard to the requirements of this policy and the protection of natural areas and native vegetation, threatened flora and/or fauna, natural features, fire management, farm management, infrastructure and existing and/or proposed structures;

- b. Written confirmation is provided from a recognised covenanting authority including the Department of Environment and Conservation, the National Trust of Australia (WA) or an alternative authority acceptable to the WAPC, that the authority is prepared to enter into a conservation covenant to ensure appropriate management of conservation value in perpetuity. The covenant is to be registered on the Certificate of Title through the subdivision process.
  - c. Written confirmation is received from the land owner(s) agreeing to the Shire rezoning the proposed conservation lot(s) to the 'Bushland Protection' zone.
11. Where a Balance Lot is proposed to be used for agricultural purposes the Balance Lot should:
- a. have sufficient area to be capable and suitable for a form of agricultural use. While recognising balance lots proposed under this policy may not meet the minimum requirements to be considered an 'agriculturally viable' lot, balance lots should be sufficient to not significantly compromise the agricultural potential that existed prior to subdivision; and
  - b. retain, where practical, native or regenerated vegetation as an integral part of sustainable farming, provided that this does not result in the division of significant vegetation in order to include a portion of that vegetation in to the balance lot.
12. The determination of the dominant land use of a Balance Lot proposed under this policy, having an area less than 40ha, will have regard to the significant environmental values and sustainable agricultural practices of the Parent Lot not being significantly compromised.

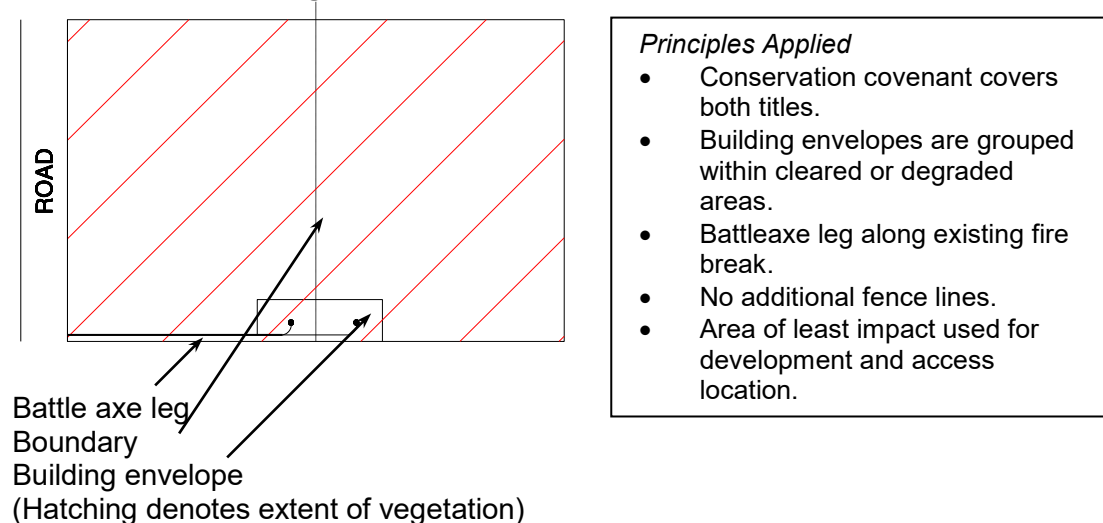
### **Subdivision Configuration and Future Development**

13. Support for a proposed subdivision under this policy will be contingent on the proposal satisfactorily demonstrating that the following principles have been applied to the configuration of proposed lots:
- a. Areas of remnant vegetation will be consolidated on one lot, unless two conservation lots are supported, and not jeopardised by works required to facilitate subdivision and future development;
  - b. Dwellings, low impact tourism development and infrastructure will be located within cleared areas, and where necessary clustered together to avoid impacts on conservation values through such mechanisms as shared access and fire management regimes;
  - c. Where a lot is completely vegetated, areas for development, infrastructure and associated fire management are located so as to minimise impacts on conservation values. Building envelopes may be up to a maximum of 1,500 square metres;
  - d. The location of future development will not introduce land use conflict with existing or potential agricultural land use on surrounding properties;
  - e. Low impact tourism development on conservation lots will only be supported on conservation lots, where it does not result in any clearing of native vegetation, is located within an identified building envelope, and is consistent with any native vegetation covenant on the Certificate of Title.
  - f. Agricultural potential of balance lots will be maximised through a lot configuration that consolidates land able to be used for agricultural purposes;
  - g. Adequate fencing is or will be required through the subdivision process to protect areas of significant vegetation and/or to separate bushland from any balance agricultural land;
  - h. Access ways and areas required to install utilities are to be located in existing cleared areas or along firebreaks;

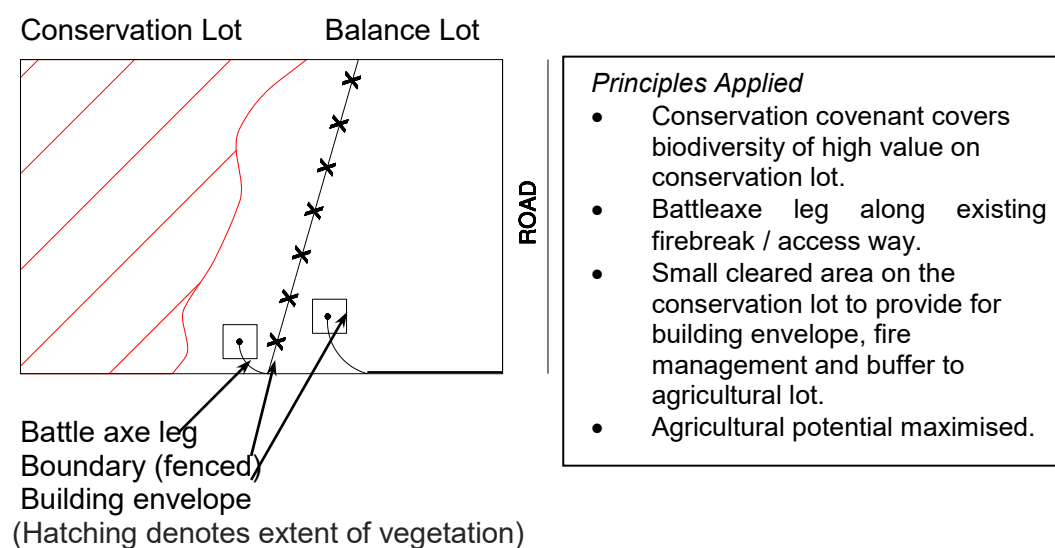
- i. Future development is able to be established that is compliant with the provisions of Local Planning Scheme No. 1, and in accordance with an appropriate Fire Management Plan while ensuring that conservation values are not impacted upon through implementation of Fire Management Measures; and
- j. If the approved subdivision shows the protected remnant vegetation area being divided by a lot boundary, no boundary fencing is permitted and no firebreak or fire service access route is permitted alongside the lot boundary within this area of protected remnant vegetation, subject to FESA approval. In this instance, bollards can be used to demarcate the lot boundary and firebreaks and fire service access routes can adjoin the protected remnant vegetation area, subject to FESA approval and as determined through a Fire Management Plan.

14. The application of the above principles is represented in the following examples:

**14A - Scenario A: Completely Vegetated Lot, maximum of two conservation lots granted**



**14B - Scenario B: Vegetated lot with existing cleared area for agriculture, one conservation lot and one balance lot granted**



## Application Process And Required Information

15. The following processes and information requirements shall apply to the consideration of subdivision for conservation proposals:

- a. Detail and demonstration of compliance with the provisions of this policy shall be provided to the Local Government for preliminary consideration.
  - i) Where a proposal qualifies under provision 9b by virtue of the inclusion of Threatened Flora, Priority Flora or TEC on the land, a preliminary flora survey shall be supplied detailing the extent and nature of these features. Other proposals shall include a preliminary vegetation assessment detailing compliance with the relevant Subdivision Incentive. Surveys are to be undertaken by a suitably qualified professional in accordance with EPA Guidance Statement No. 51 *Terrestrial Flora and Vegetation Surveys for Environmental Impact Assessment in WA* and by a suitably qualified biologist in accordance with EPA Guidance Statement No. 56 *Terrestrial Fauna Surveys for Environmental Impact Assessment in WA*.
  - ii) A detailed plan of proposed subdivision and development demonstrating consistency with provisions of this policy.
- b. Should the proposal be determined as a result of preliminary consideration by the Local Government to potentially comply with this policy, the proponent provides that advice to an appropriate covenanting authority seeking written confirmation of acceptance of entering into a conservation covenant.
- c. The proponent should then provide, at a minimum, the following information to the WAPC:
  - i) An application for subdivision in accordance with the standard requirements of the WAPC;
  - ii) A 'building envelope plan' identifying the proposed location of the building envelope(s), and its relationship to any:
    - existing buildings/structures;
    - existing vegetation;
    - any proposed areas to be cleared or maintained for fire management purposes (i.e. firebreaks, building protection and hazard separation zones); and
    - existing or proposed accessways;
  - iii) Confirmation from an appropriate covenanting authority that they are prepared to enter into a conservation covenant to protect environmental values in perpetuity;
  - iv) A draft Fire Management Plan that details compliance of future development potential and appropriate fire management regimes consistent with *Planning for Bushfire Protection (Edition 2)*, but also recognises the aims of the Conservation Policy and has the approval of FESA and DEC;
  - v) Written and signed confirmation from the landowner(s) agreeing to the Local Government rezoning the proposed 'Conservation Lot(s)' to the 'Bushland Protection' zone;
  - vi) a detailed survey of the flora values in the relevant area of the site is required where :
    - vegetation is located within the proposed building envelope;
    - vegetation is required to be cleared to implement future development (including fire management measures or accessways); or
    - the proposal qualifies under provision 9b by virtue of the inclusion of Threatened Flora, Priority Flora, TEC or other prerequisite biodiversity on the site,.Surveys are to be undertaken by suitably qualified professionals in accordance with EPA Guidance Statement No. 51 *Terrestrial Flora and Vegetation Surveys for Environmental Impact Assessment in WA*; and

- vii) Where relevant, information demonstrating consistency with sound environmental management practices in relation appropriate effluent disposal systems and their setbacks to watercourses (Note: All effluent disposal systems will be required to be contained within an approved building envelope).

### **Scheme amendment**

The Local Government will initiate a scheme amendment to rezone all 'Conservation Lots' created pursuant to this Policy or pursuant to the Western Australian Planning Commission's DC 3.4 (as amended) to 'Bushland Protection' zone. These rezonings will occur via an annual omnibus amendment to the Local Planning Scheme.

## **Interpretation**

For the purpose of this Policy terms used have the following meaning:

**Agriculturally Viable** means a lot that complies with the requirements set out at clause 14.15.5 of Local Planning Scheme No. 1 for subdivision in the Priority and General Agriculture Zones.

**Balance Lot** means the residual lot created from a subdivision under this Policy

**Biodiversity** means the variety of all life forms – the different plants, animals and micro-organisms, the genes they contain, and the ecosystems of which they form a part.

*Biological diversity is considered at three levels:*

- *genetic diversity - the variety of genetic information contained in all of the individual plants, animals, fungi and micro-organisms that inhabit the earth. Genetic diversity also occurs within and between populations that comprise individual species, as well as between species;*
- *species diversity – the variety of species on earth; and*
- *ecosystem diversity – the variety of habitats, biotic communities and ecological processes.*

*Biodiversity is not static, but constantly changing; it is increased by genetic change and evolutionary processes and reduced by processes such as habitat degradation, population decline and extinction.*

**Conservation** is the long-term protection and management of natural areas to maintain biodiversity, environmental values, and ecosystem services.

**Conservation Covenant** is an agreement between a landowner and a covenant agency which seeks to protect and enhance the natural, cultural and/or scientific values of the land. The terms of the covenant are discussed between the owner and the specified agency and once agreement is reached. The covenant is then registered on the certificate of title and binds all future owners.

**Conservation Lot** is a proposed lot containing remnant vegetation to be protected through a conservation covenant established through the subdivision process under this Policy.

**Development** means the development or use of any land, including the demolition, erection, construction, alteration of or addition to any building or structure on the land and the carrying out on the land of any excavation or other works.

**Natural area** is any physical area that contains native species or communities in a relatively natural state and hence contains biodiversity. Natural areas include areas of native vegetation, vegetated or open water bodies (lakes, swamps), or waterways (rivers, streams, creeks), estuaries, springs, rock outcrops, bare ground (generally sand or mud), caves, coastal dunes or cliffs. Note that natural areas are not parkland cleared areas, isolated trees in cleared settings, ovals and turfed areas.

**Poorly represented vegetation** means any vegetation community with an extent below 30% of that present before 1750 in the Shire of Augusta-Margaret River, and includes those identified by Molloy et al (2007)<sup>1</sup> and described by Mattiske (2002)<sup>2</sup> as:

- **Cw1 and Cw2:** minor valleys within the Margaret Plateau, both south (Cw1) and north (Cw2) of Margaret River. The vegetation on the streamlines is mainly swamp banksia and paperbark, with jarrah-marri forest on slopes. Some karri tall forest also occurs, mainly in Cw1.
- **C2:** located in the northern half of the Margaret Plateau, north of Margaret River. It consists mainly of lateritised uplands, covered by an open jarrah – marri forest with bull banksia second storey.
- **H and Hw:** uplands and minor valleys at the southern end of the Margaret Plateau, between Witchcliffe, Karridale and Augusta. The vegetation on the streamlines is mainly yarri (*Eucalyptus patens*), swamp banksia (*Banksia littoralis*) and paperbark (*Melaleuca raphiophylla*) (Hw), with jarrah-marri (*Eucalyptus marginata* subsp. *marginata* – *Corymbia calophylla*) forest on slopes and ridges (H). Some karri (*Eucalyptus diversicolor*) tall forest also occurs, mainly in Hw.
- **Swi:** low lying portions of the Scott River Plain, carrying sedgelands of Cyperaceae and Restionaceae and closed heath of Myrtaceae-Proteaceae species and tall shrubland of *Viminaria juncea* (Swi). Floristically rich, Swi contains many rare and endangered species.
- **Tw:** valleys at the western margin of the Blackwood Plateau, east of Margaret River. The uplands carry woodland to open forest of jarrah-marri (*Eucalyptus marginata* subsp. *marginata* – *Corymbia calophylla*), grading into yarri-jarrah-marri (*Eucalyptus patens* - *Eucalyptus marginata* subsp. *marginata* – *Corymbia calophylla*) on valley slopes and woodland of paperbarks on valley floors.
- **W2 and Ww2:** deeply to moderately incised valleys in the northern portion of the Margaret River Plateau. The soils are mainly loamy and relatively fertile, and support an open forest of marri (*Corymbia calophylla*) with some yarri (*Eucalyptus patens*) and a second storey of peppermint (*Agonis flexuosa*).

**Priority Flora** means taxa included on the Department for Environment and Conservations Priority Flora list.

**Regional Environmental Corridor** for the purpose of this policy means the following corridors generally as identified in Appendix 4:

**'Margaret River' corridor**

Running in an east-west direction, linking the Leeuwin-Naturaliste National Park on the coast with Bramley National Park to the east surrounding the Margaret River townsite; and Bramley National Park with the areas of State Forest to the east. The linkages run partially through freehold properties.

**'Witchcliffe' corridor**

Running in a north-west to south-east direction, linking the southern sections of Bramley National Park with a central block of State forest and proposed National Park, and this area to State Forest to the south-east.

**'Forest Grove' corridor**

Running in an east-west direction, linking the Leeuwin-Naturaliste National Park with the proposed Forest Grove National Park, and this area with unnamed National Park, the proposed Blackwood National Park and State Forest to the east.

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<sup>1</sup> Addendum for the South West Biodiversity Project Area (Molloy, S., O'Connor, T., Wood, J., Wallrodt, S, 2007).

<sup>2</sup> Review of Management Options for Poorly Represented Vegetation Complexes (Mattiske Consulting – Havel, Dr J, 2002).

***‘Blackwood’ corridor***

*Running north-south. situated along the western bank of the Blackwood River linking unnamed National Park in the north with reserves to the south along the Blackwood River. The linkages run through freehold properties.*

**Remnant Vegetation** has the same meaning as ‘native vegetation’ under the Environmental Protection (Clearing of Native Vegetation) Regulations 2004, which includes indigenous aquatic or terrestrial vegetation and dead vegetation unless that dead vegetation is of a class declared by regulation to be excluded from this definition but does not include vegetation in a plantation.

**Subdivision for conservation** describes the creation of lot(s) through the subdivision process specifically intended for conservation purposes, including a conservation covenant registered on the title of the lot(s). Planning initiatives which aim to conserve biodiversity on private land often involve creating a conservation-based zone and offering a subdivision incentive. This facilitates creation of an additional lot(s) to conserve natural areas, over and above that which would otherwise be permissible under the Local Planning Scheme or State policy’s.

**Sustainable agriculture** The use of farming practices and systems which, over the long-term, maintain or enhance economic viability, the on-farm natural resource base and ecosystems which are influenced by agricultural activity.

**Threatened Ecological Communities (TEC)** means:

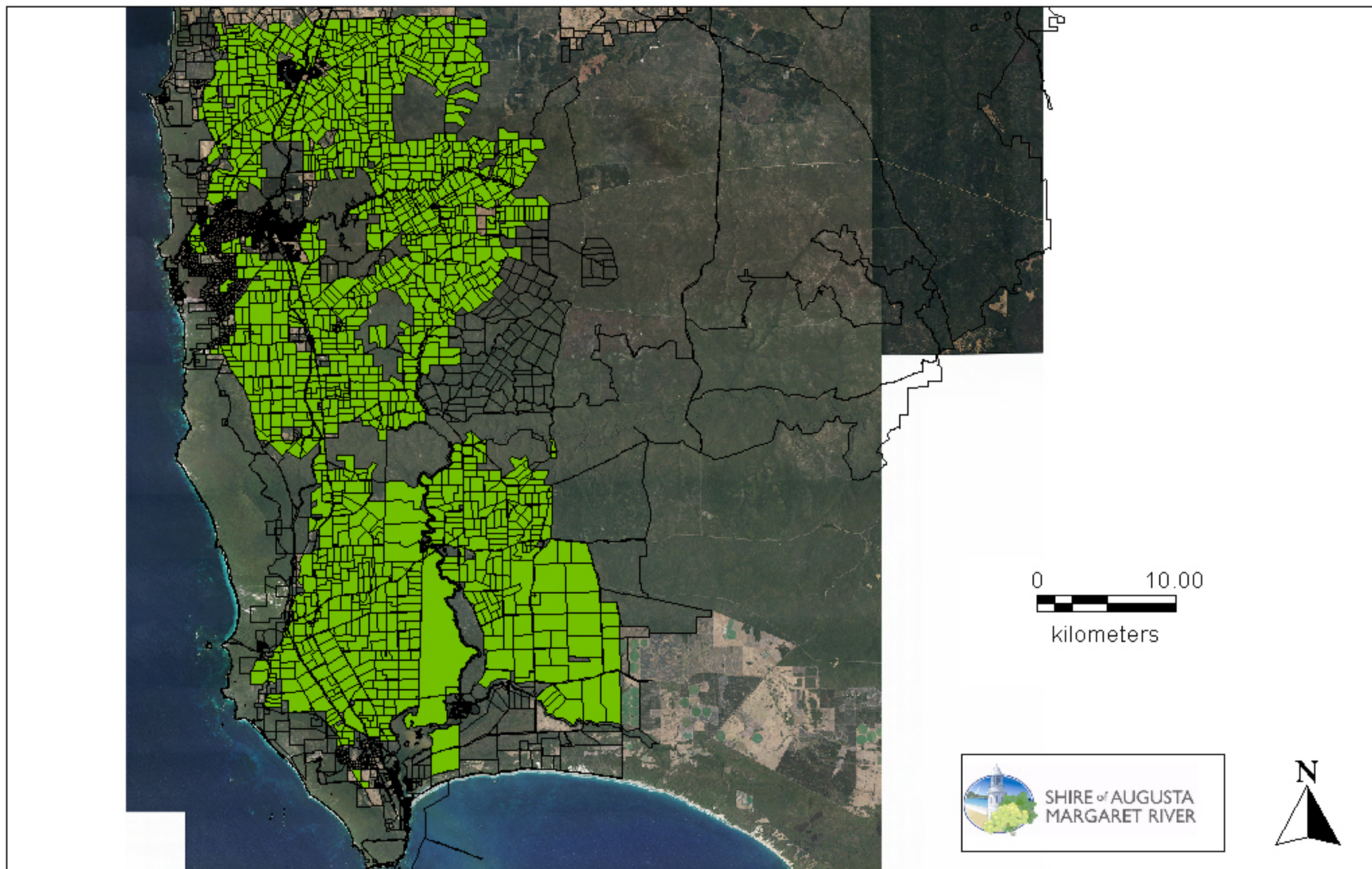
- a) an ecological community listed, designated or declared under a Western Australian law or a law of the Commonwealth as threatened, endangered or vulnerable; or
- b) an ecological community listed on the DEC’s threatened ecological communities database.

**Threatened Flora** means species protected under the Wildlife Conservation Act 1950, as identified in the current listing under the act.

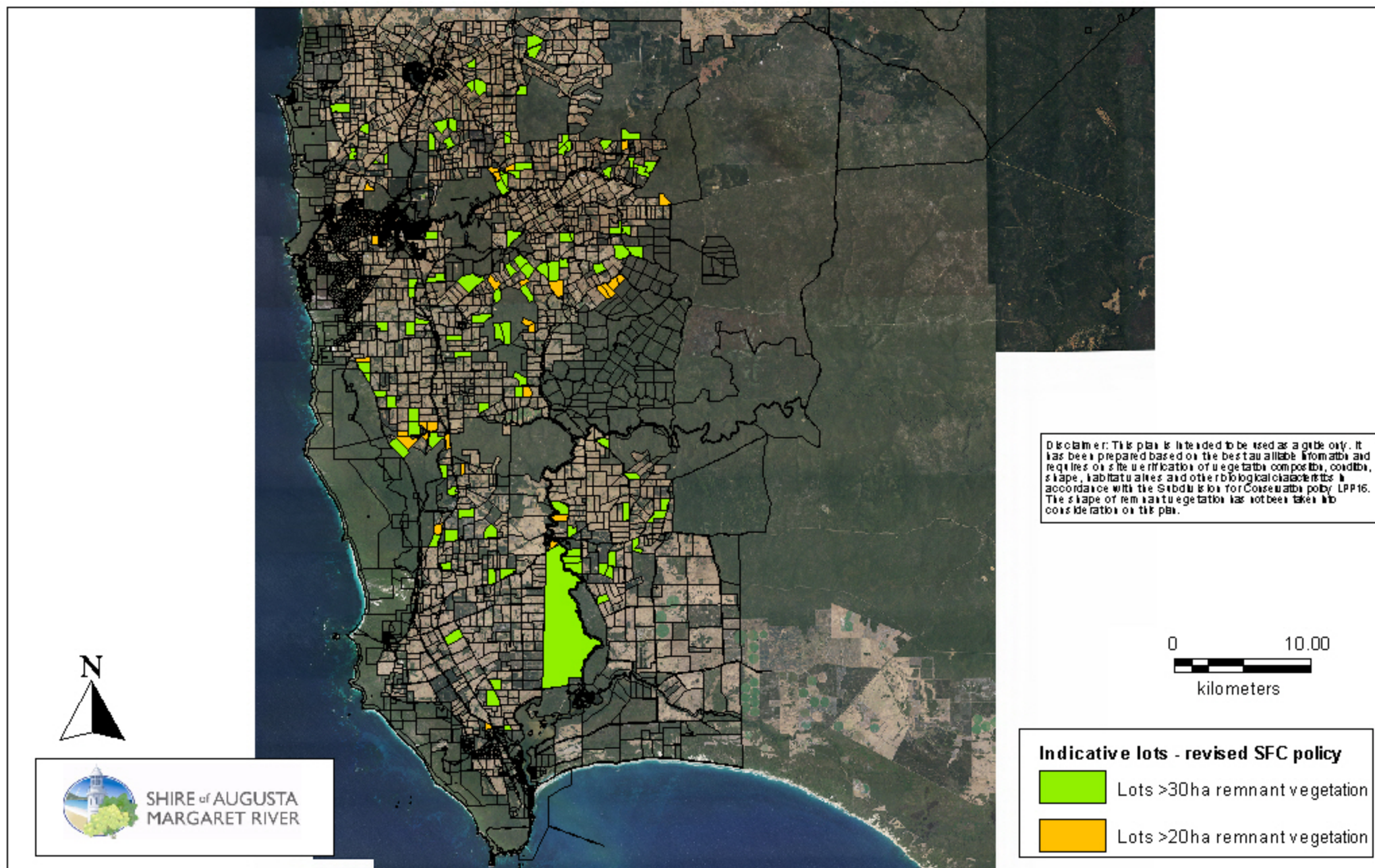
**Rural zoned land** is all land within the Priority Agriculture and General Agriculture Zones of Local Planning Scheme which is specifically zoned to accommodate rural land use and development.

Adopted for advertising	27 April 2011
Adopted by Council with WAPC modifications	11 April 2012
Reviewed by Council	14 December 2016

## Appendix 1: Priority and General Agriculture Zones



### Appendix 3: Indicative lots proposed under proposed Subdivision for Conservation Policy



## Appendix 2: Keighery Condition Rating Scale

Condition	Description
<b>Pristine</b>	Pristine or nearly so, no obvious signs of disturbance.
<b>Excellent</b>	Vegetation structure intact, disturbance affecting individual species and weeds are non-aggressive species.
<b>Very Good</b>	Vegetation structure altered obvious signs of disturbance. Disturbance to vegetation structure covers repeated fire, aggressive weeds, dieback, logging, grazing.
<b>Good</b>	Vegetation structure significantly altered by very obvious signs of multiple disturbances. Retains basic vegetation structure or ability to regenerate it. Disturbance to vegetation structure covers frequent fires, aggressive weeds at high density, partial clearing, dieback and grazing.
<b>Degraded</b>	Basic vegetation structure severely impacted by disturbance. Scope for regeneration but not to a state approaching good condition without intensive management. Disturbance to vegetation structure includes frequent fires, presence of very aggressive weeds, partial clearing, dieback and grazing.
<b>Completely Degraded</b>	The structure of the vegetation is no longer intact and the area is completely or almost completely without native species. These areas often described as “parkland cleared” with the flora comprising weed or crop species with isolated native trees or shrubs.

## Appendix 4: Environmental corridors

