

# Shire of Nannup Local Planning Scheme No.4

## Scheme Amendment No.1





## DOCUMENT CONTROL

Control Version	Date	Status	Distribution	Comment
A	22/02/2024	Draft	HD	For QA
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Date: 18 March 2024  
Job No: 24073  
Ref: C

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# ***Planning and Development Act 2005***

## **RESOLUTION TO ADOPT AMENDMENT TO LOCAL PLANNING SCHEME**

### **Shire of Nannup Local Planning Scheme No. 4**

#### **Amendment No. 1**

RESOLVED that the local government pursuant to section 75 of the *Planning and Development Act 2005*, amend the above Local Planning Scheme by:

1. Amend the Scheme map to remove Lots 125, 301 and 566 Cundinup-Dudinyillup Road from Additional Site Requirement No.4.

The Amendment is **standard** under the provisions of the *Planning and Development (Local Planning Schemes) Regulations 2015* for the following reason(s):

- a) *an amendment relating to a zone or reserve that is consistent with the objectives identified in the scheme for that zone or reserve;*
- b) *an amendment that is consistent with a local planning strategy for the scheme that has been endorsed by the Commission;*
- e) *an amendment that would have minimal impact on land in the scheme area that is not the subject of the amendment*
- f) *an amendment that does not result in any significant environmental, social, economic or governance impacts on land in the scheme area;*
- g) *any other amendment that is not a complex or basic amendment.*

Dated this \_\_\_\_ day of \_\_\_\_, 2024.

\_\_\_\_\_  
(Chief Executive Officer)

**COUNCIL ADOPTION**

This **standard** Amendment was adopted by resolution of the Council of the Shire of Nannup at the Ordinary Meeting of the Council held on the \_\_\_\_ day of \_\_\_\_, 2024.

\_\_\_\_\_  
(President)

\_\_\_\_\_  
(Chief Executive Officer)

**COUNCIL RESOLUTION TO ADVERTISE**

by resolution of the Council of the Shire of Nannup at the Ordinary Meeting of the Council held on the \_\_\_\_ day of \_\_\_\_, 2024, proceed to advertise this Amendment.

\_\_\_\_\_  
(President)

\_\_\_\_\_  
(Chief Executive Officer)



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# 1 INTRODUCTION

This Scheme Amendment request has been prepared by Harley Dykstra on behalf of the landowners of Lots 125, 301 and 566 (the subject site) Cundinup-Dudinyillup Road, Nannup.

This amendment request, requests that the Minister for Planning; Lands; Housing and Homelessness approve an amendment to the Shire of Nannup Local Planning Scheme No.4 (LPS 4) to remove the 'Additional Site Requirement No.4' (ASR4) from the site.

The implementation of ASR 4 specifically identifies that Tree Farms will not be supported by the Local Government on properties located within the Biddelia, Carlotta and Cundinup localities, which appears to have been broadly applied to all priority agriculture zoned land within this area notwithstanding individual site situations and conditions. The subject site is not located within any of these localities and therefore should not be included within ASR 4. The implications of ASR 4 mean that the landowners are unable to gain approval for another rotation and/or planting within the existing planting footprint of their properties.

The landowners are not looking to rezone the properties; however, the subject sites have both historically and presently been established for Tree Farm production which is a defined use under the "Priority Agriculture" zone subject to approval by the Shire of Nannup. Removal of ASR 4 will enable them to continue to use the subject site for tree farm production which has been the primary use for the past 20+ years and provides income and security for their family in addition to other agricultural practices.

A modification to the scheme maps is considered consistent with the objectives of the Local Planning Strategy and existing state and local planning framework and will ensure the landowners can continue to farm their properties as they exist into the future.

The amendment is considered to fall under the "Standard" Amendment requirements of the *Planning and Development (Local Planning Schemes) Regulations 2015* and is therefore requested to be considered and assessed under clause 34 as a "Standard" Amendment.

It is respectfully requested that the Shire of Nannup (the Shire) favourably consider and support this amendment request to remove the 'Additional Site Requirement No.4', from the subject site whilst maintaining the subject site within the "Priority Agriculture" zone to enable the ongoing farming practices on site, consistent with the surrounding agricultural practices.

## 2 BACKGROUND

### 2.1 Location

The subject site is described as Lots 125, 301 and 566 Cundinup-Dudinyillup Road, Nannup which has a combined site area of approximately 251 hectares.

The site is located approximately 13 kilometers north-north east the Nannup townsite (refer **Figure 1** below).

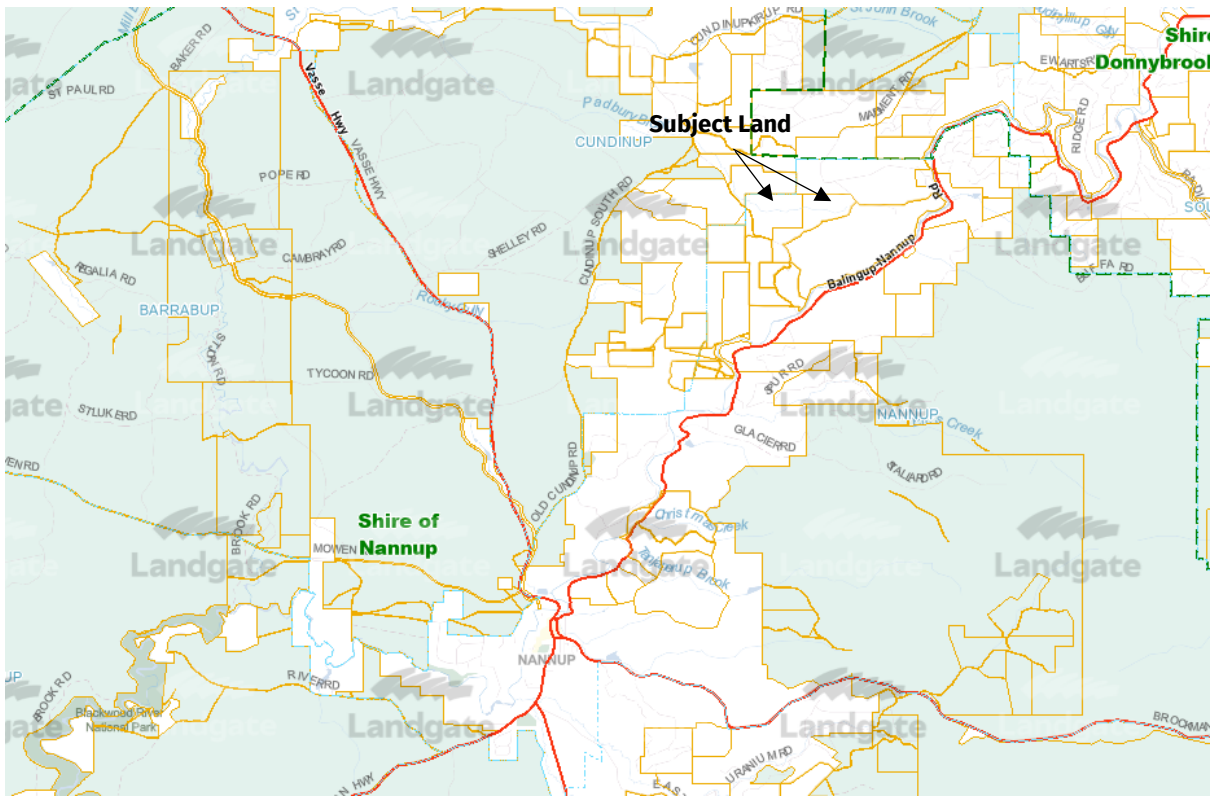


Figure 1 Location Plan

## 2.2 Ownership

The property details for Lots 125, 301 and 566 Cundinup-Dudinyillup Road, Nannup are as follows:

Table 1 Landownership

LOT NUMBER	PLAN	VOLUME/FOLIO	LOT AREA (ha)	REGISTERED PROPRIETORS
125	DP255785	1778/299	18.46	Anne Marie Brockman and Graeme Henry Brockman
301	DP037365	2227/631	153.23	Anne Marie Brockman and Graeme Henry Brockman
566	DP255784	1778/298	79.29	Anne Marie Brockman and Graeme Henry Brockman

## 2.3 Current and Surrounding Land Uses

The subject site is located in a predominantly agricultural area. The majority of the surrounding land uses include broad acre agricultural activities, animal grazing and tree farms, which is consistent with existing long term use of the subject site and complimentary to the land soils and topography of the area.

## 2.4 Physical Characteristics

The subject land is subject to a continuous steep landform sitting at 190m AHD in the north west corner and increasing to approximately 265m AHD towards the south and east portions of the site. The site overall maintains several valleys and peaks consistent with the surrounding areas.



The property is improved by a large tree farm which covers the majority of the site. Small areas of remnant vegetation are located in line with the Padbury Creek line that runs in a west to east direction through the property. A larger portion of remnant vegetation exists in the north west portion of Lot 566. No vegetation is proposed to be removed or affected as a result of this amendment request.

There are several small dams on the property which are used for agricultural purposes. The subject site does not contain any structures or dwellings. An aerial photograph showing the subject sites features is provided in **Figure 2** below.



Figure 2 Aerial Site Plan

## 2.5 Infrastructure and Access

The property is not connected to any services. Access is gained via the Cundinup - Dudinyillup Road which connects to Cundinup South Road to the north west and Balingup – Nannup Road to the south east.

The amendment request is not considered to alter the existing use and function of the property and therefore the existing situation with regards to infrastructure and access are considered sufficient for the continued agricultural practices of the property.

## 3 PLANNING FRAMEWORK

### 3.1 WAPC State Planning Policy 2.5 Rural Planning

State Planning Policy 2.5 - Rural Planning (SPP 2.5) and the associated guidelines have been established to protect and preserve rural land assets within Western Australia. SPP 2.5 identifies that ensuring broad compatibility between land uses is essential in delivering this outcome.





There are a number of objectives identified within SPP 2.5 which supports the justification of this amendment request, of particular relevance to the subject site includes:

- (a) Support existing, expanded and future primary production through the protection of rural land, particularly priority agricultural land and land required for animal premises and/or the production of food;
- (b) Provide investment security for existing, expanded and future primary production and promote economic growth and regional development on rural land for rural land uses; and
- (e) Avoid and minimise land use conflicts.

SPP 2.5 identifies Tree Farming as a primary production activity which can include harvesting as well as more recently the planting of trees for carbon sequestration, both of which are considered important agricultural practices and provides employment through various forms and resources that are used locally and across the world.

SPP 2.5 identifies that Western Australia is a large and diverse State with regional variations of climate, economic activity, cultural values, demographic characteristics and environmental conditions. The Policy intends to:

- (a) Continue to promote rural zones in schemes as flexible zones that cater for a wide range of land uses that may support primary production, regional facilities, environmental protection and cultural pursuits;
- (d) Recognise the differing needs of the various regions and consider regional variations where they meet the stated objectives of this policy and are supported in strategies and schemes.

Section 6.4 *“Zoning proposals affecting rural land”* discusses the main points that should be considered by decision-makers when contemplating zoning proposals or amendments to region or local planning schemes:

- (a) The suitability of the site to be developed for the proposed use;
- (b) The siting of the zone/land use in the context of surrounding zones/land uses (existing and proposed);
- (c) The capacity of the site to accommodate the proposed zone/land use and associated impacts and:
  - i. Only support proposals which are consistent with endorsed planning strategies, or in exceptional circumstances, where the proposal meets the objectives and intent of WAPC policy;
  - ii. Only support the introduction of sensitive zones that may affect the existing and future operation of primary production where the management of impacts and/or mitigation approaches have been substantively resolved and are not wholly deferred to later stages of planning;
  - iii. That the continuation of existing rural land uses are taken into account;
  - iv. Ensure that lifting of urban deferred land in a region scheme is in accordance with clause 6.4(b);
  - v. Ensure that the sensitive zone does not overlap with any buffer determined to be necessary as a result of introducing the new zone, and the area within the buffer should retain its rural zoning until such time as the buffer is no longer required; and
  - vi. Ensure that adequate land is identified to contain impacts from existing primary production, before introducing sensitive or industrial zones on rural land.



The proposed scheme amendment request to remove 'ASR 4', from the subject lots whilst maintaining the "Priority Agriculture" zone is considered consistent with these considerations in that it:

- Ensures the zoning over the landholding, is reflective of the existing farming practices and consistent with the adjoining landholdings.
- Consistent with the rural intentions of the Strategy and LPS 4 and does not introduce a sensitive land use or zone that may affect the existing and future operations of the surrounding landholdings.
- Will ensure the landowner can continue to operate their existing operations providing investment and economic security.
- Maintains adequate land for the continuation of primary production through agricultural practices suitable for the existing site conditions.

The proposed scheme amendment request is considered consistent with the objectives of SPP2.5, in that it is proposing to undertake a minor amendment to LPS 4 to enable the continuation of a primary production agricultural practice of the site through the protection of rural land, particularly priority agricultural land, which is considered consistent and complimentary to the existing landform and surrounding land uses.

### 3.2 WAPC State Planning Policy 3.7 – Planning in Bushfire Prone Areas

The subject land is located with a bushfire prone area by the Department of Fire and Emergency Services Commissioner.

The State Guidelines for Planning in Bushfire Prone Areas version 1.4 provides further information on the requirements of bushfire prone planning. Part 2.6 of the guidelines outlines when development is exempt from further bushfire reporting.

The proposed scheme amendment represents no increased intensity or change of land use, and therefore is exempt from further bushfire reporting.

### 3.3 Shire of Nannup Local Planning Strategy

The Shire of Nannup Local Planning Strategy (the Strategy) was endorsed by the Western Australian Planning Commission (WAPC) in December 2018 and aims to set out the long-term planning direction for the Shire over a 10 – 15 year timeframe. The Strategy provides the rationale for land use zones and other provisions of the Local Planning Scheme and provides an opportunity for an integrated approach to planning across all areas driven by concepts such as sustainability, liveability and economic prosperity.

The subject site is identified within the Strategy as "Priority Agriculture" (refer **Figure 3**), with the surrounding properties identified a mixture of priority agriculture or rural land.

With regards to *Agricultural Land and Basic Raw Materials* the Strategy aims to:

- a) Maintain and protect areas of agricultural production and conserve their non-urban character whilst accommodating other complementary rural activities;
- b) Ensure the extraction of basic raw materials occurs in accordance with best practice and addressing environmental and landscape considerations; and
- c) Avoid or minimise land use conflicts due to the extraction of mining and basic raw materials, addressing water resource, environmental and landscape considerations.



The property is not identified as an area subject to basic raw materials but is considered suitable for agricultural production akin to the topography of the land, which includes grazing and tree farm establishments.

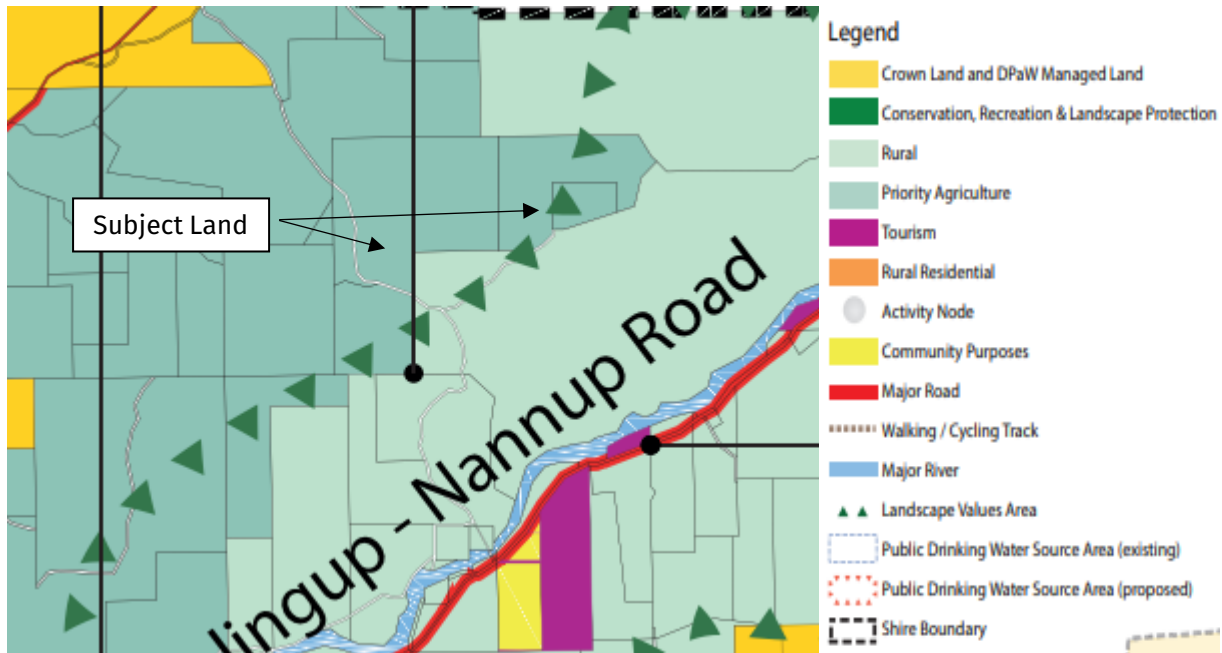


Figure 3 Local Planning Strategy

The key elements of “Priority Agriculture” are:

**Priority Agriculture** *land which generally has a higher capability and is of State or regional significance which can support a range of agricultural operations and limited compatible non-agricultural development. Additionally, the plans identify the Scott Coastal Plain Special Control Area.*

The proposed amendment request is considered consistent with the following *Key Strategy Expectations* of the Strategy:

- f) agricultural areas will continue to be effectively conserved and managed for agricultural and rural purposes.

The eastern portion of the subject site is also located within an area that is considered to have 'Landscape Values'. Land included within this area generally runs parallel to the Balingup-Nannup Road. It should be noted that the site is not visible from Balingup-Nannup Road due to the topography and stands of native vegetation on neighbouring properties.

The landowners are seeking to have the ASR 4 designation removed from the subject site, whilst keeping the priority agriculture zoning in place to enable the site to continue its current and future land use. The amendment request is considered consistent with the context and intent of the Strategy in that the land will continue to operate for primary production agricultural purposes and support the current and future productivity of the site whilst having no impact to surrounding land holdings.



### 3.4 Shire of Nannup Local Planning Scheme No.4

The subject site is zoned “Priority Agriculture” under the Shire of Nannup Local Planning Scheme No.4 (LPS 4) and is also the subject of ‘Additional Site Requirement No.4’ (ASR 4) (refer **Figure 4** below), which was an additional restriction introduced as part of the review of the now revoked Shire of Nannup Local Planning Scheme No.3.

‘ASR 4’ is applied to areas of “Priority Agriculture” zoned land as referenced in the below **Table 2**.

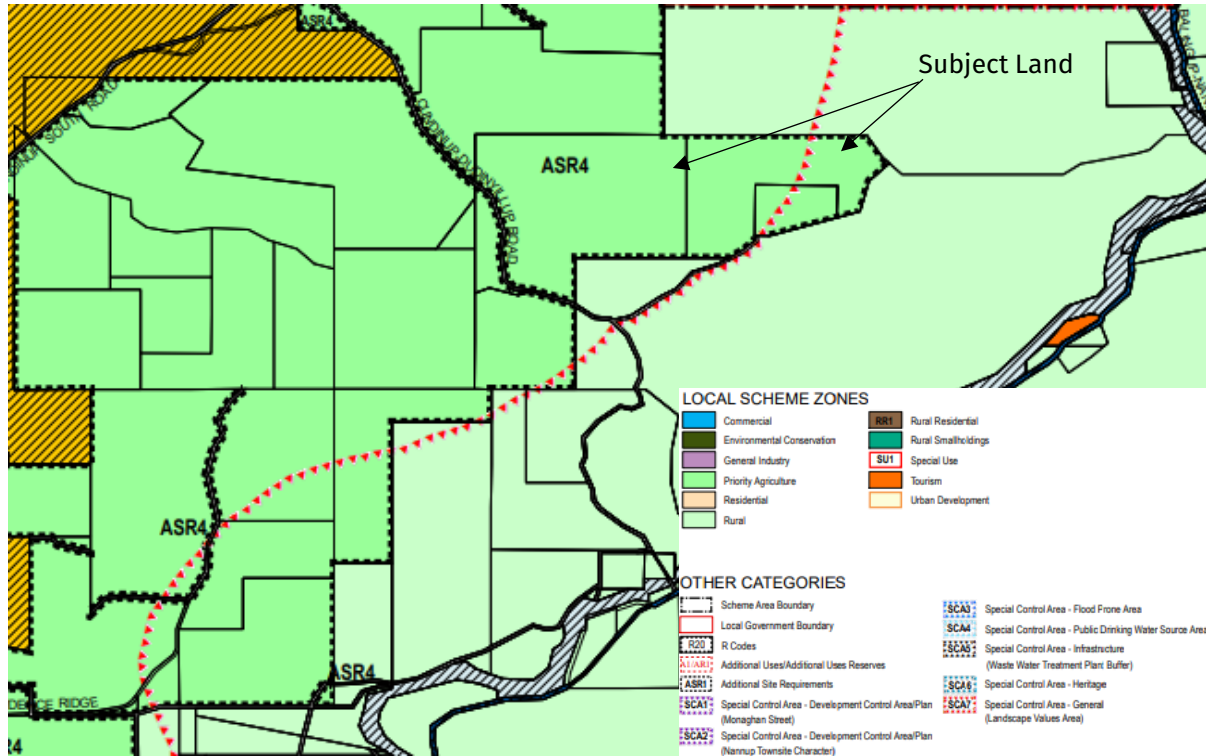


Figure 4 Local Planning Scheme No.4

Table 2 Additional Site Requirement

No.	Description of Land	Requirement
ASR 4	As shown on the Scheme maps land zoned Priority Agriculture – Biddelia, Carlotta and Cundinup localities.	Tree Farms will not be supported by the Local Government.

Land surrounding the subject site is zoned a mixture of “Priority Agriculture” and “Rural” which are consistent with the zoning of the land, and whilst some of these land holdings are also subject to the ‘ASR 4’ requirement they are not as severely impacted in that their current agricultural practices do not include the primary production of tree farm operations.

Furthermore ASR 4 specifically references, priority agriculture zoned land in the localities of Biddelia, Carlotta and Cundinup. The subject site is not located within these localities, is located on the eastern edge of the ASR4 and is surrounded on three sides by land outside ASR4 as identified on **Figure 5** below, which further supports the request to remove the ASR 4 allocation from these landholdings.

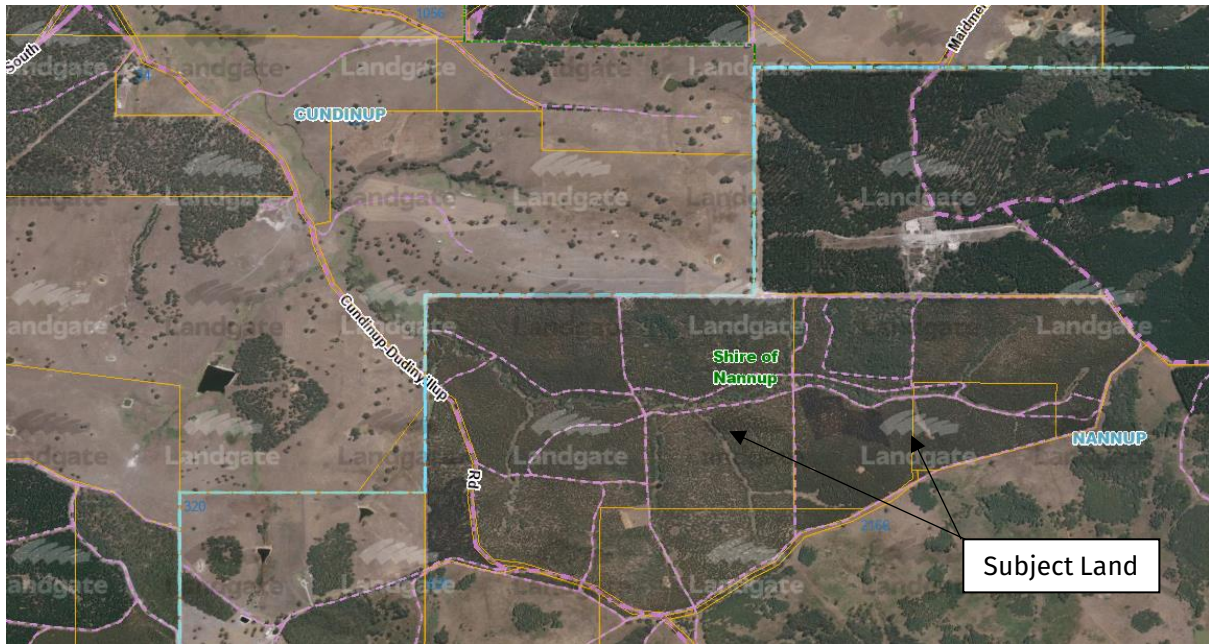


Figure 5 Shire of Nannup locality boundaries

As previously discussed, the amendment request proposes to remove the 'ASR 4' additional requirement from the subject site, whilst maintaining the priority agriculture zone over the subject site to ensure the sustainable, economic and ongoing investment viability of the site for the landowners who have used the land for tree farming practices for 20 + years.

In accordance with LPS 4, Tree Farms are considered a 'D' use for 'Priority Agriculture' zoned land as referenced in *Table 4 – Zoning Table*. Land uses listed as 'D' uses mean that the use is not permitted unless the local government has exercised its discretion by granting development approval.

Therefore, meaning that future tree farm applications for this property will require the approval of the Local Government through an extensive Development Application process prior to being established, as is the current situation within the Shire. This process will ensure that compliance and management with the requirements of LPS 4, specifically *Clause 46* will be addressed and considered in detail at the time of application. This includes compliance with the relevant Codes of Practice, protection, and mitigation of existing environmental elements of the site and bushfire management requirements.

Lots 125 and 566 are also subject to "Special Control Area No. 7 – General Landscape Values Area (SCA 7)", which intends to *promote the conservation and enhancement of significant natural and man-made landscapes including the preservation of significant vegetation, prominent landforms and view corridors*.

The objectives of SCA 7 are:

- a) To identify areas of significant landscape value and adopt provisions to protect these values from visually obtrusive development.
- b) To encourage development to fit into the natural, visual and physical characteristics of the land, particularly topography.
- c) To encourage the retention of vegetation and preservation of the natural topography of the land.



- d) To support small scale low key development where the site layout, location of buildings and provision of services is appropriate to the site's natural, visual and physical features.
- e) To discourage development considered likely to intrude upon, or not be compatible with, the landscape character and landscape qualities of the area.
- f) To encourage rural landscape improvements including rehabilitation or revegetation.

The objectives of the SCA 7 are consistent with the current and future use of the subject land, in that:

- The property is not visible from the Balingup – Nannup Road, due to existing remnant vegetation and the natural topography of the land between the lots and the Balingup – Nannup Road and therefore does not result in visually obtrusive impacts on the viewscape.
- The development (tree farm) is suitable to the natural, visual, and physical characteristics of the land, specifically the topography as evidenced through the site being used for decades for this specific primary production. The topography of this land would not suit a more labour-intensive form of intensive agriculture.
- The development has maintained areas of remnant vegetation and has established the tree farm around the vegetation and water course appropriately.

For the reasons stated above, it is apparent that the subject sites have been well established and maintain the possibility of a strong future within the primary production of tree farming for the Shire of Nannup, which has been successfully operating within the Shire for past few decades and permitted previously as part of the now revoked LPS 3.

The removal of 'ASR 4' will ensure the continuation of this agricultural practice, which is a land use that may be considered under the "Priority Agriculture" zone and will ensure the sustainable, economic, and ongoing investment viability of the subject site within the Shire of Nannup.

### 3.5 Shire of Nannup (draft) Local Planning Policy 16 – Tree Farms

The Shire of Nannup is currently advertising the draft Local Planning Policy No.16 – Tree Farms (LPP 16), which will supersede LPP 22. The revised LPP 16 will bring the Policy in line with LPS 4 and other relevant planning legislation.

Objectives of the Policy include:

1. Promote agroforestry where integrated with other rural and/or conservation activities and where it is effectively managed.
2. Outline areas favoured for tree farms along with non-preferred locations.
3. Ensure that relevant planning considerations are suitably addressed.
4. Conserve and enhance environmental assets.
5. Ensure best practice design and fire management practice for tree farms.
6. Assist the local government in determining applications for tree farms by setting out matters the local government will have regard for in assessing applications.
7. Provide increased certainty for landowners, the community and others and to assist in providing greater consistency in decision making by the local government.

The subject site is considered to meet the objectives of the Policy in that it has considered and addressed relevant planning matters as required, protects environmental assets and has been a consistent land use on the site providing certainty for landowners, the community and others.



The general provisions included within the Policy relevant to the subject site include:

- The local government is to support tree farms on appropriately zoned land (including “Priority Agriculture” subject to the proposal or application addressing relevant planning considerations.
- The local government will positively consider tree farms on land zoned “Priority Agriculture” on the Scott Coastal Plain subject to the application addressing relevant planning considerations.

The subject land has been developed and used for tree farms within the Shire of Nannup for more than 20 years, with the ongoing establishment and harvesting of the tree farms occurring without incident and taking into account and addressing any relevant planning considerations as required.

Following the completion of the current tree farm plantation, the future plantations, will be subject to a new Development Application in accordance with the standards and requirements of this Policy and in accordance with LPS 4 and subject to the approval of the Shire of Nannup which will ensure the relevant planning considerations are undertaken and addressed.

## 4 JUSTIFICATION

### 4.1 Overview of Proposal and Supporting Rationale

At present, the subject land is zoned in a way that prohibits the continuation of its historical nature, being tree farm plantations. The underlying “Priority Agriculture” zone does however provide the opportunity for Tree Farms to be established through a Development Application process.

ASR 4 indicates that local government will not support tree farms on properties identified within this control area, which includes the subject land, however the subject land has historically and is presently established for tree farming which has been considered an appropriate use of the land by the local government throughout the years of operation under LPS 3 and was only introduced as part of the recently gazetted LPS 4.

It appears the implementation of ASR 4 as part of LPS 4 has been through a ‘blanket’ type approach for all priority agriculture zoned land within this area, rather than a detailed site by site analysis of suitable/unsuitable landholdings. With the exception of the subject site, this approach may have minimal impact in that the majority (if not all other) landholdings do not maintain established tree farm productions.

The request to remove ASR 4 from the subject lands is not seen to set a precedent for future potential landholdings, as the landowners are currently operating tree farming productions on this land within the Shire, but due to the restrictions of ASR 4 will not be able to gain approval for another rotation or planting within the same planting footprint.

The landowners wish to maintain the primary production operations on the property and continue to use these properties for the plantation of Tree Farms into the future, which has proved to be a suitable location for the development.

Removal of ASR 4 will provide the ability for this development to occur, subject to the approval of the Shire of Nannup through an extensive Development Application process required prior to any new plantation leases occurring, in accordance with the requirements of LPS 4.



## 4.2 Type of Amendment

Pursuant to regulation 34 of the *Planning and Development (Local Planning Schemes) Regulations 2015* (as amended), the proposed Scheme Amendment represents a 'Standard' amendment. The relevant clauses defining a basic amendment are as follows:

**Standard Amendment** means any of the following amendments to a local planning scheme –

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

The relevant definition of a 'Standard Amendment', considered relevant to the proposal, are:

- c) *an amendment relating to a zone or reserve that is consistent with the objectives identified in the scheme for that zone or reserve;*
- d) *an amendment that is consistent with a local planning strategy for the scheme that has been endorsed by the Commission;*
- e) *an amendment that would have minimal impact on land in the scheme area that is not the subject of the amendment*
- f) *an amendment that does not result in any significant environmental, social, economic or governance impacts on land in the scheme area;*
- g) *any other amendment that is not a complex or basic amendment.*

The request to remove the ASR 4 allocation from the subject site is consistent with the intent and objectives of the Shire of Nannup's Local Planning Strategy and Local Planning Scheme No.4 as the property will remain within the "Priority Agriculture" zone. The subject site will remain subject to the development requirements associated with this zone, consistent with its identification within the Local Planning Strategy, however, will remove the limitation regarding tree farms over this land providing opportunity for the landowners to apply for future approvals within the planting footprint, which is considered appropriate given its current and long term future use, visual location from scenic roads and soil suitability for specific agricultural activities.





## 5 CONCLUSION

In conclusion, this Amendment request seeks support to remove the 'Additional Site Requirement No.4' allocation from Lots 125, 301 and 566 Cundinup – Dudinyillup Road, Nannup maintaining the "Priority Agriculture" zone that currently exist for the subject site. The request is considered to be consistent with the objectives of the Shire of Nannup Local Planning Strategy and Local Planning Scheme No.4 as well as relevant State and Local planning frameworks, as discussed in this report.

The proposal seeks to resolve an inconsistency in the existing and future use of the property and the implications imposed from the introduction of ASR 4 as part of the recently gazetted LPS 4 over the subject site which will restrict the landowners from applying for future rotations and/or plantings within the development footprint. Furthermore, ASR 4 specifically relates to land zoned "Priority Agriculture" located within the Biddelia, Carlotta and Cundinup localities, the subject site is located outside of these localities as identified within **Figure 5** and therefore should not be subject to this restriction.

The proposed "Priority Agriculture" zoning of the property will be in keeping with the current and future use of the property and consistent with the surrounding land holdings.

***Planning and Development Act 2005***

**RESOLUTION TO AMEND LOCAL PLANNING SCHEME**

**Shire of Nannup  
Local Planning Scheme No. 4**

**Amendment No. 1**

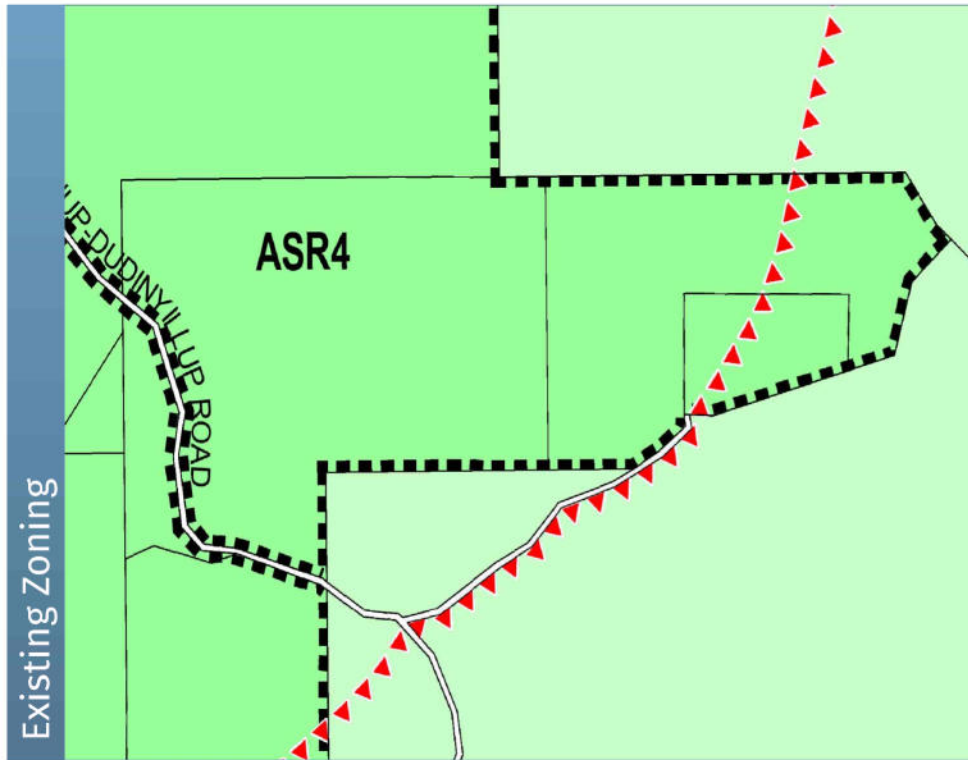
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# SHIRE OF NANNUP

## Local Planning Scheme No. 4

### Amendment No. 1



#### LOCAL SCHEME RESERVES

 Local Roads

#### LOCAL SCHEME ZONES

 Priority Agriculture

 Rural

#### OTHER CATEGORIES

 ASR1 Additional Site Requirements

 SCA7 Special Control Area - General (Landscape Values Area)

