

Shire of Nannup Local Planning Scheme No.4

Scheme Amendment No. 2



Harley Dykstra[®]

PLANNING & SURVEY SOLUTIONS



DOCUMENT CONTROL

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Date: 24 April 2024
Job No: 23993
Ref: B

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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. 2

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 northern portion of Lot 11 Cundinup-Dudinyillup Road, Nannup from "Priority Agriculture" to "Rural".
2. Remove the northern portion of Lot 11 Cundinup – Dudinyillup Road, Nannup from "Additional Site Requirements 4".
3. Amend the scheme map accordingly.

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

- a) an amendment that is not consistent with a local planning strategy for the scheme that has been endorsed by the Commission;
- b) An amendment that is not addressed by an local planning strategy.

Dated this 16th day of July 2024.



(Chief Executive Officer)



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1 INTRODUCTION

This Scheme Amendment (amendment) request has been prepared by Harley Dykstra on behalf of the landowners of Lot 11 (No.620) Cundinup – Dudinyillup Road, Nannup.

This amendment requests that the Minister for Planning approve an amendment to the Shire of Nannup Local Planning Scheme No. 4 (LPS 4) to rezone a portion of Lot 11 and Lot 1144 Cundinup – Dudinyillup Road, Nannup (the ‘subject site’) from the “Priority Agriculture” zone to the “Rural” zone and subsequently remove the ‘Additional Site Requirement No.4’ (ASR 4) as relevant, as it relates specifically to the priority agriculture zone.

LPS 4 indicates that ASR 4 is to be implemented on properties located within the Biddelia, Carlotta and Cundinup localities. The subject site is not located within any of these localities and therefore in addition to the request for the subject site to be zoned ‘Rural’ consistent with the balance of Lot 11, it supports the removal of ASR 4 from the subject site.

Multiple zone allocations over individual land holdings can cause issues for landowners through land-use permissibility’s and restrictions and can sometimes cause difficulty with regards to insurance and financing. These situations are generally not proposed or supported by state and/or local government anymore and are often a result of historical subdivisions or land use planning, as is the case for the subject land.

A modification to the zoning table and land use schedule is considered consistent with the objectives of the Local Planning Strategy and existing state and local planning framework and will ensure the lot has a single zoning over the entire property, which will be consistent with the current agricultural use and capability of the property.

The amendment is considered to fall under the “Complex” 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 “Complex” Amendment.

It is respectfully requested that the Shire of Nannup favourably consider and support this amendment request to rezone a portion of the subject site from the “Priority Agriculture” zone to the “Rural” zone to enable a cohesive zoning over the property.

2 BACKGROUND

2.1 Location

The subject site is described as Lot 11 (620) Cundinup – Dudinyillup Road, Nannup with an approximate site area of 123ha. As a result of an active subdivision application (further detailed in Section 4.4 below) a small portion of the adjoining Lot 1144 (320) Cundinup – Dudinyillup Road forms part of this amendment request, this portion of Lot 1144 is considered incidental as a result of the subdivision application, with the balance of Lot 1144 not forming part of this amendment request. As a result of this, the amendment request focusses primarily on Lot 11, however includes Lot 1144 where necessary to pre-empt the final boundary alignment outcome of the subdivision application.

The site is located approximately 17km North of the Nannup townsite (refer **Figure 1** below).

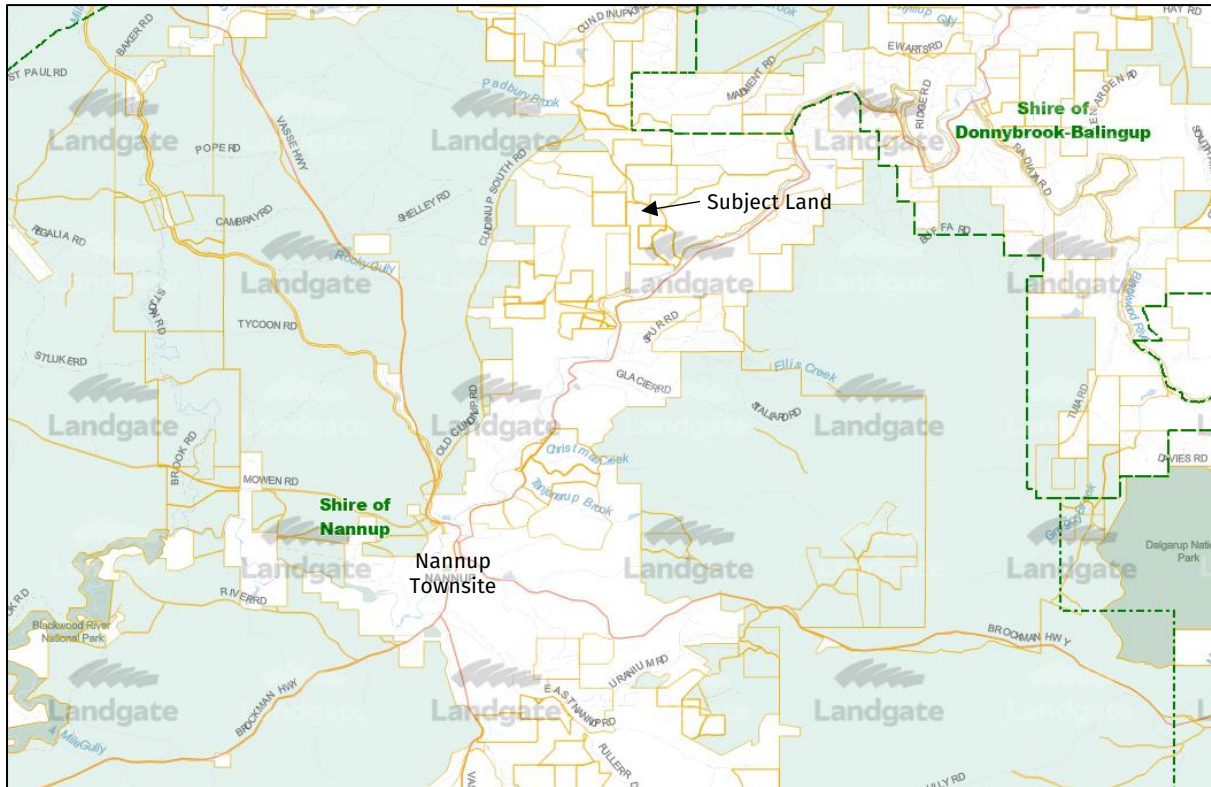


Figure 1 Location Plan

2.2 Ownership

The property details for Lots 11 (620) and 1144 (320) Cundinup – Dudinyillup Road, Nannup are as follows:

LOT NUMBER	PLAN	VOLUME/FOLIO	LOTAREA (ha)	REGISTERED PROPRIETORS
11	DP024755	2227/630	109.86	John Robert Arthur Brockman and Patricia Mary Brockman
1144	DP105655	2043/690	103.74	Andrew Leslie Harris

Table 1 Land Ownership

2.3 Current & 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 and grazing, which is consistent with current agricultural practices for the subject site.

2.4 Physical Characteristics

The subject land is very undulating with significant slopes in some areas, reaching a height of 265m AHD in the north east corner, reducing to 90m AHD in the south east corner. The site overall maintains several valleys and peaks.

The property is predominantly pasture cleared with the exception of a small grouping of trees located in the north east portion of the site. The amendment request does not propose any clearing of vegetation to the property.



The property is also improved by a dwelling and associated outbuildings which are located in the south east portion of the site. The portion of Lot 11 (northern portion) the subject of this amendment request with aerial photography showing features is shown in **Figure 2** below.

2.5 Infrastructure and Access

The property is serviced by power to the dwelling, which is located in the southern portion of the subject land. Access to the property is by way of Cundinup-Dudinyillup Road along the north and eastern boundaries.

The amendment request is not considered an intensification of use and therefore the existing infrastructure and access arrangements are considered sufficient for the continued rural practices of the property.

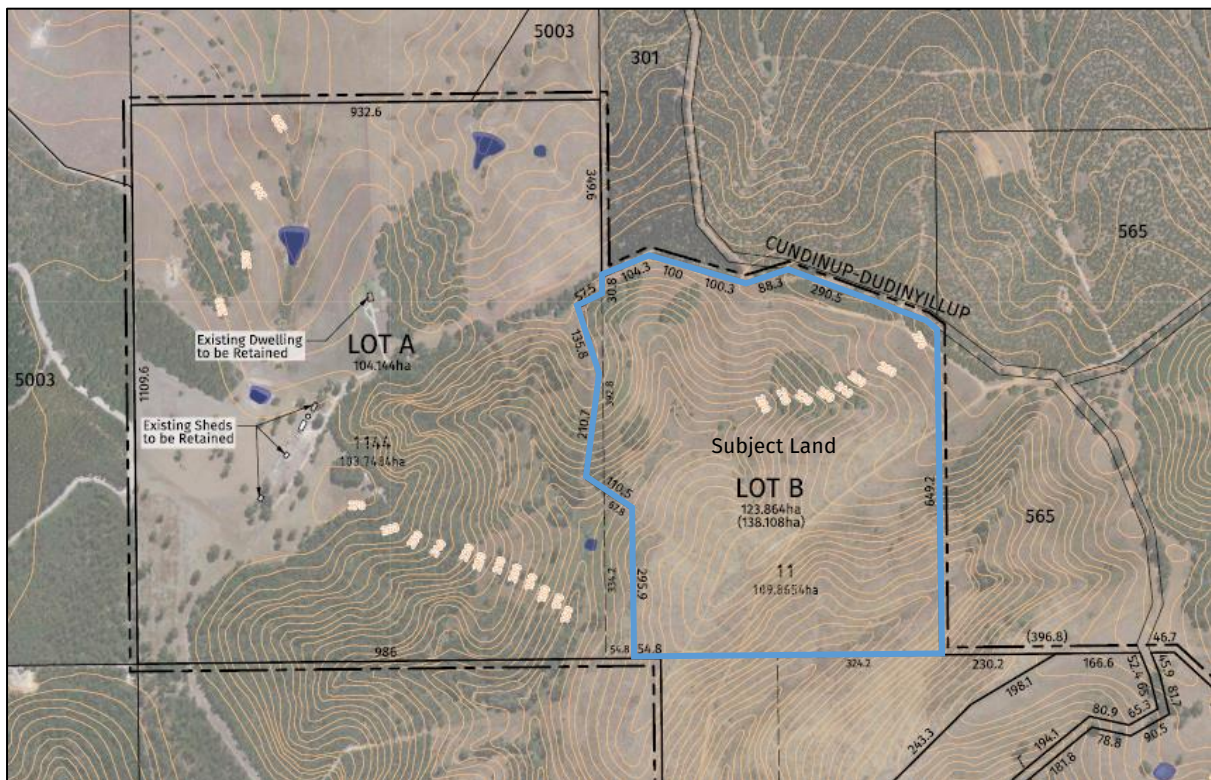


Figure 2 Aerial Site Plan

3 PLANNING FRAMEWORK

3.1 WAPC State Planning Policy 2.5 Rural Planning

State Planning Policy 2.5 - Rural Planning (SPP2.5) and the associated guidelines have been established to protect and preserve rural land asset's within Western Australia. The Policy identifies that ensuring broad compatibility between land uses is essential delivering this outcome.

There are a number of objectives identified within this Policy which support the rationalisation of the zoning of the property, of particular relevance to the proposed subject site include:

- (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 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 rationalisation of the rural zone over the balance of the subject site is considered consistent with these considerations in that it:

- Provides a single cohesive zoning over the entire landholding, which 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 zone that may affect the existing and future operations of the surrounding landholdings.
- Will ensure the landowner can continue to operate their existing operations under a single zone, removing the potential for land use conflict within the property.
- Maintaining adequate land for the continuation of 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 rectify an inconsistency in the zoning of the subject site.



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

The subject land is partly designated to be bushfire prone 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 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 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 with a split-zoning of “Priority Agriculture” and “Rural” under the Strategy (refer **Figure 3**), with the surrounding properties similarly identified as either “Priority Agriculture” or “Rural”, however are not imposed with a split-zoning over their single landholding.

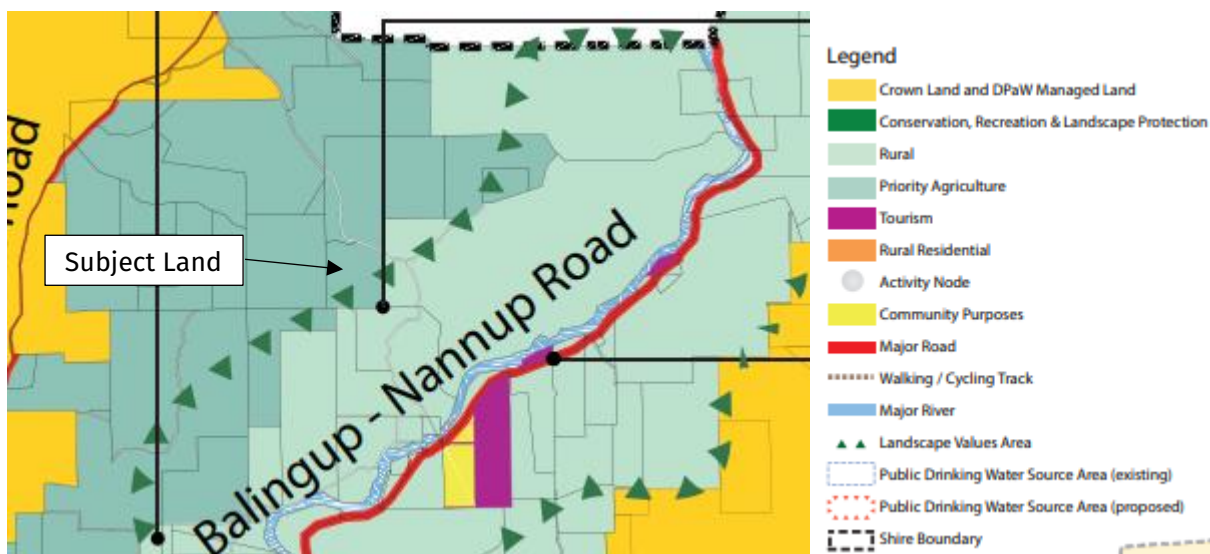


Figure 3 Local Planning Strategy

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

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



The key elements of “Priority Agriculture” and “Rural” 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.*

Rural *agricultural and non-urban land where a range of rural pursuits are supported provided the rural character and amenity are retained.*

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 applicant owns several properties adjoining the lot the subject of this amendment, all of which are identified as “Rural” consistent with the southern portion of the subject site.

The southern portion of the subject site is also located within an area that is considered to have ‘Landscape Values’. Land included within this area runs adjacent to the Balingup-Nannup Road. This portion of this site does not form part of this amendment request and will not be impacted by the outcome of the change in zoning.

The Strategy indicates that proponents, whose proposals are inconsistent with the content or intent of the Strategy, are to provide appropriate justification for the departure or inconsistency to the satisfaction of the local government.

The landowners are seeking to have the subject site identified within a single zone to rationalise the agricultural and management practices of the site. Due to the topography and soil quality of the site, it is not considered suitable for intensive food production and has not been identified for basic raw material production.

Whilst the northern portion of Lot 11 is identified as “Priority Agriculture” within the Strategy mapping, the amendment request to rezone this portion to “Rural” is not considered inconsistent with the context or intent of the Strategy in that the land will continue to operate for agricultural purposes and will have no impact to the current and future productivity of the site or the surrounding landholdings.

The rationalisation of the zoning will however simplify the application of the site to assist with farm management and opportunities for the landowners.

3.4 Shire of Nannup’s Local Planning Scheme No.4

The subject site is partially zoned “Priority Agriculture” and partially zoned “Rural” under the Shire of Nannup’s Local Planning Scheme No.4 (LPS 4) refer **Figure 4** below. ASR4 is applied to priority agriculture zoned land which is detailed further in *Table 5* of LPS 4, which includes the northern portion of the subject site. The southern portion of the of the subject site is identified within Special Control Area – General (SCA7) which is not impacted by this amendment request.

As previously indicated the subject site is not located within the localities of Biddelia, Carlotta or Cundinup and is situated on the south eastern edge of the ASR 4 area. As part of this scheme amendment request it is proposed that the northern portion of Lot 11 (the subject site) is rezoned from ‘Priority Agriculture’ to ‘Rural’ zone and therefore in addition to the site not being located within the nominated localities, the removal of the ASR 4 designation should no longer apply.

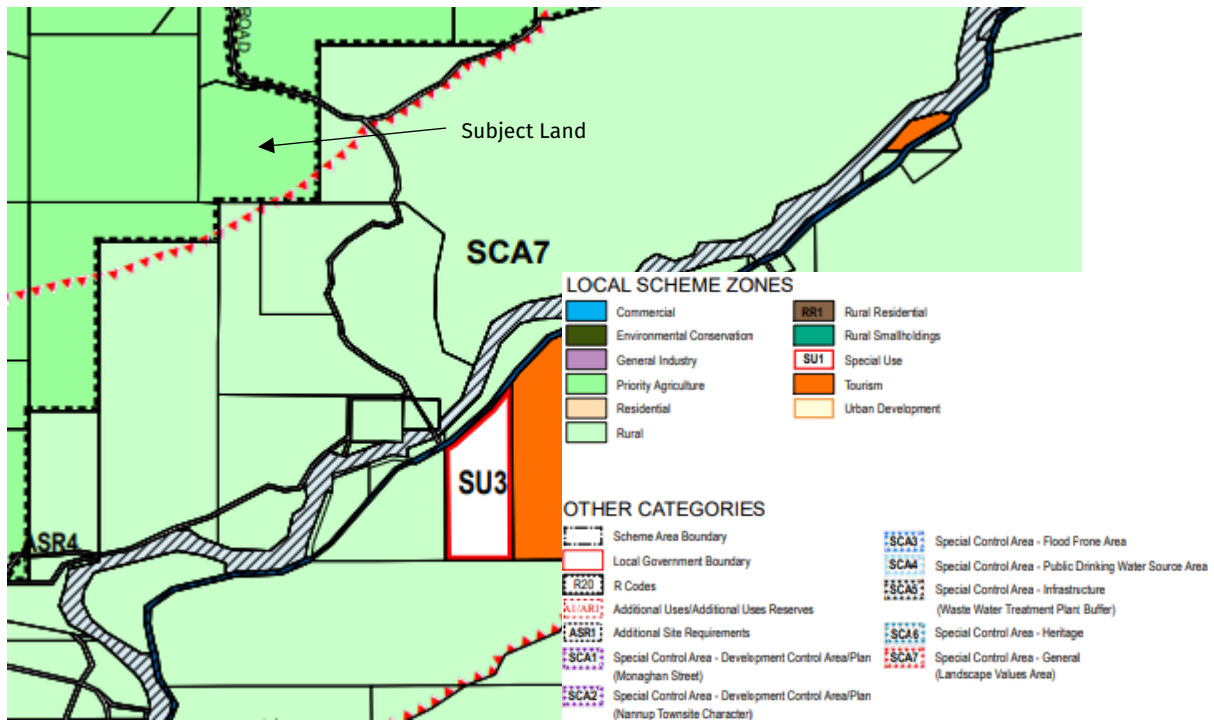


Figure 4 Local Planning Scheme No.4

Land surrounding the subject site is zoned a mixture of “Priority Agriculture” and “Rural” consistent with the zoning of the land, however these landholdings are only subject to the specifications and requirements of a single zone.

The amendment request proposes to rezone the northern portion of the subject site from the “Priority Agriculture” zone to the “Rural” zone to rectify the split-zoning over the property and better reflect the existing agricultural practices of the subject site and the adjoining properties.

The objectives of “Priority Agriculture” land within LPS 4 are:

- To identify land of State, regional or local significance for food production purposes.
- To retain priority agricultural land for agricultural purposes.
- To limit the introduction of sensitive land uses which may compromise existing, future and potential agricultural production.

The inclusion of the northern portion of the subject site within the rural zone from the priority agriculture zone is considered to have no impact to the potential agricultural productivity of the site and will not cause any inconsistency to adjoining landowners through the introduction of sensitive land uses. The land is currently utilised for low scale grazing and is not considered suitable for intensive agriculture and/or horticulture (as is further discussion in Part 4 of this report). The northern boundary of the subject site adjoins the Cundinup-Dudinyillup Road, which will provide a definitive break between the “Rural” zone and “Priority Agriculture” zone, which is considered a better outcome than through the middle of the subject site which could cause conflict in land uses.

Furthermore, the objectives of both these zones in the Scheme include retaining agricultural/rural land for agricultural/rural purposes. This amendment request is in accordance with these objectives in that the proposed rezoning will not result in any loss of rural land but will allow rural land uses to continue under a single zone allocation and will assist in providing a cohesive land use approach for the subject property appropriate to the land capabilities of the site.



4 JUSTIFICATION

4.1 Overview of Proposal and Supporting Rationale

At present, the subject land is influenced by a ‘split-zoning’ with the northern portion being zoned “Priority Agriculture” and southern portion, being the larger portion of the land holding being zoned “Rural”. The property is currently used for low scale grazing agricultural purposes, similar to the adjoining land holdings. As a result of the topography of the land and existing soil capabilities, the land subject to this amendment is considered unsuitable for intensive horticultural/agricultural purposes which are better suited to land zoned priority agriculture.

The landowners wish to rationalise the zoning of this landholding to maintain a single land zone over the entire title which will ensure the existing and future land uses can be considered through the application of a clear and concise set of development requirements and ensure ongoing management of the farming activities is consolidated.

4.2 Land Capability and Suitability

The Department of Primary Industries and Regional Development (DPIRD) website provides access to digital mapping and information for natural resources across Western Australia. This information is provided for all sectors of agriculture, to promote sustainable resource use and the standards applied can be found in *Land evaluation standards for land resource mapping: Assessing land qualities and determining land capability in south-western Australia. Resource Management Technical Report 298, December 2005.*

A review of this information in relation to the subject site provides the following information:

Land Unit	Bridgetown steep slopes phase
Land Unit Description	Relief 100-180m above sea level, slopes 15-50%, soils are loamy earths
Pre-European Vegetation	Jarrah and Marri forests
Erosion Risk	Very high to extreme
Annual Horticulture Capability	>70% of the land has low to very low capability
Dryland Cropping Capability	>70% of the land has low to very low capability
Grazing Capability	>70% of the land has moderate to very high capability
Perennial Horticulture Capability	>70% of the land has low to very low capability
Vineyards Capability	>70% of the land has low to very low capability

Table 2 Land Capability Outcomes

The subject land is not suitable for a range of agricultural pursuits and is only suitable for grazing as identified in the above **Table 2**. The principal limitation is the topography of the site. The steep slopes have poor trafficability and present a very high to extreme erosion risk. The soils on the subject land are also susceptible to subsurface compaction and when the sub surface compaction occurs it will be difficult to improve using broadscale cultivation given trafficability and erosion risk of the subject land.

It is for these reasons that the land is unsuitable for priority agriculture style development and provides further justification for the balance of the subject land to be rezoned to rural, consistent with the remaining zoning and use of the property.



4.3 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 ‘complex amendment’. The relevant clauses defining a complex amendment are as follows:

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

- a) an amendment that is not consistent with a local planning strategy for the scheme that has been endorsed by the Commission;
- b) an amendment that is not addressed by any local planning strategy;
- c) an amendment relating to development that is of a scale, or will have an impact, that is significant relative to development in the locality;
- d) an amendment made to comply with an order made by the Minister under section 76 or 77A of the Act;
- e) an amendment to identify or amend a development contribution area or to prepare or amend a development contribution plan.

The relevant definition of a ‘Complex Amendment’, considered relevant to the proposal, is:

- a) *an amendment that is not consistent with a local planning strategy for the scheme that has been endorsed by the Commission;*
- b) *an amendment that is not addressed by any local planning strategy;*

The requested change of zoning from “Priority Agriculture” to “Rural” is considered consistent with the intent and objectives of the Shire of Nannup’s Local Planning Strategy and Local Planning Scheme. Whilst not technically identified within the Strategy, the minor change to the zoning of the subject site will continue to maintain the rural intent of the land and will ensure the landholding is identified as a single cohesive zone in accordance with the Scheme and consequently should be considered as a “Complex” amendment.

4.4 Subdivision Application

Lot 11 in conjunction with several adjoining properties (Lots 4, 12, 522, 732 and 1144) is currently the subject of an unconditional subdivision approval (WAPC Ref 164 510), which was issued in March 2024. The subdivision application (boundary realignment) proposes to rationalise property boundaries to better reflect the topography of the land and how the properties currently operate. The boundary realignment for these lots will reflect existing fence lines and farming practices.

The northern portion of Lot 11, the subject of this amendment request is generally unaffected by the subdivision application, however the western boundary is proposed to be modified slightly in conjunction with the adjoining Lot 1144 as a result of existing fence lines and farming practices. The outcome as shown in **Figure 6** below identifies the minor variation to the existing boundary line and will not result in any clearing of vegetation.

The owner of Lot 1144 is an active participant in the subdivision application and subsequently supportive of the amendment request.

With scheme amendments often taking in excess of 12 months, allocation of new lot numbers and title reissuing will therefore be finalised prior to the finalisation of the Scheme Amendment process.

Due to the inconsequential realignment of this western boundary, the intent of the scheme amendment request is considered clear and not impacted by the subdivision approval, therefore should be able to be progressed in parallel to the subdivision approval and issuing of new titles process.



Any mapping modifications that may be required to be made prior to the final determination of the Scheme Amendment are considered to be minor in nature and can be easily undertaken at the appropriate time of assessment as part of a modification to the amendment by Council or the Western Australian Planning Commission.

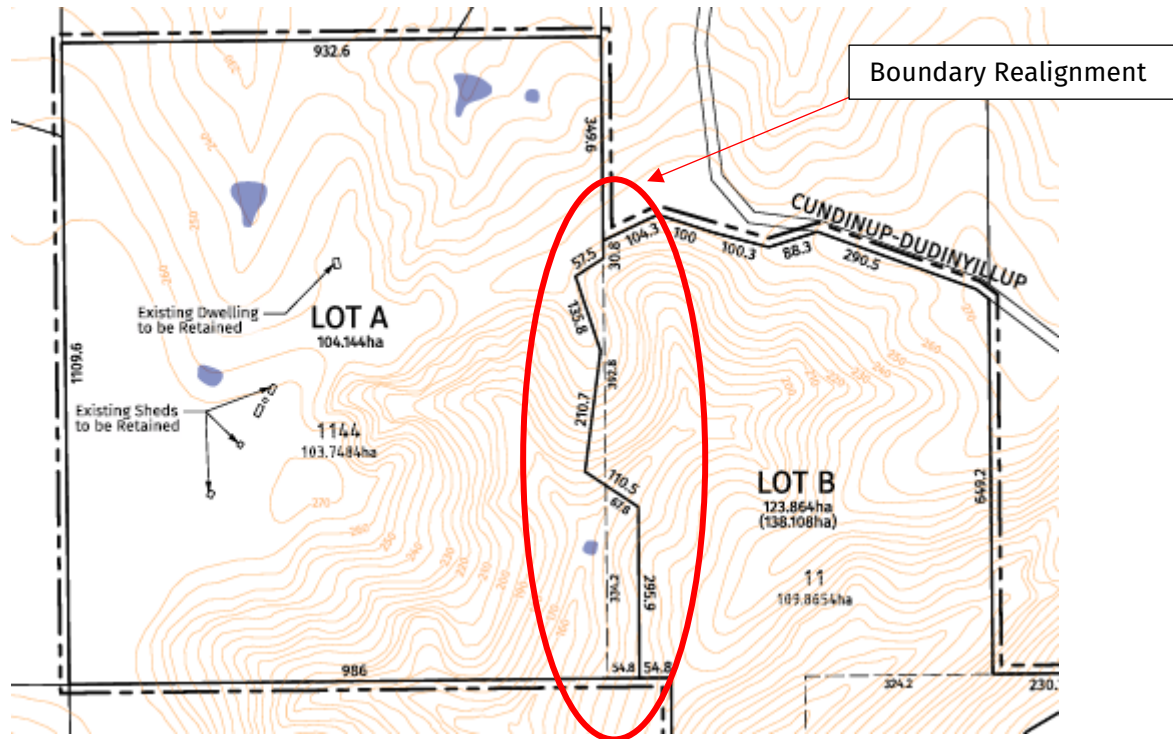


Figure 5 Subdivision Application – Boundary Realignment excerpt

5 CONCLUSION

In conclusion, this Amendment request seeks support to enable the rezoning of the northern portion of Lot 11 Cundinup-Dudinyillup Road, Nannup to the “Rural” zone and subsequently the removal of ASR 4 from the site. The request is considered to be consistent with the objectives of the Shire of Nannup Local Planning Strategy, Local Planning Scheme No.4 and relevant State and local planning framework.

The proposal seeks to resolve the split zoning over the landholding, to provide a single consistent zoning of the property under LPS 4, which is the preferred outcome from both a local government and landowner perspective. The proposed zoning to “Rural” will be in keeping with the balance of the property, maintain the existing agricultural practices of the property and the surrounding landholdings.

It is therefore respectfully requested on the basis of the above justified rationale, that the Minister for Planning approve the amendment to the Shire of Nannup’s Local Planning Scheme No.4 to rezone the northern portion of Lot 11 Cundinup-Dudinyillup Road, Nannup from the “Priority Agriculture” zone to the “Rural” zone.

Planning and Development Act 2005

RESOLUTION TO AMEND LOCAL PLANNING SCHEME

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

Amendment No. 2

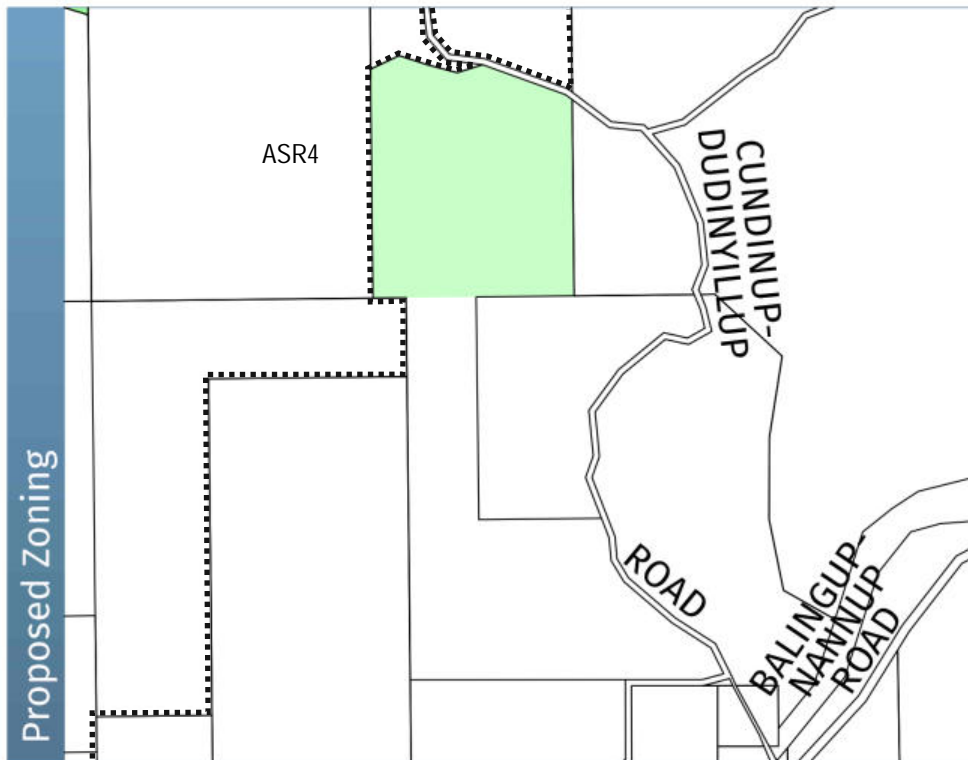
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1. Amend the northern portion of Lot 11 Cundinup-Dudinyillup Road, Nannup from "Priority Agriculture" to "Rural".
2. Remove the northern portion of Lot 11 Cundinup – Dudinyillup Road, Nannup from "Additional Site Requirements 4".
3. Amending the scheme map accordingly.




SHIRE OF NANNUP

Local Planning Scheme No. 4


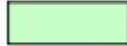


Amendment No. 2



LOCAL SCHEME RESERVES

-  District Distributor Road
-  Local Road
-  Railways

LOCAL SCHEME ZONES

-  Priority Agriculture
-  Rural
-  SU1 Special Use
-  Tourism

OTHER CATEGORIES

-  ASR1 Additional Site Requirements
-  SCA7 Special Control Area - General (Landscape Value Areas)

COUNCIL ADOPTION

This **complex** Amendment was adopted by resolution of the Council of the Shire of Nannup at the Ordinary Meeting of the Council held on the 27th day of June, 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)

COUNCIL RECOMMENDATION

This Amendment is recommended for **support/ not to be supported** by resolution of the Shire of Nannup at the Ordinary Meeting of the Council held on the ____ day of ____, 2024 and the Common Seal of the Shire of Nannup was hereunto affixed by the authority of a resolution of the Council in the presence of:



(President)

(Chief Executive Officer)

WAPC ENDORSEMENT (r.63)

DELEGATED UNDER S.16
OF THE P&D ACT 2005

DATE

APPROVAL GRANTED

MINISTER FOR PLANNING

DATE