



Local Planning Scheme No. 7

Amendment No. 36

Summary of Amendment Details

***Standard Amendment – Inserting a new Special Control Area No.4 –
Public Drinking Water Source Areas***

Planning and Development Act 2005

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

**SHIRE OF DANDARAGAN LOCAL PLANNING SCHEME NO. 7
Amendment Number 36**

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

1. Deleting Clause 4.20 Protection of Water Sources.
2. Deleting Clause 5.1.1 (i) Special Control Area No.1 – Bassendean Precinct and inserting Clause 5.1.1 (i) Special Control Area No.1 – Public Drinking Water Source Areas.
3. Deleting Clause 5.2 Bassendean Precinct Special Control Area and inserting Clause 5.2 Public Drinking Water Source Special Control Areas as follows:

“5.2.1 Applications for planning approval for a use or development involving the following within or in close proximity of SCA1 shall be referred to the Department of Water and Environmental Regulation for comment:

- (a) the potential increased nutrient loading, particularly having a point source for nutrients, such as a poultry farm or piggery;*
- (b) intensification of the application of fertilisers and pesticides;*
- (c) storage of chemicals, fuels and other potentially polluting substances;*
- (d) a substantial increase in runoff;*
- (e) any other impact which the local government considers to have an impact on the quality of public drinking water; and*
- (f) all development proposals within the water source areas that are inconsistent with the DoWER’s Water Quality Protection Notes and Guidelines, Land Use Capability Tables or recommendations in current Drinking Water Source Protection Plans.”*

“5.2.2 In determining any application for planning approval within or in close proximity of SCA1, Council shall

- a. have regard to the DoWER’s Water Quality Protection Notes and Guidelines;*
- b. have regard to State Planning Policy No 2.7 (Public Drinking Water Source Policy);*
- c. have regard to any advice from the DoWER; and*
- d. endeavour to ensure that the proposed use or development will not have a detrimental impact on water resources.”*

“5.2.3 Notwithstanding that a use or development may be classified as ‘P’, ‘A’ or ‘D’ on the Zoning Table, where the DoWER advises that a use or development should be refused on the basis of potential impact on surface and/or groundwater resources, the Council shall refuse the use or development.”

4. Amending the Scheme Maps accordingly.

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

- The Amendment to the Scheme is consistent with a Local Planning Strategy for the Scheme that has been endorsed by the Western Australian Planning Commission and does not result in any significant environmental, social, economic or governance impacts on land in the Scheme area.

Dated this 28th day of June, 2018

(Chief Executive Officer)

1.0 INTRODUCTION

This report has been prepared to amend the Shire of Dandaragan Local Planning Scheme No.7 (LPS7) in relation to Special Control Area No.1 – Bassendean Precinct.

The Bassendean Precinct is a predictive area of a central coast environmental unit of the Shire of Dandaragan as designated on the Scheme Maps by means of a dotted line.

The proposed amendment seeks to delete Special Control Area No.1 and all reference to such from the Scheme as recommended by the *Shire of Dandaragan Local Planning Strategy – Rural Land Use and Rural Settlement 2012* and *Shire of Dandaragan Draft Local Planning Strategy 2016*. It is proposed a new Special Control Area No.1 be inserted into the Scheme for the protection of the following Public Drinking Water Source Areas within the Shire:

1. Badgingarra Water Reserve – *Government Gazetted 16-11-1999*
2. Cervantes Water Reserve – *Government Gazetted 16-11-1999*
3. Dandaragan Water Reserve – *Government Gazetted 16-11-1999*
4. Jurien Water Reserve – *Government Gazetted 21-08-2012*
5. Moora Water Reserve – *Government Gazetted 25-07-2017*

2.0 BACKGROUND

Local Planning Scheme No.7:

4.20 Protection of Water Sources

4.20.1 Public Drinking Water Source Reserves

Public Drinking Water Reserves are located close to existing townsites and are covered by Water Source Protection Plans prepared by the Water and Rivers Commission (now known as Department of Water and Environmental Regulation (DoWER)). Guidelines are available from DoWER which establish whether a proposed use is compatible, incompatible or could be approved with conditions to protect water quality and supply.

In considering any development within a Public Drinking Water Source Area (PDWSA) Local government will have due regard for the potential impact on water supplies and the compatibility of the proposed use. Any development in conflict with the DoWER guidelines must be referred to DoWER for comment to ensure water quality protection of the public drinking water reserves.

4.20.2 Groundwater Areas

Groundwater protection areas have been established by the DoWER known as the Jurien Groundwater Area and Gingin Groundwater Area.

Landowners and developers are required to obtain a licence prior to the construction of a bore or well on any property for groundwater extraction except for stock or domestic purposes.

5.2 Bassendean Precinct Special Control Area

Major Values

The Bassendean Precinct Area is an important environmental unit in the central coast region. The area comprises deep porous sands that are hydrologically connected to a number of wetlands in the area. The area is noted as a significant area of internal drainage which is particularly vulnerable to the use of fertilizers.

Purpose of the Special Control Area

1. To preserve the ecological values of the Bassendean Precinct and interrelated wetlands.
2. To avoid development and land uses which would negatively impact on the environmental values of the area.
3. To ensure that future land use in the area, including agriculture, mining and recreational activities does not degrade the area.
4. To ensure that any development takes place in such a manner so as to safeguard the environmental values of the area.

Application Requirements for Subdivision and Development

Development approval is required for any other development (as defined below).

Relevant Considerations

In considering any rezoning request, subdivision or development application the Local government will have regard to the following:

- There is a presumption against rezoning of land within the Bassendean Precinct for more intensive land uses, such as horticulture, intensive animal stocking and rural residential.
- Subdivision applications for land within the Bassendean Precinct will generally not be supported by the Local government to avoid creating the potential for additional development.
- The Local government may consider supporting subdivision applications within the Bassendean Precinct where:
 - i. the subdivision is for the use of land which will not create the potential for additional development;
 - ii. the subdivision is for a boundary realignment, rationalization of landholdings or lots created for management purposes, which will not create the potential for additional development within the area; and
 - iii. the subdivision is consistent with the policies of the Western Australian Planning Commission.

- *Development applications for land within the Bassendean Precinct should not be approved where the development may result in an increase of nutrient release into the soil. The impacts of proposals for aquaculture, commercial tree plantations, earthworks (such as filling and excavation) and intensive agriculture will be carefully assessed.*
- *Public works (for example, road construction) or community facilities may be permitted within the area, subject to advice from DoWER that such public works or development can be designed and located in a manner so as to minimize impact on the environment.*

Referral of Applications

Consultations regarding any rezoning request, subdivision or development application will be referred to the DoWER.

3.0 LOCAL PLANNING CONTEXT

Section 75 of the *Planning and Development Act 2005* gives a local government the power to amend its local planning scheme.

Pursuant to Regulation 35(2) of the *Planning and Development (Local Planning Schemes) Regulations 2015*, Amendment No.36 is a standard amendment as it is consistent with a Local Planning Strategy for the Scheme that has been endorsed by the Western Australian Planning Commission and does not result in any significant environmental, social, economic or governance impacts on land in the Scheme area.

4.0 PROPOSAL

The amendment seeks the following:

1. Deleting Clause 4.20 Protection of Water Sources.
2. Deleting Clause 5.1.1 (i) Special Control Area No.1 – Bassendean Precinct and inserting Clause 5.1.1 (i) Special Control Area No.1 – Public Drinking Water Sources.
3. Deleting Clause 5.2 Bassendean Precinct Special Control Area and inserting Clause 5.2 Public Drinking Water Source Special Control Areas.
4. Amending the Scheme Maps accordingly.

Local Planning Justification

Local Planning Strategy – Rural Land Use and Rural Settlement 2012:

8.3.2 Bassendean Precinct Special Control Area

The Bassendean Precinct Special Control Area (BPSCA) was introduced to the Scheme as the land was considered in some areas to have very low capability for agriculture due to the low nutrient holding ability of the sand and potential for winter water logging.

The Shire had sought to remove this SCA because it was considered unnecessary in that any proposal for the intensification of land use such as irrigated horticulture or rural living development anywhere in the municipality is subject to environmental assessment. The landowners within the BPSCA believed their property values are adversely affected by inclusion in this area. A number of other factors supporting removal of the BPSCA were also presented.

Council were unsuccessful in seeking to amend the Scheme to remove the BPSCA in 2007 however in its refusal the WAPC advised that;

- i. The future deletion of the Bassendean Precinct Special Control Area from the Scheme could be considered in conjunction with the introduction of a special control area for the Jurien water reserve (in accordance with State Planning Policy 2.7), and the additional provisions in Part 5 of the Scheme to guide development in areas with vulnerable soils.*

As the LPS proposes the inclusion of public drinking water source areas as Special Control Areas in the LPS and the Scheme together with other land resource management measures the DoWER have no objection to the removal of the BPSCA subject to:

- adequate planning mechanisms being inserted in the Scheme to ensure that land use development does not degrade the environmental values of the area;*
- considering requiring all 'A' and 'D' uses in the Rural zone to be assessed against the factors listed in Appendix 2 (in the LPS); and*
- that the changes be made by an Amendment prepared in consultation with the DoWER.*

The Scheme should be amended to remove the Bassendean Precinct Special Control Area subject to the inclusion in the LPS of adequate alternative mechanisms to ensure that land use and development does not degrade environmental values. The Shire will consult DoWER regarding appropriate provisions to be included in the LPS and the composition of the Amendment.

Draft Local Planning Strategy 2016:

5.7.4.5 Water protection and management and the Local Planning Scheme

The protection and management of water resources including groundwater abstraction should be reinforced in the Scheme.

The following modifications to the Scheme should be initiated (see Annexure 1):

- *introduce Special Control Areas to protect PDWSAs and to show these areas on the Scheme Maps;*
- *introduce a new clause to the Scheme to reinforce existing provisions '5.22 Protection of Water Sources' and '5.23 Water Management and Protection' with a new clause to require the landowner to show the acceptability of an application for intensive agriculture; and*
- *provide guidelines for the assessment of an application in a Priority area of a PDWSA by Council.*

In addition Council intends to remove the Bassendean Precinct Special Control Area from the Scheme and to have all rural land to be treated in the same way. This acknowledges that the whole shire is within Proclaimed Groundwater or Surface Water areas and any application in the Rural zone would be dealt with appropriately.

With the inclusion of Special Control Areas in the Scheme to protect PDWSAs, activities in areas with Bassendean Sands and other soil types would still be managed to specifically protect ground water resources.

Local Planning Scheme No.7:

Aspects of the Scheme Amendment are somewhat reinforced in the Deemed Provisions of Local Planning Scheme No.7 as follows:

Part 9 – Procedure for dealing with applications for development approval

Clause 67: Matters to be considered by local government

(o) the likely effect of the development on the natural environment or water resources and any means that are proposed to protect or to mitigate impacts on the natural environment or the water resource.

(q) the suitability of the land for the development taking into account the possible risk of flooding, tidal inundation, subsidence, landslip, bush fire, soil erosion, land degradation or any other risk.

State Planning Justification

State Planning Policy 2.7 Public Drinking Water Source:

2. Introduction and Background

Priority 1 (P1) source protection areas are defined and managed to ensure there is no degradation of the water resource in these areas. This is the highest level of protection for the water source and normally will apply to land owned by the State, and that is characterized by low-intensity and low-risk land use, such as forestry. Protection of the public water supply outweighs virtually all other considerations in respect to the use of this land. P1 source protection areas are managed in accordance with the principle of risk avoidance.

Priority 2 (P2) source protection areas are defined to ensure that there is no increased risk of pollution to the water source. P2 areas are declared over land where low-risk development already exists. Protection of public water supply sources is a high priority in these areas. P2 areas are managed in accordance with the principle of risk minimisation and so conditional development is allowed.

Priority 3 (P3) source protection areas are defined to manage the risk of pollution of the water source. P3 areas are declared over land where water supply sources need to co-exist with other land uses such as residential, commercial and light industrial developments, although there is some restriction on potentially highly polluting land uses. Protection of P3 areas is otherwise achieved through management guidelines for land use activities. If the water source does become contaminated then water may need to be treated or an alternative water source found.

The DoWER has published a Water Quality Protection Note on Land Use Compatibility in Public Drinking Water Source Areas which shows the compatibility of different land uses within the different priority source protection areas. The guidelines contain a table which lists land uses which are compatible, incompatible, and conditional with or in regard to the management objectives of the priority source protection areas. These land uses are recommended as permitted, not permitted, or discretionary uses respectively within each priority source protection area, and may be incorporated into the provisions of the proposed special control areas. These guidelines should be used in conjunction with any endorsed water source protection plan or land use and water management strategy.

5. Policy Measures

5.4: *Outside the Perth Metropolitan Region, all priority source protection areas in PDWSAs should be shown as special control areas in region schemes and in local government schemes in accordance with the recommendations of any relevant land use and water management strategy published by the WAPC, or any water source protection plan approved by the DoWER. The special control area provisions should provide for referral of applications to the DoWER for advice and comment, and set out the relevant considerations in determining planning applications within these areas, guided by the DoWER Water Quality Protection Note on Land Use Compatibility and Public Drinking Water Source Areas.*

5.5: *Land uses and developments in all priority source protection areas that have the potential to impact detrimentally on the quality and quantity of public drinking water supplies should not be permitted unless it can be demonstrated, having regard to advice from the DoWER, that such impacts can be satisfactorily managed. The DoWER will have regard to the relevant parameters, standards and criteria set out in the Australian Drinking Water Guidelines (1996) published by the National Health and Medical Research Council in providing advice on land use and development proposals.*

State Planning Policy 2.9 Water Resources:

5. Policy Measures

Planning should contribute to the protection and wise management of water resources by ensuring local and regional planning strategies, structure plans, schemes, subdivisions, strata subdivision and development applications adopt the following measures.

5.1 General Measures

(i) Protect significant environmental, recreational and cultural values of water resources.

(ii) Aim to prevent or, where appropriate, ameliorate the following potential impacts:

- any adverse effects on water quality and quantity and, as a minimum, proposed development should aim to maintain water quality and ensure water quantity is compatible with the receiving waters;*
- increased nutrient loads into receiving waters;*
- increased acidity and leaching of acid sulfate soils;*
- the removal of associated native vegetation important for long-term management of the water resource, particularly vegetation associated with wetlands and waterways respectively;*
- increased erosion, sedimentation and turbidity, particularly at the construction phase of development;*
- any potential adverse effects on environmental water requirements and, as a minimum, proposed development should aim to maintain natural flow regimes and variability;*
- excessive build-up of organic matter;*
- pollution and contamination;*
- salinity over and above the natural levels; and*
- any potential cumulative impacts.*

(iii) Promote improved outcomes such as:

- environmental repair and rehabilitation of the water resource;*
- improved water quality;*
- reduction in nutrient export to receiving waters to a level lower than existing;*
- restoration of natural flow regimes and variability; and*
- use of site works such as fencing, revegetation or water monitoring.*

(iv) Inform planning actions by identifying all water resources above and below ground in the subject area, and mapping and prioritising them in terms of state, regional or local significance. Water resources to be identified include wetlands, waterways (such as rivers, streams and creeks), estuaries, groundwater and surface water catchments, dams, floodplains, foreshores and existing and future surface and groundwater drinking water catchments and sources.

(v) Take into account potential impacts the water resource may have on a land use when determining the compatibility of locating a land use near natural or artificial water resource/s (for example, flooding or disease vector and nuisance insects such as mosquitoes and midges).

(vi) Recognise and take into account State Government management strategies for water resource issues such as water protection areas, wetland protection, water provisions for environmental flow requirements, riparian management and water allocation plans.

(vii) Recognise and take into account water resource management plans as required by the Rights in Water and Irrigation Act 1914.

(viii) Recognise and take into account relevant accredited natural resource management strategies, endorsed by state government statutory authorities, that contain recommendations to address water resource matters.

5.2 Surface and Groundwater Resources

(i) Recognise the hydrological importance of groundwater and surface catchments with regards to water management and the associated value of catchment planning on a regional, district and local scale.

(ii) Protect, manage, conserve and enhance surface and groundwater catchments and recharge areas supporting significant ecological features or having identified environmental values, by ensuring, where possible, appropriate management or limiting inappropriate land use/s to maintain water quality and quantity for existing and future environmental and human uses.

(iii) Ensure the availability of water resources is compatible with the future requirements of the proposed and surrounding land use through an assessment of quantity and quality requirements for both the development and the environment.

(iv) Take into account the potential adverse impacts that development may have on catchment areas and encourage development to participate in catchment management activities.

5.0 CONCLUSION

As recommended by the current adopted and draft local planning strategies for the Shire, the proposed amendment provides greater protection for the Public Drinking Water Source Areas of the Shire (as required by SPP2.7) by ensuring sufficient planning controls are in place to prevent adverse impacts on vulnerable groundwater and surface water resources. This acknowledges that any planning application within or in close proximity to such areas would be dealt with appropriately.

APPENDIX 1 – LOCATIONAL MAP

Planning and Development Act 2005

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

**SHIRE OF DANDARAGAN LOCAL PLANNING SCHEME NO. 7
Amendment Number 36**

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

1. Deleting Clause 4.20.1 and renumber Clause '4.20 Protection of Water Sources' accordingly.

2. Rewording Clause 5.1.1 to the following:

5.1.1. *The following special control areas are shown on the Scheme Maps:*

- (i) Special Control Area No. 1 – Bassendean Precinct*
- (ii) Special Control Area No. 2 – Wastewater Infrastructure*
- (iii) Special Control Area No. 3 – Coastal Hazard Risk Area*
- (iv) Special Control Area No. 4 – Public Drinking Water Source Areas*

3. Delete the provisions in Clause 5.2 and replace with the following:

5.2 Special Control Area No. 1 – Bassendean Precinct

The Bassendean Precinct is a significant internal drainage area in the central coast region which comprises of deep porous sands hydrologically connected to a number of wetlands and is an area particularly vulnerable to pollution, eutrophication and salination.

5.2.1 *The purpose of the Special Control Area is:*

- (a) to preserve the ecological values of the Bassendean Precinct and interrelated wetlands;*
- (b) to avoid development and land uses which would negatively impact on the environmental values of the area;*
- (c) to ensure that future land use in the area, including agriculture, mining and recreational activities does not degrade the area; and*
- (d) to ensure that any development takes place in such a manner so as to safeguard the environmental values of the area.*

5.2.2 *All development within Special Control Area No. 1 requires the approval of the local government.*

5.2.3 *In considering any request for rezoning or application for subdivision and/or development the decision maker is to be satisfied that the proposal can occur and be managed, without affecting the quality of water and other environmental attributes of the area.*

5.2.4 *Any request for rezoning or application for subdivision and/or development within Special Control Area No. 1 should be referred to the agency/s responsible for wetlands, groundwater and/or environmental impact.*

5.2.5 *Notwithstanding Table 1: Zoning Table and Section 3.3 of the Scheme, where a development would affect water quality and environmental attributes, the development may not be permitted within the Special Control Area.*

4. Retitling Clause 5.3 to the following:

5.3 Special Control Area 2 - Wastewater Infrastructure

5. Inserting the following as Clause 5.5:

5.4 Special Control Area 4 - Public Drinking Water Source Areas (PDWSAs)

5.5.1 *The purpose of Special Control Area 4 is to ensure land use and development within and in close proximity to the PDWSAs located within the Shire does not result in adverse impacts on public drinking water sources.*

5.5.2 *The objectives of Special Control Area 4 are:*
(a) *to prevent any adverse effects on public drinking water quality and quantity;*
(b) *to prevent increased nutrient loads into critical water resources; and*
(c) *to ensure that any development takes place in such a manner so as to safeguard the hydrological values of the PDWSAs.*

5.5.2 *All development within Special Control Area No. 4 requires the approval of the local government.*

5.5.3 *Any request for rezoning or application for subdivision and/or development within Special Control Area No. 4 should be referred to the agency responsible for PDWSAs.*

5.5.4 *In determining any application for development approval within or in close proximity of Special Control Area 4, Council shall have regard to:*

- (a) *the potential increased nutrient loading, particularly having a point source for nutrients, such as a poultry farm or piggery;*
- (b) *intensification of the application of fertilisers and pesticides;*
- (c) *storage of chemicals, fuels and other potentially polluting substances;*
- (d) *a substantial increase in runoff;*
- (e) *any other impact which the local government considers to have an impact on the quality of public drinking water;*
- (f) *any recommendations in the current Drinking Water Source Protection Plans;*
- (g) *the Water Quality Protection Note on Land Use Compatibility in Public Drinking Water Source Areas and Guidelines;*
- (h) *State Planning Policy No 2.7 (Public Drinking Water Source Policy);*
- (i) *any advice from State agencies; and*

(j) *endeavour to ensure that the proposed use or development will not have a detrimental impact on water resources.*

5.5.5 *Notwithstanding Table 1: Zoning Table and Section 3.3 of the Scheme, where a development would affect the quality of a PDWSA, the development may not be permitted within the Special Control Area.*

6. Amending the Scheme Maps accordingly.
7. In 'Table 1: Zoning Table', delete the asterisks (*) against various land uses listed in the 'Rural' zone, and delete the explanatory text at the end of the Zoning Table.
8. Throughout the Scheme, remove reference to DEC or other agencies that no longer exist, and replace with "agency/s responsible for relevant environmental matters"

COUNCIL ADOPTION & RESOLUTION TO ADVERTISE

This Standard Amendment was adopted for purposes of advertising by resolution of the Council of the Shire of Dandaragan at the Ordinary Meeting of the Council held on the 28th day of June, 2018.

.....
SHIRE PRESIDENT

.....
CHIEF EXECUTIVE OFFICER

COUNCIL RECOMMENDATION

This Standard Amendment is recommended for approval by resolution of the Shire of Dandaragan at the Ordinary Meeting of the Council held on the _____ day of _____, 2018 and the Common Seal of the Shire of Dandaragan was hereunto affixed by the authority of a resolution of the Council in the presence of:

(Seal)

.....
SHIRE PRESIDENT

.....
CHIEF EXECUTIVE OFFICER

WAPC RECOMMENDATION FOR APPROVAL

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

DATE.....

APPROVAL GRANTED

.....
MINISTER FOR PLANNING

DATE.....