



Department of
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DC Policy 3.4

- Subdivision of rural land

Development Control Policy 3.4

- Subdivision of rural land

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Background

This policy supersedes *Development Control Policy 3.4: Subdivision of rural land* (DC 3.4) (March 2012). The Western Australian Planning Commission (WAPC) is the responsible authority for subdivision approvals in Western Australia. This policy sets out the principles that will be used by the WAPC in determining applications for the subdivision of rural land. The policy is consistent with the objectives of *State Planning Policy 2.5: Rural Planning*, which establishes the statewide policy framework for rural land use planning in Western Australia.

It is recognised that other policies and planning instruments will have a direct, or indirect, influence on the implementation of this policy and as such, they should be considered where relevant.

The aims and objectives of the *State Planning Strategy* and *State Planning Policy 1: State Planning Framework Policy* are supported through the provisions of this policy. Subdivision and environmental planning proposals should consider policies such as *State Planning Policy 2: Environment and Natural Resources Policy* and *Development Control Policy 1.1: Subdivision of Land - General Principles*. Specific matters such as industrial buffers and water resources may be addressed in compliance with policies such as *State Planning Policy 4.1: State Industrial Buffer Policy*; *State Planning Policy 2.7: Public Drinking Water Source Policy*; *State Planning Policy 2.2: Gnangara*

Groundwater Protection; *State Planning Policy 2.3: Jandakot Groundwater Protection*; *State Planning Policy 2.10: Swan Canning River System*; and *State Planning Policy 2.9: Water Resources*.

Alternatively, specific areas may require consideration of policies and instruments such as *State Planning Policy 2.1: Peel-Harvey Coastal Plain Catchment*, *State Planning Policy 6.1: Leeuwin-Naturaliste Ridge* and the *Greater Bunbury Region Scheme*.

Guidance for the implementation of this policy, or sections of this policy, is provided through planning guidelines such as *Better Urban Water Management*, *Guidelines for Planning in Bushfire Prone Areas* and the *Rural Planning Guidelines*.

Planning policies and guidelines other than those listed above may also contain provisions applicable to the subdivision of rural land and should be read in conjunction with this policy, where appropriate.



1. Introduction

The changes to land use in Western Australia in the years since European settlement in 1829 have been dramatic. Subdivision, development and use of land for settlement and agriculture provided significant economic and social benefits to the State's expanding community. This growth is anticipated to continue with the State's population expected to increase to 3.5 million people by 2050.

Rural zones are generally flexible and permit a range of agricultural, commercial and industrial land uses. This policy aims to support the range of land uses that are appropriate for rural settings, while limiting the loss of this land to incompatible uses such as housing.

This policy is primarily concerned with those matters contained in Part 10 of the *Planning and Development Act 2005*, which deals with the subdivision of land separate from the Crown, and sets out the functions of the WAPC in its operation of that Part. For the purpose of the policy, subdivision includes the creation of a new lot or multiple lots; the amalgamation of existing lots; and any other dealings in land that require a decision by the WAPC, including the creation of survey strata lots.

In determining subdivision applications, the WAPC will seek to ensure that the broad objectives contained in Section 2 of this policy are met and may impose conditions on an approval to secure these objectives. In addition to the provisions of this policy the WAPC will have due regard to:

- the provisions of a local planning scheme;
- a local planning strategy or local rural strategy;
- applicable region schemes;
- applicable regional strategies;
- relevant State planning and operational policies;
- the individual merits of the proposal; and
- existing precedent(s) or any potential precedent the proposal may create.

2. Policy objectives

This operational policy guides the subdivision of rural land to achieve the key objectives of *State Planning Policy 2.5: Rural Planning*, which are to:

- (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;
- (c) outside of the Perth and Peel planning regions, secure significant basic raw material resources and provide for their extraction;
- (d) provide a planning framework that comprehensively considers rural land and land uses, and facilitates consistent and timely decision-making;
- (e) avoid and minimise land use conflicts;
- (f) promote sustainable settlement in, and adjacent to, existing urban areas; and
- (g) protect and sustainably manage environmental, landscape and water resource assets.



3. Rural living

It is the policy of the WAPC that the subdivision of rural land for rural living land uses must be properly planned through the preparation and endorsement of strategies and schemes and be zoned accordingly in local planning schemes prior to subdivision.

Rural living is considered a residential land use and not a rural land use. Therefore, this policy does not apply to rural living proposals or subdivision. Rural living policy is outlined in clause 5.3 of *State Planning Policy 2.5: Rural Planning*.

4. Policy measures for more intensive agricultural uses

It is the view of the WAPC that there is an existing supply of suitably sized and located rural lots to cater for intensive and emerging primary production land uses.

Where local conditions require subdivision or creation of land parcels for this purpose, it should be provided for in a strategy or scheme and supported by evidence from the agency responsible for agriculture and food. Creation of new rural lots through ad-hoc, unplanned subdivision is considered to be inconsistent with or contrary to the objectives of this policy.

5. General policy provisions

It is the opinion of the WAPC that rural land uses are the highest and best use for rural zoned land. Where an alternative use is proposed, such as residential, the use must be planned in a strategy or scheme and zoned accordingly.

When determining subdivision proposals on rural land, the following measures will be applied:

- (a) the creation of new or smaller lots will be by exception;
- (b) proposals will be considered against strategies and schemes;
- (c) adequate buffer distances for sensitive and/or incompatible land uses can be achieved; and
- (d) proposals will be assessed against any relevant State planning policies and/or operational policies.

6. Circumstances under which rural subdivision may be considered

In considering applications under section 6, the WAPC will consider rural subdivision in the following exceptional circumstances:

- (a) to realign lot boundaries with no increase in the number of lots, where the resultant lots will not adversely affect rural land uses;
- (b) to protect and actively conserve places of cultural and natural heritage;
- (c) to allow for the efficient provision of utilities and infrastructure and/or for access to natural resources;
- (d) in the Homestead lot policy area (**Appendix 2**), to allow for the continued occupation of existing homesteads when they are no longer used as part of a farming operation; and
- (e) for other unusual or unanticipated purposes which, in the opinion of the WAPC, do not conflict with this and other relevant policies and are necessary to the public interest.

Although the WAPC seeks to minimise the creation of new or smaller rural lots, there are some circumstances where subdivision may be appropriate in order to promote better land management and achieve environmental, cultural and/or social benefits. These forms of subdivision, which may result in



additional dwelling entitlements, are considered to provide incentives for rural subdivision. As such the remainder of this policy outlines the applicable standards for rural subdivision.

6.1 Significant physical divisions

The existing physical division of a lot by a significant natural or constructed feature may be formalised through subdivision. The physical division in itself however, does not warrant the creation of additional or smaller lots. A significant physical division would include, but not be limited to, a controlled access highway or a river but would not generally include minor barriers such as rural roads or creeks that are commonly crossed for farm management purposes.

The WAPC may support boundary realignment where a rural property comprises multiple small titles and there is scope to resolve the physical division by rationalising multiple lots in one ownership through boundary realignments, without creating additional lots.

Lot boundaries that result in encroachments may be corrected through minor boundary realignments, provided the realignments do not adversely affect environmentally sensitive areas or create additional or smaller lots.

6.2 Subdivision for other purposes

New lots for existing or proposed land uses such as recreation facilities, public utilities, rehabilitation of degraded land, extractive industries, or uses necessary to the rural use of the land such as abattoirs and processing works (including buffers), may be created through subdivision. The WAPC may approve subdivision for these purposes if a development approval has been granted, or where development of the intended land use has substantially commenced. Where appropriate the WAPC may preclude sensitive land uses on the new lot(s).

The existence or approval of an ancillary dwelling, aged persons dwelling or farm workers' dwelling is not a satisfactory justification for subdivision, except as provided for in clause 6.6.

6.3 Property rationalisation to improve land management

Many rural properties comprise multiple titles and landowners may wish to subdivide to achieve better land management. Subdivision may also present opportunities to create access to landlocked lots. Multiple lots in one ownership may be rationalised provided that:

- (a) there is no increase in the number of lots;
- (b) the new boundaries achieve improved environmental and land management practices and minimise adverse impacts on rural land use;

- (c) no new roads are created, unless supported by the local government;
- (d) new vehicle access points on State roads are minimised; and
- (e) rural living sized lots (1-40 hectares), created as a result of the rationalisation, have appropriate buffer from adjoining farming uses and water resources, and may have notifications placed on title advising that the lot is in a rural area and may be impacted by primary production.

Former road reserves and small remnant portions of lots are not considered lots for the purpose of boundary rationalisation.

In instances where a subdivision only proposes to realign existing lot boundaries, where no change to the land use and/or landform is proposed, and no additional development is proposed, applications for property rationalisation may be unconditionally approved.

6.4 Conservation of heritage buildings and places

Lots may be created to facilitate the conservation of a heritage building or place provided that:

- (a) the building, object or place is listed in the State Register of Heritage Places, the Aboriginal Sites Register, the Heritage List in the local planning scheme, or has been assessed by a recognised



- heritage consultant as warranting heritage protection;
- (b) the subdivision is supported by the local government;
- (c) the allotment is of sufficient size to contain its own impacts and will not adversely affect the operation of neighbouring uses;
- (d) a Conservation Plan formulated by an appropriately qualified person, is submitted and approved; and
- (e) any urgent works required for the preservation of buildings are completed prior to the creation of the lot(s).

6.5 Conservation of biodiversity and natural heritage

Conservation lots may be created to conserve significant environmental features and remnant vegetation provided that:

- (a) the application includes advice from the Department of Parks and Wildlife, National Trust of Australia (WA), or another relevant agency, endorsing the suitability of the new lot for the intended purpose of retaining environmental values including:
 - (i) the adequacy of the lot size proposed (if it is less than 40 hectares) to retain the conservation value in perpetuity; and
- (b) generally at least 85 per cent of the area of the conservation lot has high environmental values or is covered by endemic or regenerated vegetation and/or wetland;
- (c) the proposed conservation lot has an appropriate shape having regard for the native vegetation, natural features, bush fire management, water resources, property management and existing or proposed structures;
- (d) a conservation covenant in perpetuity with the Department of Parks and Wildlife, the National Trust of Australia (WA), or an alternative authority acceptable to the WAPC, is registered on the certificate of title as a condition of subdivision for the proposed conservation lot and that the covenant includes provisions that:
 - (i) prohibit further clearing (other than for necessary land and fire management requirements);
 - (ii) clearly delineate a building envelope and/or building exclusion area which is also shown on the subdivision plan; and
 - (iii) prohibit stocking outside any existing cleared area.
- (e) bushfire risk can be managed in accordance with WAPC guidelines without resulting in loss of conservation values; and

- (ii) in-principle agreement to administer the necessary conservation covenant.

- (f) the balance lot is suitable for the continuation of the rural land use and retains where practical, native or regenerated vegetation as an integral part of sustainable primary production, provided that this does not result in the division of significant endemic vegetation in order to include a portion of that vegetation within the agricultural lot.

The creation of more than one conservation lot is inconsistent with the objectives of this policy. The creation of multiple conservation lots will require land to be appropriately zoned as conservation themed rural-residential or rural smallholdings with conservation covenants and building envelopes specified.

The creation of conservation lots shall continue to be considered in the Leeuwin-Naturaliste Ridge policy area in accordance with the land use strategies under *State Planning Policy 6.1: Leeuwin-Naturaliste Ridge Policy*.

Following the creation of a lot under this clause, the resultant conservation lot should be appropriately zoned by the local government in the local planning scheme in a future omnibus amendment or when the scheme is reviewed.



6.6 Homestead lots

The creation of homestead lots is intended to allow primary producers to continue to occupy their dwelling when they cease to farm, and provide settlement opportunities in areas where land fragmentation is limited and unlikely to increase. Homestead lots are to be created in a manner that is consistent with the rural character and landscape of a locality. Homestead lots may be facilitated through boundary rationalisation or the creation of a new lot.

Homestead lots may therefore be created to enable an approved existing house on a rural lot to continue to be occupied provided that:

- (a) the land is in the DC 3.4 Homestead lot policy area (refer **Appendix 2**);
- (b) the homestead lot has an area between one and four hectares, or up to 20 hectares to respond to the landform and include features such as existing outbuildings, services or water sources;
- (c) there is an adequate water supply for domestic, land management and fire management purposes;
- (d) the dwelling is connected to a reticulated electricity supply or an acceptable alternative is demonstrated;
- (e) the homestead lot has access to a constructed public road;

- (f) the homestead lot contains an existing residence that can achieve an appropriate buffer from adjoining rural land uses;
- (g) a homestead lot has not been excised from the farm in the past;
- (h) the balance lot is suitable for the continuation of the rural land use, and generally consistent with prevailing lot sizes, where it can be shown that this is consistent with the current farming practices at the property; and
- (i) the dwelling on a homestead lot must be of a habitable standard and may be required to be certified as habitable by the local government.

Where there are a number of existing approved dwellings on a rural lot, more than one homestead lot may be considered as a one-off application.

7. Other matters

7.1 Strata proposals

This form of subdivision may be appropriate to achieve land management or environmental protection objectives.

Strata proposals that increase dwelling entitlements on rural land are considered rural living and will be assessed in accordance with clause 5.3 of *State Planning Policy 2.5: Rural Planning*.

7.2 Electricity

WAPC policy is that servicing of lots be commensurate with their intended land use. As such, some forms of rural subdivision may not require an electricity supply to support the intended or existing land use. Section 6.5.1 of *State Planning Policy 2.5: Rural Planning* outlines WAPC's policy in regards to electricity requirements.

8. Information requirements

In considering applications for the subdivision of rural land, the WAPC requires adequate information on which to base its decisions and may require applicants to address any or all relevant matters from the list at **Appendix 3**.

Where required information is not provided the application may be considered non-compliant until such time as the information is provided.

9. Separate applications

Separate subdivision applications are required where there are separate groups of lots which are in different ownerships or which do not form part of one contiguous landholding.



Appendix 1

Definitions

Uses shall have the meanings ascribed to them in the *Planning and Development (Local Planning Schemes) Regulations 2015* made under Part 15 Division 1 of the *Planning and Development Act 2005* and *State Planning Policy 2.5: Rural Planning* unless defined below.

Conservation covenant

A conservation covenant is an agreement between a landowner and a designated conservation covenant agency such as the National Trust or an environmental agency, which protects and enhances the natural and cultural values of the land. The conservation covenant is restrictive in effect and is registered on the property, binding all future owners. Conservation covenants have the force of statute, and should be distinguished from common law covenants. Unlike common law covenants, conservation covenants are generally permanent 'in perpetuity'.

Homestead lot

A small lot generally ranging from one to four hectares, but may be up to 20 hectares in size depending on site specific circumstances, which is excised from a larger farm holding for separate occupation, such as by a retiring farmer wishing to remain in an approved existing dwelling.

Restrictive covenant

A notice on a Certificate of Title restricting the use or enjoyment of certain land for the benefit of other land and binding on every owner of the burdened land having notice of the covenant.

A covenant indicates to owners and prospective purchasers that pre-existing conditions relating to the subject land may influence the ability to use and develop the land.

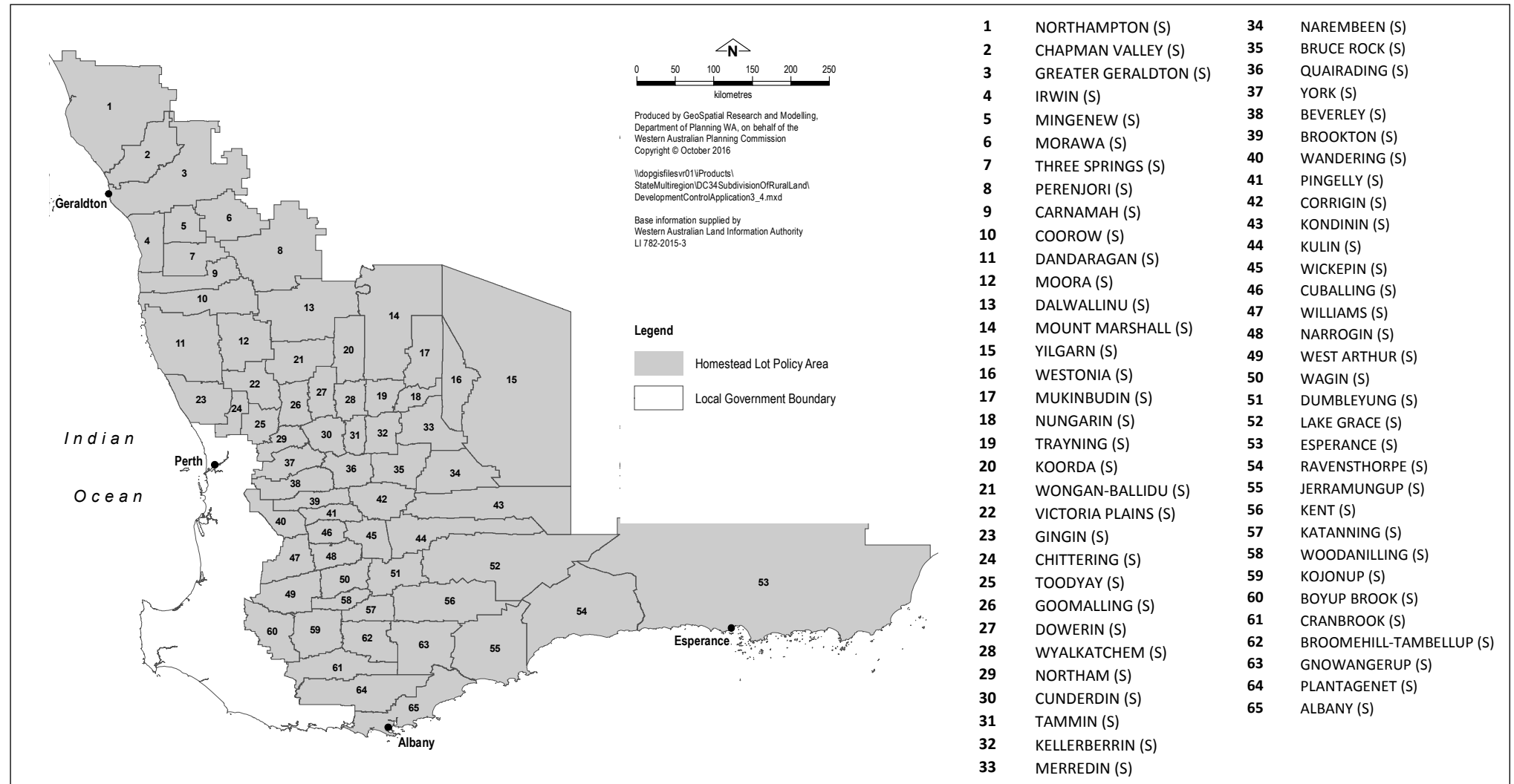
Water supply - non-potable

Water required outside the dwelling which may include, but is not limited to, firefighting, stock, horticulture, domestic gardens, re-vegetation and wash down areas.



Appendix 2

Homestead lot policy area





Appendix 3

Additional information to support subdivision applications

In accordance with Section 8 of this policy, applicants are encouraged to address the following matters, where relevant, in support of their application for subdivision:

- (a) a statement explaining the intent of the subdivision and any relevant background information;
- (b) whether each lot has a sustainable water supply for domestic, fire management and agricultural purposes, including, if relevant, the need for and proximity to existing services and infrastructure, and details of the service provider;
- (c) whether subdivision boundaries have been designed to reflect sound planning and land management principles;
- (d) whether a proposal complies with the performance criteria and standards specified in the relevant guidelines for bushfire protection, including appropriate access and egress in case of emergency;
- (e) how the proposal relates to adjacent properties, reserves, roads and existing and proposed adjoining land uses;
- (f) whether the subdivision would prejudice future urban expansion;
- (g) whether there are any significant noise sources or other potential forms of nuisance to the proposed use;
- (h) whether a previous use has resulted in contaminated soils or the use of construction and demolition waste for filled areas;
- (i) whether there are any heritage features including archaeology and any sites of Aboriginal significance or claims on the land;
- (j) any potential adverse environmental impacts of the proposed subdivision;
- (k) any potential adverse impacts on amenity and/or health, such as noise, dust and spray drift;
- (l) whether the proposal is consistent with the provisions of a WAPC endorsed strategy or scheme operating in the district; and
- (m) the capability of the land to support the proposed land use.