

STRUCTURE PLAN REPORT



*Lot 10 on Deposited Plan 13623,
House 8 Ocean View Drive,
Quindalup 6281*

(Certificate of Title 1600/39)



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(Certificate of Title 1600/39)

October 2020 (Rev. 1)

PREPARED BY:



29 New River Ramble, West Busselton WA 6280
Mobile: 0438 521 419
Email: Aaron@ableplanning.com.au
Web: www.ableplanning.com.au

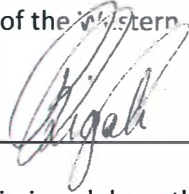
AJ Bell [BA URP (Hons)] & KJ Bell
trading as Able Planning & Project Management
ABN: 64 565 568 362

ENDORSEMENT PAGE

This structure plan is prepared under the provisions of the City of Busselton Local Planning Scheme No. 21.

IT IS CERTIFIED THAT THIS STRUCTURE PLAN WAS APPROVED BY RESOLUTION OF THE WESTERN AUSTRALIAN PLANNING COMMISSION ON: 16-Nov-2020

Signed for and on behalf of the Western Australian Planning Commission:



an officer of the Commission duly authorised by the Commission pursuant to section 16 of the Planning and Development Act 2005 for that purpose, in the presence of:



Witness

16-Nov-2020

Date

16-Nov-2030

Date of Expiry

TABLE OF AMENDMENTS

Amendment No.	Summary of the Amendment	Amendment type	Date approved by WAPC

TABLE OF DENSITY PLANS

Density Plan No.	Area of density plan application	Date endorsed by WAPC

EXECUTIVE SUMMARY

Lot 10 / House 8 Ocean View Drive (4.1951 hectares) is identified in a 2 hectare minimum, 3 hectare average lot size precinct under the endorsed Commonage Policy Area Consolidated Structure Plan (CPACSP). The net area of the lot size precinct is 168.9816 hectares. Based on the 44 lots already created in this precinct, the current lot average is 3.8405 hectares.

In September 2019 it was put to the City of Busselton that, even when accounting for the maximum 10 chalets that may be developed on Lot 701 / House 15 Curlew Rise (only six are constructed to this day), the average still comes in at 3.1293 hectares per dwelling / lot or chalet. This means there is spare capacity in this lot size precinct to create a further two lots and still achieve the 3 hectare average.

In reply the City advised of an approved structure plan over Lot 701 / House 15 Curlew Rise which provides for additional nine lots, subject to subdivision approval. Accordingly, when taking these potential lots into account (plus a potential additional lot from Lot 10 / House 8 Ocean View Drive), such would result in a total of 54 lots within the precinct.

As the City and proponent both concluded that an average lot size greater than 3 hectares was maintainable in the precinct post subdivision of Lot 10 (i.e. total area of 168.9816 hectares divided by 54 lots = average lot size of 3.1293 hectares), the City then sought a head of power from the Western Australian Planning Commission (WAPC).

On 7 October the City passed on the WAPC's advice as follows:

"That the Western Australian Planning Commission resolves, pursuant to Schedule 2 Part 4, cl. 15(c) of the Planning and Development (Local Planning Schemes) Regulations 2015, that a structure plan is required to be prepared for Lot 10 Ocean View Drive, Quindalup for the purposes of orderly and proper planning."

Following this confirmation that a structure plan could be pursued, environmental studies / investigations and surveys were then promptly commissioned. The outcomes of these are documented in the environmental report enclosed. In addition to this, a bushfire attack level (BAL) contour map has been prepared by a qualified fire expert, culminating in a comprehensive bushfire management plan (BMP). These two reports form part of this structure plan submission and may be found in the technical appendices at the rear.

The structure plan enclosed within this report is now formally put to the City of Busselton and WAPC for adoption and endorsement respectively. The structure plan is intended to supersede CPACSP as far as Lot 10 is concerned.

The structure plan submitted proposes two rural residential lots that are to be used and developed in accordance with the Rural Residential zone and specific structure plan requirements. Proposed lots 1 and 2 are 2.0029 and 2.1922 hectares in area respectively, over the net subdivisible area of 4.1951 hectares of parent Lot 10 (**refer to Structure Plan – Page 2**).

The large rural residential lot sizes by modern standards reflects the original intent of having larger lots to preserve vegetation, landscape and rural settlement plan, plus a graduated transition toward the smaller lots along Commonage Road as you move closer to Dunsborough. Such also respects the intent of the *South West Regional Planning and Infrastructure Framework* (2015) to consolidate and increase rural residential densities wherever possible.

A summary of the structure plan outcomes is provided below (refer to Table 1 – Overview of structure plan).

Table 1 - Overview of structure plan

Item	Data		Structure Plan Ref. (Section No.)
Total area covered by the structure plan	4.1951 hectares		
Area of each land use proposed:	Hectares	Lot yield	
• Residential	4.1951	2	
• Commercial	0	0	
• Industrial	0	0	
• Rural residential	0	0	
Total estimated lot yield	2		
Estimated number of dwellings	2		
Estimated residential site density	0.48 dwellings per site / hectare		
Estimated population	5 based on 2.5 people per household (Quindalup SSC – ABS, 2016)		
Number of high schools	0		
Number of primary schools	0		
Estimated commercial floor space	0 hectares		
Estimated area and percentage of public open space given over to:			
• Regional open space	0 hectares	0 %	
• District open space	0 hectares	0 %	
• Neighbourhood parks	0 hectares 0 parks		
• Local parks	0 hectares 0 parks		
Estimated percentage of natural area	2.391 hectares 57 %		

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PART ONE – IMPLEMENTATION

1. Structure plan area

This structure plan applies to Lot 10 on Deposited Plan 13623, as contained on Certificate of Title Volume 1600 Folio 39. The street address is House 8 Ocean View Drive, Quindalup 6281.

2. Operation

The date the structure plan comes into effect is the date the structure plan is approved by the WAPC.

3. Staging

Staging of this structure plan is not possible due to it comprising two lots only.

4. Subdivision and development requirements

The following matters will be addressed via recommended conditions of subdivision or development:

- Subdivision to be generally in accordance with this structure plan and no further subdivision of lots shall be allowed.
- As a condition of subdivision and development approval a bushfire management plan, compliant with *State Planning Policy No. 3.7: Planning in Bushfire Prone Areas* (SPP 3.7) and approved by the City of Busselton, is to be implemented.
- Use and development will be assessed in accordance with the provisions applicable to the Rural Residential zone as set out in *City of Busselton Local Planning Scheme No. 21* (LPS 21).
- Trees requiring removal within an asset protection zone will be selected to maintain significant habitat trees.
- A fauna spotter to be present to monitor any tree removal to ensure no animals are present at the time of clearing for subdivision and development.
- All built structures and effluent disposal systems on the relevant lot shall be contained within the designated building envelope.

5. Local development plans

None required.

6. Other requirements

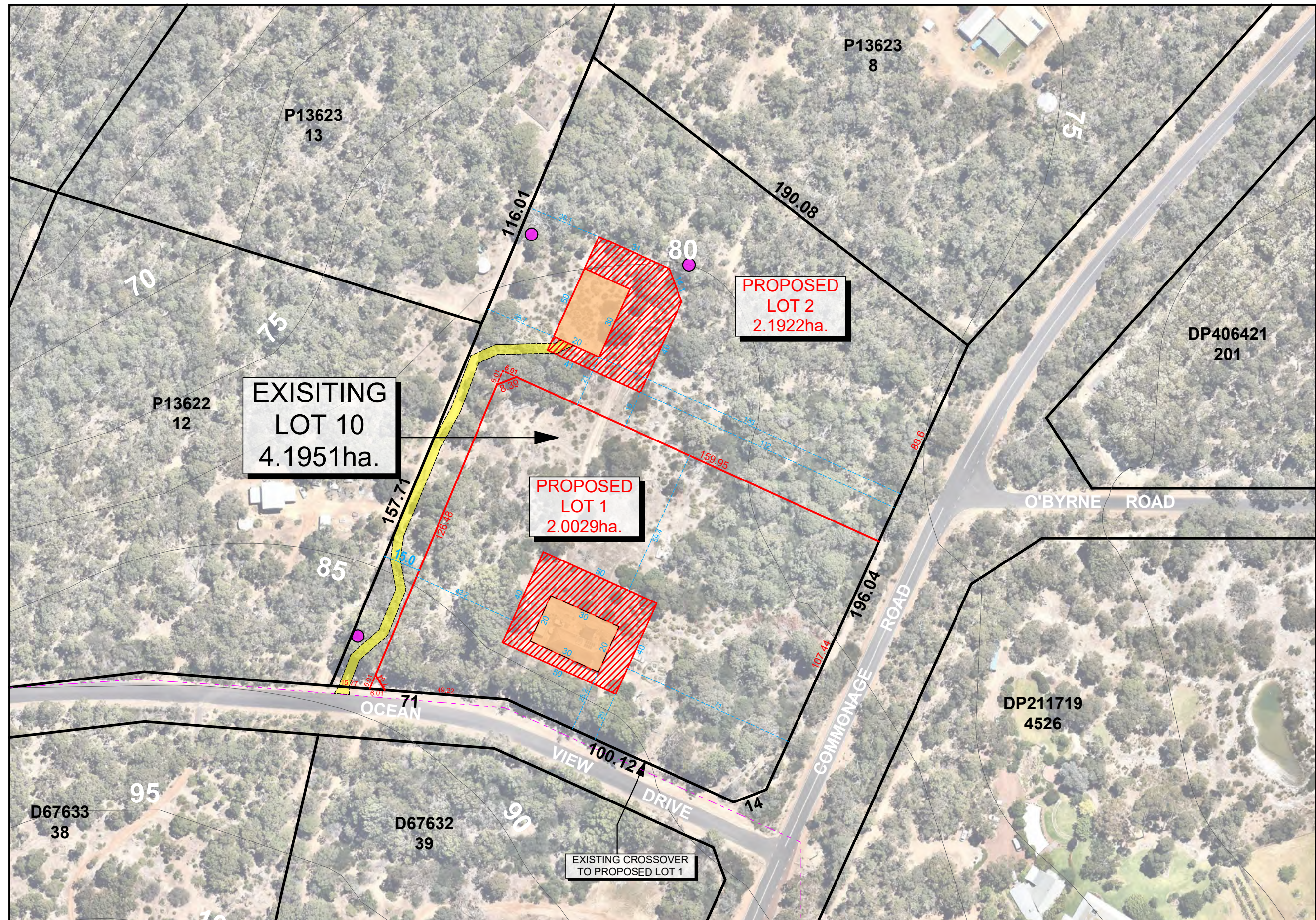
There are no infrastructure corridors or infrastructure upgrades specifically required by this subdivision.

The current arrangement is for 'per-lot' contributions to be collected by the City of Busselton under its local planning scheme and local planning policies. These funds are then used for upgrades and improvements of roads, paths and general community infrastructure in the immediate locality and district. In a similar manner, Western Power now requires payment of standard kVA charge / contribution for each lot to upgrade the underground power supply network.

7. Additional information

This structure plan requires the following additional information to be submitted at the set stages.

Additional information	Approval stage	Consultation required



Project: LOT 10, HOUSE 8 OCEAN VIEW DRIVE, QUINDALUP

Drawing Title: STRUCTURE PLAN

Principal: D. & E. FENN.

This drawing remains the property of Able Planning and Project Management and shall not be used without permission. This drawing shall be preliminary only and/or not for construction until signed approval

LEGEND

- EXISTING BOUNDARIES
- PROPOSED BOUNDARIES
- EXISTING CONTOURS
- EXISTING BUILDINGS/STRUCTURES TO REMAIN

- BUILDING ENVELOPE - INCIDENTAL BUILDINGS (HABITABLE BUILDINGS CANNOT BE LOCATED IN THIS AREA)
- BUILDING ENVELOPE - HABITABLE BUILDINGS (HABITABLE BUILDINGS MUST BE LOCATED IN THIS AREA)
- HIGH VOLTAGE OVERHEAD POWERLINE
- INDICATIVE PRIVATE DRIVEWAY ROUTE
- SIGNIFICANT HABITAT TREES

N

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ABLE PLANNING & PROJECT MANAGEMENT

29 New River Ramble, West Busselton WA 6280
Mobile: 0438 521 419
Email: Aaron@ableplanning.com.au
Web: www.ableplanning.com.au

Date: 10/10/20 Scale: 1:1500

Designed: AB Checked: AB

Drafted: TL

Local Authority: Sheet 1 Of 1
City of Busselton

Plan/Diagram Number: P13623

CT Number: 1600/12

Revision: V1.4 ORIGINAL: A3

PART TWO – EXPLANATORY SECTION AND TECHNICAL APPENDICES

1. Planning Background

1.1 Introduction and purpose

INTRODUCTION

Lot 10 is 4.1951 hectares in area and is located 8.2 km by road south of the Dunsborough town centre in the City of Busselton municipality (**refer to Appendix A – Location Plan**). Access to Lot 10 is gained principally by an existing bitumen crossover and gravel driveway onto Ocean View Drive along the southern boundary. This is a local road with 6.2 m wide sealed pavement which, apart from its cul-de-sac head, is contained in a standard 20 m wide road reserve.

The property also sides onto Commonage Road which is the 80 km / h posted local distributor road (sealed, single-lane carriageway) that provides linkage between the Main Roads WA controlled Caves Road (north) and another local distributor Wildwood Road (south). Secondary access is not provided nor permitted to Commonage Road.

As with all adjoining properties, Lot 10 is zoned Rural Residential and included in the Landscape Value area pursuant to LPS 21. All surrounding land has been subdivided and developed for rural residential purposes under preceding local structure plans and schemes, with Lot 10 being the one of two rural residential sized lots greater than 4 hectares in the precinct.

Land on the opposite side of Commonage Road is similarly zoned Rural Residential and included in the Landscape Value area. This land is a developed vineyard and winery that adjoins a reserve that was formerly used for gravel extraction.

The subject property starts at height levels below 74 m Australian height datum (AHD) in the northeast corner adjoining Commonage Road. It then rises to the diagonal southwest corner where it rises above 86 m in proximity to Ocean View Drive. The land can be described as undulating, with steeper sections along the eastern boundary adjoining Commonage Road.

Much of the subject property is vegetated, but most of this is regrowth from earlier logging and other disturbances. The predominant overstorey species are *Eucalyptus marginata* (jarrah) and *Corymbia calophylla* (marri) woodland which sit over the gravelly-loams. Interspersed among these are *Agonis flexuosa* (peppermint) which occur in the more free-draining, bleached sands where present. Typical jarrah-marri forest understorey species are present, except in the contiguous cleared and parkland cleared areas through the middle of the site.

Following confirmation that a structure plan could be pursued in October, environmental studies / investigations and surveys were then promptly commissioned. The outcomes of these are documented in the flora and vegetation survey and fauna assessment reports enclosed. In addition to this, a BAL contour map has been prepared by a qualified fire expert, culminating in a comprehensive bushfire management plan BMP. These two reports form part of this structure plan submission and may be found in the technical appendices at the rear.

The structure plan enclosed within this report is now formally put to the City of Busselton and WAPC for adoption and endorsement respectively.

The relevant background is as follows:

September 1999

The land was rezoned the Rural Residential via preparation of the now revoked *Shire of Busselton District Town Planning Scheme No. 20*. This rezoning occurred on 7 September 1999 with the publishing of the said district town planning scheme in the *Government Gazette*.

October 2004

The WAPC endorsed the CPACSP on the 18 October 2004. Rather than being a new planning initiative, the CPACSP was simply a bringing-together of all precinct structure plans adopted / endorsed in the nineteen-eighties and nineties.

In terms of the subject lot, the CPACSP identifies it within precinct 5A, where a 2 hectare minimum, 3 hectare average lot size is applied.

October 2014

LPS 21 was published in the *Government Gazette* on 15 October 2014 having force and effect from that day. LPS 21 carries forward the land's zoning and area designation under former *Shire of Busselton District Town Planning Scheme No. 20* (DTPS 20). Lot 10 continues to be zoned Rural Residential and included in the Landscape Value area.

PURPOSE AND PROPOSAL

Yield, Lot Sizes and Layout

The structure plan submitted proposes two rural residential lots that are to be used and developed in accordance with the Rural Residential zone and specific structure plan requirements (**refer to Structure Plan – Page 6**). Proposed lots 1 and 2 are 2.0029 and 2.1922 hectares in area respectively, over the net subdivisible area of 4.1951 hectares of parent Lot 10.

The large rural residential lot sizes by modern standards reflects the original intent of having larger lots to preserve vegetation, landscape and rural settlement plan, plus a graduated transition toward the smaller lots along Commonage Road as you move closer to Dunsborough. Such also respects the intent of the *South West Regional Planning and Infrastructure Framework* (2015) to consolidate and increase rural residential densities wherever possible.

Services

The table overleaf provides an overview of the proposed servicing proposals (**refer to Table 2 - Servicing Availability and Servicing Proposals**).

Table 2 - Servicing Availability and Servicing Proposals

Service Type	Reticulated Service Availability (Yes / No)	Servicing Proposal Notes
Water	No	Not available. Potable water to be collected from roof catchment and stored in tank.
Sewerage	No	Not available. On-site effluent disposal systems required.
Electricity	Yes	Connection to underground power supply.
Natural Gas	No	Not available.
Telecommunications	To be advised	Connection to high-speed underground telecommunications via NBN fixed line, fixed wireless or Sky Muster satellite.
Drainage	No	Driveway drainage to be captured and disposed of on-site by infiltration swales. Other stormwater to be retained within lots via connection of roof and hardstand run-off to water tanks and / or soak wells.

The two lots will be cable serviced only, being underground power and possibly telecommunications only (i.e. underground power and possibly telecommunications – depending on NBN Co servicing arrangement). It is simply unviable for the existing house and vacant lot to be connected to a potable mains water supply. Future dwellings will therefore need to collect potable water from roof catchment, directed and stored in above ground tanks.

Effluent disposal will be provided by on-site systems. Based on the vegetation complexes and land units, it is clearly the soil conditions on site broadly support the use of conventional septic tank and leach drain systems.

Roads, Access and Drainage

Road access is available by the local road of Ocean View Drive, which is effectively a dead-end road, but the property sits on the corner of the distributor road (Commonage Road). Although access is not proposed to Commonage Road, the access leg to proposed lot 2 is within 200 metres of the intersection of Commonage Road and Ocean View Drive. This proximity to the distributor road that connects Dunsborough to Carburnup River and Yallingup will enable the subdivision to meet contemporary bushfire planning access requirements, predominantly two different road access routes are provided to two different destinations.

The new crossover and driveway will be constructed to the specifications and standards of the City of Busselton. Exact design and construction details will be supplied post subdivision approval and prior to site works.

1.2 Land description

1.2.1 Location

Lot 10 located 8.2 km by road south of the Dunsborough town centre in the City of Busselton municipality.

Access to Lot 10 is gained principally by an existing bitumen crossover and gravel driveway onto Ocean View Drive along the southern boundary.

The property also sides onto Commonage Road which is the 80 km / h posted local distributor road (sealed, single-lane carriageway) that provides linkage between the Main Roads WA controlled Caves Road (north) and another local distributor Wildwood Road (south). Secondary access is not provided nor permitted to Commonage Road, nor is it viable to construct due to the steep terrain and vegetation.

1.2.2 Area and land use

Lot 10 is 4.1951 hectares in area.

The subject property starts at height levels below 74 m Australian height datum (AHD) in the northeast corner adjoining Commonage Road. It then rises to the diagonal southwest corner where it rises above 86 m in proximity to Ocean View Drive. The land can be described as undulating, with steeper sections along the eastern boundary adjoining Commonage Road.

Th lot is currently occupied by a single house, large outbuilding and other smaller structures. It is essentially used for rural living purposes and for some passive, hobby-scale agriculture.

A substantial amount of the lot is cleared to parkland cleared through the middle, but there are areas of regrowth jarrah / marri forest around this, interspersed with peppermint trees in the sandier areas.

1.2.3 Legal description

The subject lot is legally described as Lot 10 on Deposited Plan 13623, as contained within of Certificate of Title 1600/39. The street address is 8 Ocean View Drive, Quindalup 6281. The relevant *Record of Certificate of Title* is enclosed (**refer to Appendix B – Certificate of Title**).

The table below provides overviews of the landholding involved in the structure plan submission (**refer to Table 3 - Overview of Subject Land**).

Table 3 - Overview of Subject Land

Lot Number	Diagram / Deposited Plan / Plan	House Number and Street	Certificate of Title	Limitations, Interests, Encumbrances and Notifications	Area
10	Deposited Plan 13623	8 Ocean View Drive	1600/39	Nil, mortgage only listed in second schedule	4.1951 hectares

A print of the relevant electronic title is contained in the appendices of this report.

1.3 Planning framework

1.3.1 Zoning and reservations

CITY OF BUSSELTON LOCAL PLANNING SCHEME No. 21 (2014)

Zoning

Lot 10 is zoned Rural Residential and included in the Landscape Value area pursuant to LPS 21.

Clause 3.2 - Objectives of the Zone

Clause 3.2 contains the objectives and policies of the Rural Residential zone as follows:

“Objectives

- a. To provide for lots primarily for residential purposes generally in the range of 1 ha to 4 ha.***
- b. To provide opportunities for a range of limited rural and related ancillary pursuits on rural-residential lots where those activities will be consistent with the amenity of the locality and the conservation and landscape attributes of the land.***
- c. To set aside areas for the retention of vegetation and landform or other features which distinguish the land.”***

The proposal is considered to be consistent with the above objectives and policies for the following reasons:

- It allows the creation of two mid-size rural residential lots, yet still maintains bushland ambience to Commonage Road and proper transition to the winery opposite this road.
- It retains vegetation in areas outside the intended building envelopes and APZs and respects the landform.
- It complies with the CPACSP’s 2 hectare minimum and 3 hectare average lot size requirements across the precinct.
- It will provide appropriate access to roads, plus underground power and telecommunications.
- It complies with the endorsed CPACSP and overarching local rural planning strategy.

Clause 4.38 - Special Provisions Relation to the Rural Residential Zone

Both lots are to be subject to the Rural Residential zone land use, subdivision and development provisions within LPS 21. These include 20 metre building setbacks from front and rear boundaries and 15 metres from sides. There is also a 7.5 metre height restriction for dwellings in the Rural Residential zone, plus a requirement to locate all development inside a pre-defined building envelope (i.e. as may be shown on a structure plan or building envelope plan required by WAPC subdivision approval condition) or other 2,000 square metre square or rectangular area established via development approval.

The Rural Residential zone requirements are found within clause 4.38 of LPS 21, as outlined in the following table (refer to **Table 4 – Overview of Rural Residential zone requirements**).

Table 4 - Overview of Rural Residential zone requirements

Land Use or Development Control	Specific Requirements
Minimum lot size	Generally 1 hectare (as per objectives of the zone under clause 3.2.)
Setbacks	<ul style="list-style-type: none"> - 20 metres to other front or rear boundaries. - 15 metres to side boundaries.
Site coverage	As may be identified on approved structure plan or building envelope plan or otherwise all dwellings and incidental development to be located inside a 2,000 square metres square or rectangular envelope.
Height restrictions	7.5 metres measured vertically from any point of the building to the natural ground level.
Clearing	<p>Vegetation may only be felled, removed or damaged when -</p> <ul style="list-style-type: none"> (a) associated with implementing approved development; (b) essential for achieving adequate fire protection; or (c) the vegetation is dead, dying or dangerous.
Fencing	Fencing prohibited except within and on the perimeter of a cleared area. All fencing is to be of farm standard post and wire construction.
Dams	<p>No dam or lake shall be developed unless development approval has been granted. No dams or lakes shall be developed unless they are shown on a structure plan, or in circumstances where the proposed dam or lake -</p> <ul style="list-style-type: none"> (a) will not adversely affect environmental flows within the catchment or downstream of the dam; (b) will only capture sufficient water to be used for domestic requirements, and/or, for the irrigation of a domestic garden, or for the purposes of a water supply to an approved land-use on the site; (c) is an off stream dam; (d) does not exceed a capacity of 1500 cubic metres or comprises a surface area greater than 500 square metres whichever is the lesser; and (e) will not significantly or unreasonably diminish the flow of water for use by downstream users including the environment.
Stock	On any lot on which it is permissible within the Rural Residential zone, the keeping of stock may

	only be approved where it does not require removal of vegetation and such that stock numbers are maintained at levels in accordance with stocking rates to the satisfaction of the Department of Agriculture and Food
Special exemptions	Lots above 20 hectares to be subject to the Rural zone requirements
Special restrictions	No development, or fencing within 30 metres of the centreline of any creek.

The specific provisions under clause 4.38 are quoted as follows:

“4.38.1 Subject to clause 4.38.2, the provisions of Part 5 of this Scheme relevant to the “Rural” Zone shall apply to all lots greater than 20 hectares within the “Rural Residential” Zone except for the use of “Agriculture - Intensive”;

4.38.2 On any lot in the Rural Residential zone, unless specified otherwise on a Structure Plan, buildings shall not be located –

- (a) within 100 metres of Caves Road, Commonage Road, Wildwood Road, Biddle Road or Hayes Road;***
- (b) within 20 metres of any other road or a front or rear boundary;***
- (c) within 15 metres of a side boundary.***

4.38.3 On any lot in the Rural Residential zone, where conventional and/or reticulated energy sources are to be used, then each dwelling shall be connected to the power supply in the locality by means of underground cable.

4.38.4 On any lot in the Rural Residential zone, no development, clearing of vegetation or fencing is to occur within 30 metres of the centre line of any creek-line.

4.38.5 On any lot in the Rural Residential zone, in areas of remnant vegetation, fencing will be prohibited except within and on the perimeter of a cleared area. All fencing is to be of farm standard post and wire construction.

4.38.6 (a) No dam or lake shall be developed unless development approval has been granted.

(b) No dams or lakes shall be developed unless they are shown on a Structure Plan, or in circumstances where the proposed dam or lake:

- (i) will not adversely affect environmental flows within the catchment or downstream of the dam;***

- (ii) *will only capture sufficient water to be used for domestic requirements, and/or, for the irrigation of a domestic garden, or for the purposes of a water supply to an approved land-use on the site;*
- (iii) *is an off stream dam;*
- (iv) *does not exceed a capacity of 1500 cubic metres or comprises a surface area greater than 500 square metres whichever is the lesser; and*
- (v) *will not significantly or unreasonably diminish the flow of water for use by downstream users including the environment. City of Busselton Local Planning Scheme No. 21.*

4.38.7 *On any lot on which it is permissible within the Rural Residential zone, the keeping of stock may only be approved where it does not require removal of vegetation and such that stock numbers are maintained at levels in accordance with stocking rates to the satisfaction of the Department of Agriculture and Food."*

In response to the above, the following comments are offered:

- The traditional Rural Residential setbacks will continue to apply.
- An underground power supply will be made available to both lots.
- The boundaries of all lots provide opportunity for dividing fencing (post and five strand wire as standard) to be implemented without the removal or modification of vegetation.
- There are no existing dams.
- The keeping and rearing of stock is not possible as the land has unsuitable soils and does not hold suitable pasture.

It should be noted, that while minimum standard setbacks will apply, dwelling position will largely be dictated by the BMP and site-specific BAL assessment and certificate at the building permit application stage.

The more site specific mechanisms to preserve natural / environmental features are listed on the second sheet of structure plan conditions, although the few-remaining natural features have been protected through avoidance in design. More specifically, the structure plan identifies building envelopes. Outside of the building envelopes, asset protection zones (APZs) and access tracks, it is intended that vegetation will be retained where possible.

The greatest hazard facing this and surrounding lots is fire which is being addressed via the preparation and implementation of a BMP (**refer to Appendix C – Bushfire Management Plan**). Being gently sloping but with highly-permeable soils, the property is not subject to water erosion issues, however surface water quality will need to be treated and protected appropriately via normal on-site detention measures.

As the subdivision relies upon cable services only (i.e. underground power and possibly telecommunications – depending on NBN Co preference) which do not require major upgrades, there

is no major servicing construction works required, apart from construction of the battle-axe access leg to a compacted gravel formation. There is also no district drainage scheme in place, so drainage will be dealt with on a site-specific basis.

Road access is available by the local road of Ocean View Drive, which is effectively a dead-end road, but the property sits on the corner of the distributor road (Commonage Road). Although access is not proposed to Commonage Road, the access leg to proposed lot 2 is within 200 metres of the intersection of Commonage Road and Ocean View Drive. This proximity to the distributor road that connects Dunsborough to Carburnup River and Yallingup will enable the subdivision to meet contemporary bushfire planning access requirements, predominantly two different road access routes are provided to two different destinations.

The structure plan shows two lots of similar area, width and depth with the only difference being lot 2 has a 15 metre wide battle-axe access leg. The 2 hectare size are respectful of the existing rural residential lots surrounding.

No physical or cash-in-lieu of open space is to be provided consistent with the practice applied to all rural residential subdivisions in the City of Busselton and generally throughout the South West region. As is generally accepted, lots over 2,000 – 4,000 square metres generally contain their own degree of self-contained passive and active recreational spaces, and any space that may be provided is often poorly or under-utilised.

Although the CPACSP does not show further subdivision of this lot, this structure plan is largely superseded by new strategies, such as the *South-West Regional Planning and Infrastructure Framework* released by the WAPC in 2015.

Section 6.2 (Building sustainable communities) of this framework includes perhaps the most pertinent reason for increasing lot sizes and yields in this subdivision. Specifically, it lists the following relevant manners in which to restrict the sprawl of centres:

“4. Constraining low-density urban sprawl through:

- ***preventing the creation of new rural residential lots beyond those identified in existing local planning strategies or town planning schemes, while making provisions for the creation of conservation lots or other forms of lots that provide a mechanism for the re-vegetation of previously cleared land with endemic species;***
- ***increasing the density of existing rural residential areas where this is seen as beneficial to the community as a whole and does not adversely impact on the landscape and environmental values of the locality;***
- ***requiring complete reassessment of any plan, strategy or scheme not already endorsed by the WAPC to provide higher densities in centres and control urban sprawl.”*** (Emphasis added)

The South-West Planning and Infrastructure Framework has been cited by the City of Busselton as a document providing impetus for the review of strategies and plans guiding undeveloped greenfield rural residential land. After calculations to prove compliance with the average lot size for the precinct and some discussion with the City of Busselton, it was decided that Lot 10 had merit for re-subdivision

to create an additional lot. Given that only two lots are involved there is not considered a need to prepare a specific density plan showing this outcome.

Clause 5.4 - Landscape Value Area

Clause 5.4 of LPS 21 contains the specific provisions relating to the Rural Residential zone, as follows:

“5.4.1 The local government shall not grant development approval for the clearing or development of any land identified within a Landscape Value area on the Scheme map, unless it has considered –

- (a) whether the development will be compatible with the maintenance and enhancement, as far as is practicable, of the existing rural and scenic character of the locality;***
- (b) whether the development will materially affect any wildlife refuge, significant wetland, coastal environment or any identified site containing Aboriginal archaeological relics; and***
- (c) disturbance to the natural environment, including –***
 - (i) visual effects of clearing for development;***
 - (ii) maintenance of rural character; and***
 - (iii) habitat disturbance.***

5.4.2 The local government shall not grant development approval for the carrying out of development on land within the Landscape Value area or on land on or near any ridgelines where, in the opinion of the local government, that development is likely to substantially detract from the visual amenity of the area, having regard to, among other things, the cumulative visual effect of the development related to other development that may be anticipated in the locality and in the area generally.

5.4.3 Before granting development approval for the erection of a building on land within the Landscape Value area, the local government shall make an assessment as to whether it should impose conditions relating to –

- (a) the siting of the proposed building;***
- (b) the use of prescribed materials on the external surfaces of the building; and***
- (c) the number, type and location of existing trees and shrubs which are to be retained and the extent of landscaping to be carried out on the site.***

5.4.4 In clause 6.4.3 - "external surfaces" means the external walls and cladding (if any), external doors, external door and window frames, columns, roofs, fences and any surface of a building or work visible from the exterior of a building or work; and "prescribed materials" means materials with dark tones or dark colouring and of low reflective quality or materials which are painted or similarly treated with dark toned or dark coloured paint or pigment of low reflective quality.”

The above clauses are aimed more at built form development rather than subdivision.

Nevertheless, the subdivision, with large 2 hectare bush lots being maintained along Commonage Road, ensures development will be undetectable when this upper eastern slope location is viewed from the road and coast. Certainly no development will skyline against the highest points of the site.

1.3.2 Regional and sub-regional structure plan

COMMONAGE POLICY AREA CONSOLIDATED STRUCTURE PLAN (2004)

The WAPC endorsed the CPACSP on the 18 October 2004. Rather than being a new planning initiative, the CPACSP was simply a bringing-together of all precinct structure plans adopted / endorsed in the nineteen-eighties and nineties.

The net area of the lot size precinct is 168.9816 hectares. Based on the 44 lots already created in this precinct, the current lot average is 3.8405 hectares.

In September 2019 it was put to the City of Busselton that, even when accounting for the maximum 10 chalets that may be developed on Lot 701 / House 15 Curlew Rise (only six are constructed to this day), the average still comes in at 3.1293 hectares per dwelling / lot or chalet. This means there is spare capacity in this lot size precinct to create a further two lots and still achieve the 3 hectare average.

In reply the City advised of an approved structure plan over Lot 701 / House 15 Curlew Rise which provides for additional nine lots, subject to subdivision approval. Accordingly, when taking these potential lots into account (plus a potential additional lot from Lot 10 / House 8 Ocean View Drive), such would result in a total of 54 lots within the precinct.

As the City and proponent both concluded that an average lot size greater than 3 hectares was maintainable in the precinct post subdivision of Lot 10 (i.e. total area of 168.9816 hectares divided by 54 lots = average lot size of 3.1293 hectares), such gave rise for this lot (and potentially the only other lot above 4 hectares, Lot 9 to the north) to be subdivided.

1.3.3 Planning strategies

CITY OF BUSSELTON LOCAL RURAL PLANNING STRATEGY (2007)

Flowing on from *State Planning Policy No. 6.1 – Leeuwin- Naturaliste Ridge Policy* (SPP 6.1), and at the very local policy level, the endorsed Local Rural Planning Strategy summarises the main outcomes that SPP 6.1 promotes which includes ***“[c]hoices in rural lifestyle opportunities by enhancing the design of existing and approved rural residential developments”***.

It then goes on to include a vision for Precinct 6 – Commonage being to ***“[c]onsolidate rural residential land use and provide for a diversification in smallscale and low-key tourist, rural and home based activities in a manner that sustains the existing natural environment, landscape values and residential amenity of the area with well developed pedestrian and habitat/biodiversity links”***.

The proposed subdivision not only sensibly maintains the minimum and average lot sizes stipulated on the CPACSP, it also consolidates. All of this has produced a more compact design, all without

impinging on the environmental and landscape features of the site or the expected settlement character of this rural living precinct.

SOUTH-WEST PLANNING AND INFRASTRUCTURE FRAMEWORK (2015)

The South-West Framework was released by the WAPC and Department of Planning, Lands and Heritage in 2015. Section 6.2 (Building sustainable communities) includes perhaps the most pertinent reason for decreasing sizes and increasing lot yields. Specifically, it lists the following relevant manners in which to restrict the sprawl of centres:

“4. Constraining low-density urban sprawl through:

- ***preventing the creation of new rural residential lots beyond those identified in existing local planning strategies or town planning schemes, while making provisions for the creation of conservation lots or other forms of lots that provide a mechanism for the re-vegetation of previously cleared land with endemic species;***
- ***increasing the density of existing rural residential areas where this is seen as beneficial to the community as a whole and does not adversely impact on the landscape and environmental values of the locality;***
- ***requiring complete reassessment of any plan, strategy or scheme not already endorsed by the WAPC to provide higher densities in centres and control urban sprawl.”*** (Emphasis added)

The South-West Framework has been cited by the City as a document providing impetus for the revising current lot sizes in rural residential areas.

1.3.4 Planning policies

STATE PLANNING POLICY No. 2: ENVIRONMENT AND NATURAL RESOURCES POLICY (2003)

State Planning Policy No. 2: Environment and Natural Resources (SPP 2) broadly defines the principles and considerations that represent good and responsible planning in terms of environment and natural resource issues within the framework of the State Planning Strategy.

The objectives of the policy are-

- “• ***to integrate environment and natural resource management with broader land use planning and decision-making.***
- ***to protect, conserve and enhance the natural environment; and***
- ***to promote and assist in the wise and sustainable use and management of natural resources.”***

The above objectives provide the context for the policy measures which are logical and aimed at preserving water resources, air quality, soil and land quality, biodiversity, landscapes etc. The structure plan enclosed is considered consistent with the broad applying policy measures and objectives of SPP 2.

STATE PLANNING POLICY 3: URBAN GROWTH AND SETTLEMENT (2006)

State Planning Policy No. 3: Urban Growth and Settlement (SPP 3) identifies a key requirement for sustainable communities as a “variety and choice in the size, type and affordability of housing to support a range of household sizes, ages and incomes and which is responsive to housing demand and preferences”. Clearly, not only does this philosophy apply at the macro level of city and town planning, but also in each and every structure plan and subdivision area.

Consolidating the precinct while maintaining a 2 hectare minimum, 3 hectare average lot size is a more efficient use of this land and makes better use of existing development infrastructure (i.e. roads and associated drainage, strategic firebreak / emergency access / pedestrian access ways, underground power and telecommunications). On the strength of this, it is considered that the proposal is a more sustainable form of rural residential development.

STATE PLANNING POLICY 6.1: LEEUWIN-NATURALISTE RIDGE POLICY (1998, AMENDED 2003)

In addition to SPP 3, the more locally-targeted *State Planning Policy No. 6.1: Leeuwin-Naturaliste Ridge* (SPP 6.1) provides the following land use strategy (LUS):

“LUS 1.25 Subdivision and development design that facilitates better use of land already committed for Rural Residential development will be encouraged. Assessment of proposals will address the following criteria—

- ***provision for clustered settlement;***
- ***provision of community-based activities and services;***
- ***provision for walking, cycling and possible future public transport;***
- ***opportunities for local enterprise development such as limited small-scale tourism development, including accommodation, attractions and cottage industries; and***
- ***suitability for small-scale intensive agriculture.”***

The proposed subdivision meets this key land use strategy given it is a consolidation that makes the best and most intensive use of this land already committed for rural residential purposes.

STATE PLANNING POLICY No. 3.7: PLANNING IN BUSHFIRE PRONE AREAS (2015)

SPP 3.7 requires fire hazard to be considered in planning decisions to avoid increasing the risk through inappropriately located or designed land use and development. It generally requires that a BAL assessment should be undertaken in a bushfire prone area (by an appropriately qualified person) to determine the nature and extent of controls necessary to reduce fire risks inherent in the subdivision and development of land.

The underlying *Guidelines for Planning in Bushfire Prone Areas* document (including appendices) provides that more intensive and closer development (such as residential, rural-residential, hobby farms, tourist and industrial developments) should not be permitted in moderate or extreme fire hazard areas without permanent hazard level reduction measures being implemented to reduce the hazard level. In such cases, compliance with the acceptable solutions and / or performance principles set out within the guidelines is required.

The guidelines generally require that where land is designated bushfire prone or has a potential fire risk, a subdivision application must be accompanied by a BAL assessment and / or BAL contour plan. At the same time, it is pertinent to demonstrate that all fire protection requirements (including those

relating to fire suppression response, subdivision / development design, access, water supply, siting of buildings etc.) can be achieved.

In this instance, a BMP, including a BAL assessment for each lot, has been prepared for the approval by the City of Busselton and Department of Fire and Emergency Services (DFES).

At the completion of subdivision works, and prior to granting of local government clearance of subdivision approval conditions, the bushfire practitioner will update the BMP to include a further appendix outlining compliance of the completed subdivision with the BMP. This will be submitted for clearance of the WAPC's model subdivision condition F1 which requires information to be provided to demonstrate that the measures contained in section 6 of the BMP, or more specifically cited, have been implemented during subdivisional works.

STORMWATER MANAGEMENT MANUAL FOR WESTERN AUSTRALIA (2004)

The structure plan has been designed to enable incorporation of water sensitive design principles in accordance with the direction of the *Stormwater Management Manual for Western Australia*. Stormwater runoff generated from the development will be dealt with under best practice stormwater management to avoid adverse environmental impacts. The impact of stormwater runoff on the existing streams and drains will be negated by capturing all water from new driveways within appropriately sized swales and the water from new building in tanks and / or soak-wells.

ACID SULFATE SOILS PLANNING GUIDELINES (2008)

The mapping associated with WAPC *Bulletin 64/2009 – Acid Sulfate Soils*, identifies the majority of the subject site within a moderate to low risk of ASS occurring within 3 m of natural soil surface. The northern and western periphery of the subject site is mapped as a moderate to high risk based on proximity to wetland areas.

Given that deep excavation is not required for this subdivision (i.e. no gravity-fed sewerage or deep drainage pits), there is not considered to be a real threat from ASS being uncovered or disturbed. This is consistent with the interpretation of the *Acid Sulfate Soils Planning Guidelines*.

Notwithstanding this, normal precautions will be undertaken during construction when carrying out any excavations, including trenching to extend power and telecommunication cables.

1.3.5 Other approvals and decisions

SHIRE OF BUSSELTON DISTRICT TOWN PLANNING SCHEME No. 20 (1999)

The only other decision of note for this land was the then Shire of Busselton's resolution to rezone the land Rural Residential via preparation of the now revoked DTSP 20. This rezoning occurred on 7 September 1999 with the publishing of the said district town planning scheme in the *Government Gazette*.

1.3.6 Pre-lodgement consultation

SEPTEMBER 2019

In September 2019 it was put to the City of Busselton that, even when accounting for the maximum 10 chalets that may be developed on Lot 701 / House 15 Curlew Rise (only six are constructed to this day), the average still comes in at 3.1293 hectares per dwelling / lot or chalet. This means there is spare capacity in this lot size precinct to create a further two lots and still achieve the 3 hectare average.

In reply the City advised of an approved structure plan over Lot 701 / House 15 Curlew Rise which provides for additional nine lots, subject to subdivision approval. Accordingly, when taking these potential lots into account (plus a potential additional lot from Lot 10 / House 8 Ocean View Drive), such would result in a total of 54 lots within the precinct.

As the City and proponent both concluded that an average lot size greater than 3 hectares was maintainable in the precinct post subdivision of Lot 10 (i.e. total area of 168.9816 hectares divided by 54 lots = average lot size of 3.1293 hectares), the City then sought a head of power from the Western Australian Planning Commission (WAPC).

OCTOBER 2019

On 7 October the City passed on the WAPC's advice as follows:

"That the Western Australian Planning Commission resolves, pursuant to Schedule 2 Part 4, cl. 15(c) of the Planning and Development (Local Planning Schemes) Regulations 2015, that a structure plan is required to be prepared for Lot 10 Ocean View Drive, Quindalup for the purposes of orderly and proper planning."

2. Site conditions and constraints

2.1 Biodiversity and natural area assets

WA peppermint (*Agonis flexuosa*) trees are habitat of the western ringtail possum (WRP) (*Pseudocheirus occidentalis*) which is a threatened (vulnerable) species under the *Commonwealth Environmental Protection and Biodiversity Conservation Act 1999*. In Western Australia, the species is also listed as fauna that is rare or likely to become extinct (specially protected) under the *Wildlife Conservation Act 1950*.

The subject lot contains isolated, interspersed WA peppermint trees. Given the site is away from coast and is remote from other similar vegetation it is not likely to contain WRPs. Accordingly, there is considered to be no significant impact to WRP as a result of this proposal, particularly as vegetation is proposed to be retained within lots. This is confirmed by the outcomes of the fauna assessment (**refer to Appendix D – Fauna Assessment**).

The stands of the more predominant, remnant jarrah (*Eucalyptus marginata*) and marri (*Corymbia calophylla*) trees could be habitat for the three species of black cockatoo as follows:

- Baudin's Black Cockatoo (*Calyptorhynchus baudinii*).

- Carnaby's Black Cockatoo (*Calyptorhynchus latirostris*).
- Forest Red-tailed Black Cockatoo (*Calyptorhynchus banksii naso*).

These three threatened (vulnerable or endangered) species of black cockatoo species to an individual tree habitat assessment within the fauna assessment. With most trees to be retained within, the actual impact to the three species is insignificant.

In terms of flora and ecological communities, there are no significant environmental impacts arising from the proposed structure plan and ensuing subdivision development. There are no specific priority flora species threatened ecological communities (TEC) that will not be adversely affected by subdivision or development, therefore there will be no significant impact to species that would normally raise concerns with the Environmental Protection Authority (EPA), Department of Biodiversity, Conservation and Attractions (DBCA), Department of Water and Environmental Regulation (DWER) or the Federal Department of the Environment and Energy (DEE). This is confirmed by the outcomes of the flora and vegetation survey (**refer to Appendix E – Flora and Vegetation Survey**).

Significant vegetation and habitat worthy of protection shall be protected within the lots where possible.

Further, the proposal when implemented will not cause any pollution to land or water given there are no indications of risks from natural and man-made contamination.

2.2 Landform, vegetation and soils

The subject property starts at height levels below 74 m Australian height datum (AHD) in the northeast corner adjoining Commonage Road. It then rises to the diagonal southwest corner where it rises above 86 m in proximity to Ocean View Drive. The land can be described as undulating, with steeper sections along the eastern boundary adjoining Commonage Road.

The lot is currently occupied by a single house, large outbuilding and other smaller structures. It is essentially used for rural living purposes and for some passive, hobby-scale agriculture.

A substantial amount of the lot is cleared to parkland cleared through the middle, but there are areas of regrowth jarrah / marri forest around this, interspersed with peppermint trees in the sandier areas.

2.3 Groundwater and surface water

There is a creek line to the west of the subject land that flows northward and empties into the Toby Inlet. Overland flows from properties within this catchment recharge the creek each winter. Some flows make their way down the eastern slope, eventually crossing Commonage Road via culvert.

There is no groundwater aquifers or perched water tables that are known or viably accessible in this location.

2.4 Bushfire hazard

All of the subject land is identified as Bush Fire Prone Area under the mapping prepared by the DFES. To mitigate this bushfire hazard and implement appropriate controls for the siting and construction treatment of dwellings, a bushfire management plan has been prepared under the terms of SPP 3.7 and the associated guidelines and appendices.

2.5 Heritage

A search of the DPLH's Aboriginal Heritage Inquiry System (AHIS) reveals that there is no registered Aboriginal site or other heritage place within the subject lot or those adjoining.

Further, a search of the Heritage Council's inHerit places database finds there are no state registered or locally listed heritage places on the subject lot.

2.6 Coast and foreshores

No coastal or river / creek foreshores are within proximity of this property.

2.7 Context and other land use constraints and opportunities

The lot is currently occupied by a single house, large outbuilding and other smaller structures. It is essentially used for rural living purposes and for some passive, hobby-scale agriculture.

All surrounding land has been subdivided and developed for rural residential purposes under preceding local structure plans and schemes, with Lot 10 being the one of two rural residential sized lots greater than 4 hectares in the precinct. These other properties also generally developed for single houses and ancillary outbuildings, pools and other structures.

Land on the opposite side of Commonage Road is a developed vineyard and winery that adjoins a reserve that was formerly used for gravel extraction.

3. Conclusion

The subject lot is one of the only lots able to be re-subdivided in Commonage precinct 5A while maintaining the minimum and average lot size requirements. Since its creation in the nineteen-eighties there has been a series of endorsed strategies and policies aimed at consolidating rural residential estates through increased density and lot yield.

The same strategies and policies require there to be demonstrable community benefit from the subdivisions that derive increased yield. In this instance, not only will the social benefit be secured via additional one-off developer contributions and ongoing rate revenue for community infrastructure and facilities, but also through an improved fire compliance.

Following proper consideration of the land's constraints and opportunities, and having addressed the relevant requirements of LPS 21, approved State planning policies and other adopted / endorsed strategies and plans, this structure plan submission is submitted for City of Busselton adoption and WAPC endorsement.

- 4. Technical studies appendices index**
- 4.1 Appendix A – Location Plan**
- 4.2 Appendix B – Certificate of Title**
- 4.3 Appendix C – Bushfire Management Plan**
- 4.4 Appendix D – Fauna Assessment**
- 4.5 Appendix E – Flora and Vegetation Survey**

APPENDIX A

LOCATION PLAN



Disclaimer: Every effort has been made to make the information displayed here as accurate as possible. This process is ongoing and the information is therefore ever changing and cannot be disseminated as accurate. Care must be taken not to use this information as correct or legally binding. To verify information contact the City of Busselton office.

Location Plan
Lot 10 on Deposited Plan 13623, House
8 Ocean View Drive, Quindalup 6281
(Certificate of Title 1600/39)

31/01/2020

1:3000



APPENDIX B
CERTIFICATE OF TITLE

WESTERN



AUSTRALIA

REGISTER NUMBER

10/P13623DUPLICATE
EDITION**N/A**

DATE DUPLICATE ISSUED

N/A

VOLUME

1600

FOLIO

39

RECORD OF CERTIFICATE OF TITLE

UNDER THE TRANSFER OF LAND ACT 1893

The person described in the first schedule is the registered proprietor of an estate in fee simple in the land described below subject to the reservations, conditions and depth limit contained in the original grant (if a grant issued) and to the limitations, interests, encumbrances and notifications shown in the second schedule.



REGISTRAR OF TITLES

LAND DESCRIPTION:

LOT 10 ON PLAN 13623

REGISTERED PROPRIETOR:
 (FIRST SCHEDULE)

DENNIS HARRY FENN
 ELIZABETH BUICK FENN
 BOTH OF LOT 10 OCEAN VIEW DRIVE, QUINDALUP
 AS JOINT TENANTS

(T C309009) REGISTERED 23/2/1982

LIMITATIONS, INTERESTS, ENCUMBRANCES AND NOTIFICATIONS:
 (SECOND SCHEDULE)

1. F644352 MORTGAGE TO BANK OF WESTERN AUSTRALIA LTD REGISTERED 16/8/1994.

Warning: A current search of the sketch of the land should be obtained where detail of position, dimensions or area of the lot is required.
 * Any entries preceded by an asterisk may not appear on the current edition of the duplicate certificate of title.
 Lot as described in the land description may be a lot or location.

-----END OF CERTIFICATE OF TITLE-----

STATEMENTS:

The statements set out below are not intended to be nor should they be relied on as substitutes for inspection of the land and the relevant documents or for local government, legal, surveying or other professional advice.

SKETCH OF LAND: 1600-39 (10/P13623)
 PREVIOUS TITLE: 1600-29
 PROPERTY STREET ADDRESS: 8 OCEAN VIEW DR, QUINDALUP.
 LOCAL GOVERNMENT AUTHORITY: CITY OF BUSSELTON



Application C202019

WESTERN

AUSTRALIA

Volume 1600 Folio 29



1600 039

CERTIFICATE OF TITLE

UNDER THE "TRANSFER OF LAND ACT, 1893" AS AMENDED

I certify that the person described in the First Schedule hereto is the registered proprietor of the undermentioned estate in the undermentioned land subject to the easements and encumbrances shown in the Second Schedule hereto.

Dated 24th August, 1981


 REGISTRAR OF TITLES


ESTATE AND LAND REFERRED TO

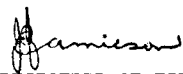
Estate in fee simple in portion of Sussex Location 4524 and being Lot 10 on Plan 13623, delineated and coloured green on the map in the Third Schedule hereto, limited however to the natural surface and therefrom to a depth of 12.19 metres.

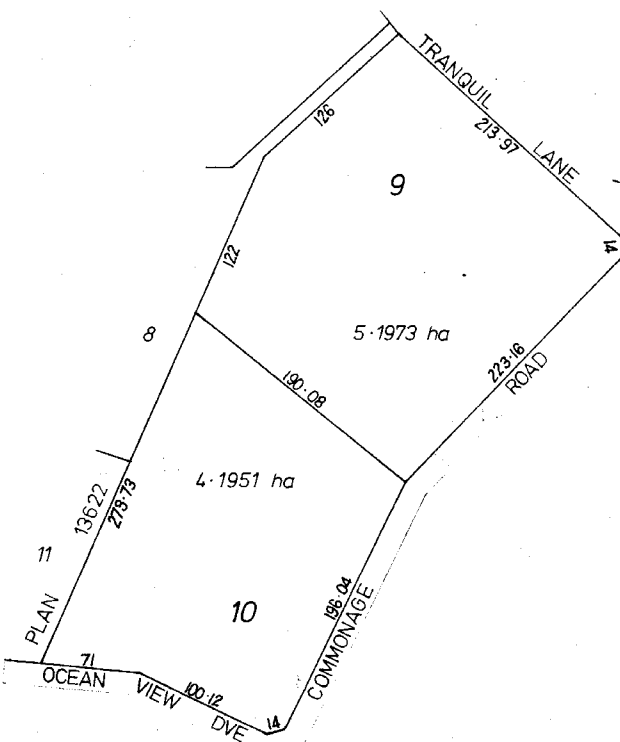
FIRST SCHEDULE (continued overleaf)

~~Raymond Alan Hewett of R.F.M. Box 452, Busselton, Farmer~~

SECOND SCHEDULE (continued overleaf)

NIL


 REGISTRAR OF TITLES
 THIRD SCHEDULE

SCALE 1:4000


NOTE: RULING THROUGH AND SEALING WITH THE OFFICE SEAL INDICATES THAT AN ENTRY NO LONGER HAS EFFECT. ENTRIES NOT RULED THROUGH MAY BE AFFECTED BY SUBSEQUENT ENDORSEMENTS.

72009/12/77-45M-S/2860

PERSONS ARE CAUTIONED AGAINST ALTERING OR ADDING TO THIS CERTIFICATE OR ANY NOTIFICATION HEREON

