

## **11.3     Infrastructure Services Attachments**

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## **11.3      Infrastructure Services**

### **11.3.1      EXCISION OF LAND FROM R47049 FOR ROAD RESERVE, 5459 BUSSELL HIGHWAY**

Attachment 1 – Plan 20180919 S-2

Attachment 2 – Lot 5459 on Deposited Plan 27434

Attachment 3 – WAPC Subdivisional Approval No. 156107

BUSSELL HIGHWAY

LOTS	FORMER TENURE	TITLE
LOTS 300-302	R47049 LOT 5459	LR 3124 / 861
LOT 150	DP 27434	
	LOT 301	
	[SEE ENLARGEMENT 'A'] &	
	LOT 122 DP401622	2845 / 991

**SURVEY SOUTH**  
 Licensed Land And Engineering Survey Firm

Job No: 1266 Crown V02  
 Drawing: PLAN20180919 S-2  
 Date of Survey: N/A /2018  
 Date of Drawing: 19/09/2018  
 Drawn by: JMW

PH: 08 9757 2290  
 PO Box 192  
 Margaret River, WA 6285  
 Fx: 08 9200 5778  
 Email: Admin@surveyouth.com.au

PROPOSED CROWN SUBDIVISION [SHEET 2 OF 2]  
 R47049 LOT 5459 ON DEPOSITED PLAN 27434  
 WITCHCLIFFE

LEEUEWIN PARKLANDS

CLIENT:

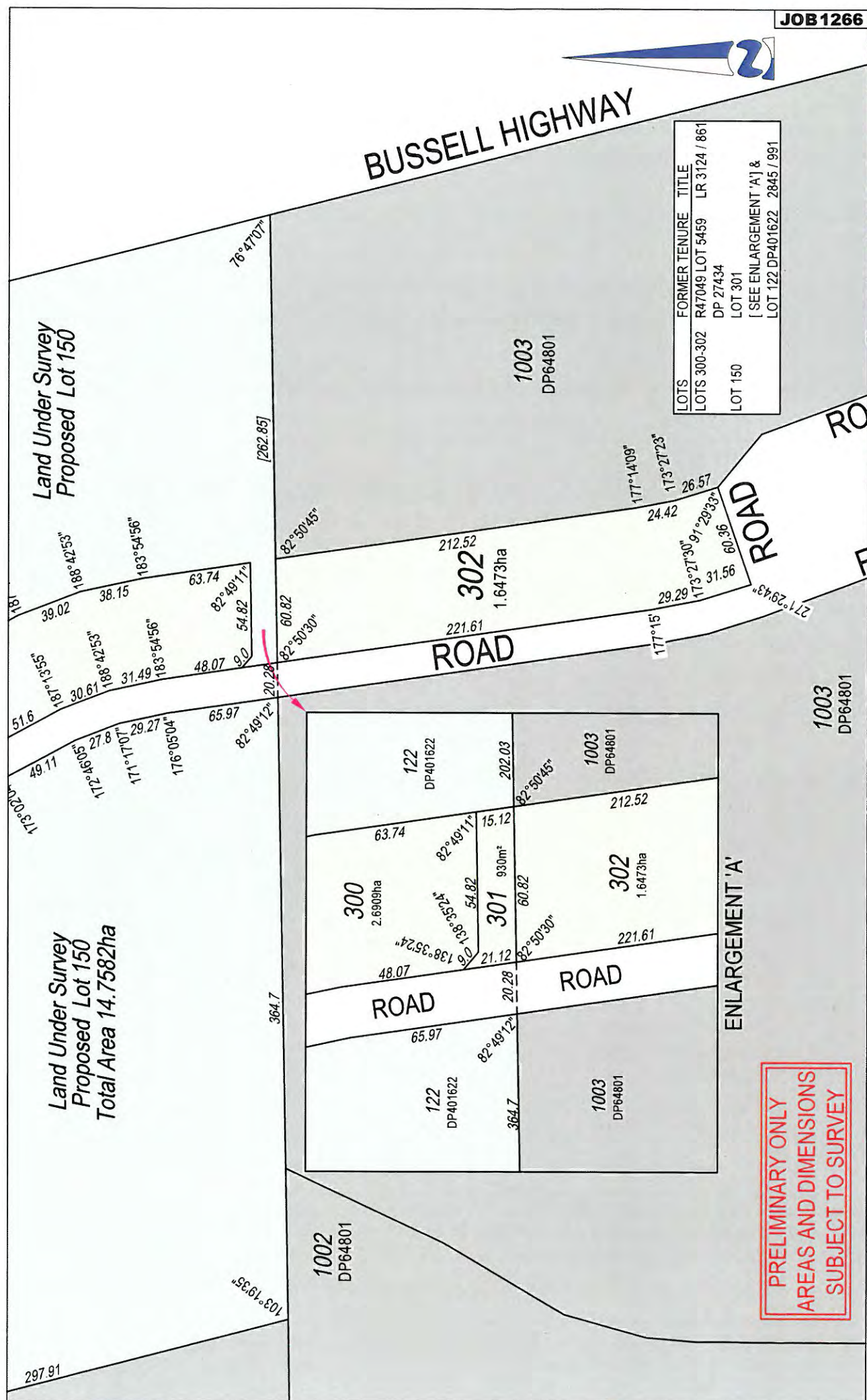


Revisions:  
 1 Initial Plan 2018/09/18  
 2 Amend-1 2018/09/19

DATUMS:  
 HZNTL- MGA  
 VERTL- N/A

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**PRELIMINARY ONLY  
 AREAS AND DIMENSIONS  
 SUBJECT TO SURVEY**



ED/VER		AMENDMENT	BY	DATE
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LOT	FORMER TENURE	ON PLAN/DIA	CERTIFICATE OF TITLE
5459	LOC 4982 LOC 4983 U.C.L.	CD MISC 395 CD MISC 395 P 4362	CLT 3121/664

TYPE		CROWN	TOTAL AREA
PURPOSE		SUBDIVISION	
PLAN OF			

LOT 5459

DISTRICT	SUSSEX	EARLY ISSUE
TOWNSITE		NO

DOLA FILE	2472/997	FORMER TENURE
LOCALITY	WITCHKILIFFE	SEE TABLE
LOCAL AUTHORITY	SHIRE OF AUGUSTA - MARGARET RIVER	

INDEX	MARGARET RIVER	FIELD BOOK
PUBLIC	ON	COMPILED

SCALE 1:2000	20 0 20 40 60 80
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**SURVEYOR'S CERTIFICATE - Compiled**

I, M. SCANLAN, hereby certify that this compiled plan is a correct and accurate representation of the land as shown in the field notes and is in accordance with the relevant law in relation to which it is lodged.

Licensed Surveyor: M. Scanlan, Date: 9/13/2001

**SCANLAN SURVEYS PTY LTD**  
 P O BOX 429, MIDLAND WA 6936  
 PH 9255 2261 FAX 9271 6206

**LODGED**  
 DATE: 14.6.01  
 FILE NO: 27.04.01  
 REGISTERED: 27.04.01  
 REGISTERED: 27.04.01  
 REGISTERED: 27.04.01  
 REGISTERED: 27.04.01

**IN ORDER FOR DEALINGS**

SUBJECT TO

**APPROVED**  
 APPROVED Reg 21 (1)  
 7.5.03  
 SUPERVISOR OF PLANS & SURVEYS / APPROVED LAND OFFICER

**DOLA**  
 DEPARTMENT OF LAND ADMINISTRATION

**DEPOSITED PLAN**  
**27434**  
 SHEET 1 OF 1 SHEETS  
 EDITION 1 VERSION 1



Your Ref : lots 122 & 5459 Bussell H

Ahola Planning  
P.O. Box 1713  
MARGARET RIVER WA 6285

**Approval Subject To Condition(s)  
Freehold (Green Title) Subdivision**

**Application No : 156107**  
***Planning and Development Act 2005***

Applicant	: Ahola Planning P.O. Box 1713 MARGARET RIVER WA 6285
Owner	: Tulip Holdings Pty Ltd P.O. Box 525 MARGARET RIVER WA 6285; P.O. Box 1221 WEST PERTH WA 6872
Application Receipt	: 2 January 2018

Lot Number	: 122, 5459
Diagram / Plan	: P401622
Location	:
C/T Volume/Folio	: 2845/991, 3124/861
Street Address	: Lot 122, 5459 Bussell Highway, Witchcliffe
Local Government	: Shire of Augusta-Margaret River

The Western Australian Planning Commission has considered the application referred to and is prepared to endorse a deposited plan in accordance with the plan date-stamped **02 January 2018** once the condition(s) set out have been fulfilled.

This decision is valid for **four years** from the date of this advice, which includes the lodgement of the deposited plan within this period.

The deposited plan for this approval and all required written advice confirming that the requirement(s) outlined in the condition(s) have been fulfilled must be submitted by **24 August 2022** or this approval no longer will remain valid.

**Reconsideration - 28 days**

Under section 151(1) of the *Planning and Development Act 2005*, the applicant/owner may, within 28 days from the date of this decision, make a written request to the WAPC to reconsider any condition(s) imposed in its decision. One of the matters to which the WAPC will have regard in reconsideration of its decision is whether there is compelling evidence by

South West Office, Sixth Floor, Bunbury Tower, 61 Victoria Street, Bunbury, Western Australia 6230  
Tel: (08) 9791 0577; Fax: (08) 9791 0576; TTY: (08) 9264 7535; Infoline: 1800 626 477  
e-mail: [info@dplh.wa.gov.au](mailto:info@dplh.wa.gov.au); web address: <http://www.dplh.wa.gov.au>  
ABN 35 482 341 493



way of additional information or justification from the applicant/owner to warrant a reconsideration of the decision. A request for reconsideration is to be submitted to the WAPC on a Form 3A with appropriate fees. An application for reconsideration may be submitted to the WAPC prior to submission of an application for review. Form 3A and a schedule of fees are available on the WAPC website: <http://www.planning.wa.gov.au>

### **Right to apply for a review - 28 days**

Should the applicant/owner be aggrieved by this decision, there is a right to apply for a review under Part 14 section 251 of the *Planning and Development Act 2005*. The application for review must be submitted in accordance with part 2 of the *State Administrative Tribunal Rules 2004* and should be lodged within 28 days of the date of this decision to: the State Administrative Tribunal, Level 6, State Administrative Tribunal Building, 565 Hay Street, PERTH, WA 6000. It is recommended that you contact the tribunal for further details: telephone 9219 3111 or go to its website: <http://www.sat.justice.wa.gov.au>

### **Deposited plan**

The deposited plan is to be submitted to the Western Australian Land Information Authority (Landgate) for certification. Once certified, Landgate will forward it to the WAPC. In addition, the applicant/owner is responsible for submission of a Form 1C with appropriate fees to the WAPC requesting endorsement of the deposited plan. A copy of the deposited plan with confirmation of submission to Landgate is to be submitted with all required written advice confirming compliance with any condition(s) from the nominated agency/authority or local government. Form 1C and a schedule of fees are available on the WAPC website: <http://www.planning.wa.gov.au>

### **Condition(s)**

The WAPC is prepared to endorse a deposited plan in accordance with the plan submitted once the condition(s) set out have been fulfilled.

The condition(s) of this approval are to be fulfilled to the satisfaction of the WAPC.

The condition(s) must be fulfilled before submission of a copy of the deposited plan for endorsement.

The agency/authority or local government noted in brackets at the end of the condition(s) identify the body responsible for providing written advice confirming that the WAPC's requirement(s) outlined in the condition(s) have been fulfilled. The written advice of the agency/authority or local government is to be obtained by the applicant/owner. When the written advice of each identified agency/authority or local government has been obtained, it should be submitted to the WAPC with a Form 1C and appropriate fees and a copy of the deposited plan.

If there is no agency/authority or local government noted in brackets at the end of the condition(s), a written request for confirmation that the requirement(s) outlined in the condition(s) have been fulfilled should be submitted to the WAPC, prior to lodgement of the deposited plan for endorsement.

Prior to the commencement of any subdivision works or the implementation of any condition(s) in any other way, the applicant/owner is to liaise with the nominated agency/authority or local government on the requirement(s) it considers necessary to fulfil the condition(s).

The applicant/owner is to make reasonable enquiry to the nominated agency/authority or local government to obtain confirmation that the requirement(s) of the condition(s) have been fulfilled. This may include the provision of supplementary information. In the event that the nominated agency/authority or local government will not provide its written confirmation following reasonable enquiry, the applicant/owner then may approach the WAPC for confirmation that the condition(s) have been fulfilled.

In approaching the WAPC, the applicant/owner is to provide all necessary information, including proof of reasonable enquiry to the nominated agency/authority or local government.

The condition(s) of this approval, with accompanying advice, are:

CONDITION(S):

1. The landowner/applicant contributing towards development infrastructure provisions pursuant to the Shire of Augusta-Margaret River Local Planning Scheme No.1. (Local Government)
2. The landowner/applicant to install suitable rural fencing of good standard along the boundaries of all of the proposed lots abutting Reserve 47409 (Wadandi Track) to the satisfaction of the local government. (Local Government)
3. Other than buildings, outbuildings and/or structures shown on the approved plan for retention, all buildings, outbuildings and/or structures present on lot(s) at the time of subdivision approval being demolished and materials removed from the lot(s). (Local Government)
4. Prior to commencement of subdivisional works, a detailed plan identifying building envelope(s) for Lots 9, 33, 34, 35 and 36 on the approved plan of subdivision is to be prepared in consultation with the local government to ensure the appropriate siting of development, to the satisfaction of the Western Australian Planning Commission. (Local Government)
5. Prior to the commencement of subdivisional works, a Stormwater Management Strategy is to be prepared and approved, in consultation with the local government and Department of Water and Environmental Regulation, to the satisfaction of the Western Australian Planning Commission. (Local Government)

6. Engineering drawings and specifications are to be submitted and approved, and works undertaken in accordance with the approved engineering drawings and specifications and approved plan of subdivision, for the filling and/or draining of the land, including ensuring that stormwater is contained on-site, or appropriately treated and connected to the local drainage system. Engineering drawings and specifications are to be in accordance with an approved Stormwater Management Strategy for the site, or where no Stormwater Management Strategy exists, to the satisfaction of the Western Australian Planning Commission. (Local Government)
7. Drainage easements and reserves as may be required by the local government for drainage infrastructure being shown on the diagram or plan of survey (deposited plan) as such, granted free of cost, and vested in that local government under Sections 152 and 167 of the *Planning and Development Act 2005*. (Local Government)
8. Arrangements being made to the satisfaction of the Western Australian Planning Commission and to the specification of Western Power for the provision of an underground electricity supply to the lot(s) shown on the approved plan of subdivision. (Western Power).
9. Arrangements being made to the satisfaction of the Western Australian Planning Commission and to the specification of Western Power for the removal, relocation and/or replacement of electricity supply infrastructure, including plant and/or equipment located on or near the lots shown on the approved plan of subdivision. (Western Power)
10. The transfer of land as a Crown reserve free of cost to Western Power for the provision of electricity supply infrastructure. (Western Power)
11. Measures being taken to ensure the identification and protection of any vegetation on the site worthy of retention that is not impacted by subdivisional works, prior to commencement of subdivisional works. (Local Government).
12. A Landscape Management Plan being prepared, approved and implemented for the areas shown on the approved Structure Plan with appropriate native species to the specifications of the Local Government. (Local Government)
13. Information is to be provided to demonstrate that the measures contained in the bushfire management plan have been implemented during subdivisional works. (Local Government)
14. A Notification, pursuant to Section 165 of the *Planning and Development Act 2005* is to be placed on the certificate(s) of title of the proposed lot(s) with a Bushfire Attack Level (BAL) rating of 12.5 or above, advising of the existence of a hazard or other factor. Notice of this notification is to be included on the diagram or plan of survey (deposited plan). The notification is to state as follows:

*'This land is within a bushfire prone area as designated by an Order made by the Fire and Emergency Services Commissioner and may be subject to a Bushfire Management Plan. Additional planning and building requirements may apply to development on this land'* (Western Australian Planning Commission)



15. The proposed reserve(s) shown on the approved plan of subdivision being shown on the diagram or plan of survey (deposited plan) as reserve(s) for recreation and vested in the Crown under Section 152 of the *Planning and Development Act 2005*, such land to be ceded free of cost and without any payment of compensation by the Crown. (Local Government)
16. Engineering drawings and specifications are to be submitted, approved, and subdivisional works undertaken in accordance with the approved plan of subdivision, engineering drawings and specifications, to ensure that those lots not fronting an existing road are provided with frontage to a constructed road(s) connected by a constructed road(s) to the local road system and such road(s) are constructed and drained at the landowner/applicant's cost.

As an alternative, and subject to the agreement of the Local Government the Western Australian Planning Commission (WAPC) is prepared to accept the landowner/applicant paying to the local government the cost of such road works as estimated by the local government and the local government providing formal assurance to the WAPC confirming that the works will be completed within a reasonable period as agreed by the WAPC. (Local Government)

17. Engineering drawings and specifications are to be submitted and approved, and subdivisional works undertaken in accordance with the approved plan of subdivision, engineering drawings and specifications to ensure that:
  - a) street lighting is installed on all new subdivisional roads to the standards of the relevant licensed service provider and
  - b) roads that have been designed to connect with existing or proposed roads abutting the subject land are coordinated so the road reserve location and width connect seamlessly;
 to the satisfaction of the Western Australian Planning Commission. (Local Government)
18. Engineering drawings and specifications are to be submitted, approved, and subdivisional works undertaken in accordance with the approved plan of subdivision, engineering drawings and specifications, for the provision of shared paths through and connecting to the application area to the satisfaction of the Western Australian Planning Commission. The approved shared paths are to be constructed by the landowner/applicant. (Local Government)
19. All local streets within the subdivision being truncated in accordance with the Western Australian Planning Commission's *Liveable Neighbourhoods* policy. (Local Government)
20. Suitable arrangements being made with the local government for the provision of vehicular crossover(s) to service the lot(s) shown on the approved plan of subdivision. (Local Government)
21. Existing driveways/crossovers to Bussell Highway to be closed, the road verge reinstated and uniform fencing installed along the boundary of Bussell Highway to the satisfaction of Main Roads Western Australia. (Main Roads Western Australia)

22. Pursuant to Section 150 of the *Planning and Development Act 2005* and Division 3 of the *Planning and Development Regulations 2009* a covenant preventing vehicular access onto Bussell Highway being lodged on the certificate(s) of title of the proposed Lots 1 to 8 (inclusive) at the full expense of the landowner/applicant. The covenant is to prevent access, to the benefit of Main Roads Western Australia and is to specify:  
  
*"No vehicular access is permitted to and from Bussell Highway (as applicable)." (Main Roads WA)*
23. A notification, pursuant to Section 70A of the *Transfer of Land Act 1893* is to be placed on the certificate(s) of title of the proposed lot(s). Notice of this notification is to be included on the diagram or plan of survey (deposited plan). The notification is to state as follows:  
  
*'A mains potable water supply is not available to the lot/s.'* (Local Government)
24. A notification, pursuant to Section 70A of the *Transfer of Land Act 1893* is to be placed on the certificate(s) of title of the proposed lot(s). Notice of this notification is to be included on the diagram or plan of survey (deposited plan). The notification is to state as follows:  
  
*'A reticulated sewerage service is not available to the lot(s).'* (Local Government)
25. All septic sewer systems including all tanks and pipes and associated drainage systems (soak wells or leach drains) and any stormwater disposal systems are to be decommissioned, in accordance with the Health (Treatment of Sewerage and Disposal of Effluent and Liquid Waste) Regulations 1974, removed, filled with clean sand and compacted. Proof of decommissioning is to be provided in the form of either certification from a licensed plumber or a statutory declaration from the landowner/applicant, confirming that the site has been inspected and all septic tanks, soak wells, leach drains and any associated pipework have been removed. (Local Government)
26. The landowner/applicant is to prepare and implement design guidelines to address built form and integrated sustainability measures to the satisfaction of the local government. (Local Government)
27. A notification, pursuant to Section 70A of the *Transfer of Land Act 1893* is to be placed on the certificate(s) of title of the proposed lot(s). Notice of this notification is to be included on the diagram or plan of survey (deposited plan). The notification is to state as follows:  
  
*'The land may contain significant trees with potential hollows for Black Cockatoos. These trees may not be removed or damaged.'* (Local Government)
28. The emergency access way crossover to Bussell Highway is to be upgraded/constructed and gated to the specification of Main Roads Western Australia. (Main Roads Western Australia)

29. The landowner/applicant entering into an agreement with the local government to pay full costs through a bond to remove the Emergency Access Way at such time that secondary access becomes available to the south. (Local Government)
30. Prior to the commencement of subdivisional works, a *Phytophthora* dieback hygiene plan for road construction along the western access road, is to be prepared, approved and implemented during subdivisional works to ensure the protection and management of the site's environmental assets. (Department of Biodiversity, Conservation and Attractions)
31. The intersection of Rowe Road West and Bussell Highway to be upgraded to the satisfaction of Main Roads. (Main Roads Western Australia)
32. The landowner/applicant is to undertake a traffic noise impact assessment for the proposed subdivision area and implement appropriate noise amelioration measures as required to the satisfaction of Main Roads Western Australia. (Main Roads Western Australia)
33. A restrictive covenant, to the benefit of the Shire of Augusta-Margaret River, pursuant to Section 129 BA of the *Transfer of Land Act 1893* is to be placed on the certificate(s) of title of the proposed lot(s) advising of the existence of a restriction on the use of the land. Notice of this restriction is to be included on the diagram or plan of survey (deposited plan). The restrictive covenant is to state as follows:  
  
*'The keeping of domestic cats on this lot is not permitted.'* (Local Government)
34. A Restrictive Covenant, to the benefit of the local government, pursuant to Section 129BA of the *Transfer of Land Act 1893* is to be placed on the certificate(s) of title of proposed Lots 1-8, and 9-14 advising of the existence of a restriction on the use of the land. Notice of this restriction is to be included on the diagram or plan of survey (deposited plan). The restrictive covenant is to state as follows:  
  
*'The 20m vegetation buffer along Bussell Highway and Reserve 47409 as depicted on the approved structure plan shall be retained in perpetuity.'*

#### ADVICE:

- i. In regard to Condition 3, planning approval and/or a demolition licence may be required to be obtained from the local government prior to the commencement of demolition works.
- ii. In regard to Condition 8, Western Power provides only one underground point of electricity supply per freehold lot.



*Sam Fagan*

Ms Sam Fagan  
Secretary  
Western Australian Planning Commission  
24 August 2018

Enquiries : Scott Penfold (Ph 9791 0588)



DEPARTMENT OF PLANNING, LANDS  
AND HERITAGE

DATE  
02-Jan-2018

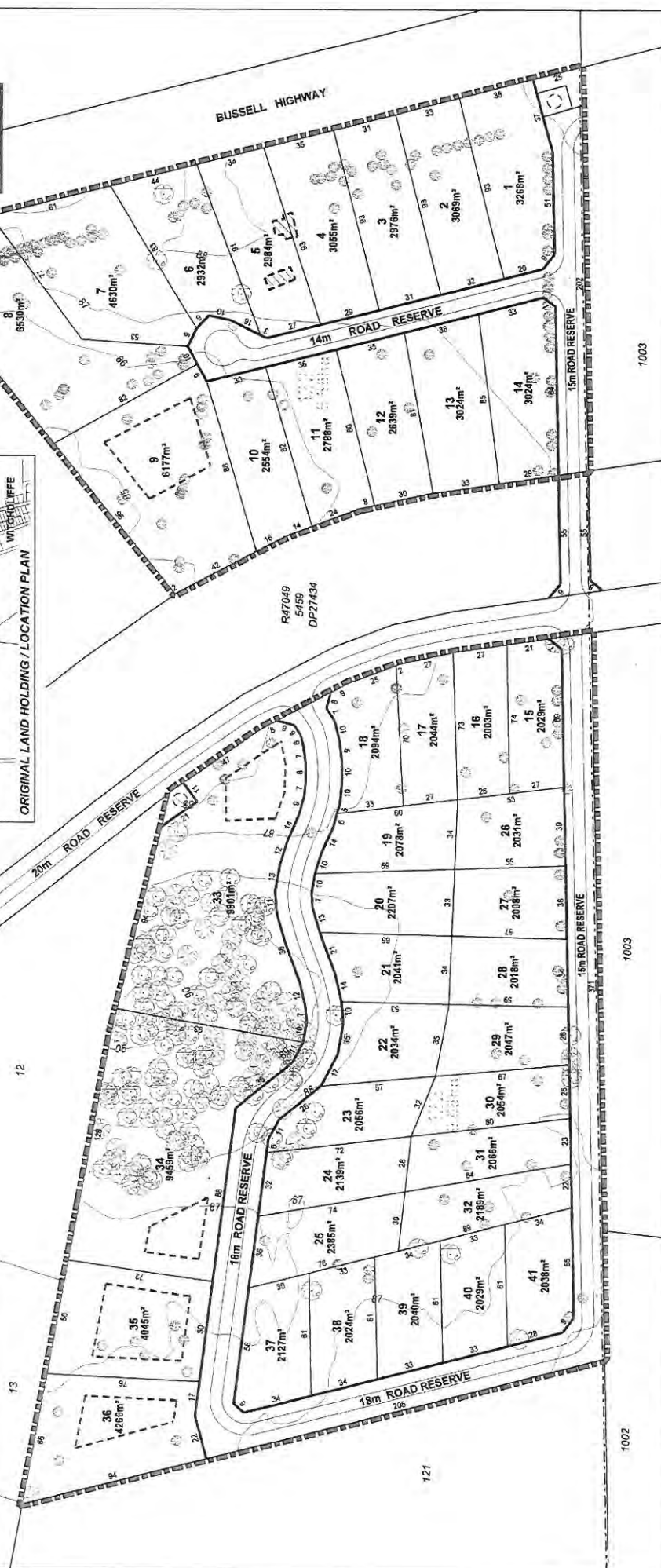
FILE  
156107



ORIGINAL LAND HOLDING / LOCATION PLAN

LOT YIELD			
Site	No. of Lots	% of Total Lots	Average Area
2000m <sup>2</sup> - 2500m <sup>2</sup>	23	56.0%	2077m <sup>2</sup>
2500m <sup>2</sup> - 3000m <sup>2</sup>	6	14.6%	2812m <sup>2</sup>
3000m <sup>2</sup> - 3500m <sup>2</sup>	5	12.3%	3088m <sup>2</sup>
3500m <sup>2</sup> - 4000m <sup>2</sup>	2	4.8%	4155m <sup>2</sup>
4000m <sup>2</sup> - 4500m <sup>2</sup>	1	2.4%	4630m <sup>2</sup>
4500m <sup>2</sup> - 5000m <sup>2</sup>	1	2.4%	6177m <sup>2</sup>
5000m <sup>2</sup> - 5500m <sup>2</sup>	3	7.3%	6536m <sup>2</sup>
Total Number of Lots	41		
Minimum Lot Size 2000m <sup>2</sup> Average Lot Size 3051m <sup>2</sup>			
Maximum Lot Size 5000m <sup>2</sup> Total Lot Area 125192m <sup>2</sup>			

LOT YIELD TABLE



NOTE: Base Data supplied by Landgate / Lecm  
Surveying  
Areas and dimensions shown are subject  
to final survey calculations.

Revision	Date	By
1	21/12/17	Wendy Ellis
2	11/01/18	P-Polansky

LEGEND

- APPLICATION BOUNDARY
- PROPOSED BUILDING ENVELOPES
- 1.0m CONTOURS
- EXISTING VEGETATION

- EXISTING BUILDING TO BE DEMOLISHED
- EXISTING HIGH VOLTAGE OVERHEAD SPUR LINE
- PROPOSED FIRE FIGHTING TANK

Tulip Holdings Pty Ltd : CLIENT  
A2@12:000 : SCALE  
21 December 2017 : DATE  
00005-3-002 : PLAN No  
A : REVISION  
G.A : PLANNER  
B.L : DRAWN

PROPOSED PLAN OF SUBDIVISION  
Lot 122 Bussell Highway, WITCHCLIFFE

AHOLA  
315 333 04111 190 River 1733 Margaret River WA 82601 aholdesign.com.au  
(08) 359 13301 aholdesign.com.au



## **11.3      Infrastructure Services**

### **11.3.2      PROPOSED SITE EROSION AND SAND DRIFT LOCAL LAW**

Attachment 1 – Proposed Site Erosion and Sand Drift Local Law

# SHIRE OF AUGUSTA-MARGARET RIVER

## Local Government Act 1995 Erosion and Sediment Control – Local Law 2018

### Part 1 – Preliminary

#### 1.1 Citation

This local law may be cited as the Shire of Augusta-Margaret River Erosion and Sediment Control Law 2018.

#### 1.2 Commencement

This local law comes into operation 14 days after the day on which it is published in the *Government Gazette*.

#### 1.3 Purpose

The purpose of this local law is to provide for the regulation, control and management of erosion, sediment and pollutants on land within the district so as to protect the amenity of the area.

#### 1.4 Application

This local law shall apply throughout the district.

#### 1.5 Definitions

(1) In this local law unless the context otherwise requires -

**Act** means the Local Government Act 1995;

**Authorised person** means a person authorised by the local government under section 9.10 of the Act to perform any of the functions of an authorised person under this local law;

**Best Management Practice** means a physical, chemical, structural or managerial practice that prevents, reduces, or treats the contamination of water, or which prevents or reduces soil erosion.

**Builder means**

- (a) Any person who holds, or will hold, a building permit issued in respect of building works on a building site, or
- (b) Any person who has, or will have, effective control of a building site;

**Building Code** means the latest edition of the Building Code of Australia published by, or on behalf of, the Australian Building Codes Board, as amended from time to time, but not including explanatory information published within the code;

**Building site** means any lot of land for which a building permit is current, but does not include a lot upon which there exists a commercial, industrial or residential building and-

- (c) the current building permit is issued in respect only of a pergola, patio, shed or other Class 10 building as classified by the Building Code; and
- (d) means of collection and removal of rubbish, satisfactory to the local government but other than that specified within these local laws, is in place;

**CEO** means the chief executive officer of the local government;



**Construction work** means any civil construction work associated with development sites or building sites, including land clearing, construction of roads, access ways, paths, services, importation of fill materials and working and shaping of existing ground as well as imported materials, any work involving the placement, fitting together, manufacture or erection of the components of a building or structure, and includes pouring of footings and slabs and placement of stumps or other floor support, installation, or expansion of a building or other structure, drilling, and site alteration such as that due to dredging, grading, paving, parking or storage improvements, excavating, filling or clearing;

**Contractor** means any person who has been authorised by or is performing construction work on behalf of a builder or developer;

**Council** means the council of the local government;

**Development** has the meaning given by the Planning and Development Act 2005 and includes any human induced change to improved or unimproved land, including but not limited to construction work;

**Development site** means any lot of land for which a subdivision or development approval is current;

**Developer** means

- (a) Any person who holds, or will hold, a subdivision approval or development permit issued in respect of subdivision or development works on a development site, or
- (b) Any person who has, or will have, effective control of a development site;

**District** means the district of the local government;

**Drainage System** means facilities by which stormwater runoff is collected or conveyed, including but not limited to any roads, access ways, paths, tracks, gutters, kerbs, inlets, piped drains, culverts, retention or detention basins, natural and constructed (or altered) drainage channels, reservoirs, and other drainage structures.

**Erosion** means the wearing away of the ground surface as a result of the effects of gravity, wind, or water;

**Ground disturbing activity** means any activity that exposes soil and which removes the natural vegetative cover or other cover, leaving the soil exposed to the elements and prone to erosion, and includes activities or commercial pursuits that expose soils for extended periods as an integral part of their production or maintenance. Examples include agriculture, quarries, mining, nurseries, and maintenance of sporting fields;

**Land** means any private land as defined by the Local Government Act 1995, and includes any building sites, development sites, as well as buildings or structures on the land;

**Local government** means the Shire of Augusta-Margaret River;

**Occupier** has the meaning given by the Local Government Act 1995. In addition it means any person who, at the time the notice is served, is in control of any place or part of any place or authorised by the owner, lessee, licensee or any other person empowered to exercise control in relation to a place to perform any work in relation to any place and includes a builder, developer and contractor;

**Permanent measures** means a combination of plants, mulch, turf, matting, erosion control blankets, and permanent structures that will provide long-term soil stabilisation;

**Pollutant** means an elemental or physical material that can be mobilised or dissolved by water or air and that could create a negative impact to human health, safety, or the environment;

**Sediment** means dust and soil deposited as a result of erosion;

**Soil** means granules or particles of mineral or organic matter, rock, earth, sand, clay, loam, silt, gravel and any other granular, or airborne particles causing dust, or like material, whether imported or naturally occurring on land;

**Stabilise** means the process of establishing an enduring soil cover of vegetation or mulch or other ground cover and may be in combination with installation of temporary or permanent measures and Best Management

Practices. Stabilisation shall reduce to the maximum extent practicable the erosion process and the resultant transport of sediment;

**Stormwater** means water runoff or surface runoff and drainage;

**Waterbody** means rivers, marshes, continuous and intermittent streams and seeps, ponds, lakes, aquifers, and wetlands;

**Watercourse** means a channel in which a flow of water occurs, either continuously or intermittently with some degree of regularity. Watercourses may be either natural or artificial and include drainage systems;

**Wetland** means an area that is inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and which under normal circumstances does support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands include swamps, marshes, bogs and similar areas.

(2) Any other expression used in this local law and not defined shall have the meaning given to it in the Act.

(3) Where, under this local law a duty, obligation or liability is imposed on an 'owner or occupier' the duty shall be deemed to be imposed jointly and severally on each owner and occupier.

(4) Where, under this local law, an act is required to be done or forbidden to be done in relation to any land, an owner or occupier of the land has the duty of causing to be done the act so required to be done, or preventing from being done the act forbidden to be done.

(5) Where under this local law the local government is empowered to carry out actions, undertake or cause to be undertaken works as a consequence of the failure of any person to comply with the terms of a notice or other conduct, the right to enter land is at all times subject to the provisions of Part 3, Division 3 of the Act.

## Part 2 – Soil Erosion, Sediment and Pollutant

### 2

#### 2.1 Prevention of erosion and the escape of soil, sediment and pollutant

An owner or occupier of land must take and maintain practicable measures to –

- (a) stabilise soil on the land;
- (b) ensure no soil, sediment or pollutant is released from or escapes from the land, whether by means of erosion, ground disturbing activity or any other cause; and,
- (c) ensure no soil, sediment or pollutant is released or deposited directly or indirectly into any waterbody or watercourse.

#### 2.2 Notice may require specified action to prevent erosion and the escape of soil, sediment or pollutant

(1) Where the local government or an authorised person is satisfied that:

- (a) an owner or occupier of land has not complied with clause 2.1; or
- (b) soil, sediment or pollutant is escaping, being released or being carried, or is likely to escape, be released or be carried, from any land.

The local government or an authorised person may, by notice in writing, direct the owner or occupier to, within a time specified in the notice:

- (c) comply with subclause 2.1;
- (d) remove and clean up any soil, sediment or pollutant and make good any damage resulting from the release or escape of soil, sediment or pollutant from the land; or,

- (e) take such other actions or comply with such other conditions as the local government or authorised person considers necessary to prevent or stop the escape, release or carriage of soil, sediment or pollutant from the land, as stipulated in the notice.

(2) An owner or occupier of land to whom a notice is issued under subclause (1) shall comply with the requirements of the notice within the time specified in the notice.

### Part 3 – Objections and Appeals

3

#### 3.1 Objections and review

When the local government or an authorised person gives a person a notice under clause 2.2(1), the provisions of Division 1 of Part 9 of the Act and regulation 33 of the *Local Government (Functions and General) Regulations 1996* shall apply.

### Part 4 – Offences and Penalties

4

#### 4.1 Offences

(1) Any person who:

- (a) fails to comply with a notice under clause 2.2 (1);
- (b) fails to do anything required or directed to be done under this local law; or
- (c) does anything which under this local law that person or prohibited from doing, commits an offense.

(2) Any person who commits an offense under this local law is liable, upon conviction, to a penalty not exceeding \$5,000 and if the offence is of a continuing nature, to an additional penalty not exceeding \$500 for each day or part of a day during which the offence had continued.

#### 4.2 Prescribed Offenses

(1) An offence against a clause specific in Schedule 1 is a prescribed offence for the purpose of section 9.16(1) of the Act.

(2) The amount of modified penalty for a prescribed offence is that specified adjacent to the clause in Schedule 1.

#### 4.3 Infringement Notices

For the purposes of this local law –

(1) the form of infringement notice given under section 9.16 of the Act is that of Form 2 in Schedule 1 in the of the *Local Government (Functions and General) Regulations 1996*; and,

(2) the form of infringement withdrawal given under section 9.16 of the Act is that of Form 3 in Schedule 1 in the of the *Local Government (Functions and General) Regulations 1996*;

### Schedule 1 – Prescribed Offences

Clause	Description	Modified Penalty \$
4.1(1)	Failure to comply with a notice served by local government or authorised officer	500

## **11.3      Infrastructure Services**

### **11.3.3      REQUEST TO WAIVE FEES FOR RESERVATION OF CAR PARKING BAYS**

Attachment 1 – Parking Bays Reservation Request



Attachment 2 – Fee Waiver Application

Attachment 3 – Supporting Information from Applicant

Attachment 4 – Policy FI12.3 Waiver of Fees and Charges





 <div>SHIRE of AUGUSTA MARGARET RIVER</div>	The Shire of Augusta-Margaret River does not warrant the accuracy of		7/09/2017	
			1:250	



# FI12.3 Waiver of Fees and Charges

FIN/130



December 2017

Corporate and Community Services

## Waiver of Fees and Charges Application Form

### Applicant

**Name of organisation** Somersault Event

**Contact person** Katrina Lombardo

**Postal address for correspondence** PO Box 2139  
Margaret River WA 6285

**Phone** 0438905985 (b/h) - (mob) -

**Email** mr.nightmarket@gmail.com  
(will be used for funding remittance)

**Website address** -

**ABN (if applicable)** 58353868263

**Registered for GST (if applicable)** ☐ Yes ☒ No

**Type of organisation** -

### Activity / Event Details

**Type of activity or event** Margaret River World Food Night Market

**Name of activity or event** Food Market

**Event location / venue** Memorial Park Townview Tee  
5:30pm - 8:30pm + Willmott Ave.

**Event dates** November 30, December 21, January 25, February 15 March 15

**Will revenue be generated as a result of the activity or event** ☐ Yes ☐ \$500 as per planning application approval.  
Expected revenue: \$0

**Are all workers associated with the activity or event working in a voluntary capacity?** ☒ Yes ☐ No % of volunteers

**What is the fee / charge that you are requesting be waived?** \$5040.00  
\$1008 x 5 events for parking spaces used.

FI12.3 WAIVER OF FEES AND CHARGES

\* For the event to continue Somersault Events cannot pay parking space fees. Therefore we request 100% waiver in advance. Dale Patland and all Councillors have agreed.

#### Reason for the request

The Margaret River Night Market is a small scale community event that is limited in ability to raise revenue because of this. With Planning fees, insurance costs, hire costs, shire fees, equipment etc the event actually does not raise revenue. Costs can barely be covered. \*

#### Bank details

Account name

BSB number

Account number

Account holders signature

#### Declaration

I, Katrina Lombardo confirm that all of the information contained within application is true and correct and submit it to the Shire of Augusta Margaret River with a copy of the receipt showing payment in full for the fee / charge for consideration.

Name: Katrina Lombardo

Position: partner

Signature: [Signature]

Date: 24.10.18

#### Shire Office Use Only

##### Authorised officer under the Instrument of Delegation Number 8

Is 50% of the fee or charge paid over \$3,000 ☐ No ☐ Yes\* – Report to Council required

☐ Approved

☐ Declined - Reason:

Invoice total:

Percentage of fee waiver approved (up to 50%): Total of the fee / charge waiver:

Income budget COA/Job:

If yes, Ordinary Council Meeting date (i.e. OM20171213):

Outcome of the Council decision (i.e. OM2017/xxxx):

Stamp of Authorised Officer

Signature

Date

FIN/130

**From:** Dale Putland  
**Sent:** Thursday, 25 October 2018 8:40 AM  
**To:** 'Night Market' <[mr.nightmarket@gmail.com](mailto:mr.nightmarket@gmail.com)>  
**Cc:** Hilary Metcalfe <[hmetcalfe@amrshire.wa.gov.au](mailto:hmetcalfe@amrshire.wa.gov.au)>  
**Subject:** RE: MRNM Fee waiver form

As per my previous email, I think that you have misunderstood my comments the other day

The CEO doesn't have the delegation to waive the fees, so the request needs to go to Council.

We will prepare a report so that they can make a decision, and I understand that you have spoken to them independently.

We will not require you to pay any fees until they make a decision as to whether they will waive the fees

Will confirm when it is going to Council to give you an opportunity to make a presentation at the meeting

Regards

**Dale Putland**  
Director Sustainable Development

**Natural | Connected | Prosperous**

T 08 9780 5231 | F 08 9757 2512 M 0472 877 032  
[dputland@amrshire.wa.gov.au](mailto:dputland@amrshire.wa.gov.au) | [amrshire.wa.gov.au](http://amrshire.wa.gov.au)



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**Please consider the environment before printing this email.**

**From:** Night Market <[mr.nightmarket@gmail.com](mailto:mr.nightmarket@gmail.com)>  
**Sent:** Wednesday, 24 October 2018 1:08 PM  
**Subject:** MRNM Fee waiver form

please find attached our fee waiver form for the parking spaces used in the Margaret River Night Market (MRNM).

As discussed previously with Dale Putland head of Planning at the Shire and various AMR Shire Councillors, the MRNM is a small scale event that due to its size is limited in the ability to raise revenue beyond its basic costs. The organisers (Somersault Events) do not make a profit running this event. This year's proposed addition by Shire officers' of parking



space fees meant that the MRNM would need to be discontinued as the additional fees would make the event unviable. The organisers are happy to work voluntarily but cannot lose money to bring the event to the community. Michelle and I are constantly overwhelmed with how the event has been embraced and celebrated by the Margaret River community and feel it is worthwhile to continue to run the event as long as we do not lose money in doing so.

Dale Putland has contacted us directly to inform myself and Michelle of Somersault Events that the MRNM parking space fees will be waived 100% and the requirement to pay for the fees in full prior to the waiver is also NOT required. Further, we request, as recommended by Dale Putland that these proposed fees be waived in full for all night market seasons in the future in the approved location. The scale of the event is ruled by the location of the event. The location and scale of the event is what makes the event so very special to the Margaret River community. Not only does the MRNM bring a sense of place to the heart of the town, any over flow from the market is directed straight onto the mainstreet's hospitality businesses which is excellent for the local economy. Somersault Events has investigated other locations as stated in the 2018 planning application cover letter, however we are yet to find a better space to hold the event. To take the event out of town would take the many patrons attracted into the heart of the town for the community event away from the heart of the town and subsequently other main street businesses. Therefore while the event is located at the Memorial Park, we request with advice from Dale Putland the parking fees be waived 100% ongoing. We look forward to your department confirming this.

Many thanks.

Kind regards

Katrina & Michelle

# FI12.3 Waiver of Fees and Charges

FIN130



December 2017

Corporate and Community Services  
FIN/358

## Waiver of Fees and Charges Guidelines

These guidelines provide prospective applicants with information about financial assistance from the Shire of Augusta Margaret River by way of a Waiver of Fees and Charges.

The approval of a Waiver for a Fee and Charge is governed by the Instrument of Delegation, and specifically Delegation 8, Write Off Debts. The exercise of powers and the discharge of duties under section 6.12 of the *Local Government Act 1995* to waive or grant concessions (excluding rate concessions) and to write off debts not exceeding \$3,000. In cases where the request for Fee Waivers exceed \$3,000 a report needs to be submitted to an Ordinary Council Meeting for Council's consideration and approval.

Please read these guidelines carefully before submitting an application. You may direct any questions to the Shire by email on [amrshire@amrshire.wa.gov.au](mailto:amrshire@amrshire.wa.gov.au) or phone us on 08 9780 5255.

## Eligibility - Who can apply?

To be eligible for a Waiver of Fees and Charges the applicant must meet all of the following criteria:

1. Operate in the Shire of Augusta Margaret River.
2. Be an incorporated, community-based and not-for-profit organisation functioning in the Shire of Augusta Margaret River.
3. Be an educational institution.

**Note: All fees and charges must be paid upfront and if a "Waiver of Fees and Charges" is granted, a reimbursement for the approved amount will be forwarded to the successful applicant.**

## Funding will be considered for

- Shire Fees and Charges that are not due to the Shire as an Australian Tax under Australian law in respect of a service
- Events that occur as a result of natural disasters
- National celebrations
- The Shire may, at its own discretion determine an individual application on its merits.

FI12.3 WAIVER OF FEES AND CHARGES

## Funding will not be provided for

- Individual persons\*
- State or federal government bodies
- Commercial organisations or businesses
- Fees and charges levied and collected by the Shire under any written law
- Support for organisational or general operating costs
- Activities that will financially benefit the community organisation (i.e. entry charge)
- Activities that are already covered by an existing service agreement with the Shire of Augusta Margaret River
- Community organisations that receive funding from the Shire of Augusta Margaret River by way of Donation, Community Development Grant or Council Contribution in the current financial year.

\*Individual persons may seek the assistance of an Advocacy Agent to submit an application on their behalf. Note: Applications submitted by an Advocacy Agent will not impact the agent's ability to apply for financial assistance within that financial year.

## Restrictions on funding

- Where a Fee and/or Charge is due to the Shire under another Act, regulatory body or Australian Law in respect of a service, then the Shire will not consider any application to waive that Fee and/or Charge
- A maximum of 50% of the Fee and Charge will be considered for waiver as listed in the annual Schedule of Fees and Charges adopted by Council (with the exception of national celebrations, state or federal functions and visits by Parliamentarians to the Shire)
- The activity, event, competition, project or celebration must be offered within the Shire of Augusta Margaret River local government boundaries
- The community organisation is not to have already received funding from the Shire by way of a Sponsorship, Donation, Community Development Grant or Council Contribution or received financial assistance from the Shire under any existing written agreement during the current financial year
- Where an activity, event, competition, project or celebration occurs on a regular basis within a financial year July to June, then application for financial assistance shall be based on the full financial year
- One application per financial year (July to June) may be submitted at any time during the year for Financial Assistance as listed in Table 1 – of the FI12 Financial Assistance Policy

- Reimbursement for utility charges such as water and electricity will not be considered for waivers
- Recurrent annual or seasonal fees for sporting groups such as the sporting club levy, court hire and line marking will not be considered for waivers
- Applications are to be lodged on the Shire's official application form and retrospective applications will not be considered where they are submitted after the activity, event, competition, project or celebration
- Once the delegated shire officer has approved the application, a 'Request for Payment' will be submitted to the Creditors Officer for payment for the approved percentage of the fee waiver
- If circumstances surrounding a successful applicant change during the financial year, the Shire reserves the right to review and cancel any or all of the approved financial assistance

## Application closing date

Applications for a Waiver of Fees and Charges are accepted at any time during the year.

## Lodging your application

Once you have completed all sections of the form and signed the declaration, please take a copy for your records. The Shire requires the original, signed Application Form be submitted by either of the following methods:

**By Post:** Chief Executive Officer  
Shire of Augusta Margaret River  
PO Box 61, Margaret River WA 6285

**Email:** [amrshire@amrshire.wa.gov.au](mailto:amrshire@amrshire.wa.gov.au)

**In Person:** Margaret River Civic Administration Centre  
41 Wallcliffe Rd, Margaret River  
Office Hours: 9.00am – 4.00pm

Augusta Office  
66 Allnutt Tce, Augusta  
Office Hours: 9.00am - noon, 1.00pm - 4.00pm

If you require any further information or assistance with your application form, please contact:

Hannah Waters  
Executive Assistant Corporate and Community Services  
[hwaters@amrshire.wa.gov.au](mailto:hwaters@amrshire.wa.gov.au)  
9780 5638

## What happens when your application is received?

- You will receive an acknowledgement letter upon receipt of your application
- Your application will be reviewed by the Shire within 14 days in which we will notify you in writing of the outcome of our assessment.

# FI12.3 Waiver of Fees and Charges

FIN/130



December 2017

Corporate and Community Services

## Waiver of Fees and Charges Application Form

Applicant	
<b>Name of organisation</b>	
<b>Contact person</b>	
<b>Postal address for correspondence</b>	
<b>Phone</b>	(b/h) (mob)
<b>Email</b> (will be used for funding remittance)	
<b>Website address</b>	
<b>ABN</b> (if applicable)	
<b>Registered for GST</b> (if applicable)	<input type="checkbox"/> Yes <input type="checkbox"/> No
<b>Type of organisation</b>	
Activity / Event Details	
<b>Type of activity or event</b>	
<b>Name of activity or event</b>	
<b>Event location / venue</b>	
<b>Event date/s</b>	
<b>Will revenue be generated as a result of the activity or event</b>	<input type="checkbox"/> Yes <input type="checkbox"/> \$500 Expected revenue:
<b>Are all workers associated with the activity or event working in a voluntary capacity?</b>	<input type="checkbox"/> Yes <input type="checkbox"/> No % of volunteers
<b>What is the fee / charge that you are requesting be waived?</b>	

FI12.3 WAIVER OF FEES AND CHARGES



### Reason for the request

### Bank details

**Account name**

**BSB number**

**Account number**

**Account holders signature**

### Declaration

I, \_\_\_\_\_ confirm that all of the information contained within application is true and correct and submit it to the Shire of Augusta Margaret River with a copy of the receipt showing payment in full for the fee / charge for consideration.

**Name:**

**Position:**

**Signature:**

**Date:**

### Shire Office Use Only

#### Authorised officer under the Instrument of Delegation Number 8

Is 50% of the fee or charge paid over \$3,000 ☐ No ☐ Yes\* – Report to Council required

☐ Approved

☐ Declined - Reason:

**Invoice total:**

**Percentage of fee waiver approved (up to 50%):** **Total of the fee / charge waiver:**

**Income budget COA/Job:**

If yes, Ordinary Council Meeting date (i.e. OM20171213):  
Outcome of the Council decision (i.e. OM2017/xxxx):

Stamp of Authorised Officer

Signature

Date

FIN/130