Council

PROPOSED ADOPTION OF LOCAL PLANNING POLICY FOR DAMS & WATER FEATURES FOLLOWING PUBLIC ADVERTISING

A – Proposed Final Local Planning Policy No. 8 – Dams & Water Features
B – Public Submissions to Draft Local Planning Policy No. 8
C – Advice from the Department of Water & Environmental Regulation
D – State Planning Policy 2.9 and extract from WAPC Planning for Water Guidelines
E – Information Brochure – 'Dams & Water Features'

Meeting Date: 24 February 2026

Number of Pages: 67

ATTACHMENT A

LOCAL PLANNING POLICY NO. 8

DAMS & WATER FEATURES

1. CITATION

This Local Planning Policy is prepared under Schedule 2 of the *Planning and Development (Local Planning Schemes) Regulations 2015* (the Regulations).

This Policy may be cited as LPP No. 8 – Dams & Water Features.

2. INTRODUCTION

The construction of dams and water features (including associated clearing and site works) constitutes 'development' under the *Planning and Development Act 2005*. As such, development (planning) approval is required unless an exemption is provided through the provisions of the local planning scheme and/or local planning policy.

The purpose of this Policy is to detail acceptable development standards for dams and provide an exemption from development (planning) approval for proposed dams that meet these standards. This Policy also provides assessment criteria for dams that require approval.

3. DEFINITIONS

Terms used in this Policy are consistent with the Scheme, the Regulations and applicable State Planning Policies where relevant. This includes the following terms defined as per State Planning Policy 2.9:

A '*dam*' is defined as *any artificial structure, barrier or levee, whether temporary or permanent, which does or could impound, divert or control water, silt, debris or liquid borne materials, together with its appurtenant (associated) works*.

Reference to a 'dam' in these policy provisions is taken to include any other artificially constructed water feature that is utilised to retain water within the landscape. The term 'dam' is preferred as it reflects the intent of this policy to avoid the development of other water features that are for an aesthetic rather than a productive purpose.

A '*waterway'* is defined as *any river, creek, stream or brook, including its foreshore area or reserve, floodplain, estuary and inlet. This includes systems that flow permanently, for part of the year or occasionally; and parts of the waterway that have been artificially modified.*

A '*wetland'* is defined as *an area of seasonally, intermittently or permanently waterlogged or inundated land, whether natural or otherwise, and includes a lake, swamp, marsh, spring, dampland and sumplands.*

Mapping prepared by the Department of Water & Environmental Regulation shall be referenced in defining where naturally occurring waterways and wetlands exist.

4. OBJECTIVES

The objectives of this policy are to:

- Ensure that water is managed sustainably and that productive and environmental uses are prioritised, discouraging dams and water features that are for aesthetic purposes.
- Ensure that the development of dams minimises potential impacts on the Shire's important visual landscapes.
- Ensure that the development of dams avoids interrupting natural ecosystems, maintains remnant vegetation and enables soil conservation.
- Encourage the uptake of water conservation measures as standard practice to improve the resilience of our residents and businesses.

5. DEVELOPMENT APPROVAL REQUIREMENTS

Deemed to Comply Proposals

Dams that meet the acceptable development standards outlined in Part 6 of this Policy are considered 'deemed to comply' and do not require planning approval, unless works are located in a heritage protected place.

Assessment Criteria

Dams proposed that exceed the acceptable development standards and/or dams proposed in any other zone will require development (planning) approval prior to construction and will be assessed on merit against the objectives at Part 4 of this Policy, the standards established at Part 6 of this Policy and the following assessment criteria:

- Objectives of the zone;
- Consistency with the approved land use/s;
- Association with a productive purpose such as an agricultural, horticultural and/or aquacultural production business, or other commercial or industrial application;
- Potential impact on the visual landscape values, streetscape and the amenity of neighbouring landowners, including the scale of dam development, ability to minimise visibility and surrounding context;
- The protection of environmental values including the retention of waterways, wetlands and remnant vegetation;
- Reasonableness of the proposal given the size and slope of the site, including potential alternative locations for development;
- The safety and security of public infrastructure and private assets in the vicinity of the proposed dam.
- Extent of variation proposed and ability to meet other applicable development standards;
- Management measures proposed to improve water quality outcomes;
- Measures proposed to promote the efficiency of water storage and use; and,
- Any other planning matters relevant to the site, as appropriate.

6. POLICY PROVISIONS

Dams proposed on a property within the Rural, ~~Rural Smallholdings,~~ Rural Residential (zones 2, 3, 7, 11 and 13 only), Rural Village or Residential zones that meet the following acceptable development standards do not require development (planning) approval:

6.1. ACCEPTABLE DEVELOPMENT STANDARDS

Zone	Minimum Lot Size	Maximum Surface Area	Maximum Wall Height	Minimum Lot Boundary Setback
Rural (lot >60ha)	60ha	4ha	4m	40m
Rural (lot >10ha)	10ha	1ha	4m	40m
Rural (all lots ~~<10ha~~)	1ha	500m^2	2.5m	20m
Rural Smallholdings (lot >10ha)	10ha	1ha	4m	40m
Rural Smallholdings (all lots ~~<10ha~~)	1ha	500m^2	2.5m	20m
Rural Residential **Rural Village** **Residential**	1ha	250m^2	1.5m	10m

Note: The maximum surface area refers to the peak water level of all dams (cumulatively) located on the site.

The minimum lot boundary setback is measured from the closest point of the dam, which may include the highest water level, base of dam wall, spillway, etc.

6.2. GENERAL DEVELOPMENT REQUIREMENTS

(a) Dams are set back at least 40m from any naturally occurring waterway or wetland.

(b) Dams are set back a minimum of 40m from any effluent disposal system.

(c) Dams are located within an approved building envelope (where applicable).

(d) The property is not located within a gazetted, proclaimed or controlled water resource area.

(e) No clearing of remnant and/or riparian vegetation is proposed.

(f) Dams are to be designed so that all detained water is entirely within the property.

(g) Dam design is to include a constructed spillway, energy dissipation structure and return of overflow water to natural flow paths.

~~(h) Engineering certification is provided for any dam walls that exceed 2.0m above natural ground level.~~

6.3. ENGINEERING REQUIREMENTS

(a) Engineering certification and a geotechnical report will be required for the construction of any individual dam or water feature with a volume that exceeds 50,000m^3 or a dam wall that exceeds 10.0 metres.

(b) Engineering certification and a geotechnical report may be required for a dam proposal that is smaller than the standards outlined at (a) above where, in the opinion of the Shire, a significant risk to public infrastructure or private assets downstream exists in the event of dam failure.

(c) A hydrology report will be required for any individual dam that exceeds 8,000m^3, where the cumulative total of dams on a property exceeds 20,000m^3 or where a dam of any size is proposed on-stream.

(d) Full responsibility and liability for the standard of construction, maintenance and safety of any dam or water feature rests with the landowner in all circumstances.

Note: This policy does not take a position on the availability of water within a catchment area and the needs of other users within that catchment, including the amount of water necessary to sustain ecological systems. This is a matter that is assessed and managed by the Department of Water & Environmental Regulation via the use of gazetted, proclaimed or controlled water resource areas.

The granting of development (planning) approval by the Shire for the construction of a dam (or exemption from this requirement under this policy) does not grant a landowner the right to take water from within a gazetted, proclaimed or controlled water resource area that is managed under State Government legislation.

Where the Shire receives a development application for a proposed dam that does not meet the exemption requirements outlined in this policy, the Shire may elect to:

- *Request that the applicant prepare a hydrological assessment to demonstrate water sustainability within the local catchment area; and/or,*
- *Refer the application to the State Government for advice.*

Applicants proposing substantial development are advised to contact the Department of Water & Environmental Regulation for more information before making application to the Shire for development (planning) approval.

Document Control			
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Reviewer	NA	**Approval**	Council
Supersedes			
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Legislation	*Planning and Development (Local Planning Schemes) Regulations 2015* *Shire of Plantagenet Local Planning Scheme No. 5*		
Other			

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1		

ATTACHMENT B

Schedule of Public Submissions & Responses

Draft Local Planning Policy No. 8 – Dams & Water Features

No.	Received from	Submission	Officer Comment
1	Kevin Forbes	As a recently retired farmer with over fifty (50) years' experience in the site selection and construction of dams (over 40 dams) I see several problems with this policy. 6.1 In many situations the best site for clay content and catchment may be close to a lot boundary. Ten (10) metres should be adequate for all zones. It is not always easy to fill dams without taking up a further considerable area of catchment. 6.2(c) There is no logic in this point. Building envelopes are positioned on suitable soil types for building infrastructure; not high clay content with slope above it, totally useless for dam construction. 6.2(h) Most farm dams today have a bank height of over two (2) metres, particularly if the site has any slope. Keeping banks lower will see more productive land covered with banks and make it much more likely for inflows of water from storm events to go over the main back banks. This 6.2(h) point is unworkable as bulldozing contractors cannot keep an engineer on call and even then, if they could find one, at what cost. Trying to test compaction of a six (6) metre wall is not practical. Please give the above points your due consideration.	Comments supported in part. *Comments relating to Part 6.1:* The proposed policy identifies dam development that is considered low risk and can occur without the need for development (planning) approval. This takes into account the need to preserve the interests of neighbours. A landowner can apply to the Shire for approval to build a dam closer to a lot boundary, and this will be supported in circumstances that are appropriate (based on the criteria outlined at Part 5 of the policy). *Comments relating to Part 6.2(c):* Building envelopes only apply to lots in selected zones (Rural Residential, Rural Smallholdings and Special Use zones) where there is a need to minimise the spread of development across the lot. For example, to preserve remnant vegetation or visual landscape values. Lots are typically no greater than 5ha, do not support any significant commercial primary production activity, and dams proposed in this circumstances are unlikely to be substantial in scale.

			Comments relating to Part 6.2(h): Officers acknowledge the practicality of accessing privately consulting engineers and the need for an approach based on the level of apparent risk. Changes to the proposed policy are recommended as a result of feedback received, which support dam walls of up to 4m in height and dam volumes of up to 30,000m^3 without the need for engineering certification of development plans, unless there is a clearly apparent downstream risk.
2	John Howard	I am concerned about your Acceptable Development Standards as applied to commercial farms. I can understand that on small and hobby blocks there needs to be some control as dams could easily affect their neighbors but in relation to more commercial farms say 100 hectares and up a great many would have more than a hectare of water already on my 293 hectares I estimate I would probably have 3 or 4 hectares of water coverage already. so if I wanted to build another dam or enlarge and existing dam I would need planning approval and perhaps an engineering certificate as well. This I believe is quite unnecessary. We are in a drying climate and farmers need to improve their water storage. If we have to get approval it is adding unnecessary cost and will act as a disincentive to make your farm more water secure. With the cost of building a dam no one is going to build a dam unless they really need to. I think with land holdings over a certain figure say somewhere between a 100 and 250 hectares the building of new dams and enlarging existing ones should be without restriction. Thank You.	Comments supported. The policy favours the development of dams that support productive agricultural land uses. Changes to the proposed policy are recommended as a result of feedback received, which includes an additional category supporting up to 4ha of dams on properties over 60ha in the Rural Zone without the need for planning approval. It is noted that these exemptions from approval apply to each individual lot, and many farms have multiple lots. It is also noted that a landowner can apply for approval to have a greater amount of dams, with approval granted for proposals that meet the criteria outlined in the policy. As a result of feedback received, engineering certification requirements have been revised.

3	Jane White	I believe we need more regulation not less. Our environment is not only for humans but for all the flora, fauna, birds, and water animals etc Especially as we know our shire still doesnt even have an up to date policy which protects any of our beautiful and unique flora fauna, creeks or rivers, so having an open dam policy would just create mayhem. Plus as from the shires own admission it states "The policy does not take a position on water availability within a catchment area" so how can the shire even be able to say its open to anyone.	Comments not supported. The State and Local planning frameworks provide for the protection of the environment in various ways, complementing other State legislation that addresses matters such as vegetation protection, water use allocation and environmental emissions. It is the responsibility of the Department of Water & Environmental Regulation to regulate water taking (including groundwater) within specified catchments. The policy being proposed does not address this matter so that it does not cause any overlap or confusion between the responsibilities of the Shire and the State Government.
4	Ian Couper GT & JF Couper	Concerns regarding this policy: Availability and numbers of engineers. Cost of engineers. Knowledge of engineers regarding dam construction and suitable clay types. No allowance for increase in property size 10 hectares the same as 10,000 hectares (only allowed 1 hectare of water. People will try to avoid the cost of an engineer by keeping dam walls below 2metres Keeping dam walls below 2 metres will only lower the free board on dam walls and make them more prone to washing away in high rainfall events, and significantly reduce holding compacity.	Comments supported. Changes to the proposed policy are recommended as a result of feedback received, which support dam walls of up to 4m in height and dam volumes of up to 30,000m^3 without the need for engineering certification of development plans, unless there is a clearly apparent downstream risk. Proposed changes also include an additional category supporting up to 4ha of dams on properties over 60ha in the Rural Zone without the need for planning approval. A constructed spillway may take a number of forms (concrete, rock pitching, etc.) but is an important component of dam design to allow for

		This will also apply to requiring shire approval for a dam wall above 4m. Need to encourage more freeboard of dam walls than less. Clarification of the meaning of constructed spillway. Thank you for your consideration.	overflow without damage to any dam walls, while maintaining adequate freeboard.
5	Jon Oldfield	I wish to make comment in relation to the above policy. 1. Max. Surface area = 1 ha. This could be an issue on larger locations that already have multiple dams as any new dam would fall outside the 1ha allowance. It may be better to have a size for individual dams of over 1ha triggering the need for planning approval. Perhaps a revised sliding scale of location size versus dam size. 2. Max wall height = 4m. This should be max height of 4m above natural ground level for the water level at full capacity as working of the wall height may just encourage dam construction with little free board. 3. Engineering certification for dam walls 2m above the natural ground level. Once again implementing this may encourage dam construction with limited free board. I believe the approach taken by the Denmark shire is better where the onus is put on the owner of the dam **"speak to an engineer if you have questions about the structural integrity and use of dam walls, spillways and batters - your dam is your responsibility".** Using an engineer would add significantly to the cost of a dam and likely cause delays in getting dams constructed. Would it be possible to send me the NCC information that relates to needing an engineers certificate for earth walls	1. Changes to the proposed policy are recommended as a result of feedback received, which includes an additional category supporting up to 4ha of dams on properties over 60ha in the Rural Zone without the need for planning approval. 2. The dam wall heights specified represent 'low risk' development that can proceed without the need for Shire approval. Dam walls greater than 4m can be approved by the Shire upon application. It is noted that excavation below natural ground level can also occur to increase dam capacity (in addition to a 4m wall above natural ground level). 3. Changes to the proposed policy are recommended as a result of feedback received, which support dam walls of up to 4m in height and dam volumes of up to 30,000m^3 without the need for engineering certification of development plans, unless there is a clearly apparent downstream risk. The NCC does not directly relate to the construction of dams, which do not require a building permit. The NCC includes requirements for engineering for site works relating to buildings. Although this is a useful point of

		above 2 meters as I can only find information that relates to earth walls over two meters in relation to site cut and fill.	reference when considering the loading of walls and potential risk mitigation, it does not apply to dams.
6	Allison Carter	It has come to my attention of a proposed new policy for Dams and Water Features I have a number of questions/thoughts Is this going to mean that every proposed dam on a property which includes the road work, preparation work etc has to get approval first? Is this going to mean that any kind of work ie drains, contour banks etc will be needing to get permission as well. If so this must mean extra time and cost to the landholder? As this is such an important issue it would have been prudent to have a public meeting to actually advise and get feedback from everyone. It is very difficult for some people(including me) to write a submission to express the personal concerns about the possible far reaching issues. I am concerned of the huge extra costs put on the farming community trying to run and operate their farms. Farmers in particular pay very close attention to their own water supplies and those running off and onto their properties. It is not in anyone's interest to "stuff" up the natural flow (I have seen the Shire really stuff up natural waterways and drainage without consult of drainage easements of the property) The cost and time incurred in obtaining permission from council let alone the associated extra costs which this involves.	As it stands, the local planning framework requires planning approval for all dams. The policy that is proposed will remove this requirement for the majority of dam proposals. If supported, this will remove costs and delays for farmers and other landowners. The proposed policy includes safeguards to ensure that very large dams, proposals that involve vegetation clearing, and proposals that are close to a natural waterway will still require planning assessment. The policy does not take a position on water availability – this is a matter regulated separately by the State Government.

		I apologise for this being late and for not being able to express my concerns in writing very good. I think you will find there are a lot of people like me. It is disappointing as a farmer/landowner to have yet another issue descend on us now.	
7	Allison Carter William Carter	Submission from a Farmer's Perspective Introduction: The Shire of Plantagenet's Draft Local Planning Policy No. 8 (LPP8) – Dams & Water Features – proposes new standards for dam construction and water features, and is currently open for public consultation. This policy aims to clarify when development (planning) approval is required for dams and to set "acceptable development" criteria under which certain new dams would be exempt from approval. The Shire explicitly recognizes that farm dams are essential infrastructure for agriculture, especially as climate conditions dry, and it intends to support productive water storage on farms. However, from the perspective of a fourth-generation farmer in the region, the draft policy also raises significant concerns about overreach, added burdens, unclear rules, and potential conflicts with existing rights and laws. This submission identifies the top 15 concerns a local farmer might have with LPP8, highlighting vague provisions that could enable subjective enforcement, and examines how the draft policy aligns or clashes with Western Australian legislation and guidelines (including the Planning and Development Act 2005, State Planning Policy 2.9 – Water Resources, and relevant Department of Water and Environmental Regulation (DWER) / Department of Primary Industries and Regional Development (DPIRD) guidance). This submission centres on the Shire of Plantagenet's jurisdiction in WA and considers	This submission was generated using the assistance of artificial intelligence and contains a significant number of factual inaccuracies. In summary, the comments made in this submission are not supported and relevant issues have been addressed as necessary in the proposed policy (as amended). 1. Planning approval is required for development under the Planning and Development Act 2005 and case law establishes that dams are a form of development requiring approval. The proposed policy will remove this requirement for the vast majority of dams. The proposed policy clearly indicates that the Shire does not control water use allocation and that this is a matter regulated by the State Government in selected catchment areas only. 2. Planning approval is required for development under the Planning and Development Act 2005 and case law establishes that dams are a form of development requiring approval. Many landowners have constructed dams without seeking planning approval from the

		implications for both existing dams on farms and future dam installations. Key Farming Concerns with Draft LPP8 – Dams & Water Features 1. Perceived Regulatory Overreach into Water Rights: Farmers may view the Shire's move to regulate farm dams as an over extension beyond local government's core planning role. Water use and allocation are traditionally managed by state laws and DWER (under the Rights in Water and Irrigation Act 1914), not local councils. The draft LPP8 acknowledges this division – it pointedly "does not take a position on the availability of water within a catchment", deferring to DWER's allocation and ecological flow assessments. While this means the Shire won't police how much water a farmer can capture (avoiding direct allocation limits), some farmers worry that the very requirement to get planning approval for a dam (something historically seen as a private farm matter) represents government overreach. The fear is, the Shire could use planning controls to indirectly influence water usage or impose conditions on dam operation (e.g. mandating "environmental flows" or outlet pipes). In essence, there is concern that LPP8 could allow local authorities to encroach on water management, duplicating or conflicting with DWER's role. Farmers have the right to question whether the Shire has the legal authority to regulate dams so closely, given that water entitlements are governed at the State level. This overreach concern ties into the broader issue of legislative scope – namely whether a local planning policy can lawfully dictate aspects of dam construction and use that overlap with state jurisdiction. 2. Increased Approval Burdens and Red Tape: Even though the policy's intent is to reduce approval requirements for low-risk dams, farmers remain concerned	Shire. If the proposed policy is adopted, planning approval will no longer be required for many dams which therefore legitimises many of these previously unauthorised dams. Dams that were constructed without approval and do not meet the 'acceptable development standards' of the proposed policy will require retrospective approval (as they do now). The acceptable development criteria have been designed to be simple to interpret and an information brochure has been developed to assist. 3. The definition of a dam in State Planning Policy 2.9 does not distinguish between productive and aesthetic purposes. Planning assessment will consider a clearly defined link to a productive land use – for example, a dam on a property that has established agricultural activity. This will only apply as a consideration where planning assessment is required – and is not a consideration for dams that can be developed under the acceptable development criteria. 4. The acceptable development criteria have been designed to be simple to interpret and an information brochure has been developed to assist. Shire staff will be available to assist upon enquiry.

		about new bureaucratic hurdles. Currently, many farms have installed dams for stock water or irrigation without ever seeking planning approval (a fact the Shire itself notes). LPP8 would formalize the need for approval for any dam that doesn't meet the strict "deemed-to-comply" standards, potentially bringing longstanding farm practices under regulatory oversight for the first time. A fourth-generation farmer might worry that any dam of significant size, or those in certain locations, will now trigger a development application – involving paperwork, fees, technical reports, and waiting periods. This operational burden could delay critical water projects; for example, a farmer wanting to build a dam over summer (dry season construction) might miss the window while navigating approvals. Even for dams that meet the exemption criteria, farmers may feel compelled to consult the Shire or get confirmation that their plans truly qualify – effectively adding a compliance check step where previously they would "just get on with it." Although the Shire aims to exempt "low-risk" dams, the need to interpret and adhere to the detailed standards itself introduces complexity. Farmers accustomed to quickly digging small dams or soaks might now need to carefully cross-check policy criteria (or hire consultants), adding red tape to what used to be a straightforward farm decision. In short, any new layer of approvals – even if well-intentioned – is seen as extra bureaucracy that could hinder timely on-farm water management. 3. Ambiguity in "Productive" vs "Aesthetic" Definitions: The draft policy draws a clear distinction between dams for productive agricultural use and "water features" built for aesthetic or leisure purposes, with a heavy policy bias in favour of the former. However, from a farmer's perspective, the criteria for what counts as "productive" versus "aesthetic" can be vague and subjective. LPP8's definitions (drawn from	The State Government has prepared mapping of waterways that is available for public access without cost via Landgate Map Viewer and Locate (for example). 5. Many landowners have historically constructed dams without seeking planning approval from the Shire. If the proposed policy is adopted, planning approval will no longer be required for many dams which therefore legitimises many of these previously unauthorised dams. Dams that were constructed without approval and do not meet the 'acceptable development standards' of the proposed policy will require retrospective approval (as they do now). All cases will be assessed and treated on their merits, including consideration of the length of time that the dam has been in place and whether approval was required at the time, or if the dam pre-dates this requirement, and whether any evidence exists of the date that the dam was constructed. Historic dam developments will be 'grandfathered' where these are prior to an approval requirement being introduced in legislation and/or there is insufficient information (ie. prior to aerial photos) to determine the date of construction. 6. Dams that are proposed 'on stream' will require planning approval so that the potential

		State policy) define a “dam” to include any artificial water-retaining structure, and explicitly exclude “other water features that are for an aesthetic rather than a productive purpose”. But nowhere does the policy quantify or clearly delineate how to judge a proposal’s purpose. This ambiguity could lead to subjective enforcement: a small vineyard owner or hobby farmer might consider a dam essential for watering a few stock and gardens (a legitimate rural use), but the Shire could view it as primarily ornamental if the property is a “lifestyle” block. The phrase “aesthetic water features on smaller ‘lifestyle’ properties” suggests the Shire intends to discourage dams that aren’t tied to significant agricultural production – yet many family farms have dual purposes (practical water storage that also creates an attractive farm landscape). A farmer might fear that an official could label their dam “recreational” or not sufficiently productive if, say, it also supports a bit of wildlife or visual appeal near a future farmhouse. The lack of clear metrics (e.g. a minimum property size, number of livestock, or crop area to qualify as “productive use”) is problematic. This unclear language means decisions may come down to a planner’s judgment, opening the door to inconsistent or unfair outcomes. Farmers would prefer objective standards; otherwise, they risk having necessary dams delayed or denied because they are perceived as decorative. 4. Unclear Exemption Thresholds and Technical Criteria: While LPP8 promises “acceptable development standards” that, if met, exempt a dam from needing planning approval, farmers are concerned that these thresholds may be complex, arbitrary, or difficult to interpret. The policy documentation indicates that exemptions will apply to dams that are “relatively small in scale (depending on the zone) and not located on a natural waterway or wetland”. However, farmers need clarity on what “small in scale” means for their specific	impact on the waterway can be assessed on a case-by-case basis. This is not considered to be a low risk form of development and therefore requires approval. The State Government has prepared mapping of waterways that is available for public access without cost via Landgate Map Viewer and Locate (for example). 7. This policy does not introduce a prohibition on clearing – it provides a trigger for an approval to be required. This will allow for planning assessment to take place which can consider the extent and value of vegetation that is proposed to be removed. Proposals will be assessed on a case-by-case basis. The Shire can only authorise the clearing of vegetation by issuing a development (planning) approval. In all other instances a landowner will need to seek a clearing permit or exemption from the Department of Water & Environmental Regulation. The policy provides a clear path for proposals that do not involve clearing, and this encourages landowners to avoid clearing vegetation in the first instance. 8. The proposed policy introduces the opportunity for low-risk development to proceed without the need for planning approval, including standard lot boundary setbacks.

		property. The draft presumably sets limits such as maximum wall height, volume (capacity), or surface area for each zoning category, but without the exact figures readily understandable, there is confusion. For instance, if a dam just barely exceeds the volume limit by a few megalitres, will it lose the exemption and force a full development application? If different rural zones (e.g. "Rural" vs "Rural Residential") have different size limits or rules, a landowner might not even realize which rules apply to them, especially on mixed-zoned land. This could lead to unintentional non-compliance. Moreover, the standards likely include technical siting requirements – e.g. setbacks from property boundaries, maximum depth, spillway design, etc. – that many farmers might not be familiar with. The cumulative complexity of these criteria is a concern: farmers fear a "gotcha" scenario where a minor aspect (like encroaching into a mapped wetland area by a few meters) disqualifies the dam from exemption. Without clear, plain-English guidance and perhaps on-site advisory services, there's a risk that the exemption regime will be underutilized – with farmers either unknowingly violating a standard or opting to go through approval anyway to be safe. In summary, the lack of clarity and simplicity in the exemption thresholds could undermine the policy's intent to simplify life for rural landholders, instead leaving them anxious about the fine print. 5. Impacts on Existing Dams – Retrospective Compliance Worries: A major concern is how LPP8 will treat the numerous existing farm dams that were built without prior planning approval. The Shire openly notes that a "substantial number of dams have been constructed historically and more recently without the landowner having first obtained approval". Farmers want assurance that these established water assets – often essential for their current operations – won't be jeopardized.	Where a proposed dam does not meet these acceptable development standards, approval is required. Planning assessment will take into account the assessment criteria outlined at Part 5 of the policy. Each case will be assessed on its merits. The approvals process provides a safeguard to avoid any clearly detrimental outcomes. Achieving the highest functionality for a dam must be balanced against other outcomes for neighbours and the community. The Shire has a responsibility to consider this balance in making any planning decision, noting that if a landowner is not satisfied with this decision they are entitled to appeal to the State Administrative Tribunal. The preparation of an updated Local Planning Strategy including more detailed work on visual landscape values will assist in removing subjectivity around visual amenity assessment. 9. The Shire agrees that the proper construction of dams and consideration of potential downstream risks (in the event of dam failure) is highly important. Changes to the proposed policy are recommended as a result of feedback received, which support dam walls of up to 4m in height and dam volumes of up to 30,000m^3 without the need for engineering certification of development plans, unless there is a clearly apparent downstream risk.

		The draft policy suggests it will "remove the need for planning approval in the vast majority of these cases", implying that most existing dams will be considered lawful (or at least tolerated) if they meet the new "low-risk" standards. While this is reassuring for some, it means that some dams might not qualify for the exemption. For example, an older dam built on a creek (a "natural waterway") or one that is larger than the new size limits might remain technically non-compliant. There may be concerns that such dams will now require retrospective approval or alterations. Will the Shire force changes or even removals of existing dams that don't fit the new policy? The policy text is unclear on grandfathering provisions. A fourth-generation farmer might have dams built by their parents or grandparents in spots now considered environmentally sensitive – e.g. in a wetlands area or too close to a boundary – and fear that the Shire could label these as unlawful developments. Even if enforcement against old dams is not the intention, the ambiguity leaves farmers uneasy. They seek explicit confirmation that existing dams can continue operating under existing use rights or common-sense exemptions. Any hint that LPP8 could be applied retrospectively (through a compliance crackdown on non-exempt dams) will be met with strong resistance, as it touches on property rights and generational investments in farm infrastructure. 6. Restrictions on On-Stream ("Watercourse") Dams: The draft policy would prohibit or heavily regulate dams on natural waterways by denying them exempt status. Specifically, any dam "located on a natural waterway or wetland" will require planning approval and special assessment. From an environmental standpoint, this aligns with best practice – DWER guidelines encourage off-stream dams to maintain river flow, and require on-stream dams (if allowed) to include bypass channels or low-flow release	Further changes to the proposed policy include a clear statement that the standard of construction and maintenance, and liability for dam failure, are the sole responsibility of the landowner in all circumstances. It is the responsibility of the landowner to seek professional advice and assistance where they believe it to be necessary, especially for major dam proposals, and this is considered a reasonable and appropriate cost of undertaking the development. If the Shire identifies a clear downstream risk, plans certified by a qualified engineer will be requested such that it can be satisfied that the development is not causing an undue public risk. The proposed policy does not mandate dam construction requirements like freeboard heights or spillway design as these should be determined on a case-by-case basis and in consultation with a qualified engineer. 10. Changes to the proposed policy are recommended as a result of feedback received, which includes an additional category supporting up to 4ha of dams on properties over 60ha in the Rural Zone without the need for planning approval. The proposed policy outlines acceptable development standards as a means to identify low-risk development that does not require planning approval. This is not a prohibition or cap on what can potentially be approved via a planning application. Any planning application

		mechanisms to sustain downstream ecology. However, from a traditional farming perspective, this restriction is a serious concern. Many older farms in Plantagenet have dams built on small creeks or gullies that flow in winter, as these locations naturally capture runoff. Requiring all new on-stream dams to go through a full planning approval (and likely detailed hydrological studies) is seen as onerous. A farmer might argue that in hilly terrain, building off-stream dams (and pumping water into them) is far less efficient and more costly than simply erecting a dam wall in the gully. By disqualifying on-stream dams from the "deemed-to-comply" pathway, LPP8 could discourage farmers from developing water resources on parts of their land that are otherwise ideal for dam construction (from a yield perspective). There's also ambiguity in what counts as a "natural waterway". The policy says DWER mapping will be used to identify rivers, creeks, streams etc. as waterways, but farmers know that many minor, drainage lines might or might not appear on such maps. This raises a question: If a farmer thinks a gully is not a defined creek and builds an exempt dam, could the Shire later deem it a watercourse and retrospectively require approval? The grey area around defining waterways could lead to disputes. Overall, while farmers understand the need to protect year-round streams and wetlands, they are concerned that a blanket approach might limit sensible water harvesting opportunities. They fear more red tape or outright refusals for on-stream dams, which have been a mainstay of farm water supply in the region. 7. Constraints on Clearing and Land Use for Dams: LPP8 is likely to include provisions to protect remnant vegetation, wetlands, and natural ecosystems when building dams. Indeed, one of the assessment criteria listed is "the protection of environmental values including the retention of waterways, wetlands and remnant vegetation. From a	received by the Shire will be assessed on a case-by-case basis in accordance with the assessment criteria outlined at Part 5 of the policy. 11. The proposed policy prioritises the development of dams that support primary production. The acceptable development standards of the policy are considered to provide sufficiently for most small landholdings, and proposals for larger dams can be considered on a case-by-case basis. 12. There is no obligation on a landowner to notify the Shire if they are undertaking development that is exempt from approval. If a landowner wishes to seek surety that their proposed dam is exempt from approval they are able to enquire via the Shire's Planning & Development Services team. By introducing clearly defined acceptable development standards the proposed policy provides certainty and removes barriers to development for landowners. The Shire will take a consistent approach to compliance enforcement. Compliance enforcement supports equity for landowners that comply with approval requirements.

		farmer's viewpoint, this raises concern about land clearing restrictions and loss of arable land for dam projects. Many farms have remnant bush in lower, wetter areas which might be the best dam sites; a strict interpretation of the policy might forbid touching these areas. Farmers may worry that even minimal clearing (a few trees or scrub) for dam walls or catchment will be flagged as violating the policy's acceptable standards. This could force dams into less suitable locations (e.g. open paddocks on higher ground) that require more earthworks and yield less water, negatively impacting farm water supply efficiency. There's also uncertainty about regulatory overlap: clearing of native vegetation in WA typically requires a permit from DWER (unless exemptions apply), but will compliance with that process be enough or will the Shire add another layer? If a farmer obtains a state clearing permit for a dam, they might expect the Shire to respect it – yet the local policy might still allow refusal on the grounds of environmental impact at the planning approval stage. The language "retention of … remnant vegetation" without qualifiers is quite broad, potentially giving the Shire power to oppose any dam that disturbs even small pockets of native flora. Farmers fear this could amount to an effective ban on dams in uncleared areas, even if the environmental impact is minor or can be offset (for example, by replanting elsewhere). They seek clarity on how environmental values will be balanced against the water needs of the farm. As it stands, vague terms like "protection of… wetlands" could be used to halt dams near any seasonally damp depression labelled as a wetland on a map. This ambiguity in environmental provisions makes farmers nervous that the policy could be used to unduly "over-control" land management under the guise of conservation, even in a farming district.	A landowner that is unsatisfied by a decision made by the Shire or Council is entitled to appeal to the State Administrative Tribunal. 13. The proposed policy removes the requirement for development (planning) approval for the majority of dams. This policy does not affect or change any other regulatory requirements that are enforced by the State Government. Landowners are able to contact the Shire and/or DWER for advice prior to finalise their plans or formally applying for approvals. Where a planning application is required, the Shire can request advice from DWER which can be provided to the applicant. 14. Landowners are encouraged to forward plan for water needs and long-term security and to factor in timeframes required to obtain approvals where necessary. It is noted that the proposed policy removes the need for development (planning) approval in many circumstances. Maintenance of an existing dam does not require approval. Expansion of an existing dam may require approval if this will exceed the acceptable development standards.

		8. Subjective "Visual Amenity" and Landscape Impact Controls: The draft LPP8 and existing scheme provisions emphasize protecting the visual landscape from the impacts of dam construction. For example, in certain rural-residential zones the Scheme already requires consideration of "protection of visual amenity" and limits dams to within building envelopes to minimize their visibility. A farming family may view these aesthetic controls with suspicion, especially on general agricultural land. Visual amenity is inherently subjective – what one person considers an eyesore, another might see as a normal farm dam or even an enhancement (many find water bodies visually pleasant). Farmers worry that Shire planners or neighbours could object to a dam simply because of its appearance or its effect on the "streetscape", even if the dam is otherwise sound. The draft policy's assessment criteria likely include evaluating the "visual landscape values, streetscape and the amenity of neighbouring landowners, including the scale of dam development and ability to minimise visibility" (as suggested by Council documents). This puts pressure on farmers to possibly undertake screening measures – like planting vegetation buffers or situating dams away from roads – which might not align with optimal dam siting for water catchment. The concern is that an overly zealous application of visual criteria could prohibit larger above-ground ring tanks or turkey-nest dams (which can look like big embankments) or require expensive landscaping to hide dam walls. On working farms, function must trump form; a dam's value is in water storage, not looks. If the policy gives equal weight to aesthetic impact, farmers fear minor, subjective complaints (such as a tourist motorist not liking the view of an excavated dam from a scenic road) could stall necessary dam projects. They would prefer clear, reasonable standards (e.g. perhaps "dams should be set back X number of meters from major roads or screened by vegetation where	15. The *Planning and Development (Local Planning Schemes) Regulations 2015* (Schedule 2, Part 7, Clause 61(1) and (2)(g)) allow for exemptions from approval to be made via a local planning policy. The proposed policy has been prepared with reference to relevant elements of the State and Local planning frameworks. The provision of Local Planning Scheme No. 5 and the proposed policy work in concert, with the policy providing detail on how the Scheme is applied. The special provisions of Rural Residential zones 1, 4, 5, 6, 8, 9, 10 and 12 and Rural Smallholdings zones 1 and 2 refer to the need for Shire approvals for dams. In the absence of any exemptions, all dams currently require approval regardless of these provisions. However, it is acknowledged that exemptions in the proposed policy and the existence of these special provisions appears to conflict and that any ambiguity should fall on the side of the Scheme. Officers therefore recommend that exemptions are not applied within these zones without changes to these special provisions being made. It is recommended that this is specifically noted within the proposed policy to avoid uncertainty. Notes provided within the policy refer to the ability of the Shire to refer a planning application to DWER for advice and/or seek more detailed information from the applicant, to inform the making of a decision consistent with the objectives of State Planning Policy 2.9.

		practicable") rather than a nebulous mandate to protect "visual amenity" which could be enforced in an arbitrary way. Essentially, farmers want assurance that productive water infrastructure won't be unreasonably impeded by cosmetic considerations. 9. Downstream Impact and Liability Concerns: The policy highlights the need for "protection of development downstream" of dams, reflecting a legitimate safety concern i.e. a dam should not pose an undue flood risk to lower properties or infrastructure if it fails or overtops. Farmers acknowledge the importance of properly engineered dams (many are aware that poorly built dams can cause downstream erosion or even catastrophic damage if they burst). However, LPP8's approach to downstream impacts could introduce new operational requirements or liabilities for farmers. A major worry is that to satisfy the Shire, farmers might be required to obtain professional engineering designs or flood studies for larger dams as part of the approval process. This adds significant cost and complexity, effectively pricing out some dam projects. Moreover, if the Shire deems a proposed dam as potentially impacting neighbours (for example, by reducing flow or increasing flood peak), it might deny approval or require a smaller size – which directly affects the farm's water supply goals. Ambiguity in the standards is also an issue: phrases like protecting "development downstream" leave open how far this goes. Would a farmer have to prove that a one-in-100-year storm won't wash out their dam and flood a neighbour? Must they demonstrate an emergency spillway can handle extreme events? The DWER's dam construction guidelines recommend designing for at least a 1% AEP (Annual Exceedance Probability) storm event and including adequate spillways, which is sound practice; but making this a planning requirement means potentially hiring hydrologists or civil engineers. Another angle is liability: if a	

		dam is approved under this policy, does the farmer carry full risk if something goes wrong, or will there be ongoing Shire oversight? Farmers might prefer clear rules (like minimum freeboard, mandatory spillway specs for exempt dams) rather than open-ended criteria that could be used to fault them later. They fear a scenario where, after heavy rains, any downstream flooding could be blamed on upstream dams – leading to lawsuits or forced modifications. In summary, while ensuring dam safety is crucial, farmers are concerned that LPP8 might impose onerous design requirements or create uncertainty about liability, without clearly defined guidelines up front. 10. Limits on Dam Size and Volume (Water Storage Capacity): Many farmers are anxious about the size limits that LPP8 will impose on "as-of-right" dams. The policy's wording about exempt dams being "relatively small in scale" suggests explicit maximum capacities or dimensions. If these limits are set too low, they might not meet the real water needs of farms. Water security is a growing concern in the region (acknowledged by the Shire itself), and farmers often aim to build the largest dam feasible on their property to capture enough runoff for drought periods. For example, a broadacre farmer might want a 50 megalitre dam for crop spraying and livestock – but if the policy arbitrarily caps exempt dams at, say, 10 ML in that zone, anything larger faces a full approval process and potential refusal. Farmers fear that the Shire, in defining "low-risk" scale, might be too conservative. An overly stringent volume or wall-height cap could function as a de facto restriction on larger farm dams, unless one is prepared for the time and cost of the planning approval route. Moreover, even if a larger dam can be approved on merits, the policy's stance might empower the Shire to condition approvals with measures that effectively reduce usable volume (such as	

		requiring bypass flows or limiting the catchment area feeding the dam). There's also the question of aggregating multiple dams: if a farmer builds two medium dams under the exempt size instead of one big dam, is that allowed or could it be seen as circumventing the rules? Cumulative storage on one property might not be addressed, leading to a loophole or, conversely, an attempt by the Shire to clamp down on multiple exemptions. Farmers simply want to maximize water capture within sustainable means, and worry that rigid size rules don't account for site-by-site differences (e.g. a 15 ML dam on a small property might be riskier than a 30 ML dam on a large farm with a big catchment – yet the policy might impose the same blanket limit in a zone). This one-size-fits-all approach can be seen as inflexible. The concern is that LPP8's size thresholds might not match the practical realities of farming requirements, potentially hampering efforts to improve water resilience on farms if the "big enough" dam is deemed too big by policy standards. 11. Implications for Small "Lifestyle" Landholders and Hobby Farms: The draft policy clearly tilts in favour of bona fide agricultural operations over purely amenity or lifestyle uses of water. While large-scale farmers appreciate recognition of productive needs, a multi-generational farmer might still be concerned about how the policy treats smaller rural landholders – including, possibly, extended family members on subdivided blocks or neighbours in the district. There is worry of a divisive regulatory environment where "lifestyle farmers" are treated punitively. For instance, a retired farmer on a 5 hectare property or a new family on a tree-change block may genuinely need a dam for domestic water supply, firefighting, or a small market garden, but could be branded as seeking an "aesthetic water feature" and thus face stricter controls or denial. This not only affects community relations but could set	

		a precedent that any use not strictly commercial agriculture is disfavoured. From a long-term farmer's perspective, this is concerning because it might limit the versatility of land use – what if in the future parts of their own farm are sold or repurposed? The new owners (perhaps family members) could struggle to get water storage approved if the property is no longer a traditional farm. Additionally, farmers often rely on networks of dams in an area (e.g. neighbours' dams can collectively support landscape water tables or share firefighting resources). If "lifestyle" properties around them are discouraged or prevented from building dams, the whole district might suffer in terms of water security and fire safety. The language of the policy (supporting dams on rural land for productive uses "ahead of aesthetic water features on lifestyle properties") rings alarm bells for being somewhat antagonistic toward smallholders. Farmers may worry that this could translate into an inflexible stance by the Shire where even well-intentioned small-scale dam proposals are automatically viewed with suspicion. Essentially, while the policy purports to reduce unnecessary approvals, it might only do so for certain landowners, while others get caught in a tougher approval net – raising fairness and equity concerns within the rural community. 12. Enforcement and Compliance Uncertainty: A recurring farmer concern is how the Shire will implement and enforce this policy in practice. The policy sets up a two-track system (exempt vs requires approval), but questions remain: Will farmers have to notify the Shire when building an "exempt" dam, or is it simply at their own risk to determine compliance? If no application is needed, one might proceed – but if the Shire later inspects and finds the dam slightly off the standards, what then? The prospect of being forced after-the-fact to obtain approval (or modify/remove a dam) is daunting. Farmers would prefer a straightforward self-assessment	

		checklist or voluntary pre-consultation, to gain peace of mind that they're within the rules. The policy doesn't clearly outline this process. Moreover, Shire resources for enforcement are limited – many farms are remote, and minor dams might be built without anyone noticing. This raises consistency issues: law-abiding farmers who follow the rules and seek advice could be held to every letter of LPP8, while a neighbour who quietly builds a slightly larger dam might slip under the radar. Such uneven enforcement would breed resentment. There's also concern about how subjective criteria (discussed earlier, like visual impact or "reasonableness" of the proposal) will be applied by individual planning officers or Councillors. Farmers fear that without clear objective measures, one dam proposal might be approved for one person (perhaps considered "reasonable" or unseen from a road), while a very similar proposal elsewhere is refused because a different officer deemed it intrusive. This unpredictability in decision-making is a significant concern – farming operations need certainty to plan investments like dam construction. Additionally, the mention that development approval is required for dams "in any zone unless exempted" implies that previously many people were technically in breach; farmers wonder if there will be any grace period or amnesty to bring existing unapproved dams into compliance. If the Shire were to enforce the letter of the law on past unapproved dams (absent the new exemptions), it could trigger conflict. In summary, farmers seek transparent, fair implementation – they want to know how the rules will be policed and feel confident that they won't be arbitrarily penalized, but the draft policy documents (as currently presented) leave several open questions on enforcement. 13. Overlap with State Approvals and Duplication of Processes:	

		Building a dam can trigger multiple regulatory regimes, and farmers are concerned that LPP8 adds another layer without streamlining any others. In WA, depending on circumstances, a farm dam might require: a water abstraction licence or permit from DWER (if in a proclaimed water management area or if diverting a watercourse), a clearing permit (if native vegetation is cleared beyond exemptions), and in rare cases, consideration under dam safety guidelines if very large. The draft policy does acknowledge DWER's role (especially for large-scale dams) and notes the Shire can refer applications to DWER for advice. However, farmers worry this could lead to bureaucratic ping-pong: for example, the Shire might say "we won't approve until you get DWER sign-off," while DWER might say "we won't issue a water licence until you have development approval." This can trap the proponent in a Catch-22 or at least elongate timelines. The potential for conflicting conditions is also a concern – DWER might approve a dam with certain requirements (e.g. limit on water take or mandatory low-flow bypass) in line with its water management policies, while the Shire's approval (or exemption criteria) might impose different or additional requirements (e.g. specific design aesthetics or location tweaks for planning reasons). Keeping two masters happy is a burden on farmers. There's also the issue of guidance consistency: DWER's water quality note on rural dams opposes purely aesthetic dams and advocates efficient water use, which is in spirit with LPP8's discouragement of ornamental lakes. This alignment is good, but farmers must ensure their project satisfies both the planning policy and any DWER guidelines/license conditions, which may not be exactly the same. For instance, DWER might require a certain spillway design for safety or environmental flow – will the Shire incorporate such technical specifics in its approval, or could a farmer end up re-engineering the dam after a second agency reviews it? The draft policy's silence on coordination	

		details means farmers could face duplicate efforts (submitting similar information to Shire and DWER separately) rather than a one-stop process. Farmers would like to see clearer integration – perhaps a joint assessment pathway or at least recognition that a DWER license satisfies the Shire on water volume concerns. Without that, LPP8 risks creating an extra hoop to jump through, adding to the time and cost for farmers who just want to legally build a dam. 14. Timing and Operational Flexibility: Farming is highly timing-dependent, and rigid regulatory processes can clash with practical necessities. A concern among farmers is that LPP8's requirements might reduce flexibility in how and when they can develop water assets. For example, a farmer might identify a need for a new dam during a particularly dry year or after a bushfire (to boost firefighting capacity). Under LPP8, unless the dam meets every exemption criterion, they must wait – first for a 21+ day public consultation and Council approval cycle for the policy itself (during which time rules are in flux), and later, if an application is needed, for potentially another several weeks or months for planning approval. Missing the dry-season construction window can set a project back an entire year (as earthworks for dams are unviable in wet winter months). This delay risk is a practical worry that the draft policy doesn't appear to address. Even the exempt dams aren't entirely free of process – a wise farmer might still inform the Shire or seek confirmation, which could take time. Moreover, the policy could curtail on-the-fly decisions like enlarging an existing dam after a good rain season (to capture more next year) – something farmers sometimes do opportunistically. If any expansion breaches the standards, they'd technically need approval first, which doesn't fit the immediacy of farm decisions. Another operational aspect is maintenance: if an old dam needs repairing or dredging, would that count as new	

		development requiring compliance with LPP8? Farmers would be concerned if routine maintenance triggers a need to upgrade the dam to current standards or get a permit. If, say, desilting an old on-stream dam is seen as “development” (since it involves excavation), a farmer might delay or avoid important upkeep for fear of bureaucratic entanglement – potentially leading to long-term loss of capacity or dam failure. LPP8’s focus is on new dam development, but farmers would like clarity that maintenance and minor works on existing dams remain hassle-free. In short, the farming community values agility and timing in managing water, and any policy that could bog down or mistime dam works is naturally viewed with caution. 15. Legal Authority and Scope of the Policy: Finally, a fundamental concern is whether the Shire is overstepping its legislative scope with certain aspects of LPP8. Local Planning Policies like this are enabled by the Planning and Development (Local Planning Schemes) Regulations 2015, Schedule 2, which allows councils to prepare policies as guidance for implementing their Local Planning Scheme. Farmers may question if LPP8 is “stepping beyond” what a policy can do. For instance, can a policy lawfully exempt development from requiring approval? Typically, only the Scheme (or the deemed provisions of the Regulations) can exempt classes of development (via Clause 61). The Shire’s report indicates an intention to introduce exemptions through the policy, leveraging the ability for local planning policies to specify certain works as not needing approval. While this is innovative and likely within regulatory allowance (some WA schemes include a provision that works compliant with a local planning policy may be exempt from approval), it toes the line of how binding a policy can be. Farmers want to ensure that the exemptions are legally robust – otherwise, a future challenge or change could invalidate	

		those and reinstate approval requirements for all dams. Conversely, where LPP8 is more restrictive, is it supported by higher policy? The State Planning Policy 2.9 – Water Resources sets broad goals to protect water quantity and quality, and calls for planning decisions to maintain natural flow regimes and consider environmental water requirements. One could argue that by not addressing cumulative catchment impacts or mandating flow releases (leaving it to DWER), LPP8 is a bit weaker than SPP 2.9's intent, focusing mostly on site-level issues. However, farmers might see that as a positive (the Shire isn't exceeding its mandate by policing water allocation). The key is consistency: local policies must be consistent with State laws and policies, or they risk challenge. If any provisions of LPP8 contradict the Scheme or rights under the Planning and Development Act 2005, they cannot be enforced. For example, Plantagenet's scheme currently has special provisions (for certain zones) like "dams only permitted within building envelopes" ; a local policy cannot override that outright. So if LPP8 tried to allow an exempt dam outside a building envelope in a Rural Residential zone, that would be beyond its power unless the Scheme is amended. Farmers are keenly aware of these nuances – they don't want to invest in a dam under an "exemption" that later is deemed invalid because it conflicted with a scheme clause or was ultra vires (beyond power). Thus, a top concern is ensuring the Shire sticks to its legislative lane: providing helpful guidance and sensible standards, without veering into regulating water use per se (DWER's job) or imposing rules that aren't legally grounded. This concern, while technical, underpins many of the above points – clarity, consistency, and lawfulness are essential so that farmers can rely on the policy with confidence. Clashes with Existing WA Laws & Policies	

		In reviewing Draft LPP8 against the broader Western Australian regulatory framework, a few potential contradictions or tensions emerge: • Planning and Development Act 2005 & Local Planning Scheme Regulations: By defining dam construction (including earthworks and clearing) as "development," the Act requires planning approval unless exempted. LPP8 is an attempt to carve out certain exemptions, which is unusual but allowable if done under the mechanisms of the 2015 Regulations (Clause 61). The Shire's approach is to use the local policy to specify deemed-to-comply dam projects that don't need approval. This must be handled carefully to not conflict with the Scheme. The Shire acknowledges that local policies are "subsidiary" to the Scheme, meaning LPP8 cannot override any explicit scheme requirements. Thus, any zone-specific rule in the scheme (e.g. prohibiting dams on strata lots or requiring building envelope location) will still trump the policy. A farmer reading LPP8 in isolation might miss that – creating a clash by omission. Legally, if the policy inadvertently "oversteps" (for example, by purporting to allow something the Scheme disallows), that portion of the policy would be invalid. No direct contradiction with the P&D Act itself is evident (the Act sets up SPPs and schemes as the controlling instruments, and the policy is an ancillary tool). However, the success of LPP8 in changing approval requirements depends on aligning with the Planning Regulations – specifically using the provision that allows local governments to identify exempt works via policy. As long as that is done correctly (and presumably notified to the WA Planning Commission if required), it stays within scope. Farmers are likely more concerned with practical effects than the fine legal point, but this is an area to watch: if the policy	

		isn't tightly drafted in legal terms, it could be challenged or fail to provide the promised exemptions. • State Planning Policy 2.9 – Water Resources (2006): SPP 2.9 provides high-level guidance to protect and manage water resources in planning decisions. It emphasizes protecting environmental flows, water quality, and integrating land use with water resource sustainability. Draft LPP8 is partially aligned with SPP 2.9: for instance, it seeks to ensure dam developments don't unduly impact waterways or wetlands (echoing SPP 2.9's call to safeguard significant water resources) and encourages sustainable use of water (by discouraging purely ornamental dams). In spirit, prioritizing productive water use on farms over aesthetic uses is consistent with government water efficiency views. However, a possible contradiction is LPP8's hands-off stance on water allocation and cumulative catchment impact. SPP 2.9 expects planning authorities to consider total water cycle management, including not approving developments that would result in unacceptable reductions in water availability for the environment or other users. LPP8 explicitly says it "does not take a position" on the availability of water or needs of other users in the catchment, deferring that entirely to DWER. While the Shire is likely doing this to avoid duplicating DWER's mandate, it could be seen as avoiding an SPP 2.9 responsibility. Ideally, local governments should recognize water allocation plans and ensure, for example, that a proliferation of farm dams doesn't cumulatively starve streams. LPP8 instead treats each dam on its planning merits (size, location, purpose) and punts broader water balance issues to DWER. If there were a scenario where a dam met all LPP8 planning criteria but would significantly reduce downstream flow, SPP 2.9 principles would suggest it should be modified or refused in planning to maintain flow regimes.	

		LPP8 doesn't articulate that – it would rely on DWER to intervene via licensing. This isn't an outright legal conflict (since DWER can indeed manage allocations), but it is a policy gap relative to SPP 2.9's holistic approach. Farmers might not complain about this (since it means the Shire won't itself limit their water capture plans), but it's noteworthy in a planning consistency context. • DWER Guidelines and Regulations: DWER's role encompasses water quality protection, dam safety, and licensing. The policy largely complements DWER's Water Quality Protection Note 53 on farm dams – both discourage purely aesthetic dams as wasteful and prefer off-stream dams to reduce ecological disruption. There's no direct contradiction here; in fact, if anything LPP8 is influenced by such guidance. One area of potential overlap is the matter of environmental flow releases for on-stream dams. DWER guidelines say on-stream dams should have provisions to maintain low flows and not capture dry-season trickles. LPP8 doesn't explicitly say what a farmer must do to get approval for an on-stream dam (beyond needing a full assessment). It's likely that as a condition of any planning approval for a large on-stream dam, the Shire would require what DWER advises (e.g. a bypass or regulated outlet). There's no conflict as long as the Shire indeed listens to DWER's advice in those cases. Another point: DWER's licensing under the RIWI Act (Rights in Water and Irrigation) in proclaimed areas will limit how much water a dam can store or divert. If LPP8 were to approve a large dam in a proclaimed area but DWER only grants a small allocation, the farmer effectively cannot use the full capacity. This is more an administrative clash than a legal one – two approvals governing different aspects – but it could cause frustration. The policy could mitigate this by clearly informing applicants that DWER approval may be needed separately	

		and that Shire approval is not a green light to take water beyond DWER limits. Not making that clear might set up uninformed farmers for legal troubles if they assume council approval = water rights. In sum, no outright contradictions with DWER's known policies are evident; rather, the success of LPP8 will depend on close coordination with DWER to avoid mixed messages. • DPIRD Guidelines and Agricultural Policies: DPIRD provides technical guides for farm dam planning and emphasizes integrated farm water management. These guides encourage farmers to build well-designed dams to secure water for livestock, cropping, etc., and caution against pitfalls of poor design (leaks, erosion, failures). LPP8's objectives to ensure dams are environmentally sound and appropriately located align with the notion of "good design and siting". There isn't a direct regulatory conflict, since DPIRD guidelines are advisory. One could argue if LPP8 made dam approval too difficult, it would clash with DPIRD's goal of improving on-farm water supplies. But since LPP8 aims to facilitate reasonable dams (by exempting many and allowing others on merit), it doesn't contradict DPIRD's stance. If anything, a farmer might leverage DPIRD's materials to support their case that a dam is necessary for agricultural resilience. A minor nuance: DPIRD's interest is in productivity and farm sustainability, so if a farmer feels LPP8's conditions (like limiting dam size or location) reduce the farm's water potential, they might say it conflicts with state agricultural policy to build drought-proof farms. That would be more of a political argument than a legal one. Overall, there's no direct clash with DPIRD – rather, DPIRD provides resources that farmers might use to navigate LPP8's requirements (for instance, calculating stock water needs to justify dam volume). The key point is that all these agencies (Shire, DWER,	

		DPIRD) should ideally be pushing in the same direction – efficient, safe, and environmentally responsible farm dams – and any perceived mixed messaging could be problematic. Implications for Existing vs Future Dams: The draft policy has different implications depending on whether a dam already exists or is yet to be built: • Existing Dams: As noted, many existing farm dams were built without formal approval. LPP8 is largely good news for those – the Shire intends to legitimise most of them by exempting dams that meet the new standards. For example, if an existing dam is small, off any natural creek, and not causing issues, it would now clearly fall under "deemed to comply" and no retrospective application or alterations would be needed. However, for existing dams that don't meet the standards (e.g. a big dam on a watercourse, or one in a visually sensitive spot), the implications are murky. The policy could prompt the Shire to review such dams' impacts; worst-case, the Shire might request modifications (like adding a spillway or reinforcement, or environmental mitigation) or formal applications to keep them. Farmers would resist any retrospective action, and legally there are limits (after a certain number of years, enforcement on unauthorised development can become difficult unless there's a safety issue). It's likely the Shire will only intervene in existing cases if a dam is causing an obvious problem or a complaint is lodged. In general, most existing farm dams will benefit from the new policy by being brought into an acceptable category, reducing fear of non-compliance. Yet, farmers will watch how the Shire handles those outliers that don't neatly fit – the hope is that	

		common sense and grandfathering prevail, rather than heavy-handed enforcement. • Future Dams: Looking forward, anyone planning a new dam will have to design it with LPP8 in mind. The positive implication is greater certainty: the policy lays out what is acceptable without needing approval, giving farmers a clear target to aim for. If they design a dam to be under the size threshold, off-stream, and in an unobtrusive location, they can proceed directly, saving time and money. This is a tangible benefit – it "de-risks" many minor dam projects that previously were technically subject to approval. On the flip side, for future dams that do trigger approval, the policy provides a transparent list of assessment criteria, which at least tells farmers what they need to address (productive purpose, environmental protection, etc.). The negative implications are the constraints: future dams will have to fit within the policy's bounds or face possible refusal. Some farmers might find that the ideal dam they envision is larger or differently situated than LPP8 allows by right, meaning more planning hassle. There could also be a chilling effect – farmers might self-censor their plans (not attempting a larger dam even if needed, because they don't want to deal with approvals). Additionally, with the policy in place, community expectations change: neighbours will know what's allowed and might be quicker to report someone who appears to be building a dam outside the rules. In essence, future dam building in the Shire of Plantagenet will become a more regulated activity, with clear boundaries. This is good for governance and the environment, but farmers will need to be more diligent in planning – engaging surveyors or engineers as necessary to ensure compliance. The hope is that, over time, LPP8 actually makes it easier to get the water infrastructure they need (by smoothing the path for compliant	

		dams and reducing unnecessary permissions). However, if the standards are too restrictive or the process too convoluted, it could have the unintended effect of discouraging legitimate water improvements on farms, which would be detrimental in an era of climate uncertainty. Conclusion: The Draft Local Planning Policy No. 8 on Dams & Water Features represents a significant shift in how the Shire of Plantagenet manages farm water infrastructure. From a multi-generation farmer's viewpoint, the policy is a double-edged sword – it offers welcome clarity and potential relief from red tape for small, well-designed dams, but it also raises concerns about governmental overreach, operational burdens, and ambiguous rules that could be used to micromanage rural land and water use. Key issues include the need for crystal-clear definitions (to avoid subjective judgments on what is "productive" or "reasonable"), fair and consistent enforcement, and harmony with state laws and agencies so that farmers aren't caught between conflicting requirements. Importantly, the policy must respect its legal limits: acting within the Shire's planning powers and not intruding on matters of water allocation or existing lawful land use beyond its jurisdiction. By addressing these concerns through the consultation process – refining vague provisions, adjusting overly rigid standards, and clarifying the treatment of existing dams – the Shire can ensure that LPP8 truly meets its objectives to support sustainable farm water management without unduly hindering the very people (the farming community) it is meant to serve.	

ATTACHMENT C

Government of Western Australia
Department of Water and Environmental Regulation

Our ref: **REQ-0002247**
Enquiries: Tessa Moulds, southcoast@dwer.wa.gov.au

Dear Will,

LOCAL PLANNING POLICY TO GUIDE THE DEVELOPMENT OF DAMS AND WATER FEATURES – SHIRE OF PLANTAGENET

Thank you for providing the opportunity to comment on the draft *'Proposed Local Planning Policy No_8 – Dams & Water Features.'*

The Department of Water and Environmental Regulation (Department) supports the development of the Local Planning Policy to help guide the development of dams and water features within the Shire.

Attachment 1 contains the Department's comments for your consideration.

Should you require any further information on the comments please contact Tessa Moulds through southcoast@dwer.wa.gov.au

Yours sincerely

Tessa Moulds
Graduate Officer

16 / 01 / 2026

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Attachment 1 - Department of Water and Environmental Regulation comments on the Proposed Local Planning Policy No_8 – Dams & Water Features

Contact for further information: Tessa Moulds, southcoast@dwer.wa.go.au

Topic	Advice
Rights in Water and Irrigation Act 1914	The law relating to the rights to surface and ground water is contained within the by the *Rights in Water and Irrigation Act 1914* (RIWI Act) which is administered by DWER. • In proclaimed RIWI areas, the taking of groundwater or surface water is subject to licensing. Property's not in a proclaimed surface or groundwater area do not require a licence. The current proclaimed surfacewater catchments can be viewed in the Departments website at https://maps.water.wa.gov.au/#/webmap/register • In unproclaimed areas no licence is required. However, o if the dam or any structure which has the capability to "take" water (ie pumping , stopping, impeding or diverting flow) intersects any crown land it requires a bed and banks permit under RIWI o If there is "take of water"*, including on private land , the flow must not be s*ensibly diminished*. That is it must not interfere with the rights of others or cause damage including degradation to the environment through changes in quantity or quality of the water in the watercourse or wetland. Therefore, each proposed dam has the potential to be subject to the RIWI act, and those within proclaimed areas or on crown land will have to be referred to DWER for assessment for a licence and/or bed and banks permit. A guide to the requirement for submission of a permit can be found here https://www.wa.gov.au/service/building-utilities-and-essential-services/integrated-essential-services/form-3p-guide-application-interfere-bed-and-banks *In relation to water, under the *Rights in Water and Irrigation Act 1914,* means to remove water from, or reduce the flow of water in, a watercourse, wetland or underground water source, including by: • pumping or siphoning water • stopping, impeding or diverting the flow of water • releasing water from a wetland • permitting water to flow under natural pressure from a well • permitting stock to drink from a watercourse or wetland • storing water during, or ancillary to, any of those processes or activities.

Topic	Advice
Natural Resource Protection	Regarding catchments and other environments of sensitivity, the following documents should be considered in the approvals process to assist with the protection of vegetation in these areas: • State Planning Policy 2.9 Water Section 7 Policy Measures. • WQPN-6-Vegetation-buffers-to-sensitive-water-resources supports not just the retention of riparian vegetation, but the maintenance of vegetated buffers to waterbodies. WQPN-6-Vegetation-buffers-to-sensitive-water-resources.pdf (www.wa.gov.au)
Dam construction and operation	DWER's Water Quality Protection Note #53 – WQPN 53 - Dam construction and operation in rural areas describes the range of impacts private water supply dams constructed in rural areas can have on our water resources. It also provides recommendations for how dam owners can minimise the environmental impacts of rural dams. The note recommends that dams should be positioned off-stream unless the proponent demonstrates that measures to construct an off-stream dam have been investigated and construction of such a dam is not technically viable. DWER has a presumption against approval of new dams which require clearing of riparian vegetation (water dependent vegetation) due to the potential for impacts.
Native Vegetation	Please note that under section 51C of the *Environmental Protection Act 1986* (EP Act), clearing of native vegetation is an offence unless: • it is undertaken under the authority of a clearing permit • it is done after the person has received notice under Section 51DA(5) that a clearing permit is not required • the clearing is subject to an exemption Exemptions are outlined in Schedule 6 of the EP Act. However, there are no exemptions for clearing of riparian vegetation. This applies to landowners seeking dam approval within remnant native vegetated areas and is important for noting purposes.
Attached Factsheet and checklist	Please refer to the checklist and factsheet for the 'Development Application for Dams' (attached in the email) and the triggering criteria for a development application.

Checklist - Development Approvals for Dams

Information	Provided
Application for Development Approval Form • All landowners must sign the form • Where the property is owned by a company, provide a copy of the ASIC company registration showing that the signatory is permitted to sign on behalf of that company	☐
Current copy of the Certificate of Title • Available to purchase from Landgate • Should there be any Caveats, Covenants, Notifications or Easements on the Title, please provide a copy of these also	☐
Covering letter: • Rationale for dam including existing land use, any proposed changes in land use, and annual water requirements • Type of dam, e.g. gully wall dams, turkey nest dams, or soaks • Source of water, e.g. creek, surface runoff, and/or groundwater • Method of take, e.g. collected via natural inflow (gravity for surface water or hydraulic pressure for groundwater) or pumped	☐
General location and site plan: • Street and lot number and road name • North point • Access points, driveway and/or right of way access • Boundary and lot dimensions • Location and details of any existing buildings (use and footprint), and/or domestic wastewater systems on the land • Contoured topography of the site and surrounds • Existing vegetation cover • Existing and surrounding watercourses, wetlands, and/or dams	☐
Required design and plan/cross section details: • Dam wall length (m) • Top wall level (mAHD) • Bottom wall level (mAHD) • Dam batter slopes (gradient) • Dam storage volume at full supply level (ML) • Water surface area (m2) and depth (m) at full supply level • Spillway location and discharge points • Bypass design and management (where required) • Fish passage design and management (where required) • Earthworks plan including borrow pit (if relevant), stockpile areas, etc. • Details of lining (if proposed and relevant) for turkey nest dams • Associated infrastructure (e.g. pump sheds) • Setbacks – roads, infrastructure, cadastral boundary, wastewater systems, etc. • Proposed erosion and sediment management during construction • Details of who will construct the dam	☐
Engineering report (where relevant, see factsheet for more detail): • Erosion and sediment control management during construction activities • Evidence the dam has been designed and approved by certified engineer • For high risk dams evidence that the design meet the *Guidelines on Dam Safety Management (ANCOLD 2003)* (where relevant, see factsheet for more detail)	☐
Geotechnical report(where relevant, see factsheet for more detail): • Provision of evidence that borrow pit material is suitable for the dam wall construction	☐

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Checklist - Development Approvals for Dams

Information	Provided
Environmental report (where relevant, see factsheet for more detail): • Flora and fauna surveys for sensitive environmental areas • Details of any remnant vegetation to be removed for the purpose of dam construction	☐
Hydrology Report (where relevant, see factsheet for more detail): • Details of any relevant waterways and/or impact on catchment flows, which may require a hydrology report to be prepared	☐
Fencing and revegetation plan (where relevant, see factsheet for more detail): • Detailed site plan highlighting areas to be revegetated or landscaped (including species list, planting distance, planting season) • Fencing and livestock management to protect water quality	☐
Status of regulatory requirements or exemptions (where relevant, see factsheet for more detail): • Licence to take water and/or permit to interfere with the bed and bank required under the *Rights in Water and Irrigation Act 1914* • Perceived exemption from regulation under the *Rights in Water and Irrigation Act 1914* consistent with the *Guideline: Spring exemptions* (2023) • Clearing permit required under the *Environmental Protection Act 1986* or *Country Areas Water Supply Act 1947* • Assessment under the *Environment Protection and Biodiversity Conservation Act 1999* • Heritage approval under the *Aboriginal Cultural Heritage Act 2021*	☐

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Factsheet - Development Approvals for Dams

Overview and use

This template factsheet has been prepared through discussion with Shire's of Augusta Margaret River, Capel, Collie, Dardanup, Donnybrook-Balingup, Harvey, Manjimup, and Nannup, and the City of Busselton.

It has been developed in response to outcomes and measures related to dams in *Draft State Planning Policy 2.9 - Planning for water (WAPC 2021)*, i.e.:

- Policy outcome:

  6.11 The construction of dams, crossings and rural drains does not adversely affect the environment, visual amenity, public health or other users (upstream or downstream) of the water resource

- Policy measure:

  Proposals should, in accordance with the Guidelines (references as given in the guidelines):
  c) demonstrate that the dam, crossing or rural drain and their associated clearing and site works manage water resources appropriately and do not result in unacceptable off-site impacts.

  Local planning schemes and/or local planning policies should, in accordance with the Guidelines (references as given in the guidelines):
  d) specify instances where the construction of dams, crossings and rural drains is exempt from development approval; and
  e) outline development requirements for dams, crossings and rural drains in response to local conditions.

The aim is to provide advice to applicants who intend to construct a new or modify an existing dam. It outlines when a development approval is required and what the applicant needs to consider, including what information is required to be provided to support a development approval. The fact sheet aligns with and should be read in conjunction with the development approval checklist.

While it is agreed that greater consistency of approach is required across local governments there will be different approaches resulting from resources, landscapes, development pressures, etc. Therefore, this factsheet is presented as a template, which each local government can modify as required.

Purpose

This factsheet provides advice of when development approval is required for the construction of a new or modification of an existing dam. It should be read alongside the development approvals checklist for dams.

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Factsheet - Development Approvals for Dams

Definition

For the purpose of considering dams in the planning framework, and whether a development approval is required, the term *Dam* means:

- Any man-made structure or excavation constructed to intercept and/or contain water that would normally flow across, through or under any land, including gully wall dams, turkey nest dams, and soaks.

Where:

- Gully walls dams comprise an on-stream above ground structure, which holds water that it prevents from flowing within the stream.
- Turkey nest dams comprise an off-stream above ground structure, which holds water captured from either surface water flows or has water pumped into it.
- Soaks comprise either on-stream or off-stream below ground excavations, which hold water captured from either surface water flows, has water pumped into it, or due to intercepting groundwater.

When is development approval required

Development approval may be required for:

- Any new dam.
- Any works that results in a significant increase in the volume of water that may be intercepted and/or held.

Development approval is not required for maintenance works, unless the intent of the works is to increase the volume of water that may be intercepted and/or held.

For new dams the following exemptions are to be considered and applied by each local government and may include:

- Type of dam (i.e. gully wall dam, turkey nest dam, or soak).
- Zones, noting:
  - There are greater cumulative risks associated with smaller lots, if a set volume is considered as an exemption.
  - Social acceptance of visual impact, disease vector, physical risk, and/or perceived environmental appropriateness may be a greater risk for smaller lots, and consideration is required if volume or surface area should be considered as the exemption threshold.
- Dam volume, noting:
  - Section 2.4.1 and Policy 4.1 in Table 4 of the *Whicher Area surface water allocation plan (DoW 2009)* and Policy 3.1 in Table 3 of the *Warren–Donnelly surface water allocation plan (DoW 2012)*, which based on an assessment of dams in the catchment has set a volume of 8,000kL to trigger the need for regulation (in relation to the take of water).
  - The above reference is not related to where a soak may intercept groundwater, as this may require regulation in accordance with the *South West groundwater areas allocation plan (DoW 2009).*

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For new dams and modifications to existing dams and regardless of the above exemptions, development approval is required where a new dam or the modifications to an existing dam:

- is located within a relevant Special Control Areas, e.g. Flood Prone Land or Public Drinking Water Source Areas;
- requires the clearing of remnant native vegetation;
- extends across multiple lots, regardless of ownership and includes consideration of the dam, associated infrastructure (spillway, pump shed, etc.) and/or reservoir edge at full supply level; and/or
- does not meet the required setback, where the setback is measured from the outer extremity of the dam wall, associated infrastructure (spillway, pump shed, etc.) and/or reservoir edge at full supply level including the tailwater.

Assessment considerations

The following will be considered:

- Consistency with the objectives of the zone.
- Any relevant development area plan, development guide plan, structure plan and/or subdivision guide plan that relate to the property.
- The environmental impacts of the dam on local water resources (including protecting existing commercial and domestic downstream users including the environment), minimising the need for clearing of native vegetation, and protection of protected or threatened flora, fauna, or ecological communities.
- The visual or aesthetic impacts of the dam on the visual amenity and character of the locality.
- The size of the dam and how it relates to the capability and catchment of the site and the intended land use.
- The design and construction of the dam.
- Advice from state agencies.

Information required

The checklist for applications for development approval for dams provide a list of what is required.

This includes proving the water demand for the intended land use, which will help inform and prove up the required dam storage capacity. The total capacity of the dam will need to consider three elements:

- Volume to be retained to prevent drying, cracking and potential dam wall failure.
- Dam leakage and evaporative losses.
- The consumptive water demand.

Advice on the above matters can be found on the Department of Primary Industries and Regional Development website at https://www.agric.wa.gov.au/water-management/calculating-farm-dam-excavated-earth-tanks-water-volume.

In some situations, more detailed reports and information are required. Further advice is provided below for when these are required, and how and when these requirements will be known.

Engineering reports

An engineering report is required if:

- The dam has a reduced boundary setback, below the local government requirements.
- The dam has an uncontrolled inflow and has no spillway, this includes gully wall dams and soaks, as defined in this factsheet.
- The dam has a wall height greater than 15m, or a wall height of greater than 10m where the dam holds greater than 1 Gigalitre water, in accordance with the *Guidelines on Dam Safety Management (ANCOLD 2003)*.
- In the opinion of the Local Government, and in the event of a dam failure unacceptable risk may exist to downstream life, property, and/or important environmental assets.

The primary environmental risk to the receiving environment during construction is sediment mobilisation and/or erosion, resulting from a changed landform and surface water movement through the site.

To reduce the chance and impact of this risk occurring, construction works are recommended to be undertaken during times of the year when rainfall and streamflow's are lowest, and mitigation strategies are considered such as placement of haybales downstream to capture any sediment that may be released. These requirements are relevant for all proposed works on dams and should be clearly detailed in an application for development approval.

Once constructed, failure or unexpected releases of water from dams can potentially impact life, property, and the environment. The main causes for failures of dams are overtopping and piping failures, where water creates flow paths through the dam wall reducing its structural integrity and/or stability.

To avoid these risks: It is recommended that dams are designed to allow for a freeboard above the design storage capacity, and have an overflow mechanism that can safely convey flows up to, at least a 1% annual exceedance probability (AEP) storm event; and the dam contains an impermeable core constructed from a suitable material.

In assessing risk, consideration is required of downstream values that may be impacted in the event of a dam failure. This may include dwellings, roads, high value environmental assets, etc. The local government may determine during the assessment of the application that these values are significant enough to require an engineering report to be prepared to provide:

- Evidence the dam has been designed and approved by certified engineer.
- Geotechnical investigations and/or additional information regarding the dam construction.
- Proposed erosion and sediment management during construction and any vegetation establishment.
- Details of who will construct the dam.

Regardless of downstream values for large dams the *Guidelines on Dam Safety Management (ANCOLD 2003)* need to be complied with. These guidelines are to be applied to dams that have a wall height greater than 15m, or a wall height of greater than 10m where the dam holds greater than 1 Gigalitre water.

Geotechnical report:

A geotechnical report is required if:

- The dam has a reduced boundary setback, below the local government requirements.
- The dam has an uncontrolled inflow and has no spillway, this includes gully wall dams and soaks, as defined in this factsheet.
- The dam has a wall height greater than 15m, or a wall height of greater than 10m where the dam holds greater than 1 Gigalitre water, in accordance with the *Guidelines on Dam Safety Management (ANCOLD 2003)*.
- In the opinion of the Local Government, and in the event of a dam failure unacceptable risk may exist to downstream life, property, and/or important environmental assets.

The soil conditions need to be considered for both the siting and construction of a dam. The use of inappropriate materials can lead to failures of dams due to piping, where water creates flow paths through the dam wall reducing its structural integrity and/or stability.

In assessing risk, consideration is required of downstream values that may be impacted in the event of a dam failure. This may include dwellings, roads, high value environmental assets, etc. The local government may determine during the assessment of the application that these values are significant enough to require a geotechnical investigation to be required to provide:

- Insitu soil parameters for where the dam is to be located.
- Parameters of proposed onsite borrow pits and/or imported soils.

Environmental report

Due to the complex and significant list of potential environmental values the need for an environmental report will be determined by the Local Government, based on an assessment when a development application is submitted, and which may be supported with advice from referral organisations.

There are several environmental factors that may require consideration as part of the assessment of a development approval.

For dams that require a permit to interfere with the bed and banks under the *Rights in Water and Irrigation Act 1914* these matters will be addressed as part of the Department of Water and Environmental Regulation assessment of the application. Waterways proclaimed under this Act can be identified using the Water Register (https://maps.water.wa.gov.au/#/webmap/register).

For dams that do not require regulation under the *Rights in Water and Irrigation Act 1914*, whether a permit to interfere with the bed and banks to construct a dam and/or a licence to take and use water (both surface and groundwater), these matters will be considered by the local government during their assessment of the application and where required the applicant will be advised of further investigations and/or information needs.

- Acid sulphate soils

  Acid sulfate soils occur naturally, and when exposed to air they produce sulfuric acid. The resulting acid can release other substances, including heavy metals, from the soil into groundwater and the surrounding environment.

  Therefore, without proper management the disturbance of acid sulphate soils can have serious impacts, including contamination of surface and groundwater; a reduction in agricultural productivity due to soil degradation; damage to infrastructure through corrosion; and potential threat to human and animal health.

  In situations where acid sulphate soils may be disturbed consideration is required of how the risks can be managed. For further information contact the Department of Water and Environmental Regulation or visit https://der.wa.gov.au/your-environment/acid-sulfate-soils.

- Contaminated sites

  The Department of Water and Environmental Regulation manages contaminated sites in accordance with the *Contaminated Sites Act 2003*.

  Contamination is defined as being where a substance is present at concentrations greater than background levels, that has the potential to present a risk to human health, the environment, and/or any environmental values.

  In situations where a contaminated site may be disturbed consideration is required of what risk the disturbance and potential contact with or release of that contaminants may pose. For further information contact the Department of Water and Environmental Regulation or visit https://www.der.wa.gov.au/your-environment/contaminated-sites.

- Ecological values

  There are many ecological values that are protected under various legislation, it is not expected that applicants will be aware of these. These include but are not limited to declared rare flora and fauna, threatened ecological communities, migratory species, etc. The local government will review these during their assessment of the application and provide advice on further studies as required.

Hydrology report

A hydrology report is required if the dam has a capacity greater than 8ML (8,000m^3) and the take of water does not need to be regulated by DWER (i.e non-commercial (stock and domestic) use), and is:

- on-stream with no bypass system is proposed to maintain shoulder season flows and/or low flows,
- off-stream but is pumping water from a water course,
- required to support high value developments that are dependent upon the water supply, and/or
- on a watercourse with multiple up and/or downstream on and/or off-stream dams.

Dams that capture 8 megalitres or less of surface water are considered to comprise a volume that does not exceed riparian rights and would therefore be considered exempt from regulation under the *Rights in Water and Irrigation Act 1914*. While for dams with a capacity of greater than 8 megalitres, evidence is required that the catchment can sustainably provide the volume of surface water without impacting other users or the environment.

This requires a hydrological assessment, which should take account of the:

- Catchment characteristics, including the sustainable diversion limits.
- The period of take varies for each catchment and are likely to be refined further under a drying climate, currently it should be limited for:
  - the Warren-Donnelly catchment to 15 June to 15 October,
  - the Capel River catchment to 1 May to 30 November,
  - all other catchments covered by the in *Whicher Area surface water allocation plan (DoW 2009)* to 1 June to 30 Sept, and
  - for other catchments advice should be sought from the Department of Water and Environmental Regulation.

The above requirements are detailed in the reports available from the Department of Water and Environmental Regulation's website at: https://www.water.wa.gov.au/water-topics/surface-water/sustainable-diversion-limits#:~:text=Sustainable%20diversion%20limits%20are%20a,south%20west%20of%20Western%20Australia.

The manner in which flows outside of the period of take will be bypassed from the top of the reservoir to discharge below the dam wall, should be shown on the supporting plan and cross section details along with any hydrology assessment that the bypass system has the required capacity.

It is important to understand that seasonal variation and climate change can affect the reliability of supply seasonally and long-term. This may result in the consumptive water demand not being available, and the hydrology report will need to consider this.

Fencing and revegetation plan

The primary aim of the plan is to show how the impact of the land use on water quality will be minimised. There are however multiple other benefits including decreased erosion, reduction of stock losses, improvement in land value, and a safer work environment as detailed in *Stock and waterways: A Manager's Guide (Land & Water Australia, 2006)*.

For sites within public drinking water source areas and depending on the land use set buffer distances may be required. To identify public drinking water source areas visit: https://www.wa.gov.au/service/natural-resources/water-resources/public-drinking-water-source-area-mapping-tool. And more information of the requirements is available in *Water Quality Protection Note 6 - Vegetation buffers to sensitive water resources (DoW, 2006)*, and it is recommended that advice is sought from the Department of Water and Environmental Regulation to discuss site specific situations.

In assessing risk, consideration is required of catchment and receiving environment values alongside risks posed by the proposed land use including the impact on downstream water quality, users, and the environment. The local government may determine during the assessment of the application that these values and risks are significant enough to require a fencing and revegetation plan.

Regulatory requirements

The applicant is responsible for ensuring that regulation, as required under various legislation, are complied with. A brief outline is provided in this section of the legislation that are more regularly applicable to dams, which the applicant should make themselves aware of. For applications that require regulatory approvals under these or other legislation, the application is to include the current status of gaining approval.

- *Rights in Water and Irrigation Act 1914*

  Water resources, both surface water and groundwater, can be proclaimed under this legislation. Where this occurs a permit to interfere with the bed and banks to construct a dam and/or a licence to take and use water (both surface and groundwater) may be required. Where proposed take of water is proposed to be below 8ML and for non-commercial (stock and domestic) use, while a licence may not be required, a permit to construct the dam is a required to be applied for. An exemption from regulation is provided in relation to the presence of a spring at the head of a watercourse. Landholders are recommended to undertake their due diligence against the *Guideline: Spring exemptions (DWER 2023)* to determine whether the exemption is applicable.

  For further information contact the Department of Water and Environmental Regulation or visit https://www.water.wa.gov.au/licensing/water-licensing.

- *Environmental Protection Act 1986*

  Clearing of native vegetation is an offence unless: it is undertaken under the authority of a clearing permit; it is done after the person has received notice under Section 51DA(5) of the *Environmental Protection Act* that a clearing permit is not required; or the clearing is subject to an exemption.

  For further information contact the Department of Water and Environmental Regulation Native Vegetation Regulation section by email (admin.nvp@dwer.wa.gov.au) or visit https://www.der.wa.gov.au/our-work/clearing-permits.

- *Country Areas Water Supply Act 1947*

  Clearing of native vegetation may also require approval under this legislation, if the site is within a catchment that has been designated under this legislation as a controlled catchment.

  For further information contact the Department of Water and Environmental Regulation Country Areas Water Supply administrator by email (cawsa@dwer.wa.gov.au) or visit https://www.der.wa.gov.au/component/k2/item/3995-clearing-in-controlled-catchments.

- *Aboriginal Cultural Heritage Act 2021*

  This legislation aims to protect and manage places and objects of significance to Aboriginal heritage, and consent is required from the Minister for Aboriginal Affairs for any activity which will negatively impact Aboriginal heritage sites.

  For further information contact the Department of Planning, Lands and Heritage or visit https://www.wa.gov.au/organisation/department-of-planning-lands-and-heritage/aboriginal-heritage.

ATTACHMENT D

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GOVERNMENT OF WESTERN AUSTRALIA

WAPC Western Australian Planning Commission

State Planning Policy 2.9
Water

December 2025

Prepared under Part 3 of the *Planning and Development Act 2005* by the Western Australian Planning Commission

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1 CITATION

This is a State Planning Policy prepared under Part 3 of the *Planning and Development Act 2005*. It may be cited as State Planning Policy 2.9 Water.

This policy, in accordance with Part 3 of the Planning and Development (State Planning Policies) Regulations 2024, repeals the following State Planning Policies:

1. *State Planning Policy 2.1 Peel-Harvey Coastal Plain Catchment*
2. *State Planning Policy 2.2 Gnangara Groundwater Protection*
3. *State Planning Policy 2.3 Jandakot Groundwater Protection*
4. *State Planning Policy 2.7 Public Drinking Water Source Policy*
5. *State Planning Policy 2.9 Water Resources*
6. *State Planning Policy 2.10 Swan-Canning River System*
7. *Draft State Planning Policy 2.9 Planning for Water*

This policy replaces the following policies and guidelines:

1. *Better Urban Water Management*
2. *Government Sewerage Policy*
3. *Government Sewerage Policy Explanatory Guidelines.*

Where there are inconsistencies between this policy and the flood measures in Section 5.2 of the State Planning Policy 3.4 Natural Hazards and Disasters, this policy prevails.

2 POLICY INTENT

To ensure that planning and development considers all water matters and delivers the outcomes in section 6 of the policy.

3 WATER IN WESTERN AUSTRALIA

Water is a basic requirement of life. The health and wellbeing of the community, environment and economy are dependent on water that is of sufficient quantity and quality. Groundwater, surface water, desalinated and recycled water support a wide range of ecological values and human use values such as drinking water, irrigation of public open spaces, amenity, recreation, tourism, agriculture, fishing, aquaculture, mining, industry, and cultural heritage.

Western Australia's water resources are vulnerable and subject to increasing pressure from factors that can affect the quality and quantity of water, as well as the values that depend on it. Climate change in Western Australia has already resulted in changes to rainfall patterns, increased temperatures and sea level rise, which in turn have impacted the reliability and quality of our water resources. For example, decreased rainfall in the South West Land Division is resulting in lower recharge to groundwater and surface water flows into waterways and reservoirs.

Land use change and development required to support a growing population can impact water resources through changes to hydrological regimes, ecological health, contamination, water demand, salinisation and eutrophication.

Planning plays an important role in responding to the pressures on water resources. This includes ensuring future development is located adequately, serviced with appropriate wastewater, stormwater and groundwater management infrastructure and contributes towards the management of water quality and quantity, ecological health and the social and cultural values of water resources.

Future development will need to be supported by drinking and non-drinking water supplies from a range of sources, including surface water, groundwater, desalinated seawater, treated wastewater, stormwater and rainwater, and should be suited to the required purpose (that is 'fit-for-purpose').

For the foreseeable future, surface water and groundwater will continue to be the most cost-effective source of high-quality public drinking water. The protection of public drinking water source areas is essential to safeguard public health and retain these strategically important supply resources. The State Government has adopted an integrated land use and water resource management approach to protect public drinking water supplies, with an emphasis on the prevention of risks to water quality.

Development and water resource management are interrelated and need to be assessed and delivered in an integrated manner. Integrated water resource management is essential for the sustainable growth of our state. It provides an opportunity to respond to the pressures on water resources and enhance the values that depend on them. This includes improving the amenity, liveability and economic viability of our cities, towns and rural areas.

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Integrated water resource management requires a whole-of-government approach. It involves a range of water, environmental, planning, health and economic legislation, policies and processes.

4 APPLICATION OF THIS POLICY

This policy and its guidelines outline how water resource management should be integrated into planning processes. For detailed guidance on the implementation and application of this policy, the policy is to be considered in conjunction with the policy mapping and the Water Guidelines (Guidelines).

This policy and its Guidelines apply to the preparation and assessment of proposals in relation to water matters, including regional and sub-regional frameworks, region and local planning schemes and scheme amendments, local planning policies, planning strategies, precinct plans, activity centre plans, structure plans, subdivision applications and development applications across Western Australia.

This policy applies only to proposals prepared and assessed under the *Planning and Development Act 2005*. This policy is not intended to apply to a proposal for a single house on a single lot unless a significant water resource matter has been identified for the lot within a local planning scheme (e.g. sections 7.3, 7.5 and 7.7 of this policy).

The policy mapping includes:

- Public drinking water source areas
- Peel Harvey coastal plain catchment
- Swan Canning river system
- Sensitive water resource areas

The policy mapping is available online and can be viewed at www.dplh.wa.gov.au.

5 POLICY OBJECTIVES

The objectives of this policy are to:

5.1 Protect and improve the environmental and the social, cultural and economic values of the state's water resources.

5.2 Protect public health and the long-term supply of good quality and affordable drinking water.

5.3 Manage the risk of flooding to people, property and infrastructure.

5.4 Ensure the secure and sustainable supply, use, disposal and re-use of water resources.

5.5 Ensure future development is resilient to the water-related impacts of climate change.

5.6 Minimise future costs and protect public health by ensuring that appropriate wastewater infrastructure is provided.

6 POLICY OUTCOMES

The outcomes listed below specify the role of planning and development in contributing to the overall objectives of this policy. Due to the interrelated nature of water resources, each outcome may contribute to multiple objectives. The outcomes should be achieved through compliance with the policy measures. The outcomes may also provide a basis for policy evaluation.

Environmental, social and cultural values

6.1 Planning and development maintains or enhances water quality and hydrological regimes to protect public health and support healthy ecosystems through the:

i. protection of sensitive water resources and other important environments;

ii. protection of existing vegetation and/or restoration of cleared or degraded vegetation, preferably with endemic species;

iii. appropriate siting and management of land uses; and

iv. maintenance of natural flows in waterways, groundwater levels and inundation of wetlands to sustain aquatic and terrestrial habitats through the delivery of appropriate stormwater and groundwater management systems.

6.2 Waterways and wetlands have adequate foreshore areas and wetland buffers to protect, manage and conserve water quality, native vegetation, aquatic and riparian habitats, ecological linkages and associated biodiversity values.

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6.3 Aboriginal heritage values in relation to water resources are identified and protected consistent with the *Aboriginal Heritage Act 1972*.

6.4 Historic heritage values in relation to water resources are protected consistent with the *Heritage Act 2018*.

6.5 Planning and development maintains and enhances public access to water resources where appropriate.

6.6 Planning and development enhances amenity and sense of place associated with water resources, which in turn protect public health and increase resilience of the community.

Riverine flooding

6.7 Planning and development in and around flood-prone land:

i. does not introduce unacceptable risk to people, property or infrastructure;

ii. does not impede the movement of or increase floodwater (upstream or downstream) in flood events; and

iii. reduces, where possible, the impact of flooding on people, property and infrastructure.

Water use and infrastructure

6.8 Water demand is minimised through water sensitive design, and the efficient use and reuse of water.

6.9 Development has access and contributes to secure, fit-for-purpose, sustainable and climate-resilient water supplies. Where practical, this involves recycled water and/or other fit-for-purpose water sources.

6.10 Development connects to or provides for reticulated sewerage to protect public health, amenity and the environment, and to minimise financial burden to future communities.

6.11 Onsite wastewater disposal is provided only in limited circumstances, where reticulated sewerage is not a viable option and where the associated risks are appropriately managed without compromising public health and the environment.

6.12 The construction of dams, crossings and rural drains does not adversely affect the environment, visual amenity, public health or other users (upstream or downstream) of the water resource.

6.13 Safe, resilient and effective stormwater and groundwater management systems adopt water sensitive design approaches to protect and enhance amenity, public health and environmental values.

Public drinking water source protection

6.14 Planning and development in public drinking water source areas maximises the long-term protection and management of water quality and quantity for public drinking water supply.

7 POLICY MEASURES

7.1 General measures

a) All relevant water-related matters should be considered at the earliest possible stage of the planning process and all subsequent stages in accordance with the Guidelines.

b) Proposals are to be accompanied by sufficient information in accordance with the Guidelines, which specify instances where a Water Management Report is required and what it must contain.

c) Proposals and supporting information should be referred to relevant agencies and licensed water service providers in accordance with the Guidelines.

d) Proposals should consider water resource-related issues associated with climate change.

e) Planning decisions (except development applications) should consider cumulative impacts on water resources. Where the cumulative impact is considered significantly detrimental, the proposal should not be supported.

7.2 Environmental, social and cultural values

Wetlands and waterways

Proposals should, in accordance with the Guidelines:

a) identify wetlands and their buffers and waterways and their foreshore areas and/or reserves;

b) facilitate the transfer of wetlands and their buffers and waterways and their foreshore areas to public ownership, where appropriate;

c) retain and/or restore vegetation important for the long-term health of water resources within wetlands and their buffers, waterways and their foreshore areas, preferably using endemic species to restore vegetation;

d) where possible, maintain and restore ecological linkages;

e) identify appropriate measures to protect public health from mosquito-borne diseases;

f) identify and protect sensitive water resources;

g) where possible, protect and enhance vegetation within sensitive water resource areas, in particular endemic species; and

h) ensure land uses with the potential to significantly alter the hydrological regime are managed to protect water resources and associated ecological values and other important environments.

Water quality

Proposals should, in accordance with the Guidelines:

i) minimise export of nutrient and all other contaminants, including sediment, entering water resources;

j) avoid adverse effects on the natural and built environment and/or human health when undertaking subdivision and development of land containing acid sulfate soils or contaminated sites;

k) be located on land where nutrient export to sensitive water resources can be effectively managed, when they involve:

- *agriculture - intensive* (particularly annual horticulture)
- *animal husbandry* – intensive
- *animal establishments or rural pursuits* involving stocking rates that exceed recommended stocking rates

Flexibility to this measure may be applied, in accordance with the Guidelines, where the proposal is located within priority agricultural land. In areas where nutrient export cannot be effectively managed, closed agricultural systems are encouraged; and

l) demonstrate that infrastructure and site management practices are in place to manage nutrient and all other contaminants, including sediment, particularly within sensitive water resource areas and public drinking water source areas, and adjacent to other important environments.

Local planning schemes and local planning policies should, in accordance with the Guidelines:

m) include site-specific measures to prevent and/or manage the potential impacts on water quality and protect water resources.

Social

Proposals should, in accordance with the Guidelines:

n) maintain or enhance safe public access to water resources, except where at the detriment of ecosystem health and/or public drinking water source protection; and

o) maximise opportunities for water in the landscape to enhance amenity, sense of place, liveability and contribute to urban greening and mitigation of urban heat.

Cultural

Proposals should, in accordance with the Guidelines:

p) identify Aboriginal heritage and use best endeavours to protect, avoid or minimise harm consistent with the *Aboriginal Heritage Act 1972*; and

q) identify, conserve and protect historic heritage places and values.

7.3 Riverine flooding

The following measures apply to flood-prone areas dominated by riverine processes. Pluvial flooding, which occurs when an extreme rainfall event creates a flood independent of an overflowing water body, is addressed in the Stormwater and groundwater sub-section of section 7.4 Infrastructure and supply. Coastal storm surge and other inundation associated with water bodies dominated by tidal processes is to be addressed in accordance with *State Planning Policy 2.6 State Coastal Planning*. Where there are inconsistencies between this policy and the flood measures in Section 5.2 of *State Planning Policy 3.4 Natural Hazards and Disasters*, this policy prevails.

Proposals should, in accordance with the Guidelines:

a) identify flood-prone areas;

b) not rezone, subdivide or propose additional development that intensifies land use within a defined floodway;

c) maintain the free passage and temporary storage of floodwaters;

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d) incorporate a minimum habitable finished floor level of 0.5 metre above the expected one per cent annual exceedance probability flood event (or alternative height above the defined flood event as defined in an endorsed floodplain development strategy);

e) consider the flood risk management principles when replacing existing development within a floodway; and

f) be informed by advice from the Department of Water and Environmental Regulation, if flooding is likely and no flood mapping exists.

7.4 Infrastructure and supply

Flooding dominated by riverine processes is addressed in section 7.3 Riverine flooding.

Water demand and supply

Proposals should, in accordance with the Guidelines:

a) minimise future water demand by ensuring that development is designed to conserve and use water efficiently; and

b) demonstrate secure, sustainable and fit-for-purpose drinking and non-drinking water supply for domestic consumption, public open space irrigation and industry. This should include consideration of future rainfall projections that incorporate climate change and, where a licence is required, within water allocation limits.

Dams, crossings and rural drains

Proposals should, in accordance with the Guidelines:

c) demonstrate that the dam, crossing or rural drain does not result in unacceptable on-site or off-site impacts.

Local planning schemes and/or local planning policies should, in accordance with the Guidelines:

d) specify instances where the construction of dams, crossings and rural drains is exempt from development approval; and

e) outline development requirements for dams, crossings and rural drains in response to local conditions.

Stormwater and groundwater

Proposals should, in accordance with the Guidelines:

f) ensure stormwater and groundwater (including pluvial floodwaters) management systems are designed and constructed in accordance with the *Decision process for stormwater management in Western Australia*, *Stormwater Management Manual for Western Australia*, the *Australian Rainfall and Runoff Guidelines*, and the *Water Resource Considerations when Controlling Groundwater Levels in Urban Development*, and

g) in consultation with the relevant water management agency and/or infrastructure manager(s), provide for the retention, detention, conveyance and treatment (where required) of stormwater and manage groundwater inundation, including treatment of groundwater discharges, while also protecting and enhancing environmental functionality, local amenity and liveability; and

h) In the early stages of the planning process, ensure that:

   i. sufficient land is set aside for stormwater and groundwater management; and

   ii. water sensitive design is part of the integrated water management system.

Wastewater

i) Proposals are required to connect to or provide for reticulated sewerage where:

   i. deemed reasonable;

   ii. required on planning grounds; or

   iii. the decision maker determines that the absence of reticulated sewerage will pose an unacceptable risk to public health, the environment or water resources.

   Refer to the Guidelines for details on the assessment of these criteria;

j) Proposals for on-site wastewater disposal[1] may be considered where the decision-maker is satisfied that:

   i. reticulated sewerage is not required in accordance with measure 7.4 i) of this policy;

   ii. each lot can accommodate on-site wastewater disposal in accordance with *AS/NZS 1547 On-site domestic wastewater management* where relevant;

[1] On-site disposal of trade waste to be managed in accordance with an industry regulation approval under the ***Environmental Protection Act 1986***, where relevant.

iii. the site requirements for on-site wastewater disposal outlined in the Guidelines can be met; and

iv. development will be serviced by an appropriate on-site wastewater system, which will manage risk to the environment and public health where relevant.

k) Proposals are, in accordance with the guidelines, encouraged to incorporate the beneficial use and reuse of wastewater; and

l) local planning schemes should, in accordance with the Guidelines, require the provision of reticulated sewerage where appropriate.

7.5 Specific area measures: Public drinking water source areas

In addition to all other measures contained in this policy, the following policy measures apply to public drinking water source areas constituted under the *Metropolitan Water Supply, Sewerage, and Drainage Act 1909* or the *Country Areas Water Supply Act 1947* (identified on the policy map of *Public Drinking Water Source Areas*). They may also be used for guidance within non-constituted drinking water source areas such as remote communities, mine sites and catchments identified as future public drinking water source areas.

The protection of public drinking water source areas and other sources of public drinking water should not be compromised. There is a presumption against development or land uses that pose an increased risk to public drinking water source areas.

Proposals should, in accordance with the Guidelines:

a) be consistent with *Water Quality Protection Note No.25: Land use compatibility tables for public drinking water source areas*. Proposals inconsistent with this document should not be supported;

b) identify public drinking water source area boundaries, priority areas, wellhead protection zones, reservoir protection zones and water off-take points (that is, reservoirs and abstraction bores);

c) include measures to address risk to the drinking water resource. These measures should be incorporated into a Water Management Report where required;

d) provide for connection to reticulated sewerage for all urban and industrial subdivisions;

e) where practical, maintain or increase native vegetation coverage to protect water quality; and

f) be referred to the Department of Water and Environmental Regulation and the relevant licensed water service provider for advice, prior to making a determination on:

i. regional and sub-regional frameworks, region and local planning schemes and scheme amendments, planning strategies, precinct plans, activity centre plans and structure plans;

ii. subdivision applications inconsistent with *Water Quality Protection Note No.25: Land use compatibility tables for public drinking water source areas*; and

iii. development applications involving a use class listed as 'incompatible', 'compatible with conditions', or not identified in *Water Quality Protection Note No.25: Land use compatibility tables for public drinking water source areas*.

The Metropolitan Region Scheme (MRS) and corresponding local planning schemes should, in accordance with the Guidelines:

g) include Priority 1 areas within the Water Catchment reservation;

h) include Priority 2 areas within the 'Rural-Water Protection' zone (or equivalent);

i) identify Priority 3* areas as Special Control Area (or equivalent) in the local planning scheme; and

j) include provisions in the local planning scheme for Priority 3 areas.

Region schemes and local planning schemes outside the MRS area should, in accordance with the Guidelines:

k) assign zones and reserves which reflect the intent of the public drinking water source area priority and facilitate compatible land uses; and

l) identify and protect public drinking water source areas (Priority 1, 2 and 3) as Special Control Areas.

Planning decisions involving the intensification of land uses in Priority 1 and 2 areas should be based on the following and in accordance with the Guidelines:

m) there is a general presumption against the intensification of land uses;

n) proposals will be considered only where the land is located in the MRS area and has been identified for development in the manner proposed through a strategic planning document prepared by the WAPC, such as a sub-regional planning framework or sub-regional structure plan; and

o) planning decisions should give due regard to the detailed assessment of the associated risk to the drinking water source. Criteria to inform this assessment are provided in the Guidelines.

Justification is to be provided in the instance a Special Control Area is not proposed. Justification should address elements such as the size of the public drinking water source area, the site context and whether other sources of water are available.

7.6 Specific area measures: Peel-Harvey coastal plain catchment

In addition to all other measures contained in this policy, specifically 7.2 water quality, the following measures apply to planning proposals in the Peel-Harvey coastal plain catchment (identified on the policy map of *Peel-Harvey Coastal Plain Catchment*).

Proposals should, in accordance with the Guidelines:

a) have regard to the water quality objectives contained in *Environmental Protection (Peel Inlet – Harvey Estuary) Policy 1992* for the Peel Harvey estuarine system;

b) protect remnant vegetation and maintain or increase deep-rooted perennial vegetation coverage to improve water quality;

c) protect and revegetate waterways and drains with endemic plant species to improve the values to the Peel-Harvey estuarine system and/or manage discharge into or from rural drains to reduce nutrient export; and

d) manage nutrient export when they involve:

- *agriculture – intensive*
- *animal husbandry* – intensive
- *animal establishments or rural pursuits* that exceed recommended stocking rates

In this regard:

- the use of closed agricultural systems is encouraged;
- there is a presumption against non-closed agricultural systems on sites with low or very low capability land for the intended land use or sites prone to nutrient export; and
- in all other instances, applicants should demonstrate that nutrient export will be managed within acceptable levels.

Region and local planning schemes and local planning policies, should in accordance with the Guidelines:

e) identify the Peel-Harvey coastal plain catchment in scheme maps; and

f) include specific provisions in scheme text to protect water resources.

7.7 Specific area measures: Swan Canning river system

In addition to all other measures contained in this policy, the following measures apply to planning proposals within the Swan Canning river system, which are wholly or partially within, abut the water or land of the Swan Canning Development Control Area (DCA) or are, in the opinion of the WAPC, likely to affect the waters of the DCA.

The Swan Canning river system refers to the catchment areas of the Swan, Canning, Helena, Southern and Avon (to Moondyne Brook) rivers. The DCA was established in the *Swan and Canning Rivers Management Act 2006* (both areas are identified on the policy map of *Swan Canning River System*).

Proposals should, in accordance with the Guidelines:

a) maintain and enhance the ecological and hydrological functions of the river system, and demonstrate detrimental impacts have been prevented;

b) demonstrate a benefit to the community and a functional need to be located within the river and/or foreshore reserves, where the proposal is located on public land;

c) maintain and enhance public access to and along the rivers and its foreshores, including through the establishment of foreshore reserves;

d) consider the importance of the river as a strategic water transport network for commercial and recreational use;

e) maintain and enhance the natural landscape character and sense of place of the river system;

f) maintain and enhance views of the Swan Canning river system from public places;

g) Identify Whadjuk Noongar Aboriginal heritage and use best endeavours to protect, avoid or minimise harm consistent with the *Aboriginal Heritage Act 1972*;

h) protect, maintain or increase vegetation coverage (preferably with endemic species); and

i) maintain or establish ecological and public open space linkages to the Swan Canning river system for wildlife habitat and movement and natural water flows.

8 DEFINITIONS

Agriculture – intensive: has the same meaning as the *Planning and Development (Local Planning Schemes) Regulations 2015*.

Animal husbandry – intensive: has the same meaning as the *Planning and Development (Local Planning Schemes) Regulations 2015*.

Closed agricultural system: a system of intensive agricultural production or animal husbandry where there is zero or minimal discharge of nutrient-rich liquid or solids or non-nutrient contaminants to the immediate environment. Nutrient-enriched liquid and solids waste and non-nutrient contaminants are removed from the property and disposed in an environmentally safe manner.

Crossing: a structure or works such as a ford or low-level crossing, culvert, causeway or bridge to allow a waterway to be crossed from one waterway bank to another by a track, road, pipeline or railway.

Dam: any artificial structure, barrier or levee, whether temporary or permanent, which does or could impound, divert or control water, silt, debris or liquid-borne materials, together with its appurtenant (associated) works.

Ecological linkages: a series of (contiguous and non-contiguous) patches which, by virtue of their proximity to each other, act as stepping stones of habitat that facilitate the maintenance of ecological process and the movement of organisms within, and across, a landscape.

Flood prone area: Land susceptible to inundation by the probable maximum flood event. Generally used interchangeably with floodplain.

Floodplain: the area inundated in a flood event on a waterway, which may include the floodway and flood fringe areas. For land planning purposes, the one per cent (1 in 100) Annual Exceedance Probability flood event is typically adopted.

Floodway: the area of land that would be affected by river flooding in a one percent (one in 100) Annual Exceedance Probability flood event for a waterway. This area is generally a high flood risk area where floodwaters are flowing fast and deep.

Flood fringe: the area of land that would be affected by river flooding in a one percent (one in 100) Annual Exceedance Probability flood event but not designated as floodway.

Foreshore area: the land that adjoins or directly influences a waterway. It is the area of transition between the edge of the waterway channel and the farthest extent of riparian vegetation, the floodplain and riverine landforms; or a negotiated area endorsed by the Department of Water and Environmental Regulation (and on the advice of the Department of Biodiversity, Conservation and Attractions where it relates to the Swan Canning Development Control Area).

Foreshore reserve: all or part of a foreshore area publicly owned and vested with a local government or State Government department. It may be reserved under a planning scheme, for purposes such as foreshore protection or foreshore protection and public recreation.

Guidelines: refers to *Water Guidelines*.

Groundwater: the area of an aquifer in which all pores and fractures are saturated with water. Also known as water in the phreatic zone.

On-site wastewater disposal: disposal of wastewater within the boundaries of the freehold lot or survey strata within which the wastewater was generated.

On-site wastewater system: a wastewater treatment and disposal or reuse system that receives, treats and applies wastewater to a land application area within the boundaries of the freehold lot or survey strata within which wastewater was generated.

Priority agricultural land: has the same meaning as *State Planning Policy 2.5 Rural Planning*.

Priority areas: Priority 1, 2, 3 and 3* areas assigned by the Department of Water and Environmental Regulation to guide land use and management decisions in public drinking water source areas, in accordance with *Water Quality Protection Note No.25: Land use compatibility tables for public drinking water source areas*.

Protection zones: Wellhead protection zones and reservoir protection zones that surround drinking water off-take points assigned by the Department of Water and Environmental Regulation, in accordance with *Water Quality Protection Note No.25: Land use compatibility tables for public drinking water source areas*.

Public drinking water source area: underground water pollution control areas, catchment areas and water reserves constituted under the *Metropolitan Water Supply, Sewerage, and Drainage Act 1909* or the *Country Areas Water Supply Act 1947*.

Public health: has the same meaning as *Public Health Act 2016*.

Reticulated sewerage: a network of sewers and associated wastewater treatment plant managed by a sewerage service provider.

Rural drain: is an artificial or constructed system of structures used to move and manage groundwater or surface water in a rural landscape or catchment.

Sensitive water resource areas: areas where development has the potential to affect water-dependent ecosystems, natural waterways and estuaries, wetlands and selected coastal inlets and embayment, which have been recognised at either the State or National level as having high ecological, social, cultural and/or economic values and are sensitive to contamination associated with land use and development. They include:

- estuary catchments on the Swan and Scott Coastal Plains;
- land that drains to and is within 2km of Irwin Inlet, Wilson Inlet, Torbay Inlet, Manarup Lagoon, Lake Powell, Princess Royal Harbour and Oyster Harbour;
- land that drains to and is within 2km of the estuarine areas of the following: Dampier Creek (Broome), Hill River, Irwin River (Mid West), Margaret River (South West), Murchison River, Hardy Inlet, Chapman River, Walpole-Nornalup Inlet, Wellstead Estuary and Greenough River;
- land that drains to and is within 2km of the following coastal embayments: Cockburn Sound, Coral Bay, Cowaramup Bay, Flinders Bay, Geographe Bay, Jurien Bay, Koombana Bay, Mangles Bay, Peaceful Bay, Roebuck Bay, Shark Bay (south of the northern tip of Peron Peninsula) and Warnbro Sound;
- land that drains to and is within 1km of other estuarine areas, except for portions approved by Government for uses such as ports;
- within 1km up groundwater gradient and 250m down groundwater gradient of a significant wetland; or where the groundwater gradient is unknown or seasonably variable within one kilometre of the significant wetland;
- habitats of specially protected water-dependent fauna and the area within 1km of groundwater-dependent threatened ecological communities and groundwater dependent priority ecological communities; and
- wild rivers catchments.

Site-specific assessments undertaken during the planning process may identify additional significant water resources.

The sensitive water resource area boundaries are identified on the policy map of *Sensitive Water Resource Areas* and may be refined through higher resolution mapping in accordance with the definition provided above.

Sewage: any kind of sewage, faecal matter or urine, and any waste composed wholly or in part of liquid.

Significant wetland: include Ramsar Wetlands and those listed in the Australian Government's Directory of Important Wetlands in Australia; wetlands categorised as Conservation Category in the Department of Biodiversity, Conservation and Attractions Swan Coastal Plain wetlands dataset, wetlands listed in the South Coast Significant Wetlands dataset, other endorsed wetland dataset and other wetlands identified for protection during the land planning process.

Stormwater: water that flows over ground surfaces and in natural streams and drains, as a direct result of rainfall over a catchment. Stormwater consists of rainfall runoff and any material (soluble and insoluble) mobilised in its path of flow.

Trade waste[2]: any wastewater, discharged from a business or industry, aside from that which comes from staff amenities or office facilities.

Wastewater: sewage, not including stormwater, surface water or ground water of a type ordinarily drained from land as part of the provision of a drainage service. This includes trade waste.

Water management report: is a document that addresses all water- related matters relevant to a planning proposal to demonstrate the appropriate protection, management and use of water resources commensurate with the level of risk to and from water resources from the planning activity.

Water resources: includes watercourses, waterways and their estuaries, inlets and floodplains, wetlands, groundwater, surface water, stormwater and drainage. A water resource includes all aspects of the water resource, including water, organisms and other components and ecosystems that contribute to the physical condition and ecological health of the water resource.

Water service provider: a person or entity providing water services under and in accordance with the *Water Service Act 2012*.

[2] On-site disposal of trade waste to be managed in accordance with an industry regulation approval under the ***Environmental Protection Act 1986***, where relevant.

ACTIVE
IN FORCE

Waterway: any river, creek, stream or brook, including its foreshore area or reserve, floodplain, estuary and inlet. This includes systems that flow permanently, for part of the year or occasionally; and parts of the waterway that have been artificially modified.

Wetland: an area of seasonally, intermittently or permanently waterlogged or inundated land, whether natural or otherwise, and includes a lake, swamp, marsh, spring, dampland and sumplands.

Wetland buffer: an area of terrestrial land immediately surrounding a wetland that provides spatial separation between the wetland and adjacent land use(s).

Extract from WAPC Planning for Water Guidelines (Dec 2025)

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Where the availability of groundwater and surface water is limited, investigations should be undertaken at the district planning stage to determine the feasibility and optimal scale of alternative non-drinking water supply options.

For lots less than one hectare, connection to reticulated water supply will generally be required. For lots larger than one hectare, refer to *State Planning Policy 2.5 Rural Planning* for guidance on the servicing for rural living lots.

8.3 Dams, crossings and rural drains

Dams, crossings and rural drains should maintain the natural flow and ecology of waterways and wetlands allowing for the passage of aquatic fauna. This will minimise the risk of fragmenting aquatic fauna populations, restricting migration to breeding grounds, limiting available habitat or causing the local extinction of aquatic fauna.

Where a dam, crossing or rural drain proposal is situated on land within a surface water area, river or irrigation district proclaimed under the *Rights in Water and Irrigation Act 1914*, a licence/permit from DWER is required, as well as development approval (if required) from the relevant local government authority. Further information on rural dam construction and operation, licensing, permitting, legal responsibilities, design, construction, operation and minimising harm to watercourses and aquatic fauna is provided in:

i. *Supplementary Information for Permit Applications to Interfere with Bed or Banks of Watercourses* (DoW, 2012)[8];

ii. *WQPN 53 Dam Construction and Operation in Rural Areas* (DWER, 2019);

iii. *Water Note 26: Simple Fishways* (Water and Rivers Commission, 2002);

iv. *Building Creek Crossings* (DoW, 2010); and

v. *Crossing Creeks: Stream Crossings on Farms* (DoW, 2008).

Where a proposed dam (or modification to a dam, or other flow control structure) has the potential to result in a detrimental impact on the environment, the proposal should be referred to the EPA for consideration under Part IV of the *Environmental Protection Act 1986*.

Local Planning Schemes and policies can include development exemptions and development requirements that are appropriate for the local context.

Drainage and pumping for the purpose of controlling salinity is regulated under the *Soil and Land Conservation Act 1945*. These regulations require landholders intending to drain or pump water from under the land surface and then discharge that water onto other land, into other water or into a watercourse, to notify the Commissioner of Soil and Land Conservation via a *Notice of Intent to Drain*. Notification allows for the proposed works to be assessed by the Commissioner. It does not allow the Commissioner to object to issues not covered by the Act including general planning and development issues such as the impact on public infrastructure (roads) or visual amenity. Refer to DPIRD for further information on rural drainage to control salinity.

[8] This guide was prepared for surface water areas, rivers and irrigation districts proclaimed under the *Rights in Water and Irrigation Act 1914*, however the advice is relevant for all watercourses.

Extract from WAPC Planning for Water Guidelines (Dec 2025)

8.3.1 Local planning schemes and local planning policies

SPP 2.9 states that local planning schemes or/and local planning policies should outline development requirements for dams, crossings and rural drains in response to local conditions, where relevant. This may include the assessment and application of approval conditions, related to:

i. consideration of upstream or downstream impacts;

ii. design to ensure environmental flows are maintained;

iii. vegetation clearing and revegetation requirements;

iv. scale and purpose;

v. topography;

vi. setbacks from property boundaries or environmental features;

vii. visual impact;

viii. spoil disposal;

ix. design for fauna movement/passage;

x. discouraging dams on watercourses where there are viable off-stream alternatives;

xi. reducing watercourse crossings to a minimum and consolidating crossings with other infrastructure, where practicable;

xii. mitigating the risks or impacts from site disturbance, including erosion, sedimentation, weed introduction, vegetation clearing, loss of habitat and changes to ecological values;

xiii. construction standards and maintenance;

xiv. consultation with agencies, including DWER, DBCA and DPIRD (where relevant);

xv. engineering assessments or surveys, and/or any other locally relevant issues that may be applicable; and

xvi. maintenance, safety or potential liability issues, including rural drains when they extend beyond the property boundary.

If there are no other water resource matters relevant to the proposal, dams and crossings are not likely to require a WMR, however, they will need to minimise impacts to the environment and the downstream environment and other water users.

8.3.2 Exemption from development approval

SPP 2.9 states that local planning schemes and/or local planning policies should specify instances where the construction of dams, crossings and rural drains are exempt from development approval. The construction of dams, crossings and rural drains and associated clearing/site works constitutes development under the *Planning and Development Act 2005*. As such, development approval may be required, unless exemption is provided through the provisions of the local planning scheme and/or local planning policy.

The local government should identify exemptions in response to local conditions. For example, it may provide exemption for dams, crossings and rural drains in rural zones except where they:

i. are likely to have an impact on downstream users of groundwater or surface water;

ii. may have an off-site impact on another landowner;

iii. may affect/undermine public infrastructure such as roads; or

iv. involve drains that extend beyond the property boundary, which may result in maintenance, safety or liability issues for local government.

8.4 Stormwater management

Stormwater management systems should be designed in consultation with DWER and the relevant local government and be consistent with the *Stormwater Management Manual for Western Australia* (DWER, 2004-2007, updated 2022), *Australian Rainfall and Runoff* (Commonwealth of Australia (Ball J, Babister M, Nathan R, Weeks W, Weinmann E, Retallick M, Testoni I) 2019), *Australian Run-off Quality: A guide to water sensitive urban design* (Institution of Engineers Australia, Melbourne Victoria, 2006) and *Local Government Guidelines for Subdivisional Development* (IPWEA, 2017). Design objectives for stormwater management are provided in the *Decision Process for Stormwater Management in Western Australia* (DWER, 2017) and, where available, relevant drainage and water management plans produced by DWER.

Stormwater management systems should:

i. mimic natural hydrological processes;

ii. prevent and reduce pollution (including sediment) through the application of non-structural and structural controls and the management of runoff from small rainfall events;

iii. minimise the effective imperviousness of a development area and use overland flow paths to reduce changes to pre-development hydrology and reduce the transport of pollutants to receiving water bodies;

ATTACHMENT E

DID YOU KNOW?

Your dam is your responsibility! This includes making sure it is built so that it doesn't fail and cause damage to neighbouring properties.

Speak to a qualified engineer if you have questions about the structural integrity and use of your dam's walls, spillways and batters.

MORE INFORMATION:

www.plantagenet.wa.gov.au

Find policies, application forms, and other planning & building information. You can also make an online enquiry.

CONTACT US:

(08) 9892 1111

info@sop.wa.gov.au

PO Box 48
MOUNT BARKER WA 6324

This information is provided as a general guide only - please contact us before starting your project.

Shire of Plantagenet
Mount Barker • Kendenup • Narrikup
Porongurup • Rocky Gully

V2.1 16 January 2026

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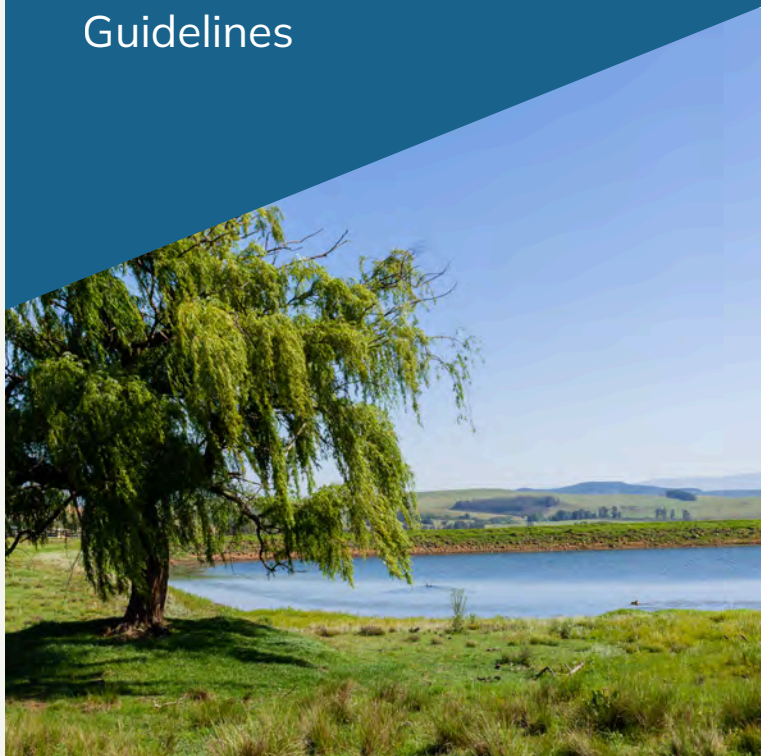
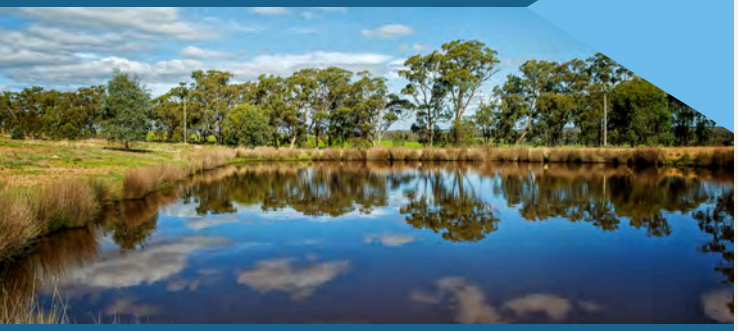
DAMS & WATER FEATURES

Planning & Building Guidelines



Why does the Shire have a policy on dams?



Local Planning Policy No. 8 - Dams & Water Features provides the opportunity for dams that meet acceptable development standards to be built without needing Shire approval.

The policy also sets out criteria for how we will assess proposals for dams that are outside of these standards.

Do I need a permit or license to take water?

In most areas you don't need a license to catch runoff water in a dam, as long as the dam is not within a waterway or wetland and does not intercept the water table.

For more information please contact the Department of Water & Environmental Regulation on 1800 508 885 or email licence.enquiry@water.wa.gov.au

What are the acceptable development standards for dams?

The general acceptable development standards that apply for all dams are:

- Meet maximum size requirements and lot boundary setbacks (see next column)
- Located within a building envelope (only on lots where this applies)
- Development does not require the clearing of native vegetation
- Setback a minimum of 40m from:
  - any effluent disposal system
  - any waterway or wetland
- Not within a controlled water area (as advised by the Department of Water & Environmental Regulation)
- Includes a spillway (or similar) and directs overflow into natural flow paths (avoiding development on adjoining properties)
- Engineering certification for dams over 50,000m3 or walls over 10.0m

The Shire's policy favours rural dams used for productive land uses over aesthetic water features to help preserve water sources for the future.

How large a dam can I have?

Acceptable development standards for dam size are:

Rural & Rural Smallholdings (all lots)
- Max. surface area = 500m2
- Max. wall height = 2.5m
- Min. boundary setback = 20m

Rural & Rural Smallholdings lots >10ha
- Max. surface area = 1ha
- Max. wall height = 4m
- Min. boundary setback = 40m

Rural lots >60ha
- Max. surface area = 4ha
- Max. wall height = 4m
- Min. boundary setback = 40m

Rural Residential*, Rural Village and Residential zoned land
- Min. lot size = 1ha
- Max. surface area = 250m2
- Max. wall height = 1.5m
- Min. boundary setback = 10m

Planning approval is needed for any dams or water features that don't fit within the acceptable development standards - please talk to our team.

* Planning approval is required for all dams in Rural Residential zones 1, 4-6, 8-10 and 12.