

Discussion paper - Formal review of the existing Conservation Zone initiative to enable its possible expansion to other natural areas of high significance

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1. Background

The Corporate Business Plan identifies an action to "Conduct formal review of the existing Conservation Zone initiative to enable its possible expansion to other natural areas of high significance." This is the purpose of this report.

There have been two applications for rezoning since 2000:

- Rezoning to Conservation zone Amendment 185 – L341 Balmoral road Jarrahdale
- Rezoning to Conservation zone Amendment 181 – L564 Scrivener road

2. What is the Conservation zone?

Conservation zoning allows landowners with areas of high conservation value to receive reductions in Council rates. The initiative has been established by Council to reward landowners who have retained and maintained bushland and wetland of high conservation value. Council recognises that nature conservation on private land is essential to maintaining the quality of life for all residents of the Shire and Serpentine River catchment.

To be eligible, landowners must demonstrate to Council that their bushland and/or wetland area is of high conservation value by meeting the criteria outlined below. All or portions of properties can be zoned conservation.

What are the benefits of being in the Conservation Zone?

Areas zoned Conservation in the Town Planning Scheme are rated at half the rate of Rural Zoned land (i.e. 50% rate reduction) where the original zoning of the land is Rural. Where original zoning is not Rural, rate relief will be assessed on a case-by-case basis.

How do I rezone my property to Conservation Zone?

Areas eligible to enter into the Conservation Zone can be nominated by the landowner or by Council. Landowners must state in writing that they agree to rezone their land and Council must establish that the land meets the criteria for conservation zoning before the formal process of rezoning can proceed.

The formal rezoning process involves changing the zone name and provisions for that land within the Town Planning Scheme from the previous zone type to the new zoning of Conservation. (e.g. Rural to Conservation). Council may consider covering the cost of rezoning fees and associated advertising and will provide other assistance where possible.

The rezoning process requires the preparation of a Town Planning Scheme amendment report and an environmental management plan which documents both what is on the land and what management practices are to be used by the owner to protect these environmental values.

The Town Planning Scheme amendment report and environmental management plan are considered by the Shire, the Western Australian Planning Commission and ultimately the responsible Minister for Planning as to whether approval will be granted.

Once the land is rezoned, Shire staff and the Community Landcare Centre may provide advice on the implementation of the environmental management plan.

When the land is sold, new owners may be able to make variations to the environmental management plan. However, because the conservation zoning remains, changes will only be permitted if they ensure the site's continued protection.

What is the process to do a scheme amendment to re-zone the property?

Suitably qualified consultants need to be engaged to prepare the required Scheme Amendment documentation and associated technical appendices.

Once the required documentation has been prepared, a Scheme Amendment application must be lodged with the Shire for assessment. The Scheme Amendment application would be progressed by the Shire in accordance with the Planning and Development (Local Planning Schemes) Regulations 2015. This would include the advertising of the Scheme Amendment for public comment.

The Shire will make a recommendation on the Scheme Amendment application and it will be referred to the Western Australian Planning Commission for assessment. The Scheme Amendment application is ultimately required to be approved by the Minister.

What documents / studies are required for a scheme amendment?

An amendment to a local planning scheme must be accompanied by all documents necessary to convey the intent and reasons for the amendment. A rezoning to the Conservation zone may require the following documents/studies to be prepared:

- Scheme Amendment Report
- Environmental Management Plan

- Bushfire Management Plan

How much does it cost to do a scheme amendment?

It may cost approximately \$30,000 – \$40,000 to prepare a scheme amendment with the associated technical studies listed above for a rezoning to the Conservation zone.

How long will it take?

The Scheme Amendment process should take approximately 12 to 18 months to be approved.

Criteria for selection of High Conservation Areas

The following criteria were developed to guide the selection of bushland and wetland areas which are eligible for Conservation Zoning:

Condition – the area and its vegetation are in a relatively undisturbed condition. Considerations include weed impact, fire history and past land uses.

Representation – the level of protection provided to the natural communities present on the subject land within reserves and covenanted private lands elsewhere.

Adequacy – the likelihood that natural communities and processes will be able to sustain themselves. Considerations include the size of the conservation area (usually needs to be greater than 10 hectare), its area to perimeter ratio and intensity of management that is being committed to.

Landowner commitment and ability – the landowner's demonstrated intent, commitment and ability to conserve the environmental values on the subject land.

Special consideration may be given to areas which contain:

- 'threatened ecological communities'
- rare or restricted plant species or ecological communities;
- breeding habitat for Declared Rare or Priority Listed Fauna;
- important wildlife corridors between other areas of conservation value.

Other considerations regarding the Conservation zoning

An internal document was produced in 1999 that considered a number of other matters in this regard.

Landowners who make a commitment to conservation on their land through the Shire conservation zoning process may face some or all of the following financial disincentives under the current taxation system:

- Loss of available land from which to earn an income;
- Loss of opportunity to offset land management expenses against earnings;
- Loss of 31% farming concession rebate on rates (however 50% rate reduction granted);
- Affected area of land may be then subject to Land tax.

The State Government provides land tax exemption to conservation covenanted properties; this exemption will apply to those covenanted under the state system administered by the Department of Biodiversity, Conservation and Attractions or by the National Trust of Australia (WA)

A covenant can only detail what a landowner cannot do on their land. The National Trust offers a support service to covenanting landowners in the development of a Bushland Owners Manual. This manual outlines objectives in the management of the subject bushland, key issues to address and a monitoring strategy to assess actions presented in the management plan.

The National Trust Management Plan may be an adequate management plan for Conservation Zoning purposes as described under the Town Planning Scheme.

This Shire has shown leadership and innovation in developing and implementing the conservation zoning initiative. Its alignment with the Town Planning Scheme provides a level of statutory protection at least equivalent to a State Government covenant, a management plan associated with the Shire's conservation zoning has the flexibility to include both what cannot be done and what must be done in order to manage the land appropriately for conservation.

3. Legislation regarding the conservation zone

3.1 Shire of Serpentine-Jarrahdale Town Planning Scheme No. 2

The provisions within the Town Planning Scheme relating to the Conservation Zone are provided following:

5.14 CONSERVATION ZONE

5.14.1 The purpose and intent of the Conservation Zone is described within the Council's Rural Strategy as amended and adopted by Council and the State Planning commission dated April 1994.

5.14.2 A Conservation zone is intended to identify land that has a high conservation significance which includes private land with large stands of relatively intact remnant vegetation, all recognised wetlands of significance and some areas covered by the Department of Environmental Protection System 6 recommendations.

5.14.3 The private lands identified for conservation in the rural strategy are not intended for acquisition by the Council or State Government Agencies. Rather the general aim is to encourage and make it easier for landowners to protect and manage the conservation values present.

5.14.4 Before including land within the Conservation Zone Council will require the owners of the land to prepare a submission in support of its inclusion and any submission shall include those matters set down in sub-clause 5.9.3 of this Scheme.

5.14.5 A description of the land included in the Conservation Zone together with the uses permitted and any special provisions relating to the land are set out in Appendix

4D. such uses will generally be in accordance with the Rural Zone uses but will depend upon site survey and reference to land capability and other planning data.

Land uses selected will be on the basis that they will not conflict with, or they will contribute to the significance of conservation values present.

5.14.6 In addition to the provisions contained in Appendix 4D and other such provisions of the Scheme as may affect it any land which is included in the Conservation Zone shall be subject to the following conditions:

(a) The relevant guidelines contained within the Council Planning Guidelines for Nutrient Management dated May 1994 (as amended) shall apply to the use and development of land.

(b) A management plan for each Conservation Zone shall be drafted to Council's satisfaction by the landowner with input from other relevant organisations and the landowner's consultant where necessary.

(c) The management plan shall establish the limits for land use and criteria that any development will have to satisfy. The plan will form the basis for site management and future management decisions.

(c) The management plan shall, as appropriate, identify setbacks, buffer zones, and the required conservation management practices and other measures as deemed necessary to achieve a satisfactory standard of protection relative to the significance of conservation values present.

5.14.7 The implementation of a management plan by the landowner is a means of longer-term protection for the site and will be accompanied by a reduced Council rating on the land.

The incentives for these conservation measures will be a reduction in the general rural rate which shall be set at 50% unless otherwise amended by Council.

3.2 Shire of Serpentine-Jarrahdale Local Planning Scheme No. 3

The new planning scheme provides for a 'Environmental Conservation' zone with the following objectives.

Environmental Conservation	<ul style="list-style-type: none"> • To identify land set aside for environmental conservation purposes. • To provide for the preservation, maintenance, restoration or suitable use of the natural environment.
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The following uses are D uses – ancillary dwelling, family day care, home business, home occupation, home office, industry cottage, single house meaning that the use is not permitted unless the local government has exercised its discretion by granting development approval;

The following uses are A uses – bed and breakfast, civic use, holiday house, rural home business, telecommunications infrastructure means that the use is not permitted unless

the local government has exercised its discretion by granting development approval after giving notice in accordance with clause 64 of the deemed provisions.

All other uses are X uses meaning that the use is not permitted by the scheme.

Schedule 4 of the scheme then requires Additional site and Development Requirements in the zone.

Environmental Conservation	<ul style="list-style-type: none"> The clearing of native trees or vegetation except for the purpose of complying with relevant bushfire management requirements shall not be permitted in the Environmental Conservation zone. Removal of existing vegetation, which is not exempted from requiring development approval under clause 49 of this Scheme, will require a landscaping and revegetation plan to be prepared and implemented in accordance with clause 47 and clause 48 of this Scheme to the satisfaction of the local government. Lot boundary fencing in the Environmental Conservation zone shall be 80% visually permeable, to a maximum height of 1.2 metres and constructed of masonry, concrete, timber and/or wire. The fencing shall be unobtrusive and sensitive to the objective of maintaining rural character and visual amenity.
	<ul style="list-style-type: none"> Where a lot is not connected to reticulated water, dwellings shall be provided with an adequate supply of potable water from either an underground bore, a rainwater storage system or an alternative system as approved by the local government, with a minimum capacity of 120,000 litres and an appropriate roof catchment where relevant in addition to an adequate supply of water for fire fighting purposes as required by State Planning Policy 3.7 - Planning in Bushfire Prone Areas.

Furthermore, the following objectives are stated for Reserves set aside for 'Environmental Conservation'

Environmental Conservation	<ul style="list-style-type: none"> To identify areas with biodiversity and conservation value, and to protect those areas from development and subdivision. To identify and protect areas of biodiversity conservation significance within National Parks and State and other conservation reserves.
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The Scheme also makes provision for a 'Special Control Area 7'. Special control areas set out particular provisions which may apply in addition to the zone requirements and generally concern landscape, environmental, built form, and land and site management issues.

SCA7	Conservation Living	<p>To preserve native vegetation and landscape.</p> <p>To ensure Rural Residential development does not compromise environmental values.</p>	<p>1. Notwithstanding Table 2 - Zoning Table, the following uses shall be determined as 'P' uses under this Scheme:</p> <ul style="list-style-type: none"> single house home occupation <p>All other land uses shall be subject to the local government's discretion. However, this discretion does not allow the local government to approve a use that is designated as a 'X' under Table 2 of this Scheme.</p> <p>2. The clearing of native trees or vegetation except for the purpose of complying with relevant bushfire management requirements shall be prohibited within SCA7.</p>
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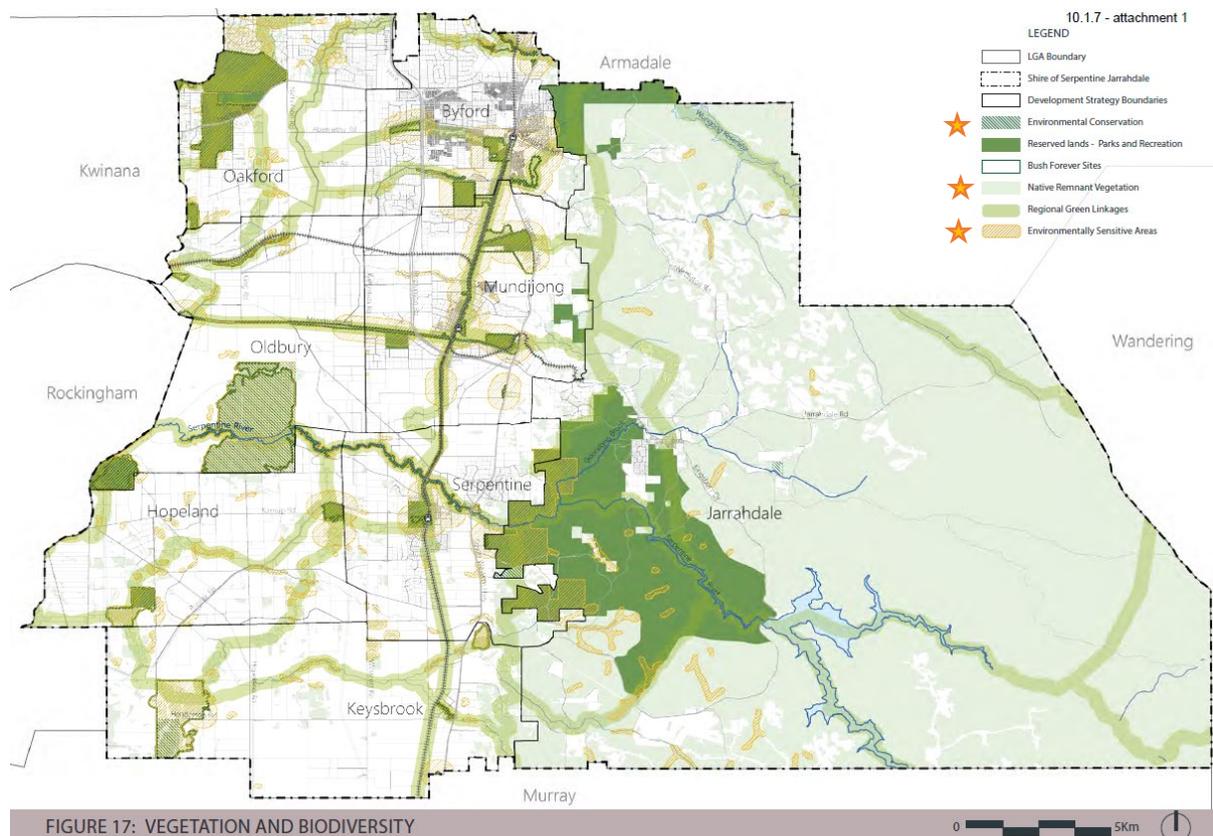
3.3 Local Planning Strategy

The Local Planning Strategy has an action that has informed the creation of SCA7 in the Local Planning Scheme No. 3.

Table 26: Natural Landscape and Bushfire Risk: Strategy and Actions Summary

STRATEGIES	ACTIONS
a. Recognise important landscapes and ensure that future development does not impact on landscape values.	1. Include a special control area for the protection of the landscape and amenity of the Darling Scarp.
b. Ensure land uses and management practices are appropriate to the land capability of the land do not result in the erosion, contamination or acidification of soils.	2. Include provisions to manage intensive agricultural activities within LPS 3 to minimise impacts to the land.
c. Encourage development on seasonally waterlogged soils to utilize alternative construction techniques and footing designs to withstand these conditions, minimising the need to alter site conditions.	3. Encourage innovative and sustainable agricultural practices and technology to reduce environmental impacts.
d. Where development is proposed in the vicinity of bushland with regional or local values, there is a presumption that any buildings will be constructed to the appropriate Bushfire Attack Level (BAL).	4. Undertake bushfire hazard assessments as per SPP3.7 at structure planning, subdivision and development stages.
e. Not support the broad-scale clearing of vegetation as a means of addressing bushfire risk.	
f. Ensure future planning and development identified and appropriately manages bushfire risk.	

The Local Planning Strategy indicates which areas have important vegetation and biodiversity values that may have the potential for further conservation.



4. Most recent scheme amendment to 'Conservation zone'

The most recent rezoning took place in December 2015 "OCM284/12/15 Final Adoption of Scheme Amendment 185 – Rezoning of Lot 341 Balmoral Road, Jarrahdale from 'Rural' to 'Conservation' (SJ1528)". Council resolved to:

OCM284/12/15 COUNCIL DECISION / Officer Recommendation:

Moved Cr Piipponen, seconded Cr Hawkins

That Council pursuant to Regulation 50(2) of the Planning Regulations (2015) (as amended), note the submissions received in respect of proposed Amendment No.185

to the Shire of Serpentine Jarrahdale Town Planning Scheme No. 2, and acknowledges the submissions as contained in the Schedule of Submissions in attachment OCM284.4/12/15.

a. Pursuant to Section 75 of the Planning and Development Act (2005) (as amended) and Regulation 50(3) (a) of the Planning Regulations (2015) (as amended) adopt proposed Amendment No.185 to the Shire of Serpentine Jarrahdale Town Planning Scheme No. 2, without modifications, as follows:

i. Rezoning Lot 341 Balmoral Road, Jarrahdale, from 'Rural' to 'Conservation' as depicted on the Scheme Amendment map;

ii. Inserting in Appendix 4D Conservation Zone the following:

<p>b. Lot 341 Balmoral Road, Jarrahdale</p>	<p>All development and land use shall be in conformity with the Management Plan adopted by Council dated 7 December 2015 (or as amended) for Lot 341 Balmoral Road, Jarrahdale.</p> <p>The following land uses are permitted:</p> <ul style="list-style-type: none"> · Single House · Public Utility <p>The following land uses are permitted at Council's discretion (AA):</p> <ul style="list-style-type: none"> · Environmental Research Centre · Holiday accommodation · Caretaker's dwelling · Environmental Rehabilitation Centre – (means any land or buildings used for the care and rehabilitation of wildlife native to Western Australia). <p>All other uses are prohibited.</p> <p>Council will not support subdivision of land in those circumstances where the proposed lots will result in the clearing and degradation of the native vegetation as identified in the adopted Management Plan.</p> <p>The clearing of land is not permitted without the prior approval of the Council. Clearing of land is to provide for permissible land uses referred to under Provision 2 and shall be in conformity with the adopted Management Plan.</p> <p>Appropriate fire management measures are to be implemented as part of the adopted Management Plan for the subject land.</p> <p><u>Any proposed development shall be accompanied by a Fire Management Plan approved and implemented to the satisfaction of the Council.</u></p> <p><u>Any proposed development shall be sited, designed and constructed to meet Australian Standard 3959: Construction of buildings in bushfire prone areas.</u></p> <p>The grazing of stock shall be limited to the areas marked 'General Domestic and Cleared Area' as denoted in the adopted Management Plan. The keeping of animals shall not exceed the</p>
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	<p>stocking rates recommended by the Department of Agriculture and Food for the applicable pasture types.</p> <p>Permanent fencing shall be maintained to control grazing stock in accordance with the adopted Management Plan to protect the Site's conservation values.</p> <p>All development shall be sympathetic with the surrounding landscape amenity, and designed and constructed to the requirements and satisfaction of Shire.</p> <p>All development shall be connected to an alternative wastewater treatment system as approved by the Shire, the Health Department of WA and the Department of Environmental Protection.</p>
CARRIED UNANIMOUSLY	

A management plan was required to accompany the amendment, which is available under IN14/18913.

5. Possible unintended consequences

Concern has been raised about the Special Use – Conservation Living zone in Old Dairy Court in Oakford. These properties had restricted use at subdivision due to conservation value. While these properties were granted the rate concession, this was not reflected of the planning framework and arguably should be addressed by either zoning conservation, or reviewing whether a rate concession should continue.

6. Value of the Conservation Initiative

6.1 Impact on Council rates – the Shire does lose out on half of the possible rates for any lot that is zoned for conservation in terms of the initiative, effectively meaning that the local government is subsidising the landowner through incentivising the conservation. The conservation value is difficult to determine and it could be argued that it cannot be readily quantified. It could, for example be worth more in tangible terms than the rate subsidy, or alternatively it could be worth less – measuring such benefit is yet to be undertaken in tangible terms.

The relatively low uptake of the initiative also means that the costs to Council are overall very low, compared to if it was a more broadly embraced program.

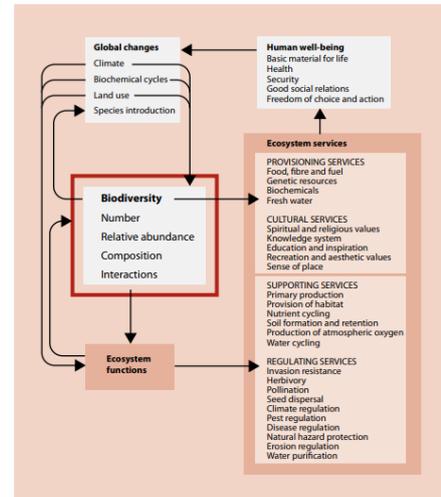
6.2 Impact in terms of area conserved – the conservation of native vegetation and fauna has a positive effect on almost every aspect of human life, physically and mentally. Australia's Biodiversity Conservation Strategy 2010–2030 states:

Why is it important to conserve biodiversity?

Conserving biodiversity is an essential part of safeguarding the biological life support systems on Earth. All living creatures, including humans, depend on these systems for the necessities of life. For example, we need oxygen to breathe, clean water to drink, fertile soil for food production and physical materials for shelter and fuel. These necessities can be described collectively as *ecosystem services*. Figure 2 (see page 19), illustrates how biodiversity is linked, via ecosystem functions and services, to our physical, social and economic well-being.

If we continue to live unsustainably, we risk the degeneration of the ecological systems that support our life and our nation's productivity. We also risk eroding the legacy we leave future generations. Collectively we have a civic responsibility to help sustain our living planet. Conserving biodiversity is central to living sustainably.

Figure 2: Overview of ecosystem services

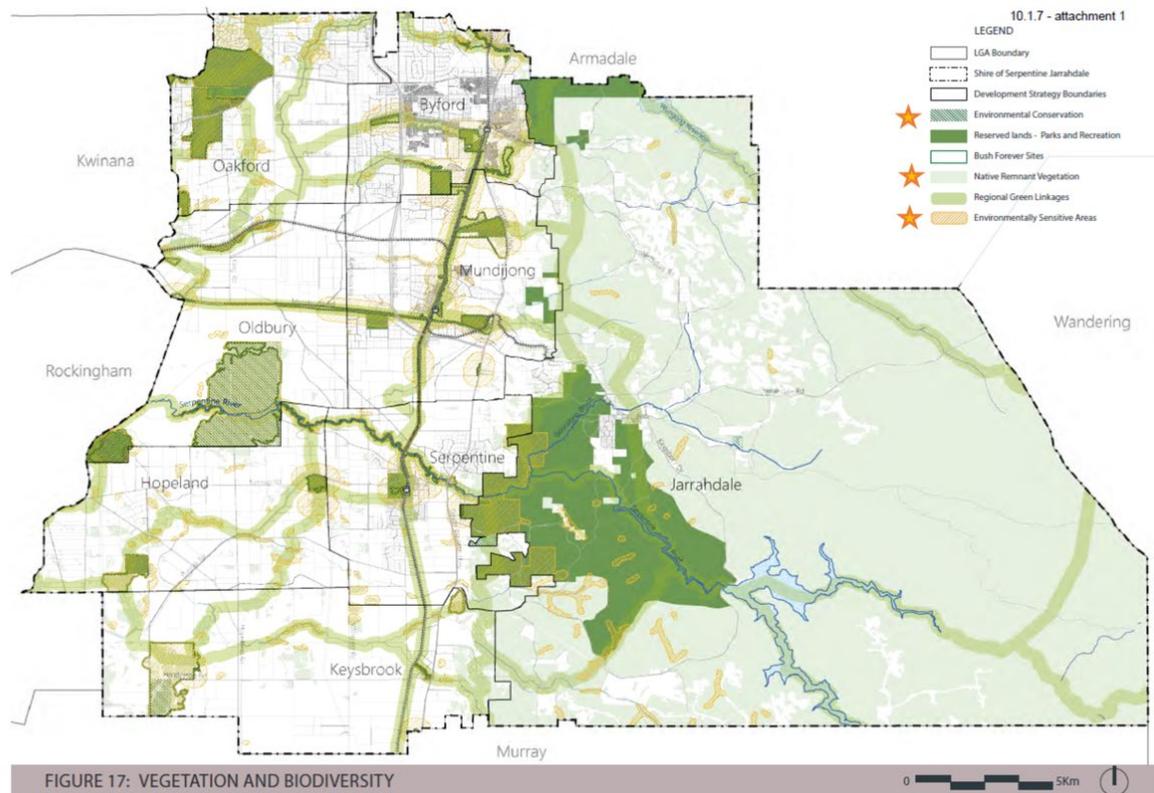


Ecosystems and Human Well-being: Biodiversity Synthesis.
Source: Millennium Ecosystem Assessment 2005

6.3 Adherence to management plans – It is an unfortunate reality that the management plans that are put in place to ensure conservation for the areas are not always followed. This is especially true when the land is sold to other owners who do not have the same conservation mindset. This leads to compliance matters that needs to be addressed by Shire's officers. Continued inspection and enforcement actions will be required to ensure that the conservation values are adhered to, which is a further cost of the program on the local government.

7. Areas for possible inclusion in the Conservation initiative

The areas indicated with a star could be considered for the "Conservation initiative". Only areas that are in private ownership, where the owner agrees to have their land earmarked for this initiative would be included.



8. Questions for discussion and feedback

The above information is a collection of existing information for the Shire document library. It helps to set the context to further engagement with the community, on the future of the conservation zone program for the Shire. With this in mind, the Shire is seeking feedback from its community on the following questions:

Q1 There are currently very few lots in private ownership that have a “conservation” zoning that falls within this category. What could be done to try to increase landowner interest to consider joining the conservation program? Do current incentives provide enough encouragement versus the obligations that are associated with having land zoned as conservation?

Q2 What degree of Impact should be placed on prospective purchasers of land that is zoned conservation? There has been some discussion as to the restrictions that the zoning places on any new owners may be unreasonable, especially when ownership changes a number of times and the knowledge of what the conservation zone means, becomes lost through transfer. Should transfer in ownership affect the expectations that come with the conservation zone?

Q3 Should the conservation zone contemplate additional incentives, such as a clustered subdivision potential that enables a limited subdivision of now more than one lot to be created? Should further development potential be contemplated?

Q4 Should the criteria for considering land being included in the conservation zone be made more flexible / broader, to encourage greater degrees of uptake?

Q5 Should additional non-financial support be considered to further incentivise uptake of the conservation zone?

Q6 Should the Shire proactively encourage landowners to consider becoming part of the conservation zone initiative?

We seek your feedback to the above discussion questions, to enable officers to report to Council on new options for the conservation zone. We look forward to receiving your feedback.