



Local Planning Scheme 4

Amendment 10



Prepared by Gray & Lewis Landuse Planners
For the Shire of Moora
2011

PLANNING AND DEVELOPMENT ACT 2005

RESOLUTION DECIDING TO AMEND A LOCAL PLANNING SCHEME



LOCAL PLANNING SCHEME 4

AMENDMENT 10

Resolved that the local government, in pursuance of Section 75 of the *Planning and Development Act, 2005* amend the above local planning scheme by:

1. Deleting existing Clause 4.11 Flood Control Area including sub-clause 4.11.1 to 4.11.4.
2. Inserting a new Clause 4.11 Special Control Areas for land subject to flooding.

Explanation: The amendment introduces a 'Special Control Area' for all lots fully or partially affected by flooding on the Shires Town Planning Scheme map. The provisions will apply to all lots that are affected fully or partially by the defined 'Floodway' or 'Flood Fringe' in the 'Review of Moora Flood Management Study'.

Specific Scheme Provisions and development controls for the Special Control Area will include:

- i. Introducing new terminology to replace the 'Floodway' term with 'High Flood Hazard' area and to replace the 'Flood fringe' term with 'Floodplain'. This will be reflected in new scheme text and a Flood Classifications map to be Schedule 12 in the Scheme.
- ii. A requirement for all development in the Special Control Area to obtain planning approval and be referred to the Department of Water.
- iii. Provisions that require all applicants to demonstrate that development will not detrimentally impact on the existing flood regime.
- iv. Provisions that give Council broader discretion over development within the 'High Flood Hazard' with consolidated development controls for land within the 'High Flood Hazard' area and the 'Floodplain'.
- v. That all new habitable and non habitable development in the Special Control Area to have a Finished Floor Level (FFL) of 300mm (above the March 1999 flood level as defined in the Moora Floodplain Definition Study) unless Council has exercised it's limited discretion to vary the FFL.
- vi. Provisions that give Council limited discretion to approve lesser finished floor levels (than 300mm above the March 1999 flood level as defined in the Moora Floodplain Definition Study) only for minor building extensions, ancillary residential development and new infill development in the 'Town Centre' where fill is considered impractical and / or has potential streetscape impact.
- vii. A requirement that clearly gives Council discretion to require an applicant to undertake assessments and / or hydraulic modelling to demonstrate that development will not detrimentally impact on the existing flood regime.
- viii. Provisions which outline matters that Council will have regard to when assessing applications for land subject to flooding.

- ix. Development requirements for building envelopes to be located in areas of the lowest flood hazard risk for land subject to flooding.
 - x. Provisions which clearly outline Council's ability to refuse any development which has potential to detrimentally impact on the existing flood regime or detrimentally obstruct the free passage of flood water.
 - xi. A new Clause on the types of conditions that may be imposed on development such as limiting building size or locations, imposing minimum floor levels, and placing notifications on title to alert prospective purchasers that the land is affected by the Moora Floodplain Definition Study.
 - xii. A new Clause on subdivision in the floodplain outlining matters for consideration such as the need to consider regional flooding impacts, detrimental impact on the existing flood regime, the need to locate building envelopes outside of the Floodplain, flood risk, and in accordance with other relevant zone and scheme requirements.
 - xiii. A requirement that effluent disposal for and subject to flooding will only be considered where sewer is not available.
3. Modifying Clause 7.1.2 (b) (iv) under Development of Land of Part V – Planning Approval which outlines exceptions and requirements to obtain planning approval.
 4. Modifying Clause 4.2 Special Application of the Residential Design Codes and replacing the existing Flood Zone Classifications map in Schedule 12.
 5. Deleting Point 2 applicable to Rural Residential 7 - Lot 16 Ferguson Road, Moora under 'Schedule 10 – Rural Residential' zones and renumbering points 3-9 accordingly.
 6. Amending the Shire of Moora Scheme Map by:
 - (a) In the Legend on the Scheme Map including Special Control Area in the list of Other.
 - (b) Introducing a Special Control Area over land subject to flooding as depicted on the Scheme Amendment map.
 - (c) Replacing the dual density code R12.5/25 with R12.5 wherever it occurs on land subject to flooding as depicted on the Scheme amendment map.

Dated this 19 day of October 2011

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CHIEF EXECUTIVE OFFICER

SCHEME AMENDMENT REPORT

PROPOSAL TO AMEND A LOCAL PLANNING SCHEME

LOCAL GOVERNMENT	Shire of Moora
DESCRIPTION OF LOCAL PLANNING SCHEME	Shire of Moora Local Planning Scheme No 4
TYPE OF SCHEME	District Scheme
SERIAL NO. OF AMENDMENT	10
PROPOSAL	<ol style="list-style-type: none">1. Deleting existing Clause 4.11 Flood Control Area including sub-clause 4.11.1 to 4.11.4.2. Inserting a new Clause 4.11 Special Control Areas for land subject to flooding.3. Modifying Clause 7.1.2 (b) (iv) under Development of Land of Part V – Planning Approval which outlines exceptions and requirements to obtain planning approval.4. Modifying Clause 4.2 Special Application of the Residential Design Codes and replacing the existing Flood Zone Classifications map in Schedule 12.5. Deleting Point 2 applicable to Rural Residential 7 - Lot 16 Ferguson Road, Moora under 'Schedule 10 – Rural Residential' zones and renumbering points 3-9 accordingly.6. Amending the Shire of Moora Scheme Map by:<ol style="list-style-type: none">(a) In the Legend on the Scheme Map including Special Control Area in the list of Other.(b) Introducing a Special Control Area over land subject to flooding as depicted on the Scheme Amendment map.(c) Replacing the dual density code R12.5/25 with R12.5 wherever it occurs on land subject to flooding as depicted on the Scheme amendment map.

SCHEME AMENDMENT REPORT

1. INTRODUCTION

The amendment substantially introduces revised provisions for land subject to flooding, and has been prepared for the Shire in liaison with the Department of Water (DoW) and Department of Planning (DoP).

2. BACKGROUND

The Shire of Moora Local Planning Scheme No 4 was published in the Government Gazette on 9 June 1998 ('the Scheme'). Due to the age of the Scheme it was in need of revision and updating which was completed as part of omnibus Amendment No 9.

New scheme provisions relating to areas subject to flooding were introduced by Amendment 9. Amendment 9 was written based on the understanding that development in the floodway obstructive to major flows would not be acceptable.

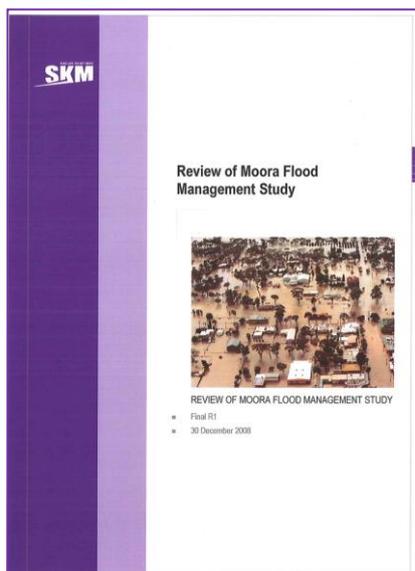
The existing Scheme provisions have been reviewed as:

- (i) Currently the Scheme does not allow any new building or structure in the floodway which may obstruct the free passage of floodwater, unless the building or structure replaces an existing approved building or structure, and where the flooding risk is not increased.
- (ii) The Shire of Moora has raised concern over the Scheme restrictions as there is vacant Industrial land located to the north east of town.
- (iii) The Flood Classifications map is included in a Schedule in the Scheme, and extensive areas of Moora townsite is affected by Floodway (as defined in the Review of Moora Flood Management Study).
- (iv) The Department of Water has advised that the 'floodway' terminology was used in the 'Review of Moora Flood Management Study' to be consistent with previous flood plans. The area is better described as 'high flood hazard area'.
- (v) The Department of Water has advised that development can be considered in the floodway where the applicant demonstrates that it will not detrimentally impact on the existing flood regime. The applicant may be required to provide a site specific assessment and hydrology information as part of the development process.
- (vi) The Department of Water has detailed digital flood mapping which has been provided to the Western Australian Planning Commission and Department of Planning. Availability of the digital mapping means that the flood areas have been more readily reviewed in context of existing zones on the Scheme map.
- (vii) The Department of Planning (DoP) has assisted the Shire in discussions of a scheme amendment and revised development controls for land subject to flooding. The DoP has advised that land subject to flooding should be contained in a Special Control Area.

3.0 SUMMARY OF PROPOSED AMENDMENT

3.1 *Flood Classifications Map (Schedule 12)*

The 'Review of Moora Flood Management Study' was finalised in 2008, and the Shire therefore has an obligation to plan for future development having regard for flood risk and recommendations of the Flood Study.



The Flood Study uses the terminology of 'floodway' and 'flood fringe'. Usually new development in a floodway would be severely restricted through planning mechanisms such as a Town Planning Scheme.

The Department of Water has indicated that the 'floodway' as identified in the Flood Study is better described as a 'High and Extreme Flood Hazard' area.

The Shire has resolved to replace the terminology of 'Floodway' with 'High Flood Hazard' area and describe the 'flood fringe' as 'flood plain'.

The 'Review of Moora Flood Management Study' contains superseded flood mapping as Appendix E, and the revised Flood Mapping as Appendix D – refer Figure 1 and 2 respectively.

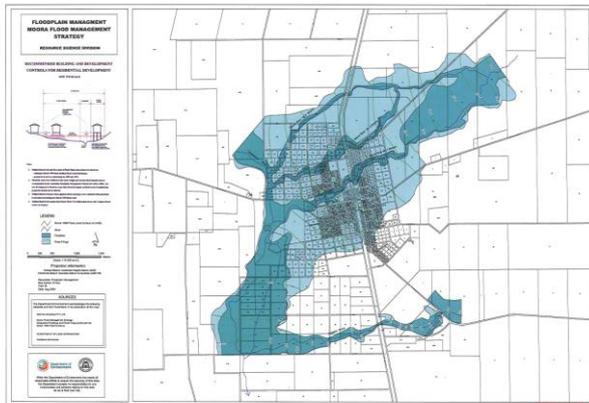


Figure 1: Superseded Flood Map

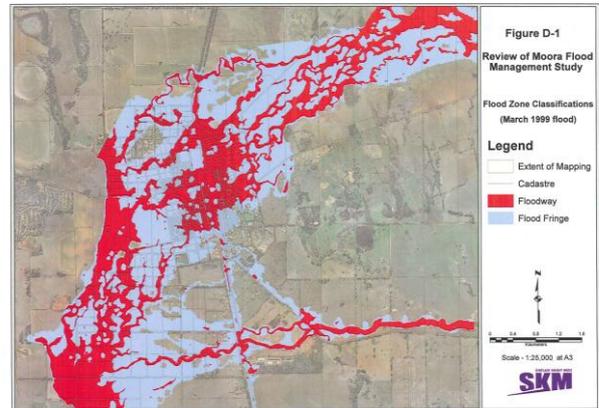
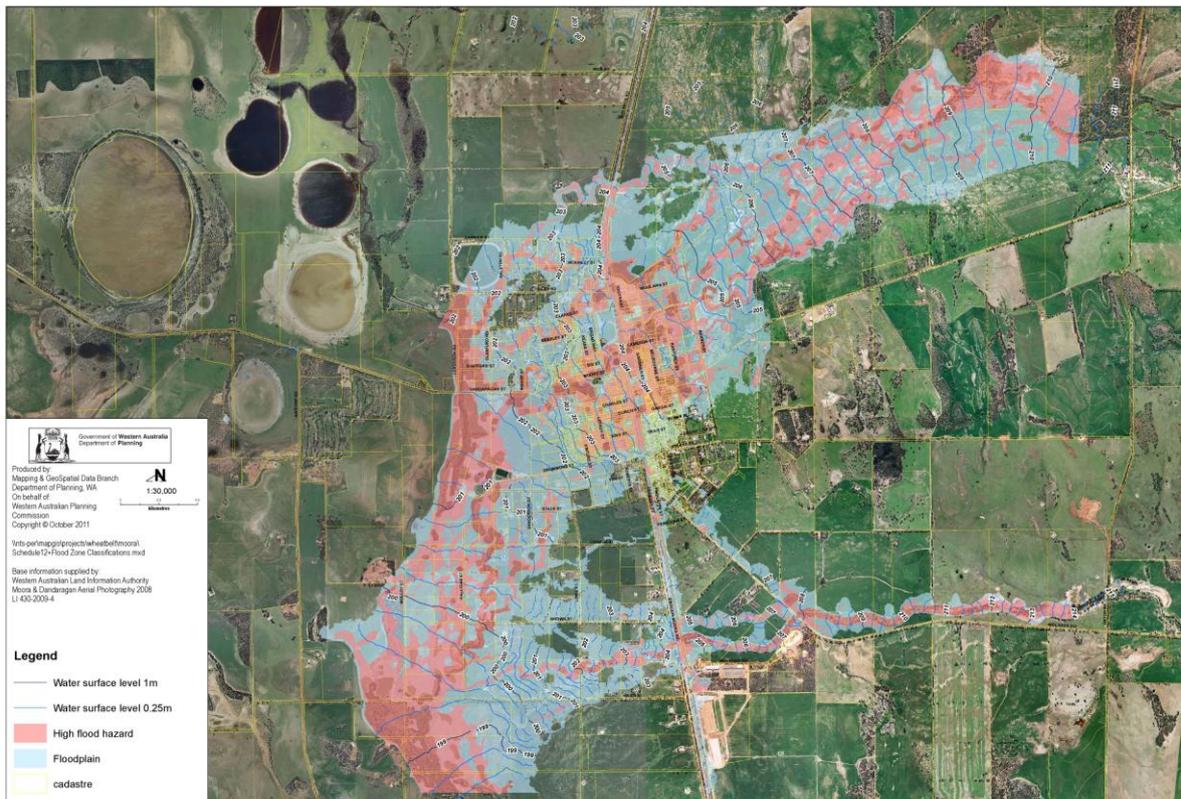


Figure 2: Current Flood Map

Under Omnibus Scheme Amendment No. 9, the flood map (Figure 2) was incorporated in the Shires Town Planning in 'Schedule 12'.

This Scheme Amendment proposes to:

- (a). Introduce new terminology to replace the 'Floodway' term with 'High Flood Hazard' area and to replace the 'Flood fringe' term with 'Floodplain'.
- (b). Replace the existing Schedule 12 Flood Classifications map with a new map (including contours) as follows:



Schedule 12 - Flood Zone Classifications map

Note: An A3 copy of the new Flood Map is also included in the statutory section of this amendment document. It is important to note that the new Schedule 12 map does not modify the extent of the floodway and flood fringe as defined in the Review of Moora Flood Management Study', but includes different colours, different terminology and shows contours.

Amendment 10 will effectively delete the existing Scheme provisions over the Flood Control Area and introduce new consolidated scheme provisions to deal with all land subject to flooding. The provisions will apply to all lots that are affected fully or partially by the defined 'Floodway' or 'Flood Fringe' in the 'Review of Moora Flood Management Study'.

3.2 Introduction of a Special Control Area and referral to DoW

The Amendment introduces a 'Special Control Area' for all lots partially or fully affected by flooding on the Shires Town Planning Scheme map. A 'Special Control Area' is typically used to target a single issue, such as flooding, where the issue may traverse and overlap a number of different zones.

The Special Control Area will follow lot boundaries rather than the boundaries of the 'High Flood Hazard' area and the 'Floodplain' – refer Figure 3.

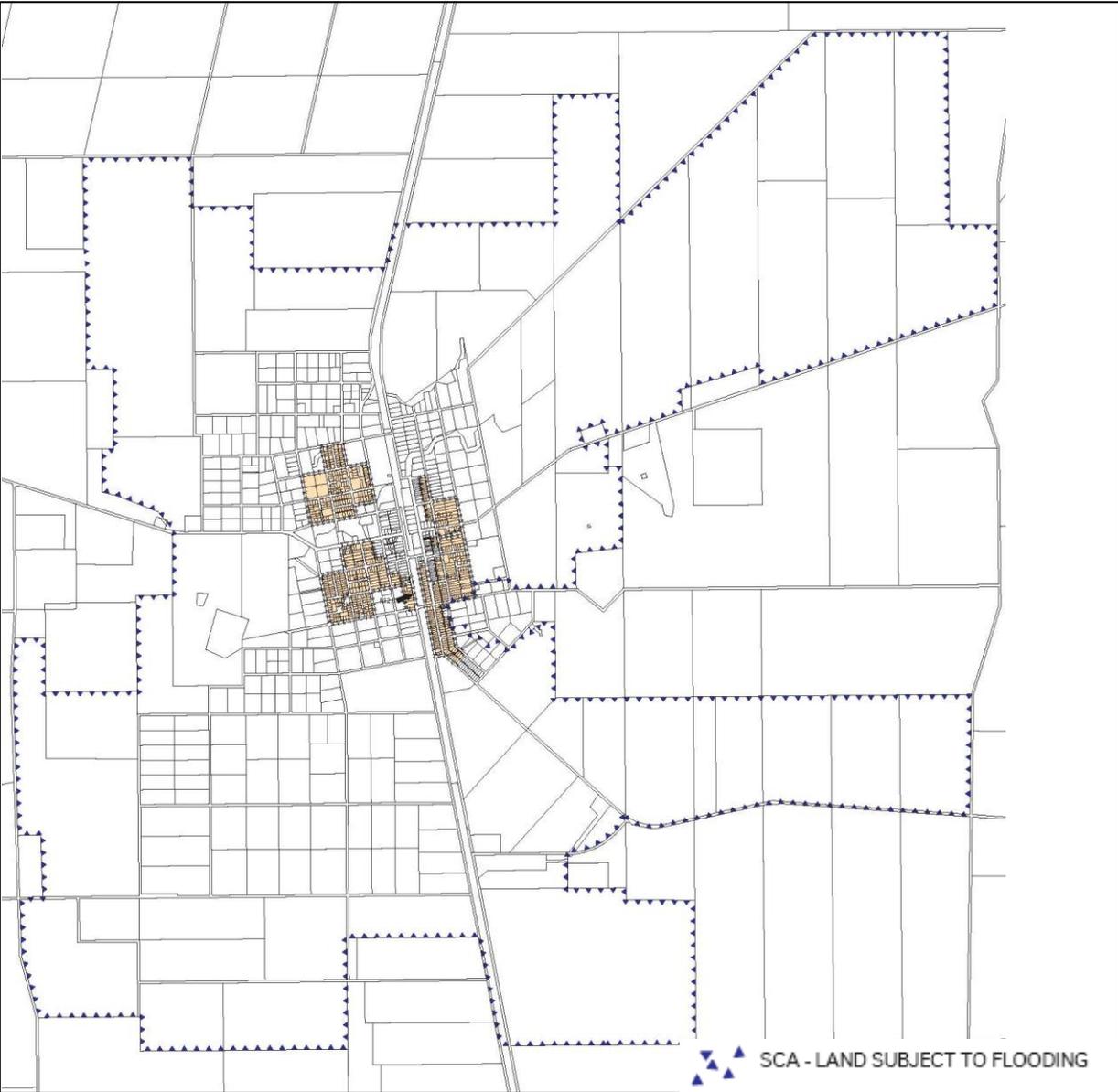


Figure 3: Proposed Special Control Area

Note: A copy of the SCA as the proposed amendment map is also included in the statutory section of this amendment document.

The Amendment will introduce greater control over future development and landuses in the Special Control Area (SCA) as any development in the SCA will require planning approval and referral to the Department of Water. This includes single dwellings, sheds, new buildings, change of landuses etc.

The Department of Water has the technical expertise and digital mapping to fully assess the implications of new development and it is important to keep the Department informed on development in Moora townsite.

The Special Control Area boundary has implications as:

- (a) A lot may only be partially affected by flooding, however the entire lot will be included in the Special Control Area, and be subject to landuse and development controls.
- (b) The current scheme provisions only have control over land within the 'floodway' and 'flood fringe'. The new scheme provisions will control development even on land outside of the existing 'floodway' and 'flood fringe' (now proposed 'High Flood Hazard' and 'Floodplain').
- (c) The minimum FFL of 300mm above the March 1999 flood level as defined in the Moora Floodplain Definition Study will apply to new buildings on all lots in the SCA and even portions of a lot that falls outside of the proposed 'High Flood Hazard' and 'Floodplain'.

An example of the difference between the flood classification boundaries and the Special Control Area boundaries (following lot boundaries) is included below for ease of description during advertising.



Figure 4: Extract of Flood Classification map showing the flood affected areas (high flood hazard & floodplain)

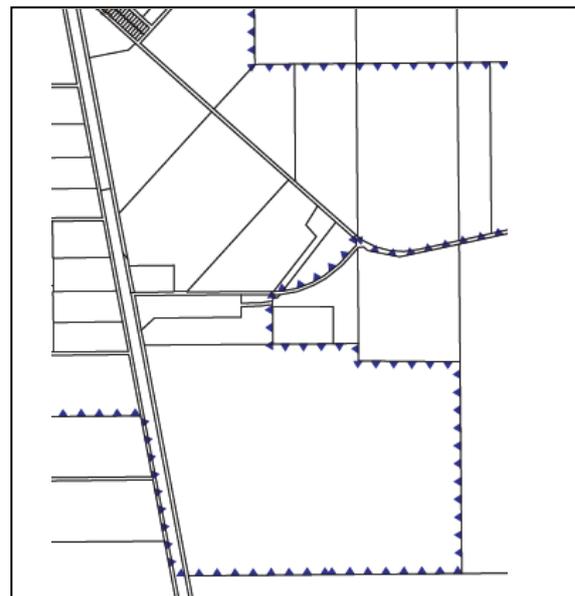


Figure 5: Extract of map showing a portion of proposed Special Control Area (SCA) which follows lot boundaries.

3.3 Application Requirements

All development within the Special Control Area will require planning approval. The new scheme provisions proposed in this Amendment requires all applicants to demonstrate that their development will not detrimentally impact on the existing flood regime.

For some applications this may be achieved with simple information that the development is only of a small scale, or is located outside of the defined flood areas.

The extent and type of information required by an applicant will largely depend on factors such as the location of the development, the flood risk, the topography, type of building construction, and the scale and nature of development.

Any development that has potential to negatively impact on the existing flood regime to the extent that it may cause currently unaffected properties to be flooded, may not be approved by Council.

3.4 Development in the High Flood Hazard Area

The existing Scheme provisions do not allow any new building or structure in the floodway (proposed as High Flood Hazard) which may obstruct the free passage of floodwater, unless the building or structure replaces an existing approved building or structure, and where the flooding risk is not increased.

Existing Clause 4.11.3 (b) of the Scheme states:

“Development which involves the construction of a building or structure which may obstruct the free passage of floodwater will not be permitted on land defined as a floodway on the Flood Zone Classifications Map contained in Schedule 12 of the Scheme unless the building or structure replaces an existing approved building or structure, and subject to building conditions to ensure the proposed development is consistent with clause 4.11.1 (a) and the flooding risk is not increased. “

The amendment will increase and broaden the Council's discretion to consider new development, buildings and structures within the 'High Flood Hazard' area, and have one set of development controls for land within the 'High Flood Hazard' area and 'Floodplain'.

It is likely that the Department of Water may recommend that more specific assessment and modelling be required by an applicant proposing new development in the 'High Flood Hazard' area.

3.5 Finished Floor Levels (FFL)

3.5.1 Background

Minimum finished floor levels for new development on land subject to flooding are generally used to try and minimise potential damage in the event of a flood similar in scale to that which occurred in March 1999.

Under the existing Scheme provisions a finished floor level (FFL) not less than 300mm above the March 1999 flood level as defined in the Moora Floodplain Definition Study is applied to habitable buildings.

Currently Council has discretion to consider FFL's less than 300mm (above the March 1999 flood level) for minor extensions to an existing approved habitable building or structure, and for non-habitable buildings such as outbuildings, industrial, commercial. In considering lesser floor levels Council had to have regard for a number of matters such as flood mitigation and flood proofing.

3.5.2 *Minimum FFL of 300mm*

The amendment proposes to require all new development in the Special Control Area to have a Finished Floor Level of 300mm (above the March 1999 flood level as defined in the Moora Floodplain Definition Study) whether it is habitable or non habitable, and includes new buildings and structures that may be located on a portion of a lot outside of the 'High Flood Hazard' area and 'Floodplain'.

This is more restrictive than the existing Scheme provisions which allow discretion for a Finished Floor Level of 0.15 metres above the March 1999 flood level for commercial and industrial development. The new requirement to meet the FFL of 300mm is to maximise protection of buildings and property, regardless of whether the development is habitable or non habitable.

The amendment also includes a new Clause (4.11.4.1 (f) specifically aimed at ensuring that there is no discretion by either Council or the State Administrative Tribunal to vary the 300mm FFL except where specifically allowed in the Scheme (for minor building extensions, ancillary residential development, and infill development in the Town Centre). Clause 4.11.4.1(f) has been modelled on a clause in the City of Joondalup Scheme.

3.5.3 *Council discretion to vary the minimum FFL of 300mm*

The amendment only provides Council with limited discretion to approve lesser finished floor levels (than 300mm) in the Special Control Area for minor building extensions, ancillary residential development and new infill development in the 'Town Centre' where fill is considered impractical and / or has potential streetscape impact.

The amendment proposes a new Clause 4.11.4.1 (e) as follows:

"Council has discretion to consider a minimum finished floor level less than 300mm above the March 1999 flood levels where the local government determines that:

- (i) The non habitable buildings and structures are infill development in the Town Centre zone (with a minimum FFL of 0.15 metres above the March 1999 flood levels); or*
- (ii) The proposed development is a minor extension to an existing building or structure already approved and constructed; or*
- (iii) The non habitable building or structure is ancillary development to a dwelling on the same lot inclusive of a carport, garage, patio, pergola, gazebo, and outbuilding; and*
- (iv) The local government considers fill is impractical and/or will have a negative impact on an established streetscape.*

3.6 *Development Assessment and Conditions*

The amendment proposes to clearly list the types of matters that Council will have regard to when assessing applications for flood affected land such as:

- The Moora Floodplain Definition Study;
- The hazard category defined in the Moora Floodplain Definition Study;
- The appropriateness of the landuse having regard for the nature of the proposed use, extent of public access and building location;
- The size and location of buildings, structures, fill and use of external areas;
- Relationship to existing and nearby development;
- Flood risk and need to maintain the existing flood regime;
- Any relevant local planning policy.

The amendment also includes a list of the types of conditions that Council may impose on a development on land subject to flooding such as limiting building size or locations, imposing minimum floor levels, and placing notifications on title to alert prospective purchasers that the land is affected by the Moora Floodplain Definition Study.

3.7 Building Envelopes

There are lots in the Special Control Area which are only partially affected by the boundary of the Floodplain, so new buildings and structures can be located in lower flood risk areas. There are also lots which are traversed by both the 'Floodplain' and the 'High Flood Hazard'. In those cases buildings should be located on the area with the lesser flood risk, being the 'Floodplain'.

The amendment includes provisions requiring building envelopes to be located in areas of the lowest flood hazard risk.

3.8 Subdivision

The amendment introduces new scheme provisions which only allows new lots to be created in the 'High Flood Hazard' area where they are for flood mitigation purposes. It is not desirable for new subdivision to occur in the 'High Flood Hazard' area.

New provisions are also proposed for subdivision in the floodplain and they outline issues for assessment including the need to consider regional flooding impacts, detrimental impact on the existing flood regime, the need to locate building envelopes outside of the Floodplain, flood risk, and in accordance with other relevant zone and scheme requirements.

3.9 Lot 16 Ferguson Road, Moora

Lot 16 Ferguson Road is zoned 'Rural Residential' under the Scheme. There are specific provisions which apply to Lot 16 Ferguson Road, Moora under 'Schedule 10 – Rural Residential' zones.

The amendment proposes to Delete Point '2.' applicable to Rural Residential 7 – 'Lot 16 Ferguson Road, Moora' under 'Schedule 10 – Rural Residential Zones' which currently states:

'Despite Clause 3.13.2, no residential development shall be permitted to occur within the flood fringe as defined on the Flood Zone Classifications Map contained in Schedule 12 of the Scheme'.

Point 2 (above) that applies to Lot 16 under 'Schedule 10 – Rural Residential' zones is no longer required as (i) there is an approved Subdivision Guide Plan which has building envelopes outside of the flood fringe and (2) the provisions of the new Special Control Area will now apply.

3.10 Effluent Disposal

Under the existing Scheme provisions on site effluent disposal is not permitted in the floodway unless it is replacing an existing system and the flooding, environmental and health risks are not increased.

The amendment proposes that on site effluent disposal within the High Flood Hazard Area and/or Floodplain Area will not be permitted unless the development cannot be connected to reticulated sewer and it replaces an existing system, and has been approved in liaison with the Department of Health WA; or the flooding, environmental and health risks are not detrimentally increased.

The amendment gives Council greater discretion to consider on site effluent disposal where *“the flooding, environmental and health risks are not detrimentally increased”* for unsewered areas.

3.11 Residential Densities

A substantial portion of land zoned ‘Residential’ in Moora townsite has a flexible density code of ‘R12.5/25’ as shown on the existing Scheme map. The R-Code dictates the minimum and average lot size for development and subdivision.

At the R12.5 Code a minimum of 700m² and average of 800m² per dwelling applies. At the R25 Code a minimum of 320m² and average of 350m² per dwelling applies. There is discretion to approve development at an R25 density where sewer is available.

Notwithstanding that many residential lots have a flexible code which is shown on the existing Scheme map, development and subdivision is restricted so that the higher density of R25 does not apply to any land located in the floodway as defined on the Flood Classifications Map under existing Clause 4.2 of the Scheme.

Existing Clause 4.2 states:

“Within areas with split coding the local government may permit development above the lower code (R12.5) to the higher code (R25) specified on the Scheme map, provided that the development is consistent with the Scheme and complies with the following requirements:

- (a) the development is not located in the floodway as defined on the Flood Zone Classifications Map contained in Schedule 12 of the Scheme; and*
- (b) it can be connected to reticulated sewerage.”*

This amendment proposes to change the density code on the Scheme Map for a substantial number of residential zoned lots in Moora Townsite from the flexible code of ‘R12.5/R25’ to a flat density code of ‘R12.5’. The lower R12.5 density will be shown on the scheme map for all Residential lots which are subject to flooding.

The proposed map change will ensure that:

1. Owners and prospective purchasers understand that development and subdivision is limited to low density (R12.5) as it will be shown on the Scheme map.
2. Currently the flexible code shown on the Scheme may give a false impression as the higher R25 code would not be applied to land subject to flooding.
3. The majority of lots subject to this map change are already restricted to the lower density code through the Scheme text under existing Clause 4.2 (b).

Existing Clause 4.2 will be modified to delete reference to land subject to flooding as it will only apply to a small section of residential that will remain R12.5/R25 that is located outside of flood areas (Lee Steer Street / Atbara Street).

4.0 SUMMARY OF SCHEME MAP CHANGES

The proposed scheme map changes have been explained in section 3 of this amendment report and include:

- (a) In the Legend on the Scheme Map including “Special Control Area” in the list of ‘OTHER’.
- (b) Introducing a Special Control Area over land subject to flooding as depicted on the Scheme Amendment map.
- (e) Replacing the dual density code R12.5/25 with R12.5 wherever it occurs on land subject to flooding as depicted on the Scheme Amendment map.

The existing and proposed scheme maps are included in the statutory section of this amendment report.

5.0 CONCLUSION

This amendment has been prepared in consultation with the Shire of Moora, the Department of Water and the Department of Planning and seeks to introduce more comprehensive scheme provisions for land subject to flooding, to provide clearer controls, and to provide increased discretion over new development in the proposed high flood hazard area.

The amendment also expands the scheme provisions to more clearly outline the matters to be considered by Council, implement finished floor levels for habitable and non habitable buildings, and ensure that land subject to flooding is identified on scheme map as a Special Control Area.

FORMAL STATUTORY DOCUMENTATION

PLANNING AND DEVELOPMENT ACT 2005



LOCAL PLANNING SCHEME 4

AMENDMENT 10

The Moora Shire Council under and by virtue of the power conferred upon it in that behalf by the *Planning and Development Act, 2005*, hereby amends the above local planning scheme by:

1. Delete existing Clause 4.11 'Flood Control Area' including sub clause 4.11.1 to 4.11.4 which currently states:

"4.11 FLOOD CONTROL AREA

4.11.1 Purpose

- (a) *To avoid inappropriate development of land subject to flooding during an event of similar magnitude to the March 1999 events.*
- (b) *To protect the free passage of floodwater in floodways by avoiding inappropriate development.*
- (c) *To ensure proposed development has adequate flood protection.*

4.11.2 Application requirements

Except where in the opinion of the local government the proposed development is for a minor outbuilding or improvement to an existing building, planning approval is required for all development, including a single house on land that is subject flooding (located in the floodway or flood fringe) as outlined on the Flood Zone Classifications Map contained in Schedule 12 of the Scheme.

4.11.3 Relevant considerations

- (a) *The local government in considering applications for planning approval is to have due regard to the recommendations of the Moora Floodplain Definition Study and any local planning policy.*
- (b) *Development which involves the construction of a building or structure which may obstruct the free passage of floodwater will not be permitted on land defined as a floodway on the Flood Zone Classifications Map contained in Schedule 12 of the Scheme unless the building or structure replaces an existing approved building or structure, and subject to building conditions to ensure the proposed development is consistent with clause 4.11.1 (a) and the flooding risk is not increased.*

- (c) *On-site effluent treatment or disposal will not be permitted on land defined as a flood way on the Flood Zone Classifications Map contained in Schedule 12 of the Scheme unless it is a replacement of an approved on-site effluent treatment or disposal system and the flooding, environmental and health risks are not increased.*
- (d) *A habitable building is to have a finished floor level not less than 300mm above the March 1999 flood level as defined in the Moora Floodplain Definition Study unless the local government considers the proposed development to be a minor extension to an existing approved building or structure.*
- (e) *The local government will set the minimum floor level for non-habitable buildings and structures based on matters, including size, location, use, existing nearby development and flood risk.*
- (f) *The local government has the discretion to approve a minimum floor level of 0.15m above the March 1999 flood level as defined in the Moora Floodplain Definition Study for non-habitable buildings such as outbuildings, industrial, commercial and non residential uses subject to flood proofing conditions and having regard for the recommendations of the Moora Floodplain Definition Study.*
- (g) *When determining applications for planning approval the local government may impose conditions relating to:*
 - (i) *flood proofing for new industrial development;*
 - (ii) *best practice agricultural and soil conservation methods to mitigate flood risk; and*
 - (iii) *any other conditions designed to reduce flood risk.*

4.11.4 Referral of Applications

All applications for planning approval are to be referred by the local government to the department of water and the local government is to have due regard to recommendations / advice from the department of water when determining applications.”

2. Insert a new Clause 4.11 ‘Special Control Area’ to state as follows:

‘4.11 SPECIAL CONTROL AREAS

4.11.1 OPERATION OF SPECIAL CONTROL AREAS

- 4.11.1.1 *The following Special Control Areas are shown on the Scheme Map:*
 - *Special Control Area 1 : Land subject to Flooding*
- 4.11.1.2 *In respect of a Special Control Area shown on a Scheme Map, the provisions applying to the Special Control Area apply in addition to the provisions applying to any underlying zone or reserve and any general provisions of the Scheme.*

- 4.11.1.3 *Where conflict exists between any general provisions of the Scheme and Section 4.11, the provisions of the Special Control Areas will prevail.*

4.11.2 PURPOSE OF SPECIAL CONTROL AREAS

The purpose of Special Control Area 1 is;

- (a) To avoid inappropriate development or subdivision of land subject to flooding during an event of similar magnitude to the March 1999 events.*
- (b) To protect the free passage of floodwater in areas subject to flooding by avoiding inappropriate development.*
- (c) To ensure proposed development has adequate flood protection.*
- (d) To ensure new development will not detrimentally impact, alter or modify the existing flooding regime (as defined in the Moora Floodplain Definition Study).*

4.11.3 APPLICATION AND REFERRAL REQUIREMENTS

- 4.11.3.1 *Planning approval is required for all use or development of any land within or partially within Special Control Area No 1 including fill, excavation, a single house and ancillary development.*
- 4.11.3.2 *All applications for planning approval in Special Control Area No 1 are to be referred by the local government to the Department of Water, and the local government is to have due regard to recommendations / advice from the Department of Water when determining applications.*
- 4.11.3.3 *The local government, on the recommendation of the Department of Water, may require an applicant proposing development in Special Control Area No 1 to undertake assessments and/or hydraulic modelling to demonstrate that the proposed development is consistent with the floodplain management principles outlined in the Moora Floodplain Definition Study and Clause 4.11.2. Assessments and /or hydraulic modelling need to be to the satisfaction of the Department of Water and local government, and demonstrate that the proposed development does not detrimentally affect the existing flooding regime.*

4.11.4 RELEVANT CONSIDERATIONS

4.11.4.1 *Special Control Area 1*

- (a) The local government in considering applications for planning approval is to have due regard to:
 - (i) the recommendations of the Moora Floodplain Definition Study; and*
 - (ii) the hazard category defined in the Moora Floodplain Definition Study and the appropriateness of the land use having regard for the nature of the proposed use, extent of public access and building location; and**

- (iii) the size and location of buildings, structures, fill and use of external areas; and*
 - (iv) relationship to existing and nearby development; and*
 - (v) flood risk and need to maintain the existing flood regime; and*
 - (vi) any relevant local planning policy; and*
 - (vii) any other matter considered relevant by the local government.*
- (b) Any development or landuse including but not limited to construction of a new building, structure, fill, excavation, external storage, trade display, stockpiling of materials or any other development and/or use of the land shall not be permitted in Special Control Area 1 unless:*
- (i) The local government considers the proposed development to be a minor extension to an existing building or structure already approved and constructed; or*
 - (ii) The building or structure is non habitable and replacing an existing building or structure already approved and constructed, and is of a similar floor area, size and location as the building or structure being replaced; or*
 - (iii) The development is a single house within a Residential zone or Rural Residential zone with a finished floor level not less than 300mm above the March 1999 flood level as outlined on the Flood Zone Classifications map (contained in Schedule 12 of the Scheme); or*
 - (iv) The applicant demonstrates a building, structure, development and/ or landuse is wholly located outside of both the High Flood Hazard area and the Floodplain area as outlined on the Flood Zone Classifications map (contained in Schedule 12 of the Scheme); or*
 - (v) The development is of a commercial or industrial nature with a finished floor level not less than 300mm above the March 1999 flood level as outlined on the Flood Zone Classifications map (contained in Schedule 12 of the Scheme) unless Council has exercised discretion in accordance with Clause 4.11.4.1 (e); or*
 - (vi) The development will not detrimentally obstruct the free passage of floodwater to the satisfaction of the Department of Water and the local government; and*
 - (vii) The applicant demonstrates that the design of any new development and /or nature of the landuse will not detrimentally impact, alter or modify the extent of flood impact and existing flooding regime (as defined in the Moora Floodplain Definition Study) to the satisfaction of the Department of Water and the local government.*

- (c) *Any development or use of land and building envelopes shall be located to:*
 - (i) *Maximise use of areas available on a lot that are located outside of the High Flood Hazard Area and/or Floodplain Area as outlined on the Flood Zone Classifications map (contained in Schedule 12 of the Scheme); or*
 - (ii) *Maximise use of the lowest flood hazard area where a lot has no available area outside of, or is traversed by both, the High Flood Hazard area and Floodplain area as outlined on the Flood Zone Classifications map (contained in Schedule 12 of the Scheme).*

- (d) *Any building and/or structure on a lot in Special Control Area 1, (inclusive of development located outside of the High Flood Hazard Area and/or Floodplain Area as outlined on the Flood Zone Classifications map), shall have a finished floor level not less than 300mm above the March 1999 flood level as shown on the Flood Zone Classifications map (contained in Schedule 12 of the Scheme) unless Council has exercised discretion in accordance with Clause 4.11.4.1 (e).*

- (e) *Council has discretion to consider a minimum finished floor level less than 300mm above the March 1999 flood levels where the local government determines that:*
 - (i) *The non habitable buildings and structures are infill development in the Town Centre zone (with a minimum FFL of 0.15 metres above the March 1999 flood levels); or*
 - (ii) *The proposed development is a minor extension to an existing building or structure already approved and constructed; or*
 - (iii) *The non habitable building or structure is ancillary development to a dwelling on the same lot inclusive of a carport, garage, patio, pergola, gazebo, and outbuilding; and*
 - (iv) *The local government considers fill is impractical and/or will have a negative impact on an established streetscape.*

- (f) *The minimum finished floor levels outlined in Clause 4.11.4.1 (d) and Clause 4.11.4.1 (e) are not a standard or requirement for the purpose of Clause 4.4.2.*

4.11.4.2 *Council may refuse an application for any development or use of land within the High Flood Hazard Area and Floodplain Area as outlined on the Flood Zone Classifications map (contained in Schedule 12 of the Scheme) where, in the opinion of the Department of Water and local government, it has potential to detrimentally impact on the existing flooding regime during an event similar in magnitude to the March 1999 event (as defined in the Moora Floodplain Definition Study).*

4.11.4.3 *All applications will be considered having regard for other relevant planning matters in accordance with Clause 7.5.*

4.11.4.4 *On-site effluent disposal treatment or disposal will not be permitted on land within the High Flood Hazard area and/or Floodplain area as outlined on the Flood Zone Classifications map (contained in Schedule 12 of the Scheme) unless the development cannot be connected to reticulated sewer and:*

- (a) It is a replacement of an approved on site effluent treatment or disposal system; and/ or*
- (b) It has been approved in liaison with the Department of Health WA; or*
- (c) The flooding, environmental and health risks are not detrimentally increased.*

4.11.5 PLANNING CONDITIONS

4.11.5.1 *When determining applications for planning approval in Special Control Area 1 the local government may impose conditions relating to:*

- (a) flood protection measures for new development;*
- (b) minimum finished floor levels;*
- (c) best practice agricultural and soil conservation methods to mitigate flood risk;*
- (d) limitations on fill, external storage, trade display, stockpiling of materials;*
- (e) limiting the size and location of buildings and structures;*
- (f) locating buildings, structure and/ or development in the lowest hazard category designated in the Moora Floodplain Definition Study;*
- (g) A Notification to be placed on the Certificate of Title at the proponents cost to alert prospective purchasers of the Flood Hazard Area (High) / or Floodplain and Moora Floodplain Definition Study;*
- (h) any other conditions designed to reduce flood risk or recommended by the Department of Water.*

4.11.6 SUBDIVISION

4.11.6.1 *The local government shall not recommend approval of any subdivision with potential to create additional lots in the High Flood Hazard Area as outlined on the Flood Zone Classifications map (contained in Schedule 12 of the Scheme) unless the new lot(s) are for flood mitigation purposes with no development potential and is proposed to be purchased, or ceded free of cost, for management, care and control by the Shire of Moora, the crown or other relevant government body. Notifications or restrictive covenants registered on the Certificate of Title may be utilised to ensure no development occurs on lots created for flood mitigation.*

- 4.11.6.2 *The local government shall assess any subdivision application within the Floodplain as outlined on the Flood Zone Classifications map (contained in Schedule 12 of the Scheme) having regard to:*
- (a) The recommendations of the Moora Floodplain Definition Study; and*
 - (b) The need to locate building envelopes outside of the Floodplain; and*
 - (c) The need to consider regional impacts on flooding due to potential development; and*
 - (d) Potential obstructive or detrimental impact on flooding; and*
 - (e) The need to maintain the existing flood regime; and*
 - (f) Potential isolation and flood emergency response implications such as difficulties of emergency egress and evacuation; and*
 - (g) Potential flood risk and damage; and*
 - (f) In accordance with the relevant zone and other applicable Scheme requirements; and*
 - (g) any relevant local planning policy; and*
 - (h) any other matter considered relevant by the local government.'*

3. Modify Clause 7.1.2 (b) (iv) under 'Development of Land' of 'PART V – PLANNING APPROVAL' which outlines exceptions and requirements to obtain planning approval which currently states:

'(iv) is located on land that is subject to flooding as outlined on the Flood Zone Classifications Map contained in Schedule 12 of the Scheme'

To state:

'(iv) is located on land that is subject to flooding in Special Control Area 1 as designated on the Scheme Map and /or on land that is subject to flooding as outlined on the Flood Zone Classifications Map contained in Schedule 12 of the Scheme'.

4. Modify 'Clause 4.2 SPECIAL APPLICATION OF THE RESIDENTIAL DESIGN CODES' which currently states:

'Within areas with split coding the local government may permit development above the lower code (R12.5) to the higher code (R25) specified on the Scheme map, provided that the development is consistent with the Scheme and complies with the following requirements:

- (a) the development is not located in the floodway as defined on the Flood Zone Classifications Map contained in Schedule 12 of the Scheme; and*
- (b) it can be connected to reticulated sewerage.'*

To state:

'Within areas with split coding the local government may permit development above the lower code (R12.5) to a maximum density of the higher code (R25) specified on the Scheme map, provided that the development is consistent with the Scheme, the Residential Design Codes and it can be connected to reticulated sewerage.'

5. Replace the existing Flood Zone Classifications Map in Schedule 12 with a new Flood Classifications Map that includes levels, replaces the terminology of 'Floodway' with 'High Flood Hazard' and replaces the terminology of 'Flood Fringe' with 'Floodplain'.

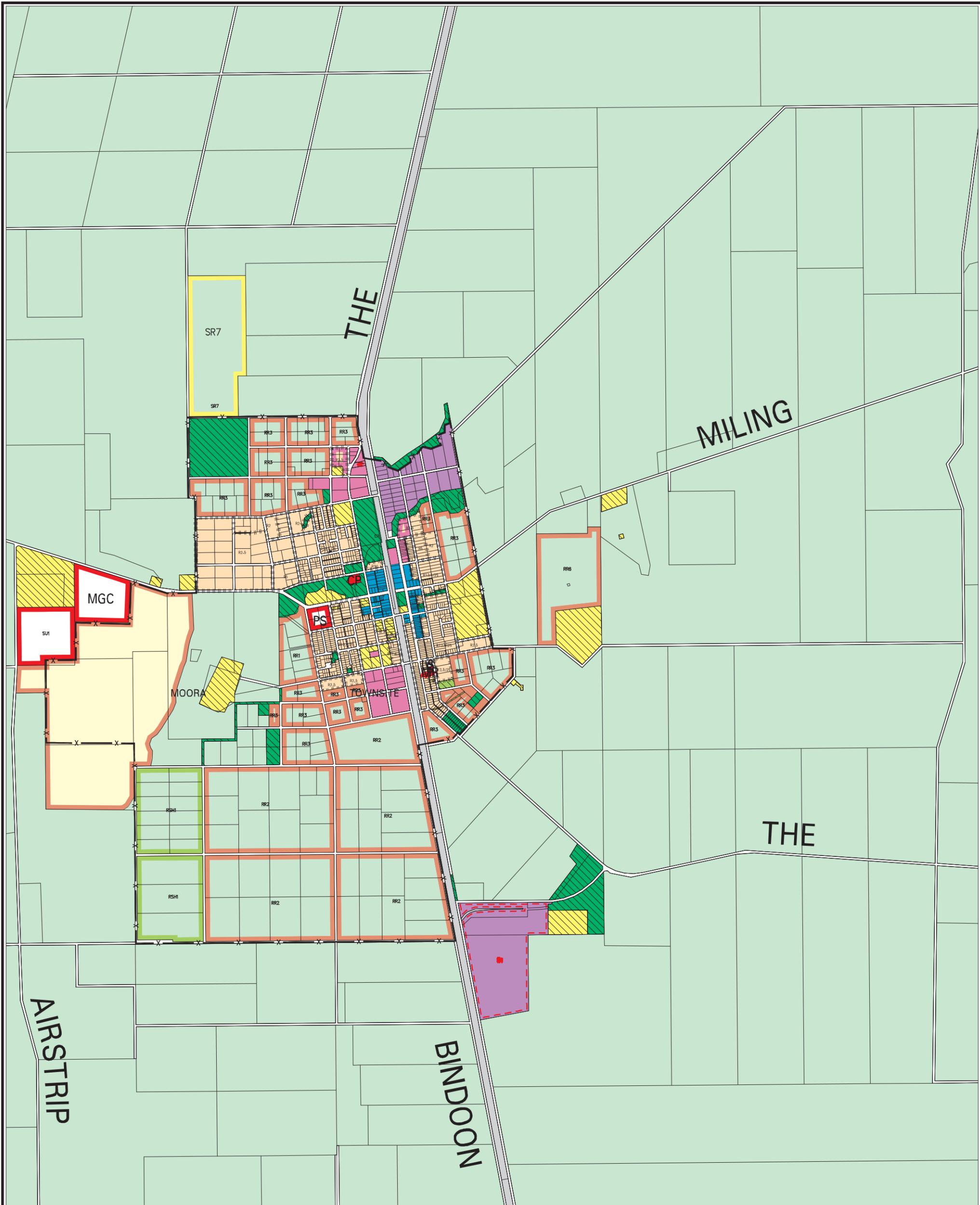
6. Delete Point '2.' applicable to Rural Residential 7 – 'Lot 16 Ferguson Road, Moora' under 'Schedule 10 – Rural Residential Zones' which states as follows:

'Despite Clause 3.13.2, no residential development shall be permitted to occur within the flood fringe as defined on the Flood Zone Classifications Map contained in Schedule 12 of the Scheme'.

And re-number remaining Points 3 – 9 accordingly as applicable to Rural Residential 7 – 'Lot 16 Ferguson Road, Moora' under 'Schedule 10 – Rural Residential Zones'.

7. Amending the Shire of Moora Scheme Map by:
 - (a) In the Legend on the Scheme Map including "Special Control Area" in the list of 'OTHER'.
 - (b) Introducing a Special Control Area over land subject to flooding as depicted on the Scheme Amendment map.
 - (c) Replacing the dual density code R12.5/25 with R12.5 wherever it occurs on land subject to flooding as depicted on the Scheme Amendment map.

EXISTING ZONING



LEGEND

- | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
|-----------|---------|---------------------|---------------|-------------------------|----------------|-------------------|------------|------------------|-------------------------|-------------|-----------------------------|-------------|--------------------------|----------------------------|------------------------|---------------------|--------------------------|--------------|------|--------------------|-------------|---------------------------|---------------------|-------------------------|-------------------|--------------------------|--|--------------------------------------|-------------------------------|------------------------|-----------------------------|
| Moora Z 4 | RAILWAY | GENERAL AGRICULTURE | SPECIAL RURAL | RECREATION & OPEN SPACE | PUBLIC PURPOSE | RURAL RESIDENTIAL | INDUSTRIAL | LIGHT INDUSTRIAL | SPECIAL MIX RESIDENTIAL | RESIDENTIAL | SPECIAL USE MOORA GOLF CLUB | TOWN CENTRE | SPECIAL USE CARAVAN PARK | SPECIAL USE PRIVATE SCHOOL | SPECIAL USE LOCAL SHOP | SPECIAL USE BUILDER | SPECIAL USE MOTOR REPAIR | CONSERVATION | ROAD | RURAL SMALLHOLDING | DEVELOPMENT | LPS Rcodes - Enquiry data | SPECIAL RURAL AREAS | RURAL RESIDENTIAL AREAS | SPECIAL USE AREAS | RURAL SMALLHOLDING AREAS | LPS Town Bdy Local Govt Act - Enquiry data | LPS Town Bdy Land Act - Enquiry data | LPS Scheme Bdy - Enquiry data | Local Government Areas | LPS Cadastre - Capture data |
|-----------|---------|---------------------|---------------|-------------------------|----------------|-------------------|------------|------------------|-------------------------|-------------|-----------------------------|-------------|--------------------------|----------------------------|------------------------|---------------------|--------------------------|--------------|------|--------------------|-------------|---------------------------|---------------------|-------------------------|-------------------|--------------------------|--|--------------------------------------|-------------------------------|------------------------|-----------------------------|

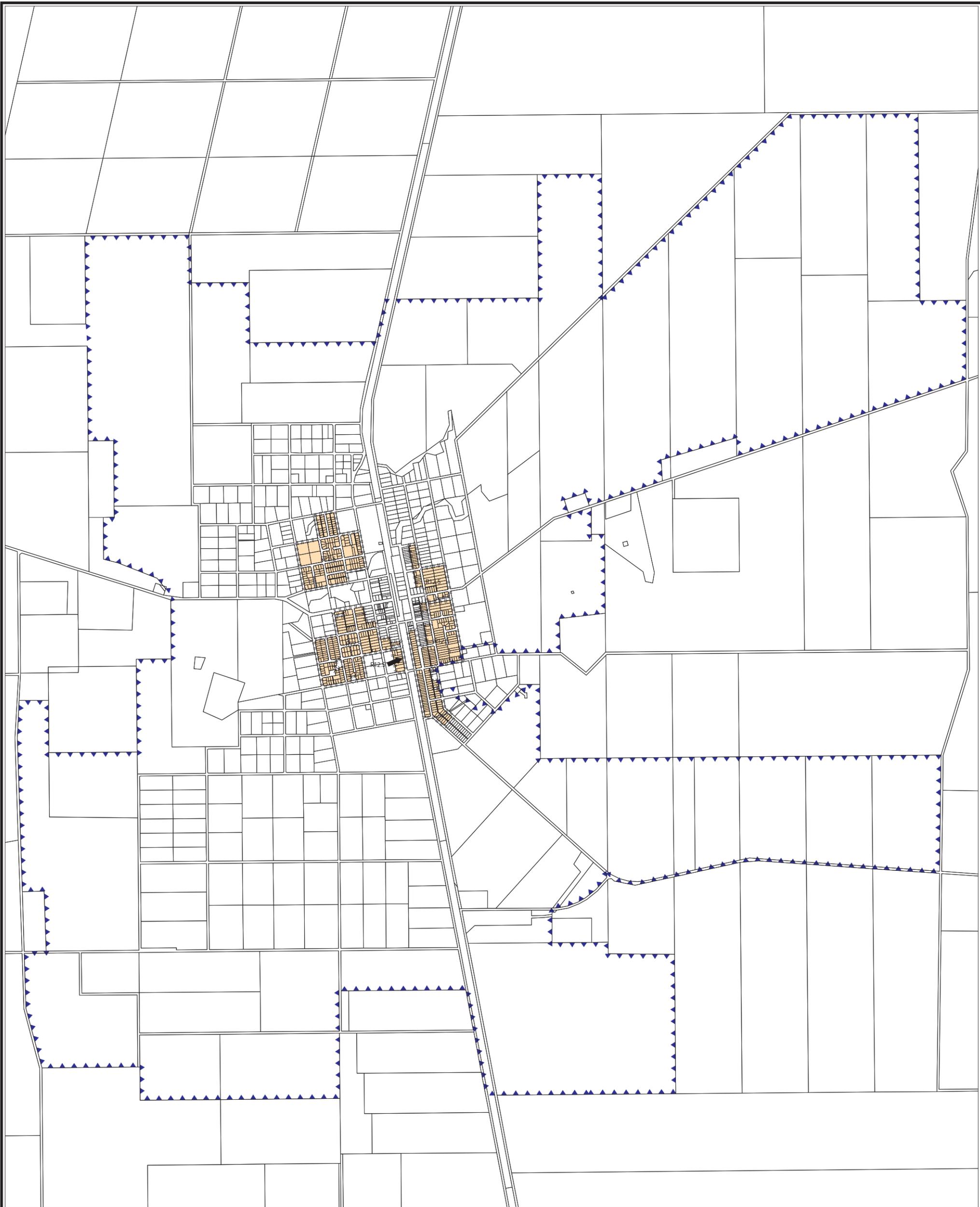
**SHIRE OF MOORA
TOWN PLANNING SCHEME
EXISTING ZONING MAP
AMENDMENT NO 10**

Scale 1:32000
0 500 m



Produced by Statutory & Strategic Mapping
Mapping and GeoSpatial Data
Spatial Information & Research Program
Department of Planning
Date: 13 Oct 2011

**PROPOSED ZONING – SCHEME AMENDMENT
MAP**



Produced by Statutory & Strategic Mapping
 Mapping and GeoSpatial Data
 Spatial Information & Research Program
 Department of Planning
 Date: 20 Oct 2011

LEGEND

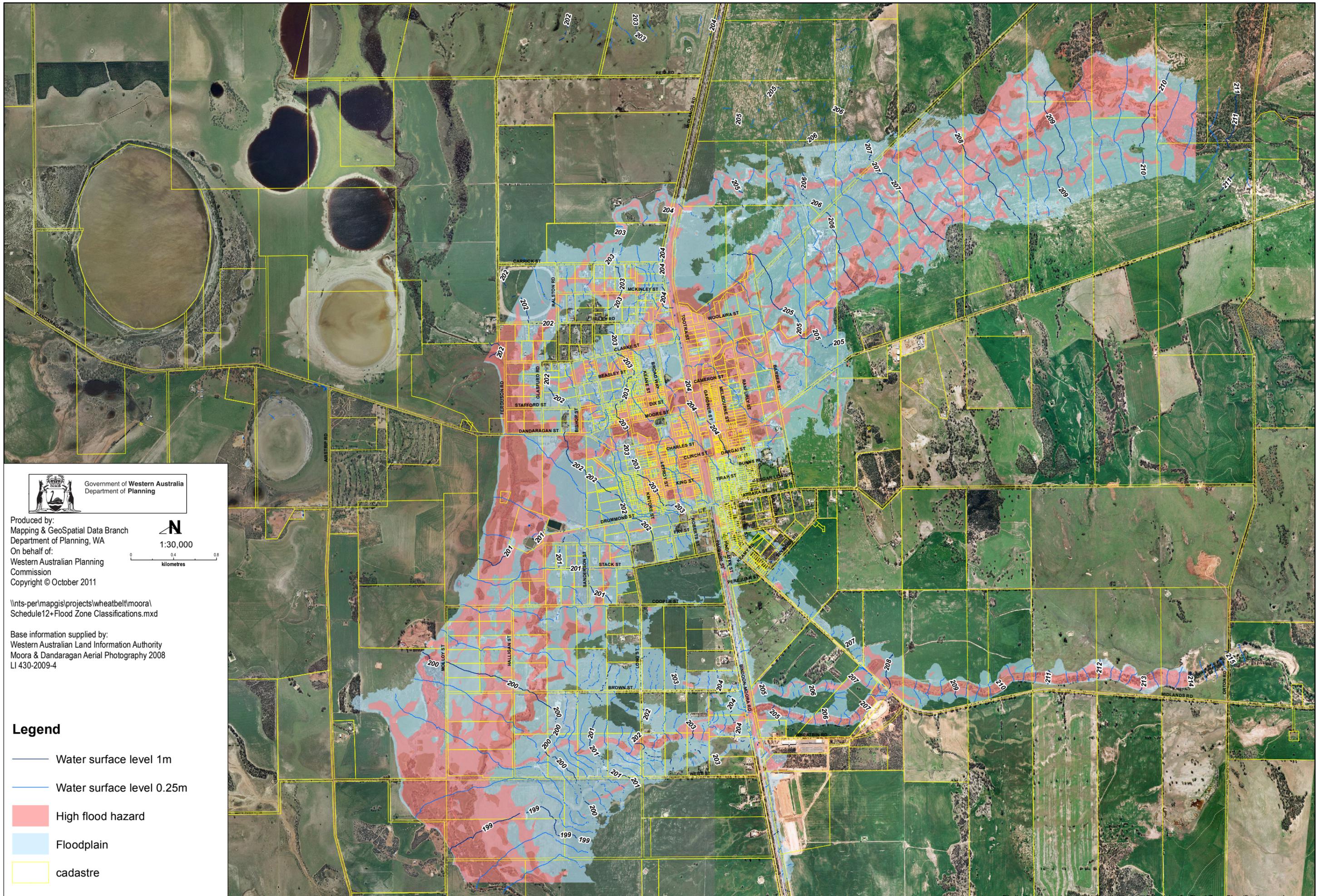
-  LPS Scheme Bdy - Enquiry data
-  LPS Current Scheme Bdy - Enquiry data
-  LPS Cadastre - Capture data
-  LPS Map sheets - Enquiry data
- Moora Z 4**
-  RESIDENTIAL
-  TPS Amendment Rcodes
-  SCA - LAND SUBJECT TO FLOODING

**SHIRE OF MOORA
 TOWN PLANNING SCHEME NO 4
 SCHEME AMENDMENT MAP
 AMENDMENT NO 10**



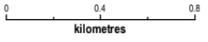
Scale 1:32000
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**PROPOSED SCHEDULE 12 FLOOD ZONE
CLASSIFICATIONS MAP**




 Government of Western Australia
 Department of Planning

Produced by:
 Mapping & GeoSpatial Data Branch
 Department of Planning, WA
 On behalf of:
 Western Australian Planning
 Commission
 Copyright © October 2011


 1:30,000

 0 0.4 0.8
 kilometres

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Base information supplied by:
 Western Australian Land Information Authority
 Moora & Dandaragan Aerial Photography 2008
 LI 430-2009-4

- Legend**
-  Water surface level 1m
 -  Water surface level 0.25m
 -  High flood hazard
 -  Floodplain
 -  cadastre

Schedule 12 - Flood Zone Classifications map

File: \nts-per\maggis\projects\wheatbelt\moora\Schedule 12 - Flood Zone Classifications.mxd

ADOPTION

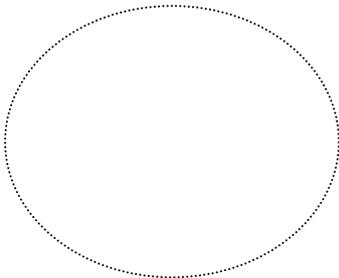
Adopted by resolution of the local government of the Shire of Moora at the Ordinary Meeting of the local government held on the 19th day of October 2011.

.....
PRESIDENT

.....
CHIEF EXECUTIVE OFFICER

FINAL APPROVAL

Adopted by Resolution of the local government of the Shire of Moora at the meeting held on the ___ day of _____ 20___, and pursuant to that Resolution the Seal of the Municipality was hereunto affixed in the presence of:



.....
PRESIDENT

.....
CHIEF EXECUTIVE OFFICER

RECOMMENDED/SUBMITTED FOR FINAL APPROVAL

.....
DELEGATED UNDER S.16 OF THE
PLANNING AND DEVELOPMENT ACT 2005

Date.....

FINAL APPROVAL GRANTED

.....
MINISTER FOR PLANNING

Date.....