

9.13

TOWN PLANNING POLICIES

POLICY NO:	9.13
POLICY:	Dams Policy

1.0 Background

The Shire of Donnybrook-Balingup accepts that construction of farm dams to store water is essential in establishing and maintaining a productive and successful farming operation. Dams may be used to supply water for irrigation, aquaculture, stock watering, domestic use and fire fighting purposes.

Farm dams may also constitute a threat to property, the viability of surrounding farming operations, the landscape and the environment through poor site selection and construction. Dam walls have a visual impact on the landscape, may require clearing, can alter drainage patterns and can provide an obstacle to native fauna if constructed on-stream. Likewise, dams constructed on-stream that have significant wall heights and volumes may, if breached, result in significant damage downstream.

Guidelines are required to ensure dams are constructed responsibly and with due consideration to surrounding land use and the environment.

2.0 Objectives

- 2.1 To allow for the construction of farm dams to meet the water requirements of the farming community.
- 2.2 To ensure dam construction is responsible and with due consideration to downstream use and the environment.
- 2.3 Encourage protection of native and riparian vegetation.
- 2.4 To minimise visual disturbance to areas of important landscape value i.e. scarp and landscape protection areas.

3.0 Definitions

Dam – is a man-made structure built across a watercourse to control the flow of water and/or to create a supply of water, or the excavation of an area for the purpose of water storage.

On-Stream Dam – is the excavation of a watercourse and/or the construction of an earth wall across a watercourse to impound water.

Off Stream Dam - is a dam wall and/or excavation constructed off stream to collect surface or subsurface runoff or groundwater.

Excavation – is a below ground storage constructed to capture groundwater seepage and not surface run-off.

Watercourse – refers to any river, creek, stream or brook in which water flows (permanent or seasonal) whether naturally occurring, artificially modified or man-made.

4.0 Application of the Policy

For the purposes of this policy the construction, repair or alteration of a farm dam constitutes 'development' as defined by the Shire of Donnybrook-Balingup Town Planning Scheme No. 4.

Exception from Planning Consent

All farm dams constructed within the Shire of Donnybrook-Balingup require planning consent, with the following exception:

- * Off-stream dams and excavations with capacity less than 5 megalitres (5 million litres/5000m³).

5.0 Policy Provisions

- 5.1 Nothing contained within the policy removes requirement for approvals under other legislation such as the Rights in Water and Irrigation Act 1914 or related Acts (and Regulations) as administered by the Department of Water (DoW).
- 5.2 Dams constructed on-stream or for purposes other than domestic use and stock watering may require further approval as required under the Rights in Water and Irrigation Act 1914.
- 5.4 The dam should be sited to minimise disturbance to the natural environment. Proposed clearing will be referred to the Department of Environment and Conservation (DEC) where required under the relevant legislation.
- 5.5 On-stream dams over 5 megalitres shall have an underwall pipe or equivalent method to enable low flows to bypass the dam wall. This should be done in a manner that allows limited management of low flow releases.
- 5.6 On-stream dams shall have a spillway designed to accommodate a 1:100 year storm event and to return water to its original course, without causing erosion, prior to leaving the property (water shall exit the property in the same location it did prior to the dam being constructed).
- 5.7 A minimum clearance of 10 metres shall be provided between the toe of the dam wall and the property boundary.
- 5.8 Water shall not be permitted to pond across property boundaries (including lots or locations within the same landholding or ownership). Prior to considering any planning applications involving the construction of dams over property boundaries the applicant shall submit correspondence from a Surveyor confirming that a subdivision/amalgamation application has been approved by the Western Australian Planning Commission (WAPC).

- 5.9 The dam wall shall be grassed or vegetated to reduce its visual impact and possible erosion.
- 5.10 All on-stream dam walls are to have an impervious clay core.
- 5.11 Any spoil associated with the construction of the dam or excavation shall be removed or levelled and the site rehabilitated.

6.0 Information to Accompany Application

- 6.1. Site Plan to scale (preferably 1:1000 or to fit on an A3 size plan) illustrating the location of the proposed new dam in relation to property boundaries and any existing infrastructure and development such as houses, sheds, intensive agriculture and natural landmarks (watercourse, native vegetation etc).
- 6.2 Development Plan to scale (preferably 1:200) and certified by a structural engineer that shows dam dimensions, extent of ponding, natural features intended dam capacity, vegetation to be removed and retained and any additional landscaping.
- 6.3 Typical cross sections through the dam wall and spillway to scale (preferably 1:50).
- 6.4 Details of intended water use.
- 6.5 Any other information that Shire officers may determine is required.

7.0 Referral of Application

- 7.1 Applications for on-stream dams, dams with capacity greater than 5 megalitres and where water is to be used for purposes other than stock watering or domestic use, will be referred to the Department of Water (DoW) or relevant government department.
- 7.2 Council may refer an application for a dam to the Department of Agriculture and Food and/or the Department of Environment and Conservation for comment if appropriate.
- 7.3 Council may also choose to seek comment on any application from surrounding landowners.

8.0 Disclaimer

Council takes no responsibility for the failure of any dam or damage that may be caused by any failure that is approved in accordance with this policy. The landowner and/or earthmoving contractor responsible for construction of the dam may be liable for the cost of damage, including personal injury, property and stock loss or damage, loss of income and road repairs and restoration of the stream channel.

9.0 Standard Conditions of Planning Consent for Dam Development

- (i) **Engineering Certification (*when the dam wall height is 5m or higher or when the dam capacity is 5 mega litres or greater*)**

The proponent is required to provide engineering certification upon completion of construction for the dam design and finished construction, particularly with regard to the assessment of potential hazards.
- (ii) **Measures to Prevent Sedimentation**

The measures identified in the application to prevent construction and ongoing dam operation from causing sedimentation of the watercourse or existing dams downstream shall be undertaken and continued to the satisfaction of the Shire of Donnybrook-Balingup.
- (iii) **Pass or Bypass on the Watercourse**

On-stream dams over 5 megalitres shall have an underwall pipe or equivalent method to enable low flows to bypass the dam wall. This should be done in a manner that allows limited management of low flow releases.
- (iv) **Pumping from the Watercourse (*This Condition would normally be required for pipe head dams and storage dams where pumping from a nearby watercourse is proposed*)**

Pumping from the watercourse to replenish the dam shall not occur during the dry season (as defined in (iii) above).
- (v) **Existing Riparian or Remnant Vegetation**

The dam should be sited to minimise disturbance to the natural environment. Proposed clearing will be referred to the Department of Environment and Conservation (DEC) where required under the relevant legislation.
- (vi) **Topsoil**

Topsoil is to be stockpiled during construction and respread over dam embankments and stabilised by planting native vegetation.
- (vii) **Constructed Overflow**

The dam shall incorporate a constructed overflow with this to include an energy dissipation structure and shall return all excess water to the watercourse within the property owned by the proponent.
- (viii) **Revegetation Plan**

The revegetation plan for the riparian zone and / or dam banks shall be established and maintained to the satisfaction of the Shire of Donnybrook-Balingup.
- (ix) **Central Core**

The dam is to have a central core to be keyed into impermeable bedrock or clay to prevent leakage and provide a neat face wall finish.
- (x) **Construction Bond (*Where landscaping / rehabilitation upon completion of construction is required, the bond will be up to \$2000*)**

The applicant shall provide a construction bond to the value of \$ prior to commencement of works to be held against satisfactory compliance with Condition No's (*insert No's*) of this Planning Consent. The bond

may be in the form of cash, cheque or bank guarantee. Any such bond is to be accompanied by a written authorisation from the owner of the land that the Shire of Donnybrook-Balingup may enter the site to complete or rectify any outstanding work.

(xi) **Expiry Date – Dam**

Unless the dam approved by this Planning Consent is commenced within twelve months of the date of this Planning Consent, and completed within two years of the date of this Planning Consent, then this Planning Consent shall lapse. With the permission of Council, this Planning Consent may be extended.

(xii) **Constructed Spillway**

On-stream dams shall have a spillway designed to accommodate a 1:100 year storm event and to return water to its original course, without causing erosion, prior to leaving the property (water shall exit the property in the same location it did prior to the dam being constructed).

(viii) **Setbacks**

A minimum setback of 10 metres shall be provided between the toe of the dam wall and the property boundary to the satisfaction of the Shire.

(xiv) **Ponding**

Water shall not be permitted to pond across property boundaries (including lots or locations within the same landholding or ownership). Prior to commencement of works the applicant shall submit correspondence from a suitably qualified surveyor confirming that a subdivision/amalgamation application has been lodged with the WAPC.

(xv) **Foot Note: Excavation dams**

Excavation dams' that intersect groundwater and that are used for purposes other than domestic and stock water will require a licence under the Rights in Water and Irrigation Act (RIW&I Act).

(xvi) **Foot Note No: Liability**

Council accepts no liability for the effects of dam failure on the subject property or on adjacent properties or liability for damage caused to downstream properties in addition to those adjacent. The owner of the dam may be liable for the cost of damage, including personal injury, property and stock loss or damage, loss of income and road repairs and restoration of the stream channel.

(xvii) **Foot Note: DOW Power**

The Department of Water has statutory powers to adjudicate over impacts on watercourse flows and are required to take action to rectify these impacts.

This Planning Consent issued by the Shire of Donnybrook-Balingup does not remove any responsibility the applicant may have in obtaining a licence to draw water and/or a permit to interfere with a watercourse or its bed or bank, from the Department of Water. Further information can be obtained from DOW Busselton Office on 9781 0188.

(xviii) **Foot Note: Responsibility re stocking of dams**
This Planning Consent issued by the Shire of Donnybrook-Balingup does not remove any responsibility the applicant may have in obtaining necessary approvals from the Department of Fisheries with regard to commercial or non-commercial aquaculture. If you are planning to stock this dam with any non-endemic species of fish or freshwater crustacean, consent will be required from the Department of Fisheries and the Shire of Donnybrook-Balingup in Accordance with the *Fish Resource Management Regulations* (1995), and the *Town Planning Scheme No. 4* (1999). Further information can be obtained from the Department of Fisheries on 9482 7333 or at the following website: www.fish.wa.gov.au.

(xix) **The Department of Water has requested that the following information be passed onto the applicant / landowner:**

The hydrological report prepared as part of this application provides an evaluation of water potential at that time of assessment only.

The approval does not guarantee access to water. As such, the title holder should ensure there is sufficient water availability to undertake the desired purpose by obtaining a licence from the Department of Water.

Also, to reduce the risk of the development being subject to common law action, the applicant / landowner should ascertain whether the proposed use would affect the rights of others.

Should the Department of Water form an opinion that any person taking or using water on this development is not taking all reasonable steps to minimize degradation and is contributing to the interference with the enjoyment of any other persons rights, the Department may direct that person to mitigate these effects.

This advice does not guarantee access to water.

10.0 Useful Reference for Dam Construction

Lewis, B. 2002. *Farm Dams Planning, Construction and Maintenance*. Collingwood, Vic: CSIRO Publishing.

Available from

CSIRO Publishing

PO BOX 1139

COLLINGWOOD VIC 3066

<http://www.publish.csiro.au/>