Planning and Development Act 2005
Order to City of Mandurah under section 76(1) of the Act

1. I, the Hon John Day MLA, Minister for Planning, pursuant to section 76(1) of the Planning and Development Act 2005 (the Act), order the City of Mandurah to initiate an amendment to Town Planning Scheme No. 3 as outlined in the representation by Greg Rowe and Associates dated 30 September 2011 (a copy of which is attached to this order), subject to additional justification being included, to the satisfaction of the Department of Planning, in the scheme amendment report to demonstrate:

(a) on-site effluent disposal based on land capability and the minimum development setbacks from the adjacent wetlands can be achieved, as required by the Coastal and Lakelands Planning Strategy;

(b) land capability and current environmental constraints will be taken into consideration when establishing appropriate lot sizes for this site, in accordance with the Lake Clifton Herron Structure Plan;

(c) compliance with the requirements of State Planning Policy 2.6 – State Coastal Planning Policy and the related Western Australian Planning Commission Position Statement through the provision of the minimum setback requirement from the Harvey Estuary high water mark or alternatively, a setback identified via a site specific modelling of coastal processes; and

(d) compliance with the Planning for Bushfire Protection Guidelines for appropriate separation and protection zones from the Regional Open Space on the southern boundary.

As a result of the above, it may be necessary for the proposed scheme amendment to be modified to include a text component, such as including appropriate provisions in Appendix 4 of the scheme.

2. The City of Mandurah is to comply with this Order within 60 days of the date of the order.

Signed this 9th day of November 2012.

JOHN DAY MLA
MINISTER FOR PLANNING

Att
Planning and Development Act 2005  
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Reasons for Decision

I, the Hon John Day MLA, Minister for Planning, am satisfied on representations before me that the City of Mandurah has failed to adopt an amendment to its town planning scheme proposed by owners of land in a case where such an amendment ought to be adopted for the following reason:

1. I consider that the City has not provided reasonable justification as to why this amendment should not be adopted and initiated.

2. I consider that the proposal to rezone Lot 1 Southern Estuary Road, Herron from Rural to Rural Residential is generally consistent with the adopted strategic plans for the locality. The proposal is not vexatious and prima facie, may have some merit. Subject to additional justification being included in the scheme amendment report and subject to any other modifications being undertaken that may arise from the additional justification, to the satisfaction of the Department of Planning, it is appropriate that the proposal be initiated to allow for the amendment to be advertised for public comment and further detailed assessment to be undertaken through the scheme amendment process.

Signed this 9th day of November 2012.

JOHN DAY MLA  
MINISTER FOR PLANNING