

South Coast Planning Services
TOWN AND REGIONAL PLANNING

Scheme Amendment Request

Proposed rezoning

of Lots 405 and 406 South Coast Highway, Shadforth

from 'Rural' to 'Special Rural' zone

Shire of Denmark Town Planning Scheme No. 3

Submission to the Shire of Denmark

May 2014

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21 October 2014 - Attachment 8.1.2a

1. INTRODUCTION

This Scheme Amendment Request seeks Council's support in relation to Denmark agricultural Lots 405 and 406 South Coast Highway, Shadforth (subject land), namely:

- (a) To rezone the subject land from 'Rural' to 'Special Rural' under the Shire of Denmark Town Planning Scheme No. 3.
- (b) To include appropriate special Scheme Provisions that address the specific requirements relevant to this particular development such as fire management, servicing standards, development envelopes, standards for visual amenity of buildings, vegetation protection and rural pursuits.

The Scheme Amendment is accompanied by a concept Subdivision Guide Plan (SGP) that is responsive to the physical and environmental attributes of the site and recognises the requirements of a future 'Rural Smallholdings' zoning under a new TPS 4.

2. ABOUT THE LAND

The subject land is located approximately 6 km west of the Denmark townsite. It fronts South Coast Highway to the south and abuts Mt Shadforth Nature Reserve to the north. **Refer Attachment 1: Location Plan**

Lot 405 is 43.47ha and is owned by Ross and Bev McGuinness (Certificate of Title 1189-599). Lot 406 is 41.55ha and is owned by Alex and Katie Syme (Certificate of Title 1126-675). The total area of the subject land is therefore 85.02ha. **Refer Attachment 2: Certificate of Titles.**

A permanent flowing major tributary (the Mount Shadforth tributary) of the Little River traverses the subject land from the north west corner through to where it joins Little River near South Coast Highway with riparian vegetation remaining intact over both waterways. The land is undulating and slopes up from the Little River valley at 35m AHD to a western ridge of 90m AHD and steeper slopes along its northern boundary. Good quality vegetation is intact along the northern parts of the subject land which serves as a vegetation corridor and buffer to the Mt Shadforth Nature Reserve (A18340).

Lot 405 contains a house; sheds and 4 chalets (Cinnamon Coloured Cottages). Two crossovers from South Coast Highway provide access to the land. Lot 406 contains a house and sheds with one crossover.

The subject land is connected to an overhead power line which is linked to residences and chalets underground. The existing dwellings and chalets are serviced by on-site effluent disposal units and potable water supply from rainwater capture and storage.

The subject land is surrounded by farms to the west and south and south east and areas for Rural Residential and Landscape Protection have been developed to the east and north thereof. Tourism is a prominent land use within the vicinity - the Chocolate Lounge; Karma Chalets and Karisma Spa; Forrest Hill Winery and Pepper and Salt Restaurant are all located close by. Direct access to the coast is south via Lights Road opposite the subject land.

3. STATUTORY AND STRATEGIC PLANNING CONSIDERATIONS

3.1 Statutory Planning Framework

Shire of Denmark Town Planning Scheme No.3

Under the Shire of Denmark TPS No. 3 the land is zoned 'Rural'. The objective of the 'Rural' zone is *"for the range of normal rural activities conducted in the Shire and to protect such land from inappropriate uses"*. TPS No. 3 allows for land uses normally associate with 'Rural' zoned land.

It proposed to rezone the land to 'Special Rural' under TPS3 as the 'Rural Smallholding' zone will not be introduced in this Scheme. The land will then be incorporated in the 'Rural Smallholding' zone under TPS4.

3.2 Strategic Planning Framework

Lower Great Southern Strategy

The Lower Great Southern Strategy does not provide specific direction on the rezoning and development of land to 'Special Rural'. It identifies Denmark as a sub-regional centre and requires that Local Planning Strategies identify sufficient land for town expansion.

SPP 2.5 – Land Use Planning in Rural Areas

Rezoning and development for 'Special Rural' is subject to the requirements of the West Australian Planning Commission's *'Statement of Planning Policy (SPP) No. 2.5 Land Use Planning in Rural Areas*.

The policy applies to land identified or proposed for rural living uses and when initiating or assessing amendment to local planning strategies and schemes. The objectives of the policy relevant to this SAR are:

- To protect rural land from incompatible uses by requiring comprehensive planning for rural areas;
- to promote sustainable settlement in, and adjacent to, existing urban areas; and
- to protect and improve environmental and landscape assets.

The SSP identifies policy measures that apply to WAPC decision making for rural living proposals. The following summarises those proposals relevant to this SAR:

- a) The rural living precinct is part of a settlement hierarchy established in a WAPC endorsed planning strategy;
- b) Support for rural living precincts where:
 - It is located adjacent to existing urban areas with access to services, facilities and amenities;
 - Provisions of fit-for-purpose domestic potable water supply which, which includes water for firefighting;
 - Supply of reticulated electricity;
 - The precinct is predominately cleared of remnant vegetation or the loss of remnant vegetation through clearing for building envelopes, bushfire protection, access and fencing is minimised and environmental assets are not compromised;
 - It promotes good environmental and landscape outcomes;
 - The land is capable of supporting the development;
 - The lots can be serviced by constructed road/s, including access and egress for emergency purposes;
 - The precinct is not in an extreme bushfire risk area and any lesser bushfire risk can be managed without adversely affecting the natural environment; and
 - In areas of moderate risk, dwelling will be required to be constructed under AS3959.
- c) Development standards for rural living should be addressed in local planning schemes
- d) Rural strata proposals with a residential component are considered to be rural living.

[Environmental Protection Bulletin No. 20 – Environmental Protection Bulletin No. 20 – Protection of naturally vegetated areas through planning and development](#)

The SGP has been designed in accordance with the *'Environmental Protection Bulletin No. 20 – Protection of naturally vegetated areas through planning and development'*. The purpose of this bulletin to protect naturally vegetated areas during all stages of the planning process. It states that the EPA expects protection of naturally vegetated areas to be considered as early as possible in the planning process, and addressed at each stage of planning.

The bulletin sets out design guidelines for planning and development as follows:

- Locate development on cleared land;
- Consider the impact of fire protection requirements on biodiversity;
- Protect large consolidated naturally vegetated areas;
- Ensure clear and ongoing management responsibilities in retained naturally vegetated areas; and

- Infrastructure should not be located within consolidated retained naturally vegetated areas.

Shire of Denmark Local Planning Strategy (2011)

The Shire's Local Planning Strategy (LPS) was adopted by Council in October 2011 and approved by the West Australian Planning Commission in May 2012. The LPS designates the subject land for 'Rural Smallholdings' with the following objective:

"To accommodate a variety of rural residential and rural smallholding lots in appropriate locations as shown on the LPS maps".

The LPS provides that Council continue to require rezoning submissions for new rural smallholding development to demonstrate land capability, environmental assessment and the coordination of design and servicing with adjoining development through subdivision guide plans.

The LPS further sets out timing and implementation of strategic land releases for the areas designated. It provides for the timing of Rural Smallholding as ongoing, when land owners apply for rezoning and development thereof, at adoption of a Subdivision Guide Plan and where infrastructure is available.

4. THE PROPOSAL

The proposal is that under the Shire of Denmark Town Planning Scheme No. 3, to rezone the subject land from 'Rural' to 'Special Rural', carrying special provisions that have regard to future 'Rural Smallholding' zoning provisions. Lots 405 and 406 form a distinct land unit over which to rezone and subdivide the land. The land to the west and south thereof is not designated for Rural Small Holding under the LPS. The land immediately to the east is designated for this purpose, it is however not suitable for development due to steep slopes, dense remnant vegetation and accessibility issues.

The overriding principle of the proposal is retaining options for a wide range of rural pursuits whilst effectively managing for exceptional conservation values on and adjacent to the subject land.

The main objective of cluster development is to allow for rural living development while still protecting biodiversity values, productive agricultural land, landscape qualities and rural amenity. The cluster development results in smaller lots however, the total number of lots does not increase over that which would be allowed in the conventional subdivision design. The same number of homes is clustered on a smaller portion of the total available land. The remaining land, which would have been allocated to individual home sites, is now converted into protected conservation areas and agricultural productive farm land shared by the residents of the subdivision.

4.2 Subdivision Guide Plan

The property can roughly be divided into two units: south west of the permanent flowing major tributary (the Mount Shadforth tributary) of the Little River which has been used for farming purposes and is cleared for paddocks. The second unit is north east of the Mount Shadforth tributary which contains a significant block of undisturbed good quality remnant vegetation as well as an area of pasture. The land is physically divided by the permanent flowing major tributary (the Mount Shadforth tributary) of the Little River which defines these two units.

It is proposed to cluster development occur on land that has been cleared (south west of the Mount Shadforth Tributary), including common property to allow for predominantly agricultural production and protection of biodiversity values. The area north east of the Mount Shadforth tributary are proposed to contained within the common property for predominantly biodiversity protection with a smaller area for agricultural production.

It is proposed to cluster development on three areas south west of the Mount Shadforth tributary as follows:

- To develop 9 lots along the ridge of Lot 406;
- To develop 6 lots along the western boundary of Lot 405 in conjunction with the existing house;
- To develop 4 lots that contains the existing chalets on Lot 405; and
- To develop 1 lot that contains the existing house on Lot 406.

This results in a total of 20 lots with an average lot size of 4.25ha over the 85ha area. It is proposed that the tenure of these lots will be strata titling with areas of remnant vegetation and land for agricultural production to be contained in communal lots (part ownership). **Refer Attachment 3: Subdivision Guide Plan.**

The objectives of the subdivision design under the SGP are as follows:

- To allow for coordinated planning of Lots 405 and 406 South Coast Highway;
- To protect areas of remnant vegetation and biodiversity values;
- To 'cluster' develop within cleared areas to allow for the protection of remnant vegetation;
- To strata title the land to allow areas of remnant vegetation and areas of cleared land retained for agricultural production to be protected within communal lots;
- To utilise existing crossovers from South Coast Highway;
- To protect the landscape quality and rural amenity of the subject land; and
- To allow for development that complies with 'Planning for Bushfire Protection'.

Cluster Development

The objective of the SGP to cluster development and create survey strata lots is supported by SPP 2.5. The SPP defines 'rural strata' as follows:

'A concept that involves subdividing a rural property into a number of residential lots, with the balance of the property being retained and operated as a farm. The farm is generally owned and operated by the owners of the residential lots.

In this instance, the balance lot retained will not only be used for farming purposes but also the protection of biodiversity values.

The clustering of development on the subject land is an innovative land management technique and has the following benefits and discussed in detail below:

- Protection of biodiversity values;
- Protection of existing agricultural land suitable for rural pursuits;
- Protection of landscape values and rural amenity; and
- Reduction in bushfire risk.

Protection of Biodiversity Values

The subject land contains some 20.8ha of good quality remnant vegetation which abuts the Mt Shadforth Nature Reserve (Reserve No. A18340). This reserve and that portion of Denmark Estate Lot 406 which is situated to the north of the Mount Shadforth tributary traversing that lot, is listed on the Register of the National Estate (Place ID 9364).

A further four pockets of remnant vegetation totalling 9.1ha are proposed to be protected. Lot 406 is also registered under the 'Land for Wildlife' (Registration No. 950). The proponents wish for all the remnant vegetation to be protected through 'cluster' development.

The objective of the SGP to protect areas of remnant vegetation is in accordance with the *EPB20 – Protection of naturally vegetated areas through planning and development* and SPP 2.5 Land Use Planning and Rural Areas of which an objective is that the land is predominately cleared of remnant vegetation or the loss of remnant vegetation through clearing for building envelopes, bushfire protection, access and fencing is minimised and environmental assets are not compromised.

Protecting areas of remnant vegetation under this proposal benefit the environment by providing habitat for wildlife, protecting the Mount Shadforth tributary, naturally filtering storm water, reducing storm water runoff from impervious surfaces, and protecting the natural features of a site.

Protection of Productive Agricultural Land

Substantial portions of the subject land have been cleared and used for agricultural purposes. It is proposed that the cluster development occurs on these parts of the subject land with significant areas remaining for productive agricultural use.

Protection of Landscape Values and Rural Amenity

Cluster development on subject land confines development to the area of clustering only. This retains large areas of land in which landscape values are conserved and protected and rural amenity maintained.

Three lots contained along the western boundary within the cluster on Lot 405 will be momentarily visible over approximately 120 metres of South Coast Highway for vehicles travelling to the west. The development will not be visible from Sunrise Road.

From adjacent/nearby existing rural residences the following visibility is envisaged (on the basis that they have some vision of the subject land):

- From Lot 407 - 1900 South Coast Highway (distance >500m) = NIL;
- From Lot 408 - 1980 South Coast Highway (distance >1,000m) = 5 envelopes on Lot 406;
- From Lot 4330 - 776 Lights Road (distance >1,000m) = NIL.

Reduction in Bushfire Risk

Preliminary discussion with fire planning consultants on the concept of cluster development was undertaken. The following feedback was provided on the benefit of clustering development from a fire planning perspective:

- Clustering and access allows separation of development from the remnant vegetation; and
- Clustering reduces the need to clear for bushfire protection measure thereby protecting remnant vegetation and biodiversity values.

4.3 Road Network

It is proposed existing crossovers to the subject land to develop an internal road network which links these access points from South Coast Highway. This results in a good access through the site and allows for 3 access points to the Highway as well as continuing existing access to farmland to the west to comply with Planning for Bush Fire Protection Guidelines (Edition 2).

The proposal will not add to the Shire's road infrastructure and therefore not add to the Shire's annual road maintenance costs where strata titling occurs.

4.4 Services

It is anticipated that the existing power will be extended to newly created lots. All lots will be developed with on-site effluent disposal and potable water supply from rainwater capture and storage. Existing farm water supplies will be maintained.

4.5 Fire Management

The location of strata lots and siting of development is guided by *'Planning for Bushfire Protection Guidelines Edition 2'*. It is proposed that strata lots near to remnant vegetation will be separated from that vegetation by roadways. Final micro location of strata lots will be determined following preparation of a Fire Management Plan.

The concept SGP indicates that development would not provide a trigger to change current fire management of the larger areas of remnant vegetation.

4.6 Land Capability

The capability of the land for Rural Smallholding development will be determined as part of preparation of the Scheme Amendment.

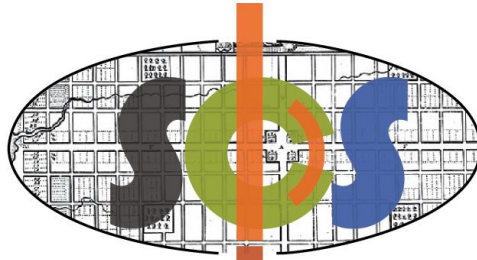
4.7 Strata Titling and Management

It is proposed to develop the land under a strata title arrangement and that the land for conservation purposes and productive agricultural be maintained as common property. Methods to protect and maintain this common property must be carefully developed, implemented and monitored. The following measures/issues have been identified:

- Protection of biodiversity values through a conservation covenant with either Department of Parks and Wildlife or National Trust.
- The preparation of Farm Management Plan in association with Department of Agriculture and Food at subdivision stage which address the following matters:
 - Types of agricultural production suitable on the common property for example small scale agricultural production, horticulture, rural pursuits, hobby farming, livestock etc.
 - Planting types (including densities, irrigation measures, maintenance regimes etc.
 - Management of land use conflict between agricultural uses and sensitive residential uses.
 - Other matters identified.
- Strata Company establishment.

5. CONCLUSION

The proposal is to rezone the subject land from 'Rural' to 'Special Rural'. The subject land is located in close proximity to the Denmark townsite and has been designated for Rural Smallholdings under the Shire of Denmark LPS. The LPS allows for land earmarked for this purpose to be developed following rezoning, adoption of a Subdivision Guide Plan and availability of infrastructure. The rezoning of the land is further supported by SPP 2.5 which requires that land for Rural Smallholding development be earmarked in LPS's prior to rezoning and development thereof.

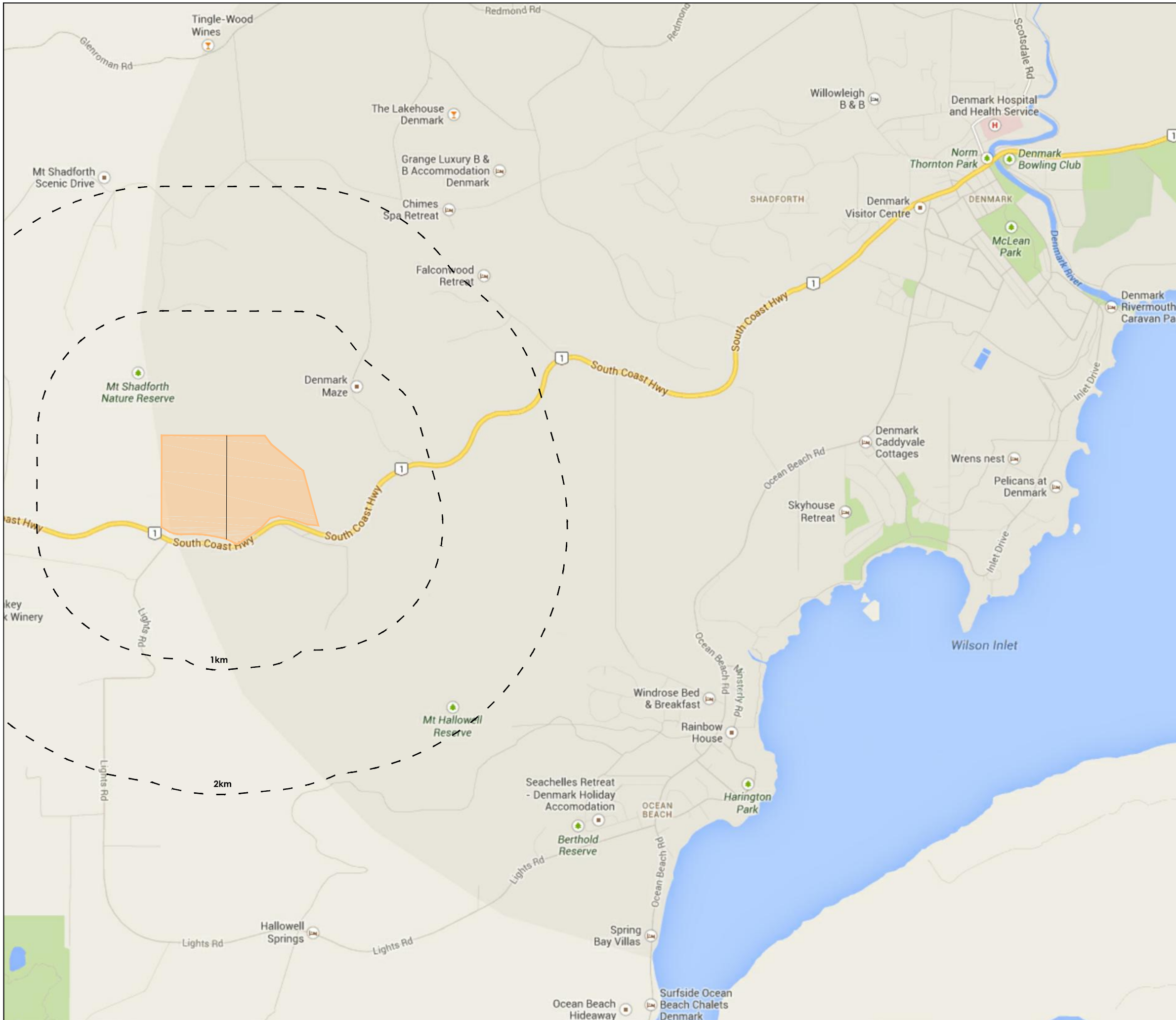


South Coast Planning Services
TOWN AND REGIONAL PLANNING

Attachment 1: Location Plan

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LOCATION PLAN
Lots 405 + 406 South Coast Highway
Shadforth, Shire of Denmark

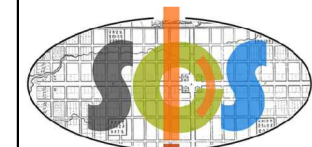


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SIZE A3 **1:30,000**

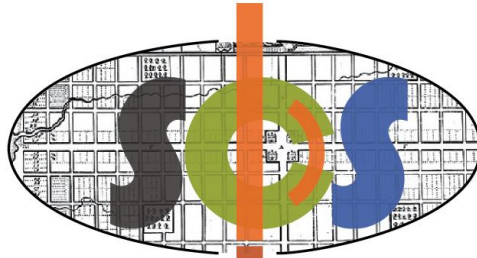
REF NO. **131120**
 DRAWING **02**
 REVISION **A**

NORTH



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South Coast Planning Services
TOWN AND REGIONAL PLANNING

Attachment 2: Certificate of Titles

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Denmark WA 6333

WESTERN



AUSTRALIA

REGISTER NUMBER 405/DP230727	
DUPLICATE EDITION N/A	DATE DUPLICATE ISSUED N/A

RECORD OF CERTIFICATE OF TITLE
UNDER THE TRANSFER OF LAND ACT 1893

VOLUME
1189

FOLIO
599

The person described in the first schedule is the registered proprietor of an estate in fee simple in the land described below subject to the reservations, conditions and depth limit contained in the original grant (if a grant issued) and to the limitations, interests, encumbrances and notifications shown in the second schedule.

REGISTRAR OF TITLES



LAND DESCRIPTION:

LOT 405 ON DEPOSITED PLAN 230727

REGISTERED PROPRIETOR:
(FIRST SCHEDULE)

ROSS MCGUINNESS
BEVERLEY JEAN MCGUINNESS
BOTH OF RMB 1017 SOUTH COAST HIGHWAY, DENMARK
AS JOINT TENANTS

(T D703144) REGISTERED 22 MARCH 1988

LIMITATIONS, INTERESTS, ENCUMBRANCES AND NOTIFICATIONS:
(SECOND SCHEDULE)

1. TITLE EXCLUDES THE LAND SHOWN ON O.P. 8263.
2. G954390 MORTGAGE TO BANK OF WESTERN AUSTRALIA LTD REGISTERED 18.11.1998.

Warning: A current search of the sketch of the land should be obtained where detail of position, dimensions or area of the lot is required.
* Any entries preceded by an asterisk may not appear on the current edition of the duplicate certificate of title.
Lot as described in the land description may be a lot or location.

-----END OF CERTIFICATE OF TITLE-----

STATEMENTS:

The statements set out below are not intended to be nor should they be relied on as substitutes for inspection of the land and the relevant documents or for local government, legal, surveying or other professional advice.

SKETCH OF LAND: 1189-599 (405/DP230727).
PREVIOUS TITLE: This Title.
PROPERTY STREET ADDRESS: 1784 SOUTH COAST HWY, SHADFORTH.
LOCAL GOVERNMENT AREA: SHIRE OF DENMARK.

NOTE 1: A000001A LAND PARCEL IDENTIFIER OF DENMARK ESTATE LOT 405 (OR THE PART THEREOF) ON SUPERSEDED PAPER CERTIFICATE OF TITLE CHANGED TO LOT 405 ON DEPOSITED PLAN 230727 ON 05-JUN-02 TO ENABLE ISSUE OF A DIGITAL CERTIFICATE OF TITLE.

NOTE 2: THE ABOVE NOTE MAY NOT BE SHOWN ON THE SUPERSEDED PAPER CERTIFICATE OF TITLE OR ON THE CURRENT EDITION OF DUPLICATE CERTIFICATE OF TITLE.

WESTERN



AUSTRALIA

REGISTER NUMBER 406/DP230727	
DUPLICATE EDITION N/A	DATE DUPLICATE ISSUED N/A

RECORD OF CERTIFICATE OF TITLE
UNDER THE TRANSFER OF LAND ACT 1893

VOLUME
1126

FOLIO
675

The person described in the first schedule is the registered proprietor of an estate in fee simple in the land described below subject to the reservations, conditions and depth limit contained in the original grant (if a grant issued) and to the limitations, interests, encumbrances and notifications shown in the second schedule.

REGISTRAR OF TITLES



LAND DESCRIPTION:

LOT 406 ON DEPOSITED PLAN 230727

REGISTERED PROPRIETOR:
(FIRST SCHEDULE)

ALEXANDER JOHN SYME
KATRINA SYME
BOTH OF RMB 1020 SOUTH COAST HIGHWAY, DENMARK
AS JOINT TENANTS

(T B339833) REGISTERED 19 MAY 1977

LIMITATIONS, INTERESTS, ENCUMBRANCES AND NOTIFICATIONS:
(SECOND SCHEDULE)

1. F956790 MORTGAGE TO WESTPAC BANKING CORPORATION REGISTERED 17.8.1995.

Warning: A current search of the sketch of the land should be obtained where detail of position, dimensions or area of the lot is required.

* Any entries preceded by an asterisk may not appear on the current edition of the duplicate certificate of title.

Lot as described in the land description may be a lot or location.

-----END OF CERTIFICATE OF TITLE-----

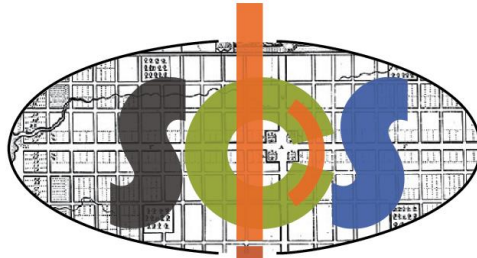
STATEMENTS:

The statements set out below are not intended to be nor should they be relied on as substitutes for inspection of the land and the relevant documents or for local government, legal, surveying or other professional advice.

SKETCH OF LAND: 1126-675 (406/DP230727).
PREVIOUS TITLE: This Title.
PROPERTY STREET ADDRESS: 1874 SOUTH COAST HWY, SHADFORTH.
LOCAL GOVERNMENT AREA: SHIRE OF DENMARK.

NOTE 1: A000001A LAND PARCEL IDENTIFIER OF DENMARK TOWN LOT/LOT 406 (OR THE PART THEREOF) ON SUPERSEDED PAPER CERTIFICATE OF TITLE CHANGED TO LOT 406 ON DEPOSITED PLAN 230727 ON 15-MAY-02 TO ENABLE ISSUE OF A DIGITAL CERTIFICATE OF TITLE.

NOTE 2: THE ABOVE NOTE MAY NOT BE SHOWN ON THE SUPERSEDED PAPER CERTIFICATE OF TITLE OR ON THE CURRENT EDITION OF DUPLICATE CERTIFICATE OF TITLE.



South Coast Planning Services
TOWN AND REGIONAL PLANNING

Attachment 3: Concept Subdivision Guide Plan

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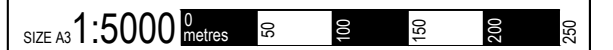
SUBDIVISION GUIDE PLAN
Lots 405 + 406 South Coast Highway
Shadforth, Shire of Denmark

LEGEND

- SUBJECT LAND
- CADASTRE EXISTING
- PROPOSED STRATA LOT
- REMNANT VEGETATION (WITH AREA)
- EXISTING ABOVE GROUND POWERLINE
- CONTOURS (5m)
- EXISTING WATERCOURSE
- ACCESS ROAD

H	MODS TO 406 SW LOT	140525	SJ	CS
G	MODIFICATIONS TO LOT 406 DETAIL	140519	SJ	CS
F	MODIFIED AS PER MARKUPS	140511	SJ	CS
E	REVISED SGP	140406	SJ	CS
D	INDICATIVE SUBDIVISION	140401	SJ	CS
C	VARIOUS REVISIONS	131217	SJ	CS
B	VARIOUS REVISIONS	131211	SJ	CS
A	SUBDIVISION GUIDE PLAN	131120	SJ	CS
REV	DESCRIPTION	YYMMDD	DRAWN	APPRD

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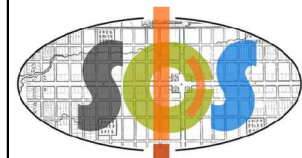


AERIAL PHOTOGRAPHY
 SOURCE: LANDGATE
 YYMMDD: 100505

CADASTRAL INFORMATION
 SOURCE: WATER CORPORATION
 YYMMDD: N/A
 DWG REF: N/A
 PROJECTION: MGA (unverified)

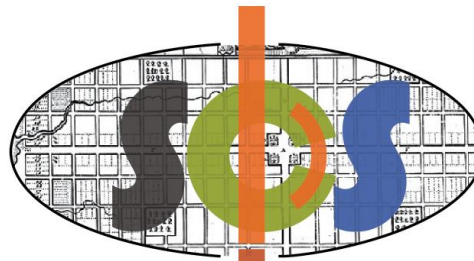
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 REVISION **H**

NORTH



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South Coast Planning Services



South Coast Planning Services
TOWN AND REGIONAL PLANNING

Appendix 4: Examples of cluster development in Western Australia

Introduction

The concept of cluster development is a common place in the United States and in the Eastern States. In comparison, cluster development is in it's infancy in Western Australia.

In the Shire of Denmark, cluster development has occurred under the Landscape Protection (5 zones) and Rural – Multiple Occupancy zones (4 zones). The Landscape Protection zone is no longer supported under the Local Planning Strategy (LPS) due to fire protection measure resulting in the greater majority of vegetation that was to be protected being lost. The Rural – Multiple Occupancy zone continues to be supported under the LPS in areas designated Rural Residential or Rural Smallholding on the LPS maps. An objective of the Rural – Multiple Occupancy zone is however, to allow for rural settlement on a single rural lot in a cluster pattern. This zones is therefore not suitable under this Amendment.

More recently, a Local Government's in WA Biodiversity Protection Plans have identified cluster development as a means of protecting biodiversity. Planning for, and development to cluster development has occurred over the past few years in a number of Shires and the following provides an overview of examples. These examples shows support for cluster development for rural living with reduced lot sizes in order to protect biodiversity values or productive farmland.

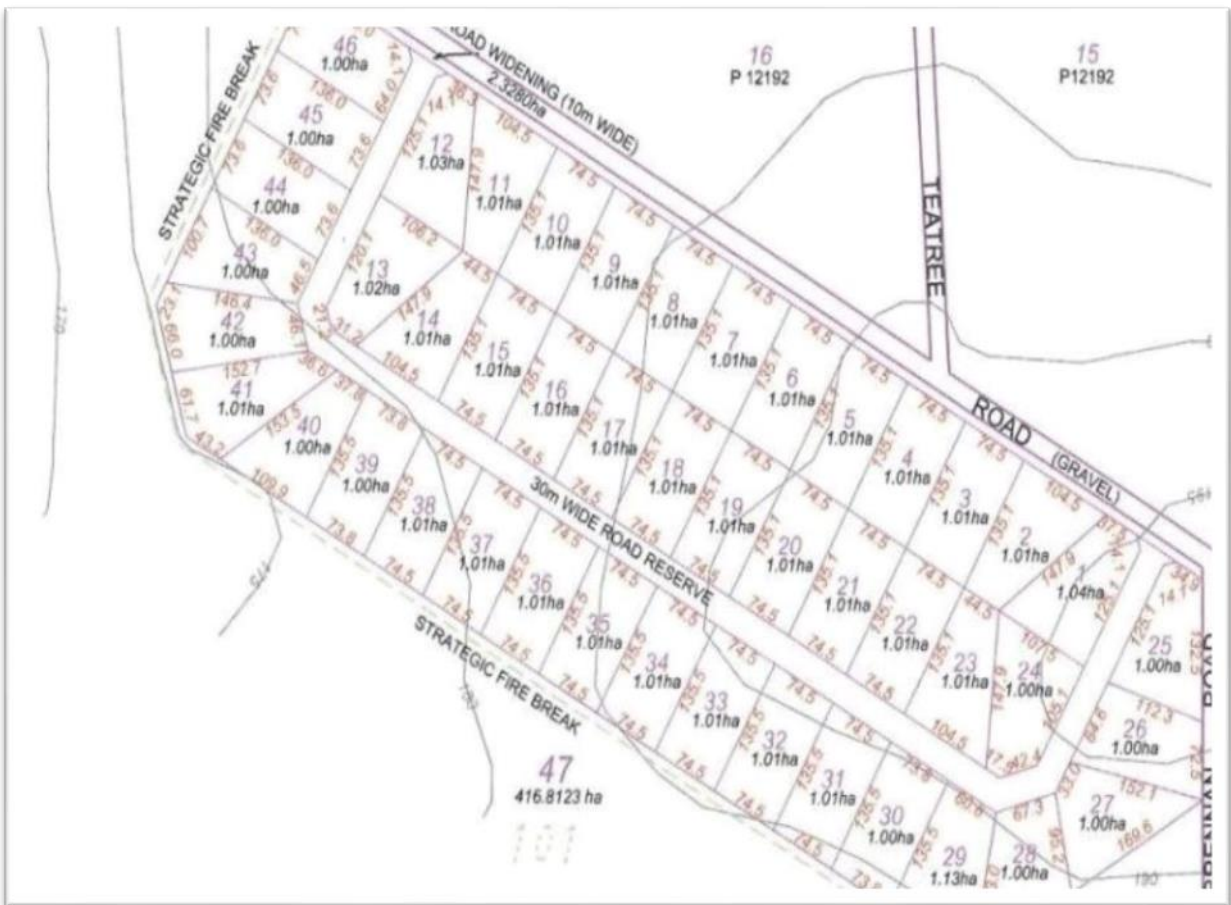
Shire of Chittering

The City of Chittering's Local Biodiversity Strategy (April 2010) recommends clustering of development in order to meet conservation targets set out in the Strategy. Two amendments have been approved for cluster development in line with the recommendations of the Biodiversity Strategy as follows:

- **Town Planning Scheme No. 6 Amendment No. 8:** Lot 20 Gray Road, Bindoon - Rawsom Spring Estate. Rezoning from 'Rural' to 'Rural Conservation' zone. Subdivision of 327ha land into 161 lots of approximately 5000m² each with a remainder conservation lot of 222ha. Clustering resulted in smaller lots with the lot yield remaining the same as under a conventional subdivision. This achieved the protection of biodiversity values in the conservation lot. The following Subdivision Guide Plan illustrates how clustering was achieved.



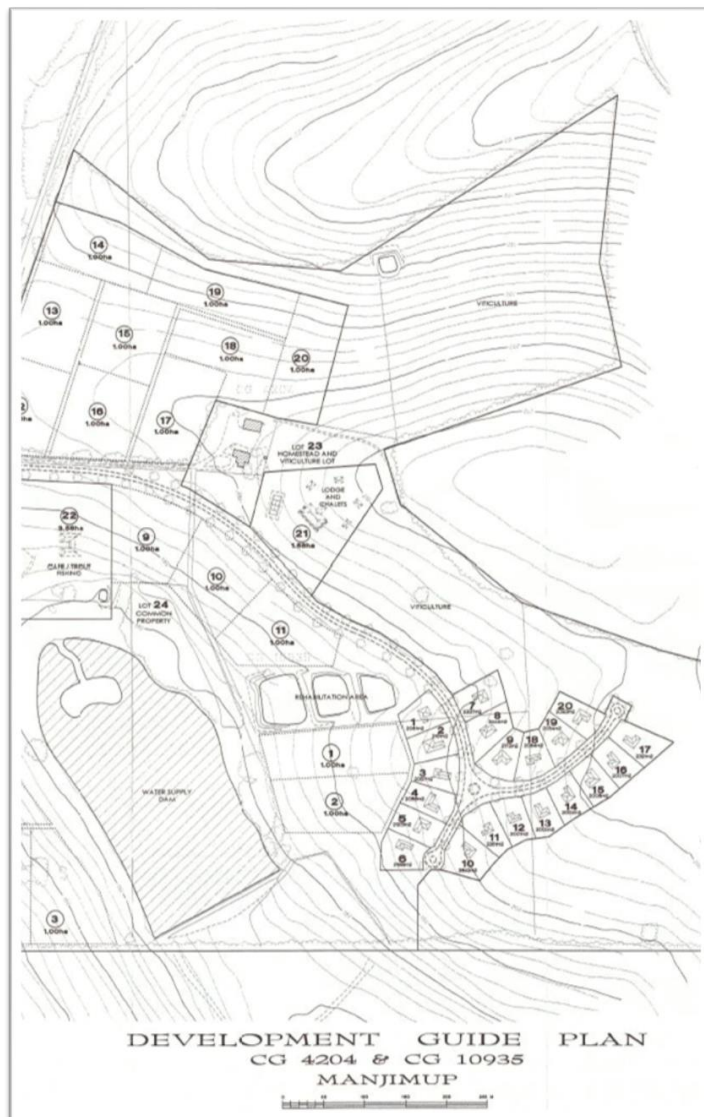
- **Town Planning Scheme No. 6 Amendment No. 23:** Lot 101 Tee Tree Road, Bindoon. Rezoning from 'Rural' to 'Rural Conservation' zone. The Amendment facilitated the development of 48 lots in a cluster with an average of 1ha and one conservation lot of 417ha. Clustering resulted in smaller lots with the lot yield remaining the same as under a conventional subdivision. The following Subdivision Guide Plan illustrates how clustering was achieved.



Shire of Manjimup

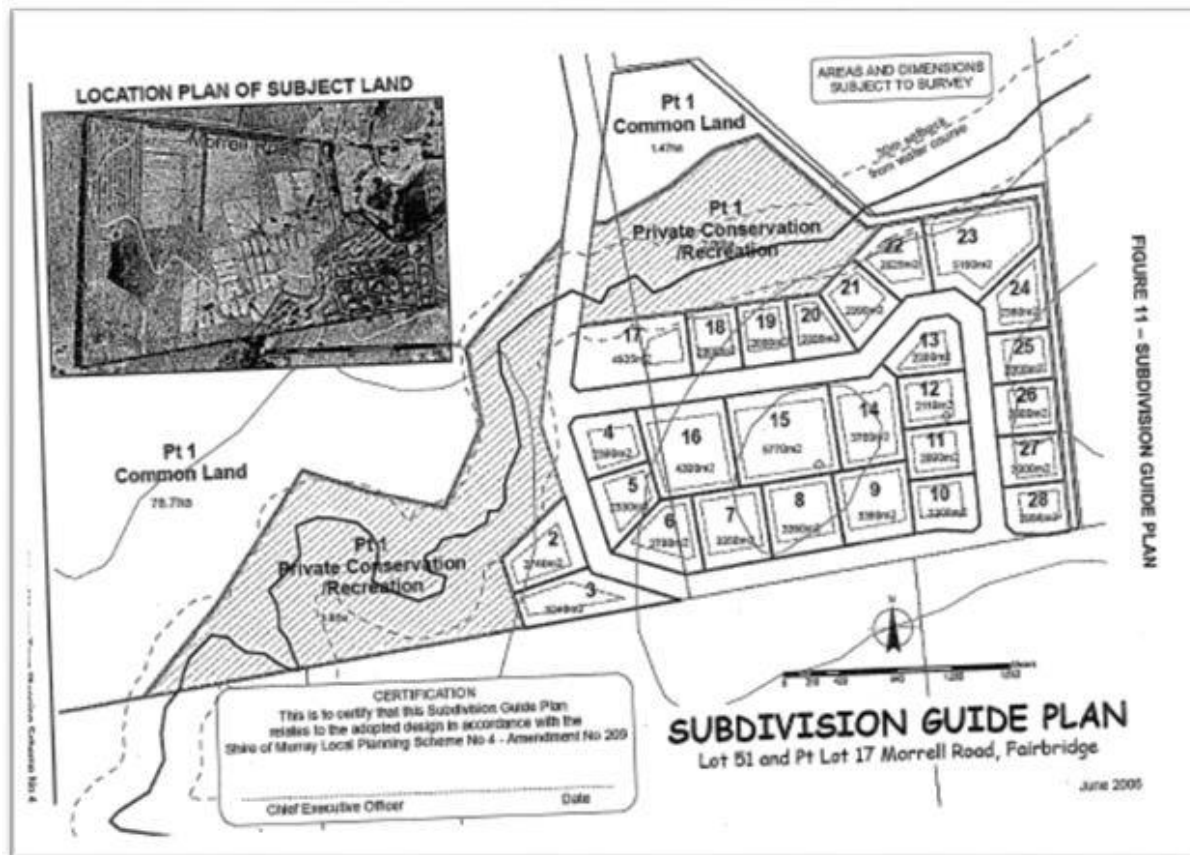
An objective of the Rural Smallholding zone under the Shire of Manjimup’s Local Planning Scheme No. 4 is *“in appropriate circumstances, make use of innovative design and clustering of houses and other structures to minimise the impacts on adjacent land (including agriculture) and provide for on-going use of land for rural pursuits, whilst protecting landscape and environmental values and utilising services efficiently.”*

A cluster development was approved under Town Planning Scheme No. 2 Amendment No. 85 in the Cluster Farm zone. These provisions were carried over as a Special Use Site to Local Planning Scheme No.4. The following Subdivision Guide Plan illustrates how clustering was achieved.



Shire of Murray

Town Planning Scheme No. 4 Amendment 209 introduced the 'Cluster Farm' zone. The objective of the amendment was to provide for dwelling set in a rural environment without the loss of the agricultural uses of the land. The amendment allowed for a single cluster of 27 dwellings with shared ownership of a farming entity. The tenure is based on strata titles such that each owner will have a strata house lot and an undivided share of the 'farm' (78.7ha). The lots are designed to provide a variety of lot sizes (between 2000m² – 5000m²) with the intention of minimising the impact of the development on the whole property. The following Subdivision Guide Plan illustrates how clustering was achieved.



Shire of Mundaring

The Shire of Mundaring's does not currently have a policy or Scheme provisions specifically supporting cluster-type development. The Local Biodiversity Strategy (May 2009) however, recommends that the Shire develop these as part of their Scheme review process. No amendments based on cluster development have occurred to date.



Great Southern Region

Your ref: A895, A984
Our ref: TPS/0174/2
Enquiries: Kelsie Lewis
Ph 9892 7302

23 July 2014

Chief Executive Officer
Shire of Denmark
PO Box 183
DENMARK WA 6333

Attn: Annette Harbron

Dear Annette

SCHEME AMENDMENT REQUEST - LOTS 405 & 406 SOUTH COAST HIGHWAY DENMARK

Thank you for the opportunity to comment on the above scheme amendment request.

The proposal seeks to amend the Shire of Denmark Town Planning Scheme No 3 (TPS3) to rezone Lots 405 and 406 South Coast Highway Shadforth from 'Rural' to 'Special Rural' to facilitate a strata subdivision to create 20 lots and a common property lot to be used for agricultural production and biodiversity protection.

The land is identified in the Shire of Denmark Local Planning Strategy (LPS) for Rural Smallholdings. As TPS 3 does not contain a rural smallholding zone, the special rural zone will be used. The LPS states the Council will introduce the rural smallholding zone in implementing the strategy, which may be as part of the new local planning scheme.

Rezoning the land is supported in principle, given the land is identified in the LPS and the proposal seeks to locate development on cleared land, away from areas of remnant vegetation. This support is provided on the basis of a scheme amendment report being prepared which addresses the requirements of the LPS at clause 6.12.2 and the requirements of State Planning Policy 2.5 *Land Use Planning in Rural areas* at clause 5.6.

Further comments are provided below.

- It is unlikely the LPS anticipated this model of development. There are reservations regarding the successful communal use and management of the remnant vegetation and agricultural production given the previous record this model has demonstrated in the Great Southern region.
- Locating development to avoid clearing of native vegetation, and to achieve bush fire hazard separation is supported.
- It is recommended early liaison with Main Roads WA occurs regarding access onto South Coast Highway, despite the proposal utilising the existing crossovers.
- It is queried whether 2000m² lot sizes are adequate to accommodate appropriate buffers to adjoining agricultural land uses.

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Government of **Western Australia**
Department of **Planning**

- The proposal would need to address visual amenity and view lines from South Coast Highway. Development along the ridge of Lot 406 is not supported.
- The proposal would need to provide rainwater calculations and demonstrate a sustainable water supply for both domestic potable use and fire fighting.
- It is recommend the scheme contains provisions controlling density, ie development not to exceed one dwelling per 4 ha.
- It is noted land capability has not been investigated, and that this will be undertaken as part of the amendment preparation.

If you have any further queries, please contact Kelsie Lewis (Senior Planning Officer) on 9892 7302 or by email at kelsie.lewis@planning.wa.gov.au.

Yours faithfully,

STEPHEN PETERSEN
REGIONAL MANAGER
GREAT SOUTHERN REGION
REGIONAL PLANNING & STRATEGY



Government of Western Australia
Department of Aboriginal Affairs

ENQUIRIES : Christine Bolton- Ph 08 6551 8132
OUR REF: 07/0844
YOUR REF: A895 and A984

Ms Annette Harbron
Director of Planning and Sustainability
Shire of Denmark
PO Box 183
DENMARK WA 6333

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Dear Ms Harbron

**SCHEME AMENDMENT REQUEST - NO. 1800 AND 1874 (LOTS 405 AND 406)
SOUTH COAST HIGHWAY, DENMARK**

Thank you for the opportunity to provide comment on the above. The Department of Aboriginal Affairs (DAA) has reviewed your proposed scheme amendment and can inform you that based on the DAA Heritage Database, there are no known Registered Aboriginal sites, or Other Heritage Places located within the lots subject of the proposed scheme amendment. As such there are no known Aboriginal heritage reasons why the proposed scheme amendment shouldn't go ahead.

DAA recommends the proposed scheme amendment include reference to the Cultural Heritage Due Diligence Guidelines (the Guidelines) so that prospective developers are informed of their obligations with regards to Aboriginal places. You can find these electronically at:
<http://www.daa.wa.gov.au/Documents/HeritageCulture/Heritage%20management/Aboriginal%20Heritage%20Due%20Diligence-30-April-2013-Updated-Oct.pdf>.

Please contact Ms Christine Bolton, Heritage Project Officer on 6551 8132 should you require more information.

Yours sincerely

Cesar Rodriguez
MANAGER ADVICE AND APPROVALS

30 June 2014



Enquiries: Chris Grant on 9892 0555
 Our Ref: 04/13075-05 D14#331648
 Your Ref: A895 & A984

Chief Executive Officer
 Shire of Denmark
 PO Box 183
 DENMARK WA 6333



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Shire of Denmark
 A895 / A984

23 July 2014

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ATTENTION ANNETTE HARBRON

Dear Annette

SHIRE OF DENMARK TOWN PLANNING SCHEME No. 3 AMENDMENT REQUEST – No. 1800 and 1874 (lots 405 & 406) SOUTH COAST HWY, DENMARK - INVITATION FOR COMMENT

I refer to your letter dated 20th June 2014 seeking comment on a request from South Coast Planning Services to Amend Town Planning Scheme No. 3 to allow for a proposed rezoning of Rural to Special Rural on the above lots.

Main Road has no in principle objection to the scheme amendment request to rezone the above lots from "Rural" to "Special Rural".

However, Main Roads has some concern over Clause 4.3 of the South Coast Planning Services Report and the Subdivision Guide Plan, No 131120, Dr 01, Rev H South Coast Highway embedded within the "Shire of Denmark Town Planning Scheme No. 3".

The Report and Guide Plan indicate that access to the proposed subdivision will be via three existing accesses from South Coast Highway, these existing accesses do not meet current standards for safe sight distances or geometry.

Due to the above, as a condition of sub-division Main Roads will seek to have the access points from South Coast Highway restricted to a single access point and for the access point to be located, designed and constructed to supply the appropriate level of service to the sub-division. This design will incorporate Main Roads standards for intersection design, construction and any associated turn treatments, all costs associated with the design and construction of the new intersection shall be at the proponent's expense.

The provision any accesses to comply with Bush Fire Protection Guidelines must also have the approval of Main Roads, the Fire Protection Plan shall not utilise any unapproved accesses to achieve compliance with the guidelines.

Main Roads requests that the Shire of Denmark consider the following in regards to future Town Planning Schemes, Amendment Requests and advice to proponents.

Main Roads' power to approve accesses onto highways and main roads arises out of:

- not only section 28A in the case of highways and main roads which have been proclaimed control of access under that section; but also and in particular,
- regulation 14 of the *Local Government (Uniform Local Provisions) Regulations 1996* for other main roads and highways (**Regulation 14**) and

the requirement for relevant landowners to have obtained the approval of Main Roads for crossover access from their lot or lots across the unconstructed portion of a road reserve to the road pavement prior to commencement of construction of a development is an obligation which exists in addition to the obligation to obtain a development approval or subdivision approval.

It has been Main Road's recent experience that applications for development approval are being referred to it quite late in the assessment process, usually well after plans have reached an advanced stage of design with little scope to accommodate changes to the layout of the development without a major revision.

Plainly, it is in the public interest to coordinate Main Roads' consideration of crossovers and access to its road network through the planning process for efficiency reasons. However, Local Governments and/or Development Assessment Panels should not lose sight of the circumstance that the approval of Main Roads in respect of crossings or access to the carriageways of main roads is a requirement that is separate and distinct from a planning approval.

While it would be uncommon for the Main Roads to refuse to provide crossover access at all in the absence of a declaration of control of access under section 28A, applicants potentially risk the possibility that the Main Roads may not be prepared to provide crossing approval under Regulation 14 with respect to a proposal for which development approval has been granted in instances where there are safety or other policy priorities associated with the regional road network which would be jeopardised.

In order to avoid instances where planning approval is granted and Main Roads is then presented with an expectation that a crossing or access will be permitted in what, from Main Roads' perspective is;

- an inappropriate location,
- a contravention of its Policies' and
- inconsistent with WAPC *Development Control Policy 5.1 Regional Roads (Vehicular Access)*.

It would be appreciated if you would modify the Town Planning Scheme No. 3 Amendment, to include amendments to Clause 5.20 "Vehicle Access" or 6.1 "Planning Consent", to ensure that planning officers notify Main Roads of the application as soon as possible as well as encouraging applicants to liaise with Main Roads early in the application process, if not even before an application is lodged.

Approving the Town Planning Scheme No. 3 Amendment in its current form only creates the expectation that the accesses, as described, are approved. Applicants potentially risk the possibility that the Main Roads will not be prepared to provide crossing approval under Regulation 14 with respect to a proposal for which development approval has been granted in instances where there is safety or other policy priorities associated with the regional road network that would be jeopardised.

Finally, Main Roads recommends that Council modify the Town Planning Scheme No. 3 Amendment, to include amendments to Clause 5.20 "Vehicle Access" or 6.1 "Planning Consent" to include comment on the WAPC's development control policy dealing with access on regional roads, namely Development Control Policy 5.1 Regional Roads (Vehicular Access). To include reference to the Commissioner's powers under section 28A and in particular, Regulation 14. It is hoped that such a reference would raise awareness amongst town planners preparing development applications of the need to obtain Main Roads' approval and to encourage liaison with Main Roads at an early stage in the planning process and where appropriate, prior approval from the Commissioner of Man Roads is granted.

If you require any further information, please contact me on 9892 0555 or email gsreg@mainroads.wa.gov.au.



Peter Stringer
NETWORK MANAGER



Government of **Western Australia**
Department of **Health**

Your Ref: A895 & A984
Our Ref: F-AA-15010 EHB14/1462
Contact: Vic Andrich
Phone: 9388 4978

Mr Dale Stewart
Chief Executive Officer
Shire of Denmark
PO Box 183
DENMARK WA 6333

Attention: Ms Annette Harbron, Director of Planning and Sustainability

Shire Of Denmark A895 / A984	
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Dear Mr Stewart

SCHEME AMENDMENT REQUEST No. 1800 & 1874 (LOTS 405 & 406) SOUTH COAST HIGHWAY, DENMARK

Thank you for your letter dated 20 June 2014 requesting comment from the Department of Health (DOH) on the above proposal.

Wastewater Disposal

DOH has no objection to the rezoning proposal subject to each of the proposed cluster lots being demonstrated to be capable of disposing wastewater at scheme amendment stage via a site specific geotechnical investigation and report.

Should you have queries or require further information please contact Vic Andrich on 9388 4978 or vic.andrich@health.wa.gov.au

Yours sincerely

Jim Dodds
DIRECTOR
ENVIRONMENTAL HEALTH DIRECTORATE

1 July 2014



Chief Executive Officer
Shire of Denmark
PO Box 183
DENMARK WA 6333

Attn: Annette Harbron

Dear Sir

Scheme Amendment Request – Lots 405 & 406 South Coast Highway, Denmark

Thank you for the opportunity to comment on the above proposal. The Department of Water (DoW) has no objections to the proposal and provides the following comments.

Wilson Inlet

The proposed development is located in the Wilson Inlet catchment. The planning report indicates that the Mt Shadforth tributary, which drains to the Little River and subsequently the Wilson Inlet, will be protected through the fencing of the remnant vegetation. The section of Little River that also drains through the property should be similarly protected.

Should you wish to discuss this matter further please contact me.

Yours sincerely

KAREN MCKEOUGH
A/PROGRAM MANAGER – WATER AND LAND USE
SOUTH COAST REGION

14 July 2014

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Ms Annette Harbron
Director Planning and Sustainability
Shire of Denmark
PO Box 183
DENMARK WA 6333

Dear Annette

Subject: Scheme Amendment Request – No. 1800 and 1874 (Lots 405 & 406 South Coast Highway Denmark)

Thank you for your letter received on 25 June 2014 inviting the Department of Parks and Wildlife (Department) to comment on the above mentioned Scheme Amendment request.

The departments records indicate the following rare flora or fauna have been recorded within close proximity to the property;

Flora species recorded within 5 kilometres are *Kennedia glabrata* (DRF), *Drepanocladus aduncus* (P2), *Diurus heberlei* (P2), *Boronia virgata* (P4), *Drosera fimbriata* (P4). The following species occur within Keystone vegetation complex; *Selliera radicans* (P1), *Stylidium sp Kordabup* (P1), *Anthocercis sylvicola* (P2), *Degelia flabellata* (P2), *Pleurophascum occidentale* (P4), *Thomasia quercifolia*, (P4), *Banksia serra* (P4), *Eucalyptus virginea* (P4), *Tetraria sp Blackwood R* (P3),

Sightings of *Cynotelopus notabilis* (WA Pill Millipede), En, *Dasyurus geoffroi* (Chudich) En, *Isoodon obesulus fusciventer* (Quenda) P are recorded within a 2km radius of the subject land.

Supporting documentation advises that the remnant vegetation will be protected through cluster development. The department recommends that remnant vegetation be fenced and protected from stock and supports that this remnant vegetation be included in a conservation covenant similarly to Lot 406 that is currently registered under Land for Wildlife. A special provision regarding the planting of indigenous native species may also help to provide habitat for fauna species.

The proposed lots are adjacent to lands managed by the department therefore the owners need to be aware that the following activities may be carried out in the adjacent Mount Shadforth Nature Reserve from time to time:

- Prescribed burning for conservation and/or fire hazard reduction purposes;
- Baiting with poison, shooting and trapping to control predators of native fauna;
- Application of chemicals for weed and plant disease control.

Planning for Bushfire Protection Guidelines edition 2 (FESA and WA Planning Commission May 2010) requires rezoning, subdivision and development proposals be accompanied by information on how the proposal will meet the requirements of this publication. This information should include bushfire hazard and a land suitability assessment. Subdivision and development design in terms of access, fire services access, and hazard separation, building protection zones, water supply and building envelope location and size. The plan should outline fire protection measures.

The department does not object to the scheme amendment given due consideration is given to the above comments.

If you have any further enquiries please contact Peter Bamess.

Yours sincerely



Peter Keppel
Regional Manager

21 July 2014

Marieke de Vries

From: Overheu, Tim [tim.overheu@agric.wa.gov.au]
Sent: Monday, 13 October 2014 1:05 PM
To: Marieke de Vries
Subject: ICR141029174 - RE: Shire of Denmark - SAR - No. 1800 & 1874 (Lots 405 & 406) South Coast Highway Denmark

SynergySoft: ICR141029174

Hi Marieke,

Thank you for waiting a few days for me to submit some comments.

This application has some complexities in that the subject land comprising the two titles, Lot 405 and 406, is identified as Priority Agricultural Land (PAL) under the Lower Great Southern Region Strategy, and therefore the Department of Agriculture would generally object to any proposal to remove the land from potential high quality (intensive) rural enterprises through rezoning or subdivision, especially where there is a guaranteed accessible water resource for irrigation, irrespective of the intensive pursuit applied. However, in this case it is difficult to determine the capability of the land based on the information supplied (i.e. we do not seem to have received a land assessment report). From general observation, the gradient slope across much of Lot 406 does appear to be unsuitable for potential horticulture and from some knowledge of the area, upper slopes often have impenetrable shallow rock restricting root development for perennial horticulture. However, this does not seem to be the case on Lot 405.

While the Department of Agriculture and Food, WA (DAFWA) will sometimes concede that identified PAL is not suitable for intensive agriculture (because of the regional scale of the data and the proportional map unit method used to determine high capability for perennial or annual horticulture), DAFWA still takes into consideration buffers and setbacks from adjacent land that is identified as PAL or has existing (established) horticultural enterprises. Where there is a change in land use on land that is adjacent existing rural or horticultural activity, suitable buffers or setbacks are to be maintained, as required by the Environmental Protection Authority (EPA) guidelines on buffers and separation distances (www.epa.wa.gov.au/docs/1840_GS3.pdf). From the compiled report it is difficult to see how the proposed cluster development would maintain sufficient buffers from identified areas of high quality agricultural land.

The above comments are for your general consideration. Is there a land assessment / land capability report accompanying this proposal that I could review, which might assist in determining the capability of the land?

Regards,

Tim Overheu | Manager, Ag Land Use Planning & Policy

Department of Agriculture and Food, Western Australia
444 Albany Highway, Albany WA 6330

† +61 (0)8 9892 8444 | ‡ +61 (0)8 9841 2707 | † +61 (0)429 889 324
w <http://www.agric.wa.gov.au>

From: Marieke de Vries [mailto:planner3@denmark.wa.gov.au]
Sent: Wednesday, 8 October 2014 8:48 AM
To: Overheu, Tim
Subject: Shire of Denmark - SAR - No. 1800 & 1874 (Lots 405 & 406) South Coast Highway Denmark

Hi Tim

I am currently finalising a report for Council for the above Scheme Amendment Request, and have realised that this was never actually referred to DAFWA due to a mix up with the mail out. I am wondering if it is at all possible that you review the documentation and advise me as soon as possible if you have any comments.

Sorry for the inconvenience. Please do not hesitate to give me a call to discuss.

Kind regards

Marieke de Vries

Senior Town Planner, Shire of Denmark, PO Box 183, Denmark WA 6333

Phone: (08) 9848 0315 Mobile: 0458 853 029 Email: planner3@denmark.wa.gov.au Website:

www.denmark.wa.gov.au

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