

Regulations 2015, to determine if any modifications to the amendment is required prior to advertising

5. In accordance with Part 5, r 38 of the Planning and Development (Local Planning Schemes) Regulations 2015, if the Western Australian Planning Commission ADVISE that it is satisfied that the Complex amendment is suitable to be advertised, the Shire is to advertise the amendment for a period not less than 60 days.

~~CARRIED UNANIMOUSLY: 8/0 Res: 070221~~

9.1.3 SCHEME AMENDMENT 149 – SEEKING REZONING FROM TOURIST ZONE TO SPECIAL RESIDENTIAL ZONE AND UPDATING LOCAL STRUCTURE PLAN: VARIOUS LOTS IN SPRINGDALE BEACH ESTATE

File Ref: TPS3/SA149
Applicant / Proponent: Ayton Baesjou Planning on behalf of LWP Denmark
Subject Land / Locality: Various lots in Springdale Beach Estate
Disclosure of Officer Interest: Nil
Date: 28 January 2021
Author: Steve Thompson, Consultant Planner
Authorising Officer: David King, Director Assets and Sustainable Development

Attachments: 9.1.3a – Location Plan
 9.1.3b – Current provisions from Appendix XIII – Tourism Zone applicable to the T9 zone including current Subdivision Guide Plan
 9.1.3c – Extract of Scheme Amendment 149 documentation including Local Structure Plan, Indicative Concept Plan, Opportunities and Constraints Plan, existing zoning map and proposed zoning map

Summary:
 The Shire has received a request to initiate an Amendment to Town Planning Scheme No.3 (TPS No. 3) to Tourist zone No. 9 (Springdale Beach Estate). The amendment request seeks to rezone Lot 9008 Beaufortia Gardens from the ‘Tourist’ zone to the ‘Special Residential’ zone along with rationalising the zoning over a number of properties.

Background:
 The site is located approximately 5.5km east of the Denmark townsite as shown in Attachment 9.1.3a. The site is located in the south-west section of the Springdale Beach Estate. The majority of the site is zoned ‘Tourist’ and is identified as ‘T9’ in TPS3 No. 3. The existing TPS No. 3 provisions relating to T9 are set out in Attachment 9.1.3b. A portion of the site is a Parks and Recreation Reserve. The tourist site has an overall area of approximately 9.4 hectares.

Attachment 9.1.3c provides an extract of the Scheme Amendment 149 documentation. Due to the size of the document, a copy of the Scheme Amendment documentation is available for Councillors via Dropbox or USB, with a printed version available for Councillors upon request.

Proposal

Amendment 149 proposes to rezone the site from ‘Tourist’ to ‘Special Residential’ to facilitate a subdivision to create approximately 17 special residential lots (minimum of 3000m²) along with adding to the foreshore reserve (approximately 1.117 hectares). A land capability assessment, flora and fauna assessment, coastal vulnerability assessment and bushfire management plan have been prepared to support Amendment 149 and a corresponding Local Structure Plan.

In particular, the scheme amendment proposes to rezone a portion of Lot 9008 Beaufortia Gardens from the Tourist zone to the Special Residential zone. Additionally, Amendment

149 proposes to rationalise the zoning of a number of adjoining Special Residential lots that are under the Tourist zone, transfer the Tourist zone that exists over a portion of Reserve 52123 to the Parks and Recreation Reserve and a portion of the Parks and Recreation Reserve on Portion Lot 9008 to the Special Residential zone.

The amendment proposes:

1. Rezoning portion Lot 9008 Beaufortia Gardens, Hay, from the Tourist (T9) Zone to Special Residential (SRes6) Zone;
2. Moving portion Lot 9008 Beaufortia Gardens, Hay, from the Parks and Recreation Reserve to the Special Residential (SRes6) Zone;
3. Moving portion Reserve 52123, from the Tourist (T9) Zone to the Parks and Recreation Reserve;
4. Rezoning portion Lots 181, 181, 182 & 184 Beaufortia Gardens, Hay from the Tourist (T9) Zone to the Special Residential (SRes6) Zone;
5. Rezoning Lots 193, 194, 195 & 196 Pimelea View, Hay from the Tourist (T9) Zone to the Special Residential (SRes6) Zone;
6. Deleting Tourist Zone (T9) from Appendix XIII; and
7. Amending the Scheme maps accordingly.

In addition to Amendment 149, the proponent has separately prepared a Local Structure Plan (previously called a Subdivision Guide Plan) to facilitate the proposed subdivision. In accordance with the *Planning and Development (Local Planning Schemes) Regulations 2015*, the Local Structure Plan will be advertised for community and stakeholder consultation prior to consideration by Council and final determination by the Western Australian Planning Commission (WAPC).

Consultation:

In accordance with *the Planning and Development (Local Planning Schemes) Regulations 2015*, a 'complex amendment' (refer to explanation under 'Statutory Obligations') is required to be subject to public advertising for a minimum period of 60 days once the Environmental Protection Authority (EPA) has given its 'environmental clearance' and the WAPC has granted consent to advertise the Scheme Amendment.

Statutory Obligations:

Planning and Development Act 2005 Section 75.

Planning and Development Regulations 2015 Section 35 and 37

Section 37 in particular relates to the process required for a complex amendment. The below is a simplified summary of a typical process for a complex amendment.

- Council consideration of the amendment and resolution to advertise (current step);
- Environmental clearance from the EPA is sought;
- Consent to advertise from the WAPC is sought;
- Provided the above occurs, the scheme amendment will be widely publicly advertised and submissions invited from adjoining/nearby landowners, the local community, relevant government agencies and other stakeholders. The comment period is at least 60 days;
- Assessment and consideration of submissions;
- Inclusion of modification where necessary and further advertising if determined by Council;
- Formal Council support;
- The WAPC then makes its assessment on the scheme amendment and provides a recommendation to the Minister for Planning.

- The Minister makes the final decision on whether or not to grant final approval to the scheme amendment. If the Minister grants final approval, the scheme amendment will, in time, be gazetted.

Policy Implications:

The following policies have been given due consideration in relation to this proposal:

- *State Planning Policy No. 2: Environment and Natural Resources Policy*
- *State Planning Policy No. 2.6: State Coastal Planning Policy*
- *State Planning Policy No. 2.9: Water Resources*
- *State Planning Policy No. 3: Urban Growth and Settlement*
- *State Planning Policy 3.7: Planning in Bushfire Prone Areas*
- *Government Sewerage Policy*
- *Planning Bulletin 83/2013: Planning for Tourism*
- *WAPC Development Control Policy 2.5: Special Residential Zones*
- *Denmark Tourism Strategy – Stage 1*

Budget / Financial Implications:

Fees associated with the amendment have been paid as per Council's Fees and Charges Schedule.

Strategic & Corporate Plan Implications:

The site is designated 'Tourist' in the Local Planning Strategy (2011). The proposal is accordingly inconsistent with the Local Planning Strategy. With regards to the Local Planning Strategy objectives and strategies, it is noted:

- Without any demand for the site as a tourism venture, despite its long-term availability, the objectives for local economic benefit, local investment, local employment and the like are not being met (s4.4 Tourism Strategy e & f);
- Without any demand for the site as a tourism venture, despite its long-term availability, the objectives of having appropriately zoned land available for new development are not being met (s4.4 Tourism Strategy g); and
- The site is not located near a specific identified strategic tourism site (s4.4 Tourism Strategy h).

The report and officer recommendation are consistent with Council's adopted Strategic Plan Aspirations and Objectives and the Corporate Business Plan Actions and Projects in the following specific ways:

Denmark Strategic Community Plan 2027

N2.0 Our Natural Environment

Our natural environment is highly valued and carefully managed to meet the needs of our community, now and in the future

B3.0 Our Built Environment

We have a functional built environment that reflects our rural and village character and supports a connected, creative, active and safe community

Sustainability Implications:

➤ **Governance:**

There are no known significant governance considerations relating to the report or officer recommendation.

➤ **Environmental:**

There are no known significant environmental implications relating to the report or officer recommendation.

➤ **Economic:**

Residential development is an important contributor to Denmark’s economy.

➤ **Social:**

There are no known significant social considerations relating to the report or officer recommendation.

➤ **Risk:**

Risk	Risk Likelihood (based on history and with existing controls)	Risk Impact / Consequence	Risk Rating (Prior to Treatment or Control)	Principal Risk Theme	Risk Action Plan (Controls or Treatment proposed)
Reputational: The community do not support the amendment	Possible (3)	Minor (2)	Moderate (5-9)	Not Meeting Community expectations	Consider submissions at the close of advertising

Comment/Conclusion:

It is highlighted that Amendment 149 is inconsistent with the Local Planning Strategy (2011). While noting this, the requested Amendment has merit for various reasons. Accordingly, it is recommended that Council adopt (initiate) Amendment 149 to facilitate EPA and WAPC assessment and community/stakeholder consultation. The reasons in support of the Amendment, to enable community/stakeholder consultation include:

- The proposal is generally consistent with the State and regional planning framework;
- The proposed minimum lot size of 3000m² is consistent with the Special Residential zoning in TPS No. 3 for the Springdale Beach Estate (SRes6);
- Several strategies relating to settlement planning promote compact settlements and minimising urban sprawl along with setting out the approach to reviewing the suitability of tourism zones. This includes where relevant planning, environmental, bushfire, servicing and landscape considerations are suitably addressed;
- The supporting technical investigations outline the site is suitable and capable of accommodating special residential lots consistent with nearby development;
- The site is not considered to have an element of scarcity to achieve a significant tourism development. There are other more attractive areas and sites elsewhere along the Denmark coastline and in the district;
- The site does not meet a particular accommodation or market need that cannot be better provided for elsewhere in the district;
- It is noted that recent scheme amendment requests for Lot 305 Wentworth Road and Lot 3 South Coast Highway will expand the range of short stay accommodation and related tourism facilities in the district;
- The site is compromised by being located adjacent to and having its main access through a residential area;
- Special Residential development is a more compatible land use with adjoining properties than a tourist development;
- The areas which are being transferred from the Tourist zone and the Parks & Recreation Reserve are the same; there is no loss of land from the Parks and Recreation reservation. Based on the Local Structure Plan, Indicative Concept Plan and Opportunities and Constraints Plan, the foreshore reserve will be provided at the

- subdivision stage. Based on WAPC policy, the land will be ceded free-of-cost. This will add around 1.117 hectares to the foreshore to be managed by the Shire;
- The Amendment addresses the WAPC's *Planning Bulletin 83/2013 Planning for Tourism* which identifies general location criteria to assist in determining the tourism value of a site. This includes accessibility, uniqueness, setting, tourism activities and amenities, supply of land, suitability in a land use context, capability, size and function; and
 - There has been no interest from potential developers, over many years, to acquire the site for tourism development. The key reasons for the lack of interest include:
 - The site is not located on a strategic tourist route, it is not conveniently located and it lacks visibility. Instead, the site is located at the end of a long cul-de-sac which runs through a residential estate;
 - Since the site was created, the Boston Brewery has been developed on the opposite side of South Coast Highway. The success of this development which is located on a strategic tourist route, decreases the likelihood of a signature restaurant being developed on the site;
 - The growing residential community in the Springdale Beach Estate are expected to generally not support a tourist development given it will draw significant traffic through their predominantly residential area; and
 - While Springdale Beach may have historically been a waterfront destination, the presence of seaweed, algae and associated smell detracts from its attraction. At the same time, other beachfront destinations such as Ocean Beach and Greens Pool were developing and are now significantly more attractive.

While noting the above, considerations with Amendment 149 include:

- The Shire managing a further 1.117 hectares of foreshore land;
- Pimelea View was identified as a cul-de-sac in the approved Subdivision Guide Plan. Subject to gaining necessary approvals and the construction of residences, it is expected to result in considerably more traffic on Pimelea View than the current tourism zoning (where access is likely to/from Beaufortia Gardens). The proponent's Opportunities and Constraints Plan recognises this and outlines the option to discourage or slow traffic from new lots to Pimelea View and encourage traffic to use the southern access where possible; and
- It is noted there is an undeveloped community purpose site nearby. It is suggested there is no need to duplicate a community purpose site in the Springdale Beach Estate.

Prior to the amendment documentation being referred to the EPA and WAPC, there is a requirement for the proponent to undertake relatively minor modifications to the scheme amendment documentation to the satisfaction of the Shire including administrative 'tidy ups'.

If Council resolve to proceed to advertising, on completion of the advertising period, Council will be required to formally consider all submissions and determine whether or not to support the amendment.

If Council resolve to not proceed with the advertising this advice is provide to the Commission. There is no right of appeal for the proponent.

Voting Requirements:

Simple majority.

COUNCIL RESOLUTION & OFFICER RECOMMENDATION

ITEM 9.1.3

MOVED: CR BOWLEY

SECONDED: CR ALLEN

THAT Council, pursuant to section 75 of the Planning and Development Act 2005 and Part 5, r.35(2) and r.37(1) of the Planning and Development (Local Planning Schemes) Regulations 2015, resolves to:

1. PROCEED to advertise (subject to modifications) Complex Amendment No. 149 to amend Shire of Denmark Local Planning Scheme No. 3 by:
 - a) Rezoning portion Lot 9008 Beaufortia Gardens, Hay, from the Tourist (T9) Zone to Special Residential (SRes6) Zone;
 - b) Moving portion Lot 9008 Beaufortia Gardens, Hay, from the Parks and Recreation Reserve to the Special Residential (SRes6) Zone;
 - c) Moving portion Reserve 52123, from the Tourist (T9) Zone to the Parks and Recreation Reserve;
 - d) Rezoning portion Lots 181, 181, 182 & 184 Beaufortia Gardens, Hay from the Tourist (T9) Zone to the Special Residential (SRes6) Zone;
 - e) Rezoning Lots 193, 194, 195 & 196 Pimelea View, Hay from the Tourist (T9) Zone to the Special Residential (SRes6) Zone;
 - f) Deleting Tourist Zone (T9) from Appendix XIII; and
 - g) Amending the Scheme maps accordingly.

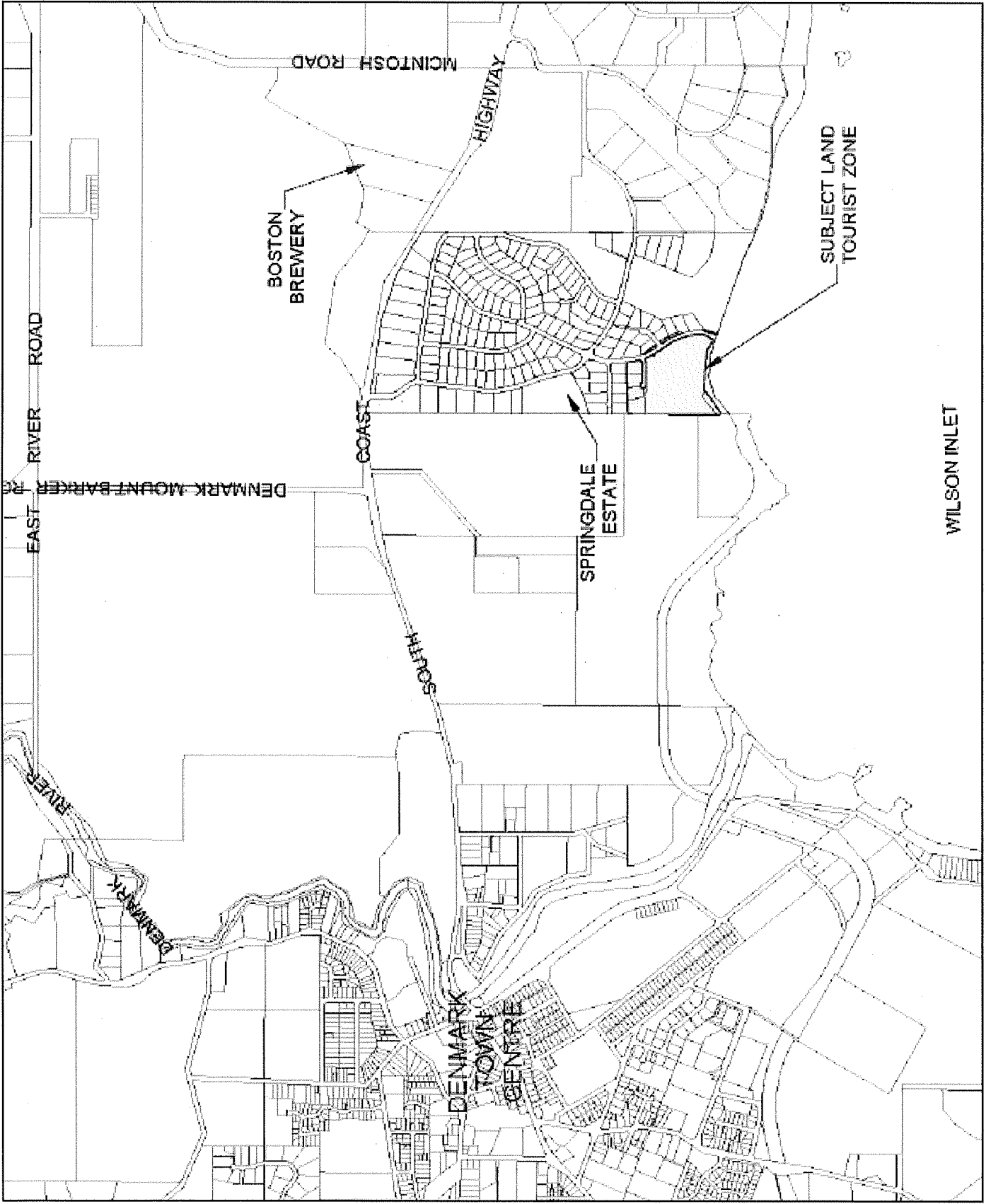
Subject to the proponent providing modified scheme amendment documentation that addresses minor grammatical and typographical errors to the satisfaction of the Shire's Chief Executive Officer.

2. CLASSIFY Scheme Amendment No. 149 as a 'Complex Amendment' in accordance with Regulation 35 (2) of the *Planning and Development (Local Planning Schemes) Regulations 2015* for the following reasons:
 - The amendment is not consistent with the *Shire of Denmark Local Planning Strategy* which designates the site as 'Tourist'.
3. REFER Town Planning Scheme No. 3 Scheme Amendment No. 149 to the Environmental Protection Authority in accordance with Section 81 of the Planning and Development Act 2005.
4. REFER the amendment to the Western Australian Planning Commission in accordance with Part 5, r. 37 (2) & (3) of the Planning and Development (Local Planning Schemes) Regulations 2015, to determine if any modifications to the amendment is required prior to advertising.
5. In accordance with Part 5, r.38 of the Planning and Development (Local Planning Schemes) Regulations 2015, if the Western Australian Planning Commission ADVISE that it is satisfied that the Complex amendment is suitable to be advertised, the Shire is to advertise the amendment for a period not less than 60 days.

CARRIED UNANIMOUSLY: 8/0

Res: 080221

6.40pm – The Manager Sustainable Development left the room and did not return.



APPENDIX XIII - SCHEDULE OF TOURIST ZONES (Cont'd)

PARTICULARS OF THE LAND		TOURIST USE	CONDITIONS OF TOURIST USE
79	<p>Portion of Plantagenet Loc 1935 South Coast Highway, Springdale Denmark.</p>	<ol style="list-style-type: none"> 1. Notwithstanding Table One of the Scheme, the following uses are the only permitted (P) uses: <ul style="list-style-type: none"> • Single House • Cottage Industry • Caretakers Dwellings • Holiday Accommodation • Reception Centre • Restaurant • Shop (max. 150m2 GLA) 2. Notwithstanding Table One of the Scheme, the following uses are permitted if incidental to the predominant use of the land (IP): <ul style="list-style-type: none"> • Day Care Centre • Private Recreation • Public Amusement 	<ol style="list-style-type: none"> 1. All development shall be subject to the issue of Planning Consent. 2. Applications for Planning Consent shall require the submission of: <ul style="list-style-type: none"> • A completed "Application for Planning Consent" form as per appendix 3 of the Scheme. • Development Guide Plan/s for the total zone showing the precise ground conditions, site works and the location, size and use of all the buildings proposed for the total zone, replanting and landscaping proposals and the fire protection measures to be adopted. • Scaled elevation plans showing elevations from public roadways and internal roadways as well as the materials and colours to be used. 3. No development shall be permitted within the Development Exclusion Area as shown on the Subdivision Guide Plan. 4. The total density of holiday accommodation units shall not exceed 3.33 units per hectare of gross site area. 5. Car parking for holiday accommodation uses shall be provided and located to Council's satisfaction based on one bay per unit. Car parking requirements for other site uses shall be at the discretion of Council. 6. All signage to be subject to the prior approval of Council in accord with Scheme requirements, Local Law and adopted policy. 7. Potable water shall be provided via the reticulated system. 8. Electricity supplies shall be reticulated underground. 9. Requirements for onsite effluent disposal shall be determined by Council and the Health Department of Western Australia. 10. A Foreshore Management Plan shall be prepared to the satisfaction of Council and the Waters and Rivers Commission to assess and manage the relationship and impacts on the foreshore. 11. Any walkways to connect with the Foreshore shall require the approval of Council and the Waters and Rivers Commission in terms of their location, design and construction. 12. A landscaping plan shall be prepared and implemented based on a minimum site coverage of 10%, utilising local native species and providing for replanting as shown on the Subdivisional Guide Plan for Loc 1935. 13. Additional tree/shrub planting may be required as a condition of development approval. 14. Low fuel areas at least 20m wide shall be established and maintained around all buildings.











16 February 2021 - Attachment 9.1.3b

APPENDIX XIII - SCHEDULE OF TOURIST ZONES (Cont'd)

	PARTICULARS OF THE LAND	TOURIST USE	CONDITIONS OF TOURIST USE
T 9	Portion of Plantagenet Loc 1935 South Coast Highway, Springdale Denmark. (Cont'd)		<ol style="list-style-type: none"> <li data-bbox="906 398 1398 562">15. A strategic fire break shall be provided and maintained so as to separate buildings from the northern and western boundaries and the development exclusion area and shall connect to public roads. This strategic fire break may take the form of dedicated fire access track/s and/or internal access ways. <li data-bbox="906 595 1398 734">16. Other fire safety equipment/features shall be provided to the satisfaction of Council and the Fire & Emergency Services Authority and may take the form of gutter guards, fire blankets, fire extinguishers, hose reel/s or hydrants, down pipe plugs and the like. <li data-bbox="906 768 1398 884">17. All buildings constructed within the zone shall be sympathetic to existing landscape elements (namely landform and vegetation) in terms of their location, scale, height, building materials and colour. <li data-bbox="906 918 1398 1034">18. All buildings shall be single storey except where it can be proven to Council that a variation to the height restriction would not adversely affect the visual amenity of surrounding lots as well as the locality. <li data-bbox="906 1068 1398 1184">19. Proposals to vary the height restrictions pursuant to 18 above, shall be accompanied by such plans, elevations and sketches as is determined by Council to assess the effect on visual amenity and the natural screening properties of vegetation and topography. <li data-bbox="906 1218 1398 1382">20. The use of pale, white, off white or reflective materials and finishes such as zincalume will not be permitted. Council shall require the use of tonings that blend into the landscape, vegetation and/or the structure's backdrop. Council shall prefer the use of natural materials such as stone, brick, rammed earth and/or timber and advocate green to brown tonings/natural hues. <li data-bbox="906 1415 1398 1480">21. All buildings shall be set back a minimum of 20m from the western boundary and 10m from all other boundaries. <li data-bbox="906 1514 1398 1579">22. All external illumination shall be of low level, controlled spill lighting, with any variations requiring Council Approval. <li data-bbox="906 1612 1398 1729">23. Provision shall be made to Council's satisfaction to ensure prospective purchasers of land within Tourist Zone No. 9 acknowledge that the zone is located in a predominantly rural area where rural activities are carried out.

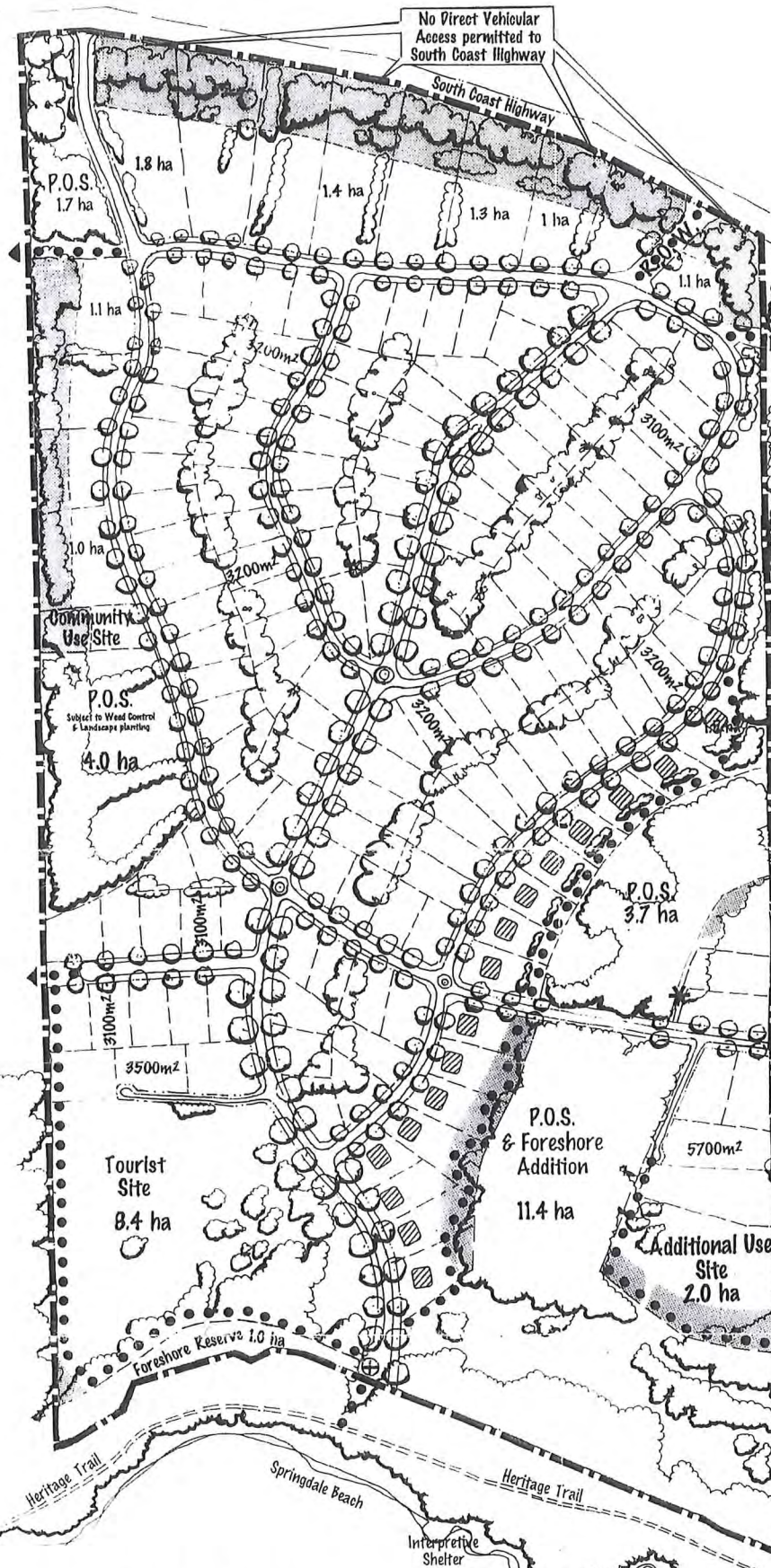
ALL AREAS AND DIMENSIONS SUBJECT TO SURVEY

LEGEND

-  Subject Land
-  Vegetation Cover - existing & proposed
-  Proposed Subdivisional Roads
-  Proposed Lot Boundaries
-  Foreshore Access Node
-  Strategic Fire Break & Linkage
-  Development Exclusion Areas
-  Dwelling Areas (500m²)
-  Single Driveway with Reciprocal Rights of Access
-  N
- March 2000
- Scale 1 : 5 000
- Orig Size - A3

NOTES:

1. All Areas & Dimensions Subject to Subdivision & Survey.
2. Replanting is to be based on the Public Open Space and Replanting Strategy prepared and implemented at the time of subdivision. Strategy is to include Road Reserve plantings.
3. Potential Impacts on Foreshore to be managed via Foreshore Management Plan/s to be prepared at the subdivision stage.
4. Development Plans to be prepared for both the Tourist and Additional Use sites.
5. Pine harvest staged with subdivision to minimise visual impact.
6. Foreshore access node to include associated recreational facilities such as: picnic area (with BBQs) and possibly a boat, launching ramp-subject to Foreshore Management Plan & specific approvals.
7. Strategic Fire Break alignment, within Tourist Site, dependent on Development Plan, Condition 15 of Tourist Zone No. 9 and Fire Management Plan.
8. P.O.S. provision and improvement to be subject to the preparation of Public Open Space & Replanting Strategy.
9. No direct vehicular access permitted to South Coast Highway.
10. For lots with Identified "Dwelling Areas", refer to provisions C) B) c, d & e.



Connection to SRZ Area No. 8

Adopted by Resolution of the Council of the Shire of Denmark at the **ORDINARY** meeting of the Council, held on the 27th day of JUNE, 2000


Chief Executive Officer

SRZ Area No. 8

SUBDIVISION GUIDE PLAN
Location 1935 South Coast Hwy.
Shire of Denmark TPS No. 3 Amendment 66

Amended 27 September 2000

SHIRE OF DENMARK

TOWN PLANNING SCHEME No. 3

AMENDMENT No. 149

16 February 2021 - Attachment 9.1.3c

MINISTER FOR PLANNING

PROPOSAL TO AMEND A TOWN PLANNING SCHEME

LOCAL AUTHORITY:	SHIRE OF DENMARK
DESCRIPTION OF LOCAL PLANNING SCHEME:	TOWN PLANNING SCHEME No. 3
TYPE OF SCHEME:	DISTRICT SCHEME
SERIAL No. OF AMENDMENT:	AMENDMENT No. 149

PROPOSAL:

To move portion Lot 9008 Beaufortia Gardens, Hay, Shire of Denmark, from the Tourist (T9) zone and Parks and Recreation reserve to the Special Residential (SRes6) zone, to rezone Lots 193, 194, 195 & 196 Pimelea View & portion Lots 181, 181, 182 & 184 Beaufortia Gardens from the Tourist (T9) zone to the Special Residential (SRes6) zone, to move a portion of Reserve 52123 from the Tourist (T9) zone to the Parks and Recreation reserve and to delete Tourist Zone (T9) from Appendix XIII of the Scheme.

TOWN PLANNING SCHEME No. 3

AMENDMENT No. 149

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1. RESOLUTION
2. REPORT
3. EXECUTION

PLANNING AND DEVELOPMENT ACT 2005

**RESOLUTION DECIDING TO AMEND A
TOWN PLANNING SCHEME**

SHIRE OF DENMARK

TOWN PLANNING SCHEME No. 3

DISTRICT SCHEME

AMENDMENT No. 149

RESOLVED that the local government pursuant to Section 72 of the *Planning and Development Act 2005*, amend the above Local Planning Scheme by:

1. *Rezoning portion Lot 9008 Beaufortia Gardens, Hay, Shire of Denmark, from the Tourist (T9) Zone to Special Residential (SRes6) Zone;*
2. *Moving portion Lot 9008 Beaufortia Gardens, Hay, Shire of Denmark, from the Parks & Recreation Reserve to the Special Residential (SRes6) Zone;*
3. *Moving portion Reserve 52123, from the Tourist (T9) Zone to the Parks & Recreation Reserve;*
4. *Rezoning portion Lots 181, 181, 182 & 184 Beaufortia Gardens from the Tourist (T9) Zone to the Special Residential (SRes6) Zone;*
5. *Rezoning Lots 193, 194, 195 & 196 Pimelea View from the Tourist (T9) Zone to the Special Residential (SRes6) Zone;*
6. *Delete Tourist Zone (T9) from Appendix XIII; and*
7. *Amending the Scheme maps accordingly.*

The amendment is 'Complex' under the provisions of the *Planning and Development (Local Planning Schemes) Regulations 2015* for the following reason.

- The amendment is not consistent with the Shire of Denmark Local Planning Strategy which designates the site for tourism development.

Dated this _____ day of _____

CHIEF EXECUTIVE OFFICER

SHIRE OF DENMARK

TOWN PLANNING SCHEME NO. 3

AMENDMENT NO. 149

PLANNING REPORT

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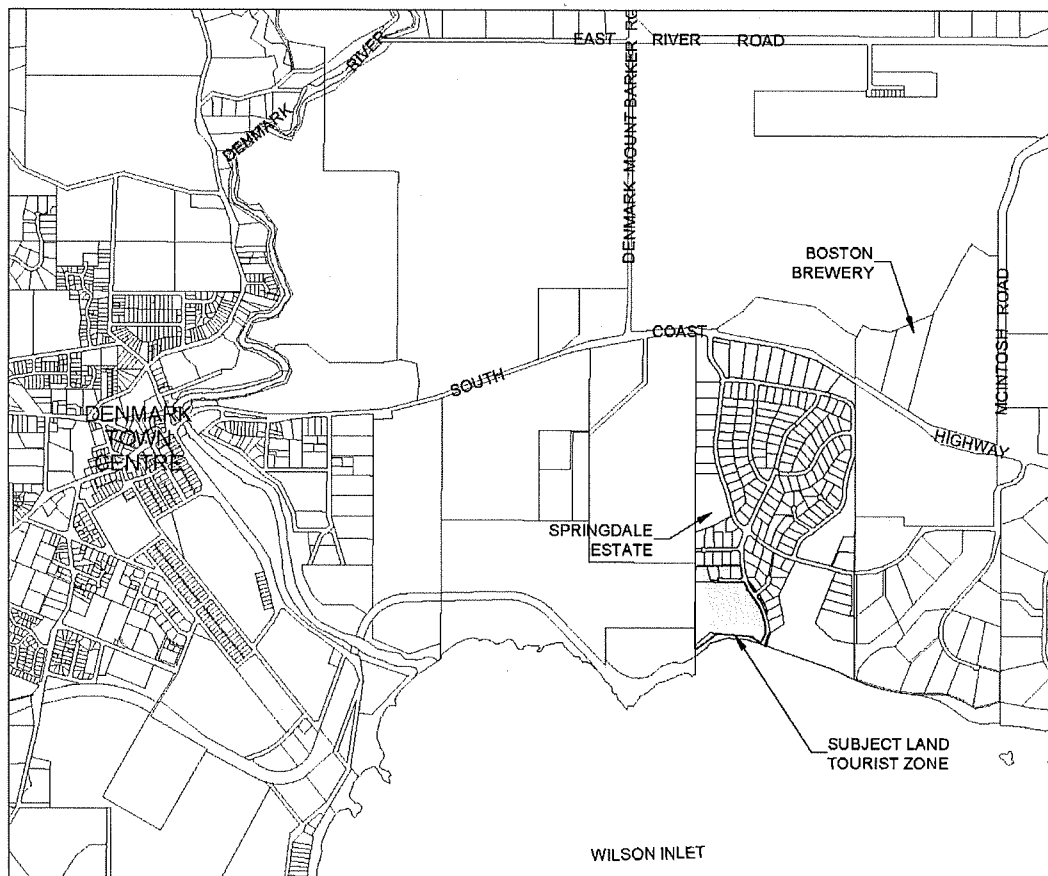
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Appendix B	Flora and Fauna Assessment – Opus - January 2006.
Appendix C	Fire Management Plan – FirePlan WA – Oct 2015 & BAL Contour Plan, Bushfire Management Statement – BioDiverse Solutions - Nov 2017
Appendix D	Coastal Vulnerability Assessment - MP Rogers & Assoc - October 2020
Appendix E	Preliminary Assessment of Proposed Scheme Amendment Springdale Beach Tourist Zone Site, Denmark 2018 & Nutrient Input Comparison - October 2020- Land Assessment Pty Ltd

1. INTRODUCTION

The main purpose of this scheme amendment is to rezone portion of Lot 9008 South Coast Highway located within the Springdale Beach Estate from the Tourist zone to the Special Residential zone. At the same time the scheme amendment seeks to rationalize the zoning of a number of adjoining Special Residential Lots that are under the Tourist zone and transfer the Tourist zone that exists over portion of Reserve 52123 to the Parks & Recreation Reserve and a portion of Parks & Recreation Reserve on Portion Lot 9008 to the Special Residential zone. The Estate is located approximately 5.6 kms to the east of the Denmark Townsite. Refer Location Plan below.



Location Plan

The Springdale Beach Estate was zoned and gazetted in October 2001. The relevant portion of Lot 9008 is located adjacent to the Wilson Inlet foreshore and is accessed by Beaufortia Gardens which is one of the main subdivisional roads within the Special Residential Estate.

Despite the fact that all the supporting infrastructure has been in place for many years, the developer, LWP Denmark, has been unable to attract any interest to develop portion Lot 9008 for tourism development.

In accordance with the WAPC's Planning Bulletin 83/2013: 'Planning for Tourism', it is requested approval be granted to rezone the Tourist Site to the 'Special Residential' zone.

The following report provides supporting background information and justification for the rezoning proposal.

2. BACKGROUND

The majority of the Springdale Beach Estate is zoned 'Special Residential' with a 'Tourist' zone located in the south west corner of the property. A Subdivision Guide Plan formed part of the rezoning documentation and is attached overleaf.











The Tourist site had an overall area of 9.4ha, one hectare of which was to be excised and incorporated into the adjoining foreshore reserve.

The site was included in the Schedule of Tourist Zones in Appendix XIII of the Shire's Town Planning Scheme No 3 and included the following permitted uses:

- Single house
- Cottage Industry
- Caretaker's Dwellings
- Holiday Accommodation
- Reception Centre
- Restaurant
- Shop (max 150m²)

ALL AREAS AND DIMENSIONS SUBJECT TO SURVEY

LEGEND

-  Subject Land
-  Vegetation Cover - existing & proposed
-  Proposed Subdivisional Roads
-  Proposed Lot Boundaries
-  Foreshore Access Node
-  Strategic Fire Break & Linkage
-  Development Exclusion Areas
-  Dwelling Areas (500m²)
-  Single Driveway with Reciprocal Rights of Access
-  N

Scale 1 : 5 000
Orig Size - A3

March 2000

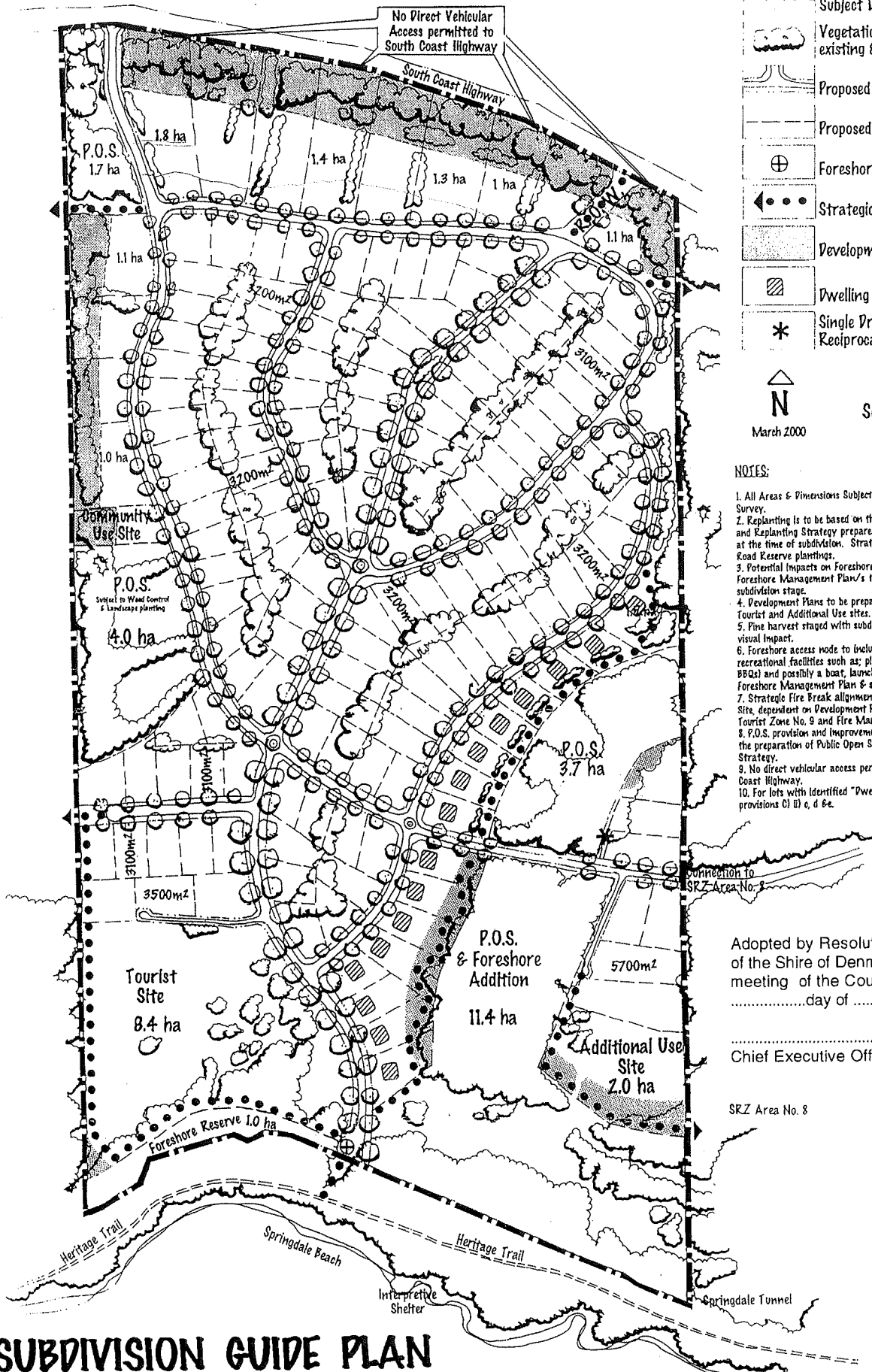
NOTES:

1. All Areas & Dimensions Subject to Subdivision & Survey.
2. Replanting is to be based on the Public Open Space and Replanting Strategy prepared and implemented at the time of subdivision. Strategy is to include Road Reserve plantings.
3. Potential Impacts on Foreshore to be managed via Foreshore Management Plan/s to be prepared at the subdivision stage.
4. Development Plans to be prepared for both the Tourist and Additional Use sites.
5. Pine harvest staged with subdivision to minimise visual impact.
6. Foreshore access node to include associated recreational facilities such as; picnic area (with BBQs) and possibly a boat launching ramp-subject to Foreshore Management Plan & specific approvals.
7. Strategic Fire Break alignment, within Tourist Site, dependent on Development Plan, Condition 15 of Tourist Zone No. 9 and Fire Management Plan.
8. P.O.S. provision and improvement to be subject to the preparation of Public Open Space & Replanting Strategy.
9. No direct vehicular access permitted to South Coast Highway.
10. For lots with identified "Dwelling Areas", refer to provisions C1 (i) e, d & e.

Adopted by Resolution of the Council of the Shire of Denmark at the meeting of the Council, held on the day of 2000

Chief Executive Officer

SRZ Area No. 8



Amended September 2001

SUBDIVISION GUIDE PLAN
Location 1935 South Coast Hwy.
Shire of Denmark TPS No. 3 Amendment 66

The following uses could also be permitted if incidental to the predominant use of the land:

- Day Care Centre
- Private Recreation
- Public Amusement

Condition No 4 of the Schedule provides guidance in terms of the density of the holiday accommodation and stipulates that the total density of holiday accommodation shall not exceed 3.33 units per hectare of gross site area.

Following acquisition of the property by LWP Denmark, the property has been progressively developed with Stages 1A, 1B, 2A, 2B, 2C, 2D, 3A, 3B, 4A and 4B completed and Stage 2E currently under construction. Refer plan overleaf.

The tourist site formed part of the Stage 4 subdivision application and while a portion of the site was excised and ceded to the Shire as a foreshore reserve, the tourist lot was not created. A subsequent subdivision application (WAPC Reference 156128) proposed to create the tourist lot but was withdrawn and cancelled on 2 January 2020.

The decision not to create the tourist site was based on the realisation that there had been no interest from potential developers to acquire the site for tourism development. The key reasons for the lack of interest appear to be:

- The site is not located on a strategic tourist route but instead is located at the end of a long cul-de-sac which runs through a residential estate.
- The site is heavily vegetated which restricts the views to the Inlet and requires significant buffers to meet bushfire guidelines.
- Since the site was created, the Boston Brewery has been developed on the opposite side of South Coast Highway. The success of this development which is located on a strategic tourist route, increases the unlikelihood of a signature restaurant being developed on the site.

- The growing residential community on the estate are generally not supportive of a tourist development which will draw significant traffic through their predominantly residential area.
- While Springdale Beach may have historically been a waterfront destination, the presence of seaweed, algae and associated smell detracts from its attraction. At the same time other beachfront destinations such as Ocean Beach and Greens Pool were developing and are now significantly more attractive.

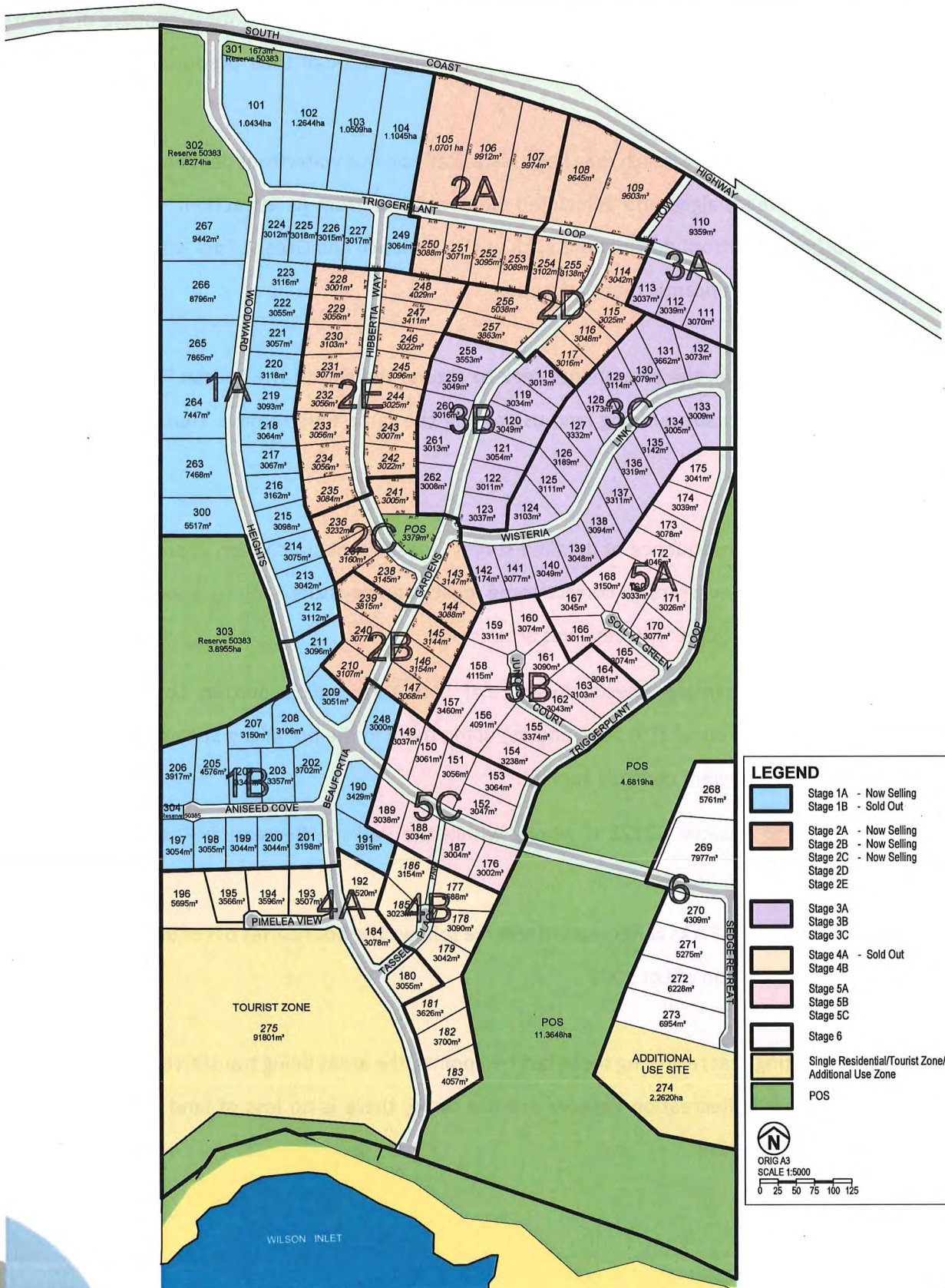
In view of the above, the proponents seek to rezone the site to the Special Residential zone in conformity with the surrounding land use and at the same time remove Tourist Zone (T9) from the Scheme.

In addition, as a consequence of detailed survey, subsequent subdivision approvals and detailed design work, it is necessary to correct some legacy zoning issues/ zoning anomalies in the area around portion Lot 9008. This revolves around:

- Removing existing Special Residential Lots surrounding portion Lot 9008 from the (incorrect) Tourist (T9) zone and including them in the prevailing Special Residential zone with the relevant controls applied.
- Ensuring Reserve 52123 is wholly within the Parks & Recreation Reserve and not the Tourist zone.
- Ensuring the Parks & Recreation reserve follows the boundaries of Lot 9008 established at the subdivision of Lot 9008.

It is worth noting that regarding these last two points, the areas being transferred from the Tourist zone and Parks & Recreation Reserve are the same; there is no loss of land from the Parks & Recreation reservation.

Springdale Beach Subdivision Plan



LEGEND

- Stage 1A - Now Selling
- Stage 1B - Sold Out
- Stage 2A - Now Selling
- Stage 2B - Now Selling
- Stage 2C - Now Selling
- Stage 2D - Now Selling
- Stage 2E
- Stage 3A
- Stage 3B
- Stage 3C
- Stage 4A - Sold Out
- Stage 4B
- Stage 5A
- Stage 5B
- Stage 5C
- Stage 6
- Single Residential/Tourist Zone/
Additional Use Zone
- POS

ORIG A3
SCALE 1:5000
0 25 50 75 100 125

5. PROPOSED DEVELOPMENT

Subject to rezoning of the tourist site to the 'Special Residential' zone, development is predicated on the acceptance that the minimum lot size of 3000m², which applies to the Springdale Beach Estate, will also apply to the subject land.

Under the provisions of the Government Sewerage Policy, land which is not connected to a reticulated sewerage service within a "Sewerage Sensitive Area" is required to have a minimum lot size of one Hectare. The associated notes indicate that:

"Land in a Sewerage Sensitive Area that is already zoned for urban use with a residential density coding of R2 to R10 under a Local Planning Scheme or Structure Plan endorsed by the WAPC, may be subdivided in accordance with the existing density coding."

The definition of "Urban" in the Government Sewerage Policy is:

"Land zoned 'urban' or 'urban deferred' in a region scheme and/or land that can be subdivided under a local planning scheme to create lots less than one hectare for residential or commercial uses and has the potential to be subdivided."

In this case the density of tourist accommodation is 3.33 units per hectare.

In view of the above, a report has been prepared by Land Assessment to compare the likely nutrient inputs into the subject land from special residential development and tourist development of the site.

The report demonstrates that the level of nutrient inputs to the subject land under a special residential development to be less than that which could occur for a tourism development under the existing Scheme zoning and land use conditions. The report is attached in Appendix 'E'.

The proposed concept plan will create a total of 17 lots with lot sizes ranging from 3028m² to 4760m². This is in contrast to the 30 holiday units that could be developed under the current tourist zoning, as well as a manager's residence, reception centre and restaurant.

The detailed site testing carried out in winter conditions by OPUS in association with MPA Williams and Associates, confirms that:

- The minimum site requirements for on-site sewerage disposal outlined in Section 5 and Schedule 2 of the Government Sewerage Policy can be met.

Other key elements of the proposed development are outlined in the Opportunities & Constraints Plan, which informs the Indicative Concept Plan. The plan includes:

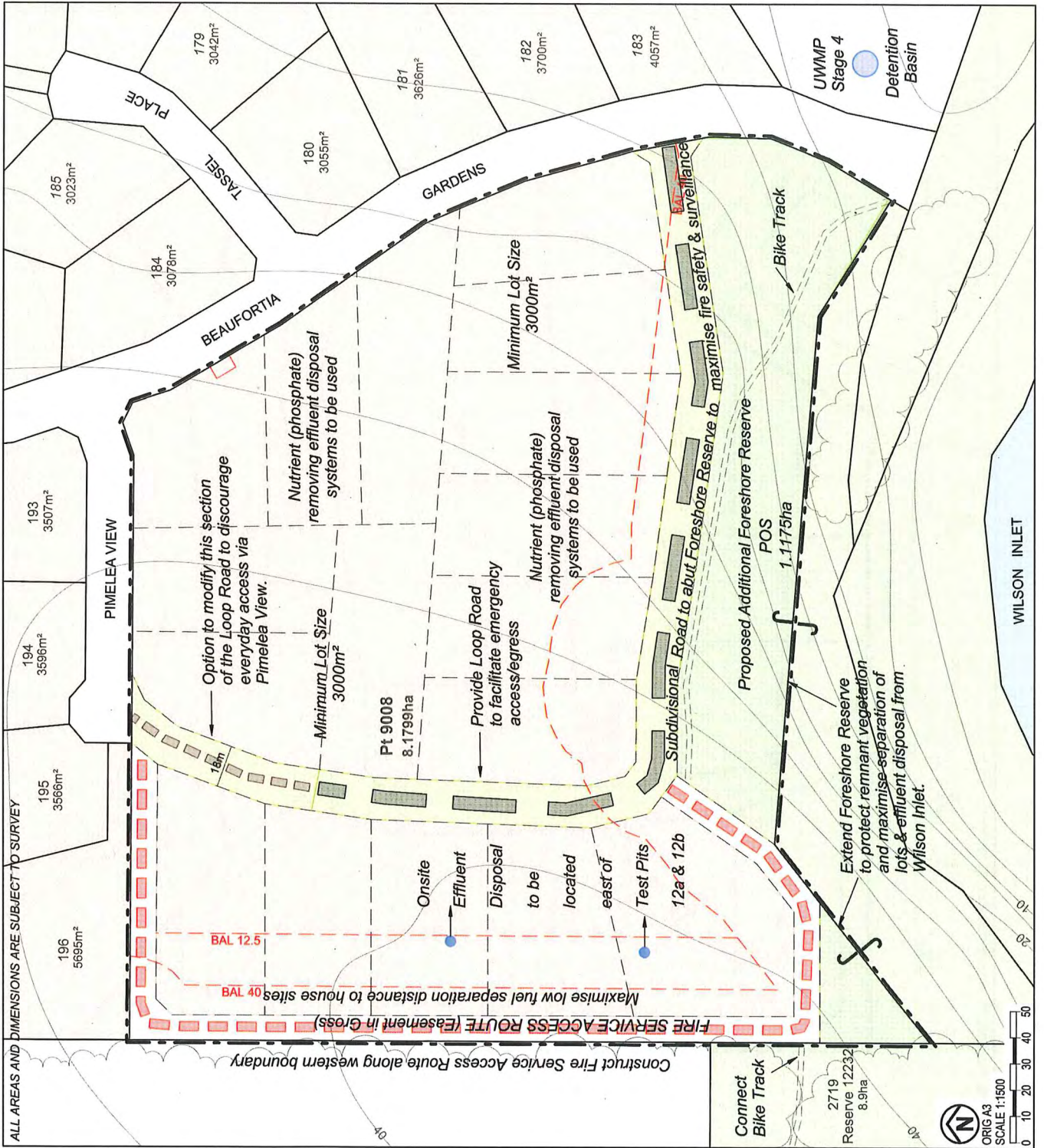
- An additional 1.2 hectares of foreshore reserve is proposed to be added to the one hectare which has already been ceded to the Shire. The additional foreshore area will ensure that all development and effluent disposal systems will be located a minimum of 135 metres from the Wilson Inlet. It will also enable passive surveillance of the POS/foreshore reserve and allow for the remaining remnant vegetation on the site to be consolidated with the remnant vegetation to the south and incorporate a bike path which will utilise the existing gravel track which runs up from Beaufortia Gardens.
- The minimum lot size of 3000m² provides ample scope for appropriate effluent disposal systems to be accommodated in accordance with the Sewerage Policy requirements.
- The proposed 'Special Residential' lots will be serviced by a loop road which will run from Beaufortia Gardens in a westerly direction immediately abutting the expanded foreshore reserve to the south. It will then run north to connect up with Pimelea View which in turn connects back to Beaufortia Gardens. The alignment provides sufficient setback from the vegetated reserves to the west to accommodate a 10m wide fire service access route (perimeter road) which runs along the western boundary of the site and a further 30 metre setback which will enable building envelopes to achieve a BAL of 12.5. The fire service access route runs along flat terrain which will facilitate ease of access by fire service vehicles. This arrangement allows for direct access from the dwellings on lots 13 to 17 onto the proposed loop road, should a fire originate in the vegetation to the west.

Refer the Opportunities & Constraints Plan and the Indicative Concept Plan on following pages.

OPPORTUNITIES & CONSTRAINTS PLAN

Pt Lot 9008 Beaufortia Gardens
Springdale, Shire of Denmark

AYTON BAESJOU
P L A N N I N G
59 Peels Place
ALBANY WA 6330
PH 9842 2304 Fax 9842 8494



- The proposal to create a loop road through the site connecting to Pimelea View is desirable in order to meet Bushfire Management Guidelines. However, it has the potential to impact on the amenity of the four lots, which currently front onto the existing cul-de-sac, by increasing through traffic. At the detailed stage of subdivision design, it is recommended that traffic management measures are provided which encourage traffic to utilize access and egress to the site from Beaufortia Gardens and that access via Pimelea View is restricted where possible for emergency access/egress only. It is noted that the loop road will also benefit the existing Pimelea View residents in relation to emergency access. Traffic management could be achieved by providing a reduced width carriageway along the northern section of the loop road with associated turning area/traffic calming devices and signage.
- The subdivisional road avoids the steeply sloping land within the proposed foreshore reserve and minimizes and impact on the associated vegetation.
- From a fire management perspective, the combination of a public road abutting the steeply sloping and vegetated foreshore reserve, together with a perimeter fire service access road along the western boundary will maximise access for fire fighting purposes and ease of access/egress for residents in an emergency.
- The proposed subdivisional road alignment will enable stormwater management to be integrated with the Urban Water Management Plan which was prepared for Stage 4 of the Springdale Beach Estate subdivision.

6. JUSTIFICATION – TOURIST SITE TO SPECIAL RESIDENTIAL DEVELOPMENT

Tourist development is recognised as being one of the riskiest forms of development and in order to be sustainable it needs to be located on a strategic tourist route with access to a significant tourist attraction.

While Springdale Beach historically may have been a tourist attraction, as evidenced by a few tourist chalets which were located on the subject land, that is no longer the case. The chalets were allowed to fall into disrepair and the beach itself has been detrimentally affected by the build up of seaweed, algae and the associated unpleasant smell. At the same time competing tourist attractions have become far more popular in areas such as Ocean Beach, Greens Pool and the coast line that runs between these sites. Recent scheme amendment requests at Lot 305 Wentworth Road and Lot 3 William Bay Road will expand the range of short stay accommodation and related tourism facilities in the district.

Direct access to a strategic tourist route has also become increasingly important and the current tourist zone suffers from being located at the end of a long cul de sac that services a residential subdivision. The location of the Boston Brewery opposite the Springdale Beach Estate on South Coast Highway, demonstrates how important the location on a strategic tourist route is to the success of tourist development. Its success will further diminish the likelihood that a restaurant and associated reception centre can be developed on the subject land.

As the Springdale Beach Estate has developed, it is also apparent that the residents are concerned that tourist traffic will be drawn through their residential estate and affect the amenity that they enjoy. The WAPC's Planning for Tourism Bulletin 83/2013 recommends that such a potential conflict should be avoided.

Section 6 of the Tourism Bulletin identifies general location criteria to assist in determining the tourism value of a site. These include;

Accessibility, Uniqueness, Setting, Tourism activities and amenities, Supply of land, Suitability in a land use context, Capability, Size and Function.

Accessibility

As already noted, a major failing of the site is its lack of access onto a strategic tourism route. It is not conveniently located and lacks visibility.

Uniqueness

While the site is located in proximity to Wilson Inlet, it is not unique in this aspect. There are more attractive and conveniently located tourism sites closer to Denmark town centre and Ocean Beach.

Setting

While the site has an aspect and outlook overlooking Wilson Inlet, it is not immediately adjacent to the beach and access is via a steeply sloping track. Views are compromised by foreshore vegetation and the amenity of the beachfront is poor.

Tourism activities and amenities

The site does have access to the historic railway dual use path, however, there are no cafes, restaurants or shops in close proximity. A jetty originally provided access to the Inlet but no longer exists and no provision has been made to replace it.

Supply of land

The site is not considered to have an element of scarcity in that it may be the only opportunity, or one of a limited number of opportunities to achieve a significant tourism development in the area. There are other more attractive areas available elsewhere along the Denmark coastline.

Suitability in a land use context

The site is compromised by being located adjacent to and having its main access through a residential area.

Capability

The site is located in a sewerage sensitive area which may be impacted by overly intensive tourism development. The heavily vegetated foreshore and surrounding area creates a fire management issue as tourism development is deemed to be a vulnerable use. Associated clearing to maximise views of the inlet is also a potential issue.

Size

While the site is 8ha in area, its development capacity will be limited by the fact that it is not connected to a reticulated sewer system, is located in a residential and bushfire prone area.

Function

The site does not meet a particular accommodation or market need that cannot be better provided for elsewhere in Denmark.

The owner of the tourist site has for many years been unable to attract any interest from a developer to develop the site. It has now become increasingly evident why any interest is unlikely to be forthcoming. Consequently, it is recommended that a more compatible land use would be to develop it for Special Residential lots.

With regards the Local Planning Strategy Objectives and Strategies, the following additional notes are made:

- Without any demand for the site as a tourism venture despite its long-term availability, objectives for local economic benefit, local investment, local employment and the like are not being met (s4.4 Tourism Strategy e & f).
- Without any demand for the site as a tourism venture despite its long-term availability, the objectives of having appropriately zoned land available for new development are not being met (s4.4 Tourism Strategy g).
- The site is not located near a specific identified strategic tourism site (s4.4 Tourism Strategy h).

7. CONCLUSION

The tourist zone in the south west corner of the Springdale Beach Estate was gazetted almost 20 years ago and prior the WAPC's Planning Bulletin 83/2013 - Planning for Tourism.

While the idea to designate a portion of the Estate for tourist development was based on the fact that limited tourist development had occurred on the site in the past, 'Planning for Tourism' recommends a more strategic and considered approach is required to ensure a quality, sustainable tourism outcome.

This report concludes that portion Lot 9008 does not meet the criteria to guarantee a successful tourism development and requests consideration be given to rezoning the site for special residential development.

It is also requested that the prevailing residential density of the Estate be applied to the site in accordance with the guidelines provided in the Government Sewerage Policy.

The report demonstrates that up to 17 special residential lots with a minimum lot size of 3000m² will produce less nutrients than a tourist development comprising up to 30 chalets, manager's accommodation, reception centre and restaurant.

Land capability assessment also indicates that the site is suitable for onsite effluent disposal without endangering public health or the environment and that the minimum site requirements outlined in then Sewerage Policy can be met.

It is respectfully requested that Council initiate the proposed rezoning of portion Lot 9008 along with the correction of the zoning anomalies affecting Reserve 52123 and existing Special Residential Lots surrounding Lot 9008.

PLANNING AND DEVELOPMENT ACT 2005

SHIRE OF DENMARK

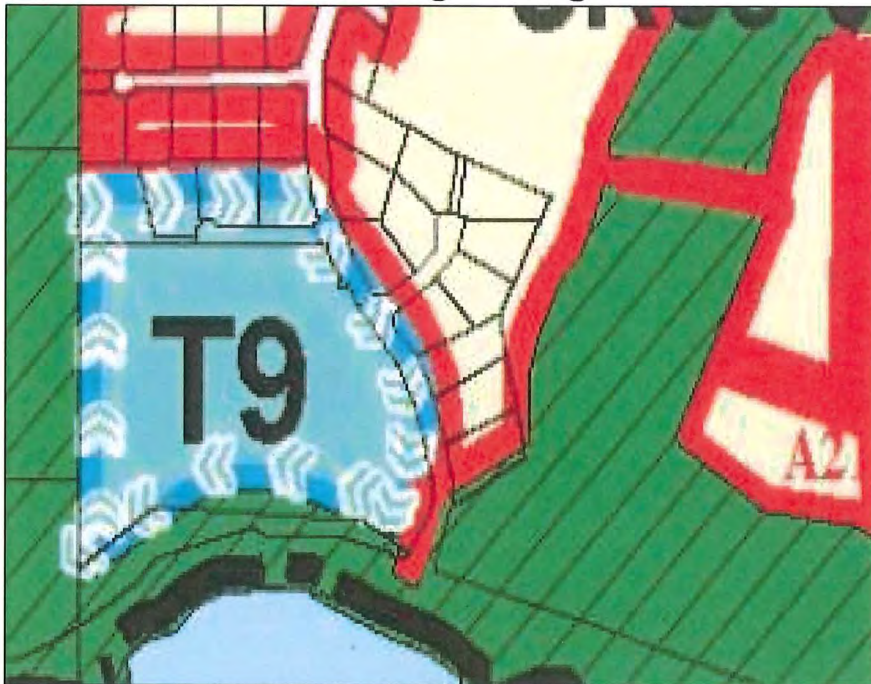
TOWN PLANNING SCHEME No. 3

AMENDMENT No. 149

The Shire of Denmark under and by virtue of the powers conferred upon it in that behalf by the Planning and Development Act 2005 hereby amends the above town planning scheme by:


1. *Rezoning portion Lot 9008 Beaufortia Gardens, Hay, Shire of Denmark, from the Tourist (T9) Zone to Special Residential (SRes6) Zone;*
2. *Moving portion Lot 9008 Beaufortia Gardens, Hay, Shire of Denmark, from the Parks & Recreation Reserve to the Special Residential (SRes6) Zone;*
3. *Moving portion Reserve 52123, from the Tourist (T9) Zone to the Parks & Recreation Reserve;*
4. *Rezoning portion Lots 181, 181, 182 & 184 Beaufortia Gardens from the Tourist (T9) Zone to the Special Residential (SRes6) Zone;*
5. *Rezoning Lots 193, 194, 195 & 196 Pimelea View from the Tourist (T9) Zone to the Special Residential (SRes6) Zone;*
6. *Delete Tourist Zone (T9) from Appendix XIII; and*
7. *Amending the Scheme maps accordingly.*

Existing Zoning



LEGEND

LOCAL SCHEME RESERVES

 Parks and Recreation


LOCAL SCHEME ZONES

 Special Residential

 Tourist

OTHER CATEGORIES

(see scheme text for additional information)

 Scheme Area Boundary

 A1 Additional Uses

 SRes1 Special Residential Area

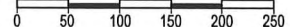
 T1 Tourist Area

 No Zone

 Waterbodies



ORIG A4
SCALE 1:7000



Proposed Zoning



SHIRE OF DENMARK

TOWN PLANNING SCHEME No. 3

AMENDMENT No. 149

21 June 2022 - Attachment 9.1.3b

MINISTER FOR PLANNING

PROPOSAL TO AMEND A TOWN PLANNING SCHEME

LOCAL AUTHORITY:	SHIRE OF DENMARK
DESCRIPTION OF LOCAL PLANNING SCHEME:	TOWN PLANNING SCHEME No. 3
TYPE OF SCHEME:	DISTRICT SCHEME
SERIAL No. OF AMENDMENT:	AMENDMENT No. 149

PROPOSAL:

To move portion Lot 9008 Beaufortia Gardens, Hay, Shire of Denmark, from the Tourist (T9) zone and Parks and Recreation reserve to the Special Residential (SRes6) zone, to rezone Lots 193, 194, 195 & 196 Pimelea View & portion Lots 180, 181, 182 & 184 Beaufortia Gardens from the Tourist (T9) zone to the Special Residential (SRes6) zone, to move a portion of Reserve 52123 from the Tourist (T9) zone to the Parks and Recreation reserve and to delete Tourist Zone (T9) from Appendix XIII of the Scheme.

TOWN PLANNING SCHEME No. 3

AMENDMENT No. 149

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1. RESOLUTION
2. REPORT
3. EXECUTION

PLANNING AND DEVELOPMENT ACT 2005

**RESOLUTION DECIDING TO AMEND A
TOWN PLANNING SCHEME**

SHIRE OF DENMARK

TOWN PLANNING SCHEME No. 3

DISTRICT SCHEME

AMENDMENT No. 149

RESOLVED that the local government pursuant to Section 72 of the *Planning and Development Act 2005*, amend the above Local Planning Scheme by:

1. *Rezoning portion Lot 9008 Beaufortia Gardens, Hay, Shire of Denmark, from the Tourist (T9) Zone to Special Residential (SRes6) Zone;*
2. *Rezoning portion Lot 9008 from Tourist (T9) Zone to the Parks & Recreation Reserve;*
3. *Moving portion Lot 9008 Beaufortia Gardens, Hay, Shire of Denmark, from the Special Residential (SRes6) Zone to the Parks & Recreation Reserve;*
4. *Moving portion Reserve 52123, from the Tourist (T9) Zone to the Parks & Recreation Reserve;*
5. *Rezoning portion Lots 180, 181, 182 & 184 Beaufortia Gardens from the Tourist (T9) Zone to the Special Residential (SRes6) Zone;*
6. *Rezoning Lots 193, 194, 195 & 196 Pimelea View from the Tourist (T9) Zone to the Special Residential (SRes6) Zone;*
7. *Rezoning portion of Beaufortia Gardens and Pimelea View from the Tourist (T9) Zone and the Special Residential (SRes6) Zone to Road Reserve;*
8. *Delete Tourist Zone (T9) from Appendix XIII;*
9. *Modify Appendix XIV – S Res 6 Special Provisions as follows:*
 - *Delete the words “Livestock Grazing - see clause (viii)a)” from the Proposed Uses column.*
 - *Delete provisions a), b), c) and d) of provision viii) and replace with:*
 - a) *Intensive horticulture and grazing of livestock is not permitted;*
10. *Add the following to SRes 6 Special Provisions in Appendix XIV;*
 - xii) *In addition to the Special Provisions outlined above, for the purpose of subdivision and development of land contained within that area generally bound by Beaufortia Gardens to the east, Wilson Inlet to the south, Pimelea View and Lot 196 to the north, and Reserve 12232 to the west, the following additional provisions shall apply, noting in the event of any conflict these additional provisions will prevail:*
 - a) *The Special Residential lots should comply with the requirements of the Government Sewerage Policy 2019 unless further supporting information is provided to demonstrate capability, in which case a lot size of no less than 3000m² can be considered.*

- (b) *In addition to the minimum setback requirements prescribed under provision ii) (a) above, all buildings, site works and retaining walls shall be set back a minimum of 20 metres from the western boundary with Reserve 12232. No further reduction in this setback will be permitted.*
- (c) *Subdivision of the site shall generally accord with an approved Structure Plan that incorporates the following supporting documents:*
- 1) *A site specific Flora and Fauna Assessment.*
 - 2) *The Springdale Beach Estate Urban Water Management Plan 2014 is to be updated to the satisfaction of the Shire of Denmark and the Department of Water and Environmental Regulation and include reference to consistency with the Wilson Inlet Management Strategy.*
 - 3) *An addendum to the Site and Soil Evaluation report prepared by Aurora Environmental (December 2021), to inform appropriate lot sizes, configuration, and yield, the proposed method of on-site effluent disposal, building envelopes, remediation works (where applicable) and consistency with the Wilson Inlet Management Strategy, is to be prepared to the satisfaction of the Shire of Denmark, Department of Water and Environmental Regulation and Department of Health.*
 - 4) *An addendum to the existing Foreshore Management Plan that includes appropriate management conditions consistent with the Wilson Inlet Foreshore Reserve Management Plan 2008 (or its equivalent as amended) and the Wilson Inlet Management Strategy. The addendum is to be prepared to the satisfaction of the Shire of Denmark and the Department of Water and Environmental Regulation to address, amongst other matters:- protection of vegetation and fauna habitat, erosion control, weed management, walkways/ bike paths and access controls, lighting to incorporate dark sky principles as referenced in the WAPC's Position Statement "Dark Sky and Astrotourism" and the "National Light Pollution Guidelines for Wildlife" (as amended), re-vegetation, setbacks and parking and any other matters appurtenant to or impacting upon the adjacent foreshore area.*
 - 5) *A Landscape Management Plan shall be prepared to the satisfaction of the Shire of Denmark for the balance of the development area to address the provision of street trees, identification and protection of trees to be retained, areas for replanting, the protection of fauna habitat, a preference for use of locally indigenous native species in domestic gardens and public reserves, fertilizer/ nutrient input, mechanisms for implementation and timing, lighting to incorporate dark sky principles as referenced in the WAPC Position Statement "Dark Sky and Astrotourism" and the National Light Pollution Guidelines for Wildlife (as amended), including consideration of estate covenants and/ or Local Development Plans if deemed appropriate.*
 - 6) *A Bushfire Management Plan that addresses and responds to the requirements and recommendations of the Flora and Fauna Assessment, Foreshore Management Plan, and Landscape Management Plan.*
 - 7) *The requirement for preparation of a Construction Management Plan prior to the commencement of subdivision or development site works to the satisfaction of the Shire of Denmark to address such matters as erosion and sediment transport control and dieback control (including land based movement and groundwater movement).*

- (d) *Where required under an approved Structure Plan, a local development plan is to be prepared for all or part of the structure plan area.*
- (e) *All buildings, retaining walls and effluent disposal systems are to be contained within an approved building envelope if nominated on an approved Structure Plan.*
- (f) *Where informed by recommendations contained within a Site and Soil Evaluation report and/ or approved Structure Plan Council may impose conditions at the time of subdivision to address site remediation, fill and compaction of house pads and effluent disposal areas within the defined building envelopes.*
- (g) *Where identified on an approved Structure Plan, Council may impose conditions at the time of subdivision to require the construction of Strategic Firebreaks/ Fire Service Access Routes and a requirement for registration of such as an easement in gross under Section 195 of the Land Administration Act 1997.*
- (h) *No clearing of significant trees or endemic vegetation shall be permitted where such vegetation is shown on the approved Structure Plan for retention unless:*
 - *Such clearing is approved in conjunction with a development application granted by the Shire of Denmark.*
 - *Trees are diseased or dangerous as confirmed in writing by a qualified arborist and verified by the Shire of Denmark.*
 - *Such works have been mandated under the Shire of Denmark's Fire Management Notice.*

and

11. Amending the Scheme maps accordingly.

The amendment is 'Complex' under the provisions of the *Planning and Development (Local Planning Schemes) Regulations 2015* for the following reason.

- The amendment is not consistent with the Shire of Denmark Local Planning Strategy which designates the site for tourism development.

Dated this _____ day of _____

CHIEF EXECUTIVE OFFICER

SHIRE OF DENMARK

TOWN PLANNING SCHEME NO. 3

AMENDMENT NO. 149

PLANNING REPORT

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APPENDICES

Appendix A	Review of Previous Studies – Aurora Environmental 2021
Appendix B	Coastal Vulnerability Assessment - MP Rogers & Assoc - October 2020
Appendix C	Fire Management Plan – FirePlan WA – Oct 2015 & BAL Contour Plan, Bushfire Management Statement – BioDiverse Solutions - Nov 2017
Appendix D	Existing Shire of Denmark TPS 3 Appendix XIV-Special Residential Zones SRes 6 Special Provisions

1. INTRODUCTION

The main purpose of this scheme amendment is to rezone portion of Lot 9008 South Coast Highway located within the Springdale Beach Estate from the Tourist zone to the Special Residential zone. At the same time the scheme amendment seeks to rationalise the zoning of a number of adjoining Special Residential Lots that are under the Tourist zone and transfer the Tourist zone that exists over portion of Reserve 52123 to the Parks & Recreation Reserve and a portion of Parks & Recreation Reserve on Portion Lot 9008 to the Special Residential zone. The Estate is located approximately 5.6 kms to the east of the Denmark Townsite. Refer Location Plan below.

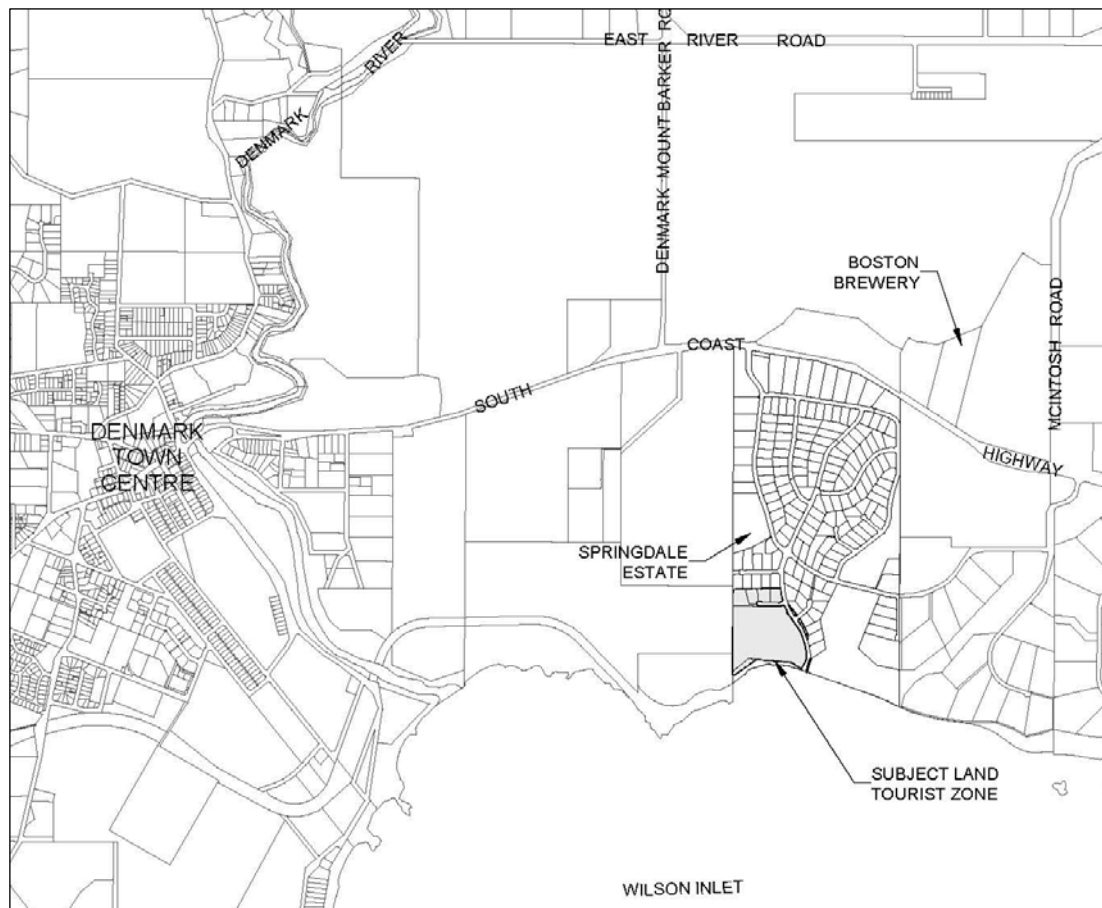


Figure 1: Location Plan

The Springdale Beach Estate was zoned and gazetted in October 2001. The relevant portion of Lot 9008 is located adjacent to the Wilson Inlet foreshore and is accessed by Beaufortia Gardens which is one of the main subdivisional roads within the Special Residential Estate.

Despite the fact that all the supporting infrastructure has been in place for many years, the developer, LWP Denmark, has been unable to attract any interest to develop portion Lot 9008 for tourism development. In the meantime, much of the residential area has been subdivided and developed and the community is no longer supportive of Tourist development which has its main access through the residential area.

In accordance with the WAPC's Planning Bulletin 83/2013: 'Planning for Tourism', it is requested approval be granted to rezone the Tourist Site to the 'Special Residential' zone.

The following report provides supporting background information and justification for the rezoning proposal.

2. BACKGROUND

The majority of the Springdale Beach Estate is zoned 'Special Residential' with a 'Tourist' zone located in the south west corner of the property. A Subdivision Guide Plan formed part of the rezoning documentation and is attached overleaf (Figure 2).











The Tourist site had an overall area of 9.4ha, one hectare of which was to be excised and incorporated into the adjoining foreshore reserve.

The site was included in the Schedule of Tourist Zones in Appendix XIII of the Shire's Town Planning Scheme No 3 and included the following permitted uses:

- Single house
- Cottage Industry
- Caretaker's Dwellings
- Holiday Accommodation
- Reception Centre
- Restaurant
- Shop (max 150m²)

ALL AREAS AND DIMENSIONS SUBJECT TO SURVEY

LEGEND

-  Subject Land
 -  Vegetation Cover - existing & proposed
 -  Proposed Subdivisional Roads
 -  Proposed Lot Boundaries
 -  Foreshore Access Node
 -  Strategic Fire Break & Linkage
 -  Development Exclusion Areas
 -  Dwelling Areas (500m²)
 -  Single Driveway with Reciprocal Rights of Access
 -  N
- March 2000 Scale 1 : 5 000
Orig Size - A3

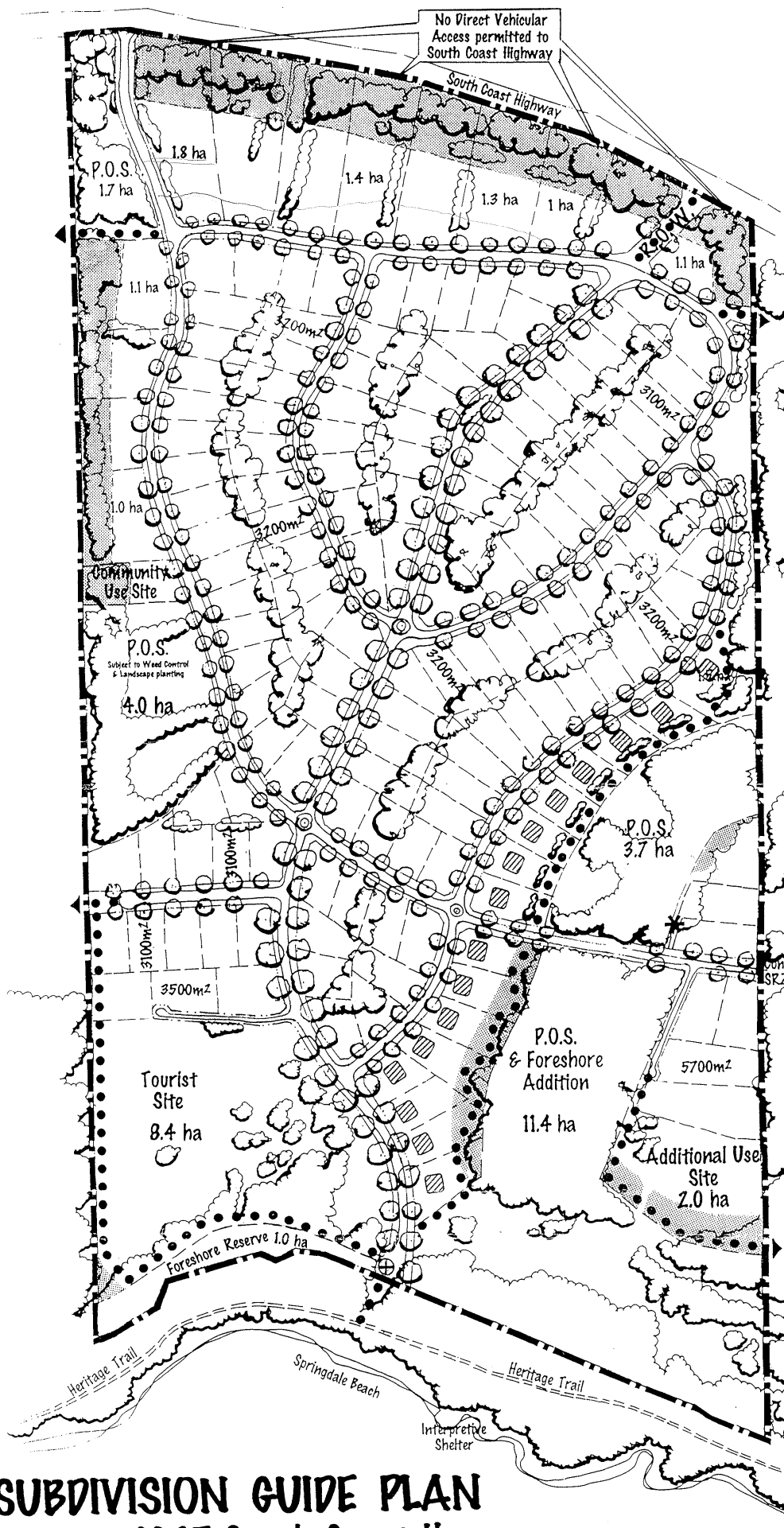
NOTES:

1. All Areas & Dimensions Subject to Subdivision & Survey.
2. Replanting is to be based on the Public Open Space and Replanting Strategy prepared and implemented at the time of subdivision. Strategy is to include Road Reserve plantings.
3. Potential Impacts on Foreshore to be managed via Foreshore Management Plan/s to be prepared at the subdivision stage.
4. Development Plans to be prepared for both the Tourist and Additional Use sites.
5. Pine harvest staged with subdivision to minimise visual impact.
6. Foreshore access node to include associated recreational facilities such as; picnic area (with BBQs) and possibly a boat, launching ramp-subject to Foreshore Management Plan & specific approvals.
7. Strategic Fire Break alignment, within Tourist Site, dependent on Development Plan, Condition 15 of Tourist Zone No. 9 and Fire Management Plan.
8. P.O.S. provision and improvement to be subject to the preparation of Public Open Space & Replanting Strategy.
9. No direct vehicular access permitted to South Coast Highway.
10. For lots with identified "Dwelling Areas", refer to provisions c) i) e, d & e.

Adopted by Resolution of the Council of the Shire of Denmark at the meeting of the Council, held on the day of 2000

Chief Executive Officer

SRZ Area No. 8



Approved September 2001

SUBDIVISION GUIDE PLAN
Location 1935 South Coast Hwy.
Shire of Denmark TPS No. 3 Amendment 66

Figure 2

The following uses could also be permitted if incidental to the predominant use of the land:

- Day Care Centre
- Private Recreation
- Public Amusement

Condition No 4 of the Schedule provides guidance in terms of the density of the holiday accommodation and stipulates that the total density of holiday accommodation shall not exceed 3.33 units per hectare of gross site area.

Following acquisition of the property by LWP Denmark, the property has been progressively developed with Stages 1A, 1B, 2A, 2B, 2C, 2D, 2E, 3A, 3B, 4A and 4B completed and Stages 5A and 5C currently under construction. Refer Figure 3: Subdivision Staging Plan.

The tourist site formed part of the Stage 4 subdivision application and while a portion of the site was excised and ceded to the Shire of Denmark as a foreshore reserve, the tourist lot was not created. A subsequent subdivision application (WAPC Reference 156128) proposed to create the tourist lot but was withdrawn and cancelled on 2 January 2020.

The decision not to create the tourist site was based on the realisation that there had been no interest from potential developers to acquire the site for tourism development. The key reasons for the lack of interest appear to be:

- The site is not located on a strategic tourist route but instead is located at the end of a long cul-de-sac which runs through a residential estate.
- The site is heavily vegetated which restricts the views to the Inlet and requires significant buffers to meet bushfire guidelines.
- Since the site was created, the Boston Brewery has been developed on the opposite side of South Coast Highway. The success of this development which is located on a strategic tourist route, increases the unlikelihood of a signature restaurant being developed on the site.

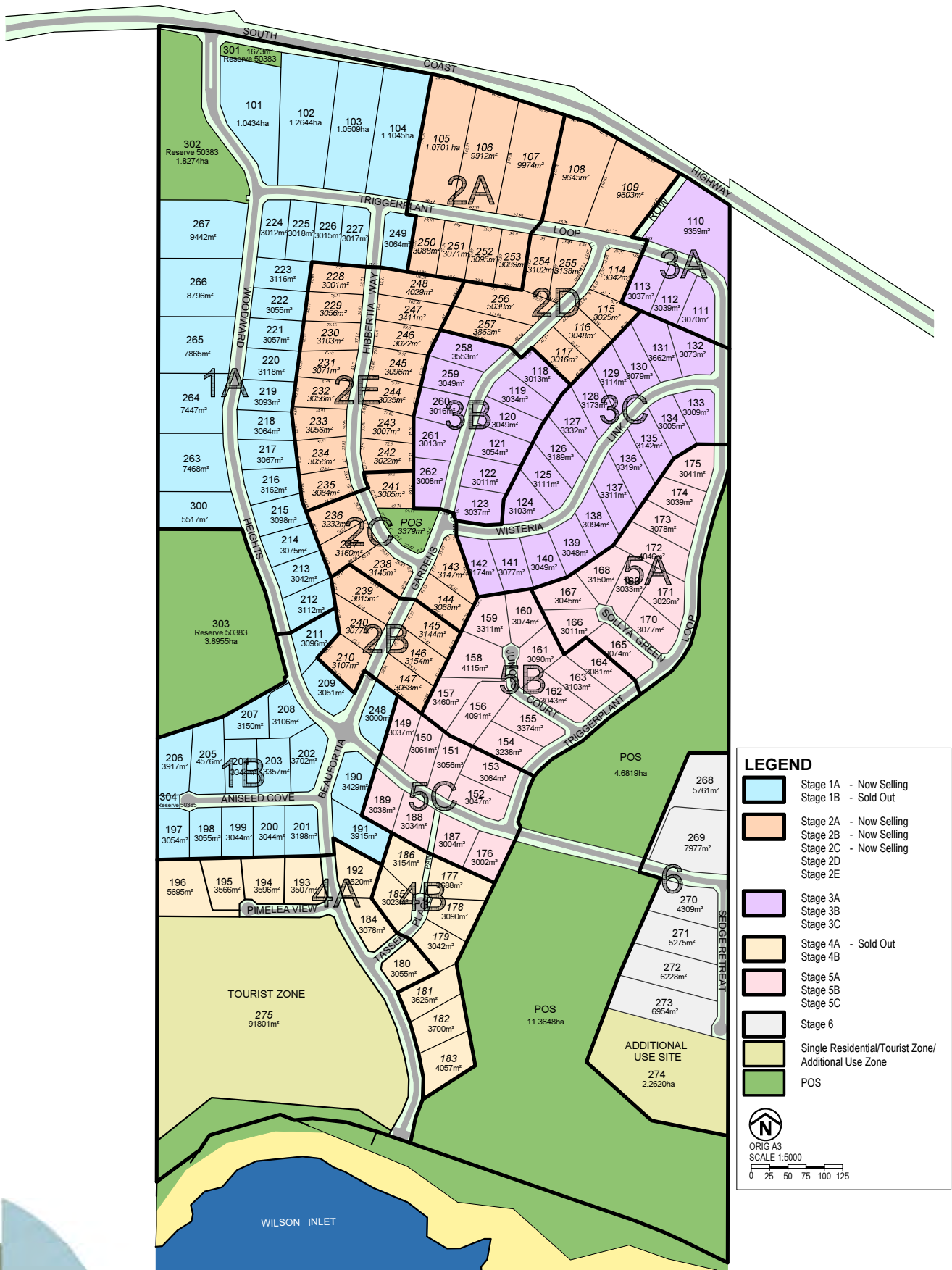
- The growing residential community on the estate are generally not supportive of a tourist development which will draw significant traffic through their predominantly residential area.
- While Springdale Beach may have historically been a waterfront destination, the presence of seaweed, algae and associated smell detracts from its attraction. At the same time other beachfront destinations such as Ocean Beach and Greens Pool were developing and are now significantly more attractive.

In view of the above, the proponents seek to rezone the site to the Special Residential zone in conformity with the surrounding land use and at the same time remove Tourist Zone (T9) from the Scheme.

In addition, as a consequence of detailed survey, subsequent subdivision approvals and detailed design work, it is necessary to correct some legacy zoning anomalies in the area around portion Lot 9008. This involves:

- Rezoning portion Lots 180, 181, 182 & 184 Beaufortia Gardens from the Tourist (T9) Zone to the Special Residential (SRes6) Zone;
- Rezoning Lots 193, 194, 195 & 196 Pimelea View from the Tourist (T9) Zone to the Special Residential (SRes6) Zone;
- Rezoning portion of Beaufortia Gardens and Pimelea View from the Tourist (T9) Zone and the Special Residential (SRes6) Zone to Road Reserve;

Springdale Beach Subdivision Plan



LEGEND

- Stage 1A - Now Selling
- Stage 1B - Sold Out
- Stage 2A - Now Selling
- Stage 2B - Now Selling
- Stage 2C - Now Selling
- Stage 2D
- Stage 2E
- Stage 3A
- Stage 3B
- Stage 3C
- Stage 4A - Sold Out
- Stage 4B
- Stage 5A
- Stage 5B
- Stage 5C
- Stage 6
- Single Residential/Tourist Zone/
Additional Use Zone
- POS


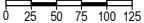
 N
 ORIG A3
 SCALE 1:5000


Figure 3

3. PREVIOUS STUDIES & UPDATES

The site characteristics have been well documented in a number of reports which include:

- Flora and Fauna Assessment OPUS - January 2006
- Land Capability Assessment OPUS - 2006
- Site Suitability for On-Site Effluent Disposal (Tourist Site) - March 2007
- Foreshore Management Plan OPUS - August 2008
- Foreshore Management Plan OPUS - November 2014
- Urban Water Management Plan - OPUS - 2014
- Fire Management Plan - Fire Plan WA - 2015
- BAL Contour Plan & Bushfire Management Plan – Bio Diverse Solutions - 2017
- Preliminary Assessment of Proposed Scheme Amendment, Springdale Beach Tourist Zone Site. Land Assessment Pty Ltd - January 2018
- Tree Survey for 'Tourist Lot' – DSM - 2018
- Indicative Nutrient Inputs, Special Residential compared with Tourism development – Land Assessment Pty Ltd - 2020
- Coastal Vulnerability Assessment – MP Rogers & Associates - 2020

These documents have been reviewed by Aurora Environmental (December 2021), refer Appendix A and together provide a comprehensive assessment of the risks associated with development such as stormwater management, nutrient/sediment management, and vegetation protection and sustainable access to the Inlet foreshore.

- **Urban Water Management Plan**

As noted in the Aurora report, the preparation, adoption and implementation of the 2014 Urban Water Management Plan (UWMP) is particularly significant in terms of minimising any impact on the Inlet. It is proposed that this UWMP will be updated as part of the Local Structure Plan (LSP) process. The Shire of Denmark is confident that there is adequate flexibility to accommodate appropriate drainage solutions within the site at the more detailed design phase.

- **Foreshore Environment**

Protection of the foreshore environment is acknowledged as being important to the management of Wilson Inlet. Incorporation of steep banks within the foreshore reserve that may be vulnerable to erosion is recommended and management of increased access is needed to ensure protection from the impacts of future development. A Foreshore Management Plan was prepared in consultation with DWER for the area in question in 2014. It has been approved by DWER and addresses the objectives of the Wilson Inlet Foreshores Reserve Management Plan 2008. In addition to a 1-hectare addition to the foreshore reserve shown on the original Subdivision Guide Plan, a further 1.3-hectare extension is proposed which will create a vegetated and managed area adjacent to the Inlet which will vary between 106 metres to 188 metres. This compares with the Wilson Inlet Management Plan recommendation that a 50-metre vegetated foreshore reserve contains all steeply sloping land and no access is provided through the steepest areas.

It is recommended that an addendum to the Foreshore Management Plan be prepared as a condition of subdivision.

- **On-Site Effluent Disposal**

As scheme sewer is not available, on-site effluent disposal is proposed within the amendment area. While the site has a fair to low capability for on-site effluent disposal, this does not mean that the identified constraints cannot be addressed. The Site and Soil Evaluation prepared by Aurora Environmental (December 2021), demonstrates how the criteria contained within the Government Sewer Policy (2019) can be met. Refer to Appendix A. Further assessment can be carried out as part of the LSP when the number and size of lots has been further refined.

A combination of initiatives is required to minimise nutrient input into the Wilson Inlet. This includes the management of stormwater, the use of appropriate on-site effluent disposal systems, management of fertilisers applied to lawns, gardens and landscaped areas, retention of vegetation and in particular, a vegetated buffer between the development and the Inlet.

- **Flora and Fauna Assessment**

A Flora and Fauna assessment was carried out by Opus in 2006 and has been augmented and updated by Aurora Environmental, December 2021. Refer to Appendix A.

The report notes that the majority of the very good to excellent quality vegetation has been incorporated into the foreshore Reserve and the proposed extension of the foreshore. The Indicative Concept Plan provides for 2000m² of very good vegetation to be retained in proposed Lot 13 and a further 3000m² of Marri and Peppermint woodland in degraded condition will be required to be cleared to establish the road reserve. Seven large Marri trees which meet the criteria of habitat trees for the three species of Black Cockatoo were identified and will be retained, together with single Peppermint trees (no understorey).

Consideration has been given to further reduce the impact of the clearing for the road reserve and the need to meet bushfire protection measures. The alignment of the proposed road reserve has been adjusted and lot configuration varied. This has involved the removal of one lot in order to provide sufficient cleared area to accommodate building envelopes. The area of the of the foreshore to be ceded has also been increased. Refer Figure 4 - Revised Indicative Concept Plan.

The following photos have been taken along the indicative alignment of the proposed access road where it runs along the northern boundary of the extended foreshore reserve through a mix of cleared land and Peppermint regrowth with either limited or no understorey. More mature and significant trees can be avoided. The proposed route of the road and lot configuration will be subject to further detailed design when the Local Structure Plan is prepared. As noted above, additional land that will be ceded to the foreshore contains the vegetation classed as Very Good to Excellent.

ALL AREAS AND DIMENSIONS ARE SUBJECT TO SURVEY



INDICATIVE CONCEPT PLAN

Special Residential Lots (min 3000m²)

Pt Lot 9008 Beaufortia Gardens
Springdale, Shire of Denmark

Revised April 2022

NB: This plan is indicative only and is subject to the preparation of a Local Structure Plan. Proposed Road alignment, lot numbers, areas and configuration may be varied.

Figure 4

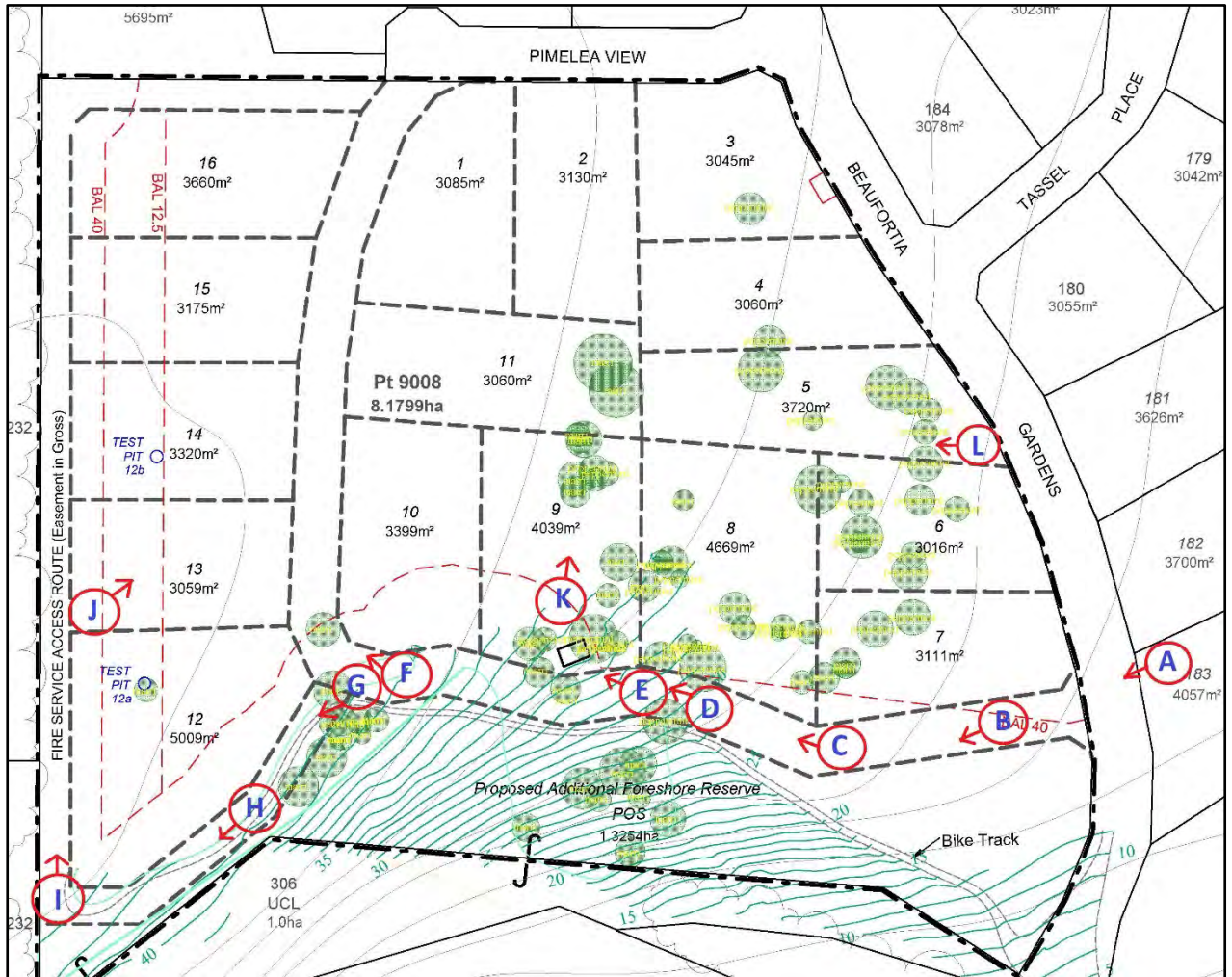


Figure 5: Location of where Photos were taken



Photo A

Photo A depicts the proposed access point to the site from Beaufortia Gardens. Low regrowth is evident on the cleared land and Peppermint regrowth is visible in the back ground.



Photo B

Photos B, C & D depict the Peppermint regrowth through which the road will be constructed. No significant trees will need to be cleared except possibly for the pine tree shown in Photo D



Photo D



Photo C



Photo E

Photo E depicts the cleared area in the vicinity of the gazebo. The road will pass through this area immediately to the south of the gazebo and will need to negotiate a route through several juvenile Marri trees.



Photo F

Photo F shows the water tank through which the road will be constructed as it turns to the north to link up with Pimelea View.



Photo G



Photo H



Photo I

Photos G, H & I depict the cleared track which runs towards the south west corner of the property. This track will form the fire service access route which will abut the foreshore reserve and then run north along the western boundary of the site. Photo I refers.



Photo J

Photo J illustrates the cleared area which forms the bulk of the site.



Photo K

Photo K illustrates the significant Marri trees growing north of the gazebo, which will be retained within the proposed subdivision.



Photo L

Photo L depicts a row of more mature Peppermints running parallel with Beaufortia Gardens on the eastern side of the site. The trees will also be retained within the subdivision.

- **Coastal Vulnerability Assessment**

In accordance with State Planning Policy 2.6 – The State Coastal Planning Policy (SPP2.6), MP Rogers & Associates have prepared a “First Pass Coastal Hazard Assessment” for the subject land. A copy is attached in Appendix ‘B’.

The report assesses the potential risk to the proposed development from being impacted by coastal hazards over the 100 year planning time frame to 2120.

The report concludes that the site avoids impact from coastal erosion over the 100 year planning time frame. The levels of the proposed development are also well above the 500 year ARI water levels plus the allowance for sea level rise to 2120 which was determined to be 2.15m AHD. The development is therefore not considered to be at risk of inundation over the 100 year planning time frame to 2120.

4. SERVICE INFRASTRUCTURE

4.1 Roads

Access to the site is provided by Beaufortia Gardens which abuts the eastern boundary and runs down to the foreshore reserve. Pimelea View is a short cul-de-sac which abuts a portion of the northern boundary. Both roads have been fully constructed to a bitumen standard. The indicative subdivision proposes a loop road running off Beaufortia Gardens and connects through to Pimelea View.

4.2 Potable Water Supply

As the residential estate is serviced by scheme water, all proposed lots will be connected to a reticulated water supply.

4.3 Power & Telecommunications

Underground power and telecommunications will be extended from the existing development to service all proposed lots.

4.4 Sewerage

As scheme sewer is not available or capable of being extended to service the site, on-site effluent disposal will be utilised. Secondary effluent disposal systems as approved by the Shire of Denmark and WA Health Department will be required. Subject to the preparation of a LSP, the numbers and size of lots will be determined and the Site and Soil Evaluation prepared by Aurora Environmental in December 2021, will be updated/extended as necessary.

4.5 Drainage

The 2014 Urban Water Management Plan (UWMP) will be updated as part of the LSP process. As noted in Section 3 above, the Shire of Denmark is confident that the drainage solutions provided in Stage 4 of the estate development can be extended to accommodate the proposed development.

4.6 Bushfire Management

In November 2017, Bio Diverse Solutions prepared a BAL Contour Plan and Bushfire Management Statement to support the previously approved Fire Management Plan for Springdale Beach Estate. Copies of these reports are attached in Appendix 'C'.

The BAL contouring indicates that BAL29 or less can apply to the subject land. As a tourism site is classified as a vulnerable use, rezoning to Special Residential Zone will negate the need for an individual Bushfire Management Plan and Bushfire Emergency Evacuation Plan.

The Staging Plan for Stage 4 Development forms part of the approved Fire Management Plan (FMP) and is reproduced below (Figure 6). It recommends that a perimeter Fire Access Way be incorporated into the Tourist Zone Fire Plan.

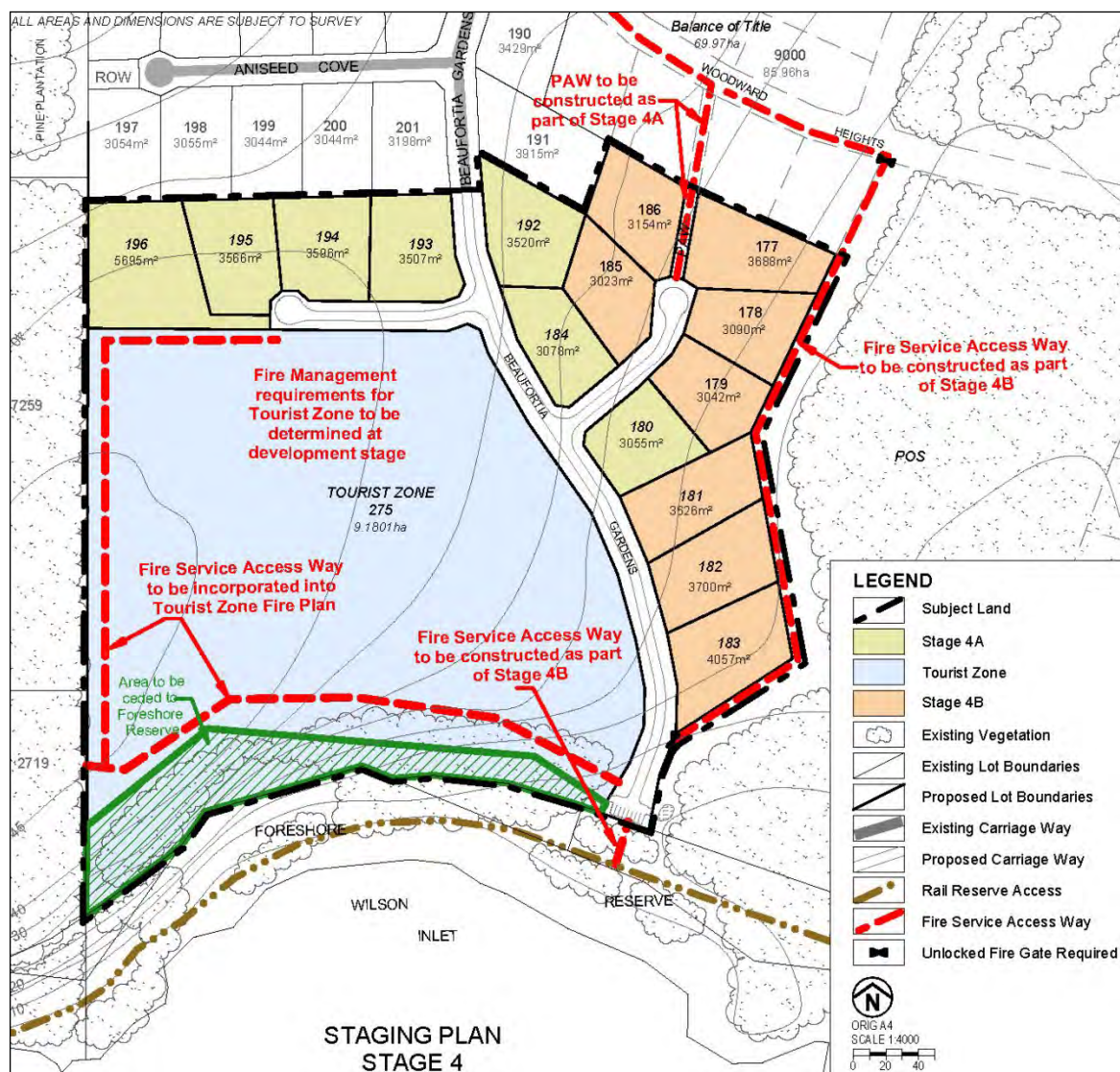


Figure 6: Stage 4 Staging Plan – Fire Management Plan

In accordance with the FMP, a Fire Access Way has been constructed through to Woodward Heights along the western boundary of the POS area which will provide a second means of emergency access/egress. The Woodward Heights connection through to the rural residential area to the east is currently being constructed and will replace the temporary easement has been provided through the POS area.

Preparation of the LSP will entail the preparation of a more detailed Bushfire Management Plan. The plan will need to take into account the objective of the LSP which will aim to maximise retention of existing remnant vegetation and provide for replanting of cleared areas.

5. THE PLANNING CONTEXT

Key Planning documents relevant to this project are Council's Town Planning Scheme No 3, the Local Planning Strategy, the Denmark Tourism Planning Strategy, Stage 1, the WAPC's Planning Bulletin No 83/2013: 'Planning for Tourism', the Government Sewerage Policy, Planning in Bushfire Prone Areas and State Coastal Planning Policy (SPP2.6).

5.1 Town Planning Scheme No 3

Under the provisions of the Shire's Town Planning Scheme No 3 (TPS3), the subject land is zoned Tourist and included in the Schedule of Tourist Zones in Appendix XIII. The Schedule specifically designates uses that may be permitted by Council, with all other uses being excluded. Only a single house or caretakers' dwellings are permitted. There is no discretion to allow permanent accommodation as a component of the Tourist zone or as an alternative land use.

5.2 Local Planning Strategy

The subject lots are designated as 'Tourist' in the Shire's adopted Local Planning Strategy (2011). The key objective relating to tourism as set out in the Strategy is:

"To encourage ecotourism and facilitate new tourist developments and choices of tourist accommodation types to enhance the Denmark Shire as a destination of choice for visitors."

Associated strategies include:

- the preparation of a Local Tourism Strategy which addresses issues identified in WAPC's Planning Bulletin 83/2011 (now 83/2013): Planning for Tourism;
- to retain the low-key level and natural character of the 'natural environment' tourist sites;
- encourage new tourist developments to employ a sustainable approach with their developments and a desire to establish a tourism industry that supports and enhances the local community, protects its environment and generates economic benefit;
- embrace new tourism attractions which achieve the above objectives as they bring investment and generate economic benefit; and
- to protect the longevity of tourist uses through appropriately zoned sites which contain flexibility for new developments to proceed.

5.3 Denmark Tourism Strategy: Stage 1 (2010)

The Stage 1 Strategy provided a preliminary overview of tourism based in the Shire.

Stage 2 intended to provide a fully-fledged tourism strategy with the active involvement of the tourism industry and local community, but has yet to be progressed.

Key points arising from the Stage 1 Strategy were:

- Criteria to inform the identification of areas of tourism significance in the Shire of Denmark and subsequently sites of local significance include:
 - Tourism routes being Scotsdale Road;
 - Sealed roads;
 - Access;
 - National, marine and regional parks;
 - Oceans and rivers
 - Landmarks;
 - Vistas with viewpoints to Wilson Inlet, the coast and the rural hinterland;
 - Attractions and amenities;
 - Access to services and facilities;
 - Rail Trail;
 - Bibbulmun Track and Proposed Munda Bididi Track;
 - Aboriginal Heritage sites; and
 - Cultural heritage sites.

- The need to review existing Scheme and LPS provisions including:
 - Permissibility of tourism related land uses in zones;
 - Review of definitions to introduce extended range of tourism development definitions with specific reference to length of stay provisions; and
 - Introduce length of stay provisions and land use restrictions on tourist accommodation in tourism zones.

- The need to prepare a LPS which provides a statement of Council’s position on permanent residents in tourism developments and addresses the following issues:
 - Potential loss of high value tourism sites to residential use;
 - Establishing a sustainable economic activity;
 - Impact of tourism use on residential amenity;
 - Assessment of the suitable number of permanent residents in tourism development, based on merits;
 - Site assessment being based on environmental, site amenity and community issues in assessing the number of permanent residential units on-site;
 - Protection of the tourism quality of the site and ensuring that the general character remains that of a tourism development. This is particularly important at sites where the isolation, relative lack of development and natural beauty are recognised as providing a ‘point of difference’ that may/will increase future tourism; and
 - Acknowledge that permanent residents provide financial stability to tourism operations.

5.4 Planning Bulletin 83/2013: Planning for Tourism

This bulletin sets out the policy position of the WAPC to guide decision making by the WAPC and local government for subdivision, development and scheme amendment proposals for tourism purposes. The 2013 Bulletin is a review of the 2007 & 2011 versions. A key outcome of the review was...*“the need for a more strategic and flexible approach to tourism planning to encourage and support investment in the industry.”*

Key objectives of the Planning Bulletin include:

- Highlight the importance of strategic planning for tourism
- Recognise local and regional variations in tourism demand and development pressures and their impacts on the viability of tourism development in assessing tourism proposals.
- Provide guidance on the development of non-tourism uses on tourism sites.
- Provide flexibility in the design and assessment of tourism and mixed-use development.

The policy notes that if a local government does not have an endorsed local planning strategy or local tourism planning strategy, then a scheme amendment proposal should address the matters specified in the Planning Bulletin and Local Planning Manual 2010.

5.5 Government Sewerage Policy (2019)

The proposed scheme amendment and associated subdivision and development is required to have regard to the Government Sewerage Policy.

While the policy generally requires connection of new subdivision and development to reticulated sewerage, on-site sewage disposal may be considered as set out in Section 5 of the Policy. A report has been prepared by Land Assessment Pty Ltd which addresses the level of nutrient inputs for the proposed Special Residential lots compared with tourism development and addresses the requirements of the Government Sewerage Policy.

5.6 Planning in Bushfire Prone Areas (SPP3.7)

The intent of the Policy is to implement effective, risk-based land use planning and development to preserve life and reduce the impact on property and infrastructure.

A Fire Management Plan (October 2015) has been prepared for the Springdale Beach Estate and a BAL Contour Plan and Bushfire Management Statement was prepared in November 2017 to support the FMP. The latter document provides a detailed BAL Contour Plan for the tourist site.

5.7 Coastal Planning Policy (SPP2.6)

As the tourist site abuts the Wilson Inlet which is subject to tidal movement, the proposed rezoning amendment is required to have regard to the Coastal Policy.

An impact assessment for the site has been prepared by M P Rogers & Associates.

5.8 WAPC Development Control Policy 2.5 – Special Residential Zones

WAPC Policy DC2.5 outlines the objectives in providing for Special Residential zones along with their general locational, servicing and design requirements.

To these:

- Zoning the land Special Residential meets noted objectives as lot sizes can meet the noted range and the sizes prevalent in the existing zone, bringing the land into the existing zone also brings the existing and established development standards and controls commensurate with surrounding development.
- There is no detrimental impact from the rezoning on the character and amenity of the adjacent rural areas. Indeed, as there is a reduction in potential landuse intensity with the dezoning from Tourist to Special Residential, there is arguably a beneficial impact from the effect of the move to all adjoining and nearby land.
- Special Residential uses meet the opportunities and constraints of the site as well as its planning context. This site has access to the appropriate level of infrastructure services as well as social services and facilities such as shopping, schooling, medical, rubbish collection and the like.
- The Special Residential zoning is not removing productive agricultural land from the estate, nor is it placing unmanageable externalities on adjoining uses.
- In accord with the DC Policy approach that a specific public open space allocation is on a case-by-case basis where for instance lots are constrained for onsite recreation and/or there are specific features that could be reserved and effectively managed under a Parks & Recreation allocation. The Concept Plan depicts lots above the minimum usual Special Residential lot size. These lots are open and either are flat or have a gentle grade and thus lend themselves to activities on site. In addition, recent subdivision activities have extended the foreshore parklands with substantial additional areas to be provided pursuant to the guide plan in areas to the east and northeast in future stage/s.

6. PROPOSED DEVELOPMENT

Subject to rezoning of the tourist site to the 'Special Residential' zone, development was predicated on the acceptance that the minimum lot size of 3000m², which applies to the Springdale Beach Estate, would also apply to the subject land.

Under the provisions of the Government Sewerage Policy, land which is not connected to a reticulated sewerage service within a "Sewerage Sensitive Area" is required to have a minimum lot size of one Hectare. The associated notes indicate that:

"Land in a Sewerage Sensitive Area that is already zoned for urban use with a residential density coding of R2 to R10 under a Local Planning Scheme or Structure Plan endorsed by the WAPC, may be subdivided in accordance with the existing density coding."

The definition of "Urban" in the Government Sewerage Policy is:

"Land zoned 'urban' or 'urban deferred' in a region scheme and/or land that can be subdivided under a local planning scheme to create lots less than one hectare for residential or commercial uses and has the potential to be subdivided."

In this case the density of tourist accommodation is 3.33 units per hectare.

In view of the above, a report was prepared by Land Assessment to compare the likely nutrient inputs into the subject land from Special Residential development and Tourist development of the site. This document was reviewed by Aurora Environmental in 2021 (Refer Appendix A).

The assessment used the Urban Nutrient Decisions Outcomes tool (UNDO) developed by DWER. It is designed for use by proponents of development in order to assess the nutrient inputs in a consistent and scientifically rigorous manner.

Because ATUs rely on regular maintenance (which may not always be achieved by landowners), the UNDO groups the nutrient output rates for various ATUs into a singular classification with a conservative rate.

In order to compare the Special Residential development with the Tourist development, an indicative concept plan was prepared based on the creation of 17 residential lots ranging in size from 3018m² to 4760m². It also allowed for an extension of the foreshore reserve of an additional 1.2 hectares. This enabled the vegetated buffer to the Wilson Inlet to be significantly extended and include all the more steeply sloping land and additional areas of remnant vegetation in “excellent condition”. The original Indicative Concept Plan (Figure 7) is attached overleaf.

The 17 residential lots were compared with the 30 holiday units, manager’s residence, reception centre and restaurant that could be developed under the current Tourist zoning. These uses are designated as “Permitted” uses as opposed to discretionary uses that would also potentially require advertising for public comment. Consequently, it is not unreasonable to anticipate that a relatively intensive tourist development could be developed on the site without even the additional extension of the foreshore reserve as proposed under the residential option. A similar tourist development using on-site effluent disposal and consisting of 24 two storey holiday units, manager’s residence and restaurant/shop, has recently been approved by JDAP in a similar coastal location on a 3.3-hectare site. This compares with the subject land which has an area of 8.4 hectares.

The result of the assessment of total nutrient outputs from the two scenarios showed that they would be less under a Special Residential development than under a Tourist development based on the existing scheme zoning and land use conditions. The report concludes that the results lend support to the argument that the GSP’s 1ha minimum lot size condition could be relaxed to allow subdivision in accordance with the existing density coding.

It is noted that the UNDO assessment takes into account nutrient inputs relating to fertilizer usage for lawns and gardens and any permitted agricultural pursuits. It assumes that remnant vegetation will be retained except for the land required for house pads. As outlined in Section 3 above, the proposed road reserve will entail clearing of some Peppermint regrowth.

Further refinement of the alignment of the proposed road reserve has been undertaken in order to reduce clearing and additional consideration can be given at the LSP stage of development. With the extension of the foreshore reserve, the remaining subdividable land has largely been cleared.

ALL AREAS AND DIMENSIONS ARE SUBJECT TO SURVEY



Original
INDICATIVE CONCEPT PLAN
Special Residential Lots
 (min 3000m²)
 Pt Lot 9008 Beaufortia Gardens
 Springdale, Shire of Denmark

Figure 7

A detailed tree survey of the subject land was undertaken in 2018 which identifies the various tree species. (Refer Figure 8). These were predominantly Marri, Peppermint, Pine and Bluegums. The Pine and Bluegums trees have since been removed and the Marri and Peppermint trees have been retained. Outside of the foreshore reserve, which will be extended, the majority of the Marri and Peppermint trees are located within a parkland cleared setting.

Other key elements of the proposed development are outlined in the Opportunities and Constraints plan (Refer Figure 9).

The Plan includes;

- An extension of the foreshore reserve is addition to the one before which has already been ceded. This will enable all the more steeply sloping land to be protected together with the remnant vegetation in “excellent condition”. It will provide a substantial vegetated buffer to the Inlet and ensure effluent disposal systems are set back a minimum distance of 135 metres from the Inlet.
- An indicative alignment of the proposed road reserve shows how it can be developed without removing significant trees. The road will run from Beaufortia Gardens in a westerly direction and abut the expanded foreshore reserve. This will facilitate bushfire management and surveillance of the foreshore reserve. It will then run north to connect up with Pimelea View which in turn connects back to Beaufortia Gardens. The alignment provides sufficient setback from the vegetated reserves to the west to accommodate a 10m wide fire service access route (perimeter road) which runs along the western boundary of the site and a further 30 metre setback which will enable building envelopes to achieve a BAL of 12.5. The fire service access route runs along flat terrain which will facilitate ease of access by fire service vehicles. This arrangement allows for direct access from the dwellings on lots 13 to 17 onto the proposed loop road, should a fire originate in the vegetation to the west.
- An existing gravel track located within the foreshore reserve will be developed as a bike track which will also utilise the fire service access route and connect to Reserve 12232 to the west.

- Lot shapes and sizes can be designed to accommodate building pads and associated bushfire setbacks. The preparation of a Landscape Management Plan will provide the opportunity to significantly increase the amount of vegetation on the site with preference given to the use of local indigenous native species in private gardens and minimization of fertilizer/nutrient input.

As the Special Residential provisions for Springdale Beach Estate currently allow for Livestock Grazing to be permitted, it is recommended that the provision be deleted in order to facilitate revegetation and reduce nutrient input.

- Two test pits in the western section of the site proved unsuitable for effluent disposal and more suitable sites further to the east will be identified at the LSP stage of development.
- The proposal to create a loop road through the site connecting to Pimelea View is desirable in order to meet Bushfire Management Guidelines. However, it has the potential to impact on the amenity of the four lots, which currently front onto the existing cul-de-sac, by increasing through traffic. At the detailed stage of subdivision design, it is recommended that traffic management measures are provided which encourage traffic to utilize access and egress to the site from Beaufortia Gardens and that access via Pimelea View is restricted where possible for emergency access/egress only. It is noted that the loop road will also benefit the existing Pimelea View residents in relation to emergency access. Traffic management could be achieved by providing a reduced width carriageway along the northern section of the loop road with associated turning area/traffic calming devices and signage.
- The subdivisional road avoids the steeply sloping land within the proposed foreshore reserve and minimises and impact on the associated vegetation.
- From a fire management perspective, the combination of a public road abutting the steeply sloping and vegetated foreshore reserve, together with a perimeter fire service access road along the western boundary will maximise access for firefighting purposes and ease of access/egress for residents in an emergency.
- The proposed subdivisional road alignment will enable stormwater management to be integrated with the Urban Water Management Plan which was prepared for Stage 4 of the Springdale Beach Estate subdivision.

OPPORTUNITIES & CONSTRAINTS PLAN

Pt Lot 9008 Beaufortia Gardens
Springdale, Shire of Denmark

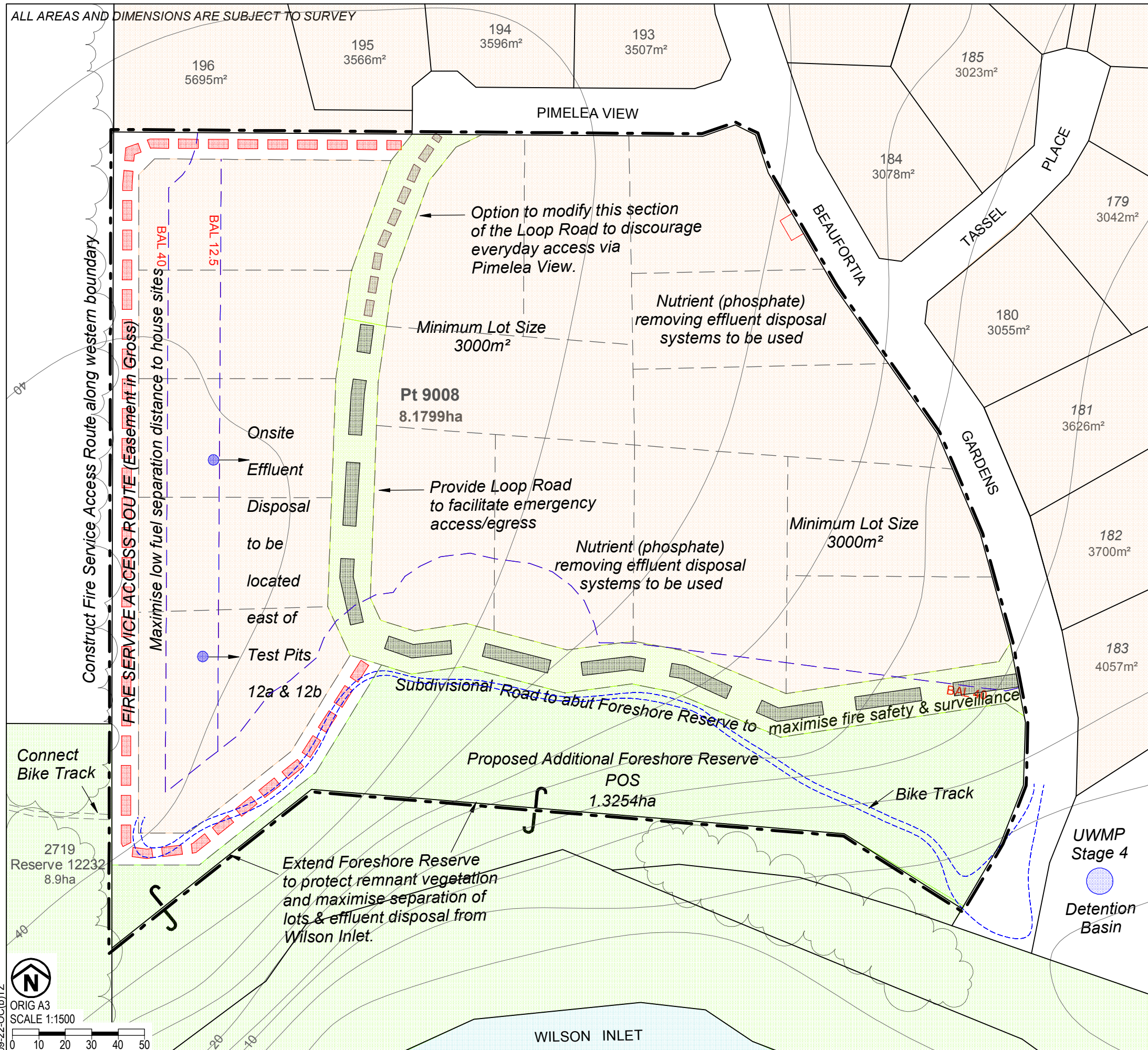


Figure 9

7. SCHEME PROVISIONS

As the proposed Special Residential area will form part of the overall Springdale Beach Estate, it is logical and desirable that the Special Provisions that apply to the rest of the estate also apply to the proposed addition. However, in order to address the issues and meet the specific objectives relating to the area, additional provisions are proposed together with some rationalisation of the existing provisions. A copy of the existing Special Provisions is attached in Appendix D.

The following modifications are proposed to the Special Residential (SRes6) Zone Special Provisions:

1. Delete Livestock Grazing as a potential use within the Special Residential area.
2. Preparation of a Local Structure Plan which:
 - Provides for an extension of the foreshore reserve to incorporate the more steeply sloping land and associated remnant vegetation.
 - Identifies an alignment for the proposed subdivisional road which will abut the foreshore reserve and minimises clearance of remnant vegetation.
 - Creates appropriate lot sizes, configuration and lot yield which will provide for building envelope and bushfire management setbacks whilst at the same time maximises retention of significant trees.
 - Consolidate land capability data into a Site and Soil Evaluation to ensure each proposed lot is capable of accommodating on-site effluent disposal in accordance with the Government sewerage Policy 2019.
 - Update the Springdale Beach Estate Urban Water Management Plan 2014 to the satisfaction of the Shire of Denmark and in consultation with the Department of Water and Environmental Regulation (DWER).
 - Provide an addendum to the 2014 Foreshore Management Plan which incorporates the proposed extension of the foreshore reserve to the satisfaction of the Shire of Denmark and in consultation with the DWER.

- Prepare a Landscape Management Plan to the satisfaction of the Shire of Denmark for the balance of the development area, to address the provision of street trees, retention of existing trees, areas for replanting, utilisation of local indigenous native species in domestic gardens and public reserves as a preference, reduction in the uses of fertiliser/nutrient input, mechanisms for implementation and timing, such as Estates covenants and/or Local Development Plans if deemed appropriate.
- Preparation of a Bushfire Management Plan which addresses and responds to the requirements and recommendations of Flora and Fauna Assessment, Foreshore Management Plan and Landscape Management Plan.

8. JUSTIFICATION – TOURIST SITE TO SPECIAL RESIDENTIAL DEVELOPMENT

Tourist development is recognised as being one of the riskiest forms of development and in order to be sustainable it needs to be located on a strategic tourist route with access to a significant tourist attraction.

While Springdale Beach historically may have been a tourist attraction, as evidenced by a few tourist chalets which were located on the subject land, that is no longer the case. The chalets were allowed to fall into disrepair and the beach itself has been detrimentally affected by the build up of seaweed, algae and the associated unpleasant smell. At the same time competing tourist attractions have become far more popular in areas such as Ocean Beach, Greens Pool and the coast line that runs between these sites. Recent scheme amendment requests at Lot 305 Wentworth Road and Lot 3 William Bay Road will expand the range of short stay accommodation and related tourism facilities in the district.

Direct access to a strategic tourist route has also become increasingly important and the current Tourist zone suffers from being located at the end of a long cul de sac that services a residential subdivision. The location of the Boston Brewery opposite the Springdale Beach Estate on South Coast Highway, demonstrates how important the location on a strategic tourist route is to the success of tourist development. Its success will further diminish the likelihood that a restaurant and associated reception centre can be developed on the subject land.

As the Springdale Beach Estate has developed, it is also apparent that the residents are concerned that tourist traffic will be drawn through their residential estate and affect the amenity that they enjoy. The WAPC's Planning for Tourism Bulletin 83/2013 recommends that such a potential conflict should be avoided.

Section 6 of the Tourism Bulletin identifies general location criteria to assist in determining the tourism value of a site. These include;

Accessibility, Uniqueness, Setting, Tourism activities and amenities, Supply of land, Suitability in a land use context, Capability, Size and Function.

Accessibility

As already noted, a major failing of the site is its lack of access onto a strategic tourism route. It is not conveniently located and lacks visibility.

Uniqueness

While the site is located in proximity to Wilson Inlet, it is not unique in this aspect. There are more attractive and conveniently located tourism sites closer to Denmark town centre and Ocean Beach.

Setting

While the site has an aspect and outlook overlooking Wilson Inlet, it is not immediately adjacent to the beach and access is via a steeply sloping track. Views are compromised by foreshore vegetation and the amenity of the beachfront is poor.

Tourism activities and amenities

The site does have access to the historic railway dual use path, however, there are no cafes, restaurants or shops in close proximity. A jetty originally provided access to the Inlet but no longer exists and no provision has been made to replace it.

Supply of land

The site is not considered to have an element of scarcity in that it may be the only opportunity, or one of a limited number of opportunities to achieve a significant tourism development in the area. There are other more attractive areas available elsewhere along the Denmark coastline.

Suitability in a land use context

The site is compromised by being located adjacent to and having its main access through a residential area.

Capability

The site is located in a sewerage sensitive area which may be impacted by overly intensive tourism development. The heavily vegetated foreshore and surrounding area creates a fire management issue as tourism development is deemed to be a vulnerable use. Associated clearing to maximise views of the Inlet is also a potential issue.

Size

While the site is 8ha in area, its development capacity will be limited by the fact that it is not connected to a reticulated sewer system, is located in a residential and bushfire prone area.

Function

The site does not meet a particular accommodation or market need that cannot be better provided for elsewhere in Denmark.

The owner of the tourist site has for many years been unable to attract any interest from a developer to develop the site. It has now become increasingly evident why any interest is unlikely to be forthcoming. Consequently, it is recommended that a more compatible land use would be to develop it for Special Residential lots.

With regards the Local Planning Strategy Objectives and Strategies, the following additional notes are made:

- Without any demand for the site as a tourism venture despite its long-term availability, objectives for local economic benefit, local investment, local employment and the like are not being met (s4.4 Tourism Strategy e & f).
- Without any demand for the site as a tourism venture despite its long-term availability, the objectives of having appropriately zoned land available for new development are not being met (s4.4 Tourism Strategy g).
- The site is not located near a specific identified strategic tourism site (s4.4 Tourism Strategy h).

9. CONCLUSION

The Tourist zone in the south west corner of the Springdale Beach Estate was gazetted almost 20 years ago and prior the WAPC's Planning Bulletin 83/2013 - Planning for Tourism.

While the idea to designate a portion of the Estate for tourist development was based on the fact that limited tourist development had occurred on the site in the past, 'Planning for Tourism' recommends a more strategic and considered approach is required to ensure a quality, sustainable tourism outcome.

This report concludes that portion Lot 9008 does not meet the criteria to guarantee a successful tourism development and requests consideration be given to rezoning the site for Special Residential development.

It is also requested that the prevailing residential density of the Estate be applied to the site in accordance with the guidelines provided in the Government Sewerage Policy.

A comparison of the potential environmental impact of a tourist development on the site with a Special Residential development, assuming the creation of 17 lots with a minimum lot size of 3000m², indicated that the residential option would produce less nutrients. The assessment was based on the Urban Nutrient Decisions Outcomes tool (UNDO) developed by DWER which was designed in order to assess nutrient inputs in a consistent and scientifically rigorous manner. The nutrient output rates used are described as conservative.

However, it is understood that other factors need to be taken into account to minimise any impact on the Wilson Inlet. These include the provision of a vegetation buffer to the Inlet, retention of existing remnant vegetation on the site, replanting of cleared areas with indigenous local species, incorporation of the most steeply sloping land into the foreshore reserve and updating the Urban Water Management Plan for the estate.

Preparation of a Local Structure Plan is recommended which will provide for the Indicative Concept Plan to be refined to address the issues highlighted in this report.

Provision of additional Scheme Provisions are proposed which will provide the Shire of Denmark with the means to ensure key recommendations are implemented.

PLANNING AND DEVELOPMENT ACT 2005

SHIRE OF DENMARK

TOWN PLANNING SCHEME No. 3

AMENDMENT No. 149

The Shire of Denmark under and by virtue of the powers conferred upon it in that behalf by the Planning and Development Act 2005 hereby amends the above town planning scheme by:

1. *Rezoning portion Lot 9008 Beaufortia Gardens, Hay, Shire of Denmark, from the Tourist (T9) Zone to Special Residential (SRes6) Zone;*
2. *Rezoning portion Lot 9008 from Tourist (T9) Zone to the Parks & Recreation Reserve;*
3. *Moving portion Lot 9008 Beaufortia Gardens, Hay, Shire of Denmark, from the Special Residential (SRes6) Zone to the Parks & Recreation Reserve;*
4. *Moving portion Reserve 52123, from the Tourist (T9) Zone to the Parks & Recreation Reserve;*
5. *Rezoning portion Lots 180, 181, 182 & 184 Beaufortia Gardens from the Tourist (T9) Zone to the Special Residential (SRes6) Zone;*
6. *Rezoning Lots 193, 194, 195 & 196 Pimelea View from the Tourist (T9) Zone to the Special Residential (SRes6) Zone;*
7. *Rezoning portion of Beaufortia Gardens and Pimelea View from the Tourist (T9) Zone and the Special Residential (SRes6) Zone to Road Reserve;*
8. *Delete Tourist Zone (T9) from Appendix XIII;*
9. *Modify Appendix XIV – S Res 6 Special Provisions as follows:*
 - *Delete the words “Livestock Grazing - see clause (viii)a)” from the Proposed Uses column.*
 - *Delete provisions a), b), c) and d) of provision viii) and replace with:*
 - a) Intensive horticulture and grazing of livestock is not permitted;*
10. *Add the following to SRes 6 Special Provisions in Appendix XIV;*
 - xii) In addition to the Special Provisions outlined above, for the purpose of subdivision and development of land contained within that area generally bound by Beaufortia Gardens to the east, Wilson Inlet to the south, Pimelea View and Lot 196 to the north, and Reserve 12232 to the west, the following additional provisions shall apply, noting in the event of any conflict these additional provisions will prevail:*
 - (a) The Special Residential lots should comply with the requirements of the Government Sewerage Policy 2019 unless further supporting information is provided to demonstrate capability, in which case a lot size of no less than 3000m² can be considered.*
 - (b) In addition to the minimum setback requirements prescribed under provision ii) (a) above, all buildings, site works and retaining walls shall be set back a minimum of 20 metres from the western boundary with Reserve 12232. No further reduction in this setback will be permitted.*

(c) *Subdivision of the site shall generally accord with an approved Structure Plan that incorporates the following supporting documents:*

- 1) *A site specific Flora and Fauna Assessment.*
- 2) *The Springdale Beach Estate Urban Water Management Plan 2014 is to be updated to the satisfaction of the Shire of Denmark and the Department of Water and Environmental Regulation and include reference to consistency with the Wilson Inlet Management Strategy.*
- 3) *An addendum to the Site and Soil Evaluation report prepared by Aurora Environmental (December 2021), to inform appropriate lot sizes, configuration, and yield, the proposed method of on-site effluent disposal, building envelopes, remediation works (where applicable) and consistency with the Wilson Inlet Management Strategy, is to be prepared to the satisfaction of the Shire of Denmark, Department of Water and Environmental Regulation and Department of Health.*
- 4) *An addendum to the existing Foreshore Management Plan that includes appropriate management conditions consistent with the Wilson Inlet Foreshore Reserve Management Plan 2008 (or its equivalent as amended) and the Wilson Inlet Management Strategy. The addendum is to be prepared to the satisfaction of the Shire of Denmark and the Department of Water and Environmental Regulation to address, amongst other matters:- protection of vegetation and fauna habitat, erosion control, weed management, walkways/ bike paths and access controls, lighting to incorporate dark sky principles as referenced in the WAPC's Position Statement "Dark Sky and Astrotourism" and the "National Light Pollution Guidelines for Wildlife" (as amended), re-vegetation, setbacks and parking and any other matters appurtenant to or impacting upon the adjacent foreshore area.*
- 5) *A Landscape Management Plan shall be prepared to the satisfaction of the Shire of Denmark for the balance of the development area to address the provision of street trees, identification and protection of trees to be retained, areas for replanting, the protection of fauna habitat, a preference for use of locally indigenous native species in domestic gardens and public reserves, fertilizer/ nutrient input, mechanisms for implementation and timing, lighting to incorporate dark sky principles as referenced in the WAPC Position Statement "Dark Sky and Astrotourism" and the National Light Pollution Guidelines for Wildlife (as amended), including consideration of estate covenants and/ or Local Development Plans if deemed appropriate.*
- 6) *A Bushfire Management Plan that addresses and responds to the requirements and recommendations of the Flora and Fauna Assessment, Foreshore Management Plan, and Landscape Management Plan.*
- 7) *The requirement for preparation of a Construction Management Plan prior to the commencement of subdivision or development site works to the satisfaction of the Shire of Denmark to address such matters as erosion and sediment transport control and dieback control (including land based movement and groundwater movement).*

(d) *Where required under an approved Structure Plan, a local development plan is to be prepared for all or part of the structure plan area.*

(e) *All buildings, retaining walls and effluent disposal systems are to be contained within an approved building envelope if nominated on an approved Structure Plan.*

- (f) Where informed by recommendations contained within a Site and Soil Evaluation report and/or approved Structure Plan Council may impose conditions at the time of subdivision to address site remediation, fill and compaction of house pads and effluent disposal areas within the defined building envelopes.*
- (g) Where identified on an approved Structure Plan, Council may impose conditions at the time of subdivision to require the construction of Strategic Firebreaks/ Fire Service Access Routes and a requirement for registration of such as an easement in gross under Section 195 of the Land Administration Act 1997.*
- (h) No clearing of significant trees or endemic vegetation shall be permitted where such vegetation is shown on the approved Structure Plan for retention unless:*
- Such clearing is approved in conjunction with a development application granted by the Shire of Denmark.*
 - Trees are diseased or dangerous as confirmed in writing by a qualified arborist and verified by the Shire of Denmark.*
 - Such works have been mandated under the Shire of Denmark's Fire Management Notice.*

and

11. Amending the Scheme maps accordingly.

Existing Zoning



LEGEND

LOCAL SCHEME RESERVE

Parks and Recreation

Road

LOCAL SCHEME ZONES

Special Residential

Tourist

OTHER CATEGORIES

(see scheme text for additional information)

Scheme Area Boundary

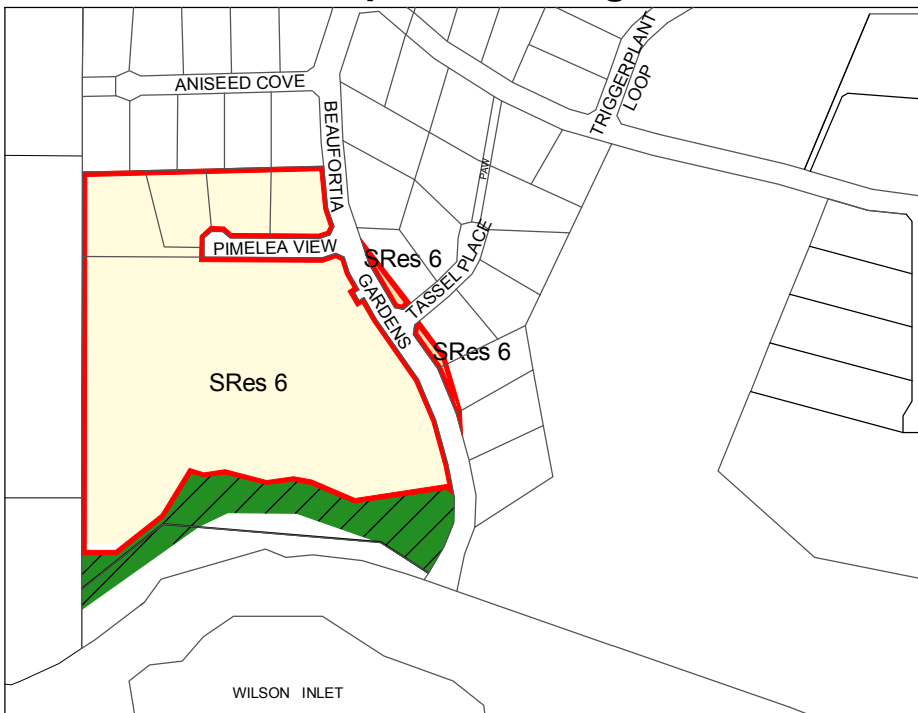
A21 Additional Use

SRes 6 Special Residential Area

T9 Tourist Area

Waterbodies

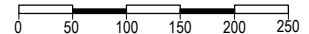
Proposed Zoning



09-22-ZP(d)



ORIG A4
SCALE 1:7000



COUNCIL ADOPTION

This Complex Amendment was adopted by resolution of the Council of the Shire of Denmark at the Meeting of the Council held on the _____ day of _____, 20_____.

Shire President

Chief Executive Officer

COUNCIL RESOLUTION TO ADVERTISE

By resolution of the Council of the Shire of Denmark at the Ordinary Meeting of the Council held on the _____ day of _____, 20_____, proceed to advertise this Amendment.

Shire President

Chief Executive Officer

COUNCIL RECOMMENDATION

This Amendment is recommended for approval by resolution of the Shire of Denmark at the Ordinary Meeting of the Council held on the _____ day of _____, 20_____ and the Common Seal of the Shire of Denmark was hereunto affixed by the authority of a resolution of the Council in the presence of:

Shire President

Chief Executive Officer

WAPC ENDORSEMENT (r.63)

**Delegated Under S.16
of the PD Act 2005**

Date

APPROVAL GRANTED

Minister for Planning

Date