

PLANNING AND DEVELOPMENT ACT 2005

SHIRE OF DENMARK

TOWN PLANNING SCHEME NO. 3

AMENDMENT NO. 133

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 No.1597 (Lot 1) Valley of the Giants Road, Bow Bridge from the 'Rural' zone to part 'Tourist (T12)' zone and part 'Parks and Recreation' local scheme reserve and amending the Scheme Maps accordingly;
2. Inserting Tourist T12 provisions in Appendix XIII – Schedule of Tourist Zones as follows:

Particulars of Land		Tourist Use	Condition of Tourist Use
T12	No.1597 (Lot 1) Valley of the Giants Road, Bow Bridge	Notwithstanding any other provisions of the scheme, the following land uses are the only permitted (P) land uses: Single House; Boarding House (Lodge); Gallery/Restaurant; Holiday Accommodation (Chalets); Managers residence; Microbrewery;	<ol style="list-style-type: none"> 1. The development shall generally be in accordance with the Tourist Development Guide Plan Ref 1515-05A, or any minor variation to that plan approved by Council. 2. Development shall be connected to Alternative Treatment Units approved by Council in accordance with the Health Department of WA regulations and guidelines. 3. Buildings materials: <ul style="list-style-type: none"> • All building materials and finishes are to be of natural earth, vegetation or earth brown colours; • Zinalume and off white colours and finishes will not be permitted; and • All water tanks and carports (if any) are to be constructed in the same colours as mentioned above and are to be screened from Valley of the Giants Road. 4. Provision of potable water shall be the responsibility of the landowner at the time of development. The following minimum water storage requirements

Particulars of Land	Tourist Use	Condition of Tourist Use
		<p>shall be applicable for each land use:</p> <ul style="list-style-type: none"> • Single House – 92kL • Boarding House – 150kL • Gallery/Restaurant- 150kL • Holiday Accommodation (Chalets) – 92kL per chalet. • Managers Residence – 92kL • Microbrewery – 3 x 100kL <p>5. Fire Management:</p> <ul style="list-style-type: none"> • Suitable fire control measures being implemented to the satisfaction of Council and being in accordance with the approved Fire Management Plan; and • All buildings shall be constructed in accordance with the requirements of AS3959-2009 Construction of Buildings in Bushfire Prone Areas (as amended). <p>6. Access and egress is to be from the single point shown on the Tourist Development Guide Plan, excepting any additional access requirements for fire management.</p> <p>7. The land shown as foreshore reserve under the approved Tourist Development Guide Plan to be ceded free of cost to the Department of Water as a condition of Planning Approval or subdivision approval.</p> <p>8. Within those areas delineated as ‘Tree Preservation Area’ on the Tourist Development Guide Plan no further clearing shall occur, except for:</p> <ul style="list-style-type: none"> • Trees that are dead, diseased or dangerous;

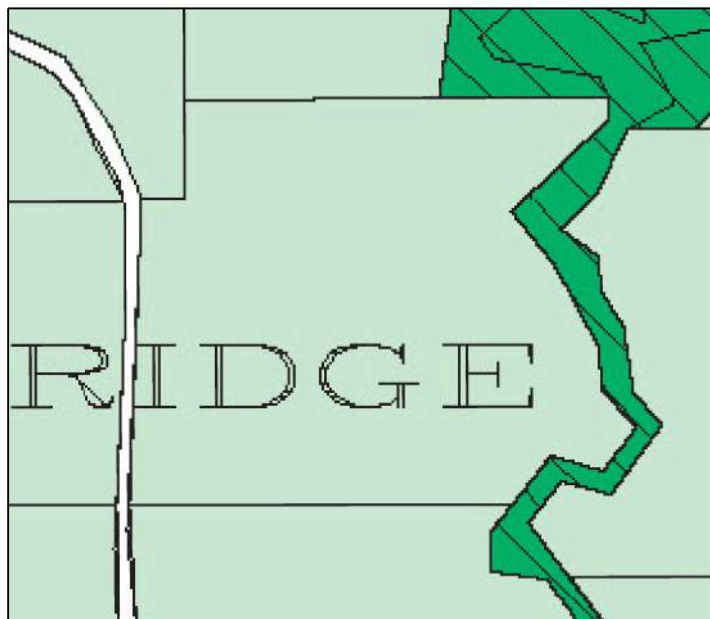
Particulars of Land		Tourist Use	Condition of Tourist Use
			<ul style="list-style-type: none"> • To comply with the Fire Management Plan requirements for the site. <p>9. Clearing of vegetation throughout the site shall only be permitted pursuant to the Environmental Protection Act 1986 and the Environmental Protection (Clearing of Native Vegetation) Regulations 2004 and will only be undertaken where:</p> <ul style="list-style-type: none"> • To facilitate development in accordance with the Tourist Development Guide Plan; • To remove trees identified as dead, diseased or dangerous; • To comply with the requirements of the Fire Management Plan. <p>10. Within the area depicted as 'Development Exclusion Zone' on the Tourist Development Guide Plan, no further development or on-site effluent disposal is to occur, with the exception of:</p> <ul style="list-style-type: none"> • Those areas indicated for the construction of roads or tracks; and • The development of the 'Ceremony Platform' and 'Hardstand and Turnaround for Fire Vehicle'. <p>11. All new development shall be setback a minimum of:</p> <ul style="list-style-type: none"> • 20m from the front boundary; and • 20m from all other boundaries. <p>12. The following requirements will apply to the strata titling of the development:</p> <ul style="list-style-type: none"> • A person is not to occupy a chalet/s or a room/s within the boarding house for longer than three (3) months in any twelve (12) month

Particulars of Land		Tourist Use	Condition of Tourist Use
			<p>period.</p> <ul style="list-style-type: none"> • An agreement between the applicant and Council to ensure a management system is in place to ensure accommodation is made available for rent to the general public when not in use by the owners. • Prior to the sale of Strata lots, common property and shared facilities are to be completed to the satisfaction of Council. • In the event of the staged development and strata titling of the property, Council may permit development of common property in stages. • Fencing of Strata lots is not permitted. • The external form of development to be of uniform and complementary architectural theme, character, colours and materials.

SHIRE OF DENMARK

Town Planning Scheme No.3

Amendment No.133



Existing Zoning

LOCAL SCHEME RESERVES

Parks and Recreation

ZONES

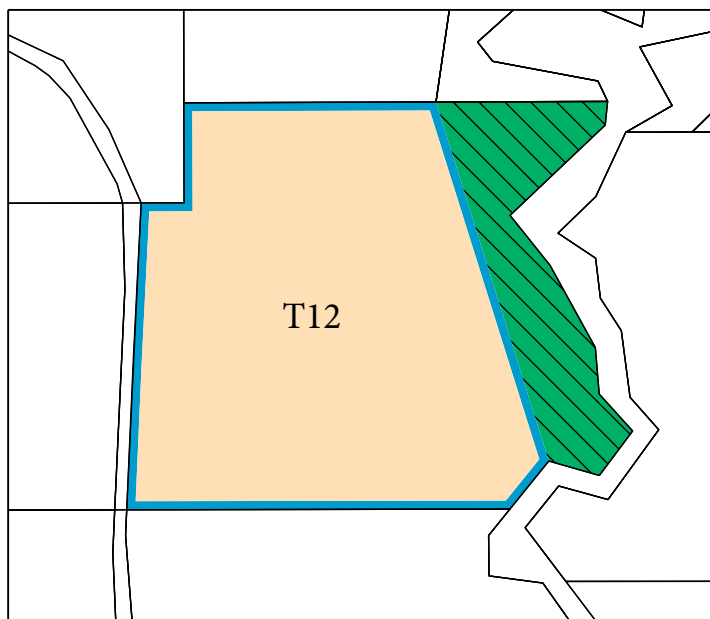
Rural

Tourist

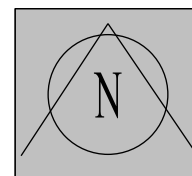
OTHER

No Zone

T12 Tourist Area
(See Scheme Text)



Proposed Zoning



A copy of this letter and the attached advice and recommendations will be made available to the public via the EPA website.

Yours sincerely

A handwritten signature in black ink, appearing to read 'DF', with a stylized flourish extending to the right.

Darren Foster
Director
Strategic Policy and Planning Division

For the Chairman of the Environmental Protection Authority
Under Notice of Delegation No. 33 dated 6 December 2013

20 April 2015

Encl. Scheme Advice and Recommendations

**ADVICE UNDER SECTION 48A(1)(a)
ENVIRONMENTAL PROTECTION ACT 1986**

Shire of Denmark Town Planning Scheme 3 Amendment 133

Determination: Scheme Not Assessed – Advice Given (no appeals)

Determination Published: 20 April 2015

Summary

The Shire of Denmark proposes to rezone Lot 1 Valley of the Giants Road (47ha) from the Rural zone to part Tourist zone and part Parks and Recreation reserve to facilitate development of tourist accommodation and tourist attractors on site.

The Environmental Protection Authority (EPA) has considered the scheme amendment in accordance with the requirements of the *Environmental Protection Act 1986* (EP Act). In making its decision on whether to assess the scheme amendment, the EPA has applied its 'Significance Framework' which relates to the extent to which the scheme amendment meets the EPA's environmental objectives for the environmental factors.

The EPA considers that the scheme amendment is unlikely to have a significant effect on the environment and does not warrant formal assessment under Part IV of the EP Act. The potential impacts from the scheme amendment can be adequately managed to meet the EPA's objectives through the implementation of the responsible authority's scheme provisions, management plans and regulated through other statutory processes.

1. Environmental Factors

The EPA has identified the following preliminary environmental factors relevant to this scheme amendment:

- a) Terrestrial Fauna – potential loss of Black Cockatoo habitat
- b) Flora and Vegetation – potential clearing of native vegetation

2. Advice and Recommendations regarding Environmental Factors

The EPA has based its decision on the scheme amendment documentation provided by the shire.

Terrestrial Fauna and Flora and Vegetation

There is a high probability that the remnant vegetation on Lot 1 Valley of the Giants Road provides habitat for the Forest Red Tailed Black Cockatoo, Quenda and Quokka. The EPA strongly supports development and associated clearing for bushfire risk mitigation (Bushfire Protection Zones) within the already cleared areas of the lot.

Recommendation

The EPA recommends any clearing required for bushfire risk mitigation (Hazard Protection Zones) should not impact on the above fauna habitat.

SCHEDULE OF SUBMISSIONS: AMENDMENT 133 – PROPOSED REZONING OF NO. 1597 (LOT 1) VALLEY OF THE GIANTS ROAD, BOW BRIDGE

Submission Number	Name & Address	Verbatim Submission	Planning Services Comment
Public Submissions			
P1	Department of Lands <i>(NB: response is in capacity as managing body for Reserve 35647 to the north of the subject lot)</i>	I refer to your attached letter dated the 12 May 2015. I wish to inform you that the Department of Lands has no comments regarding the proposed zoning change to TPS No.3 – Amendment 133 (Freehold Lot 1 Valley of the Giants Road, Bow Bridge).	Noted.
Government Agencies			
G1	Department of Aboriginal Affairs	Thank you for your letter inviting the Department of Aboriginal Affairs (DAA) to comment on the Town Planning Scheme No.3 Amendment 133 (Amendment) received by DAA on 14 May 2015. DAA understands that the Amendment is to rezone No. 1597 (Lot 1) Valley of the Giants Road Bow Bridge from “Rural” to part “Tourist” and part “Parks & Recreation” local scheme reserve. A review of the Register of Aboriginal Places and Objects as well as the DAA Aboriginal Heritage Database concludes that based on the information held by DAA no known places are within the proposed Amendment area therefore no approvals under the Aboriginal Heritage Act 1972 (AHA) are required.	Noted.
G2	Tourism WA	Thank you for providing Tourism Western Australia (Tourism WA) with the opportunity to comment on the above scheme amendment. The following comments are provided to assist in finalising this process. Tourism WA supports the scheme amendment, which will enable the development of tourist accommodation and associated visitor facilities and attractions in this location. The proposed scale of the development complements the Valley of the Giants and the existing tourism product available in this area. Significantly, this will provide additional accommodation options which will encourage visitors to stay longer in the region, but also amenities that support day trips and return visits to the locality. This is important in ensuring that the tourism product remains viable and caters for different markets and visitor needs.	Noted.

G3	Department of Fire & Emergency Services	<p>I have examined the above referenced scheme amendment, and particularly the Fire Management Plan dated 5/12/2014 as prepared by Bio Diverse Solutions.</p> <p>The Fire Management Plan is comprehensive and aligns with the requirements of the document Planning for Bush Fire Protection edition 2 (dated 2010). Accordingly DFES endorses the development subject to the implementation of the subject Fire Management Plan.</p> <p>Thank you for seeking DFES advice.</p>	Noted.
G4	Department of Health	<p>Thank you for your letter dated 12 May 2015 requesting comment from the Department of Health (DOH) on the above amendment.</p> <p>1. Water Supply and On-Site Wastewater Disposal DOH has no objection to the rezoning proposal subject to the proposed development complying with the following:</p> <ol style="list-style-type: none"> i. Strata lots which accommodate on-site wastewater system/s must be a minimum of 1000m² in order to comply with the draft <i>Country Sewerage Policy</i>. ii. Common Property B with a lot size of 1507m² is insufficient for the Shared Effluent Disposal System. iii. Installation of the wastewater systems must be to the approval of the DOH. iv. Potable water quality must be to the standard as specified under the <i>Australian Drinking Water Guidelines 2004</i>. <p>2. Food Act Requirements All food related aspects to comply with the provisions of the <i>Food Act 2008</i> and related code, regulations and guidelines.</p> <p>3. Health Act Requirements All public related developments (reception centre, museum, tavern etc.) to comply with the provisions of the <i>Health Act 1911</i>, related regulations and guidelines and in particular Part VI – Public Buildings.</p> <p>4. Toxicology Programs and Services There may be a concern about existing and potential agricultural activities on surrounding land and the possible resultant spray drift from chemical applications. The proponent should adhere to the necessary buffer separation distances between agricultural and sensitive land uses and ensure that there is no development or community activity within the buffer area. The DOH has released Guidelines for Separation of Agricultural and Residential Land Uses and it should be taken into consideration. A copy is attached or it may be accessed from the Public Health website: http://www.public.health.wa.gov.au/cproot/4913/2/Guidelines%20for%20and%20Residential%20Buffer.pdf .</p>	<ul style="list-style-type: none"> • The strata lots proposed to be under 1000m² will have a shared effluent disposal system that will be provided for on a 'common property' allotment (refer comment below). • Acknowledge comment that 'Common Property B' lot size could be too small for shared effluent disposal system. Recommend that the shared effluent disposal system be relocated to the northern side of the vehicle accessway – noting this may require removal of some vegetation to support such arrangement but will ensure appropriate area available for effluent treatment depending on what type of system is to be utilised. • Noted - recommend Condition 2 be amended accordingly. • Food Act requirements would be addressed at development application and/or building permit stage as required. • Health Act requirements would be addressed at development application and/or building permit stage as required. • Buffer area considerations have been considered as part of the Scheme Amendment proposal, noting that the current usage of broadacre grazing of cattle on the neighbouring southern and western properties will not impact on the proposed development. • Due consideration to referenced risks has been considered as part of the Scheme Amendment proposal and addressed accordingly where relevant (i.e. river and

		<p>5. Land Use Planning For Natural Disasters Land use planning can guide the use of land to effectively reduce risk and enhance sustainability for areas prone to hazards such as flooding (including storm surge), fire, landslide, earthquake, strong winds and coastal erosion. Refer to: https://www.em.gov.au/Documents/Manual07-PlanningSaferCommunities.pdf</p> <p>6. Disaster Preparedness And Emergency Management You should consider incorporating or integrating the Towns Disaster Management and Emergency Response Plan (DMERP) with the proposed scheme to maximise common infrastructure requirements.</p> <p>The DMERP and the proposed scheme should address the potential public health impacts and recovery management strategies of applicable incidents identified in the “<i>Critical Infrastructure Emergency Risk Management and Assurance Handbook</i>” (Emergency Management Australia, 2nd Ed May 2004, http://www.em.gov.au/Publications/Corporatepublications/Pages/CriticalInfrastructureEmergencyRiskManagementAndAssuranceHandbook.aspx).</p>	<p>creekline setbacks, fire management plan etc).</p> <ul style="list-style-type: none"> • Due consideration to referenced impacts has been considered as part of the Scheme Amendment proposal and addressed accordingly where relevant (i.e. fire management plan etc). <p><u>Recommendation</u></p> <ul style="list-style-type: none"> ○ That the Tourist Development Guide Plan in the amendment documentation be modified such that the shared effluent disposal system area is relocated to the north of the vehicle accessway. ○ That Condition 2 be amended to reference approval required by Department of Health as well.
G5	Department of Water	<p>Thank you for the opportunity to comment on the above proposal. The Department of Water (DoW) provides the following comments.</p> <p>Bow River The DoW supports the proposal to increase the foreshore reserve to protect the environmental values of the Bow River however the proposed boundary should be amended. The proposed boundary needs to be widened at the southern end of the reserve, to create a wider buffer to the river and contain the 100 year flood event. A suggested boundary is shown on the attached plan. Alternatively, the 10m contour would provide an adequate buffer.</p> <p>The Department of Water is not able to accept the ceding of the foreshore reserve. It is suggested that the Shire of Denmark may accept vesting of the reserve.</p>	<ul style="list-style-type: none"> • Amendments to the foreshore reserve boundary as proposed by Department of Water are considered appropriate. • Acknowledge comment that Department of Water is not able to accept the ceding of the foreshore reserve. Given that Reserve 35647 to the north of the subject land is an unmanaged reserve (i.e. managed by the Department of Lands on behalf of the Crown), it is appropriate that the ceding of this foreshore reserve be to the Crown as well. <p><u>Recommendation</u></p> <ul style="list-style-type: none"> ○ That the Tourist Development Guide Plan in the amendment documentation be modified to reflect the foreshore reserve boundary as proposed by the Department of Water. ○ That Condition 7 be amended to reference ceding of the foreshore reserve to the Crown.

