

Shire of Denmark Town Planning Scheme No. 3 Amendment No. 151



21 DECEMBER 2021 - ATTACHMENT 9.1.1a

SHIRE OF DENMARK
TOWN PLANNING SCHEME No. 3
AMENDMENT No. 151

File No:

Part of Agenda:

MINISTER FOR PLANNING

Proposal to amend a Local Planning Scheme

1.	Local Authority:	Shire of Denmark
2.	Description of Local Planning Scheme:	Town Planning Scheme No.3
3.	Type of Scheme:	District Zoning Scheme
4.	Serial No. of Amendment:	151
5.	Proposal:	To Amend Appendix XIII – Schedule of Tourist Zones – Tourist Zones 1 Conditions of Tourist Use (ii), of the Scheme Text to facilitate future tourist development of the balance lot through separate ownership.

A) PLANNING AND DEVELOPMENT ACT 2005

RESOLUTION DECIDING TO AMEND A LOCAL PLANNING SCHEME

**Shire of Denmark
Local Planning Scheme No. 3
Amendment No. 151**

RESOLVED that the Council, in pursuance of Section 75 of the *Planning and Development Act 2005*, amend the above Local Planning Scheme by:

1. Amending Appendix XIII – Schedule of Tourist Zones – Tourist Zone 1 Condition (ii), of the Scheme text by deleting the following wording:

“Subdivision of Lot 84 (proposed Lot 2) shall be by way of strata title only.”

2. Amending Appendix XIII – Schedule of Tourist Zones – Tourist Zone 1 Condition (ii), of the Scheme text by inserting the following wording:

“Subdivision of Lot2 shall be of strata title only, except to create a single freehold lot for the portion of the site containing lots SR19 – SR26 (inclusive) as shown on the Karri Mia Development Plan: 09-16-DP(t), or any minor variation thereto approved by Council. ”

This Amendment is STANDARD under the provisions of the Planning and Development (Local Planning Scheme) Regulations 2015 for the following reason(s):

- a) An amendment relating to a zone or reserve that is consistent with the objectives identified in the scheme for that zone or reserve.
- b) The proposal is a text only amendment to amend and/or delete provisions relating to the existing Tourist Zone 1.
- c) The proposal will have minimal impact on land in the scheme area that is not subject to the amendment.
- d) The proposal will not have any significant environmental, social or economic governance impacts on land in the scheme area

Dated this day of 20....

.....
Chief Executive Officer

AMENDMENT REPORT

DOCUMENT CONTROL

Control Version	Date	Status	Distribution	Comment
A	31.7.2021	Draft	QA	

Prepared by: SW

Reviewed by: DC

Date: 14 September 2021

Job Name: Lot 2 (Plan 403140) Mount Shadforth Road, Shadforth

Version: A

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FIGURES

- Figure 1** Location Plan
Figure 2 Site Plan
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1 INTRODUCTION

This amendment has been prepared by Williams Consulting on behalf of the landowner to support the proposal to amend the provisions within the Shire of Denmark Town Planning Scheme No. 3 (TPS 3) relating to Tourist Zone 1 (T1).

A review of the current planning framework has highlighted that the Shire of Denmark Local Planning Scheme is overly prescriptive in relation to subdivision of the site by way of strata title only, which is considered impractical to administer and creates development investment uncertainty.

The purpose of this amendment to the Shire of Denmark Town Planning Scheme No. 3 is to enable Lot 2 (Plan 403140) Mount Shadforth Road, Shadforth (the 'site') to be subdivided into two (2) green title lots, allowing for separate ownership of the balance lot from the Karri Mia development. Importantly, further subdivision of the balance lot will be required to occur by way of strata title only.

This amendment proposes the following text changes to TPS 3:

1. Amending Appendix XIII – Schedule of Tourist Zones – Tourist Zone 1 Condition (ii), of the Scheme text by deleting the following wording:

“Subdivision of Lot 84 (proposed Lot 2) shall be by way of strata title only.”

2. Amending Appendix XIII – Schedule of Tourist Zones – Tourist Zone 1 Condition (ii), of the Scheme text by inserting the following wording:

“Subdivision of Lot 2 shall be of strata title only, except to create a single freehold lot for the portion of the site containing lots SR19 – SR26 (inclusive) as shown on the Karri Mia Development Plan: 09-16-DP(t), or any minor variation thereto approved by Council. ”

Importantly, all other special provisions of TPS 3 and the Local Development Plan relating to T1 will continue to apply, including (but not limited to) development intensity, land use and management.

This report demonstrates the appropriateness of the proposed amendment through the following structure.

1. Background and Context
2. Planning context
3. Land Use Considerations
4. Formal Proposal
5. Conclusion

2 BACKGROUND AND CONTEXT

2.1 BACKGROUND & CONTEXT

Lot 2 (Plan 403140) Mount Shadforth Road, Shadforth is located approximately 4 kilometres west of the Denmark Town Centre and is deemed to be of high tourism value based on general location and site-specific criteria. The site is located on a major tourist route, and forms part of the Karri Mia Bungalows tourist development. Refer to **Figure(s) 1 and 2**.

The site comprises an area of around 15.4ha of land zoned Tourist Zone 1 ('T1') under the Shire of Denmark Town Planning Scheme No. 3. Over 13.2ha (or 85%) of the site has been subdivided to create 19 individual survey strata lots (contained on a single green title lot), the majority of which have been developed over time with tourist accommodation.

A balance survey strata lot of approximately 2.2ha (or 15%) of the site remains undeveloped vacant land. Although significant efforts have been undertaken by the landowner over a number of years to develop this portion of the site under the existing strata scheme, market feedback has identified a separate strata scheme is required in order to secure investment to facilitate future tourist development.

All survey strata lots (including the balance lot) form a survey strata scheme shown on Strata Plan 72562.

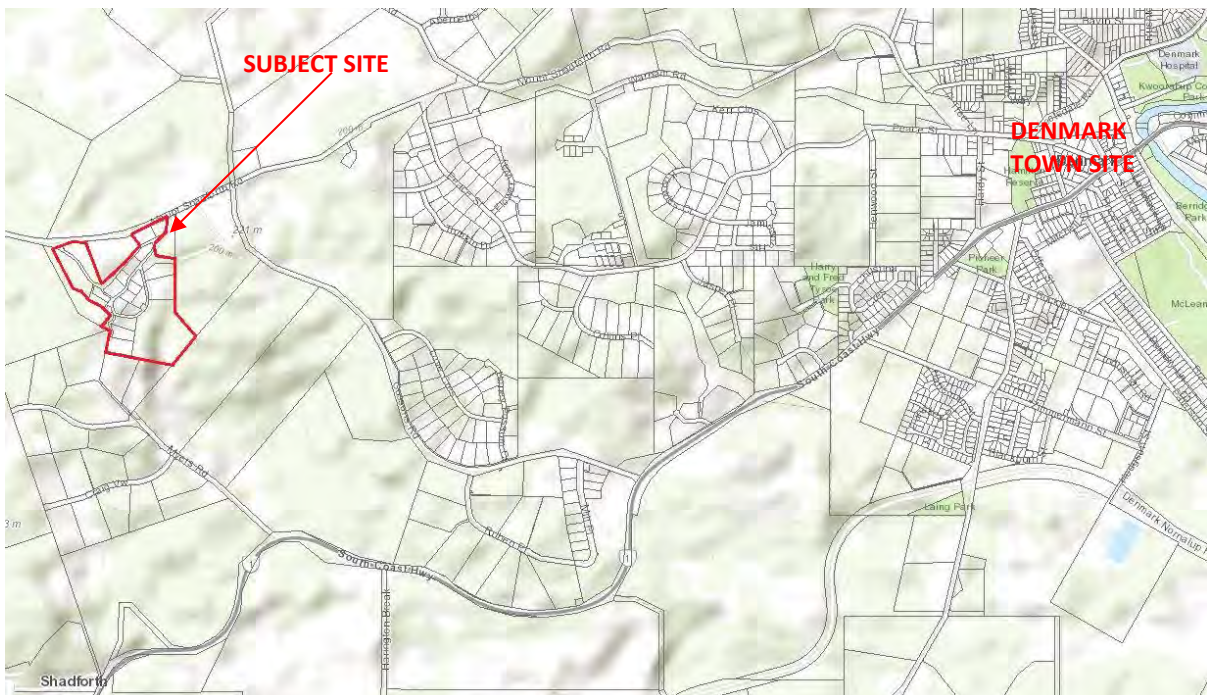


Figure 1 – Location Plan

(source: DPLH)



Figure 2 – Site Plan

(source: DPLH)

3 PLANNING CONTEXT

3.1 STATE PLANNING

This section summarises the relevant considerations of the policies/bulletins within the context of Tourist Zone 1.

DOCUMENT	SUMMARY
<p>Planning Bulletin 82 – Planning for Tourism</p>	<p>This bulletin sets out the policy position of the Western Australian Planning Commission (WAPC) to guide decision making by the WAPC and local government for subdivision, development and scheme amendment proposals for tourism purposes.</p> <p>In assessing a subdivision application for land zoned for tourism purposes, the WAPC will, among other things including approved or adopted plans and policies, consider whether the proposed lots will:</p> <ul style="list-style-type: none"> ● provide for current and future tourism demand; ● have the capacity to accommodate the necessary services, management and support facilities without compromising the character, development flexibility or tourism amenity of the site; ● provide the flexibility necessary to facilitate development of a quality tourism facility; <p>The 2011 Bulletin is a review of the 2007 version and a key outcome of the review was ...<i>“the need for a more strategic and flexible approach to tourism planning to encourage and support investment in the industry.”</i></p>

3.2 SHIRE OF DENMARK TOWN PLANNING SCHEME NO. 3

The site is zoned Tourist Zone 1 (T1) under the Shire of Denmark Town Planning Scheme No. 3 (TPS 3).

The zoning and development standards for T1 are identified under condition (i) of Appendix XIII of TPS 3. The objective of this zone is for tourist accommodation and associated services. Land use permissibility relating to the site is as follows:

- Grouped Dwelling (refer to Condition No. iii) – P
- Holiday Accommodation – P
- Holiday Home (standard) – P
- Home Occupation – P
- Manager’s Accommodation – IP
- Office – IP

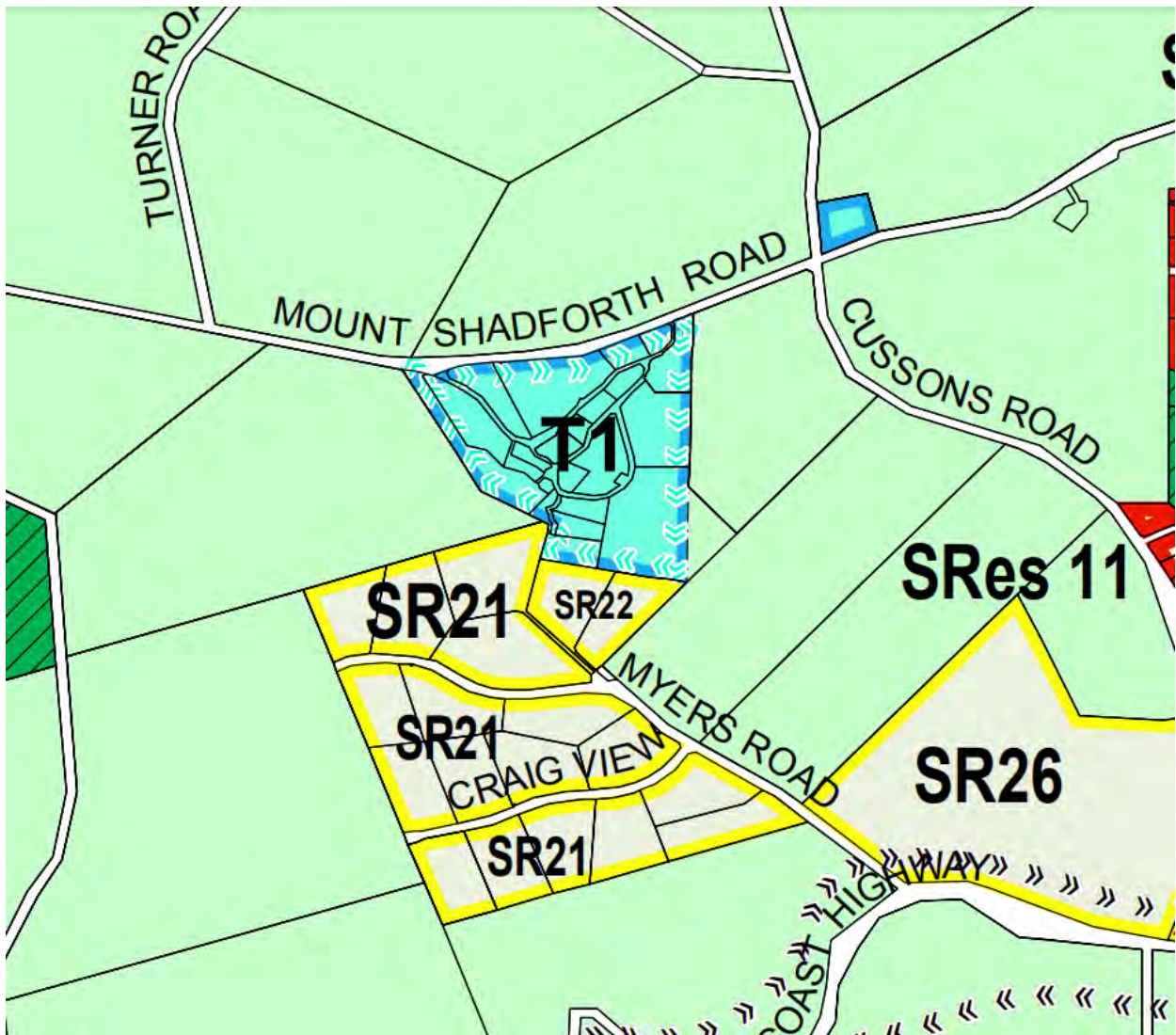


Figure 3 – Town Planning Scheme No. 3 (extract)

(source: DPLH)

3.3 LOCAL PLANNING

The following section provides an overview of the local planning policies which influence the development of T1.

Table 3 – Local Planning framework

DOCUMENT	SUMMARY
Shire of Denmark Local Planning Strategy (2011)	<p>The site is designated as ‘Tourist’ in the shires adopted Local Planning Strategy (2011). The key objective of relating to tourism as set out in the strategy is:</p> <p><i>“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.”</i></p>
Denmark Tourism Strategy: Stage 1	<p>The Stage 1 Strategy only aims to provide a preliminary overview of tourism based in the Shire.</p> <p>Stage 2 is yet to be prepared and will allow for the preparation of a fully-fledged tourism strategy which will actively involve the tourism industry and local community.</p>
Policy No. 46: Karri Mia Tourist Zone Design Guidelines	<p>The policy applies to all development proposals for Lot 2 Mount Shadforth Road – which is located within the Karri Mia Tourist Zone (being the land zoned as “Tourist T1” in the Shire of Denmark’s Town Planning Scheme No.3 and as identified on the approved Karri Mia Development Plan 09-16-DP(t)).</p> <p>The policy identifies overall design guidelines to ensure a high quality built form that is responsive to local conditions and sustainability principles.</p>

4 LAND USE CONSIDERATIONS

4.1.1 ACCESS

Existing access arrangements will be retained, with appropriate easements proposed to ensure future access to all lots is provided in accordance with the road network identified on the Karri Mia Development Plan 09-16-DP(t), or to the satisfaction of the local and State government.

4.1.2 POWER AND TELECOMUNICATIONS SUPPLY

Reticulated power infrastructure is available and is currently connected to the site.

4.1.3 WATER SUPPLY

The site and surrounding land holdings are connected to a private reticulated water supply.

4.1.4 STORMWATER DRAINAGE

Based on studies undertaken for the site relating to the hydrological and environmental nature, from an urban water management perspective, the site is not considered hydrologically constrained due to the slope, geology, separation to groundwater and lot size. It is considered that drainage can be appropriately managed without any adverse impact on the environment or surrounding land uses.

4.1.5 EFFLUENT DISPOSAL

The site and surrounding land holdings are not connected to a reticulated sewerage service. Future development will require onsite effluent disposal to occur to the satisfaction of the Department of Health and Shire of Denmark.

5 FORMAL PROPOSAL

5.1 SCHEME AMENDMENT

This section provides a summary of the proposed amendment and justification of what the proposed amendment to LPS 3 is intended to achieve and why it is important.

The amendment of special condition (ii) within Tourist Zone No. 1 will allow greater certainty for development of tourist accommodation on the site, facilitating supply of high-quality tourist accommodation in accordance with the Design Guidelines applicable to the site.

PROPOSED AMENDMENT	JUSTIFICATION
<p>Amending Appendix XIII – Schedule of Tourist Zones – Tourist Zone 1 Condition (ii), of the Scheme text by deleting the following wording:</p> <p><i>“Subdivision of Lot 84 (proposed Lot 2) shall be by way of strata title only.”</i></p>	<p>Significant attempts to obtain investment security to develop tourist accommodation have been unsuccessful, with market feedback identifying future development requiring separate management from the existing strata scheme.</p>
<p>Amending Appendix XIII – Schedule of Tourist Zones – Tourist Zone 1 Condition (ii), of the Scheme text by inserting the following wording:</p> <p><i>“Subdivision of Lot 84 (proposed Lot 2) shall be of strata title only, except to create a single freehold lot for the portion of the site containing lots SR19 – SR26 (inclusive) as shown on the Karri Mia Development Plan: 09-16-DP(t), or any minor variation thereto approved by Council.”</i></p>	<p>This amendment will enable the undeveloped portion of the site to be subdivided from Lot 2, enabling it to be located on its own freehold lot.</p> <p>This will enable the landowner to secure investment to develop additional tourist accommodation via a separate strata scheme.</p>

6 CONCLUSION

This amendment has been prepared by Williams Consulting on behalf of the landowner to support the proposal to amend the provisions within the Shire of Denmark Town Planning Scheme No. 3 (**TPS 3**) relating to Tourist Zone 1 (**T1**).

This amendment seeks a minor change to the scheme text to enable a balance lot to be subdivided and located on a separate freehold title. Further subdivision of the balance lot will occur via strata subdivision.

Importantly, all other provisions of the scheme text and associated policy will continue to apply to the site.

As a result of the above it is respectfully requested that the Shire of Denmark proceed with the statutory processes to support this change to the scheme text.

**PLANNING AND DEVELOPMENT ACT 2005
SHIRE OF DENMARK**

TOWN PLANNING SCHEME NO.3

AMENDMENT NO.151

The Council of 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. Amending Appendix XIII – Schedule of Tourist Zones – Tourist Zone 1 Condition (ii), of the Scheme text by deleting the following wording:

“Subdivision of Lot 84 (proposed Lot 2) shall be by way of strata title only.”

2. Amending Appendix XIII – Schedule of Tourist Zones – Tourist Zone 1 Condition (ii), of the Scheme text by inserting the following wording:

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**PLANNING AND DEVELOPMENT ACT 2005
SHIRE OF DENMARK**

TOWN PLANNING SCHEME NO.3

AMENDMENT NO.151

Adoption:

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

FINAL APPROVAL

Adopted for final approval by resolution of the Council of the Shire of Denmark at the meeting of the Council held on the day of 20.... and the Common Seal of the Shire was hereunto affixed by the authority of a resolution of the Council in the presence of:

.....
Shire President

.....
Chief Executive Officer

RECOMMENDED/SUBMITTED FOR FINAL APPROVAL

.....
Delegated under S.16 of PD Act 2005

.....
Date

FINAL APPROVAL GRANTED

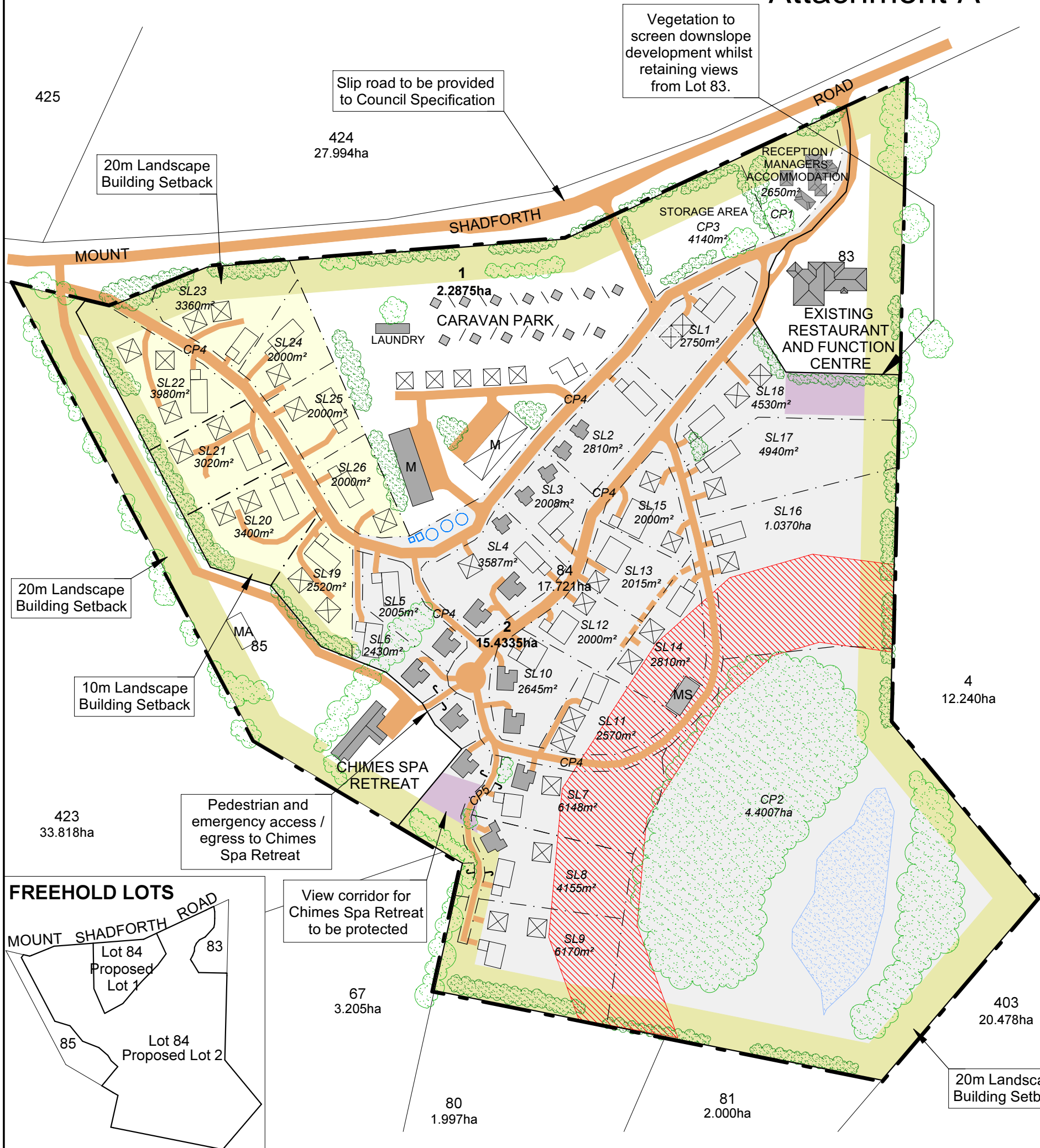
.....
Minister for Planning

.....
Date

ALL AREAS AND DIMENSIONS ARE SUBJECT TO SURVEY

Attachment A

KARRI MIA TOURIST ZONE SUBDIVISION AND DEVELOPMENT PLAN Lots 83, 84 & 85 Mount Shadforth Road Shadforth, Shire of Denmark

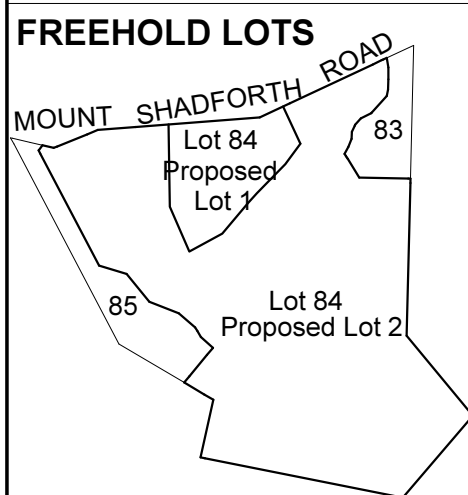


DEVELOPMENT GUIDELINES

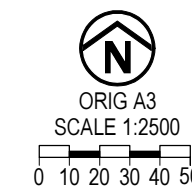
- Subdivision and development to be generally in accordance with this Karri Mia Development Plan, or any variation approved by Council.
- Only one (1) grouped dwelling per strata lot on Lot 84 (Proposed Lot 2) is permitted.
- A grouped dwelling will not be approved on a strata lot unless a minimum of one (1) Holiday Accommodation (chalet) building has first been approved, constructed and made available for short stay accommodation purposes on the strata lot.
- The total number of grouped dwellings relative to the total number of Holiday Accommodation (chalets) shall be equal to or less than 35% across Lot 84 (proposed Lot 2). Development and building approval will only be granted which achieves a 35% ratio.
- A maximum of 26 grouped dwellings will be permitted on Lot 84 (proposed Lot 2).
- A minimum of 48 Holiday Accommodation (chalets) are to be developed on Lot 84 (proposed Lot 2).
- Vehicular access to the site shall be limited to that shown on the plan unless otherwise approved by Council.
- Development shall be connected to on-site alternative treatment unit effluent disposal systems on each lot (including strata lots) to the satisfaction of the Department of Health and Council.
- All development shall be connected to a reticulated water supply approved by Council.
- No development will be considered in the 'Building Exclusion Area' designated on the Tourist Development Plan.
- Holiday Accommodation (chalets) are to be constructed prior to issue of titles for the strata lots.
- All development within Lot 84 (proposed Lot 2), to be designed in accordance with design guidelines prepared to the satisfaction of the Shire of Denmark.
- Boundary fencing for the survey strata lots shall not be permitted.
- Placement of buildings shall have regard to the views and privacy of adjoining development.
- Outbuildings shall not be permitted with provision made for off site storage of boats and caravans.
- Use of pole home design is preferred to extensive use of fill and retaining walls.
- Fire hydrants to be provided every 200m along access roads.
- Provision of a low fuel hazard separation zone as shown on the plan, and construction of housing in accordance with AS 3959 'Construction of Buildings in Bush Fire Prone Areas'.

LEGEND

	Subject Land
	Existing Lot Boundaries
	Proposed Lot Boundaries
	Existing Vegetation
	Proposed Vegetation
	Existing Chalets
	Indicative Location of Owner / Manager Accommodation
	Indicative Location of Holiday Chalet
	Motel (existing & proposed)
	Maintenance Shed
	Water Tank
	Pump Shed
	Existing Dams
	Common Property
	Survey Strata Lots
	Reciprocal Rights of Access Required
	Freehold Lots
	Low Fuel Zone / Building Exclusion Area
	Landscape Building Setback
	Building Exclusion Area
	Stage 1
	Stage 2



21 DECEMBER 2021 - ATTACHMENT 9.1.1b



09-16-DP(t)
December 2014

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