

# SCHEME REVIEW EXPLANATORY REPORT

PREPARED FOR THE SHIRE OF SHARK BAY



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November 2016

## Table of Contents

1.0	INTRODUCTION .....	1
2.0	LOCATION AND REGIONAL SETTING .....	1
3.0	SCHEME AREA .....	2
4.0	EXISTING SCHEME .....	2
5.0	PLANNING AND DEVELOPMENT (LOCAL PLANNING SCHEMES) REGULATIONS 2015 .....	3
6.0	STRATEGIC FRAMEWORK .....	3
6.1	<i>Implementation of Local Planning Strategy Recommendations .....</i>	<i>4</i>
7.0	GENERAL MATTERS .....	9
7.1	<i>Councillor Workshop – February 2014 .....</i>	<i>9</i>
7.2	<i>Councillor Workshop – April 2014 .....</i>	<i>13</i>
7.3	<i>General .....</i>	<i>14</i>
7.3.1	<i>Land Subject to Inundation .....</i>	<i>15</i>
7.3.2	<i>Transportable, Prefabricated or Relocated Building .....</i>	<i>16</i>
7.4	<i>Process .....</i>	<i>16</i>

## List of Figures & Attachments

Figure 1	Location Plan
Figure 2	Scheme Area
Figure 3	Shire of Shark Bay Local Planning Scheme No 3 map (overall)
Attachment 1	Deemed Provisions of the Planning and Development (Local Planning Schemes) Regulations 2015
Attachment 2	Shire of Shark Bay Local Planning Strategy (Part 1)
Attachment 3	OCM 30 April 2014 (Building Height)
Attachment 4	OCM 30 April 2014 (Special Use zones)
Attachment 5	Denham Inundation Surge Levels (December 2014)
Attachment 6	OCM February 2015 (Inundation Levels)

**NOTE:** The Local Planning Strategy was comprised of Part 1 and Part 2. A full copy of the Strategy can be viewed on the Shire of Shark Bay website – [www.sharkbay.wa.gov.au](http://www.sharkbay.wa.gov.au) under 'Council' and 'Public Documents'.

The Draft Scheme 4 text and maps can also be viewed on the Shire website - [www.sharkbay.wa.gov.au](http://www.sharkbay.wa.gov.au) under 'Latest News'.

## List of Acronyms

DoP	Department of Planning
DPaW	Department of Parks and Wildlife
The Codes	Residential Design Codes
Scheme 3	Shire of Shark Bay Local Planning Scheme No 3 (Current Scheme)
Scheme 4	Shire of Shark Bay Local Planning Scheme No 4 (Draft Scheme)
SBWHAC	Shark Bay World Heritage Advisory Committee
WAPC	Western Australian Planning Commission

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## 1.0 INTRODUCTION

The Shire of Shark Bay has an adopted Local Planning Strategy which was endorsed by the Western Australian Planning Commission on the 2 September 2013.

The Local Planning Strategy is a non statutory document that provides strategic planning direction for the next 15 years or longer, as distinct from a local planning scheme, which manages landuse control and growth within a statutory framework.

The Local Planning Strategy forms the basis for a new Shire of Shark Bay Local Planning Scheme No 4 (Scheme 4). The recommendations of the approved Local Planning Strategy will be implemented through the Scheme Review process.

This explanatory report has been compiled to provide an explanation of changes being implemented under the Draft Shire of Shark Bay Local Planning Scheme No 4. This report is an informal document which cross references the recommendations of the Local Planning Strategy with new Scheme No 4 provisions.

## 2.0 LOCATION AND REGIONAL SETTING

The Shire of Shark Bay covers an area of approximately 25,423km<sup>2</sup> and is comprised of two peninsulas located on the most western point of Australia with approximately 1,500 kilometres of coastline (comprising the peninsulas and adjacent islands).



Figure 1 – Location Plan

The town of Denham, the main settlement and administrative centre within the Shire, is some 833 km from Perth and has a permanent population of approximately 984.

There are also a number of small communities; they are Useless Loop (a private mining site), Monkey Mia (a popular resort where Dolphins come in), Nanga and Hamelin Pool. The Overlander and The Billabong

Shark Bay was inscribed as a World Heritage Site in 1991 which has had a significant impact on the Shire and its community. The site was the first to be classified on the Australian World Heritage List and includes many protected areas and conservation reserves, including Shark Bay Marine Park, Francois Peron National Park, Hamelin Pool Marine Nature Reserve, Zuytdorp Nature Reserve and numerous protected islands.



Denham and Useless Loop both fall within the boundary of the World Heritage site but are specifically excluded from it.

### 3.0 SCHEME AREA

The Shire of Shark Bay formally resolved to prepare a new Local Planning Scheme No 4 for the local government area at the Ordinary Council meeting held on the 18 December 2013.

The Western Australian Planning Commission (WAPC) noted and accepted the extent of the Scheme Area in correspondence dated 13 March 2014 (WAPC Ref: TPS/1301).

The Scheme Area Map is included as [Figure 2](#).

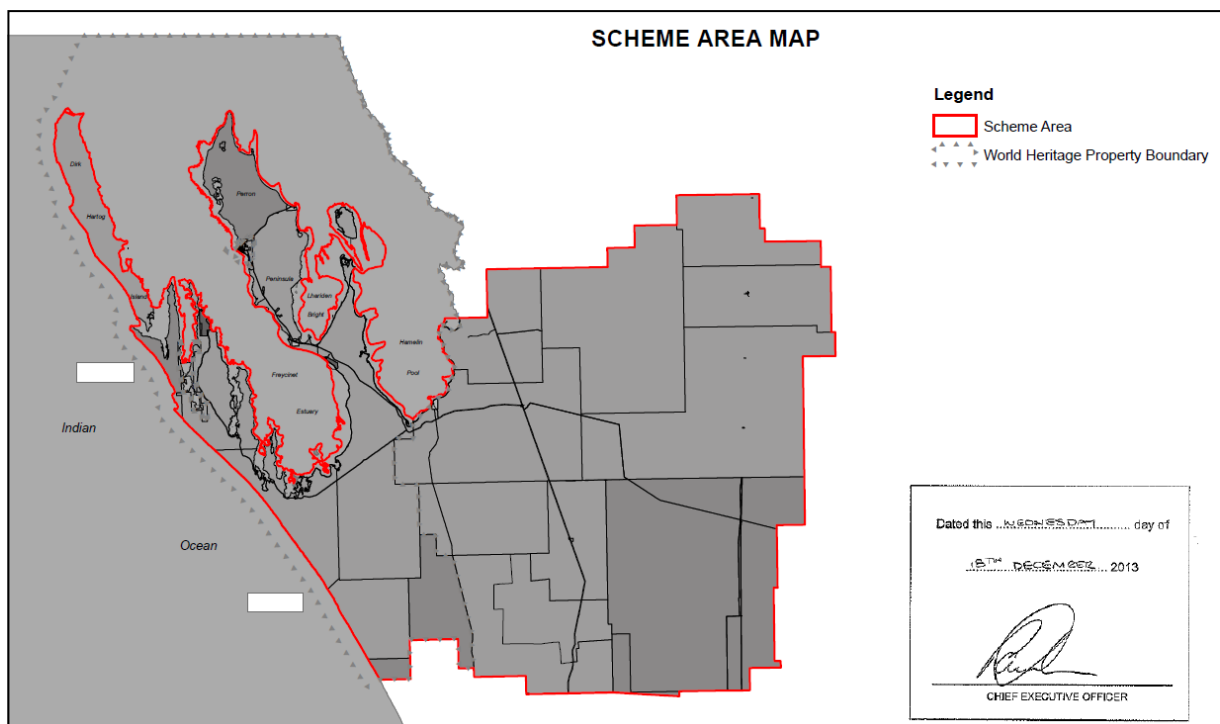


Figure 2: Scheme Area Map

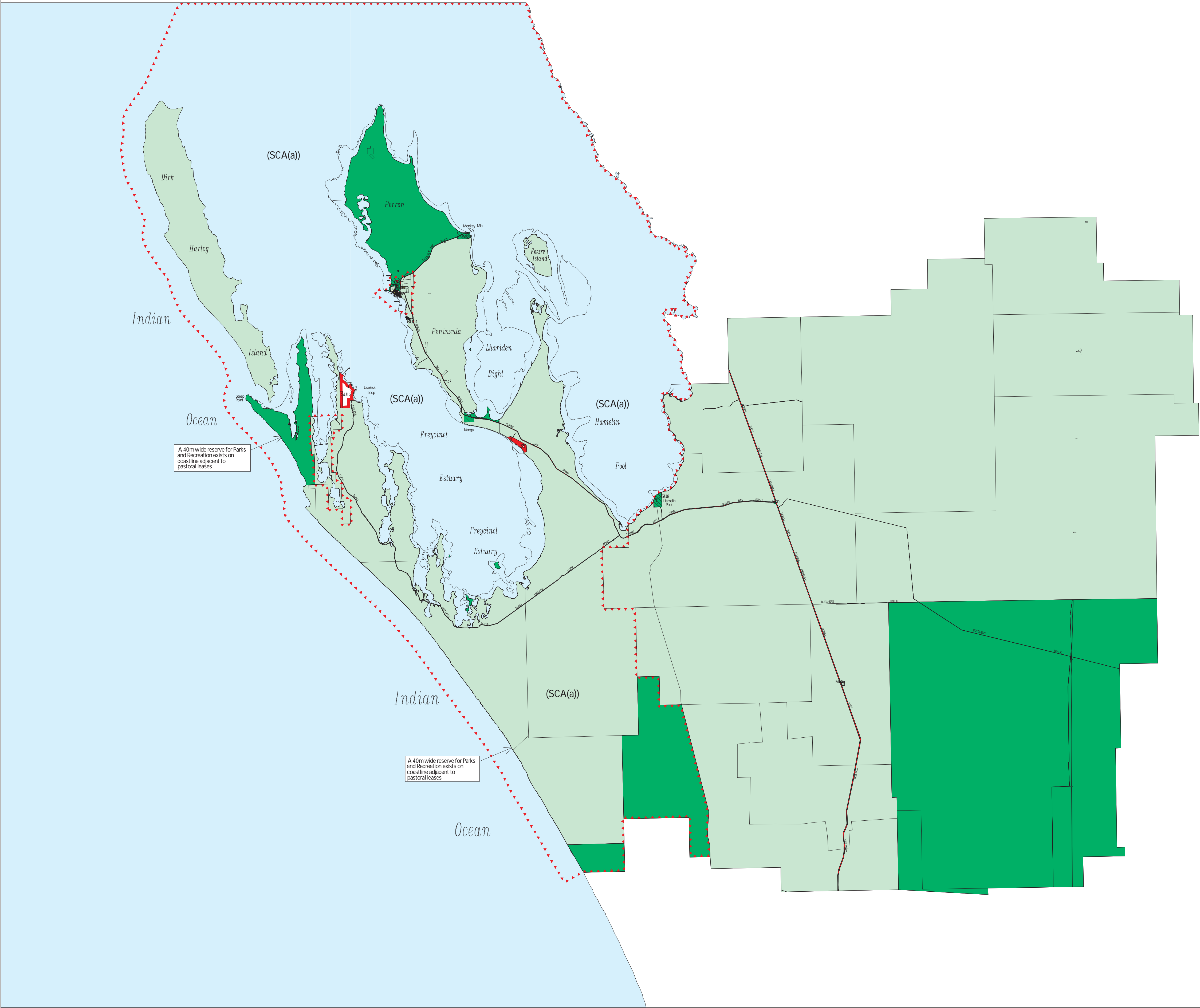
The Western Australian Planning Commission granted consent to advertise the Draft Scheme on the 9 September 2016.

### 4.0 EXISTING SCHEME

The current Shire of Shark Bay Local Planning Scheme No 3 (Scheme 3) was gazetted on the 7 March 2008. The existing Scheme map is included as [Figure 3](#).

The existing Scheme will remain operative until such time as any new Scheme is approved by the Minister for Planning and published in the Government Gazette.

**FIGURE 3 - EXISTING SHIRE OF SHARK BAY  
BAY LOCAL PLANNING SCHEME NO 3  
MAP (COMBINED)**  
Individual maps can be viewed on the  
Shire website - [www.sharkbay.wa.gov.au](http://www.sharkbay.wa.gov.au)  
under 'Council' and 'Public Documents'



**SHIRE OF SHARK BAY**  
**LOCAL PLANNING SCHEME NO 3**  
**(DISTRICT SCHEME)**

## **5.0 PLANNING AND DEVELOPMENT (LOCAL PLANNING SCHEMES) REGULATIONS 2015**

The previous Town Planning Regulations 1967 have been replaced by the *Planning and Development (Local Planning Schemes) Regulations 2015* ('the Regulations').

The Regulations have introduced significant changes that impact on local governments throughout Western Australia. The Regulations were gazetted on 25 August 2015 and became operative on the 19 October 2015.

The Regulations contain a Model Scheme Text which sets out a standard format to be used for preparation of new Local Planning Schemes. Prior to advertising, the Draft Shire of Shark Bay Local Planning Scheme No 4 was amended into a format generally consistent with the Model Scheme Text.

One major change is that the Regulations introduce 'Deemed Provisions' that automatically form part of every local planning scheme in the State.

The Deemed Provisions mainly deal with administrative matters and procedures that are commonly included in most local planning schemes including local planning policies, heritage protection, structure plans, development applications and approvals, and enforcement and administration.

Importantly, the deemed provisions stipulates developments that will be exempt from requiring planning approval including:

- Internal building work that does not impact on the external appearance (except heritage buildings);
- A single dwelling, ancillary dwelling, outbuilding, patio, pergola or pool that complies with the Residential Design Codes;
- Demolition (except heritage buildings)
- A home office;
- Temporary works (less than 48 hours);
- Temporary election signs;
- Any other development specified in writing by the local government.

The Regulations are being reviewed by the Western Australian Planning Commission so may be subject to change.

The Shires' Draft Local Planning Scheme No 4 does not duplicate the Deemed Provisions included in the 2015 Regulations, however they are included as [Attachment 1](#) for ease of reference.

## **6.0 STRATEGIC FRAMEWORK**

The strategic framework is outlined in Part 1 of the Shire of Shark Bay Local Planning Strategy – [Attachment 2](#).

The Local Planning Strategy includes a number of recommendations to be implemented as part of the Town Planning Scheme Review. The Strategy map is included as Figure 1 in [Attachment 2](#).

A summary of zoning changes in the Town Centre is included as Figure 16 in [Attachment 2](#).

## 6.1 Implementation of Local Planning Strategy Recommendations

The majority of changes to the Scheme text and Scheme maps is to implement the recommendations of the existing Local Planning Strategy adopted by the Shire of Shark Bay and endorsed by the Western Australian Planning Commission.

The changes are cross referenced with the Local Planning Strategy (Part 1) document for ease of reference.

TABLE 1 : SUMMARY OF LOCAL PLANNING STRATEGY	STRATEGY REFERENCE	SCHEME REFERENCE OR CLAUSE
Introduce a flat R30 density Code for all sewerred areas currently zoned Residential R12.5/30.	4.1.1  Table 1 Point 1	Map change : Map 7
Retain the existing R10/20 dual code as it is concentrated in the northern part of town where sewer has not yet been extended.	4.1.1	Map change : Map 7  Clause 26 (1)
Include a new clause in the Scheme to allow existing corner lots with access to two constructed road frontages to develop up to a density of R40	4.1.1  Table 1 Point 2	Clause 26 (2), 26 (3) & 26 (4)
Change the zoning of the southern portion of Lot 9500 Monkey Mia Road from 'Special Use – 3' to 'Residential Development zone with additional uses.	4.1.2  Table 1 Point 3 & 4	Map change : Map 7  Listed in Table 2 – Additional uses (Clause 19)
Recognise the majority of residential lots already created in Stage 1 Oakley Ridge as 'Residential' with an R12.5 density code consistent with the approved Outline Development Plan.	4.1.3, point (i)  Table 1 Point 5	Map change : Map 7
Lots 144, 145 and 146 Oakley Ridge should be zoned 'Residential' with an R30 density Code consistent with the approved Outline Development Plan.	4.1.3, point (i)	Map change : Map 7
Change the zoning of Lot 142 Oakley Ridge from 'Special Use' zone to 'Holiday Accommodation' zone for R50 grouped holiday accommodation homes.  <u>Officer Comment:</u> The WAPC did not support a 'holiday accommodation' zone so a Special Use Zone is proposed. Lot 142 is listed as 'SU16' in Schedule B.	4.1.3, point (ii)	Map change : Map 7  Clause 21 – Special Use Zones  Schedule B – SU16

TABLE 1 : SUMMARY OF LOCAL PLANNING STRATEGY	STRATEGY REFERENCE	SCHEME REFERENCE OR CLAUSE
<p>Introduce landuse definitions that allow flexibility for holiday homes or tourist accommodation without a restriction on the maximum stay length. Allow within the new Holiday Accommodation zone.</p> <p>Note: The WAPC only supported landuse definitions consistent with the Model Scheme Text contained in the Regulations.</p>	4.1.3, point (ii)	<p>Clause 37 Short Term accommodation</p> <p>Clause 38 – Landuse terms used</p>
Change the zoning of Lot 9000 Oakley Ridge from 'Special Use' zone to 'Residential Development' zone	4.1.3(iii) Table 1, Point 6	Map change : Map 7
Retention of the 'Special Use' zone for Lot 9502 Denham Road to allow for sufficient control over the tourist sites supported by Council, special characteristics of the site and dune protection.	4.1.4	Retained on Map 7 as Special Use Zone 2
<p>Reclassify Lot 377 Durlacher Street from 'Residential Development' zone to 'Community Purposes'. Land has been developed for an emergency services building and is now known as UCL Lot 555 and 556.</p> <p><u>Officer Comment:</u> The WAPC did not support a 'Community Purpose' designation so a 'Civic and community' reservation is proposed.</p>	4.1.7 Table 1 Point 7	Map change : Map 7
<p>Include Community zone in Table 1</p> <p><u>Officer Comment:</u> This was not supported by WAPC so a 'community and civic' reservation is proposed. The Local Scheme Reservation does not need to be listed in Table 1.</p>	Table 1 Point 10	<p>Not Applicable.</p> <p>Listed Civic and Community reservation as a new local scheme reserve under Clause 14 – Local Reserves</p>
<p>Introduce new landuse definition for emergency services</p> <p><u>Note:</u> Not supported by WAPC</p>	Table 1 Point 9	N/A
<p>Modify the Scheme provisions for the revised and consolidated Town Centre zone and include new objectives for the Town Centre zone.</p> <p><u>Note:</u> The Town Centre Zone has been replaced by a 'Commercial' Zone. The WAPC has only supported zones that are listed in the Regulations.</p>	Table 3 Point 1	Clause 16 (2)
Include new design and development requirements for the Town Centre zone (now known as Commercial Zone).	Table 3 Point 2	Clause 31.3
<p>Discourage further short stay accommodation in a consolidated and reduced Town Centre zone unless it located away from Knight Terrace and / or has a substantial commercial component or public facilities that will attract people into the Town Centre.</p> <p><u>Note:</u> The Town Centre zone has been re-named to Commercial zone</p>	Table 3 Point 3 4.3.2.1.3	Clause 31.3.4

TABLE 1 : SUMMARY OF LOCAL PLANNING STRATEGY	STRATEGY REFERENCE	SCHEME REFERENCE	4
Consolidate the Town Centre and rezone some precincts to Tourist zone	Summarised in Figure 16.	Map change : Map 7	
Introduce a new Tourist zone and requirements for a Tourist zone	Table 3 Point 4 & 5	Map change : Map 7  Clause 16 (2) outlines the objectives of the zone  Table 1: Zoning Table  Clause 31.4 Tourist Zone	
Zoning existing residential areas in the Town Centre zone to 'Residential' with an R50 Density Code  <a href="#">Note: The Town Centre zone has been replaced by a Commercial zone.</a>	Table 3 Point 6  Summarised in Figure 16	Map change : Map 7	
Introduce general provisions where Council has discretion to require a Detailed Area Plan (DAP) prior to development.  <a href="#">Note: The term 'DAP' is no longer used as the acronym coincides with 'Development Assessment Panels'. The term 'Local Development Plan' has been introduced in the Deemed Provisions of the Planning and Development (Local Planning Schemes) Regulations 2015.</a>	Table 3 Point 7	This matter is addressed in Regulation 47 of the 'Deemed Provisions' of the Planning and Development (Local Planning Schemes) Regulations 2015 which allow the local government and WAPC to require a Local Development Plan.	
Subdivision Town Centre Zone (now Commercial Zone) – identified as an issue in Part 1 of the Local Planning Strategy	4.3.3.1	Clause 31.3.5	
Reclassify Lot 2 and 3 Spaven Way from 'Special Use zone' to Residential Development	Table 5 Point 1  4.4.4	Map change : Map 7  Not listed in Schedule B : Special Use zones	
Retain a Special Use zone for Nanga and broaden landuse options for development	Table 5 Point 2 & 3  4.4.5.1	Listed as Special Use 4 in Schedule B.  SU4 on Map 1	



TABLE 1 : SUMMARY OF LOCAL PLANNING STRATEGY	STRATEGY REFERENCE	SCHEME REFERENCE	4
Ensure discretionary uses listed for special use zones correlate with an appropriate landuse definition (eg Ancillary Tourist Use)  <a href="#">Note: WAPC did not support a definition for Ancillary Tourist use.</a>	Table 5 Point 4	Clause 38 – Landuse terms used	
Consider allowing 'Ancillary Tourist Use' for Nanga and other special use sites Note: Not supported by WAPC.	Table 5 Point 4	N/A	
Retain a Special Use zone for Overlander and Billabong however expand on scheme provisions and ensure permissible landuses align with landuse definitions	Table 5 Point 5,6,7 & 8  4.4.5.2 & 4.4.5.3	Listed as Special Use 5 and 6 in Schedule B: Special Use zones  SU5 on Map 8 SU6 on Map 9	
Retain special use zone for Hamelin Pool however recognise existing landuses in Schedule 4	Table 5, Point 9  4.4.5.4	Listed as Special Use 7 in Schedule B: Special Use zones  SU7 on Map 3	
Retain the existing Special Use zone for Lot 296 Stella Rowley Drive however modify the provisions	Table 5 Point 10-11  4.4.2	Listed as Special Use 12 in Schedule B: Special Use zones  SU12 on Map 7	
Reclassify the zoning of the majority of Dirk Hartog Island from 'Rural/Pastoral' to 'Conservation' reservation	Table 5 Point 12  4.4.5.7	Map change : Map 1	
Introduce special use zones for freehold lots on Dirk Hartog Island	Table 5 Point 13, 14-15  4.4.5.7	Listed as Special Use 14 and 15 in Schedule B: Special Use zones  SU14-SU15 Map 1	
Introduce a new landuse definition for Eco-tourism	Table 5 Point 16	Clause 38 Landuse terms used	
Ensure landuse symbols used for the Dirk Hartog special use zones are linked to the scheme text which explains the meaning of the symbols.	Table 5 Point 17	Listed in Schedule B for SU14 and SU15.	

TABLE 1 : SUMMARY OF LOCAL PLANNING STRATEGY	STRATEGY REFERENCE	SCHEME REFERENCE	4
Reclassify Reserve 36163 from 'Residential Development' zone and 'Parks and Recreation' to 'Community' reservation to recognise the existing community recreation centre and potential for co-location of other community uses.	Table 6 Point 1  4.5.1  Figure 18	Map change : Map 7 (shown as a Civic & Community local scheme reservation).	
Reclassify Reserve 33517 from 'Parks and Recreation' to 'Community' reservation to better reflect the function of the site (managed by the Yadgalah Aboriginal Corporation).	4.5.2	Map change : Map 7 (shown as a Community & Civic local scheme reservation).	
Reclassify Reserve 32295 (Lot 267) Hartog Crescent from 'Parks and Recreation' to Residential to allow for future Shire staff housing	Table 6 Point 4  4.5.3	Map change : Map 7	
Include general provisions dealing with visual impact.	Table 7 Point 1	Clause 31.14 Visual Impact of Landuse and Development near the coast or along major tourist routes	
Introduce a Special Control Area for the Public Drinking Water Resource Protection Area  Section 4.5.1 of Part 2 of the Local Planning Strategy stated that ' <i>Council may consider implementing a Special Control Area over the Water Reserves as part of any Scheme review</i> '.	Identified in the Denham North and Denham South Water Reserves Drinking Water Protection Plan and recommen ded by the Department of Water (as Submission 7 on the Draft Local Planning Strategy).	Clause 36 – Special Control Area  Map Change: Map 7	

TABLE 1 : SUMMARY OF LOCAL PLANNING STRATEGY	STRATEGY REFERENCE	SCHEME REFERENCE	4
<p><u>Outline Development Plans</u></p> <p>The Local Planning Strategy identified that <i>'there may need to be a broad clause introduced in the Shires Scheme whereby Council is given the discretion to require an Outline Development Plan to guide subdivision of strategic sites or where a co-ordinated approach is required, for any zone.'</i></p> <p>Note: The term 'Outline Development Plan' has been replaced by the term 'Structure Plan' under the Planning and Development (Local Planning Schemes) Regulations 2015.</p>	<p>Include provisions so the local government or WAPC may require a structure plan for any zone.</p> <p>Incorporate stand-alone Structure Plan provisions to guide the structure plan process.</p>	<p>This issue has become superfluous as the Regulations allow the WA Planning Commission to require a Structure Plan.</p> <p>The term 'structure plan' has been used throughout the Draft Scheme text including Schedule B – Special Use zones.</p>	

A copy of the Draft Shire of Shark Bay Town Planning Scheme No 4 text and maps are available for viewing on the Shires website – [www.sharkbay.wa.gov.au](http://www.sharkbay.wa.gov.au)

## 7.0 GENERAL MATTERS

Some general planning issues have been identified as part of the Scheme Review which were not examined in detail at the broader Local Planning Strategy level. This non statutory explanatory report provides some background on some specific changes being examined as part of the Scheme Review.

### 7.1 Councillor Workshop – February 2014

Gray & Lewis held a workshop with a number of Councillors on the 25 February 2014 to discuss a variety of miscellaneous existing Scheme requirements. Some refinements to the Scheme text are proposed as a result of the Councillor workshop as summarised in Table 2 overpage.

TABLE 2 : GENERAL ISSUE	OUTCOME	SCHEME REFERENCE
<p><u>A. Parking of commercial vehicles –</u></p> <p>It would be difficult to successfully prosecute any person who parked a commercial vehicle on a residential lot without planning approval, as the wording of Clause 5.15.1 under the existing Shire of Shark Bay Local Planning Scheme No 3 ('Scheme 3') allows commercial vehicle parking for up to 48 hours.</p> <p>A commercial vehicle could simply be moved on and off a residential property to comply so it is not parked on a lot for more than 48 hours at any one time.</p> <p>Commercial vehicle parking has not been problematic historically in Denham, however the provisions can be improved.</p>	<p>Improve commercial vehicle parking provisions in recognition that commercial vehicle parking can cause undue amenity impact on residential lots, and the scheme provisions need to be enforceable.</p>	<p>Clause 31.7</p>
<p><u>B. Boat Parking –</u></p> <p>Existing Clause 5.15.1 of Scheme 3 prohibits the parking of boats in the front setback area where it is <i>'not specifically for the immediate use by the occupier'</i>.</p>	<p>The policing of boat parking may be problematic as it is difficult to define <i>'immediate' use of boats by the occupier.'</i></p>	<p>Boat parking provisions have been removed.</p>
<p>Boat parking is common throughout the Denham townsite as can be expected being a popular coastal town with excellent access to boating facilities.</p>	<p>Recognition that boat parking is prevalent within Denham townsite, and historically the community has not raised concerns over any undue negative visual amenity impacts.</p>	<p>Boat parking provisions have been removed.</p>
<p><u>Transported Dwellings -</u></p> <p>Transported dwellings and the use of sea containers as part of dwellings was discussed. Transported dwellings can be more affordable forms of housing due to the costs of building in Denham.</p> <p><u>Note:</u> These types of dwellings are referred to as 'repurposed' or 'second hand' dwellings under the Draft Scheme.</p>	<p>The workshop identified that the quality of transported dwellings and architectural styles can vary greatly.</p> <p>Participating Councillors identified that all transported dwellings should continue to require planning approval irrespective of whether they are new or second hand.</p> <p>Improve provisions for assessment of transported dwellings.</p>	<p>Clause 31.9</p> <p>Both a 'repurposed' and 'second hand' dwelling is listed in '17. Table 1 – Zoning Table'</p> <p>Repurposed or second hand dwellings are defined in Clause 38. Terms Used.</p>

TABLE 2 : GENERAL ISSUE	OUTCOME	SCHEME REFERENCE
<p><u>Permitted Development :</u></p> <p>The list of Permitted Development under Part 8 – Development of Land was discussed.</p> <p><u>Note:</u> This was not supported by the WAPC.</p>	<p>The workshop identified that the list of Permitted Development could be expanded.</p> <p>Ancillary development such as rainwater tanks, pergolas, patios and boundary fencing were discussed to examine opportunities for expansion of the 'permitted use' provisions.</p> <p>The workshop identified that some ancillary residential development could be listed as 'permitted' subject to size limitations (eg patios and rainwater tanks).</p> <p>The workshop also identified that there could be increased flexibility to allow the content of approved signs to change without the need for a new planning consent.</p>	N/A
<p><u>Two Storey Dwellings</u></p> <p>Under Scheme 3, planning approval is not required for a single house that complies with the Residential Design Codes ('Codes').</p> <p>There have been some building permit applications for single houses that comply with the Codes, so planning consent has not been required.</p> <p>A two storey dwelling can comply with the 'deemed to comply' privacy provisions of the Codes if they show permanent screening on their plans. This accords with Clause 5.4 C1 (ii) of the Codes.</p> <p><u>Note:</u> This was not supported by the WAPC.</p>	<p>There are problems with enforcing ongoing use of permanent screening in the absence of a planning approval.</p> <p>Privacy and overlooking has been an issue in Denham townsite due to natural topography.</p> <p>The Shire has received certified building applications that do not comply with the privacy requirements of the Residential Design Codes. To comply, applicants simply show screens on the plans submitted, however these can be removed at any time by owners, or future owners.</p>	N/A

TABLE 2 : GENERAL ISSUE	OUTCOME	SCHEME REFERENCE
<u>Two Storey Dwellings</u>  Continued	Any building permit application still has to be checked by a planning officer to ensure that it does comply with the Codes.  Councillors at the workshop identified that it is desirable for two storey development to require planning approval.	
<u>Outbuildings</u>  Scheme 3 includes controls over outbuildings in Clause 5.13.5.	The workshop identified that the Scheme provisions for outbuildings are not required as there are development controls that apply to outbuildings (state wide) under the Residential Design Codes.	5.13.5 of Scheme 3 not included in Scheme 4  Outbuildings to be assessed as per the Residential Design Codes.
<u>Building Height</u>  Scheme 3 includes provisions which are aimed at substantially protecting views from lots on Hughes Street to the foreshore. This places height limitations on development along Knight Terrace where buildings have to have a higher Finished Floor Level to meet inundation requirements.	The workshop identified that this is an important issue that warrants referral to full Council.  A specific report item on this issue was referred to an Ordinary Meeting of Council held on the 30 April 2014 ( <a href="#">Attachment 3</a> ).	Clause 16 – objectives of Commercial Zone  Clause 31.3.3(g)
<u>Special Use zones</u>  Scheme 3 requires an Outline Development Plan to guide future development and subdivision in most of the special use zones. Scheme 4 will require Structure Plans instead of Outline Development Plans.  Some of the special use zones contain established historic development such as at Monkey Mia and Nanga, however there are no Outline Development plans for these constructed developments.  Draft provisions were circulated to Councillors for informal feedback and to stimulate discussion.	The workshop identified opportunity to try and increase flexibility for special use zones to effectively allow maintenance or minor development to occur without a Structure Plan. An example discussed was the need to construct new amenities or toilets to service existing development.	A new Clause 21 (3) has been introduced to allow greater flexibility for some development to occur in a Special Use zone without a Structure Plan.



	<p>The workshop identified that this is a significant issue that warrants referral to full Council.</p> <p>A specific report item on this issue was referred to an Ordinary Meeting of Council held on the 30 April 2014 (<a href="#">Attachment 4</a>).</p>	
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## 7.2 Councillor Workshop – April 2014

GHD held a Councillor workshop on the 1 April 2014 as part of preparation of a Structure Plan for the Denham Town Centre.

Two issues were identified for examination as part of the Scheme review.

TABLE 3 - GENERAL ISSUE	OUTCOME	SCHEME REFERENCE
<p><u>Holiday Homes</u></p> <ul style="list-style-type: none"> <li>A number of holiday homes have been established historically and not all holiday homes have planning consent.</li> <li>Under the WAPC Planning Bulletin No 99 Holiday homes are encouraged to be registered.</li> </ul>	<p>The workshop identified a need to ensure that holiday homes are registered with the Shire.</p> <p>It was acknowledged that it is important for holiday home operators to be educated about the need to obtain planning approval, and the importance of preparing emergency evacuation plans for the safety of guests.</p> <p>Issues relating to education, safety, compliance and establishing a holiday home register were discussed.</p>	<p>Clause 31.15 Holiday Homes in Residential zones</p> <p>Table 1: Zoning Table</p> <p>Clause 38. Landuse terms used (defines Holiday House).</p>
<p><u>Reception centre</u></p> <p>The workshop identified that Denham may have potential as a wedding destination. Opportunity for reception centres and locations were discussed.</p>	<p>The workshop identified that Lot 296 Stella Rowley Drive could cater for such a use.</p>	<p>Reception Centre has been listed under discretionary landuses for Lot 296 Stella Rowley Drive (Special Use zone 12) in Schedule B</p>

### 7.3 General

Gray & Lewis currently acts as the Shire's consultant planner and provides day to advice on town planning matters. Gray & Lewis assesses development applications for the Shire and has identified some sections of the Scheme which could be improved as summarised in the table below.

TABLE 4 - GENERAL ISSUE	RECOMMENDATION	SCHEME REFERENCE
<p><u>Carparking in the Town Centre</u></p> <p>Denham Town Centre is well serviced by on street parking. It is recognised that it may be difficult for new developments to provide useable on site parking on lots in the Town Centre which are constrained by virtue of limited lot frontage or small lot sizes.</p> <p>Many visitors to the area utilise on street parking and visit multiple businesses in the Town Centre. The Shire has sought to promote new development and support businesses in the Town Centre.</p>	<p>Increase flexibility for Council to consider availability of on street carparking to service new development.</p>	<p>Clause 31.16.3</p>
<p><u>Advertising Signs</u></p> <p>There are existing provisions for the control of advertising under Scheme 3, however there is no specific criteria for the assessment of advertising signs.</p> <p>This has caused difficulties as owners and developers seek some guidance on how their advertising sign applications will be assessed.</p> <p>The Shire has received a number of applications over the past few years for proposals seeking advertising permission within reserves and local road reservations.</p>	<p>Expand the Scheme provisions for advertising signs to include some criteria for the assessment of sign applications.</p> <p>Marginally increase sign sizes for some exempted advertisements and include provisions allowing authorities to erect signage in reserves under their care and control.</p>	<p>Clause 31.17 Control of Advertising</p> <p>Schedule C – Exempted Advertisements</p>
<p><u>Structure Plans / Outline Development Plans</u></p> <p>The existing Scheme 3 only outlines the requirements to be addressed by Outline Development Plans in Clause 5.9 pertaining to 'Residential and Residential Development zone'. This is problematic because Outline Development Plans are also required for other zones such as Special Use Zones.</p>	<p>Update references to refer to Structure Plans instead of Outline Development Plans. There are guidelines for structure plans produced by the Western Australian Planning Commission (WAPC).</p>	<p>The Deemed Provisions of the Planning and Development (Local Planning Schemes) Regulations 2015 include controls over Structure Plans.</p>

TABLE 4 - GENERAL ISSUE	RECOMMENDATION	SCHEME REFERENCE
<u>Shark Bay World Heritage Property</u>  Expand existing provisions and update references to the Shark Bay World Heritage Advisory Committee (SBWHAC) and Department of Parks and Wildlife (DPaW).	Clarify that the local government may require coastal reports or information on visual impact assessments for new development.  Expanded provisions to clarify the local government will have regard for relevant State Planning Policies, and any recommendations of SBWHAC or relevant government agencies.	Clause 31 – Shark Bay World Heritage Property Special Control Area

### 7.3.1 Land Subject to Inundation

Scheme 3 requires all ‘land subject to inundation’ to have a Finished Floor Level of RL 3.2 metres AHD, with the exception of non-habitable outbuildings detached from a single house on the same lot.

The provisions refer to ‘Shark Bay Denham Foreshore Topography and Storm Surge level maps’ which have become outdated.

Coastal development is guided by the Western Australian Planning Commission ‘Statement of Planning Policy 2.6 – the State Coastal Planning Policy’. The Policy outlines requirements for matters such as coastal setbacks and development levels. The overarching objective is to provide a relatively low risk of development being adversely impacted by coastal processes through erosion of development areas or foreshore infrastructure, and coastal inundation.

The Shire engaged MP Rogers & Associated to examine storm surge modelling for Denham and Denham Inundation Levels. The report confirmed that to accord with the requirements of State Planning Policy 2.6, new freehold development in Denham would need to be developed at or above a level of 4.2m AHD (Australian Height Datum) – [Attachment 5](#).

This is significantly higher than the current Scheme requirement due to key changes at the state policy level.

The report includes a table outlining inundation levels for different ARI (average recurrence level) and cites a 3.6 level based on a 100 year ARI.

The MP Rodgers report was considered by Council at the Ordinary meeting held on the 25 February 2015. Council proposes to incorporate a Finished Floor Level of 3.6 AHD (based on the ARI 100 year) as part of the new Town Planning Scheme, which will undergo formal advertising - [Attachment 6](#).

There may be cases where an owner/ developer commissions a site specific coastal report which may recommend different minimum floor levels, and in that case flexibility is sought in Scheme 4 to allow Council discretion to consider up to date coastal information as it becomes available.

The Shire contains many historic developments along the coast, such as Monkey Mia, and recognises it may not always be practical to require building extensions and additions to meet a different floor level than already exists on a site. Accordingly the Shire has expressed it seeks flexibility as part of the Scheme Review.

Clause 31.1 of Scheme 4 introduces new provisions for 'Land Subject to Inundation'.

### ***7.3.2 Transportable, Prefabricated or Relocated Building***

The Draft Scheme includes provisions to control 'Transportable, Prefabricated or Relocated Buildings' under Clause 31.8.

The provisions aim to outline clear criteria for the assessment of these types of development, and propose to control buildings which are not proposed to be used as dwellings (eg dongas for commercial use, sea containers for storage).

This part of the Draft Scheme has not been endorsed by the Western Australian Planning Commission (WAPC) for the purpose of advertising. There is no guarantee that the proposed controls will be approved by state planning.

## **7.4 Process**

Following the completion of advertising all submissions will be summarised in a table for future Council consideration. The Council has to consider each submissions and determine whether any changes need to be made to the draft Scheme to address any valid issues raised.

A report on the Draft Scheme and all the submission will be referred to Council. Any person who lodges a submission will be advertised of the relevant Council meeting date prior to any meeting.

Once the draft Scheme has been adopted by Council (with or without modifications), then it will be lodged with the Western Australian Planning Commission with a request that it be approved by the Minister for Planning.

No person should rely on any information in the draft scheme as it is subject to change. The Minister may require the Shire to modify the Draft Scheme before granting final approval.

# **ATTACHMENT 1**

Deemed Provisions

Planning and Development (Local Planning Schemes) Regulations 2015

## **Schedule 2 — Deemed provisions for local planning schemes**

[r. 10(4)]

### **Part 1 — Preliminary**

#### **1. Terms used**

In this Scheme —

**Act** means the *Planning and Development Act 2005*;

**advertisement** means any word, letter, model, sign, placard, board, notice, device or representation, whether illuminated or not, that is used wholly or partly for the purposes of advertising, announcing or directing, and includes —

- (a) any hoarding or similar structure used, or adapted for use, for the display of advertisements; and
- (b) any airborne device anchored to any land or building used for the display of advertising; and
- (c) any vehicle or trailer or other similar object placed or located so as to serve the purpose of displaying advertising;

**amenity** means all those factors which combine to form the character of an area and include the present and likely future amenity;

**Building Code** means the Building Code of Australia which is volumes 1 and 2, as amended from time to time, of the National Construction Code series published by, or on behalf of, the Australian Building Codes Board;

**built heritage conservation** means conservation as defined in the *Heritage of Western Australia Act 1990* section 3(1);

**cultural heritage significance** has meaning given in the *Heritage of Western Australia Act 1990* section 3(1);

**development contribution plan** means a development contribution plan, prepared in accordance with the *Planning and Development (Local Planning Schemes) Regulations 2015* Part 7, that applies to land in the Scheme area;

**local government** means the local government responsible for this Scheme;



**local government CEO** means the chief executive officer of the local government;

**local planning strategy** means the local planning strategy for this Scheme prepared under the *Planning and Development (Local Planning Schemes) Regulations 2015* Part 3, as amended from time to time;

**owner**, in relation to land, means —

- (a) if the land is freehold land —
  - (i) a person whose name is registered as a proprietor of the land; and
  - (ii) the State, if registered as a proprietor of the land; and
  - (iii) a person who holds an interest as purchaser under a contract to purchase an estate in fee simple in the land; and
  - (iv) a person who is the holder of a freehold interest in land vested in an executor or administrator under the *Administration Act 1903* section 8;

and

- (b) if the land is Crown land —
  - (i) the State; and
  - (ii) a person who holds an interest as purchaser under a contract to purchase an estate in fee simple in the land;

**premises** means land, buildings or part of land or a building;

**R-Codes** means the Residential Design Codes prepared by the Western Australian Planning Commission under section 26 of the Act, as amended from time to time;

**region planning scheme** means a region planning scheme that applies in respect of part or all of the Scheme area;

**reserve** means land reserved under this Scheme for a public purpose;

**Scheme area** means the area to which this Scheme applies;

**special control area** means an area identified under this Scheme as an area subject to special controls set out in this Scheme;

***substantially commenced*** means that some substantial part of work in respect of a development approved under a planning scheme or under an interim development order has been performed;

***works***, in relation to land, means —

- (a) any demolition, erection, construction, alteration of or addition to any building or structure on the land; and
- (b) the carrying out on the land of any excavation or other works; and
- (c) in the case of a place to which a Conservation Order made under the *Heritage of Western Australia Act 1990* section 59 applies, any act or thing that —
  - (i) is likely to damage the character of that place or the external appearance of any building; or
  - (ii) would constitute an irreversible alteration to the fabric of any building;

***zone*** means a portion of the Scheme area identified on the Scheme Map as a zone for the purpose of indicating the controls imposed by this Scheme on the use of, or the carrying out of works on, land, but does not include a reserve or special control area.

## **Part 2 — Local planning framework**

### **Division 1 — Local planning strategy**

#### **2. Local planning strategy**

Where a local planning strategy for the Scheme area has been prepared by the local government in accordance with the *Planning and Development (Local Planning Schemes) Regulations 2015* Part 3 the local planning strategy sets out the long-term planning directions for the Scheme area.

### **Division 2 — Local planning policies**

#### **3. Local planning policies**

- (1) The local government may prepare a local planning policy in respect of any matter related to the planning and development of the Scheme area.

- (2) A local planning policy —
  - (a) may apply generally or in respect of a particular class or classes of matters specified in the policy; and
  - (b) may apply to the whole of the Scheme area or to part or parts of the Scheme area specified in the policy.
- (3) A local planning policy must be based on sound town planning principles and may address either strategic or operational considerations in relation to the matters to which the policy applies.
- (4) The local government may amend or repeal a local planning policy.
- (5) In making a determination under this Scheme the local government must have regard to each relevant local planning policy to the extent that the policy is consistent with this Scheme.

**4. Procedure for making local planning policy**

- (1) If the local government resolves to prepare a local planning policy the local government must, unless the Commission otherwise agrees, advertise the proposed policy as follows —
  - (a) publish a notice of the proposed policy in a newspaper circulating in the Scheme area, giving details of —
    - (i) the subject and nature of the proposed policy; and
    - (ii) the objectives of the proposed policy; and
    - (iii) where the proposed policy may be inspected; and
    - (iv) to whom, in what form and during what period submissions in relation to the proposed policy may be made;
  - (b) if, in the opinion of the local government, the policy is inconsistent with any State planning policy, give notice of the proposed policy to the Commission;
  - (c) give notice of the proposed policy in any other way and carry out any other consultation the local government considers appropriate.
- (2) The period for making submissions in relation to a local planning policy must not be less than a period of 21 days commencing on the day on which the notice of the policy is published under subclause (1)(a).

- (3) After the expiry of the period within which submissions may be made, the local government must —
  - (a) review the proposed policy in the light of any submissions made; and
  - (b) resolve to —
    - (i) proceed with the policy without modification; or
    - (ii) proceed with the policy with modification; or
    - (iii) not to proceed with the policy.
- (4) If the local government resolves to proceed with the policy, the local government must publish notice of the policy in a newspaper circulating in the Scheme area.
- (5) A policy has effect on publication of a notice under subclause (4).
- (6) The local government —
  - (a) must ensure that an up-to-date copy of each local planning policy made under this Scheme is kept and made available for public inspection during business hours at the offices of the local government; and
  - (b) may publish a copy of each of those local planning policies on the website of the local government.

**5. Procedure for amending local planning policy**

- (1) Clause 4, with any necessary changes, applies to the amendment to a local planning policy.
- (2) Despite subclause (1), the local government may make an amendment to a local planning policy without advertising the amendment if, in the opinion of the local government, the amendment is a minor amendment.

**6. Revocation of local planning policy**

A local planning policy may be revoked —

- (a) by a subsequent local planning policy that —
    - (i) is prepared in accordance with this Part; and
    - (ii) expressly revokes the local planning policy;
- or

- (b) by a notice of revocation —
  - (i) prepared by the local government; and
  - (ii) published in a newspaper circulating in the Scheme area.

### **Part 3 — Heritage protection**

#### **7. Terms used**

In this Part —

**heritage area** means an area designated as a heritage area under clause 9;

**heritage list** means a heritage list established under clause 8(1);

**place** has the meaning given in the *Heritage of Western Australia Act 1990* section 3(1).

Note:

The purpose of this Part is to provide for the identification of places and areas of heritage value so that development in the Scheme can, as far as possible, be consistent with the conservation of heritage values.

#### **8. Heritage list**

- (1) The local government must establish and maintain a heritage list to identify places within the Scheme area that are of cultural heritage significance and worthy of built heritage conservation.
- (2) The heritage list —
  - (a) must set out a description of each place and the reason for its entry in the heritage list; and
  - (b) must be available, with the Scheme documents, for public inspection during business hours at the offices of the local government; and
  - (c) may be published on the website of the local government.
- (3) The local government must not enter a place in, or remove a place from, the heritage list or modify the entry of a place in the heritage list unless the local government —

- (a) notifies in writing each owner and occupier of the place and provides each of them with a description of the place and the reasons for the proposed entry; and
  - (b) invites each owner and occupier to make submissions on the proposal within 21 days of the day on which the notice is served or within a longer period specified in the notice; and
  - (c) carries out any other consultation the local government considers appropriate; and
  - (d) following any consultation and consideration of the submissions made on the proposal, resolves that the place be entered in the heritage list with or without modification, or that the place be removed from the heritage list.
- (4) If the local government enters a place in the heritage list or modifies an entry of a place in the heritage list the local government must give notice of the entry or modification to —
- (a) the Heritage Council of Western Australia; and
  - (b) each owner and occupier of the place.

**9. Designation of heritage areas**

- (1) If, in the opinion of the local government, special planning control is needed to conserve and enhance the cultural heritage significance and character of an area to which this Scheme applies, the local government may, by resolution, designate that area as a heritage area.
- (2) If the local government designates an area as a heritage area the local government must adopt for the area a local planning policy that sets out the following —
  - (a) a map showing the boundaries of the heritage area;
  - (b) a statement about the heritage significance of the area;
  - (c) a record of places of heritage significance in the heritage area.
- (3) The local government must not designate an area as a heritage area unless the local government —
  - (a) notifies in writing each owner of land affected by the proposed designation and provides the owner with a copy of the proposed local planning policy for the heritage area; and
  - (b) advertises the proposed designation by —



- (i) publishing a notice of the proposed designation in a newspaper circulating in the Scheme area; and
    - (ii) erecting a sign giving notice of the proposed designation in a prominent location in the area that would be affected by the designation; and
    - (iii) publishing a copy of the notice of the proposed designation on the website of the local government;
  - and
  - (c) carry out any other consultation the local government considers appropriate.
- (4) Notice of a proposed designation under subclause (3)(b) must specify —
- (a) the area that is the subject of the proposed designation; and
  - (b) where the proposed local planning policy for the proposed heritage area may be inspected; and
  - (c) to whom, in what form and in what period submissions may be made.
- (5) The period for making submissions in relation to the designation of an area as a heritage area must not be less than a period of 21 days commencing on the day on which the notice of the proposed designation is published under subclause (3)(b)(i).
- (6) After the expiry of the period within which submissions may be made, the local government must —
- (a) review the proposed designation in the light of any submissions made; and
  - (b) resolve —
    - (i) to adopt the designation without modification; or
    - (ii) to adopt the designation with modification; or
    - (iii) not to proceed with the designation.
- (7) If the local government designates an area as a heritage area the local government must give notice of the designation to —
- (a) the Heritage Council of Western Australia; and
  - (b) each owner of land affected by the designation.

- (8) The local government may modify or revoke a designation of a heritage area.
- (9) Subclauses (3) to (7) apply, with any necessary changes, to the amendment to a designation of a heritage area or the revocation of a designation of a heritage area.

**10. Heritage agreements**

- (1) The local government may, in accordance with the *Heritage of Western Australia Act 1990* section 29, enter into a heritage agreement with an owner or occupier of land or a building for the purpose of binding the land or affecting the use of the land or building insofar as the interest of that owner or occupier permits.
- (2) The local government may not enter into an agreement with the owner or occupier of land or a building that relates to heritage matters other than in accordance with subclause (1).

**11. Heritage assessment**

- (1) Despite any existing assessment on record, the local government may require a heritage assessment to be carried out prior to the approval of any development proposed in a heritage area or in respect of a place entered in the heritage list.
- (2) A heritage assessment must be in a form approved by the Heritage Council of Western Australia.

**12. Variations to local planning scheme provisions for heritage purposes**

- (1) The local government may vary any site or development requirement specified in this Scheme to —
  - (a) facilitate the built heritage conservation of a place entered in the Register of Places under the *Heritage of Western Australia Act 1990* or listed in the heritage list; or
  - (b) enhance or preserve heritage values in a heritage area.
- (2) A variation under subclause (1) may be unconditional or subject to any conditions the local government considers appropriate.

- (3) If the local government is of the opinion that the variation of site or development requirements is likely to affect any owners or occupiers in the general locality of the place or the heritage area the local government must —
- (a) consult the affected parties by following one or more of the provisions for advertising uses under clause 64; and
  - (b) have regard to any views expressed prior to making its determination to vary the site or development requirements under this clause.

**13. Heritage conservation notice**

- (1) In this clause —

*heritage conservation notice* means a notice given under subclause (2);

*heritage place* means a place that is on the heritage list or located in a heritage area;

*properly maintained*, in relation to a heritage place, means maintained in a way that ensures that there is no actual or imminent loss or deterioration of —

- (a) the structural integrity of the heritage place; or
  - (b) an element of the heritage place that is integral to —
    - (i) the reason set out in the heritage list for the entry of the place in the heritage list; or
    - (ii) the heritage significance of the area in which it is located, as set out in a statement in the local planning policy for the area adopted in accordance with clause 9(2).
- (2) If the local government forms the view that a heritage place is not being properly maintained the local government may give to a person who is the owner or occupier of the heritage place a written notice requiring the person to carry out specified repairs to the heritage place by a specified time, being a time that is not less than 60 days after the day on which the notice is given.
- (3) If a person fails to comply with a heritage conservation notice, the local government may enter the heritage place and carry out the repairs specified in the notice.

- (4) The expenses incurred by the local government in carrying out repairs under subclause (3) may be recovered as a debt due from the person to whom the notice was given in a court of competent jurisdiction.
- (5) The local government may —
  - (a) vary a heritage conservation notice to extend the time for carrying out the specified repairs; or
  - (b) revoke a heritage conservation notice.
- (6) A person who is given a heritage conservation notice may apply to the State Administrative Tribunal for a review, in accordance with Part 14 of the Act, of a decision —
  - (a) to give the notice; or
  - (b) to require repairs specified in the notice to be carried out; or
  - (c) to require repairs specified in the notice to be carried out by the time specified in the notice.

#### **Part 4 — Structure plans**

#### **14. Term used: structure plan**

In this Part —

***structure plan*** means a plan for the coordination of future subdivision and zoning of an area of land.

#### **15. When structure plan may be prepared**

A structure plan in respect of an area of land in the Scheme area may be prepared if —

- (a) the area is —
  - (i) all or part of a zone identified in this Scheme as an area suitable for urban or industrial development; and
  - (ii) identified in this Scheme as an area requiring a structure plan to be prepared before any future subdivision or development is undertaken;
- or
- (b) a State planning policy requires a structure plan to be prepared for the area; or

- (c) the Commission considers that a structure plan for the area is required for the purposes of orderly and proper planning.

**16. Preparation of structure plan**

- (1) A structure plan must —
  - (a) be prepared in a manner and form approved by the Commission; and
  - (b) include any maps, information or other material required by the Commission; and
  - (c) unless the Commission otherwise agrees, set out the following information —
    - (i) the key attributes and constraints of the area covered by the plan including the natural environment, landform and the topography of the area;
    - (ii) the planning context for the area covered by the plan and the neighbourhood and region within which the area is located;
    - (iii) any major land uses, zoning or reserves proposed by the plan;
    - (iv) estimates of the future number of lots in the area covered by the plan and the extent to which the plan provides for dwellings, retail floor space or other land uses;
    - (v) the population impacts that are expected to result from the implementation of the plan;
    - (vi) the extent to which the plan provides for the coordination of key transport and other infrastructure;
    - (vii) the proposed staging of the subdivision or development covered by the plan.
- (2) The local government may prepare a structure plan in the circumstances set out in clause 15.
- (3) A person may make an application to the local government for a structure plan prepared by the person in the circumstances set out in clause 15 to be assessed and advertised if the person is —

- (a) a person who is the owner of any or all of the land in the area to which the plan relates; or
- (b) an agent of a person referred to in paragraph (a).

**17. Action by local government on receipt of application**

- (1) On receipt of an application for a structure plan to be assessed and advertised, the local government —
  - (a) must consider the material provided by the applicant and advise the applicant in writing —
    - (i) if the structure plan complies with clause 16(1); or
    - (ii) if further information from the applicant is required before the structure plan can be accepted for assessment and advertising;
  - and
  - (b) must give the applicant an estimate of the fee for dealing with the application in accordance with the *Planning and Development Regulations 2009* regulation 48.
- (2) The structure plan is to be taken to have been accepted for assessment and advertising if the local government has not given written notice to the applicant of its decision by the latest of the following days —
  - (a) 28 days after receipt of an application;
  - (b) 14 days after receipt of the further information requested under subclause (1)(a)(ii);
  - (c) if the local government has given the applicant an estimate of the fee for dealing with the application — the day the applicant pays the fee.

**18. Advertising structure plan**

- (1) The local government must, within 28 days of preparing a structure plan or accepting an application for a structure plan to be assessed and advertised —
  - (a) advertise the proposed structure plan in accordance with subclause (2); and
  - (b) seek comments in relation to the proposed structure plan from any public authority or utility service provider that the local government considers appropriate; and

- (c) provide to the Commission —
  - (i) a copy of the proposed structure plan and all accompanying material; and
  - (ii) details of the advertising and consultation arrangements for the plan.
- (2) The local government must advertise the structure plan in one or more of the following ways —
  - (a) by giving notice of the proposed structure plan to owners and occupiers who, in the opinion of the local government, are likely to be affected by the approval of the structure plan, including a statement that submissions may be made to the local government by a specified day being a day not less than 14 days and not more than 28 days, or a later day approved by the Commission, from the day on which the notice is given to the person;
  - (b) by publishing a notice of the proposed structure plan in a newspaper circulating in the Scheme area including a statement that submissions may be made to the local government by a specified day being a day not less than 14 days and not more than 28 days, or a later day approved by the Commission, from the day on which the notice is published;
  - (c) by publishing a notice of the proposed structure plan on the local government website including a statement that submissions may be made to the local government by a specified day being a day not less than 14 days and not more than 28 days, or a later day approved by the Commission, from the day on which the notice is published;
  - (d) by erecting a sign or signs in a conspicuous place on the land the subject of the proposed structure plan giving notice of the proposed plan for a period of not less than 14 days and not more than 28 days from the day on which the sign is erected including on each sign a statement that submissions may be made to the local government by a specified day being a day not less than 14 days and not more than 28 days, or a later day approved by the Commission, from the day on which the sign is erected.

- (3) The local government —
  - (a) must make a structure plan advertised under subclause (2) and the material accompanying it available for public inspection during business hours at the offices of the local government; and
  - (b) may publish the structure plan and the material accompanying it on the website of the local government.
- (4) If a local government fails to advertise a structure plan in accordance with this clause, the Commission may take reasonable steps to ensure that the plan is advertised.
- (5) All costs incurred by the Commission in the exercise of the power conferred by subclause (4) may, with the approval of the Minister, be recovered from the local government as a debt due to the Commission.

**19. Consideration of submissions**

- (1) The local government —
  - (a) must consider all submissions made to the local government within the period specified in a notice advertising the structure plan; and
  - (b) may consider submissions made to the local government after that time; and
  - (c) may request further information from a person who prepared the structure plan; and
  - (d) may advertise any modifications proposed to the structure plan to address issues raised in submissions.
- (2) If a local government makes a decision under subclause (1)(d) the local government must take any steps the local government considers appropriate to advertise the proposed modification to the structure plan.
- (3) Modifications to a structure plan may not be advertised on more than one occasion without the approval of the Commission.



**20. Local government report to Commission**

- (1) The local government must prepare a report on the proposed structure plan and provide it to the Commission no later than 60 days after the day that is the latest of —
  - (a) the last day for making submissions specified in a notice given or published under clause 18(2); or
  - (b) the last day for making submissions after a proposed modification of the structure plan is advertised under clause 19(2); or
  - (c) a day agreed by the Commission.
- (2) The report on the proposed structure plan must include the following —
  - (a) a list of the submissions considered by the local government, including, if relevant, any submissions received on a proposed modification to the structure plan advertised under clause 19(2);
  - (b) any comments by the local government in respect of those submissions;
  - (c) a schedule of any proposed modifications to address issues raised in the submissions;
  - (d) the local government's assessment of the proposal based on appropriate planning principles;
  - (e) a recommendation by the local government on whether the proposed structure plan should be approved by the Commission, including a recommendation on any proposed modifications.

**21. Cost and expenses incurred by local government**

The costs and expenses incurred by the local government in giving a report under clause 20(1), are, to the extent that they are not payable by a person who prepared a structure plan under the *Planning and Development Regulations 2009* regulation 49, to be borne by the local government.

**22. Decision of Commission**

- (1) On receipt of a report on a proposed structure plan, the Commission must consider the plan and the report and may —
  - (a) approve the structure plan; or
  - (b) require the local government or the person who prepared the structure plan to —
    - (i) modify the plan in the manner specified by the Commission; and
    - (ii) resubmit the modified plan to the Commission for approval;or
  - (c) refuse to approve the structure plan.
- (2) Before making a decision under subclause (1), the Commission may, if the Commission considers that major modifications have been made to the structure plan since it was advertised, direct the local government to readvertise the structure plan in the manner specified by the Commission.
- (3) The Commission may not direct the local government to readvertise the structure plan on more than one occasion.
- (4) If the Commission is not given a report on a proposed structure plan in accordance with clause 20(1), the Commission may make a decision on the proposed structure plan under subclause (1) in the absence of the report.
- (5) The Commission is to be taken to have refused to approve a structure plan if the Commission has not made a decision under subclause (1) within —
  - (a) 120 days of the day on which the local government provides the report to the Commission, excluding any period between the Commission requiring modifications to the structure plan and the resubmission of the modified plan; or
  - (b) a longer period agreed in writing between the Commission and the person who prepared the proposed structure plan.
- (6) Despite subclause (5), the Commission may decide whether or not to approve a structure plan after the period applicable under

subclause (5) has expired, and the validity of the decision is not affected by the expiry.

- (7) The Commission must give the local government and any person who prepared the proposed structure plan written notice of its decision to approve or to refuse to approve a structure plan.

**23. Further services or information from local government**

- (1) The Commission may direct the local government to give to the Commission technical advice and assistance or further information in writing in connection with the application if —
- (a) the local government does not provide a report on a structure plan within the timeframe referred to in clause 20(1); or
  - (b) the local government provides a report on a structure plan that does not contain sufficient information for the Commission to make its decision on whether or not to approve the structure plan.
- (2) The direction must be in writing and must specify —
- (a) the services or information required; and
  - (b) the time within which the local government must comply with the direction.
- (3) If a local government fails to comply with a direction given to it under subclause (1), the Commission may take reasonable steps to obtain the services or information referred to in the direction on its own behalf.
- (4) All costs incurred by the Commission in the exercise of the power conferred by subclause (3) may, with the approval of the Minister, be recovered from the local government as a debt due to the Commission.

**24. Structure plan may provide for later approval of details of subdivision**

- (1) The Commission may approve a structure plan that provides for further details of a proposed subdivision included in the plan to be submitted to, and approved by, the Commission before the subdivision is approved under Part 10 of the Act.

- (2) The Commission may only approve a structure plan referred to in subclause (1) if the Commission is satisfied that the further matters that are to be approved would not result in a substantial departure from the plan.

**25. Review**

A person who prepared a structure plan may apply to the State Administrative Tribunal for a review, in accordance with the *Planning and Development Act 2005* Part 14, of a decision by the Commission not to approve the structure plan.

**26. Publication of structure plan approved by Commission**

- (1) If the Commission approves a structure plan the Commission must publish the structure plan in any manner the Commission considers appropriate.
- (2) The local government may publish a structure plan approved by the Commission on the website of the local government.

**27. Effect of structure plan**

- (1) A decision-maker for an application for development approval or subdivision approval in an area that is covered by a structure plan that has been approved by the Commission is to have due regard to, but is not bound by, the structure plan when deciding the application.
- (2) A decision-maker for an application for development approval or subdivision approval in an area referred to in clause 15 as being an area for which a structure plan may be prepared, but for which no structure plan has been approved by the Commission, may approve the application if the decision-maker is satisfied that —
  - (a) the proposed development or subdivision does not conflict with the principles of orderly and proper planning; and
  - (b) the proposed development or subdivision would not prejudice the overall development potential of the area.

**28. Duration of approval**

- (1) The approval of a structure plan has effect for a period of 10 years commencing on the day on which the Commission approves the plan, or another period determined by the Commission, unless —
  - (a) the Commission earlier revokes its approval; or
  - (b) an amendment to the Scheme that covers the area to which the structure plan relates takes effect in accordance with section 87 of the Act.
- (2) For the purposes of subclause (1), a structure plan that was approved before the day referred to in the *Planning and Development (Local Planning Schemes) Regulations 2015* regulation 2(b) (**commencement day**) is to be taken to have been approved on commencement day.
- (3) The Commission may extend the period of approval of a structure plan if there are no changes to the terms of the plan or the conditions attached to the approval.
- (4) The Commission may revoke its approval of a structure plan if the Commission considers that the structure plan cannot be effectively implemented because of a legislative change or a change in a State planning policy.

**29. Amendment of structure plan**

- (1) A structure plan may be amended by the Commission at the request of the local government or a person who owns land in the area covered by the plan.
- (2) The procedures for making a structure plan set out in this Part, with any necessary changes, are to be followed in relation to an amendment to a structure plan.
- (3) Despite subclause (2), the local government may decide not to advertise an amendment to a structure plan if, in the opinion of the local government and the Commission, the amendment is of a minor nature.
- (4) An amendment to a structure plan does not extend the period of approval of the plan unless, at the time the amendment is approved, the Commission agrees to extend the period.

## **Part 5 — Activity centre plans**

### **30. Terms used**

In this Part —

*activity centre* means —

- (a) an area of land identified in accordance with a State planning policy as an activity centre; or
- (b) an area of land identified by the Commission as an activity centre;

*activity centre plan* or *activity centre structure plan* means a plan for the coordination of the future subdivision, zoning and development of an activity centre.

### **31. When activity centre plan may be prepared**

An activity centre plan in respect of an area of land in the Scheme area may be prepared if —

- (a) a State planning policy requires an activity centre structure plan to be prepared for the area; or
- (b) the Commission considers that an activity centre plan for the area is required for the purposes of orderly and proper planning.

### **32. Preparation of activity centre plan**

(1) An activity centre plan must —

- (a) be prepared in a manner and form approved by the Commission; and
- (b) include any maps, information or other material required by the Commission; and
- (c) unless the Commission otherwise agrees, set out the following information —
  - (i) the key attributes and constraints of the area covered by the plan including the natural environment, landform and the topography of the area;
  - (ii) the planning context for the area covered by the plan and the neighbourhood and region within which the area is located;

- (iii) any major land uses, zoning or reserves proposed by the plan;
- (iv) estimates of the future number of lots in the area covered by the plan and the extent to which the plan provides for dwellings, retail floor space or other land uses;
- (v) the population impacts that are expected to result from the implementation of the plan;
- (vi) the extent to which the plan provides for the coordination of key transport and other infrastructure;
- (vii) the proposed staging of the subdivision or development covered by the plan;
- (viii) the standards to be applied for the buildings, other structures and works that form part of the development or subdivision to which it applies;
- (ix) arrangements for the management of services for the development or subdivision;
- (x) the arrangements to be made for vehicles to access the area covered by the plan.

- (2) The local government may prepare an activity centre plan in the circumstances set out in clause 31.
- (3) A person may make an application to the local government for an activity centre plan prepared by the person in the circumstances set out in clause 31 to be assessed and advertised if the person is —
  - (a) a person who is the owner of any or all of the land in the area to which the plan relates; or
  - (b) an agent of a person referred to in paragraph (a).

**33. Action by local government on receipt of application**

- (1) On receipt of an application for an activity centre plan to be assessed and advertised, the local government —
  - (a) must consider the material provided by the applicant and advise the applicant in writing —
    - (i) if the activity plan complies with clause 32(1); or

- (ii) if further information from the applicant is required before the activity centre plan can be accepted for assessment and advertising;
  - and
  - (b) must give the applicant an estimate of the fee for dealing with the application in accordance with the *Planning and Development Regulations 2009* regulation 48.
- (2) The activity centre plan is to be taken to have been accepted for assessment and advertising if the local government has not given written notice of its decision to the applicant by the latest of the following days —
- (a) 28 days after receipt of an application;
  - (b) 14 days after receipt of the further information requested under subclause (1)(a)(ii);
  - (c) if the local government has given the applicant an estimate of the fee for dealing with the application — the day on which the applicant pays the fee.

**34. Advertising activity centre plan**

- (1) The local government must, within 28 days of preparing an activity centre plan or accepting an application for an activity centre plan to be assessed and advertised —
- (a) advertise the proposed activity centre plan in accordance with subclause (2); and
  - (b) seek comments in relation to the proposed activity centre plan from any public authority or utility service provider that the local government considers appropriate; and
  - (c) provide to the Commission —
    - (i) a copy of the proposed activity centre plan and all accompanying material;
    - (ii) details of the advertising and consultation arrangements for the plan.
- (2) The local government must advertise the activity centre plan in one or more of the following ways —



- (a) by giving notice of the proposed activity centre plan to owners and occupiers who, in the opinion of the local government, are likely to be affected by the approval of the activity centre plan, including a statement that submissions may be made to the local government by a specified day being a day not less than 14 days and not more than 28 days, or a later day approved by the Commission, from the day on which the notice is given to the person;
  - (b) by publishing a notice of the proposed activity centre plan in a newspaper circulating in the Scheme area including a statement that submissions may be made to the local government by a specified day being a day not less than 14 days and not more than 28 days, or a later day approved by the Commission, from the day on which the notice is published;
  - (c) by publishing a notice of the proposed activity centre plan by electronic means in a form approved by the local government CEO including a statement that submissions may be made to the local government by a specified day being a day not less than 14 days and not more than 28 days, or a later day approved by the Commission, from the day on which the notice is published;
  - (d) by erecting a sign or signs in a conspicuous place on the land the subject of the proposed activity centre plan giving notice of the proposed plan for a period of not less than 14 days and not more than 28 days from the day on which the sign is erected including on each sign a statement that submissions may be made to the local government by a specified day being a day not less than 14 days and not more than 28 days, or a later day approved by the Commission, from the day on which the sign is erected.
- (3) The local government —
  - (a) must make an activity centre plan advertised under subclause (2) and the material accompanying it available for public inspection during business hours at the offices of the local government; and
  - (b) may publish the activity centre plan and the material accompanying it on the website of the local government.

- (4) If a local government fails to advertise an activity centre plan in accordance with this clause, the Commission may take reasonable steps to ensure that the plan is advertised.
- (5) All costs incurred by the Commission in the exercise of the power conferred by subclause (4) may, with the approval of the Minister, be recovered from the local government as a debt due to the Commission.

**35. Consideration of submissions**

- (1) The local government —
  - (a) must consider all submissions made to the local government within the period specified in a notice advertising a proposed activity centre plan; and
  - (b) may consider submissions made to the local government after that time; and
  - (c) may request further information from a person who prepared the activity centre plan; and
  - (d) may advertise any modifications proposed to the activity centre plan to address issues raised in submissions.
- (2) If a local government makes a decision under subclause (1)(d) the local government must take any steps the local government considers appropriate to advertise the proposed modification to the activity centre plan.
- (3) Modifications to an activity centre plan may not be advertised on more than one occasion without the approval of the Commission.

**36. Local government report to Commission**

- (1) The local government must prepare a report on the proposed activity centre plan and provide it to the Commission no later than 60 days after the day that is the latest of —
  - (a) the last day for making submissions specified in a notice given or published under clause 34(2); or
  - (b) the last day for making submissions after a proposed amendment to the activity centre plan is advertised under clause 35(2); or
  - (c) a day agreed by the Commission.

- (2) The report on the proposed activity centre plan must be in a form approved by the Commission and must include the following —
- (a) a list of the submissions considered by the local government, including if relevant, any submissions received on a proposed modification to the activity centre plan advertised under clause 35(2);
  - (b) any comments by the local government in respect of those submissions;
  - (c) a schedule of any proposed modifications to address issues raised in the submissions;
  - (d) the local government's assessment of the proposal based on appropriate planning principles;
  - (e) a recommendation by the local government on whether the proposed activity centre plan should be approved by the Commission, including a recommendation on any proposed modifications.

**37. Cost and expenses incurred by local government**

The costs and expenses incurred by the local government in giving a report under clause 36(1), are, to the extent that they are not payable by a person who prepared an activity centre plan under the *Planning and Development Regulations 2009* regulation 49, to be borne by the local government.

**38. Decision of Commission**

- (1) On receipt of a report on a proposed activity centre plan, the Commission must consider the plan and the report and may —
- (a) approve the activity centre plan; or
  - (b) require the local government or the person who prepared the activity centre plan to —
    - (i) modify the plan in the manner specified by the Commission; and
    - (ii) resubmit the modified plan to the Commission for approval;
- or
- (c) refuse to approve the activity centre plan.

- (2) Before making a decision under subclause (1), the Commission may, if the Commission considers that major modifications have been made to the activity centre plan since it was advertised, direct the local government to readvertise the activity centre plan as specified by the Commission.
- (3) The Commission must not direct the local government to readvertise the activity centre plan on more than one occasion.
- (4) If the Commission is not given a report on a proposed activity centre plan in accordance with clause 36(1), the Commission may make a decision on the proposed plan under subclause (1) in the absence of the report.
- (5) The Commission is to be taken to have refused to approve an activity centre plan if the Commission has not made a decision under subclause (1) within —
  - (a) 120 days of the day on which the local government provides the report to the Commission, excluding any period between the Commission requiring modifications to the activity centre plan and the resubmission of the modified plan; or
  - (b) a longer period agreed in writing between the Commission and the person who prepared the proposed activity centre plan.
- (6) Despite subclause (5), the Commission may decide whether or not to approve an activity centre plan after the period applicable under subclause (5) has expired, and the validity of the decision is not affected by the expiry.
- (7) The Commission must give the local government and any person who prepared the proposed activity centre plan written notice of its decision to approve or to refuse to approve an activity centre plan.

**39. Further services or information from local government**

- (1) The Commission may direct the local government to give to the Commission technical advice and assistance or further information in writing in connection with the application if —
  - (a) the local government does not provide a report on an activity centre plan within the timeframe referred to in clause 36(1); or

- (b) the local government provides a report on an activity centre plan that does not contain sufficient information for the Commission to make its decision on whether or not to approve the activity centre plan.

- (2) The direction must be in writing and must specify —

- (a) the services or information required; and
- (b) the time within which the local government must comply with the direction.

- (3) If a local government fails to comply with a direction given to it under subclause (1), the Commission may take reasonable steps to obtain the services or information referred to in the direction on its own behalf.

- (4) All costs incurred by the Commission in the exercise of the power conferred by subclause (3) may, with the approval of the Minister, be recovered from the local government as a debt due to the Commission.

**40. Activity centre plan may provide for later approval of details of subdivision or development**

- (1) The Commission may approve an activity centre plan that provides for —

- (a) further details of a subdivision included in the plan to be submitted to, and approved by, the Commission before the subdivision is approved under Part 10 of the Act; or
- (b) further details of development included in the plan to be submitted to, and approved by, the local government before the development commences.

- (2) The Commission may only approve an activity centre plan referred to in subclause (1) if the Commission is satisfied that the further matters that are to be approved would not result in a substantial departure from the plan.

**41. Review**

A person who prepared an activity centre plan may apply to the State Administrative Tribunal for a review, in accordance with the *Planning and Development Act 2005* Part 14, of a decision by the Commission not to approve the activity centre plan.

**42. Publication of activity centre plan approved by Commission**

- (1) If the Commission approves an activity centre plan the Commission must publish the activity centre plan in any manner the Commission considers appropriate.
- (2) The local government may publish an activity centre plan approved by the Commission on the website of the local government.

**43. Effect of activity centre plan**

- (1) A decision-maker for an application for development approval or subdivision approval in an area that is covered by an activity centre plan that has been approved by the Commission is to have due regard to, but is not bound by, the activity centre plan when deciding the application.
- (2) A decision-maker for an application for development approval or subdivision approval in an area referred to in clause 31 as being an area for which an activity centre plan may be prepared, but for which no activity centre plan has been approved by the Commission, may approve the application if the decision-maker is satisfied that —
  - (a) the proposed development or subdivision does not conflict with the principles of orderly and proper planning; and
  - (b) the proposed development or subdivision would not prejudice the overall development potential of the area.

**44. Duration of approval**

- (1) The approval of an activity centre plan has effect for a period of 10 years commencing on the day on which the Commission approves the plan, or another period determined by the Commission, unless —
  - (a) the Commission earlier revokes its approval; or
  - (b) an amendment to the Scheme that covers the area to which the activity centre plan relates takes effect in accordance with section 87 of the Act.
- (2) For the purposes of subclause (1), an activity centre plan that was approved before the day referred to in the *Planning and Development (Local Planning Schemes) Regulations 2015* regulation 2(b) (**commencement day**) has effect as if it were approved on commencement day.

- (3) The Commission may extend the period of approval of an activity centre plan if there are no changes to the terms of the plan or the conditions attached to the approval.
- (4) The Commission may revoke its approval of an activity centre plan if the Commission considers that the activity centre plan cannot be effectively implemented because of a legislative change or a change in a State planning policy.

**45. Amendment of activity centre plan**

- (1) An activity centre plan may be amended by the Commission at the request of the local government or a person who owns land in the area covered by the plan.
- (2) The procedures for making an activity centre plan set out in this Part, with any necessary changes, are to be followed in relation to an amendment to an activity centre plan.
- (3) Despite subclause (2), the local government may decide not to advertise an amendment to an activity centre plan if, in the opinion of the local government and the Commission, the amendment is of a minor nature.
- (4) An amendment to an activity centre plan does not extend the period of approval of the plan unless, at the time the amendment is approved, the Commission agrees to extend the period.

**Part 6 — Local development plans**

**46. Term used: local development plan**

In this Part —

***local development plan*** means a plan setting out specific and detailed guidance for a future development including one or more of the following —

- (a) site and development standards that are to apply to the development;
- (b) specifying exemptions from the requirement to obtain development approval for development in the area to which the plan relates.

**47. When local development plan may be prepared**

A local development plan in respect of an area of land in the Scheme area may be prepared if —

- (a) the Commission has identified the preparation of a local development plan as a condition of approval of a plan of subdivision of the area; or
- (b) a structure plan requires a local development plan to be prepared for the area; or
- (c) an activity centre plan requires a local development plan to be prepared for the area; or
- (d) the Commission and the local government considers that a local development plan is required for the purposes of orderly and proper planning.

**48. Preparation of local development plan**

- (1) A local development plan must —
  - (a) be prepared in a manner and form approved by the Commission; and
  - (b) include any maps or other material considered by the local government to be necessary; and
  - (c) set out the following information —
    - (i) the standards to be applied for the buildings, other structures and works that form part of the development to which it applies;
    - (ii) details of the arrangements to be made for vehicles to access the area covered by the plan.
- (2) The local government may prepare a local development plan in the circumstances set out in clause 47.
- (3) A person may make an application to the local government for a local development plan prepared by the person in the circumstances set out in clause 47 to be assessed and advertised if the person is —
  - (a) a person who is the owner of any or all of the land in the area to which the plan relates; or
  - (b) an agent of a person referred to in paragraph (a).



**49. Action by local government on receipt of application**

- (1) On receipt of an application for a local development plan to be assessed and advertised, the local government —
- (a) must consider the material provided by the applicant and advise the applicant in writing —
    - (i) if the local development plan complies with clause 48(1); or
    - (ii) if further information from the applicant is required before the local development plan can be accepted for assessment and advertising;
  - and
  - (b) must give the applicant an estimate of the fee for dealing with the application in accordance with the *Planning and Development Regulations 2009* regulation 48.
- (2) The local development plan is to be taken to have been accepted for assessment and advertising if the local government has not given written notice of its decision to the applicant by the latest of the following days —
- (a) 14 days after receipt of an application;
  - (b) 7 days after receipt of the further information requested under subclause (1)(a)(ii);
  - (c) if the local government has given the applicant an estimate of the fee for dealing with the application — the day on which the applicant pays the fee.

**50. Advertising of local development plan**

- (1) The local government must, within 28 days of preparing a local development plan or accepting an application for a local development plan to be assessed and advertised —
- (a) advertise the proposed local development plan in accordance with subclause (2); and
  - (b) seek comments in relation to the proposed local development plan from any public authority or utility service that the local government considers appropriate.

- (2) The local government must advertise the local development plan in one or more of the following ways —
- (a) by giving notice of the proposed plan to owners and occupiers who, in the opinion of the local government, are likely to be affected by the approval of the plan, including a statement that submissions may be made to the local government by a specified day being a day not less than 14 days from the day on which the notice is given to the person;
  - (b) by publishing a notice of the proposed plan in a newspaper circulating in the Scheme area including a statement that submissions may be made to the local government by a specified day being a day not less than 14 days from the day on which the notice is published;
  - (c) by publishing a notice of the proposed plan by electronic means in a form approved by the local government CEO including a statement that submissions may be made to the local government by a specified day being a day not less than 14 days from the day on which the notice is published;
  - (d) by erection of a sign or signs in a conspicuous place on the land the subject of the proposed plan giving notice of the proposed plan for a period of not less than 14 days from the day on which the sign is erected including on each sign a statement that submissions may be made to the local government by a specified day being a day not less than 14 days from the day on which the sign is erected.
- (3) Despite subclause (1) the local government may decide not to advertise a local development plan if the local government is satisfied that the plan is not likely to adversely affect any owners or occupiers within the area covered by the plan or an adjoining area.
- (4) The local government —
- (a) must make a local development plan advertised under subclause (1) and the material accompanying it available for public inspection during business hours at the offices of the local government; and
  - (b) may publish the local development plan and the material accompanying it on the website of the local government.

**51. Consideration of submissions**

The local government —

- (a) must consider all submissions in relation to a local development plan made to the local government within the period specified in a notice advertising a proposed local development plan; and
- (b) may consider submissions in relation to a local development plan made to the local government after that time; and
- (c) is to have due regard to the matters set out in clause 67 to the extent that, in the opinion of the local government those matters are relevant to the development to which the plan relates.

**52. Decision of local government**

- (1) Following consideration of a proposed local development plan, including any amendments made to the plan to address matters raised in submissions, the local government must —
  - (a) approve the local development plan; or
  - (b) require the person who prepared the local development plan to —
    - (i) modify the plan in the manner specified by the local government; and
    - (ii) resubmit the modified plan to the local government for approval;or
  - (c) refuse to approve the plan.
- (2) The local government is to be taken to have refused to approve a local development plan if the local government has not made a decision under subclause (1) —
  - (a) if the plan was advertised — within the period of 60 days after the last day for making submissions specified in a notice given or published under clause 50(2) or a longer period agreed between the local government and a person other than the local government who prepared the plan; or

- (b) if the plan was not advertised — within the period of 60 days after the resolution not to advertise the plan was made by the local government or a longer period agreed between the local government and a person other than the local government who prepared the plan.
- (3) For the purposes of calculating the periods referred to in subclause (2)(a) and (b), the period between the local government requiring modifications to the local development plan and the resubmission of the modified plan is to be excluded.
- (4) Despite subclause (2), the local government may decide whether or not to approve a local development plan after the period applicable under subclause (2) has expired, and the validity of the decision is not affected by the expiry.
- (5) The local government must give any person who prepared the local development plan written notice of its decision to approve or to refuse to approve a local development plan.

**53. Local development plan may provide for later approval of details of development**

- (1) The local government may approve a local development plan that provides for further details of any development included in the plan to be submitted to, and approved by, the local government before the development commences.
- (2) The local government may only approve a local development plan referred to in subclause (1) if the local government is satisfied that the further matters that are to be approved would not result in a substantial departure from the plan.

**54. Review**

A person who prepared a local development plan may apply to the State Administrative Tribunal for a review, in accordance with the *Planning and Development Act 2005* Part 14, of a decision by the local government not to approve the local development plan.

**55. Publication of local development plan approved by local government**

If the local government approves a local development plan the local government must publish the local development plan on the website of the local government.

**56. Effect of local development plan**

- (1) A decision-maker for an application for development approval in an area that is covered by a local development plan that has been approved by the local government must have due regard to, but is not bound by, the local development plan when deciding the application.
- (2) A decision-maker for an application for development approval in an area referred to in clause 47 as being an area for which a local development plan may be prepared, but for which no local development plan has been approved by the local government, may approve the application if the decision-maker is satisfied that —
  - (a) the proposed development does not conflict with the principles of orderly and proper planning; and
  - (b) the proposed development would not prejudice the overall development potential of the area.

**57. Duration of approval**

- (1) The approval of a local development plan has effect for a period of 10 years commencing on the day on which the local government approves the plan, or another period determined by the local government, unless the local government earlier revokes its approval.
- (2) For the purposes of subclause (1), a local development plan that was approved before the day referred to in the *Planning and Development (Local Planning Schemes) Regulations 2015* regulation 2(b) (**commencement day**) is to be taken to have been approved on commencement day.
- (3) A local government may extend the period of approval of a local development plan if there are no changes to the terms of the plan or the conditions attached to the approval.

**58. Revocation of local development plan**

The local government must not revoke approval of a local development plan unless this Scheme is amended so that the development to which the plan relates is a non-conforming use.

**59. Amendment of local development plan**

- (1) A local development plan may be amended by the local government.
- (2) A person who owns land in the area covered by a local development plan may request the local government to amend the plan.
- (3) The procedures for making a local development plan set out in this Part, with any necessary changes, are to be followed in relation to an amendment to a local development plan.
- (4) Despite subclause (3), the local government may decide not to advertise an amendment to a local development plan if, in the opinion of the local government, the amendment is of a minor nature.
- (5) An amendment to a local development plan does not extend the period of approval of the plan unless, at the time the amendment is approved, the local government agrees to extend the period.

**Part 7 — Requirement for development approval**

**60. Requirement for development approval**

A person must not commence or carry out any works on, or use, land in the Scheme area unless —

- (a) the person has obtained the development approval of the local government under Part 8; or
- (b) the development is of a type referred to in clause 61.

Note:

1. Development includes the erection, placement and display of advertisements.
2. Approval to commence development may also be required from the Commission if the land is subject to a region planning scheme.

**61. Development for which development approval not required**

- (1) Development approval of the local government is not required for the following works —

- (a) the carrying out of works that are wholly located on an area identified as a regional reserve under a region planning scheme;

Note:

Approval may be required from the Commission for development on a regional reserve under a region planning scheme.

- (b) the carrying out of internal building work which does not materially affect the external appearance of the building unless the development is located in a place that is —
- (i) entered in the Register of Heritage Places under the *Heritage of Western Australia Act 1990*; or
  - (ii) the subject of an order under the *Heritage of Western Australia Act 1990* Part 6; or
  - (iii) included on a heritage list prepared in accordance with this Scheme and identified on that list as having an interior with cultural heritage significance; or
  - (iv) the subject of a heritage agreement entered into under the *Heritage of Western Australia Act 1990* section 29;
- (c) the erection or extension of a single house on a lot if the R-Codes apply to the development and the development satisfies the deemed-to-comply requirements of the R-Codes unless the development is located in a place that is —
- (i) entered in the Register of Heritage Places under the *Heritage of Western Australia Act 1990*; or
  - (ii) the subject of an order under the *Heritage of Western Australia Act 1990* Part 6; or
  - (iii) included on a heritage list prepared in accordance with this Scheme; or
  - (iv) within an area designated under the Scheme as a heritage area; or

- (v) the subject of a heritage agreement entered into under the *Heritage of Western Australia Act 1990* section 29;
- (d) the erection or extension of an ancillary dwelling, outbuilding, external fixture, boundary wall or fence, patio, pergola, veranda, garage, carport or swimming pool on the same lot as a single house or a grouped dwelling if the R-Codes apply to the development and the development satisfies the deemed-to-comply requirements of the R-Codes unless the development is located in a place that is —
  - (i) entered in the Register of Heritage Places under the *Heritage of Western Australia Act 1990*; or
  - (ii) the subject of an order under the *Heritage of Western Australia Act 1990* Part 6; or
  - (iii) included on a heritage list prepared in accordance with this Scheme; or
  - (iv) within an area designated under the Scheme as a heritage area; or
  - (v) the subject of a heritage agreement entered into under the *Heritage of Western Australia Act 1990* section 29;
- (e) the demolition of a single house, ancillary dwelling, outbuilding, external fixture, boundary wall or fence, patio, pergola, veranda, garage, carport or swimming pool except where the single house or other structure is —
  - (i) located in a place that is entered in the Register of Heritage Places under the *Heritage of Western Australia Act 1990*; or
  - (ii) the subject of an order under the *Heritage of Western Australia Act 1990* Part 6; or
  - (iii) included on a heritage list prepared in accordance with this Scheme; or
  - (iv) located within an area designated under this Scheme as a heritage area; or
  - (v) the subject of a heritage agreement entered into under the *Heritage of Western Australia Act 1990* section 29;



- (f) temporary works which are in existence for less than 48 hours, or a longer period agreed by the local government, in any 12 month period;
- (g) the temporary erection or installation of an advertisement if —
  - (i) the advertisement is erected or installed in connection with an election, referendum or other poll conducted under the *Commonwealth Electoral Act 1918* (Commonwealth), the *Electoral Act 1907* or the *Local Government Act 1995*; and
  - (ii) the primary purpose of the advertisement is for political communication in relation to the election, referendum or poll; and
  - (iii) the advertisement is not erected or installed until the election, referendum or other poll is called and is removed no later than 48 hours after the election, referendum or other poll is conducted;
- (h) the erection or installation of a sign of a class specified in a local planning policy or local development plan that applies in respect of the sign unless the sign is to be erected or installed —
  - (i) on a place included on a heritage list prepared in accordance with this Scheme; or
  - (ii) on land located within an area designated under this Scheme as a heritage area;
- (i) the carrying out of any other works specified in a local planning policy or local development plan that applies to the development as works that do not require development approval;
- (j) the carrying out of works of a type identified elsewhere in this Scheme as works that do not require development approval.

**Note:**

1. The *Planning and Development Act 2005* section 157 applies in respect of the carrying out of works necessary to enable the subdivision of land if the Commission has approved a plan of the subdivision.

2. The *Planning and Development Act 2005* section 6 applies in respect of the carrying out of public works by the Crown, the Governor, the Government of the State or a local government

- (2) Development approval of the local government is not required for the following uses —

- (a) a use that is wholly located on an area identified as a regional reserve under a region planning scheme;

Note:

Approval may be required from the Commission for development on a regional reserve under a region planning scheme.

- (b) development that is a use identified in this Scheme as a use that is permitted in the zone in which the development is located and —
- (i) the development has no works component; or
- (ii) development approval is not required for the works component of the development;
- (c) the use of premises as a home office;
- (d) temporary use which is in existence for less than 48 hours, or a longer period agreed by the local government, in any 12 month period;
- (e) any other use specified in a local planning policy or local development plan that applies to the development as a use that does not require development approval;
- (f) use of a type identified elsewhere in this Scheme as use that does not require development approval.

- (3) Despite subclause (1) development approval may be required for certain works carried out —

- (a) in a special control area; or
- (b) on land designated by an order made under the *Fire and Emergency Services Act 1998* section 18P as a bush fire prone area.

- (4) For the purposes of subclause (1)(c) or (d), development is to be taken to satisfy a deemed-to-comply requirement of the R-Codes if it complies with —

- (a) a requirement in a local development plan or activity centre plan made under the R-Codes that amends or replaces the deemed-to-comply requirement; or
  - (b) a requirement —
    - (i) in a structure plan that was approved before the day referred to in the *Planning and Development (Local Planning Schemes) Regulations 2015* regulation 2(b); and
    - (ii) that amends or replaces the deemed-to-comply requirement;
- or
- (c) a requirement in a local planning policy that amends or replaces the deemed-to-comply requirement.
- (5) If under subclause (1)(c) or (d) development approval is not required for the carrying out of works on land, the owner of the land may provide to the local government confirmation of the matters set out in subclause (1)(c) or (d), as relevant, in a manner and form approved by the Commission.

*[Clause 61 amended in Gazette 7 Dec 2015 p. 4883-4.]*

## **Part 8 — Applications for development approval**

### **62. Form of application**

- (1) An application for development approval must be —
  - (a) made in the form of the “Application for development approval” set out in clause 86(1); and
  - (b) signed by the owner of the land on which the proposed development is to be located; and
  - (c) accompanied by any fee for an application of that type set out in the *Planning and Development Regulations 2009* or prescribed under the *Local Government Act 1995*; and
  - (d) accompanied by the plans and information specified in clause 63.



- (iii) the location, height and type of all existing structures and environmental features, including watercourses, wetlands and native vegetation on the site;
  - (iv) the structures and environmental features that are proposed to be removed;
  - (v) the existing and proposed use of the site, including proposed hours of operation, and buildings and structures to be erected on the site;
  - (vi) the existing and proposed means of access for pedestrians and vehicles to and from the site;
  - (vii) the location, number, dimensions and layout of all car parking spaces intended to be provided;
  - (viii) the location and dimensions of any area proposed to be provided for the loading and unloading of vehicles carrying goods or commodities to and from the site and the means of access to and from those areas;
  - (ix) the location, dimensions and design of any open storage or trade display area and particulars of the manner in which it is proposed to develop the open storage or trade display area;
  - (x) the nature and extent of any open space and landscaping proposed for the site;
- and
- (b) plans, elevations and sections of any building proposed to be erected or altered and of any building that is intended to be retained; and
  - (c) a report on any specialist studies in respect of the development that the local government requires the applicant to undertake such as site surveys or traffic, heritage, environmental, engineering or urban design studies; and
  - (d) any other plan or information that the local government reasonably requires.
- (2) The local government may waive or vary a requirement set out in subclause (1).
  - (3) Where an application relates to a place entered on a heritage list prepared in accordance with this Scheme or within an area designated

under this Scheme as a heritage area, the local government may require the application to be accompanied by one or more of the following —

- (a) street elevations drawn as one continuous elevation to a scale not smaller than 1:100 showing the proposed development and the whole of the existing development on each lot immediately adjoining the land the subject of the application;
- (b) a detailed schedule of all finishes, including materials and colours of the proposed development;
- (c) a description of the finishes of the existing developments on the subject lot and on each lot immediately adjoining the subject lot.

**64. Advertising applications**

- (1) An application for development approval must be advertised under this clause if the proposed development —
  - (a) relates to the extension of a non-conforming use; or
  - (b) relates to a use if —
    - (i) the use is not specifically referred to in the zoning table for this Scheme in respect of the zone in which the development is located; and
    - (ii) the local government determines that the use may be consistent with the objective of that zone and that notice of the application should be given;or
  - (c) does not comply with a requirement of this Scheme; or
  - (d) is a development for which the local government requires a heritage assessment to be carried out under clause 11(1); or
  - (e) is of a type that this Scheme requires to be advertised.
- (2) The local government may waive a requirement for an application to be advertised in the circumstances set out in subclause (1)(c) if the local government is satisfied that the departure from the requirements of this Scheme is of a minor nature.

- (3) The local government may advertise, or require the applicant to advertise, an application for development approval in one or more of the following ways —
- (a) by giving notice of the proposed use or development to owners and occupiers of properties in the vicinity of the development who, in the opinion of the local government, are likely to be affected by the granting of development approval, including a statement that submissions may be made to the local government by a specified day being a day not less than 14 days from the day on which the notice is given to the person;
  - (b) by publishing a notice of the proposed use or development in a newspaper circulating in the Scheme area including a statement that submissions may be made to the local government by a specified day being a day not less than 14 days from the day on which the notice is published;
  - (c) by publishing a notice of the proposed use or development by electronic means in a form approved by the local government CEO including a statement that submissions may be made to the local government by a specified day being a day not less than 14 days from the day on which the notice is published;
  - (d) by erecting a sign or signs in a conspicuous place on the land the subject of the application giving notice of the proposed use or development for a period of not less than 14 days from the day on which the sign is erected including on each sign a statement that submissions may be made to the local government by a specified day being a day not less than 14 days from the day on which the sign is erected.
- (4) Notice referred to in subclause (3) must be in the form of the “Notice of public advertisement of planning proposal” set out in clause 86(3) unless the local government specifies otherwise.
- (5) If an application for development approval is advertised under this clause, the local government —
- (a) must make the application and the material accompanying it available for public inspection during business hours at the offices of the local government; and

- (b) may publish the application and the material accompanying it on the website of the local government.

**65. Subsequent approval of development**

The procedures relating to applications for development approval set out in Part 7, Part 9 and this Part apply, with any modifications necessary, to an application for development approval for development already commenced or carried out.

Note:

The *Planning and Development Act 2005* section 164 sets out the effect of approval for development already commenced or carried out.

**Part 9 — Procedure for dealing with applications for development approval**

**66. Consultation with other authorities**

- (1) When, in the opinion of the local government, an application for development approval may affect any other statutory, public or planning authority, the local government is to provide a copy of the application to the authority for objections and recommendations.
- (2) If an application for development approval relates to proposed development on land that is reserved under this Scheme for a public purpose and vested in a public authority, the local government must provide a copy of the application to that authority for objections and recommendations before making a decision on the application.
- (3) A statutory, public or planning authority receiving a copy of an application may, within 42 days of receiving the application or within such longer period as the local government allows, provide to the local government a memorandum in writing containing any objections to, or recommendations in respect of the whole or part of the proposed development.
- (4) If a statutory, public or planning authority does not provide a memorandum within the time allowed under subclause (3), the local government may determine that the authority is to be taken to have no objections or recommendations to make.



**67. Matters to be considered by local government**

In considering an application for development approval the local government is to have due regard to the following matters to the extent that, in the opinion of the local government, those matters are relevant to the development the subject of the application —

- (a) the aims and provisions of this Scheme and any other local planning scheme operating within the Scheme area;
- (b) the requirements of orderly and proper planning including any proposed local planning scheme or amendment to this Scheme that has been advertised under the *Planning and Development (Local Planning Schemes) Regulations 2015* or any other proposed planning instrument that the local government is seriously considering adopting or approving;
- (c) any approved State planning policy;
- (d) any environmental protection policy approved under the *Environmental Protection Act 1986* section 31(d);
- (e) any policy of the Commission;
- (f) any policy of the State;
- (g) any local planning policy for the Scheme area;
- (h) any structure plan, activity centre plan or local development plan that relates to the development;
- (i) any report of the review of the local planning scheme that has been published under the *Planning and Development (Local Planning Schemes) Regulations 2015*;
- (j) in the case of land reserved under this Scheme, the objectives for the reserve and the additional and permitted uses identified in this Scheme for the reserve;
- (k) the built heritage conservation of any place that is of cultural significance;
- (l) the effect of the proposal on the cultural heritage significance of the area in which the development is located;
- (m) the compatibility of the development with its setting including the relationship of the development to development on adjoining land or on other land in the locality including, but not limited to, the likely effect of the height, bulk, scale, orientation and appearance of the development;

- (n) the amenity of the locality including the following —
  - (i) environmental impacts of the development;
  - (ii) the character of the locality;
  - (iii) social impacts of the development;
- (o) the likely effect of the development on the natural environment or water resources and any means that are proposed to protect or to mitigate impacts on the natural environment or the water resource;
- (p) whether adequate provision has been made for the landscaping of the land to which the application relates and whether any trees or other vegetation on the land should be preserved;
- (q) the suitability of the land for the development taking into account the possible risk of flooding, tidal inundation, subsidence, landslip, bush fire, soil erosion, land degradation or any other risk;
- (r) the suitability of the land for the development taking into account the possible risk to human health or safety;
- (s) the adequacy of —
  - (i) the proposed means of access to and egress from the site; and
  - (ii) arrangements for the loading, unloading, manoeuvring and parking of vehicles;
- (t) the amount of traffic likely to be generated by the development, particularly in relation to the capacity of the road system in the locality and the probable effect on traffic flow and safety;
- (u) the availability and adequacy for the development of the following —
  - (i) public transport services;
  - (ii) public utility services;
  - (iii) storage, management and collection of waste;
  - (iv) access for pedestrians and cyclists (including end of trip storage, toilet and shower facilities);
  - (v) access by older people and people with disability;

- (v) the potential loss of any community service or benefit resulting from the development other than potential loss that may result from economic competition between new and existing businesses;
- (w) the history of the site where the development is to be located;
- (x) the impact of the development on the community as a whole notwithstanding the impact of the development on particular individuals;
- (y) any submissions received on the application;
- (za) the comments or submissions received from any authority consulted under clause 66;
- (zb) any other planning consideration the local government considers appropriate.

**68. Determination of applications**

- (1) The local government must not determine an application for development approval until the later of —
  - (a) if the application is advertised under clause 64 — the end of each period for making submissions to the local government specified in a notice referred to in clause 64(3); and
  - (b) if a copy of the application has been provided to a statutory, public or planning authority under clause 66 — the end of each period for providing a memorandum to the local government referred to in clause 66(3).
- (2) The local government may determine an application for development approval by —
  - (a) granting development approval without conditions; or
  - (b) granting development approval with conditions; or
  - (c) refusing to grant development approval.

**69. Application not to be refused if development contribution plan not in place**

- (1) The local government must not refuse an application for development approval only because there is not a development contribution plan in place in relation to the development.

- (2) The local government must not grant development approval subject to a condition that future contributions to the provision of infrastructure related to the development may be required under a development contribution plan that is not in place at the time the application is determined.

**70. Form and date of determination**

- (1) As soon as practicable after determining an application for development approval, the local government must give the applicant written notice of the determination in the form of the “Notice of determination on application for development approval” set out in clause 86(4).
- (2) The determination has effect on the day on which the notice of determination is given to the applicant.

**71. Commencement of development under development approval**

If development approval is granted under clause 68 —

- (a) the development must be substantially commenced —
- (i) if no period is specified in the approval — within the period of 2 years commencing on the date on which the determination is made; or
  - (ii) if a period is specified in the approval — within that period; or
  - (iii) in either case — within a longer period approved by the local government on an application made under clause 77(1)(a);
- and
- (b) the approval lapses if the development has not substantially commenced within the period determined under paragraph (a).

**72. Temporary development approval**

The local government may impose conditions limiting the period of time for which development approval is granted.

Note:

A temporary development approval is where the local government grants approval for a limited period. It does not have any effect on the period within which the development must commence.

**73. Scope of development approval**

Development approval may be granted —

- (a) for the development for which the approval is sought; or
- (b) for the development for which the approval is sought, except for a part or aspect of that development specified in the approval; or
- (c) for a part or aspect of the development for which approval is sought that is specified in the approval.

**74. Approval subject to later approval of details**

- (1) The local government may grant development approval subject to a condition that further details of any works or use specified in the condition must be submitted to, and approved by, the local government before the developer commences the development.
- (2) The local government may only impose a condition referred to in subclause (1) if the local government is satisfied that the further matters that are to be approved would not substantially change the development approved.

**75. Time for deciding application for development approval**

- (1) The local government must determine an application for development approval —
  - (a) if the application is advertised under clause 64 or a copy of the application is provided to a statutory, public or planning authority under clause 66 — within 90 days of receipt of the application; or
  - (b) otherwise — within 60 days of the receipt of the application and the material that is required to accompany the application referred to in clause 63; or
  - (c) in either case — within a longer time agreed in writing between the applicant and the local government.

- (2) If the local government has not made a determination in the time referred to in subclause (1) the local government is to be taken to have refused to grant the development approval.
- (3) Despite subclause (2), the local government may determine whether or not to grant the development approval after the period applicable under subclause (1) has expired and the validity of the determination is not affected by the expiry.
- (4) The local government must give the applicant written notice of its decision to grant or refuse to grant development approval.

**76. Review of decisions**

- (1) In this clause —  
*affected person*, in relation to a reviewable determination, means —
  - (a) the applicant for development approval; or
  - (b) the owner of land in respect of which an application for development approval is made;*reviewable determination* means a determination by the local government to —
  - (a) refuse an application for development approval; or
  - (b) to grant development approval subject to conditions; or
  - (c) to refuse to amend or cancel a development approval on an application made under clause 77.
- (2) An affected person may apply to the State Administrative Tribunal for a review of a reviewable determination in accordance with the *Planning and Development Act 2005* Part 14.

**77. Amending or cancelling development approval**

- (1) An owner of land in respect of which development approval has been granted by the local government may make an application to the local government requesting the local government to do any or all of the following —
  - (a) to amend the approval so as to extend the period within which any development approved must be substantially commenced;
  - (b) to amend or delete any condition to which the approval is subject;

- (c) to amend an aspect of the development approved which, if amended, would not substantially change the development approved;
  - (d) to cancel the approval.
- (2) An application under subclause (1) —
  - (a) is to be made in accordance with the requirements in Part 8 and dealt with under this Part as if it were an application for development approval; and
  - (b) may be made during or after the period within which the development approved must be substantially commenced.
- (3) Despite subclause (2), the local government may waive or vary a requirement in Part 8 or this Part in respect of an application if the local government is satisfied that the application relates to a minor amendment to the development approval.
- (4) The local government may determine an application made under subclause (1) by —
  - (a) approving the application without conditions; or
  - (b) approving the application with conditions; or
  - (c) refusing the application.

#### **Part 10A — Bushfire risk management**

*[Heading inserted in Gazette 7 Dec 2015 p. 4884.]*

#### **78A. Terms used**

In this Part, unless the contrary intention appears —

**AS 3959** means Australian Standard AS 3959 — Construction of buildings in bushfire-prone areas, as adopted from time to time as a referenced document for the purposes of the Building Code;

**BAL contour map**, in relation to a development site, means a scale map of an area that includes the development site —

- (a) prepared in accordance with State planning policy 3.7: Planning in Bushfire Prone Areas as part of a plan of subdivision that has been approved under Part 10 of the Act for the area; and

- (b) that shows the indicative bushfire attack levels (BAL) for the area;

**bushfire attack level assessment** means an assessment prepared in a manner and form set out in AS 3959 to determine a bushfire attack level (BAL) as set out in AS 3959;

**construction** of a building includes the erection, assembly or placement of a building but does not include the renovation, alteration, extension, improvement or repair of a building;

**development approval** means development approval of the local government obtained under Part 8;

**development site** means that part of a lot on which a building that is the subject of development stands or is to be constructed;

**habitable building** means a permanent or temporary structure on land that —

- (a) is fully or partially enclosed; and
- (b) has at least one wall of solid material and a roof of solid material; and
- (c) is used for a purpose that involves the use of the interior of the structure by people for living, working, studying or being entertained;

**specified building** means a structure of a kind specified in this Scheme as a kind of structure to which this Part applies in addition to its application to habitable buildings.

*[Clause 78A inserted in Gazette 7 Dec 2015 p. 4884-5.]*

**78B. Application of Part to development**

- (1) This Part does not apply to development unless the development is —
- (a) the construction or use, or construction and use, of a single house or ancillary dwelling on a lot or lots with a total area of 1 100 m<sup>2</sup> or more; or
  - (b) the construction or use, or construction and use, of —
    - (i) a habitable building other than a single house or ancillary dwelling; or
    - (ii) a specified building.



- (2) The requirements in this Part are in addition to any provisions relating to development in a bushfire prone area that apply in a special control area.

*[Clause 78B inserted in Gazette 7 Dec 2015 p. 4886.]*

**78C. Determining whether development site is in a bushfire prone area**

For the purposes of this Part, a development site is subject, or likely to be subject, to bushfires and is referred to as being ***in a bushfire prone area*** if the development site is on land designated by an order made under the *Fire and Emergency Services Act 1998* section 18P as a bush fire prone area.

*[Clause 78C inserted in Gazette 7 Dec 2015 p. 4886.]*

**78D. Proposed development in a bushfire prone area**

- (1) Unless subclause (2) applies, before commencing any development on a development site a person (the ***developer***) must cause to be prepared a bushfire attack level assessment for the development site if the development site —
- (a) is in a bushfire prone area; and
  - (b) has been in a bushfire prone area for a period of at least 4 months.
- (2) A developer is not required under subclause (1) to cause to be prepared a bushfire attack level assessment for a development site if —
- (a) a BAL contour map has been prepared in relation to the development site; or
  - (b) because of the terrain of the development site it is not possible to calculate the bushfire attack level of the development site.
- (3) The developer must have development approval to commence any development on the development site if —
- (a) the bushfire attack level assessment prepared under subclause (1) calculates the bushfire attack level of the development site as BAL - 40 or BAL - Flame Zone; or
  - (b) a bushfire attack level assessment has not been prepared under subclause (1) but a BAL contour map prepared in



- (a) the site was not in a bushfire prone area when the application was made; or
  - (b) the site had been in a bushfire prone area for a period of less than 4 months when the application was made.
- (3) Clause 78D does not apply to the commencement of development to which a transitional permit applies.

*[Clause 78F inserted in Gazette 7 Dec 2015 p. 4888.]*

**78G. Transitional provisions relating to Planning and Development (Local Planning Schemes) Amendment Regulations 2015**

- (1) In this clause —

**commencement day** means the day on which the *Planning and Development (Local Planning Schemes) Amendment Regulations 2015* clause 5 comes into operation;

**previous bushfire provisions** means any provisions in this Scheme that, immediately before commencement day, required a developer in an area that was identified under this Scheme as being an area that is subject, or likely to be subject to bushfires to —

- (a) cause to be prepared a bushfire attack level assessment for a development site; or
- (b) to have development approval to commence development on a development site because —
  - (i) a bushfire attack level assessment prepared for the development site calculates the bushfire attack level of the development site as BAL - 40 or BAL - Flame Zone; or
  - (ii) it is not possible to calculate the bushfire attack level of the development site because of the terrain of the development site;

**transitional development site** means a development site that is located in an area that —

- (a) is a bushfire prone area; and
- (b) immediately before commencement day was an area identified in any way under this Scheme as being an area that is subject, or likely to be subject, to bushfires;

***transition period*** means the period of 4 months beginning on commencement day.

- (2) Clause 78D(1) applies in respect of development on a transitional development site if —
- (a) the development is commenced within the transition period; and
  - (b) a developer would have been required under the previous bushfire provisions to prepare a bushfire attack level assessment for the development site.
- (3) Clause 78D(3) applies in respect of development on a transitional development site if —
- (a) the development is commenced within the transition period; and
  - (b) a developer would have been required under the previous bushfire provisions to have development approval to commence the development.
- (4) For the purposes of paragraph (b) of the definition of ***transitional permit*** in clause 78F(2), an area that immediately before commencement day was identified in any way under this Scheme as being an area that is subject, or likely to be subject, to bushfires is to be taken on and from commencement day to have been in a bushfire prone area for a period of at least 4 months.

*[Clause 78G inserted in Gazette 7 Dec 2015 p. 4888-90.]*

## **Part 10 — Enforcement and administration**

### **Division 1 — Powers of local government**

#### **78. Powers of local government**

- (1) For the purposes of implementing this Scheme the local government may —
- (a) enter into an agreement in respect of a matter relating to this Scheme with any owner, occupier or other person having an interest in land affected by this Scheme; and

- (b) deal with or dispose of any land in the Scheme area which it has acquired in accordance with the *Planning and Development Act 2005* Part 11 Division 4.

- (2) The local government may only deal with or dispose of land acquired by the local government for the purpose of a local reserve for a use of the land that is compatible with the purpose for which it is reserved.

**79. Entry and inspection powers**

- (1) The local government CEO may, by instrument in writing, designate an officer of the local government as an authorised officer for the purposes of this clause.
- (2) An authorised officer may, for the purpose of monitoring whether the local planning scheme is being complied with, at any reasonable time and with any assistance reasonably required —
  - (a) enter any building or land in the Scheme area; and
  - (b) inspect the building or land and any thing in or on the building or land.

**80. Repair of existing advertisements**

- (1) The local government may require the owner of an advertisement located in the Scheme area to repair the advertisement if, in the opinion of the local government, the advertisement has deteriorated to a point where it is in conflict with the aims of this Scheme.
- (2) A requirement referred to in subclause (1) must —
  - (a) be in the form of a written notice given to the person; and
  - (b) specify the advertisement the subject of the requirement; and
  - (c) set out clear reasons for the requirement; and
  - (d) set out full details of the action or alternative courses of action to be taken by the person; and
  - (e) specify the period, not being a period of less than 60 days from the day on which the notice is given to the person, within which the requirement must be complied with.
- (3) If the local government does not know who the owner of an advertisement is, the local government may give a notice referred to in subclause (1) to the owner of the land on which the advertisement

is located and direct the owner of the land to give the notice to the owner of the advertisement within a period specified by the local government.

- (4) If an owner of land on which an advertisement is located does not give to the owner of the advertisement a notice as directed under subclause (3), the owner of the land is to be taken to be the owner of the advertisement.
- (5) A person to whom a notice under this clause is given may apply for a review of the requirement to the State Administrative Tribunal in accordance with the *Planning and Development Act 2005* Part 14.

## **Division 2 — Delegations**

### **81. Terms used**

In this Division —

***absolute majority*** has the meaning given in the *Local Government Act 1995* section 1.4;

***committee*** means a committee established under the *Local Government Act 1995* section 5.8.

### **82. Delegations by local government**

- (1) The local government may, by resolution, delegate to a committee or to the local government CEO the exercise of any of the local government's powers or the discharge of any of the local government's duties under this Scheme other than this power of delegation.
- (2) A resolution referred to in subclause (1) must be by absolute majority of the council of the local government.
- (3) The delegation must be in writing and may be general or as otherwise provided in the instrument of delegation.

### **83. Local government CEO may delegate powers**

- (1) The local government CEO may delegate to any employee of the local government the exercise of any of the CEO's powers or the discharge of any of the CEO's functions under this Scheme other than this power of delegation.

- (2) A delegation under this clause must be in writing and may be general or as otherwise provided in the instrument of delegation.
- (3) Subject to any conditions imposed by the local government on its delegation to the local government CEO under clause 82, this clause extends to a power or duty the exercise or discharge of which has been delegated by the local government to the CEO under that clause.

**84. Other matters relevant to delegations under this Division**

The *Local Government Act 1995* sections 5.45 and 5.46 apply to a delegation made under this Division as if the delegation were a delegation under Part 5 Division 4 of that Act.

**Division 3 — Miscellaneous**

**85. Agreement to use of material provided for Scheme purposes**

The local government may refuse to accept an application made under this Scheme if the local government is not satisfied that there is in place an agreement for the local government to use any copyrighted material provided in support of the application —

- (a) for the purposes of advertising the application or implementing a decision on the application; and
- (b) for zero remuneration.

**Part 11 — Forms referred to in this Scheme**

**86. Forms referred to in this Scheme**

- (1) The form of an application for development approval referred to in clause 62(1)(a) is as follows —

**Application for development approval**

<b>Owner details</b>
Name:
ABN (if applicable):
Address: .....
..... Postcode: .....

Phone:	Fax:	Email:
Work: .....	.....	.....
Home: .....		
Mobile: .....		
Contact person for correspondence:		
Signature:		Date:
Signature:		Date:
<p><i>The signature of the owner(s) is required on all applications. This application will not proceed without that signature. For the purposes of signing this application an owner includes the persons referred to in the Planning and Development (Local Planning Schemes) Regulations 2015 Schedule 2 clause 62(2).</i></p>		

Applicant details (if different from owner)		
Name:		
Address: .....		
.....		Postcode: .....
Phone:	Fax:	Email:
Work: .....	.....	.....
Home: .....		
Mobile: .....		
Contact person for correspondence:		
<p>The information and plans provided with this application may be made available by the local government for public viewing in connection with the application. <input type="checkbox"/> Yes <input type="checkbox"/> No</p>		
Signature:		Date:



Property details		
Lot No:	House/Street No:	Location No:
Diagram or Plan No:	Certificate of Title Vol. No:	Folio:
Title encumbrances (e.g. easements, restrictive covenants): .....		
Street name:		Suburb:
Nearest street intersection:		

Proposed development	
Nature of development:	<input type="checkbox"/> Works <input type="checkbox"/> Use <input type="checkbox"/> Works and use
Is an exemption from development claimed for part of the development?	<input type="checkbox"/> Yes <input type="checkbox"/> No
If yes, is the exemption for:	<input type="checkbox"/> Works <input type="checkbox"/> Use
Description of proposed works and/or land use: .....	
Description of exemption claimed (if relevant):	
Nature of any existing buildings and/or land use:	
Approximate cost of proposed development:	
Estimated time of completion:	

OFFICE USE ONLY	
Acceptance Officer's initials:	Date received:
Local government reference No:	

*(The content of the form of application must conform with this form but minor variations may be permitted to the format.)*



3.	Period of time for which advertisement is required: .....
4.	Details of signs (if any) to be removed if this application is approved: ..... ..... .....
Note:	This application should be supported by a photograph or photographs of the premises showing superimposed thereon the proposed position for the advertisement and those advertisements to be removed as detailed in 4 above.
Signature of advertiser(s):	.....
(if different from land owners)	.....
Date:	.....

- (3) The form of a notice of public advertisement of a planning proposal referred to in clause 64(4) is as follows —

*Planning and Development Act 2005*

City/Town/Shire of .....

**Notice of public advertisement of planning proposal**

The local government has received an application to use and/or develop land for the following purpose and public comments are invited.		
Lot No:	Street:	Suburb:
Proposal: .....		
.....		
.....		
Details of the proposal are available for inspection at the local government office. Comments on the proposal may be submitted to the local government in writing on or before the ..... day of .....		

Signed: .....	Dated: .....
for and on behalf of the City/Town/Shire of: .....	

- (4) The form of a notice of determination on an application for development approval referred to in clause 70 is as follows —

*Planning and Development Act 2005*

City/Town/Shire of .....

**Notice of determination on application for development approval**

Location:	
Lot:	Plan/Diagram:
Vol. No:	Folio No:
Application date:	Received on:
Description of proposed development: .....	
.....	
The application for development approval is:	
<input type="checkbox"/> Approved subject to the following conditions	
<input type="checkbox"/> Refused for the following reason(s)	
Conditions/reasons for refusal:	
.....	
.....	
.....	
Date of determination: .....	
Note 1:	If the development the subject of this approval is not substantially commenced within a period of 2 years, or another period specified in the approval after the date of the determination, the approval will lapse and be of no further effect.
Note 2:	Where an approval has so lapsed, no development must be carried out without the further approval of the local government having first been sought and obtained.

**Planning and Development (Local Planning Schemes) Regulations 2015**

**Schedule 2** Deemed provisions for local planning schemes

**Part 11** Forms referred to in this Scheme

**cl. 86**

---

Note 3: If an applicant or owner is aggrieved by this determination there is a right of review by the State Administrative Tribunal in accordance with the *Planning and Development Act 2005* Part 14. An application must be made within 28 days of the determination.

Signed:

Dated:

.....

for and on behalf of the City/Town/Shire of: .....

*(The content of the determination notice must conform to this form but minor variations may be permitted to the format.)*

# **ATTACHMENT 2**

Shire of Shark Bay Local Planning Strategy Part 1

# Part 1

Gray & Lewis Landuse  
Planners

## **SHIRE OF SHARK BAY LOCAL PLANNING STRATEGY**

**THE STRATEGY**

June 2013

## **ADVERTISING**

The Shire of Shark Bay Local Planning Strategy certified for advertising on 27 November 2012.

Signed for and on behalf of the Western Australian Planning Commission

\_\_\_\_\_  
*An officer of the Commission duly authorised by the Commission  
(pursuant to the Planning and Development Act 2005)*

Date \_\_\_\_\_

---

## **ADOPTED**

The Shire of Shark Bay hereby adopts the Local Planning Strategy, at the Ordinary meeting of the Council held on the 29<sup>th</sup> day of May 2013.

\_\_\_\_\_  
SHIRE PRESIDENT

\_\_\_\_\_  
CHIEF EXECUTIVE OFFICER

---

## **ENDORSEMENT**

Endorsed by the Western Australian Planning Commission on

\_\_\_\_\_  
*An officer of the Commission duly authorised by the Commission  
(pursuant to the Planning and Development Act 2005)*

Date \_\_\_\_\_



Report file name	Report Status	Date
AA V1 Part 1 Strategy October 2010	Version 1	Printed 29 October 2011
AA V2 Part 1 Strategy May 2011	Version 2	Printed 24 June 2011
AA V3 Part 1 Strategy November 2011	Version 3	Printed 25 November 2011
AA V4 Part 1 Strategy January 2012	Version 4	Printed 27 January 2012
AA V5 Part 1 Strategy July 2012	Version 5	Printed 20 July 2012
AA V6 Part 1 Strategy October 2012 lodged WAPC	Version 6	Printed 17 October 2012
AA V7 Part 1 Strategy December 2012 advertising	Version 7	December 2012
AA V8 Part 1 Strategy May 2013	Version 8	May 2013
AA V9 Part 1 Strategy June 2013	Version 9	June 2013

# Table of Contents

## Contents

<b>1.0</b>	<b>INTRODUCTION.....</b>	<b>1</b>
<b>2.0</b>	<b>VISION AND PLANNING PRINCIPLES.....</b>	<b>2</b>
2.1	Vision.....	2
2.2	Principle .....	2
<b>3.0</b>	<b>OBJECTIVES.....</b>	<b>2</b>
<b>4.0</b>	<b>STRATEGIC PLAN.....</b>	<b>3</b>
4.1	<b>Existing and future housing areas .....</b>	<b>3</b>
4.1.1	Area 1: Main Residential area (established).....	3
4.1.2	Area 2: Lot 9500 Monkey Mia Road (Certificate of Title 2705/172) .....	5
4.1.3	Area 3: Oakley Ridge and Adams Cove.....	6
4.1.4	Area 4: Lot 9502 Denham Road (Certificate of Title 1705/174) .....	9
4.1.5	Area 5: Unallocated Crown Land (Lots 3001 and 3002) Hughes Street / Francis Road).....	9
4.1.6	Area 6A- 6B: Freycinet Drive / Stella Rowley Drive.....	9
4.1.6.1	Background .....	9
4.1.6.2	Area 6A – Denham Estate .....	10
4.1.6.3	Area 6B: Future Townsite Expansion (Long Term) – Subject to Future Investigation .....	12
4.1.7	Area 7: Lot 377 and 388 Dampier Road/ Poland Road - Unallocated Crown Land (Certificate of Title LR3128/363 & LR3128/364).....	12
4.1.8	Closed residential settlement : Useless Loop.....	13
4.1.9	Specific recommendations for existing and future housing areas.....	14
<b>4.2</b>	<b>Existing and future industrial / business locations.....</b>	<b>17</b>
4.2.1	Area 8: Industrial Area .....	17
4.2.2	Area 9: Portion of Lot 501 Dampier Road (Unallocated Crown Land) .....	18
4.2.3	Area 10: Portion of Lot 501 Dampier Road (Unallocated Crown Land) .....	18
4.2.4	Area 11: Part North Location 59 Monkey Mia Road (Certificate of Title 855/216). .....	19
4.2.5	Area 12: North Portion of Lot 340 and Reserve 49809.....	20
4.2.6	Area 13: Lot 90 Monkey Mia Road (Certificate of Title 2124/43) .....	20
4.2.7	Specific recommendations for existing and future industrial and business locations .....	21
<b>4.3</b>	<b>Existing and future retail and commercial centres (Town Centre).....</b>	<b>23</b>
4.3.1	Background .....	23
4.3.2	Area 14 : Town Centre.....	24
4.3.2.1	Precinct 1 in the Town Centre.....	25
4.3.2.1.1	Precinct 1 Characteristics .....	25
4.3.2.1.2	Precinct 1 Opportunities and Challenges .....	27
4.3.2.1.3	Precinct 1 Strategy Recommendations .....	28
4.3.2.1.4	Sub Precincts.....	28
	Future Landuse and development in Precinct 1a.....	29
	Future Landuse and development in Precinct 1b.....	29
	Future Landuse and development in Precinct 1c.....	30
4.3.2.2	Precinct 2 in the Town Centre.....	30
4.3.2.2.1	Precinct 2 Characteristics .....	30
4.3.2.2.2	Precinct 2 Strategy Recommendations .....	31
	Future Landuse and development in Precinct 2a.....	31
	Future Landuse and development in Precinct 2b.....	32
4.3.2.3	Precinct 3 in the Town Centre.....	32

4.3.2.3.1	Precinct 3 Characteristics .....	32
4.3.2.3.2	Precinct 3 Strategy Recommendations .....	32
	<i>Future Landuse and development in Precinct 3.....</i>	33
4.3.2.4	Precinct 4 in the Town Centre.....	33
4.3.2.4.1	Precinct 4 Characteristics .....	33
4.3.2.4.2	Precinct 4 Strategy Recommendations .....	33
	<i>Future Landuse and development in Precinct 4.....</i>	34
4.3.2.5	Precinct 5 in the Town Centre.....	34
4.3.2.5.1	Precinct 5 Characteristics .....	34
4.3.2.5.2	Precinct 5 Strategy Recommendations .....	35
	<i>Future Landuse and development in Precinct 5.....</i>	35
4.3.3	Specific recommendations for existing and future retail and commercial uses (Town Centre).....	36
4.3.3.1	Subdivision in the Town Centre .....	43
<b>4.4</b>	<b>Existing and future Tourist Accommodation and Uses .....</b>	<b>45</b>
4.4.1	Background .....	45
4.4.2	Area 15 : Lot 296 Stella Rowley Drive.....	45
4.4.3	Area 16 : Lots 309 – 310 Stella Rowley Drive .....	46
4.4.4	Area 17 : Lots 2 and 3 Spaven Way.....	47
4.4.5	Other Special Use Tourist sites.....	47
4.4.5.7	<i>Dirk Hartog Island.....</i>	50
4.4.6	Specific recommendations for existing and future tourist accommodation and uses.....	54
<b>4.5</b>	<b>Open Space.....</b>	<b>64</b>
4.5.1	Area 18 (Reserve 36163).....	64
4.5.2	Area 19 (Reserve 33517 – No. 9 Francis Street, Denham) .....	64
4.5.3	Area 20 (Reserve 32295 – Lot 267 Hartog Crescent, Denham).....	65
4.5.4	Shire Common.....	65
4.5.5	Specific recommendations for Open Space .....	65
<b>4.6</b>	<b>Natural Resource Management .....</b>	<b>66</b>
<b>4.7</b>	<b>Visual Landscape Protection and Management areas .....</b>	<b>66</b>
<b>4.8</b>	<b>Constraints.....</b>	<b>68</b>
4.8.1	Water Management .....	68
4.8.1.1	<i>Flooding.....</i>	68
4.8.1.2	<i>Future Water Management.....</i>	68
4.8.2	Coastal Processes.....	68
4.8.3	Buffers .....	69
<b>4.9</b>	<b>Existing and proposed major transport routes .....</b>	<b>69</b>
<b>4.10</b>	<b>Existing and future utilities.....</b>	<b>69</b>
<b>5.0</b>	<b>STRATEGIES AND ACTIONS.....</b>	<b>70</b>
<b>5.1</b>	<b>Strategy 1 .....</b>	<b>70</b>
5.1.1	Actions for Strategy 1.....	70
<b>5.2</b>	<b>Strategy 2 .....</b>	<b>71</b>
5.2.1	Actions for Strategy 2.....	71
<b>5.3</b>	<b>Strategy 3 .....</b>	<b>71</b>
5.3.1	Actions for Strategy 3.....	71
<b>5.4</b>	<b>Strategy 4 .....</b>	<b>72</b>
5.4.1	Actions for Strategy 4.....	72
<b>5.5</b>	<b>Strategy 5 .....</b>	<b>73</b>
5.5.1	Actions for Strategy 5.....	73
<b>5.6</b>	<b>Strategy 6 .....</b>	<b>73</b>
5.6.1	Actions for Strategy 6.....	74
<b>6.0</b>	<b>GENERAL RECOMMENDATIONS FOR SCHEME REVIEW .....</b>	<b>74</b>
<b>7.0</b>	<b>IMPLEMENTATION .....</b>	<b>75</b>
<b>8.0</b>	<b>MONITORING AND REVIEW .....</b>	<b>76</b>

### LIST OF FIGURES:

- Figure 1 - Local Strategy Plan (Version 8)
- Figure 2 - Spaven Way example of infill potential in existing residential zone
- Figure 3 - Plan showing Lot 9500 Monkey Mia Rd
- Figure 4 - Approved Outline Development Plan for Area 1 Oakley Ridge.
- Figure 5 - Existing subdivision / vacant lots in Area 1 Oakley Ridge.
- Figure 6 - Denham Structure Plan
- Figure 7 - Outline Development Plan – Lot 3005 Stella Rowley Drive
- Figure 8 - Location plan of Lots 377 – 388 Dampier Road (Unallocated Crown Land)
- Figure 9 - Denham Town Centre – extract of Scheme map (current zoning)
- Figure 10 - Town Centre Precinct Plan
- Figure 11 - Landuse Plan for Precinct 1 in Town Centre
- Figure 12 - Landuse Plan for Precinct 2 in Town Centre
- Figure 13 - Landuse Plan for Precinct 3 in Town Centre
- Figure 14 - Landuse Plan for Precinct 4 in Town Centre
- Figure 15 - Landuse Plan for Precinct 5 in Town Centre
- Figure 16 - Summary of proposed zoning changes (Town Centre zone)
- Figure 17 - Draft zoning map (existing Town centre)
- Figure 18 - Summary of proposed zoning changes (Denham Townsite)
- Figure 19 - Existing Special use zone (Nanga)
- Figure 20 – Existing Special Use zone (Hamelin Pool)
- Figure 21 – Existing ‘Rural/Pastoral’ Zone of Dirk Hartog Island
- Figure 22 – Examples of freehold lots on Dirk Hartog Island

### LIST OF TABLES:

- Table 1 - Specific recommendations for existing and future housing areas
- Table 2 - Specific recommendations for existing and future business areas
- Table 3 - Specific recommendations for existing and future retail and commercial uses (Town Centre)
- Table 4 - Summary of Special Use zones in Denham Town Centre
- Table 5 - Specific recommendations for existing and future Tourist Accommodation and Uses
- Table 6 - Specific recommendations for open space areas
- Table 7 - Specific recommendations for visual impact

### LIST OF ATTACHMENTS:

- Attachment 1 Draft Town Centre Strategy Plan
- Attachment 2 Existing Special Use Zones in the Shire of Shark Bay Local Planning Scheme No 3

#### LIST OF ACRONYMS USED IN THIS STRATEGY:

ABS	Australian Bureau of Statistics
ACRIS	Australian Collaborative Rangeland Information System
DEC	Department of Environment and Conservation
DoP	Department of Planning
DoW	Department of Water
LPS	Local Planning Strategy
MRWA	Main Roads WA
NRMMC	Natural Resource Management Ministerial Council
NRM	Natural Resource Management
ODP	Outline Development Plan
SPP	State Planning Policy
UCL	Unallocated Crown Land
UNESCO	United Nations Educational, Scientific and Cultural Organisation
WALGA	Western Australian Local Government Association
WAPC	Western Australian Planning Commission
WWTP	Waste Water Treatment Plant

## 1.0 INTRODUCTION

This Strategy is based on the Western Australian Planning Commission '*Local Planning Manual – A Guide to the preparation of Local Planning Strategies and Local Planning Schemes in Western Australia*' (March 2010) and is divided into two separate parts;

**Part 1** The Local Planning Strategy which outlines the major characteristics and issues relevant to future planning and development for the Shire of Shark Bay, and incorporates strategic plan and actions required to implement the strategy and Council's objectives.

Part 1 essentially provides the main recommendations for future strategic planning for the Shire of Shark Bay, concentrating on Denham townsite.

**Part 2** The Background Information and Analysis which examines the state and local planning context, and provides a rationale for the Strategy.

Part 2 provides general information about relevant planning documents, the general characteristics of Shark Bay and provides the background context for the main Strategy in Part 1. Part 2 assists to provide background context information for any person or party unfamiliar with the local area and examines the major natural, social, and economic influences on planning for the future.

The Local Planning Strategy is a non statutory document that provides strategic planning direction for the next 15 years or longer as distinct from the local planning scheme, which manages landuse control and growth within a statutory framework.

The Strategy has to consider a wide range of issues including;

- the local character,
- sustainability,
- water management,
- landuse compatibility,
- streetscape,
- urban design,
- drainage,
- environment,
- natural resource management,
- townsite expansion,
- provisions of community facilities,
- accommodation needs,
- tourism,
- open space,
- employment,
- commercial opportunities,
- local economy,
- heritage, and
- infrastructure.

As a significant portion of the Shire area forms part of a World Heritage Listed area, this Strategy focuses on the strategic direction for the Denham townsite. Background information on the Shire in general is provided in Part 2 to provide a proper context for Part 1.

## **2.0 VISION AND PLANNING PRINCIPLES**

### **2.1 Vision**

Through effective governance, leadership, management and the support of the community, the Shire of Shark Bay is a safe, attractive, healthy, diverse and unique place to live, work, retire or visit. The Shire is proud of its history, location on the coast, its natural environment (containing many scenic places of rare beauty), World Heritage Listing, popularity as a tourist destination, and its friendly relaxed atmosphere.

The Council will plan for the future expansion of its main Denham townsite whilst preserving and enhancing the character, culture, and quality of life enjoyed by its community.

### **2.2 Principle**

The main principle of this Strategy is to provide a strategic plan which will plan for the future townsite expansion of Denham in a responsible manner that reflects the aspirations of the Shire and local community, accommodates future needs, creates opportunity to enhance local attributes, and support long term objectives and goals.

The Strategy needs to be clear, comprehensive, easy to understand, informative, logical, transparent and be a 'leadership' document that provides strategic planning direction for the next 15 years or longer (as distinct from the local planning scheme which manages growth within a statutory framework and provides statutory development standards and controls).

## **3.0 OBJECTIVES**

The objectives of the Strategy are;

1. To identify key components of the long-term direction for the Shire of Shark Bay that are crucial to orderly growth and development of the Denham townsite, and to recommend strategies to pursue these.
2. To ensure that the Denham town centre is vibrant and is the focus of future retail, commercial, and office uses in the Shire.
3. Encourage the development of businesses that will strengthen the economic base of the Denham townsite whilst respecting the local character, amenity, streetscape, surrounding built form, views, topography, urban design, and the Shires vision for the Town Centre.
4. Ensure that there is sustainable provision of land to meet existing and future needs for housing, business, community facilities, recreation, open space, industry, tourist accommodation, foreshore facilities, and civic uses.
5. To provide a range of quality services and amenities to meet the existing and future needs of the local community and support local tourism in a manner that enhances the existing townsite and does not adversely impact on local character and amenity.
6. Enhance and develop a distinct 'main street' character for Denham townsite and create an identity that complements the history of the area and relaxed coastal nature of the town.

7. Support ongoing improvements and expansion of infrastructure and provide a basis for coordinated decision making on future servicing of the local government area by local, state government, and service providers.
8. Protect the natural environment, resources and coastal areas from inappropriate development that may have any undesirable or negative impact in terms of amenity, social, environmental, or visual.
9. Promote sustainable development and conservation of water resources.
10. Provide for greater housing choice and aged accommodation through medium density residential development and maximize the number of people living within walking distance of the town centre.
11. Provide convenient access and circulation for cars, service vehicles, pedestrians, and cyclists.
12. Promote Shark Bay and its World Heritage Listing as a place for recreation and nature-based tourism, and ensure that the local community continues to enjoy a natural lifestyle experience.
13. Give direction to the Shire of Shark Bay, the DoP, WAPC, the Minister, and the State Administrative Tribunal in assessment of Scheme Amendments, subdivision, applications, development, applications for review, and provide strategic planning support for this decision making.

The Strategy needs to identify any further studies or investigation required to meet objectives for creating good quality environments.

## **4.0 STRATEGIC PLAN**

The development of the Denham townsite and immediate surrounds is to be in general accordance with the Strategy Plan which has been compiled by examining the existing landuse pattern, uses, and having regard for the background and planning implications identified in Part 2 of the Strategy Report.

The Strategy Plan is included as [Figure 1](#).

### **4.1 Existing and future housing areas**

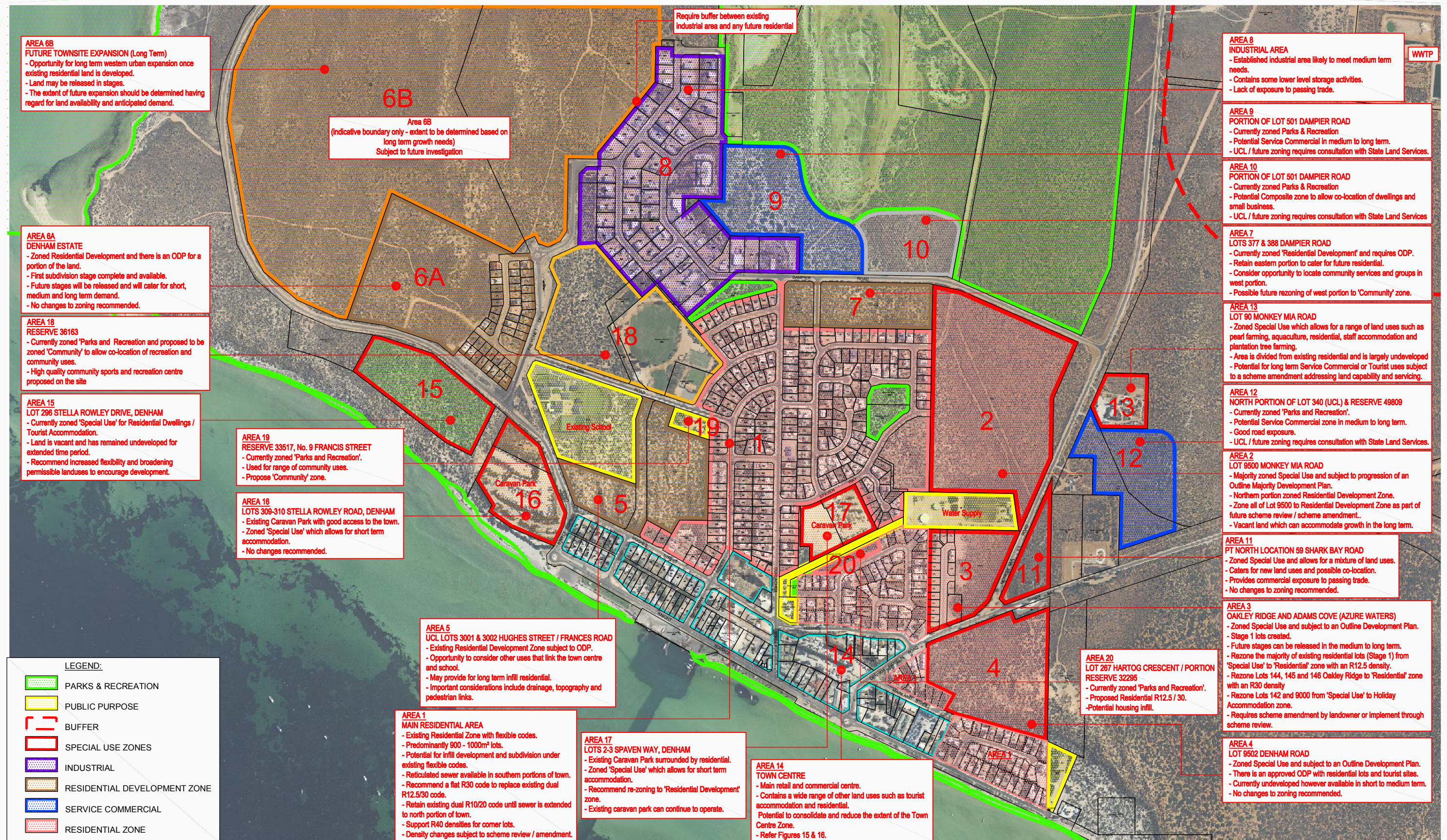
#### **4.1.1 Area 1: Main Residential area (established)**

There is an existing residential area located to the immediate north and east of the Denham town centre generally including the main roads of Brockman Street, Durlacher Street, Capewell Drive, Spaven Way, Hartog Crescent, and Fry Court.

The area is already zoned 'Residential' under the current Shire of Shark Bay Local Planning Scheme No 3 ('the Scheme') with flexible residential density codes of 'R10/20' and 'R12.5/30'.

The existing densities allow for a range of lot sizes and significant infill development (subject to connection to reticulated sewerage). Despite the above it is clear from cadastral information that retention of larger lot sizes have prevailed and remain dominant in the area.





# LOCAL PLANNING STRATEGY

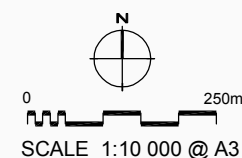
## DENHAM TOWNSITE

### SHIRE OF SHARK BAY

JOB REFERENCE: 100791 (V8)

DATE: JUNE 2013

THE DOCUMENT MAY ONLY BE USED FOR THE PURPOSE FOR WHICH IT WAS COMMISSIONED AND IN ACCORDANCE WITH THE TERMS OF ENGAGEMENT FOR THE COMMISSION. UNAUTHORISED USE OF THIS DOCUMENT IN ANY FORM WHATSOEVER IS PROHIBITED.



**GRAY & LEWIS**  
LAND USE PLANNERS

Figure 1

Suite 5, 2 Hardy Street  
South Perth, WA 6151  
T (08) 9474 1722  
F (08) 9474 1172  
perth@graylewis.com.au



This is likely due to a number of factors such as;

- There has been no major population increase or demand pressure for vacant lots, and there are still vacant lots available throughout Denham.
- The northern portion has servicing constraints and is not connected to reticulated sewerage.
- The topography of some areas makes development and subdivision costly.
- For lifestyle choice residents may seek to retain larger lots to accommodate boats and storage sheds.
- There is anecdotal evidence that a portion of residents reside in other areas such as Perth for part of the year, and then retain larger lifestyle lots in Denham for summer.
- There are a number of large houses in the area with second storeys to capture coastal views. This can be more easily achieved on a larger lot.
- Costs of development are significant and increased densities may assist stimulate increased infill.
- The flexible codes can cause confusion over development and subdivision potential.

There is potential for further infill development within existing residential areas, there are still vacant lots scattered throughout Area 1 and some larger areas that have not been subdivided – an example is Lot 188 Spaven Way – [Figure 2](#).

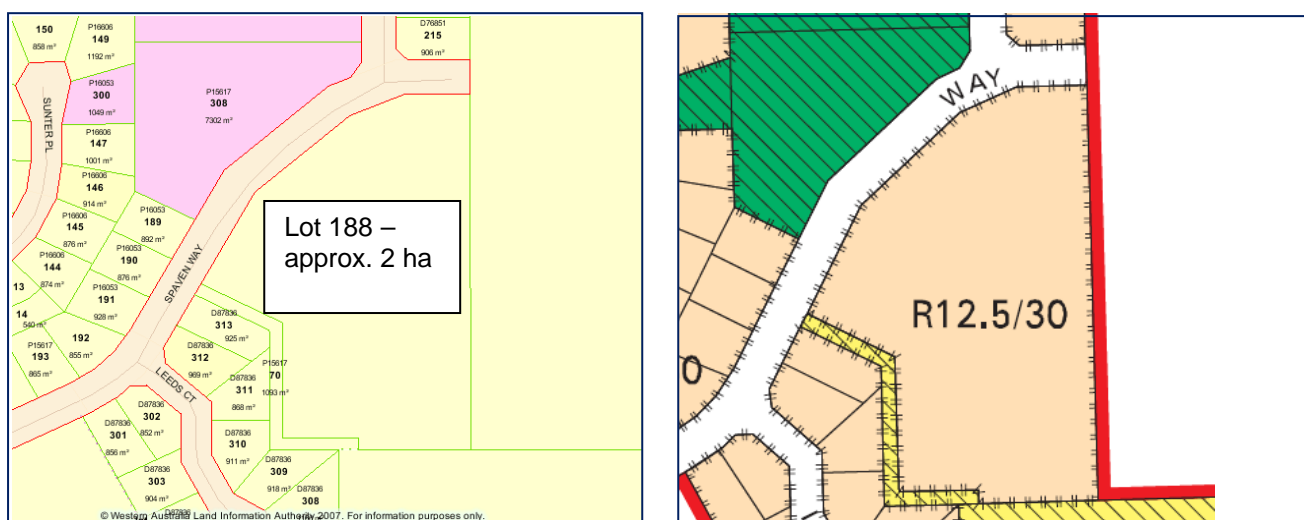


Figure 2 – Example of infill areas within Area 1 and the associated current Scheme zoning map  
Source of cadastral plan - Landgate

Under the current Scheme there is a generic clause (5.4.1) which stipulates that the higher code shall only be permitted within dual coded areas if development is provided with reticulated sewerage or the Health Department of WA forms the view that there are exceptional circumstances to warrant a variation to the requirement for reticulated sewer.

The use of flexible codes causes confusion to the general public and results in complicated explanations of subdivision and development potential.

This Strategy recommends that sewered areas be provided with a flat density code as part of any future Scheme review/ amendment and that opportunities for increased infill be maximised as follows;

1. Introduce a flat R30 density Code for all sewered areas currently zoned Residential R12.5/30. R30 development can still only occur where development can be provided with adequate sewer connection (unless exempted by the Department of Health).
2. Retain the existing R10/20 dual code as it is concentrated in the northern part of town where sewer has not yet been extended. If sewer is further extended to the north then it is recommended that a flat density code of R20 or R25 be applied as part of a Scheme review or longer term future scheme amendment.
3. Include a new clause in the Scheme to allow existing corner lots with access to two constructed road frontages to develop up to a density of R40 – refer [Table 1](#). This will maximise use of existing infrastructure and take advantage of available existing road frontages.

Different streetscapes already occur on corner lots as secondary streets form a side boundary. Secondary street frontages are generally characterised by side fences and walls. Allowing increased densities will facilitate new dwellings fronting onto secondary streets.

#### 4.1.2 Area 2: Lot 9500 Monkey Mia Road (Certificate of Title 2705/172)

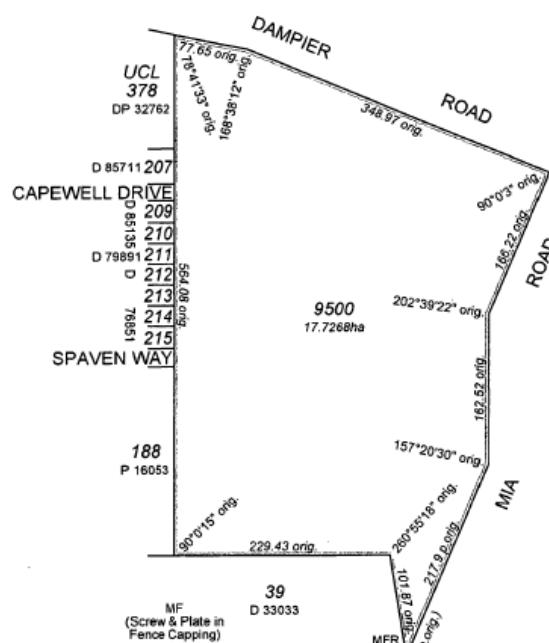


Figure 3 – Plan showing Lot 9500 Monkey Mia Rd

A northern triangular portion of Area 2 is zoned 'Residential Development' however the southern portion is zoned 'Special Use - 3' under the Scheme which allows for short term accommodation, incidental tavern, restaurant, private recreation and residential.

All development must be in accordance with an approved ODP which has yet to be progressed for this area. The land is currently vacant and has an approximate area of 17.7 hectares – [Figure 3](#).

Access into any future subdivision or development of Area 2 can be from Spaven Way existing to the west, and any access to Monkey Mia Road would come under the jurisdiction of Main Roads WA which may seek to limit direct connections.

Any future population increases in the long term can be accommodated in this area. Given that Denham is well serviced with existing vacant residential lots it is unlikely that any subdivision of this area will occur in the short to medium term.

Retention of two separate zones over Lot 9500 is undesirable and should be resolved as part of any future Scheme review. As the land is predominantly to cater for future residential expansion, it is recommended that a 'Residential Development' zone be implemented as part of a Scheme review and there be a decreased reliance on 'Special use' zones.

An Outline Development Plan is required for any Residential Development zone ensuring co-ordinated and planned development. It is considered that uses such as restaurant, incidental tavern, and private recreation would be better located in the Town Centre. If the owner intends to develop the land for some commercial uses then they could be included as 'Additional Uses' with conditions ensuring greater protection of residential amenity and would have to be identified on any ODP.

#### 4.1.3 Area 3: Oakley Ridge and Adams Cove

As per Area 2, Area 3 is also zoned 'Special Use - 3' under the Shires Scheme and is subject to an approved ODP with discretion to include a range of uses including residential.

Stage 1 of subdivision of this area has been released and created 18 residential lots which are generally 700m<sup>2</sup> in area. The subdivision created a new road, Oakley Ridge, connecting from Denham Road and has been advertised under an estate name of 'Azure Waters'.



Advertising sign and view of subdivision (Oakley Ridge Road) from Denham Road (July 2010)

The approved Outline Development Plan includes some Residential R30 sites and Tourist Accommodation. There is no density code applied to the Tourist Accommodation lots therefore Council has broad discretion at development stage – refer [Figure 4](#).

There is a road connection from Oakley Ridge to the east (Adams Cove) so there is potential for future subdivision stages to be released on the balance land (Lot 9000 - approximately 2.8 hectares) – refer [Figure 5](#).

A house has been constructed on one of the lots however it has been unoccupied for an extended time, and the remainder of the lots are vacant.

The lots in this subdivision have taken a long time to sell. Most remain undeveloped which demonstrates the current low demand for residential lots.

On a broader level however it is also symptomatic of the timing of the lots coming onto the market, the recent global financial crisis and local economic climate, current difficulties associated with obtaining funding from financial institutions, and general low property sales in regional areas with minimal population growth.

In the event that demand does increase in the short to medium term, it can be met from existing vacant lots available in Area 2. In the longer term new residential lots can also be accommodated when Lot 9000 is subdivided.





- (ii) Re-zone the balance Lot 9000 and Lot 142 from 'Special Use' zone to 'Holiday Accommodation' zone for R50 grouped holiday accommodation homes. The current 'Special Use' zone restricts the permissible landuses to short term accommodation, incidental tavern, restaurant, private recreation and residential. Some of the commercial uses are more likely to locate in the Town Centre, however can be retained as 'additional uses' depending on the landowners' intentions.

The existing 'Special Use' zone is restrictive and Council seeks wider discretion to allow for short and long term holiday accommodation that will allow flexibility for holiday homes or tourist accommodation without a restriction on the maximum stay length.

If the land remains undeveloped the owner still has options to pursue a modified Outline Development Plan. Modifying the zoning from 'Special Use' to 'Holiday Accommodation' zone will increase flexibility and future development options.

- (iii) Once the balance Lot 9000 and Lot 142 becomes developed or subdivided, then the zonings should be reviewed to effectively reflect the approved development or residential subdivision. A future Residential zone and flat density code can be implemented for any approved subdivision.

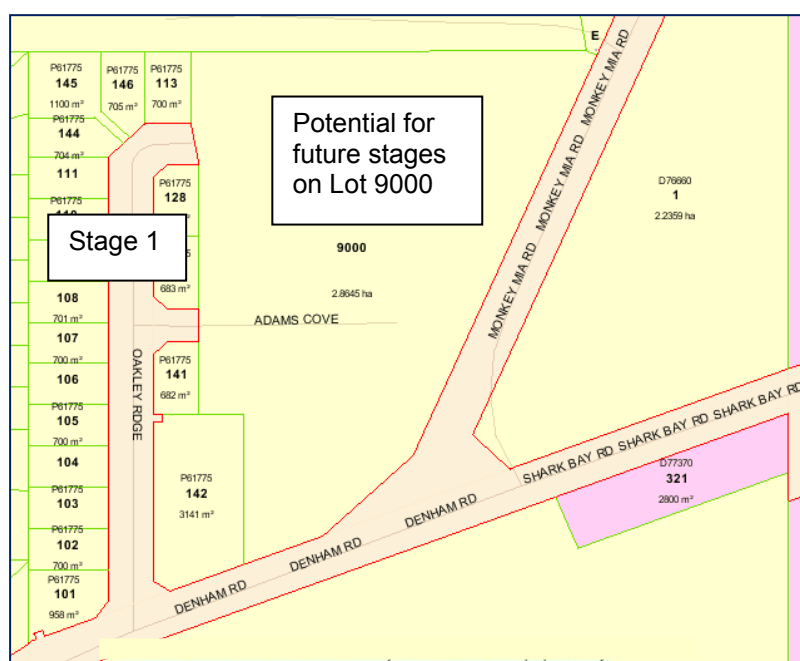


Figure 5 – Existing subdivision / vacant lots in Area 1 Oakley Ridge.  
Source: Landgate

Whilst the current approved Outline Development Plan allows for tourist accommodation, there is already reasonable supply of tourist accommodation in the Town Centre close to the beach. If the 'Tourist Accommodation' on the approved ODP remains undeveloped and there is a lack of demand, then consideration to alternative uses permissible under the Scheme may be necessary. A 'Residential Development' zone will allow for increased flexibility over the range of landuses that can be approved by Council.

#### **4.1.4 Area 4: Lot 9502 Denham Road (Certificate of Title 1705/174)**

Area 4 is zoned 'Special Use - 3' under the Scheme and is subject to progression of an ODP with discretion to include a range of uses including residential.

An ODP has been developed for this area, has been adopted by the Shire and endorsed by the WAPC on the 10 November 2011. The ODP proposes tourist development sites and open space fronting onto Denham Road (to the rear of an information bay).

The southern portion of the ODP is proposed to be developed with 53 residential lots ranging from approximately 700m<sup>2</sup> to 1636m<sup>2</sup>. The majority are proposed as single residential lots at an R15 density with the balance being R30 grouped dwelling sites.

Any future population increases in the long term can be accommodated in this area although timing for lot release is unknown as will be determined by the private landowner and is dependent on demand.

Retention of the 'Special Use' zone is recommended for this land to allow for sufficient control over the tourist sites supported by Council, special characteristics of the site and dune protection.

#### **4.1.5 Area 5: Unallocated Crown Land (Lots 3001 and 3002) Hughes Street / Francis Road)**

There is approximately 6.8 hectares of UCL located to the immediate east and south of the school. The land is zoned 'Residential Development' under the Scheme and is within walking distance of the town centre.

In the long term this land could accommodate infill residential development and allow families to live in close proximity to the school.

Any development requires an ODP under the Scheme and pedestrian linkages between the school, local oval and the town centre will be an important factor for future planning. Drainage and topography will also need to be carefully examined.

#### **4.1.6 Area 6A- 6B: Freycinet Drive / Stella Rowley Drive**

##### **4.1.6.1 Background**

A Denham Townsite Structure Plan (1991) was prepared by the then Department of Land Administration when the state government acquired a pastoral lease.

It was necessary to consider future expansion and townsite growth as part of that process as the Peron land (pastoral lease) was being acquired for national park. The structure plan identified a 22 hectare area to be excluded from the national park.

A Draft Denham Structure Plan (October 2004) was developed and plans for significant expansion of the Denham townsite to the west - [Figure 6](#).





Figure 6 – Draft Denham Structure Plan – Western Sector  
Produced by LandCorp and Taylor Burrell Barnett (2004)

#### 4.1.6.2 Area 6A – Denham Estate

Area 6A is currently zoned 'Residential Development' under the Scheme, and is subject to ODP requirements.

An ODP for Stage 1, 2 and 3 within a portion of Lot 338 Stella Rowley Drive has been developed and formed part of an ODP report (December 2005).

An extract of the ODP is included as [Figure 7](#).

This plan clearly demonstrates that there is sufficient land to cater for long term growth of the town likely for the next 10-15 years.

The Draft Plan mainly caters for residential expansion however also identifies potential sites for schools, aged care, recreation and the like. Some of the plan has come to fruition as a new school was built in the Shire approximately 4 years ago.

In 2004 Taylor Burrell Barnett (planning consultants) and LandCorp held a workshop with key agencies to establish key characteristics for the first stage of residential development in this area.





Stages 2 to 3 will cater for medium and long term needs and can proceed under the existing 'Residential Development' zone under the Scheme.

#### **4.1.6.3 Area 6B: Future Townsite Expansion (Long Term) – Subject to Future Investigation**

It is clear that there is sufficient existing residential land available to cater for residential development in the short, medium and long term in Area 6A (and other areas in the town).

Once existing land throughout the townsite is fully developed, then there will be opportunity for future long term urban growth in a western direction to be further investigated.

Portions of land to the west and north-west of the existing LandCorp subdivision (Denham Estate) are zoned 'Rural / Pastoral' and will require re-zoning to facilitate subdivision. It will be important to consider current available residential lots and demand for new lots as part of any strategic planning for growth.

It is critical that any long term western urban expansion is not unduly constrained; however it is also essential that the Shire examine opportunities for infill of the existing residential zones to maximise use of infrastructure and sewered areas.

There will also be opportunities to consider the need to set aside land for further community facilities to meet any identified needs at the time that future planning for the area proceeds, such as aged care, consulting rooms, light industrial, incubator businesses etc. It is important that any ODP identify the level of demand for landuses such as light industry and best use of the land to meet the needs of the community at that time.

If Shire resources are limited, future long term planning and progression of a refined ODP for Area 6B may be considered in stages.

Open space requirements for Area 6B should be reviewed having regard for current limited community use of the existing oval in Francis Street, the planned new recreation centre in Freycinet Street, proximity to the coastal foreshore, limited Shire resources for maintenance and water restrictions. Retention of corridor natural open space for local wildlife is an important consideration in identifying the correct level of open space provision.

Further expansion into Area 6B should be subject to detailed future investigation and only be pursued when the existing vacant land in town becomes more developed, and there is evidence of increased demand and construction of housing on existing vacant lots.

#### **4.1.7 Area 7: Lot 377 and 388 Dampier Road/ Poland Road - Unallocated Crown Land (Certificate of Title LR3128/363 & LR3128/364)**

The land in Area 7 is Unallocated Crown Land (UCL) zoned 'Residential Development' under the Scheme and is comprised of Lots 377 and 388 located on the corner of Dampier and Poland Road. An ODP is required to be endorsed by the Shire prior to any development or subdivision.

Given the amount of land available for residential uses in Denham in the short, medium and long term there is opportunity to consider incorporating alternative uses for Lot 377 such as community related uses as required.

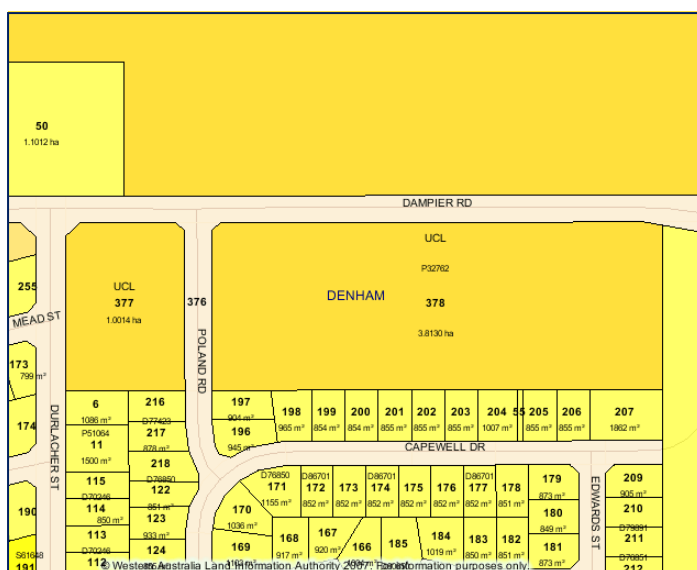


Figure 8– Location Plan for Lots 377 – 378 (UCL)

The Shire has advised it may require land to service organisations such as St Johns Ambulance, State Emergency Services, Volunteer Marine rescue and the like.

Lot 377 has excellent road access, can accommodate a variety of land requirements, and has good connections to the town centre which is important for emergencies.

It is recommended that the Shire consider zoning Lot 377 which is the western portion of Area 7 to accommodate community and emergency uses. A Public Purpose zoning is not recommended as not all groups are government or public agencies, and land may be held in freehold title or private ownership (subject to negotiation and liaison with State Land Services).

A new 'Community' zone could be introduced in the Scheme for Lot 377. A similar zone has been utilised in areas such as Port Hedland.

It is recommended that the western portion of Area 7 be re-zoned to 'Community' zone as required to cater for local community organisations, services and groups. The zoning should also allow for caretakers accommodation and accommodation that is associated with any community use or its volunteers and workers.

Provisions outlining the objectives for a new 'Community' zone would need to be included in the Scheme – refer Table 1.

The eastern portion of Area 7 (Lot 378) can be retained as 'Residential Development' to cater for long term residential needs. Suitable buffers, setbacks and landscaping should be provided between any non residential uses and residential dwellings.

#### 4.1.8 Closed residential settlement : Useless Loop

In addition to the main residential are in Denham, there is a closed mining settlement at Useless Loop which provides accommodation and facilities to service the workers and families associated with a solar salt operation and gypsum mine, which has operated since 1968.

The settlement is not open to the public and has no facilities for tourists. It is zoned 'Special Use' under the Shires Scheme and no changes to the zoning is recommended.

#### Planning Implications:

- There is wide scope and potential for future infill to maximise use of existing infrastructure.
- Increased densities for corner lots to R40 are recommended to provide greater flexibility, development incentive and to take advantage of two road frontages.
- The existing dual codes can be replaced with flat density codes for simplification in the sewerage areas / southern portions of the Denham townsite.
- There is sufficient existing residential zoned land to cater for short, medium and long term needs.
- There is a need for land to cater for community use and emergency services. A new 'Community' zone is recommended.
- The number of special use zones should be decreased and Residential Development zones should apply where the main objective is to allow for residential subdivision.
- Commercial uses such as shops and restaurants should be concentrated in the Town Centre.

#### 4.1.9 Specific recommendations for existing and future housing areas

The Shire may undertake a full Scheme review or support amendments to the existing Scheme to implement the main findings and recommendations in this Local Planning Strategy.

Broad recommendations on zoning changes have been made in Section 4.1 and are illustrated on a Draft Scheme Amendment map – [Figure 18](#). A summary of the proposed changes are included in the [Table 1](#) with drafted new scheme provisions.

**TABLE 1**  
Specific recommendations for existing and future housing areas

No.	Summary	Draft provisions
1.	Introduce a flat R30 density Code for all sewerage areas currently zoned Residential R12.5/30.	Identified for Area 1. Map change – refer <a href="#">Figure 18</a> .
2.	Allow a higher R40 density code for existing corner lots in the Residential zone.	Identified for Area 1. Draft Scheme Provisions:  <i>“5.4.2 Residential zone 5.4.2.1 The Council may permit grouped dwelling development of an existing corner lot zoned ‘Residential’ to a maximum density of R40 provided: (a) The lot has frontage to two constructed roads; and (b) The created lots are not of an irregular shape; and (c) Any residence to be retained is of a good quality and externally upgraded to the equivalent standard and appearance of a new dwelling in the opinion of Council; and (d) The development complies with any relevant Local Planning Policy.</i> ”



No.	Summary	Draft provisions
2.	Continued.	<p>5.4.2.2 <i>The Council may recommend support of survey strata subdivision (with or without common property) of an existing corner lot zoned 'Residential' to a maximum density of R40 provided:</i></p> <ul style="list-style-type: none"> <li>(a) <i>The lot has frontage to two constructed roads; and</i></li> <li>(b) <i>The created lots are not of an irregular shape; and</i></li> <li>(c) <i>A planning consent has been issued for grouped dwellings on the lot; and</i></li> <li>(d) <i>A notification is placed on the Certificate of Title to advise prospective purchasers that development is to be in accordance with a planning approval issued by the Shire and / or</i></li> <li>(e) <i>Construction of development has substantially commenced to the satisfaction of Council. "</i></li> </ul> <p>5.4.2.3 <i>The amalgamation of abutting lots with an existing corner lot in order to create a larger lot for the purpose of development and / or re-subdivision at a higher density is not consistent with the intent of the provisions and the R Code as depicted on the Scheme map shall apply to the amalgamated lot."</i></p>
3.	Extend the existing 'Residential Development' zone on Lot 9500 Monkey Mia Road to the south. Zone the entire Lot 9500 "Residential Development' zone.	Identified for Area 2. Map change – refer <a href="#">Figure 18..</a>
4.	<p>Include the current permissible uses for 'Special Use' zone 3 as 'Additional Uses' in Schedule 2 of the Scheme applicable to Lot 9500.</p> <p>Include conditions for development.</p>	<p>Identified for Area 2.</p> <p>List Lot 9500 Monkey Mia Road in Schedule 2 with additional uses as follows:</p> <p><i>"Council shall only consider the following additional uses where they are associated with short term and long term accommodation;</i></p> <ul style="list-style-type: none"> <li>• <i>Tavern as an incidental use to restaurant or short stay accommodation.</i></li> <li>• <i>Restaurant – A</i></li> <li>• <i>Private Recreation – D"</i></li> </ul> <p><i>Note: Incidental Use is defined in Schedule 1 of the Scheme.</i></p> <p>List the following conditions in Schedule 2:</p> <p><i>"Development shall be in accordance with an Outline Development Plan approved by the Council and endorsed by the Western Australian Planning Commission.</i></p>

No.	Summary	Draft provisions
4.	4. Continued.	<p><i>Council shall only have the ability to consider additional uses of Restaurant, Private Recreation, and Tavern in locations clearly nominated on an approved Outline Development Plan and where they are associated with short term accommodation.</i></p> <p><i>In considering an application Council shall have regard for:</i></p> <ol style="list-style-type: none"> <li><i>1. The need to ensure that commercial uses do not negatively impact on the amenity of residential development by virtue of noise, traffic, odour and emissions. Accordingly any application shall be accompanied by a detailed report addressing these matters.</i></li> <li><i>2. Adequate landscaping buffers to adjacent residential lots or uses to be provided to the satisfaction of Council.</i></li> <li><i>3. Demonstrated provision for adequate on site carparking, loading / unloading areas, truck turnaround areas, service area and bin locations.</i></li> <li><i>4. The need to ensure that development is small scale with a limited seating capacity as deemed suitable by the Council. “</i></li> </ol>
5.	Re-zone Lots 101-111, 113, 128-129, 141, 144-146 Oakley Ridge from ‘Special Use’ zone to ‘Residential’ zone with an R12.5 density code.	Identified for Area 3. Map change – refer <a href="#">Figure 18..</a>
6.	Re-zone Lot 142 Denham Road and Lot 9000 Monkey Mia Road / corner Denham Road from ‘Special use’ to ‘Residential Development’ zone.	Identified for Area 3. Map change – refer <a href="#">Figure 18..</a>
7.	Rezone Lot 377 Dampier Road, Denham from ‘Residential Development’ zone to ‘Community’ zone	Identified for Area 7. Map change – refer <a href="#">Figure 18.</a>
8.	Introduce a new ‘Community’ zone with zone objectives.	<p>Identified for Area 7.</p> <p><i>“Community Zone:</i></p> <p><i>The objective of this zone is to provide sufficient land for a wide range of landuses generally relating to health, emergency services, rescue, education, social, recreation, community purpose or other uses that have direct benefits to the local community. The zone may also provide for accommodation associated with any use approved by the local government. “</i></p> <p>Note: The ‘Community’ zone will also need to be included in Table 1 of the Shires Scheme, with suitable landuse controls. This will be examined as part of a future Scheme review.</p>

No.	Summary	Draft provisions
9.	The Community zone allows for Community purpose and Emergency services. Community purpose is already defined in the Shires existing Town Planning Scheme. A new definition for 'Emergency services' should be included in the Landuse Definitions in Schedule 1.	Identified for Area 7.  <i>'Emergency services' land or buildings used to store and maintain emergency vehicles and equipment, coordinate response to emergency events and may include training facilities, caretakers dwelling and sleeping quarters or accommodation for emergency workers, volunteers or for use in an emergency."</i>
10.	The 'Community' zone will need to be included in Table 1 of the Shires Scheme, with suitable landuse controls.	This will be examined as part of a future Scheme review.

## 4.2 Existing and future industrial / business locations

### 4.2.1 Area 8: Industrial Area

There is an existing Industrial area which was developed by LandCorp to the north west of the main Denham townsite. The subdivision is of a good quality and has been located in an area which provides appropriate buffers to existing residential areas.

Initial demand for industrial land was low, and subsequently the take up of lots was gradual. Large sheds have been built on many of the lots to comply with sale conditions that they be developed within a stipulated time period.

Some of these sheds are only used for storage and not actively used for industrial purposes.



Sheds constructed in the existing industrial area.

Despite the above, there are some businesses actively operating in the area such as a fish factory, a Mitre 10 hardware store, metal fabrication and service industries. The existing Industrial area will cater for the medium term needs of Denham.

Future population increases and growth may make the area more viable to attract additional service industries to cater for local needs.

One of the main issues associated with the Industrial area is that many of the lots do not have exposure to major traffic routes and visitors to Denham would unlikely be aware of the

businesses operating from the Industrial area. The lots along Dampier Road that are opposite Durlacher Street have some more exposure, which is where Mitre 10 currently operates.

The Shire has identified areas for future Service Commercial in order to ensure there is 'development ready' land to cater for future needs and maximise flexibility as new opportunities arise.

#### **4.2.2 Area 9: Portion of Lot 501 Dampier Road (Unallocated Crown Land)**

Area 9 is Unallocated Crown Land currently zoned 'Parks and Recreation' under the Shires Scheme. The Shire has identified a need to earmark land to cater for future service commercial uses which require road exposure and are not necessarily suited to the Industrial zone or Town Centre.

There is recognition that the lot sizes available in the existing Industrial zone are of a limited range, and there is need to provide flexibility to cater for new business opportunities as they may arise. There is also recognition that development costs for service commercial uses would be lower in this location, as land in the Town Centre is premium and entails site works costs associated with building up floor levels for flooding protection.

A 'Service Commercial' zone would cater for a range of compatible landuses which would not ordinarily locate in the Town Centre, such as showrooms, warehouses, service station and other commercial uses which are service orientated. It is important to ensure that the Town Centre remains the focus area for retail uses.

In the short term, some service commercial type uses can be accommodated in Area 11 which has stronger links to the Denham Townsite. There will be scope to create new 'Service Commercial' zones in the medium to longer term as demand requires (subject to consultation with State land Services).

#### **4.2.3 Area 10: Portion of Lot 501 Dampier Road (Unallocated Crown Land)**

Area 10 is Unallocated Crown Land currently zoned 'Parks and Recreation' under the Shires Scheme.

There is an existing Residential Development zone south of Dampier Road and the Shire seeks opportunity to provide a future development interface north of Dampier Road.

The Shire sees particular benefits in creating a Composite Enterprise zone north of Dampier Road to allow for a dwelling unit and a small business to co-locate on the same lot, particularly as Area 10 has reasonable road exposure and connections to the existing Industrial area to the west.

A Composite Enterprise zone would cater for small businesses that cannot sustain purchase of a lot in the Town Centre, are of a low scale compatible with residential and particularly cater for small businesses and tradespersons such as plumbers, electricians, handyman, carpenters and the like.

An amendment to the Scheme would be required to implement a new 'Composite Enterprise' zone. The extent of any amendment area would be dependent on service availability and demand. Issues such as amenity, interface with remaining residential and managing landuse compatibility would need to be carefully addressed.



It is noted that a similar zoning allowing for co-location of dwellings and businesses exists in the Shire of Plantagenet as an 'Enterprise' zone. In addition, the Draft WAPC State Planning Policy 2.5 makes allowance for an Enterprise zone which combine light industry and ancillary housing *"provided they are carefully planned close to urban areas, are serviced and have suitable design features and buffers that address amenity issues."*

The Composite Enterprise zone is only shown schematically on the Strategy map as land may be released in stages according to demand. Once Area 10 is developed there is latitude to extend to the east along Dampier Road.

#### **4.2.4 Area 11: Part North Location 59 Monkey Mia Road (Certificate of Title 855/216)**

Area 11 is located on the corner of Monkey Mia Road and Shark Bay Road which are major tourist traffic routes. Lot 1 is zoned 'Special Use – 4' under the Scheme which allowed for roadhouse, restaurant, and bulk fuel.

Scheme Amendment No. 2 has been approved to provide greater flexibility for development of this site and allow for a wider range of uses such as:

- garden centre,
- hire service,
- industry – service,
- motor vehicle repair,
- boat or caravan sales,
- office,
- showroom,
- convenience store,
- motor vehicle wash (car and boat wash),
- laundromat,
- service station
- restaurant.

The 'Special Use' zoning has been retained however the Scheme includes special conditions and development controls in Schedule 4.

It is not anticipated that all of the permissible uses will locate on the site however it does provide opportunities for businesses which are not suited to the town centre, require commercial exposure, visibility and passing trade, have larger land requirements, and are not appropriately catered for in the more isolated industrial area.

It may be likely that a mixture of small businesses may co-locate on the site. The site is currently vacant and is likely to meet service industry and commercial business needs for the short to medium term.

Scheme Amendment 2 has been approved by the Minister for Planning and was gazetted on the 25 January 2011. No changes to the scheme are recommended.

#### **4.2.5 Area 12: North Portion of Lot 340 and Reserve 49809**

Once Area 11 becomes substantially developed, there may be opportunity to investigate expansion through a new service commercial area on unallocated crown land (north portion of Lot 340) and a portion of Reserve 49808.

The Shire seeks to earmark possibilities for future service commercial areas for long term planning purposes, however it is recognised that the area requires further investigation and consultation with State Land Services.

Any future service commercial development should only occur in the longer term once Area 11 has been developed and there is evidence of demand with a clear need for cater for new businesses. Area 12 is only shown schematically on the Strategy map and its boundaries may require refinement. If the area is developed successfully then expansion can occur in an easterly direction along Denham Hamelin Road.

#### **4.2.6 Area 13: Lot 90 Monkey Mia Road (Certificate of Title 2124/43)**

Area 13 is zoned 'Special Use – 11' under the Scheme which allows for a range of uses including pearl farming, aquaculture, residential, staff accommodation, and plantation tree farming.

The site is largely undeveloped and there may be future latitude to provide greater flexibility over landuse permissibility considering exposure to Monkey Mia Road, however it largely depends on landowners aspirations and service availability.

The subject land has excellent road exposure and in the longer term may cater for some form of service commercial zone, or special use zone with adequate landuse controls to ensure commercial uses do not compete with the Town Centre zone.

It is not recommended that the land be re-zoned as part of a scheme review or that a scheme amendment be initiated until such time as a detailed land capability report and engineering services report is provided to the Shires satisfaction. Area 11 already caters for some commercial uses in the short to medium term, therefore Area 13 may be a longer term strategic prospect.

The Shire is prepared to support a future Scheme Amendment to facilitate either 'service commercial' uses or 'tourist uses' on the site where the uses will not adversely impact on the role and function of the Town Centre, and the combination of landuses are compatible.

##### **Planning Implications:**

- There are sufficient Industrial lots to cater for the Shire's needs in the short to medium term. Although the lots have been built on, many of the buildings are used for storage uses.
- The need for further Industrial or Light Industrial land can be examined as part of a future review or investigation, once the existing Industrial area has been actively developed or there is a need to cater for larger land requirements or specific new industries.
- The Shire has identified a need to earmark land for future service commercial uses, and cater for new development not suited to the Industrial zone or Town Centre zone.
- The Shire sees benefits in planning for a Composite Enterprise zone to allow for co-location of a dwelling and small business on the same lot.

#### 4.2.7 Specific recommendations for existing and future industrial and business locations

No changes to the Industrial zone are recommended, however a review of the permissible uses in the zoning table applicable to the Industrial zone will need to be examined as part of a separate future Scheme review.

Broad recommendations on zoning changes to create new service commercial zones and a Composite Enterprise zone are illustrated on the Strategy Map (Figure 1) and the Draft Scheme Amendment map – Figure 18. A summary of the proposed changes are included in the Table 2 with drafted new scheme provisions.

**TABLE 2**  
Specific recommendations for existing and future business locations

No.	Summary	Draft provisions
1.	Introduce a service commercial zone for a portion of Lot 501 Dampier Road	Identified for Area 9. Map change – refer Figure 18.
2.	Introduce a service commercial zone for a portion of Lot 340 Denham Hamelin Road and north portion of Reserve 49809	Identified for Area 12. Map change – refer Figure 18.
3.	Introduce new Service Commercial zone provisions.	<p>Identified for Area 9 and Area 12. Draft Scheme Provisions:</p> <p>“Service Commercial” zone:</p> <p><i>The objective of this zone is to cater for a wide range and mix of compatible business uses such as showroom, warehouse, light industry and other appropriate uses that would not ordinarily locate in the Town Centre and which do not generate nuisances detrimental to the amenity of the area or health, welfare and safety of residents and workforce.</i></p> <p><u>Design Requirements</u></p> <p><i>The following development requirements shall apply to the Service Commercial zone:</i></p> <p>(1) <i>Buildings shall not cover a total of more than 75 percent of the area of any lot.</i></p> <p>(2) <i>Buildings to be designed with a quality facade addressing available street frontages. Facades are to predominately be constructed out of brick, concrete, steel and glass or other materials approved by Council.</i></p> <p>(3) <i>Adequate off street parking shall be provided on site with sufficient space for staff parking, loading and unloading, truck movements, deliveries, and visitor parking.</i></p>

No.	Summary	Draft provisions
3.	Continued	<p>(4) A minimum landscaping area of 3 metres along the frontage of all lots shall be provided.</p> <p>(5) Development shall be designed to maximise integration of carparking and accessways with adjacent lots.</p> <p>(6) Building bulk as presented and viewed from the street shall be minimised and buildings to be designed to positively contribute towards streetscape.</p>
4.	Introduce a Composite Enterprise zone for a portion of Lot 501 Dampier Road	Identified for Area 10. Map change – refer <a href="#">Figure 18</a> .
5.	Introduce Composite Enterprise zone objectives	<p>Identified for Area 10. Draft Scheme Provisions:</p> <p><i>“Composite Enterprise” zone:</i></p> <p><i>The objective of this zone is to cater for co-location of businesses with a residential dwelling on the same lot and provide flexibility for owners and operators to live and conduct a business on the same property. All businesses must be compatible with residential uses to avoid landuse conflict.”</i></p>
6.	Introduce Composite Enterprise zone provisions.	<p>Identified for Area 10. Draft Scheme Provisions:</p> <ol style="list-style-type: none"> <li>1. All development including a single house, ancillary development, outbuildings, storage, and changes of landuse require planning approval from the local government.</li> <li>2. Council shall not grant planning consent unless; <ol style="list-style-type: none"> <li>(i) It is satisfied that the proposed development allows for sufficient area to accommodate a residential dwelling and sufficient area to accommodate a business on the same site.</li> <li>(ii) The proposed use is considered to be of a scale and nature that it is compatible with residential uses.</li> <li>(iii) Any potential emissions can be effectively managed so as not to detrimentally impact on residential amenity, in the opinion of the local government.</li> <li>(iv) The business building height, scale external appearance and signage is of a low scale compatible with that of a residential dwelling.</li> <li>(v) Adequate on site carparking, access, loading areas, landscaping, and effluent disposal is provided to the satisfaction of the local government.</li> </ol> </li> </ol>

No.	Summary	Draft provisions
6.	Continued	<p>3. <i>Notwithstanding Table 1 – Zoning Table, Council has discretion to approve a shop and retail sales associated with, and ancillary to, any business where:</i></p> <ul style="list-style-type: none"> <li>(i) <i>The sale is of goods and products serviced, refurbished, constructed, processed, repaired, made or produced on the same site; and</i></li> <li>(ii) <i>The sale does not involve clothes or food stuffs; and</i></li> <li>(iii) <i>The gross retail floorspace for the display of goods for sale does not exceed 200m<sup>2</sup>.</i></li> </ul>
7.	The Composite Enterprise zone will need to be included in Table 1 of the Shires Scheme, with suitable landuse controls.	This will be examined as part of a future Scheme review.

### 4.3 Existing and future retail and commercial centres (Town Centre)

#### 4.3.1 Background

The Denham Town Centre is the main commercial and retail area servicing the townsite and is zoned 'Town Centre' under the Scheme.

The 'Town Centre' zone includes the land mainly along the waterfront generally bounded by Knight Terrace, Stella Rowley Drive, Hughes Street, Mainland Street and includes a pocket between Brockman Street and Durlacher Street – refer [Figure 9](#).

The Town Centre zone is expansive and contains a wide range and mixture of landuses including short stay accommodation, hotels, residential, shops, offices, tourist uses and restaurants. Many of these landuses have developed over a long time period and are intermingled within streetscapes.

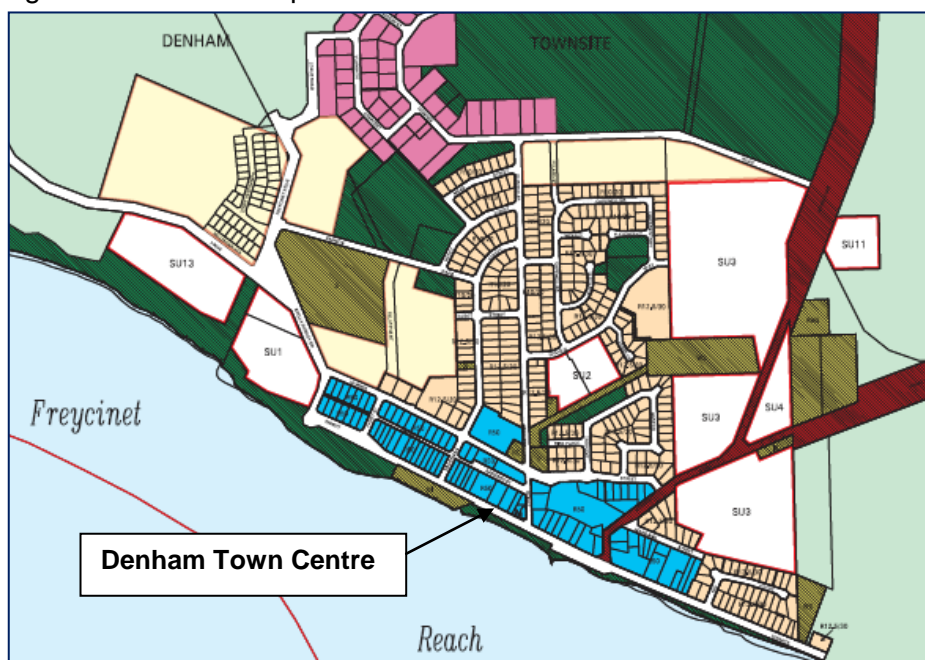


Figure 9 – Extract of Shire of Shark Bay Local Planning Scheme No 3 map

Although this section of the Strategy is to focus on retail and commercial uses, it has to examine all of the uses in the existing town centre so includes some areas that have been subdivided and developed for residential use.

The Shires existing (2006) Town Centre Strategy divides the Town Centre into a number of recognisable precincts and provides recommendations for priority landuses within each precinct. Rather than exist as a separate document, the Shire has requested that the Town Centre Strategy essentially form part of the Local Planning Strategy.

For ease of reference, this Local Planning Strategy examines each precinct consistent with those already established in the 2006 Town Centre Strategy – refer [Figure 10](#).

The existing Town Centre has been reviewed and is represented in this Strategy in two ways;

1. Broadly as Area 14 on the Local Planning Strategy map.
2. A new (draft) Town Centre Strategy map – [Attachment 1](#).

Some of the information in the Local Planning Strategy is replicated in the separate new (draft) Town Centre Strategy map. The (draft) Town Centre Strategy Map is included as an Attachment so that it can still be used by the Shire as a 'stand alone' plan.

#### **4.3.2 Area 14 : Town Centre**

The Town Centre incorporates a wide range of commercial development including retail shops, offices, tourist uses, hotels, cafes and restaurants and tourist accommodation. The Scheme applies a residential density of R50 to the Town centre zone and some portions have been developed for residential uses.

There are drainage challenges in the Town Centre due to topography (natural drainage is towards the coast) and proximity to the ocean. This in turn causes streetscape and development challenges as minimum floor levels for flooding apply.

The objectives of this Strategy for the Town Centre are to;

- Examine existing landuses and identify opportunities to consolidate the core Town Centre and review the extent of the Town centre zone.
- Promote a clear understanding of landuse and streetscape issues and achieve a high standard of integrated development that recognises the inter-relationship between the Town Centre and the coast, historic development, established landuses and high quality new development.
- Ensure there is sufficient land to cater for future commercial and community needs of the town and its visitor populations, including retail, office and commerce; entertainment; tourism (accommodation and services); and community services.
- Identify appropriate landuses to be encouraged in identified precincts and sub precincts to promote co-location of compatible landuses and ensure retail uses are focused in a core 'Town centre' precinct.
- Protect established residential areas and nodes of tourist accommodation from inappropriate and incompatible development that may have adverse impact by virtue of noise, emissions or traffic.





- Apply development and land use control that is consistent with an identified theme for the town centre.
- Maximise coastal views within and beyond the town centre through applying limits to building heights. In particular, to protect views of the lots between Hughes Street and the foreshore.
- To ensure all new habitable development provides adequate shelter and weather protection for pedestrians and promotes pedestrian linkages.
- To continue to implement and incorporate a marine and coastal theme for elements of the built form of all new development based on historic identity of the town as a fishing village and the unique environment represented by Shark Bays World Heritage Listing.
- To identify high priority redevelopment sites where demolition and new development will be actively encouraged.
- To ensure subdivision in the Town Centre does not occur in an ad hoc manner and maximise future robustness of lots to be able to be developed for a wide range of commercial uses.

#### **4.3.2.1 Precinct 1 in the Town Centre**

##### **4.3.2.1.1 Precinct 1 Characteristics**

Precinct 1 includes sub precincts A, B and C – refer [Figure 11](#). The precinct is generally bounded by Knight Terrace, Durlacher Road, Brockman Road and residential to the north.

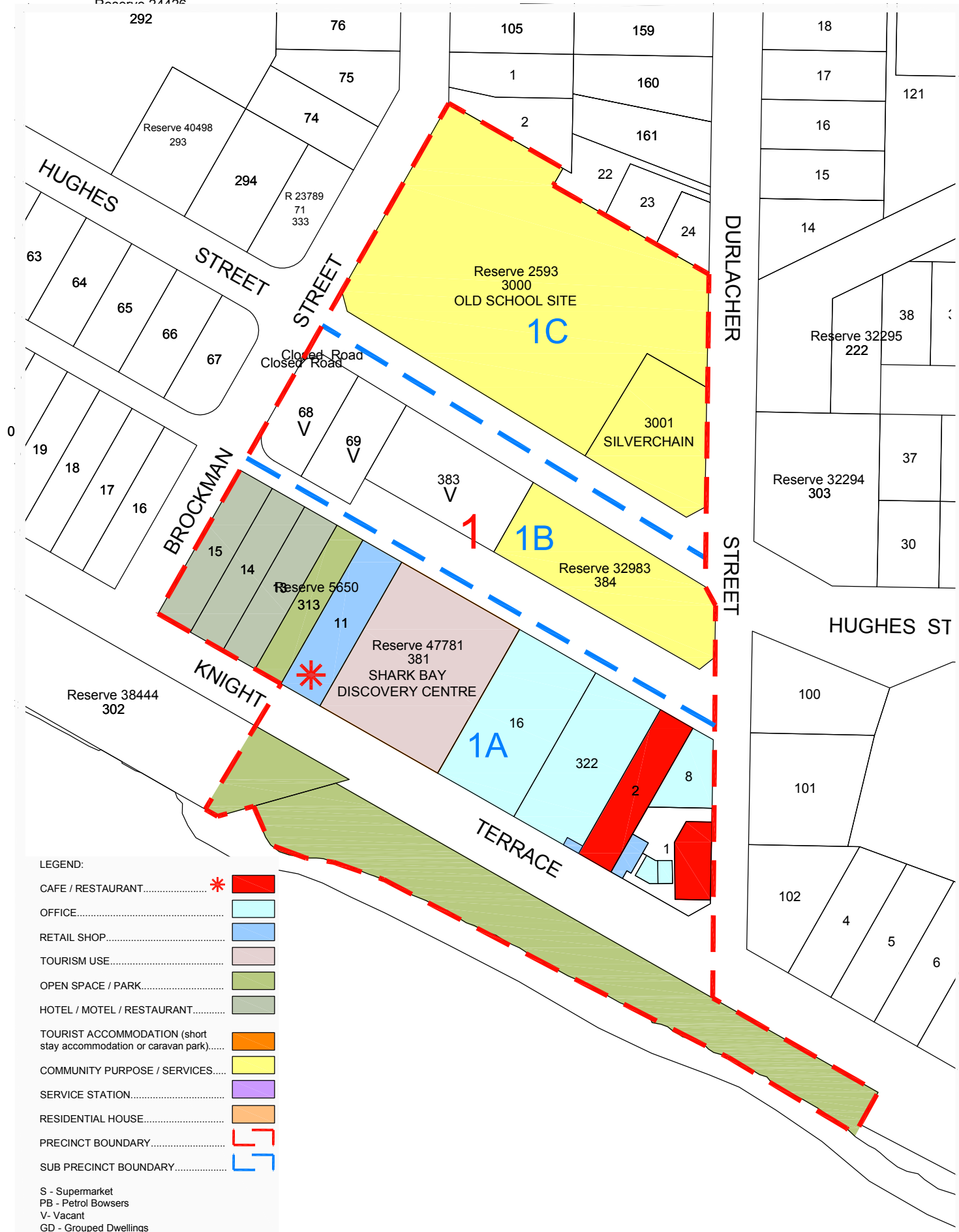
The precinct currently contains a mixture of uses but is predominantly characterised by the Shark Bay World Heritage Discovery Centre, and the Shire offices, Council meeting hall/chambers, Silver Chain and an old School site (Reserve 32983) – refer Landuse Plan ([Figure 11](#)).

The construction of the Shark Bay World Heritage Discovery Centre ('the Centre') on a site in the middle of this block is a dominant architectural form. The Centre is iconic and attracts activity into the area by visitors.



Shire Office : Knight Terrace

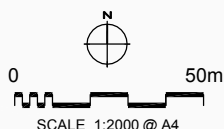




# **PRECINCT 1 LAND USE PLAN** **DENHAM TOWNSITE** **SHIRE OF SHARK BAY**

JOB REFERENCE: 100791

DATE: 24th NOVEMBER 2011



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Figure 11

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Pearl Restaurant



Shark Bay Discovery Centre Knight Terrace

A new large scale high quality development has been constructed immediately east of the Shark Bay World Heritage Discovery Centre for government offices, and provides a pedestrian link through to the rear. The combination of these two developments changes the low scale traditional streetscape of this section of Knight Terrace.

Further east of the centre are the Shire offices, several other commercial developments and the historic Old Pearler Restaurant.

Built out of shell brick, this is a significant landmark building in Denham. In the future there may be opportunities for relocation and redevelopment of the existing Shire office.

Vehicle access is to the rear of these sites (via Hughes and Barnard Streets). Barnard Street is constructed as two cul de sacs.



Lot 11 Knight Terrace

There is a small but important retail 'hub' on Lot 11 Knight Terrace adjacent to Charlie Sappie Park (Reserve 5650). It is a community focus point as it contains the Shark Bay pharmacy, newsagency, post office, and a cafe. It complements the surrounding tourist and office uses in the precinct and caters for day to day needs.

Measures need to be considered for protection of Precinct 1 as the prime location for retail and commercial activities.

The three lots closest to the corner of Knight Terrace and Brockman Street contain an old hotel which is prime for redevelopment.

A new Silver chain building has been built on the corner of Durlacher Street and Hughes Street. To the west of Silverchain is an old school site with high redevelopment opportunity. The school site is one of the few large enough to provide for larger retail and commercial uses that may be required in Denham in the longer term.

The foreshore opposite Precinct 1 is well serviced by existing facilities, including children's playground, barbecues and shade areas.

#### 4.3.2.1.2 *Precinct 1 Opportunities and Challenges*

There are a number of opportunities and challenges in the precinct as:

- There are a range of architectural styles however the dominant streetscape element and building is the Shark Bay World Heritage Discovery Centre central on Knight Terrace.
- The lots fronting onto Knight Terrace have rear access therefore in many cases the buildings front onto the Terrace and car parking can be accessed at the rear. Due to the rear access, consideration to the treatment and aesthetics of the rear of buildings needs to be considered (as viewed from Barnard Street).
- The Shire has undertaken works adjacent to Barnard Street (to Reserve 32983) to improve pedestrian links to Hughes Street. Further pedestrian links between Barnard Street and Knight Terrace could be pursued.
- The old school site provides an opportunity for new development however is contingent on future landowners intentions. At this stage the Shire has a preference for the land to accommodate a new supermarket and short stay accommodation or mixed use development.
- A new government office has been constructed on Lot 16 and accommodates agencies such as DEC, the Department of Fisheries and the Shark Bay Volunteer Marine Rescue. This development achieves improved streetscape and is a high quality building design that complements the adjacent Shark Bay World Heritage Discovery Centre. Pedestrian links between Knight Terrace and Barnard Street have been considered as part of design.
- There are still areas of vacant land and sites with redevelopment opportunities in this precinct.



Rear view of the Shark Bay World Heritage Discovery Centre (from Barnard Street) and a newly constructed pedestrian path link between Barnard Street and Hughes Street (through Reserve 32983). July 2010.

#### 4.3.2.1.3 *Precinct 1 Strategy Recommendations*

Whilst Precinct 1 includes some retail on Lot 11, it predominantly contains tourist uses, government offices and civic uses.

Uses that contribute to activity in the area need to be encouraged such as shops, mixed use development, and restaurants / cafes that will service local workers and tourist needs. There is opportunity for a future supermarket to establish in this area, however topography represents challenges. Precinct 1 is the Shires preferred location for any new supermarket as it is central and can act as a focal point for the Denham townsite.

Precinct 1 is high profile, is located centrally on Knight Terrace, is undergoing substantial redevelopment and has vacant land with redevelopment opportunities.

It is recommended that the zoning of 'Town Centre' be retained however it be provided with stronger objectives to encourage commercial retail and shop uses into the area. The Scheme provisions require review to ensure it's priority focus is for commercial activities and residential should be discouraged unless it forms part of a mixed use development.

New Scheme provisions have been drafted to provide a stronger focus of the Town Centre zone as the priority area for new commercial and retail development – [refer Section 4.3.3](#).

There are other areas in the existing Town Centre to the far west and east that are a better location for short stay accommodation.

Further short stay accommodation in a consolidated and reduced Town Centre zone should be discouraged unless it located away from Knight Terrace and / or has a substantial commercial component or public facilities that will attract people into the Town Centre.

Limited residential and short stay accommodation will ensure there is casual surveillance for offices and commercial uses at night. However residential and short stay accommodation should not be allowed to encroach to the extent that it will inhibit or limit opportunities for foundation uses such as shops, restaurants, cafes and offices especially on Knight Terrace.

#### 4.3.2.1.4 *Sub Precincts*

Precinct 1 has three distinct 'sub precincts' including;

- Sub Precinct 1A is commercial development fronting directly onto Knight Terrace.
- Sub Precinct 1B is largely vacant land with the Shire hall located on Reserve 32983 (corner Durlacher and Brockman Street).
- Sub Precinct 1C contains an old school site surplus to State needs and is being considered for disposal (Reserve 2593). Adjacent to the school is a Silverchain building.



### *Future Landuse and development in Precinct 1a*

Council shall have regard for the following when considering new development in Precinct 1a;

- i. Residential development and tourist accommodation should be actively discouraged to ensure this remains the core Town Centre area with a high focus on landuse activities that will attract people into the area. A high priority shall be given to tourist services and attractions, restaurants, retail shops, and entertainment.
- ii. A high priority should be given to streetscape, wind protection and a pedestrian friendly environment, including shade, seating and amenity.
- iii. Vehicle access should continue to occur from the rear of properties (Barnard Street).
- iv. New development should address both Knight Terrace and Barnard Street frontages. The rear of buildings fronting Barnard Street are highly visible from other areas of town, particularly lots on Hughes Street.
- v. Pedestrian links between Knight Terrace and Barnard Street through Reserve 5650 and future development of Lot 16 should be enhanced.
- vi. Lots 13, 14 and 15 Knight Terrace are a high priority redevelopment site combined with Lots 68 and 69 to the rear for carparking. These lots are prime for retail and commercial development due to high exposure, proximity to jetty facilities, central location and age of existing development.
- vii. The existing Shire offices are also a high priority redevelopment site with potential to cater for new development with an architectural style to complement the Shark Bay World Heritage Discovery Centre and new offices on adjacent Lot 16.
- viii. A review of car parking for the precinct may be required when redevelopment of sites is undertaken.

### *Future Landuse and development in Precinct 1b*

Council shall have regard for the following when considering new development in Precinct 1b;

- i. Consideration should be given to the location of services and facilities that complement Knight Terrace activities but do not warrant a prominent foreshore location. Appropriate uses would include Government service buildings, offices, tourist accommodation and community uses.
- ii. Building heights should be restricted to ensure views from Hughes Street properties are retained. This sub precinct has excellent coastal views.
- iv. Limited residential could be considered in this precinct to provide casual surveillance of businesses. They should part of mixed use developments and include a commercial component.
- v. Limited tourist accommodation may also be considered where it is of exceptional quality.



### *Future Landuse and development in Precinct 1c*

Council shall have regard for the following when considering new development in Precinct 1c;

- i. The school site (Reserve 2593) is a high priority redevelopment site to provide for future town centre activities. Any development should be subject to the preparation of an appropriate Detailed Area Plan (DAP) that examines development requirements, access points, co-ordinated carparking layouts and shared crossover opportunities, interface with residential, servicing, drainage and responds to amenity issues. The Shire considers that the site is prime for retail or commercial development because it is one of the few lots in the Town Centre of a sufficient size to accommodate adequate retail floorspace and on site carparking. Alternative uses may be a mixed use development.

The Shire would support subdivision of Reserve 2593 without any Outline Development Plan if the purpose was to create superlots to facilitate disposal of the land by the State of Western Australia.

- ii. Priority should be given to accommodating a mix of uses and provision for residential and short term accommodation above retail and office space; the allocation of larger sites for retail and commercial uses; and higher density residential activity.
- iii. The potential for reuse of the school buildings may occur in the short term until redevelopment occurs.
- iv. Any new buildings should address available street corners and provide a landmark development.
- v. New development should have windows with extensive passive overlooking of streets, and pedestrian shelter should be incorporated into any design. Development should be designed to respect the low scale adjacent residential area to the north.

### **4.3.2.2 Precinct 2 in the Town Centre**

#### **4.3.2.2.1 Precinct 2 Characteristics**

Precinct 2 is divided into sub-precincts 2A and 2B. Precinct 2A is located at the most western part of the Town Centre and is dominated by older tourist accommodation and some residential dwellings - refer Landuse Plan ([Figure 12](#)).

The only retail use in Precinct 2A is an older local corner shop located on the intersection of Knight Terrace and Stella Rowley Drive. It is a historic development which previously included petrol bowsers which have been removed. Cars attending the shop reverse onto Stella Rowley Drive causing traffic issues. Redevelopment of this site would be actively encouraged by the Shire as the lot area is not conducive to the shop use and has insufficient parking areas.

It is likely the existing shop relies substantially on trade from the Denham Seaside Caravan Park located to the immediate west of the precinct, tourists attending the foreshore which is developed with extensive car parking and boat ramp facilities, as well as local residents within walking distance.

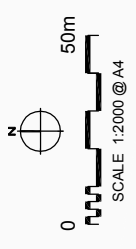
The remainder of Precinct 2A consists of older tourist accommodation.



# **PRECINCT 2 LAND USE PLAN** **DENHAM TOWNSITE** **SHIRE OF SHARK BAY**

Figure 12

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Denham Seaside Caravan Park accessed from Stella Rowley Road, and foreshore car parking area.

Precinct 2A is not a dominant retail area however is located in close proximity to tourist uses such as the Seaside Caravan Park, and fishing/ boat activity on Reserve 38444.

Precinct 2B is currently an ad hoc mixture of some residential, short stay accommodation and vacant lots. Precinct 2B also has land that may be suitable for a new supermarket or shops as it has a prime location with excellent exposure to Knight Terrace, however lots would need to be amalgamated in order to provide sufficient on site carparking.

#### *4.3.2.2.2 Precinct 2 Strategy Recommendations*

It is recommended that Precinct 2A be re-zoned from 'Town Centre' to 'Tourist' zone to recognise that it mainly contains tourist accommodation and to encourage co-location by other tourist uses.

There is a high level of redevelopment opportunities in Precinct 2B therefore retention of the 'Town Centre' zoning is recommended to maintain flexibility and try to encourage new retail, cafe, and commercial development in this precinct.

#### *Future Landuse and development in Precinct 2a*

Council shall have regard for the following when considering new development in Precinct 2a;

- i. Priority should be given to accommodating tourist accommodation and tourist services to take advantage of excellent access to the coastal foreshore across Knight Terrace.
- ii. Retail uses will predominantly be directed to Precinct 1 and Precinct 2B as the core Town Centre. Only limited small scale retail for convenience day to day goods may be considered in this precinct to service tourist needs, or where retail is an incidental component of a larger development.
- iii. Building heights should be restricted to ensure views from Hughes Street properties are retained.
- iv. Any new development should be designed to maximise protection of residential amenity for lots located to the north on Hughes Street.



- v. Redevelopment and substantial upgrading should be encouraged for older tourist accommodation. Amalgamation of lots is encouraged to allow for improved development opportunities.
- vi. Precedence should be given to redevelopment of Lot 49 on the corner of Stella Rowley Drive and Knight Terrace for improved aesthetics, access and traffic safety.

#### *Future Landuse and development in Precinct 2b*

Council shall have regard for the following when considering new development in Precinct 2b;

- i. Amalgamation of lots would support more efficient use of land in the medium term, and provide larger sites suitable for a range of retail, commercial, Government service and additional tourist uses.
- ii. Building heights should be restricted to ensure views from Hughes Street properties are retained.
- iii. Lots 16 and 17 on the corner of Knight Terrace and Brockman Street are a high priority development site prime for retail or commercial development, subject to amalgamation. There is opportunity for a future landmark corner building.
- iv. Opportunities for integrated carparking and reduction of crossovers should be maximised as land becomes redeveloped. Due to gradient it is recognised that access to the rear is not likely to be feasible.

#### **4.3.2.3 Precinct 3 in the Town Centre**

##### *4.3.2.3.1 Precinct 3 Characteristics*



House with advertising sign

Precinct 3 substantially contains single residential dwellings with some limited short stay accommodation - refer Landuse Plan (Figure 13).

It is difficult to ascertain how many dwellings in the precinct are rented out for short stay (holiday) accommodation.

Some of the dwellings have small advertising signs with contact details for holiday bookings.

Other than some tourist accommodation, there are no retail or commercial uses in Precinct 3.

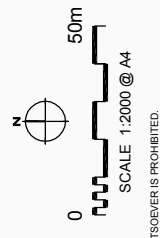
##### *4.3.2.3.2 Precinct 3 Strategy Recommendations*

To protect the residential amenity of the area it is recommended that Precinct 3 be re-zoned to 'Residential' with an R50 density code.



**PRECINCT 3 LAND USE PLAN**  
 DENHAM TOWNSITE  
 SHIRE OF SHARK BAY

**Figure 13**  
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This will allow residential development to continue however protect the area from any encroachment of commercial development such as shops, offices or restaurants which would be better located in the core central town centre area.

Council will still have discretion to consider tourist accommodation in this area.

#### *Future Landuse and development in Precinct 3*

Council shall have regard for the following when considering new development in Precinct 3;

- i. This area is most appropriate for residential and is an established residential street.
- ii. Some tourist accommodation or holiday houses can be accommodated where the use is of a low residential scale.
- iii. Hughes Street should be retained as a cul de sac.
- iv. Coastal views from these lots need to be protected by limiting building heights in precinct 2.

#### **4.3.2.4 Precinct 4 in the Town Centre**

##### **4.3.2.4.1 Precinct 4 Characteristics**

Precinct 4 contains the most retail and commercial uses including a local supermarket (IGA), Caltex Service Station, Bakery/cafe, butcher, and laundromat inter-dispersed with tourist accommodation along Knight Terrace.

There is some conflict caused by the co-location of some commercial uses and short stay accommodation such as noise from delivery trucks, staff arrivals and departures, and constant traffic. The existing IGA is a historical development and its lack of parking and traffic circulation areas causes traffic issues on a busy intersection. A new supermarket in the central Town Centre zone (Precinct 1 or 2B) would better service the area.

A caravan park and short stay accommodation dominates the centre of Precinct 4, and consideration of landuse compatibility is an important issue.

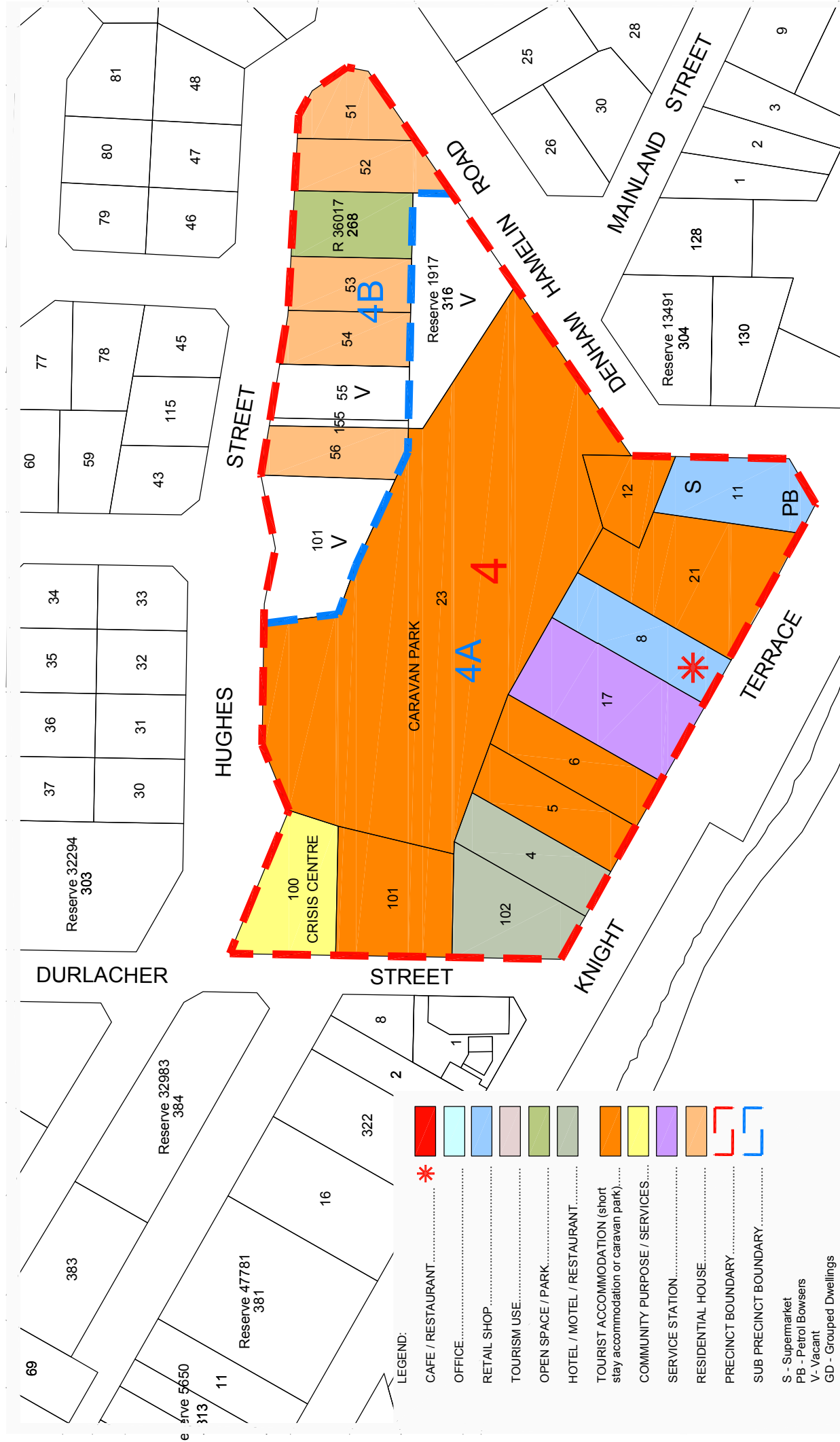
The lots in the north east portion of Precinct 4 are residential - refer Landuse Plan ([Figure 14](#)). Precinct 4B includes Reserve 36017 which is vested to the Shire and has been developed as 'Pioneer Park' with a war memorial.

Precinct 4 also contains Reserve 1917 which is crown land for 'government purposes'. Liaison will need to occur with the Department of Planning as to an appropriate zoning and may be dependent on any government plans for the land. The Shire has advised the land may be suitable for carparking.

This section of Knight Terrace is quite vibrant because of the mix of commercial uses and accommodation. The local bakery (with cafe attached) is very popular with locals and tourists so attracts people into the area. These types of uses need to be encouraged in the central Town Centre area, such as Precinct 1 and 2B.

##### **4.3.2.4.2 Precinct 4 Strategy Recommendations**

It is recommended that the majority of Precinct 4 be zoned from 'Town Centre' to 'Tourist' zone to separate its function from that of the core central Town Centre.



# **PRECINCT 4 LAND USE PLAN** DENHAM TOWNSITE SHIRE OF SHARK BAY

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It is recommended that the Hughes Street lots in Precinct 4B be zoned from 'Town Centre' to 'Residential' with an R50 density code.

The Shire could consider zoning the Reserve 36017 'Parks and Recreation' as part of a future Scheme review.

#### *Future Landuse and development in Precinct 4*

Council shall have regard for the following when considering new development in Precinct 4;

- i. High regard should be given to landuse compatibility for any new development and ensure a higher level of amenity for tourist accommodation in terms of noise.
- ii. Existing commercial development is recognised however the highest landuse priority should be tourist accommodation and services.
- iii. The residential uses on lots fronting Hughes Street act as an important buffer between the town centre and Denham's residential area to the north and should continue.
- iv. Any new development in proximity to Hughes Street should recognise the need to maximise protection of residential amenity for lots located to the north on Hughes Street.

#### **4.3.2.5 Precinct 5 in the Town Centre**

##### **4.3.2.5.1 Precinct 5 Characteristics**

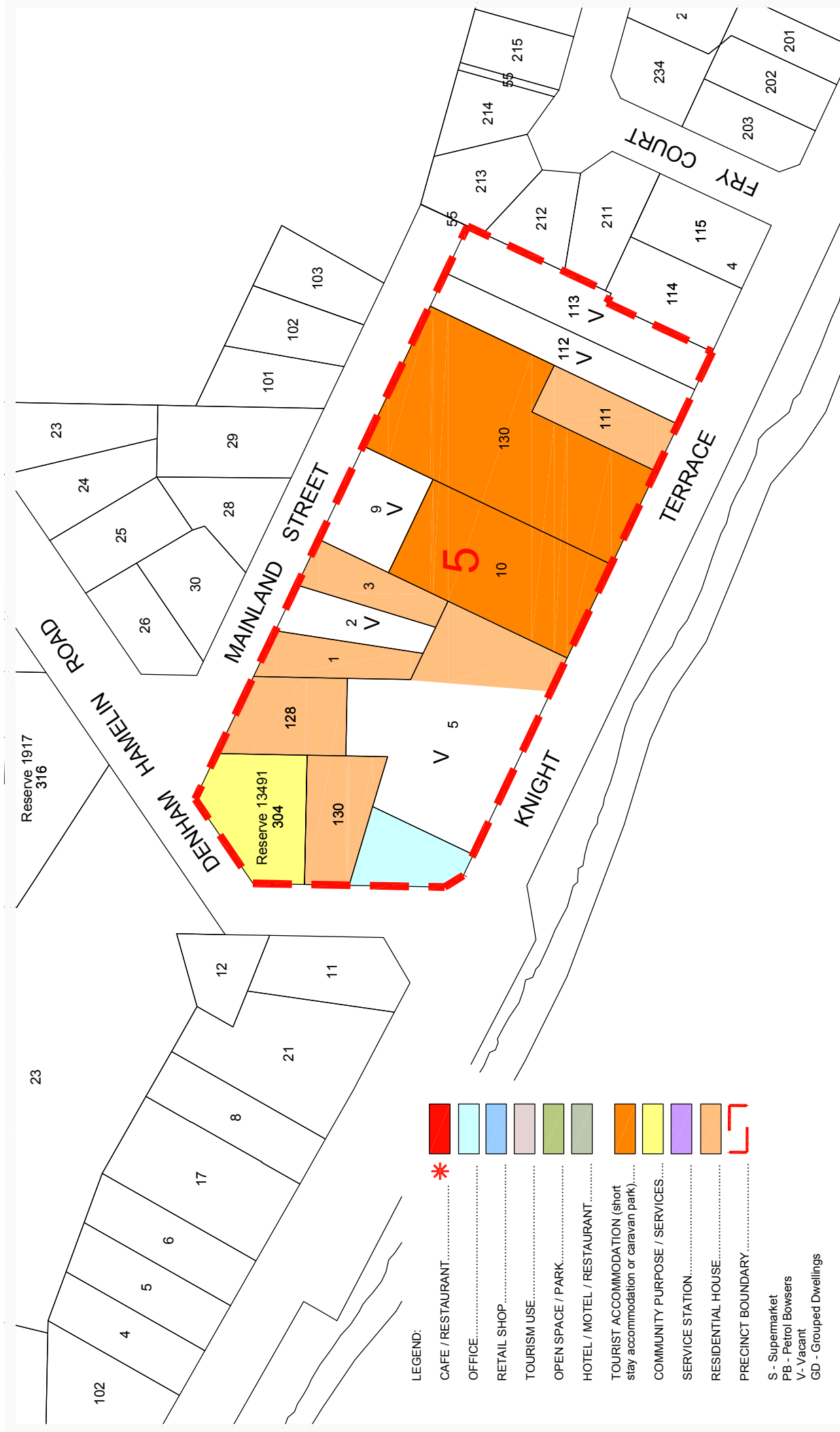
Precinct 5 is dominated by single residential dwellings and tourist accommodation. It still has further development potential with approximately a third being vacant land - refer Landuse Plan ([Figure 15](#)).

This is the most easterly part of the Town Centre zone and except for tourist accommodation and a small office on corner of Knight Terrace and Denham Hamelin Road (used for booking scenic flights), does not contain major commercial uses.

It is a relatively quiet area and the accommodation is well maintained and good quality. The amenity of the area is not disrupted by any noise or traffic associated with retail and commercial uses, particularly for the developed eastern portion of the precinct.

The two main tourist accommodation sites are located on Lots 10 and 130, being the 'Bay Lodge Backpackers' and the 'Oceanside Village'. Due to the topography some of the units for 'Oceanside Lodge' have access from Knight Terrace, and rear units front onto Mainland Street.

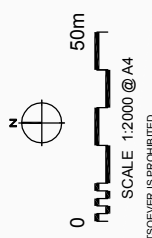
Reserve 13491 is located on the corner of Mainland Street and Denham Hamelin Road. It currently contains a dilapidated building however is proposed to be redeveloped by the Shire with a new Telecentre building. Access into the site will need to be carefully managed due to steep topography.



# **PRECINCT 5 LAND USE PLAN** **DENHAM TOWNSITE** **SHIRE OF SHARK BAY**

Figure 15

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Streetscape showing tourist accommodation fronting eastern section of Knight Terrace

#### *4.3.2.5.2 Precinct 5 Strategy Recommendations*

Existing mixed retail, commercial and tourist accommodation developments in Precinct 4 have resulted in landuse conflict. It is considered important to protect the developed eastern portion of Precinct 5 from similar types of conflicts.

The Shire seeks to retain the western portion of Precinct 5 as 'Town Centre' as it has vacant land available for commercial development.

It is recommended that the eastern portion of Precinct 5 which is developed with quality tourist accommodation be rezoned from 'Town Centre' to 'Tourist' zone. The amenity of the area needs to be protected.

#### *Future Landuse and development in Precinct 5*

Council shall have regard for the following when considering new development in Precinct 5;

- i. Continue to support development for tourist accommodation, particularly in the eastern portion.
- ii. High regard should be given to landuse compatibility for any new development and ensure a higher level of amenity for tourist accommodation in terms of noise.
- iii. Maintain the character of the precinct which makes it attractive to tourists and protect the amenity of developed tourist accommodation sites.
- iv. Maintain flexibility for commercial and retail uses to develop on vacant land in the western portion of the precinct (being retained as Town Centre zone), however provide suitable buffers and ensure existing development is not negatively impacted on by noise, loading/unloading areas and traffic.

**Planning Implications:**

- The existing Town Centre zone is extensive and has resulted in a wide range and mix of landuses along Knight Terrace. Whilst there is flexibility, unless well controlled, development may continue in an ad hoc manner.
- The existing Town Centre Strategy is a sound basis for strategic planning however requires updating. A consolidated Town Centre area is recommended to try and focus retail uses within one core central place.
- The Town Centre zone has been reviewed having regard to the predominant role and landuses of each precinct. The existing Town Centre Strategy will be replaced by this Local Planning Strategy and a new Town Centre Strategy map (Attachment 1).
- Retail activities need to be concentrated in the central area to create a vibrant mix of landuses to attract people into a core activity hub. Office developments need to be complemented with uses that will provide some night life in the Town, and that attract people into the area.
- There is opportunity to zone the furthestmost western and eastern sections of the town centre to residential and / or tourist zones, as they predominantly contain residential dwellings and tourist accommodation.
- Areas for tourist and short stay accommodation need to be protected from landuses that create conflict through noise and traffic. Areas dominated by tourist accommodation should become 'Tourist' zones with limitations on the types of commercial uses that can co-locate.
- The Shark Bay World Heritage Discovery centre plays an important role in the town centre and attracts tourists into the townsite. The new government office space adjacent to the visitor centre provides an opportunity for new streetscape elements and pedestrian links. A core Town Centre area can be built around these landmark buildings.
- There is opportunity to relocate the Shire offices however this matter needs to be considered by Council having regard to budgetary considerations.
- There are a lack of comprehensive subdivision controls for the Town Centre.

**4.3.3 Specific recommendations for existing and future retail and commercial uses (Town Centre)**

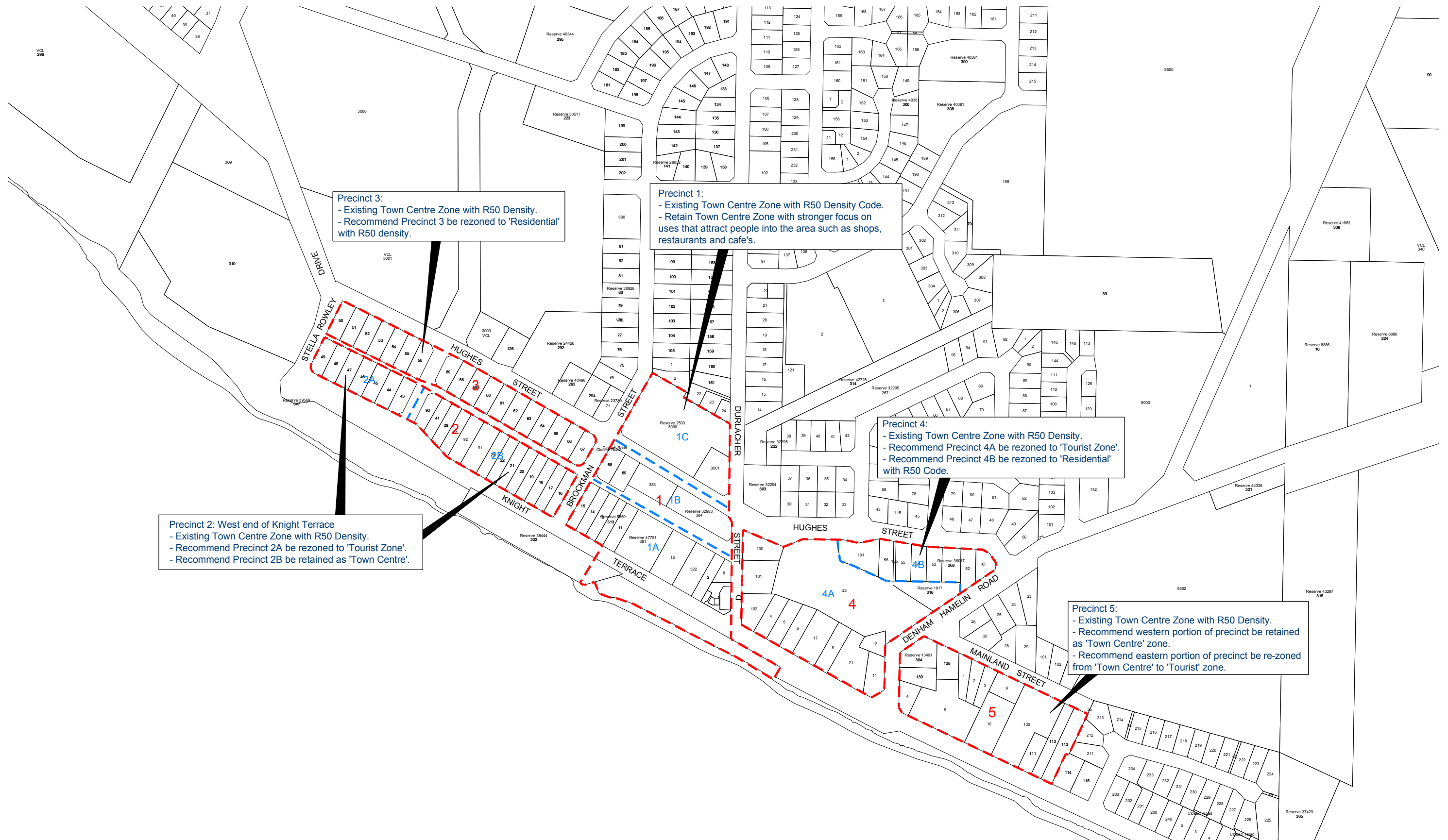
As part of any future scheme review it is recommended that the extent of the Town Centre zone be reduced so that the Shire can have greater control over the priority areas for retail development, and enable greater separation of landuses into specific precincts.

The existing Town Centre zone has a high level of flexibility however limits the Shires ability to implement it's existing Town Centre Strategy because there is such broad discretion over landuses in an extensive Town Centre area.

A reduced Town Centre zone will allow the Shire to focus commercial and retail uses into a central precinct to try and develop a more cohesive and recognisable Town Centre core.

Draft new scheme provisions are included in **Table 3**. **Figure 16** includes a summary of the recommendations for zoning changes for the different precincts in the existing Town Centre zone. Revised landuse controls will also need to be examined as part of a separate future Scheme review.





## PRECINCTS PLAN - SUMMARY OF PROPOSED ZONING CHANGES

### DENHAM TOWN CENTRE ZONE

### SHIRE OF SHARK BAY

JOB REFERENCE: 100791

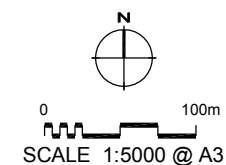
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#### LEGEND

PRECINCTS (as defined in the Denham Town Centre Strategy)

SUB PRECINCTS



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**Figure 16**  
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**TABLE 3**  
Specific recommendations for existing and future retail and commercial uses

No.	Summary	Draft provisions
1.	<p>Modify the Scheme provisions for the revised and consolidated Town Centre zone.</p> <p>Recommend new objectives for the Town Centre zone.</p>	<p>Identified for Precincts 1, 2B and west portion of Precinct 5 in the Town Centre.</p> <p><i>“Town Centre Zone:</i></p> <p><i>The objectives for this zone are to:</i></p> <ul style="list-style-type: none"> <li><i>a) To ensure the Town Centre is the principal place for business, administration, retail shopping and provides for a range of commercial uses.</i></li> <li><i>b) To actively encourage the establishment of retail uses and commercial activity that attracts people into the Town Centre and contribute towards the vibrancy of the Town Centre.</i></li> <li><i>c) To limit the extent of short stay and residential accommodation in the Town Centre.</i></li> <li><i>d) To encourage a high standard of development with good quality architecture, landscaping, and adequate carparking.</i></li> <li><i>e) To implement the Local Planning Strategy and Town Centre Strategy plan to guide and promote development.</i></li> <li><i>f) To ensure that new development provides elements that promote a marine and coastal theme based on historic identity of the town as a fishing village and the unique environment represented by Shark Bays World Heritage Listing.</i></li> <li><i>g) To limit the height of buildings so as to substantially protect the views of lots between Hughes Street and the foreshore.</i></li> <li><i>h) To ensure subdivision in the Town Centre does not occur in an ad hoc manner and maximise future robustness of lots to be able to be developed for a wide range of commercial uses.’</i></li> </ul>
2.	<p>Modify the Scheme provisions for the revised and consolidated Town Centre zone.</p> <p>Retain existing site requirements under Clause 5.10.3 – 5.10.4 however include new design and development requirements for the Town Centre zone.</p>	<p>Identified for Precincts 1, 2B and west portion of Precinct 5 in the existing Town Centre.</p> <p><i>“5.10.2 Design Requirements</i></p> <p><i>Development in the Town Centre zone shall comply with the following;</i></p> <ul style="list-style-type: none"> <li><i>a) Any shop or other commercial development along Knight Terrace shall include a front awning or other form of architectural detail which is capable of providing shelter and weather protection for pedestrians.</i></li> <li><i>b) Any development on a corner lot shall be designed as a landmark building and address the two corner street frontages with the primary focus on Knight Terrace as the main street.</i></li> </ul>

No.	Summary	Draft provisions
2.	Continued.	<p>c) Any development on a lot that has double road frontage shall be designed to include architectural features and details to the rear building facade.</p> <p>d) Where rear access is available and practical, new development shall ensure the main building facade addresses Knight Terrace with rear and / or side carparking.</p> <p>e) Buildings should present facades that are attractive and inviting, which harmoniously relate to good quality development in the vicinity, and have regard to climate.</p> <p><b>5.10.3 Development requirements</b></p> <p><i>In considering an application for planning approval for a proposed development (including additions or alterations to an existing development) in the Town Centre Council shall have regard to the following:</i></p> <p>a) Opportunities to integrate the building layout and design with adjoining development and determine carparking layout, vehicular access and pedestrian circulation;</p> <p>b) The colour, texture and external materials. Council may require expanses of glass fronting the primary street and walls visible from any road or public place to be painted;</p> <p>c) The building size, height, bulk and roof pitch and whether the development design contributes positively towards the streetscape;</p> <p>d) The setback and location of the building as it relates to existing surrounding good quality development;</p> <p>e) The function of the building;</p> <p>f) The need to ensure that the rear of buildings fronting Knight Terrace as viewed from public roads and places be treated aesthetically well to ensure they do not detrimentally impact on surrounding streetscape;</p> <p>g) The need to limit building heights in accordance with the objectives of the zone to substantially protect views of lots between Hughes Street and the foreshore;</p> <p>h) The extent to which the development complies with the objectives of the zone, Town Centre Strategy and any relevant Local Planning Policy. “</p>
3.	<p>Modify the Scheme provisions for the revised and consolidated Town Centre zone to reduce and limit encroachment of residential development and / or short stay accommodation.</p> <p>Retain existing site requirements however include a new clause 5.10.4.</p>	<p>Identified for Precincts 1, 2B and west portion of Precinct 5 in the existing Town Centre.</p> <p><b>“5.10.4 Despite any other provision in the Scheme the local government may only approve residential development and / or short stay accommodation in the Town Centre where:</b></p> <p>a) The lot is not located on land identified as being prime for commercial and retail development in the Local Planning Strategy; or</p> <p>b) Council considers the use is compatible with surrounding landuses; and</p>

No.	Summary	Draft provisions																
3.	Continued.	<div><div>c)</div><div><i>In the case of grouped or multiple dwellings the dwellings form part of a mixed use development with a substantial commercial component on the ground floor; and</i></div><div>d)</div><div><i>In the case of short stay accommodation the development is considered to be of a high quality and includes public facilities, shops or public spaces which will attract people into the Town Centre."</i></div></div>																
4.	Introduce a new Tourist zone	<div>Identified for Precincts 2a, 4a and east portion of Precinct 5 in the existing Town Centre.</div> <div>"Tourist Zone:</div> <div>The objectives for this zone are to:</div> <div><div>a)</div><div><i>Ensure the Tourist zone is the principal location for tourist facilities and accommodation;</i></div><div>b)</div><div><i>To cater for commercial landuses predominately associated with provision of services to tourists or that are compatible with surrounding tourist uses;</i></div><div>c)</div><div><i>To protect and wherever possible enhance the special characteristics and amenity of the area that are attractive to tourists;</i></div><div>d)</div><div><i>The need to minimise encroachment of commercial development and retail uses that do not directly relate to tourism or tourist uses;</i></div><div>e)</div><div><i>To ensure that any development is compatible with short stay and tourist accommodation and do not negatively impact on surrounding properties by virtue of noise, emission, traffic or the like. "</i></div></div>																
5.	<div>Introduce new requirements for Tourist zone</div> <div>Note: The new Tourist zone to be included as Clause 5.11. Clauses 5.11 – 5.15 to be re-numbered.</div>	<div>Identified for Precincts 2a, 4a and east portion of Precinct 5 in the existing Town Centre.</div> <div>"5.11 TOURIST ZONE</div> <div>5.11.1 Standards</div> <div>The local government shall apply the following standards within the Tourist Zone.</div> <table><tr><th>Use</th><th>Setbacks</th><th>Site Coverage</th><th>Landscaping</th></tr><tr><td>Residential</td><td colspan="3">In accordance with the Residential Design Codes</td></tr><tr><td>Motel, Hotel, tavern, caravan parks, short term accommodation</td><td>To the discretion of Council having due regard to the Building Code of Australia and other relevant regulations</td><td>80%</td><td>10%</td></tr><tr><td>Shops, offices and other commercial</td><td>Nil</td><td>80%</td><td>10%</td></tr></table>	Use	Setbacks	Site Coverage	Landscaping	Residential	In accordance with the Residential Design Codes			Motel, Hotel, tavern, caravan parks, short term accommodation	To the discretion of Council having due regard to the Building Code of Australia and other relevant regulations	80%	10%	Shops, offices and other commercial	Nil	80%	10%
Use	Setbacks	Site Coverage	Landscaping															
Residential	In accordance with the Residential Design Codes																	
Motel, Hotel, tavern, caravan parks, short term accommodation	To the discretion of Council having due regard to the Building Code of Australia and other relevant regulations	80%	10%															
Shops, offices and other commercial	Nil	80%	10%															

No.	Summary	Draft provisions
5.	<p>Introduce new requirements for Tourist zone</p> <p>Continued.</p>	<p><b>5.11.2 Design Requirements</b></p> <p><i>Development in the Tourist zone shall comply with the following;</i></p> <ul style="list-style-type: none"> <li>a) <i>Any development along Knight Terrace shall include a front awning or other form of architectural detail which is capable of providing shelter and weather protection for main building entrances;</i></li> <li>b) <i>Any development on a corner lot shall be designed as a landmark building and address the two corner street frontages with the primary focus on Knight Terrace as the main street;</i></li> <li>c) <i>Notwithstanding Clause 5.11.1 or any other standard in the Scheme, any new commercial or short stay accommodation is to be sited having regard for established setbacks of existing developments in the immediate vicinity;</i></li> <li>d) <i>Buildings should present facades that are attractive and inviting, which harmoniously relate to good quality development in the vicinity, and have regard to climate;</i></li> <li>e) <i>Building facades should be designed to contribute positively to the existing streetscape and preserve the character of the area which is attractive to tourists.</i></li> </ul> <p><b>5.11.3 Development requirements</b></p> <p><i>In considering an application for planning approval for a proposed development (including additions or alterations to an existing development) in the Tourist zone Council shall have regard to the following:</i></p> <ul style="list-style-type: none"> <li>a) <i>Opportunities to integrate the building layout and design with adjoining development and determine carparking layout, vehicular access and pedestrian circulation;</i></li> <li>b) <i>The colour, texture and external materials;</i></li> <li>c) <i>The building size, height, bulk and roof pitch and whether the development design contributes positively towards the streetscape;</i></li> <li>d) <i>The setback and location of the building as it relates to existing surrounding good quality development;</i></li> <li>e) <i>The function of the building;</i></li> <li>f) <i>The need to limit building heights in accordance with the objectives of the zone to substantially protect views of lots between Hughes Street and the foreshore;</i></li> <li>g) <i>Opportunities for buildings to address available street frontages;</i></li> <li>h) <i>The need to ensure that the amenity of any adjacent residential zone is protected;</i></li> <li>i) <i>The extent to which the development complies with the objectives of the zone, Local Planning Strategy , Town Centre Strategy Plan and any relevant Local Planning Policy.</i></li> </ul>



No.	Summary	Draft provisions
5.	<p>Introduce new requirements for Tourist zone</p> <p>Continued.</p>	<p><b>5.11.4 Carparking standards</b></p> <p><i>Carparking shall be provided in accordance with Table 2 : Carparking Requirements however Council shall also have regard for any need to provide for tourist buses and/ or staff.</i></p> <p><b>5.11.5 Loading and Unloading</b></p> <p><i>Where areas for the loading and unloading of vehicles carrying goods and commodities to and from the premises are to be provided they shall be constructed and maintained in accordance with a plan approved by the local government thereto. “</i></p>
6.	<p>Zoning existing residential areas in the Town Centre zone to 'Residential' with an R50 Density Code</p>	<p>Identified for Precincts 3 and 4B in the Town Centre zone. Map change – refer <a href="#">Figure 18</a>.</p> <p>Includes lots 50-56 Hughes Street, Lot 89 Hughes Street, Lots 58-67 Hughes Street in Precinct 3 and Lots 51-56 Hughes Street and Lot 101 Hughes Street.</p>
7.	<p>Introducing general provisions where Council has discretion to require a Detailed Area Plan (DAP) prior to development.</p>	<p>The following are Draft provisions which will be refined as part of a separate Scheme review:</p> <p><b>“7.1 DETAILED AREA PLANS</b></p> <p><i>7.1.1(a) The Council or the Commission may, by notice in writing, require a person to prepare and submit to the Council a detailed area plan within the time specified in the notice.</i></p> <p><i>7.1.1(b) The Council or the Commission may require lodgement of a Detailed Area Plan prior to development or as a condition of subdivision approval.</i></p> <p><i>7.1.1(c) A person may prepare and submit to the Council a detailed area plan.</i></p> <p><i>7.1.2 A Detailed Area Pan may be prepared by the local government or an owner.</i></p> <p><i>7.1.3 In considering a requirement for lodgement of a Detailed Area Plan prior to development or as a condition of subdivision, the Council may have regard for matters as follows:</i></p> <ul style="list-style-type: none"> <li><i>(i) The need for co-ordinated development on lots in a defined area, location or streetblock.</i></li> <li><i>(ii) The need to achieve a quality streetscape and development outcome on lots that are iconic or prominent development sites.</i></li> <li><i>(iii) The need to ensure new development is consistent with the Shire of Shark Bay Local Planning Strategy and Town Centre Strategy.</i></li> <li><i>(iv) The relationship of new development to surrounding development and zones.</i></li> </ul>

No.	Summary	Draft provisions
7.	<p>Introducing general provisions where Council has discretion to require a Detailed Area Plan (DAP) prior to development.</p> <p>Continued.</p>	<p><i>7.1.4 A detailed area plan is to relate to a particular lot or lots and may be prepared and submitted:</i></p> <ul style="list-style-type: none"> <li><i>(i) To enhance, elaborate or expand on the details or provisions contained in a proposed Outline Development Plan or an approved Outline Development Plan;</i></li> <li><i>(ii) To enhance, elaborate or expand on future development requirements for any lot or lots contained in a proposed Subdivision or an approved Subdivision;</i></li> <li><i>(iii) In place of a development approval required to comply with clause 2.5 of the Residential Design Codes (2002);</i></li> <li><i>(iv) To enhance, guide, elaborate or expand on future development requirements for any existing lot or lots; or</i></li> <li><i>(v) for any other planning purpose.</i></li> </ul>
7.	<p>Introducing general provisions where Council has discretion to require a Detailed Area Plan (DAP) prior to development.</p> <p>Continued.</p>	<p><i>7.1.5 The Shire may require a detailed area plan to include details such as:</i></p> <ul style="list-style-type: none"> <li><i>(a) building envelopes and setbacks;</i></li> <li><i>(b) distribution of land uses within a lot;</i></li> <li><i>(c) private open space;</i></li> <li><i>(d) services;</i></li> <li><i>(e) vehicular access, parking, loading and unloading areas, storage yards and rubbish collection closures;</i></li> <li><i>(f) the location, orientation and design of buildings and the space between buildings;</i></li> <li><i>(g) advertising signs, lighting and fencing;</i></li> <li><i>(h) landscaping;</i></li> <li><i>(i) finished site levels, retaining walls and drainage;</i></li> <li><i>(j) protection of sites of heritage, conservation or environmental significance;</i></li> <li><i>(k) special development controls and guidelines;</i></li> <li><i>(l) visual impact to Shark Bay world heritage property;</i></li> <li><i>(m) Coastal setbacks; and / or</i></li> <li><i>(n) such other information or supporting written information and reports considered relevant by the Council.</i></li> </ul> <p><i>7.1.6 Council has discretion to advertise a Detailed Area Plan or proposed variation or modification to a Detailed Area Plan for public comment in accordance with Clause 9.4.</i></p>

No.	Summary	Draft provisions
7.	<p>Introducing general provisions where Council has discretion to require a Detailed Area Plan (DAP) prior to development.</p> <p>Continued.</p>	<p><b>7.1.7</b> <i>The Council is to:</i></p> <ul style="list-style-type: none"> <li><i>(i) approve the detailed area plan (with or without modification); or</i></li> <li><i>(ii) refuse to approve the detailed area plan and, where the proposed detailed area plan was submitted by an owner, give reasons for this to the owner.</i></li> </ul> <p><b>7.1.8</b> <i>If within 60 days of receiving a detailed area plan or such longer period as may be agreed in writing between the person and the Council, the Council has not made one of the determinations referred to in clause 7.1.7, the Council is deemed to have refused the detailed area plan.</i></p> <p><b>7.1.9</b> <i>The Council is to forward a copy of the detailed area plan to the Commission within 14 days of approving the detailed area plan.</i></p> <p><b>7.1.10</b> <i>Once approved by the Council, the detailed area plan is to be used as the basis for determining development applications with respect to the land subject to the detailed area plan, and where relevant, making recommendations to the Commission on subdivision applications.</i></p> <p><b>7.1.11</b> <i>Where a Detailed Area Plan is required as a condition of an Outline Development Plan or subdivision that has been approved or endorsed by the Commission, then the Detailed Area Plan shall require approval of the Council and endorsement by the Commission.</i></p> <p><b>7.1.12</b> <i>An approved detailed area plan may be modified or varied with the approval of the Shire of Shark Bay.</i></p> <p><b>7.1.13</b> <i>The Council is to forward a copy of the modification or variation to the detailed area plan to the Commission within 14 days of approving the modification or variation."</i></p>

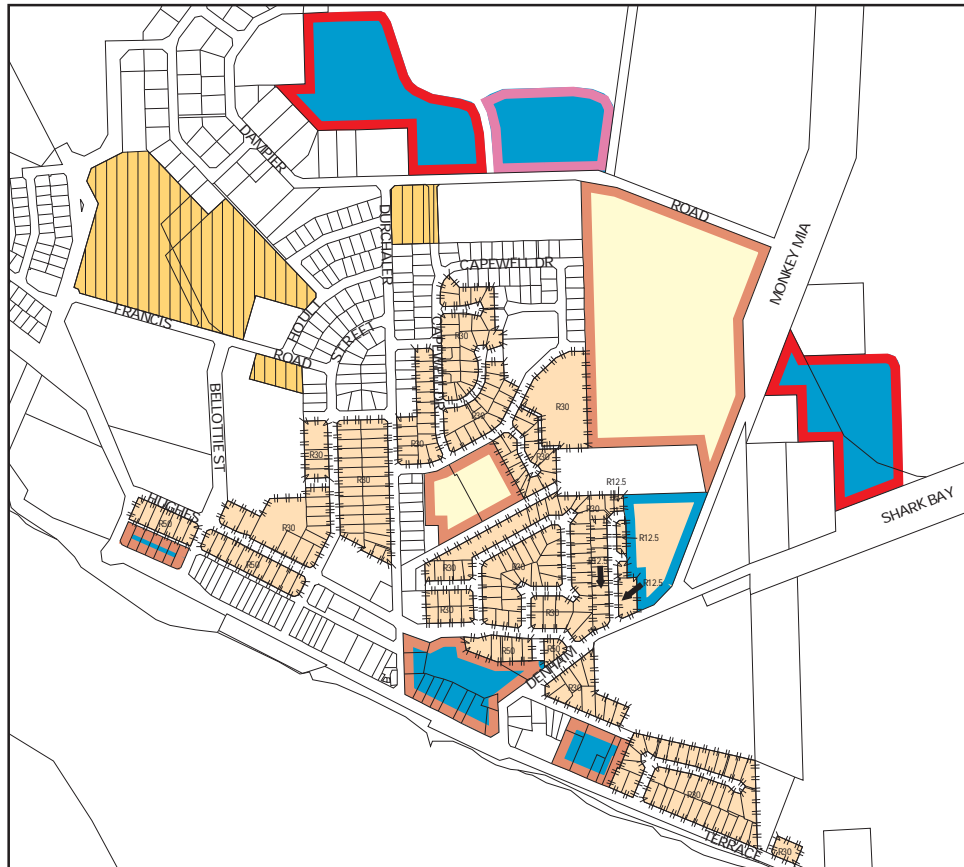
A plan showing the proposed zonings for the existing Denham Town Centre zone is included as [Figure 17 and 18](#).

#### 4.3.3.1 Subdivision in the Town Centre

There is a lack of larger lots in the Town Centre capable of supporting any commercial use with larger land requirements. The Shire's Scheme is silent on subdivision and provides little or no controls over subdivision of land in the Town Centre.







## LEGEND

∕∕ LPS Cadastre - Capture data

Shark\_Bay Z 3

SERVICE COMMERCIAL

ENTERPRISE COMPOSITE

COMMUNITY

RESIDENTIAL DEVELOPMENT

RESIDENTIAL

HOLIDAY ACCOMMODATION

TOURIST

TPS Amendment Rcodes



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

SHIRE OF SHARK BAY

DRAFT LOCAL PLANNING SCHEME

FIGURE 18-SUMMARY OF PROPOSED ZONING



Scale 1:16000

0 250 m

It is important to ensure that ad hoc subdivision does not occur in the Town Centre as smaller lot sizes would not be able to sustain the commercial uses permissible in the zone, and adequate on site carparking, access, loading areas and landscaping. Creation of smaller lots may limit future development opportunities to residential or holiday accommodation, but not necessarily in locations where those landuses are deemed compatible or represent the best use of the land.

This problem was recently highlighted as a subdivision application was lodged to subdivide Lot 23 Knight Terrace into two lots of 400m<sup>2</sup> and 611m<sup>2</sup> (WAPC: 28-12). The lots were of an insufficient size to accommodate any commercial development, and proposed an undesirable lot configuration with a battleaxe lot. The subdivision was refused by the WAPC, however brought to light inadequacies of the existing Scheme.

It is recommended that any future Scheme review introduce scheme provisions and controls over subdivision of land in the Town Centre zone and address issues such as :

1. The discretionary ability for the Council and WAPC to require an Outline Development Plan prior to subdivision in the Town Centre zone.
2. Allowances for commercial subdivision and strata proposals which recognise quality existing developments or where new development has been granted planning approval and has been constructed to plate height.
3. Provision for Council to have regard for matters such as:
  - The adequacy of the proposed lot sizes to support commercial uses in the Town centre zone to the satisfaction of the Shire.
  - The demonstrated ability of the lot size to provide for commercial access, on site carparking and loading areas as associated with commercial development.
  - The ability of the proposed lots to provide for adequate on site landscaping and setbacks.
4. Subdivision is not to be based on older substandard development where lots have significant redevelopment potential (ie low quality holiday accommodation shacks)
5. Battle-axe subdivision should be actively avoided in the Town Centre zone, unless it is to recognise quality developments as outlined in Point 2.
6. Residential strata and subdivision may be supported where development approvals are in place (subject to a condition that development be constructed to plate height prior to clearance) and / or where development has been completed and is of a high quality. Older substandard developments should not be used as sufficient justification for subdivision unless they are significant buildings.
7. The Scheme provisions should restrict the R50 density code to residential development, so it cannot be used as a legal argument to allow small lot subdivision in the Town Centre zone.

The issue of subdivision in the Town Centre will be examined as part of a future Scheme review, and this Strategy does not attempt to draft new scheme provisions for subdivision. The matter is highlighted as a strategic issue for the Shire and WAPC.

There may need to be a broad clause introduced in the Shires Scheme whereby Council is given the discretion to require an Outline Development Plan to guide subdivision of strategic sites or where a co-ordinated approach is required, for any zone.

## **4.4 Existing and future Tourist Accommodation and Uses**

### **4.4.1 Background**

It is difficult to separate the commercial uses, tourist uses and tourist accommodation as they are intermingled within the Denham town centre. In light of the above, tourist uses and tourist accommodation developed throughout the existing 'Town Centre' zone have already been discussed in [Section 4.3.2](#).

Denham townsite is well serviced by a range of tourist accommodation including caravan parks (which have been shown on the Strategy map and/or Landuse Precinct Maps), self contained accommodation units and hotel/motels.

Additional tourist accommodation may occur outside the town centre as:

- (1) The existing Scheme allows for 'short term accommodation' as a discretionary use in the Residential zone and;
- (2) Some limited additional tourist accommodation may occur (and is permissible) in Special Use zones, however the majority of development in these areas is likely to be residential.

### **4.4.2 Area 15 : Lot 296 Stella Rowley Drive**

Lot 296 is the last large site in the Denham townsite adjacent to the coast which has not been developed. It has an area of approximately 6.1 hectares and is zoned 'Special Use – 13' under the Scheme.

Specific provisions apply to the land under Schedule 4 of the Scheme including requirements for a foreshore management plan, allowance for 80% short stay accommodation and 20% residential, preparation of an ODP and that development be sympathetic to the location taking into account the built form, topography and landscape character of the surrounding area.

Lot 296 is Unallocated Crown Land and requests for 'Expression of Interest' have been invited on different occasions to identify appropriate developers and operators for a short term accommodation and tourist development on the site. It forms part of the government's Landbank and is available for release to ensure that there is an adequate supply of tourist development sites to meet future industry needs. The lack of interest to date may be reflective of the current market combined with the declining tourist numbers.

The Department of Regional Development and Lands (RDL) has advised that an Advisory Panel appointed by the Minister for Lands to consider applications for tourism development on the site recommended that when the site is next offered for development, that options be considered for making the lot into two or three smaller lots to encourage tourism development.

Lot 296 will only be developed when there is sufficient market demand and it is anticipated that a smaller portion of the site will be adequate to cater for long term tourist accommodation needs. There is already a good supply of short stay accommodation throughout the existing Town Centre and undeveloped nominated 'Tourist' areas within approved Outline Development Plans in other 'Special Use' zones.

The need to allow for 80% of accommodation for short stay as required under the current Scheme has become less critical from the Shire's perspective; although the Department of Regional Development and Lands (RDL) sees tourism as the highest and best landuse for the site.

The Shire is supportive of increasing flexibility over the permissible residential / short stay accommodation ratio to increase opportunities for future development options.

The Shire supports 60% of accommodation for tourist accommodation and 40% for residential. Although this ratio allows for an increased residential component than was supported by RDL, it should be recognised that Council has always had discretion to vary the percentage of accommodation for residential under the current Scheme provisions subject to endorsement by the Western Australian Planning Commission.

The Shire considers that a 60% ratio will still ensure that accommodation for tourists will be the dominant landuse and sees Lot 296 as an opportunity to provide for high quality housing with different attributes than other residential areas in Denham.

To facilitate development, increase opportunities and provide greater flexibility the number of permissible landuses need review. At the same time, Council needs to ensure that any development does not undermine the Town Centre zone.

It is recommended that the scheme provisions applicable to this land be broadened to allow for mixed use development and some incidental commercial uses. The current Scheme restrictions limiting the proportion of permanent residential units relative to the total number of accommodation units on the site to equal to or less than 20 percent is proposed to be modified to 40%.

The Shire's Scheme already requires development to be in accordance an ODP. The Shire would support a superlot subdivision by RDL to maximise potential for sale of 2 – 3 smaller lots for development. Given the significance of the site as identified by RDL and the Minister for Land's advisory panel, any future development or infill subdivision of the superlots should require preparation of an ODP.

#### **4.4.3 Area 16 : Lots 309 – 310 Stella Rowley Drive**

The Denham Seaside Caravan Park is located on Lot 310 and is in a good location close to services in town, the beach, foreshore area and has good road access. Adjacent Lot 309 is owned by the State of WA but in the past has been leased in association with the caravan park.

The lots are zoned 'Special Use -1' for short term accommodation, including caravan and camping areas, shop and associated uses as approved by the local government.

Retention of the lots in a special use zone is appropriate given the sites special characteristics, topography and proximity to the ocean. No changes to the scheme are recommended.

#### 4.4.4 Area 17 : Lots 2 and 3 Spaven Way

A caravan park is also located in Spaven Way however development has only occurred on Lot 3 and adjacent Lot 2 remains vacant. This caravan park site is zoned 'Special Use - 2' and the Scheme allows for short term accommodation, including caravan and camping areas, shop and associated uses as approved by the local government.

Unlike the other caravan parks in town this site is surrounded by residential development, lacks exposure and does not have prime access to the foreshore or beach.

The Shire has received enquiries regarding other landuse opportunities for this site as the caravan park is reportedly struggling to remain viable. Although there is currently a lack of demand for residential lots, it is recommended that Area 14 be re-zoned to 'Residential Development' zone for the following reasons;

1. The caravan park can continue to operate under a 'Residential Development' zone however a change of zoning will increase future redevelopment opportunities.
2. There is scope for a wider range of landuse options in the 'Residential Development' zone including aged and dependent persons accommodation, grouped dwellings, and smaller scale commercial uses at the discretion of Council such as Bed and Breakfast, medical centre and retirement village.
3. Measures will still be in place to protect surrounding residential amenity as an Outline Development Plan is required and would be advertised for public comment.

Area 17 is not an ideal location for a caravan park and a Residential Development zone would be more consistent with the surrounding residential zone.

#### 4.4.5 Other Special Use Tourist sites

There are a number of Special Use zones which are listed in 'Schedule 4 – Special Use Zone' of the Shire of Shark Bay Local Planning Scheme No 3. A copy of the existing Scheme provisions are included in [Attachment 2](#) for ease of reference.

Initially this Strategy was to focus on the Denham town centre and surrounds. A number of the existing Special Use zones are located in the main Denham Town Centre, are included on the Strategy map ([Figure 1](#)) and are already discussed in the Strategy text as summarised in [Table 4](#) below:

**TABLE 4**  
Summary of Special Use zones in Denham Town Centre

Special Use Zone	Description of land	Strategy Reference (Map – Figure 1)	Strategy Reference (Text)
SU1	Lot 310 Stella Rowley Road, Denham and Unallocated Crown Land	Area 16	4.4.3
SU2	Lot 119 Spaven Way	Area 17	4.4.4
SU3	Part North Loc 59 Denham-Hamelin Road, Denham	Areas 2, 3 and 4	Area 2 – 4.1.2 Area 3 – 4.1.3 Area 4 – 4.1.4
SU4	Part North Loc 59 Denham Hamelin Road, Denham	Area 11	4.2.4



Special Zone	Use	Description of land	Strategy Reference (Map – Figure 1)	Strategy Reference (Text)
SU11		Edel Loc 90 Peron Road	Area 13	4.2.6
SU 12		Useless Loop	N/A – located outside of townsite	4.1.8
SU13		Lot 296 Stella Rowley Drive	Area 15	4.4.2

Note: The Special Use numbering originates from Schedule 4 of the Shire of Shark Bay Town Planning Scheme No 3 (Attachment 2)

Following a Councillor workshop it became apparent that there are some issues relating to the management of waste and rubbish for remote tourist sites which are all zoned 'Special Use'. The Shire has identified that some tourist sites may benefit from some broadening of discretionary landuses and improved Scheme provisions.

The Shire requested that the Strategy be expanded to include some reference to the main tourist sites outside of Denham as follows;

#### **4.4.5.1 Nanga**

Nanga is zoned 'Special Use' (5) under the Scheme which allows for tavern, caravan park, shop, arts and craft centre, short term accommodation including caravan park, exhibition centre and staff accommodation – refer [Attachment 2](#).



Figure 19 - Existing 'Special Use' zone

Nanga caters for a wide range of accommodation and includes a resort, camping and caravan park sites, a restaurant and fuel facilities. The existing scheme provisions require all development to be in accordance with an Outline Development Plan.

No changes to the Special Use zoning is recommended, however due its remoteness, additional conditions for new development are proposed to ensure servicing, water supply and waste disposal issues are addressed for any future redevelopment or expansion.

The Shire has requested that the landuse options for development be broadened for Nanga for flexibility, as currently exists for other tourist sites such as Monkey Mia. It is considered that broadening of the discretionary uses can be supported as landuse controls exist through the existing Scheme requirement for an overall Outline Development Plan.

#### **4.4.5.2 Overlander**

The Overlander is a roadhouse located approximately 705 kilometres North of Perth, right on the junction of the Monkey Mia turnoff. It is located on Lot 174 which has an approximate area of 2.2 hectares.

The existing Special Use (6) zone allows for a range of uses including Service Station, Bulk Fuel, Shop, Restaurant, Transport Depot, Caravan Park, Camping Areas and Limited Transient Accommodation.

No changes to the zoning are proposed however it is recommended that the Scheme provisions be expanded to provide comprehensive landuse controls as follows:

- a. The existing Scheme reference to 'limited' Transient Accommodation is ambiguous and it would be clearer to use terminology of 'incidental' if the intention is to limit the amount and scale of accommodation.
- b. The Shires Scheme has no landuse definition for 'transient accommodation', therefore it is recommended the schedule refer to 'short stay accommodation' which is defined in the Scheme.
- c. The Scheme only allows for a 'service station' to operate on the site however there should be flexibility to also allow for a roadhouse (consistent with Special Use zone 7). The Scheme has two separate definitions for service station and roadhouse.
- d. There are no conditions for assessment of any future development or redevelopment.
- e. Normal planning issues such as waste management and on site effluent disposal would need to be addressed as part of any development. For any substantial development involving heavy traffic, a traffic management plan may be required.
- f. Any development should be referred to Main Roads WA for recommendation and comment as the North West Coastal Highway comes under MRWA care and control.

#### **4.4.5.3 Billabong**

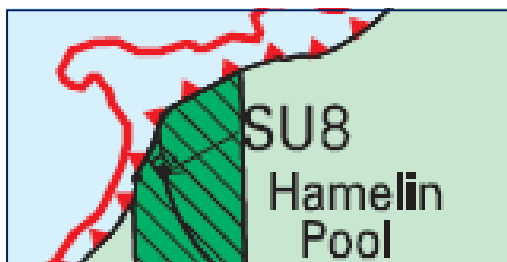
Special Use zone (7) consists of two separate lots with areas of approximately 2 hectares each. The Billabong Roadhouse and a motel are located in this zone.

The existing Special Use (7) zone allows for a range of uses including Roadhouse, Limited Short Term Accommodation, Wayside Hotel, Caravan Park, Service Station, Bulk Fuel Depot, Shop, Restaurant and Transport Depot.

No changes to the zoning are proposed however it is recommended that the Scheme provisions be expanded to provide clearer landuse controls as follows:

- a. The existing Scheme reference to 'limited' Short Stay Accommodation is ambiguous and it would be clearer to use terminology of 'incidental' if the intention is to limit the amount and scale of accommodation.
- b. There are no conditions for assessment of any future development or redevelopment.
- c. Normal planning issues such as waste management and on site effluent disposal would need to be addressed as part of any development. For any substantial development involving heavy traffic, a traffic management plan may be required.
- d. Any development should be referred to Main Roads WA for recommendation and comment as the North West Coastal Highway comes under MRWA care and control.
- e. The existing provisions refer to a 'wayside hotel'. The term 'wayside' has no relevance as the scheme definition is simply for a 'hotel'.

#### **4.4.5.4 Hamelin Pool**



Hamelin Pool Telegraph Station is a privately owned enterprise and features the historic Flint Cliff Telegraph Station and Post Office. The existing 'Special Use' (8) zone allows for tourist facilities (including short term accommodation), caravan park, camping areas and historic buildings.

Figure 20 - Existing 'Special Use' zone



Opened in 1884 the original building is now a museum which also exhibits a living Stromatolite. The old Postmaster's residence is now a tearoom serving Devonshire teas, light meals and refreshments. A caravan park and camping facilities are also available in this area.

No changes to the existing zoning is recommended however in recognition of existing landuses it is recommended that 'exhibition centre' and 'restaurant' be specifically listed in Schedule 4 applicable to this land.

#### **4.4.5.5 Monkey Mia**

Monkey Mia is located 24 kilometres from Denham and is the most well known area within the Shire due to the Monkey Mia Resort and as a place where people can view and interact with dolphins in a supervised environment.

The Monkey Mia Resort and facilities are located on Reserve 40727 which is vested to the Shire for 'Tourism purposes' and leased to a private operator. In addition to the resort which caters for different types of accommodation, facilities include a Visitors Information Centre, Caravan Park, shop, restaurant, barbecue, toilets, boat ramp and jetty.

Reserve 40727 is zoned 'Special Use' (9) under the Scheme which allows for a wide range of landuses mainly relating to tourist accommodation and associated tourist uses.

To the immediate west of the Monkey Mia resort is undeveloped land also within the same 'Special Use' zone consisting of Lot 501 which is unallocated crown land and Reserve 49107. There is potential for more tourist uses subject to meeting environmental requirements. The land could also cater for any future expansion of Monkey Mia.

#### **4.4.5.6 Edel location 110**

Edel location 110 is approximately 9 kilometres to the immediate south of the Denham townsite. It has been developed with tourist uses including an oceanarium, shark pond and kiosk.

The land was originally zoned 'Rural/Pastoral' under the Shires Scheme. Amendment 1 to the Scheme zoned the land to 'Special Use' (14) to recognise the existing landuses and to allow expansion of the kiosk to a restaurant.

The existing 'special use' zone is appropriate for the uses and no changes to the scheme are recommended.

#### **4.4.5.7 Dirk Hartog Island**

No Special Use zoning currently applies to any portion of Dirk Hartog Island. The Island is included in this section of the Strategy, as it examines 'Other Tourist sites' and a special use zone is being recommended for freehold titles on the island.

Dirk Hartog Island is approximately 80 km long, 14 km wide at the widest point, and covers an area of around 62,000 hectares. The island is famed as being the first place that Europeans landed in Australia, and for the commemorative plaque left by Dirk Hartog.

In 1879 the Western Australian government granted a pastoral lease on the island and historically at least part of the island has been inhabited by sheep.

In 1969 the pastoral lease was purchased by Sir Thomas Wardle, an ex-Lord Mayor and one-time grocery millionaire from Perth, but in 1989 the West Australian government decided to make all of the island (except for 97 hectares) part of the hugely expanded Dirk Hartog Island National Park which includes all the important sites in Shark Bay. A large portion of the island remained part of a pastoral lease under the stewardship of the Wardle family.

Since the early nineties the Dirk Hartog Island Lodge ('the Lodge') has operated as an ecotourism development with the owners accommodating small groups for part of the year. Access is available by boat, barge or light aircraft.

Apart from the Lodge there are currently 9 designated campsites on the island and four wheel drives can be transported to the island by barge. As part of the initial commitment to sustainable tourism, only 10 private vehicles (including tour operator vehicles) are permitted on the island at any one time.

It is widely recognised that the island, apart from its obvious historical importance, is important environmentally.

In January 2005 the Western Australian government announced it had reached agreement for Dirk Hartog Island in the World Heritage Listed Shark Bay region to become a national park. In a joint announcement, the Planning Minister and Environment Minister at that time advised that the long-term owners of the island had agreed to its transfer to the Conservation Commission.



Negotiations had involved the government buying out the lease and reducing the Wardle family's overall freehold ownership through a process of consolidating areas by offering other land parcels in exchange. The Shire was not involved in the negotiation process.

The government decision of 1989 to make the island a National Park was not implemented until the government signed an agreement with the owners in 2005. The pastoral lease continued in place until it was surrendered to the Crown in November 2009 and a National Park was created at that time.

Lot 62 is a freehold lot and contains the Lodge still operated by the Wardle's for some months every year. Covenants only apply to a portion of Lot 62 however they are administered by the Minister for Lands.

Lots 303, 304 and 305 on the island are also freehold lots originally transferred to the Wardle's- some of these have been sold and/or are for sale. There are covenants on Lots 303 – 305 which allow for low impact eco-tourism, however they are currently in conflict with the existing zoning.

The government did not re-zone any of the land as part of negotiations, so the island remains in the 'Rural/Pastoral' zone. It is also within a Special Control Area which on the scheme map covers the World Heritage Area, requires planning approval and has specific requirements.

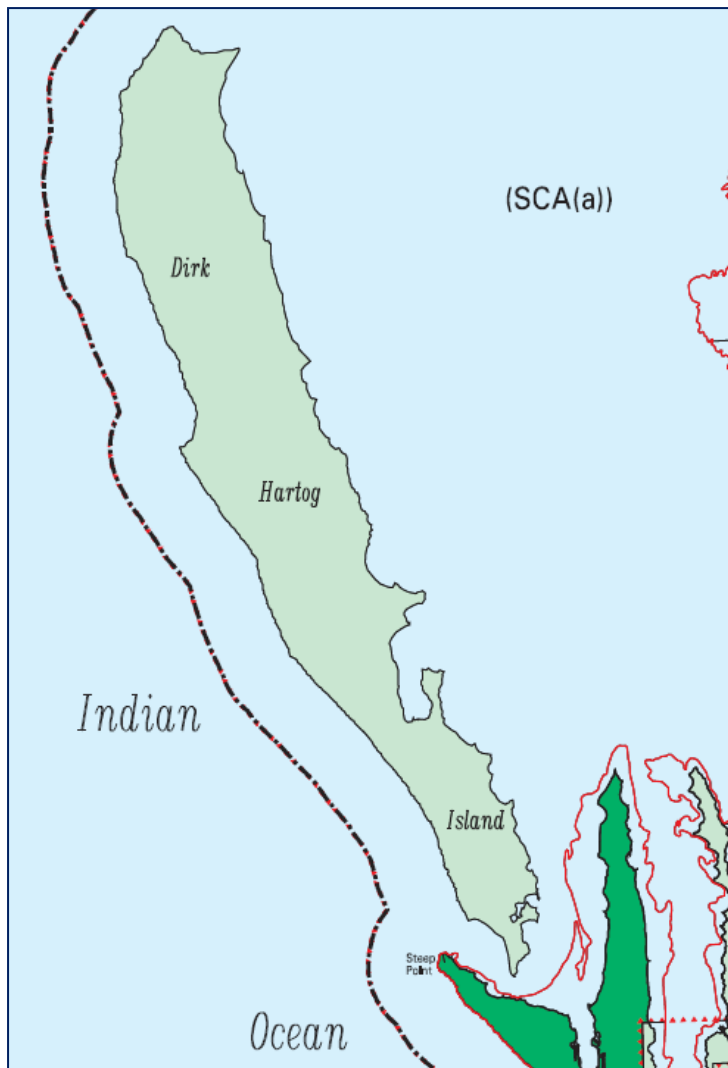


Figure 21 - Existing 'Rural/Pastoral' zone of Dirk Hartog Island

A portion of Dirk Hartog island consists of Reserve 50325 which is a 62,926 hectare Class A reserve under DEC control as a national park.

The Island has some other reserves under Department of Planning ownership for 'government purposes'.

The island has a number of reserves at Cape Inscription and a portion of land south of the former homestead has been reserved for the use and benefit of Aboriginal people.

All of the national park and government controlled land should be zoned from 'Rural/Pastoral' to 'Conservation' to reflect its environmental importance (in consultation with DEC and Department of Planning).

There is already a 'Conservation' zone listed under Clause '3.1 Reserves' in the Shires Scheme. Any development in this zone would be referred to the relevant authority, which in most cases will be DEC.

It is recommended that all of the freehold lots inclusive of Lot 62, Lot 303, Lot 304 and Lot 305 be zoned from 'Rural/Pastoral' to a 'Special Use' zone with specific landuse requirements.

The Shire has concerns that as the local authority it will be left to deal with issues such as access, servicing, waste and rubbish management as the freehold lots on the island become developed.

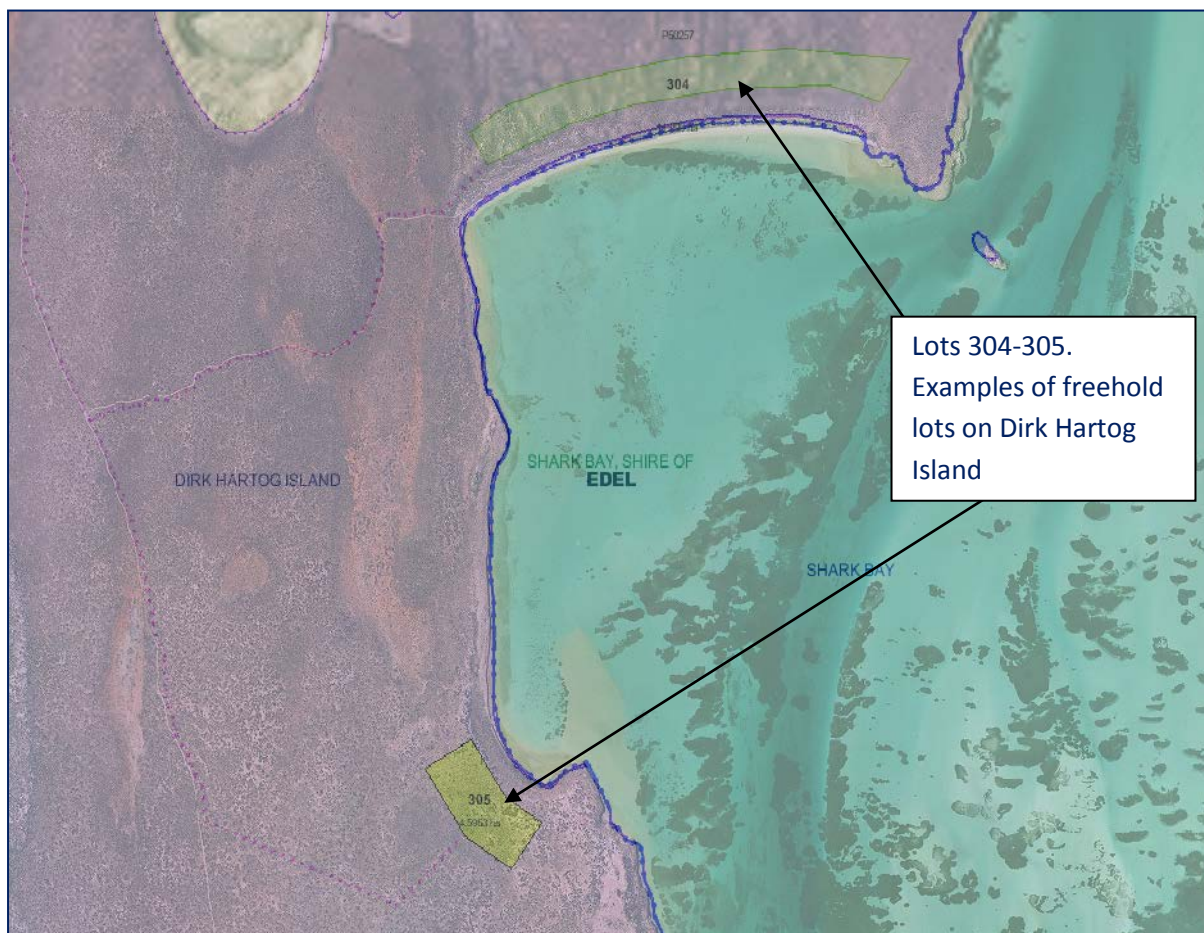


Figure 22 – Examples of freehold lots on Dirk Hartog Island

It is understood that there are some logistic and environmental issues over the transport of materials for construction for any new development on the island as any boats have to cross through the World Heritage Area.

#### **Planning Implications:**

- As outlined in Part 2 of the Strategy the Denham townsite is considered to be well serviced with backpacker, caravan park and holiday home accommodation.
- There has in the past been some evidence of demand for higher quality hotel/motel/mixed resort accommodation however the need for additional tourist accommodation has been reduced. Consistent with other remote tourist sites with special characteristics, such as Monkey Mia and Nanga.
- A portion of Lot 296 (Area 12) will cater for long term needs for additional tourist accommodation, subject to market demand. There is a need to provide increased flexibility for future development of this site.
- The zoning of Dirk Hartog island needs to be resolved with government land and national park being recognised in a 'Conservation' zone. Freehold lots should be recognised with a 'Special Use' zone.
- Government land needs to be reviewed to ensure appropriate zonings are in place to control future development.
- Any Landuses listed in Schedule 4 – Special Use zone of the Scheme should be consistent with the terminology used for any correlating landuse definition.
- Schedule 4 of the Scheme requires refinement and updating to include better landuse controls, clear provisions, with opportunity to review discretionary landuses.



#### 4.4.6 Specific recommendations for existing and future tourist accommodation and uses

There is already a good supply of tourist accommodation in Denham to service needs and there is an opportunity to broaden the permissible landuses for some existing “Special Use” sites to encourage and facilitate development.

Changes to the scheme may be pursued by individual landowners or as part of a future Scheme review. Care needs to be taken to ensure any development on Special Use sites does not detract from the main Denham Town Centre. A summary of proposed changes are included in [Table 5](#).

**TABLE 5**  
Specific recommendations for existing and future Tourist Accommodation and Uses

No.	Existing Special Use Area	Summary	Draft provisions
1.	SU2  Lot 119 Spaven Way, Denham	Change the zoning of Lots 2 and 3 Spaven Way from ‘Special use’ to ‘Residential Development’ zone.	Map change – refer <a href="#">Figure 18</a> .
2.	SU5  Part Edel Loc 17, Nanga	Retain Special Use zone and expand the uses, however make is clear that they are discretionary.	<p>Modify the ‘Special Use’ column applicable to SU5 to state as follows:</p> <p><i>“The local government has discretion to consider the following uses where they form part of an integrated approved Outline Development Plan;</i></p> <ul style="list-style-type: none"> <li>- Ancillary Tourist Use</li> <li>- Tavern</li> <li>- Caravan Park</li> <li>- Caretakers Dwelling – maximum of one</li> <li>- Service Station</li> <li>- Shop</li> <li>- Exhibition Centre</li> <li>- Short Term Accommodation</li> <li>- Workers Accommodation</li> <li>- Motel</li> <li>- Park Home Park</li> <li>- Camping Area</li> <li>- Office</li> <li>- Reception centre</li> <li>- Restaurant</li> <li>- Carpark “</li> </ul>
3.	SU5  Part Edel Loc 17, Nanga  (Continued)	Expand the conditions applied to new development for Nanga	<p>Add the following requirements for an ODP under the ‘Conditions’ column of ‘Schedule 4 : Special Use zone’ applicable to special use zone 5 as follows:</p> <ul style="list-style-type: none"> <li>• <i>“Provision of adequate services including potable water supply;</i></li> <li>• <i>Information on waste disposal and provision of a rubbish management plan to the satisfaction of the local government. “</i></li> </ul>

No.	Existing Special Use Area	Summary	Draft provisions
4.	SU5  Part Edel Loc 17, Nanga  (Continued)	Ensure discretionary uses specified in Special Use zones correlate with a landuse definition (eg. Ancillary Tourist Use).	<p>Consider introducing a landuse definition for "Ancillary Tourist Use" as part of a Scheme Review.</p> <p>An example of a definition is 'means premises for:</p> <ul style="list-style-type: none"> <li>(a) recreation or entertainment;</li> <li>(b) consumption of food and / or beverages;</li> <li>(c) the sale of produce;</li> <li>(d) the sale of arts and crafts; and / or</li> <li>(e) conducting excursions for tourists,</li> </ul> <p>Where such use is incidental to and directly related to the predominant use of the land.'</p> <p>Source: Shire of Quairading Town Planning Scheme No 2</p> <p>It may be appropriate to include 'ancillary tourist use' for other Special Use zones if a landuse definition is included in any future Draft Scheme.</p>
5.	SU6  Overlander  Lot 174 North West Coastal Highway	Retain Special Use (SU6) zoning, broaden landuses to include roadhouse, replace reference to Transient Accommodation with Short Stay Accommodation and clarify that landuses are discretionary. Use terminology of 'incidental' instead of 'limited' for short stay accommodation.	<p>Modify the 'Special Use' column applicable to SU6 to state as follows:</p> <p><i>"The local government has discretion to consider the following uses:</i></p> <ul style="list-style-type: none"> <li>- Service Station</li> <li>- Roadhouse</li> <li>- Bulk Fuel, Shop</li> <li>- Restaurant</li> <li>- Transport Depot</li> <li>- Caravan Park</li> <li>- Camping Areas</li> </ul> <p><i>Short stay accommodation where it is incidental to the predominant use of the site. "</i></p>
6.	SU6  Overlander  Lot 174 North West Coastal Highway  (Continued)	Expand the conditions applied to new development for the Overlander	<p>Insert the following conditions under the 'Conditions' column of 'Schedule 4 : Special Use zone' applicable to special use zone 6 as follows:</p> <p><i>"Any development to address the following matters:</i></p> <ul style="list-style-type: none"> <li>• Provision of adequate services including potable water supply;</li> <li>• Information on waste disposal and provision of adequate on site effluent disposal to the satisfaction of the local government;</li> <li>• Suitable areas on site for carparking, loading, truck parking, access and traffic movements.</li> </ul>

No.	Existing Special Use Area	Summary	Draft provisions
	SU 6  (Continued)		<p><i>Council may refer any application to the Department of Health WA and Main Roads WA for recommendations and comment.</i></p> <p><i>Council may require lodgement of a traffic impact assessment for any new development. “</i></p>
7.	SU7  Billabong  Lot 2 and 3 North West Coastal Highway, Wannoo	Retain Special Use (SU7) zoning and replace reference to 'Wayside Hotel' with 'Hotel' and clarify landuses are discretionary. Use terminology of 'incidental' instead of 'limited' for short stay accommodation.	<p>Modify the 'Special Use' column applicable to SU7 to state as follows:</p> <p><i>“The local government has discretion to consider the following uses:</i></p> <ul style="list-style-type: none"> <li><i>– Roadhouse</i></li> <li><i>– Hotel</i></li> <li><i>– Caravan Park</i></li> <li><i>– Service Station</i></li> <li><i>– Bulk Fuel</i></li> <li><i>– Shop</i></li> <li><i>– Restaurant</i></li> <li><i>– Transport Depot</i></li> <li><i>– Short stay accommodation where it is incidental to the predominant use of the site. “</i></li> </ul>
8.	SU7  Billabong  Lot 2 and 3 North West Coastal Highway, Wannoo	Expand the conditions applied to new development for the Billabong	<p>Insert the following conditions under the 'Conditions' column of 'Schedule 4 : Special Use zone' applicable to special use zone 7 as follows:</p> <p><i>“Any development to address the following matters:</i></p> <ul style="list-style-type: none"> <li><i>• Provision of adequate services including potable water supply;</i></li> <li><i>• Information on waste disposal and provision of adequate on site effluent disposal to the satisfaction of the local government;</i></li> <li><i>• Suitable areas on site for carparking, loading, truck parking, access and traffic movements.</i></li> </ul> <p><i>Council may refer any application to the Department of Health WA and Main Roads WA for recommendations and comment.</i></p> <p><i>Council may require lodgement of a traffic impact assessment for any new development. “</i></p>

No.	Existing Special Use Area	Summary	Draft provisions
9.	SU8 Hamelin Pool Murchison Loc 161	Retain existing Special Use zone (SU8) and expand the permissible uses in Schedule 4 applied to Hamelin Pool	Expand on the existing uses listed under the 'Special Use' column of 'Schedule 4 : Special Use zone' applicable to Special Use zone 8 to include 'Exhibition Centre' and 'Restaurant' (to recognise the existing tearooms and museum).
10.	SU13 Lot 296 Stella Rowley Drive	Retain Special Use (SU13) zoning however broaden the permissible landuses listed in Schedule 4 of the Scheme and provide increased flexibility for future development.	<p>Shown as Area 15 on the Strategy map (Figure 1)</p> <p>Expand on the existing uses (Residential Dwellings/Tourist Accommodation) listed under the 'Special Use' column of 'Schedule 4 : Special Use zone' applicable to special use zone 13 as follows:</p> <p><i>"The local government also has discretion to consider the following uses where they form part of an integrated Outline Development Plan:</i>  <i>'Amenity building, caretakers dwelling, carpark, cinema / theatre, exhibition centre, liquor store, motel, hotel, night club, office, private hotel, public recreation, reception centre, private recreation, short stay accommodation, restaurant, workers accommodation'.</i></p>
11.	SU13 Lot 296 Stella Rowley Drive	Modify the 'Conditions' listed in Schedule 4 for Special Use (SU13) – Lot 296 Stella Rowley Drive, Denham.	<p>Insert modified text under the 'Conditions' column of 'Schedule 4 : Special Use zone' applicable to Special Use Zone 13 as follows:</p> <p><i>"Prior to commencement of development or subdivision an Outline Development Plan shall be prepared generally in accordance with Clause 5.9 of the Scheme and shall be endorsed by Council and the Western Australian Planning Commission and address the following:</i></p> <p>(i) <i>The proportion of permanent residential dwelling units relative to the total number of accommodation units shall be equal or less than 40 percent (unless otherwise approved by the local government and WAPC);</i></p> <p>(ii) <i>The gross floor area of the permanent residential units relative to the total number of accommodation units shall be equal or less than 40 percent (unless otherwise approved by the local government and WAPC);</i></p>



No.	Existing Use Area	Special	Summary	Draft provisions
11.	SU13 Lot 296 Stella Rowley Drive Continued.		Modify the 'Conditions' listed in Schedule 4 for Special Use (SU13) – Lot 296 Stella Rowley Drive, Denham.	<p>(iii) <i>Where a residential component is incorporated as part of any development, those areas providing the highest tourist values such as the beachfront, shall be retained permanently for tourist purposes and short stay accommodation;</i></p> <p>(iv) <i>The proposed development is to be of a high architectural quality and be designed to be sympathetic to the location taking into account topography, physical characteristics and landscape character of the surrounding area;</i></p> <p>(v) <i>The development shall maintain good visual permeability of the foreshore and ocean from nearby residential areas, roads and public spaces;</i></p> <p>(vi) <i>Adequate provision for pedestrian access to the foreshore reserve, open space and landscaping;</i></p> <p>(vii) <i>Adequate setbacks to the coast to be provided in accordance with any relevant state planning policy;</i></p> <p>(viii) <i>The design is to mitigate any potential for landuse conflict between residential and short stay accommodation or residential and commercial uses;</i></p> <p>(ix) <i>A management plan to be provided that addresses maintenance, operation of short stay or tourist facilities, interfaces between residential and non residential uses, waste disposal, service areas, and rubbish management;</i></p> <p>(x) <i>All development shall be limited to a maximum height of 4.5 metres above the height of Stella Rowley Drive (calculated in accordance with the Residential Design Codes) unless otherwise approved by Council having regard for retention of major view corridors to the ocean and a visual impact assessment provided by the proponent;</i></p>

No.	Existing Use Area	Special	Summary	Draft provisions
11.	SU13  Lot 296 Stella Rowley Drive  Continued.		Modify the 'Conditions' listed in Schedule 4 for Special Use (SU13) – Lot 296 Stella Rowley Drive, Denham.	<p>(xi) A Foreshore Management Plan shall be required for the area between the site and the coast as a condition of development or subdivision and shall;</p> <ul style="list-style-type: none"> <li>- Address relevant State Planning Coastal Policies;</li> <li>- Require approval in writing by the Shire and WAPC prior to commencement of development or site works;</li> <li>- Provide a dual use path for clear demarcation between the development site and foreshore reserve;</li> <li>- Define the building setback from the permanent vegetation line.</li> </ul> <p><i>The Shire has discretion to support a small scale large lot subdivision without an Outline Development Plan to facilitate creation of superlots where the sole purpose is to facilitate disposal of the land by the State of Western Australia for future development.</i></p>
12.	No special use zone currently applies to Dirk Hartog Island		Include government land, reserves and national park areas on Dirk Hartog Island as 'Conservation' (following liaison with relevant authorities including DEC and Department of Planning).	Map change – Rezone majority of Dirk Hartog Island from 'Rural/Pastoral' to 'Conservation' zone as appropriate.
13.	No special use zone currently applies to Dirk Hartog Island  Strategy proposes to rezone Lots 303, 304 and 305 as Special Use zones.		Include freehold Lots, 303, 304 and 305 on Dirk Hartog Island as 'Special Use' zone with appropriate land use controls.	<p>Identify Freehold Lots 303, 304 &amp; 305 on Dirk Hartog island as a new 'Special Use' zone (15) and list the following in the 'Special Use' column of 'Schedule 4 : Special Use zone';</p> <p><i>"The local government has discretion to consider the following uses where they form part of an integrated Outline Development Plan:</i></p> <ul style="list-style-type: none"> <li>- Bed and Breakfast – D</li> <li>- caretakers dwelling - D (There shall be a limit of one caretakers dwelling per Lot)</li> <li>- Educational Establishment - A</li> <li>- Exhibition Centre – A</li> <li>- Home Office – P</li> <li>- Home Occupation – D</li> <li>- Private Recreation - A</li> <li>- Single house – D</li> <li>- Storage – D</li> <li>- Residential Building – A</li> </ul>

No.	Existing Special Use Area	Summary	Draft provisions
13.	<p>No special use zone currently applies to Dirk Hartog Island</p> <p>Strategy proposes to rezone Lots 303, 304 and 305 as Special Use zones.</p> <p>Continued</p>	Continued	<p><i>Council has discretion to consider a wide range of eco-tourism uses and associated facilities which may include short term accommodation, camping area, or other forms of tourism accommodation and associated guest and recreational facilities. Any development must demonstrate that the use meets the eco-tourism definition.</i></p> <p><i>Council has discretion to consider the following uses where they form part of an integrated eco-tourism development and the use is an 'incidental use' to the predominant eco-tourism development on the same lot to the satisfaction of Council:</i></p> <ul style="list-style-type: none"> <li>- <i>Amenity building</i></li> <li>- <i>Canteen</i></li> <li>- <i>Carpark</i></li> <li>- <i>Fuel sales</i></li> <li>- <i>Home Store</i></li> <li>- <i>Motor Vehicle Hire</i></li> <li>- <i>Office</i></li> <li>- <i>Restaurant</i></li> <li>- <i>Special Facility licence</i></li> <li>- <i>Shop with a maximum Nett Leasible Area of 100m<sup>2</sup></i></li> <li>- <i>Workers Accommodation</i></li> </ul> <p><i>Council has discretion to consider uses and structures associated with servicing the lots including and not limited to water, effluent disposal, electricity, waste disposal, drainage, communications or other similar services.</i></p> <p><i>Council has discretion to approve 'temporary accommodation' if it is required to house workers associated with construction of new development, and the accommodation is proposed to be removed within a stipulated time period.</i></p>
14.	<p>No special use zone currently applies to Dirk Hartog Island</p> <p>Strategy proposes to rezone Lots 62, 303, 304 and 305 as Special Use zones.</p> <p>Lots 303-305 to become Special Use zone (15) and Lot 62 to be Special Use zone (16).</p>	<p>Include freehold lots on Dirk Hartog Island as 'Special Use' with appropriate landuse controls.</p> <p>These provisions are for Lots 303, 304 and 305 as special use zone 15 and Lot 62 as special use zone 16.</p>	<p>Identify Freehold Lot 303, 304 and 305 on Dirk Hartog island as a new 'Special Use' zone (15), identify Lot 62 as a new 'Special Use' zone 16 and list them separately in 'Schedule 4 : Special Use zone' of the Scheme with the following landuse controls;</p> <p>(1) <i>Prior to commencement of any new development (including a single house and ancillary outbuildings) or subdivision/strata, an Outline Development Plan shall be prepared generally in accordance with Clause 5.9 of the Scheme and shall be endorsed by Council and the Western Australian Planning Commission and address the following:</i></p>

No.	Existing Use Area	Special	Summary	Draft provisions
14.	Continued		Continued	<p>(i) A Management Plan that addresses access, servicing, maintenance, waste disposal, effluent disposal, service areas, rubbish management and a material transport plan (for any construction);</p> <p>(ii) The proposed development is to be of a high architectural quality and be designed to be low scale and sympathetic to the location taking into account topography, physical characteristics and unique character of the surrounding area;</p> <p>(iii) Adequate setbacks to the coast to be provided in accordance with any relevant state planning policy;</p> <p>(iv) An environmental report that demonstrates that the ODP and proposed uses will have a low impact on the natural environment with building envelopes, limitations on visitor numbers, management of visitor impact on the island, a vegetation assessment report and having regard for the need to protect the special attributes of the island:</p> <p>(v) Detailed design guidelines to control colours, materials, built form, scale, and achieve a development sympathetic to the natural character of the island (if required by the Shire).</p> <p>(2) The Council and Western Australian Planning Commission need to be satisfied that subdivision creates allotments to the size and type of which are justified based on the topography of the land.</p> <p>(3) Any development, subdivision or Outline Development Plan shall be referred to the Department of Environment and Conservation, any relevant Shark Bay World Heritage Advisory committee and the Department of Regional Development and Lands for comment prior to determination.</p>

No.	Existing Use Area	Special	Summary	Draft provisions
14.	Continued		Continued.	<p>(4) Any design guidelines that form part of an Outline Development Plan or associated Outline Development Plan report approved by Council and the Western Australian Planning Commission shall be enforced as if the requirements form part of the Scheme.</p> <p>(5) A Foreshore Management Plan shall be required for the area between the site and the coast as a condition of development or subdivision and shall;</p> <ul style="list-style-type: none"> <li>- Address relevant State Planning Coastal Policies;</li> <li>- Require approval in writing by the Shire and WAPC prior to commencement of development or site works;</li> <li>- Provide clear demarcation between the development site and foreshore reserve;</li> <li>- Involve consultation and input from the DEC.</li> </ul> <p>(6) A Visual Impact Assessment may be required to demonstrate that any development or subdivision will not negatively impact on World heritage values or detract from the scenic quality of the land.</p>
15.	<p>No special use zone currently applies to Dirk Hartog Island</p> <p>Strategy proposes to rezone Lot 62 to Special Use zone</p>		<p>Include freehold lots on Dirk Hartog Island as 'Special Use' with appropriate landuse controls.</p> <p>These provisions are for Lot 62.</p>	<p>Identify Freehold Lot 62 on Dirk Hartog island as a new 'Special Use' zone (16) and list the following in the 'Special Use' column of 'Schedule 4 : Special Use zone';</p> <p><i>"The local government has discretion to consider the following uses where they form part of an integrated Outline Development Plan:</i></p> <ul style="list-style-type: none"> <li>- Airfield - A</li> <li>- Bed and Breakfast – D</li> <li>- Caretakers dwelling - D (There shall be a limit of one caretakers dwelling per Lot)</li> <li>- Civic Use – D</li> <li>- Community Service depot – D</li> <li>- Educational establishment - A</li> <li>- Exhibition Centre – A</li> <li>- Home Office – P</li> <li>- Home Occupation – D</li> </ul>

No.	Existing Use Area	Special	Summary	Draft provisions
15.	Continued		Continued	<ul style="list-style-type: none"> <li>- Office - A</li> <li>- Private Recreation - A</li> <li>- Single house – D</li> <li>- Storage - D</li> <li>- Residential Building - A</li> </ul> <p><i>Council has discretion to consider the following uses where they form part of an integrated eco-tourism development and the use is an 'incidental use' to the predominant eco-tourism development on the same lot to the satisfaction of Council:</i></p> <ul style="list-style-type: none"> <li>- Amenity building</li> <li>- Canteen</li> <li>- Carpark</li> <li>- Fuel sales</li> <li>- Home Store</li> <li>- Motor Vehicle Hire</li> <li>- Restaurant</li> <li>- Shop with a maximum Nett Leasable Area of 100m<sup>2</sup></li> <li>- Special Facility licence</li> <li>- Workers Accommodation</li> </ul> <p><i>Council has discretion to consider uses and structures associated with servicing the lots including and not limited to water, effluent disposal, electricity, waste disposal, drainage, communications or other similar services.</i></p> <p><i>Council has discretion to approve 'temporary accommodation' if it is required to house workers associated with construction of new development, and the accommodation is proposed to be removed within a stipulated time period.</i></p>
16.	Define eco-tourism		Define ecotourism for the Dirk Hartog island lots.	Include a new definition in SU 15 and 16 to define 'eco-tourism' as ' means ecologically sustainable tourism with a primary focus on experiencing natural areas that fosters environmentally and cultural understanding, appreciation and conservation'.
17.	Ensure landuse symbols used for special use zones are linked to the scheme text which explains the meaning of the symbols.		Explain the landuse permissibility symbols for Dirk Hartog island lots.	Include a clause for SU15 and 16 that states 'The symbols used for landuse permissibility shall have the same meaning as the symbols under Clause 4.3.2.'

## **4.5 Open Space**

As outlined in Part 2 of the Local Planning Strategy, both the Denham townsite and the Shire area generally are well serviced by expansive areas of open space in the form of local parks, foreshore areas, conservation areas, national parks and islands. Due to the exceptional attributes of Shark Bay the local population has access to natural areas that are unique on a world scale (as recognised by the World Heritage listing).

The government has been active in securing land and modifying pastoral leases in the Shire (in the World Heritage area) for conservation purposes. In most cases however the government has not pursued Amendments to the Scheme to ensure zonings also change.

It therefore needs to be recognised that the 'Conservation' and 'Parks and Recreation' classifications in the current Scheme do not accurately reflect all areas in the Shire that are national park or open space.

In the Denham townsite the foreshore areas and pathways along the main street (Knight Terrace) are popular and well utilised by local residents and tourists. Pathways, accessibility and linkages between the town centre and open space areas remain important considerations.

### **4.5.1 Area 18 (Reserve 36163)**

Denham townsite is serviced by a local oval (however there is anecdotal evidence that it is underutilised) and the Shire is planning a high quality community sports and recreation centre on a portion of Reserve 36163 (shown as Area 18 on the Strategy map – [Figure 1](#)).

The new centre has potential to include uses such as multi use courts, gymnasium, hydrotherapy pool, kiosk, meeting rooms, hall, play group facilities etc

Other community uses may be able to co-locate with the new recreation centre depending on available funding. To provide flexibility and recognise potential for multi-uses it is recommended that the main portion of Reserve 36163 be zoned 'Community'.

It is anticipated that the existing open space areas combined with the new planned community recreation sports centre will service the local community's active and passive needs for the long term.

The new Recreation Centre will have strong links to the existing school, local oval and bowling club. The area around Reserve 36136 will essentially create a community and recreation precinct.

### **4.5.2 Area 19 (Reserve 33517 – No. 9 Francis Street, Denham)**

Reserve 33517 is managed by the Yadgalah Aboriginal Corporation and contains a mini golf course. It is currently zoned 'Parks and Recreation' however the Shire has identified that a 'Community' zone better reflects the function of the site, and will provide greater flexibility for other uses such as an interpretive centre.



#### 4.5.3 Area 20 (Reserve 32295 – Lot 267 Hartog Crescent, Denham)

Reserve 32295 is undeveloped, and the Shire has some interest in potential for staff housing development on the land (subject to community consultation and liaison with State and Services).

The land is currently zoned 'Parks and Recreation' and is proposed as 'Residential' with an R30 coding.

#### 4.5.4 Shire Common

To the immediate east of Denham and contained within the townsite boundary is Reserve 49809 which is vested to the Shire as a 'common'. It has an approximate area of 1139.2 hectares and is fairly unique.

Historically the land was used as a place where livestock could be kept outside of town, and today is still utilised by a local operator for camel agistment. Whilst not strictly open space, the common is of historical significance and remains an area available for public use.

##### Planning Implications:

- Zoning anomalies have occurred as not all land set aside for conservation is recognised appropriately by the Scheme where land tenure and/or Reserve status has changed as a result of government actions. Any future Scheme review should examine additional areas that may require changes to 'Conservation' or 'Parks and Recreation' (in consultation with DEC).
- Recommend re-zone the majority of Reserve 36136 to 'Community' zone to recognise that the land will likely be developed with community uses that complement the proposed sports and recreation centre (such as play group facilities).
- Shire has identified potential re-zoning of Reserve 33517 to Community zone and Reserve 32295 to Residential.

#### 4.5.5 Specific recommendations for Open Space

There is already a good supply of open space in Denham to service needs and a focus on Community zones is recommended to allow flexibility for sites such as Reserve 36163.

A summary of proposed changes are included in Table 6.

**TABLE 6**  
Specific recommendations for open space areas

No.	Summary	Draft provisions
1.	Recommend re-zone the majority of Reserve 36136 from 'Parks and Recreation' to 'Community' zone.	Map change – refer Figure 18.
2.	Introduce new Community zone provisions	New Community zone provisions already outlined in Table 1 , Point 8 (as identified for west portion of Area 7).  Repeated overpage / below for ease of reference;



No.	Summary	Draft provisions
2.	Introduce new Community zone provisions	<p><i>“Community Zone:</i></p> <p><i>The objective of this zone is to provide sufficient land for a wide range of landuses generally relating to health, emergency services, rescue, education, social, recreation, community purpose or other uses that have direct benefits to the local community. The zone may also provide for accommodation associated with any use approved by the local government. “</i></p> <p>Note: The ‘Community’ zone will also need to be included in Table 1 of the Shires Scheme, with suitable landuse controls. This will be examined as part of a future Scheme review.</p>
3.	Re-zone Reserve 36136 from ‘Parks and Recreation’ to ‘Community’ zone.	Map change – refer <a href="#">Figure 18</a> .
4.	Re-zone Reserve 32295 from ‘Parks and Recreation’ to ‘Residential’ zone with a density code of R30.	Map change – refer <a href="#">Figure 18</a> .

#### 4.6 Natural Resource Management

As outlined in Part 2 of the Strategy there are many parties involved in natural resource management for the portion of the Shire that is World Heritage area.

Natural Resource Management is largely outside the Shire’s control and day to day management of the World Heritage Area is dealt with by the DEC. Accordingly, it is not considered that the Local Planning Strategy needs to substantially address this issue.

In the Denham townsite, ongoing management of the foreshore immediately adjacent to the town centre continues to be important, and drainage management is an issue which the Shire is continuing to address (subject to budget considerations).

The Shire has a Foreshore Management Plan for the Denham foreshore, and can require preparation of additional foreshore plans for any new development adjacent to the coast.

##### **Planning Implications:**

- Any new foreshore management plans required for development should be co-ordinated having regard to existing relevant Management Plans.
- Consultation with DEC needs to occur on any proposed Management Plans.

#### 4.7 Visual Landscape Protection and Management areas

Significant skylines, scenic landscapes and areas of consistent and distinguishable landscape character should be recognised in local strategies. The development of Denham is historic, and unlike most coastal settlements there is minimal distance or setbacks between the main town centre and coastline.

The townsite is relatively contained and with the exception of Area 12, areas along the foreshore are almost fully developed. Outside the townsite substantial areas of coastline and areas of vegetation and scenic values are already well protected through the World Heritage listing and Special Control Area provisions in the Scheme.

As expansion occurs to the west of town, consideration should be given to maintaining an open rural type vista along Stella Rowley Drive.

For any new development on land adjacent to major tourist routes or the coast, Council should have regard for the visual impact and consider issues such as setbacks, screening, landscaping, colours and materials and siting of development. This however has to be balanced with the need to enforce minimum floor levels for development near the coast due to potential for inundation.

#### Planning Implications:

- The majority of undeveloped areas in Denham are zoned 'Special Use' and / or require preparation of ODPs. Visual amenity can be considered as part of the normal ODP process.
- For some of the Special Use zones the Scheme includes specific provisions relating to height limitations, sympathetic design etc
- The general Scheme provisions do not specifically address visual impact and the majority of areas in Denham near the coast have already been developed.
- Additional general provisions can be included in the Scheme to specify that Council will have regard to visual impact of new development near or adjacent to the coast and / or tourist routes. This issue however is subjective and may be difficult to assess.
- Land in the World Heritage area is of low risk in causing visual impact as no new development can compromise the World Heritage Values.

**TABLE 7**  
Specific recommendations for visual impact

No.	Summary	Draft provisions
1.	Recommend include general provisions dealing with visual impact.	<p>Insert a new clause as follows:</p> <p><b>"5.15 VISUAL IMPACT OF LANDUSE AND DEVELOPMENT NEAR THE COAST OR ALONG MAJOR TOURIST ROUTES.</b></p> <p><i>15.15.1 The local government is to have regard to the visual impact of any landuse or development proposal for land adjacent to the coast or major tourist routes and may require the following to be addressed as part of a development application or as conditions of planning approval;</i></p> <p><i>(a) Increased setbacks;</i></p> <p><i>(b) Screening landscaping;</i></p> <p><i>(c) The use of colours and materials that in the opinion of the local government will be sympathetic to the local amenity and landscape;</i></p> <p><i>(d) Siting of development to avoid or minimise silhouetting against the skyline and maximise view corridors to the ocean from public roads or places.</i></p> <p><i>5.14.2 The local government may require increased setbacks, and / or landscaping to maintain and improve key road entries into Denham townsite. "</i></p>

## **4.8 Constraints**

### **4.8.1 Water Management**

#### *4.8.1.1 Flooding*

Areas adjacent to Knight Terrace are subject to inundation during storm events due to tidal surges and/or waves overlapping the foreshore, minimal setbacks to the coast in the Denham town centre and natural water runoff due to the topography of the town which slopes towards the ocean.

This constraint is recognised in the existing Scheme and is addressed by implementing minimum floor levels for development. The Shire implements the recommendations of the Shark Bay—Denham Foreshore Topography and Storm Surge levels map which is used to inform FFL for new development.

The Shires objective is to protect the built environment in the Denham Town Centre from flooding, inundation and from stormwater damage.

#### *4.8.1.2 Future Water Management*

Currently the Shire has limited resources so whilst it is desirable to be in a position to develop an overall water management strategy as part of the Local Planning Strategy, the Shire seeks to implement a flexible approach and recognise constraints where regional and district level information is not available.

The Shire seeks to generally, promote and enhance water management and conservation through requiring implementation of best practice stormwater solutions including the *Stormwater Management Manual for Western Australia*.

The Shire aims to encourage preparation of district water management strategies or local waste management strategies at all levels of the planning process, however accepts there may be situations where lower order stormwater management and drainage information may be justified (i.e. in consultation with Department of Water).

This Strategy seeks to facilitate and encourage better management and use of our urban water resources by ensuring an appropriate level of consideration is given to the total water cycle at each stage of the planning system.

### **4.8.2 Coastal Processes**

Any development that has potential to impact on World Heritage values can be referred to DEC, or the Shark Bay World Heritage Advisory Committee. Whilst not outlined in the Scheme, the Shire can also refer any development to the Department of Transport for advice on Coastal setbacks and coastal issues.

The majority of areas in the Denham townsite adjacent to the coast are developed. Lot 296 Stella Rowley Road (Area 15) is one of the few large sites on the coast in the Denham Town Centre that has remained vacant. Any development on Lot 296 has to meet specific conditions outlined for the Special Use site in the Scheme including a requirement for preparation of a foreshore management plan, development guidelines, and preparation of an ODP.

**Planning Implications:**

- The Shire has high regard for all relevant state planning coastal policies, water resource policies and relevant planning bulletins (on water management) at all stages of the planning process from ODP's through to development.
- Coastal areas throughout the Shire may be vulnerable to the adverse impacts of coastal hazards (such as erosion and storm surge inundation).
- The Department of Planning recommends that the Shire undertakes coastal hazard risk management and adaptation planning however it is subject to future funding opportunities.
- The Shire seeks to encourage best practice stormwater solutions and to examine water management at each planning stage.

**4.8.3 Buffers**

Denham townsite is relatively unconstrained by buffers as the WWTP and airport are well located and have sufficient generic separation distances to sensitive landuses such as residential areas.

A portion of the generic WWTP buffer is shown on the Strategy map and does not unduly constrain future expansion opportunities. A Special Control Area may be appropriately applied to the WWTP buffer as part of a Scheme review.

Adequate buffers and interfaces between any future residential development and the established Industrial area need to be considered in the long term (for Area 6B).

**Planning Implications:**

- There is opportunity for long term townsite expansion in a westerly direction which will not be unduly constrained by buffers.

**4.9 Existing and proposed major transport routes**

As outlined in Part 2 of the Strategy, Main Roads WA is responsible for the whole of the North West Coast Highway, Shark Bay Road, and Monkey Mia Road in the Shire. Monkey Mia Road provides access directly from the Denham townsite to Monkey Mia (approximately 24 kilometres). All of these roads are well maintained and no new major roads are proposed.

All of the other roads in the Shire are the responsibility of the local government. Roads in Denham townsite are constructed, sealed and maintained to a high standard by the Shire.

**4.10 Existing and future utilities**

The Shire is well serviced with established physical infrastructure, however it is important that sewerage be extended to the north of the townsite, and water usage be minimised to make best use of this limited resource.

**Planning Implications:**

- Any new public open space or landscaping for development needs to be designed to minimise water use.
- Medium density development in the north of town is constrained until sewerage is extended.

## **5.0 STRATEGIES AND ACTIONS**

### **5.1 Strategy 1**

Develop a successful service centre for the Shire by consolidating the town centre and improving services and facilities offered to residents and visitors.

#### **5.1.1 Actions for Strategy 1**

- a. Continue to encourage development of the town centre in Denham as the principal place for retail, commercial, civic and administrative functions in the Shire.
- b. As part of any future Scheme review or Amendment consolidate the 'Town Centre' zone and introduce specific objectives and landuse controls which focus on the function of the Town Centre to cater retail and commercial uses in accordance with this Strategy.
- c. Continue to ensure new habitable development meets minimum floor level requirements whilst having regard for the need of quality development outcomes, protection for pedestrians against weather and opportunities for pedestrian links.
- d. Ensure all new development is of a high architectural quality and enhances and contributes positively to the existing town character and streetscape.
- e. Ensure development will not adversely affect local amenities.
- f. Encourage upgrading of older developments and redevelopment of prime Town Centre redevelopment sites.
- g. Provide for the efficient and safe movement of vehicles (including trucks, buses, and caravans) and pedestrians.
- h. Provide sufficient parking spaces for cars, caravans, and buses without compromising pedestrian movements.
- i. Continue to maintain and provide good quality public amenities along the foreshore adjacent to the town centre including public toilets, shaded areas, public art and street furniture.
- j. Pursue funding opportunities for projects to enhance the character of the town centre through an urban design / townscape improvement plan to strive to retain vibrancy of the town centre. Any study should ensure that the relaxed atmosphere of the town and general coastal theme is maintained.
- k. Seek funding opportunities for public art, seating, street furniture, streetscape works, and landscaping in the town centre.
- l. Pursue an exit strategy for relocation of the Shire Offices subject to budget considerations.
- m. Ensure that the Scheme encourages uses such as restaurants, offices and retail shops to concentrate in the town centre and review the commercial type uses permissible in

Special Use zones in the Denham townsite that are predominantly planned for residential use and urban expansion.

- n. Protect areas developed with tourist accommodation in the Denham townsite by introducing Tourist Zones.
- o. Pursue a minor Scheme Review and / or Scheme amendment to implement the recommendations of the Local Planning Strategy in the next 2-3 years depending on budget availability.

## **5.2 Strategy 2**

Maintain Denham as a place where people can enjoy a quality relaxed living environment with a range of housing opportunities and lifestyle choices that are developed on good design principles and enhance the existing townsite.

### **5.2.1 Actions for Strategy 2**

- a. Provide for a range of opportunities and wider range of housing choice for future residential, including aged persons' and medium density dwelling units.
- b. Ensure all ODPs respond to the site characteristics, are sympathetic to local character, maximise open space and pedestrian links, are of an appropriate scale and density, address drainage and have regard to the natural landscape.
- c. Require all ODPs to incorporate sound planning design principles consistent with relevant local and state planning policies.
- d. Require management plans where necessary for development adjacent to the coast or for protection of dunes.
- e. Examine opportunities in any future Scheme review or Amendment to reduce the number of Special Use zones for those areas which are predominantly planned for urban growth in the Denham townsite. Increase the use of 'Residential Development' zones and ensure zonings follow lot boundaries where possible.
- f. Pursue a minor Scheme Review and / or Scheme amendment to implement the recommendations of the Local Planning Strategy in the next 2-3 years depending on budget availability.

## **5.3 Strategy 3**

Continue to cater for tourists and promote Denham as a desirable world class tourist destination offering a variety of attractions, including local heritage and world heritage.

### **5.3.1 Actions for Strategy 3**

- a. Continue to promote and support tourist related uses through flexible Scheme provisions.
- b. Actively encourage tourist developments in appropriate locations that include facilities and services which will attract visitors in non peak periods.
- c. Seek available funding opportunities for promoting the Shire's attractions and for development of a comprehensive Tourist Strategy.

- d. Continue to promote local recreational and cultural activities.
- e. Continue to promote and protect local heritage sites and attractions.
- f. Seek available funding opportunities for updating and reviewing the Shires Municipal Inventory.
- g. As part of any future Scheme review retain Special Use zones for those sites which are specifically earmarked predominantly for tourist uses (such as Area 15) and are located in close proximity to the coast or sensitive environments (with specific requirements and conditions).
- h. As part of any future Scheme review ensure that permissible tourist uses that are listed in Schedules of the Scheme are also clearly defined in the Scheme.
- i. Ensure freehold lots on Dirk Hartog Island are provided with adequate landuse controls.
- j. Pursue a minor Scheme Review and / or Scheme amendment to implement the recommendations of the Local Planning Strategy in the next 2-3 years depending on budget availability.

#### **5.4 Strategy 4**

Maintain and enhance the relaxed quality of life enjoyed by the local community and maximise recreation opportunities to service existing and future needs.

##### **5.4.1 Actions for Strategy 4**

- a. Continue to progress/develop plans and seek funding opportunities for construction of a new sports and recreation centre on Reserve 36163.
- b. Continue to promote private and public recreation areas to tourists and the local population.
- c. Consider pursuing opportunities for funding of a Bikeplan and associated upgrading of pathways throughout the townsite and to provide strong pedestrian and bike paths to recreation facilities.
- d. Develop and promote walking 'trails' throughout the townsite with good quality paths, interpretative signage for heritage sites, interest/activity points, resting/seating areas at strategic points, and public art.
- e. Ensure that adequate signage and/or entry statements are provided to assist tourists to maximise use of local recreation areas.
- f. Continue to maintain, upgrade and enhance foreshore areas adjacent to the town centre.
- g. Continue to seek funding for upgrading of roads, construction of new community facilities (such as a Telecentre) and services.
- h. Foster a sense of community by promoting local community events and Council services.



- i. Continue to support and foster a good relationship with the DEC as an important agency which manages day to day operations of the World Heritage area.
- j. Ensure there are appropriate zonings and landuse controls over government controlled land to recognise important conversation areas.
- k. Pursue a minor Scheme Review and / or Scheme amendment to implement the recommendations of the Local Planning Strategy in the next 2-3 years depending on budget availability.

## **5.5 Strategy 5**

Facilitate business opportunities and industrial development which deliver diverse employment opportunities and support development in the district.

### **5.5.1 Actions for Strategy 5**

- a. Maximize the development potential of existing lots with good access to infrastructure.
- b. Encourage expansion of existing developments or redevelopment of older sites by streamlining planning processes without compromising the need to achieve high quality buildings and meet necessary site requirements.
- c. Provide appropriate buffers and/or treatments between industry and any sensitive land uses as part of any future planning, so as to avoid land use conflicts.
- d. Seek funding opportunities to liaise with key stakeholders and major businesses and actively promote the industrial area as a small business centre.
- e. Continue to pursue partnerships Federal and State bodies for business development and promotion.
- f. Promote the Industrial area through good quality signage, community business directories, and consider future opportunities for an entry statement.
- g. Work closely with private owners and developers to maximize opportunities for shared and co-ordinated access or parking.
- h. Create opportunities for small business through creation of a new Enterprise Composite zone allowing people to live and operate a small business on the same lot.
- i. Create opportunities for service commercial uses to establish adjacent to the existing Industrial area for uses which may require larger land requirements.
- j. Pursue a minor Scheme Review and / or Scheme amendment to implement the recommendations of the Local Planning Strategy in the next 2-3 years depending on budget availability.

## **5.6 Strategy 6**

Liaise with relevant servicing authorities to continue to maintain and extend infrastructure to service current and future needs, with particular emphasis on water supply.



### **5.6.1 Actions for Strategy 6**

- a. Seek necessary upgrading of services to ensure the Shire has sound infrastructure that meets the needs of existing and future residents, tourism development and businesses.
- b. Liaise with servicing authorities through advertising of the Local Planning Strategy to allow for future growth and planning.
- c. Encourage authorities such as the DoP Coastal Branch, DEC and Department of Water to assist the Shire with water management and to progress studies that will assist with improvements for water conservation and drainage upgrades.
- d. Continue to seek funding for upgrading of drainage and development of a water management strategy.
- e. Seek future extension of sewerage to ensure the Shire has a sound, stable infrastructure that meets the needs of residents, tourists, visitors and local businesses.

## **6.0 GENERAL RECOMMENDATIONS FOR SCHEME REVIEW**

This Strategy has made recommendations on scheme text and zoning changes to be incorporated into a future scheme review. Individual landowners may also apply to amend the existing Scheme if the proposal is generally in accordance with this Strategy as endorsed by the Western Australia Planning Commission.

In addition to the recommendations mainly concentrating on the Denham Townsite, any future Scheme review should also;

1. Update the format of the Scheme to be generally consistent with the Model Scheme Text.
2. Ensure that the landuses listed in Additional or Special Use zones are defined in the Scheme or the Model Scheme text.
3. Liaise with relevant government agencies to ensure government owned land and National Parks have appropriate zonings in place.
4. Replace references to CALM with DEC.
5. Replace and update references to the Scientific Advisory Committee and Consultative Committee to deal with the Shark Bay World Heritage Area. The Committees have been disbanded and have been replaced by a new Shark Bay World Heritage Advisory Committee.
6. Where possible, replace landuse interpretations and definitions with those in the Model Scheme text.
7. Include Scheme provisions which allow Council discretion to require Detailed Area Plans for important development sites.

## **7.0 IMPLEMENTATION**

The *Town Planning Regulations 1967* set out the statutory procedure for preparation, consultation and approval and endorsement of a Local Planning Strategy.

The following steps should be taken to implement the Local Planning Strategy;

1. Consideration of a Draft Local Planning Strategy by the Shire.
2. The Shire can undertake preliminary informal advertising of the Strategy.
3. Review of Draft Strategy having regard for informal public feedback and preliminary consultation. Referral of the Strategy and any submissions to a formal Council meeting.
4. Submission of the Strategy to the WAPC (with or without modification).
5. Assessment of the Strategy by the WAPC against state and regional policy (for consent to advertise).
6. Modification of strategy (if necessary) as required by the WAPC.
7. Preliminary certification of the Strategy by the WAPC prior to advertising.
8. Formal advertising of the Strategy for public comment and referral to service providers and interested agencies.
9. Consideration of all public submissions by the Council, modification (if necessary) and final adoption.
10. Submission of Strategy to WAPC for final endorsement.
11. Assessment of modifications (if any) by WAPC. WAPC may require further modifications of the Strategy.
12. Endorsement of final strategy approved by the WAPC.

Once the Strategy is finally adopted by the Shire of Shark Bay Council and the Western Australian Planning Commission, then it will form the basis for future scheme amendments and / or a review of the Shires existing Local Planning Scheme. It is recommended that the Shire undertake a scheme review in the next 2-3 years depending on budget considerations.

## **8.0 MONITORING AND REVIEW**

The Strategy will require future review in order to remain current, and to ensure that it responds to local changes in circumstances or priorities, or changes in state or regional policy. The Strategy can be kept updated through occasional minor updates, or through longer periodic reviews (at least every five years).

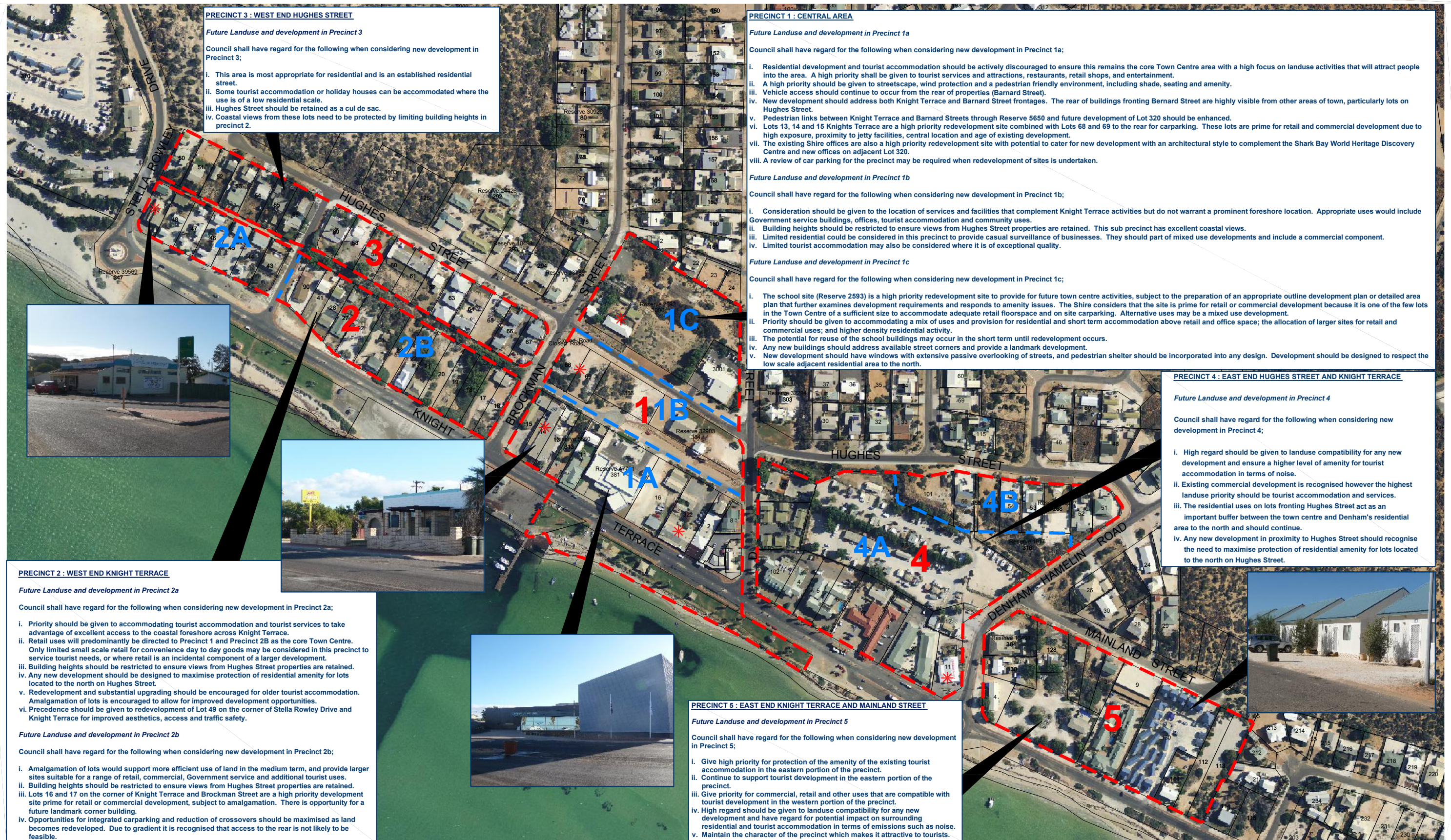
Amendments to the strategy should be pursued where there is a significant development or change.

The procedure for review or amendment of the Strategy is generally the same as for implementation including adoption by the Shire, advertising and assessment/endorsement by the WAPC. The main difference is that only the new changes require advertising and re-assessment.

# **ATTACHMENT 1**

## **DRAFT DENHAM TOWN CENTRE STRATEGY PLAN**

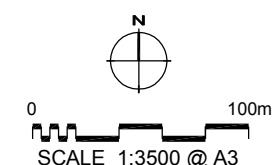




# **DRAFT DENHAM TOWN CENTRE STRATEGY MAP** **DENHAM TOWN CENTRE ZONE** **SHIRE OF SHARK BAY**

## **LEGEND**

- PRECINCTS (as defined in the Denham Town Centre Strategy)
- SUB PRECINCTS
- HIGH PRIORITY REDEVELOPMENT SITE



## **Attachment 1**

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 South Perth, WA 6151  
 T (08) 9474 1722  
 F (08) 9474 1172  
 perth@graylewis.com.au



# **ATTACHMENT 2**

## **EXISTING SPECIAL USE ZONES IN THE SHIRE OF SHARK BAY LOCAL PLANNING SCHEME NO 3 (SCHEDULE 4)**

# SCHEDULE 4: SPECIAL USE ZONE [CL. 4.7.1]



**COPY**

No.	Description of Land	Special Use	Conditions
1.	Lot 310 Stella Rowley Drive, Denham and Unallocated Crown Land	Short Term Accommodation, including Caravan and Camping areas, Shop and Associated uses as approved by local government.	As required by the local government.
2.	Lot 119 Spaven Way	Short Term Accommodation, including Caravan Park, Camping Area, and associated uses as approved by local government.	As required by the local government.
3.	Part North Loc 59 Denham-Hamelin Road, Denham	Short Term Accommodation and Incidental Tavern, Restaurant and Recreation - Private, and Residential.	<p>Development of the site shall be in accordance with an approved Outline Development Plan. The Outline Development Plan shall be prepared generally in accordance with the requirements of Clause 5.9 and will address the following:</p> <ul style="list-style-type: none"> <li>• Development should be set back and buffered from adjoining residential uses to the satisfaction of the local government; and</li> <li>• Development should be setback from the dune ridge on the southern boundary of the site, and this ridge should be landscaped and protected to the satisfaction of the local government.</li> </ul>
4.	<p>Part North Loc 59 Denham-Hamelin Road, Denham</p> <p>AMD 02 GG 25/01/11</p>	<p>Roadhouse, Restaurant, Bulk Fuel.</p> <p>Council has the discretion to consider the following uses;</p> <ul style="list-style-type: none"> <li>• Carpark</li> <li>• Garden Centre</li> <li>• Hire Service</li> <li>• Industry – Service</li> <li>• Motor vehicle, boat or caravan sales</li> <li>• Motor vehicle repair</li> <li>• Office</li> <li>• Restaurant</li> <li>• Showroom</li> <li>• Service Station</li> </ul>	<ul style="list-style-type: none"> <li>• The boundary of the site abutting the Cemetery Reserve No. 8886 shall be landscaped to the satisfaction of the local government.</li> <li>• Development shall be setback from the modified Denham-Hamelin Road and Monkey Mia Road intersection to the satisfaction of the local government.</li> </ul> <p><u>Objectives</u></p> <ul style="list-style-type: none"> <li>– To ensure that any development is compatible with the Town Centre and surrounding zoning.</li> <li>– To provide for a wide range of compatible landuses and encourage opportunities for mixed use development.</li> <li>– To encourage development of an attractive place to work and conduct business.</li> </ul>

**SCHEDULE 4: SPECIAL USE ZONE [CL. 4.7.1] (Cont'd)**



**COPY**

No.	Description of Land	Special Use	Conditions
		<ul style="list-style-type: none"> <li>• Convenience Store</li> <li>• Motor Vehicle Wash (car and boat wash)</li> <li>• Laundrobar</li> </ul>	<ul style="list-style-type: none"> <li>– To promote a high standard of development including buildings, landscaping and carparking.</li> <li>– To ensure that all development presents a visually attractive appearance to Monkey Mia Road as a main gateway into the Denham Townsite.</li> </ul> <p><u>Conditions</u></p> <ul style="list-style-type: none"> <li>• Any development is to have quality building facades fronting Shark Bay Road and Monkey Mia Road.</li> <li>• The layout of carpparking areas shall be designed with high regard for traffic circulation between developments on the same lot, and shall be integrated to allow for good on site traffic management and flow.</li> <li>• Development shall be setback from Shark Bay Road and Monkey Mia Road intersection to the satisfaction of the local government.</li> <li>• The boundary of the site abutting the Cemetery Reserve No. 8886 shall be landscaped to the satisfaction of the local government.</li> <li>• Council may require lodgement of a landscaping plan as a condition of any development.</li> <li>• Council shall only consider 'motor vehicle repair' as a stand-alone development where: <ul style="list-style-type: none"> <li>(i) The building is of a high quality with adequate on site carparking and landscaping to the satisfaction of Council;</li> <li>(ii) The use is confined to those activities as defined in the 'motor vehicle repair' landuse definition in Schedule 1 servicing as a predominant activity; and</li> <li>(iii) The use shall not include any motor vehicle</li> </ul> </li> </ul>



**SCHEDULE 4: SPECIAL USE ZONE [CL. 4.7.1] (Cont'd)**



**COPY**

No.	Description of Land	Special Use	Conditions
			<p>wrecking (which is defined separately in the Scheme) dismantling of vehicles, or storage of any car bodies on site; and</p> <p>(iv) Any external storage shall be confined to the side or rear of a building and must be adequately screened from public view to the satisfaction of Council; and</p> <p>(v) The workshop floorspace within Special Use 4 shall be limited to a maximum area of 300m<sup>2</sup> (excluding office and amenities) to the satisfaction of Council.</p> <ul style="list-style-type: none"> <li>In determining any application, Council will have regard for the objectives listed for this site.</li> </ul>
5.	Part Edel Loc 17 Nanga	Tavern, Caravan Park, Service Station, Shop, Arts and Crafts Centre. Short Term Accommodation including Edel Loc Caravan Park, Exhibition Centre and Staff Accommodation.	Development of the site shall be in accordance with an approved Outline Development Plan, which has generally been prepared in accordance with the requirements of Clause 5.9 and endorsed by the Western Australian Planning Commission. The Outline Development Plan should demonstrate that:
5.	Part Edel Loc 17 Nanga (Cont'd)	Tavern, Caravan Park, Service Station, Shop, Arts and Crafts Centre. Short Term Accommodation including Edel Loc Caravan Park, Exhibition Centre and Staff Accommodation.	<ul style="list-style-type: none"> <li>the proposed development is sympathetic to the location, taking into account the topography and landscape character of the surrounding area; and</li> <li>the interface with the foreshore is generally in accordance with Statement of Planning Policy 2.6 - State Coastal Planning Policy. This includes clear demarcation between the development site and the foreshore reserve and definition of the setback for development from the permanent vegetation line.</li> </ul>
6.	Overlander Lot 174 North West	Service Station, Bulk Fuel, Shop, Restaurant, Transport Depot,	As required by the local government.

**SCHEDULE 4: SPECIAL USE ZONE [CL. 4.7.1] (Cont'd)**



**COPY**

No.	Description of Land	Special Use	Conditions
	Coastal Highway	Caravan Park, Camping Areas and limited Transient Accommodation.	
7.	Billabong Lot 2 and 3 North West Coastal Highway	Roadhouse, Limited Short Term Accommodation, Wayside Hotel, Caravan Park, Service Station, Bulk Fuel Depot, Shop, Restaurant, Transport Depot.	As required by the local government.
8.	Murchison Loc 161 Hamelin Pool	Tourist facilities (including Short Term Accommodation), Caravan Park, Camping Areas and historic buildings.	<p>Development of the site shall be in accordance with an approved Outline Development Plan that has generally been prepared in accordance with the requirements of Clause 5.9 and endorsed by the Western Australian Planning Commission. The Outline Development Plan should demonstrate that:</p> <ul style="list-style-type: none"> <li>the proposed development is sympathetic to the location, taking into account the topography and landscape character of the surrounding area; and</li> <li>the interface with the foreshore is generally in accordance with Statement of Planning Policy 2.6 – State Coastal Planning Policy. This includes clear demarcation between the development site and the foreshore reserve and definition of the setback for development from the permanent vegetation line.</li> </ul>

**SCHEDULE 4: SPECIAL USE ZONE [CL. 4.7.1] (Cont'd)**

**COPY**

No.	Description of Land	Special Use	Conditions
9.	Monkey Mia Reserve 1686 (Edel Loc 80) Reserve 40727 (Edel Loc 67)	The following uses are permitted: <ul style="list-style-type: none"> <li>• Motel</li> <li>• Short Term Accommodation</li> <li>• Special Facility</li> <li>• Park Home Park</li> <li>• Caravan Park</li> <li>• Camping Area</li> <li>• Reception Centre</li> <li>• Residential Building</li> <li>• Office</li> <li>• Shop</li> <li>• Restaurant</li> <li>• Carpark</li> <li>• Staff Accommodation</li> <li>• Power Generation Plant</li> <li>• Desalination Plant</li> </ul>	<p>The following conditions of development apply:</p> <p>i. The intent of this Special Use Zone is to provide for the needs of tourists in a manner that enhances the management and welfare of the Shark Bay World Heritage Property, and particularly, the welfare of the dolphins.</p> <p>ii. Development shall be generally in accordance with the Monkey Mia Outline Development Plan (O'Brien 1995), and development shall only occur following, and generally in accordance with, the preparation of an Outline Development Plan (formerly Concept Development Plan) and its approval by the local government and the Commission. The Outline Development Plan should incorporate, and have regard for, the relevant management provisions required in the current lease agreement in respect of the land.</p> <p>Note: The purpose of the 1995 O'Brien Outline Development Plan report was to establish the principles for the preparation of an Outline Development Plan, and is not itself an Outline Development Plan.</p> <p>iii. If the local government or the Commission:</p> <p>(a) fail to make a determination in respect of the Outline Development Plan within 5 months of lodgement of such a plan with the local government, or within such other time frame agreed by the proponent; or</p> <p>(b) makes a determination or imposes a requirement in respect of the Outline Development Plan and the proponent is dissatisfied with such a determination;</p>



**SCHEDULE 4: SPECIAL USE ZONE [CL. 4.7.1] (Cont'd)**



**COPY**

No.	Description of Land	Special Use	Conditions
9.	Monkey Mia Reserve 1686 (Edel Loc 80) Reserve 40727 (Edel Loc 67)  (Cont'd)	The following uses are permitted: <ul style="list-style-type: none"> <li>• Motel</li> <li>• Short Term Accommodation</li> <li>• Special Facility</li> <li>• Park Home Park</li> <li>• Caravan Park</li> <li>• Camping Area</li> <li>• Reception Centre</li> <li>• Residential Building</li> <li>• Office</li> <li>• Shop</li> <li>• Restaurant</li> <li>• Carpark</li> <li>• Staff Accommodation</li> <li>• Power Generation Plant</li> <li>• Desalination Plant</li> </ul>	the proponent may appeal in accordance with Part V of the Act.  iv. Any minor variation to the Outline Development Plan, including uses considered incidental to the primary activity of the tourist development, may be approved by the local government.  No structure shall exceed 7.75 m in height above finished ground level unless it forms part of the essential services (water or fuel tanks, powerlines or communication aerals). The location, intensity and design of two-storey development shall comply with an endorsed Outline Development Plan.
10.	Monkey Mia Lot 63	Loading Area and associated uses	As required by the local government.
11.	Edel Loc 90 Peron Road	Pearl Farming, aquaculture, Residential, Staff Accommodation, plantation tree farming and associated uses	Development of the site shall be in accordance with an approved Outline Development Plan. The Outline Development Plan shall be prepared generally in accordance with the requirements of Clause 5.9.
12.	Useless Loop	Extractive Industry, Incidental Community Uses, Accommodation, Industrial uses, incidental commercial uses.	As required by the local government.
13.	Lot 296 Stella Rowley Drive	Residential Dwellings, Tourist Accommodation	Conditions of Development  Limit height of all development to 4.5 m above the height of Stella Rowley Drive (calculated in accordance with the Residential Design Codes)

**SCHEDULE 4: SPECIAL USE ZONE [CL. 4.7.1] (Cont'd)**



**COPY**

No.	Description of Land	Special Use	Conditions
13.	Lot 296 Stella Rowley Drive (Cont'd)	Residential Dwellings, Tourist Accommodation	<ul style="list-style-type: none"> <li>• Prior to commencement of development, approval of a foreshore management plan, by the Shire and the WAPC, for the coastal reserve between the site and the coast in accordance with Statement of Planning Policy 2.6 - State Coastal Planning Policy. The management plan shall include the provision of a dual use path to provide clear demarcation between the development site and the foreshore reserve and definition of the setback for development from the permanent vegetation line.</li> <li>• The maximum percentage of permanent residential development on site shall comply with the following at all stages of development of the site: <ul style="list-style-type: none"> <li>(i) the proportion of permanent residential units relative to the total number of accommodation units on the site shall be equal to or less than 20 percent;</li> <li>(ii) The gross floor area of the permanent residential units relative to the gross floor area of all units on the site shall be equal to or less than 20 percent;</li> <li>(iii) The site area occupied by the permanent residential units, and any areas designated for the specific use of the occupiers of those units, relative to the area occupied by the tourist development shall be equal to or less than 1.22 ha. In calculating the area occupied by the tourist development those facilities available for common use shall be excluded from the calculation.</li> </ul> </li> </ul>

**SCHEDULE 4: SPECIAL USE ZONE [CL. 4.7.1] (Cont'd)**



**COPY**

No.	Description of Land	Special Use	Conditions
13.	Lot 296 Stella Rowley Drive (Cont'd)	Residential Dwellings, Tourist Accommodation	<p>The percentage of permanent residential development may be varied with the approval of Council and the endorsement of the WAPC.</p> <p>Outline Development Plan</p> <p>Development of the site shall be in accordance with an approved Outline Development Plan, that has been endorsed by the Western Australian Planning Commission. The plan shall generally be prepared in accordance with the provisions of Clause 5.9 of the Scheme and should address the following design and development guidelines:</p> <ul style="list-style-type: none"> <li>• The proposed development is sympathetic to the location taking into account the built form, topography and landscape character of the surrounding area;</li> <li>• Good visual permeability of the foreshore and ocean from nearby residential areas, roads and public open spaces;</li> <li>• Adequate provision for open space and landscaping on the site;</li> <li>• Provision for pedestrian access to the foreshore reserve;</li> <li>• Where a residential component is incorporated within the site, those areas of the site providing the highest tourist values, eg beachfront, should be retained predominantly for tourist purposes, and not permanent residential units</li> </ul>



**SCHEDULE 4: SPECIAL USE ZONE [CL. 4.7.1] (Cont'd)**



**COPY**

No.	Description of Land	Special Use	Conditions
13.	Lot 296 Stella Rowley Drive (Cont'd)	Residential Dwellings, Tourist Accommodation	<ul style="list-style-type: none"> <li>• Design of the tourist and permanent residential units within the complex shall be complementary and provide the opportunity for integration between the two types of accommodation;</li> <li>• The development shall incorporate facilities normally associated with tourist accommodation developments such as recreation, entertainment facilities and integrated management facilities; and</li> <li>• Include a management plan to deal with the interface between residential and tourist uses.</li> </ul>
14	Edel Location 110  <i>AMD 1 GG 17/4/09</i>	<p>The following uses are permitted:</p> <ul style="list-style-type: none"> <li>• Oceanarium and associated incidental uses</li> <li>• Shop</li> <li>• Care/Restaurant</li> <li>• Camping area</li> <li>• Workers Accommodation</li> </ul>	<p>The following conditions of development apply:</p> <ul style="list-style-type: none"> <li>i) The intent of this Special use Zone is to allow the development of an Oceanarium and associated uses incidental to the operation of the Oceanarium for both tourist and research purposes.</li> <li>ii) The use of the Camping Area is restricted to students involved in educational programs or research on site and is not for use by the general public.</li> <li>iii) A maximum of two dwellings for workers accommodation may be constructed on site.</li> </ul>





# **ATTACHMENT 3**

Council Minutes 30 April 2014  
(Building Height)

30 APRIL 2014

**13. TOWN PLANNING REPORT**

**13.1 EXISTING SCHEME REQUIREMENTS: GENERAL BUILDING HEIGHTS AND VIEW PROTECTION, DENHAM  
LP00002**

Author

Liz Bushby, Gray and Lewis Land Use Planners

Disclosure of Any Interest

NIL

Moved            Cr Cowell  
Seconded       Cr Ridgley

Council Resolution

**That Council:**

1. Authorise the Chief Executive Officer to notify Gray & Lewis Landuse Planners that Council has considered the issue of building height and view protection and resolves to pursue Option 2 outlined in this report.
2. Note that the Council resolution will be implemented as part of the Scheme review process.

**6/0 CARRIED**

Précis

Council is to consider the issue of building height in Knight Terrace and protection of views from lots in Hughes Street, Denham. The objective is to give Council opportunity for early input into the Town Planning Scheme review.

Background

A Scheme review process is currently underway and Gray & Lewis Landuse Planners have prepared a skeleton Draft Shire of Shark Bay Local Planning No 4 (Draft Scheme 4).

The Draft Scheme 4 will be finalised once there is Council feedback on some important preliminary issues. It has also been held pending further progression of the Denham Town Centre Structure Plan being developed by GHD.

Gray & Lewis held a workshop with Councillors on issues relating to the Scheme Review on the 25 February 2014. At the workshop it was identified that there are two important issues that should be referred to Council for consideration including:

1. Building height in Knight Terrace and protection of views
2. Special Use zones and whether to allow flexibility for some limited development to proceed without an Outline Development Plan / Structure Plan.

A separate Item No 13.2 in this agenda discusses special use zones.

Comment

- Existing Scheme requirements

Under the current Shire of Shark Bay Local Planning Scheme No 3 ('the Scheme') there is a strong emphasis on limiting building height for the protection of views of lots between Hughes Street and the foreshore.

An objective of the Town Centre zone under the Scheme is to '*limit the height of buildings so as to substantially protect the views of lots between Hughes Street and the foreshore*'.

This is re-enforced by Clause 5.13.7 on 'Building Heights' which states:

*'To maintain the amenity of any dwelling in the residential area, the local government shall have due regard to building heights for any lot between Knight Terrace and Hughes Street'.*

- Pros and Cons

The full history and rationale for limiting building height as per the current Scheme is not known by Gray & Lewis, however it places constraints on new development in Knight Terrace.

Gray & Lewis has compiled a table outlining some of the issues relating to building height and view controls:

Advantage (Pro)	Disadvantage (Con)
High level of protection of residential amenity and protection of view corridors to the coast	Conflicts with flood mitigation requirements as new development in Knight Terrace has to be built up to meet minimum floor levels
Views from the residential area to the coast contribute towards the coastal town character of the area.	Places limitations on building height for new development in the Town Centre and along Knights Terrace.
Protects some houses along Hughes Street which may have been specifically designed and constructed to maximise views of the ocean	No recognition that any two storey development on the south west side of Hughes Street will likely block views of any dwelling built on the north east side of Hughes Street.
The existing Scheme provisions may have created a high expectation by existing landowners in Hughes Street that their views will continue to be protected. Maintaining	Does not allow flexibility and has potential to limit design options for lots in the Town Centre zone.

30 APRIL 2014

the 'status quo' will not cause any undue controversy.	
Provides certainty for landowners who design and construct a house in Durlacher Street which maximises orientation towards views	Does not actively encourage (vertical) mixed use development due to building height constraint (eg shops on ground floor and short stay or residential on upper stories)
	Does not allow lots on Knight Terrace which are located on prime coastland to maximise upper storey views of the ocean. Maximising views could be a high priority for any new tourist uses or tourist accommodation.
	Limits the Council's ability to approve good quality new development in the core Town Centre if the building height has potential to interfere with views.
	Does not allow opportunity for landmark multi storey buildings in the Town Centre.
	May limit opportunity for undercroft or underground carparking due to the need to minimise building height.
	Creates uncertainty for landowners and developers for new development along Knight Terrace

- Options available to Council

**Option 1** – Maintain the status quo. The existing Scheme provisions can be included in the new Draft Scheme 4.

**Option 2** – Maintain some reference in Draft Scheme 4 to views however soften the wording of the provisions and balance the issue with the need to achieve good quality development outcomes in the Town Centre.

Draft Scheme 4 can include more flexibility wording such as Council '*having some regard for views from Hughes Street balanced with the greater overarching need to achieve high quality new development in the Town Centre zone*'.

Option 2 allows Council to consider views however places a lesser emphasis on limiting building height to substantially protect views.

**Option 3** – Delete any reference to views in Draft Scheme 4 so there are no building limitations and complete flexibility for any new development on Knight Terrace and in the Town Centre.

**Option 4** – Place a specific building height limitation in the Scheme for new development on Knight Terrace (eg. 9 metres above the required minimum floor level of RL 3.2 AHD).



30 APRIL 2014

The building height can be set by Council.

**Option 5** – Publish a public notice on the existing scheme provisions and solicit preliminary comments and submissions from the wider community on this specific issue.

Ultimately it is the Council's decision on the direction to be taken in regards to building height under Draft Scheme 4.

It is essential that Council debates the future direction that should be taken for dealing with building height, and whether it seeks to continue to substantially protect the views of lots between Hughes Street and the foreshore.

Legal Implications

Any decision on the issue of building heights and views will not have an immediate impact however Councils feedback will be incorporated into the new draft Scheme 4. The draft Scheme 4 has to undergo a lengthy statutory process and will not have any legal status until such time as it is approved by the Minister for Planning and gazetted.

Draft Scheme 4 requires adoption by Council, assessment and endorsement by the Western Australian Planning Commission, public advertising and Ministerial approval.

The matter can be further reviewed as a result of community feedback when the Draft Scheme is more advanced.

Policy Implications

Not applicable

Financial Implications

Not applicable

Strategic Implications

Councillors views on this issue will be fed into the Scheme Review.

Voting Requirements

Simple Majority Required

Date of Report

15 April 2014



# **ATTACHMENT 4**

Council Minutes 30 April 2014  
(Special Use zones)

30 APRIL 2014

13.2 SCHEME REVIEW: PROVISIONS FOR SPECIAL USE ZONES  
LP00002

Author

Liz Bushby, Gray & Lewis Landuse Planners

Disclosure of Any Interest

Disclosure of Interest: Gray & Lewis

Nature of Interest: Financial Interest as receive planning fees for advice to the Shire –  
Section 5.65 of *Local Government Act 1995*

Moved            Cr Bellottie

Seconded       Cr Prior

Council Motion

That Council:

1. Authorise the Chief Executive Officer to notify Gray & Lewis Landuse Planners that Council has considered matters relating to Special Use zones and resolves to pursue Option 3 outlined in this report.
2. Note that the Council resolution will be implemented as part of the Scheme review process.

**1/5 LOST**

Moved            Cr Ridgley

Seconded       Cr Cowell

Council Resolution

That Council:

1. Authorise the Chief Executive Officer to notify Gray & Lewis Landuse Planners that Council has considered matters relating to Special Use zones and resolves to pursue Option 2 outlined in this report.
2. Note that the Council resolution will be implemented as part of the Scheme review process.

**6/0 CARRIED**

Précis

Council is to consider whether increased flexibility should be built into the new Town Planning Scheme No 4 ('Draft Scheme 4') to allow minor development to proceed within Special Use zones without requiring an Outline Development Plan or Structure Plan.

Council feedback is sought for progression of the Town Planning Scheme review.

Background

A Scheme review process is currently underway and Gray & Lewis Landuse Planners have prepared a skeleton Draft Shire of Shark Bay Local Planning No 4 (Draft Scheme 4).



The Draft Scheme 4 will be finalised once there is Council feedback on some important preliminary issues. It has also been held pending progression of the Denham Town Centre Structure Plan being developed by GHD.

Gray & Lewis held a workshop with Councillors on issues relating to the Scheme Review on the 25 February 2014. At the workshop it was identified that there are two important issues that should be referred to Council for consideration including:

1. Building height in Knight Terrace and protection of views
2. Special Use zones and whether to allow flexibility for some limited development to proceed without an Outline Development Plan / Structure Plan.

A separate Item 13.1 in this agenda discusses building heights and views.

#### Comment

- Special Use zones

Under the current Shire of Shark Bay Local Planning Scheme No 3 ('the Scheme') a number of sites are zoned 'Special Use' including and not limited to Monkey Mia and Nanga.

Special Use zones are typically applied to individual sites to accommodate specific forms of development, such as tourist accommodation. There is a schedule in the Scheme which lists the permissible uses within each Special Use zone, and places specific conditions on any development in the Special Use zone – Attachment at end of this report.

A condition imposed on some of the existing Special Use zones including Monkey Mia and Nanga is that *'Development of the site shall be in accordance with an approved Outline Development Plan that has been prepared in accordance with the requirements of Clause 5.9 and endorsed by the Western Australian Planning Commission.'*

This clause means that Council has no discretion to approve any development (at Monkey Mia and Nanga) as there is no Outline Development Plan for these sites endorsed by the Western Australian Planning Commission.

- Existing Problems

It is not uncommon for Outline Development Plans to be required to guide subdivision or development on sites with special attributes.

Many of the Special Use sites are located in environmentally sensitive areas, within World Heritage Property, are isolated, and located in prominent coastal locations.

The unusual situation in Shark Bay is not all of the Special Use sites are vacant greenfield lots as areas such as Nanga have been historically developed over time without an endorsed Outline Development Plan.

Council has absolutely no discretion to approve even minor development in some of these Special use zones where there is no endorsed Outline Development Plan.

This issue has arisen recently where the owner of Nanga wanted to build new toilets and amenities to service existing development, however did not have an Outline Development Plan endorsed by the Western Australian Planning Commission.

It places restrictions on existing development and does not allow operators to refurbish, renovate or upgrade existing development until such time as there is an endorsed Outline Development Plan.

Under the new Scheme the term 'Outline Development Plan' will be replaced with 'Structure Plan'. This terminology is more consistent with Western Australian Planning Commission Guidelines which outline the format for Structure Plans.

- Scheme Review

This report seeks Council feedback on whether to maintain the status quo or identify if Council would like increased flexibility under the new Scheme.

Gray & Lewis has drafted a new clause to apply to Special Use zones which will allow for development without an approved Structure Plan such as;

- A. Internal fitouts, maintenance and refurbishment of existing buildings.
- B. Limited extensions to existing non habitable buildings (eg restaurants).
- C. Construction of new ancillary development including toilets, shared amenities and 90m<sup>2</sup> storage building.

The Draft Clause is listed below for Council consideration:

*'4.7.3 Notwithstanding any other provision of the Scheme, the local government shall have discretion to vary a condition set out in Schedule 4 by resolution of an Absolute Majority with respect to that land where:*

- (a) The condition stipulates development of the site shall be in accordance with an approved Structure Plan and no Structure Plan has been approved by the Western Australian Planning Commission; and*
- (b) The development only involves internal alterations to an existing building; and/ or*
- (c) The development is for maintenance or refurbishment of an existing building or development with no major alterations to the building footprint; and/or*
- (d) The development is an alteration or addition to an existing non habitable building which does not increase the gross floor area by more than 30%; and*
- (e) The use of the building is not proposed to substantially change; or*



- (f) *The development is specifically for ablution, toilet, shared facilities or amenities ancillary to existing tourist development; and*
- (g) *The development will not compromise preparation of any future Structure Plan in the opinion of the local government; and*
- (h) *The development will not compromise World Heritage Values in the opinion of the local government; or*
- (i) *The condition relates to a matter specifically listed to be addressed by the Structure Plan for that Special Use zone and does not need to be addressed for an individual development; and/or*
- (j) *The local government and Western Australian Planning Commission agree in writing that the condition does not need to be imposed as it does not relate to the size, scale and type of development proposed.'*

- Options available to Council

**Option 1** – Maintain the status quo.

**Option 2** – Support the Draft Clause 4.7.3 (above) for inclusion in the new Scheme (with or without modification).

**Option 3** – Allow broader flexibility to approve any development in a Special Use zone where a Detailed Area Plan is prepared and adopted by the local government, and where development does not warrant preparation of Structure Plan and/or will not prejudice future preparation of a Structure Plan.

Detailed Area Plans are planning tools used to outline design control measures and the overall look of the development. They tend to be less detailed and onerous than Structure Plans.

Detailed Area Plans will often vary, reflecting the differences in areas and scenarios that may arise for different sites such as streetscape, solar orientation, passive surveillance, noise, access roads, mixed-use development, landscape, the pedestrian network, building height and topography.

- Officer Comment

Gray & Lewis favours Option 2 as it achieves a balance between the need for Structure Plans to be prepared for sites such as Monkey Mia, however provides some recognition that works may be required for ongoing maintenance and refurbishment of existing development.

Gray & Lewis has informally approached the Department of Planning about allowing flexibility for existing developments such as Monkey Mia. The Department of Planning has indicated that whilst this approach has never been applied before to Special Use zones, officers are willing to consider increasing flexibility especially for maintenance purposes.

Council feedback on this matter is essential as it has arisen for some new development proposals in the last few years.

30 APRIL 2014

Legal Implications

Any decision relating to Special Use zones will not have an immediate impact however Councils feedback will be incorporated into the new draft Scheme 4. The draft Scheme 4 has to undergo a lengthy statutory process and will not have any legal status until such time as it is approved by the Minister for Planning and gazetted.

Draft Scheme 4 requires adoption by Council, assessment and endorsement by the Western Australian Planning Commission, public advertising and Ministerial approval.

Policy Implications

Not applicable

Financial Implications

Not applicable

Strategic Implications

Councillors views on this issue will be fed into the Scheme Review.

Voting Requirements

Simple Majority Required

Date of Report

9 April 2014

# ATTACHMENT 5

Denham Inundation Surge Levels

**R558 Rev 0**

**December 2014**

**Shire of Shark Bay**

**Denham Inundation Levels  
Storm Surge Modelling Report**

marinas

boat harbours

canals

breakwaters

jetties

seawalls

dredging

reclamation

climate change

waves

currents

tides

flood levels

water quality

siltation

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## K1179, Report R558 Rev 0

### Record of Document Revisions

Rev	Purpose of Document	Prepared	Reviewed	Approved	Date
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## Table of Contents

1.	Introduction	1
2.	Assessment Methodology	3
3.	Delft Model Setup & Calibration	4
4.	Cyclone Track Synthesis	12
4.1	Historical Data Analysis	13
4.2	Cyclone Genesis Location	14
4.3	Propagation	17
4.4	Track Ranking	19
4.5	Model Validation	20
4.6	MCMC Model Results	25
5.	Storm Surge Inundation Modelling Results	26
6.	Conclusions	28
7.	References	29

## Table of Figures

Figure 1.1	Location plan	2
Figure 3.1	Model Domain & Bathymetry for Delft3D Model Grids	4
Figure 3.2	Track & Severity Plot for TC Elaine	7
Figure 3.3	Track & Severity Plot for TC Narelle	7
Figure 3.4	Track & Intensity Plot for TC Hazel	8
Figure 3.5	Modelled Water Level and Surge for TC Elaine at Carnarvon	9
Figure 3.6	Modelled Water Level and Surge for TC Narelle at Useless Loop	10
Figure 3.7	Modelled Water Level and Surge for TC Hazel at Denham	11
Figure 4.1	Monte Carlo Simulation Scheme	13
Figure 4.2	Smoothened Genesis Probability Distribution – 2D Plan View	14
Figure 4.3	Smoothened Genesis Probability Distribution – 3D View	15
Figure 4.4	Probability of the number of cyclones per year within the Australian Region	16
Figure 4.5	Probability of monthly occurrence within the Australian Region	16
Figure 4.6	Probability Surface for Rate of Change of Direction vs Direction	19
Figure 4.7	(A) Historical cyclone tracks since 1960; & (B) Modelled cyclone tracks for the same period	21
Figure 4.8	(A) Historical cyclone tracks effecting Denham since 1960; & (B) Modelled cyclone tracks effecting Denham for the same period	22
Figure 4.9	Scatter plot of central pressure versus latitude; measured and modelled	23
Figure 4.10	Scatter plot of rate of change of central pressure versus latitude; measured and modelled	23
Figure 4.11	Scatter plot of cyclone travel direction versus latitude; measured and modelled	24
Figure 4.12	Scatter plot of cyclone forward speed versus latitude; measured and modelled	24
Figure 4.13	Plot of synthesised cyclone tracks within 200 km of Denham	25
Figure 5.1	Delft3D output plot showing 500 year ARI event and cyclone wind field	26

## Table of Tables

Table 3.1	Periods of Available Water Level Records	5
Table 3.2	Historical Cyclones effecting Denham Region since early 1960's	6
Table 5.1	Design Storm Surge Inundation Levels for Denham	27

## 1. Introduction

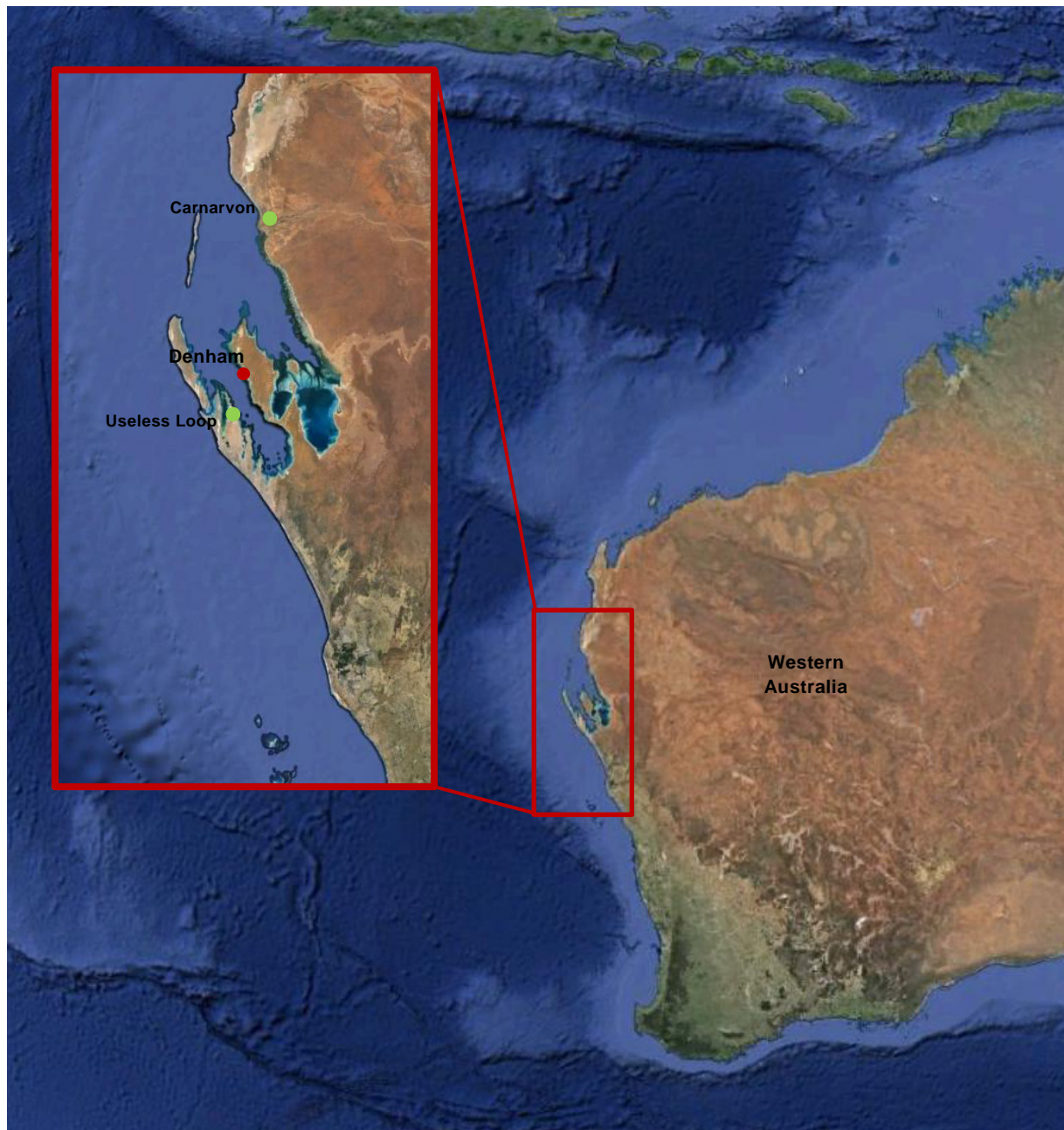
Coastal development within Western Australia is guided by the requirements of Statement of Planning Policy 2.6 – the State Coastal Planning Policy (SPP2.6; WAPC, 2013). This policy outlines the general requirements for coastal development, which includes coastal setback distances (required to minimise the potential for erosion of development areas and foreshore infrastructure) and development levels (required to minimise the potential for coastal inundation).

For the general case of freehold development SPP2.6 requires consideration of a 100 year planning horizon. To provide a relatively low risk of development being adversely impacted by coastal inundation over this planning horizon the development levels required by the Policy are based on the 500 year average recurrence interval (ARI) event, plus an allowance for sea level rise over the 100 year planning horizon.

The challenge associated with this requirement of the Policy is that accurate and statistically relevant predictions of the 500 year ARI event cannot be made solely using the available historical water level measurements along the West Australian coastline due to the relatively short durations of the records. This is due to the fact that a continual water level record of about a third (167 years) the recurrence interval in question (500 years) is required to ensure statistical relevance of the prediction. Even the longest reliable water level record within Western Australia (Fremantle) is limited to a little over 60 years (records extend further to before 1900 but are not reliable). Therefore, in the absence of sufficient water level data other methodologies must be considered in order to provide meaningful predictions of the 500 year ARI event.

The most widely accepted methodology for the estimation of the 500 year water level event is to use available information on the frequency and characteristics of key meteorological events and, through modelling, generate a long term synthetic database of events and corresponding water levels. Though this process is still only based on a limited period of available data, the modelling seeks to capture the apparent randomness of the critical components of the meteorological effects through simulation of these events over extended periods of time. This methodology is particularly relevant in cyclone regions, where extremely localised effects on water levels can be observed. Modelling an extended time period therefore helps to ensure that the apparent randomness in cyclone track and severity is accounted for in any estimation of events with long recurrence intervals.

Given the complexity of the process and the requirement to understand the potential inundation levels associated with a 500 year ARI inundation event for future planning, the Shire of Shark Bay (SoSB) engaged specialist coastal and port engineers M P Rogers & Associates Pty Ltd (MRA) to complete an assessment of the 500 year ARI storm surge inundation event at Denham. The methodology and results of this assessment are provided within this report.



**Figure 1.1    Location plan**

## 2. Assessment Methodology

The approach adopted by MRA to determine the storm surge inundation levels at Denham is contingent on the use of numerical modelling techniques. This approach is required due to the short and intermittent availability of water level data within Shark Bay. Specifically, water level records at Dehnam are only available for periods with a combined duration totalling around 30 months throughout the period between 1979 and 1992. Significantly, none of the water level measurements corresponded to the passage of a tropical cyclone (TC) through the region.

The limited availability of water level data means that an extreme analysis of peak recorded levels would not provide meaningful results. Consequently, there is the need to use numerical modelling techniques to create a synthetic water level record which can then be used to determine extreme water levels for Denham. The overall modelling approach is summarised below.

- Setup, calibrate and validate the Delft3D cyclone, wave and hydrodynamic model for the region.
- Use the Delft3D model to simulate historical cyclones that have affected the region and interrogate cyclone tracks and predicted water levels to determine a first order storm surge approximation.
- Use a Monte Carlo model to simulate 1,000 years of cyclone tracks and severity.
- Rank the 1,000 years of synthetic cyclones using the first order storm surge approximation combined with the predicted tide to determine the top events.
- Use the Delft3D model to simulate the top events and record the peak water levels at Denham.
- Complete an extreme analysis of peak recorded water levels for Denham.

Further details regarding the adopted approach and the results of the investigations are outlined in the following sections.

MRA have previously used the approach outlined above to determine the 100 year ARI water level in Port Hedland. The results of this assessment provided good agreement with the prediction of the 100 year ARI event determined from analysis of the historical water level record. This result provides confidence that this modelling methodology can provide meaningful outcomes.

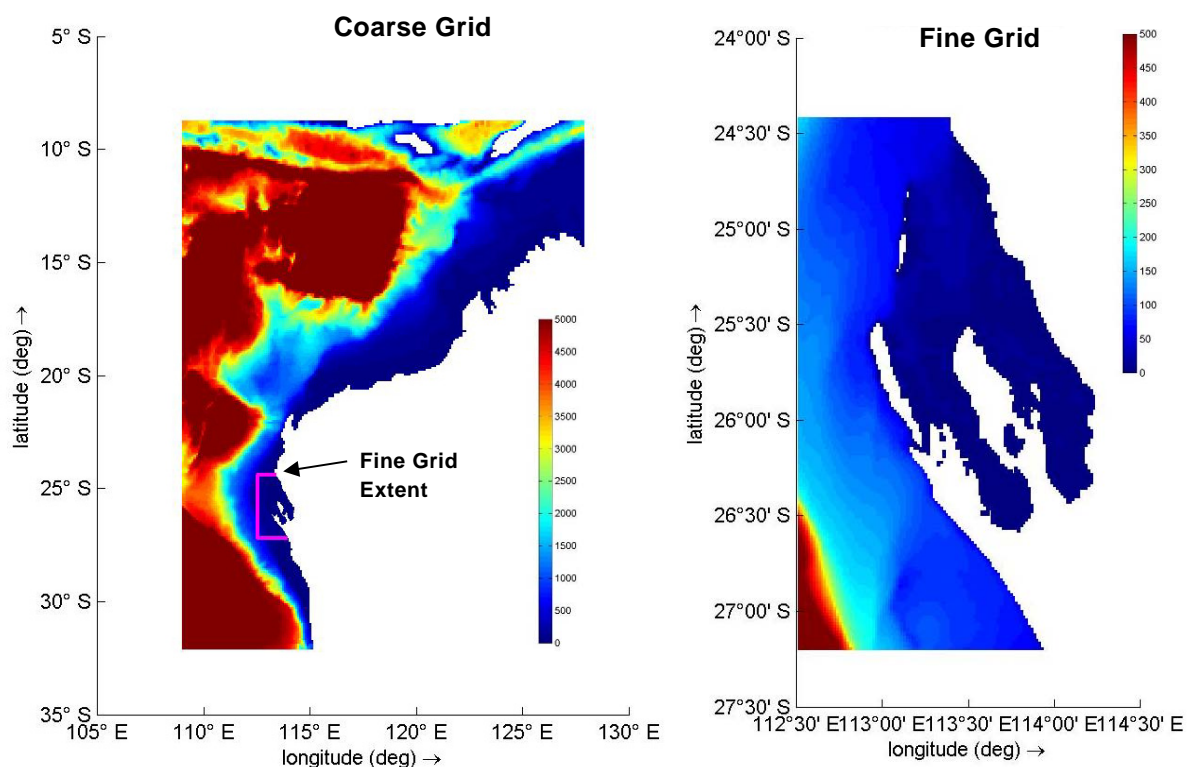


### 3. Delft Model Setup & Calibration

The Delft3D suite of models provides an integrated model approach that can be used to simulate atmospheric pressure differentials, wind fields, wave climates and water levels associated with the passage of tropical cyclones (Deltares, 2011a). The Delft suite of models has been extensively used around the world and are recognised as high quality models. This integrated modelling approach has been adopted for this study in order to best represent the physical processes that generate storm surge.

The physical processes that lead to the generation of cyclonic storm surge operate on a spatial scale equivalent to that of the cyclone itself. For this reason, to adequately model cyclonic storm surge requires large model domains. However, due to computational limitations it is not efficient to model large areas at high resolutions, therefore a Delft3D domain decomposition model configuration has been used.

Domain decomposition allows a section of the overall grid to be modelled at significantly greater resolution to capture the key features and bathymetry surrounding the area of interest. Figure 3.1 shows the model domain and bathymetry used for this study, including both the coarse and fine grids. Bathymetry data was sourced from hydrographic survey information provided by the Department of Transport, local nautical charts and the Australian Bathymetry and Topography dataset obtained from Geoscience Australia (Whiteway, 2009).



**Figure 3.1 Model Domain & Bathymetry for Delft3D Model Grids**

With the model grids established, calibration and validation of the model system is critical in order to ensure that the model predictions adequately reflect the reality. To calibrate and validate the model's ability to accurately determine the storm surge requires historical water level and cyclone track data to be available. Using this information a selection of historical cyclones can be simulated within the model domain to determine if the model predictions match the observation

record. To assist with this process historical water level data was obtained from the Department of Transport for Denham, Carnarvon and Useless Loop.

The water level record for Carnarvon provides a relatively continuous record dating back to 1984, however the records at Denham and Useless Loop cover much shorter durations. A summary of the available periods of water level data for each location is provided in Table 3.1.

**Table 3.1 Periods of Available Water Level Records**

Denham	Carnarvon	Useless Loop
25/6/1979 – 22/7/1980	7/4/1984 - Present	11/3/1998 – 29/6/1998
29/7/1986 – 12/11/1986		1/6/2012 – 31/5/2014
30/8/1988 – 4/12/1989		
9/9/1992 – 11/9/1992		

To determine suitable model calibration events the periods of water level records were cross referenced against information regarding the passage of tropical cyclones within the region obtained from the Bureau of Meteorology (BoM) cyclone database (BoM, 2014a). A summary of the cyclones that came within around 250 km of Denham is provided in Table 3.2. It should be noted that the cyclone record has been clipped to include only data from the 1960's onwards as prior to this period the tracking of tropical cyclones was less accurate and its inclusion in the assessment may therefore provide distorted results. It should also be noted that no cyclone track information for TC Herbie, a severe cyclone that impacted Denham in May 1988, is present within the database. During TC Herbie a peak water level of around 2.9 mCD (around 2.1 mAHD) was observed at Denham (SoSB, 2009).

Comparison between the periods of water level record and the timing of cyclones in the region shows that no cyclonic event has been captured in the water level record at Denham, however a number of events were captured in the Carnarvon water level record, and one event was captured at Useless Loop (TC Narelle).

As the focus of this study is on the storm surge levels at Denham, further investigation was completed to try and find details of inundation levels within and around the Denham townsite. Information from the BoM provides details regarding TC Hazel which occurred in March 1979. BoM (2014b) notes that the passage of TC Hazel resulted in a storm surge at Denham and along the coast south of Carnarvon which lead to buildings being inundated and people being evacuated from within the Denham Townsite. SoSB (2009) states that the peak water level observed at Denham during the passage of TC Hazel was 2.7 mCD (around 1.9 mAHD).

Given the information above, three separate events have been chosen for the calibration and validation of the Delft3D model. These events are outlined below.

- TC Elaine for calibration and validation with the Carnarvon water level record.
- TC Narelle for calibration and validation with the Useless Loop water level record.
- TC Hazel for calibration and validation with the observed water level at Denham.

Track and intensity plots for TC Elaine, TC Narelle and TC Hazel are presented in Figures 3.2, 3.3 and 3.4 respectively.

**Table 3.2 Historical Cyclones effecting Denham Region since early 1960's**

Name	Date	Name	Date
Unnamed	March 1960	Bruno	January 1982
Unnamed	February 1961	Ian	March 1982
Unnamed	January 1963	Rhonda	February 1986
Unnamed	February 1963	Victor	March 1986
Katie	March/April 1964	Billy-Lila	May 1986
Elsie	January 1967	Herbie	May 1988
Elaine	March 1967	Bobby	February 1995
Glynis	January/February 1970	Frank	December 1995
Ingrid	February 1970	Vance	March 1999
Mavis	March 1971	Elaine	March 1999
Trixie	February 1975	Steve	February/March 2000
Vida	March 1975	Alistair	April 2001
Beverley	March 1975	Pancho	March 2008
Clara	April 1975	Carlos	February 2011
Vanessa	January 1976	Iggy	January/February 2012
Wally	February 1976	Narelle	January 2013
Hazel	March 1979		

Note: 1. Track details for TC Herbie (May 1988) are missing from the BoM Cyclone Database

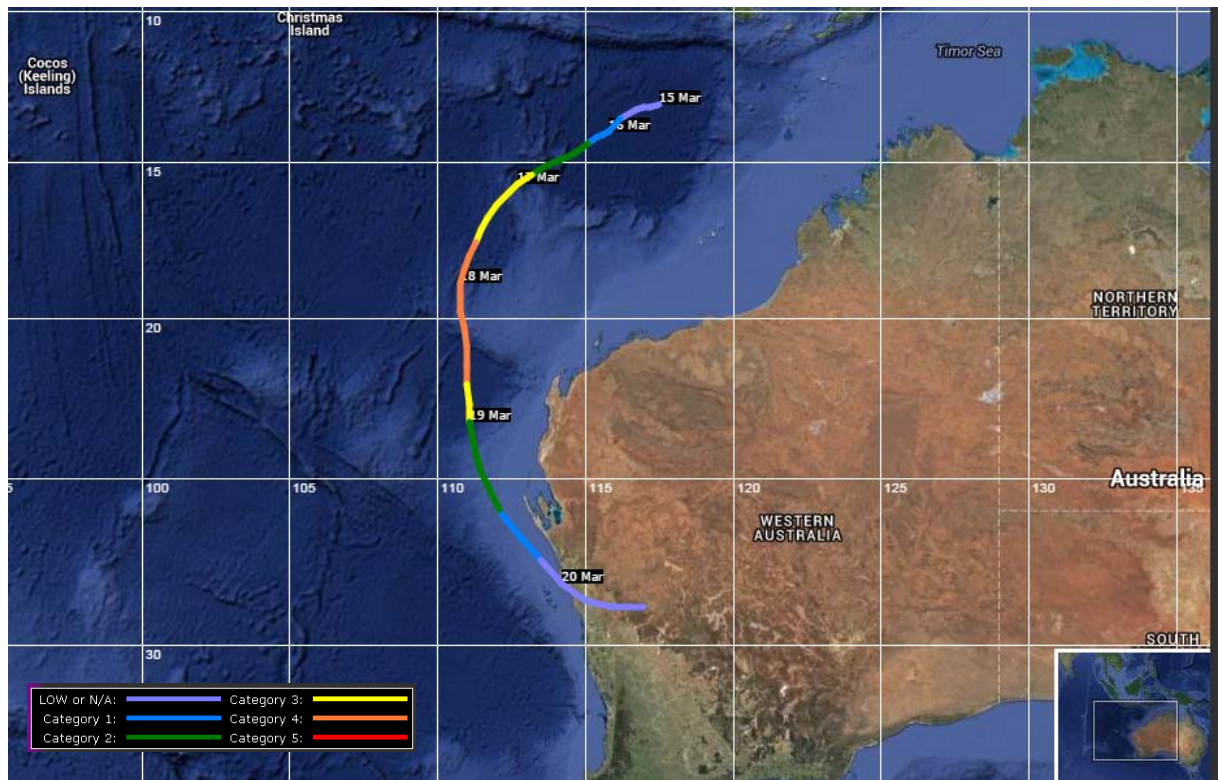


Figure 3.2 Track & Severity Plot for TC Elaine

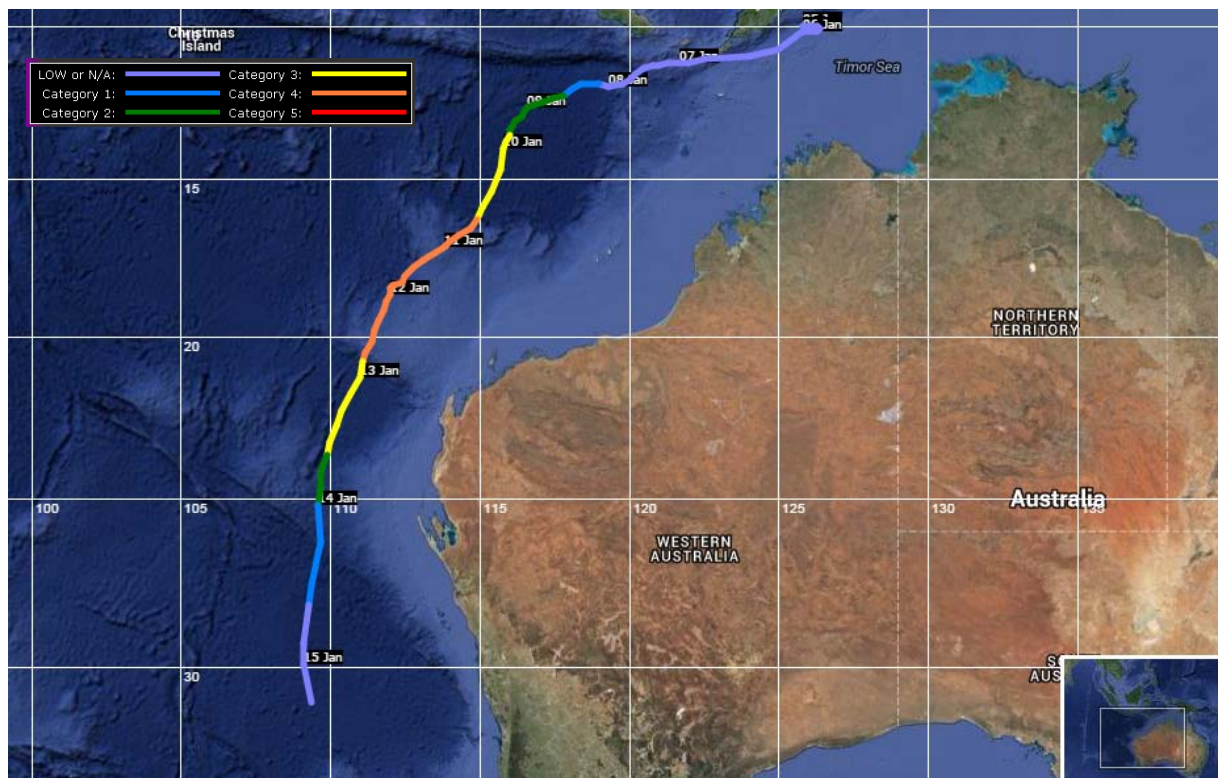
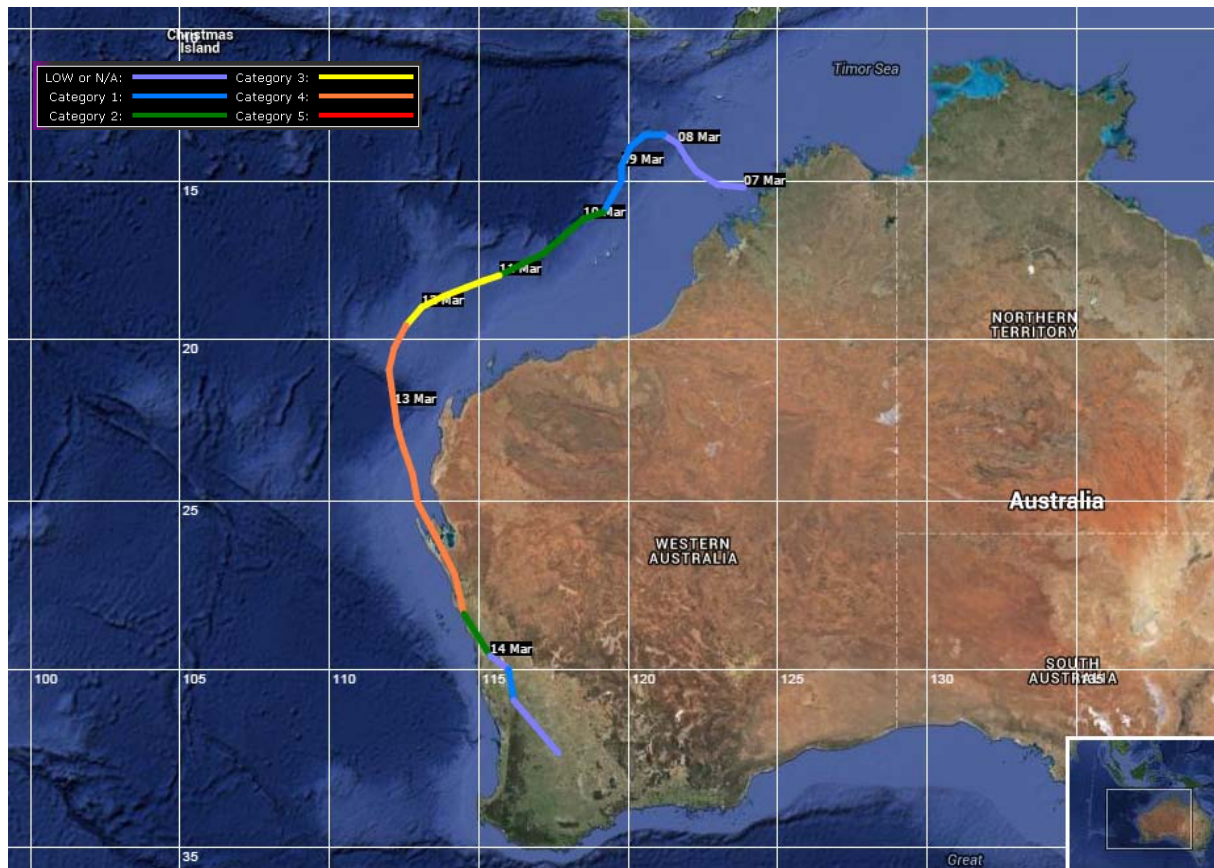


Figure 3.3 Track & Severity Plot for TC Narelle

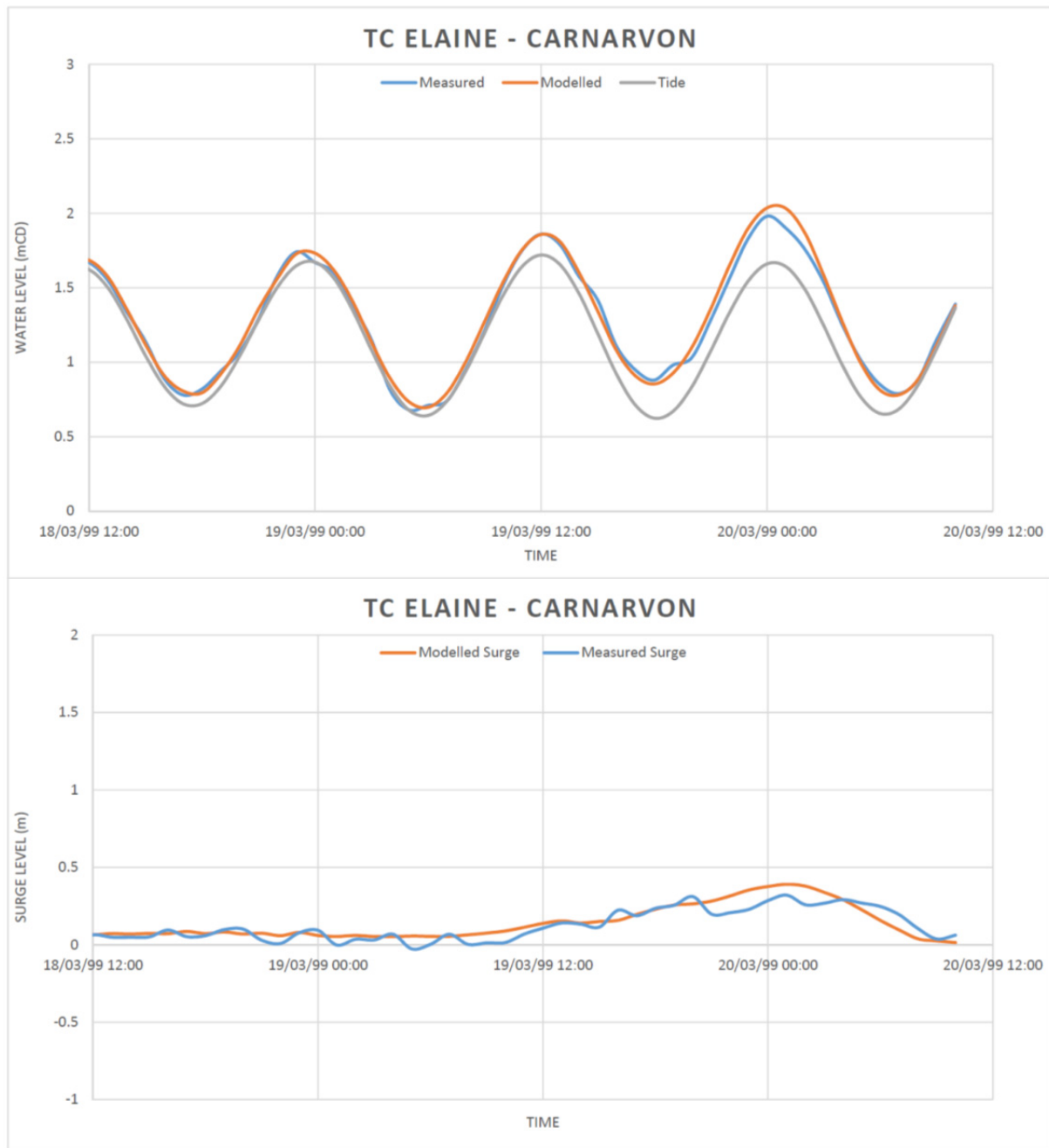




**Figure 3.4 Track & Intensity Plot for TC Hazel**

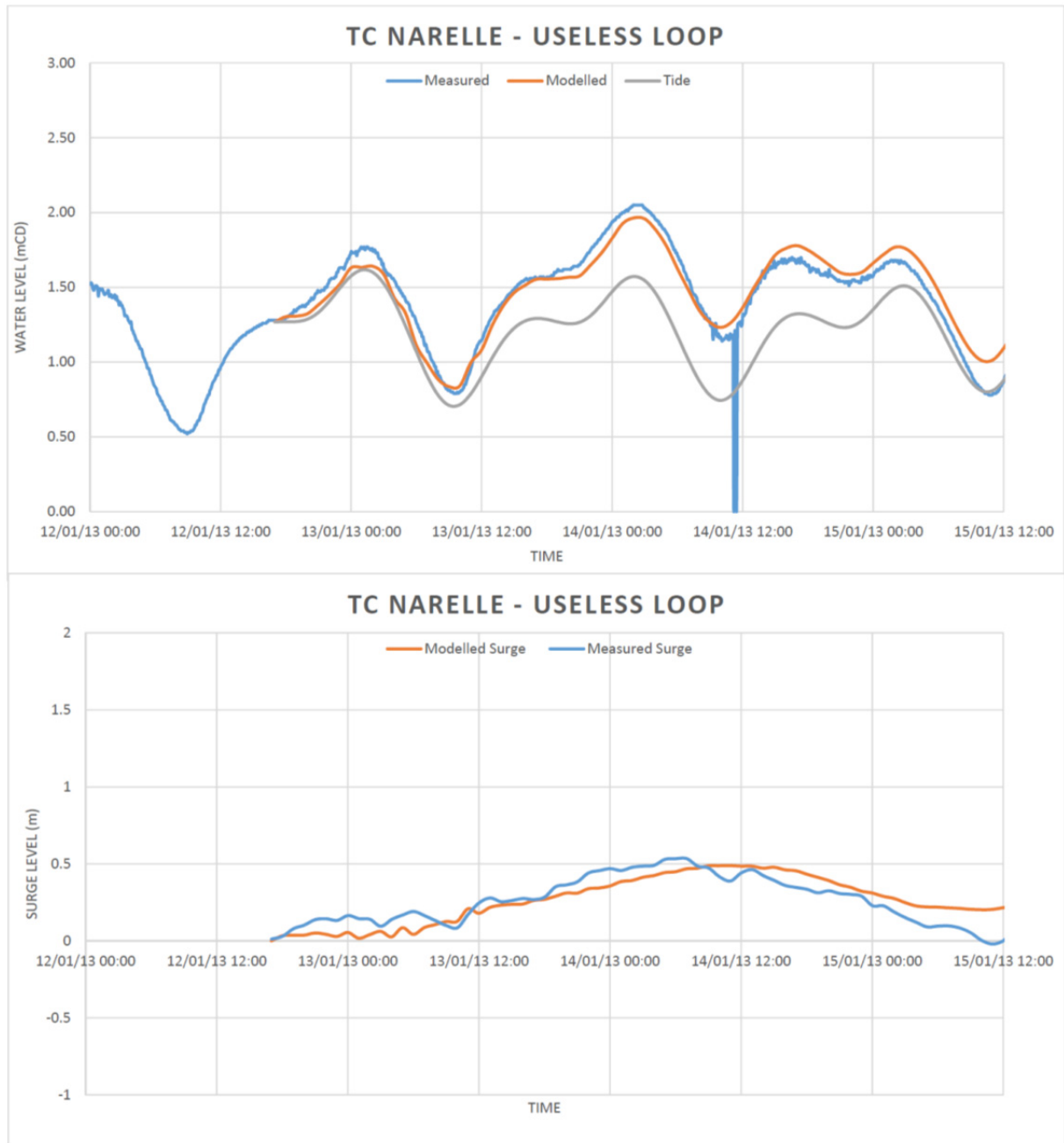
Details of the cyclone tracks and severity were extracted from the BoM cyclone database and were used to generate cyclone wind and pressure fields for input to the Delft3D model. This process was completed using the Delft3D Wind Enhanced Scheme (WES) module (Deltares, 2011b) in combination with a wind field calculated for each event based on the results of Holland (1980).

Each cyclone event was simulated using the Delft3D model, with the modelled water level record extracted at the relevant location. The modelled water level at Carnarvon for TC Elaine is presented in Figure 3.5 together with the observed water level and the predicted tide. Generally, the measured and modelled water levels show good agreement, as does the measured and modelled surge levels, with the model replicating the measured peak water level and surge within 0.1 of a metre.



**Figure 3.5 Modelled Water Level and Surge for TC Elaine at Carnarvon**

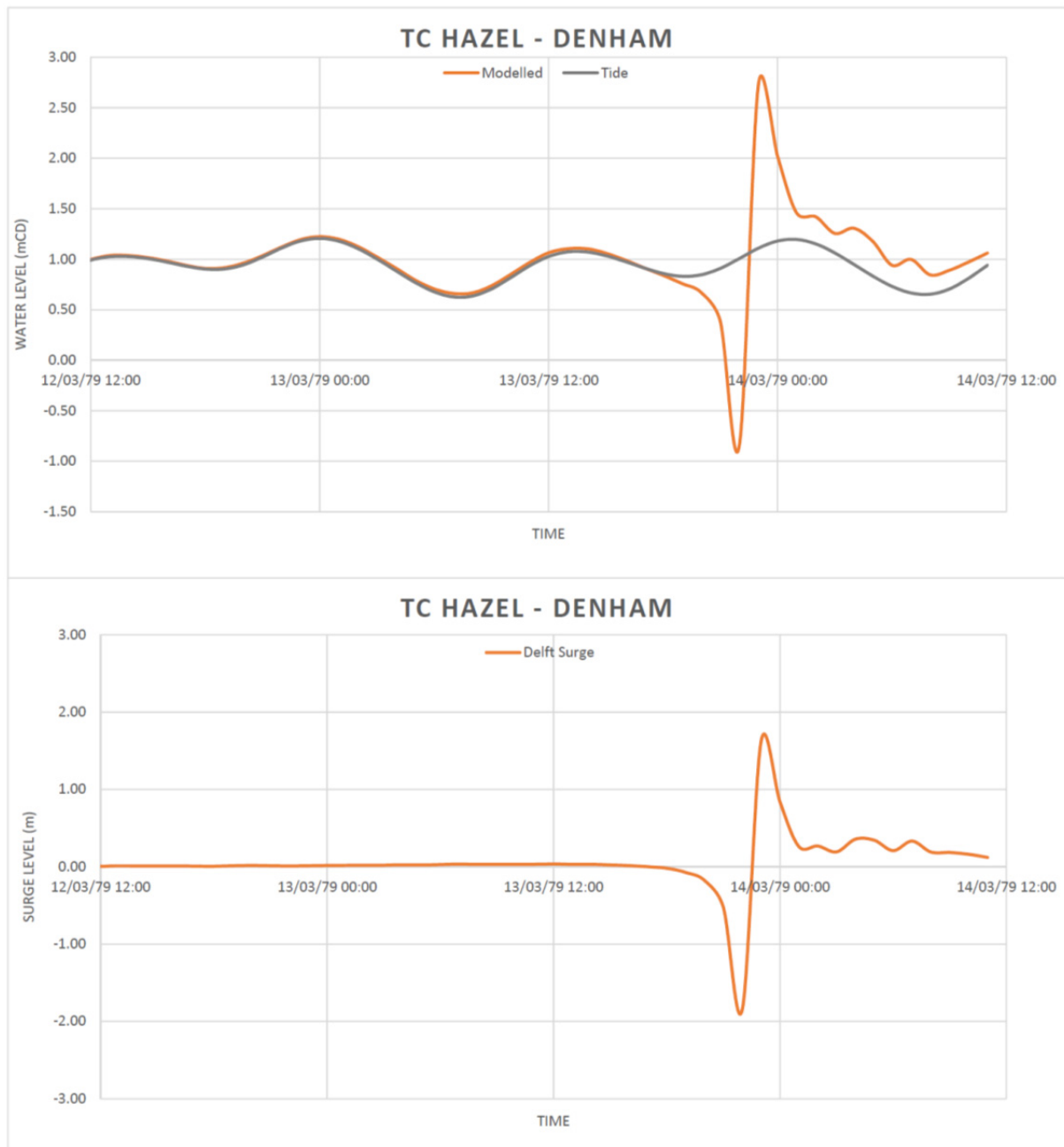
The results of the modelling of TC Narelle are presented in Figure 3.6. This figure shows the modelled water level at Useless Loop also closely matches the water level record. This agreement is generally also within 0.1 m. It does appear from the plot of water levels that the timing of the peak surge differs slightly to the observed water level record. The reason for the difference is expected to be attributable to slight differences in the cyclone position from that noted within the cyclone data base (due to the three hour spacing between data points), as well as slight differences between the cyclone characteristics in reality compared to within the model. Regardless, the close agreement between the measured and modelled data provides confidence in the model as a reliable predictive tool.



**Figure 3.6 Modelled Water Level and Surge for TC Narelle at Useless Loop**

The results of the Delft3D simulation for TC Hazel are provided in Figure 3.7. Whilst no water level records are available for a direct comparison with the modelled water level, the peak of the modelled data precisely replicates the peak water level noted by SoSB (2009) of 2.7 mCD (1.9 mAHd). In this regard the Delft3D model shows a strong ability to be able to replicate the historical measured water levels and is therefore considered to be an appropriate tool for the modelling of the synthetic cyclone record.





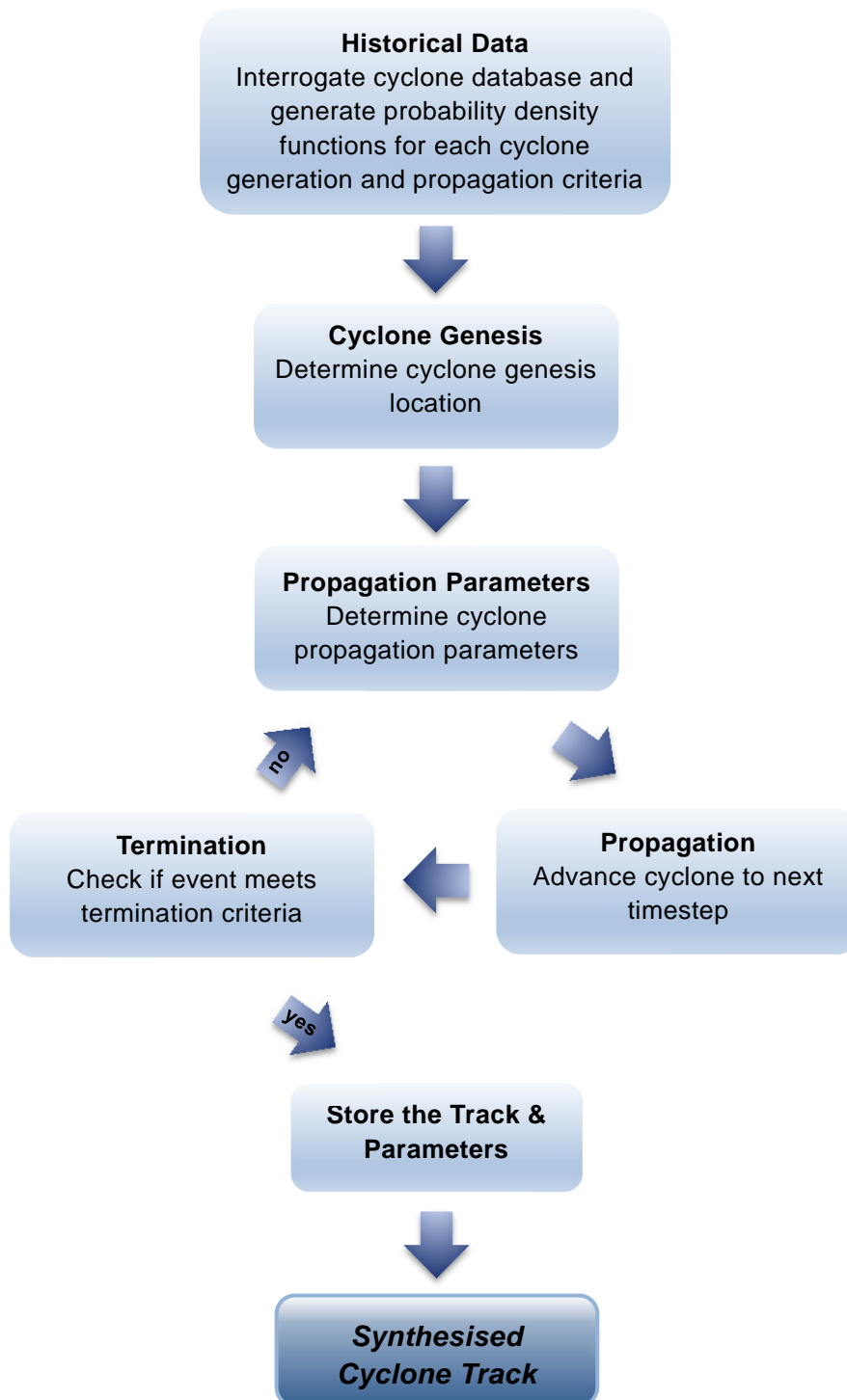
**Figure 3.7 Modelled Water Level and Surge for TC Hazel at Denham**

## 4. Cyclone Track Synthesis

To develop a meaningful estimate of events with long average recurrence intervals requires a long duration of reliable data record. Statistically, the length of the record should be around a third the duration of the ARI that is being predicted. However, generally speaking, the longer the available record the greater the accuracy of the prediction. A long cyclone record is therefore required. However, reliable cyclone records only extend back to the early 1960's when satellite imagery became available to track cyclones off the coastline. Therefore the available cyclone track data only spans a period of around 50 years, which is insufficient to reliably predict the 500 year ARI event.

As a result, synthetic data needs to be generated to populate the data space. The extreme conditions can then be determined using extreme value analysis on the outputs from the synthetic events.

A Markov Chain Monte Carlo (MCMC) model was developed for this study based on the methodology described in Risi (2004) and Emanuel et al (2006). A schematic diagram of the MCMC model is provided in Figure 4.1. Further details of the key steps in the process are provided in the following sections.



**Figure 4.1 Monte Carlo Simulation Scheme**

#### **4.1 Historical Data Analysis**

BoM maintains a cyclone database that contains information regarding tropical cyclones experienced between 1906 and 2014 for the Australian region (BoM, 2014a). This database includes information such as cyclone location, central pressure, maximum wind speed and other relevant cyclone track parameters. However, as previously discussed, to ensure data accuracy, the raw cyclone database was filtered to include only data after 1960.

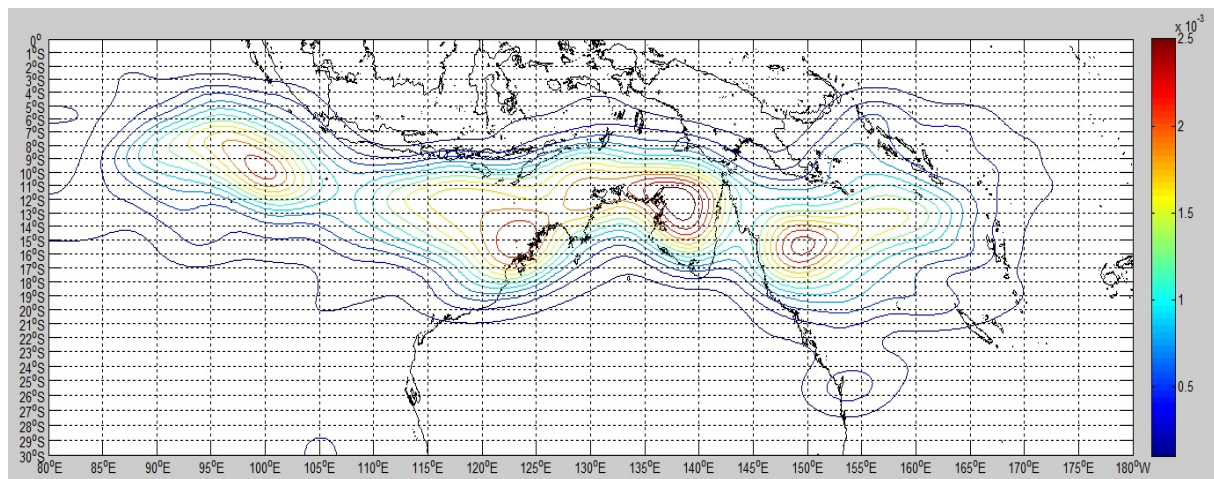
Analysis of the historical cyclone database was completed in order to ascertain spatial and temporal changes in the key parameters required for cyclone generation and propagation. These key parameters include the following.

- Location of origin (refer to as the cyclone genesis location).
- Forward speed of the cyclone.
- Cyclone direction / heading.
- Central pressure.

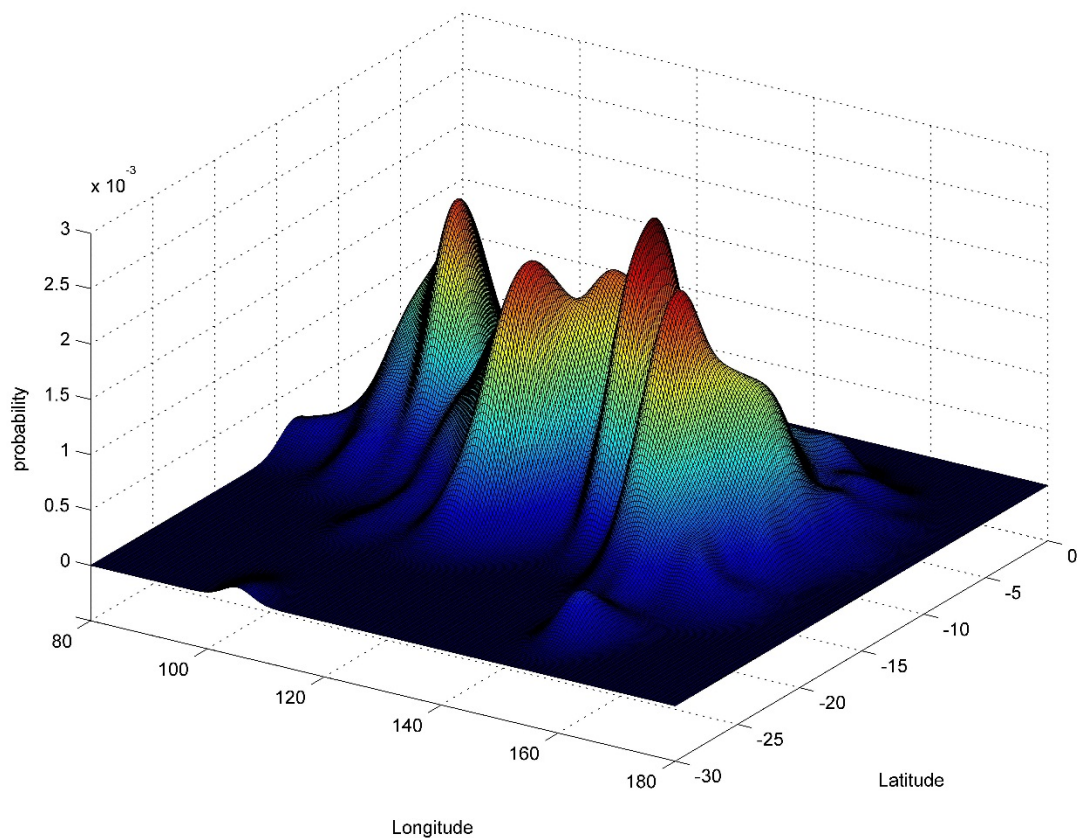
Statistical distributions for each of the key parameters were then developed on a 2° latitude by 2° longitude grid covering the whole of the Australian region. A separate distribution was developed for each grid in order to ensure that spatial variations in cyclone track and intensity characteristics were captured within the model.

## 4.2 Cyclone Genesis Location

Within the MCMC model, cyclone genesis positions are obtained by sampling from a 3D parametric probability distribution. In order to create the parametric probability distribution, the historical cyclone database was filtered to include only the first recorded location for each cyclone. The filtered genesis information was then smoothed using a Gaussian smoothing kernel in order to ensure a continual coverage over the entire region. The smoothed probability distribution for cyclone genesis is shown in Figures 4.2 and 4.3. It should be noted that this data relates only to cyclone genesis within the Australian region. Additionally, the genesis model was confined to ensure that cyclone genesis could not occur over land.



**Figure 4.2 Smoothed Genesis Probability Distribution – 2D Plan View**

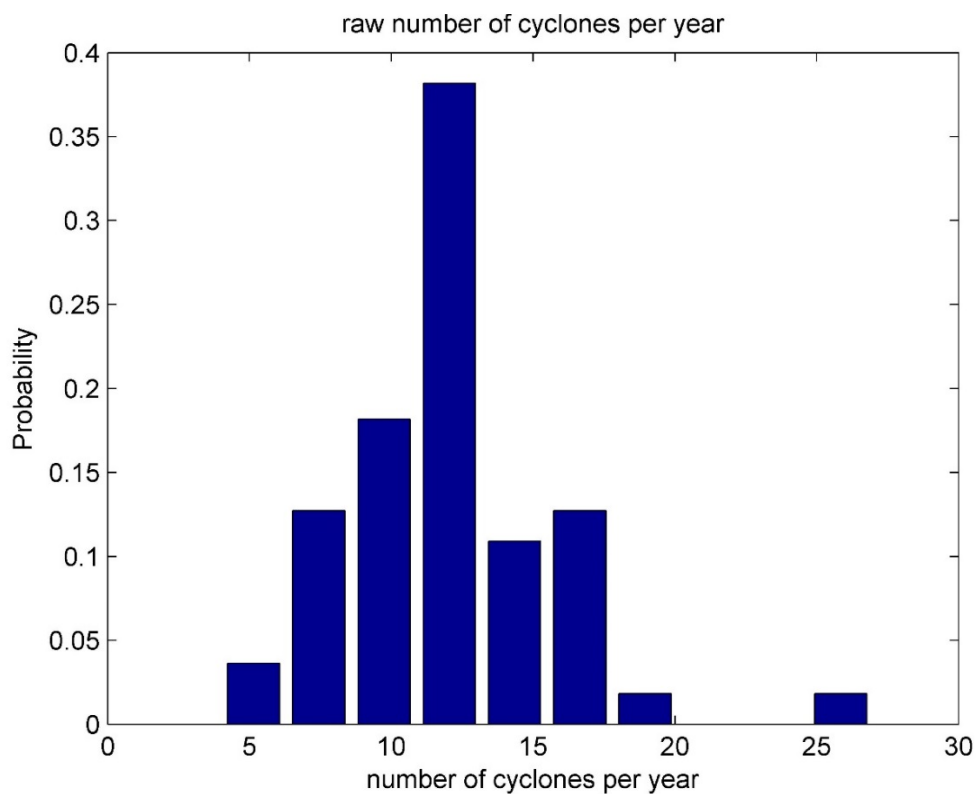


**Figure 4.3 Smoothed Genesis Probability Distribution – 3D View**

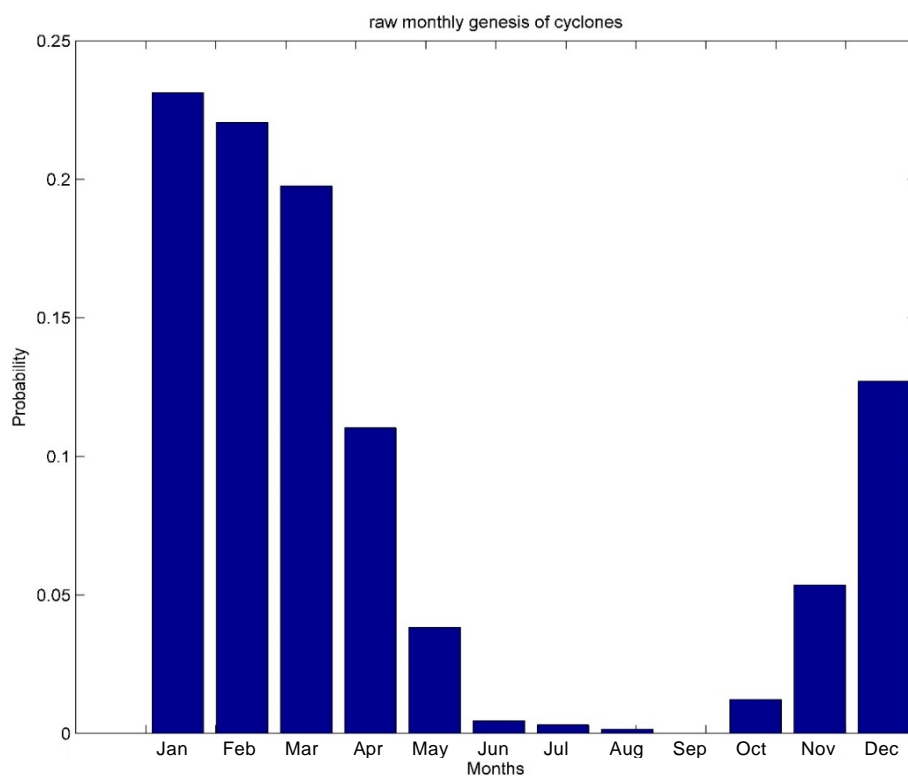
In order to establish a cyclone genesis position for each synthesised cyclone track an initial genesis location was sampled from the genesis probability distribution using a random 3-dimensional (3D) hit and miss algorithm.

#### 4.2.1 Genesis Time

In order to generate a genesis time for each cyclone, the cyclone genesis points within the historical cyclone database were discretised into histograms based on the number of cyclone genesis events per year and the monthly genesis occurrences. These histograms are presented in Figures 4.4 and 4.5 respectively.



**Figure 4.4** Probability of the number of cyclones per year within the Australian Region



**Figure 4.5** Probability of monthly occurrence within the Australian Region



Within the MCMC model the number of cyclones within each year and the times for cyclone generation within that year were randomly sampled from the parametric probability distribution histograms. To sample from the parametric probability distribution (histograms), a one dimensional hit and miss algorithm was adopted.

#### **4.2.2 Genesis Parameters**

To initiate a cyclone, initiation parameters were required in addition to the genesis position and time. These parameters included the following.

- Initial forward speed of the cyclone (km/h).
- Initial direction of the cyclone (Cartesian degrees between -180° to 180°)

The initiation parameters were obtained from their corresponding probability distributions. The probability distributions were generated by interrogating the BoM cyclone database.

### **4.3 Propagation**

Once the genesis position, time and parameters were determined, the cyclone propagation parameters were required for the cyclone to progress to its next location / timestep.

The main issue with randomly sampling the propagation parameters is that the sampled values must be dependent on the value in the previous state. This is required to prevent random selection of parameters that would otherwise not reflect the physical drivers of cyclone development such as ocean temperature and barometric effects that exist in reality. For example the central pressure at the current location must be dependent on the central pressure at the previous location, otherwise anomalies such as an increase in central pressure may be observed during the intensification stage of the cyclone.

To resolve this issue the concept of predictor and predictands (Risi, 2004) was adopted. A predictor is a variable which is used to predict the predictand. In this case, multiple predictors are required for each predictand. Once the predictors are determined, multiple 3D probability surfaces are subsequently created. The propagation parameters are then sampled from the 3D probability density surface via a 3D hit and miss algorithm.

This is discussed in the following sections.

#### **4.3.1 Choice of Predictor and Predictands**

For propagation, the following parameters are required and are therefore chosen as predictands.

- Rate of change of speed (ds).
- Direction (dir).
- Rate of change of central pressure (dcp).

To define the new state of the cyclone, the following predictors are adopted.

#### **Geographical Positions (Latitude, Longitude)**

A cyclone will have relatively different characteristics depending on its location. For example, cyclones are more likely to intensify at latitudes above 21° S than below due to the sea temperature, and are more likely to dissipate over land.

#### **Previous Rate of Change of Speed**

The rate of change of forward speed of a cyclone may not be continuous. In other words, a cyclone could be accelerating at the previous location, but may decelerate at the present location. Therefore, it is essential that the previous rate of change of speed be considered when determining the current rate of change of forward speed.

#### **Rate of Change of Direction**

The rate of change of direction is used to predict the propagation direction of the cyclone. It is anticipated that over a long term record there is a very low correlation between the current and previous direction, therefore, it is believed that the rate of change of direction is a more appropriate predictor for direction.

#### **Previous Rate of Change of Central Pressure**

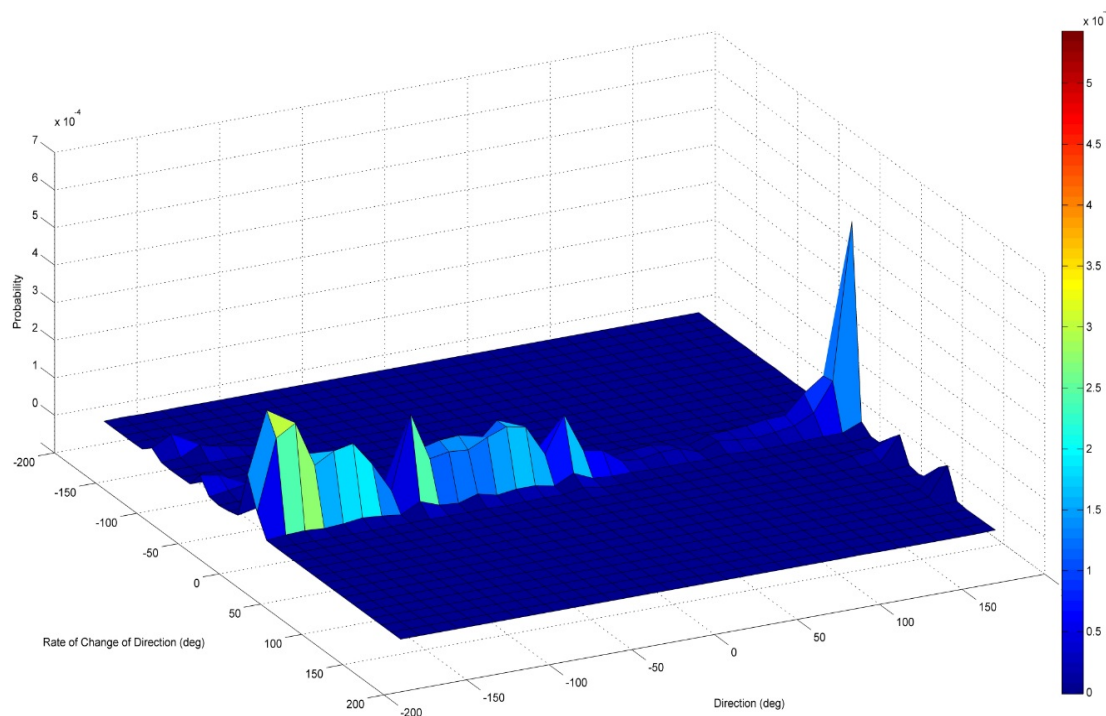
To predict the central pressure at a specified location and time, it is again appropriate to adopt the more continuous rate of change of central pressure as a predictor. This enables the cyclone to intensify / dissipate based on a previous rate of change, this eliminates anomalies such as increases in pressure during the intensification of a cyclone.

### **4.3.2 Propagation Probability Surfaces**

Once the predictors were determined, probability surfaces were generated. The probability surfaces generated are as follow

- Rate of change of speed versus previous rate of change of speed.
- Rate of change of direction versus direction.
- Rate of change of central pressure versus previous rate of change of central pressure.

An example of the probability surfaces generated for rate of change of direction versus direction at one grid cell is provided in the following figure.



**Figure 4.6 Probability Surface for Rate of Change of Direction vs Direction**

#### 4.4 Track Ranking

In order to rank the synthesised cyclone events based on their influence on the water level at the study site, the cyclonic storm surge combined with the predicted tidal level is considered.

A parametric calculation of likely storm surge has been included within the MCMC model in order to provide predictions of the potential storm surge at the study location. This parametric calculation is based on three cyclone parameters, this includes the bearing (B) of the cyclone, the barometric pressure drop ( $P_{\text{drop}}$ ) caused by the cyclone and the distance (D) from the study site.

To estimate the total water level at the site, the astronomical tide is also calculated and added to the parametric calculation of the storm surge. The tidal level at the study location during the time of the cyclone is calculated using a harmonic analysis (Luick, 2004). The following equation was adopted.

$$h(t) = h_0 + \sum f_n(t) H_n \cos(wt - g_n + V_n(t_0) + u_n(t_0))$$

Where

$h_0$  – the tidal prediction datum.

$f_n$  – the nodal factor for the equilibrium constituents.

$H_n$  – the amplitude of the specific tidal constituent.

$w$  – the speed (deg/hr) of the tidal constituent.

$g_n$  – the phase lag of the constituent behind  $V_n(t_0) + u_n(t_0)$ .

$V_n(t_0)$  – the phase of the equilibrium constituent of speed  $w$ , evaluated at time  $t_0$ .

The use of the above equation generally provides a reasonable prediction of the tidal level.

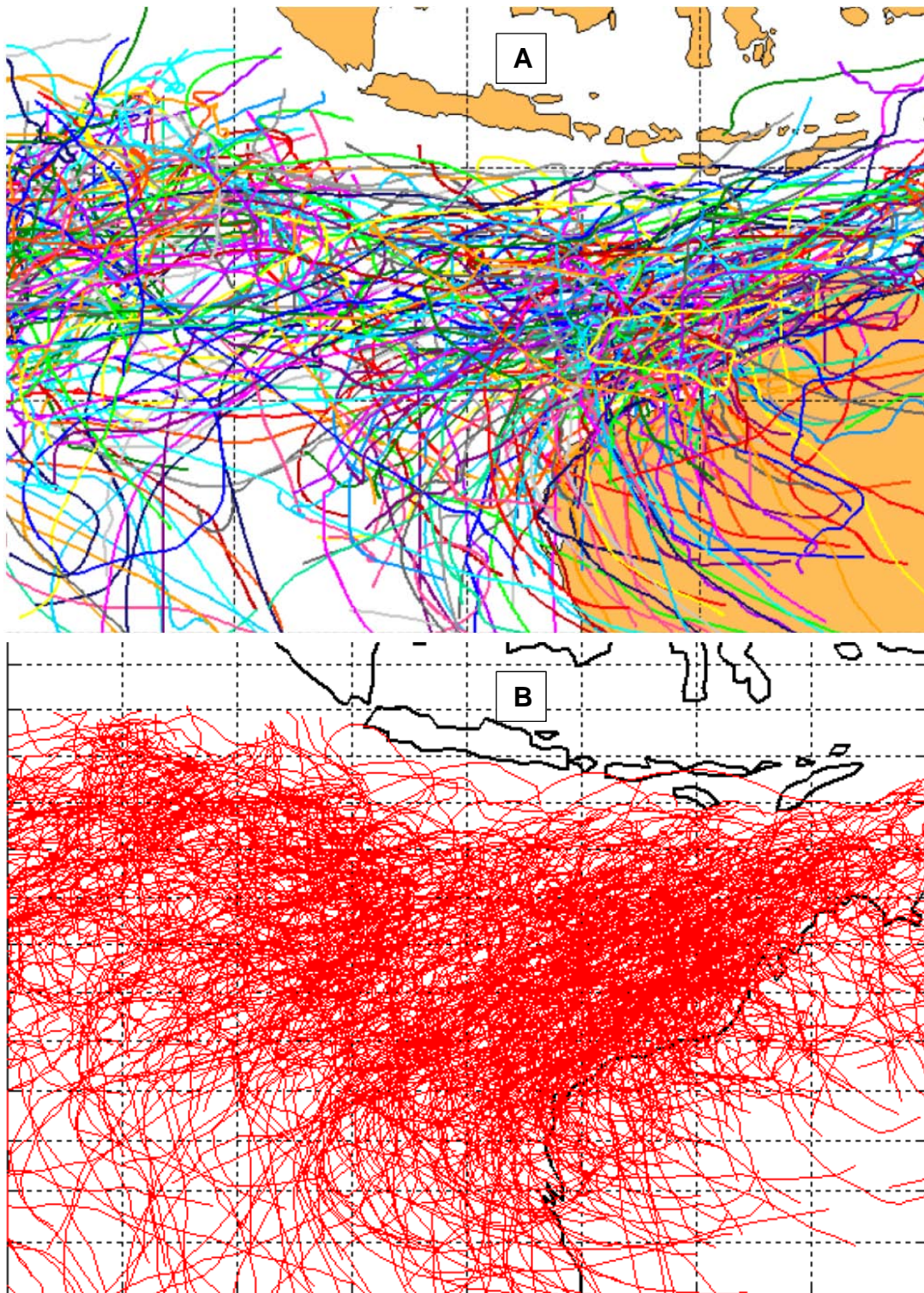
Each of the synthesised cyclones is then ranked in order of peak water levels, with the top events extracted for further investigation using the Delft3D numerical storm surge model. An additional check is also completed to ensure that any cyclones that track within 150 km of the study site are also extracted for further modelling given limitations in the parametric storm surge estimation. This methodology helps to ensure that all of the top events within the synthesised record are investigated further.

#### **4.5 Model Validation**

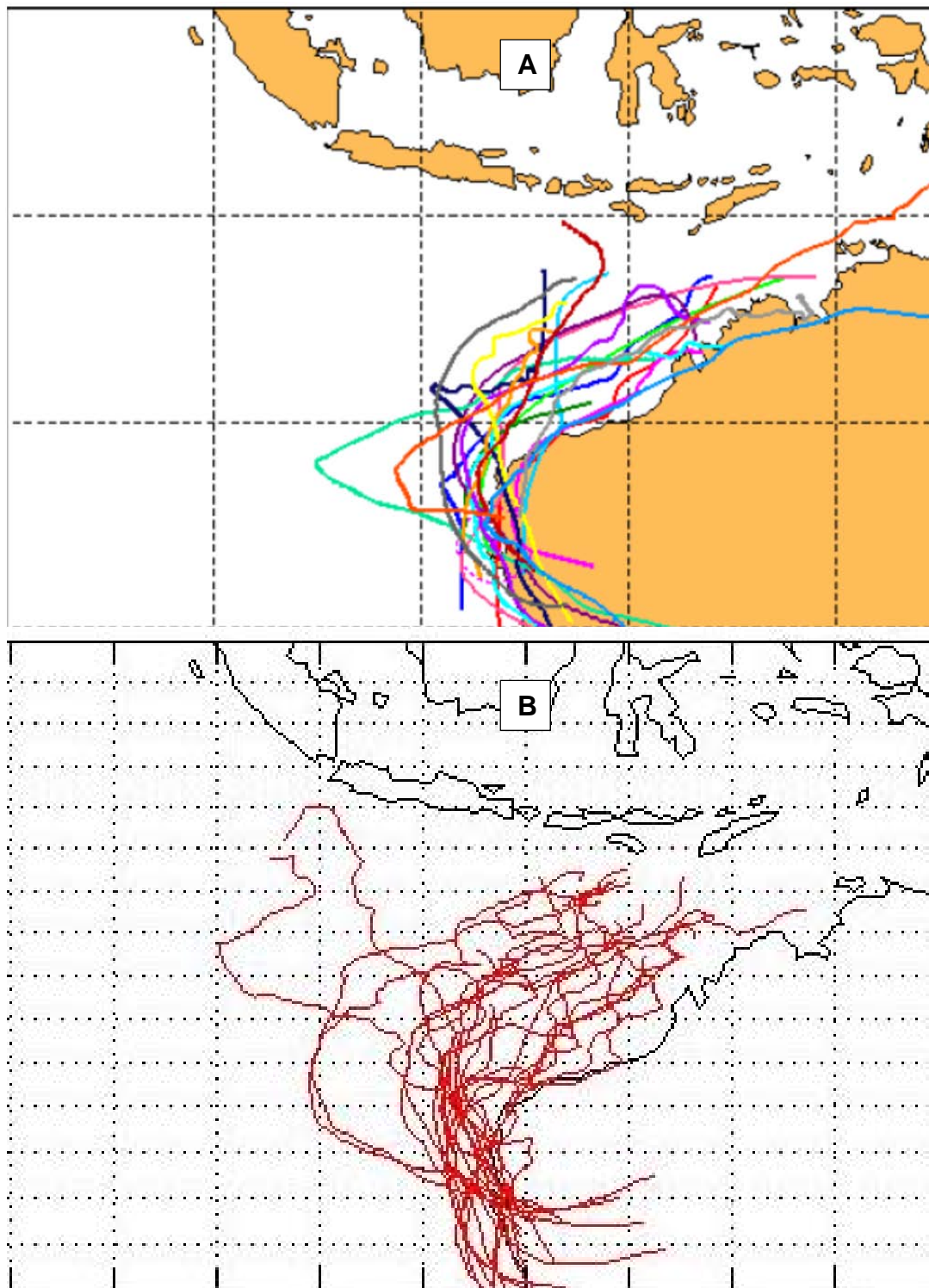
To ensure that the cyclone track model was generating sensible cyclone tracks and parameters, the track model was validated against the historical cyclone database. For this purpose, the model was used to synthesise a 50 year period, equivalent to the period of reliable historical record. By design the model should not exactly reproduce the details of individual historical events, however on average, the characteristics of the entire record should be similar.

Plots of the recorded and modelled cyclone tracks are provided in Figure 4.7. The tracks show general agreement with regard to the densities of events in different areas, although it is difficult to tell with any certainty. To enable a better comparison the data has been further interrogated to show a comparison of the tracks affecting the Denham region (Figure 4.8) as well as the key predictands (Figures 4.9 to 4.12).



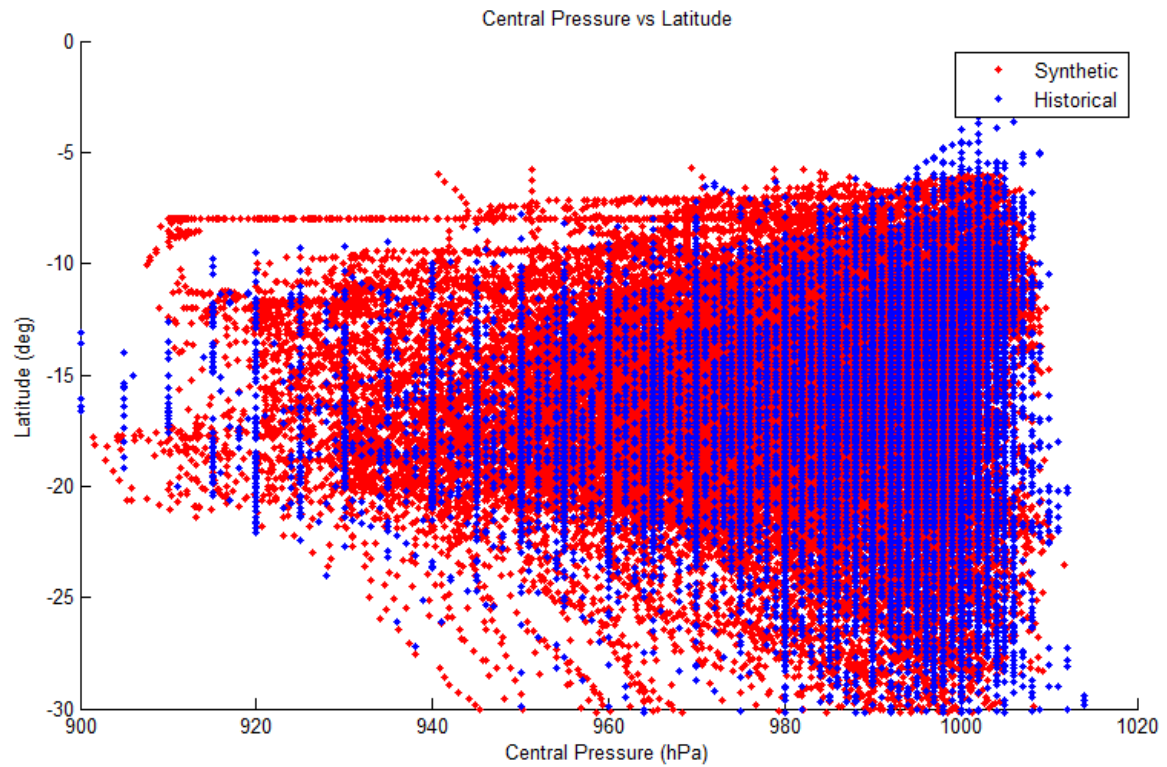


**Figure 4.7 (A) Historical cyclone tracks since 1960; & (B) Modelled cyclone tracks for the same period**

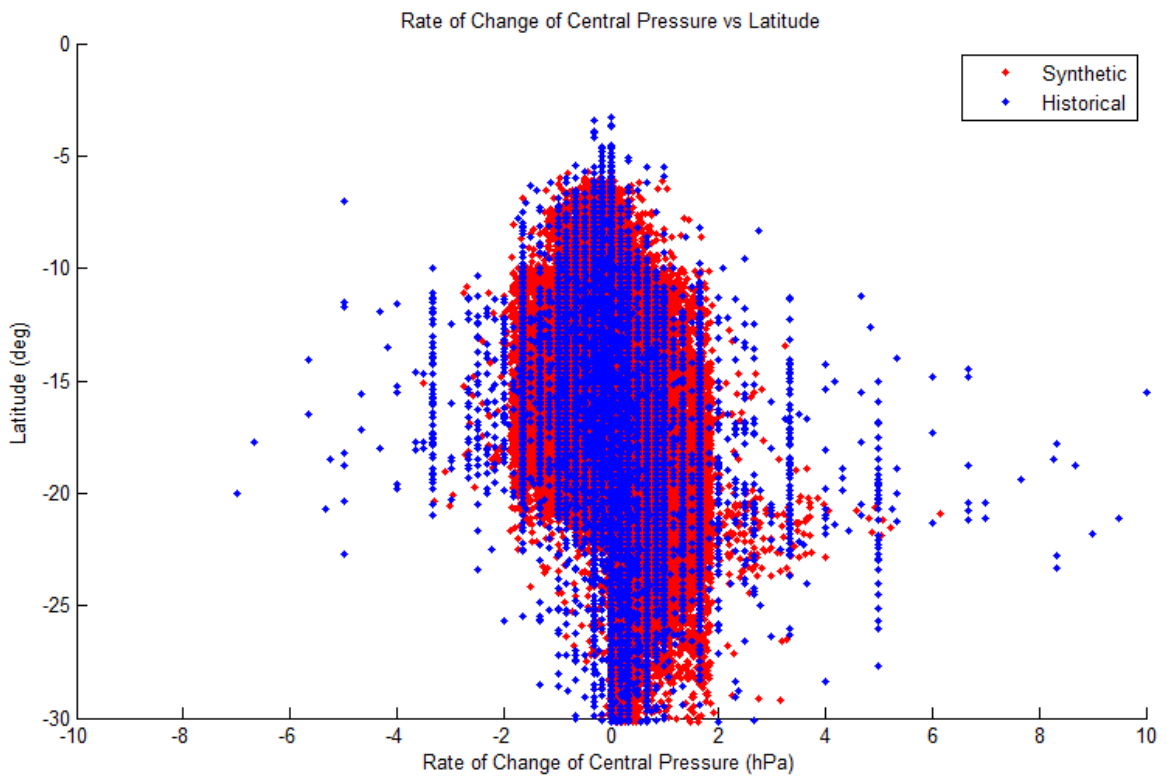


**Figure 4.8 (A) Historical cyclone tracks effecting Denham since 1960; & (B) Modelled cyclone tracks effecting Denham for the same period**

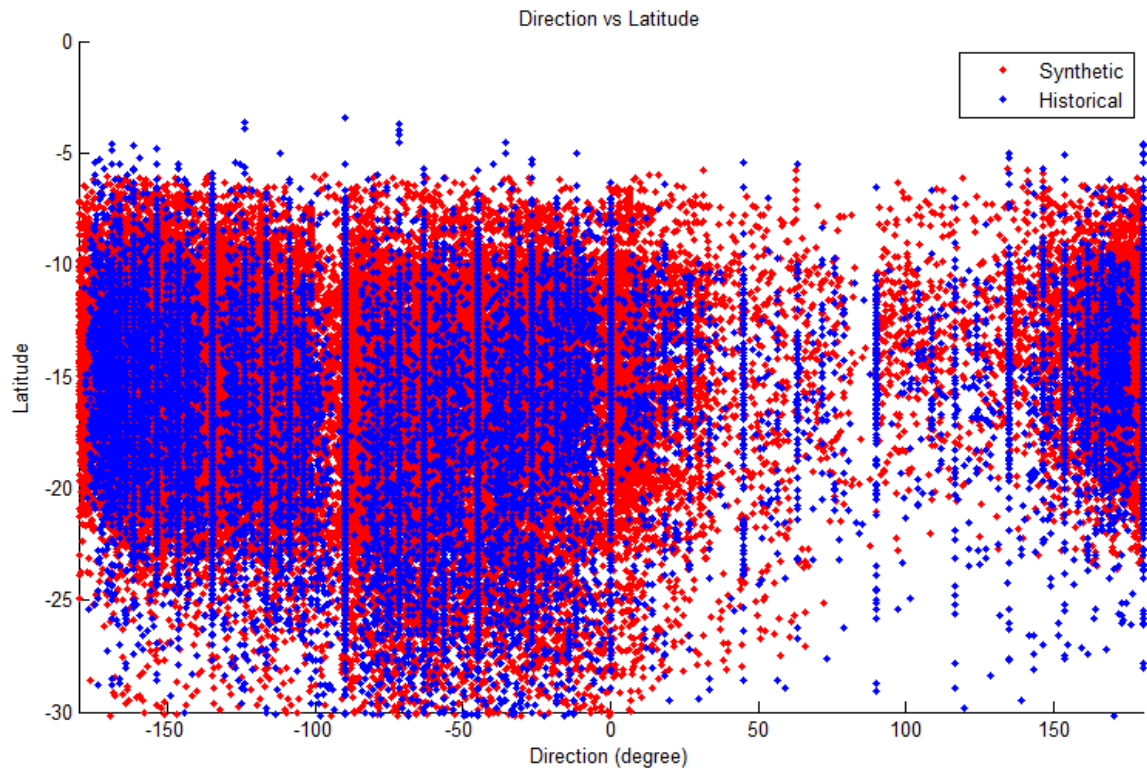




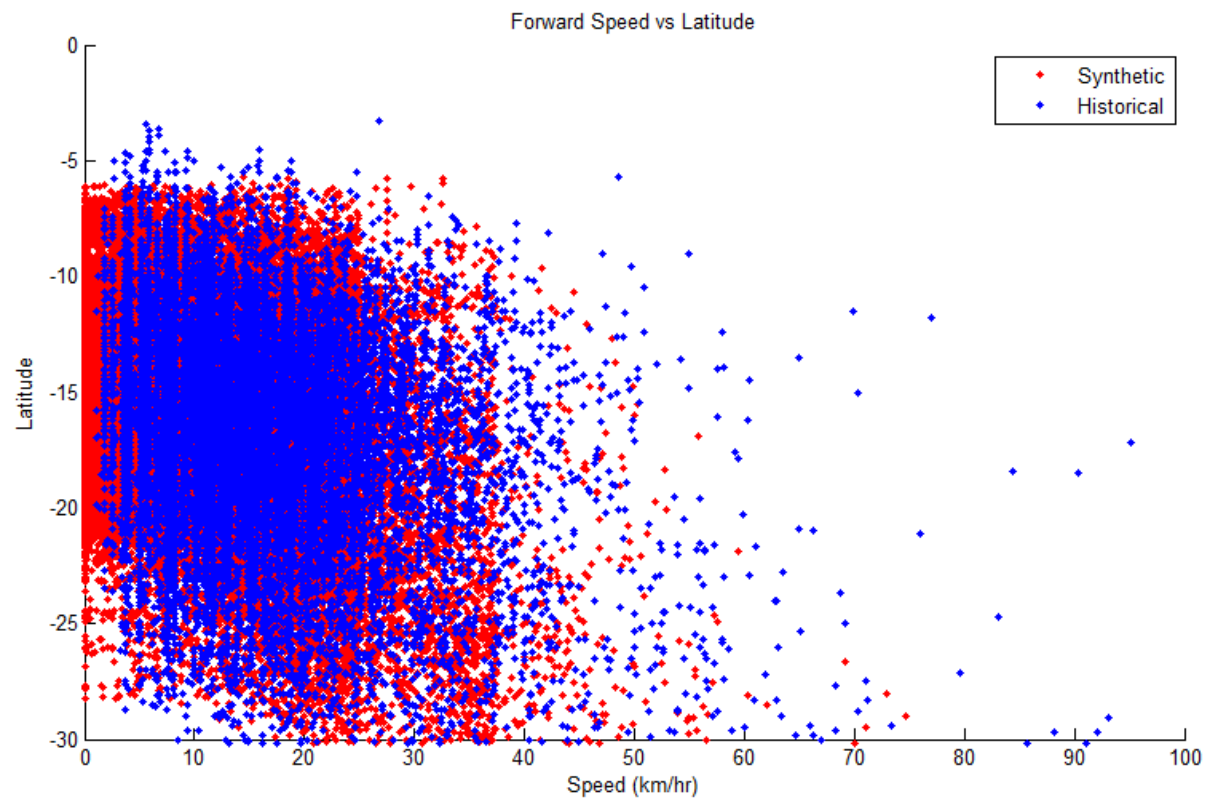
**Figure 4.9** Scatter plot of central pressure versus latitude; measured and modelled



**Figure 4.10** Scatter plot of rate of change of central pressure versus latitude; measured and modelled



**Figure 4.11** Scatter plot of cyclone travel direction versus latitude; measured and modelled

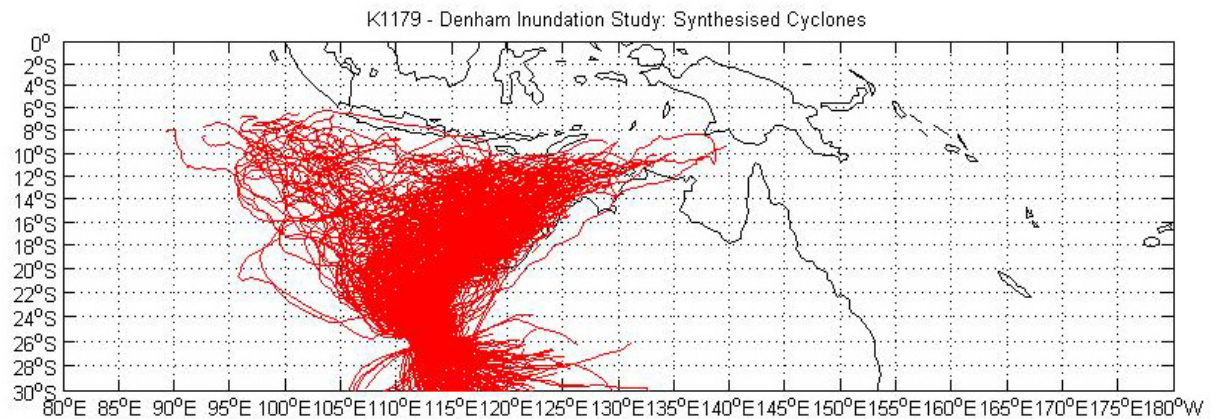


**Figure 4.12** Scatter plot of cyclone forward speed versus latitude; measured and modelled

Review of the figures shows a high level of agreement between the recorded and modelled data. This high level of agreement confirms that the model provides a suitable tool for the synthesis of a long term cyclone record.

#### 4.6 MCMC Model Results

A 1,000 year cyclone record was simulated using the validated MCMC cyclone track model. The synthesised cyclone database was then interrogated based on the proximity of each event to Denham and the results of the first order parametric approximation of the water level. Figure 4.13 shows the main events within the synthesised record that would have effected Denham.



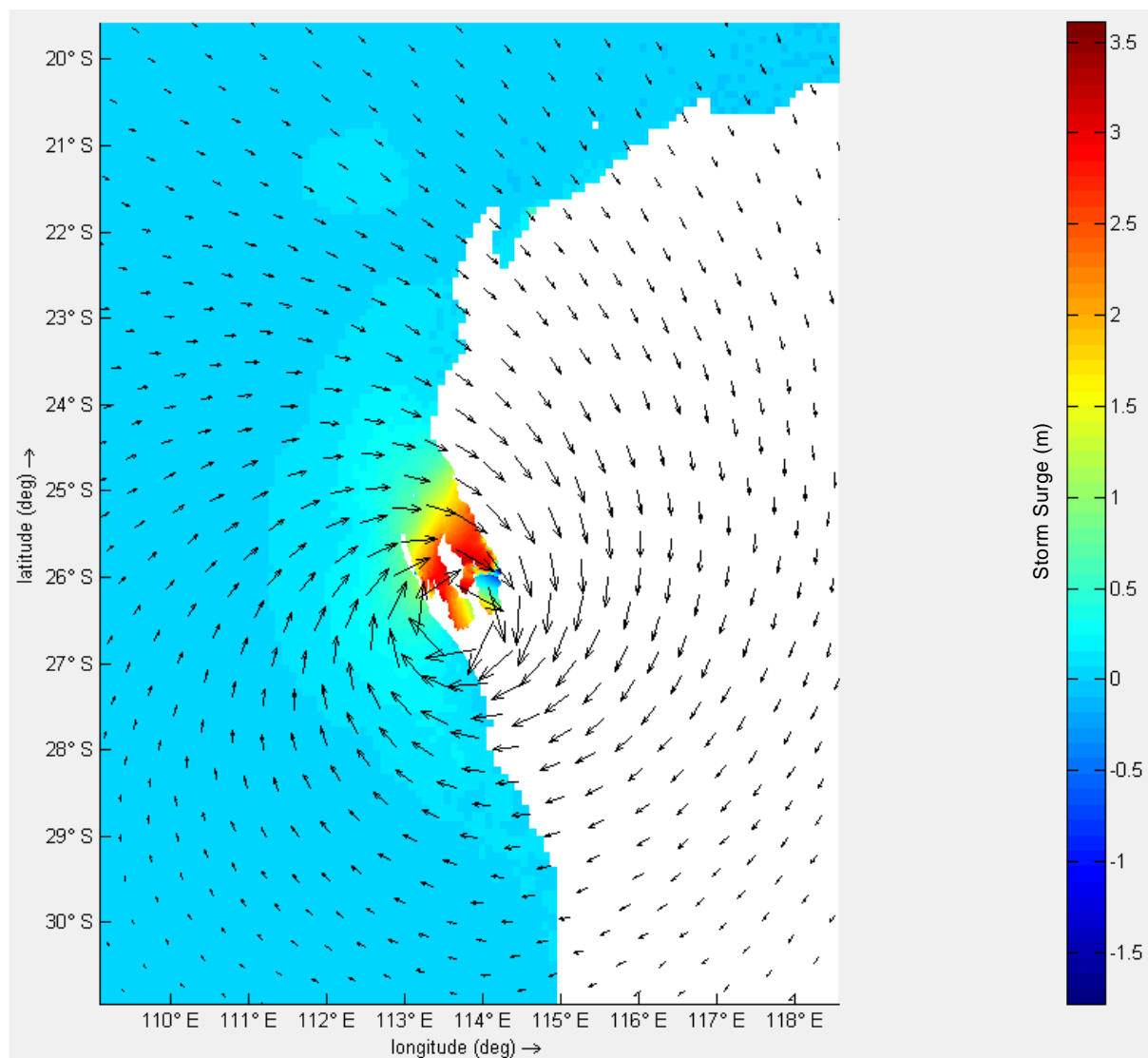
**Figure 4.13 Plot of synthesised cyclone tracks within 200 km of Denham**

Using the track ranking algorithm a total of 154 events were extracted for further simulation within the Delft3D model.

## 5. Storm Surge Inundation Modelling Results

The top 154 events generated by the MCMC model were simulated using the calibrated Delft cyclone model. The results of the model simulations were then interrogated in order to extract the peak water level for each event at Denham. Resulting water levels were ranked according to inundation level and an extreme analysis was completed in accordance with the method outlined in Petruskas & Aagaard (1971). Simulations were also completed to investigate the potential effects of a 0.9 m rise in sea level, as required by SPP2.6.

A spatial plot of the model output from the 500 year ARI event is shown in Figure 5.1. The results of the extreme analysis are presented in Table 5.1 for the 20, 50, 100 and 500 year ARI events.



**Figure 5.1 Delft3D output plot showing 500 year ARI event and cyclone wind field**

**Table 5.1 Design Storm Surge Inundation Levels for Denham**

ARI (years)	Inundation Level Present Day (mAHD)	Inundation Level 2110 (mAHD)
20	1.9	2.8
50	2.4	3.3
100	2.7	3.6
500	3.3	4.2

Whilst SPP2.6 is primarily focused on the 500 year ARI event for freehold development, details of lesser events have been included in order to help provide guidance regarding the potential exposure of existing infrastructure or for planning of less critical infrastructure.

Based on the results outlined above, to accord with the requirements of SPP2.6 new freehold development in Denham would need to be developed at or above a level of 4.2 mAHD. It is noted that this level is significantly above the level of 3.2 mAHD that is currently required within the Shire of Shark Bay Local Planning Scheme 3 (SoSB. 2012), however this difference is expected to be largely attributable to changes in coastal planning requirements within Western Australia over the last few years. The key changes are outlined below.

- An increase in the required design storm event from the 100 year ARI event in the previous policy to the 500 year ARI event in the current Policy.
- An increase in the allowance for sea level rise from 0.38 m previously to 0.9 m in the current Policy.

## 6. Conclusions

The absence of long term water level records within Shark Bay, and in particular at Denham, makes it impossible to develop meaningful estimates of design ocean inundation levels from interrogation of the water level record on its own. This is particularly problematic given that SPP2.6 requires that freehold development levels be set based on the 500 year ARI inundation level plus an allowance for sea level rise.

To develop a statistically relevant prediction of extreme inundation levels required the development of a numerical model system. This system comprised a cyclone track generation model that simulated all facets of cyclone generation, propagation and decay over the entire Australian region. Coupled with the cyclone track model, the integrated Delft3D hydrodynamic model was used to determine the effects of the most severe events on the water levels in the Denham region. The components of the numerical model system were calibrated against available measurements to ensure the system adequately reflected the reality and was therefore suitable to be used as a predictive tool for the estimation of extreme inundation levels. Overall a high level of agreement was observed between the modelled and observed data sets.

To determine the design ocean inundation levels at Denham the calibrated model system was used to synthesise and interrogate a 1,000 year cyclone period. An extreme value analysis was completed on the resultant peak water levels extracted from Denham. The results of this analysis have shown that to meet the requirements of SPP2.6 new freehold development would need to be located at or above an elevation of 4.2 mAHD which is the predicted level of the 500 year ARI event plus a 0.9 m allowance for sea level rise. It is noted that this level is well above the requirement within the current Local Planning Scheme 3. This difference has arisen due to the more severe design event (500 year ARI versus 100 year ARI previously) and the increased allowance required for sea level rise (0.9 m versus 0.38 m previously) in the most recent version of SPP2.6.



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m p rogers & associates pl

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# **ATTACHMENT 6**

Council Minutes February 2015  
(Inundation Levels)

25 FEBRUARY 2015

**13. TOWN PLANNING REPORT**

**13.1 REPORT ON STORM SURGE MODELLING – DENHAM INUNDATION LEVELS  
LP00002**

Author

Liz Bushby, Gray & Lewis

Disclosure of Any Interest

Disclosure of Interest: Gray and Lewis

Nature of Interest: Financial Interest as receive planning fees for advice to the Shire –  
Section 5.65 of *Local Government Act 1995*

Moved            Cr Laundry  
Seconded       Cr Prior

Officers Recommendation

That Council:

1. Note the completed Shire of Shark Bay 'Denham Inundation Levels Storm Surge Modelling Report' compiled by MP Rogers and Associates (December 2014) - included as Attachment –Denham Inundation Levels.
2. Note that the minimum Finished Floor Level of 4.2m AHD (Australian Height Datum) will be incorporated into a new Town Planning Scheme as part of the Scheme Review, which will undergo future formal advertising.

**AMENDMENT TO OFFICERS RECOMMENDATION**

**Reason:** The Council considered the recommendation to increase the Finished Floor Level to 4.2m AHD excessive and considered that an increase to 3.6 AHD based on the ARI 100 year would suffice and amended the record to reflect this consideration.

**Council Resolution**

**That Council:**

- 1.0 Note the completed Shire of Shark Bay 'Denham Inundation Levels Storm Surge Modelling Report' compiled by MP Rogers and Associates (December 2014) - included as Attachment –Denham Inundation Levels.**
- 2.0 Note that the minimum Finished Floor Level of 3.6m AHD (Australian Height Datum) (based on the ARI 100 year) will be incorporated into a new Town Planning Scheme as part of the Scheme Review, which will undergo future formal advertising.**
- 3.0 That the administration be requested to draft up a policy on a position in regard to the discretionary options for existing and refurbishment.**

**6/0 CARRIED**

Background

Council to note a report and recommendations compiled by MP Rogers on inundation levels for Denham townsite.

25 FEBRUARY 2015

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- *Existing Scheme Provisions*

As Denham is vulnerable to coastal processes there are provisions in the existing Shire of Shark Bay Local Planning Scheme No 3 ('the Scheme') relating to areas subject to inundation.

Under the Scheme the Shire is required to impose minimum finished floor areas for new development in areas 'subject to inundation'.

The Scheme provisions were introduced as Amendment No 3 to the existing Scheme and were based on 1988 'Foreshore Topography and Storm Surge Level' mapping produced at that time by the then Marines and Harbours WA.

Currently the minimum Finished Floor Level not less than RL 3.2 metres AHD (Australian Height Datum) is imposed however it is based on out of date mapping and is not consistent with current State Planning Policy requirements.

This matter has been raised by Department of Planning in informal discussions as part of the Scheme Review.

- *Scheme Review*

A Scheme review is being undertaken by Gray & Lewis Landuse Planners on behalf of the Shire of Shark Bay.

The Scheme review will implement the recommendations of the Shire of Shark Bay Local Planning Strategy ('the Scheme') already approved by both the Shire and Western Australian Planning Commission.

As part of the Scheme Review process, MP Rogers was engaged to provide advice to the Shire on minimum finished floor levels that should be imposed on new development within Denham townsite.

The new Scheme has been drafted, however was placed on hold pending the MP Rogers report.

- *Previous Council Resolution*

At the Ordinary Meeting of Council held on the 25 June 2014, Council resolved to:

1. Authorise the Chief Executive Officer to engage MP Rogers to undertake a Monte Carlo assessment to determine finished floor levels for new development in Denham townsite for \$27,482.00 (excluding GST).
2. Note that a report on the findings of MP Rogers investigations will be referred to a future Council meeting.
3. Note that the Scheme review project will be placed temporarily on hold until the recommendations of the MP Rogers report can be considered.



25 FEBRUARY 2015

4. Note that landowners seeking to pursue development or structure plans over remote coastal tourist sites, such as Nanga, may still have to conduct their own coastal engineering reports.

Comment

The Western Australian Planning Commission Statement of Planning Policy 2.6 outlines the general requirements for coastal development throughout Western Australia including setback distances (to minimise potential erosion of development areas) and development levels (to minimise potential impacts of flooding).

The Policy requires consideration of a 100 year planning horizon. The development levels are based on a 500 year average reoccurrence interval (ARI) event, plus an allowance for sea level rise over a 100 year planning horizon.

The main difficulty is that there is not sufficient accurate historical water level data for the coast available in which to use as a base to predict the 500 year average reoccurrence interval.

MP Rogers has therefore used available information on the frequency and characteristics of key meteorological events (such as cyclones) and modelling to generate a 'synthetic' database of events and corresponding water levels.

MP Rogers & Associates completed a 'Denham Inundation Levels Surge Modelling Report' in December 2014 – **Attachment - Denham inundation Levels.**

Much of the modelling data is technical, however the key recommendation is that new development should have a minimum Finished Floor Level at or above a level of 4.2m AHD.

This is significantly higher than the current Finished Floor Level requirement of 3.2m AHD.

The increase is due to changes at the State Planning Policy level including:

1. An increase in the required design storm event from 100 ARI relevant under previous policy to the 500 ARI event in the current Policy.
2. An increase in allowance of sea level rise from 0.38m in the previous policy to 0.9m in the current Policy.

Imposing the new recommended minimum finished floor level will introduce a new element into existing streetscapes. Notwithstanding the above, the recommendations by MP Rogers & Associates is to ensure maximum protection of life and new buildings within Denham, and is required to comply with current State Planning Policy 2.6.

Legal Implications

If the Shire approves development that does not comply with the minimum finished floor levels as outlined in the current Shire of Shark Bay Local Planning Scheme No 3 or the new Shire of Shark Bay Local Planning Scheme No 4 (when gazetted) then it



## UNCONFIRMED MINUTES OF THE ORDINARY COUNCIL MEETING

25 FEBRUARY 2015

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leaves itself open to liability and insurance claims in the event that flooding damage occurs.

### Policy Implications

Western Australian Planning Commission Statement of Planning Policy 2.6 is discussed in the body of this report.

### Financial Implications

The report by MP Rogers was funded using Grant moneys already secured for the Scheme Review.

### Strategic Implications

In the absence of updated minimum floor level requirements incorporated into a new Scheme it would be difficult to process applications for new development in the Denham Town Centre and ensure new buildings are adequately protected from potential flooding.

If the issue is not addressed then it is likely to be raised by Department of Planning as part of their assessment of any new Scheme, and has potential to cause delays.

### Voting Requirements

Simple Majority Required

### Signatures

Author

*L Bushby*

Chief Executive Officer

*P Anderson*

Date of Report

17 February 2015