



**Shire of Denmark  
Draft Town Planning Scheme  
Policy 19.3 - Holiday Homes**

## 1. INTRODUCTION

Holiday homes are private residential dwellings that are leased out for short term accommodation for a period not exceeding 3 months and are an important aspect of the tourism industry in the Shire of Denmark and have long been an important part of local and Western Australian lifestyle and culture. Over time, there has been increased commercialisation of holiday homes which have lead to changes in character and amenity of neighbourhoods. Community concerns about holiday homes often relate to the behaviour of some tenants, rather than being associated with the use *per se*. In addition to this, there has been concern that selected holiday homes being leased are not maintained to a satisfactory standard, which in turn reflects negatively on Denmark’s tourism industry. This has led to pressures for the regulation of holiday homes which to date have been largely unregulated.

## 2. POLICY BASIS

Clause 8.2 of the Shire of Denmark’s Town Planning Scheme No. 3 (‘the Scheme’) provides for the preparation of Local Planning Policies. This Policy has been prepared in accordance with the Scheme.

This Policy does not bind the Local Government in respect of any application for development approval but the Local Government will have due regard to the provision of the Policy and the objectives which the Policy is designed to achieve before making its determination.

## 3. SCHEME REQUIREMENTS

Under the Scheme holiday homes are classified as holiday accommodation with the definition being as follows:

*“means one or more dwellings on one lot which by way of trade or business, are made available for occupation by persons other than the proprietor for holiday purposes and includes those premises known as bed and breakfast but does not include a dwelling that is used as a rental property for tenanting for residential accommodation.”*

The Scheme defines the following land use permissibility for holiday accommodation across the zones as follows:

<b>Table 1: Zone permissibility</b>	
Residential	SA
Tourist	AA
Commercial	AA

Industrial	X
Rural	SA
Special Rural	<i>AA use in all areas except for SR20 – Suttons Road where the use is not listed and therefore not permitted.</i>
Rural Multiple Occupancy	SA
Special Residential	<i>Holiday Home is a use not listed and therefore not permitted within the zone.</i>
Landscape Protection	<i>Not permitted in any of these areas with the exception of LP5 – Howe Road where it is an AA use.</i>
Professional Office	SA

Note: AA means that Council may, at its discretion, permit the use in the zone.  
SA means that Council may, at its discretion, permit the use in the zone following public advertising thereof.  
X means not permitted.

#### **4. OBJECTIVES**

The objectives of the policy are:

- To ensure that the predominant residential nature and character of neighbourhoods are retained.
- To minimise negative impacts of holiday homes on the amenity of adjoining residents.
- To encourage the provision of good quality, well managed holiday homes.
- To control the way in which holiday homes are marketed, managed and presented to enhance Denmark’s image.
- To identify suitable areas where holiday homes are deemed to be most suitable and clarify the assessment process for each of these defined areas.

#### **5. DEFINITIONS**

For the purpose of this policy holiday home is defined in accordance with the WAPC’s Planning Bulletin 99 – Holiday Homes Guidelines as follows:

*“ means a single house (excluding ancillary accommodation), which may also be used for short stay accommodation for no more than six people (but does not include a bed and breakfast, guesthouse, chalet and short stay accommodation unit)”*

#### **6. APPLICATION OF THE POLICY**

The policy applies to all zones under the Scheme within which holiday accommodation (referred to in this policy as holiday home) is an AA or SA use.

## 7. POLICY STATEMENT

### 7.1 Locations for Holiday Homes

Area's in which Council prefer the locations of holiday homes are shown on Map 1 as Areas 1 and 2. The area in which Council do not support holiday homes is shown as Area 3. An explanation of each of the identified areas is provided in the table below.

<b>Table 1: Preferred Areas for Holiday Homes</b>		
<b>Area 1 – Wilson Inlet Environ</b>	<b>Area Boundary</b>	<i>Area 1 is defined by residential areas located to the south of South Coast Highway and to the east of Ocean Beach Road along the Wilson Inlet foreshore. Note: Excludes Special Residential Area 7 as holiday homes are not permitted in this zone.</i>
	<b>Area Description</b>	<i>High visual aesthetics along the Wilson Inlet have historically proved popular to establish holiday homes, particularly in both the Weedon Hill and Ocean Beach areas. It is likely this trend will continue and as these areas combine high amenity settings, inlet locations and provide relatively close proximity to natural attractions and the Denmark town site.</i>
<b>Area 2 – Rural</b>	<b>Area Boundary</b>	<i>Area 2 is defined as areas outside of Area 1 and 3 and consists of Residential zoned land with a low density (being R2), and areas zoned Special Rural and Rural. Note: Excludes all Special Residential areas as holiday homes are not permitted in this zone.</i>
	<b>Area Description</b>	<i>Rural and lifestyle areas provide the opportunity for holiday homes to established in an environ with larger lots sizes therefore generating negligible effects on the amenity of adjoining neighbours. The ability to construct additional dwellings within the Rural zone (pending certain criteria) offers opportunity for landowners to easily diversify business interests by establishing holiday homes.</i>
<b>Area 3 – Town Site</b>	<b>Area Boundary</b>	<i>Area 3 is defined by areas in close proximity to services and facilities within the town centre and of higher density i.e. R5 to R40 including areas of dual coding.</i>
	<b>Area Description</b>	<i>Council acknowledges the importance of maintaining a high level of owner occupier and/or long term rentals within the Denmark town site. Applications for holiday homes will generally not be supported in this area as these houses have been identified as being within the walkable catchment to local shops, schools, businesses, recreational facilities and public open</i>

		<p><i>spaces and should be retained wherever possible for permanent residents. Consideration has been given to this area, in that some people may wish to consider renting holiday homes within the Denmark town site for those reasons stated above, however there is sufficient short stay accommodation within the town centre (hotels, motels, units etc) which can satisfy current demand. Furthermore, short stay holiday makers have proven to be upwardly mobile and seek higher amenity settings found generally in the two areas identified above.</i></p> <p><i>In accordance with Clause 4.1 of the Scheme legal holiday homes (i.e. have planning approval) currently operating in this area at the time at which the policy comes into force will be able to continue to operate, however should the use cease for six months or more, no further approvals will be issued (refer Clause 4.4.1 of the Scheme)</i></p>
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## 7.2 Residential Density and Holiday Homes

Council will consider the residential density within Area 1 (zoned Residential) as a criterion to assess holiday home applications. Generally, areas of lower density are considered more suitable for holiday homes than areas of higher density due to the impact of holiday homes on residential amenity and character of neighbourhoods in areas of denser settlement as follows:

<b>Table 2: Residential Density and Holiday Homes</b>	
R2-R5	<i>Preferred</i>
R10	<i>Most preferred</i>
R20-R40	<i>Least preferred</i>

The use of grouped dwellings (as defined under the Residential Design Codes of WA) shall not be supported for holiday home accommodation given the potential impacts on adjoining residents.

In areas of higher density (i.e R20 – R40) Council shall have due regard for any adverse submissions received and take this into consideration in reaching its decision.

## 7.3 Consultation with Adjoining Neighbours

Under the Scheme holiday homes are a discretionary “SA” use under the Residential, Rural, Rural Multiple Occupancy and Professional Office zones

and all applications for holiday homes are therefore advertised for comment for a period of 21 days, whereby owners of adjoining/nearby properties will be consulted, a sign erected on site and an advertisement placed in a local newspaper.

#### **7.4 Protecting the Residential Character of Neighbourhoods**

In order to protect and retain the predominant residential nature and character of neighbourhoods, Council shall consider the cumulative impact thereof on a location's residential character, functioning and amenity as a criterion in the assessment of planning applications. Holiday homes should not become the predominant use within neighbourhoods.

#### **7.5 Approval Requirements**

##### *7.5.1 Property Management Plan*

A Property Management Plan shall be submitted as part of the planning application and shall detail the following:

- Details of an agreement with a manager/caretaker or management company which lists their responsibility and shall include but not be limited to, matter such as maintenance and cleaning. The manager of management company shall be accessible 24/7 and within 30 minutes of the property. Where properties are remote, alternative arrangements for a manager may be considered for up to 1 hour away.
- Code of conduct for guests.
- Details of how nuisance issues such as noise will be addressed by the manager.
- Lease arrangement to allow for immediate eviction by owner/manager/Council where tenants behaviour is unacceptable.

In the case of an established permitted holiday home use, the property management plans shall be submitted within 6 months from the adoption of this policy by Council.

##### *7.5.2 Fire and Emergency Plan*

A Fire and Emergency Plan shall be prepared to the satisfaction of the Shire Community Fire Manager and shall be required to be submitted as part of the planning application. The Fire and Emergency Plan shall include the provision of the following fire safety measures:

- Compliance with Annual Fire Regulation Notices.
- Provision of fire extinguishers, fire blankets and internal hardwired smoke alarms.
- Outside barbeques to be gas or electric.

- Maintenance of a 20m building protection zone around the dwelling.
- Preparation/display of building/locality evacuation plan.
- Emergency Evacuation Plan.
- Water tanks (minimum 92,000 litres where not on scheme water, with 10,000 litres to be used exclusively for fire fighting).

In the case of an established permitted holiday home use, the fire and emergency plan shall be submitted within 6 months from the adoption of this policy by Council.

### *7.5.3 Display of information in Holiday Homes*

As part of any approval for a holiday home, Council shall condition that the following information be displayed in the holiday home:

- Annual Registration Certificate
- Caretaker/manager or management company and its contact details
- Emergency contact details
- Code of Conduct
- Fire and Emergency Response Plan

In the case of an established permitted holiday home use, the display of the information shall occur within 6 months from the adoption of this policy by Council.

## **7.6 Annual Registration of Holiday Homes**

Holiday homes shall be approved for a period of 12 months or until 30 June of the financial year within which the application is made. Council will issue an annual renewal licence to operate under the existing planning approval.

Holiday homes shall be required to renew their registration annually (financial year). The annual registration fee will be in accordance with Council's fee and charges as outlined on Council's website [www.denmark.wa.gov.au](http://www.denmark.wa.gov.au). The registration shall be issued following an inspection of the site and dwelling by Council. Where in the opinion of Council, complaints, poor management, outstanding annual fee's or failure to adhere to conditions of approval, Council may withdraw or amend the approval.

## **7.7 Holiday Homes Register**

Council shall maintain a holiday homes register. The register shall provide information on the owner and/or manager, property address, configuration (bedroom numbers, number of beds, bathrooms, car parking spaces).

At the time of annual registration, those houses that no longer are available for holiday homes purposes shall be removed from the holiday homes register, and hence approval is withdrawn.

### **7.8 Voluntary Accreditation**

Council shall encourage holiday home owners to become a member of a suitable holiday home accreditation agency. Where a holiday home is accredited (i.e star rating), then a reduced annual registration fee is available as determined under Council's fees and charges.

### **7.9 Illegal Holiday Homes**

Where a holiday home is found to operate illegally, Council will order that the operation of the holiday home cease immediately and if necessary issue an infringement under the relevant Act.

## **8. APPLICATION REQUIREMENTS**

An application for planning approval is required for all holiday homes where it is an AA or SA use in the zoning table of the Scheme. Applicants shall submit a planning application in accordance with the Planning Consent Application form. The planning application shall contain the following information:

- A covering letter outlining the applicant's reasons for applying. This shall include photo's of the dwelling.
- Details of the caretaker/property manager or management company.
- A property management plan.
- A fire and emergency plan.
- A car parking plan.

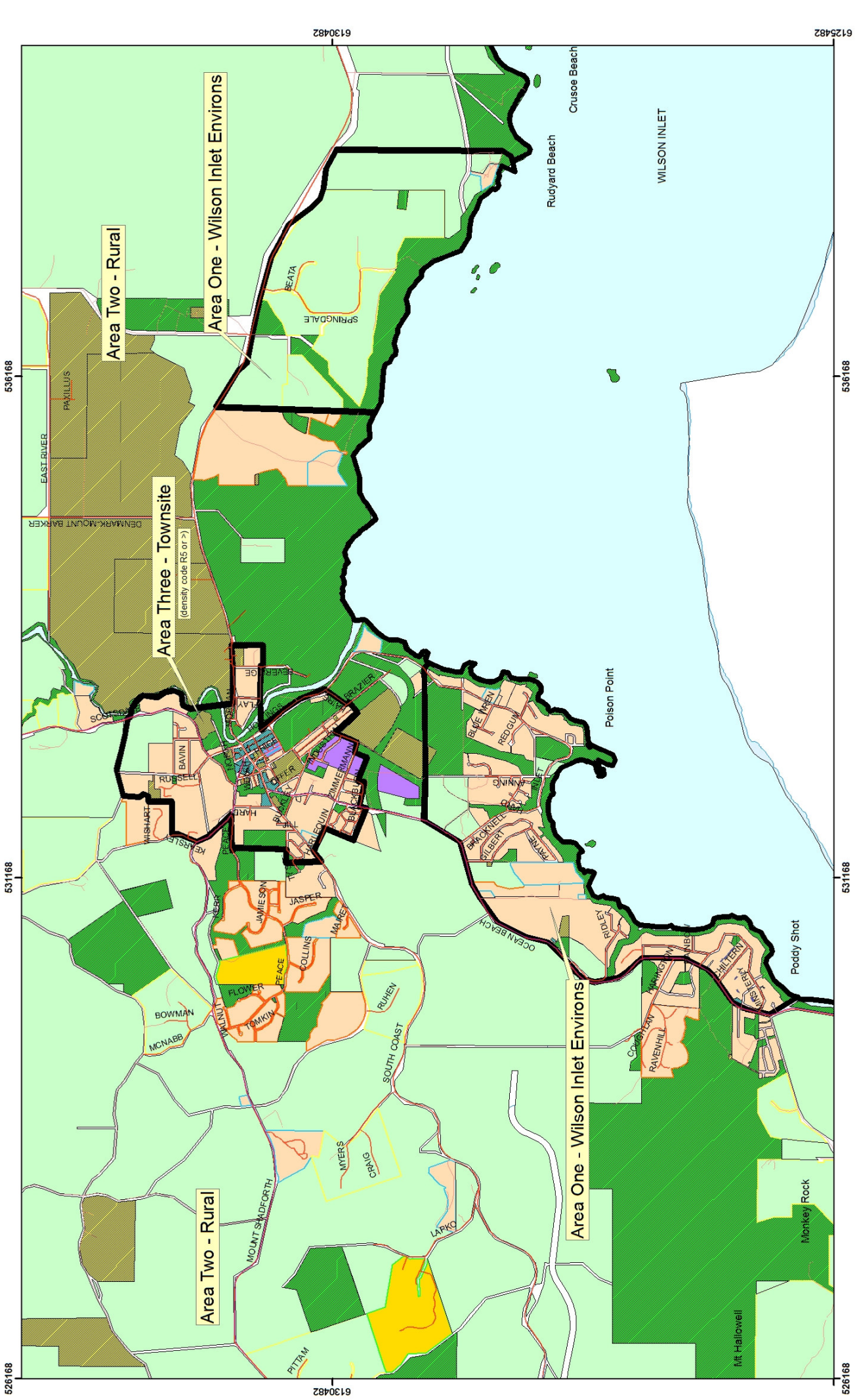
## **9. CONDITIONS OF APPROVAL**

Any approval by Council for a Holiday Home may include, but not be limited to, the following conditions:

- The maximum number of persons to be accommodated is restricted to 6. If more than 6 are proposed then the proposal must be treated as a boarding house in accordance with the Scheme.
- The following information shall be displayed in a readily visible area of the holiday home:
  - Annual Registration Certificate
  - Caretaker/manager or management company and its contact details
  - Emergency contact details
  - Code of Conduct
  - Fire and Emergency Response Plan



- The dwelling must comply with relevant Health and Building requirements and standards as required by Council.
- Any proposed signage must be submitted to Council for consideration in relation to compliance with Signs Local Laws and relevant Town Planning Scheme Policies on signs.
- The dwelling must be connected to the reticulated water supply or have a source of potable water to a capacity of 92,000 litres and a source of water supply disinfection such as chlorine dosing unit, ultra violet light sterilizing unit or an ozone unit.
- Operators must provide and maintain a register of all people who utilise the holiday home during the year to Council's satisfaction. A receipt book must be kept. The use must be registered with Council as a holiday home premises and the fee payable will be utilised to undertake the yearly inspection of facilities by Council.



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Produced by M. Lyons,  
Directorate of Planning and Sustainability  
Shire of Denmark, April 2010

Whilst all care has been taken to accurately  
portray the features, no responsibility will be  
taken for omissions or errors in the documentation.  
Accommodation operators appear as listed with  
Denmark Visitor Centre on 8th April 2010.


Please advise the Shire of Denmark  
of any errors or omissions in this document.  
Digital Cadastral Data Supplied by the  
Western Australian Land Information Authority.

## Shire of Denmark

### Priority Areas for Home Holiday Accommodation within the Shire of Denmark Town Planning Scheme 3

1:35,000



**Legend**

Tourism Route	PROFESSIONAL OFFICE	RURAL MULTIPLE OCCUPANCY
Sealed Road	INDUSTRIAL	SPECIAL RURAL
Unsealed Road	LANDSCAPE PROTECTION	COMMERCIAL
River	DRAINAGE AND WATERBODIES	PUBLIC USE
Ocean and Estuary	OCEAN	PARKS AND RECREATION
	RESIDENTIAL	
	SPECIAL RESIDENTIAL	

**Denmark TPS Zoning**

0, 0	TOURIST	RESIDENTIAL
SPECIAL RESIDENTIAL	RURAL	

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Shire of Denmark  
Town Planning Scheme No. 3  
Amendment No. 124

TOWN PLANNING AND DEVELOPMENT ACT 2005  
RESOLUTION DECIDING TO AMEND A TOWN PLANNING SCHEME

Shire of Denmark  
Town Planning Scheme No. 3  
Amendment No. 124

RESOLVED that the Council, in pursuance of Section 75 of Planning and Development Act 2005 (as amended), amend the above Town Planning Scheme by:

1. Amending Table 1 – Zoning Table by inserting the use ‘Holiday Home’ and making it an SA use in all zones except for Tourist where it shall be an AA use and the Commercial, Professional Office and Industrial zones where it shall be an X use;
2. Inserting the definition of ‘Holiday Home’ in Appendix 1 – Interpretations.
3. Inserting a new scheme provision on permissibility of holiday homes in the Special Residential, Special Rural and Landscape Protection zones.
4. Amending the Table of Content accordingly.

Dated this day ..... of ..... 20

.....  
Chief Executive Officer

## MINISTER FOR PLANNING

### PROPOSAL TO AMEND A SCHEME

1.	<b>LOCAL AUTHORITY:</b>	Shire of Denmark
2.	<b>DESCRIPTION OF TOWN PLANNING SCHEME:</b>	Town Planning Scheme No. 3
3.	<b>TYPE OF SCHEME:</b>	District Zoning Scheme
4.	<b>SERIAL NUMBER OF AMENDMENT:</b>	Amendment No. 124
5.	<b>PROPOSAL</b>	<ol style="list-style-type: none"><li>1. Amending Table 1 – Zoning Table by inserting the use ‘Holiday Home’ and making it an SA use in all zones except for Commercial, Professional Office and Industrial zones where it shall be an X use;</li><li>2. Inserting the definition of ‘Holiday Home’ under Appendix 1 – Interpretations.</li><li>3. Inserting a new scheme provision on permissibility of holiday homes in the Special Residential, Special Rural and Landscape Protection zones and altering the Table of Contents accordingly.</li><li>4. Amending the Table of Content accordingly.</li></ol>

# **SCHEME AMENDMENT REPORT**

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5. POLICY REVIEW
6. CONCLUSION

## **1. INTRODUCTION**

Holiday homes are private residential dwellings that are leased out for short term accommodation for a period not exceeding 3 months and are an important aspect of the tourism industry in the Shire of Denmark and have long been an important part of local and Western Australian lifestyle and culture. Over time, there has been increased commercialisation of holiday homes which have lead to pressures for the regulation thereof which to date have been largely unregulated.

Over the last couple of years, there has been ongoing debate in the community regarding the impact of holiday homes on neighbourhoods, the suitability thereof in certain locations and the appropriate management and safety measures. In order to address these matters, Council has reviewed its Town Planning Scheme No. 3 (the Scheme) and policy basis for the use. Based on this assessment, the town planning scheme policy on holiday homes has been reviewed and the need to amend the Scheme identified.

The purpose of this amendment is to review the Scheme's permissibility of holiday homes in the all zones and correspondingly provide a clear definition of the use.

## **2. WESTERN AUSTRALIAN PLANNING COMMISSION GUIDELINES**

The objectives of WAPC's Planning Bulletin 99 – Holiday Homes Guidelines (refer Attachment 1) is to establish clear guidelines for the short stay use of residential homes for tourism accommodation, to ensure that they occur in appropriate locations and to that all new holiday home rental accommodation is in accordance with relevant legislation, local planning schemes and policies, and management plans.

The bulletin recommends two definitions for holiday homes. Holiday home "standard" defines the use of a single house for short stay accommodation for no more than 6 people and "large" for no more than 12 people. It recognise that there are preferred areas where holiday homes are more suitable such as areas of high tourism amenity and close proximity to key tourism attractions such as a beach, town centre or rural area. The key concern is to ensure that the use does not adversely impact on residential amenity of nearby residents.

The guidelines furthermore set out recommendations for certain conditions in relation to planning approvals which include a management plan, fire and emergency response plan and approval period. It also encourages owners of holiday homes to seeks accreditation with Tourism Council of Western Australia.

This amendment, in conjunction with the review of Council's Town Planning Scheme Policy on holiday homes, has been prepared in accordance with this guideline.

### 3. TOWN PLANNING SCHEME NO. 3

Currently, under the Scheme holiday homes falls within the definition of holiday accommodation which is defined as follows:

*“means one or more dwellings on one lot which by way of trade or business, are made available for occupation by persons other than the proprietor for holiday purposes and includes those premises known as bed and breakfast but does not include a dwelling that is used as a rental property for tenanting for residential accommodation.”*

The zoning table sets out the following land use permissibility for holiday accommodation across the zones as follows:

Table 1: Zone permissibility	
Residential	SA
Tourist	AA
Commercial	AA
Industrial	X
Rural	SA
Special Rural	<i>AA use in all areas except for SR20 – Suttons Road where the use is not listed and therefore not permitted.</i>
Rural Multiple Occupancy	SA
Special Residential	<i>Holiday Home is a use not listed and therefore not permitted within the zone.</i>
Landscape Protection	<i>Not permitted in any of these areas with the exception of LP5 – Howe Road where it is an AA use.</i>
Professional Office	SA

Note: AA means that Council may, at its discretion, permit the use in the zone.

SA means that Council may, at its discretion, permit the use in the zone following public advertising thereof.

X means not permitted.

### 4. PROPOSED AMENDMENTS TO THE SCHEME

#### 4.1 Introducing a definition on Holiday Homes

The definition of holiday accommodation in the Scheme allows Council to consider the short stay accommodation of holiday homes, chalets and bed and breakfast. The definition as it relates to holiday homes is however, insufficient in its description and it is recommended that a new definition be introduced in the Scheme as set out under WAPC Planning Bulletin 00 – Holiday Homes Guidelines as follows:

**Holiday Home** – means a single house (excluding ancillary accommodation), which may also be used for short stay accommodation for no more than six



people (but does not include a bed and breakfast, guesthouse, chalet and short stay accommodation unit).

Under the Scheme boarding house is a use listed in Table 1 – Zoning Table and permissibility set for each zone. The definition refers to a building in which provision is made for lodging and boarding of more than six persons. This amendment therefore does not propose to introduce the land use class and definition for holiday home (large) as proposed by WAPC Planning Bulletin 99. Furthermore, residential areas in Denmark are considered unsuitable to sustain houses being used for large groups of holiday makers.

The existing definition holiday accommodation shall be maintained in order to allow Council to exercise its discretionary powers to approve the use Bed and Breakfast as set out under Table 1 – Zoning Table.

#### 4.2 Zoning Table and Land Use Permissibility

Correspondingly, the use holiday home will be introduced in the Table 1 – zoning table and permissibility established as follows:

Residential	SA
Tourist	AA
Commercial	X
Industrial	X
Rural	SA
Special Rural	SA
Rural Multiple Occupancy	SA
Special Residential	SA
Landscape Protection	SA
Professional Office	X

The zoning table establish the permissibility of uses within the Special Rural, Special Residential and Landscape Protection zones in accordance with the schedules of the Scheme for each zone. Holiday homes will be introduced in each of these schedules as an SA use under the second column 'Proposed Uses'.

SA uses for all zones are proposed in order to allow public consultation on the proposed holiday home use.

**Tourist Zone:** Land use permissibility for holiday homes in the tourist zone will remain an AA. Holiday home within the tourist zone shall be ancillary to a dominant tourist related industry and shall only be approved where a single house is not required for a caretakers/managers house of the tourist operation.

**Commercial Zone:** Land use permissibility for holiday homes will change from an AA use to an X use. Holiday homes are not a compatible use with the commercial zone and should therefore not be permitted.

**Special Residential Zone:** Land use permissibility for holiday homes will change from an X use to an AA use in this zone. Special Residential areas are considered suitable for holiday homes due to larger lots sizes therefore generating negligible effects on the amenity of adjoining neighbours. Many of the Special Residential areas within the Shire of Denmark also provide high aesthetics due to their location on Mount Shadforth, along Wilson Inlet and within rural settings. Furthermore, short stay holiday makers have proven to be upwardly mobile and seek higher amenity settings such as provided by special residential areas.

**Landscape Protection Zone:** Land use permissibility for holiday homes will change from an X use to a SA use in Areas 1 to 4 (being Lapko Road, Sunrise Road, Peace Street and Lights Road). Area 5 – Howe Road Landscape Protection zone will change from an AA use to an SA use. The use is considered suitable in this zone for the same reasons stated above under the Special Residential Zone where all landowners have had the opportunity to comment on the proposed use.

**Professional Office Zone:** Land use permissibility for holiday homes will change from an SA use to an X use in this zone. Holiday homes are not a compatible use with the professional office zone and should therefore not be permitted.

## **5. POLICY REVIEW**

Council have undertaken a review of the Scheme Policy 19.2 – Holiday Accommodation. The policy is in draft form and the contents and directions set out may change following public consultation. Refer Attachment 2.

The policy considers matters as set out under WAPC Planning Bulletin 99 - Holiday Homes Guidelines.

It's objectives are as follows:

- To ensure that the predominant residential nature and character of neighbourhoods are retained.
- To minimising potential impacts of holiday homes on the amenity of adjoining residents.
- To encourage the provision of good quality, well managed holiday homes.
- To control the way in which holiday homes are marketed, managed and presented to enhance Denmark's image.
- To identify suitable areas where holiday homes are deemed to be most suitable and clarify the assessment process for each of these defined areas.

The policy address, amongst others, the following matters such as:

- Locations for holiday homes;
- Residential density and holiday homes;
- Consultation with adjoining neighbours;
- Protecting the residential character of neighbourhoods;
- Property Management Plan;
- Fire and Emergency Plan;
- Display of information in holiday homes;
- Annual registration of holiday homes;
- Holiday homes register;
- Voluntary accreditation;
- Illegal holiday homes;
- Application requirements; and
- Conditions of approval.

It is intended to update this policy in accordance with this amendment when it is finalised and gazetted.

## **6. CONCLUSION**

Holiday homes in residential area have become a pertinent issue for the community of Denmark and a review of the Scheme provisions was therefore undertaken. The amendment will provide Council with the discretionary powers to regulate the locations and land use permissibility of holiday homes in each zone.

PLANNING AND DEVELOPMENT ACT 2005

SHIRE OF DENMARK

TOWN PLANNING SCHEME NO. 3

AMENDMENT NO. 124

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

1. Amending Table 1 - Zoning Table by inserting the use 'Holiday Home' and making it an SA use in all zones except for Commercial, Industrial and Professional Office zones where it shall be an X use.
2. Amending Appendix 1 – Interpretations by inserting the definition for 'Holiday Home' as follows:

**Holiday Home** – means a single house (excluding ancillary accommodation), which may also be used for short stay accommodation for no more than six people (but does not include a bed and breakfast, guesthouse, chalet and short stay accommodation unit).

3. Inserting a new Scheme provision 5.38 – Permissibility of Holiday homes in the Special Residential, Special Rural and Landscape Protection zones as follows:
  - 5.38 Notwithstanding any other use class permissibility contained within Appendix VI – Special Rural Zone, Appendix XIV – Special Residential Zones and/or Appendix XVI – Landscape Protection Zone of the scheme, all holiday homes shall be classified as a SA use.
4. Amending the Table of Contents accordingly.

PLANNING AND DEVELOPMENT ACT 2005

SHIRE OF DENMARK  
TOWN PLANNING SCHEME NO. 3  
AMENDMENT NO. 124

**ADOPTION**

Adopted by resolution of the Council of the Shire of Denmark at the ordinary meeting of the Council held on the ..... day of ..... 20 ....

.....  
Mayor/Shire President

.....  
Chief Executive Officer

**FINAL APPROVAL**

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

.....  
Shire President

.....  
Chief Executive Officer

Recommended/Submitted for Final Approval

.....  
Delegated under S16 of  
PD Act 2005

.....  
Date

Final Approval Granted

.....  
Minister for Planning

.....  
Date

## 1 Introduction

Holiday homes are a component of the short stay accommodation sector in some parts of Western Australia and an important aspect of the overall mix of tourism accommodation, particularly in popular tourist destinations within the State. Over the past decade a growing number of holiday homes have been made commercially available, resulting in an increasing trend to purchase or build homes for holiday home use.

The informal development of this section of the tourist accommodation market has meant that holiday homes have so far operated with minimal regulation, resulting in an uncertain legal environment, issues of inequity with other service providers and land use conflict. The issue of impact on neighbouring residential amenity has caused particular concern in the community.

In response to these issues the Minister for Planning and Infrastructure formed the Holiday Homes Working Group in 2005. The role of the working group was to investigate issues surrounding the operation of holiday homes and matters raised by the group have been taken into consideration in the preparation of this bulletin.

## 2 Background

This bulletin sets out the interim position of the Western Australian Planning Commission (WAPC) in relation to the planning and regulation of holiday homes in Western Australia. The bulletin provides guidance to local governments when dealing with issues associated with holiday homes in the local government planning framework.

The bulletin proposes possible changes to local planning schemes and the preparation of local planning policies, tailored to address the specific issues encountered by local governments.

## 3 Objectives

The objectives of this planning bulletin are:

- To facilitate a consistent, equitable and efficient planning process for the regulation of holiday homes in Western Australia.
- To support the tourism industry by the promotion of voluntary accreditation of holiday homes.
- To encourage good quality, well managed holiday homes for use by short-term visitors generally in locations that will enhance the tourism experience while minimising potential impacts on adjoining residents.
- To support the role of holiday homes as part of the tourism industry.

## 4 Proposed guidelines

### 4.1 Overview

Given that holiday homes are a legitimate part of the tourist accommodation industry and a desirable use in areas of high tourism amenity, it is recommended that holiday homes be formalised as a land use and dealt with via the local planning framework in the following ways:

- Introduction of a Model Scheme Text definitions for holiday homes.
- Introduction of holiday homes as a use class in the zoning table of local planning schemes.
- Identification of preferred areas for holiday homes in local planning strategies based on sound planning principles.
- The preparation of local planning policies to deal with the potential issues associated with holiday homes.

These guidelines may be applied in different ways by different local governments depending on the

local planning scheme and policies already in effect.

### 4.2 Local planning schemes

#### 4.2.1 Definitions

It is proposed that the following definitions for holiday homes should be used in local planning schemes and adopted in the Model Scheme Text:

**Holiday home (standard)** means a single house (excluding ancillary accommodation), which may also be used for short stay accommodation for no more than six people (but does not include a bed and breakfast, guesthouse, chalet and short stay accommodation unit).

**Holiday home (large)** means premises conforming to the definition of holiday home (standard) with the exception that the premises provide short stay accommodation for more than six people but not more than 12 at any one time.

#### 4.2.2 Holiday homes as a use class

It is recommended that holiday homes be introduced as a use class in the zoning table of local planning schemes, and be made a D or an SA use (discretionary or discretionary subject to advertising).

Initial approval should be granted for a limited period of one year, and renewed on a three year to five year period subject to compliance as determined by a local government, to ensure that there is minimal impact on the amenity of neighbouring properties. This is designed to provide a degree of certainty to operators, while also enabling the local government flexibility to terminate approvals of non compliant operators.

Existing holiday homes (where it can be demonstrated that there is a history of operation with minimal or no conflicts) should be considered for the identified longer approval subject to the requirements of the relevant local government.

In general, holiday homes should be residential dwellings on freehold lots.

### 4.3 Local planning policy

As well as including holiday homes as a controlled use in local planning schemes, local governments are encouraged to develop a local planning policy on holiday homes.

The content of a local planning policy may include:

- objectives
- definitions
- planning application and approval considerations
- conditions of approval
- establishment of a holiday homes register
- non compliance
- voluntary accreditation

The Department of Planning has prepared guidelines to assist local governments in the preparation of local planning policies.

### 4.4 Preferred locations for holiday homes

To reduce conflict between holiday homes and ordinary dwellings, particularly in residential zones, ideally they should be located in preferred areas identified either through the tourism component of the relevant local planning strategy, or in a local planning policy. As a guide, holiday homes are more appropriate in areas of high tourism amenity and close proximity to key tourism attractions such as the beach, town centre or rural areas, but may not be appropriate in suburban locations.

### 4.5 Holiday homes register

A register of approved holiday homes should be established and maintained by the local government. The register should record basic details of the property including the contact details of the owner and/or manager; property address; and configuration (bedroom number, number of beds, bathrooms, car parking spaces etc). These matters should be considered for inclusion in the approved management plans for the operation of the holiday home.

### 4.6 Voluntary accreditation

Local governments are encouraged to promote voluntary accreditation of holiday homes from the Tourism Council of Western Australia. Accreditation is a non regulatory, voluntary means of addressing identified customer service and consumer protection issues. The benefits of accreditation include improvements in the quality of accommodation product through the application of standards, capture of accommodation provider details.

### 4.7 Transitional arrangements

It is recommended that local governments allow owner operators up to 12 months, after a local planning policy has been adopted, to apply for and obtain approval for the operation of existing holiday homes and implement the recommended regulatory measures.

## 6 Comment

Any comment on this bulletin should quote the title: Holiday Homes Guidelines and reference number: 801/6/1/44 V2 and be directed to:

Western Australian Planning Commission  
469 Wellington Street  
Perth WA 6000

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**Shire of Denmark**  
**Draft Town Planning Scheme**  
**Policy 19.3 - Holiday Homes**



## 1. INTRODUCTION

Holiday homes are private residential dwellings that are leased out for short term accommodation for a period not exceeding 3 months and are an important aspect of the tourism industry in the Shire of Denmark and have long been an important part of local and Western Australian lifestyle and culture. Over time, there has been increased commercialisation of holiday homes which have lead to changes in character and amenity of neighbourhoods. Community concerns about holiday homes often relate to the behaviour of some tenants, rather than being associated with the use *per se*. In addition to this, there has been concern that selected holiday homes being leased are not maintained to a satisfactory standard, which in turn reflects negatively on Denmark’s tourism industry. This has led to pressures for the regulation of holiday homes which to date have been largely unregulated.

## 2. POLICY BASIS

Clause 8.2 of the Shire of Denmark’s Town Planning Scheme No. 3 (‘the Scheme’) provides for the preparation of Local Planning Policies. This Policy has been prepared in accordance with the Scheme.

This Policy does not bind the Local Government in respect of any application for development approval but the Local Government will have due regard to the provision of the Policy and the objectives which the Policy is designed to achieve before making its determination.

## 3. SCHEME REQUIREMENTS

Under the Scheme holiday homes are classified as holiday accommodation with the definition being as follows:

*“means one or more dwellings on one lot which by way of trade or business, are made available for occupation by persons other than the proprietor for holiday purposes and includes those premises known as bed and breakfast but does not include a dwelling that is used as a rental property for tenanting for residential accommodation.”*

The Scheme defines the following land use permissibility for holiday accommodation across the zones as follows:

Table 1: Zone permissibility	
Residential	SA
Tourist	AA
Commercial	AA

Industrial	X
Rural	SA
Special Rural	<i>AA use in all areas except for SR20 – Suttons Road where the use is not listed and therefore not permitted.</i>
Rural Multiple Occupancy	SA
Special Residential	<i>Holiday Home is a use not listed and therefore not permitted within the zone.</i>
Landscape Protection	<i>Not permitted in any of these areas with the exception of LP5 – Howe Road where it is an AA use.</i>
Professional Office	SA

Note: AA means that Council may, at its discretion, permit the use in the zone.  
SA means that Council may, at its discretion, permit the use in the zone following public advertising thereof.  
X means not permitted.

#### **4. OBJECTIVES**

The objectives of the policy are:

- To ensure that the predominant residential nature and character of neighbourhoods are retained.
- To minimise negative impacts of holiday homes on the amenity of adjoining residents.
- To encourage the provision of good quality, well managed holiday homes.
- To control the way in which holiday homes are marketed, managed and presented to enhance Denmark’s image.
- To identify suitable areas where holiday homes are deemed to be most suitable and clarify the assessment process for each of these defined areas.

#### **5. DEFINITIONS**

For the purpose of this policy holiday home is defined in accordance with the WAPC’s Planning Bulletin 99 – Holiday Homes Guidelines as follows:

*“ means a single house (excluding ancillary accommodation), which may also be used for short stay accommodation for no more than six people (but does not include a bed and breakfast, guesthouse, chalet and short stay accommodation unit)”*

#### **6. APPLICATION OF THE POLICY**

The policy applies to all zones under the Scheme within which holiday accommodation (referred to in this policy as holiday home) is an AA or SA use.

## 7. POLICY STATEMENT

### 7.1 Locations for Holiday Homes

Area's in which Council prefer the locations of holiday homes are shown on Map 1 as Areas 1 and 2. The area in which Council do not support holiday homes is shown as Area 3. An explanation of each of the identified areas is provided in the table below.

<b>Table 1: Preferred Areas for Holiday Homes</b>		
<b>Area 1 – Wilson Inlet Environ</b>	<b>Area Boundary</b>	<i>Area 1 is defined by residential areas located to the south of South Coast Highway and to the east of Ocean Beach Road along the Wilson Inlet foreshore. Note: Excludes Special Residential Area 7 as holiday homes are not permitted in this zone.</i>
	<b>Area Description</b>	<i>High visual aesthetics along the Wilson Inlet have historically proved popular to establish holiday homes, particularly in both the Weedon Hill and Ocean Beach areas. It is likely this trend will continue and as these areas combine high amenity settings, inlet locations and provide relatively close proximity to natural attractions and the Denmark town site.</i>
<b>Area 2 – Rural</b>	<b>Area Boundary</b>	<i>Area 2 is defined as areas outside of Area 1 and 3 and consists of Residential zoned land with a low density (being R2), and areas zoned Special Rural and Rural. Note: Excludes all Special Residential areas as holiday homes are not permitted in this zone.</i>
	<b>Area Description</b>	<i>Rural and lifestyle areas provide the opportunity for holiday homes to established in an environ with larger lots sizes therefore generating negligible effects on the amenity of adjoining neighbours. The ability to construct additional dwellings within the Rural zone (pending certain criteria) offers opportunity for landowners to easily diversify business interests by establishing holiday homes.</i>
<b>Area 3 – Town Site</b>	<b>Area Boundary</b>	<i>Area 3 is defined by areas in close proximity to services and facilities within the town centre and of higher density i.e. R5 to R40 including areas of dual coding.</i>
	<b>Area Description</b>	<i>Council acknowledges the importance of maintaining a high level of owner occupier and/or long term rentals within the Denmark town site. Applications for holiday homes will generally not be supported in this area as these houses have been identified as being within the walkable catchment to local shops, schools, businesses, recreational facilities and public open</i>

		<p><i>spaces and should be retained wherever possible for permanent residents. Consideration has been given to this area, in that some people may wish to consider renting holiday homes within the Denmark town site for those reasons stated above, however there is sufficient short stay accommodation within the town centre (hotels, motels, units etc) which can satisfy current demand. Furthermore, short stay holiday makers have proven to be upwardly mobile and seek higher amenity settings found generally in the two areas identified above.</i></p> <p><i>In accordance with Clause 4.1 of the Scheme legal holiday homes (i.e. have planning approval) currently operating in this area at the time at which the policy comes into force will be able to continue to operate, however should the use cease for six months or more, no further approvals will be issued (refer Clause 4.4.1 of the Scheme)</i></p>
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## 7.2 Residential Density and Holiday Homes

Council will consider the residential density within Area 1 (zoned Residential) as a criterion to assess holiday home applications. Generally, areas of lower density are considered more suitable for holiday homes than areas of higher density due to the impact of holiday homes on residential amenity and character of neighbourhoods in areas of denser settlement as follows:

<b>Table 2: Residential Density and Holiday Homes</b>	
R2-R5	<i>Preferred</i>
R10	<i>Most preferred</i>
R20-R40	<i>Least preferred</i>

The use of grouped dwellings (as defined under the Residential Design Codes of WA) shall not be supported for holiday home accommodation given the potential impacts on adjoining residents.

In areas of higher density (i.e R20 – R40) Council shall have due regard for any adverse submissions received and take this into consideration in reaching its decision.

## 7.3 Consultation with Adjoining Neighbours

Under the Scheme holiday homes are a discretionary “SA” use under the Residential, Rural, Rural Multiple Occupancy and Professional Office zones

and all applications for holiday homes are therefore advertised for comment for a period of 21 days, whereby owners of adjoining/nearby properties will be consulted, a sign erected on site and an advertisement placed in a local newspaper.

#### **7.4 Protecting the Residential Character of Neighbourhoods**

In order to protect and retain the predominant residential nature and character of neighbourhoods, Council shall consider the cumulative impact thereof on a location's residential character, functioning and amenity as a criterion in the assessment of planning applications. Holiday homes should not become the predominant use within neighbourhoods.

#### **7.5 Approval Requirements**

##### *7.5.1 Property Management Plan*

A Property Management Plan shall be submitted as part of the planning application and shall detail the following:

- Details of an agreement with a manager/caretaker or management company which lists their responsibility and shall include but not be limited to, matter such as maintenance and cleaning. The manager of management company shall be accessible 24/7 and within 30 minutes of the property. Where properties are remote, alternative arrangements for a manager may be considered for up to 1 hour away.
- Code of conduct for guests.
- Details of how nuisance issues such as noise will be addressed by the manager.
- Lease arrangement to allow for immediate eviction by owner/manager/Council where tenants behaviour is unacceptable.

In the case of an established permitted holiday home use, the property management plans shall be submitted within 6 months from the adoption of this policy by Council.

##### *7.5.2 Fire and Emergency Plan*

A Fire and Emergency Plan shall be prepared to the satisfaction of the Shire Community Fire Manager and shall be required to be submitted as part of the planning application. The Fire and Emergency Plan shall include the provision of the following fire safety measures:

- Compliance with Annual Fire Regulation Notices.
- Provision of fire extinguishers, fire blankets and internal hardwired smoke alarms.
- Outside barbeques to be gas or electric.

- Maintenance of a 20m building protection zone around the dwelling.
- Preparation/display of building/locality evacuation plan.
- Emergency Evacuation Plan.
- Water tanks (minimum 92,000 litres where not on scheme water, with 10,000 litres to be used exclusively for fire fighting).

In the case of an established permitted holiday home use, the fire and emergency plan shall be submitted within 6 months from the adoption of this policy by Council.

### *7.5.3 Display of information in Holiday Homes*

As part of any approval for a holiday home, Council shall condition that the following information be displayed in the holiday home:

- Annual Registration Certificate
- Caretaker/manager or management company and its contact details
- Emergency contact details
- Code of Conduct
- Fire and Emergency Response Plan

In the case of an established permitted holiday home use, the display of the information shall occur within 6 months from the adoption of this policy by Council.

## **7.6 Annual Registration of Holiday Homes**

Holiday homes shall be approved for a period of 12 months or until 30 June of the financial year within which the application is made. Council will issue an annual renewal licence to operate under the existing planning approval.

Holiday homes shall be required to renew their registration annually (financial year). The annual registration fee will be in accordance with Council's fee and charges as outlined on Council's website [www.denmark.wa.gov.au](http://www.denmark.wa.gov.au). The registration shall be issued following an inspection of the site and dwelling by Council. Where in the opinion of Council, complaints, poor management, outstanding annual fee's or failure to adhere to conditions of approval, Council may withdraw or amend the approval.

## **7.7 Holiday Homes Register**

Council shall maintain a holiday homes register. The register shall provide information on the owner and/or manager, property address, configuration (bedroom numbers, number of beds, bathrooms, car parking spaces).

At the time of annual registration, those houses that no longer are available for holiday homes purposes shall be removed from the holiday homes register, and hence approval is withdrawn.

### **7.8 Voluntary Accreditation**

Council shall encourage holiday home owners to become a member of a suitable holiday home accreditation agency. Where a holiday home is accredited (i.e star rating), then a reduced annual registration fee is available as determined under Council's fees and charges.

### **7.9 Illegal Holiday Homes**

Where a holiday home is found to operate illegally, Council will order that the operation of the holiday home cease immediately and if necessary issue an infringement under the relevant Act.

## **8. APPLICATION REQUIREMENTS**

An application for planning approval is required for all holiday homes where it is an AA or SA use in the zoning table of the Scheme. Applicants shall submit a planning application in accordance with the Planning Consent Application form. The planning application shall contain the following information:

- A covering letter outlining the applicant's reasons for applying. This shall include photo's of the dwelling.
- Details of the caretaker/property manager or management company.
- A property management plan.
- A fire and emergency plan.
- A car parking plan.

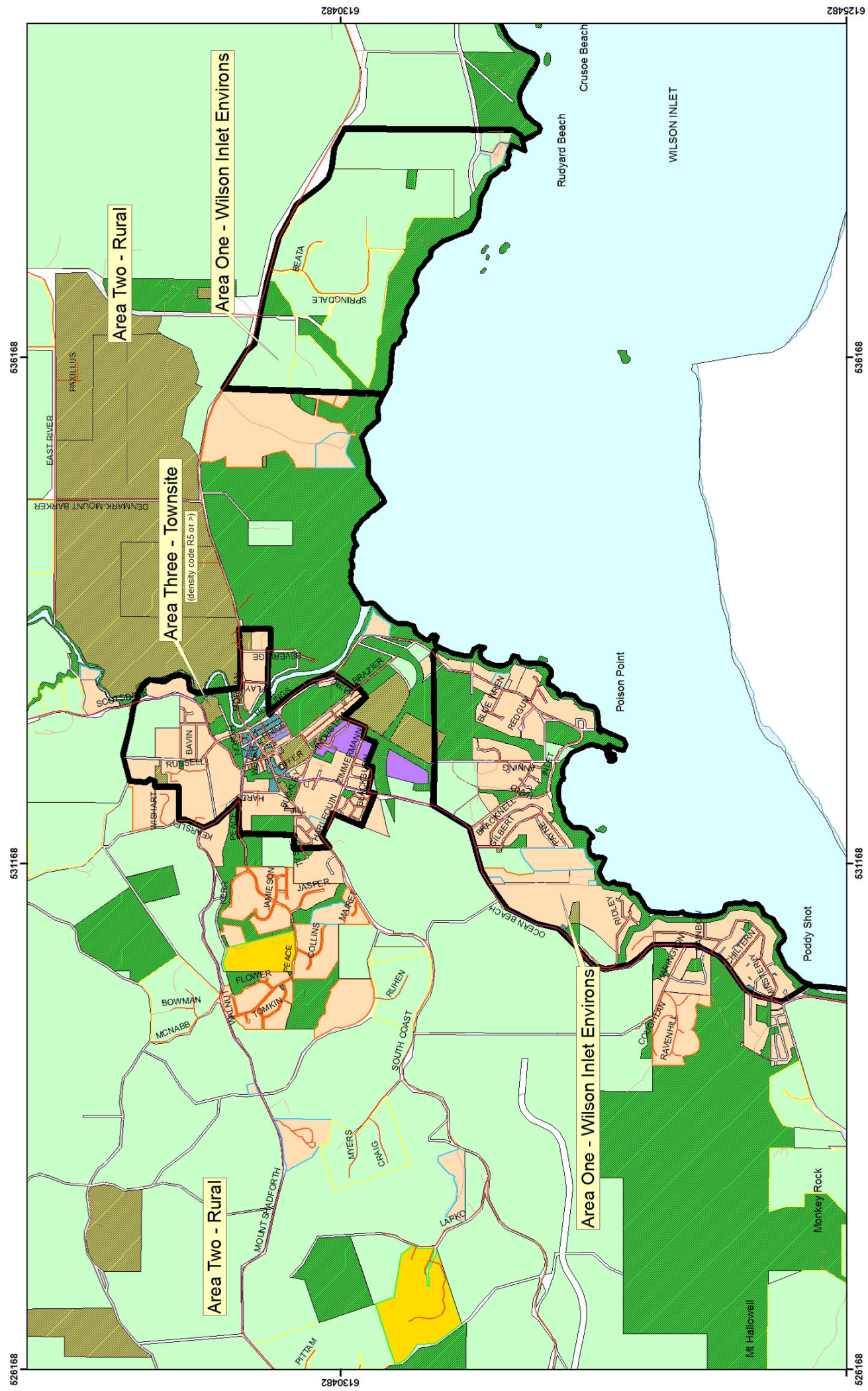
## **9. CONDITIONS OF APPROVAL**

Any approval by Council for a Holiday Home may include, but not be limited to, the following conditions:

- The maximum number of persons to be accommodated is restricted to 6. If more than 6 are proposed then the proposal must be treated as a boarding house in accordance with the Scheme.
- The following information shall be displayed in a readily visible area of the holiday home:
  - Annual Registration Certificate
  - Caretaker/manager or management company and its contact details
  - Emergency contact details
  - Code of Conduct
  - Fire and Emergency Response Plan

- The dwelling must comply with relevant Health and Building requirements and standards as required by Council.
- Any proposed signage must be submitted to Council for consideration in relation to compliance with Signs Local Laws and relevant Town Planning Scheme Policies on signs.
- The dwelling must be connected to the reticulated water supply or have a source of potable water to a capacity of 92,000 litres and a source of water supply disinfection such as chlorine dosing unit, ultra violet light sterilizing unit or an ozone unit.
- Operators must provide and maintain a register of all people who utilise the holiday home during the year to Council's satisfaction. A receipt book must be kept. The use must be registered with Council as a holiday home premises and the fee payable will be utilised to undertake the yearly inspection of facilities by Council.





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**Shire of Denmark**  
Priority Areas for  
Home Holiday Accommodation  
within the Shire of Denmark  
Town Planning Scheme 3

Scale 1:35,000  
0 0.5 1 2 Kilometers

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**Legend**

<p><b>Tourism</b></p> <ul style="list-style-type: none"> <li>Tourism Route</li> <li>Sealed Road</li> <li>Unsealed Road</li> <li>River</li> <li>Ocean and Estuary</li> </ul>	<p><b>Denmark Zoning</b></p> <ul style="list-style-type: none"> <li>0, 0</li> <li>TOURIST</li> <li>RESIDENTIAL</li> <li>SPECIAL RESIDENTIAL</li> </ul>	<p><b>PROFESSIONAL OFFICE</b></p> <ul style="list-style-type: none"> <li>INDUSTRIAL</li> <li>LANDSCAPE PROTECTION</li> <li>DRAINAGE AND WATERBODIES</li> <li>OCEAN</li> <li>RURAL</li> </ul>	<p><b>RURAL MULTIPLE OCCUPANCY</b></p> <ul style="list-style-type: none"> <li>SPECIAL RURAL</li> <li>COMMERCIAL</li> <li>PUBLIC USE</li> <li>PARKS AND RECREATION</li> </ul>
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Produced by M. Lyons,  
Directorate of Planning and Sustainability  
Shire of Denmark, April 2010

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