



Town Planning Management Engineering

Peaceful Bay Normalisation Pre Feasibility Report



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Research, Design & Delivery of Sustainable Development



DOCUMENT QUALITY CONTROL

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1.0 EXECUTIVE SUMMARY

For a number of years there has been a community and Council discussion around the possibility of leasehold lots at Peaceful Bay being converted to freehold either as green title or strata title. Council wishes to determine the merits of this process of normalisation at a pre feasibility level to determine if there are any fatal flaws in the concept, identify the major costs to Council and to determine the level of community support so that it can ultimately make a decision if it is worthwhile investing further resources into the project.

The study area for the proposal refers to the portion of Reserve 24510 which is situated within the access loop road and contains the existing leases; caravan park site and some undeveloped land at the entry to the settlement.

The term normalisation has been used in this Pre Feasibility Study to define a process and outcome whereby the existing leasehold properties within the reserve are converted to freehold, either as green title or strata title, and servicing infrastructure open space and foreshore areas are protected by way of Crown Reserves in a manner similar to that which would apply in a modern, contemporary urban settlement.

Investigations suggest that there is an appetite within government to explore the normalisation process but that this will entail: changing the “A” class classification of Reserve 24510; issuing a Crown Title for the subject land; and, subsequently proceeding through the subdivision process. Changing the “A” class classification will require approval of the two Houses of Parliament.

It is too early in the process to determine if a green title or a strata title process should be pursued however it is highly likely that in order to fund the project, and achieve a suitable demand for lots, current land use controls which prevent permanent occupancy will need to be lifted. This action is consistent with Council’s Local Planning Strategy which identifies Peaceful Bay as a future long term growth settlement area.

Modifications to Council’s Town Planning Scheme will be required to remove the existing “Parks and Recreation” reservation and incorporate the area within a “Special Use” zone and subsequently develop a Detailed Area Plan for the site which will control subdivision, land use, building setbacks and built form.

Existing Council Heritage Policy may need to be altered such that the existing dwellings can be renovated or replaced to overcome inherent structural problems and the abundant use of asbestos. It is important however that the built form character of the existing leasehold settlement be retained with suitable land use controls.

Servicing investigations suggest that there are servicing solutions to the site. Telecommunications and power are currently adequate. Further research is required to detail an integrated water supply and effluent disposal solution and this will need to be based upon preparation of an Urban Water Management Strategy.

The integrated water supply and effluent disposal solution may require establishment of an effluent treatment plant which will allow treated water to be recirculated into the community as a non-potable supply.



Approval from Health WA and the Economic Regulator will be required in respect to establishing the size of water tanks used to collect potable water, the possible establishment of a reticulated potable supply and the possibility of onsite effluent disposal utilising aerobic treatment units as an interim effluent solution.

The process of normalisation and a move towards increasing permanent occupancy in Peaceful Bay suggests a requirement for improved community facilities and it is appropriate that Council produce a Development Contributions for Infrastructure Policy to determine an appropriate level of contribution.

Community support both from leaseholders and the wider communities of Peaceful Bay, Denmark and visitors from further afield will be essential to the success of the project. A comprehensive community consultation strategy needs to be established to ensure accurate information is provided to the community and that the community has ample opportunity for input to the process.

Preliminary investigations into staging and costs suggests that it will take in the order of 5 years before Council could be in a position to commence construction and costs in the order of \$1,000,000 will be required to develop a Business Plan, obtain statutory approvals and be in a position to commence construction. Funding this work constitutes a substantial investment and risk for Council. This risk may be offset by applying a specified area rate to the leasehold area over the 5 years leading up to the statutory approvals being gained.

A further expenditure in the order of \$26,390,000 is likely to be required to fund construction of 203 lots. It is considered important that Council does not commence construction until such time as it has sufficient pre-sales to achieve this level of expenditure.

Additional costs which will ultimately need to be met by Council include land purchase, holding costs and interest, an allowance for profit and risk, an appropriate contribution to community facilities and establishing an endowment fund to offset the current income stream from leases.

Initial investigations suggest there is little appetite amongst government agencies to manage the normalisation process and that the current level of risk means that it will be largely unattractive to private developers. In this context it is likely that Council will need to manage the project until a time when the major risks are resolved.

The interests of existing leaseholders are paramount. The existing leases give landowners rights and these must be respected regardless of the normalisation process progressing.

There is recognition that the existing leaseholders at Peaceful Bay have individually and as a community made substantive commitments to the settlement and contribute to its heritage value. Through this commitment, and by virtue of holding a lease, leaseholders should be given the first right of refusal in respect to purchase of lots created.

Lot values should be established through an independent valuation exercise. It needs to be clearly understood that governance would ordinarily prohibit any land purchase by existing leaseholders to be subsidised.

The study team concludes that there is merit investigating the normalisation of the freehold lots at Peaceful Bay subject to there being adequate community support after advertising this Pre Feasibility Study.



2.0 STUDY OBJECTIVE

For a number of years there has been a community and Council discussion around the possibility of leasehold lots at Peaceful Bay being converted to a freehold title as either a green title or strata title. Council wishes to determine the merits of such a proposal at a pre feasibility level to determine if there are any fatal flaws in the concept, identify the major costs to Council and help define a process which could be followed to achieve the desired outcome.

The Pre Feasibility Study will be used by Council to determine if it is worthwhile investing further resources into the project.

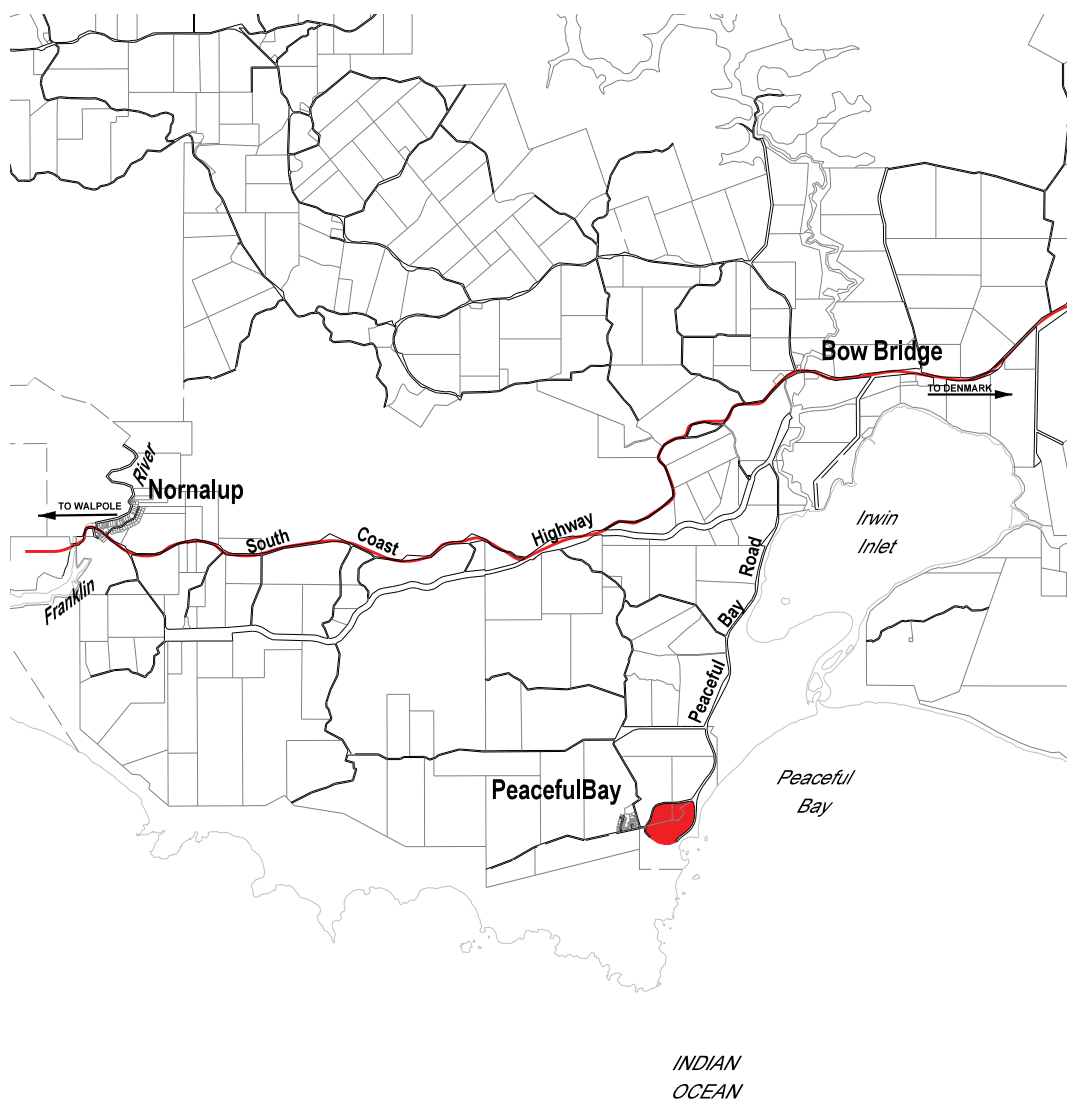


Figure 1 - Location Plan



3.0 OVERVIEW

Peaceful Bay is a seaside settlement situated in the Shire of Denmark, approximately midway between Denmark and Walpole as shown in *Figure 1 – Location Plan*. The settlement is occupied by several full time residents but is primarily populated for short periods during seasonal holidays.

The settlement enjoys a special and unique character being that of a relaxed, informal and low key holiday destination with a predominantly 1960's aesthetic. The character of the settlement is derived from its location immediately behind the primary dune system, the remnant vegetation which has been retained within the settlement, being surrounded by National Park, minimal fencing and an extremely strong sense of community refreshed each holiday season.

Historically the town developed as a leasehold settlement of approximately 205 lots and a 130 site caravan and camping area. Subsequently 49 freehold lots have been created and structure planning provides for an additional 410 dwellings which are yet to be developed.

Tenure of the leasehold lots is secured through Reserve 24510 which has a Management Order in favour of the Shire of Denmark and power to lease. Leases are issued by the Shire for a term of 21 years. Council renewed leases in July 2010 for a further 21 years expiring in 2031.

Servicing of the existing settlement consists of individual potable water supplies provided by rooftop catchment, supplemented by a limited non-potable reticulated water supply which is operated by and licensed to the Shire of Denmark by the Economic Regulatory Authority (ERA).

Effluent disposal is by way of septic tanks which are, in places, of questionable suitability given high water tables. Power is provided by Western Power but has little expansion capacity. Roads and drainage of various standards are provided varying from gravel with informal drainage to contemporary sealed, curbed and drained roads.

Striking a balance between adequate servicing of the settlement and retaining the existing unique character is a key consideration.

Approved structure planning for the settlement specifically states that further zoning, subdivision and development of the settlement needs to be linked to the provision and upgrading of adequate urban services.

The isolation of Peaceful Bay, the challenge of providing an acceptable level of servicing, the seasonal occupation of the settlement and character combine to create a unique set of circumstances which need to be addressed if Council is to be in a position to make a rational decision in respect to proceeding with free holding of the current leasehold lots.



4.0 STUDY AREA, CONTEXT AND THE CONCEPT OF NORMALISATION

Study Area

The study area for this Pre Feasibility Study extends to that portion of Reserve 24510 which is subject to a Management Order in favour of the Shire of Denmark. The extent of this Reserve is shown in *Figure 2 – Study Area* however it needs to be acknowledged that comment will be provided on the wider aspects of the Peaceful Bay Settlement in order to provide a suitable context.

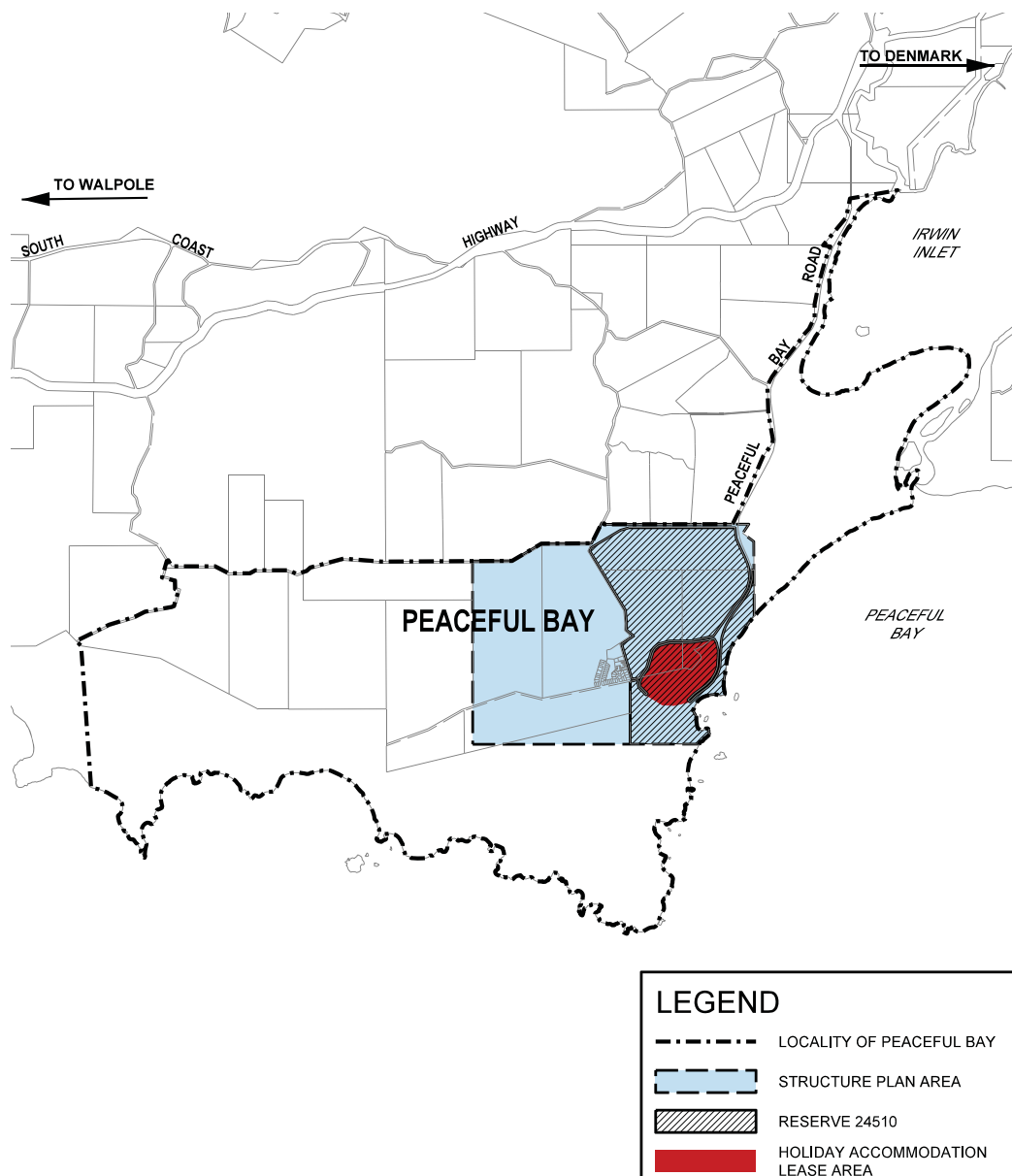


Figure 2 - Study Area



Land Use Context

Figure 3 – Land Use Context provides an overview of the Peaceful Bay Settlement, the major land uses, roads and future development areas.

The Concept of Normalisation

The term *Normalisation* has been applied in the case of this Pre Feasibility Study to a process and outcome whereby the existing leasehold properties within Reserve 24510 are converted to freehold, either as green title or strata title, and servicing infrastructure, open space and foreshore areas are protected by way of Crown Reserves in a manner similar to that which would apply in a modern, contemporary urban settlement.

The result of normalisation will allow property owners to obtain secure tenure, use property as collateral for borrowings and trade in their assets as they see fit.

Normalisation also implies obligations on lot owners to contribute: to community facilities through general rates and specified area rates which may be applied; to State government revenue streams through land tax, stamp duty; and, comply with statutory obligations under Council's Town Planning Scheme and instruments pursuing bush fire mitigation.

Centenary Oval



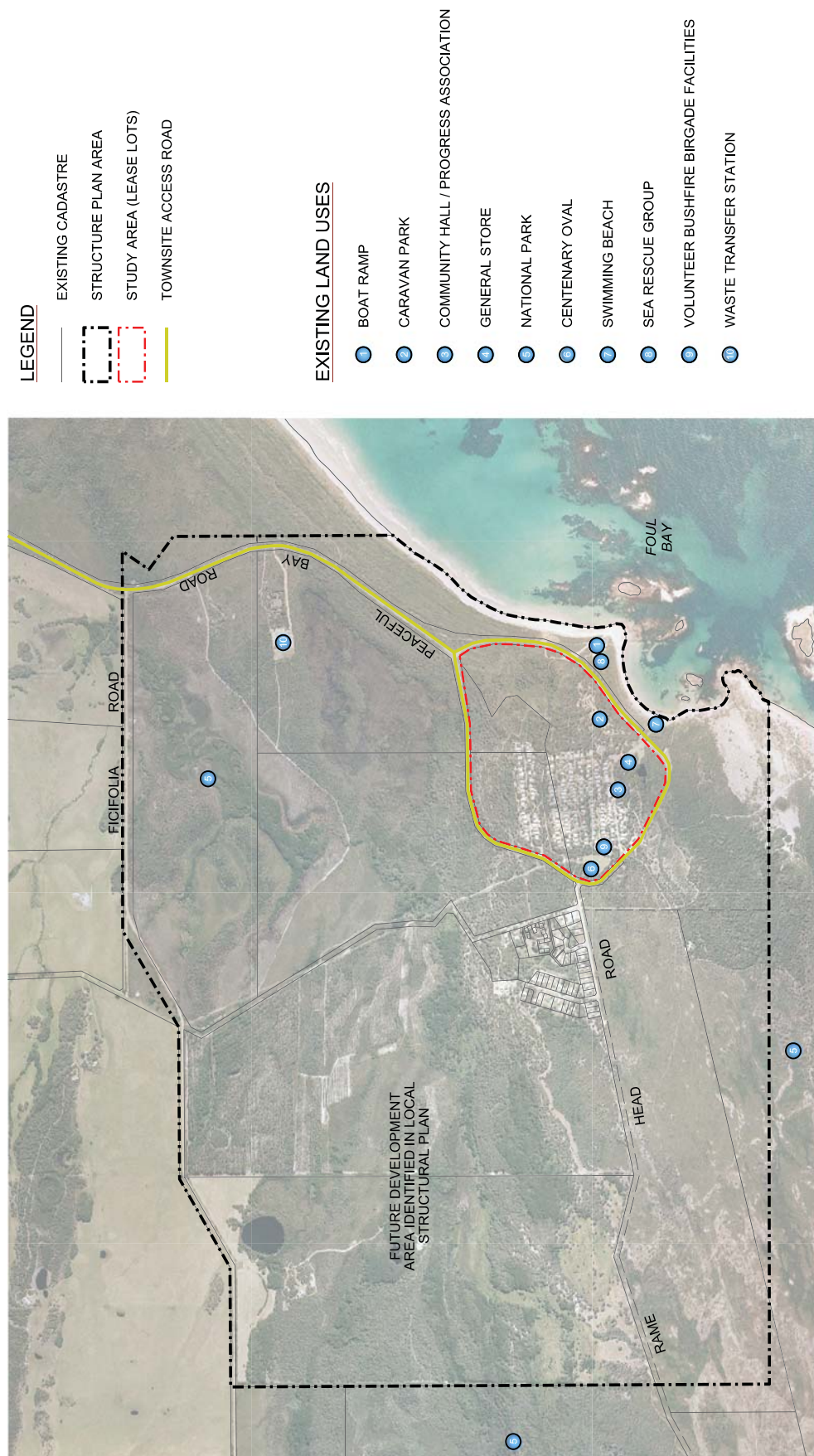


Figure 3 - Land Use Context



Permanent Occupancy

The pursuit of normalisation at Peaceful Bay raises a fundamental issue in respect to occupancy. At the present time there are limitations on the occupancy of leasehold properties such that residences can only be used a limited period in any year. If these lots move to freehold and they can be purchased, then there will be a growing expectation that the short stay limitations be lifted and dwellings can be occupied in a manner consistent with residential areas.

This matter is further discussed in the context of Local Planning Strategy and the provision of community services later in this report however the move towards permanent occupancy will overcome an issue whereby financial institutions are reluctant to lend money for the purchase of short stay premises thereby significantly limiting the number of potential purchases for freehold lots.

Conclusion 1

Council should embrace the move towards permanent occupancy of lots at Peaceful Bay as part of the move towards normalisation, subject to the provision of adequate infrastructure and community services.



*Progress Association Hall
on 2nd Avenue*

*Sea Rescue Group
at Launch Ramp*





5.0 LAND TENURE

Existing Tenure

The leasehold precinct is a small part of Crown Reserve 24510 which is an “A” class reserve contained on Crowned Title Volume 3122 Folio 555. The Leasehold precinct straddles 3 lots within this Crown Reserve being lots 1423, 1424 and 2229.

Management Order

The current purpose of Reserve 24510 is recreation, camping, caravan park and holiday cottages. A Management Order in favour of the Shire of Denmark has been issued through Document L325837. The Management Order provides a power to lease for any term not exceeding 21 years subject to the consent of the Minister for Lands.

Leases

Each of the lease properties within the leasehold precinct is subject to a separate lease between the Shire of Denmark and the Lessee.

Key aspects of the lease are:

- Each lease needs to be approved by the Minister for Lands;
- Each lessee shall maintain a storage tank of at least 4640 litres of rain water;
- Any transfer of the lease needs to be approved by the Minister for Lands;
- Fixtures and fittings on any lease can only remain on the lease at its termination with the approval of the Lessor;
- The lease contains no options for renewal;
- If a reticulated water supply or sewerage service becomes available to a lease lot then there is an obligation upon the lessee to connect to that service;
- All of the leases expire on midnight on the 30th Day of June 2031;
- A rental fee is paid for the lease annually in advance; and,
- The lease limits the period during any year in which a lease can be occupied to a consecutive period of 3 months or combined lesser periods totalling 6 months in any one rental year unless consent is given by the lessor.

The existing leases therefore facilitate the installation of services which may be required as part of any normalisation process.

It is noted that the leases relate specifically to Reserve 24510 and that creation of a Crown Title to facilitate normalisation will require that existing leases be modified to reflect the new tenure.

It is important that the interests of the lessees be maintained throughout this process.

Conclusion 2

The existing leases in Peaceful Bay convey certain rights on leaseholders which should be protected.



The leases in Peaceful Bay also have constraints including:

- *The right to occupy sites could be limited if servicing issues arise such as health matters associated with water supply and sewerage disposal;*
- *Any requirement to upgrade services to meet regulatory standards will need to be met by leaseholders;*
- *The rights of leaseholders are limited to the term of the lease and there is no security of extension;*
- *Reserve 24510 is an “A” class reserve and the Management Order issued to Council could be rescinded at any time.*

Alienation Process

Alienation is the process by which land transfers from the Crown to private ownership. *Figure 4 – Land Alienation Process* depicts the basic steps required to achieve a superlot in private ownership which can be subsequently subdivided.

The key to the process is recognition that an “A” class reserve requires parliamentary approval to be dealt on. In order to support this application to parliament it will be necessary to have a Business Plan showing how the land is to be used with particular attention given to protecting the rights of existing leaseholders and ensuring that environmental qualities are not prejudiced. It would be appropriate that the business plan incorporate a full feasibility analysis of the normalisation concept, define the land area which will ultimately be subject of this process and demonstrate community support for the proposal.

Once parliamentary approval has been given to alter the “A” class reserve classification, it will be necessary to proceed to survey and creation of a separate Crown Title for the leasehold precinct. This step will also involve various regulatory tasks one of which will involve modifying the existing leases such that they relate to the new title and continue to protect the interests of the leaseholders.

Once a separate title is issued for the leasehold precinct this can be transferred to Council or a third party at a predetermined time nominated in the Business Plan.

It should be noted that the parliamentary approval to removal of the “A” class classification is likely to be subject to a range of conditions which may facilitate Council progressing subdivision, subdivision works with ultimate transfer of the land to Council only occurring when the proposed freehold lots are to be created.

Conclusion 3

Preparation of a Business Plan to support an application to parliament to remove the “A” Class Reserve classification over that portion of Reserve 24510 which will ultimately be subject to the normalisation process is required.

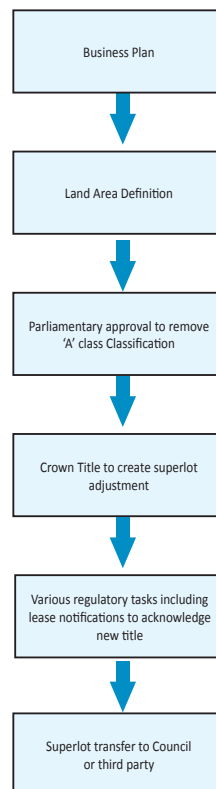


Figure 4 - Land Alienation Process

Subdivision

With the creation of a Crown Title an application to the Western Australian Planning Commission for subdivision to create freehold lots, either green title or strata title can be lodged and processed to a point where approvals are issued. It will not be necessary for the land to be transferred to Council in order for this application to be made.

The Western Australian Planning Commission will then issue a subdivision approval subject to various conditions which would need to be fulfilled prior to lodgement of the Deposited Plan which created the new lots.



Green Title option vs. Strata Title

Figure 5 – Green Title vs. Strata Title provides an overview of the key arguments towards best option for and against both green title and strata titling tenure options for the leasehold precinct.

It is clearly the case that green title is a simpler, better understood and easier to manage tenure option however strata titling facilitates a lesser standard of servicing that may save significant funds that may ultimately make the normalisation objective affordable. It is unlikely that adequate, accurate information to resolve this issue will be available until such time as a full feasibility study is done and detailed costing of the Strata Title and Green Title options is prepared.

It can be stated that a Green Title option is the most appropriate if it is affordable.

Conclusion 4

The relative cost of Green Title V's Strata Title needs to be established by way of a full feasibility study to provide information necessary to assist in determining the most appropriate form of tenure.

	GreenTitle	Strata Title
Advantages	More likely to achieve Higher Value for lots	Allows internal servicing to be to a lesser standard
	Simpler better understood as a form of ownership	Builds a sense of communal ownership
Disadvantages	Servicing is likely to be more expensive in the first instance	Requires a large number of strata owners to agree to any changes to Strata Company
	Council will have management of internal roads and drainage.	Requires Strata Company to manage all internal roads and services
		Is likely to raise ongoing political issues for Council Will be a large, unique Strata scheme requiring professional management

Figure 5 - Green Title vs. Strata Title



6.0 PLANNING

Local Planning Strategy

The Shire of Denmark Local Planning Strategy modified to meet WAPC requirements and dated June 2012 clearly provides a context for local planning at Peaceful Bay.

The objective for the Peaceful Bay, Nornalup, Bow Bridge and Kenton Settlements states:

“Support Peaceful Bay, Nornalup and Bow Bridge as future long term growth settlement areas and have regard to protecting landscape and natural resource values and the recommendations of the 1999 Rural Settlement Strategy.”

Furthermore Strategy “d” established to meet this objective clearly states:

“To support the development of the rural nodal settlements in the following order of priority; Peaceful Bay, Nornalup and Bow Bridge.”

Implementation statements in the strategy which specifically relate to Peaceful Bay are as follows:

“6. Council review the adopted Peaceful Bay Structure Plan (2000) to identify the ‘rural nodal settlement area’ for Peaceful Bay taking into account the findings of the Peaceful Bay Infrastructure Servicing Study such that non-standard servicing requirements can be provided for.”

“7. Council consider the need to engage the services of a Project Manager to prepare a project delivery plan and indicative project budget for the delivery of infrastructure services at Peaceful Bay. The scope of project services should encompass but not necessarily be limited to:

- a. Determining a fair process for the possibility of privatising the leasehold lots;*
- b. Entering into negotiations to deliver an integrated waste water collection, treatment and distribution system in a manner consistent with the recommendations of the Peaceful Bay Pre Feasibility Servicing Report;*
- c. Investigating the level of government’s assistance which may be available to assist in the project;*
- d. Progressing the necessary statutory rezoning and subdivisions needed to facilitate implementation of the Peaceful Bay Structure Plan and the recommendations of the adopted Peaceful Bay Pre Feasibility Servicing Report;*
- e. Preparing a full Feasibility Analysis for the project and identify staging which will allow the project to occur in a economically and environmentally responsible manner; and,*
- f. Establishing the extent of cost share items which all subdividers and developers will need to contribute to and report on a mechanism which will allow this to occur.”*



“8. Council implement the ‘green solutions’ and Water Sensitive Urban Design measures as contained in the adopted Peaceful Bay Pre Feasibility Servicing Report and actively seek the support of the relevant servicing agencies.”

Conclusion 5

The Shire of Denmark Local Planning Strategy clearly facilitates normalisation of Peaceful Bay.

Town Planning Scheme

Figure 6 - Shire of Denmark Town Planning Scheme No. 3 reserves all of the subject land as parks and recreation. The current use of the land for predominantly recreation/holiday purposes under a leasehold arrangement is consistent with the scheme however any move to freehold this land would necessitate an amendment to the Town Planning Scheme to incorporate the land within an appropriate zone.

In most urban areas a residential zoning with an appropriate ‘R’ Code would be used however, in the case of the existing leasehold settlement at Peaceful Bay there is a need for specific land use controls recognise variations from standard provisions and protect the heritage values of the site. In this instance a Special Use Zone (or similar) would normally be used allowing site specific controls to be put in place.

The Shire of Denmark Town Planning Scheme No. 3 does not have a Special Use Zone. We therefore believe that an amendment should be initiated to create a Special Use Zone within the Scheme and facilitate the specific land use controls required.

Conclusion 6

To achieve normalisation modification to the Shire of Denmark Town Planning Scheme No. 3, or proposed Scheme No. 4 as the case may be, is required by way of inclusion of a Special Use Zone (or similar) and applying the Special Use Zone with specific land use controls to the subject land.

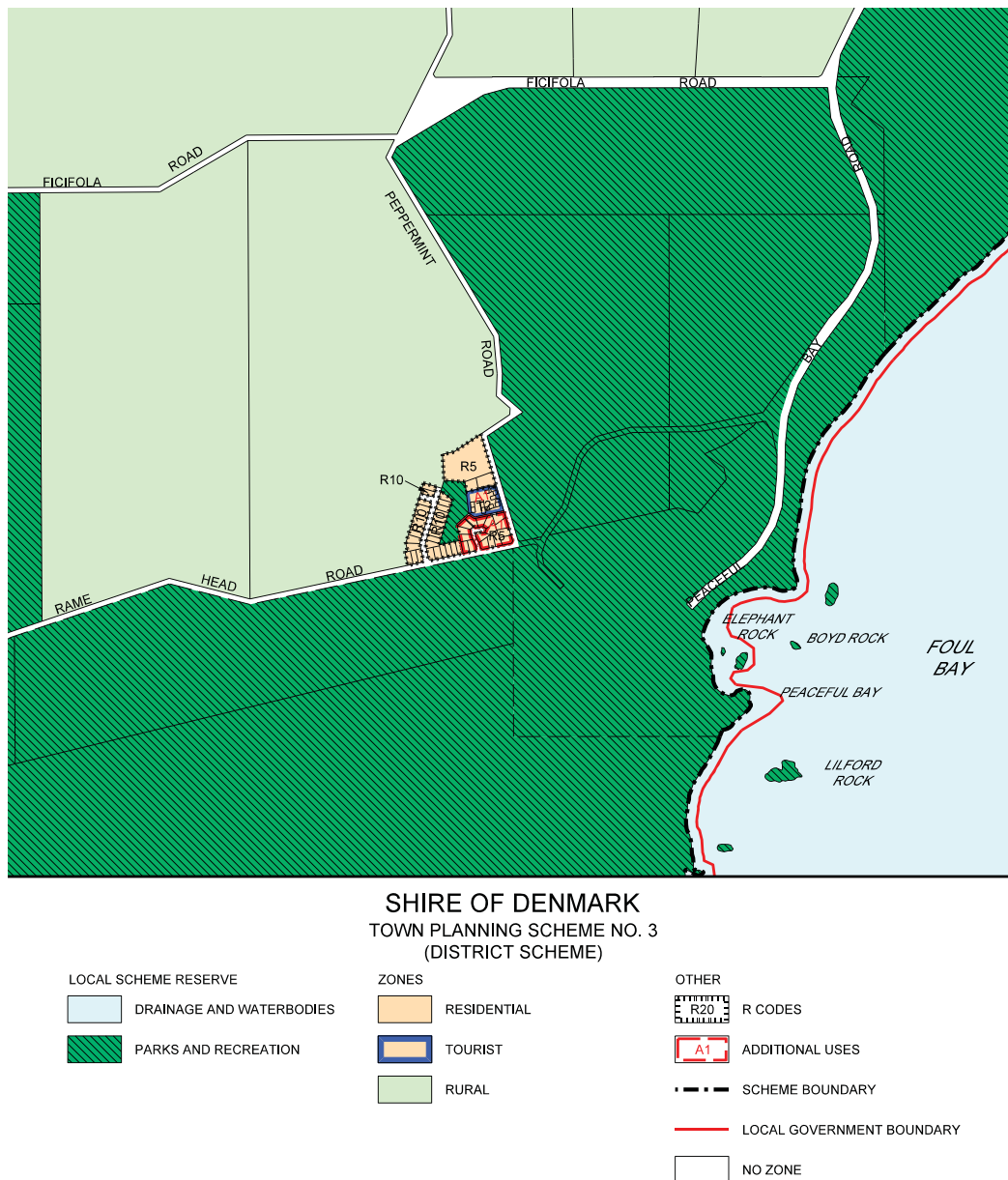


Figure 6 - Shire of Denmark Town Planning Scheme No. 3



Structure Plan

The Peaceful Bay Local Structure Plan was adopted by Council in August 2000 and the Western Australian Planning Commission in June 2001. See *Figure 7 – Peaceful Bay Local Structure Plan*.

The approved structure plan specifically states that further zoning, subdivision and development of the settlement needs to be linked to the provision and upgrading of adequate urban services. Section 21.0 Implementation, of the Peaceful Bay Local Structure Plan reads:

“as a condition of subdivision or strata titling full provision of services will be required”.

The Shire of Denmark is currently giving consideration to a review of the Peaceful Bay Structure Plan with a view to preparing a more comprehensive document which addresses a wider range of issues and gives clearer guidance in respect to the ultimate size of the Peaceful Bay settlement, the provision of services and the provision of community facilities and taking into account current day planning requirements and the opportunity to consider non-standard infrastructure servicing arrangements such as those demonstrated in the Peaceful Bay Pre Feasibility Servicing Report, prepared by TME for the Council in 2010.

Preparation of a comprehensive structure plan for Peaceful Bay will be a complex expensive exercise which will take a number of years to bring to fruition.

The existing structure plan clearly envisages a range of servicing issues being resolved prior to any further development occurring. As subdivision is included in the definition of development any move toward normalisation of the leasehold area of Peaceful Bay could be seen to be in breach of the structure plan.

There is an opportunity to stage the fulfilment of structure plan requirements by precincts, allowing servicing issues and the provision of community facilities to be addressed in a staged manner alleviating the financial and administrative burden of producing a structure plan over the whole settlement at the one time. This approach would need to be carefully thought through to ensure the resolution of settlement wide issues are not prejudiced by precinct based actions.

Conclusion 7

The Peaceful Bay Local Structure Plan should be modified to allow nominated precincts within the structure plan area to progress to detailed design and development in a staged manner subject to it being clearly demonstrated that each precinct can adequately address servicing issues and make a proportional contribution to community facilities.





Detailed Area Plan

The application of 'R' Code standards to the leasehold precinct would ultimately prejudice the character, amenity and heritage of the precinct.

A special design code is therefore required for the precinct. The code should be in the form of a Detailed Area Plan adopted for the site under the Special Use zoning proposed.

The Detailed Area Plan should address development standards including:

- Land use;
- Building setbacks;
- Car parking;
- Landscaping;
- Building height; and,
- Heritage design principles.

Conclusion 8

Normalisation will require a Detailed Area Plan to be prepared for the precinct introducing the necessary land use and development controls required to preserve the essential character, amenity and heritage of the precinct.

Subdivision Design

Definition of the various lots which will ultimately be created, in addition to road reserves, areas of public open space and other reserves required for servicing purposes or community facilities, will be identified on a subdivision design ultimately used for submission to the Western Australian Planning Commission for approval.

The subdivision design will need to be based on an "As Constructed" survey of the precinct which will allow the existing lease boundaries to be reconciled against the buildings, services and community facilities which have been constructed.

In most circumstances a subdivision design is one of the last stages in the planning process. In this instance, the complication of existing development and the vested interests of the leaseholders will require the subdivision design to be undertaken earlier.

It is likely that preparation of the subdivision design will require extensive and iterative refinement in conjunction with developing the Detailed Area Plan, resolving servicing issues and establishing final lot boundaries. Preparation of the plan will most likely require extended negotiation with existing leaseholders.

An indicative value of costs to undertake the "As Constructed" survey is detailed in *Figure 11 - Project Staging and Indicative Costs*.

Conclusion 9

Preparation of a subdivision design for the precinct based on a detailed "As Constructed" Survey should be undertaken early in the normalisation process and be used as a basis for negotiation with leaseholders, establishment of the ultimate lot and reserve boundaries and submission to the Western Australian Planning Commission for subdivision approval.



7.0 HERITAGE AND CHARACTER

Heritage Planning and Policy

The cultural heritage of Peaceful Bay lies in the minimal and simple elements. The built form elements are:

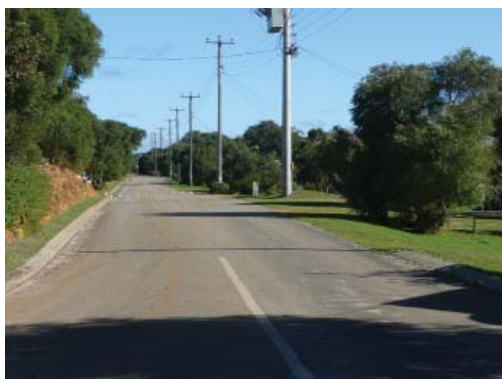
- Small simple houses;
- Lawned areas surrounding the house;
- Large number of mature peppermints; and,
- Narrow gravel roads (with the exception of 1st Avenue).

The cultural elements include:

- Historic use of the settlement for holiday purposes;
- The strong sense of community amongst holiday makers;
- A desire to protect the unique qualities of the settlement; and,
- The self help ethic which has developed many of the community facilities.

These qualities are recognised in the Peaceful Bay Heritage Precinct Conservation Plan prepared by David Heaver and Associates Architects and adopted by the Shire of Denmark on the 27th May 2003. The conservation plan contains a range of short, medium and long term policies aimed at protecting the essential values of the settlement.

Subsequently Council adopted an Enabling Policy No. 35 at its meeting on the 27th April 2004 expanding on the implementation strategies and standards to be applied.



1st Avenue

Typical Street Character





Buildings or Built Form?

A question arises in respect to the heritage and character of the settlement which is not directly related to the normalisation process but bears upon it.

The heritage policy clearly tries to retain buildings conflicting with existing leases which require buildings to be removed at the end of lease period, unless Council agrees to their retention. If Council agrees to the retention of buildings, it is ultimately accepting ongoing responsibility for retaining and managing the buildings.

Retention of the existing building has its problems with some reaching the end of their structure life and others requiring the removal of asbestos sheeting.

This issue may be resolved by answering the question if it is the structures themselves, or the character their built form contributes to the settlement, that is the true heritage value.

There appears to be a general consensus that the heritage values of Peaceful Bay is linked to built form rather than the buildings themselves and therefore redevelopment of the leasehold houses with similar built form and materials will not unduly compromise these values.

Conclusion 10

The Detailed Area Plan should recognise that over time existing buildings could be replaced and there is a need to ensure that any renovations or replacement of existing dwellings should maintain the built form character of the leasehold precinct. This will require modification to Planning Policy LPP 35.



Typical Built Form

*Low Key
Pedestrian Character*





Leasehold to Freehold

Perhaps the only significant heritage issue is the fundamental change from leasehold to private ownership which in itself is a change to the essential character of the settlement. Community support for this change needs to be tested and it is appropriate that this occur in a staged manner as part of the various statutory processes necessary to achieve normalisation.

Conclusion 11

Council should utilise the Pre Feasibility Study to gauge in principle community support for free holding of the superlot to enable either the free holding or strata titling of the individual leasehold lots.

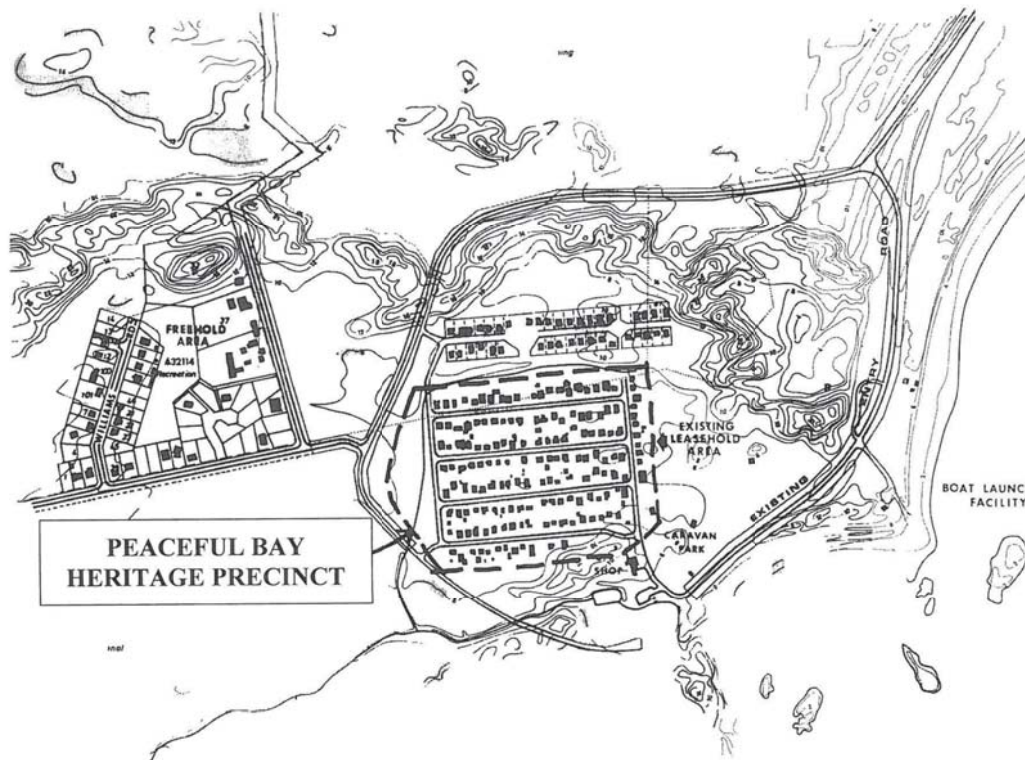
It should be noted that Peaceful Bay Heritage Precinct does not incorporate all of the leasehold properties as it excludes lots situated either side of Fifth Avenue which is the most northern road in the leasehold area and the last to be developed. The extent of the heritage precinct is shown in *Figure 8 – Peaceful Bay Heritage Precinct*.

The current statutory heritage obligations in respect to the heritage area are contained in the Shire of Denmark's Town Planning Scheme No. 3 where the area is listed as a "Place of heritage value" and any alterations to the precinct are required to be approved by the Shire of Denmark. The heritage precinct is also listed in the Shire of Denmark Municipal Heritage Inventory which of itself has no statutory powers or obligations but encourages the preservation of heritage places.

In the event that the normalisation process facilitates the creation of any additional lots in and adjacent to the heritage precinct, it is appropriate that Council explore the opportunity for resulting developments be of a similar character and aesthetic in order to maintain the overall the heritage values of the precinct.

Conclusion 13

The Peaceful Bay Heritage Precinct Conservation Plan and enabling Policy No.35 should be implemented through the normalisation process and particularly taken into account when developing the Detailed Area Plan for the control of subdivision, land use and development within the precinct.



SOURCE: PEACEFUL BAY HERITAGE PRECINCT - CONSERVATION PLAN, DECEMBER 2003, FIGURE 3

Figure 8 - Peaceful Bay Heritage Precinct



8.0 SERVICING

A Peaceful Bay Pre Feasibility Servicing Report was prepared by TME in May 2010. This report makes clear statements about a preferred servicing solution for Peaceful Bay. The servicing study investigated servicing options for the ultimate development of the settlement and highlighted areas which required further investigation to resolve potentially substantive issues.

Integrated Water Supply and Effluent Disposal

A state of the art integrated water supply and effluent disposal system is proposed for Peaceful Bay which incorporates the following:

- Rain water tanks to each lot to provide potable supply;
- Water efficient devices in each home;
- Sewer effluent collected from each lot conveyed to a treatment plant;
- Effluent treated to a fit for purpose standard;
- Treated effluent being returned to each lot for non-potable uses including flushing and garden watering; and,
- An operator being identified and licensed to operate sewer and non-potable systems.

Figure 9 - Integrated Water Supply and Effluent Disposal pictorially shows the ultimate system.

The report also acknowledged that introduction of a waste water treatment plant may not be possible in the first instance and the interim use of aerobic treatment units (ATU's) on each property may be an acceptable interim solution provided they can be demonstrated to work satisfactorily.

This is particularly likely if staging of development at Peaceful Bay requires that a threshold of occupation be reached before a comprehensive sewerage recycling plant will work. In this instance, onsite effluent disposal is appropriate until this threshold is reached. Health WA is likely to take an interest if onsite disposal is proposed as an interim or permanent solution.

The establishment of a suitably large potable water tank on each lot without prejudicing the character of the precinct is essential. Preliminary discussions with locals suggest that a 20,000 litre tank should fit this criteria but this will need to be approved by Health WA.

There may also be an option to upgrade the non-potable supply to potable. This needs to be explored further as part of the full feasibility study.

Conclusion 13

Implementation of an integrated water supply and effluent disposal scheme will require:

- *Ground water monitoring and preparation of a Local Water Management Strategy to determine if aerobic treatment units can be used as an interim solution for effluent disposal;*
- *Health Department approval to the use of aerobic treatment units as an interim solution;*



- Health Department approval to an appropriate potable water supply tank size and roof catchment area;
- An operator being identified and licensed to operate sewer and non-potable systems;
- Approval from the Economic Regulator to the current non-potable water supply and possible sewer treatment system being continued after the normalisation process;
- Determining the extent of any upgrades required to the non-potable water supply and establishment of the possible sewer treatment system.

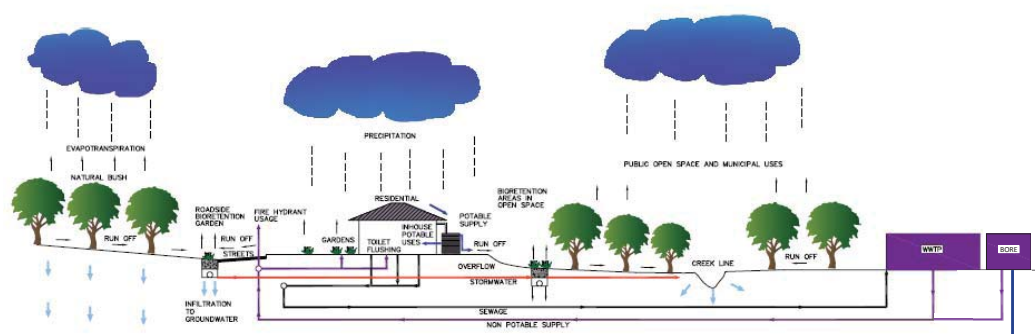


Figure 9 - Integrated Water Supply and Effluent Disposal

Drainage

There is evidence that drainage of the leasehold precinct does not work satisfactorily at times however this has been of limited concern given the seasonal use of accommodation.

The move towards normalisation and the prospect of increasing permanent occupancy necessitates that a comprehensive drainage solution be found for the precinct and that this be integrated with road upgrading, possible onsite effluent disposal through utilisation of ATU's and integrated into a Local Water Management Strategy.

Conclusion 14

A Local Water Management Strategy is integral to understanding drainage and effluent disposal solution options and ultimately establishing development costs if normalisation is to be pursued. Preparation of this document will need to occur early in the normalisation process.



Power Supply

The 2010 Pre Feasibility Servicing Report by TME suggests that the power supply to Peaceful Bay has capacity to service normalisation of the leasehold area and an increased level of permanent occupancy in these dwellings.

The introduction of underground power to the leasehold precinct is likely to be a statutory requirement and it is consistent with the recommendation of the Peaceful Bay Heritage Precinct Conservation Plan.

The Peaceful Bay Pre Feasibility Servicing Report recommends that as part of the normalisation process roads within the leasehold area be paved with flush kerbs and that the seal have a width of 6m or less.

Conclusion 15

Power to Peaceful Bay is likely to be adequate for the normalisation process but should be monitored as it is an edge of grid supply and capacity could alter.

Telecommunications

Peaceful Bay currently enjoys telephone communications including ADSL and digital television. It is unlikely that this level of service will be improved until such time as the National Broadband Network expands to encompass the settlement.

The level of service is considered adequate to accommodate the normalisation process.

Conclusion 16

There is adequate telecommunications including ADSL, telephone and digital television to accommodate the additional demand which is likely to be generated by normalisation.



9.0 COMMUNITY FACILITIES

There is a wider issue associated with normalisation of the leasehold precinct. The change to freehold tenure will place pressure for a fundamental change in land use from holiday accommodation to residential. The result is likely to be an increasing number of permanent residents within the precinct. This increasing number of permanent residents needs to be considered in conjunction with other areas within the settlement set aside for future urban development and an assessment made of the demand for community facilities which will result over time from these developments.

It is not the role of the normalisation process to establish the ultimate community services and facilities required for the settlement however it is appropriate that the normalisation process make a proportional contribution to the establishment of these services and facilities and where appropriate set aside land parcels for these uses.

Processes for establishing the facilities and service demands and establishing a proportional contribution to these are outlined in State Planning Policy 3.6 – Development Contributions for Infrastructure.

The contribution made by the leasehold precinct may be a per lot financial contribution to planned facilities or alternatively provision of specific facilities or services deemed appropriate by the plan.

Conclusion 17

Development proposals for the normalisation of the leasehold precinct at Peaceful Bay should acknowledge the requirement to contribute to the community facilities ultimately required to service increased numbers of permanent residents and the longer term development potential of the settlement. Council may choose to establish a suitable level of contribution through preparation of a Development Contribution Plan consistent with State Planning Policy 3.6.



10.0 COMMUNITY ASPIRATIONS

There is ample evidence that historically leaseholders at Peaceful Bay have had mixed feelings about pursuing normalisation of the settlement. The reasons for this are not clear but it is reasonable to assume that at least some of those showing reluctance to pursue this outcome may feel there was insufficient information to make an informed decision and commencing a process where the outcome is not known may well result in their interest in Peaceful Bay being disenfranchised.

Engagement with the leasehold community is an essential part of evaluating the merits of a normalisation process. The statutory approvals which will be required provide an avenue for this to occur. It is particularly important to understand that without widespread community support the parliamentary approval required to modify the “A” class reserve is unlikely to be successful.

Throughout the discussion of normalisation and any subsequent process, it is important that the interests of existing leaseholders are protected and there is a clear process for consultation and that those wishing to enjoy the benefits of the existing lease under the current terms and conditions can do so without undue interference.

It needs to be recognised that there are wider Peaceful Bay communities which must be considered in addition to the leaseholders. These communities include other landowners within Peaceful Bay, the wider community of Denmark and the more extensive community consisting of the family, friends and visitors to Peaceful Bay who over the years have developed affection for the settlement and feel that it is part of their life experience.

The interests of these wider communities are recognised in the planning process whereby modifications to structure plans, town planning schemes and development of a Detailed Area Plan all require statutory advertising and community comment.

Figure 10 – Community Consultation Strategy outlines the key principles behind community consultation.



Peaceful Bay General Store

Playground adjacent to oval





Conclusion 18

- *That Council through a formal consultation plan advertise this Pre Feasibility Study with a view to establishing if there is in principle support from the local Peaceful Bay community to progress more detailed investigations into the opportunities for normalisation.*
- *That Council adopt the principle of ongoing consultation with Peaceful Bay leaseholders and establish a formal consultation plan in the event that it proceeds to preparation of a Business Plan for the normalisation process.*
- *That Council accept the principle that any actions taken towards normalisation should not prejudice the rights currently enjoyed by leaseholders under the current lease.*
- *That the wider communities of Peaceful Bay consisting of landowners outside of the leasehold area, the wider community of Denmark and the family, friends and visitors to Peaceful Bay be given the opportunity to comment on proposals through the established planning processes.*

Stage	Objectives	Consultation Groups	Strategy
Prefeasibility	Identification of the process to achieve normalisation Identification of potential fatal flaws that may prevent normalisation Provide information which can be made available to leaseholders and determine the level of in principle support for normalisation Provide information on which Council can make a decision if it wishes to proceed with normalisation	Existing Leaseholders	Advertise the Pre-feasibility report for leaseholder comment, invite submissions and determine the level of leaseholder support
Business Plan	To provide a full analysis of the normalisation concept including costs, risks and returns which can be used to: determine the level of community support; inform Council decisions; help fulfill obligations under the Local Government Act; support an application to parliament to change the "A" class reserve classification; and be used as a basis to identify and create a separate lot containing the leasehold precinct.	Existing Leaseholders, Peaceful Bay Landowners, Shire of Denmark Residents & Friends, Family and Visitors	Liaison with the wider Peaceful Bay community to determine the level of support for the normalisation process and level of risk to be worn by Council. Document lease holder support for the servicing solutions, subdivision concept and lot pricing.
Parliamentary Approval	To gain parliamentary approval to changing the "A" class reserve classification. To gain approval to the creation of superlot containing the leasehold area. To gain approval to the transfer of the superlot to Council at a predetermined stage of the normalisation process at a predetermined price.	Existing Leaseholders, Peaceful Bay Landowners, Shire of Denmark Residents & Friends, Family and Visitors	Provide regular updates on statutory approval processes
Statutory Approvals	To gain the statutory approvals to facilitate normalisation.	Existing Leaseholders, Peaceful Bay Landowners, Shire of Denmark Residents & Friends, Family and Visitors	To proceed through the various planning, land tenure, servicing and environmental approval processes ensuring adequate information is provided to the wider community to allow informed comment during statutory advertising periods.
Feasibility Review	To review the feasibility of the project and make a final decision to proceed	Existing Leaseholders, Peaceful Bay Landowners, Shire of Denmark Residents & Friends, Family and Visitors	Provide regular updates to the wider community to ensure adequate information is available for informed discussion and debate as background to Council decisions.
Construction	To deliver lot titles and secure settlements	Existing Leaseholders, Peaceful Bay Landowners, Shire of Denmark Residents & Friends, Family and Visitors	Ensure the local community is informed of construction timetable and potential impacts and provide opportunity for the lease hold community to have input to construction scheduling.

Figure 10 - Community Consultation Strategy



11.0 PROJECT STAGING AND INDICATIVE COSTS

Figure 11 – Project Staging and Indicative Costs suggests a breakdown of how the normalisation process could occur in a logical manner.

The staging has been focused around key milestones, giving the community the opportunity to re-evaluate proposals and manage the level of risk that Council and leaseholders may be exposed to.

Business Plan Phase

Of particular note is the Business Plan phase which will require that key issues are resolved prior to the Feasibility Analysis and the Business Plan being finalised. The key concerns are the linked issues of groundwater levels, suitability for onsite effluent disposal and drainage.

In addition, it will be necessary to undertake an “As Constructed” survey of the settlement to support a detailed subdivision concept for the community to sign off on and produce accurate plans for submission to parliament as part of the modification to the “A” class reserve.

Indicative Cost Estimates

The cost estimates must be considered as very preliminary and will need to be the subject of more detailed scrutiny as the project progresses.

The final construction development costs are based on \$130,000 per lot which has been derived from similar projects which are currently progressing and need to address similar levels of complexity in respect to servicing and drainage.

It is important to note that this is a construction cost and does not incorporate:

- The cost of purchasing the leasehold superlot that will be ultimately subdivided, any on cost associated with creating and transferring this lot;
- Holding costs for the project and meeting interest payments for borrowings;
- Incorporating a margin to account for profit and risk;
- Making a contribution to the provision of community services and facilities generated by the wider Peaceful Bay Settlement; and,
- The establishment of an endowment fund to offset the lease income currently enjoyed by Council.

Indicative Time Frames

Indicative time frames have also been identified for each stage with construction unlikely to commence before June 2018. The time frames are variable but represent an achievable outcome if there is a will to proceed.

Stage	Objectives	Tasks	Indicative Costs	Indicative Timeframe
Prefeasibility	Identification of the process to achieve normalisation	Prefeasibility Report Preparation	\$20,000	6 Months Completed December 2013
	Identification of potential fatal flaws that may prevent normalisation	Community Consultation		
	Provide information which can be made available to leaseholders and determine the level of in principle support for normalisation	Council Consideration		
	Provide information on which Council can make a decision if it wishes to proceed with normalisation			
Business Plan	To provide a full analysis of the normalisation concept including costs, risks and returns which can be used to: determine the level of community support; inform Council decisions; help fulfill obligations under the Local Government Act; support an application to parliament to change the "A" class reserve classification; and be used as a basis to identify and create a separate lot containing the leasehold precinct.	Project Management Local Water Management Strategy Superlot identification Subdivision Concept and As Con survey (\$100,000) Servicing plans (roads, drainage, water, sewerage, power, telecommunications) Feasibility Cash Flow Risk Assessment Funding Strategy Community Consultation Council Adoption	\$370,000	12 Months Completed December 2014
Parliamentary Approval	To gain parliamentary approval to changing the "A" class reserve classification.	Project Management	\$20,000	12 Months Completed December 2015
	To gain approval to the creation of superlot containing the leasehold area.	Parliamentary application preparation		
	To gain approval to the tranfer of the superlot to Council at a predetermined stage of the normalisation process at a predetermined price.	Negotiation of superlot creation and conditions of transfer		
Statutory Approvals	To gain the statutory approvals to facilitate normalisation.	Project Management Modifications to the Peaceful Bay Local Structure Plan Rezoning approval Subdivision approval Detailed Area Plan approval Servicing approvals from Department of Health Servicing approvals from Economic Regulator Servicing approvals from Council Servicing approvals from Western Power Community contributions strategy approval Engineering design approvals Local Water Management Strategy approval Bushfire Management Plan approval	\$380,000	2 Years Completed December 2017
Feasibility Review	To review the feasibility of the project and make a final decision to proceed	Project Management Tender project Finalise presale prices and marketing Strategy Commence conditional presales Revise Business Plan Final Decision to proceed	\$165,000	6 Months Completed June 2018
Construction	To deliver lot titles and secure settlements	Construction works Subdivision clearances Titles issued Settlements	\$26,390,000 Based on \$130,000/lot and 203 Lots	6 Months Completed December 2018
Total Indicative Development Costs			\$27,345,000	
Indicative Cost per Lot			\$134,704	
Note Indicative Development Costs Exclude: Superlot Land Purchase Holding Costs and Interest Profit and Risk Community Contributions Endowment Fund				

Figure 11 - Project Staging and Indicative Costs



12.0 SALES AND PRICING OF LOTS

Pricing

A cursory exploration of potential values for freehold lots within the leasehold precinct suggests that lot prices between \$150,000 and \$250,000 are achievable.

Leaseholder Options to Purchase

One of the biggest issues faced by developers is meeting the substantive headworks costs which are often encountered in the early stages of subdivision.

In this instance the extent of existing development and the existence of leaseholders suggest that there is a potential market in place which could assist in overcoming this constraint.

It also needs to be recognised that the existing leaseholders enjoy certain rights by way of the existing leases and that these rights need to be protected.

Conditions therefore need to be established in respect to lot sales which:

- Protect the ongoing rights of existing leaseholders;
- Encourage leaseholders to purchase their lease lot as soon as possible after the lots are created; and,
- Ensure that Council, as the developer, is not left with a substantial, ongoing overdraft after funding the development.

With the above considerations in mind the model shown in *Figure 12 - Principles Behind Lot Sales* is suggested for the purposes of discussion with leaseholders.

- 1 Each leaseholder should have an exclusive right to purchase land, subject to an existing lease, for a period of 12 months from the date at which lots are created.
- 2 The value of lots is to be established by independent evaluation however Council may choose to nominate a minimum lot price to ensure viability of the project.
- 3 At the expiry of the exclusive purchase period, Council may choose to deal in any lots not sold subject to the rights of any existing leaseholders being maintained under the terms and conditions of the existing lease.

Figure 12 - Principles Behind Lot Sales



13.0 DEVELOPMENT MODEL

There are 4 basic developer options for progressing the normalisation process at Peaceful Bay. These are:

- Council;
- A State government agency;
- A Private Developer; or,
- A joint venture whereby Council or a State government agency works in conjunction with a private developer.

Investigations have suggested that State government agencies have explored the opportunity of progressing the normalisation of Peaceful Bay but have chosen not pursue this opportunity. It can generally be concluded therefore that there is not an appetite for a State government agency to undertake this project at the present time.

The introduction of a private developer into the development mix either as a joint venture partner or a sole developer raises three key issues:

- There is insufficient progress toward approvals for a developer to assess the project risks and therefore interest is likely to be limited until the project is better defined;
- Maintaining existing leases and protecting the ongoing interests of the existing leaseholders when these dealings may be arm's length from Council; and,
- Introduction of a private developer suggests a commercial profit margin which will need to be reflected in the purchase price of the leasehold superlot and ultimately the purchase price of the lots created.

The introduction of a private developer or a State government agency taking on the development will however shift the project risk from Council.

Conclusion 19

In the absence of State government agency interest in progressing the normalisation process or the project having progressed sufficiently far that a private developer can scope the project and identify potential profit and risk, it is likely that Council will need to progress the normalisation process at least as far as a Business Plan; parliamentary approval to changing the "A" class reserve status; and creation of a superlot.



14.0 FUNDING MODEL

Costs and Risks

Figure 11 – Project Staging and Indicative Costs suggests staging for the normalisation project based on key milestones and identifies costs which are likely to be incurred in order to reach those milestones.

It should be noted that all costs up until construction constitute a substantive risk to the developer as the project may not proceed. However with each milestone being reached and a decision made to progress, this risk does reduce.

Ultimately, the developer is likely to incur costs in the order of \$1,000,000 reaching a point where statutory and engineering approvals are in place and there is leaseholder commitment to the purchase of lots. It is at this point that construction would commence.

Funding these preliminary stages of development is a fundamental issue for Council given that the project may not proceed.

In order to justify this expenditure Council will need to:

- Have increasing confidence that the project will progress as each milestone is reached;
- Ensure that its rate payer base is supportive of the project;
- Ensure it has sufficient funding to undertake the work;
- Ensure that risks it undertakes are rewarded as part of the project; and,
- Be confident that the project will progress and have a satisfactory outcome to all stakeholders.

Mechanisms to Fund Approvals

There are various options for funding the feasibility stage of the project. Council could allocate funds from its general revenue stream which may be off-set by recouping the funds expended at such time as the sale of lots occurs.

It is also appropriate that Council seek government grants to fund the feasibility stage and subsequent design and approvals.

Carefully staging the feasibility assessment and determining which tasks may be able to be undertaken in-house is also warranted.

As an alternative Council may choose to apply a specified area rate over the proposed leasehold superlot and raise portion of the funds required for approvals over the anticipated 5 year time frame leading up to construction.

If this option is pursued it is important that in any subsequent pricing of lots, the contribution made by leaseholders to the approval process be recognised.



Conclusion 20

There are substantial costs in the order of \$1,000,000 expected to be incurred leading up to a point that Council can be sure the project will progress and be profitable.

Council should explore the opportunity to stage and fund this work by:

- *Reviewing the likely “order of costs” associated with the feasibility study prior to going to the leasehold community;*
- *Applying for government grants to facilitate completing the feasibility review;*
- *Committing a portion of the funds required for the approvals stage “up front” with a view to recouping that cost from future returns over and above that which Council currently enjoys from the leasehold lease payments; and,*
- *Applying a specified area rate over the expected 5 year time frame leading up to a time where construction can occur. This option should recognise the contribution of leaseholders to the approval process in any subsequent lot price established.*

The Funding method for the project should be established in a Business Plan adopted by Council and which clearly provides for Council to recoup any expenditure required to undertake feasibility studies, achieve normalisation, undertake subdivision works and ultimately achieve lot sales.

Council Loss of Income and Endowment Fund

The Shire of Denmark, Council and residents currently enjoy an income stream from the lease fees collected from Peaceful Bay. These fees currently total approximately \$221,000 annually. It would be appropriate that any financial outcome from the freehold of Peaceful Bay recognise this wider interest in the settlement by either a profit share in the project or establishment of an endowment fund of a prescribed sum which when invested will yield a similar benefit for the wider community.

Conclusion 21

That the financial model for normalisation factor in establishment of an endowment fund to offset the loss of lease income to the Shire if the subject land is established as freehold.



Purchase Price of Superlot and Land Acquisition

The cursory feasibility analysis undertaken to support this report suggests that: the substantive development costs; timeframe for approvals; high risks; isolated location; and, limited demand for lots, there is likely to be a limited profit in the project.

Given this situation it is likely that the land value of the Superlot to be subdivided will be relatively low.

Regardless of the purchase price of the land, it would be unwise for Council to acquire this land and pay its value until such time as it was clear that the project will proceed. Any land acquisition negotiations with the Department of Lands should be predicated on this premise.

Conclusion 22

Any negotiations with the Department of Lands for purchase of portion of Reserve 24510 for subdivision and freehold sale should be predicated on transfer of the land and payment only occurring when a formal commitment is made to progress with subdivision and sale of the subsequent lots.

Funding Development Costs

Figure 11 – Project Staging and Indicative Costs suggests that the indicative development costs for construction are likely to be in the order of \$26,390,000 or approximately \$130,000 per lot. These costs do not include:

- The superlot land purchase;
- Holding costs and interests;
- Profit and risk;
- Community contributions; and,
- Endowment fund.

The total indicative development costs do however represent funding that must be met in order for the lots to be created and therefore we believe Council should not progress the project until such time it is clear that this funding can be met through lot sales.

Figure 13 – Lot Price and Sales Rates provides an analysis of the number of lots which must be sold and at what price to achieve this objective. Without this approach we believe Council will be entertaining a level of risk over and above that which would be reasonable for it to assume.

The other costs to be met including land purchase, profit and risk, community contributions, holding costs and interests and the establishment of an endowment fund can occur over subsequent years as additional lots are sold.

Conclusion 23

Council progressing with normalisation of Peaceful Bay after the feasibility stage should be predicated upon the principle of sufficient presales being achieved to fund the immediate development costs of construction identified in the Feasibility Study and Business Plan.



No. of Lot Sales	Lot Price				
	\$150,000	\$175,000	\$200,000	\$225,000	\$250,000
50	\$7,500,000	\$8,750,000	\$10,000,000	\$11,250,000	\$12,500,000
60	\$9,000,000	\$10,500,000	\$12,000,000	\$13,500,000	\$15,000,000
70	\$10,500,000	\$12,250,000	\$14,000,000	\$15,750,000	\$17,500,000
80	\$12,000,000	\$14,000,000	\$16,000,000	\$18,000,000	\$20,000,000
90	\$13,500,000	\$15,750,000	\$18,000,000	\$20,250,000	\$22,500,000
100	\$15,000,000	\$17,500,000	\$20,000,000	\$22,500,000	\$25,000,000
110	\$16,500,000	\$19,250,000	\$22,000,000	\$24,750,000	\$27,500,000
120	\$18,000,000	\$21,000,000	\$24,000,000	\$27,000,000	\$30,000,000
130	\$19,500,000	\$22,750,000	\$26,000,000	\$29,250,000	\$32,500,000
140	\$21,000,000	\$24,500,000	\$28,000,000	\$31,500,000	\$35,000,000
150	\$22,500,000	\$26,250,000	\$30,000,000	\$33,750,000	\$37,500,000
160	\$24,000,000	\$28,000,000	\$32,000,000	\$36,000,000	\$40,000,000
170	\$25,500,000	\$29,750,000	\$34,000,000	\$38,250,000	\$42,500,000
180	\$27,000,000	\$31,500,000	\$36,000,000	\$40,500,000	\$45,000,000
190	\$28,500,000	\$33,250,000	\$38,000,000	\$42,750,000	\$47,500,000
200	\$30,000,000	\$35,000,000	\$40,000,000	\$45,000,000	\$50,000,000

Figure 13 - Lot Price and Sales Rates



Leaseholder Option to Purchase

There is recognition that the existing leaseholders at Peaceful Bay have individually and as a community made substantive commitments to the settlement and contribute to its heritage value.

With this in mind we believe there is an argument that existing leaseholders through this commitment and by virtue of holding a lease should be given the first right of refusal in respect to purchase of lots created.

Conclusion 24

Subject to the provisions of the Local Government Act 1995, Section 3.58 and 3.59, each leaseholder should have a right to purchase land subject of an existing lease for a period of 12 months from the date at which lots are created.

Where a leaseholder does not wish to purchase a lot during the 12 months option period, Council may sell the property to a third party conditional upon the lease remaining in place under the same terms and conditions currently enjoyed by the leaseholder.

The value of lots is to be established by independent valuation which shall be the minimum value of lots however Council may choose to nominate higher lot prices to ensure viability of the project.

Council commit to ensuring that any excess funds generated by lots being sold at prices greater than that established by independent valuation, be placed in a Reserve Fund for the sole purpose of facilitating community infrastructure projects in the Peaceful Bay locality.



15.0 POTENTIAL FATAL FLAWS

This preliminary feasibility study has identified a number of potential fatal flaws with respect to progressing normalisation of the leasehold precinct at Peaceful Bay. These flaws are as follows.

Community Support

Fundamental to the project is achieving substantive leaseholder support. Without this support it is unlikely that Council will have an appetite for the project, parliamentary approval will not be issued for changing the existing “A” Class Reserve and the statutory planning approvals required will be difficult to achieve.

This report outlines prescriptive stages for normalisation and suggests the level of community support which should be attained at each of these level stages. Preparation of a Consultation Strategy has been recommended and an outline of the level of consultation at each stage has been outlined in *Figure 10 – Community Consultation Strategy*.

Integrated Water Supply and Effluent Disposal Scheme

Various investigations have occurred into possible servicing solutions for water, effluent and drainage systems. Technical aspects of these solutions need to be finalised and final costs established to determine if they are truly viable. Professional advice suggests that there is a solution to these issues, however this needs to be tested further through technical studies and feasibility analysis and might ultimately lead to excessive costs or a lack of regulatory support effectively stopping the project.

These complex interrelated issues need to be addressed in the Business Plan to give both Government and the community the confidence to proceed with the project.



16.0 SUMMARY OF CONCLUSIONS

The report page relating to the conclusions is referenced following each summary.

Permanent Occupancy

1. *Council should embrace the move towards permanent occupancy of lots at Peaceful Bay as part of the move towards normalisation, subject to the provision of adequate infrastructure and community services. (pg. 8)*

Leases

2. *The existing leases in Peaceful Bay convey certain rights on leaseholders which should be protected.*

The leases in Peaceful Bay also have constraints including:

- *The right to occupy sites could be limited if servicing issues arise such as health matters associated with water supply and sewerage disposal;*
- *Any requirement to upgrade services to meet regulatory standards will need to be met by leaseholders;*
- *The rights of leaseholders are limited to the term of the lease and there is no security of extension;*
- *Reserve 24510 is an "A" Class Reserve and the Management Order issued to Council could be rescinded at any time. (pg. 9)*

Alienation Process

3. *Preparation of a Business Plan to support an application to parliament to remove the "A" Class Reserve classification over that portion of Reserve 24510 which will ultimately be subject to the normalisation process is required. (pg. 10)*

Green Title option vs. Strata Title

4. *The relative cost of Green Title V's Strata Title needs to be established by way of a full feasibility study to provide information necessary to assist in determining the most appropriate form of tenure. (pg. 12)*

Local Planning Strategy

5. *The Shire of Denmark Local Planning Strategy clearly facilitates normalisation of Peaceful Bay. (pg. 13)*

Town Planning Scheme

6. *To achieve normalisation modification to the Shire of Denmark Town Planning Scheme No. 3, or proposed Scheme No. 4 as the case may be, is required by way of inclusion of a Special Use Zone and applying the Special Use Zone with specific land use controls to the subject land. (pg. 14)*



Structure Plan

7. *The Peaceful Bay Local Structure Plan should be modified to allow nominated precincts within the structure plan area to progress to detailed design and development in a staged manner subject to it being clearly demonstrated that each precinct can adequately address servicing issues and make a proportional contribution to community facilities. (pg. 16)*

Detailed Area Plan

8. *Normalisation will require a Detailed Area Plan to be prepared for the precinct introducing the necessary land use and development controls required to preserve the essential character, amenity and heritage of the precinct. (pg. 18)*

Subdivision Design

9. *Preparation of a subdivision design for the precinct based on a detailed “As Constructed” Survey should be undertaken early in the normalisation process and be used as a basis for negotiation with leaseholders, establishment of the ultimate lot and reserve boundaries and submission to the Western Australian Planning Commission for subdivision approval. (pg. 18)*

Buildings or Built Form?

10. *The Detailed Area Plan should recognise that over time existing buildings could be replaced and there is a need to ensure that any renovations or replacement of existing dwellings should maintain the built form character of the leasehold precinct. This will require modification to Planning Policy LPP 35. (pg. 20)*

Leasehold to Freehold

11. *Council should utilise the Pre Feasibility Study to gauge in principle community support for free holding of the superlot to enable either the free holding or strata titling of the individual leasehold lots. (pg. 21)*

Integrated Water Supply and Effluent Disposal

13. *Implementation of an Integrated Water Supply and Effluent Disposal Scheme will require:*
 - *Ground water monitoring and preparation of a Local Water Management Strategy to determine if aerobic treatment units can be used as an interim solution for effluent disposal;*
 - *Health Department approval to the use of aerobic treatment units as an interim solution;*
 - *Health Department approval to an appropriate potable water supply tank size and roof catchment area;*
 - *An operator being identified and licensed to operate sewer and non-potable systems;*



- *Approval from the Economic Regulator to the current non-potable water supply and possible sewer treatment system being continued after the normalisation process;*
- *Determining the extent of any upgrades required to the non-potable water supply and establishment of the possible sewer treatment system. (pg. 23)*

Drainage

14. *A Local Water Management Strategy is integral to understanding drainage and effluent disposal solution options and ultimately establishing development costs if normalisation is to be pursued. Preparation of this document will need to occur early in the normalisation process. (pg. 24)*

Power Supply

15. *Power to Peaceful Bay is likely to be adequate for the normalisation process but should be monitored as it is an edge of grid supply and capacity could alter. (pg. 25)*

Telecommunications

16. *There is adequate telecommunications including ADSL, telephone and digital television to accommodate the additional demand which is likely to be generated by normalisation. (pg. 25)*

Community Facilities

17. *Development proposals for the normalisation of the leasehold precinct at Peaceful Bay should acknowledge the requirement to contribute to the community facilities ultimately required to service increased numbers of permanent residents and the longer term development potential of the settlement. Council may choose to establish a suitable level of contribution through preparation of a Development Contribution Plan consistent with State Planning Policy 3.6. (pg. 26)*

Community Aspirations

18. *That Council through a formal consultation plan advertise this Pre Feasibility Study with a view to establishing if there is in principle support from the local Peaceful Bay community to progress more detailed investigations into the opportunities for normalisation.*

That Council adopt the principle of ongoing consultation with Peaceful Bay leaseholders and establish a formal consultation plan in the event that it proceeds to preparation of a Business Plan for the normalisation process.

That Council accept the principle that any actions taken towards normalisation should not prejudice the rights currently enjoyed by leaseholders under the current lease.

That the wider communities of Peaceful Bay consisting of landowners outside of the leasehold area, the wider community of Denmark and the family, friends and visitors to Peaceful Bay be given the opportunity to comment on proposals through the established planning processes. (pg. 27)



Development Model

19. *In the absence of State government agency interest in progressing the normalisation process or the project having progressed sufficiently far that a private developer can scope the project and identify potential profit and risk, it is likely that Council will need to progress the normalisation process at least as far as a Business Plan; parliamentary approval to changing the “A” Class Reserve status; and creation of a superlot. (pg. 33)*

Mechanisms to Fund Approvals

20. *There are substantial costs in the order of \$1,000,000 expected to be incurred leading up to a point that Council can be sure the project will progress and be profitable.*

Council should explore the opportunity to stage and fund this work by:

- Reviewing the likely “order of costs” associated with the Feasibility Study prior to going to the leasehold community;*
- Applying for government grants to facilitate completing the feasibility review;*
- Committing a portion of the funds required for the approvals stage “up front” with a view to recouping that cost from future returns over and above that which Council currently enjoys from the leasehold lease payments; and,*
- Applying a specified area rate over the expected 5 year timeframe leading up to a time where construction can occur. This option should recognise the contribution of leaseholders to the approval process in any subsequent lot price established.*

The Funding method for the project should be established in a Business Plan adopted by Council and which clearly provides for Council to recoup any expenditure required to undertake feasibility studies, achieve normalisation, undertake subdivision works and ultimately achieve lot sales. (pg. 34)

Council Loss of Income and Endowment Fund

21. *That the financial model for normalisation factor in establishment of an endowment fund to offset the loss of lease income to the Shire if the subject land is established as freehold. (pg. 35)*

Purchase Price of Superlot and Land Acquisition

22. *Any negotiations with the Department of Lands for purchase of portion of Reserve 24510 for subdivision and freehold sale should be predicated on transfer of the land and payment only occurring when a formal commitment is made to progress with subdivision and sale of the subsequent lots. (pg. 36)*

Funding Development Costs

23. *Council progressing with normalisation of Peaceful Bay after the feasibility stage should be predicated upon the principle of sufficient presales being achieved to fund the immediate development costs of construction identified in the Feasibility Study and Business Plan. (pg. 36)*



Leaseholder Option to Purchase

24. *Subject to the provisions of the Local Government Act 1995, Section 3.58 and 3.59, each leaseholder should have a right to purchase land subject of an existing lease for a period of 12 months from the date at which lots are created.*

Where a leaseholder does not wish to purchase a lot during the 12 months option period, Council may sell the property to a third party conditional upon the lease remaining in place under the same terms and conditions currently enjoyed by the leaseholder.

The value of lots is to be established by independent valuation which shall be the minimum value of lots however Council may choose to nominate higher lot prices to ensure viability of the project.

Council commit to ensuring that any excess funds generated by lots being sold at prices greater than that established by independent valuation, be placed in a Reserve Fund for the sole purpose of facilitating community infrastructure projects in the Peaceful Bay locality. (pg. 38)