

SANCTUARY COVE RESORT ACT AMENDMENT ACT

No. 114 of 1989

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- SCHEDULE

Queensland



ANNO TRICESIMO OCTAVO

ELIZABETHAE SECUNDAE REGINAE



No. 114 of 1989

An Act to to amend the Sanctuary Cove Resort Act
1985-1987 in certain particulars

[ASSENTED TO 31ST OCTOBER, 1989]

BE IT ENACTED by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Assembly of Queensland in Parliament assembled, and by the authority of the same, as follows:—

1. Short title and citation. This Act may be cited as the *Sanctuary Cove Resort Act Amendment Act 1989*.

(1) In this Act the *Sanctuary Cove Resort Act 1985-1987* is referred to as the Principal Act.

(2) The Principal Act as amended by this Act may be cited as the *Sanctuary Cove Resort Act 1985-1989*.

2. Amendment of s. 3. Arrangement of Act. Section 3 of the Principal Act is amended by, in the reference to Part IIB—

(a) omitting the expression “21”, occurring after the expression “(ss. 13- ”, and substituting “21A”;

(b) omitting the expression “(s. 21)” and substituting “(ss. 21-21A)”.

3. Amendment of s. 4. Interpretation. Section 4 of the Principal Act is amended by—

(a) inserting after the definition “Minister” the following definition:—

“ “plan of survey”, used with reference to any land, includes a number of plans of survey each relating to a different part of the land and together relating to all of the land;”;

(b) inserting in the definition “proposed use plan”, before the word “approved”, the words “for the time being”;

(c) inserting in the definition “proposed use plan of the adjacent site”, before the word “approved”, the words “for the time being”.

4. Amendment of s. 8. Proposed use plan. Section 8 of the Principal Act is amended by adding at the end of the section the following subsections:—

“(7) The company may from time to time lodge with the Albert Shire Council a plan of survey varying the boundaries of the zones as shown on the proposed use plan and if in respect of that plan of survey the Council—

(a) is satisfied of the matters referred to in subsection (4);

and

(b) is satisfied that the variation of the boundaries is of a minor nature and does not substantially prejudice the rights of any person,

it may approve the plan.

(8) Upon a plan of survey being approved pursuant to subsection (7), the proposed use plan as amended by the plan

of survey shall become the proposed use plan and the Albert Shire Council shall retain the plan and a copy shall be forwarded to each of them the Registrar of Titles and the Director of Local Government.”

5. Amendment of s. 10. Initial subdivision within the site. Section 10 of the Principal Act is amended by omitting subsection (8) and substituting the following subsection:—

“(8) A plan of survey may from time to time be lodged with the Registrar of Titles—

(a) to enable part of the land comprising the primary thoroughfare to cease to be part of the primary thoroughfare and other land to become part of the primary thoroughfare;

or

(b) to amend the initial plan of survey in accordance with any variation (approved under section 8 (7)) to the boundaries of the zones shown on the proposed use plan.”

6. Amendment of s. 12A. The adjacent site. Section 12A of the Principal Act is amended by—

(a) omitting subsection (1) and substituting the following subsection:—

“(1) For the purposes of this Act, the expression “the adjacent site” means the area of land situate in the County of Ward, Parish of Coomera set forth in the plan of survey reproduced in Schedule D (and containing an area of 241.87 hectares more or less) other than any part of that area of which the company is not the registered proprietor at the time it first lodges with the Albert Shire Council a plan of survey for the purposes of section 12D.”;

(b) adding at the end of the section the following subsections:—

“(4) Subject to subsection (5) but notwithstanding any other provision of this Act, land within the site (as defined in section 5) may, for the purposes of this Act, be treated as being within a zone of the adjacent site if—

(a) it abuts land within the adjacent site;

(b) it is zoned for residential use;

(c) its zoning corresponds with that of the land it abuts within the adjacent site;

and

(d) the land is not already included in a subdivision or resubdivision of the site by means of a building units plan or group titles plan.

(5) Where pursuant to subsection (4) land within the site is included in a plan of survey subdividing or resubdividing a

secondary lot within the adjacent site by means of a building units plan or group titles plan, the plan shall not be approved if—

- (a) the aggregate of the areas of the land within the site and included in the plan and of all other land within the site previously treated under subsection (4) as being within the adjacent site exceeds 5 hectares;
- (b) the total number of building unit lots and group title lots permitted within the adjacent site would be exceeded if the plan were to be approved;
- or
- (c) the total number of building unit lots and group title lots approved for the relevant zone of the adjacent site would be exceeded if the plan were to be approved.”

7. Amendment of s. 12D. Proposed use plan of the adjacent site. Section 12D of the Principal Act is amended by—

(a) omitting from subsection (3) the expression “600” and substituting “1100”;

(b) adding at the end of the section the following subsections:—

“(7) The company may from time to time lodge with the Albert Shire Council a plan of survey varying the boundaries of the zones as shown on the proposed use plan of the adjacent site and if in respect of that plan of survey the Council—

(a) is satisfied of the matters referred to in subsection (4);

and

(b) is satisfied that the variation of the boundaries is of a minor nature and does not substantially prejudice the rights of any person,

it may approve the plan.

(8) Upon a plan of survey being approved pursuant to subsection (7), the proposed use plan of the adjacent site as amended by the plan of survey shall become the proposed use plan of the adjacent site and the Albert Shire Council shall retain the plan of survey and a copy shall be forwarded to each of them the Registrar of Titles and the Director of Local Government.”

8. Amendment of s. 12E. Town planning provisions. Section 12E of the Principal Act is amended by inserting after subsection (4) the following subsection:—

“(4A) Notwithstanding subsection (4), any building or other structure that, immediately before the commencement of section 19 of the *Sanctuary Cove Resort Act Amendment Act 1989*, was within the administration zone may, on and from that commencement, be used for any purpose for which buildings or

structures within the administration zone are permitted to be used until 31 December 1996 or such later date as is declared by Order in Council made before 31 December 1996.”

9. Amendment of s. 12F. Initial subdivision within the adjacent site. Section 12F of the Principal Act is amended by omitting subsection (8) and substituting the following subsection:—

“(8) A plan of survey may from time to time be lodged with the Registrar of Titles—

(a) to enable part of the land comprising the primary thoroughfare to cease to be part of the primary thoroughfare and other land to become part of the primary thoroughfare;

or

(b) to amend the initial plan of survey of the adjacent site in accordance with any variation (approved under section 12D (7)) to the boundaries of the zones shown on the proposed use plan of the adjacent site.”

10. Amendment of s. 13. Subdivision etc., of land within certain residential zones. Section 13 of the Principal Act is amended by adding at the end of the section the following subsections:—

“(4) A plan of survey may from time to time be lodged with the Registrar of Titles to enable part of the land comprising a secondary thoroughfare to cease to be part of the secondary thoroughfare and other land to become part of the secondary thoroughfare.

(5) The Registrar of Titles shall not register a plan of survey lodged with him pursuant to subsection (4) unless the plan has endorsed thereon the approval of the Albert Shire Council.

The Albert Shire Council shall not approve the plan of survey unless it is satisfied that access to any land within the site or the adjacent site will not be restricted or if access is restricted the proprietor of that land consents to that restriction.

A copy of the plan of survey shall be forwarded to the Director of Local Government.

(6) Upon registration of a plan of survey lodged with the Registrar of Titles pursuant to subsection (4), any plan of survey or group titles plan to which the firstmentioned plan of survey relates is deemed to be amended to the extent shown on the firstmentioned plan of survey.”

11. New s. 15A. The Principal Act is amended by inserting after section 15 the following section:—

“**15A. Plan of survey where variation of boundary approved.**

(1) Where any variation of the boundaries of the zones has been approved under section 8 (7) or 12D (7), a plan of survey may be lodged with the Registrar of Titles for the purpose of amending,

in accordance with the variation approved, any plan of survey or group titles plan for the subdivision or resubdivision of a secondary lot or any group titles plan for the resubdivision of a lot shown on a group titles plan.

(2) The Registrar of Titles shall not register a plan lodged pursuant to subsection (1) unless it is endorsed with the approval of the Albert Shire Council.

(3) Upon the Registrar of Titles approving a plan of survey lodged pursuant to subsection (1), any plan of survey or group titles plan to which the firstmentioned plan of survey relates is deemed to be amended to the extent shown on the firstmentioned plan of survey and a copy of that plan of survey shall be forwarded to the Director of Local Government.”.

12. **New s. 16A.** The Principal Act is amended by inserting after section 16 the following section:—

“**16A. Creation of easements over group title lots.** (1) Where a multiple dwelling is situated on 2 or more group title lots (whether built before or after the commencement of section 11 of the *Sanctuary Cove Resort Act Amendment Act 1989*), the proprietor of a lot on which is situated part of the multiple dwelling (which part is intended for separate occupation) shall, in respect of any roofs, eaves, gutters, downpipes or foundations situated wholly or in part on any adjoining lot, be entitled to any shelter, drainage or support capable of being afforded thereby in respect of his lot.

(2) The rights created by subsection (1) are easements to which are subject the relevant parts of the multiple dwelling and the lot on which those parts are situated.

(3) An easement created by this section shall entitle the proprietor of the dominant tenement to enter the servient tenement and maintain, replace, renew or restore any of the parts of the multiple dwelling that are subject to the easement.

(4) An easement created by this section shall not be exercised by the proprietor of a lot in such a manner as unreasonably to prevent any other proprietor from enjoying the use or occupation of his lot.”.

13. **New s. 21A.** The Principal Act is amended by inserting after section 21 the following section:—

“**21A. Subdivision of land outside residential zones.** (1) Subject to this section, land within the site or the adjacent site and not within a residential zone may be subdivided in the same manner as land that is neither within the site nor within the adjacent site.

(2) The Albert Shire Council shall not approve a plan of subdivision unless satisfied that the plan is consistent with the initial plan of survey of the site or, as the case may be, the initial plan of survey of the adjacent site.

(3) Where the Albert Shire Council approves a plan of subdivision it shall forward a copy of the plan to the Director of Local Government.

(4) The Registrar of Titles shall not register a plan of subdivision unless it contains or is accompanied by a notation under the seal of the Albert Shire Council that the Council is satisfied as required by subsection (2)."

14. Amendment of s. 33. Duties of principal body corporate. Section 33 of the Principal Act is amended in subsection (1) by omitting paragraph (g) and substituting the following paragraph:—

"(g) cause an annual general meeting to be held each year on or after the anniversary of the annual general meeting held in 1990 but not later than two months after that anniversary;"

15. Amendment of s. 72A. Voting entitlements after registration of initial plan of survey of adjacent site. Section 72A of the Principal Act is amended by—

(a) in subsection (1), omitting from the Table the expression "100", occurring opposite the words "Administration Zone", and substituting "50";

(b) in subsection (3), omitting the expression "1500" and substituting "2000".

16. Amendment of s. 77. Duties of primary thoroughfare body corporate. Section 77 of the Principal Act is amended in subsection (1) by omitting paragraph (g) and substituting the following paragraph:—

"(g) cause an annual general meeting to be held each year on or after the anniversary of the annual general meeting held in 1990 but not later than two months after that anniversary;"

17. Holding of annual general meetings in 1990. Notwithstanding sections 33 (1) (g) and 77 (1) (g) of the Principal Act, the annual general meetings of the principal body corporate and the primary thoroughfare body corporate required to be held in 1990 shall be held in the month of September of that year.

18. Validation of registration of plans of survey. (1) A plan of survey that, before the commencement of this section, has been made under or for the purposes of the Principal Act and has been registered by the Registrar of Titles is deemed to be duly registered notwithstanding that any prerequisite to registration has not been strictly complied with.

(2) Subsection (1) does not apply where its application would substantially prejudice the rights of any person.

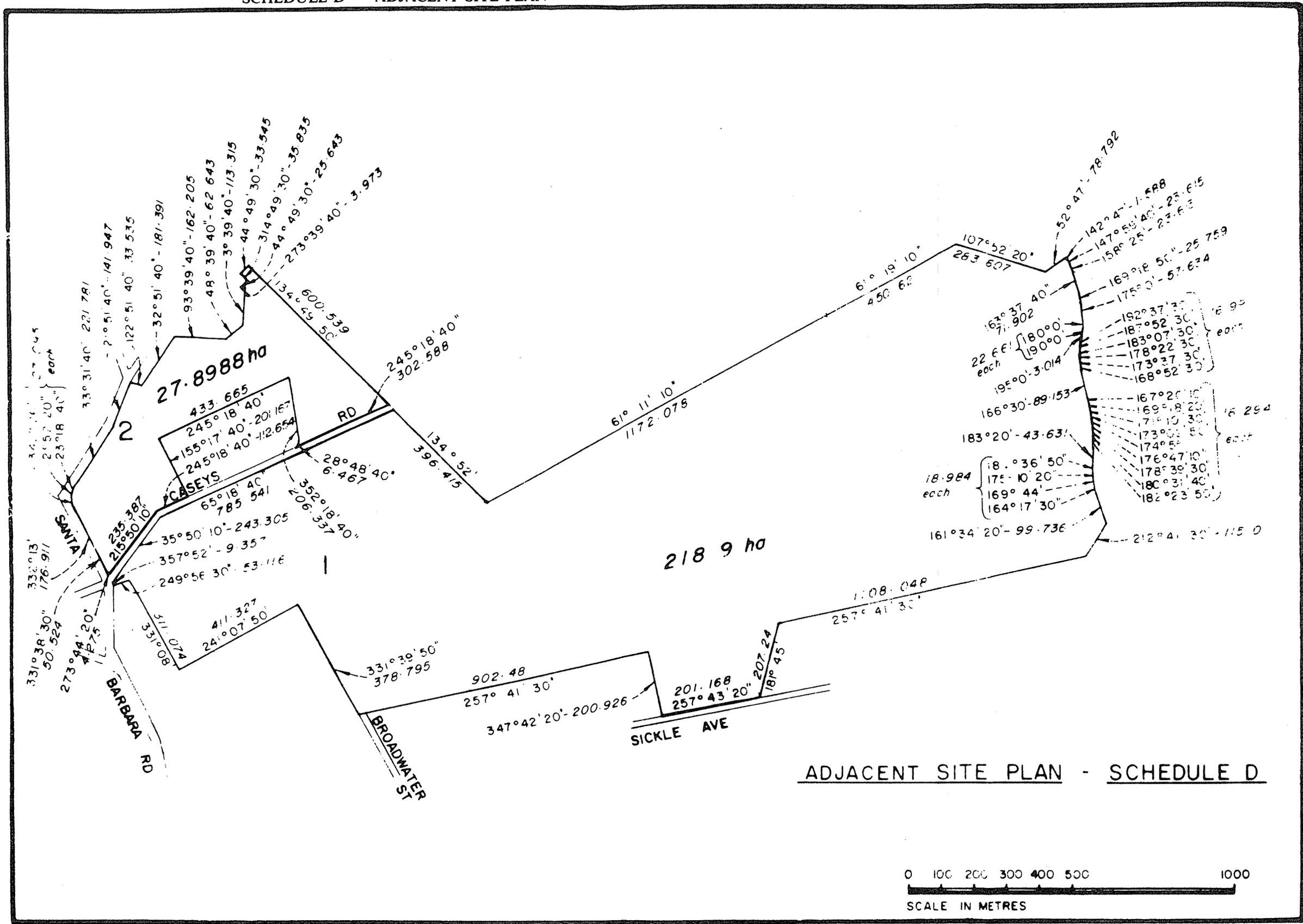
19. Amendment of Schedule A. Schedule A to the Principal Act is amended by—

(a) in clause 1, inserting after the definition “educational establishment” the following definition:—

““fauna park” means premises used or intended to be used for keeping and viewing either fauna or marine life or both;”;

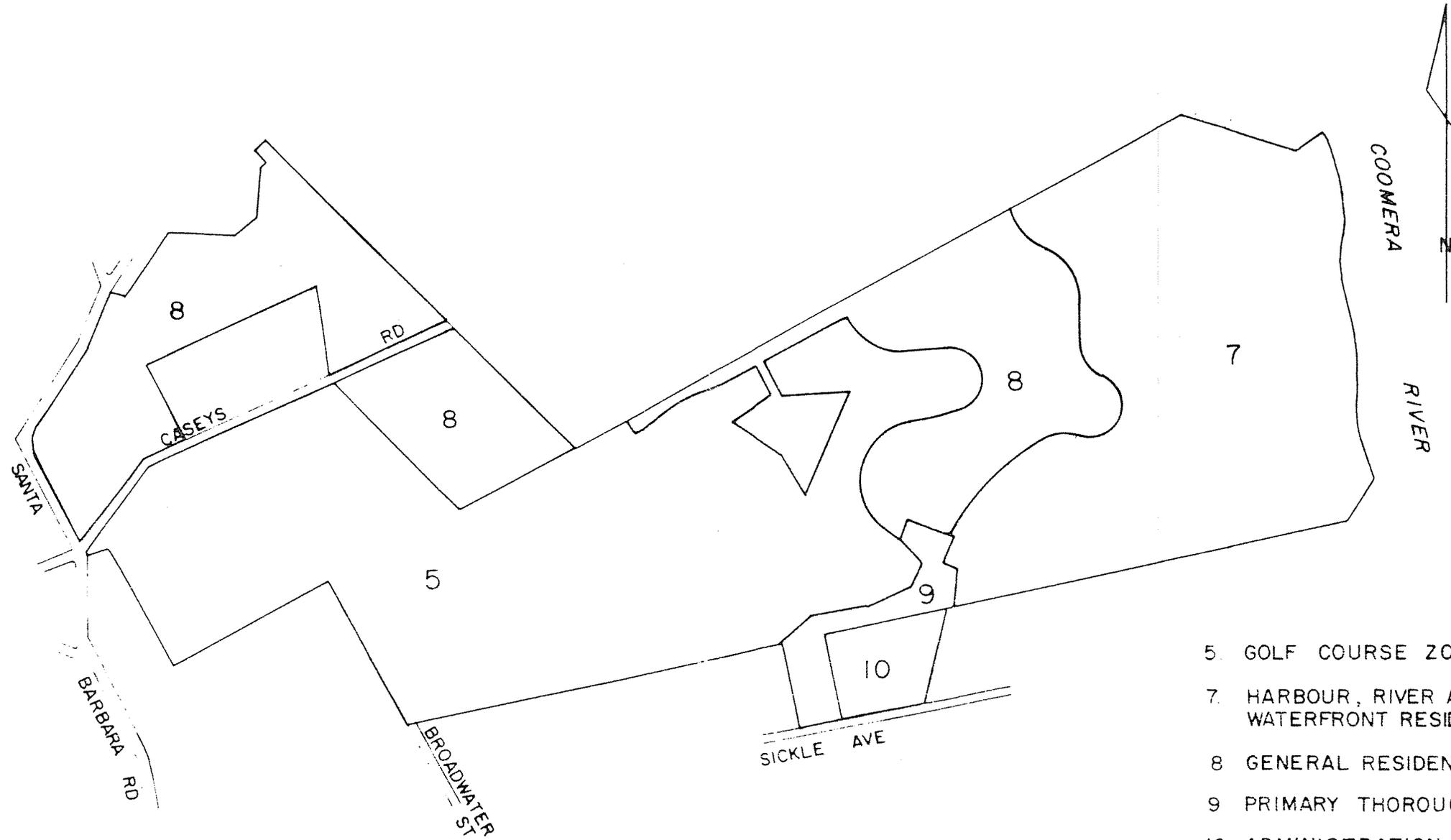
(b) in the Table to clause 2, in the purposes listed under the heading “Harbour Zone”, inserting under the words “Educational establishments” the words “Fauna park”.

20. Repeal of and new Schedules D and E. The Principal Act is amended by repealing Schedules D and E and substituting the following Schedules:—



ADJACENT SITE PLAN - SCHEDULE D

SCHEDULE E ZONES OF THE ADJACENT SITE



- 5. GOLF COURSE ZONE
- 7. HARBOUR, RIVER AND WATERFRONT RESIDENTIAL ZONE
- 8. GENERAL RESIDENTIAL ZONE
- 9. PRIMARY THOROUGHFARE ZONE
- 10. ADMINISTRATION ZONE

ZONES OF THE ADJACENT SITE - SCHEDULE E

