

PLANNING AND DEVELOPMENT ACT 2005

SHIRE OF DENMARK

TOWN PLANNING SCHEME No. 3

AMENDMENT No. 138

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

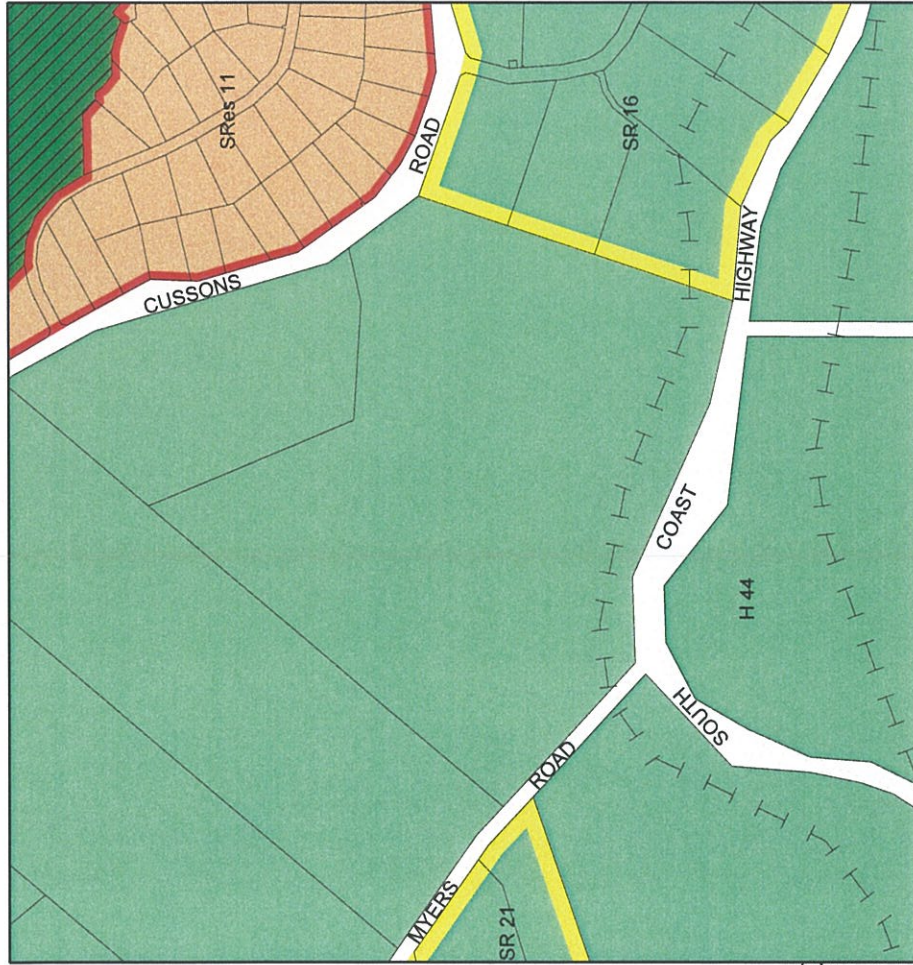
- i. Rezoning No. 10 (Lot 402) Myers Road, Shadforth, from 'Rural' to 'Special Rural SR26' and amend the Scheme Maps accordingly;
- ii. Inserting Special Rural Zone No. 26 provisions in Appendix VI – Special Rural Zone of the Scheme Text as follows;

PROVISIONS RELATING TO SPECIFIED AREAS

PARTICULARS OF THE LAND		PROPOSED USES	SPECIAL PROVISIONS
26	No. 10 (Lot 402) Myers Road, Shadforth	Rural Smallholdings Permitted Uses (P): Single House Permitted at Council's discretion (AA) <ul style="list-style-type: none"> • Rural Pursuit • Horticulture • Holiday Accommodation • Holiday Home (standard) • Holiday Home (large) • Home Occupation • Home Business • Cottage Industry 	<ol style="list-style-type: none"> i) Subdivision and development shall generally be in accordance with the Subdivision Guide Plan 12-39-SGP(e) dated May 2014. ii) The minimum lot size shall be 4 hectares. iii) Building envelopes (maximum 3000m²) should generally be as per the endorsed Subdivision Guide Plan, with all buildings and effluent disposal systems to be located within the building envelopes. iv) Any proposals seeking to vary the location of the building envelopes needs to at least have regard to the following: <ol style="list-style-type: none"> a) A minimum front boundary setback of 20 metres to Myers Road and the new road off Cussons Road. b) A minimum setback of 100 metres to the South Coast Highway lot frontage. c) A minimum setback of 50 metres to Cussons Road lot frontage. d) Minimum side and rear setbacks of 15 metres, with the exception that Lots 3 and 4 are to have a side/rear boundary setback of 100 metres having regard to the extreme fire risk associated with the adjoining vegetation. e) Minimum setback of 30 metres from the Vegetation Protection Area as identified on the Subdivision Guide Plan f) Visual impact/amenity from adjoining roads. g) Other issues as identified on the Opportunities and Constraints Plan for the land as provided for in the Scheme Amendment 138 documentation. v) Zincalume or white coloured roofs and external wall materials shall not be permitted. vi) No boundary fencing shall be constructed of fibre cement, metal sheeting or wooden picket. If fencing is utilised, it should be of rural construction such as post and strand (or similar) to the satisfaction of Council.

			<p>vii) Vegetation Protection and Revegetation</p> <ol style="list-style-type: none"> 1. No clearing of vegetation shall occur except for: <ul style="list-style-type: none"> • Clearing to comply with requirements of the Bush Fires Act 1954 (as amended); • Clearing within the building envelope as may be reasonably required to construct an approved building and curtilage; • Trees which are dead, diseased and dangerous. • Clearing to gain vehicular access to an approved dwelling or any other clearing which may be approved by the Council. 2. Council may request the Commission to impose a condition at the time of subdivision for the revegetation of areas shown on the Subdivision Guide Plan. Council shall require the use of endemic native shrubs and trees and shall require that these are maintained for a period of at least three years. 3. Additional tree planting may be required as a condition of development approval. <p>viii) With the intention of preventing erosion or practices detrimental to the amenity within the zone, 'Rural Pursuit' and 'Horticulture' land uses shall not be permitted without the consent of the Council. The Council may impose limits on stocking or any other conditions as it sees fit and may vary such conditions in the light of prevailing seasonal conditions.</p> <p>ix) The keeping of livestock shall be restricted to fenced, pastured areas of the lot. The owner is responsible for the construction and maintenance of stock proof fencing to protect remnant vegetation.</p> <p>x) Provision of potable water shall be the responsibility of the individual landowner at the time of development and shall involve the installation of a water storage tank of not less than 92,000 litre capacity.</p> <p>xi) On-site effluent disposal shall be the responsibility of the individual landowner at the time of development, with the effluent disposal system to be approved by Council.</p> <p>xii) Subdivision and development shall be in accordance with the approved Fire Management Plan for the land.</p> <p>xiii) All single houses shall be constructed to AS 3959–2009 Construction of Buildings in Bushfire Prone Areas (as amended), with no building requiring greater construction rating than BAL-29.</p> <p>xiv) When considering land use of 'Holiday Accommodation', support of a holiday accommodation proposal will only be forthcoming where the accommodation is limited solely within the dwelling.</p>
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Existing Zoning



LOCAL SCHEME RESERVES
 Parks and Recreation

ZONES
 Special Residential
 Rural
 Special Rural



















Proposed Zoning



OTHER
 Special Residential Area
 Special Rural Area
 District Heritage Boundary

12-39-ZM(b)

LEGEND

-  Subject Land
-  Existing Lot Boundaries
-  Proposed Lot Boundaries
-  Existing Vegetation
-  Existing Buildings
-  Existing Dams
-  Drainage Line
-  Vegetation Protection Area
-  Landscape Screening
-  Setbacks (also refer to Special Provision iv)
-  Indicative Building Envelope (maximum 3,000m²)
-  Indicative House Site
-  Indicative Hazard Separation Zone
-  Fire Breaks
-  Strategic Fire Access Route
-  Existing Gateway / Crossover
-  Drainage Basin
-  Preferred Stand Pipe Location



ORIG A3

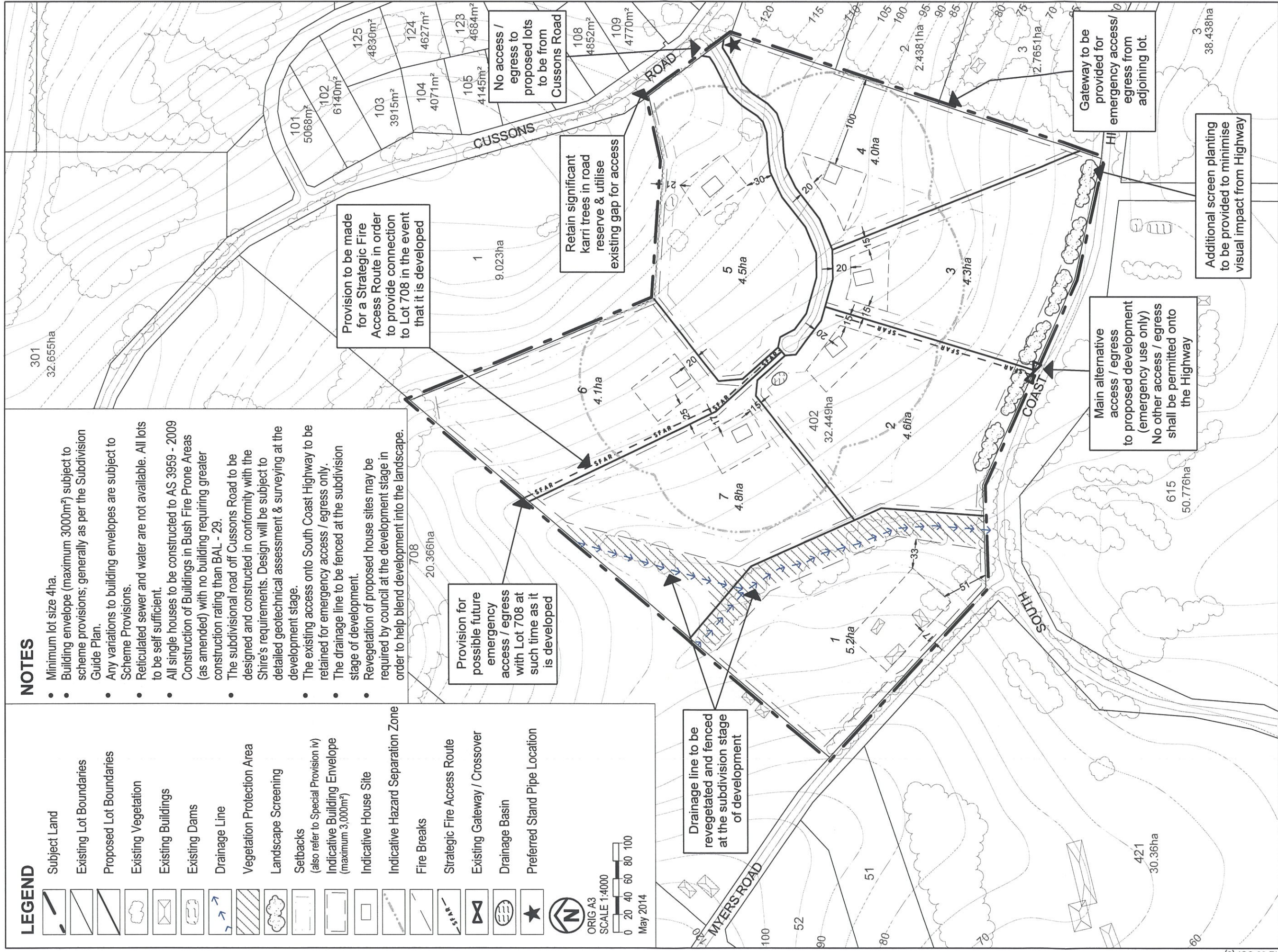
SCALE 1:4000

0 20 40 60 80 100

May 2014

NOTES

- Minimum lot size 4ha.
- Building envelope (maximum 3000m²) subject to scheme provisions; generally as per the Subdivision Guide Plan.
- Any variations to building envelopes are subject to Scheme Provisions.
- Reticulated sewer and water are not available. All lots to be self sufficient.
- All single houses to be constructed to AS 3959 - 2009 Construction of Buildings in Bush Fire Prone Areas (as amended) with no building requiring greater construction rating than BAL - 29.
- The subdivisional road off Cussons Road to be designed and constructed in conformity with the Shire's requirements. Design will be subject to detailed geotechnical assessment & surveying at the development stage.
- The existing access onto South Coast Highway to be retained for emergency access / egress only.
- The drainage line to be fenced at the subdivision stage of development.
- Revegetation of proposed house sites may be required by council at the development stage in order to help blend development into the landscape.



SCHEDULE OF SUBMISSIONS: AMENDMENT 138 – PROPOSED REZONING OF NO. 10 (LOT 402) MYERS ROAD, SHADFORTH

Submission Number	Name & Address	Verbatim Submission	Planning Services Comment
S1	D & R Procter PO Box 891 DENMARK WA 6333	<p>As owners of Lot 708 Myers Road (zoned Rural); we run livestock and produce fruit using modern farming practices including, but not limited to, the use of chemical fertilizers and sprays, fire load reduction using burning, use of firearms to control vermin and use of heavy machinery (at unspecified hours).</p> <p>We trust the proposed subdivision and subsequent zoning changes for Lot 402 will in no way impede or limit our current rural practices now or into the future.</p> <p>Lot 708 has been owned and run as a viable rural property by our family for over 100 years (since 1909); we are resolute in our stance for it to remain that way.</p>	<ul style="list-style-type: none"> • Noted. • A condition of subdivision approval can ensure that prospective purchasers are aware of rural activities occurring on adjoining properties.
S2	P Pedersen C/- Stirling Partners PO Box 777 CLAREMONT WA 6910	<p>Quiet enjoyment – my children and their families use our lot 1. We are concerned that businesses, holiday accommodation and rural activity would increase noise levels and vehicle movements and reduce the amenity of the land.</p> <p>Security – the proximity of an access road near our boundary will result in more traffic and reduce our security by increasing exposure to trespass.</p> <p>Privacy – increased traffic levels and proximity of multiple dwellings will decrease our level of privacy requiring planting or walls which will reduce / impact views.</p> <p>Pollution – we are concerned to maintain quality of the air and water.</p> <p>Visual – our block overlooks the proposal. We are concerned to clutter / junk and other visual pollution including dwelling design and materials.</p>	<ul style="list-style-type: none"> • The landuses that are proposed associated with the proposed ‘Special Rural’ zoning are all landuses (with the exception of Home Business) that can be considered on the land with the current ‘Rural’ zoning in some form or other. • The proposed new road is located at the furthest point away from the adjoining Lot 1, with the driveway associated with proposed Lot 5 needing to via the new internal road and not Cussons Road in order to retain significant karri trees in the Cussons Road road reserve. • There is currently no development on Lot 1, thus the locating of any development on this property can have due regard to this development proposal. It is also noted that with the current zoning and as per Town Planning Scheme Policy No. 7: Second Dwellings/Additional Houses and Chalet Developments on Rural Zoned Lots, there is the potential for 2 x houses and 4 x chalets to be developed on-site; this proposal would result in 7 x houses only. • A stormwater management plan and creekline protection measures will be required as conditions of subdivision approval.

			<ul style="list-style-type: none"> Refer comments in Bullet Point 3 above. It is noted that Special Provision v) references that zincalume or white coloured roofs and external walls shall not be permitted.
Government Agencies			
G1	Water Corporation	<p>I refer to your correspondence dated the 6th August 2014 requesting comments on the above Amendment from this Corporation. Thank you for giving the Water Corporation the opportunity to comment.</p> <p>With respect to the proposed Policy Amendment above, the Water Corporation has reviewed the documentation and has no concerns.</p> <p>Note the Lot subject to this amendment is remote from the Water Corporation's wastewater scheme.</p>	Noted.
G2	Department of Agriculture & Food	<p>Thank you for the opportunity to comment on the planning application for the proposed rezoning and subdivision of Lot 402, Myers Road, Shadforth from the 'Rural' zone to 'Special Rural (SR26)' in the Shire of Denmark.</p> <p>The Department of Agriculture and Food, WA (the Department) does not routinely comment of rural subdivision proposals. In the case of this referral, the subject land includes land identified as Priority Agricultural Land in the Lower Great Southern Region Strategy (2007).</p> <p>The Department does not support the proposal on the basis that the proposed rezoning and subsequent subdivision will impact the use and availability of identified Priority Agricultural Land in the Shire of Denmark. Priority Agricultural Land identifies high capability land that is suitable for a range of intensive agricultural pursuits, including but not exclusive to annual or perennial horticulture.</p> <p>The property area is an open landscape surrounded by large adjacent lots (with exception of some small rural holdings on the eastern boundary). There is evidence of a small or boutique horticulture enterprise to the south, including the extensive vineyard and tourism development of Forest River Vineyard to the west and along the boundary there is some native bush, which may also serve as suitable screening vegetation.</p> <p>It is acknowledged that the slope across most of the property is presents poor suitability for annual horticulture and is at an upper limit for some types of perennial horticulture. The slope does not preclude other special</p>	<ul style="list-style-type: none"> As noted in the Local Planning Strategy, the Lower Great Southern Strategy mapping of 'Priority Agriculture' land was based on soils mapping only and did not have regard to issues such as slope and water supply availability. Amendment 138 includes a land capability assessment which has had regard to site specific information such as soils mapping, slopes, water supply and relationship to adjoining developments – and from this assessment it is considered that the appropriate form of development for the site and the surrounding locality is a rural smallholdings development.

		<p>horticultural or intensive grazing pursuits.</p> <p>Given the slope of the land together with issues including, but not limited to, potential nutrient run off from the site, subdivision and intensification may also present a risk of increased land degradation.</p> <p>Any changed land use on rural land needs to include suitable set back distances and buffers to minimise potential future land use conflict. To ensure agricultural operations are not restricted by a rural-residence development, the Department recommends that minimum setbacks and / or buffers are incorporated in accordance with the EPA guidelines. These guidelines set out minimum separation distances for a range of agricultural activities and are available on the EPA's website at www.epa.wa.gov.au/docs/1840_GS3.pdf</p>	
G3	Department of Aboriginal Affairs	<p>Thank you for the opportunity to provide advice on the above. The Department of Aboriginal Affairs (DAA) has reviewed the Aboriginal Sites Register and can inform you that there are no known Aboriginal Heritage Sites or Other Heritage Places, located on the land. As such there are no known Aboriginal Heritage reasons why the proposed works cannot proceed.</p> <p>DAA recommends that the planning approval includes reference to the Cultural Heritage Due Diligence Guidelines (the Guidelines) so that prospective developers are aware of their obligations with regards to Aboriginal Heritage places. The Guidelines can be found electronically at: www.daa.wa.gov.au/Documents/ReportsPublications/DDG.pdf.</p>	<ul style="list-style-type: none"> • Noted. • This is a Scheme Amendment at this stage – this recommendation for reference to the Guidelines is more relevant for inclusion at the subdivision stage.
G4	Main Roads WA	<p>Thank you for sending a copy of Amendment No. 138 to Town Planning Scheme No.3; which includes rezoning Lot 402 Myers Road, Shadforth to “special Rural Zone”.</p> <p>Main Roads WA does not object to the redevelopment of Lot 402 subject to the following conditions:</p> <ol style="list-style-type: none"> 1. No direct vehicular access from the development shall be allowed to South Western Highway. The development plan shall be altered to meet Main Roads WA requirements. 2. All access for fire management to the development shall be from Myers Road and/or Cussons Road. 3. Storm water discharge from the development shall remain at predevelopment levels, which shall require a combination of retention and detention within the development. 4. Main Roads WA will require a covenant pursuant to Section 150 of the 	<ul style="list-style-type: none"> • The only access to South Coast Highway is a proposed ‘Strategic Fire Access Route’ which is seeking to utilise an existing access point. Noting that Main Roads WA have objected to the retention of this access arrangement as they are seeking to rationalise access/egresses onto South Coast Highway, and recent liaisons with Main Roads WA regarding a Strategic Fire Access Route onto South Coast Highway associated with the adjoining Special Rural estate to the east, it is recommended that the Strategic Fire Access Route from proposed Lot 2 connecting the new road and South Coast Highway be deleted and a new Strategic Fire Access Route on the south-western boundary of proposed Lot 4 be provided such that it connects with the Strategic Fire Access Route on the

		<p>Planning and Development Act 2005 and Division 3 of the Planning Development Regulations 2009 preventing vehicular access onto the South Western Highway.</p> <p>5. Redundant crossovers shall be removed at the owners cost.</p> <p>The Authority to require the above conditions can be found in the Main Roads Act 1930 and the Local Government (Uniform Local Provisions) Regulations 1996 – Reg 14.</p>	<p>adjoining No. 20 (Lot 3) Ruhen Place, with the fire access gate to be relocated accordingly to facilitate such connection.</p> <ul style="list-style-type: none"> • Stormwater management will be dealt with in detail at the subdivision stage. • The requirement for covenants preventing vehicular access onto South Coast Highway will be addressed at subdivision stage. • The requirement for redundant crossovers to be removed will be addressed at subdivision stage. <p><u>Recommendation</u> That the Subdivision Guide Plan in the amendment documentation to be modified by:</p> <ul style="list-style-type: none"> ○ Deleting the Strategic Fire Access Route from proposed Lot 2 connecting the new road and South Coast Highway; ○ Including a new Strategic Fire Access Route on the south-western boundary of proposed Lot 4 such that it connects with the Strategic Fire Access Route on the adjoining No. 20 (Lot 3) Ruhen Place, with the fire access gate to be relocated accordingly to facilitate such connection.
G5	Department of Water	<p>Thank you for the opportunity to comment on the above proposal. The Department of Water (DoW) provides the following comments.</p> <p>Waterways The subject site is drained by a minor waterway that is a tributary of Little River, eventually flowing into Wilson Inlet.</p> <p>The Department of Water supports the proposed subdivision guide plan which shows the waterway fenced to exclude stock and revegetated. The proposed Lot 7 has a small portion of land to the north west of the waterway that has low land capability. The DoW would recommend that this land should be included within the revegetation area.</p>	<ul style="list-style-type: none"> • Noted. • The portion of land referenced will be landlocked by the drainage/creek line and area to be revegetated and fenced accordingly thus it is considered appropriate to include this portion of land within the revegetation area as a result. <p><u>Recommendation</u> That the Subdivision Guide Plan in the amendment documentation be modified to include the land to the north west of the waterway on proposed Lot 7 as being in the area to be revegetated.</p>
G6	Department of Health	<p>Thank you for your letter dated 6 August 2014 requesting comment from the Department of Health (DOH) on the above amendment.</p> <p>On-site Wastewater Disposal DOH has no objection to the proposed amendment based on the land capability report of the site prepared by Land Assessment. The on-site</p>	Noted.

		disposal of wastewater is considered achievable on the lots proposed in the Subdivision Guide Plan.	
G7	Telstra	<p>Thank you for the above advice. At present, Telstra Corporation Limited has no objection. I have recorded it and look forward to further documentation as the development progresses.</p> <p>A network extension will be required for any development within the area concerned, the owner/developer will have to submit an application before construction is due to start to NBN Co. or the Telstra Smart Community website: http://www.telstra.com.au/smart-community/developers/ .</p> <p>More information regarding NBN Co. can be found on their website http://www.nbnco.com.au/ . I add this information about NBN Co. as it is not known when services will be available from NBNCo. Telstra may provide services if NBN Co. cannot.</p> <p>Please dial 1100 (Dial before You Dig) for location of existing services.</p>	Noted.
G8	State Heritage Office	<p>Thank you for your correspondence received on 11 August 2014 regarding proposed Amendment No. 138 to rezone No. 10 10 Myers Road Denmark from "Rural" to "Special Rural (SR 26)". The following advice is provided in response to referral of a sche3m amendment as set out under Section 79 of the Planning and Development Act 2005.</p> <p>The proposed Scheme Amendment has been considered for its potential impact on heritage places within the Scheme area. There is no objection to the proposal.</p>	Noted.

Annette Harbron

From: Nick Ayton <nick@aytonbaesjou.com.au>
Sent: Wednesday, 15 October 2014 3:17 PM
To: Annette Harbron
Subject: RE: Amendment 138 - Schedule of Submissions

Hi Annette,

Thank you for sending through the submissions for comment.

S1. This proposal does not require the owner of Lot 708 to subdivide or change his property. Notifications can be placed on the titles of the proposed lots regarding the points raised in the submission. The size of the proposed lots is more likely to result in them being used to agist stock in order to manage them effectively.

S2. Compared to the Special Residential development immediately to the north of Lot 1 and the rural residential to the east and south, this is a relatively low key proposal. It conforms with the Local Planning Strategy which has previously been advertised and adopted by Council. We understand no objection was lodged against the proposal to designate the property for rural smallholding development. It can be argued that the proposed development will improve surveillance within the area. Apart from limited additional traffic there is no likelihood that air and water quality will be detrimentally affected. Revegetation undertaken by the new residents has the ability to effectively screen development from Lot 1.

G1 Noted.

G2 It is understood the assessment of priority agricultural land carried out by the Department of Agriculture for the Lower Great Southern Strategy was a broad based assessment which has never been refined. Since then the Shire's Local Planning strategy has been prepared with the involvement of all key stakeholders, advertised for public comment and endorsed by the shire and WAPC. This document designates the property for Rural Smallholding development. We are not aware of any objection to this designation by the Department. It has been their stated policy to address such matters at the strategic level rather than later in the development process when land has been acquired and expectations are based on the guidelines that have been put in place after all key agencies have had the opportunity to comment.

In this case a respected agricultural expert has prepared an assessment of the property and concluded that the proposed rezoning is not considered to be putting an area of any significant potential agricultural productivity at risk of loss from the shire of Denmark. The land uses in the area are predominantly non agricultural. Rural residential lots immediately about the property on its eastern boundary and are located on the opposite side of Myers Road. Special Residential development is located immediately to north. Although cattle grazing is common on areas under pasture, the property sizes are such that it is an area of small scale supplementary rural activity (de-facto rural small holdings) rather than a core area of agricultural production.

The proponent has developed the Forest Hill vineyard and winery across the road and advises the subject land is not capable of being economically developed because of the steepness of much of the property, lack of water for horticulture and proximity to rural residential development.

In terms of strategic planning for more intensive farming the Scottsdale catchment to the north of Scottsdale Road has previously been identified as an area with horticulture as a primary purpose.

G4-G8 Comments from Government agencies are noted.

It would be appreciated if the above comments could be taken into account when Council assesses the proposal.

Kind regards

Nick Ayton

Ayton Baesjou Planning

From: Annette Harbron [mailto:dps@denmark.wa.gov.au]
Sent: Wednesday, 8 October 2014 3:44 PM
To: Nick Ayton