

PLANNING AND DEVELOPMENT ACT 2005
SHIRE OF DENMARK

TOWN PLANNING SCHEME NO. 3

AMENDMENT NO.137

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 local planning scheme by:

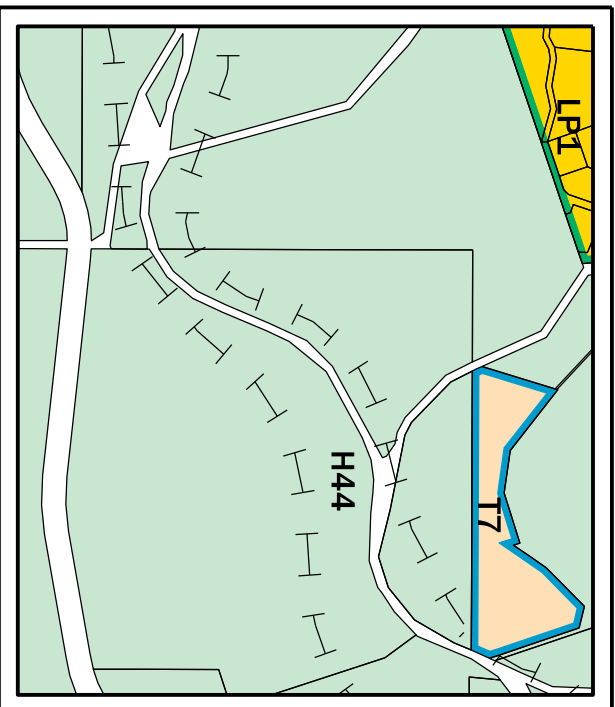
1. Rezoning No.1670 (Lot 3) South Coast Highway, Shadforth from 'Rural' to 'Special Rural - SR 25' and amend the Scheme maps accordingly.
2. Inserting Special Rural Zone No.25 provisions in Appendix VI – Special Rural Zone as follows:

Particulars of the Land	Proposed Uses	Special Provisions
<p>25. South Coast Highway/Lapko Road Special Rural Zone No.1670 (Lot 3) South Coast Highway, Shadforth</p>	<p>Rural Smallholding <i>Permitted Uses (P):</i> Single House <i>Permitted at Council's Discretion (AA):</i> Home Occupation Cottage Industry Holiday Accommodation Holiday (Standard) Home Holiday Home (Large) Rural Pursuit</p>	<ol style="list-style-type: none"> 1. Subdivision and development shall generally be in accordance with an endorsed Subdivision Guide Plan. 2. The minimum lot size shall be 4.0 hectares. 3. Building envelopes should generally be as per the endorsed Subdivision Guide Plan, with all buildings and effluent disposal systems to be located within the building envelopes. 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 (i.e. from South Coast Highway) of 20 metres; b. Minimum side and rear boundary setbacks of 15 metres; c. Existing remnant vegetation on-site; d. Visual impact/amenity from adjoining roads; e. Other issues as identified on the Opportunities and Constraints Plan for the land as provided for in the Scheme Amendment 137 documentation; 4. 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>5. On-site effluent disposal shall be the responsibility of the individual landowner at the time of development and shall involve the use of on-site Alternative Treatment Units approved by Council in accordance with Health Department of WA regulations and guidelines.</p> <p>6. Within those areas defined as 'Existing Vegetation', 'Creek Protection Area' and 'Creek Revegetation Area' on the Subdivision Guide Plan, no indigenous trees or substantial vegetation shall be felled or removed, except where:</p> <ul style="list-style-type: none">a. Trees are dead, diseased or dangerous;b. To comply with the Fire Management Plan requirements for the site. <p>7. Within those areas defined as 'Existing Vegetation', 'Creek Protection Area' and 'Creek Revegetation Area' on the Subdivision Guide Plan, Council shall not permit the development of dwellings, associated buildings and infrastructure.</p> <p>8. The areas defined as 'Existing Vegetation' and 'Creek Revegetation Area' on the Subdivision Guide Plan shall be fenced externally, with property boundary fencing not encouraged within the 'Existing Vegetation'.</p> <p>9. All fencing (internal and boundary) shall be of rural construction such as pine/steel posts and strand to the satisfaction of Council.</p> <p>10. Council shall request the WAPC to impose conditions at the time of subdivision stage requiring revegetation of the 'Proposed Vegetation' and the 'Creek Revegetation Area' identified on the Subdivision Guide Plan and council shall require that the subdivider plant and maintain for a period of at least two (2) years, trees, shrubs or species approved by Council.</p> <p>11. When considering the use of 'Holiday Accommodation', support of a holiday accommodation proposal will only be</p>
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		<p>forthcoming where the accommodation is limited to solely within the dwelling.</p> <p>12. Council shall request the WAPC to impose conditions at the time of subdivision stage requiring the implementation of the specific fire protection measures as set out in the Fire Management Plan.</p> <p>13. All Single Houses shall be constructed to AS3959-2009 Construction of Buildings in Bushfire Prone Areas (as amended), with no building requiring greater construction rating than BAL-29.</p> <p>14. Vehicular access to the lots shall be limited to those shown on the Subdivision Guide Plan unless approved by Council and Main Roads WA.</p> <p>15. Zincalume or white coloured roofs and external wall materials shall not be permitted.</p>
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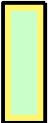
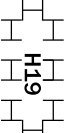



SHIRE OF DENMARK Town Planning Scheme No. 3 Amendment No. 137



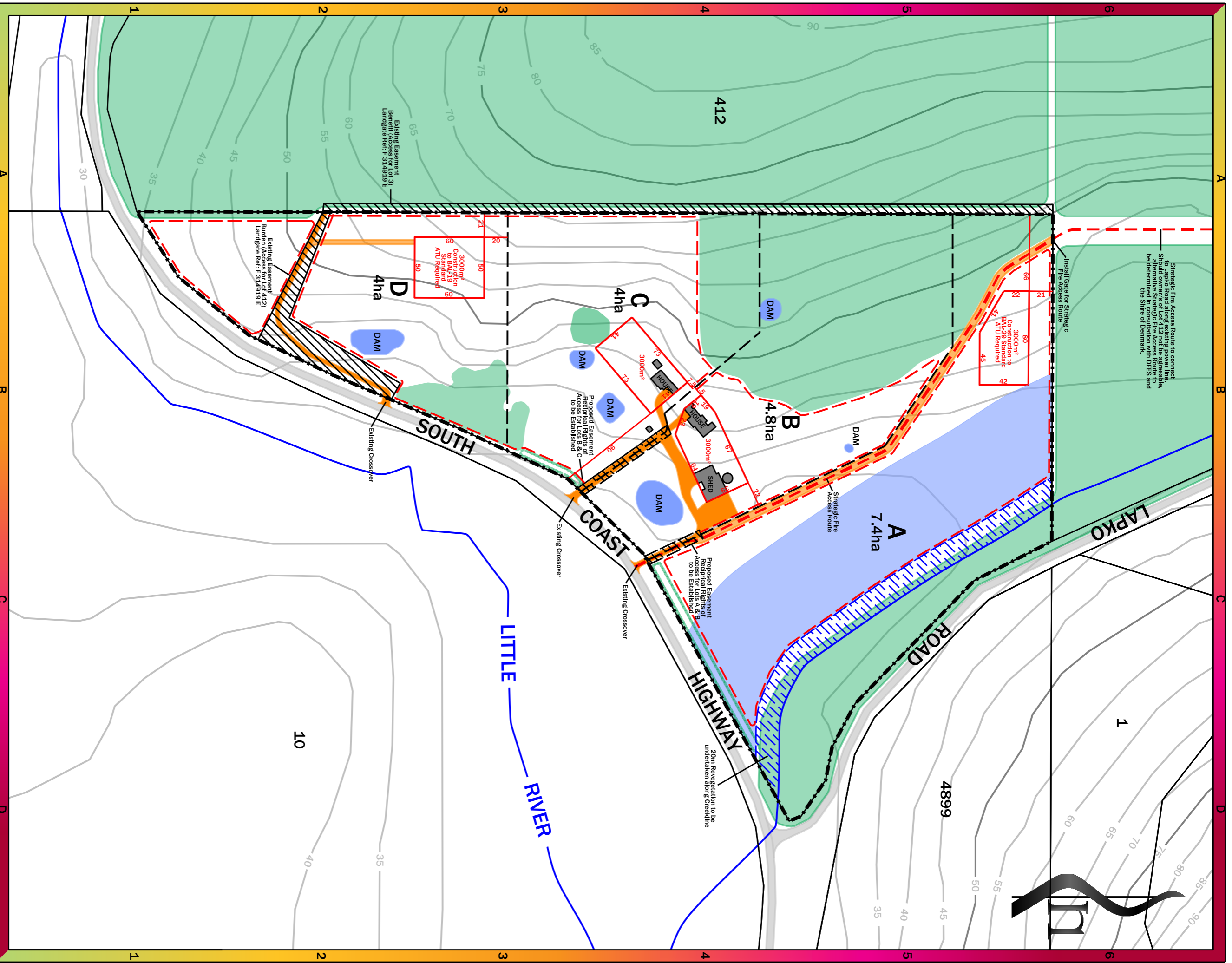
Existing Zoning



Proposed Zoning

- ZONES**
-  TOURIST
 -  LANDSCAPE PROTECTION
 -  RURAL
 -  SPECIAL RURAL
- OTHER**
-  H19
DISTRICT HERITAGE BOUNDARY
(SEE SCHEME TEXT)
 -  T6
TOURIST AREA
(SEE SCHEME TEXT)
 -  LP1
LANDSCAPE PROTECTION AREA
(SEE SCHEME TEXT)
 -  SR9
SPECIAL RURAL AREA
(SEE SCHEME TEXT)





Strategic Fire Access Route to connect with the Strategic Fire Access Route of Lot 412 not be agreeable. Should owner/s of Lot 412 not be agreeable, alternative Strategic Fire Access Route to be determined in consultation with DFES and the Shire of Denmark.

3000m² Construction to BAL-29 Standard ATU Required
 45 42 21 22 66

3000m² Construction to BAL-19 Standard ATU Required
 50 21 20 21 50

Existing Easement Burden (Access for Lot 412)
 Landgate Ref: F 314919 E

Existing Easement Burden (Access for Lot 3)
 Landgate Ref: F 314919 E

1 2 3 4 5 6 A B C D

LEGEND

- Extent of Subject Site
- Existing Boundaries
- Proposed Lot Boundaries
- Existing Easements
- Proposed Easements
- Existing Driveways
- Proposed Driveways
- Existing Buildings
- Creekline
- Creek Protection Area
- Creek Revegetation Area
- Existing Vegetation
- Proposed Vegetation
- Building Envelopes
- Strategic Fire Access Route
- Firebreaks

SUBDIVISION GUIDE PLAN

NO.1670 (LOT 3)
 SOUTH COAST HIGHWAY
 SHADFORTH



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SCHEDULE OF SUBMISSIONS: AMENDMENT 137

Submission Number	Name & Address	Verbatim Submission	Planning Services Comment
S1	DC & KJ Wright PO Box 400 Denmark WA 6333	<p>As noted in your letter dated 17th April 2014, there is an amendment to rezone 1670 Sth Coast Hwy from 'Rural' to 'Special Rural'.</p> <p>We support the rezone and feel this is a positive and forward moving amendment for the landowners in the vicinity of this Lot.</p> <p>The growth of Denmark benefits all of us in many different ways. Well done Denmark Shire for recognising this.</p>	Noted.
S2	KW, CC & DM Dybing 1700 South Coast Highway Denmark	<p>Thankyou for organising the meeting, the conduct of the meeting and the positive outcome for both parties.</p> <p>The following is a summary of the verbal agreements between parties from the above meeting. These agreements replace any previous correspondence or submissions by the owners of Lot 412.</p> <p><u>Easement over the Eastern boundary of Lot 412.</u> The owners of Lot 3 have agreed to extinguish the easement over the Eastern boundary of Lot 412, as part of this subdivision proposal.</p> <p><u>Easement over Lot D, for the benefit of Lot 412.</u> It was agreed by the owners of Lot 3 to grant Lot 412 an easement access through the planned Lot D as per the draft plans. The entry crossover will extend to the new entry, as required by Main Roads and as per the draft plans. All easement conditions will remain the same as per the previous easement.</p> <p><u>Strategic Fire Access</u> The owners of Lot 412 have agreed to the use of a strategic fire access through their property as per the plans of TPS 137.</p> <p><u>Other items:</u> It was agreed that the development of the new road for Lot D, and any boundary fencing required are part of the proposed subdivision and hence are a cost to the developer.</p>	<ul style="list-style-type: none"> • Planning Services facilitated a meeting between the landowners of the subject lot, the planning consultant and the adjoining landowners to work through a number of issues of concern that the adjoining landowner had with the proposal. This meeting resulted in a number of agreements that have been provided for a revised plan. • Removal of the easement on eastern boundary of Lot 412 as agreed to by the owners is shown on the revised plan. • The easement on Lot D for purposes of granting access to Lot 412 as agreed to by the owners is shown on the revised plan. • The strategic fire access as agreed to by the owners is shown on the revised plan. • Crossover, driveway and boundary fencing costs are the responsibility of the developer. <p>Recommendation That Special Provision 1 of the Scheme provisions and the Subdivision Guide Plan in the amendment documentation be modified to reflect reference to "Subdivision Guide Plan – Drawing No. 14457-07B.dgn".</p>

Government Agencies

G1	Department of Aboriginal Affairs	<p>Thank you for your letter regarding Town Planning Scheme No. 3 Amendment 137 (Amendment) received by the Department of Aboriginal Affairs (DAA) on 30 April 2014 seeking comment on the Amendment. I understand that the Amendment is for the rezoning of No. 1670 (Lot 3) South Coast Highway, Shadforth from Rural zone to 'Special Rural' zone.</p> <p>A review of the Register of Aboriginal Sites and DAA database concludes that there are no Aboriginal heritage sites or places within the proposed Amendment therefore no heritage approvals required.</p>	Noted.
G2	Water Corporation	<p>I refer to your correspondence dated the 17th April 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 Corporations water and wastewater services scheme.</p>	Noted.
G3	Department of Health	<p>Thank you for your letter dated 17 April 2014 requesting comment from the Department of Health (DOH) on the above proposal.</p> <p><u>Wastewater Disposal</u> Based on site conditions as described by Bio Diverse Solutions, DOH has no objection to the rezoning proposal as on-site effluent disposal is achievable on the lots proposed.</p> <p><u>Public Health Impacts</u> Enclosed is a scoping tool that highlights public health issues that should be addressed or incorporated into this amendment. The scoping tool is available for download at: http://www.public.health.wa.gov.au/cproot/3965/2/Residential%20estates%20and%20precincts%20JUNE%202011.pdf</p>	Noted.

		<p>And additional resource that may also be helpful is an enHealth document 'Risky Business' – A Resource to manage environmental health risks, available for download at: http://www.public.health.wa.gov.au/21400/2/health_risk_assessment.pm</p>	
G4	Department of Parks and Wildlife	<p>Thank you for your letter received on 22 April 2014 inviting the Department of Parks and Wildlife (department) to comment on the above mentioned Town Planning Scheme Amendment.</p> <p>The department has no record of rare flora or fauna present on the property but note there a number of fauna species of conservation significance and also a number of rare and priority listed flora species found in the local area.</p> <p>Supporting documentation advises that the remnant vegetation will be fenced and buffers to creeks established. Providing this occurs, there should be no significant impact on species if present on the property. A special provision regarding the planting of indigenous native species may also help to provide habitat for fauna species.</p> <p>Supporting documentation advises there are known populations of Blackberry occurring within the area. The department recommends that a special provision be added to the scheme along the lines that it is the responsibility of the landowner to preclude the establishment of invasive weed species on the individual allotments.</p> <p>Planning for bushfire protection guidelines edition 2 (FESA and WA Planning Commission May 2010) requires rezoning, subdivision and development proposals be accompanied by information on how the proposal will meet the requirements of this publication. This information on should include bushfire hazard and land suitability assessment, subdivision and development design in terms of access, fire services access, hazard separation and building protection zones, water supply, building envelope location and size. The plan should outline fire protection measures.</p> <p>The department does not object to the scheme amendment given due consideration is given to the above comments.</p>	<ul style="list-style-type: none"> • Noted. • Special Provision 8 requires the areas identified as 'Existing Vegetation' and 'Creek Revegetation Area' to be fenced. • Special Provision 10 references that a condition may be imposed on the subdivision approval for revegetation to occur – at which time details such as species, number, location etc would all be addressed. • It is recommended that a new special provision is added requiring a Weed Management Plan as a condition of subdivision. <p><u>Recommendation</u> A new Special Provision be added to the Scheme Text provisions to require a Weed Management Plan as a condition of subdivision approval.</p>
G5	Main Roads WA	<p>I refer to your letter dated 17th April 2014 seeking comment on "Shire of Denmark Town Planning Scheme No. 3 Amendment 137".</p>	<p><i>Officer NB: Comments in this column will be in response to Addendum #2 only.</i></p>

	<p>Main Road has no in principle objection the rezoning and scheme amendment to rezone No. 1670 (Lot 3) South Coast Highway Denmark from "Rural" to "Special Rural (SR 25)".</p> <p>However, Main Roads has some concern over Clause 2.8.1 of the Harley Global Report and the Subdivision Guide Plan, No. 1670 (Lot 3) South Coast Highway embedded within the "Shire of Denmark Town Planning Scheme No. 3 Amendment 137".</p> <p>The Report and Guide Plan indicate accesses or amended accesses to the Subdivision from the South Coast Highway that has not been approved by Main Roads.</p> <p>Main Roads power to approve accesses onto highways and main roads arises out of:</p> <ul style="list-style-type: none"> • Not only section 28A in the case of highways and main roads which have been proclaimed control of access under that section; but also and in particular, • Regulation 14 of the Local Government (Uniform Local Provisions) Regulations 1996 for other main roads and highways (Regulation 14) and <p>the requirement for relevant landowners to have obtained the approval of Main Roads for crossover access from their lot or lots across the unconstructed portion of a road reserve to the road pavement prior to commencement of construction of a development is an obligation which exists in addition to the obligation to obtain a development approval or subdivision approval.</p> <p>It has been Main Roads recent experience that applications for development approval are being referred to it quite late in the assessment process, usually well after plans have reached an advanced stage of design with little scope to accommodate changes to the layout of the development without a major revision.</p> <p>Plainly, it is in the public interest to coordinate Main Roads consideration of crossovers and access to its road network through the planning process for efficiency reasons. However Local Government and/or Development</p>	<p>The requirements are all provided for on the revised Subdivision Guide Plan.</p>
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	<p>Scheme No. 3 Amendment 137, to include amendments to Clause 5.20 "Vehicle Access" or 6.1 "Planning Consent" to include comment on the WAPC's development control policy dealing with access on regional roads, namely Development Control Policy 5.1 Regional Roads (Vehicular Access). To include reference to the Commissioner's powers under section 28A and in particular, Regulation 14. It is hoped that such a reference would raise awareness amongst town planners preparing development applications of the need to obtain Main Roads' approval and to encourage liaison with Main Roads at an early stage in the planning process and where appropriate, prior approval from the Commissioner of Main Roads is granted.</p> <p><u>Addendum</u></p> <p>In regard to our correspondence to you dated 5 June 2014 (D14#289135), Main Road offers the following clarification concerning the rezoning of Lot 3 South Coast Hwy.</p> <p>While Main Roads has no in principle objection to the proposed re-zoning of Lot 3 South Coast Hwy, it is current Main Roads policy to rationalise access points from our road network to minimise conflict points and improve road safety.</p> <p>Due to the above, as a condition of sub-division Main Roads will seek to have the access points from South Coast closed and for access to the proposed subdivision to be from Lapko Rd only. All costs associated with the removal of the existing crossovers shall be at the proponent's expense. It should also be noted that if future sub-division requires the upgrading of the intersection of South Coast Highway and Lapko Rd a contribution towards the works may be sought from the proponent.</p> <p>The provision any accesses to comply with Bush Fire Protection Guidelines must also have the approval of Main Roads, the Fire Protection Plan shall not utilise any unapproved accesses to achieve compliance with the guidelines.</p> <p><u>Addendum #2</u></p> <p>Following a meeting with Scott Penfold from Harley Dykstra, Main Roads has adjusted its requirements concerning access to the subject land from</p>	
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		<p>South Coast Highway.</p> <p>Our initial position was to have no access from SCH but proved to be very impractical and detrimental to both parties.</p> <p>Our updated requirements are as below.</p> <ol style="list-style-type: none"> 1) There shall be only one access from South Coast Highway to the proposed subdivision. 2) The easement access from South Coast Highway to Lot 412 is to be closed. 3) Access to lot 412 shall be maintained via an easement connected to the single access point. 4) Either the existing access crossovers to the proposed lot A or B are at a suitable location for sight distances. When an access point is selected an application for a new / amended access is to be submitted to Main Roads. The access will have to be improved and sealed. 5) Please ensure the proponent liaises with Main Roads prior to a WAPC application being made so we can streamline the conditions process. 	
G6	Western Power	<p>Please be advised that Western Power has reviewed Scheme Amendment No. 137 and has no further comment at this time.</p>	Noted.

Shire of Denmark	
10 SEP 2014	
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EPH	
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COUNCILLORS	
CEO	
DIR of FINANCE	
DIR of PLANNING	<input checked="" type="checkbox"/>
DIR of INFRASTRUCTURE	
DIR of COMMUNITY	
OTHER	

Our Ref: 14457

Your Ref:

8 September 2014

Chief Executive Officer
Shire of Denmark
PO Box 183
DENMARK WA 6333

ATTN: Annette Harbron – Director of Planning & Sustainability

Dear Annette,

**RE: AMENDMENT NO.137 – SHIRE OF DENMARK TOWN PLANNING SCHEME NO.3
NO.1670 SOUTH COAST HIGHWAY, SHADFORTH**

Thank you for your email dated 8th September 2014, with the attached revised Schedule of Submissions regarding Amendment No.137 to the Shire of Denmark Town Planning Scheme No.3. The purpose of this letter is to respond to the Schedule of Submissions and provide an updated copy of the revised Subdivision Guide Plan relating to No.1670 South Coast Highway.

The response to each of the individual submissions is detailed below:

- S1. Noted. It is not envisioned any changes will be required;
- S2. Support. A revised Subdivision Guide Plan (enclosed) has been prepared to reflect the verbal agreements made with the owners of Lot 412. These changes include:
- Extinguish easement benefit to Lot 3 over Lot 412;
 - Extend easement benefitting Lot 412 over proposed Lot D to new single crossover access (see response to Submission G5 from Main Roads Western Australia). In addition to this, an easement benefit over the single crossover has been included; and
 - The Strategic Fire Access as shown on the previous Subdivision Guide Plan has been agreed to by the neighbouring landowner, hence this notation on the plan has been modified accordingly;
- As a result of the modifications to the Subdivision Guide Plan, references within the document to the easement, access and strategic fire access will have to be updated accordingly. Based on the negotiations with the owners of Lot 412 and Main Roads Western Australia, we believe the revised Subdivision Guide Plan represents the best outcome for land meeting all parties requirements.

G1. Noted. It is not envisioned any changes will be required;

G2. Noted. It is not envisioned any changes will be required;

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ALBANY

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ALBANY

Bunbury

Busseton

Kelmscott

Perth

ACN 009 101 786 ABN 77 503 764 248

21 October 2014 - Attachment 8.1.1c



- G3. Support. Additional information is able to be included within the Amendment report detailing the scoping tool and public health impacts highlighted by the Department of Health Western Australia;
- G4. Support. As a result of the proposed Amendment, remnant vegetation will be fenced by post and strand fencing. An additional clause can be included within the special provisions applicable to Special Rural Area No.25, precluding establishment of declared weeds;
- G5. Support. Throughout the public advertising process, negotiation occurred with Main Roads Western Australia. This department updated its original advice issued to the Shire of Denmark precluding access to South Coast Highway to allow a single access point. As detailed above in the response to S1, the layout of the future subdivision has been revised such that access of Lot 412 is extended to the new crossover and the single crossover remains the only access point for all proposed lots. This crossover will be improved to the standards of Main Roads Western Australia, as detailed on the revised Subdivision Guide Plan, along with the closure of the other crossovers entering the land. Main Roads Western Australia has also viewed the Subdivision Guide Plan and supports the revised layout. Text changes will be required to the Amendment document to reflect the revised Subdivision Guide Plan should it be adopted by Council.
- G6. Noted. It is not envisioned any changes will be required.

If you could please proceed with the presentation of Amendment No.137 to Council with a recommendation for Final Approval at your earliest convenience, it would be greatly appreciated.

Please do not hesitate to contact us should any further information be required.

Yours faithfully



Scott Penfold
Planning Consultant
Harley Dykstra Pty Ltd

E-mail: scott@harleydykstra.com.au

Enc: *Revised Subdivision Guide Plan*

20140908 SOD Response to Schedule of Submissions.docx

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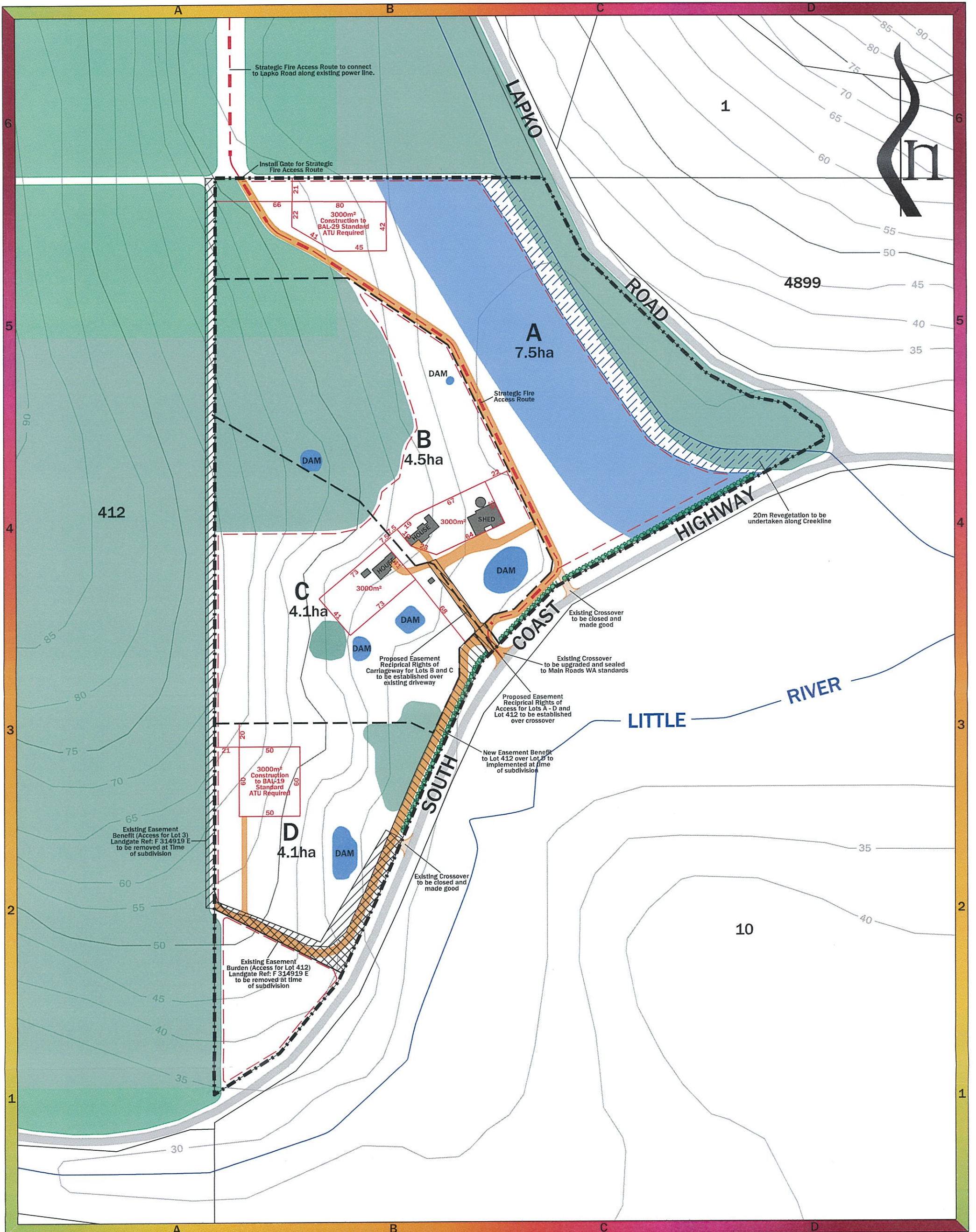
Albany Bunbury

Busseton

Kelmscott Perth

ACN 009 101 786 ABN 77 503 764 248





LEGEND

- Extent of Subject Site Creekline
- Existing Boundaries Creek Protection Area
- Proposed Lot Boundaries Creek Revegetation Area
- Existing Easements Existing Vegetation
- Proposed Easements Proposed Vegetation
- Existing Driveways Building Envelopes
- Proposed Driveways Strategic Fire Access Route
- Existing Buildings Firebreaks

SUBDIVISION GUIDE PLAN

NO.1670 (LOT 3)
SOUTH COAST HIGHWAY
SHADFORTH

SCALE AT A3 1:3000



DRAWING NO. 14457-07B.dgn



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