

# PLANNING AND DEVELOPMENT ACT 2005

## Shire of Denmark Town Planning Scheme No. 3 Amendment No. 144

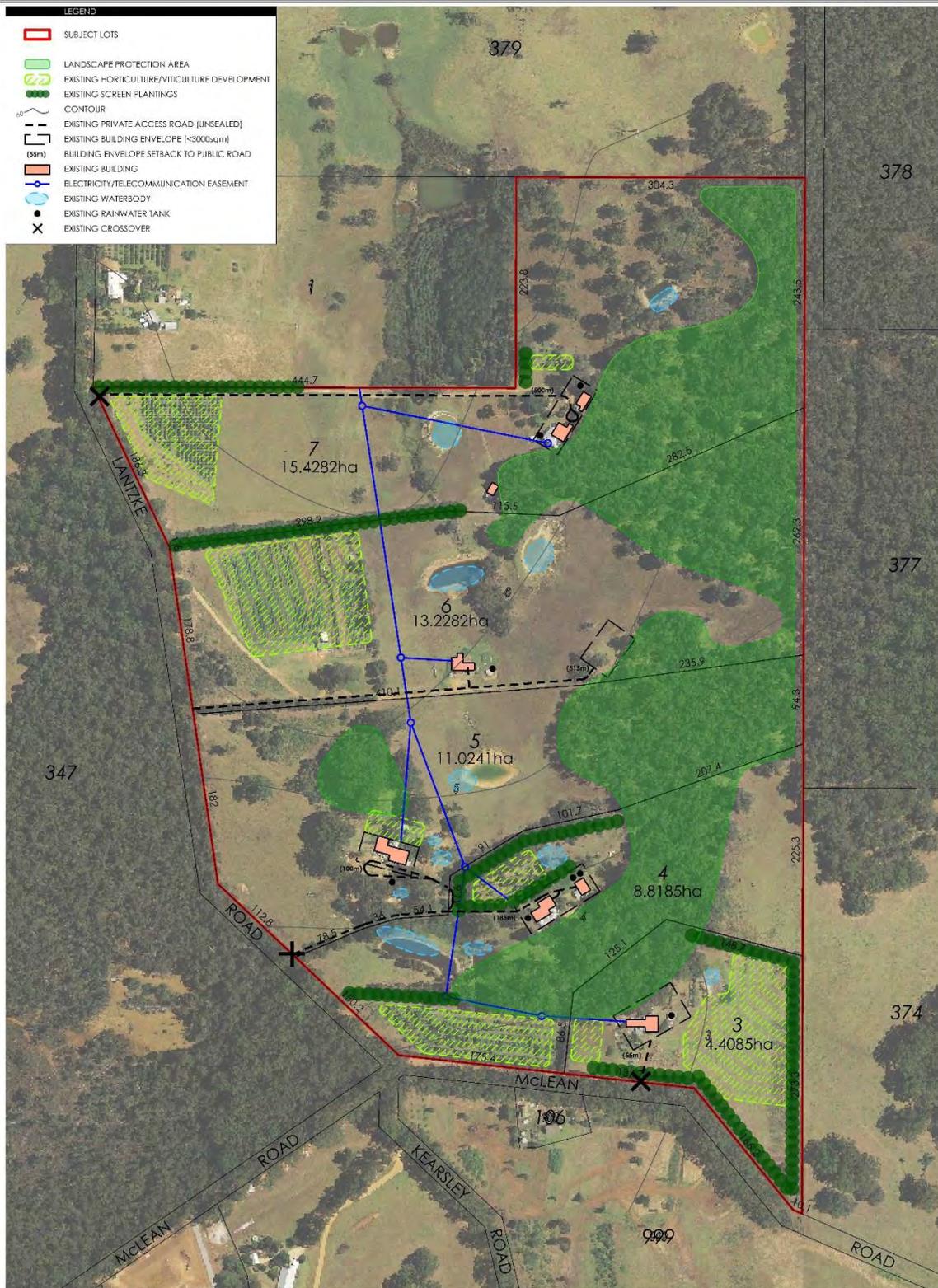
The Shire of Denmark under and by virtue of the powers conferred upon it in that behalf by the *Planning and Development Act 2005* hereby amends the above Town Planning Scheme by:

- a) Updating the existing Structure Plan (No. 93/7/1) and permit subdivision intensification of the site from five (5) to ten (10) lots at Lots 3-7 Lantzke Road, Denmark WA.
- b) Updating the provisions in Appendix VI – Schedule of Special Rural Zones as follows:

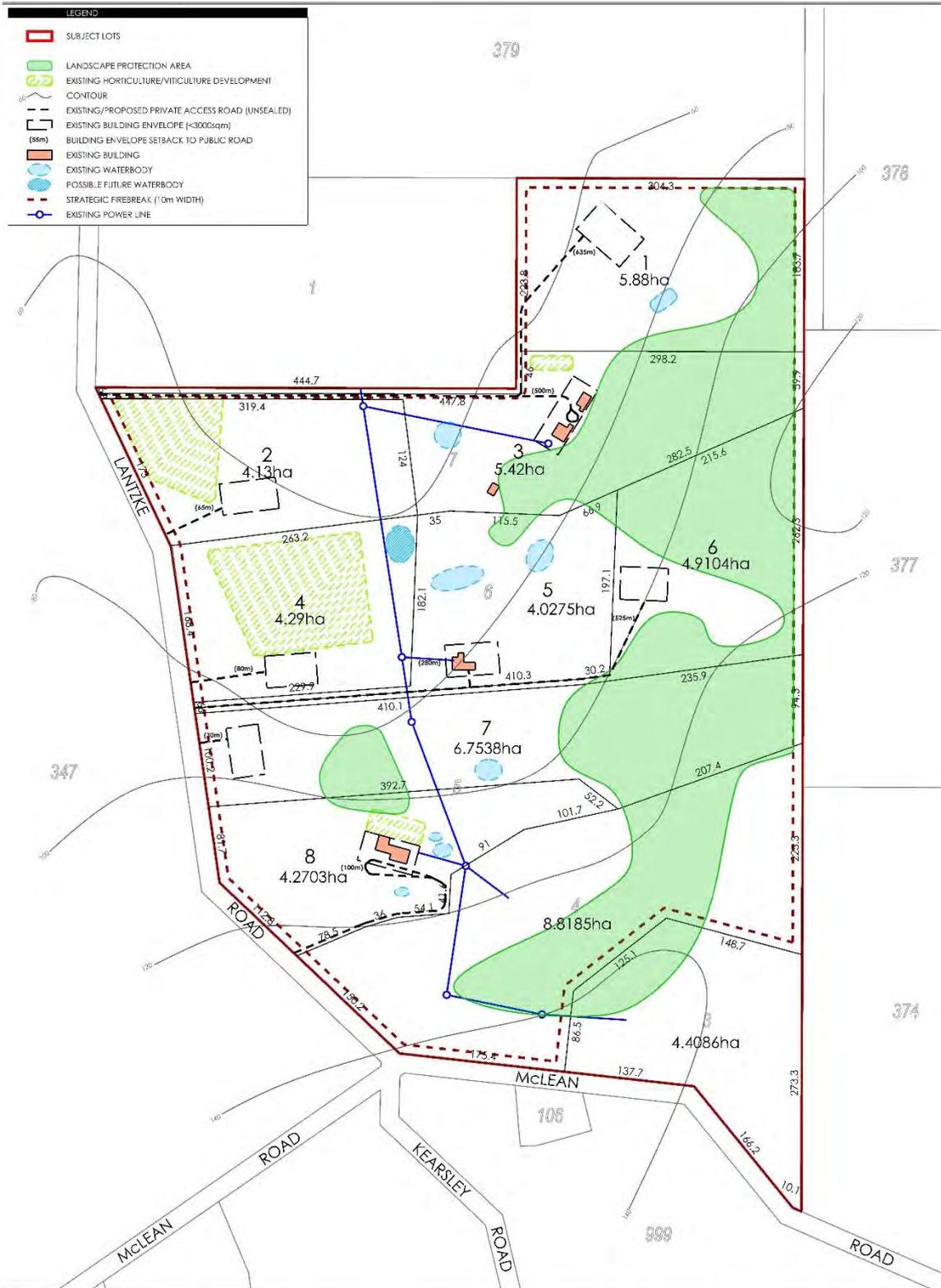
PARTICULARS OF THE LAND	PROPOSED USES	SPECIAL PROVISIONS
<p>10. LANTZKE ROAD SPECIAL RURAL ZONE</p> <p>AMD 85 GG 3/9/04</p>	<p>Rural Smallholdings Permitted Uses (P): Residential Dwelling House Permitted at Council's Discretion (AA):</p> <ul style="list-style-type: none"> <li>• Cottage Industry</li> <li>• Rural Pursuit</li> <li>• Holiday Accommodation on the basis it is limited to accommodation which is solely within the dwelling.</li> <li>• Home Business</li> <li>• Home Occupation</li> <li>• Horticulture</li> </ul> <p>Permitted at Council's Discretion Subject to Advertising (SA):</p> <ul style="list-style-type: none"> <li>• Gallery/Restaurant on the basis that it is limited to a maximum floor area of 900m<sup>2</sup>.</li> </ul>	<ol style="list-style-type: none"> <li>i. Development and subdivision shall generally be in accordance with the approved Lantzke Road Local Structure Plan.</li> <li>ii. All buildings and effluent disposal systems on a lot must be located within the building envelope location (max 3,000m<sup>2</sup>) as designated on the approved Lantzke Road Local Structure Plan. Minimum lot size shall be 4.0 ha, with a maximum of 10 lots created within the zone.</li> <li>iii. Notwithstanding (ii), Council may permit the construction of non-residential buildings associated with an approved Rural Pursuit or Cottage Industry outside the designated building envelope area if it is shown to the satisfaction of Council that there will be no detrimental impact on the amenity of the zone and accord with the necessary considerations for the site, notwithstanding 100m setbacks required to the Creekline Protection Area and 50m setbacks to the Reserve along western boundary.</li> <li>iv. Within the Landscape Protection Areas as designated on the approved Lantzke Road Local Structure Plan, no indigenous trees or substantial vegetation shall be felled or removed except where: <ul style="list-style-type: none"> <li>○ trees are dead, diseased or dangerous;</li> <li>○ the establishment of a fire break is required under a regulation or by-law;</li> <li>○ access to a building site is required and approved;</li> <li>○ an area up to one metre in width for the purpose of erecting and maintaining a fenceline is required and approved by Council. In these areas the land shall be slashed with a view to preventing soil erosion.</li> </ul> </li> <li>v. The removal of indigenous trees or substantial vegetation for any purpose other than the above exceptions shall require the Consent of Council and as a condition of granting</li> </ol>

		<p>consent, Council may require the planting and maintenance for a period of at least 3 years, endemic native trees of species and in locations approved by Council.</p> <p>vi. With the intention of preventing overstocking, erosion or any other practices detrimental to the amenity within that zone, intensive agricultural pursuits and the breeding or keeping of animals for commercial gain shall not be permitted without the approval in writing of Council. The Council may impose limits on stocking or any other conditions in the light of the prevailing seasonal conditions and the need to prevent nutrient run-off to the creek.</p> <ul style="list-style-type: none"> <li>o Council will only permit the keeping of stock and other agricultural pursuits in areas that are already substantially cleared and pastured so as not to conflict with Clause (v) relating to Landscape Protection Areas.</li> <li>o Council will impose fencing requirements as a condition of its approval to keep stock, in order to protect substantive vegetation in the Landscape Protection Areas as shown on the Local Structure Plan.</li> <li>o Council may require the provision of an adequate water supply to the stock as a condition of approval.</li> </ul> <p>vii. Provision shall be made to Council's satisfaction to ensure prospective purchasers of land within the Special Rural Zone 10 – Lantzke Road acknowledge and accept these Special Provisions prior to entering into an agreement to acquire any lot as shown on the Local Development Plan, that:</p> <ul style="list-style-type: none"> <li>• the zone is located adjacent within an area where horticulture and viticulture activities are carried out.</li> </ul> <p>viii. All development shall be connected to an ATU installed to the satisfaction of the Health Department of WA and Council.</p> <p>ix. 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>x. The development of all new buildings shall be undertaken to comply with the requirements of AS3959-2009 Construction of Buildings in Bushfire Prone Areas (as amended).</p> <p>xi. All fencing (internal and boundary) shall be of rural construction such as pine/steel posts and strand to the satisfaction of the local government.</p>
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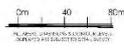


**SITE CHARACTERISTICS PLAN**  
 LOT 3 MCLEAN ROAD AND LOTS 4, 5, 6 & 7 LANTZKE ROAD, DENMARK  
**FIGURE 4**



**LOCAL STRUCTURE PLAN**  
 LOT 3 MCLEAN ROAD AND LOTS 4, 5, 6 & 7 LANTZKE ROAD, DENMARK

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 SCALE: 1:5000 @ A4 | DATE: 29 JULY 2018  
 PLAN NO. 18-004-0001



## SCHEDULE OF SUBMISSIONS

### Lantzke Road TPS3/SA144 Amendment and Structure Plan

#### Submissions Received from Public & Government Agencies

Ref No.	Name & Address Details	Verbatim Submission	Planning Services Comment
S1	<i>REDACTED</i>	I support the proposal unreservedly.	Noted
S2	<i>REDACTED</i>	Lantzke Rd is used by residents on contiguous lots as a feeder onto Kearsley/Shadforth Rds as a shorter route into town. First option is to upgrade Kearsley Rd to safely accommodate a minimum 120 vehicle movements a day, second option is to defer subdivision approval until Lot 999 is developed and roadwork on Kearsley Road is completed.	<p>Noted</p> <p>Whilst rural residential development is ideally located on sealed roads, the proposal is to slightly intensify an existing rural residential development by an additional 5 lots. The proposed increase in vehicles using Lantzke Road and the surrounding roads resulting from the proposed amendment will not provide a sufficient need to warrant the sealing and/or major upgrading of the surrounding road network by itself.</p> <p>Contributions towards road upgrades are the standard response in this situation.</p>
S3	999 Investments PO Box 495 DENMARK WA 6333	<p>No objection to the proposed Amendment 144.</p> <p>However the following to be included –</p> <p>Both documents, in relation to Lantzke Road indicate the future upgrading of this access road by way of a financial contribution at subdivision stage. The 'structure plan' needs also to show this.</p> <p>I refer to the deemed provisions part 16 (1)C(V1) which states 'The extent to which the plan provides for the coordination of key transport and other infrastructure'.</p> <p>In relation to the proposed structure plan the following will eventuate upon subdivision approval –</p> <p>Existing Lots                    3 Proposed Additional Lots    5 1 Existing tourist facility    1 1 Existing Holiday Accommodation 1</p> <p>Based on 8 car movements per day this (10) will generate 80 car movements per day from the existing and proposed lots or uses.</p> <p>Lantzke Road is substandard in its current construction. Sight distance, width, drainage have always been and remain a current concern. Recently Lantzke Road has become a thoroughfare and tourist route from Scotsdale and</p>	<p>Upheld (in part)</p> <p>Whilst the role that Lantzke Road plays in the wider road network is acknowledged, the decision to change the designation to a neighbourhood connector road in the Shire's road hierarchy should be made strategically, as part of the review of the Local Planning Strategy.</p> <p>Contributions from subdividers toward the upgrade of Lantzke Road will be made based on the increase in traffic that each subdivision brings to the road and the need to improve the road condition and standard accordingly. Individual subdividers cannot be expected to contribute to a neighbourhood connector road standard as the premise for identifying it as a neighbourhood connector results from the fact that it takes traffic from the wider area.</p> <p>The structure plan should also detail that a contribution to upgrading Lantzke Road will be required at the time of subdivision.</p>

		<p>Redman Roads to town due to minor upgrade work to Kearsley Road (makes it quicker and more accessible to the town centre).</p> <p>Summary The structure plan being amended to show Lantzke Road as a north south neighbourhood connector road with the link being Kearsley Road to Mt Shadforth Road to the south and Redman and Scotsdale Roads to the north.</p> <p>The proponents need to be advised of cost contribution towards upgrade early in the planning process.</p>	
S4	REDACTED	<p>We, REDACTED, oppose the proposed subdivision of Lot 5-7 Lantzke Rd because and additional residences (and/or businesses) will change the peaceful country atmosphere (increased traffic and associated noise), significantly reducing its amenity, and will negatively impact the available water resources.</p> <p>However, if the shire decides to move forward with the subdivision plans, then we request the following modifications to the plans:</p> <ol style="list-style-type: none"> <li>1. It will not be permitted to operate a café or restaurant on any of the resulting lots. Operating a café or restaurant will significantly increase traffic in the area, which will more quickly deteriorate the gravel road (increasing maintenance costs) and will result in more noise (sound carries easily in the area). Furthermore, there does not appear to be no need to introduce a restaurant in this part of Denmark. There are several options/opportunities for opening a restaurant in the centre of Denmark and the benefits to the Denmark community of additional restaurants in the town centre far exceed any benefits of a café/restaurant along Lantzke Rd (and make better business sense).</li> <li>2. No new dams are to be built. The water resources to support Lots 4-7 on Lantzke Rd and neighbouring properties are adequate and sufficient at the moment, but additional dams are likely to negatively affect the delicate balance that currently exist. This would be in addition to any negative impact climate change may have.</li> </ol> <p>Finally, we do not see the benefits to the shire of five extra lots along Lantzke Rd. These additional lots will have minimal impact on accommodating population growth and will instead destroy a picturesque area close to town. Having small picturesque rural areas close to town is part of what makes Denmark such an attractive town.</p>	<p>Upheld (in part)</p> <p>Lot 7 has sold since the initiation of the scheme amendment and the new owners do not want to be part of the proposal.</p> <p>Removing Lot 7 from the scheme amendment and structure plan proposal is supported. If the landowner is unwilling to participate, has a different vision for the land and sees issues with the idea then it is recommended to remove Lot 7 from the proposal.</p> <p>The removal of Lot 7 reduces the potential impact of the proposal on the adjoining rural landholdings and the existing house on Lot 7 is reasonably well buffered to existing and future housing proposed on the neighbouring Lot 6.</p> <p>The scheme provision that would allow Council to consider a gallery/restaurant (up to 900m<sup>2</sup>) was introduced to the Scheme in 2003 as part of Scheme Amendment 85. This was in recognition of the request from Jonathon Hook that identified the previous limitation of 250m<sup>2</sup> was impractical. Lot 5 is currently developed with a large holiday home and a studio/gallery approximately 480m<sup>2</sup> in area. Any proposal for a restaurant to be added to the gallery would be referred for public comment, need to comply with Noise Regulations and is highly likely to attract a considerable road upgrade condition.</p> <p>It is recommended to not change this existing provision through the current proposal but to make sure that it clearly applies to existing Lot 6 (proposed Lot 8) only.</p> <p>The proposal to not approve additional dams is supported on the following basis:</p>

			<ul style="list-style-type: none"> <li>Existing dams in this small valley already appear to be affecting the existing creek and landholdings further down the catchment.</li> <li>The reduction in lot size to a more rural residential character (away from productive rural small holdings) means that the focus of the development will be rural living rather than hobby farming; and</li> <li>The existing orchard on proposed Lot 4 can access water in existing dams (as it always has) if it is secured through easement at the time of subdivision.</li> </ul>
S5	REDACTED	<p>My name is REDACTED, myself and REDACTED are the owners since 1992 of REDACTED which is to the north and downhill of the scheme area. Our block is REDACTED to Lot 7 on our southern and eastern boundaries.</p> <p>This Scheme Amendment will have a detrimental impact on my land and my riparian rights. It is impractical and unnecessary. Its implementation should be seriously considered.</p> <p>In the event that the process continues.....We request that the Structure Plan be amended to include</p> <ol style="list-style-type: none"> <li>That no additional dams be built in the future development as an immutable caveat to the Structure Plan.</li> <li>That Lantzke Road be upgraded and sealed as a firm condition of Amendment 144.</li> <li>That the provision of a 900sq metre restaurant be deleted from the Plan.</li> </ol> <p>General Discussion</p> <p>The amendment proposal states:- "It is an amendment that is considered will have minimal impact on land in the scheme area that is not the subject of the amendment; It is an amendment that is considered will not result in any significant environmental, social, economic or governance impacts on land in the scheme area."</p> <p>We cannot concur with the above statement. There are no social, economic, or environmental advantages to us having five more neighbours. Subdivision will separate commercial orchard crops from their water sources. Additional dams will severely curtail the availability of water to our land and threaten</p>	<p>Upheld (in part)</p> <p>Several strategies relating to settlement planning promote compact settlements, minimising urban sprawl and support the re-subdivision of rural living areas where relevant planning, environmental, bushfire, servicing and landscape considerations are suitably addressed.</p> <p>The scheme amendment documentation and supporting studies support the intensification of the zone and intent of the scheme amendment continues to be supported by staff.</p> <p><u>Dams</u> See submission S4 above. Further dams are not supported. Dropping Lot 7 from the scheme amendment should also reduce impact upon the submitter.</p> <p><u>Road Upgrade</u> Lantzke Road is a gravel road that takes a moderate amount of traffic, that increases during the summer period. This road is also quite narrow in places with roadside vegetation being retained.</p> <p>The Shire's road upgrading program does not prioritise the upgrading of Lantzke Road at this time based on the current traffic numbers and the condition of the road when compared to other demands in the Shire of Denmark.</p> <p>It is acknowledged that Lantzke Road's role in the wider road network may change as Kearsley Road and McLean Road develop</p>

	<p>the viability of our operations.</p> <p>The area was, and continues to be, prime agricultural land. It is still used as such for grazing cattle, a berry farm, an orange orchard, holiday accommodation and a pottery gallery. Dividing it into smaller lots will not lead to "no change" as stated in the land assessment. Four hectares is too large for the usual house and garden and too small to run cattle, grow crops or vines. The options are intensive market gardening with the associated problems of water supply, fertilizer run off etc. or continuous ride-on mowing which is a very unproductive use of the land.</p> <p>Land availability</p> <p>At the time of writing there were 81 blocks of land for sale in Denmark. In addition there is enough land already slated for development in Denmark to accommodate at least double the population. The anticipated rapid population growth cited in planning documents has not happened and is unlikely to happen for a very long time. We contend that there is already enough land available to accommodate growth into the distant future. Turning this productive rural land into residential blocks simply because it is legally possible, is unnecessary.</p> <p>Background</p> <p>The area in question was made Special Rural by default to accommodate subdivision contrary to the express edict of the Council by the current owners as tenants in common. The same owners have now requested an additional subdivision. Of the five original tenants one has died, one sold and gone and another is in the process of selling. This means 50% of the applicants will no longer have an interest in this scheme. 55 hectares of land will be subdivided into sub optimal lots for the financial benefit of two people.</p> <p>We therefore contend that this Scheme Amendment is detrimental, wasteful and unnecessary. Serious thought should go into the reasons why it should go ahead rather than it just "ticks the boxes".</p> <p>1. That no additional dams be built in the future development as an immutable caveat to the Structure Plan</p> <p>The proposal states that there is adequate space to build additional dams and that they may be mandated as a condition of keeping stock. This should be deleted from the document and a condition inserted that no dams are to be built at all.</p>	<p>immediately to the south in response to further residential subdivision.</p> <p>What is being assessed as part of this process is the impact of increasing the number of lots that will use Lantzke Road. In this case, with the removal of Lot 7 from the proposal will only add an additional three lots.</p> <p>A contribution at the time of subdivision toward the upgrading of this road to a suitable sealed standard is all that is seen as being fair and reasonable.</p> <p>The Scheme states that Council <i>may request</i> a road contribution as the WAPC are the decision makers for subdivision and they do not allow a Scheme to fetter their decision making. Therefore, the word <i>may</i> is generally used in regard to road upgrading throughout the Scheme.</p> <p><u>Restaurant</u></p> <p>As stated at S4 above, the inclusion of a restaurant/gallery up to 900m<sup>2</sup> in area was introduced in 2003.</p> <p>This facilitated a 480m<sup>2</sup> studio and gallery being constructed on the site.</p> <p>Council has the option of removing the potential for a restaurant through this scheme amendment if they feel that it would never be contemplated and is completely inappropriate.</p> <p>However, retaining the potential (as an 'SA' use in the Scheme) would allow for the existing tourist business (the gallery &amp; studio) to expand and potentially increase it's viability.</p> <p>Any application would be referred widely for comment, only approved at Council's discretion and highly likely to attract a considerable road upgrade condition.</p>
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### Rainfall Climate Change and Water Storage

The Land Capability Assessment stated:-

"The proposed changes to the scheme amendment will not result in changes to the general topography of the site or the hydrological regime of the site and therefore the hydrological regime of downstream properties or waterways/wetlands will not be impacted as a result of the proposed scheme amendment."

In the same document they came to the following conclusions:-

- There has been a decline in rainfall and stream flow in the SW since the mid-1970s
- The creek has never had water flow in the last 30 years.
- This is due to the effect of collection into dams
- All of the existing dams do not appear to overflow during heavy rainfall periods.

All of the above points are true except for the time of 30 years and show that there is no excess water available. With Climate Change the situation will only get worse. My property is topographically below the others I depend on rainfall for drinking water and run off to fill my dams. The dam water is pumped up for watering stock and for irrigation. My main dam, which is not on the creek, is fed from run off from the eastern slope of the valley. It has not overflowed in the last six years where it used to overflow every winter. My smaller auxiliary dam on the creek will become more important as the rainfall decreases. It is no longer fed by the creek which was killed by the major expansion of a dam on the creek on block 6 and construction of a dam above the creek line on block 7. It is now fed from water flowing down from the western slopes of the valley across new blocks 2, 4 and 7. This collects at the base of the slope and eventually seeps into the dam across my bottom paddock. (see map (See Attachment A)). The permanent soaks in this area have long dried up as can be seen on aerial photos taken 30 years apart.

Intensifying the occupation of the land will initially take 460,000 litres out of the system to fill rainwater tanks. However the main and very serious concern is the further reduction of water supply to my property by the actions of neighbours.

For example new blocks 2 and 4 provide direct run off to my property. They both have commercial horticulture ventures on them which are irrigated remotely from the dams on and adjacent to the creek on the eastern slope of the valley. Once the land is subdivided those water sources will be in separate blocks and no longer available. Buyers of blocks 2 and 4 will have

commercial orchards but no water. The obvious solution is to build dams which will rob the water from my property, because these new dams, like all of the others, will "not overflow during heavy rainfall". Similarly additional dams on blocks to my east particularly new blocks 1 and 3 will also reduce or cut off our water supply to our main dam.

For the above reasons it is imperative that no additional dams be built.

2. That Lantzke road be upgraded and sealed as a firm condition of Amendment 144

#### Background

Our house was built in *REDACTED* with a 12 metre setback from the boundary adjacent to the road. When it was built it was the only house on Lantzke Road, which was then a no through road. (See Attachment B)

Dust in the house/water supply.

The Shire proposal states:-

"Given the modest nature of the proposal there will be no impact on the adjoining land in relation to an increase in traffic, the visual landscape, noise, odour or dust."

This statement is clearly untrue. Every vehicle which passes our house in dry conditions deposits dust onto it, which remains there until washed off the roof into the drinking water supply.

The problem has developed over time. The dust, at first an inconvenience, has become an increasing nuisance. Lantzke Road is no longer a no through road. A road has been built joining Kearsley Rd to Lantzke Rd to support future intensive urban development on the south side of the hill. This has led to increased traffic, including trucks for building activities recently and in the future. Google maps indicates that it is a through road and it is increasingly being used by locals as a short cut and by tourists.

#### Future Traffic Sources

- o Residences 10
- o Holiday accommodation 2
- o Tourist attraction businesses 2
- o Tourists following Google Maps
- o Convenient short cut for locals
- o Trucks for fill and house construction
- o Future access to Intensive urban development

We have already experienced the effects of the traffic intensification and dust when the Water Authority spent a year hauling materials and moving personnel past the house for the construction of water tanks on McLean road. Access via Kearsley Road was considered to be unsuitable. The contractor had agreed to wet the road to keep the dust down but, despite repeated requests, failed to do so. Building houses on either side of the hill will lead to similar truck and vehicle access movements in addition to daily traffic.

#### Precedent

There is a requirement for sealed roads to be a prerequisite to developments. Section 1:13:4 of the WA Planning Department's local government guidelines for subdivisional development deals with various conditions and specific arrangements. Redman road is paved up to the intersection of Lantzke Road as a condition of an earlier rural subdivision. Kearsley Road was built and sealed by the developer under the same conditions. Once the suburbs on the southern side of the hill are underway, Kearsley road will be sealed to the top of the hill as far as McLean road. Lantzke Road will therefore be sealed at both ends. Normal procedure would be for Council to insist on the sealing of Lantzke road as a condition for the proposed subdivision on Lantzke Road. This provision is a requirement stated in the amendment document. When the land was zoned Special Rural "The Shire requirements for Special Rural subdivisions (i.e. a sealed road) were not supported (on appeal to the Minister for Planning)." This time the requirements may not even be considered. It is unclear why it is not a firm condition of approval of the Structure Plan.

#### Block size, Rates and Zoning

Our ten hectare block, has rural zoning in a prime agricultural area. We carry out 100% agricultural activities in accordance with the relevant government act, but have been obligated to pay residential rates for approximately 12 years. This is without the usual accompanying benefits of a sealed road, postal service, rubbish collection and scheme water. The proposed blocks are half the size or less of our existing block. If the proposed restrictions are adhered to, the utility of these blocks is limited. They are (by any other name) de facto residential blocks. They will also pay residential rates and should therefore have a sealed access road.

#### Cost contribution

The Shire amendment document states:-

"Future upgrades may be required to Lantzke Road as development is undertaken (i.e. at the time of subdivision) with financial contributions to be

		<p>provided on a pro rata by the developers of the subject lots."</p> <p>The word "may" should be changed to "will". "Future upgrades will be required etc"</p> <p>Road upgrade options One already proposed option is to make passing places and resheet the road. This is unacceptable to us as it will not solve the dust problems. Our preference is to seal the road without knocking down any substantial trees.</p> <p>Kearsley road is 5 metres wide. Lantzke road (from the bottom to the southern limit of our property) is 6 metres wide. The previous proposal to seal the road involved making it 8 metres wide and knocking down adjacent trees. Hopefully, this practice would be unacceptable today. The trees, apart from any other aesthetic considerations, are our wind breaks from the prevailing south westerly winds. It is our contention that the road can be sealed 'as is' with appropriate passing places.</p> <p>3. Gallery/Restaurant maximum floor area 900 sq. metres</p> <p>This provision has absolutely no place in the proposed Structure Plan. 900 sq metres, nearly a quarter acre, is the size of a commercial aircraft hangar. Given all the assurances that there will be no change to the landscape, pre-emption or facilitation of a business of this size and nature is unbelievable at this stage of the proceedings. If a venture of this kind is put forward it can be assessed on its merits at the time. Maybe when the hillside is covered in houses. (See Attachment C – Dam Site Plan &amp; Information)</p>	
G1	<p>Environmental Protection Authority Locked Bag 10 JOONDALUP DC WA 6919</p>	<p><b>Summary only</b></p> <p><b>ADVICE UNDER SECTION 48A(1)(a) ENVIRONMENTAL PROTECTION ACT 1986</b></p> <p>Shire of Denmark Town Planning Scheme 3 Amendment 144 Location: Lots 4-7 Lantzke Road and Lot 3 Mclean Road, Scotsdale Determination: <b>Scheme Not Assessed -Advice Given</b> (not appealable) Determination Published: 18 November 2019</p> <p><b>Environmental Factors</b></p> <p>The EPA has identified the following preliminary environmental factors relevant to this scheme amendment:</p> <ul style="list-style-type: none"> <li>• Human Health;</li> <li>• Flora and Vegetation;</li> <li>• Terrestrial Fauna; and</li> </ul>	<p>Noted, minor modification recommended</p> <p>Buffers to horticultural land use are in place, as shown on the site characteristics plan appended to the structure plan.</p> <p><u>Inland Waters</u> It is noted that a previous version of the structure plan shows a creek line protection area around the recognised water way inside existing Lots 6 &amp; 7.</p> <p>This is adequately protected by the standard Scheme requirements and was removed from the structure plan prior to initiation.</p>

- Inland Waters.

**Advice and Recommendations regarding Environmental Factors Human Health**

The EPA notes there is the potential for some future residences to be impacted by odour, noise, dust and spray drift from horticulture/viticulture activities. The EPA notes existing vegetated buffers are identified on the structure plan and a scheme provision is proposed to notify purchasers of the activities.

The Department of Health's Guideline for *Separation of Agricultural and Residential Land* and EPA's Guidance Statement 3 *Separation Distances between Industrial and Sensitive Land Uses* recommends separation distances between vineyards/orchards and residential buildings and provides information about vegetated buffers and about informing prospective purchasers about the potential health impacts. The EPA recommends the Shire obtain further advice from the Department of Health's Guideline regarding measures to minimise impacts to public health.

**Inland Waters**

The EPA supports the proposed scheme provisions to protect inland waters including setbacks to and identification of the Creekline Protection Area, Reserve 23325 and requirement for all development to be connected to aerobic treatment units. The EPA notes that the site is situated in an area that does not have deep or reticulated sewerage and is within the Denmark River Catchment and the Scotsdale Brook Water Reserve. Health and environmental requirements for wastewater treatment are required to be in accordance with the *Government Sewerage Policy 2019*.

(See Attachment D – Chairman's Determination)

G2	Water Corporation PO Box 100 LEEDERVILLE WA 6902	<p>Thank you for your letter dated 11<sup>th</sup> December 2019. We offer the following comments in regard to this proposal.</p> <p><u>Water and Wastewater</u> Reticulated water and sewerage services are currently not available to the subject land. (See attached Plan)</p> <p>The proposed changes to the Scheme do not appear to impact on the Water Corporation's infrastructure or operations.</p>	Noted
G3	Department of Health PO Box 8172 PERTH BUSINESS CENTRE WA 6879	<p>Thank you for your letter of 11 December 2019 requesting comments from the Department of Health (DOH) on the above proposal. The DOH provides the following comment:</p> <p><u>Water Supply and Wastewater Disposal</u></p> <p>The amendment and structure plan are to be consistent with the Government Sewerage Policy (2019). Potable water must be of the quality as specified under the Australian Drinking Water Quality Guidelines 6 2011 (the Guidelines). For non-scheme water connected areas, all developments are to have access to a sufficient supply of potable water that is of the quality specified under the Guidelines, available at:</p> <p><a href="http://ww2.health.wa.gov.au/Articles/A_E/Drinking-water-quality-management">http://ww2.health.wa.gov.au/Articles/A_E/Drinking-water-quality-management</a>; and  <a href="http://ww2.health.wa.gov.au/Articles/A_E/Drinking-water-guidelines-and-standards">http://ww2.health.wa.gov.au/Articles/A_E/Drinking-water-guidelines-and-standards</a></p> <p><u>On-Site Wastewater Disposal</u></p> <p>Suitable provision for an adequate on-site effluent disposal area is to be accommodated in any planning amendment and structure plan. For on-site wastewater disposal systems to be approved, a winter site and soil evaluation in accordance with Australian New Zealand Standard 1547 is required. Any on-site wastewater treatment process must be in accordance with DOH publications available at:</p> <p><a href="http://ww2.health.wa.gov.au/Articles/N_R/Recycled-">http://ww2.health.wa.gov.au/Articles/N_R/Recycled-</a></p>	Noted  All of this is standard information that applies to all unsewered development.

		water; and <a href="http://ww2.health.wa.gov.au/Articles/U_Z/Water-legislations-and-guidelines">http://ww2.health.wa.gov.au/Articles/U_Z/Water-legislations-and-guidelines</a> .	
G4	Department of Primary Industries and Regional Development Locked Bag 4 BENTLEY DELIVERY CENTRE WA 6983  (Identical Copy of Submission posted from DPIRD Bunbury Office)	The Department of Primary Industries and Regional Development (DPIRD) does not object to the proposed amendment and associated Structure Plan for the purpose of rezoning and subsequently subdividing the abovementioned lots, but would like to make the following comments:  <ul style="list-style-type: none"> <li>• DPIRD does not object to the modification of the zone provisions related to Special Rural Zone 10 to allow for further subdivision because this area is already zoned and used for rural residential purposes.</li> <li>• Erosion can occur due to the presence of steep slopes in the abovementioned location. No overstocking should be allowed and at least a 50 percent ground cover must be maintained at all times to reduce the likelihood of erosion during high intensity rainfall events.</li> <li>• It is very important to ensure that special provision VI for the Lantzke Road Special Rural Zone is adhered to at all times, as this will minimise the risk of erosion.</li> </ul>	Noted
G5	Department of Mines, Industry Regulation and Safety Mineral House 100 Plain Street EAST PERTH WA 6004	Thank you for your letter dated 11 December 2019 inviting comment on the above Planning Scheme Amendment.  The Department of Mines, Industry Regulation and Safety has determined that this proposal raises no significant issues with respect to mineral and petroleum resources, geothermal energy, and basic raw materials.	Noted
G6	Department of Water and Environmental Regulation <a href="#">REDACTED</a>	Thank you for referring the above application to the Department of Water and Environmental Regulation (DWER) for comment. DWER has no objection to the proposal, and provides the following advice.  Although the development will result in an intensification of the land use on the subject site, it is considered that the proposal will not have a significant impact upon water resources. Waterways The subject lots straddle a catchment divide, with lot 3 draining to the Denmark River and the remaining lots draining to the Scotsdale brook, via the minor, non-perennial waterway that emerges on lots 6 & 7. Given the number of dams and soaks on the subject lots, and the recent	Noted

		<p>trend of declining rainfall, the comment in the document “that the drainage line has never had water flow” - is not surprising. The waterbodies on the lots would be filling from groundwater seepage and overland flow during rainfall events. With the statement “that the dams do not appear to overflow during heavy rainfall events” questions the ability of the land to support any additional dams or soaks that may be required on the proposed new lots.</p> <p>The building envelopes on the proposed lots are not located in close proximity to the waterway, and given that the site generates little runoff, it is not expected that the location of the building envelopes will have any impact on water quality downstream.</p> <p>Stormwater management As there is no water service provided to the lots, much of the runoff from existing and future houses and sheds will be captured for potable use. Thus any increase in runoff from the intensification of the land will be mostly restricted to driveways. DWER considers that the impact of this increased runoff is minor and a stormwater management plan will not be required. Any additional roads or driveways constructed through this development should incorporate standard roadside drainage / swales as required to manage road runoff.</p> <p>Under the Better Urban Water Management framework, a Local Water Management Strategy (LWMS) is a requirement to support a scheme amendment. However, as discussed above, in this situation as it is considered that the amendment will not have a significant impact upon water resources, DWER will not request the preparation of a LWMS.</p> <p>Government Sewerage Policy Existing Lot 3 McLean Rd and Lot 4 Lantzke Rd are identified as being within a sewerage sensitive area, as defined by the Government Sewerage Policy. But as these lots are not being further subdivided, there is no application of the policy to these lots.</p>	
G7	<p>Dept of Fire &amp; Emergency Services 363 Oxford Street MT HAWTHORN <u>REDACTED</u></p>	<p>I refer to your letter dated 11 December 2020 regarding the submission of a Bushfire Management Plan (BMP) (Revision 3), prepared by Working on Fire and dated 26 July 2017 as part of the above Structure Plan.</p> <p>It should be noted that this advice relates only to <i>State Planning Policy 3.7 Planning in Bushfire Prone Areas</i> (SPP 3.7) and the <i>Guidelines for Planning in Bushfire Prone Areas</i> (Guidelines).</p>	<p>Noted</p> <p><u>Bushfire Management Plan (BMP)</u> Although the standard methodology has not been used the mapping is still easily interpreted and understood.</p> <p><u>BAL Inputs</u> The BMP included in the documentation is a ‘condensed version’ only. A full version has been sought from the company.</p>

**Assessment (summarised):****Bushfire Management Plan**

The BMP was prepared in 2017 and does not use the appropriate methodology as per the appendices in the Guidelines. The Vegetation Classification Map should be separate to the BAL Contour Map as per Appendix 3.

**BAL Inputs**

There is no photographic evidence or slopes provided to support the BAL Contour Plan conclusions.

**BAL Contour Plan**

There appears to be future building envelopes in BAL-40.

The Guidelines state that the strategic planning proposal should be located in areas with the least possible risk of bushfire. Proposed Lots 1, 3, 6 and 9 have an extreme BHLand are not supported.

Battle-axe legs are to be avoided in bushfire prone areas. They are only considered an acceptable solution 'where no alternative exists'. The BMP is not adequately justified that there is no alternative.

**Water**

The BMP states that a 92,000L dual purpose tank with 10,000L reserved for firefighting purposes will be installed to comply with Element 4. This is not supported. The acceptable solution is for a 50,000L strategic tank to be installed for firefighting purposes for the following reasons:

- In the event of an emergency incident firefighters may drain the entire domestic tank in suppression efforts. Until the tank is refilled residents cannot return to their homes.
- When a tank, used mainly for domestic purposes, is entirely emptied the sediment at the bottom of the tank may be disturbed when re-filling which can make the water unpotable.
- There is no guarantee that the tank will have the reserve of water as this is at the discretion of the landowner.

Dams are not a suitable water supply for emergency services.

Recommendation – not supported modification required

The BMP does not adequately address the policy requirements of SPP 3.7 and the Guidelines. DFES has assessed the structure plan and accompanying

The assessment branch of DFES do not have the ability to visit a site and verify proposals on a case by case basis. The Shire has conducted a site visit using a level 1 accredited bushfire practitioner and the vegetated types identified in the BMP are generally supported.

It should be noted that AS3959 was amended subsequent to the preparation of this BMP with the definition of what may be considered to be 'woodland' changed.

If Lot 7 is removed from the proposal then this change will have no impact upon the veracity of the BMP.

**BAL Contour Plan**

With the removal of Lot 7 from the proposal only the building envelope on proposed Lot 6 would have a portion within the BAL-40 classification. However there still appears to be room to develop a single house in a compliant location and support is recommended.

Only one battle axe leg is proposed (accessing proposed Lot 6) and this is an extension of an existing driveway. If the intensification of the area is to be supported there appears to be little other option than to entertain a battle axe leg in this case.

A strategic break is proposed around the perimeter of the site that will offer a secondary exit in an emergency.

The battle-axe leg is less than 600m long and complies with the requirements of the applicable Guidelines.

**Water**

The current proposal (with the removal of Lot 7) is to create an additional three lots. This would result from a 3 lot and a 2 lot subdivision.

A contribution toward a 50,000l centrally located tank may be appropriate in addition to 10,000l of dedicated fire-fighting water. This can be achieved at the time of subdivision as the scheme amendment and structure plan do not bind the Shire or WAPC in this regard.

Overall, whilst the BMP is not exactly in the correct format and there are a number of issues including applying some discretion in

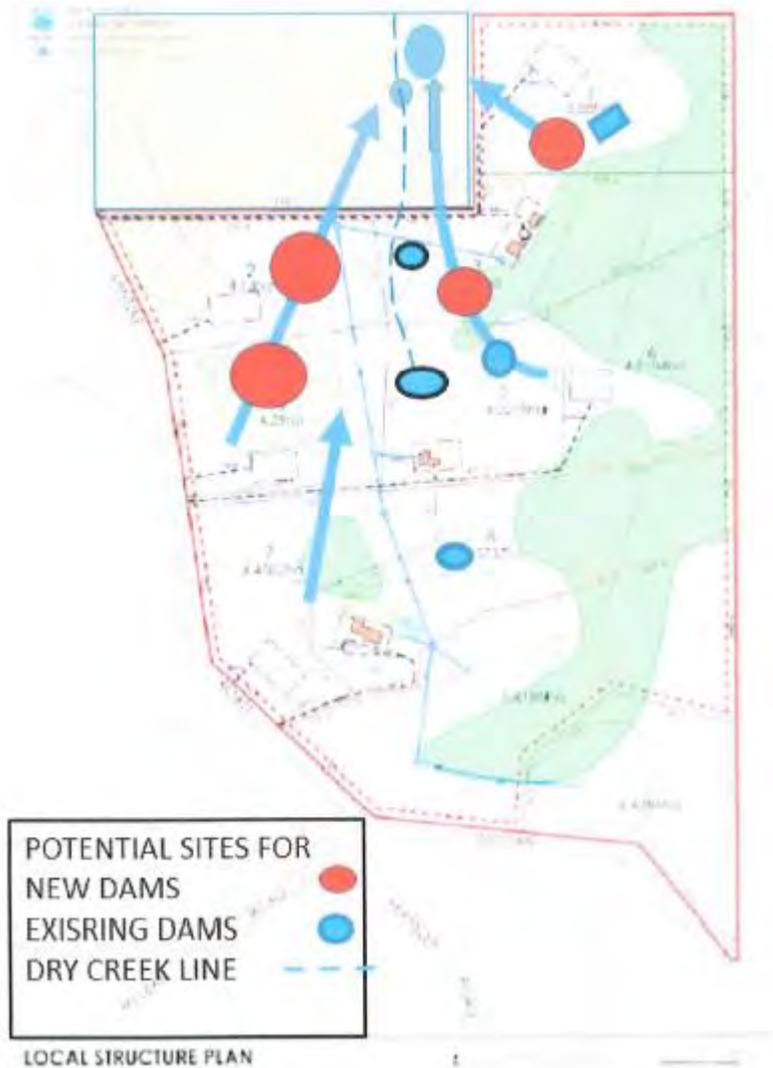
		<p>BMP and has identified several issues that need to be addressed prior to support of the proposal (refer to the tables above).</p>	<p>allowing a battle-axe leg subdivision and dedicated fire-fighting water these do not seem to be fatal flaws in the proposal.</p> <p><b>As the BMP forms an appendix to the structure plan it should be updated to reflect the above issues.</b></p>
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**Lantzke Road Structure Plan Comment only**

Ref No.	Name & Address Details	Verbatim Submission	Planning Services Comment
SP1	Department of Biodiversity, Conservation & Attractions – Parks & Wildlife Service <a href="#">REDACTED</a>	Thank you for your letter regarding the Structure Plan for No. 201 (374) Scotsdale Road, Scotsdale. Parks and Wildlife Service has no comments or objections to this plan.	Noted

**ATTACHMENTS**

Submission S5  
Attachment A



Attachment B

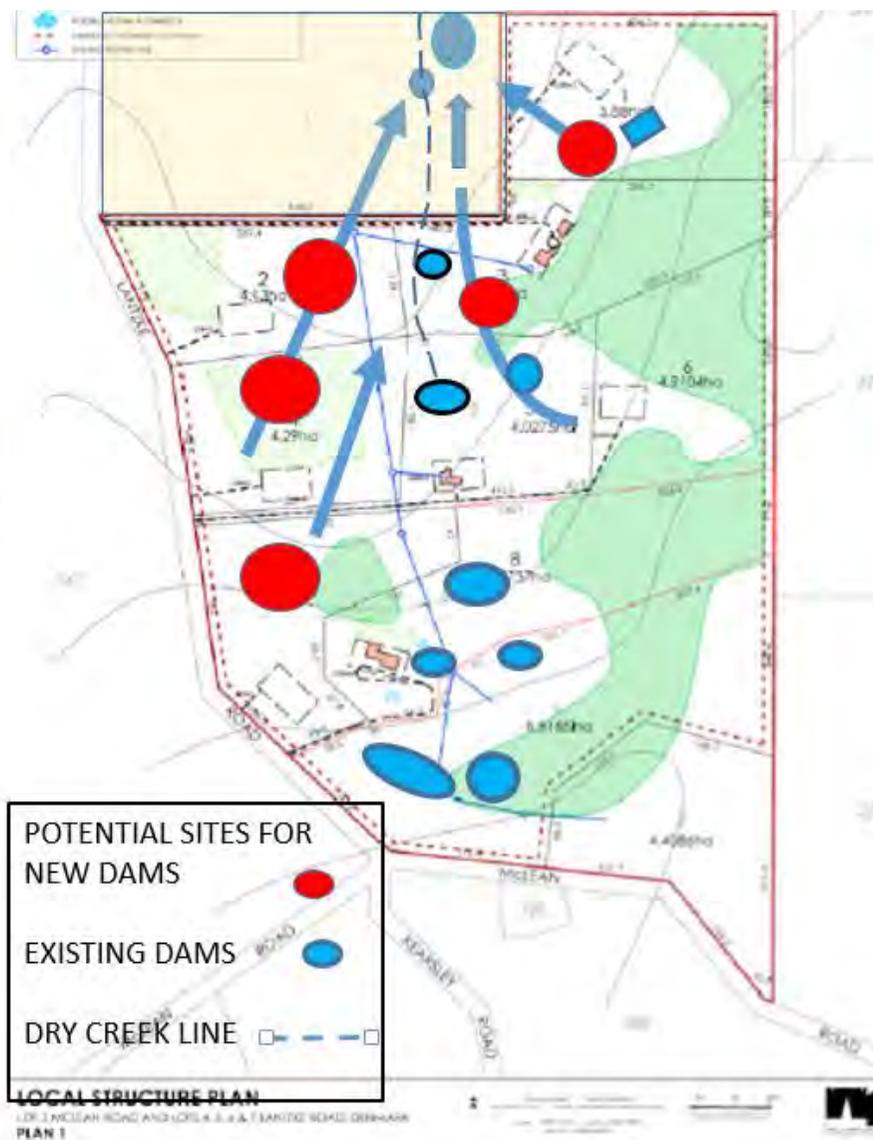


Submission S5  
Attachment C

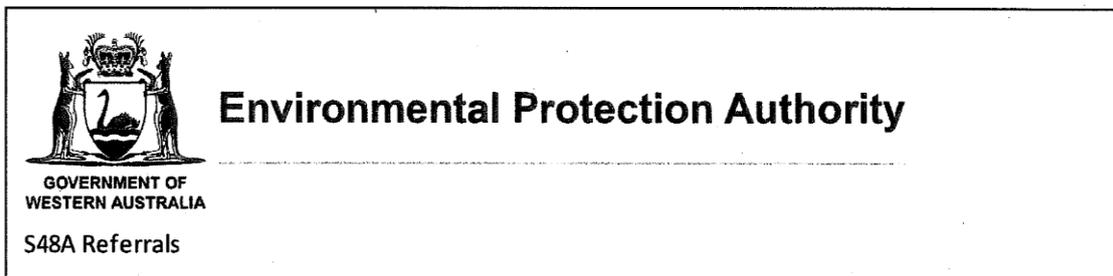
**NOW**  
48.4 ha (119.6acres)  
4 properties - 9 dams

- (Conclusions from Independent Assessment)
- There has been a decline in rainfall and stream flow in the SW since the mid-1970s
- The creek has never had water flow in the last 30 years.
- This is due to the effect of collection into dams
- All of the existing dams do not appear to overflow during heavy rainfall periods.

**AFTER SUBDIVISION**  
48.4 ha (119.6acres)  
9 properties - ??? dams



Submission G1  
Attachment D



**Title:** Shire of Denmark Town Planning Scheme 3 Amendment 144

**Location:** Lots 4-7 Lantzke Road and Lot 3 McLean Road, Scotsdale

**Description:** Amendment 144 proposes to update the existing Structure Plan (No.93/7/1) and further subdivide Lots 4-7 Lantzke Road and Lot 3 McLean Road, Scotsdale from 5 to 11 lots.

**Ref ID:** CMS17721

**Date Received:** 24-10-2019 **Date Sufficient Information Received:** 24-10-2019

**Responsible Authority:** Shire of Denmark

**Contact:** Mr Craig Pursey

**Preliminary Environmental Factors:** Human Health, Flora and Vegetation, Terrestrial Fauna and Inland Waters

**Potential Significant Effects:** Environmental impacts due to odour, noise, dust and spray drift of existing horticulture/viticulture activities. Loss of remnant vegetation and increased nutrients to Creek.

**Management:** Managed under scheme provisions, EPA advice, Department of Health's Guidelines for *Separation of Agricultural and Residential Land* and EPA's Guidance 3 *Separation Distances between Industrial and Sensitive Land Uses*.

**Determination:** Referral Examined, Preliminary Investigations and Inquiries Conducted. Scheme Amendment Not to be Assessed Under Part IV of EP Act. Advice Given. (Not Appealable)

The EPA has carried out some investigations and inquiries before deciding not to assess this scheme. In deciding not to formally assess schemes, the EPA has determined that no further assessment is required by the EPA.

This Determination is not appealable.

Chairman's Initials: *AA*

Date: *12 Nov 2019*



