

REGIONAL CONTEXT PLAN
 LOT 3 MCLEAN ROAD AND LOTS 4, 5, 6 & 7 LANTZKE ROAD, DENMARK
FIGURE 2

▲ N SAM WILLIAMS | TOWN PLANNER
 ph: 0418 116216 | email: samw@swm.com.au
 scale: 1:15 000 @ A4 | date: 28 JULY 201
 plan no: 14-022-002A

0m 100 200m
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This *Amendment Report* (the '*Report*') is submitted under the Shire of Denmark's *Town Planning Scheme No. 3* (the '*Scheme*') to replace the existing *Subdivision Guide Plan* (No. 93/7/1) (the '*existing SGP*') with a new *Local Structure Plan* (the '*LSP*') to permit subdivision intensification of the site from the current five (5) lots to ten (10) lots at Lots 4-7 Lantzke Road and Lot 3 McLean Road, Scotsdale, WA (the '*Site*').

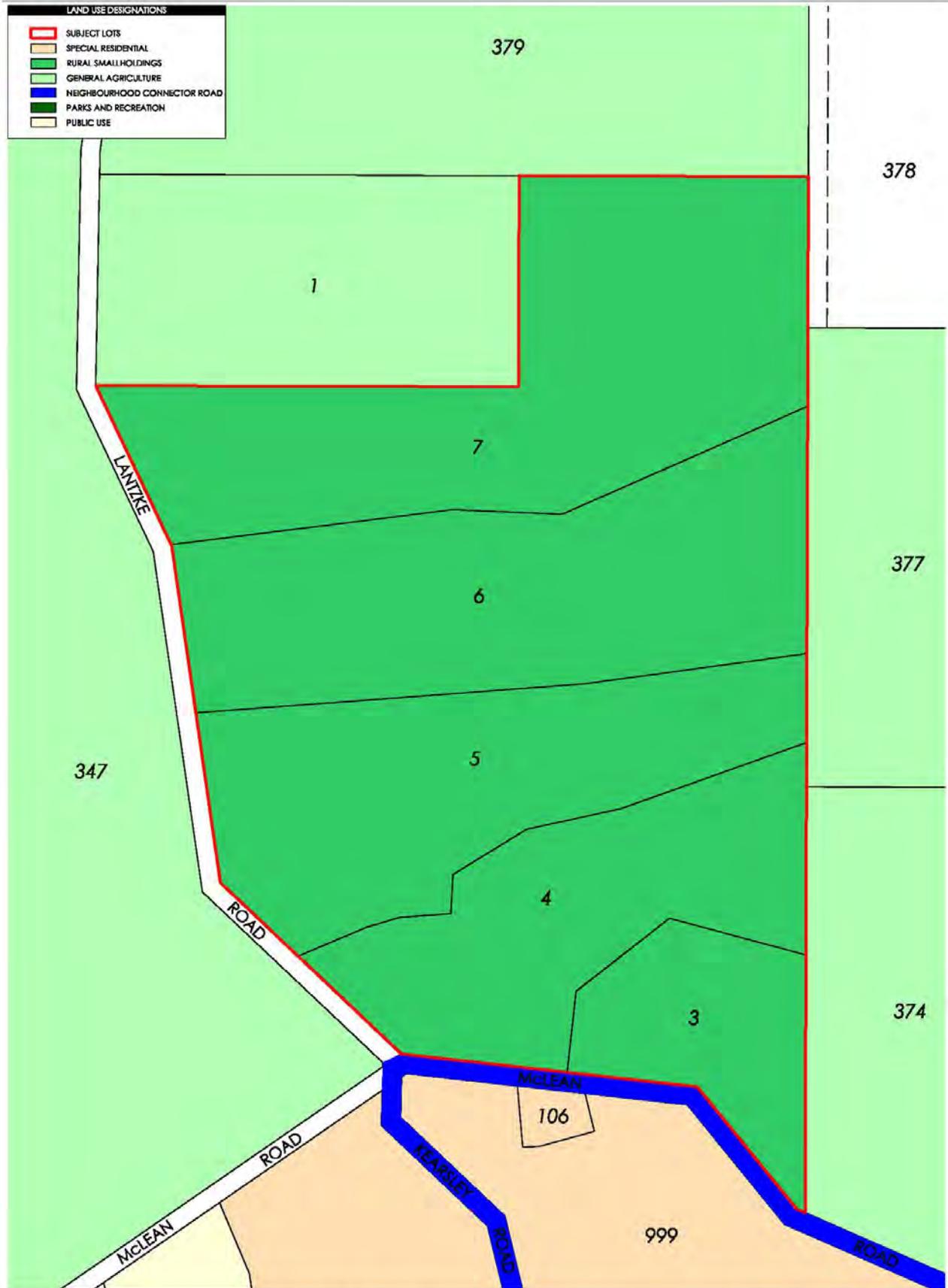
The intensification is supported by expert technical reports in relation to land capability, bushfire safety and protection and servicing requirements. All technical reports provide additional detailed information and technical analysis in support of the amendment.

This amendment is intended to be progressed under the current Scheme, noting the Shire is in the process of preparing *Local Planning Scheme No. 4*, at which time the land is expected to be rezoned "Rural Smallholdings". This will result in a minimum lot size of 4 hectares. The *LSP* has been prepared to reflect these lot size requirements of the land under *Local Planning Scheme No. 4*. No updates to the Scheme Map is required as a result of this proposed amendment, given there are no zoning changes required to facilitate the intensification of the lots as shown on the *LSP*.

** Please note, given the recent gazettal of the Planning and Development (Local Planning Schemes) Regulations 2015 (the 'Regulations') which become operational on 19 October 2015, a 'Subdivision Guide Plan' of this nature is now classified as a 'Local Structure Plan'. Any historic reference to the current Subdivision Guide Plan within this Report or associated Appendices should be taken to mean 'Local Structure Plan' in accordance with the Regulations.*

16 NOVEMBER 2021 – ATTACHMENT 9.1.1b

Figure 5: Local Planning Strategy Designation

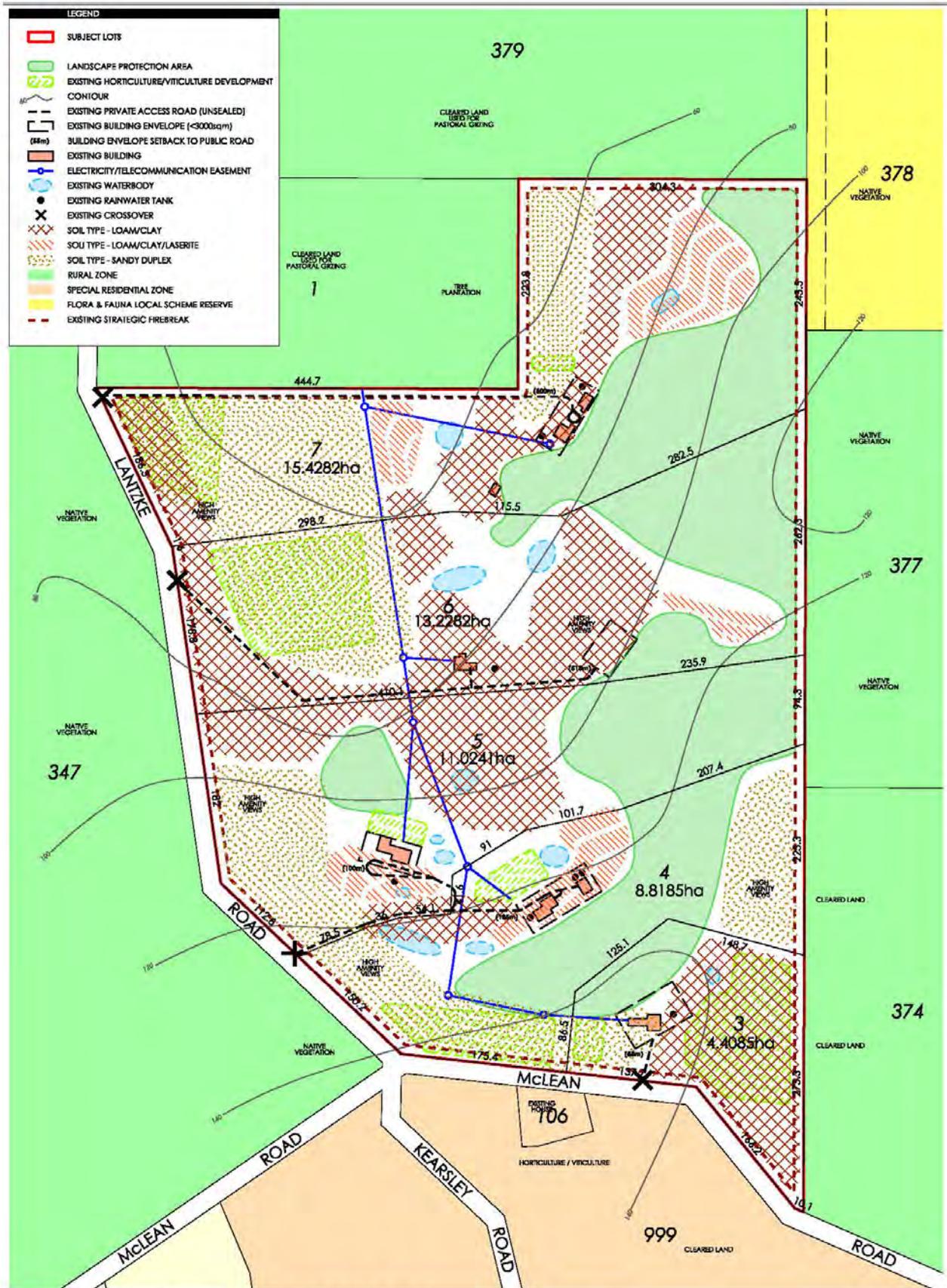


LOCAL PLANNING STRATEGY PLAN
 LOT 3 MCLEAN ROAD AND LOTS 4, 5, 6 & 7 LANTZKE ROAD, DENMARK
FIGURE 5

SAM WILLIAMS | TOWN PLANNER
 ph: 0418 116214 | email: samw@scmsdwestnet.com.au
 scale - 1:5000 @ A4 | date - 28 JULY 2019
 plan no. 16-022-0058

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 SUBJECT TO THE LANC TO DEVELOPER

Figure 3: Opportunities and Constraints Mapping.



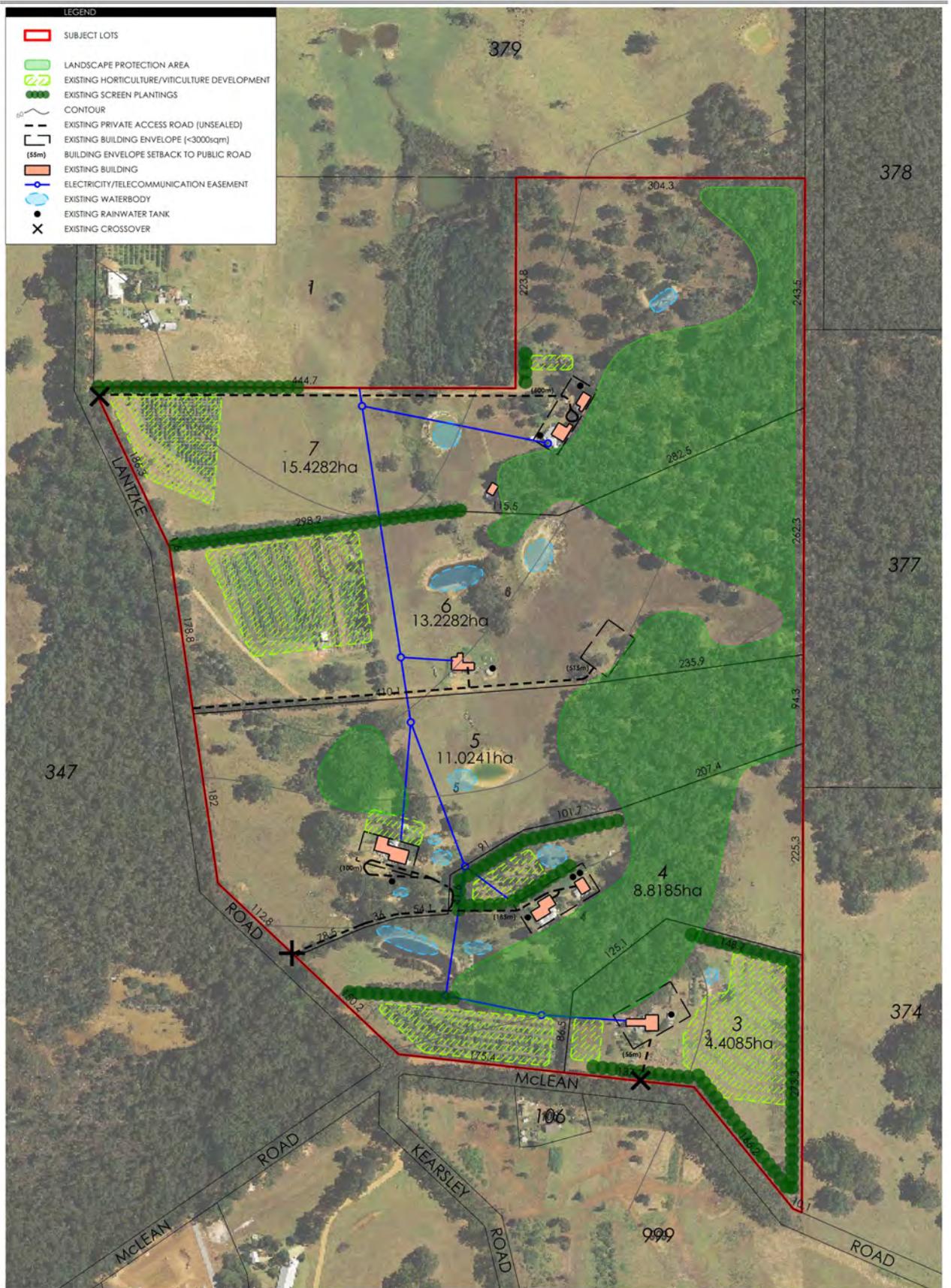
OPPORTUNITIES AND CONSTRAINTS PLAN
 LOT 3 MCLEAN ROAD AND LOTS 4, 5, 6 & 7 LANTZKE ROAD, DENMARK
FIGURE 3

SARA WILLIAMS | TOWN PLANNER
 PH: 0418 114214 | email: sarawilliams@williamsconsulting.com.au
 scale: 1:5000 @ A4 | date: 28 JULY 2018
 plan no. 16-022-023A

0m 40 80m
 ALL DIMENSIONS AND COORDINATES ARE
 REFERRED TO THE DATUM



Figure 4: Site Characteristics Plan.



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

▲ N
 SAM WILLIAMS | TOWN PLANNER
 ph: 0418 116216 | email: sam.williams@westnet.com.au
 scale - 1:5000 @ A4 | date - 28 JULY 2018
 plan no. 16-002-004A



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 4-7 Lantzke Road and Lot 3 McLean Road, Scotsdale
- b) Updating the provisions in Appendix VI – Special Rural Zone as follows:

PARTICULARS OF THE LAND	PROPOSED USES	SPECIAL PROVISIONS
<p>10. LANTZKE ROAD SPECIAL RURAL ZONE</p>	<p>Rural Smallholdings</p> <p>Permitted Uses (P):</p> <ul style="list-style-type: none"> • Single House <p>Permitted at Council's Discretion (AA):</p> <ul style="list-style-type: none"> • Cottage Industry • Rural Pursuit • Holiday Accommodation on the basis it is limited to accommodation which is solely within the dwelling. • Home Business • Home Occupation • Horticulture <p>Permitted at Council's Discretion Subject to Advertising (SA):</p> <ul style="list-style-type: none"> • Gallery/Restaurant on the basis that it is limited to a maximum floor area of 900m². 	<ol style="list-style-type: none"> i. Development and subdivision shall generally be in accordance with the approved Lantzke Road Local Structure Plan. ii. All buildings and effluent disposal systems on a lot must be located within the building envelope location (max 3,000m²) 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. 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. 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"> ○ trees are dead, diseased or dangerous; ○ the establishment of a fire break is required under a regulation or by-law; ○ access to a building site is required and approved; ○ 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. 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 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

		<p>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"> 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. 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. o Council may require the provision of an adequate water supply to the stock as a condition of approval. <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 Structure Plan, that:</p> <ul style="list-style-type: none"> • the zone is located adjacent within an area where horticulture and viticulture activities are carried out. <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> <p>xii. Council may request the Commission to impose a condition at the time of subdivision requiring the subdivider to upgrade Lantzke Road.</p>
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Shire of Denmark

Town Planning Scheme No. 3

**Lantzke Road Local Structure
Plan**



Executive Summary

The “Lantzke Road Development” currently comprises 5 Special Rural lots, being Lots 4-7 Lantzke Road and Lot 3 McLean Road, Denmark (the ‘site’). In guiding the then development of the site, a Scheme Amendment and supporting Subdivision Guide Plan (Local Structure Plan) was prepared and supported.

The Local Structure Plan has been prepared to facilitate an amendment to the currently approved Local Structure Plan to guide the subdivision and development of Lots 5-7 Lantzke Road, Denmark. In undertaking an amendment to the Local Structure Plan, Amendment 144 to the Shire of Denmark’s Town Planning Scheme No.3 (TPS3) is also being undertaken

The Local Structure Plan has been prepared on behalf of the various landowners within the Local Structure Plan area, and by the following specialist consultant team:

- Williams Consulting – Town Planning and Project Management
- Denmark Survey and Mapping – Surveying
- BioDiverse Solutions – Land Capability
- Working on Fire – Bushfire Management Plan

This Local Structure Plan provides an overarching planning framework to guide and facilitate the development of the Local Structure Plan area for Special Rural purposes. This Local Structure Plan has been prepared under the Planning and Development (Local Planning Schemes) Regulations 2015 (the ‘Regulations’).

The Local Structure Plan provides for an integrated and coordinated approach to intensification of the lots, noting the existing arrangement of land uses and activities are sought to be retained, however an increased lot yield is proposed.

The Local Structure Plan has been submitted for consideration by the Shire of Denmark and approval by the Western Australian Planning Commission (WAPC).

Background

As mentioned above, a separate Scheme Amendment seeks support to replace the existing Subdivision Guide Plan (No. 93/7/1) (the ‘existing SGP’) with a new Local Structure Plan to permit subdivision intensification of the site from the current five lots to eleven lots in accordance with the Regulations.

The intensification is supported by expert technical reports provided within Part 2 of this Local Structure Plan document, with these relating to land capability, bushfire safety and protection and servicing requirements. All technical reports provide additional detailed information and technical analysis to support the Local Structure Plan.

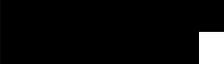
This Local Structure Plan is intended to guide the future development an intensification of the lots via the subdivision process, noting the Shire is in the process of preparing Local Planning Scheme No. 4, at which point it is expected to rezone the land “Rural Smallholdings”. Irrespective the proposed lot sizes remain functional and productive, with existing rural activities able to be continued despite the changing lot size and proposed intensification. Existing land uses include orchards, holiday accommodation, a gallery and cleared land for pasture and fall comfortably within the expectations of a Rural Smallholding site.

Executive Summary Table

Item	Data	Structure Plan Ref (section no.)
Total area covered by the structure plan	55 hectares	Part 2.2
Area of each land use proposed: <ul style="list-style-type: none"> · Special Rural Zone¹ · Rural Small Holdings² 	55.9 hectares, with the following lot sizes proposed Lot 1 - 5.88ha Lot 2 - 4.13ha Lot 3 - 5.42ha Lot 4 - 4.29ha Lot 5 - 4.0275ha Lot 6 - 4.9104ha Lot 7 - 4.29ha Lot 8 - 6.74ha Current Lot 4 - 8.7ha Current Lot 3 - 4.413ha	Local Structure Plan Map
Proposed Land Uses	Residential / Lifestyle: 5 ha Protected Vegetation: 22ha Horticulture: 2-5 ha Grazing: 26 ha Holiday Accommodation. Gallery	Local Structure Plan Map
Total estimated lot yield	10	Part 2.1
Estimated number of dwellings	10	Part 2.1
Estimated residential site density	1 dwelling per site	Part 2.1
Estimated population	23 (based on 2.3 people per dwelling)	Part 2.1
Number of high schools	0	N/A
Number of primary schools	0	N/A
Estimated commercial floor space	900m ² (Gallery)	N/A
Estimated area and percentage of public open space given over to: <ul style="list-style-type: none"> • Regional open space • District open space • Neighbourhood parks • Local parks 	0 hectares 0 hectares 0 hectares 0 hectares	N/A
Estimated percentage of natural area	22ha or 40%.	Local Structure Plan Map

1- The current zoning for the site is "Special Rural" under TPS3. Concurrently with this Local Structure Plan, Amendment 144 to TPS3 is being sought to amend the current Structure Plan over the site to permit intensification of Special Rural lots.

2- The Shire is in the process of preparing Local Planning Scheme No. 4 (LPS4), at which is expected to rezone the land "Rural Smallholdings".

		<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 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		<p>Two submissions were received from Mathieu and Natasha which can be summarised as follows:</p> <p>There was some initial reservation regarding the proposal as it may “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, a second submission clarified that if the proposal was going to proceed that the landowners would still want Lot 7 to be a part of the scheme amendment and structure plan.</p> <p>A number of issues around the nature of the proposal were raised as follows:</p> <ol style="list-style-type: none"> 1. Do not permit 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. T 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, 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. 	<p>Upheld (in part)</p> <p>The scheme provision that would allow Council to consider a gallery/restaurant (up to 900m²) 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 250m² was impractical. Lot 5 is currently developed with a large holiday home and a studio/gallery approximately 480m² 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 5 (proposed Lot 7) only.</p> <p>The proposal to not approve additional dams is supported on the following basis:</p> <ul style="list-style-type: none"> • Existing dams in this small valley already appear to be affecting the existing creek and landholdings further down the catchment. • 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 • 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.

S5		<p>My name is [REDACTED] myself and my wife [REDACTED] are the owners since 1992 of [REDACTED] which is to the north and downhill of the scheme area. Our block is directly adjacent 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"> 1. That no additional dams be built in the future development as an immutable caveat to the Structure Plan. 2. That Lantzke Road be upgraded and sealed as a firm condition of Amendment 144. 3. That the provision of a 900sq metre restaurant be deleted from the Plan. <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 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 At the time of writing there were 81 blocks of land for sale in Denmark. In</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.</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 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</p>
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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.

Background

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.

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".

1. That no additional dams be built in the future development as an immutable caveat to the Structure Plan

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.

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.

word *may* is generally used in regard to road upgrading throughout the Scheme.

Restaurant

As stated at S4 above, the inclusion of a restaurant/gallery up to 900m² in area was introduced in 2003.

This facilitated a 480m² studio and gallery being constructed on the site.

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.

However, retaining the potential (as an 'SA' use in the Scheme) would allow for the existing tourist business (the gallery & studio) to expand and potentially increase it's viability.

Any application would be referred widely for comment, only approved at Council's discretion and highly likely to attract a considerable road upgrade condition.

- 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 1950 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 provided on a pro rata by the developers of the subject lots."

The word "may" should be changed to "will". "Future upgrades will be required etc"

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.

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

		<p>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 & Information)</p>	
G1	<p>Environmental Protection Authority Locked Bag 10 JOONDALUP DC WA 6919</p>	<p>Summary only</p> <p>ADVICE UNDER SECTION 48A(1)(a) ENVIRONMENTAL PROTECTION ACT 1986</p> <p>Shire of Denmark Town Planning Scheme 3 Amendment 144 Location: Lots 4-7 Lantzke Road and Lot 3 Mclean Road, Scotsdale Determination: Scheme Not Assessed -Advice Given (not appealable) Determination Published: 18 November 2019</p> <p>Environmental Factors</p> <p>The EPA has identified the following preliminary environmental factors relevant to this scheme amendment:</p> <ul style="list-style-type: none"> • Human Health; • Flora and Vegetation; • Terrestrial Fauna; and • Inland Waters. <p>Advice and Recommendations regarding Environmental Factors Human Health</p> <p>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.</p> <p>The Department of Health's Guideline for <i>Separation of Agricultural and Residential Land</i> and EPA's Guidance Statement 3 <i>Separation Distances between Industrial and Sensitive Land Uses</i> recommends separation</p>	<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>The Scheme is to be modified to introduce a requirement to establish and maintain buffers to horticultural uses.</p> <p>Structure Plan is to be modified to secure these and upgrade them to meet the appropriate standards at the time of subdivision.</p> <p><u>Inland Waters</u></p> <p>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 & 7.</p> <p>It is recommended that this should be reintroduced into the Scheme and structure plan to protect this water way.</p>

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 11th 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>http://ww2.health.wa.gov.au/Articles/A_E/Drinking-water-quality-management; and http://ww2.health.wa.gov.au/Articles/A_E/Drinking-water-guidelines-and-standards</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>http://ww2.health.wa.gov.au/Articles/N_R/Recycled-</p>	Noted All of this is standard information that applies to all unsewered development.

		water; and http://ww2.health.wa.gov.au/Articles/U_Z/Water-legislations-and-guidelines .	
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"> • 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. • 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. • 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. 	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 Karen.McKeough@dwer.wa.gov.au	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 & Emergency Services 363 Oxford Street MT HAWTHORN advice@dfes.wa.gov.au</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 has 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.

BAL Contour Plan

The building envelope on proposed Lot 6 has a portion within the BAL-40 classification. The building envelope location should be adjusted to ensure not part is within the BAL-40 classification.

The battle axe legs proposed are minor extensions of existing driveways. 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 is to create an additional five lots.

Given the fragmented ownership and small increase in density a contribution toward a 50,000l centrally located tank may be inappropriate in addition to 10,000l of dedicated fire-fighting water.

Overall, whilst the BMP is not exactly in the correct format and there are several issues including applying some discretion in allowing a battle-axe leg subdivision and dedicated fire-fighting water these do not seem to be fatal flaws in the proposal.

As the BMP forms an appendix to the structure plan it should be updated to reflect the above issues.

		BMP and has identified several issues that need to be addressed prior to support of the proposal (refer to the tables above).	
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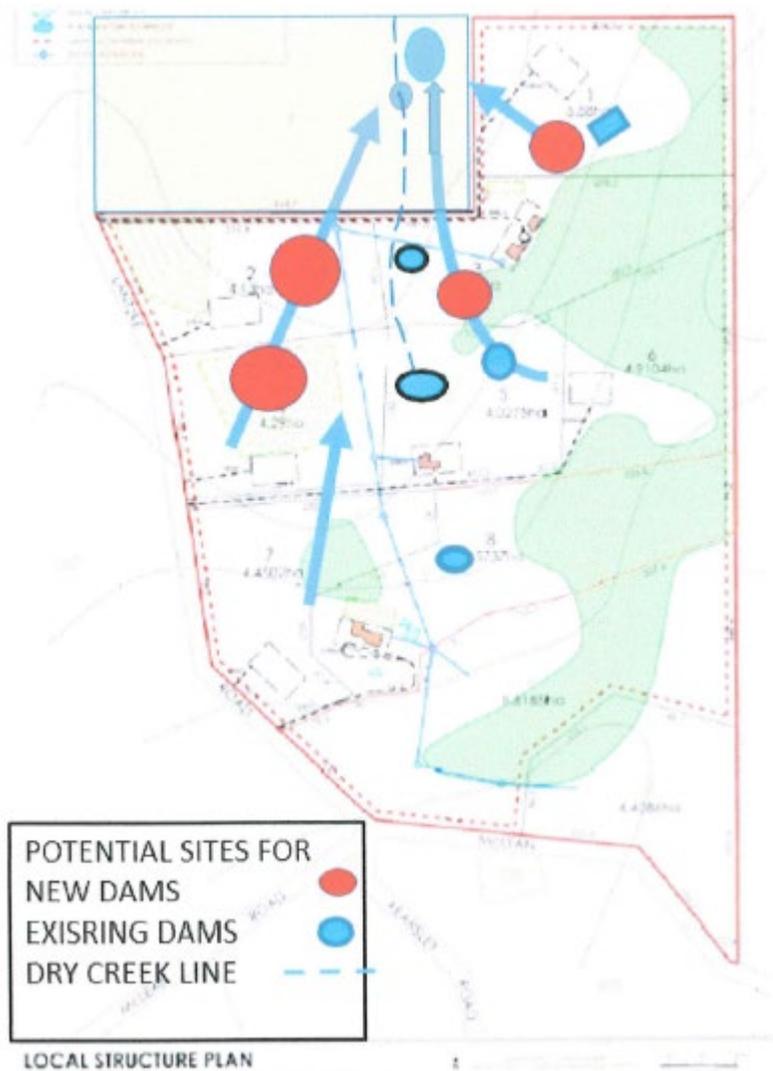
Lantzke Road Structure Plan Comment only

Ref No.	Name & Address Details	Verbatim Submission	Planning Services Comment
SP1	Department of Biodiversity, Conservation & Attractions – Parks & Wildlife Service Lily.simpson@dbca.wa.gov.au	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

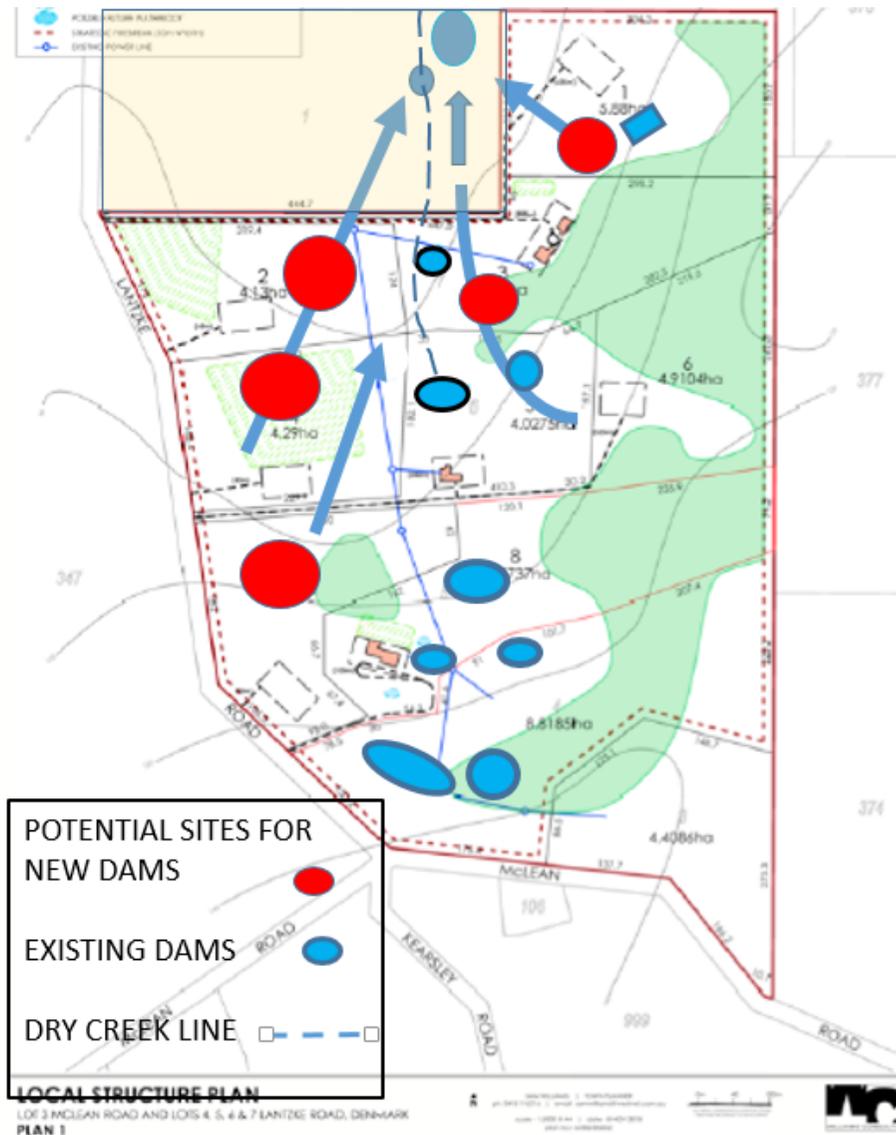
Attachment B



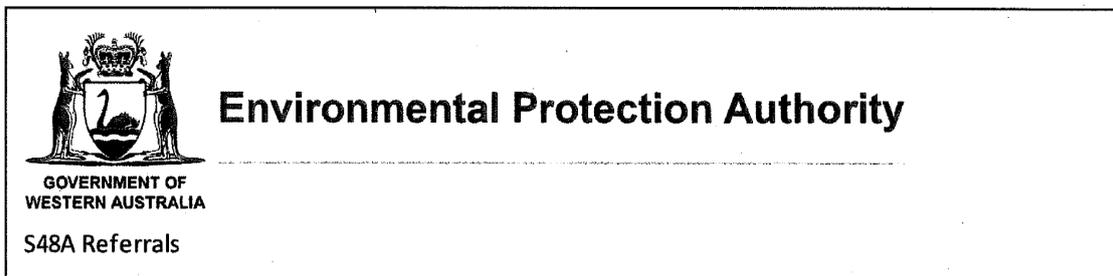
NOW
48.4 ha (119.6acres)
4 properties - 9 dams

- (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*

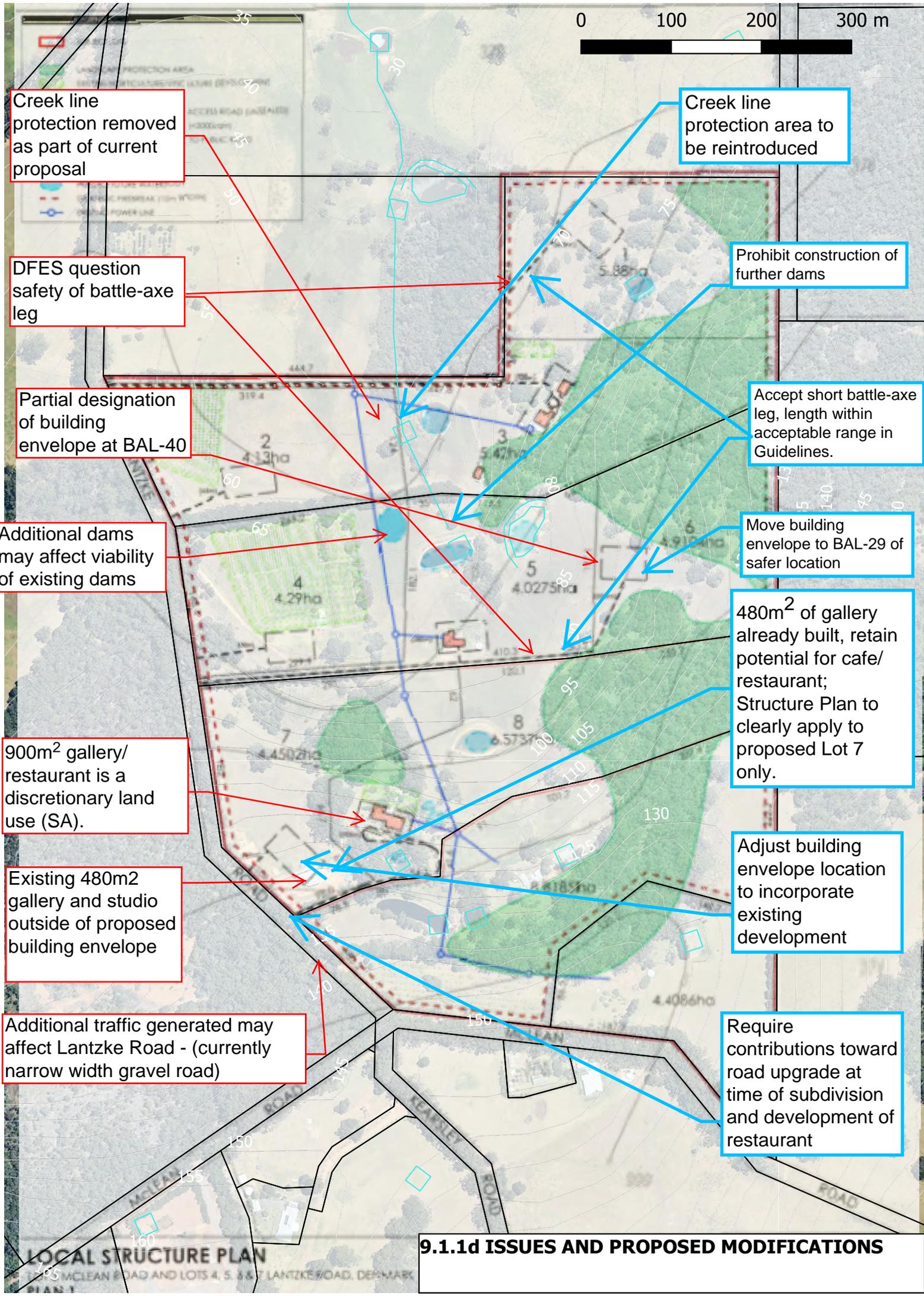
SCHEDULE OF MODIFICATIONS

Attachment 9.1.2d

Lantzke Road Structure Plan

Issue	Shire officer comment	Shire of Denmark Recommended Modification
<p>Submissions received from a nearby landowner and the Department of Water and Environmental Regulation (DWER) recognise the lack of capacity in the immediate catchment to support the existing dams in this area.</p>	<ul style="list-style-type: none"> • Existing dams in this small valley already appear to be affecting the existing creek and landholdings further down the catchment. • 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 • 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. 	<p>Remove references to proposed additional dams from structure plan.</p>
<p>The scheme provision that allows for a gallery/restaurant with a floor area of up to 900m² would be out of scale with the surrounding development and have unacceptable off-site impacts.</p> <p>The Scheme does not restrict the development of a gallery/restaurant to any specific lot.</p>	<p>The scheme provision that would allow Council to consider a gallery/restaurant (up to 900m²) was introduced to the Scheme in 2003 as part of Scheme Amendment 85. This was in recognition of the request from Jonathon Hook Owner of Lot existing Lot 5) that identified the previous limitation of 250m² was impractical. Lot 5 is currently developed with a large holiday home and a studio/gallery approximately 480m² 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>Council has the option of removing the potential for a restaurant through this scheme amendment if they feel</p>	<p>Retain the existing scheme provision but notate the Structure Plan to show that this applies to the existing gallery on proposed Lot 7 only.</p>

	<p>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 & 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>	
There is the potential for some future residences to be impacted by odour, noise, dust and spray drift from horticulture/viticulture activities.	Buffers to horticultural land use are in place, as shown on the site characteristics plan appended to the structure plan.	Notate the Structure Plan to require buffer planting between proposed building envelopes and existing horticultural enterprises.
Portion of building envelope on proposed Lot 6 is classified BAL-40 in the BAL Contour Plan	There is room to adjust the building envelope to a safer location further to the east so no part of the building envelope is in the BAL-40 contour.	Adjust the location of the building envelope and lot boundary for proposed Lot 6 so not part of the building envelope is classified BAL-40.
The existing gallery and studio on Lot 5 Lantzke Road is outside the proposed building envelope on proposed Lot 7.	The gallery and studio has all necessary approvals, the building envelope just needs to be adjusted.	Adjust the building envelope location on proposed Lot 7 so as to locate the entire existing gallery and studio within its borders.
Buffers to horticultural uses from residences are recommended by the EPA and relevant WAPC guidelines.	Many buffers are in place but mechanisms should be introduced to the Scheme and Structure Plan making it clear that these are required to be retained and maintained over time.	Show the existing and required agricultural buffers between existing horticultural land uses and proposed building envelopes.
The creek line protection area that was previously included in the subdivision guide plan and Scheme provisions has been removed, this area requires protection and would benefit from rehabilitation.	Whilst the documentation argues that there is little water in this creek, it does form the head waters of the intermittent creek line that is the in Scotsdale Brook catchment. Protection of the creek line and rehabilitation of the area would bring environmental benefits.	Show a 20m wide creek line protection area in the Structure Plan



Creek line protection removed as part of current proposal

Creek line protection area to be reintroduced

DFES question safety of battle-axe leg

Prohibit construction of further dams

Partial designation of building envelope at BAL-40

Accept short battle-axe leg, length within acceptable range in Guidelines.

Additional dams may affect viability of existing dams

Move building envelope to BAL-29 of safer location

900m² gallery/restaurant is a discretionary land use (SA).

480m² of gallery already built, retain potential for cafe/restaurant; Structure Plan to clearly apply to proposed Lot 7 only.

Existing 480m² gallery and studio outside of proposed building envelope

Adjust building envelope location to incorporate existing development

Additional traffic generated may affect Lantzke Road - (currently narrow width gravel road)

Require contributions toward road upgrade at time of subdivision and development of restaurant

9.1.1d ISSUES AND PROPOSED MODIFICATIONS

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 4-7 Lantzke Road and Lot 3 McLean Road, Scotsdale
- b) Updating the provisions in Appendix VI – Special Rural Zone as follows:

PARTICULARS OF THE LAND	PROPOSED USES	SPECIAL PROVISIONS
<p>10. LANTZKE ROAD SPECIAL RURAL ZONE</p>	<p>Rural Smallholdings</p> <p>Permitted Uses (P):</p> <ul style="list-style-type: none"> • Single House <p>Permitted at Council's Discretion (AA):</p> <ul style="list-style-type: none"> • Cottage Industry • Rural Pursuit • Holiday Accommodation on the basis it is limited to accommodation which is solely within the dwelling. • Home Business • Home Occupation • Horticulture <p>Permitted at Council's Discretion Subject to Advertising (SA):</p> <ul style="list-style-type: none"> • Gallery/Restaurant on the basis that it is limited to a maximum floor area of 900m². 	<ol style="list-style-type: none"> i. Development and subdivision shall generally be in accordance with the approved Lantzke Road Local Structure Plan. ii. All buildings and effluent disposal systems on a lot must be located within the building envelope location (max 3,000m²) 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. 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. 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"> ○ trees are dead, diseased or dangerous; ○ the establishment of a fire break is required under a regulation or by-law; ○ access to a building site is required and approved; ○ 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. 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 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

		<p>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"> 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. 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. o Council may require the provision of an adequate water supply to the stock as a condition of approval. <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 Structure Plan, that:</p> <ul style="list-style-type: none"> • the zone is located adjacent within an area where horticulture and viticulture activities are carried out. <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> <p>xii. Council may request the Commission to impose a condition at the time of subdivision requiring the subdivider to upgrade Lantzke Road.</p>
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