



TOWN PLANNING SCHEME NO. 3

SCHEME AMENDMENT NO. 125

JUNE 2010

Attachment 8.1.4

PLANNING AND DEVELOPMENT ACT 2005

RESOLUTION DECIDING TO AMEND A LOCAL PLANNING SCHEME

SHIRE OF DENMARK

TOWN PLANNING SCHEME No. 3

AMENDMENT No. 125

RESOLVED that the Council, in pursuance of Section 75 of the Planning and Development Act 2005, amend the above local planning scheme by:

- 1) Inserting a new scheme provision for Fire Protection and Bush Fire Control.
- 2) Altering the Table of Contents accordingly.

Dated this day of201.....

.....
Chief Executive Officer

MINISTER FOR PLANNING

PROPOSAL TO AMEND A SCHEME

1.	LOCAL AUTHORITY:	Shire of Denmark
2.	DESCRIPTION OF TOWN PLANNING SCHEME:	Town Planning Scheme No. 3
3.	TYPE OF SCHEME:	District Zoning Scheme
4.	SERIAL NUMBER OF AMENDMENT:	Amendment No. 125
5.	PROPOSAL	1) Inserting a new scheme provision for Fire Protection and Bush Fire Control. 2) Altering the Table of Contents accordingly.

SCHEME AMENDMENT REPORT

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1.0 Introduction

The Shire of Denmark seeks the WA Planning Commission's support and the Hon. Minister's approval to a scheme amendment that seeks to incorporate a new scheme provision covering bush fire protection within the Shire.

Council has been considering the matter of altering the present bush fire control requirements as a result of discussions and recommendations from local bush fire committees and concerned residents. The priority has been elevated following the tragic bushfire disasters experienced in WA and on the eastern seaboard. The continued improvement and implementation of adequate bush fire protection measures in the Shire of Denmark is a high-priority and requires the cooperation and acceptance of a shared responsibility from all stakeholders to minimise the threat.

These discussions have revolved around the 'possible' confusion between the implementation of statutory planning controls under the Scheme and the Shire's Annual Fire Regulation Notice. This has been further emphasised by correspondence from the Minister for Police; Emergency Services; Road Safety, Leader of the House in the Legislative Assembly that states in the case of inconsistency it would be difficult to determine about statutory instrument would prevail (refer Appendix A).

In the past, practice has been the subdivider of land undertook all works required under the planning scheme and landowners were then responsible to maintain these to a standard acceptable by the Shire. These situations arose in the Special Residential, Special Rural, Tourist and Landscape Protection zones. In addition, the Shire prepares the Annual Fire Regulation Notice which stipulates to all landowners (irrespective of zoning) the required fire protection measures to be implemented by them by a certain time each year. In the event that an existing scheme provision differed from the Fire Regulation Notice, staff applied the higher standard to that particular property.

Subsequently, the Shire at its July 2009 Meeting (Resolution: 190709) resolved:

Council, as part of a proposed omnibus amendment of Town Planning Scheme No. 3, incorporate Bush Fire Objectives and a new clause addressing Bush Fire Management and criteria and at the same time reviewing all Fire Management/Bush Fire Protection provisions relating to Special Residential, Special Rural, Tourism and Landscape protection Zones to achieve a more consistent application across these zones.

2.0 Existing Scheme Provisions

The present Town Planning Scheme No. 3 contains individual special provisions created at the time of rezoning the land and are included within the Appendices at the rear of the Scheme Text. There are presently some 49 distinct special residential, special rural, tourist and landscape protection zones contained within the Scheme, each having similar but slightly different requirements which were created specific to the land.

Many of these provisions (some dating back to the 1980's), have not been reviewed and in some cases are now at odds with the annually reviewed Fire Regulation Notice.

3.0 Proposed Scheme Provisions

The scheme amendment intends to introduce a new general scheme provision that will ensure consistency of approach regarding bush fire protection throughout the affected zones. It includes objectives and controls designed to mirror current practice and to remove any potential confusion for landowners.

If there is any inconsistency, the matter would be determined by Council who will apply the higher standard as determined from the Scheme and Fire Regulation Notice.

4.0 Conclusion

The proposed new scheme provisions will provide Council with the necessary fire control provisions and ensure that any inconsistency is adequately addressed.

The Shire seeks the Hon. Minister for Planning approval for the finalisation of the amendment accordingly.

PLANNING AND DEVELOPMENT ACT 2005

Shire of Denmark

TOWN PLANNING SCHEME No. 3

AMENDMENT No. 125

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

1) Inserting a new scheme provision for Fire Protection and Bush Fire Control as follows:

5.37 Fire Protection and Bush Fire Control

Council's objectives in implementing fire protection and bush fire control measures are to:

- *Identify areas within the Shire where bush fires pose a threat to life and property;*
- *Require all land use and development to implement appropriate fire protection requirements;*
- *Implement the WA Planning Commission 'Planning for Bush Fire Protection' guidelines and DC Policy 3.7 'Fire Planning'.*

5.37.1 Council shall require all planning proposals (relating to scheme amendments, structure plans and subdivisions) to include a fire hazard assessment and report prepared in accordance with the methodology and classifications (as determined by Council) contained in the WAPC 'Planning for Bush Fire Protection' guidelines at the time of application.

5.37.2 Council shall require all planning proposals incorporate appropriate fire protection measures which may include:

- *The requirements of the Shire's Annual Fire Regulation Notice (as amended from time to time);*
- *The provision of an adequate fire fighting water supply and fire hydrants/standpipes/hose connections etc;*
- *The provision of fire access tracks for access and egress of 2WD vehicles and access for emergency service vehicles;*
- *Fire prevention and suppression measures to be implemented by all landowners including hazard separation, building protection and low-fuel zones;*
- *Incorporation of construction standards for buildings including those in AS3959 Construction of Buildings in Bushfire Prone Areas (as updated from time to time) and the Building Codes of Australia;*
- *If deemed necessary, allocation of land for a fire fighting building or payment of a financial contribution to the implementation of additional fire protection measures within the local area.*

5.37.3 *Council may request the WA Planning Commission impose conditions on subdivision proposals requiring the implementation of appropriate fire protection measures.*

5.37.4 *Notwithstanding any other fire protection provisions contained within Appendix VI – Special Rural Zone, Appendix XIII – Schedule of Tourist Zones, Appendix XIV – Special Residential Zones and/or Appendix XVI – Landscape Protection Zone of the scheme, all development shall comply with the requirements of the Shire’s Annual Fire Regulation Notice (as amended from time to time).*

5.37.5 *In the event of any inconsistency between an existing scheme provision and/or approved Fire Management Plan or similar and the Shire’s Annual Fire Regulation Notice, the protection measures that, in the opinion of the Council, provides the greater fire risk protection and mitigation measures shall be implemented by the developer and/or landowner to the satisfaction of the Shire of Denmark.*

2) Alter the Table of Contents accordingly.



Minister for Police; Emergency Services; Road Safety
Leader of the House in the Legislative Assembly

Our Ref: 31-05131

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

Shire of Denmark	
ICR105825	
4 MAY 2010	
FIRE 1	
DATE	LPH
FILE REF	
COUNCILLORS	
CEO	✓
DIR of FINANCE	✓ 2A
DIR of PLANNING	✓ 2B
DIR of INFRASTRUCTURE	
DIR of COMMUNITY	✓ 3
OTHER	

Dear Mr Stewart

Thank you for your letter dated 2 September 2009 seeking legal advice as to whether notices under sub-section 33(1) of the *Bush Fires Act 1954* (BF Act) override all other legislative jurisdictions and / or instruments issued under Western Australian law. Further to my interim response dated 17 November 2009 I can now advise the following.

The concern identified in your letter, is the potential for conflict between separate statutory instruments affecting land clearing, such as notices issued under section 33 of the *Bush Fires Act 1954* and local planning schemes provided for under the *Planning and Development Act 2005*. It should be noted that an inconsistency will only arise if, to take one example, a section 33 notice requires a landowner to clear land and a local planning scheme forbids the clearing of the same land. Where statutory instruments are capable of simultaneous obedience, no inconsistency will arise.

In the case of an inconsistency, however, it is difficult to determine with certainty which statutory instrument would prevail. Clearly, this is an undesirable situation and the Fire and Emergency Authority of Western Australia (FESA) will be liaising with the Department of Planning and the Western Australian Local Government Association to identify the most appropriate way of removing this uncertainty.

I appreciate you writing to me with your concern.

Yours sincerely

ROB JOHNSON MIA
MINISTER FOR POLICE; EMERGENCY SERVICES; ROAD SAFETY

30 APR 2010

20th Floor, 197 St Georges Terrace, Perth Western Australia 6000
Telephone: +61 8 9222 9211 Facsimile: +61 8 9321 6003 Email: Minister.Johnson@dpc.wa.gov.au

PLANNING & DEVELOPMENT ACT 2005

Shire of Denmark

TOWN PLANNING SCHEME No. 3

AMENDMENT No. 125

ADOPTION

Adopted by resolution of the Council of the Shire of Denmark at the Ordinary Meeting of the Council held on the day of201.....

.....
SHIRE PRESIDENT

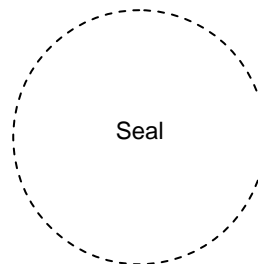
.....
CHIEF EXECUTIVE OFFICER

FINAL APPROVAL

Adopted for final approval by resolution of the Council of the Shire of Denmark at the Ordinary Meeting of the Council held on the day of 201..... and the Common Seal of the Shire of Denmark was hereunto affixed by the authority of a resolution of the Council in the presence of:

.....
SHIRE PRESIDENT

.....
CHIEF EXECUTIVE OFFICER



RECOMMENDED/SUBMITTED FOR FINAL APPROVAL

.....
DELEGATED UNDER S.16 OF PD ACT 2005

.....
Date

FINAL APPROVAL GRANTED

.....
MINISTER FOR PLANNING

.....
Date

Your Ref:
Our Ref:
Contact: Russell Gould
Email: Russell.Gould@fesa.wa.gov.au

Date: 05 September 2010

Address

Attention: Mr Duncan Ross

Dear Duncan,

RE: TPS No 3 – Amendment No 125. Shire of Denmark

I must apologise for the delay in responding to your request for comment on the amendment as discussed I was away on leave when your request arrived and it appears that it was not referred on to someone for comment.

My reading of the amended scheme document No 125 appears to broadly address the basic requirements of proponents wishing to develop properties in Bushfire threat areas and I fully support the need for the presentation of Fire Management Plans as part an application. Accordingly I endorse and support the document without change.

Should you have any queries please contact me at the Albany FESA Regional Office on 98455000

Yours faithfully,

RUSSELL GOULD
FESA DISTRICT MANAGER
GREAT SOUTHERN REGION



Environmental Protection Authority

The Atrium,
Level 8, 168 St Georges Terrace,
Perth, Western Australia 6000.
Telephone: (08) 6364 6500.
Facsimile: (08) 6467 5557.

Postal Address: Locked Bag 33,
Cloisters Square, Perth, Western Australia 6850.
Website: www.epa.wa.gov.au

Shire of Denmark	
ICR1061680	
23 JUN 2010	
TPS3/SA125	
DATE	LPH
FILE REF	
COUNCILLORS	
CEO	
DIR of FINANCE	
DIR of PLANNING	<input checked="" type="checkbox"/>
DIR of INFRASTRUCTURE	
DIR of COMMUNITY	
OTHER	

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

Your Ref TPS3/SA125 SW/KR
Our Ref A308915
Enquiries Mike Pengelly 6467 5428

Attn: Sam Williams

Dear Sir/Madam

DECISION UNDER SECTION 48A(1)(a) *Environmental Protection Act 1986*

SCHEME AMENDMENT TITLE: Shire of Denmark TPS 3 Amendment 125 Inserting new scheme provision for Fire Protection and Bush Fire Control

LOCALITY: Shire of Denmark

RESPONSIBLE AUTHORITY: Shire of Denmark

DECISION: Scheme Amendment Not Assessed (no appeals)

Thank you for your letter of 8 June 2010 referring the above scheme amendment to the Environmental Protection Authority (EPA).

After consideration of the information provided by you, the EPA considers that the proposed scheme amendment should not be assessed under Part IV Division 3 of the *Environmental Protection Act 1986* (EP Act) and that it is not necessary to provide any advice or recommendations.

Please note the following:

- For the purposes of Part IV of the EP Act, the scheme amendment is defined as an assessed scheme amendment. In relation to the implementation of the scheme amendment, please note the requirements of Part IV Division 4 of the EP Act.
- There is no appeal right in respect of the EPA's decision to not assess the scheme amendment.
- This letter will be made available to the public on request.

Yours faithfully



Colin Murray
Director
Assessment and Compliance Services

21 June 2010

Your Ref: TPS3 A125
Our Ref: Grange No 5345819
Enquiries: G Wright
Telephone: 98424 230

ICR1082363	
10 AUG 2010	
TPS3/SA125	
DATE	LP#
FILE REF	
COUNCILLORS	
CEO	
DIR of FINANCE	
DIR of PLANNING	✓
DIR of INFRASTRUCTURE	
DIR of COMMUNITY	
OTHER	



DR,
Pls note
S.

August 9, 2010

Shire of Denmark
PO Box 183
DENMARK WA 6333

Attention: Mr Sam Williams

Great Southern Regional Office
215 Lower Stirling Terrace
ALBANY WA 6330

PO Box 915
ALBANY WA 6331

Tel (08) 9842 4211
Fax (08) 9842 4255

www.watercorporation.com.au

**DENMARK PLANNING SCHEME AMENDMENT 125
BUSHFIRE PROTECTION REQUIREMENTS**

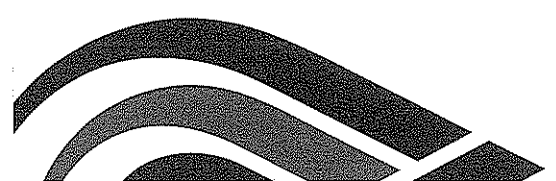
Dear Sam,

Thank you for your letter dated July 14, 2010 regarding the above.

You are advised that the Water Corporation has no objection to the proposed amendment #125.

Yours sincerely,

Graham Wright
Senior Capability Planner
Regional Customer Services Group
Great Southern





Government of Western Australia
Department of Water



Your ref: *looking after all our water needs*

File ref: RF1082

Enquiries: Brad Rimmer

Tel: 9841-0102

<i>Shire of Denmark</i>	
<i>ICR1082250</i>	
<i>3 AUG 2010</i>	
<i>TPS3/SA125</i>	
DATE	LPH:
FILE REF	
COUNCILLORS	
CEO	
DIR of FINANCE	
DIR of PLANNING	✓
DIR of INFRASTRUCTURE	
DIR of COMMUNITY	
MEMBER	

*Duncan,
pls note.
S.*

Shire of Denmark
PO Box 183
DENMARK WA 6333

Attention: Duncan Ross

Dear Mr Ross

RE: Scheme Amendment 125 - Updating and replacing fire protection requirements within the Special Rural, Special Residential, Landscape Protection and Tourist Zones

Thank you for the above referral. The Department of Water (DoW) has assessed the proposal and has no comment to offer at this stage of the planning process.

If you wish to discuss the matter further, please contact me on 9841-0102.

Yours sincerely,

**BRAD RIMMER
NATURAL RESOURCE MANAGEMENT OFFICER
SWAN AVON REGION**

2 August 2010



Government of Western Australia
Department of Environment and Conservation

Your ref:
Our ref: SRS 28494
Enquiries: Peter Keppel
Phone: 97 717 943
Fax: 97 771 363
Email: Peter.Keppel@dec.wa.gov.au

Shire of Denmark
TCR1092774

1 SEP 2010
GOV.4

DATE	LPH
FILE REF	
COUNCILLORS	
CEO	
DIR of FINANCE	
DIR of PLANNING	✓
DIR of INFRASTRUCTURE	
DIR of COMMUNITY	
OTHER	

DR.
Pls note
SW.

Mr Sam Williams
Director of Planning and Sustainability
Shire of Denmark
PO Box 183
DENMARK WA 6333

Dear Mr Williams

SUBJECT: SCHEME AMENDMENT 125 -- UPDATING AND REPLACING FIRE PROTECTION REQUIREMENTS WITHIN THE SPECIAL RURAL, SPECIAL RESIDENTIAL, LANDSCAPE PROTECTION AND TOURIST ZONES.

Thank you for the letter received on 23 July 2010 in which you seek comment on the above mentioned Scheme Amendment. The Department of Environment and Conservation (DEC) provide the following comments.

- Edition 2 of Planning for Bush Fire Protection Guidelines (May 2010) provides for reduced building protection zone and hazard separation zone distances based on increased building construction standards. As a hazard management agency for bushfire on DEC managed lands, and considering the amount of private property and shire controlled estate that is adjacent to DEC estate, it is highly likely that DEC would be the lead agency for bushfire suppression on this land.
- A reduction to the fuel managed zones reduces the area available for defending properties and has the potential to compromise the safety of fire fighters. DEC has supported previous requirements for 100 metre combined building protection and hazard separation zones between buildings and areas of extreme bushfire hazard, regardless of building construction levels. The 100 metre zone continues to be DEC's preference for achieving best practice in providing a degree of protection for fire fighters and property from bushfire on lands supporting such dense bushland. All fire protection requirements must be provided on the property itself and not place impositions upon the management of the adjoining DEC lands.

The DEC has no objection to this scheme amendment.

Please contact Peter Bamess on 97 717 929 should you require any additional information.

Yours sincerely


Peter Keppel
Regional Manager
Warren Region

27 August 2010

Warren Region
Brain Street, Manjimup
Phone: (08) 97 717 988 Fax: (08) 97 771 363
Postal Address: Locked Bag 2, Manjimup, Western Australia 6258
www.dec.wa.gov.au

SCANNED

23rd July 2010

Duncan Ross
Shire of Denmark.
South Coast Highway
Denmark W.A. 6333

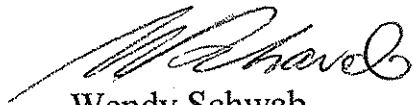
Dear Duncan,

Submission Re: Ammendment 125 update.

Large scale burn-offs on Special Rural properties are a health hazard to the immediate community surrounding the event. It is one thing burning off small dry garden cuttings but it is another to be burning large Karri trees and the like that have been cut down the week before. This maybe alright on rural acreages but most Special Rural lots are 5 acres and neighbours are very close. This type of large green-tree burning smokes on for many, many weeks and it lowers the quality of our lives immensely, not to mention the health hazard it can cause. A restriction on this type of burn-off would be desirable.

Your attention to this issue would be greatly received by this small Special Rural dwelling community. We live at Eaglemont Estate.

Yours sincerely,



Wendy Schwab
3 Waterfall Place, Denmark
Ph: 98409123
Email:wendyschwab@westnet.com.au

*Duncan any
Comments*

Shire of Denmark	
ICR1072133	
26 JUL 2010	
TP53/5A125	
DATE	LPH
FILE REF	
COUNCILLORS	
CEO	
DIR of FINANCE	
DIR of PLANNING	<input checked="" type="checkbox"/>
DIR of INFRASTRUCTURE	
DIR of COMMUNITY	<input checked="" type="checkbox"/>
OTHER	

*✓ info
Haste
City
not
Planning
Solo*

eradicate the 12 or so different species of wild flowers that grow, including at least one type of native orchid. The removal of vegetation would almost certainly result in a severe reduction in the number of birds that live and feed on the block. We have around 15 different species of birds visiting at different times of the year. We did not buy this block so that we could look out on park land clearing. On the contrary, we bought it because of the tall trees, granite outcrops and beautiful Karri understory of wild flowers, vegetation and animal life excluding rabbits and kangaroos which we don't want. All of these reasons to live here were permissible under the zoning at the time of purchase.

2. Run off and erosion.

There is no doubt that the clearing of vegetation will cause serious run off and erosion problems to such a steep block. Our current runoff management would no longer be effective. Runoff that may impact our neighbours below and erosion of what is essentially a very fragile understory of rocky outcrops, mosses and countless small and medium trees, plants and shrubs clinging to life with shallow root systems extending down in the cracks between rocks. These plants and trees rely on and thrive in the current eco system.

3. Current bushfire protection measures in place.

We have an existing strategic fire access route through the block. As you are aware there are fire hydrants every 50 meters or so around this subdivision. The dwelling has tempered glass windows throughout, with stainless steel flyscreens, bird boards to stop sparks etc entering the roof cavity, non combustible external cladding, fire resistant hardwoods in decks and railings.

We are in the process of removing as much dead flammable material as can be moved by hand.

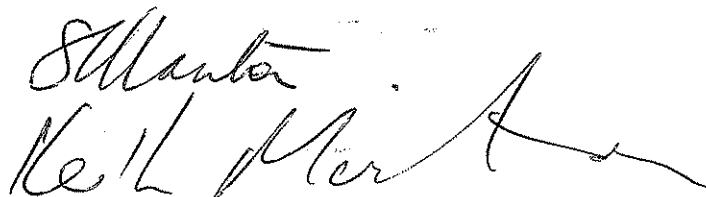
Summary.

We purchased this block for its natural beauty, tall trees, vegetation, wild flowers and birdlife. At the time of purchase we were under the impression that rules council had put in place for this subdivision would ensure we would always be able to enjoy these things. We would be saddened if council now sees fit to change the amenity of this block and deny us these essential requirements for a happy and contented life.

Here's hoping we can come to an agreement acceptable to us both.

Kind regards

Keith & Susha Manton

A handwritten signature in black ink, appearing to read 'Keith Manton', with a long horizontal flourish extending to the right.

SCANNED

Shire of Denmark
ICR1082340
9 AUG 2010

DATE	LPH

Peta Leiper

From: Stu [ozebrowns@ozemail.com.au]
Sent: Friday, 6 August 2010 3:23 PM
To: Denmark Shire Enquiries
Subject: RE: Scheme Amendment 125 SoD FILE REF: TPS3/SA125

Categories: FORWARDED TO DIR OF PLANNING

Having reviewed the proposed amendment 125 on the Denmark Shire website I agree that the proposed changes seem logical. However I am concerned that this amendment could be used to force significant retrospective changes to existing sub-divisions (for example, in terms of tracks, firewater provision, clearance) which the existing residents are not financially able to execute. Could this be the case? If so, would there be financial assistance (e.g. grants, rates discounts etc.) to facilitate the required works?

Stuart Brown
 36 Boobook Close
 Denmark

Sam

Comments on TPS3 Scheme Amendment 125 - Fire Protection Requirements

I have two comments on the above draft Amendment.

Comment 1) There is a typo error as shown on the attached page 1

Comment 2) The primary purpose of the Scheme Amendment is to give the Shire some statutory authority to rectify the historical problems caused by the past lack of clarity in the terminology used in Scheme Amendments when referencing a “low fuel zone”, a “hazard separation zone” and a “building protection zone”. The historical problems, and the confusion so created, has arisen because these terms have, in many cases, been used inter-changeably as if they are one-and-the-same thing. This is not correct and that is the problem the Amendment is trying to rectify.

I reference the paragraph as highlighted in red as #2 on page 2 of the attached. The way this paragraph currently reads is that it suggests a “low fuel zone”, a “hazard separation zone” and a “building protection zone” are separate physical entities whereas a “low fuel zone” is a **strategy** devised by CSIRO, adopted by FESA, and recommended by WAPC, to mitigate against damage to buildings by fire. That strategy requires a “hazard separation zone” and a “building separation zone” to each be implemented and each with their own different specifications. It is only when both are implemented that a “low fuel zone” is created and the maximum benefits of the risk mitigation strategy are delivered.

I would suggest the referenced paragraph be changed to -

“The adoption of a low fuel zone strategy for fire protection and suppression surrounding all buildings by implementation of the separate specifications for a hazard separation zone and a building protection zone”

Where separate specifications for a hazard separation zone have not been specified in the Scheme Amendment (which has been the historical norm) then the Shire may have to assume that no hazard separation zone is/was required and implementation of only the building protection zone may be possible.

Further, if in these troublesome cases the Shire then proposes to introduce a new hazard separation zone that was not previously specified in the Scheme Amendment, and if that new hazard separation zone specification requires further penetration of vegetation beyond the building protection zone that may be subject to statutory restrictions on vegetation clearing, then the Shire will be acting against the recent advice of the Minister. It is this matter that the Minister has advised he is seeking to clarify with WAPC and DEC.

Regards

Brian Humphries

1.0 Introduction

The Shire of Denmark seeks the WA Planning Commission's support and the Hon. Minister's approval to a scheme amendment that seeks to incorporate a new scheme provision covering bush fire protection within the Shire.

Council has been considering the matter of altering the present bush fire control requirements as a result of discussions and recommendations from local bush fire committees and concerned residents. The priority has been elevated following the tragic bushfire disasters experienced in WA and on the eastern seaboard. The continued improvement and implementation of adequate bush fire protection measures in the Shire of Denmark is a high-priority and requires the cooperation and acceptance of a shared responsibility from all stakeholders to minimise the threat.

These discussions have revolved around the 'possible' confusion between the implementation of statutory planning controls under the Scheme and the Shire's Annual Fire Regulation Notice. This has been further emphasised by correspondence from the Minister for Police; Emergency Services; Road Safety, Leader of the House in the Legislative Assembly that states in the case of inconsistency it would be difficult to determine about statutory instrument would prevail (refer Appendix A).

#1
which

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Subsequently, the Shire at its July 2009 Meeting (Resolution: 190709) resolved:

Council, as part of a proposed omnibus amendment of Town Planning Scheme No. 3, incorporate Bush Fire Objectives and a new clause addressing Bush Fire Management and criteria and at the same time reviewing all Fire Management/Bush Fire Protection provisions relating to Special Residential, Special Rural, Tourism and Landscape protection Zones to achieve a more consistent application across these zones.

2.0 Existing Scheme Provisions

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PLANNING AND DEVELOPMENT ACT 2005

Shire of Denmark

TOWN PLANNING SCHEME No. 3

AMENDMENT No. 125

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1) Inserting a new scheme provision for Fire Protection and Bush Fire Control as follows:

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- *Identify areas within the Shire where bush fires pose a threat to life and property;*
- *Require all land use and development to implement appropriate fire protection requirements;*
- *Implement the WA Planning Commission 'Planning for Bush Fire Protection' guidelines and DC Policy 3.7 'Fire Planning'.*

5.37.1 Council shall require all planning proposals (relating to scheme amendments, structure plans and subdivisions) to include a fire hazard assessment and report prepared in accordance with the methodology and classifications (as determined by Council) contained in the WAPC 'Planning for Bush Fire Protection' guidelines at the time of application.

5.37.2 Council shall require all planning proposals incorporate appropriate fire protection measures which may include:

- *The requirements of the Shire's Annual Fire Regulation Notice (as amended from time to time);*
- *The provision of an adequate fire fighting water supply and fire hydrants/standpipes/hose connections etc;*
- *The provision of fire access tracks for access and egress of 2WD vehicles and access for emergency service vehicles;*

#2

- *Fire prevention and suppression measures to be implemented by all landowners including hazard separation, building protection and low-fuel zones;*
- *incorporation of construction standards for buildings including those in AS3959 Construction of Buildings in Bushfire Prone Areas (as updated from time to time) and the Building Codes of Australia;*
- *If deemed necessary, allocation of land for a fire fighting building or payment of a financial contribution to the implementation of additional fire protection measures within the local area.*

FOLD

FOLD

"2 tonnes per hectare" and "5 tonnes per hectare"

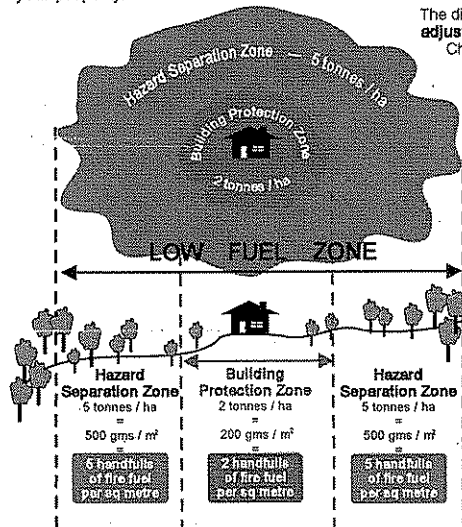
2 tonnes per hectare = 200 grams (2 handfulls) of fire fuel per sq metre
5 tonnes per hectare = 500 grams (5 handfulls) of fire fuel per sq metre

These specifications are a new method devised by the CSIRO and adopted by FESA for measuring the volume of fire fuel which, when applied together, form a **Low Fuel Zone** for fire risk mitigation. The specifications can be achieved by a number of methods:

- (a) on smaller Lots, by slashing or manually removing fire fuel
- (b) on larger Lots, by either (i) designing a series of compartments each separated by firebreaks that can be subjected to fuel reduction burns in a mosaic or chequerboard fashion typically on a 3 year rotation cycle or (ii) by slashing or by manually removing fire fuel

Contact the Shire's Rangers for advice on the method(s) that are applicable to your property.

The distances of each zone must be **adjusted for the slope of the land**. Check with the Shire Rangers or your local Fire Control Officer for further details relevant to your property



Adjustment of distances for slope
For each 10 degrees of slope, add an extra 10 metres of distance.

Slope	Add	Adjusted Distance
Level		20m
10 degs	10m	30m
20 degs	20m	40m
30 degs	30m	50m

LOW FUEL ZONE is a graduated method for fire risk mitigation surrounding any building

FESA has produced a booklet "A Visual Fire Fuel Guide for the Shire of Denmark" which contains many photos of differing fire fuel situations along with FESA's assessment of the fuel load in each case and is viewable on the Fire Services page of the Shire's website www.denmark.wa.gov.au

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GLOSSARY

A "low fuel zone" is a graduated method for fire risk mitigation to protect buildings against damage from fire.

A "low fuel zone" of itself does not have any specification whereas the hazard separation zone and the building protection each have their own definitive fuel load and distance offset specifications.

Ref Fire Regs Notice 2010-11

compatible land use. The maintenance of building protection zones must be able to be guaranteed across such boundaries through implementation of the local government fire break notice.

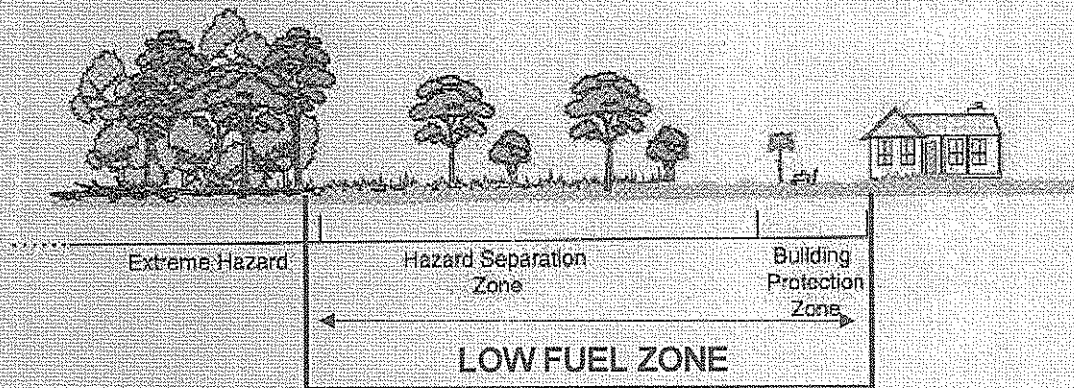
Building protection zones are required in addition to hazard separation zones.

It should be noted that building protection zones can adversely affect the retention of native vegetation. Where this loss of vegetation is not acceptable or causes conflict with either landscape or environmental objectives, reducing lot yield may be necessary in order to minimise the removal and modification of remnant vegetation. In some instances replacement planting of native, fire resistant plant species may be appropriate. A list of plant species which may be suitable for use in the building protection zone is set out in Appendix 2.

The performance criteria for building protection zones is an essential criteria and must be achieved.



A building protection zone maintained by clearing.



Ref "Planning for Bush Fire Protection"

**Shire of Denmark Town Planning Scheme No. 3
Amendment No. 125
Schedule of Submissions**

No	Name/Address of Submitter	Summary of Submissions	Officer comment	Council Recommendations
1	FESA <i>5 Hercules Crescent ALBANY WA 6330</i>	No objection to the proposed scheme amendment and states amendment broadly covers the basic requirements of proponents wishing to develop properties in bushfire prone areas.	Noted.	No changes to the amendment document required.
2	Environmental Protection Authority <i>Locked Bag 33 Cloisters Square Perth WA 6000</i>	Advised that the proposed scheme amendment will not be assessed under Part IV of the Environmental Protection Act 1986 and states it is not necessary to provide any advice or recommendations in accordance with the above legislation as has been done in this instance.	Noted.	No changes to the amendment document required.
3	Water Corporation <i>PO Box 915 Albany WA 6331</i>	No objection to the proposed scheme amendment.	Noted.	No changes to the amendment document required
4	Department of Water <i>PO Box 525 Albany WA 6331</i>	No comment to offer with regards to the proposed scheme amendment at this stage of the planning process.	Noted.	No changes to amendment document required.

No	Name/Address of Submitter	Summary of Submissions	Officer comment	Council Recommendations
5	<p>Department of Environment and Conservation</p> <p><i>Locked Bag 2 Manjimup WA 6258</i></p>	<p>DEC provides the following comments:</p> <p>Edition 2 of Planning for Bushfire Protection Guidelines (May 2010) allows for reduced building protection zone and hazard separation zone distances subject to increased building construction standards. DEC, as the hazard management agency for bushfire on the DEC estate, believes the 100m low fuel zone should be applied regardless of increased building standards to provide protection of fire-fighters and surrounding bushfire prone lands.</p>	<p>Noted – All development applications on properties identified as being with a Bushfire Prone Area will be assessed against Australia Standard-3959 (As-3959) and Planning for Bushfire Protection Guidelines. The DEC's comments conflict with these documents as increased construction standards are intended and proven to mitigate the risks associated with reduced distance between bushfire prone areas. Not all properties contain sufficient distances (>100m) to be able to be compliant with the DEC's comment, therefore AS-3959 will continue to apply in those instances where Council determines the risk to be acceptable where development fails to provide the 100m low fuel zone.</p>	<p>No changes to the amendment document required.</p>

No	Name/Address of Submitter	Summary of Submissions	Officer comment	Council Recommendations
		All fire protection requirements should be provided on the property itself and not place impositions upon the management of the adjoining DEC lands.	Upheld – AS-3959 will apply taking into account property boundaries as they relate to development proposals. There is no requirement or intention to enforce fire protection considerations on third parties such as the DEC.	It is recommended to reword proposed Clause 5.37.2 (fourth bullet point) to read: <i>‘Fire prevention and suppressions measures to be implemented by all landowners on land to which the development relates, including the implementation of building protection zones and hazard separation zones, collectively forming the low fuel zone’.</i>
6	Ratepayer	The ratepayer has concerns over private residents burning trees, which are left to smoulder for days creating a health hazard and lowering amenity. A restriction on this type of burn-off would be desirable.	Dismissed – The amendment document does not seek to control burn offs on private lots, as nuisance is controlled by the Shire’s Local Health laws. The Shire’s Principal Environmental Health Officer has provided the ratepayer with a response, advising of the Shire’s Health Local Laws and the details contained within the agenda item discussed at the 17 August 2010 meeting – Item 9.2 – Waste Management Advisory Committee – Burning of Green Waste.	No changes to amendment document required.
7	Ratepayer	Ratepayer raises a number of concerns that require clarification, particularly in regards to the following matters: <u>Loss of Amenity</u> – parkland	Noted – this particular lot requires	No changes to amendment

No	Name/Address of Submitter	Summary of Submissions	Officer comment	Council Recommendations
		<p>clearing of the submitters block would result in significant understorey vegetation removal, essentially across the entire property. This would result in the loss of numerous local tree/plant species and well as fauna reduction.</p>	<p>the owners to maintain <u>their entire</u> block in a low fuel zone given the high fire risk associated with the 'tree preservation area' within the subdivision. This is a good example of where confusion occurs.</p> <p>For new development applicants will be required to comply with the requirements of this scheme amendment, firstly being the Annual Fire Regulation Notices (AFRN) and the Planning for Bush Fire Protection Guidelines. This approach could reduce the extent of the low fuel zone subject to increased construction standards as stipulated in Table 2 of the Planning for Bush Fire Protection Guidelines. Finally, the applicants would be required to comply with those relevant requirements of the FMP – in this case ensuring both the strategic firebreak access and the emergency fire access are maintained.</p> <p>As the dwelling subject to this property was constructed in accordance with the fire protection requirements applicable at that time, it is doubtful the dwelling provides the increased construction standards necessary to reduce the</p>	<p>document required.</p>

No	Name/Address of Submitter	Summary of Submissions	Officer comment	Council Recommendations
		<p><u>Runoff and Erosion</u> – clearing of lots for fire protection would create runoff and erosion problems particularly on steeper blocks. Retention of vegetation assists in this regard as well as ensuring eco-system retention.</p> <p><u>Current Bushfire Protection Measures</u> – existing firebreaks, dwelling design, AFRN, and fire hydrant provisions suitably mitigate fire risk in many existing properties.</p>	<p>extent of the low fuel zone.</p> <p>Dismissed – typically areas of higher ecological value are identified at the subdivision stage and protected. In this case via numerous ‘tree preservation areas’ as shown on the approved Subdivision Guide Plan.</p> <p>Noted – as stated above the dwelling would need to be constructed in accordance with the necessary AS-3959 standards to warrant a reduction in the extent of the low fuel zone.</p>	<p>No changes to amendment document required.</p> <p>No changes to amendment document required.</p>
8	Ratepayer	<p>Ratepayer raises a number of concerns that require clarification, particularly in regards to the following matters:</p> <p>Amendment could be used to force significant retrospective changes on existing subdivisions, in terms of fire access tracks, water provision (dams), clearance distances around buildings etc which existing residents are not able to financially execute. If residents are forced to pay for retrospective works, will there be funds or grants available?</p>	<p>Noted – The amendment will not result in any increased requirements on property owners for existing developments. In most cases, the existing subdivision will be controlled by an approved Fire Management Plan (FMP), which is required to be implemented by the developer prior to clearance of subdivision conditions. The onus in terms of who is then responsible for maintaining this to the satisfaction of</p>	<p>No changes to the amendment document required.</p>

No	Name/Address of Submitter	Summary of Submissions	Officer comment	Council Recommendations
			<p>the Shire falls on the property owners within the subdivision, and more specifically this is often burdened on specific property owners within the development (where not applicable to common property).</p> <p>Existing buildings should currently be assessed against and comply with the Shire's Annual Fire Regulation Notices (AFRN). This will continue to apply in the future along with any specific requirements contained in an existing FMP prepared specifically for the original subdivision.</p> <p>Council will not make available through this scheme amendment process grants or funds to undertake works required by the FMP or AFRN.</p>	
9	Ratepayer	<p>Ratepayer has two comments to make on the draft Scheme Amendment as follows:</p> <p>There is a typographical error on page 1 of the scheme amendment document which should replace the word 'about' with the word 'which'.</p>	Upheld.	The sentence has been deleted as this comment within the amendment document has been adequately covered in the officer's report seeking to initiate the amendment.

No	Name/Address of Submitter	Summary of Submissions	Officer comment	Council Recommendations
		<p>Purpose of the Scheme Amendment document is to provide clarity in regards to the numerous different terms used with regards to fire protection. Most notably the 'building protection zone', 'hazard separation zone' and 'low fuel zone' and how these are defined and applied to development. The terms used remain vague and require additional quantification.</p>	<p>Upheld – The low fuel zone referred to in the Shire's AFRN and the Planning for Bushfire Protection Guidelines is effectively the building protection zone (BPZ) and the hazard separation zone (HSZ) combined. Historically there has been confusion as to what each protection measure relates to and how this should be applied, however the two documents referred to above provide the necessary clarity. Given this the submitter's comments have been incorporated in the modified clause as detailed.</p> <p>The Shire's approach to assessing bushfire protection measures should include the BPZ as the primary source of protection, with the HSZ distance determined by the effective distance to the predominant vegetation class. Where less than the 100m low fuel zone is provided, Table 2 of Planning for Bushfire Protection Guidelines shall be used to define the appropriate construction standard in accordance with the</p>	<p>This does not affect the proposed provisions.</p> <p>As stipulated above it is recommended to reword proposed Clause 5.37.2 (fourth bullet point) to read:</p> <p><i>'Fire prevention and suppressions measures to be implemented by all landowners on land to which the development relates, including the implementation of building protection zones and hazard separation zones, collectively forming the low fuel zone'.</i></p>

No	Name/Address of Submitter	Summary of Submissions	Officer comment	Council Recommendations
			relevant Bushfire Attack Level (BAL).	