



Minutes

ORDINARY MEETING OF COUNCIL

HELD IN THE COUNCIL CHAMBERS,
953 SOUTH COAST HIGHWAY, DENMARK ON
TUESDAY, 25 MARCH 2014.

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Ordinary Council Meeting

25 March 2014

DISCLAIMER

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1. DECLARATION OF OPENING/ANNOUNCEMENT OF VISITORS

4.03pm - *The Shire President, Cr Thornton, declared the meeting open.*

2. RECORD OF ATTENDANCE/APOLOGIES/APPROVED LEAVE OF ABSENCE

MEMBERS:

- Cr Ross Thornton (Shire President)
- Cr John Sampson (Deputy Shire President)
- Cr Jan Lewis
- Cr David Morrell
- Cr Ian Osborne
- Cr Dawn Pedro
- Cr Belinda Rowland
- Cr Roger Seeney

STAFF:

- Mr Dale Stewart (Chief Executive Officer)
- Mr Kim Dolzadelli (Director of Finance & Administration)
- Mrs Annette Harbron (Director of Planning & Sustainability)
- Mr Gregg Harwood (Director of Community & Regulatory Services)
- Mr Rob Whooley (Director of Infrastructure Services)
- Ms Claire Thompson (Executive Assistant)

APOLOGIES:

Nil

ON LEAVE OF ABSENCE:

Cr Kelli Gillies

ABSENT:

VISITORS:

Members of the public in attendance at the commencement of the meeting: 6
 Members of the press in attendance at the commencement of the meeting: Nil

DECLARATIONS OF INTEREST:

Name	Item No	Interest	Nature
Cr Sampson	8.2.1	Impartiality	Cr Sampson is a member of the Denmark Environment Centre Inc. who have made a submission on the proposal.
Cr Pedro	8.2.1	Impartiality	Cr Pedro is a member of the Denmark Environment Centre Inc. who have made a submission on the proposal.
Cr Morrell	8.2.1	Proximity	Cr Morrell's residence is adjacent to the reserve on Campbell Road (Lot 5434)

3. ANNOUNCEMENTS BY THE PERSON PRESIDING

Nil

4. PUBLIC QUESTION TIME

4.1 RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE

Nil

4.2 PUBLIC QUESTIONS

In accordance with Section 5.24 of the Local Government Act 1995, Council conducts a public question time to enable members of the public to address Council or ask questions of Council. The procedure for public question time can be found on the wall near the entrance to the Council Chambers or can be downloaded from our website at <http://www.denmark.wa.gov.au/council-meetings>.

Questions from the public are invited and welcomed at this point of the Agenda.

In accordance with clause 3.2 (2) & (3) of the Shire of Denmark Standing Orders Local Law, a second Public Question Time will be held, if required and the meeting is not concluded prior, at approximately 6.00pm.

Questions from the Public

4.2.1 Ms Vivienne Robertson – Item 8.5.1 (Kwoorabup Community Park – Interpreting Cultural Heritage Project)

Ms Robertson, Artistic Director for Denmark Arts, stated that she supported the Officers Recommendation and that Denmark Arts were honoured to undertake the project.

4.2.2 Cr David Morrell – Fuel Reduction on Reserve 41224, No. 7663 Crowea Road, Denmark

Cr Morrell spoke on behalf of a number of residents who live in the vicinity of Council Reserve 41224, who had expressed concerned about the level of fuel reduction currently occurring on reserves in Town. Cr Morrell asked that the following questions be taken on notice.

1. Which reserves are identified as low fuel load and therefore not requiring immediate attention?
2. Of the total area of reserve what percentage has been prescribed burned in 2013/2014?
3. What is the minimum annual percentage to be aimed at to achieve a fuel reduction in rotation, eg. 33% = 3 years, 25% = 4 years, 20% = 5 years etc..?

Cr Morrell also advised that the residents supported the Council's plan to strategically target reserves around the town to reduce fuel loadings. Cr Morrell stated that he had also had a number of other residents around the Weedon Hill area who had expressed similar concerns regarding fuel loadings on Council reserves.

The Shire President thanked Cr Morrell for bringing the residents' concerns to Council and accepted the questions on notice and that they would be responded to in writing by Council Officers.

Cr Thornton stated that the Council controlled approximately 90 reserves and endeavoured to prescribe burn around 4 – 6 of those every year.

4.2.3 Ms Lyn Perry – Item 8.2.1 (Dog Park & “Off Lead” Exercise Strategy)

Ms Perry asked whether the reserve on Blackburn Street was being considered for an off lead and dog park area.

The Chief Executive Officer responded stating that the dog park was proposed for Laing Park, which is the Reserve opposite Blackburn Street, and the unnamed Reserve next to Walters Reserve, on Campbell Road, was also being considered for an off lead dog exercise area.

4.3 QUESTIONS BY MEMBERS OF WHICH DUE NOTICE HAS BEEN GIVEN

Nil

4.4 PRESENTATIONS, DEPUTATIONS & PETITIONS

Nil

5. APPLICATIONS FOR LEAVE OF ABSENCE

COUNCIL RESOLUTION	ITEM 6.1
MOVED: CR MORRELL	SECONDED: CR PEDRO
That Cr Osborne be granted Leave of Absence for the meeting scheduled for Tuesday, 15 April 2014.	
CARRIED UNANIMOUSLY: 8/0	Res: 110314

6. CONFIRMATION OF MINUTES

6.1 ORDINARY COUNCIL MEETING

COUNCIL RESOLUTION & OFFICER RECOMMENDATION	ITEM 6.1
MOVED: CR SEENEY	SECONDED: CR SAMPSON
That the minutes of the Ordinary Meeting of Council held on the 4 March 2014 be confirmed as a true and correct record of the proceedings.	
CARRIED UNANIMOUSLY: 8/0	Res: 120314

7. ELECTED MEMBERS MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

Nil

8. REPORTS OF OFFICERS

8.1 Director of Planning & Sustainability

Nil

8.2 Director of Community & Regulatory Services

Prior to consideration of Item 8.2.1 the Chief Executive Officer, through the Presiding Person, brought to the attention of the meeting the following disclosure(s) of interest:

Cr Sampson & Cr Pedro are members of the Denmark Environment Centre Inc. who have lodged a submission on the proposal and as a consequence there may be a perception that their impartiality on this matter may be affected. Cr Sampson & Cr Pedro have both declared that they will consider this matter on its merits and vote accordingly.

Cr Morrell declares a proximity interest on the basis that he owns a residence which is adjacent to the reserve on Campbell Road (Lot 5434) .

4.20pm - Cr Morrell left the room and did not participate in discussion or vote on the matter.

8.2.1 DOG PARK & “OFF LEAD” EXERCISE STRATEGY

File Ref:	ORG.79
Applicant / Proponent:	Not applicable
Subject Land / Locality:	Shire of Denmark
Disclosure of Officer Interest:	Nil
Date:	10 August 2013
Author:	Gregg Harwood, Director of Community & Regulatory Services
Authorising Officer:	Gregg Harwood, Director of Community & Regulatory Services
Attachments:	8.2.1 a – Concept Plan (proposed Dog Exercise Park at Annie Harrison Park) & maps & photographs of areas proposed. 8.2.2 b - Copies of all submissions

Summary:

The officer report discusses the public feedback that has been received as a result of advertising Council’s proposed Dog Park and “Off Lead” Exercise Strategy a 60 day period and recommends that Council amend its Dog Local Laws and its 10 year Financial Plan to implement the following;

1. The development of Laing Park, Lot 101 Ocean Beach Rd as the site that is as the primary dog park, for the Shire.
2. Consider the allocation of \$3,000 in its 2014/2015 budget to engage an architect to prepare a development plan for the above site to ensure that it is developed in a way that best utilises the site from a dog owners and perspective without negatively affecting Rail Trail users while taking into account parking and access factors as well as the needs of adjoining property owners.
3. The development of the unnamed cleared portion of Reserve 32279, Lot 1001 that is adjacent to Walters Park that is on Campbell Rd near the corner of Inlet Drive as a low key “off lead” exercise area.
4. The total exclusion of dogs from the playing surfaces of the Mclean Park Oval complex.

Background:

Early in 2012 the Denmark Dog Club expressed on behalf of dog owners the need for a purpose built dog park in Denmark.

This need was further compounded by the fact that at the same time the ongoing development of the Kwoorabup Community Park had brought it to the point where its original intent of being an on lead only dog area was being enforced.

On consideration of these requests senior staff envisioned that a well-designed, aesthetically pleasing dog park would have significant tourism potential in that it would be an attractant for dog owners to spend a night in Denmark.

In response to this opportunity and local dog owner's needs, the CEO engaged Tom Stevens who is part of the Albany based Howard and Heaver architectural team to prepare a concept plan and allocated the task scoping the project, consulting with community groups and managing the architect to the Director of Community and Regulatory Services.

The resultant concept plan which was for Annie Harrison was referred to the 5 March 2013, 10 September 2013 and 23 October 2013 Council meetings which resulted in the following decision to advertise the following proposal:

"That Council endorse for the purposes of advertising for public comments for a 60 day period the proposed "Dogtopia" Dog Park and "Off Lead" Exercise strategy, in addition to the existing gazetted areas of the Shire, as follows:

- 1. Laing Park, Lot 101 Ocean Beach Rd as the site that is proposed to be developed as the primary dog park, for the Shire.*
- 2. The unnamed portion of Reserve 32279, Lot 1001 that is adjacent to Walters Park that is on Campbell Rd near the corner of Inlet Drive as a low key "off lead" exercise area.*
- 3. Totally excludes dogs from the playing surfaces of the Mclean Park Oval complex."*

The proposal was advertised in the Denmark Bulletin with additional media coverage and in order to assist people in commenting, the attached primer was prepared and placed alongside the advert on Council's website. Known dog interest groups were also contacted and a letter was sent directly to land owners nearby to the proposed parks.

The text of the advert reads as follows:

"At its 22 October 2013 meeting (Res: 571013) Council resolved to advertise the proposed "Dogtopia" Dog Park and "Off Lead" Exercise strategy for public comments for a period of days 60 days prior to its consideration for adoption by Council.

This strategy proposes to gazette to Laing Park, Lot 101 Ocean Beach Road and the portion of Reserve 32279, Lot 1001 that is adjacent to Walters Park on Campbell Rd near the corner of Inlet Drive as "Off Lead" dog exercise areas with Liang Park being developed as Council's primary dog park with dog agility equipment and the section of Walters Park remaining as a low key "Off Lead" exercise area.

The strategy will also totally exclude dogs from the playing surfaces of the Mclean Park Oval complex.

Example of typical developed dog parks can be viewed in the public notices section of Council's website - www.denmark.wa.gov.au

Submissions shall be in writing (fax or email is accepted), addressed to the undersigned and received by 4.00pm, Monday, 20 January 2014."

Consultation:

Consultation has taken place with the Denmark Dog Club, Denmark Animal Carers, and local Veterinary Surgeons and they are supportive of the concept of a dog park and it is simply a case of finding a suitable location and the proposal has been advertised for 60 days and nearby property owners notified by direct mail.

Statutory Obligations:

There are no known significant strategic implications relating to the report or the officer recommendation other than the need to amend Council's Dog Local Laws to reflect the recommended changes.

Policy Implications:

There are no known significant policy implications relating to the report or the officer recommendation other than P100705 which relates to memorials.

Recommendation LUC3 of Council's Coastal Management Strategy notes the need to consider the need of dog exercise areas.

Budget / Financial Implications:

There are known significant Budget / Financial implications relating to the report or the officer recommendation in that Council will need to seek grants and the need to allow funds in future budgets to plan and complete these projects.

The Denmark Dog Club and Search Dogs Australia have indicated a keen interest in applying for grant funds to assist in developing dog facilities.

Councillors should also note that the development of these parks will increase Council's annual mowing costs.

In the author's opinion, practical policing and enforcement would make the idea of allowing only 'on-lead' dog access to the sand bar / beach area currently not feasible and defeat the purpose of a 'dog beach'. If Council wished to pursue this concept then it is recommended that the Council engage more fully with the community on the merits of this proposal before altering the current status of this reserve.

Strategic Implications:

There are no known significant strategic implications relating to the report or the officer recommendation.

Sustainability Implications:**➤ Environmental:**

There are submissions that detail potential negative environmental considerations relating to the continued use of portion of the reserve at Ocean Beach / Prawn Rock Channel. The presence of dedicated dog parks in addition to the current beach access sites may however reduce the negative consequences and incidence of dogs being allowed to free run at Prawn Rock Channel and in the bush generally.

The regular mowing of lawns produces a carbon footprint after plant sequestration of approximately 3.5 tonnes of CO₂ per hectare per year. The regular mowing of the proposed areas would add around 8 tonnes per year to Council's carbon footprint.

➤ Economic:

There are no known significant economic considerations relating to the report or officer recommendation.

➤ Social:

The construction of a well-planned dog park will bring about significant health and well-being benefits in Denmark particularly amongst the senior's population.

The Shire of Denmark has a high dog ownership ratio when compared to other Council's due to its tree change and lifestyle focused demographic and a comparison with its neighbours is as follows:

DENMARK

Rateable Properties 3,980, Registered Dogs 1,089, Property/ Dog Ratio 3.6:1

MANJIMUP

Rateable Properties 5,524, Registered Dogs 536, Property/ Dog Ratio 10.3:1

PLANTAGENET

Rateable Properties 3,300, Registered Dogs 1,000, Property/ Dog Ratio 3.3:1

Comment/Conclusion:

The objective of the Dog Park and "Off Lead" Exercise strategy is to cater for the anticipated increase in dog owners over the next 20 years.

In preparing the plan staff identified the following relatively unused areas of land that could all be nominated as "off lead" exercise areas for dogs significantly increasing the recreational opportunities that are available for dog owners within the Shire of Denmark:

Laing Park: As the site that is proposed to be developed as the primary dog park.

Laing Park is a triangular 1.1780 hectare site on the Westside Ocean Beach Rd that backs on the Rail Trail and is located between Campbell Rd and Kemsley Estate.

It is sunny, has a pleasant outlook, a wet spot in the front corner that could be dug out as a soak to provide a small swimming hole for dogs and is already fenced with rudimentary fencing. The area also has parking for a few vehicles and further parking could easily be provided as the site develops.

The sites scenic main road location would also make it eminently suitable for attracting tourists that are travelling with dogs. The park also has good connectivity to walk trails and is near future housing areas.

Unnamed Portion of Walters Park: As a low key "off lead" exercise area

A portion of reserve 32279, Lot 1001 on Campbell Rd near the corner of Inlet Drive that is around 8000m² and is currently unused and only slashed once a year is proposed as a further secondary low key "off lead" exercise area.

Development of this park would be limited to mowing it regularly for usage without any further development, other than the provision of some parking and possibly a front fence.

While the rear section of this park gets wet in winter, it is sunny, has a pleasant outlook and good connectability to walk trails and the Weedon Hill and Inlet Drive residential areas.

The review also identified that the Mclean Oval playing surfaces are being illegally used by some owners as an "off lead" exercise area and that even the current 'accepted' on lead usage of the playing surfaces was leading to problems with uncollected dog dumpage and for this reason it is also recommended that dogs be totally excluded from the playing surfaces of the Mclean Park Oval complex as part of the proposed strategy.

It is intended that the development of the Laing Park Dog Park will be along similar lines to those identified in the previous Annie Harrison concept plan that was produced by the Howard and Heaver architectural team that sought to tie the dog park in with historic and walkable paths themes and will involve the following features:

- 1) Connection to the existing Heritage Rail trail and the cycle path to Ocean Beach.
- 2) The entire park would be an "off lead" dog exercise area which require a change in the park's status under Council's Dog Local Laws.
- 3) Defined but interconnected large and small dog areas with suitably sized dog agility equipment.
- 4) A BBQ area where dog owners would be able to have a BBQ with their dogs present.
- 5) Barrier landscaping as opposed to internal fencing where this is practical.

- 6) Separate doubled gates with in and out paths to both the large and small dog areas that will prevent dogs escaping and enable dogs to be socialised before entering and controlled when leaving.
- 7) Possibly a future dog or 'pet' niche wall and the provision of a public toilet.

The Denmark Dog Club have reviewed the original concept plans and are supportive of the overall concept and layout and very appreciative of the concept of a dog friendly BBQ area and social space and are quite keen to get involved in the incremental development of a dog park. Their main request is that where ever it is developed it needs to be fenced as they are concerned that larger dogs will run away following kangaroo scents.

The Denmark Animal Carers are also supportive of the concept plan and Councils Rangers have advised that while the development of a dog park and increasing dog ownership will inevitably require the allocation of increased ranger resources they are supportive of the proposal.

The Denmark Veterinary Clinic has also advised that they are supportive of the concept and will be happy to provide advice on the best surfaces for the agility equipment as the park develops.

In terms of the costs it is envisaged that the development of the main Laing Park dog park will be in the vicinity of \$150,000 with this rising to \$180,000 if composting toilets are provided and \$270,000 if a more substantial conventionally operated block is constructed. The unnamed portion of Walters Park is likely to cost less than \$5,000 and not withstanding these costs, both these parks are essentially ready for basic "off lead" exercise usage today.

It is envisaged that if Council is successful in communicating its vision that a reasonable amount of these expenditures will be funded through grants, donations, volunteer labour and bequeathed donations.

Outcome of Public Consultation:

The strategy was advertised in during December 2013 & January 2014 and produced the following comment statistics (refer also Attachment 8.2.1 b):

- Total number of comments: 20 comments
- Total number of comments in support: 15 comments
- Total number of comments against: 1 comment (Walters Park)
- Total number of comments Mclean Oval:..... 0 comments
- Total number of comments neighbours supporting:.... 2 comments (Laing Park)
- Total number of comments neighbours against:..... 2 comments (Walters Park)

Other comments:

Four comments regarding requesting the closure of the dog exercise area near Prawn Rock Channel for environmental reasons which included 1 comment to this effect by Council's Sustainability Officer.

13 of the comments supporting the proposal were from owners and dog interest groups who supportive of the proposals with the only adverse comment being that if a water hole was included it should be fenced so that owners had a choice about whether it their dogs swum.

Two neighbours adjoining Laing Park supported the proposal and there were no objections. The neighbour to the South commented that he ran cattle and that the fencing needed to be improved to prevent dogs entering his paddock to chase stock and the neighbours behind commented that parking issues and wear and tear on their access needed to be considered.

These comments have been noted and are one of the reasons why the engagement of an architect has been recommended to prepare a development plan for the site that ensures that it is developed in a way that best utilises the site from a dog owners and Rail Trail users perspective while taking into account parking and access factors as well as the needs of adjoining property owners.

The one neighbourhood objection was received from the property owner that is opposite the unnamed portion of Walters Park on the basis that: (full comments are attached);

- The reserve is waterlogged and boggy for at least half the year.
- The Reserve is a particular 'snake haven' which would prove dangerous for adults, children and dogs alike in the warmer seasons.
- Parking. Where will dog owner's vehicles park, given the existing lay of the land?
- Safety issues. The road has a "blind", "dog leg" corner. Off leash animals darting around on what is a relatively small area of land next to a busy road is a recipe for disaster.
- Reserve designation. For years R32279 Lot 7230 Walter is a reserve that has been set aside for native birds and other fauna e.g. bandicoots, lizards etc. Introducing dogs to the area could significantly affect the integrity of the eco system in its current state, including introduced weeds and foreign excrement to what is essentially a small, relatively pristine area.

While these comments are by generally correct and could easily also be made about the existing "off lead" exercise area at Annie Harrison Park and given that the reserve is only intended as a low key, undeveloped "off" lead exercise area do not represent fatal flaws and officer responses are as follows:

- The reserve is waterlogged and boggy for at least half the year.
The bottom portion of the cleared area is boggy in winter but the top half is trafficable and the entire cleared area is trafficable in winter when demand will be highest.
- The Reserve is a particular 'snake haven' which would prove dangerous for adults, children and dogs alike in the warmer seasons.
Snakes can be found near any wetland at the start of summer. This is the case with both Annie Harrison and Laing Park and is the norm throughout the Shire generally.
- Parking. Where will dog owner's vehicles park, given the existing lay of the land?
In the first instance locals will be able to walk to the area or can park at the nearby foreshore. While usage of this area is expected to be low off street parking bays could be constructed if there is sufficient demand.
- Safety issues. The road has a "blind", "dog leg" corner. Off leash animals darting around on what is a relatively small area of land next to a busy road is a recipe for disaster.
This factor was considered when short listing the park but was not considered to be a major issue due the fact that the park is below the road and the road has been classed by Council's engineers as being sufficiently safe to enable a nearby subdivision to have multiple lot access in that location. In addition to this dogs are

“off lead” areas are required to be under the control of their owners and a fully fenced will be provided at Laing Park for owners who are confident in that regard.

- Reserve designation. For years R32279 Lot 7230 Walter is a reserve that has been set aside for native birds and other fauna e.g. bandicoots, lizards etc. Introducing dogs to the area could significantly affect the integrity of the eco system in its current state, including introduced weeds and foreign excrement to what is essentially a small, relatively pristine area.

This comment is not factually correct. The reserve is classed as a recreation reserve and vested accordingly and the “off lead” area will be limited to the area that is currently cleared.

In terms of the four comments regarding requesting the closure of the dog exercise area near Prawn Rock Channel for environmental reasons, whilst the officer report that was submitted to the 10 September 2013 meeting did discuss the possibility of providing dog access to the beaches on the eastern side of the Wilson Inlet that are controlled by the City of Albany, Council chose to limit the areas that were advertised to being Laing Park, the unnamed portion of Walters Park and excluding all dogs from the playing surfaces of the Mclean Park Oval complex and to not deliberately solicit comments regarding the Prawn Rock Channel area. It is presumed that the Council felt that this area was being currently adequately managed. The request from two submitters is that the Council trial an ‘on-lead’ area and police accordingly.

Council’s local laws currently allow the “off lead” dog exercising on Reserve 20578 – from the first pontoon bridge, all of the sand area to the south, except for grassed area around Prawn Rock Channel which is dog free.

The concept of closing areas like this area has been listed in various environmental plans that the Shire holds which have been summarised in the following comments by Donna Sampey, Council’s Sustainability Officer.

Please find below my submission, as a Shire officer, on the Dog Exercise Strategy.

My submission relates only to the Dog Exercise Area located on the Wilson Inlet Sandbar (Ocean Beach). See attached map. The area is currently an off-lead dog exercise area. There is a need to review the allowance of dogs on this sandbar, given its known use by migratory shorebirds for roosting and feeding. Some of these migratory birds are protected under Commonwealth legislation and international agreements. The presence of dogs (amongst other external factors) has the potential to disturb birds, compromising their survival during migration.

Background-

From the *Wilson Inlet Foreshore Reserves Management Plan 2008*: Migratory shorebirds are protected under the *Environment Protection and Biodiversity Conservation (EPBC) Act 1999* as well as several international treaties to which Australia is a signatory. Any decisions about the future management of the Wilson Inlet sandbar need to take into account the environmental requirements of shorebirds. Migratory shorebird species are generally only present from mid-spring to mid-autumn and some species of birds found along the Wilson Inlet foreshore are highly nomadic visiting only when conditions are favourable.

From the *Coastal Reserves Management Strategy and Action Plan*: Pg 59 - Dogs are also known to cause disturbance to shorebird habitat areas located within the dunes. This is particularly an issue at the Wilson Inlet bar area which is currently a designated Dog Exercise Area. Therefore, it is suggested that the Shire review their Dog Exercise Areas to consider their appropriateness from an environmental and social perspective, and make changes if necessary. The Wilson Inlet mouth and bar area is the second most important area of the inlet for shorebirds and the most important site for seabird

roosting. At least 10 species of migratory birds, 6 species of resident shorebirds and 7 species of seabird are known to utilise the area.

Recommendation LUC3 - for the Shire to “Undertake a review of the Shires designated Dog Exercise Areas and change if necessary”.

From *Southern Shores 2001 – 2021: A Strategy to Guide Coastal and Marine Planning and Management in the South Coast Region of Western Australia* (South Coast Management Group, 2001): Recommendation to “Determine which mainland shores are commonly used or are important to shorebirds for roosting, foraging or nesting and what birds are active when” (responsibility: LG’s, CALM, Birds Australia, Educational Institutes, Community). Priority rated as **HIGH**.

Recommendation to “Prohibit vehicle movement and animal exercising, and provide for sanctions in the event of non-compliance, in areas identified as being commonly used or important to shorebird roosting, foraging or nesting at times when birds are present” (Responsibility: LG’s, CALM, DoLA, WRC, Community). Priority rated as **HIGH**

Some of the migratory birds listed under JAMBA, CAMBA ROKAMBA and Bonn Convention (International agreements) which have been counted at Wilson Inlet are below (from *Wilson Inlet Foreshore Reserves Management Plan*, 2008). These birds are declared under s209 of the *Environment Protection and Biodiversity Conservation Act 1999*- list of migratory species. All migratory species roost and feed over summer:

- Bar-tailed Godwit
- Common Greenshank
- Red-necked Stint - Wilson inlet identified as site of international importance for this species in the Australian Government’s Conservation notes for the species.
- Sharp-tailed Sandpiper
- Curlew Sandpiper – also WA State-Listed as Vulnerable (Wildlife Conservation Act 1950 (Western Australia): November 2012).

The Red capped plover, although not listed at any level is a resident shorebird known to breed on the sandbar between Jul/Aug to March.

From *Draft Background Paper to EPBC Act Policy Statement 3.21 – Significant Impact Guidelines for 36 Migratory Shorebird Species* (Department of Water, Population, Community and Arts, 2009) - Disturbance is emerging as a major conservation issue for migratory shorebirds. The high energy demands of their migratory lifestyle means that disturbance that either reduces their feeding rate or does not allow the birds to rest properly can have a considerable impact on behaviour and energetic fitness. Disturbance from human recreation activities such as dog walking, 4WDs, power boating, jet skiing may force migratory shorebirds to increase time devoted to vigilance and anti-predator behaviour or may compel the birds to move to alternative, less favourable feeding areas. At high and sustained levels, these activities can prevent shorebirds from using all or part of the habitat and therefore have a significant impact on migratory shorebirds.

From *Significant impact guidelines for 36 migratory shorebirds Draft EPBC Act Policy Statement 3.21* (Department of Water, Population, Community and Arts, 2009) - Roosting sites provide areas for the birds to rest safely. The high energy demands on migratory shorebirds as a result of their migratory lifestyle means that resting is a critical part of their life cycle. Within estuarine environments, principal roost sites include exposed sands at the estuary mouth and on adjacent beaches.

Given that the proposed sealing of Lights Beach Access Road providing sealed access to an “off lead” dog exercise area it may be appropriate for Council to consider whether it needs two coastal areas near the Denmark and Ocean Beach localities in accordance with recommendation LUC3.

If Council wishes to take up these comments and initiate the various dog related outcomes listed in these plans then it is recommended that it go to specific community consultation where dog owners as stake holders are specifically invited to make comment rather than delaying what should otherwise be a very straight forward decision to approve the planning for Laing Park, approve the unnamed portion of Walters Park as an “off lead” dog exercise area and exclude all dogs from the playing surfaces of the Mclean Park Oval complex.

Voting Requirements:

Simple majority.

COUNCIL RESOLUTION & OFFICER RECOMMENDATION	ITEM 8.2.1
MOVED: CR SEENEY	SECONDED: CR OSBORNE
<p>That with respect to the proposed Dog Park Strategy, Council;</p> <ol style="list-style-type: none"> 1. Develop Laing Park, Lot 101 Ocean Beach Road as the primary developed dog park for the Shire. 2. Develop the unnamed cleared portion of Reserve 32279, Lot 1001 that is adjacent to Walters Park that is on Campbell Rd near the corner of Inlet Drive as a low key “off lead” exercise area. 3. Amend its Dog Local Laws in accordance with parts 1 and 2. 4. Ban dogs from the playing surfaces of the Mclean Park Oval complex. 5. Consider the allocation of \$3,000 in its 2014/2015 budget to engage an architect to prepare a development plan for the Laing Park site to ensure that it is developed in a way that best utilises the site from a dog owners perspective while taking into account parking and access factors as well as the needs of adjoining property owners and Trail users. 6. Plan for an allocation of \$20,000 per year in years 2-10 of the Forward Financial Plan to implement the Strategy. 	
AMENDMENT	
MOVED: CR PEDRO	SECONDED: CR LEWIS
<p>That part 7 be added to read; “Engage further with the community regarding dog access to the sandbar at Prawn Rock Channel, to further protect the habitat of migratory birds.”</p>	
CARRIED: 7/0	Res: 130314
SUBSTANTIVE MOTION	
<p>That with respect to the proposed Dog Park Strategy, Council;</p> <ol style="list-style-type: none"> 1. Develop Laing Park, Lot 101 Ocean Beach Road as the primary developed dog park for the Shire. 2. Develop the unnamed cleared portion of Reserve 32279, Lot 1001 that is adjacent to Walters Park that is on Campbell Rd near the corner of Inlet Drive as a low key “off lead” exercise area. 3. Amend its Dog Local Laws in accordance with parts 1 and 2. 4. Ban dogs from the playing surfaces of the Mclean Park Oval complex. 5. Consider the allocation of \$3,000 in its 2014/2015 budget to engage an architect to prepare a development plan for the Laing Park site to ensure that it is developed in a way that best utilises the site from a dog owners perspective while taking into account parking and access factors as well as the needs of adjoining property owners and Trail users. 6. Plan for an allocation of \$20,000 per year in years 2-10 of the Forward Financial Plan to implement the Strategy. 7. Engage further with the community regarding dog access to the sandbar at Prawn Rock Channel, to further protect the habitat of migratory birds. 	
CARRIED UNANIMOUSLY: 7/0	Res: 140314

4.33pm – Cr Morrell returned to the room.

8.3 Director of Infrastructure Services

Nil

8.4 Director of Finance & Administration

8.4.1 FINANCIAL STATEMENT FOR THE MONTH ENDING 28 FEBRUARY 2014

File Ref:	FIN.1
Applicant / Proponent:	Not applicable
Subject Land / Locality:	Denmark
Disclosure of Officer Interest:	Nil
Date:	11 March 2014
Author:	Steve Broad, Accountant
Authorising Officer:	Kim Dolzadelli, Director of Finance And Administration
Attachments:	8.4.1 – February Monthly Financial Report

Summary:

It is a requirement of the Local Government Act 1995 that monthly and quarterly financial statements are presented to Council, in order to allow for proper control of the Shire’s finances. In addition, Council is required to review the Municipal Budget on a six monthly basis to ensure that income and expenditure is in keeping with budget forecasts. It should be noted that the budget is monitored on a monthly basis in addition to the requirement for a six monthly review.

The attached financial statements and supporting information are presented for the consideration of Elected Members. Council staff welcome enquiries in regard to the information contained within these reports.

Background:

In order to prepare the attached financial statements, the following reconciliations and financial procedures have been completed and verified;

- Reconciliation of all bank accounts.
- Reconciliation of the Rates Book, including outstanding debtors and the raising of interim rates.
- Reconciliation of all assets and liabilities, including payroll, taxation and postal services.
- Reconciliation of the Sundry Debtors and Creditors Ledger.
- Reconciliation of the Stock Ledger.
- Completion of all Works Costing transactions, including allocation of costs from the Ledger to the various works chart of accounts.

Consultation:

Nil

Statutory Obligations:

Local Government Act 1995 Section 5.25 (1)
 Local Government (Financial Management) Regulations 1996

The attached statements are prepared in accordance with the requirements of the Local Government Act 1995.

Policy Implications:

Policy P040222 - Material Variances in Budget and Actual Expenditure, relates

For the purposes of Local Government (Financial Management) Regulation 34 regarding levels of variances for financial reporting, Council adopt a variance of 10% or greater of

the annual budget for each program area in the budget, as a level that requires an explanation or report, with a minimum dollar variance of \$5,000.

The material variance is calculated by comparing budget estimates to the end of month actual amounts of expenditure, revenue and income to the end of the month to which the financial statement relates.

This same figure is also to be used in the Annual Budget Review to be undertaken after the first six months of the financial year to assess how the budget has progressed and to estimate the end of the financial year position.

Budget / Financial Implications:

There are no significant trends or issues to be reported.

Strategic Implications:

Due regard has been given to the Shire of Denmark's Strategic Community Plan "Denmark 2031", namely:

Governance Objective: The Shire of Denmark provides renowned leadership in sustainability, is effective with both its consultation with its people and its management of its assets, and provides transparent and fiscally responsible decision making.

Sustainability Implications:

➤ **Environmental:**

There are no known significant environmental considerations relating to the report or officer recommendation.

➤ **Economic:**

There are no known significant economic considerations relating to the report or officer recommendation.

➤ **Social:**

There are no known significant social considerations relating to the report or officer recommendation.

Comment/Conclusion:

Shire Trust Funds have been invested for 90 days with the National Bank, maturing 20 April 2014 at the quoted rate of 3.67%.

Reserve Funds totalling \$2,864,806 have been invested for 90 days with the National Bank, maturing 12 March 2014 at the quoted rate of 3.70%.

Surplus Municipal Funds of \$2,018,740 have been invested for 90 days with the National Bank, maturing 12 March 2014 at the quoted rate of 3.70%, with an additional term deposit of \$759,292 invested for 30 days maturing on the 12 March 2014 at the quoted rate of 3.02%.

Key Financial Indicators at a Glance

The following comments and/or statements provide a brief summary of major financial/budget indicators and are included to assist in the interpretation and understanding of the attached Financial Statement.

- Operating revenue is slightly higher than that predicted and operating expenditure are marginally lower for the period ending 28 February 2014 (Statement of Financial Activity).
- The 2013/14 Capital Works Program is 22.98% complete as at 28 February 2014 (Note 10).
- Rates Collection percentage of 89.56%% is in keeping with historical collection rates (Note 6).

- Various transfers to and from Reserve Funds have not yet been made for 2013/14 and are generally undertaken in the second half of the financial year, depending on specific projects to which these transfers relate.
- Salaries and Wages expenditure is in keeping with budget estimates (not reported specifically in Financial Statement).

Budget Amendments and Variances (Note 5 and 5a)

As detailed. Note that this report is for the period ending 28 February 2014. Budget amendments adopted by Council on the 4 March 2014 (Resolution No. 060314) are not incorporated in this report.

Voting Requirements:

Simple majority.

COUNCIL RESOLUTION & OFFICER RECOMMENDATION	ITEM 8.4.1
MOVED: CR ROWLAND	SECONDED: CR MORRELL
That with respect to Financial Statements for the month ending 28 February 2014, Council;	
1. Receive the Financial Reports, incorporating the Statement of Financial Activity and other supporting documentation.	
2. Endorse the Accounts for Payment for February 2014 as listed.	
CARRIED UNANIMOUSLY: 8/0	Res: 150314

8.5 Chief Executive Officer

8.5.1 KWOORABUP COMMUNITY PARK – INTERPRETING CULTURAL HERITAGE PROJECT

File Ref:	A5366
Applicant / Proponent:	Denmark Arts Inc.
Subject Land / Locality:	Kwoorabup Community Park, Reserve No. 41456, No. 40 (Lots 502 & 500) Scotsdale Road, Denmark
Disclosure of Officer Interest:	Nil
Date:	14 March 2014
Author:	Dale Stewart, Chief Executive Officer
Authorising Officer:	Dale Stewart, Chief Executive Officer
Attachments:	Public Art Program brief

Summary:

The report recommends that Council accept a Lotterywest grant of \$33,400 and agree to allocate up to \$15,000 towards a Public Art Program, Interpreting Cultural Heritage, for the Kwoorabup Community Park (KCP) involving recognising the traditional European usage of the site as a State Farm. The attached Brief detailed what is proposed by the grant.

Quoting from the grant, “The project seeks to commemorate the Denmark State Farm/Research Station which occupied the site of the now Kwoorabup Community Park from 1911 – 1984 and was pivotal in establishing the town of Denmark and establishing the farming industry/economy in both the town and beyond. By doing this interpretation on –site, the community will be able to experience the cultural heritage of an area of land on which they are standing and really imagine and feel their way into this heritage and all it has meant for Denmark.”

Background:

At its meeting held on 16 April 2013, Council adopted the Art Concept Plan for Kwoorabup Community Park (Resolution No. 080413) which included provision for an annual KCP Public Art Action Plan which could identify projects and artists for further development of the KCP. The plan also recommended that Council consider an annual allocation of resources from the budget towards public art in the Shire (including but not limited to KCP) in addition to actively seeking and securing funding from other sources.

Pursuant to Delegation D040223 (Grants & Subsidies), in June 2013 the Chief Executive Officer allowed Denmark Arts to make application on behalf of the Council (as the applicant) to Lotterywest for a Public Art project for 2014.

Consultation:

The Kwoorabup Community Park Public Art Plan was developed by Denmark Arts and recommended to Council by the KCP Working Group which consisted of three Councillors, two community representatives, Council’s Parks & Gardens Supervisor, a Denmark Arts representative, a Department of Aboriginal Affairs representative and a member from the Denmark Environment Centre (following the disbandment of the People for Parklands group who originally had a representative on the Working Group).

Statutory Obligations:

There are no known statutory obligations.

Policy Implications:

Delegation D040223 relates and reads as follows;

“The Chief Executive Officer is delegated authority to make submissions for grants and/or subsidies from State and Commonwealth Governments without prior approval of Council. In exercising this delegated authority the following conditions shall be observed:

1. *The grant/subsidy shall not be accepted without Council’s endorsement.*

2. *The undertaking is to be in accordance with Council’s established strategic objectives.”*

Budget / Financial Implications:

Following the budget review process in March 2014, the Kwoorabup Community Park total budget was increased by \$34,000 to \$84,000 which was to accommodate both required minor reinstatements (of the footpath and roadway) together with Council’s contribution towards this project, given that Officers had received advice that the grant had been successful. The total cost of the project will be \$58,400 with funding breakup as follows.

Council cash request/commitment per grant (to be used for artist / advertising)	\$10,000
Council non cash request / commitment engineering assessment / administration	\$2,000
Council cash request for landscaping if required	\$4,000
Denmark Arts Project Management / administration (in-kind)	\$9,000
Lotterywest cash grant (to be used for artist / advertising)	\$33,400
Total Project Cost	\$58,400

Notwithstanding the original grant application, cash costs totalling \$45,400 are expected to be incurred are expected to be as follows;

- Professional Artists sittings fees \$800
- Artist’s sculpture \$35,000
- Artist’s signage..... \$2,000
- Landscaping..... \$4,000
- Advertising Expenses \$3,000
- Meeting Expenses \$600

Strategic Implications:

The report and officer recommendation is consistent with Council’s adopted Mission and Vision as well as the adopted Social Objective ‘Denmark’s communities, people and places are connected and creative, vibrant and dynamic, healthy and safe’.

Sustainability Implications:

➤ **Governance:**

There are no known significant governance considerations relating to the report or officer recommendation.

➤ **Environmental:**

There are no known significant environmental implications relating to the report or officer recommendation.

➤ **Economic:**

There are no known significant economic implications relating to the report or officer recommendation.

➤ **Social:**

The project will assist recognise the historical European usage of the site and provide an important focal point for the Park and valuable artistic addition to the community that will be owned by the Council on their behalf with a minimum functional life of 20 years (as specified in the draft artists brief).

Comment/Conclusion:

Should Council accept the grant and agree to the required Council contribution, the CEO, in consultation with the Artistic Director of Denmark Arts, proposes an Art Selection Panel to oversee the project as follows;

- One representative from the Denmark Historical Society;

- One representative from the Shire of Denmark suggested as being one of the former representatives on the Kwoorabup Community Park Working Group;
- One representative from the Denmark Agricultural College;
- One representative from Denmark Arts;
- One Professional Artist (who will be ineligible to submit a design).

The Project is expected to run from April 2014 through to December 2014 with the Art Selection Panel meeting approximately 3 times and will be managed by Denmark Art as part of their in-kind contribution with Administrative oversight by the Director of Finance & Administration.

Council has the option of rejecting the grant and / or limiting Council's cash contribution, taking the risk that Lotterywest withdraws approval and the project.

The officer is of the opinion that a public process to oversee the creation and installation of a public art piece recognising the significant of the State Farm to early European Denmark life (at the site) will be a valuable addition to the cultural interpretation of the site (and Denmark in general) that will be 'worth' the investment of Council and bring about public art worth approximately \$45,000 (a leveraging of over 3:1 of Council's investment).

Voting Requirements:

Simple majority.

OFFICER RECOMMENDATION

ITEM 8.5.1

That with respect to the Kwoorabup Community Park Public Art Plan, Council;

1. Accept the grant funding of \$33,400 from Lotterywest;
2. Appoint Denmark Arts Inc. to oversee the project under the guidance of the Director of Finance & Administration and based on the following;
 - a) An Art Selection Panel to oversee the project, consisting of;
 - One representative from the Denmark Historical Society;
 - One representative from the Shire of Denmark suggested as being one of the former representatives on the Kwoorabup Community Park Working Group;
 - One representative from the Denmark Agricultural College;
 - One representative from Denmark Arts;
 - One Professional Artist (who will be ineligible to submit a design).
 - b) A maximum cash contribution inclusive of landscaping of \$14,000;
 - c) Denmark Arts Inc. management being performed as part of their in-kind contribution to the project.

COUNCIL RESOLUTION

ITEM 8.5.1

MOVED: CR OSBORNE

SECONDED: CR LEWIS

That with respect to the Kwoorabup Community Park Public Art Plan, Council;

1. Accept the grant funding of \$33,400 from Lotterywest;
2. Appoint Denmark Arts Inc. to oversee the project under the guidance of the Director of Finance & Administration and based on the following;
 - a) An Art Selection Panel consisting of;
 - One representative from the Denmark Historical Society;
 - One representative from the Shire of Denmark suggested as being one of the former representatives on the Kwoorabup Community Park Working Group;
 - One representative from the Denmark Agricultural College;
 - One representative from Denmark Arts;
 - One Professional Artist (who will be ineligible to submit a design).
 - b) A maximum cash contribution inclusive of landscaping of \$14,000.
 - c) The location of the proposed artwork(s) be to the satisfaction of the Chief Executive Officer.

4.58pm – The Director of Infrastructure Services left the room.

AMENDMENT

MOVED: CR ROWLAND

Add part d) to read, “A final draft of the artwork be presented to Council for approval.”

LAPSED FOR WANT OF A SECONDER

5.00pm – The Director of Infrastructure Services returned to the room.

AMENDMENT

MOVED: CR THORNTON

SECONDED: CR SAMPSON

That the Denmark Agricultural College representative be replaced with Dexter Warne, a previous long term employee of the Denmark Research Station.

CARRIED: 8/0

Res: 160314

SUBSTANTIVE MOTION

That with respect to the Kwoorabup Community Park Public Art Plan, Council;

1. Accept the grant funding of \$33,400 from Lotterywest;
2. Appoint Denmark Arts Inc. to oversee the project under the guidance of the Director of Finance & Administration and based on the following;
 - a) An Art Selection Panel consisting of;
 - One representative from the Denmark Historical Society;
 - One representative from the Shire of Denmark suggested as being one of the former representatives on the Kwoorabup Community Park Working Group;
 - Dexter Warne, a previous long term employee of the Denmark Research Station;
 - One representative from Denmark Arts;
 - One Professional Artist (who will be ineligible to submit a design).
 - b) A maximum cash contribution inclusive of landscaping of \$14,000.
 - c) The location of the proposed artwork(s) be to the satisfaction of the Chief Executive Officer.

CARRIED UNANIMOUSLY: 8/0

Res: 170314

COUNCIL RESOLUTION

ITEM 8.5.1

MOVED: CR SAMPSON

SECONDED: CR SEENEY

That Cr Thornton be appointed to the Art Selection Panel.

CARRIED: 8/0

Res: 180314

8.5.2 DENMARK HAULAGE – EXTENSION OF LEASE

File Ref:	A2228
Applicant / Proponent:	Avalon Enterprises (WA) Pty Ltd
Subject Land / Locality:	No. 9 (portion of Lot 300) cnr South Coast Highway and Denmark-Mt Barker Road, Denmark
Disclosure of Officer Interest:	Nil
Date:	18 March 2014
Author:	Dale Stewart, Chief Executive Officer
Authorising Officer:	Dale Stewart, Chief Executive Officer
Attachments:	No

Summary:

The proprietors of Avalon Enterprises (WA) Pty Ltd, trading as Denmark Haulage have written to Council requesting an extension to their lease over portion of Lot 300 cnr South Coast Highway and Denmark-Mt Barker Road, Denmark, comprising approximately 0.36ha which they use for truck maintenance and a transport depot.

Background:

The Lease between the Shire of Denmark and Denmark Haulage commenced in 2006 and expires on 30 June 2014 with an option to extend the lease term at its absolute discretion for a further period of up to four years, noting that should the lease be so extended, the Lessor has the ability to review the rent in accordance with Clause 4 of the Lease (requiring a licensed valuation to be undertaken at the Lessees expense).

Consultation:

Nil

Statutory Obligations:

The Local Government Act 1995, Section 3.58 relates and provides for a continuation of the lease.

Policy Implications:

There are no policy implications.

Budget / Financial Implications:

The current rental derived from the Lease is \$12,600 per annum which would be subject to review should Council wish to extend the lease. The cost of this valuation is to be borne by the Lessee.

The total current rental derived from the lot, owned freehold by the Council, based on the current lease fee is \$64,740 per annum.

Strategic Implications:

The report and officer recommendation is consistent with Council's adopted Mission and Vision and assists achieve a vibrant and diverse economic base providing employment opportunities for the Shire.

Sustainability Implications:➤ **Governance:**

There are no known significant governance considerations relating to the report or officer recommendation.

➤ **Environmental:**

There are no known significant environmental implications relating to the report or officer recommendation.

➤ **Economic:**

Agreeing to an extension of lease will allow for the retention of a business that has been operating within the Shire for many years.

➤ **Social:**

There are no known significant social considerations relating to the report or officer recommendation.

Comment/Conclusion:

The Council, pursuant to the Lease, has the right to deny the requested extension and/or can agree to a term of up to four years.

The subject site is designated as a Service Park in the Council’s Local Planning Strategy 2011 and Council has recently agreed to a lease of the northern portion of the same lot to Soil Solutions with a term expiring 31 December 2015.

Similarly Council has a lease with Denmark Earthmoving expiring on 31 December 2015.

At that point in time it is hopeful that larger earthmoving and landscape type businesses would relocate to land more suitably zoned such as the Council’s proposed Light Industrial Area, on McIntosh Road, Hay.

Given that Council has no alternate use for the site in the short to medium term, and indeed cannot provide an alternate location for the Lessee to relocate to, the only question that remains is whether the Lease term at this point in time should be to 31 December 2015 or some latter period, no later than 30 June 2018.

If Council agrees to a lease term of 31 December 2015 with acknowledgement that the Council may, at its absolute discretion, be prepared to grant another extension dependent upon availability of alternatives at that time, the Council will have all three leases expiring on the same date.

Voting Requirements:

Simple majority.

COUNCIL RESOLUTION & OFFICER RECOMMENDATION	ITEM 8.5.2
MOVED: CR SAMPSON	SECONDED: CR PEDRO
That with respect to Denmark Haulage’s request to extend their lease, Council agree to a lease extension pursuant to Clause 2 of the Lease to the 31 December 2015 noting that Council, at its absolute discretion, may permit a further extension not later than 30 June 2018, subject to the Lessee agreeing to meet the cost of valuation and paying the resultant lease fee.	
CARRIED UNANIMOUSLY: 8/0	Res: 190314

9. COMMITTEE REPORTS & RECOMMENDATIONS

9.1 BUSH FIRE ADVISORY COMMITTEE - FIRE REGULATION PROVISIONS

File Ref:	FIRE.1
Applicant / Proponent:	Bush Fire Advisory Committee
Subject Land / Locality:	Shire of Denmark
Disclosure of Officer Interest:	Nil
Date:	20 February 2014
Author:	Nathan Hall, Community Emergency Services Manager
Authorising Officer:	Gregg Harwood, Director of Community & Regulatory Services
Attachments:	No

Summary:

This report discusses the deferred Resolution 160709, from July 2009, Fire Regulation Provisions and the alternative subsequent Bush Fire Advisory Committee recommendation of 27 February 2014, and seeks the Council's further consideration on the matter.

Background:

In July 2009 Council deferred Resolution 160709, Fire Regulation Provisions, to the Bush Fire Advisory Committee for comment. The recommendation that Resolution 160709 refers to states;

"A new Regulation is established in Council's Annual Fire Regulation Notice that requires a Hazard Separation Zone to be created in conjunction with a Building Protection Zone around all residential buildings on lots greater than 2500m² (.25 hectares) in zones other than residential. The definition of a Hazard Separation Zone is closely to reflect the definition of parkland clearing as outlined in Council's Town Planning Policy 10. The definition which is to be included in the Council's annual Fire Regulation Notice is to read as follows, A Hazard Separation Zone is a fire protection zone which comprises an area with a minimum clearance distance in all directions from the Building Protection Zone of at least 30 metres on flat land, which is to increase by 10 metres for every 10 degrees increase in slope. Vegetation fuel loads within this zone shall be maintained at 5 tonnes per hectare".

At the 27th February 2014 Bush Fire Advisory Committee meeting the Committee reviewed the previous motion and the following alternative officer recommendation and made the following decision;

"That the Committee recommends to Council that;

- 1. It considers the amended officer recommendation in regards to Hazard Separation Zones that states;*

A new Regulation is established in Council's Annual Fire Regulation Notice that requires a Hazard Separation Zone to be created in conjunction with a Building Protection Zone around all residential buildings on lots greater than 2500m² (.25 hectares) in zones other than residential. The definition of a Hazard Separation Zone is to read as follows:

"A Hazard Separation Zone is a fire protection zone which comprises of an area with a minimum clearance distance in all directions from the Building Protection Zone of at least 30 metres. The distance of the Hazard Separation Zone can only be reduced where the building(s) standard of building protection is increase in accordance with the document titled Planning for Bush Fire Protection and Australian Standard AS3959. Vegetation fuel loads within this zone shall be maintained at 8 tonnes per hectare in Jarrah/Marri vegetation and 15 tonnes per hectare in Karri vegetation. This regulation does not overrule the size or fuel loading of a Hazard Separation Zone should it be of a higher standard as stated in a previously approved Fire Management Plan or set the standard for future Fire Management Plans".

2. *The regulation be put out for public comment for a period of 60 days and advertised in the following manner;*
 - *Two advertisements placed in both the Denmark Bulletin and Walpole Weekly, evenly spaced over the 60 day period.*
 - *Notifications placed on the Shire's website and notice boards.*
 - *Letters be sent to the following community groups advising them of the draft regulation and comment period;*
 - *Denmark Environment Centre*
 - *Denmark Chamber of Commerce*
 - *Denmark Weed Action Group*
 - *Green Skills*
 - *South Coast Environment Group*
 - *Department of Parks and Wildlife*
 - *Department of Fire and Emergency Services*
 - *Shire of Denmark Bush Fire Brigades*
3. *It considers the public comment at the end of the 60 day period at the next available Council meeting and makes a decision to review, adopt or dismiss the above mentioned Officer Recommendation."*

Consultation:

In July 2009 Council deferred Resolution 160709, Fire Regulation Provisions to the Bush Fire Advisory Committee for comment. From this deferral the matter was raised at the February 2014 Bush Fire Advisory Committee meeting where an alternative officer recommendation was resolved which is now referred to Council.

Statutory Obligations:

There are statutory implications in that should the new regulation be implemented into the Shire's Fire Regulation Notice, it is then enforceable by the Shire's Rangers under Section 33 of the Bushfires Act 1954.

Policy Implications:

Whilst Council staff and the Bush Fire Advisory Committee have followed the principles outlined in planning for Bushfire Protection Guidelines 2010 (edition 2) it should be noted that these guidelines are not intended to be applied towards retrospective developments and subdivisions. Hence the question of whether the Shire's adopted annual Fire Regulation Notice needs to be amended to more clearly reflect optimum accepted protection solutions that the State recommends in modern planning under the Guidelines.

The following is quoted from the Guidelines;

"The performance criteria and acceptable solutions contained in the guidelines are not intended to be enforced retrospectively on existing development in established urban areas, existing townsites or existing subdivisions. Therefore, they are not designed to deal with the bush fire protection requirements of:

- *existing buildings in established subdivisions;*
- *new subdivisions where the subdivision is based on a structure plan, outline development plan, subdivision guide plan or similar that was approved by a local government and the WAPC prior to the introduction of Planning for Bush Fire Protection in December 2001; or*
- *subdivisions that already have a valid approval by the WAPC, but have not yet been developed.*

Despite this, the exercise of statutory planning discretions, such as planning approval and subdivision approval involving land that has a moderate or extreme bush fire hazard level or a building attack level (BAL) between BAL-12.5 and BAL-FZ is likely to impose a duty of care on decision-making authorities. In these circumstances the information contained in the guidelines should be applied wherever practicable by both applicants and government decision-makers to achieve acceptable fire protection outcomes, so that life and property are adequately protected from the risk of bush fires.”

This notwithstanding, the Guidelines, in the opinion of the author, are ambiguous in the officer’s opinion as they also quote;

“Local governments may also impose similar conditions as those listed in guidance statements B9 and B10, with the exception of conditions relating to the provision of fire hydrants and allocation of land for a fire fighting facility, on the development of land, where such conditions have not previously been imposed by the WAPC at the time of subdivision, strata application or development application.”

This paragraph all but imposes a requirement of local governments that adopt the Guidelines, a requirement to consider imposing the absolute maximum protections able to be recommended on any residential development application even though it wasn’t required at the time of the development of the estate (all but making it retrospective lest the officer and Council risk being found negligent in the event of a subsequent inquiry involving loss of property or life).

The Shire of Denmark has resolved to adopt the Guidelines (TPS Amendment No. 125) (clause 5.37 of the TPS No. 3) The Guidelines further state;

“In some circumstances local governments that have formally adopted these guidelines as a decision-making tool may wish to make modifications to the acceptable solutions in the guidelines in recognition of special local or regional circumstances (eg topography).

These alternative acceptable solutions will need to be endorsed in writing by both FESA and the WAPC before they can be considered to have any formal status in the context of the guidelines.

There is no formal statutory process for this procedure. Requests to modify the acceptable solutions will be dealt with on a case-by-case basis.

Such requests will need to be supported by a well-argued case that clearly:

- explains the reasons why the modification is required; and*
- demonstrates to the satisfaction of both FESA and the WAPC that the modifications satisfactorily comply with the corresponding performance criteria and are in accordance with best practice in so far as bush fire hazard management is concerned.*

Any local government wishing to explore the possibility of modifying the acceptable solutions should commence the process by initiating informal discussions with local FESA staff and Department of Planning staff (acting on behalf of the WAPC).”

Indeed a recommendation to Council now that considers retrospectively applying a provision (of 30m) significantly less than the recommend hazard separation zone in the Guidelines (80m) could also be fraught with danger in terms of subsequent negligence claims.

The question as to why the Shire of Denmark has adopted or would seek to adopt a minimum standard of 30m compared to the potential (noting it is performance assessed) 80m needs to be clarified. Is it due to political consequences, administrative and resource constraints, the views of the residents and ratepayers who are prepared to acknowledge a degree of risk collectively? Is it because we know what the final

recommended Building Protection Zones and Hazard Protection Zones in the new Guidelines will be?

Therefore the Council has absolute discretion in choosing to (or not) retrospectively seeking to enforce compliance with these new standards on existing developments and residential estates and should exercise extreme care with trying to enforce retrospectively anything less than the Guidelines without, in the opinion of the CEO, seeking legal advice on the implications of applying a lesser standard than the current 'accepted' (and indeed adopted) Guidelines and or going to the public non the recommend separation and clearing zones and assessing community feedback on this.

Given the Council has adopted the Guidelines it should in the opinion of the CEO, also seek legal advice on the implications of Council staff under delegated authority permitting residential developments with standards less than those recommended in those Guidelines.

Indeed these Guidelines are currently under significant review as a result of the Keely Review and subsequent bushfires and it may be wise to delay further consideration of the Committee Recommendation until this review is completed in order to ensure that the residents and ratepayers (present and future) are not faced with education about 'complying' with a suggested approach that might alter in another year.

Budget / Financial Implications:

There are known financial implications upon the Council's current and future Budgets with expenses for advertising and inclusion of the new regulation in the Fire Regulation Notice being met by current funding. There may well be additional workload placed on the Shire's Ranger Services to enforce compliance on the new regulation which may not be able to absorbed within the current Budget or workloads. In the opinion of the author this needs to be clarified prior to Council resolving to adopt a greater standard with greater compliance and resources requirements.

Strategic Implications:

There are significant strategic implications as the new regulation would greatly assist in protecting lives and properties in rural, special rural, special residential, landscape protection and tourist zoned areas from bush fires. Whether the community (as a collective) wants that level of protection with the accompanying perceived or real loss of amenity and greater financial burden on the rates is another matter however.

Sustainability Implications:

➤ **Environmental:**

There are significant environmental implications relating to the report as it will require private property owners to increase clearing of fire fuels on their land to comply with the new regulation. However property owners will have the ability to retrospectively conform their buildings to AS3959 to reduce the amount of clearing required. There has been consideration given towards environmental factors by providing an alternative option for property owners to increase building protection rather than clearing the full 30 metre Hazard Separation Zone.

➤ **Economic:**

There are known economic implications relating to the report as there will be greater costs imposed on private property owners to undertake additional clearing of fire fuels on their properties. Implementation of the proposed regulation would assist in protecting commercial infrastructure on non- residential properties from the threat of bush fires.

➤ **Social Objective:**

Denmark's communities will be made safer from bush fires.

➤ **Governance Objective**

The Bush Fire Advisory Committee's recommendation provides for community consultation and transparent and fiscally responsible decision making.

Comment/Conclusion:

This motion was originally developed to assist in providing additional protection to resident's buildings in rural, special rural, special residential, landscape protection and tourist zoned areas. Areas zoned residential already require their entire property to be fuel reduced to either 2 or 8 tonnes per hectare as per Regulation 1 and 2 of the current Shire's Fire Regulation Notice.

In the document Planning for Bush Fire Protection, which is utilised by the Shire of Denmark technical officers, all new subdivisions need to implement a minimum 100 metre Hazard Separation Zone which includes a 20 metre Building Protection Zone around all buildings. It is recommended that fuel loadings in the Hazard Separation Zones are kept at a maximum of 8 tonnes per hectare in Jarrah/Marri vegetation and 15 tonnes per hectare in Karri vegetation. The fuel loadings in Planning for Bush Fire Protection are more realistic and achievable than the originally suggested 5 tonnes per hectare in the 2009 recommendation.

It should be noted that this proposed regulation primarily targets existing subdivisions and properties, created prior to the release of edition 2 of Planning for Bush Fire Protection in 2010, as more recent developments should be in compliance with current standards. As such this regulation should not interfere with the Fire Management Plans of newer developments or existing developments that have equal to or higher standards of regulations in their relevant Fire Management Plan.

There is the ability in Planning for Bush Fire Protection for a development to alter the size of a Hazard Separation Zone if the buildings that will be developed are built to comply with Australian Standard 3959, an Australian Standard for construction of homes in bushfire prone areas, which reduces the distance of vegetation from a building by increasing the construction standard of the building. By continuing with the use of AS3959 property owners not wanting to clear the full additional Hazard Separation Zone could increase their building standards in accordance to AS3959. The option of building to the AS3959 standard will need to be logged to assist in compliance matters. This could be quite simply achieved by using the current "Urban Fire Management Plan" form that is mentioned under Regulation 3 of the Fire Regulation Notice.

This could effectively solve some of the issues that the Shire staff have currently in encouraging people to retrospectively conform to AS3959 standards without legislative teeth to enforce it and allows people the choice on how much vegetation they will have to clear on their property (albeit at probable extra expense).

Whilst there are several levels of standards that can be achieved under AS3959, the Shire will not be able to accept buildings to be built to the two highest bush fire attack levels (BAL) Flame Zone and BAL-40 which means that the vegetation will always be a minimum of 20 metres from the building, which conforms to the standard size of a Building Protection Zone.

The original recommendation referred to increasing the size of the Hazard Separation Zone by 10 metres for every 10 degrees of slope, which is similar to the current requirements of the Shire's Building Protection Zone. While this may further assist in the protection of properties, consideration should be given to the total extent of clearing that will be undertaken. As the size of the Building Protection Zone will alter in relation to slope to provide additional protection, it would be simpler for the Hazard Separation Zone to be kept at a standard size of 30 metres which will reduce additional clearing and allow for simplification when undertaking inspections for compliance.

The Fire and Emergency Services Authority (now DFES) report titled Investigation of the House Losses in the Roleystone/Kelmscott Bushfire 6th February 2011, clearly indicates that one of the major contributing factors that resulted in the loss of the 72 houses was

the high fuel loads within an area that could have been designated as the Building Protection and Hazard Separation Zones.

The report states that “The HSZ is the zone up to 100 metres out from the building. The HSZ may be reduced in accordance with “Planning for Bushfire Protection” and AS 3959. For a reduction to occur the construction standards of the home should increase to compensate for the increased potential bushfire attack level onto the home. As this fire affected areas that was not declared as bushfire prone, yet for much of the area was adjacent to a forest or woodland vegetation type. This would require these areas to have a HSZ of 100 metres with a fuel load of less than 8t/ha”.

“As is clearly demonstrated a high fuel load within the HSZ and close to the building will have a significant impact on the survivability of a standard constructed home in a bushfire risk area. FESA advocates that the fuel load should be less than or equal to 8t/ha in the HSZ. When coupled to a fuel load of 2t/ha in the BPZ it ensures that the fire is losing intensity and the bushfire attack level is reducing as the fire gets closer to the house. The standard construction home survivability is increasing as the appropriate fuel management is occurring in the BPZ and HSZ”.

From all this information it highlights that a regulation to include a Hazard Separation Zone in rural, special rural, special residential, landscape protection and tourist zoned areas will assist in bringing existing properties closer to modern fire planning standards and greatly assist fire brigades in controlling and extinguishing fires on private property, and ultimately increase the chance of buildings and residents surviving a bush fire.

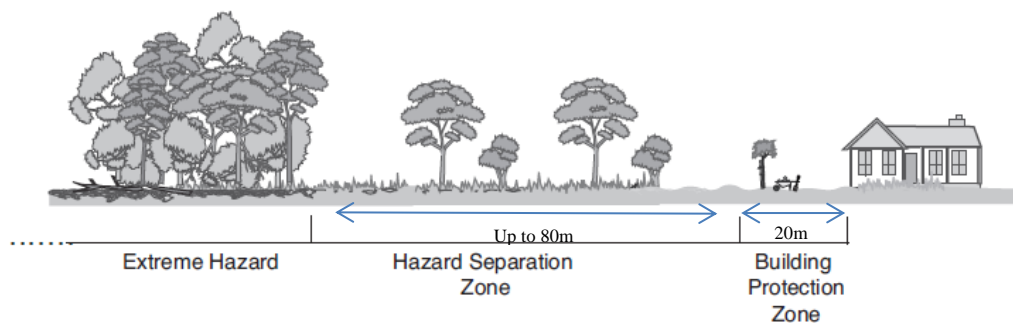


Diagram of a Hazard Separation Zone and Building Protection Zone in relation to a building and a fire hazard. Planning for Bush Fire Protection 2010.

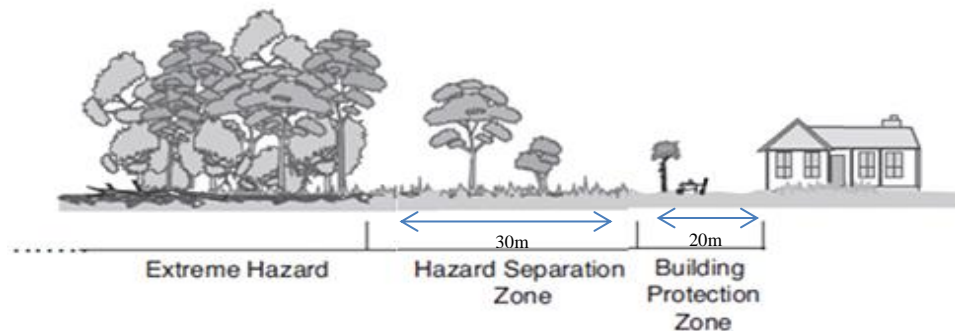
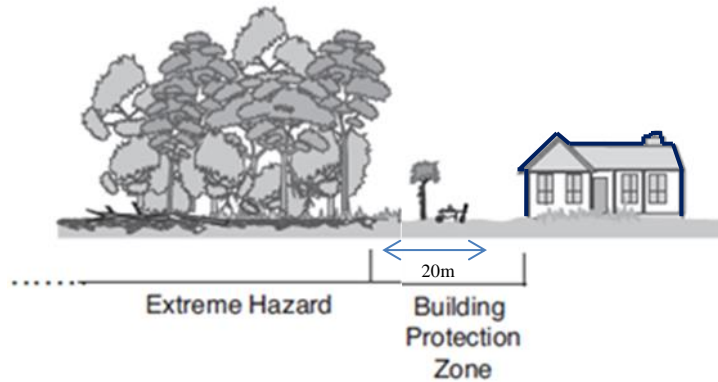


Diagram of a Hazard Separation Zone and Building Protection Zone in relation to a building and a fire hazard as a result of the proposed new regulation.



A Diagram representing two possible scenarios –

1. A Building Protection Zone in relation to the current fire regulation notice of a building and a fire hazard or
2. A Building Protection Zone in relation to a new building, built to AS3959 standards BAL 29, and a fire hazard.

This process while advantageous will require significant comment from and time for the community to be able to consider and implement the addition of a Hazard Separation Zone. As such it would warrant that the proposed new regulation is offered for public comment for 60 days and if implemented a 3 year time frame is proposed for its implementation if subsequently adopted after that consultation period. This will also assist property owners in identifying the works required to install a Hazard Separation Zone, allowing for the Hazard Separation Zone to be installed in a gradual manner or their building to be upgraded to AS3959 standards, depending upon the solution desired by the landowner. The practical application of a retrospective regulation that only has ‘force at law’ over a three year period could however be problematic and maybe be better to consult on the question of moving to the ‘end game’ of a 80 metre Hazard Separation Zone?

To achieve an effective result in protecting properties and lives and to allow for alternatives to the amount of vegetation to be cleared, the Committee suggests that the following alternative recommendation in relation to Hazard Separation Zones be considered by Council as a more practical application of the desired outcome than the solution proposed in 2009;

“A new Regulation is established in Council’s Annual Fire Regulation Notice that requires a Hazard Separation Zone to be created in conjunction with a Building Protection Zone around all residential buildings on lots greater than 2500m² (.25 hectares) in zones other than residential. The definition of a Hazard Separation Zone is to read as follows”:

“A Hazard Separation Zone is a fire protection zone which comprises of an area with a minimum clearance distance in all directions from the Building Protection Zone of at least 30 metres. The distance of the Hazard Separation Zone can only be reduced where the building(s) standard of building protection is increase in accordance with the document titled Planning for Bush Fire Protection and Australian Standard AS3959. Vegetation fuel loads within this zone shall be maintained at 8 tonnes per hectare in Jarrah/Marri vegetation and 15 tonnes per hectare in Karri vegetation. This regulation does not overrule the size or fuel loading of a Hazard Separation Zone should it be of a higher standard as stated in a previously approved Fire Management Plan or set the standard for future Fire Management Plans”.

It should be noted however that the above recommendation from the Committee does not adequately cover fuel loads in other vegetation types and this should be identified and quantified if Council wishes to adopt the Committee Recommendation at this time.

Voting Requirements:

Simple majority.

COMMITTEE RECOMMENDATION

ITEM 9.1

That Council;

1. Considers the amended officer recommendation in regards to Hazard Separation Zones that states;

A new Regulation is established in Council's Annual Fire Regulation Notice that requires a Hazard Separation Zone to be created in conjunction with a Building Protection Zone around all residential buildings on lots greater than 2500m² (.25 hectares) in zones other than residential. The definition of a Hazard Separation Zone is to read as follows:

"A Hazard Separation Zone is a fire protection zone which comprises of an area with a minimum clearance distance in all directions from the Building Protection Zone of at least 30 metres. The distance of the Hazard Separation Zone can only be reduced where the building(s) standard of building protection is increase in accordance with the document titled Planning for Bush Fire Protection and Australian Standard AS3959. Vegetation fuel loads within this zone shall be maintained at 8 tonnes per hectare in Jarrah/Marri vegetation and 15 tonnes per hectare in Karri vegetation. This regulation does not overrule the size or fuel loading of a Hazard Separation Zone should it be of a higher standard as stated in a previously approved Fire Management Plan or set the standard for future Fire Management Plans".

2. The regulation be put out for public comment for a period of 60 days and advertised in the following manner;
 - Two advertisements placed in both the Denmark Bulletin and Walpole Weekly, evenly spaced over the 60 day period.
 - Notifications placed on the Shire's website and notice boards.
 - Letters be sent to the following community groups advising them of the draft regulation and comment period;
 - Denmark Environment Centre
 - Denmark Chamber of Commerce
 - Denmark Weed Action Group
 - Green Skills
 - South Coast Environment Group
 - Department of Parks and Wildlife
 - Department of Fire and Emergency Services
 - Shire of Denmark Bush Fire Brigades
3. It considers the public comment at the end of the 60 day period at the next available Council meeting and makes a decision to review, adopt or dismiss the above mentioned Bush Fire Advisory Committee Recommendation.

COUNCIL RESOLUTION & OFFICER RECOMMENDATION	ITEM 9.1
MOVED: CR SEENEY	SECONDED: CR OSBORNE
<p>That with respect to the recommendation of the Bush Fire Advisory Committee proposing significant variation to Council’s Annual Fire Regulation with respect to Hazard Separation Zones Council;</p>	
<ol style="list-style-type: none"> 1. Not further consider it until the Committee has received and assessed the revised Planning for Bush Fire Protection Guidelines currently being undertaken by the Department of Planning and Department of Fires and Emergency Services. In this manner the Council will not be faced with potentially significant and unnecessary resource implications with respect to community education and enforcement and the residents and ratepayers will not be faced with complying with an approach which may need to significantly change and be performed again the following year depending upon the Guidelines Review. 2. Advocate to the Departments overseeing the review of the Planning for Bushfire Guidelines that the Guidelines should make it clearer whether the Guidelines are intended to be utilised by Local Governments in assessing retrospective development applications on existing subdivisions and suggest that the review should provide clear guidance to local governments on how to manage and provide adequate protection to houses and persons on existing developments with high fire risks utilising section 33 of the Bush Fires Act (the Annual Fire Regulation Notice). 	
CARRIED UNANIMOUSLY: 8/0	Res: 200314

10. MATTERS BEHIND CLOSED DOORS
 Nil

11. NEW BUSINESS OF AN URGENT NATURE INTRODUCED BY DECISION OF THE MEETING
 Nil

12. CLOSURE OF MEETING

5.27pm - There being no further business to discuss the Shire President, Cr Thornton, declared the meeting closed.

The Chief Executive Officer recommends the endorsement of these minutes at the next meeting.

Signed: _____
Dale Stewart – Chief Executive Officer

Date: _____

These minutes were confirmed at the meeting of the _____

Signed: _____
(Presiding Person at the meeting at which the minutes were confirmed.)