



Minutes

ORDINARY MEETING OF COUNCIL

HELD IN THE COUNCIL CHAMBERS,
953 SOUTH COAST HIGHWAY, DENMARK ON
TUESDAY, 1 OCTOBER 2013.

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Ordinary Council Meeting

1 October 2013

DISCLAIMER

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1. DECLARATION OF OPENING/ANNOUNCEMENT OF VISITORS

4.01pm - *The Deputy Shire President, Cr Sampson, declared the meeting open.*

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

MEMBERS:

- Cr John Sampson (Deputy Shire President)
- Cr Kelli Gillies
- Cr Jan Lewis
- Cr David Morrell
- Cr Dawn Pedro
- Cr Roger Seeney
- Cr Alex Syme
- Cr Adrian Hinds

STAFF:

- Mr Dale Stewart (Chief Executive Officer)
- Mrs Annette Harbron (Director of Planning & Sustainability)
- Mr Gregg Harwood (Director of Community & Regulatory Services)
- Ms Claire Thompson (Executive Assistant)

APOLOGIES:

- Cr Barbara Marshall
- Cr Ian Osborne
- Mr Rob Whooley (Director of Infrastructure Services)

ON LEAVE OF ABSENCE:

- Cr Ross Thornton (Shire President)
- Cr Belinda Rowland

ABSENT:

Nil

VISITORS:

- Members of the public in attendance at the commencement of the meeting: 12
- Members of the press in attendance at the commencement of the meeting: 1

DECLARATIONS OF INTEREST:

Name	Item No	Interest	Nature
Mr Dale Stewart	8.5.2	Financial	Mr Stewart declares and financial interest in the policy as it relates to a condition of his employment.
Mrs Annette Harbron	8.5.2	Financial	The item relates to a condition of Mrs Harbron's employment.
Mr Gregg Harwood	8.5.2	Financial	Mr Harwood is a beneficiary of the policy.

3. ANNOUNCEMENTS BY THE PERSON PRESIDING

The Deputy Shire President announced that he acknowledged the traditional owners of the land on which the meeting was being held and paid his respects to the elders past and present, and the elders from other communities who may be at the meeting.

The Deputy Shire President announced that it was the final meeting of the Council in its current form as after the Local Government Elections the Council would be shifting to a Council of nine members. Cr Alex Syme, Cr Barbara Marshall and, depending on election results, either Cr David Morrell or Cr Adrian Hinds would be retiring.

Cr Sampson stated that all four Councillors had served the community with distinction, in particular Cr Syme whose sixteen years of dedicated service to Denmark had been truly remarkable. On behalf of the Community, the Staff and Councillors, Cr Sampson thanked those Councillors and wished them the very best for the future.

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 back of the front cover of this Agenda.

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 Mr Colin Payne – Denmark Windfarm

Mr Payne noted that one of the conditions of the Windfarm development was that they provided an acoustic compliance report within six months of the development. Mr Payne asked whether they had provided a report and if so could he have a copy of it.

The Director of Planning & Sustainability responded stating that Council had received a report and that Officers were currently reviewing it.

The Chief Executive Officer stated that he could see no reason why Mr Payne couldn't have a copy however he would seek advice from the owner as to whether they would allow it to be released to the public. Mr Stewart added that he would take the question on notice and respond in writing with a copy of his response included in the Council Minutes or next Agenda.

4.2.2 Ms Joss Goulden – Item 8.2.1 (Draft Automated Gas Gun Noise Management Plan)

Ms Goulden expressed her disappointment that the draft Policy, which over 40 people had provided submissions on, had been amended before being presented back to Council and that those submitters had discovered the amendment by accident rather than being formally advised by Council Officers.

Ms Goulden stated a number of reasons why she believed that the amendments were unacceptable and urged Council not to support the amended document.

Ms Goulden made references to the Environmental Protection (Noise) Regulation 1997 and the Department of Environment's best practice guidelines noting that the original draft policy was compliant with legal regulations, followed best practice guidelines, was supported by the community and protected current and future residents and visitors to the shire.

4.2.3 Mr Kamal Al-Moosa – Item 8.2.1 (Draft Automated Gas Gun Noise Management Plan)

Mr Al-Moosa referred to the Environmental Protection (Noise) Regulations 1997 and the draft Policy stating anyone could apply for an exemption under the Regulations and that it shouldn't be a reason to amend Council's Policy on the use of Gas Guns.

4.2.4 Mrs Julie Marsh – Item 8.2.1 (Draft Automated Gas Gun Noise Management Plan)

Mrs Marsh asked why the amendments to the Policy were given to the public at such short notice and noted that the changing activities in the Scotsdale area had been recognised and supported by Council through planning and land use approvals. Mrs Marsh asked Council to ensure that common sense prevails in relation to the Gas Gun Policy.

The Chief Executive Officer responded stating that Council Officers were encouraged to provide advice to submitters to advise them the matter would be dealt with however there was no Council Policy or adopted procedure on the process. Mr Stewart added that the Agenda, including the Gas Gun item, was available for perusal on Council's website last Wednesday and that members of the public could have accessed the information then however he appreciated that, in this instance particularly, submitters should have been notified individually and he apologised for this not being earlier.

4.2.5 Mr Charlie Welker – Item 8.2.1 (Draft Automated Gas Gun Noise Management Plan)

Mr Welker expressed his disappointment that he and other submitters had only received advice of the proposed changes two days before the meeting. Mr Welker stated that he did not support the amendments.

4.2.6 Mr Roy Mercer – Item 8.2.1 (Draft Automated Gas Gun Noise Management Plan)

Mr Mercer advised that he lived between two orchards and that he believed the noise of the gas guns to be loud and offensive. Mr Mercer noted that he did not support the amendments to the policy.

4.2.7 Ms Julie Lax – Item 8.2.1 (Draft Automated Gas Gun Noise Management Plan)

Ms Lax asked that Council ensure that common sense prevail noting that she owned an orchard in the same area and did not use a gas gun. Ms Lax requested that Council not accept the amendments.

4.2.8 Mr Nigel Marsh – Item 8.2.1 (Draft Automated Gas Gun Noise Management Plan)

Mr Marsh stated that he never used to hear his former neighbour using a rifle to scare away birds however a gas gun was different and much louder. Mr Marsh noted that he did not support the amendments to the policy.

4.2.9 Mrs Valerie Welker – Item 8.2.1 (Draft Automated Gas Gun Noise Management Plan)

Mrs Welker asked how the policy would be implemented and whether it was proposed to be Shire wide.

The Director of Community & Regulatory Services responded stating that the policy was to be implemented across the Shire.

Mrs Welker asked how Council would ensure compliance and whether there were sufficient resources to police it.

The Chief Executive Officer responded stating that the Council Officers would investigate any complaints to the best of their ability.

4.3 QUESTIONS BY MEMBERS OF WHICH DUE NOTICE HAS BEEN GIVEN

Nil

4.4 PRESENTATIONS, DEPUTATIONS & PETITIONS

4.4.1 Mr Geoff Bowley – Riverside Project

Mr Bowley provided Council with an update on the Riverside Project and tabled a document outlining the structure of Denmark River Study / Strategic Boating Plan.

5. APPLICATIONS FOR LEAVE OF ABSENCE

Nil

6. CONFIRMATION OF MINUTES

6.1 ORDINARY COUNCIL MEETING

COUNCIL RESOLUTION & OFFICER RECOMMENDATION	ITEM 6.1
MOVED: CR SYME	SECONDED: CR SEENEY
That the minutes of the Ordinary Meeting of Council held on the 10 September 2013 be confirmed as a true and correct record of the proceedings.	
CARRIED: 8/0	Res: 011013

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

Nil

8. REPORTS OF OFFICERS

8.1 Director of Planning & Sustainability

8.1.1 PROPOSED DEDICATION OF PORTION OF DENMARK-MOUNT BARKER ROAD

File Ref:	R30500
Applicant / Proponent:	Department of Lands
Subject Land / Locality:	Portion of Denmark-Mount Barker Road
Disclosure of Officer Interest:	Nil
Date:	12 September 2013
Author:	Annette Harbron, Director of Planning & Sustainability
Authorising Officer:	Annette Harbron, Director of Planning & Sustainability
Attachments:	8.1.1 a) – Plan of Portion of Road to be Dedicated 8.1.1 b) – Aerial Photo Showing Road Alignment

Summary:

The Department of Lands has recently requested Council's consideration of dedicating a portion of Denmark-Mount Barker Road that is currently constructed on land that is designated as 'Closed Road'.

It is recommended that Council resolve to dedicate the portion of Denmark-Mount Barker Road subject to the road being under the care, control and management of Main Roads WA (consistent with the current arrangements for Denmark-Mount Barker Road) and Main Roads WA indemnifying the Minister for Lands against any claim for compensation that may arise.

Background:

The Department of Lands has recently advised that a portion of Denmark-Mount Barker Road is currently not dedicated, and in order to proceed with such dedication there is a requirement for the Shire of Denmark to formally resolve for the portion of road to be dedicated.

Comment:

Denmark-Mount Barker Road is currently constructed within the dedicated road reserve with the exception of a portion of the road that is built on land that is currently designated 'Closed Road' between Church Road and Kernutts Road – refer Attachments 8.1.1a and 8.1.1b.

It is therefore appropriate that the road be dedicated such that the constructed road is located within a dedicated road reserve.

Consultation:

No formal advertising is required to be undertaken in relation to road dedications.

The Director of Planning & Sustainability has been in liaison with the Department of Lands regarding the applicable road dedication provisions – refer 'Statutory Obligations' section of this report.

Statutory Obligations:

Section 56 of the *Land Administration Act 1997* sets out the process for road dedications.

It should be noted that Section 56 only references roads under the care and control of the local government. In this instance the road will be under the care and control of Main Roads WA. After consultation with the Department of Lands on this issue, they have advised that the current provisions of the *Land Administration Act 1997* and the *Main Roads Act 1930* do not provide mechanisms for dedication of roads under the care and control of Main Roads WA, however Section 56 of the *Land Administration Act 1997* is the mechanism that is currently being used, thus the reason for needing a Council

resolution, with Main Roads WA providing the required indemnification for any claims of compensation that may arise.

Policy Implications:

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

Budget / Financial Implications:

There are no known financial implications upon the Council's current Budget or Plan for the Future as any costs associated with the road dedication process will be borne by Main Roads WA.

Strategic Implications:

Given that the Denmark-Mount Barker Road is currently constructed on the portion of land that is the subject of this road dedication request, it is appropriate that the road dedication process be progressed accordingly.

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.

Voting Requirements:

Simple majority.

COUNCIL RESOLUTION & OFFICER RECOMMENDATION	ITEM 8.1.1
MOVED: CR MORRELL	SECONDED: CR GILLIES
That Council, with respect to the proposed road dedication of portion of Denmark-Mount Barker Road, request the Minister for Lands dedicate the road as per Section 56 (1) of the <i>Land Administration Act 1997</i> subject to:	
<ol style="list-style-type: none"> 1. The road being under the care, control and management of Main Roads WA; and 2. Main Roads WA indemnifying the Minister for Lands against any claim for compensation that may arise. 	
CARRIED: 8/0	Res: 021013

8.1.2 PARRY INLET SANDBAR OPENING PROTOCOL

File Ref:	GOV.52.B
Applicant / Proponent:	Department of Water
Subject Land / Locality:	Parry Inlet
Disclosure of Officer Interest:	Nil
Date:	18 September 2013
Author:	Annette Harbron, Director of Planning & Sustainability
Authorising Officer:	Annette Harbron, Director of Planning & Sustainability
Attachments:	8.5.3 a – Draft Parry Inlet Sandbar Opening Protocol 8.5.3 b – Draft New Delegation D100505: Parry Inlet Sandbar Opening Protocol

Summary:

The Department of Water (DoW) has recently produced a draft Parry Inlet Sandbar Opening Protocol in order to provide formal guidance for bar openings and has requested comment from the Shire of Denmark accordingly.

Given the draft Parry Inlet Sandbar Opening Protocol will provide for the formal guidance of bar opening procedures, it is recommended that Council advertise the document for public comment for a period of 30 days prior to considering adoption of the Parry Inlet Sandbar Opening Protocol.

Background:

The Parry Inlet sandbar is artificially breached to reduce the flooding of the adjoining land and infrastructure. Breaching is conducted by the Shire of Denmark in consultation with the Parry's Beach Voluntary Management Group (PBVMG) and adjacent landholders – noting that currently there is no formal Council delegation or adopted management protocol for Parry Inlet.

The DoW, in consultation with Shire officers, has drafted the Parry Inlet Sandbar Opening Protocol for Council's consideration using the Irwin Inlet Sandbar Opening Protocol as the basis, with DoW undertaking extensive consultation with the PBVMG.

Comment:

Adoption of the draft Parry Inlet Sandbar Opening Protocol (refer Attachment 8.5.3a) will provide for the formal guidance of bar opening procedures for Parry Inlet, with respect to preferred water level heights (as measured with established water level gauges) to ensure providing, as best as possible, for:

- the protection of human safety from hazards potentially resulting from roadway hazards and damage to road infrastructure caused by flooding;
- the protection of Council road infrastructure from damage caused by saturation and flooding of the road substructure;
- achieving adequate inlet water levels required for a strong initial scouring of the inlet mouth channel to assist with optimal marine exchange and a prolonged period of the inlet being open to the ocean; and
- taking into account timing of inlet opening to coincide with weather and oceanic conditions that will optimise inlet water outflow relative to oceanic storm events, tides and sustained rainfall and run-off in the catchment, in the period immediately following opening of the sandbar.

It should be noted that the opening procedures provided for in the draft reflect current opening procedures.

Consultation:

The DoW has requested that the Shire provide comment on the draft Parry Inlet Sandbar Opening Protocol, including seeking public comment. In this regard it is recommended that the draft Parry Inlet Sandbar Opening Protocol be advertised for

public comment in the Denmark Bulletin and the Walpole Weekly for a minimum period of 30 days.

Notwithstanding that DoW has already undertaken preliminary consultation with the PBVMG when preparing the draft protocol; it is recommended that a formal letter be sent to PBVMG seeking comment accordingly.

Professional advice with respect to preferred water levels required to protect Council road infrastructure (Parry Beach Road) has been provided by Infrastructure Services.

Statutory Obligations:

Currently the Department of Water, in partnership with the community and other agencies, has responsibility to manage the State's water resources, including the Parry Inlet.

Policy Implications:

Adoption of the Parry Inlet Sandbar Opening Protocol requires a new delegation to be included in the Delegations Register (refer Attachment 8.5.3b), noting there are currently delegations in place for Wilson Inlet and Irwin Inlet Sandbar Openings.

Budget / Financial Implications:

Expenses associated with advertising can be accommodated for within the 2013/2014 Budget (Account 1060152).

There are no known changes to the financial implications upon the Council's current Budget or Plan for the Future as Council staff are already responsible for the breaching of the Parry Inlet and the management of human safety during the period of sandbar breaching.

Strategic Implications:

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

Sustainability Implications:

➤ **Environmental:**

A management protocol which provides for attention to the measurement of preferred water levels and environmental factors (weather, catchment runoff and oceanic conditions) for maximum inlet scouring and marine exchange for fish populations, could improve the long-term environmental management of this estuarine system.

➤ **Economic:**

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

➤ **Social:**

It is important to continue to closely communicate with local community, landholders and other stakeholders including the PBVMG.

The road access to Parry Beach campsite is an important social concern and the flooding of this road with high inlet water levels could create a hazard.

Voting Requirements:

Absolute majority with respect to a delegation to the CEO of a duty, pursuant to Section 5.43 of the Local Government Act 1995).

OFFICER RECOMMENDATION

ITEM 8.1.2

That Council with respect to the draft Parry Inlet Sandbar Opening Protocol;

1. Advertise the document for public comment for a minimum period of 30 days; and
2. Should no adverse comments be received from the advertising period;
 - a) Authorise the Chief Executive Officer to adopt the document; and
 - b) Authorise the inclusion of Delegation D100505; Parry Inlet Sandbar Opening Protocol (Attachment 8.5.3 b) in the Council's Delegations Register.

** Absolute majority required.*

COUNCIL RESOLUTION

ITEM 8.1.2

MOVED: CR HINDS

SECONDED: CR SYME

That Council with respect to the draft Parry Inlet Sandbar Opening Protocol advertise the document for public comment for a minimum period of 30 days.

CARRIED: 6/2

Res: 031013

REASONS FOR CHANGE

Council wished to refer this matter back to Council for final determination.

8.2 Director of Community & Regulatory Services

8.2.1 DRAFT AUTOMATED GAS GUN NOISE MANAGEMENT PLAN

File Ref:	HLTH.7
Applicant / Proponent:	Director of Community & Regulatory Services
Subject Land / Locality:	Shire of Denmark
Disclosure of Officer Interest:	Nil
Date:	15 September 2013
Author:	Gregg Harwood, Director of Community & Regulatory Services
Authorising Officer:	Gregg Harwood, Director of Community & Regulatory Services
Attachments:	8.2.1 a) – Draft Shire of Denmark Noise Management Plan 8.2.1 b) – Summary of Submissions

Summary:

The officer report discusses the results of advertising the attached “Draft Shire of Denmark Gas Gun Noise Management Plan” for public comment for a period of 60 days and in the light of the comments that have been received recommends that it be adopted by Council with an amendment that considers manually fired gas guns in the category as shot guns because they require the presence of an operator and are only fired when birds are approaching the orchard.

Background:

In January of 2013 Council officers began receiving complaints that a gas gun was operating in a recently established commercial brewing apple orchard in Glenrowan Rd.

The Principal Environmental Health Officer communicated with the complainants and the owner of the orchard and succeeded in first getting the firing frequency and duration of the gas gun further reduced and subsequently in obtaining a commitment from the orchard owner to cease using the device until he had assessed its compliance with the Environmental Protection Noise Regulations 1997.

The orchard in Glenrowan Rd that has given impetus to this matter was planted around six years ago and is just getting to the point where it will be picked commercially and bird control is needed while at the same time the closest neighbour was preparing to build a house on the prime building location of their property which is only some 300m away the gas gun’s location. There is also a home holiday accommodation unit at 198 Glenrowan Rd that is a similar distance away.

A further complication in the consideration of this policy has been that there are some of the established orchards and vineyards in the more remote parts of the Shire that do operate a small number of gas guns without complaint and that any across the board decision has the ability to affect these operations as well.

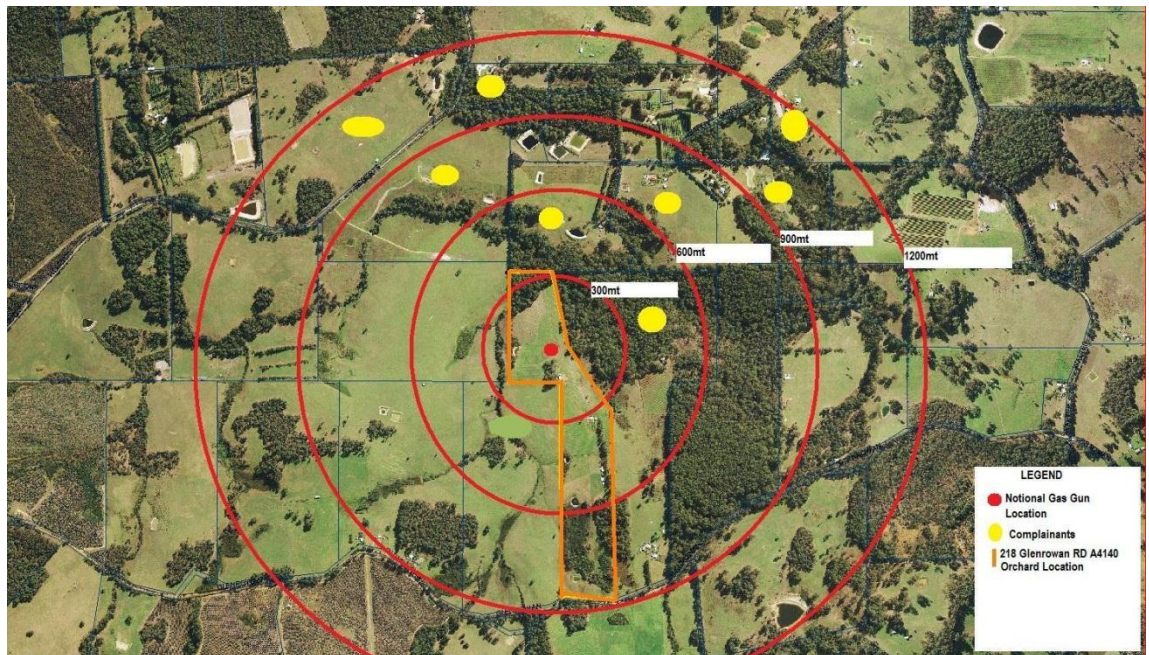
The draft gas gun noise control policy was referred to the 28 May 2013 Council meeting was considered together with numerous written and verbal presentations on the matter and resulted in the following Council resolution:

“That Council document titled “Draft Shire of Denmark Gas Gun Noise Management Plan” be advertised for public comment for a period of 60 days prior to its referral back to Council for consideration in the light of any comments that have been received.” Res: 170513

The Draft Shire of Denmark Gas Gun Noise Management Plan has been advertised in accordance with Council’s resolution and this report considers the comments that have been submitted in response to that process and recommends that consideration be given to amending the policy to allow the usage of manually operated gas guns in the category of shot guns.

This report should also be read in conjunction with the 28 May 2013 officers report and its attachments to obtain a full background into this matter.

Locality Map:



Comment:

The advertised “Draft Shire of Denmark Gas Gun Noise Management Plan” (refer attachment) was written using the Shire of Donnybrook’s plan as its base. With the fundamental difference between the two plans being that one of Donnybrook’s main industries is orcharding and its plan has been written as a licence to use gas guns within close proximity to dwellings while preventing the absolute abuse of that privilege. The Draft Denmark plan however has been written from the perspective of achieving sustainable gas gun usage by stipulating distances that should achieve Noise Regulation compliance and acceptable levels at adjoining residences while also protecting orchardists from unreasonable neighbourhood expectations.

The plan is also more sophisticated in that it contains relaxations for existing commercial orchards that have been picking commercially for the last 10 years and have used a gas gun for at least one week per season for 3 out of the last 5 years. It also allows orchardists to seasonally negotiate reduced distances with affected neighbours and takes into account bird control guidelines which have been produced by the Department of Environment and Conservation and the collective experience in the developed countries around the world that typically a buffer of at least 500 – 600m is required between gas guns and or intensive horticulture general and residential developments with a buffer of 700-1000m being the point at which valid noise complaints are not likely to be received.

In considering this plan and the resultant comments it should also be noted that while the draft plan will not have any statutory power as such it will act as a guide for residents and orchardists in terms of what Council and the community it represents accepts as reasonable. Once adopted the plan will be of use as an advice note on new intensive agriculture planning scheme consents and will assist both Council officers and members of the general public in initiating legal action in regards to excessive gas gun noise emissions.

Ultimately the statutory powers to deal with unwanted noise are found in the Environmental Protection Act 1986 and the Environmental Protection (Noise) Regulations 1997 and the existence of a Shire gas gun policy would be supporting evidence as to the accepted community standard in such actions and would potentially

be an important factor in determining what constitutes unreasonable interference with a person's wellbeing.

The advertising of the draft policy resulted in a total of 38 written submissions (attached with a summary) being received with 35 being in support of the proposed policy and 3 being against. While some submissions were on a signed pro forma many of them included considerable well thought out and structured comments and it is recommended they (both for and against) be read in their entirety in considering this matter.

The 35 supporting submissions were unanimous in their support of the proposed policy and typically made the following points:

- 1) That the mixed nature of Denmark's rural areas made them unsuited for the usage of gas guns on smaller acreages due to the presence of nearby houses and chalets, studios, home bases for telecommuting professional consultancies, cellar doors, horse studs, riding schools and the like.
- 2) The buffer distances in the management plan need to be conservative because noise travels unpredictably in rural areas and can be at times be heard at considerable distances.
- 3) That the past usage of the Glenrowan Rd gas gun has caused considerable stress and upset to themselves and their animals.
- 4) That gas guns by themselves are an unreliable means of bird control and when compared to active intervention with warning shots from vigilant on farm workers and that as such should not be considered a necessary farm noise.
- 5) That unlike other forms of farm noise which start and stop and wax and wain as plant moves around a property gas guns are relentless in their operation and their design intent is to distract, disrupt and to annoy.
- 6) That netting and vigilant active intervention with the manual firing of guns are better forms of bird control and that the usage of gas guns is an unnecessary impact on neighbours.
- 7) Concern that if the usage of gas guns is permitted they will be seen by orchardists as a 7 day a week, daylight set and forget device that can be used to scare birds when they are potentially absent regardless of whether the orchard is under attack or not.
- 8) That while they are prepared to accept regular usage of shot guns as a normal rural noise when they are used as part of a vigilant active intervention program they are not prepared to accept relentless sound of an automated grass gun that is run when the orchard is unattended.

The three protracting submissions are all quite different in the cases that they make and summarised individually as follows:

Resident & Orchardist

- 1) That a balanced and healthy community has rural food products that are produced within easy reach of the communities that are producing them and that by banning the usage of gas guns because the community lives close to orchards that cycle is broken.
- 2) That banning of gas guns will be to the detriment of the consumer and the producer.
- 3) That gas guns only fire a few shots per hour when they are correctly used.

- 4) That usage of gas guns largely eliminates the need to shoot birds.
- 5) That the rights of existing farmers who operating their properties fully within the requirements of the rural zone under Council's town planning scheme be respected.
- 6) That Council/ community should subsidise the installation of nets at orchards if they do not want to hear gas guns being used.

Resident, Neighbour & Pastoralist

- 1) That Council should support farmers by allowing them to make all of noise that would reasonably be expected to be entailed with their rural operations and that this includes the usage of gas guns.
- 2) That if Council is not prepared to support farmers in fully utilising their rural zoning and instead gives preferences to other land uses they should then zone the Scotsdale Valley to "tourist/ residential or small lot holdings" zone.
- 3) That the proposed policy is not needed and that Council should rely on the Environmental Protection Noise Regulations 1997 and Council Noise Policy No P070402.
- 4) That gas guns are only required for a short period of time and that it is reasonable to expect neighbours in a rural area to strategise their enjoyment their properties or the hire of them out for holiday accommodation outside of these times.
- 5) That orcharding and seasonal crops generate considerable amount of local employment and should be encouraged.

Resident & Orchardist

As the main owner of the orchard that has been the subject of the complaints has provided and covering letter and a substantially marked up copy of the draft plan. These comments are well considered and extensive and it is recommended that they be read in detail to give them full justice.

They are summarised as follows:

- 1) That the draft plan by own admission is largely redundant because the Environmental Protection Act and Environmental Protection Noise Regs 1997 take precedence over it.
- 2) Questions whether the draft plan will actually facilitate the resolution of disputes in regard to bird scaring devices.
- 3) Expresses concern that the draft plan gives preference to the rights of residential and tourism land uses over the rights of traditional farming operations and as such is a "claytons" rezoning of that land.
- 4) Disagrees with the plan's preferred control hierarchy because in his opinion the high costs of netting mean that it is not a sustainable solution and that vigilance and the usage of manually fired shot guns to scare birds is actually the most viable option if automated gas guns cannot be used.
- 5) Is of the opinion that the distance requirements are excessive and will mean that in future gas guns can only be used on very large pieces of land.
- 6) Asked that if Council adopts the policy that the term "gas gun" be changed to read "automated gas gun" and that mobile manual gas be considered in the category as shotguns that are used to manually scare birds.

- 7) That Council take into consideration when determining the policy the fact that once his orchard was contacted by Council regarding the usage of the gas gun they reduced its firing frequency and not long after stopped using altogether and have sought apologise and maintain relationships with neighbours.

In summary the protagonist's submissions can be collected into three basic categories:

- a) Questioning the need for the policy at all.
- b) That viability of farming in "rural" zoned areas is compromised by placing noise and amenity limitations on farming operations.
- c) Requests for technical adjustments to the policy that will practically make it easier to comply with while maintaining a viable farming operation.

While the answers to categories a) & b) have to an extent already been decided by Council's previous decisions to request the drafting of this policy and its advertisement for public comment there is one technical variation that has been suggested by Stuart Douglass that would greatly assist orchardists.

This variation relates to changing the term "gas gun" to read "automated gas gun" and that mobile manual gas guns be considered in the same category as shotguns that are used to manually scare birds.

While a change to the usage of mobile manually operated gas gun would potentially be louder than a shot gun it would not have the all day long relentless nature of an automated gas gun because it requires the presence of an operator and would only be used when birds were attacking the orchard.

While many of the complainants have indicated that they have no objections to shot guns being used to manually scare birds in the orchards this support may not extend to the usage of a manual fired, mobile gas guns for the same purpose.

It is however seen as being sensible a middle option from an officer perspective in that it helps the orchardists to efficiently scare birds while limiting the periods where the device is used to those where birds are seen by its operator to be attacking fruit or entering the orchard.

The other reason for considering this requested amendment is that gas guns are far cheaper to operate per shot when compared to shot guns and do not have the same harmful emissions meaning that they are better from an economic and employee welfare perspective.

While any technical relaxation has the potential to expose the policy to robbing the good will that the operators of the long Orchard Farm have shown in the date in ceasing the use of the gas guns when substantial complaints have been received gives staff confidence that a mobile, manually operated device will be used in constructive manner.

In considering the mobile manually fired gas gun amendment that has been suggested, Council is essentially:

- 1) Subject to the previously stated legal constraints limiting the usage of new automated fixed gas guns to orchards which are on properties that are large enough to have sufficient buffers to ensure that there should not be a significant noise problem at adjoining houses.
- 2) Allowing a reduced buffer distance to existing orchards that have been using automated fixed gas guns for a considerable period without complaint.
- 3) Moving toward a policy stance that it is acceptable for the buffer (impact/ foot print) of a rural activity in a rural zoned area to cross the land of an adjoining or nearby

property but that it is not appropriate for that buffer (impact/ foot print) to affect the house(s) or chalets on that property.

- 4) Communicating to those performing due diligence on future intensive farming operations that automated fixed gas guns are not an acceptable bird control solution on smaller lots.
- 5) Allowing mobile manually, fired gas guns to be used in the same manner as shot guns for direct intervention bird scaring.

Consultation:

The Director of Community Regulatory Services and the Principal Environmental Health Officer have consulted at length with the current complainants and owner of the orchard that is the subject of those complaints and the proposed noise management plan has been drafted taking into account wider industry experience and documents.

The plan has also gone through community consultation to allow both community and industry to have input into it.

Statutory Obligations:

CEO (as Local Government Chief Executive Officer and not as delegate of Council) and the Director of Community Regulatory Services (as an Environmental Health Officer and not as delegate of Council) exercise various powers in relation to Noise and Pollution that have been delegated directly to them as a result of their positions by the Chief Executive Officer of Department of Environment and Conservation under the Environmental Protection Act 1986 and the Environmental Protection (Noise) Regulations 1997.

Councillors should note that this direct delegation means that Delegation Nos D100504 and D100503 only recognise the authority that the CEO and Councils Environmental Health Officers (EHOs) already have.

It should also be noted that the fact that this authority to act has been delegated rather than legislated means that the CEO, the EHO's and Council as the CEO's employer can to an extent, choose where and when it enforces noise legislation.

Further to this section 79 of the Environmental Protection Act 1986 empowers members of the public to bring their own noise actions before a magistrate meaning that they still have a means of redress if Council resolves not to progress this matter on the basis that they consider the usage of gas guns to be a normal seasonal practice in a rural area.

Policy Implications:

Clause "F" of TOWN PLANNING SCHEME POLICY NO. 6 titled "GUIDELINES FOR THE MANAGEMENT OF VINEYARDS WITHIN SPECIAL RURAL ZONES" has the objective of ensuring that the management of the vineyards "Special Rural Zones" does not have a detrimental effect on the amenity of adjoining land owners and reads as follows:

"NO ARTIFICIAL BIRD CONTROL such as electronic noise emitters, discharge of firearms or chemical control shall be permitted".

The references to Noise in Council's Delegations Register and Policy Manual are as follows:

Delegation No D100504

The CEO is authorised to issue pollution abatement notices under section 55 & 99 of the Environmental Protection Act 1986.

Delegation No D100503

The CEO is authorised to approve (and refuse) Noise Management Plans that have been submitted under Regulation 13 of the Environmental Protection (Noise) Regulations 1997.

P070402 NOISE MANAGEMENT

Council acknowledges that enforcement of Noise Abatement Legislation is the responsibility of the DER; therefore Council through its Environment Health Officer will only advise ratepayers and residents of their responsibilities under the relevant legislation and refer the disputing parties to the DER.

The procedure for taking a noise complaint can be found in the Principal Environmental Health Officer Position Procedure Manual.

Budget / Financial Implications:

There are no known significant budgetary implications relating to the report or the officer recommendation other than the possible need to either buy or hire a tonal and octave filtering sound level meter or to engage an acoustic consultant if the situation with the current orchard's gas gun goes down the path of legal action under the Environmental Protection Noise Regulations 1997.

Tonal and octave filtering sound level meter typically cost between \$12,000 – \$30,000 to buy and about \$1,000 per week to hire and an acoustic consultants services generally cost around \$5,000 for a detailed assessment.

It is estimated that taking a noise case to court would be in the vicinity of \$10,000 with \$5,000 being for an acoustic consultant's assessment and around \$5,000 being for legal fees and court costs.

Strategic Implications:

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

Sustainability Implications:

➤ **Environmental:**

Many of the birds that attack orchards are rare and endangered species and one of the difficulties with bird control is that unless active control measures are implemented from the time of planting most orchards by the time they are ready for commercial picking have already become biological hotspots that are supporting elevated populations of these birds.

Once this occurs the usage of gas guns particularly at slow and infrequent fire rates is often not effective because the birds have become habituated to the orchard and dependent on it as seasonal food source.

One of the environmental draw backs of netting is that it can lead to the injury and painful death of fruit bats as their radar cannot detect the netting in dark. This however does not seem to be a problem in orchards on the South Coast.

➤ **Economic:**

The banning of gas gun usage and the costs associated with netting orchards have the potential to have a significant impacts on the viability of orchards as the cost of netting is in the vicinity of \$5,000 - \$100,000 per hectare and nets restrict the operation of an orchard thereby increasing its operating costs.

Nets do however have a service life of about 20 years and have a pay back in that they largely eliminate losses and free staff from bird scaring duties.

➤ **Social:**

Unwanted environmental noise can have a significant impact on the amenity of neighbourhoods and the quality of individuals.

Voting Requirements:

Simple Majority.

OFFICER RECOMMENDATION

ITEM 8.2.1

That Council document titled “Draft Shire of Denmark Gas Gun Noise Management Plan” be adopted subject to the words “gas gun” being replaced with term “fixed automatic firing gas gun” in the body of the document and the term “mobile manually operated gas gun” being included as an acceptable alternative to the usage of a manually fired shot gun for interventionist scaring of birds.

COUNCIL RESOLUTION

ITEM 8.2.1

MOVED: CR SEENEY

SECONDED: CR LEWIS

That the document version titled “Draft Shire of Denmark Gas Gun Noise Management Plan” that was presented to the 28 May 2013 full Council meeting and listed as Attachment 8.2.1 of the Minutes of that meeting be adopted as Council’s Policy Statement and guidance for staff and property owners in relation to gas guns and other acoustic bird scaring devices within the Shire of Denmark, subject to the government agencies that it refers to, being updated with their new names.

CARRIED: 8/0

Res: 041013

REASONS FOR CHANGE

1. Concerned that the ease of use of mobile manually fired gas gun may lead to overuse of the device when compared to shot guns.
2. Not confident that the use of a mobile manually fired gas gun could be adequately policed.
3. Cr Seeney had received substantial adverse comment regarding the proposal of the usage of a mobile manually fired gas guns.
4. Significant community support had already been shown for the 28 May 2013 version.

8.3 Director of Infrastructure Services

Nil

8.4 Director of Finance & Administration

8.4.1 MONTHLY PAYMENT LISTING FOR THE MONTH ENDING 31 AUGUST 2013

File Ref:	FIN.1
Applicant / Proponent:	Not applicable
Subject Land / Locality:	Denmark
Disclosure of Officer Interest:	Nil
Date:	19 September 2013
Author:	Steve Broad, A/Director of Finance and Administration
Authorising Officer:	Steve Broad, A/Director of Finance and Administration
Attachments:	8.4.1 - Monthly Payment Listing

Summary:

To receive the list of payments that were made from 1 August 2013 to 31 August 2013.

Background:

Not applicable.

Comment:

The attached list of payments is submitted for receipt by the Council.

Consultation:

Nil

Statutory Obligations:

Regulation 12(1)(a) of the Local Government (Financial Management) Regulations 1996 provides that payment may only be made from the municipal fund or trust fund if the Local Government has delegated the function to the Chief Executive Officer.

The Chief Executive Officer has delegated authority to authorise payments. Relevant staff have also been issued with delegated authority to issue orders for the supply of goods and services subject to budget limitations.

Regulation 13 of the Local Government (Financial Management) Regulations 1996 provides that if the function of authorising payments is delegated to the Chief Executive Officer then a list of payments is to be presented to the Council at the next ordinary meeting and recorded in the minutes.

Policy Implications:

Council's Policy 2.5 provides authorities and restrictions relative to purchasing commitments.

Council Delegations D040210 – Budget Expenditure also relates.

Strategic Implications:

There are no strategic implications involved with presentation of the list of payments.

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.

Voting Requirements:

Simple Majority.

5.17pm – *The Director of Community & Regulatory Services left the room.*

COUNCIL RESOLUTION & OFFICER RECOMMENDATION	ITEM 8.4.1
MOVED: CR MORRELL	SECONDED: CR SYME
That in accordance with Regulation 12(1)(a) of the Local Government (Financial Management) Regulations 1996 Council endorse the Accounts for Payment as listed.	
CARRIED: 8/0	Res: 051013

8.4.2 BEVANS (WA) PTY LTD – AMENDMENT TO LEASE

File Ref:	A2581
Applicant / Proponent:	Bevans (WA) Pty Ltd
Subject Land / Locality:	654 (Lot 303) Peaceful Bay Rd, Peaceful Bay
Disclosure of Officer Interest:	Nil
Date:	20/09/2013
Author:	Acting Director of Finance and Administration, Peta Leiper
Authorising Officer:	Dale Stewart, Chief Executive Officer
Attachments:	8.4.2 – Current Leases of L Pinniger & Bevans

Summary:

The proprietor of Bevans (WA) Pty Ltd has requested that an amendment be made to the current lease for 654 (Lot 303) Peaceful Bay Rd (Fisherman's Lease) in regards to the (part 1) Operations and Use of Premises section of the lease.

Background:

(Garry) Bevan's (WA) Pty Ltd have leased this portion of pt Reserve 24510 since 2001.

On the 26 March 2013 Council resolved as follows (Resolution No. 220313);

"That the item be adjourned to enable Council Officers to ascertain how long and how often the premises are being used".

On the 16 April 2013 Council resolved as follows (Resolution No. 040413);

"That with respect to the current lease between the Shire of Denmark and Bevan's (WA) Pty Ltd pertaining to No 654 (Lot 303) Peaceful Bay Rd, Peaceful Bay, Council instruct the Chief Executive Officer to negotiate amendment to the existing lease, in conjunction with the lessee, in order to better define the terms and conditions of the lease, particularly relating to access and use of the site with the proposed terms and conditions of the lease being referred to Council for consideration and approval."

Comment:

The requests of the leaseholder are:

1. To expand subsection (c) of the lease "The Premises shall only be occupied: (i) by the endorsed licensed holders (pursuant to the Fisheries Act)" to include the phrase "and their families".
2. To include part (iii) "occasional caretaker use;"
3. To include part (iv) "at other times to undertake maintenance of the premises."
4. To include subsection (d) "To locate no more than SIX (6) caravans on the Premises during the fishing season/s and a maximum of TWO (2) caravans out of season as prescribed by the Department of Fisheries

The request of the Lessee is not dissimilar to the current Lease of Mr L Pinniger at Parry Beach. A copy of both of the leases are attached.

Extracted from clause 'Operation and Use of Premises' of both leases.

The Pinniger Lease states;

- a) *To use the Premises only for the Business and no other without the prior written consent of the Lessor.*
- b) *To carry out the Business in a proper and efficient manner.*
- c) *The Premises shall only be occupied:*
 - (i) *by the endorsed licensed holders (pursuant to the Fisheries Act) and their families*
 - (ii) *occasional caretaker use;*

- (iii) *during the fishing season (as prescribed by the Department of Fisheries) and not otherwise.*
 - (iv) *at other times to undertake maintenance of the premises.*
- d) *Not to permit the floors, walls, driveways and other parts of the Premises or any electrical power, water or other installation servicing the Premises to be overloaded, broken, strained or damaged.*
- e) *Not to carry on or permit to be carried on at the Premises any noxious or offensive activity nor anything which may be a nuisance, annoyance or cause damage or loss to the Lessor or the owners or occupiers of any adjoining Premises for any illegal or immoral purpose.*
- f) *To locate no more than THREE (3) caravans on the Premises during the fishing seasons/s as prescribed by the Department of Fisheries.*

The Bevans Lease states;

- a) *To use the Premises only for the Business and no other without the prior written consent of the Lessor.*
- b) *To carry out the Business in a proper and efficient manner.*
- c) *The Premises shall only be occupied:*
 - (i) *by the endorsed licensed holders (pursuant to the Fisheries Act) only;*
 - (ii) *during the salmon fishing season (as prescribed by the Department of Fisheries) and not otherwise.*

The Pinniger Lease expires on 30 June 2022 and the Bevans Lease expires on 30 June 2021.

In the opinion of the Officer the key question goes to equity and fairness between the two leases and the lease conditions. In simplicity, the Bevan Lease should have no lesser rights and obligations to the Pinniger Lease. Arguably however Bevans leased premises is more environmentally fragile, susceptible to 'human intervention' and more 'visible' to the public and a commercial caravan park operates almost opposite the property.

Whilst the Lessee would like permission to house up to six (6) caravans during the salmon season (which can be argued to be all year round), the Pinniger Lease limits the number to three (3). In both locations there exists a licensed and fully functional caravan park opposite or adjacent. The need for additional caravans 'immediately' onsite would therefore appear to be questionable. Certainly there would appear to be no valid argument to permit six (6), which would probably be seen by the commercial operator opposite as inappropriate and excessive, and probably have a detrimental environmental impact on such a small site.

Council also has the option to refuse to amend the lease and expect the lessee to maintain the property during the salmon season on a day where there are no salmon 'running'.

On balance the Officer believes it appropriate to limit the Lessee to three (3) caravans and an occasional caretaker (single caravan use, consistent with the Pinniger Lease).

It should be noted that Officer Report 8.1 of 16 April 2013 states that after consultation with the Department of Fisheries it has been clarified that there is no "season" for salmon fishing (noting that the main spawning run of salmon is usually February to May but there is often a back-run of fish later in the year and each season is often different) and that licence holders can fish all calendar year.

The Shire of Denmark's Fisherman's leases currently determine the length of stay of caravans on the leased sites based on a prescription of the Department of Fisheries that does not specify or clarify either an "on" or "off" season.

Consultation:

Bevan's (WA) Pty Ltd.

Statutory Obligations:

Local Government Act 1995
WA Land Administration Act 1997
Fish Resources Management Act 1994

Policy Implications:

Due to a lack of a specific fishing season for salmon, the Council may need to reflect an artificial season that determines length of stay at (salmon) fishing leases.

Budget / Financial Implications:

There are known financial implications upon the Council's current Budget or draft Long Term Financial Plan.

Strategic Implications:

There are no known significant strategic implications.

Sustainability Implications:**➤ Environmental:**

All caravans should be placed only within the existing lease area.

Caravans should not be placed on or near existing native vegetation. Caravan placement, use and all activities are to be within existing cleared areas and no vegetation is to be disturbed or destroyed.

The lessee is to ensure that the existing on-site waste and toilet and amenity facilities are able to cope with additional use ie. capacity of waste discharge facilities (general waste, sewerage) (it is noted that the lessor is currently seeking planning permission for an improved facility including ablutions).

The Lease is located near a Registered Aboriginal Heritage Site (Little Groper Rock). While the Officer doesn't envisage triggering the need for additional permits through the Department of Aboriginal Affairs for placement of caravans only, there may be some issues if there are any excavations/soil disturbing activities required for their placement.

The Shire should be contacted before any such activity occurs.

➤ Economic:

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

➤ Social:

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

Voting Requirements:

Simple majority.

5.24pm – The Director of Community & Regulatory Services returned to the room.

5.43pm – The Director of Community & Regulatory Services left the room.

OFFICER RECOMMENDATION

ITEM 8.4.2

With respect to the Lease between the Shire of Denmark and Bevans (WA) Pty Ltd,

1. With the agreement of both parties, the Operations and Use of Premises section be amended to read as follows (being consistent with the Pinniger Lease);
 - a) *To use the Premises only for the Business and no other without the prior written consent of the Lessor.*
 - b) *To carry out the Business in a proper and efficient manner.*
 - c) *The Premises shall only be occupied:*
 - (i) *by the endorsed licensed holders (pursuant to the Fisheries Act) and their families;*
 - (ii) *occasional caretaker use;*
 - (iii) *during the fishing season (as prescribed by the Department of Fisheries) and not otherwise.*
 - (iv) *at other times to undertake maintenance of the premises.*
 - d) *Not to permit the floors, walls, driveways and other parts of the Premises or any electrical power, water or other installation servicing the Premises to be overloaded, broken, strained or damaged.*
 - e) *Not to carry on or permit to be carried on at the Premises any noxious or offensive activity nor anything which may be a nuisance, annoyance or cause damage or loss to the Lessor or the owners or occupiers of any adjoining Premises for any illegal or immoral purpose.*
 - f) *To locate no more than THREE (3) caravans on the Premises during the fishing seasons/s as prescribed by the Department of Fisheries.*
2. In the event that the Lessee does not support the amendment detailed in Part 1, the lease not be amended.

ITEM 8.4.2

MOVED: CR HINDS

That the matter be deferred for further investigation and until the next Ordinary Meeting of the Council.

LAPSED FOR WANT OF A SECONDER

COUNCIL RESOLUTION ITEM 8.4.2

MOVED: CR HINDS SECONDED: CR SYME

That Standing Orders be suspended to enable discussion on the matter.

CARRIED: 7/1 Res: 061013

5.48pm – Cr Hinds left the room.

5.52pm – The Director of Community & Regulatory Services returned to the room.

COUNCIL RESOLUTION ITEM 8.4.2

MOVED: CR MORRELL SECONDED: CR GILLIES

That Standing Orders be resumed.

CARRIED: 7/0 Res: 071013

COUNCIL RESOLUTION

ITEM 8.4.2

MOVED: CR SEENEY

SECONDED: CR GILLIES

With respect to the Lease between the Shire of Denmark and Bevans (WA) Pty Ltd that Council request the Chief Executive Officer to undertake the following actions prior to further consideration of the matter;

1. Write to the Department of Fisheries seeking advice on the apparent cessation of salmon fishing activities at the site since 2009 and the effect on the license with respect to this location; and
2. Write to the Lessee advising that Council is considering early termination of the Lease given Council's continuing concerns regarding environmental impacts caused by occupation of the site and invites the Lessee, within 60 days, to respond giving reasons why the Council should not so determine the Lease.

5.55pm – Cr Hinds returned to the room.

CARRIED: 6/2

Res: 081013

6.00pm - Public Question Time

The Deputy Shire President stated that the second public question time would begin & called for questions from members of the public. There were no questions.

COUNCIL RESOLUTION

ITEM 8.4.2

MOVED: CR HINDS

SECONDED: CR SYME

That the meeting be adjourned for a short break.

CARRIED: 7/0

Res: 091013

6.13pm – The meeting resumed with all Councillors & Staff that were present prior to the adjournment.

8.5 Chief Executive Officer

8.5.1 PROPOSED SHOPPING CENTRE DEVELOPMENT - 82-90 SOUTH COAST HIGHWAY, DENMARK

File Ref:	A457a (2013/153)
Applicant / Proponent:	Shire of Denmark
Subject Land / Locality:	No. 82-90 (Lot 50) South Coast Highway (cnr Hardy Street), Denmark
Disclosure of Officer Interest:	Nil
Date:	18 September 2013
Author:	Dale Stewart, Chief Executive Officer
Authorising Officer:	Dale Stewart, Chief Executive Officer
	8.5.1 a) – Site Plan and Elevations for Planning Application 2013/153
	8.5.1 b) – Approved Site Plan and Elevations Associated with January 2009 Planning Approval
	8.5.1 c) - Extract from DAP Training Notes Document Titled “Making Good Planning Decisions”
	8.5.1 d) – Community Information Session (17 September 2013) Notes
	8.5.1 e) – Supermarket – led development: asset or liability
	8.5.1 f) – Power Point Presentation, Director of Planning & Sustainability

Summary:

This report follows;

- the briefing session on the topic convened by the Chief Executive Officer on the 29 August 2013;
- the decision of Council to consider a report on the matter of 10 September 2013;
- the resultant meeting with the proponents (Metcash) representative;
- the resultant meeting with representatives of Main Roads Western Australia (MRWA) and;
- the public forum on 17 September 2013.

This report outlines the basis for the need or otherwise of a submission to the Great Southern Joint Development Assessment Panel (GSJDAP), should the Council determine the need to do so, dependent upon representation by the community and or elected members own views on the application.

Background:

The Shire of Denmark has received an application for Planning Approval for a proposed Shopping Centre Development on No. 82-90 (Lot 50) South Coast Highway, cnr Hardy Street, Denmark, refer Attachment 8.5.1 a), for the site plan and elevations component of the planning application documentation). Given the costs and nature of the development, this application is an Optional Development Assessment Panel (DAP) application as per the *Planning and Development (Development Assessment Panel) Regulations 2011*.

Consequently the Great Southern Joint Development Assessment Panel (GSJDAP) will be determining the application and not the Council.

In terms of the assessment process that applies to this application, the following applies:

- The application is currently being considered by the Shire’s Development Co-ordination Unit.
- The application is currently the subject of public advertising from 5 September 2013 to 4 October 2013. This includes:
 - Advertisement in the Denmark Bulletin on the 5 September 2013 inviting comment;
 - Letters to adjoining/nearby landowners inviting comment; and
 - Letters to relevant government agencies/servicing authorities inviting comment.

- A Community Information Session held on 17 September 2013 to inform the public of the process and the proposal (notes attached).
- Upon closure of the public advertising period, Planning Services will compile the 'Responsible Authority Report' that is required to be prepared for the GSJDAP's consideration within 80 days of the application being received – that is the report is to be submitted no later than 1 November 2013 (noting the 80th day is the 3 November 2013 which is a Sunday) to the DAP secretariat. All submissions lodged on the proposal will be included within the 'Responsible Authority Report' for consideration by the GSDJAP when determining the application.
- A meeting of the GSJDAP will be convened – noting that the GSJDAP is to determine the application within 90 days of the application being received (i.e. on or before 13 November 2013).

At its meeting held on 10 September 2013, Council resolved as follows (Resolution No. 080913);

“That with respect to the planning application for a Proposed Shopping Centre Development on No. 82-90 (Lot 50) South Coast Highway, Denmark, Council:

1. *Consider that they may wish to make a submission on such application dependent on the outcome(s) from:*
 - a) *Proposed liaisons with Main Roads WA pertaining to the planning application;*
 - b) *Elected members considering the input from the Public Forum on the 17 September 2013;*
 - c) *Elected members being copied public submissions on the proposal for their information in a timely manner;*
 - d) *Meeting with the proponent to discuss matters included in the Development Application but pertaining to its land adjoining (as the landowner), being Hamilton Reserve, and being portion of Reserve Number 46256.*
2. *Acknowledge that the potential submission referred to in part 1 above, will need to be lodged on or before close of business on 4 October 2013.*
3. *Request the CEO to arrange meetings between available Elected Members and Senior Staff with the proponents and Main Roads WA, ideally prior to the 17 September 2013;*
4. *Request the CEO to prepare a report for the Council Meeting of the 1 October 2013 on the Development Application, and related aspects referred to above, in order to determine whether a submission should be lodged and as to its suggested content.*
5. *Suggest to the proponents that they make themselves available to answers questions relating to the proposal at the scheduled Public Forum.”*

Comment:

A Planning Application for a Shopping Centre Development, on the same site, but by a previous landowner, was considered at the Ordinary Meeting of Council held on 24 March 2009 wherein Council, after due consideration of both the proposal and the issues/comments in the 234 submissions received on the proposal (comprising 147 in support and 87 objecting), resolved the following (Res No: 070309):

That Council refuse the application for a retail centre on 72-90 (Lot 50) South Coast Highway, Denmark for the following reasons:

- 1) *The proposed retail centre is inconsistent with Clause 5.1 'Development Standards' as it does not comply with front and rear setback and landscaping requirements.*
- 2) *The proposed retail centre is inconsistent with Clause 6.5.2 c, d, f, g & h of TPS No.3.*
- 3) *The proposed shopping centre is inconsistent with Town Planning Scheme Policy 15 'Townscape Policy' for the following reasons:*
 - a) *The development does not enhance the approach to town;*
 - b) *The development does not harmonise with the landscape and existing buildings;*
 - c) *The development is not of domestic scale which includes historic methods of construction, materials, posted verandas, the use of heritage colours and enhancement of pedestrian amenities;*

- 4) *The proposed retail centre is inconsistent with Town Planning Scheme Policy 26.1 'South Coast Highway Commercial Developments' for the following reasons:*
- a) *The development does not maintain the essential character of Denmark and preserve the attractive entrance to the Denmark;*
 - b) *The development is not of an architectural style sympathetic to the current historical core;*
 - c) *The development does not continue the theme present in the core in that it does not include front facades to the property line incorporating verandas to the road frontage.*
 - d) *The external building materials and finishes are not sympathetic to existing landscape in design, colour and material.*
 - e) *The development incorporates screen walls (proposed bin site) on South Coast Highway and Hardy Street.*
 - f) *Does not comply with front and rear setback requirements under the policy.*
 - g) *The rear setback and height of the development has an adverse impact on the amenity of the residents of Amaroo Village.*
 - h) *Car parking is provided at the front of the development site with an oversupply of car parking spaces. Large expanses of car parking in front of new developments are not supported.*
 - i) *Pedestrian and cycle access has not been adequately considered and bicycle parking facilities have not been provided.*
 - j) *The proposal does not comply with the 10% required landscaping area.*
 - k) *The amount of GLA requested together with the oversupply of carparking and inadequate landscaped areas result in an overdevelopment on the site.*
- 5) *The proposed pylon along South Coast Highway is inconsistent with Town Planning Scheme Policy 32 'Signs' in terms of size, height and dimensions.*

As per the *Planning and Development (Development Assessment Panel) Regulations 2011*, the local authority's professional planner is required to prepare the 'Responsible Authority Report' independent of any view of the Council. If the Council wishes to make a statement regarding an application before the GSJDAP, the Council does this by making a submission for consideration by the GSDJAP in determining the application – refer Attachment 8.5.1 c) for relevant extract from DAP Training Notes document titled "Making Good Planning Decisions".

In addition to the above, as per Clause 10.2 of the DAP Standing Orders 2011, a DAP is to invite the CEO of the responsible authority preparing the Responsible Authority Report' to attend, or to send a representative to, a DAP meeting at which the application is to be determined.

Given the community's interest in the previous application and the fact that this current planning application is to be determined by the GSJDAP and not Council, Council may wish to give consideration to lodging a submission on the proposal.

Consultation:

The planning application is currently being advertised for public comment from 5 September 2013 to 4 October 2013 (inclusive). As at the date of the report Councillors would have received a copy of the initial submissions received (3).

These will be assessed by the responsible officer making the report to the GSJDAP and should not necessarily be the subject of this report (it is not Council's role to assess these submissions in this instance). That notwithstanding, Councillors may utilise them together with comments or feedback from residents and ratepayers about the nature of the development to inform their view to assist form a Council perspective in determining whether or not to make a submission.

The Public Forum on the 17 September was attended by seven (7) Councillors and some 36 Ratepayers and Residents together with the CEO, Director of Planning Sustainability and a representative of the proponent. Many of the concerns raised (refer attached notes) related to the treatment of Hardy Street and its impact on the adjoining

properties of Amaroo Village (Denmark) and Council's Recreation Reserve Number 46256 (Hamilton Reserve). Refer Attachment 8.5.1 d) for the notes and Attachment 8.5.1 f) for the Officer's Power Point presentation to the Forum.

The same day Council staff and available Councillors met with MRWA and also the proponent's representative in separate meetings.

The result of the meeting with the proponents was that Council consideration and approval is required for two specific elements;

- the proponents intent (with the approval of Amaroo Care Services and the Council) to construct a footpath connection to Amaroo on their eastern boundary on Council's Hamilton Reserve and;
- the proponents intent to utilise the natural drainage of the Hamilton Reserve to accept surplus water after it has been 'first flushed' on site.

The relevant notes from the Director of Planning & Sustainability from the MRWA meeting are extracted follows;

- No firm position of MRWA at this point in time.
- There are some anomalies in the traffic report and the numbers used.
- Hardy Street needs intersection treatments as it is the primary access – full turn treatments at intersection with widening of seal on southern side of SCH opposite intersection.
- Width of the left out on SCH needs to be narrowed (currently 7m wide).
- The proposed design currently encroaches into lane width of the highway; will need to cater for 2 x 3.5 metre lanes in both directions.
- Median island extension associated with left in/left out will be required.
- No regard given to subdivisions west of the development site – 8000 vehicle movements per day above what is there currently.
- Full turn treatments needed at OBR/SCH intersection.
- May need possibly more than that what is shown to be ceded to MRWA.
- Localised variations can be taken into account and given the demographic and tourist nature of the town would probably have been good to reference such. Also is ability to take into account current store usage patterns (i.e. anecdotally peak times are 5pm -6.30pm with current Supa IGA).
- Roundabout/Traffic Lights:
 - Once town is at full development there will probably be a need for traffic lights at the intersection of Ocean beach Road and South Coast highway. In terms of traffic lights they did give some indication of traffic warrants along lines of 10,000 vehicles over 7am-7pm period on SCH in both directions;
 - Consider this is likely to be 10+ years away based on traffic numbers.
 - Can justify on a cost-benefit analysis on low volume roads - currently liaising with Perth regarding this approach as traffic numbers are not key factor in regional communities.
- Footpath in SCH road reserve accepted.
- MRWA consider Western Power will not just support relocation of poles; likely to be a padmount in that area.

At this stage MRWA are sending the planning application up to Traffic Modelling Branch in Perth for their review and in due course will provide draft comments/conditions to the Shire and proponent accordingly – noting that the proponent was not in attendance at this meeting that the Councillors/Senior Staff had with Main Roads WA.

The officer in writing this report has limited public feedback in which to make an informed view of the community – the meeting with MRWA, the public forum on the 17 September, initial views offered by elected members and his own personal and professional views as CEO and not being a Town Planner.

The officer is of the view based on this that the Council should be confident in the professional planner to make an informed assessment of the communities views (after the close of submissions on 4 October) and how they inform the officer's application of the intent of the Council's various Town Planning Policies and the Town Planning Scheme.

In the opinion of the author, the need for a submission on such matters is therefore relatively low. Having said that, the converse risk for the Council is that if the officer does not endorse or provide sound reasons for not endorsing public comments, in the perception of the Council or the public (as a generalisation), then a political risk for the Council could arise.

A Council submission therefore may be political correctness, without necessarily having a need (if the officer addresses the issues in any case) or great 'weight'.

Does a submission about a certain subject give greater justification to a concern than a member of the public? A hypothetical question with no way of answering it without an evidenced based approach over time. In the author's opinion, concerns raised by the Council would primarily need to ensure that they relate to concerns about departure from Council Policy and or impact on Council infrastructure and community assets.

The following questions are offered to assist Council determine whether there are concerns in certain areas based on initial elected member, community feedback or comment and or personal judgements;

- The general appearance or aesthetic qualities of the building, particularly its role as the entry point to the CBD, its low roof pitch and its contribution to the Denmark CBD architecture and streetscape? (Refer also Attachment 8.5.1 e), Supermarket – led development: asset or liability).
- The departure to the front setback and the potential stated accrued benefits contributing to future South Coast Highway planning, as opposed to detracting from the CBD streetscape?
- Variation to the Scheme provision for the rear setback and its potential impact on Amaroo Village (Denmark)?
- The failure of the building to address the street with built form contrary to policy, combined with the open expanse of car bays to the front (contrary to policy), much like Council's Visitor Centre opposite, noting that this is on land zoned Parks & Recreation.
- The need to ensure that the development pays for required infrastructure required for the development such as a dual use path abutting it on Hardy Street and South Coast Highway.
- The impact on Hardy Street and its intersection with Mt Shadforth Rd and the need to ensure it is designed / modified to cater for the predicted traffic generated by the development?
- The impact on the intersections of Hardy Street and Ocean Beach Road with South Coast Hwy and the need to ensure that future design / expansion options are not compromised?
- Concerns that the traffic studies do not reflect Councillors, its Professional officers nor the communities' initial extrapolations and predictions resulting from the development nor combined with future known development.
- The impact of potential intersection or traffic design treatments that deny visitor vehicles access to the Visitor Centre opposite.
- The question of whether the traffic studies have taken into account Denmark conditions of large numbers of grey nomads, the oldest median population in WA and the large numbers of tourist traffic also towing caravans, camper trailers, boats and trailers.
- Consideration and approval of the use of Hamilton Reserve abutting, managed by Council, and the potential negative impact on the environment by poorly managed treatment of the storm water runoff (quality and quantity).

- The fact that the plan shows a path exiting from the development to the east onto Hamilton Reserve and not connecting back to the South Coast Highway.
- Whether the proponent has obtained the support of Amaroo Care Services to encourage the connection to the east of that development.

Statutory Obligations:

This planning application is to be determined in accordance with the *Planning and Development (Development Assessment Panel) Regulations 2011*.

Policy Implications:

As extracted from the Director of Planning & Sustainability's presentation to the Public Forum on 17 September 2013;

"In considering the application, the GSJDAP is required to consider the planning merits of an application and is bound by the provisions of the Shire of Denmark's Town Planning Scheme No. 3 (TPS No. 3).

Matters that GSJDAP will take into consideration with this planning application include the following:

Land Use Permissibility Provisions

- Site is zoned "Commercial" in TPS No. 3.
 - "Shopping Centre" land use is a "P" use as per Table 1 – Zoning Table of TPS No. 3
- *is a permitted land use provided the relevant standards and requirements of TPS No. 3 are complied with (that is the use cannot be refused).*

Development Standards of TPS No. 3

- Table 2 – Development Standards: setbacks, site coverage, landscaping
- Clause 5.11: Amenity
- Clause 5.12: Nuisance
- Clause 5.13: Loading and Unloading of Vehicles
- Clause 5.14: Loading Bays
- Clause 5.17: Refuse Storage Areas
- Clause 5.20: Vehicle Access Ways
- Clause 5.21: Off Street Parking and Appendix XI – Parking Standards
- Clause 5.28: Development on Land Abutting a Residential Zone
- Clause 5.30: Control of Advertisements

Relevant Town Planning Scheme Policies

- Planning Policy 15: Townscape Policy
- Planning Policy 26.1: South Coast Highway Commercial Developments
- Planning Policy 31: Commercial Strategy
- Planning Policy 32: Signs
- Planning Policy 42: Public Art

As per Clause 8.2.4 of TPS No. 3, Town Planning Scheme Policies shall not bind the GSJDAP in respect of any planning application but they shall take into account the provisions of the policy and the objectives which the policy was designed to achieve before making its decision."

Budget / Financial Implications:

There are no known financial implications upon the Council's current Budget or Plan for the Future relating to the report or officer recommendation at this stage.

Strategic Implications:

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

Sustainability Implications:**➤ Environmental:**

The report highlights the built form considerations of the development and the perception and judgements of its contribution to the Denmark Streetscape. The report also highlights the potential for concern of storm water management onto Council's abutting Hamilton Reserve.

➤ Economic:

The Council could seek to influence conditions that could be imposed by the GSJDAP that makes the development less feasible. The author has not taken such concerns into consideration and presumes that the Council and community are seeking appropriate built form and development outcomes over economic outcomes (no trade-offs have been considered). This principle is also supported by the Attachment 8.5.1 e).

➤ Social:

The background of the genesis of this report acknowledges that the author has made the assumption, from both the previous 2009 application, together with initial elected member and community interest in it, that the community will wish to make significant comment on the development application during the advertising period. If that is not the case, then a submission is not required and the Council can allow the officer report to be assessed by the GSJDAP on its planning merits.

In the opinion of the author it can be also be assumed that the public will wish to make significant comment like it did with the previous proposal in 2009.

It is for this primary reason that the report recommends that Council consider making its own submission with respect to the application, albeit whether be in support of the professional officers opinion or to whatever extent necessary, if required, against it.

Of course the dilemma is, that the Council and elected members, nor for that matter the CEO, will, in accordance with the principles espoused in the DAP Regulations and guidance notes, be able to view or influence the officers report until it is 'published' approximately 10 days prior to the proposed GSJDAP Meeting, approximately one week prior to the meeting, which will be after the close of the submission period. Hence the need to consider the merits of whether Council may wish to make a submission on the matter at this point in time.

Voting Requirements:

Simple majority.

OFFICER RECOMMENDATION**ITEM 8.5.1**

That with respect to the planning application for a Proposed Shopping Centre Development on No. 82-90 (Lot 50) South Coast Highway, Denmark, Council make a submission with respect to the development prior to the close off date of 4 October 2013 in accordance with the following principles:

1. That the Council supports the principle of the development and the need for a modern and attractive shopping centre providing greater variety and availability of products on the relatively flat and appropriately zoned lot.
2. That in the opinion of Council the general appearance and aesthetic qualities of the building as currently designed, particularly taking into account its role as the western entry point to the CBD and its low roof pitch, and large setback, is a poor contribution to the Denmark CBD architecture and streetscape and not reflective of the character of Denmark.

3. That notwithstanding the need to take into consideration the potential future need for widening of the South Coast Highway by MRWA, that the failure to achieve a desired minimal built form front setback to South Coast Highway combined with the negative impression of the prevailing large carpark is inconsistent with the intent and objects of Council's adopted Town Planning Policies and CBD streetscape and detracts from the village feel of Denmark, and would provide poor options for pedestrian movement and connectivity, particularly taking into account Denmark's weather.
4. That in the opinion of Council the combination of a larger than desired front setback (from South Coast Highway) and less than desired rear setback (to Amaroo Village Denmark) will contribute to negative amenity and other impacts on the Amaroo Village residents in terms of additional plant and unloading noise and building heights closer to their development.
5. That the Council expects that the proponent of the development will be required to provide to Council's adopted standards, the provision of a dual use path abutting the development on its Hardy Street and South Coast Highway frontages.
6. That the Council expects that the proponent of the development will be required to provide to Council's adopted standards, the upgrading of Hardy Street and its intersection with Mt Shadforth Road, to cater for the predicted traffic generated by the development.
7. That in the opinion of Council there will be significantly greater impact on the intersections of South Coast Highway with Hardy Street and Ocean Beach Road than predicted within the traffic study and associated reports and it will be critical for MRWA to ensure that appropriate methodology and local variations are taken into account when setting conditions, to ensure that options for long term planning for the projected and foreseeable traffic projections and associated road designs (greater than 10 years), are not compromised.
8. That the Council advise MRWA and the GSJDAP that any potential intersection or traffic design treatments that deny existing vehicle configurations and movements to the pre-existing Visitor Centre will not be accepted.
9. Council advise the proponent and GSJDAP that it is prepared to consider the use of the adjoining Reserve Number 46256 (Hamilton Reserve) both to assist the proponent in meeting its storm water management obligations and to connect with Amaroo Village Denmark, if that is the wish of the governing organisation Amaroo Care Services, subject to appropriate best practice management storm water practices being implemented both onsite and offsite through the reserve and subject to appropriate community infrastructure being provided to the Reserve to the satisfaction of the Council to provide pedestrian connectivity to the South Coast Highway and, if deemed acceptable, to Amaroo Village, Denmark.

COUNCIL RESOLUTION	ITEM 8.5.1
MOVED: CR SYME	SECONDED: CR MORRELL
<p>That with respect to the planning application for a Proposed Shopping Centre Development on No. 82-90 (Lot 50) South Coast Highway, Denmark, Council make a submission with respect to the development prior to the close off date of 4 October 2013 in accordance with the following principles:</p> <ol style="list-style-type: none"> 1. That the Council supports the principle of the development and the need for a modern and attractive shopping centre providing greater variety and availability of products on the relatively flat and appropriately zoned lot. 2. That in the opinion of Council the general appearance and aesthetic qualities of the building as currently designed, particularly taking into account its role as the western entry point to the CBD and its low roof pitch, and large setback, is a poor contribution to the Denmark CBD architecture and streetscape and not reflective of the character of Denmark. 	

3. That notwithstanding the need to take into consideration the potential future need for widening of the South Coast Highway by MRWA, that the failure to achieve a desired minimal built form front setback to South Coast Highway combined with the negative impression of the prevailing large carpark is inconsistent with the intent and objects of Council's adopted Town Planning Policies and CBD streetscape and detracts from the village feel of Denmark, and would provide poor options for pedestrian movement and connectivity, particularly taking into account Denmark's weather.
4. That in the opinion of Council the combination of a larger than desired front setback (from South Coast Highway) and less than desired rear setback (to Amaroo Village Denmark) will contribute to negative amenity and other impacts on the Amaroo Village residents in terms of additional plant and unloading noise and building heights closer to their development.
5. That the Council expects that the proponent of the development will be required to provide to Council's adopted standards, the provision of a dual use path abutting the development on its Hardy Street and South Coast Highway frontages.
6. That the Council expects that the proponent of the development will be required to provide to Council's adopted standards, the upgrading of Hardy Street and its intersection with Mt Shadforth Road, to cater for the predicted traffic generated by the development.
7. That in the opinion of Council there will be significantly greater impact on the intersections of South Coast Highway with Hardy Street and Ocean Beach Road than predicted within the traffic study and associated reports and it will be critical for MRWA to ensure that appropriate methodology and local variations are taken into account when setting conditions, to ensure that options for long term planning for the projected and foreseeable traffic projections and associated road designs (greater than 10 years), are not compromised.
8. That the Council advise MRWA and the GSJDAP that any potential intersection or traffic design treatments that deny existing vehicle configurations and movements to the pre-existing Visitor Centre will not be accepted.
9. Council advise the proponent and GSJDAP that it is prepared to consider the use of the adjoining Reserve Number 46256 (Hamilton Reserve) both to assist the proponent in meeting its storm water management obligations and to connect with Amaroo Village Denmark, if that is the wish of the governing organisation Amaroo Care Services and the Residents' Committee on behalf of the residents, subject to appropriate best practice management storm water practices being implemented both onsite and offsite through the reserve and subject to appropriate community infrastructure being provided to the Reserve to the satisfaction of the Council to provide pedestrian connectivity to the South Coast Highway and, if deemed acceptable, to Amaroo Village, Denmark.
10. Seeking approval for the Council's Chief Executive Officer or his representative to present Council's concerns in relation to the matter to the GSJDAP.

CARRIED: 7/1

Res: 101013

REASONS FOR CHANGE

Council included the words "and the Residents' Committee on behalf of the residents" in part 9 and added part 10.

Cr Sampson requested that all Councillors' votes on the above resolution be recorded.

FOR: Cr Pedro, Cr Lewis, Cr Gillies, Cr Seeney, Cr Sampson, Cr Morrell & Cr Syme.

AGAINST: Cr Hinds.

Prior to consideration of Item 8.5.2 the Chief Executive Officer, through the Presiding Person, brought to the attention of the meeting the following disclosure(s) of interest:

The Chief Executive Officer, the Director of Planning & Sustainability and the Director of Community & Regulatory Services declare financial interest on the basis that the Policy relates to a condition of their employment.

8.5.2 DESIGNATED SENIOR STAFF HOUSING POLICY P090101

File Ref:	Policy Manual
Applicant / Proponent:	Not applicable
Subject Land / Locality:	Not applicable
Disclosure of Officer Interest:	The CEO declares and financial interest in the policy as it relates to a condition of is employment
Date:	2 September 2013
Author:	Dale Stewart, Chief Executive Officer
Authorising Officer:	Dale Stewart, Chief Executive Officer
Attachments:	No

Summary:

This report recommends the Council give consideration to an amendment to its current senior staff housing policy to reflect greater encouragement for senior staff to own their own home within the Shire rather than renting. This has become relevant given one senior staff member has recently moved in a home constructed by that officer and another officer is due to move from a Council owned house into their own home in coming weeks.

The officer has questioned whether the policy is fair and equitable given it could be argued that it discourages ownership and encourages renting the way it is currently structured.

Background:

This report was included in the 20 August 2013 Council Agenda where Council resolved as follows (Resolution No. 160813);

“That the Item be deferred until the Council meeting of the 10 September 2013.”

The current situation with Council's senior staff is as follows;

- CEO - rents a Council house in accordance with the policy (rent free)
- Director of Finance & Administration – position vacant
- Director of Community & Regulatory Services – rents a private house
- Director of Planning & Sustainability – has recently moved from a private rental to her own home within the Shire
- Director of Infrastructure Services – currently rents a Council house at \$150 / week and is scheduled to move into his own home in coming weeks.

Comment:

The proposed policy is recommended to be changed as follows;

Objective

Council values its CEO and Designated Senior Employees living within the Shire due to the inherent social, economic and environmental benefits from living in the Shire that employs the individual. Whilst not a determining factor in selecting a preferred applicant, Council encourages living within the Shire through offering attractive housing incentives designed to attract and retain these employees.

Policy

Where the Council employs the CEO or a designated Senior Employee (S 5.37 of the Local Government Act 1995), it agrees to provide a rental subsidy on the following basis;

1. CEO designated house - rent free, noting a residential tenancy lease is still required;

2. *Designated Senior Officer in a Council supplied house – \$150 rent per week, noting a residential tenancy lease is still required;*
3. *If the officer lives within the Shire of Denmark in private residential tenancy rental – a rent subsidy payable direct to the landlord or the employee of up to \$200 per week;*
4. *If the CEO or officer lives within the Shire of Denmark in their own home – a payment of \$325 per week;*
5. *No rent subsidy will be applicable for any senior officer who resides outside of the Shire of Denmark boundary;*
6. *Noting that any tax payable under Federal Tax law such as Personal Income Tax or Fringe Benefits Tax as a result of any of the above payments (as the law is amended from time to time) are to be borne by the employee.*

Responsible Officer

The CEO is the responsible officer for implementing this policy.

The proposed changes reflects that the officer holding the position of CEO is treated the same as other senior officers in being encouraged to own their own home rather than renting and the change of the subsidy paid to any officer that owns their home increasing from \$250 per week to \$325 per week.

This has been calculated based on a deemed tax rate of 37c tax per dollar over \$80,000 of income plus 1.5c for Medicare. Thus if one was to deduct 38.50c for each dollar on \$325 of extra income, the net benefit retained by the employee would be \$200, equating to the same rent benefit that they would have enjoyed if they were renting privately and the rent was salary sacrificed (as permitted by the tax legislation).

Consultation:

Senior staff have requested the proposed policy change to not 'disadvantage' those that choose to own their own home rather than renting.

Statutory Obligations:

There are no known statutory obligations.

Policy Implications:

P090101 DESIGNATED SENIOR STAFF HOUSING POLICY

Objective

Council values its CEO and Designated Senior Employees living within the Shire due to the inherent social, economic and environmental benefits from living in the Shire that employs the individual. Whilst not a determining factor in selecting a preferred applicant, Council encourages living within the Shire through offering attractive housing incentives designed to attract and retain these employees.

Policy

Where the Council employs the CEO or a designated Senior Employee (S 5.37 of the Local Government Act 1995), it agrees to provide a rental subsidy on the following basis;

1. CEO designated house - rent free, noting a residential tenancy lease is still required;
2. Designated Senior Officer in a Council supplied house – \$150 rent per week, noting a residential tenancy lease is still required;
3. If the officer lives within the Shire of Denmark in private residential tenancy rental – a rent subsidy payable direct to the landlord or the employee of up to \$200 per week;
4. If the officer lives within the Shire of Denmark in their own home – a payment of \$250 per week;
5. No rent subsidy will be applicable for any senior officer who resides outside of the Shire of Denmark boundary. Any senior officer presently residing outside the Shire of Denmark boundary to retain their existing subsidy for the remaining term of their contract.
6. Noting that any tax payable under Federal Tax law such as Personal Income Tax or Fringe Benefits Tax as a result of any of the above payments (as the law is amended from time to time) are to be borne by the employee.

Responsible Officer

The CEO is the responsible officer for implementing this policy.

Budget / Financial Implications:

The current Budget has been adopted on the premise of the proposed policy amendment.

Strategic Implications:

Strategically the issue relates to the importance of attracting and retaining its senior staff in key positions.

Sustainability Implications:

➤ **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:**

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

Voting Requirements:

Simple majority.

COUNCIL RESOLUTION & OFFICER RECOMMENDATION	ITEM 8.5.2
MOVED: CR SYME	SECONDED: CR HINDS
<p>That Council amend Policy P090101 Designated Senior Staff Housing Policy such that it reads as follows;</p> <p><u>Objective</u> <i>Council values its CEO and Designated Senior Employees living within the Shire due to the inherent social, economic and environmental benefits from living in the Shire that employs the individual. Whilst not a determining factor in selecting a preferred applicant, Council encourages living within the Shire through offering attractive housing incentives designed to attract and retain these employees.</i></p> <p><u>Policy</u> <i>Where the Council employs the CEO or a designated Senior Employee (S 5.37 of the Local Government Act 1995), it agrees to provide a rental subsidy on the following basis;</i></p> <ol style="list-style-type: none"> <i>1. CEO designated house - rent free, noting a residential tenancy lease is still required;</i> <i>2. Designated Senior Officer in a Council supplied house – \$150 rent per week, noting a residential tenancy lease is still required;</i> <i>3. If the officer lives within the Shire of Denmark in private residential tenancy rental – a rent subsidy payable direct to the landlord or the employee of up to \$200 per week;</i> <i>4. If the CEO or officer lives within the Shire of Denmark in their own home – a payment of \$325 per week;</i> <i>5. No rent subsidy will be applicable for any senior officer who resides outside of the Shire of Denmark boundary;</i> 	

6. *Noting that any tax payable under Federal Tax law such as Personal Income Tax or Fringe Benefits Tax as a result of any of the above payments (as the law is amended from time to time) are to be borne by the employee.*

Responsible Officer

The CEO is the responsible officer for implementing this policy.

AMENDMENT

MOVED: CR GILLIES

SECONDED: CR SEENEY

That the amount of “\$325” in part 4 be amended to read “\$200”.

CARRIED: 6/5

Res: 090913

AMENDED MOTION

That Council amend Policy P090101 Designated Senior Staff Housing Policy such that it reads as follows;

Objective

Council values its CEO and Designated Senior Employees living within the Shire due to the inherent social, economic and environmental benefits from living in the Shire that employs the individual. Whilst not a determining factor in selecting a preferred applicant, Council encourages living within the Shire through offering attractive housing incentives designed to attract and retain these employees.

Policy

Where the Council employs the CEO or a designated Senior Employee (S 5.37 of the Local Government Act 1995), it agrees to provide a rental subsidy on the following basis;

1. *CEO designated house - rent free, noting a residential tenancy lease is still required;*
2. *Designated Senior Officer in a Council supplied house – \$150 rent per week, noting a residential tenancy lease is still required;*
3. *If the officer lives within the Shire of Denmark in private residential tenancy rental – a rent subsidy payable direct to the landlord or the employee of up to \$200 per week;*
4. *If the CEO or officer lives within the Shire of Denmark in their own home – a payment of \$200 per week;*
5. *No rent subsidy will be applicable for any senior officer who resides outside of the Shire of Denmark boundary;*
6. *Noting that any tax payable under Federal Tax law such as Personal Income Tax or Fringe Benefits Tax as a result of any of the above payments (as the law is amended from time to time) are to be borne by the employee.*

Responsible Officer

The CEO is the responsible officer for implementing this policy.

DEFERRAL MOTION

MOVED: CR SYME

SECONDED: CR GILLIES

That the matter be adjourned to the next Council meeting pending further consideration of the implications of the amended motion.

CARRIED: 10/1

Res: 100913

Given the outcome of the deferral motion, the Deputy Shire President requested that it be recorded which Councillors had already spoken to the original motion. It was determined that Cr Syme, as the mover, had reserved his right to speak to the motion, that Cr Hinds, as the seconder, had spoken to the motion and that Cr Morrell had spoken against the motion.

CEO comment to the meeting of 1 October 2013;

The Presiding Person should recommence this motion from this point of the debate.

The deferral motion referred to considering the implications of the motion.

In considering such implications, the officer believes that one must also consider the implications of *no change* to the current policy and or *deletion* of the policy altogether and other potential variations.

Perhaps the easiest option to consider is that of the status quo – the effect as if the motion was lost.

Such a result would have no effect on the entitlements of new or existing employees as it is the current policy and all employees have been employed on that basis. New senior (CEO and Designated) employees are always, by law, referred to Council for consideration and the Council therefor retains the right to alter the 'intent' or application of the Policy on a case by case basis.

Deletion or removal of the policy – the result of the current motion being lost and a new motion carried that the existing policy be repealed, is now considered.

Such a result would have no effect on the entitlements of the current CEO and Directors and soon to commence Director of Finance & Administration, who all contractual entitlements under their current contracts that would not be altered by a change in Council Policy. When contracts were due for consideration of renewal and or one Directors employed – they would presumably be offered without any reference to such a policy. This may have the effect of requiring an increased remuneration to meet market expectation and or have a negative impact on the availability and or productivity of the employee and or the economy of the Shire if subsequent employees chose to live outside of the Shire and commute for example. Perhaps hypothetical, but realistic given the situation that existed only 3 year ago when two of the Councils five senior staff did live outside of the Shire. Such a circumstance could also give rise to parity and equity issues if some Directors had entitlements and new or replacement Directors in similar 'positions' did not. That would not be palatable from an employee management perspective in the authors view (as the employing CEO). The author believes that the 'Objective' of the current and proposed policy is preferred and still valid. How the Council achieves that is the question perhaps?

The next option might be the effect of carrying the current motion on the table.

Such a result would have the effect of retaining the current policy with the slight amendments to part 4 being addition of the CEO as an eligible person and changing the sum paid from \$250 per week to either \$325 (officer recommendation) or \$200 (current motion). Carrying of the change to \$200 per week would in the opinion of the author be contrary to what the Director of Planning & Sustainability was employed on and the author would seek to implement, with the approval of the Council, that prior intent regardless of the carrying of the motion as a policy for future employees (lest Council wish to consider the likelihood of entering into a potential contract dispute / arbitration). Council has two other current Directors that do not have the policy in their current contracts, but the principle would be the same.

In summary, Council has no requirement, nor should there be an expectation, of current employed persons, that there is any entitlement to a change to the current policy to 'better' the employees previously known circumstances. They have entered into decisions regarding their location of residency and type of residency (rental versus purchase) knowing what their contracted entitlements are and what the Councils policy was / is, knowing that the Council can alter such policies that do not breach or override their employment contract, at any time.

If Council is not concerned about the location of residence of their senior officers it should repeal the policy and let market force dictate the remuneration. If Council supports the intent of the current objectives it should continue with the policy in some form. The officers stands by his original recommendation but understands that this 'rewards' two officers without justification per se, when those officers knew the policy wording prior to making decision to construct and occupy their own properties. The CEO believes the original policy of \$250 per week should be honoured in the least for these two employees. That is not to say the Council cannot amend the policy for any new employees.

If the Council wanted a simpler policy for future senior employees it could have the same 'Objective' and the clause "If the officer lives within the Shire, a taxable allowance of \$200 per week or discount to market if the officer rents an available Council house of \$200 per week. Noting that any tax payable under Federal Tax law such as Personal Income Tax or Fringe Benefits Tax as a result of any of the above payments (as the law is amended from time to time) are to be borne by the employee.

RESUMPTION OF MOTION

<p>COUNCIL RESOLUTION & DEFERRED MOTION</p> <p>MOVED: CR SYME</p> <p>That Council amend Policy P090101 Designated Senior Staff Housing Policy such that it reads as follows;</p> <p><u>Objective</u> <i>Council values its CEO and Designated Senior Employees living within the Shire due to the inherent social, economic and environmental benefits from living in the Shire that employs the individual. Whilst not a determining factor in selecting a preferred applicant, Council encourages living within the Shire through offering attractive housing incentives designed to attract and retain these employees.</i></p> <p><u>Policy</u> <i>Where the Council employs the CEO or a designated Senior Employee (S 5.37 of the Local Government Act 1995), it agrees to provide a rental subsidy on the following basis;</i></p> <ol style="list-style-type: none"> <i>1. CEO designated house - rent free, noting a residential tenancy lease is still required;</i> <i>2. Designated Senior Officer in a Council supplied house – \$150 rent per week, noting a residential tenancy lease is still required;</i> <i>3. If the officer lives within the Shire of Denmark in private residential tenancy rental – a rent subsidy payable direct to the landlord or the employee of up to \$200 per week;</i> <i>4. If the CEO or officer lives within the Shire of Denmark in their own home – a payment of \$200 per week;</i> <i>5. No rent subsidy will be applicable for any senior officer who resides outside of the Shire of Denmark boundary;</i> <i>6. Noting that any tax payable under Federal Tax law such as Personal Income Tax or Fringe Benefits Tax as a result of any of the above payments (as the law is amended from time to time) are to be borne by the employee.</i> <p><u>Responsible Officer</u> <i>The CEO is the responsible officer for implementing this policy.</i></p> <p>LOST: 1/7</p>	<p style="text-align: right;">ITEM 8.5.2</p> <p style="text-align: right;">SECONDED: CR HINDS</p> <p style="text-align: right;">Res: 111013</p>
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Cr Syme requested that the matter be included in a Briefing Session Agenda. The Chief Executive Officer noted that he would include it in the November 2013 Agenda.

8.5.3 SPECIAL MEETING – 22 OCTOBER 2013

File Ref:	CR.2
Applicant / Proponent:	Not applicable
Subject Land / Locality:	Not applicable
Disclosure of Officer Interest:	Nil
Date:	23 September 2013
Author:	Claire Thompson, Executive Assistant
Authorising Officer:	Dale Stewart, Chief Executive Officer
Attachments:	No

Summary:

Council is asked to consider setting a Special Meeting on 22 October 2013 for the purpose of election of the Shire President & the Deputy Shire President and the appointment of Elected Members to Committees, Working Groups & External Organisations / Agencies.

Background:

Nil

Comment:

The Local Government Elections for 2013 will be held on Saturday, 19 October 2013. Four Councillors will need to be sworn in, which should be held prior to the first Ordinary Meeting of Council, scheduled for Tuesday, 22 October 2013 at 4.00pm.

A Special Meeting will enable Council to deal with the Election of Shire President, the Deputy Shire President and the appointment of Elected Members to Committees, Working Groups & External Organisations / Agencies separately to ordinary Council business.

The alternative is to undertake these activities during the Ordinary Meeting scheduled for commencement at 4pm that day. The Officer is of the view that the Special Meeting business will, in itself, take approximately two hours.

Consultation:

Nil

Statutory Obligations:

The following legislation relates to Council meeting dates;

- Section 5.3 & 5.4 of the Local Government Act 1995 states;

5.3. Ordinary and special council meetings

- 1) *A council is to hold ordinary meetings and may hold special meetings.*
- 2) *Ordinary meetings are to be held not more than 3 months apart.*
- 3) *If a council fails to meet as required by subsection (2) the CEO is to notify the Minister of that failure.*

5.4. Calling council meetings

An ordinary or a special meeting of a council is to be held —

- a) *if called for by either —*
 - i. *the mayor or president; or*
 - ii. *at least 1/3 of the councillors, in a notice to the CEO setting out the date and purpose of the proposed meeting; or*
- b) *if so decided by the council.*

- Shire of Denmark Standing Orders Local Law (Part 2).

- Schedule 2.3 of the Local Government Act 1995 states that there is no requirement to schedule a special meeting for the purpose of elected a President & Deputy President if there is an Ordinary Meeting scheduled within 3 weeks of a local government election. Council does have the option of incorporating this process, the adoption of Charters for Council Committees and appointment of Council Delegates into the Agenda for the Ordinary Council Meeting of 22 October 2013.

Policy Implications:

There are no known policy implications.

Budget / Financial Implications:

There are no known financial implications upon the Council’s current Budget or Plan for the Future.

Strategic Implications:

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

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.

Voting Requirements:

Simple majority.

COUNCIL RESOLUTION & OFFICER RECOMMENDATION	ITEM 8.5.3
MOVED: CR SEENEY	SECONDED: CR HINDS
That Council convene a Special Meeting of Council for the purpose of election of the Shire President, the Deputy Shire President and the appointment of Elected Members to Committees, Working Groups & External Organisations / Agencies on Tuesday, 22 October 2013 commencing at 1.00pm, with the swearing in of the newly elected members scheduled for 12.30pm on that same day.	
CARRIED: 8/0	Res: 121013

9. COMMITTEE REPORTS & RECOMMENDATIONS

9.1 CEMETERY ADVISORY COMMITTEE – DENMARK CEMETERY CONCEPT DEVELOPMENT PLAN

File Ref:	A3212
Applicant / Proponent:	Cemetery Advisory Committee
Subject Land / Locality:	854 South Coast Highway, Denmark (Reserve 11655) – Denmark Cemetery
Disclosure of Officer Interest:	Nil
Date:	2 September 2013
Author:	Claire Thompson, Executive Assistant
Authorising Officer:	Dale Stewart, Chief Executive Officer
Attachments:	9.1 a) – Denmark Cemetery – Usage & Predictions 9.1 b) – Denmark Cemetery – Burial Ground Usage & Predictions 9.1 c) – Denmark Cemetery Development Concept Plan 9.1 d) – Denmark Public Cemetery – MHI Place Record 9.1 e) – Budget Estimates

Summary:

Council’s Cemetery Advisory Committee has established a draft Development Concept Plan for the Denmark Cemetery. The Committee is requesting that Council endorse the draft Plan and authorise it to be advertised inviting feedback from members of the public.

Background:

The Denmark Cemetery (Reserve 11655) was established in 1910 after the then Cemetery Trustees received £25 pounds from the Minister of Lands to clear half an acre in the cemetery reserve. The management of the Cemetery was handed over to the Denmark Roads Board in 1943.



Figure 1 - Aerial Reserve 11655 – Denmark Cemetery

In 1997 Council held a 'Blessing of the Cemetery' service which also formalised that the burial ground was now a 'general' cemetery and no longer denominational (divided into different sections for different religions).

In 1998, with many hours of research and the assistance of the Denmark Historical Society, Council marked all of the unmarked graves, using stone which had been previously donated by the late Bill Pinniger. Many relatives also made a financial contribution to the marking project. At the same time the Denmark Historical Society documented all of the headstones to add the information to the Public Records Office.

Today, the Denmark Cemetery has 1,876 interments (burials & placement of ashes). There is no other land within the Shire of Denmark which is permitted (by the Minister) to be used for new burials.

The Committee's main priority is to ensure that the new burial ground is plotted and ready to be used before it is predicated to be required in 2023. This gave rise to the Committee's request for funds from Council to consider the overall future development (landscape plan), desires and requirements (including maintenance and aesthetics) of the whole Reserve and establish a draft Plan.

Comment:

Council included \$2,000 in the 2012/13 Budget for the Cemetery Advisory Committee to undertake the task of developing a long term plan, including landscaping, for the Denmark Cemetery on Reserve 11655.

The Metropolitan Cemeteries Board (MCB) referred the Committee to their former planning manager, Mr Chris Cafferata, who had recently retired to Albany. After onsite meetings and much advice from the Committee on agreed principles, objectives, requirements and needs projections, Mr Cafferata developed the attached draft Development / Landscape Concept Plan which has been endorsed by the Committee.

In formulating the draft Plan, the Committee referred to statistics and trends over the last 10 – 15 years, both local and industry based. Attached are current statistics for the Cemetery, the existing Burial Ground and the Niche Facilities (for ashes).

The tables have been produced using the following principles and assumptions;

- Figures are based on numbers of spaces available to use or reserve. (Reserves are counted as used).
- Population growth continues at a minimum of 2% pa.
- Average age of the population is 47.1.
- Living Longer, Living Stronger – Baby Boomers.
- Double niches are counted as singles.
- Introduction of new niche wall (Kingia Australis) means that usage of Jacksonii & Ficifolia niche walls are expected to diminish.
- Introduction of new Natural Earth Burial area is not expected to change the level of use of the traditional burial ground – whilst there has been some interest in Natural Earth Burials in Denmark, officially, Officers have only received one formal request (in 2008).
- Niche Walls: average of 8.56 interments per year. New option required by 2024.
- Memorial Tree: based on predicted use.

REALISATIONS

- Need to encourage people to use the Jacksonii & Ficifolia Niche Walls;
- Burial Ground average of 9.4 burials per year.
- Need to open up the new burial ground no later than 2020 – this will leave approximately 30 available in the old section (as a safeguard);

- Provision of a dedicated area for Natural Earth Burials (resolved at Committee Meeting in April 2012), this could take pressure off the existing burial ground if, once the provision is made, people take up the option;
- Trend of 35% burials to 65% cremations – could see greater need for memorialisation options (more people scattering or keeping ashes rather than interring);
- Niche Walls should last for approximately 42 years (averaging five new uses pa).

The following principles were considered when considering the potential / requirement for future development of the Cemetery;

- The needs of customers;
- The desires of customers (including Natural Earth Burials);
- Population growth and dynamics;
- Accessibility;
- Interment trends – burials vs ashes placement vs memorialisation;
- Ongoing maintenance – cost and resources;
- Availability of resources – such as power (not currently available at the site) and water;
- Environment – sustainability & climate change;
- Land use – ensuring that maximum use is obtained from the reserved area;
- Existing vegetation.

The Attached draft Concept Development Plan in the first stage in eventually creating a Business Plan for the Denmark Cemetery. The Committee want to ensure that the Cemetery provides the ‘products’ that are desired and required by Residents and Ratepayers into the future.

The Officer supports the draft Plan and, like the Committee, would welcome community / Council input at this early stage. It is proposed that following community consultation, the draft Plan and any submissions will again be considered by the Committee and a implementation (including staging options) plan will be developed for budget consideration in future years.

At their meeting held on the 7 August 2013 the Cemetery Advisory Committee made the following recommendation;

“That the Cemetery Advisory Committee recommend that Council endorse the attached Denmark Cemetery Development Plan for the purpose of seeking community comment.”

Consultation:

Members have;

- Worked closely with a former Planning Manager of the Metropolitan Cemeteries Board (which entails Fremantle, Midland, Karrakatta, Guildford, Rockingham & Pinnaroo Cemeteries);
- Visited Allambie Park Cemetery in Albany, receiving a guided tour from the Manager;
- Visited the newly established section(s) of the Mt Barker – guided tour with Shire of Plantagenet Officers responsible for the day to day management of the Mt Barker Cemetery; and
- Considered feedback it has received from;
 - Funeral Directors;
 - Monumental Masons;
 - General Public – including feedback received ad-hoc together with comments and ratings extracted from the 2010 & 2012/13 Community Needs & Customer Satisfaction Surveys; and
 - Relatives and friends of loved ones at the Cemetery.

Members agreed that the Plan should be advertised locally in the Denmark Bulletin but also in the Albany Advertiser and the Walpole Weekly to capture as many families,

Residents and Ratepayers who may have an interest in any future development at the Denmark Cemetery.

Statutory Obligations:

Section 24 of the Cemeteries Act 1986 relates;

24. Management of Cemeteries

(1) A Board shall –

- a) Set aside areas of a cemetery for burials; and*
- b) Preserve and maintain a cemetery in a safe, clean and orderly condition.*

(2) A Board may –

- a) Set aside areas of a cemetery for and provide crematoria, chapels, parks, gardens, landscaping, buildings and other works for the effective operation of a cemetery.*

Shire of Denmark Cemetery (Reserve 11655) Local Law 2000 – there is nothing in the current Local Law which contradicts or prevents Council from endorsing the draft Development Concept Plan and proceeding to advertise for public comment.

Policy Implications:

There are five Council Policies which relate to the Cemetery however none of them have any implications on the Report or the Committee & Officer Recommendation. The Policies are:

P100701 DENOMINATIONAL SIGNS - DENMARK CEMETERY

Denominational signs not be permitted.

P100702 SHRUBS AND TREES - DENMARK CEMETERY

Council allow relatives to plant specified unmarked trees in specified areas in remembrance.

P100703 PRIVATELY CONDUCTED FUNERALS & PLOT/NICHE RESERVE HOLDERS

Council adopt the following standards for privately conducted funerals at the Denmark Cemetery;

1. The vehicle to carry the coffin be of suitable type and large enough to entirely contain coffin.
2. The coffin be of sturdy construction and if roughly made, to be draped with a plain cloth.
3. The funeral ceremony be conducted in a respectful manner so as not to give offence to other cemetery visitors or the public.

P100704 PLOT & NICHE COMPARTMENT RESERVE HOLDERS

Every 5 years Council will write to plot and niche compartment reserve holders to ascertain their ongoing intentions. (Last done 2013).

P100706 CEMETERY INCOME

Objective

To ensure that all surplus income over expenditure inclusive of depreciation in relation to the Denmark Cemetery are transferred to the Cemetery Reserve Fund.

Policy

Council annually include in its Budget the following principle; That any surplus income over expenditure (including depreciation) at the Denmark Cemetery at the conclusion of a financial year is to be transferred to a Cemetery Reserve Fund to then be utilised for future upgrading, expansion, refurbishment of facilities and/or additional facilities.

Responsibility for implementation

The Director of Finance & Administration is responsible for implementing this policy.

P100707 RELAXATION OF HEADSTONE ONLY POLICY AT THE DENMARK CEMETERY

That Clause 7.1 of the Shire of Denmark Cemetery Local Law titled Headstone Only Allowed on Grave, be relaxed for the current 'old' section of the Denmark Cemetery.

In addition, Council's Community Consultation Policy (P040123) also relates and has been utilised in the development of the consultation plan.

Budget / Financial Implications:

The cost of advertising the draft Plan in the Denmark Bulletin and the Walpole Weekly will be approximately \$500 and can be accommodated from Council's existing General Administration – Advertising Budget.

It is estimated that the total cost of implementing the plan is around \$150,000, refer to Attachment 9.1 e), however this can be funded at Council's discretion, separated into many smaller projects (ranging from \$3,000 up to \$30,000 per project) and/or included in Council's Long Term Financial Plan. From the Committee's perspective the only critical project within the plan is the surveying and plotting of the new burial section, an element estimated to cost around \$3,000 which should be funded by Council no later than the 2020/2021 financial year to ensure that the Denmark Cemetery doesn't 'run out' of burial plots.

At this stage, the Committee is only requesting that Council endorse the draft Plan for the purpose of advertising.

The concept Development Plan makes provision for a number of alternative interment or memorialisation options for ashes and also provides for Natural Earth Burials (an alternative to traditional burials). Whilst the exact location and extent of these extra provisions has not yet been determined at this early stage, each provision will eventually provide a placement which Council can then 'grant the use of' at a fee determined by the Council.

Strategic Implications:

Pursuant to Section 24 of the Cemeteries Act 1986 it is the responsibility of a Board to set aside areas of a Cemetery for burials. Attachment 9.1 indicates that there could, potentially, be no new areas (plots) left in the current section for burials after 2023. For this reason alone it is important that plans be made to plot and open up the new section to allow families to continue to use the reserve for burials. The Committee has, over the years, agreed that it is important to link the old section with the new to create a synergy and reduce the appearance of separation (of 'old' and 'new').

Sustainability Implications:

➤ **Environmental:**

Environmental considerations have been considered during the development of the draft Plan for the reserve including climate change and existing vegetation.

➤ **Economic:**

Most Cemetery Boards (in this case the Council) like to ensure that they achieve maximum use from the reserved area so that the reserve is utilised to its maximum potential.

➤ **Social:**

Cemeteries provide a final resting place for loved ones where relatives, friends and visitors can pay their respects to those who have passed before. They are of great historical significance for the names and dates of those deceased and the headstones and memorialisation provide an insight into the trends of different eras.

In the Officer’s opinion, Cemeteries and Burial Grounds are becoming more and more significant and visited, particularly over the past few years where there has been an increase in people researching their Ancestry.

A dignified, well maintained (looked after) final resting place for loved ones is extremely important to relatives and friends of those who have past.

As a trend within the Cemetery Industry, many people are also looking for alternatives to traditional grave sites and niche compartments which is why the Cemetery Advisory Committee are looking to provide for many alternatives within the plan such as memorial rocks, placement on or near existing structures within the Cemetery, garden memorials and placements on kerbs for either ashes or just plaques.

The Denmark Public Cemetery is listed in the Shire of Denmark’s Municipal Heritage Inventory (MHI) as a place of considerable significance. (A copy of the Place Record is attached).

Voting Requirements:
Simple majority.

6.52pm – *The Director of Planning & Sustainability left the room & did not return.*

<p>COUNCIL RESOLUTION & COMMITTEE & OFFICER ITEM 9.1 RECOMMENDATION MOVED: CR PEDRO SECONDED: CR GILLIES</p> <p>The with respect to the draft Concept Development Plan for the Denmark Cemetery on Reserve 11655, 854 South Coast Highway, Council endorse the plan for the purpose of advertising, in the Denmark Bulletin, the Albany Advertiser and the Walpole Weekly, seeking public comment for a period of 28 days.</p> <p>CARRIED: 8/0 Res: 131013</p>
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10. MATTERS BEHIND CLOSED DOORS
Nil

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

12. CLOSURE OF MEETING

7.02pm - There being no further business to discuss the Presiding Person, Deputy Shire President, Cr Sampson, declared the meeting closed.

<p>The Chief Executive Officer recommends the endorsement of these minutes at the next meeting.</p> <p>Signed: _____ <i>Gregg Harwood –Acting Chief Executive Officer</i></p> <p>Date: _____</p> <p>These minutes were confirmed at the meeting of the _____</p> <p>Signed: _____ <i>(Presiding Person at the meeting at which the minutes were confirmed.)</i></p>
