



# Minutes

## ORDINARY MEETING OF COUNCIL

HELD IN THE COUNCIL CHAMBERS,  
953 SOUTH COAST HIGHWAY, DENMARK ON TUESDAY,  
10 SEPTEMBER 2013.

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# Ordinary Council Meeting

10 September 2013

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**1. DECLARATION OF OPENING/ANNOUNCEMENT OF VISITORS**

4.07pm – *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 Barbara Marshall (*from 5.18pm*)
- Cr David Morrell
- Cr Ian Osborne
- Cr Dawn Pedro
- Cr Belinda Rowland
- 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:

- Mr Rob Whooley (Director of Infrastructure Services)

ON LEAVE OF ABSENCE:

- Cr Ross Thornton (Shire President)

ABSENT:

Nil

VISITORS:

- Members of the public in attendance at the commencement of the meeting: 13
- Members of the press in attendance at the commencement of the meeting: Nil

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	The item relates to a condition of Mr Harwood's employment.

**3. ANNOUNCEMENTS BY THE PERSON PRESIDING**

*The Deputy Shire President announced that he would like to acknowledge 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.*

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

Ms Perry asked whether there was any reason why Kwoorabup Community Park couldn't continue to be used for people walking their dogs. Ms Perry noted that it was important for Council to consider the age and agility of residents with dogs and that Kwoorabup Community Park was in a very accessible location.

*The CEO responded stating that to permit dogs near a child's Adventure Park or Nature playground was not something that Council would usually support as it could potentially be a dangerous mix of use. The CEO stated that whilst the Kwoorabup Community Park was being developed Rangers had not policed people walking their dogs without a leash, however the Park had never been formally acknowledged as a dog “off lead” area. The CEO added that the purpose of the report was to request Council's approval to advertise the strategy and that Ms Perry and others were encouraged to forward a formal submission during the advertising period.*

##### 4.2.2 Ms Barbara Kennedy – Item 8.2.1 (“Dogtopia” Dog Park & “Off Lead” Exercise Strategy)

Ms Kennedy noted that the Kwoorabup Community Park was well used by dog owners particularly those who may find it difficult to walk in other places. Ms Kennedy asked Council to consider the suitability of each of the proposed locations particularly in relation to ease of access and urged Council to consider the health benefits of dog ownership which included social interaction and exercise.

##### 4.2.3 Mr Adrian Birdseye – Item 8.2.1 (“Dogtopia” Dog Park & “Off Lead” Exercise Strategy)

Mr Birdseye referred to a recreational area in Carine, within the City of Stirling, where there was a mixture of uses including children playing & dog exercising stating that he believed the area worked well and that perhaps it was a model which Council could look into. Mr Birdseye added that perhaps a timing approach could be considered where different uses were allowed at different times of the day.

##### 4.2.4 Ms Wendy Wade – Item 8.2.1 (“Dogtopia” Dog Park & “Off Lead” Exercise Strategy)

Ms Wade suggested that perhaps a fence around the playground at Berridge Park could not only serve to separate dog exercise and playground areas but

also provide added safety for children given the proximity of the playground to the Denmark River and the car park.

**4.2.5 Ms Gill Gow – Item 8.2.1 (“Dogtopia” Dog Park & “Off Lead” Exercise Strategy)**

Ms Gow stated that she agreed with Council’s intention and urged Council to also consider the matter from a tourism perspective as she was aware of people that had visited the Shire who had been disappointed with the lack of facilities that were available for them as dog owners.

**4.3 QUESTIONS BY MEMBERS OF WHICH DUE NOTICE HAS BEEN GIVEN**

Nil

**4.4 PRESENTATIONS, DEPUTATIONS & PETITIONS**

Nil

**5. APPLICATIONS FOR LEAVE OF ABSENCE**

Nil

**6. CONFIRMATION OF MINUTES**

**6.1 ORDINARY COUNCIL MEETING**

OFFICER RECOMMENDATION

ITEM 6.1

That the minutes of the Ordinary Meeting of Council held on the 20 August 2013 be confirmed as a true and correct record of the proceedings, subject to the following amendments;

Page 42 – Resolution No. 170813, correct the figure of “\$225,000” in part 7 to read “\$215,000”.

**COUNCIL RESOLUTION**

ITEM 6.1

MOVED: CR PEDRO

SECONDED: CR GILLIES

That the minutes of the Ordinary Meeting of Council held on the 20 August 2013 be confirmed as a true and correct record of the proceedings, subject to the following amendments;

1. Page 42 – Resolution No. 170813, correct the figure of “\$225,000” in part 7 to read “\$215,000”; and
2. Page 5 – Resolution 010813, correct the date in part 1 from “10 September 2013” to “1 October 2013”.

CARRIED: 10/0

Res: 010913

**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 THIRD HOUSE – NO. 986 (LOT 40) HAZELVALE ROAD, HAZELVALE

<b>File Ref:</b>	A5112 (2013/107)
<b>Applicant / Proponent:</b>	B Hexter
<b>Subject Land / Locality:</b>	No. 986 (Lot 40) Hazelvale Road, Hazelvale
<b>Disclosure of Officer Interest:</b>	Nil
<b>Date:</b>	23 August 2013
<b>Author:</b>	Annette Harbron, Director of Planning & Sustainability
<b>Authorising Officer:</b>	Annette Harbron, Director of Planning & Sustainability
	8.1.1a – Plans of Proposed Development
	8.1.1b – Building Number References of Approvals Issued
<b>Attachments:</b>	8.1.1c – Town Planning Scheme Policy No. 7: Second Dwellings/Additional Houses and Chalet Developments on Rural Zoned Lots

#### Summary:

The proponent is seeking Planning Approval for a Third House at No. 986 (Lot 40) Hazelvale Road, Hazelvale.

After due assessment of the proposal, Planning Services are recommending that the planning application be refused on the basis that approval to a third house in this instance is not justified primarily from a rural enterprise operational management perspective having regard to the nature of the lot with a lot size of approximately 28 hectares.

#### Background:

##### Current Planning Application 2013/107

An application for Planning Approval was lodged with Planning Services on 4 June 2013 for a Third Dwelling on-site - refer Attachment 8.1.1a.

Essentially the application is seeking Council approval to allow the existing approved Single House to be retained for such purpose – noting that it is currently conditioned to be decommissioned upon completion of a new Single House in the northern portion of the property.

The applicant's justification for the Third House is as follows:

*Due to change in circumstances, we would like to obtain approval for the building that is currently the subject of a temporary approval for human habitation to be used as a manager's/caretaker's residence due to reasons being:*

- *We are now in the final stages of applications with Fisheries WA in operating an aquaculture marron farming business – farm is registered as Lakeview Marron Farm.*
- *Due to employment commitments taking Brett away from the property for long periods of time, we would like someone to assist in farm security and general duties.*
- *The other joint owners of the property are in no way involved in our aquaculture enterprise on the property.*
- *We have cattle (8 breeders plus and bull and calves) on one half of the property (eastern side) with about 30 cattle on the other half of the property (western side).*

Although not specifically stated in the application documentation, the Director of Planning & Sustainability is aware that the property is currently owned by 2 brothers and their wives respectively, with the two families running the farm as two separate entities due to family circumstances. In this regard the property has been fenced, with each family having approximately 14 hectares each for their own use independent of the other.

### History of Development Proposals & Associated Approvals

There are five (5) buildings on-site (completed and/or under construction) and the associated approvals for each building are detailed below – refer Attachment 8.1.1b for building number references.

#### Building 1 (NB: this is the building that is the subject of the current application)

- Planning Approval 228/2007 and Building Permit 6400 for a Rural Outbuilding was issued in October 2007. The building the subject of these approvals is the building the subject of this current application.
- Planning Approval 20/2009 and Building Permit 6671 for Change of Use: Outbuilding to Single House was issued in March 2009.

#### Building 2

- Planning Approval 283/2008 and Building Permit 6410 for a Rural Outbuilding was issued in November 2007.
- Planning Approval 65/2009 and Building Permit 6712 for Change of Use: Outbuilding to Single House was issued in April 2009 and May 2009 respectively.

#### Building 3

Planning Approval 151/2008 and Building Permit 6462 for a Rural Outbuilding was issued in March 2008.

#### Building 4

Planning Approval 221/2009 and Building Permit 6850 for a Rural Outbuilding was issued in November 2009 and December 2009 respectively.

#### Building 5

Planning Approval 2010/205 and Building Permit 7050 for a Single House was issued in January 2011 and March 2011 respectively.

A condition of Planning Approval 2010/205 was that the existing approved Single House (being the one referenced as Building 1 on Attachment 8.1.1b) could be used for temporary accommodation whilst the Single House the subject of Planning Approval 2010/205 was being constructed and needed to be decommissioned accordingly once the Single House was completed. To date the Single House the subject of Planning Approval 2010/205 has been constructed to lock-up stage however the bathrooms, laundry and kitchen areas were still requiring considerable work to be undertaken to ensure the building was deemed 'habitable' as per the Building Code of Australia and *Health Act 2011* provisions.

It should be noted that the original application was for the Single House to be classified as Ancillary Accommodation to provide accommodation on-site for the applicant's parents. This application was advertised for public comment with one (1) objection received from an adjoining landowner. The matter was proposed to be considered at the Ordinary Meeting (Decision Making) of Council to be held on 21 December 2010 however at the request of the applicant (being Denmark Survey & Mapping at the time) the item was withdrawn thus Council did not discuss or deal with the item.

In addition to the above approvals for building work, Planning Approval 2012/160 was issued in December 2012 for Proposed Aquaculture associated with existing dams on-site.

#### **Comment:**

No. 986 (Lot 40) Hazelvale Road is 28.172 hectares and is zoned "Rural" in accordance with Town Planning Scheme No. 3 (TPS No. 3). Clause 5.3.2 of TPS No. 3 states:

*“No more than two single houses shall be permitted on any lot in the Rural Zone, unless the written approval of Council is granted. Approval will not be granted if, in the opinion of Council, the use is deemed to conflict with Rural Multiple Occupancy zoning.”*

Town Planning Scheme Policy No. 7: *Second Dwellings/Additional Houses and Chalet Developments on Rural Zoned Lots* (refer Attachment 8.1.1c) provides criteria for consideration of additional houses on ‘Rural’ zoned lots and in this instance the following criteria is relevant:

- Additional Houses (total of three) – Council’s discretion
- Council Discretionary Approval Conditions (B):
  - 1) Any additional houses will need upon application to Council to substantiate that the dwelling is needed for management purposes of an existing rural enterprise.
  - 2) In consideration of a proposed venture, Council will require that substantial progress has been taken to bring the venture into operation.
  - 3) Requirements of a water source, road contribution(s), siting, effluent disposal and building materials will be as determined by Council.

Public advertising of the proposal was undertaken in accordance with Clause 6.4 of TPS No. 3 (refer ‘Consultation’ section of the report), with no submissions received.

It should be noted however that the Shire has been in receipt of regular complaints from an adjoining landowner regarding the occupation of the outbuildings on this site over a period of nearly 3 years. As a result, several site visits have been conducted by Planning Services, Building Services and Health Services staff on numerous occasions, with the most recent site visit conducted on 24 May 2013 by the Director of Community & Regulatory Services and Director of Planning & Sustainability given the extent of complaints that were being received.

In considering this application, the fundamental issue that Council needs to give consideration to is whether the additional dwelling is needed for management purposes of an existing rural enterprise on-site. As referenced by the applicant, there are two rural enterprises occurring on-site – cattle and aquaculture; with the two families operating rural enterprises independently of each other.

In this regard Planning Services notes that there are many rural zoned lots throughout the Shire (many that are larger than the property the subject of this current application) that have several rural enterprises on-site yet only have one (1) or two (2) houses on-site.

Planning Services have conducted research into whether other approvals have been issued for three houses on rural zoned lots and in this regard have ascertained that there were several approvals for three (or more) houses on rural zoned lots issued in the 1980’s subject to the owners entering into a legal agreement with the Shire of Denmark agreeing to an ex-gratia rates payment applying annually and that the owners would not apply for subdivision of the land. It should be noted that each of the properties that had received this form of approval were zoned “Rural Multiple Occupancy” with the introduction of TPS No. 3.

In considering the proposal, other issues for consideration are:

- The location of the dwelling at the rear of the property does not provide for security of the remainder of the property – noting however that this decision to locate the dwelling near the dam at the rear of the property was a decision of the landowner’s.
- As per the provisions of Policy No. 7, from a built form development perspective there is the ability for there to be a maximum of six buildings on-site – being two permanent residential dwellings and four chalets. This proposal is for three (3) permanent residential dwellings thus in terms of bulk, impact etc is not necessarily the maximum extent of built form development that could be considered on-site.



- The owners could apply for a subdivision proposal for the site and if approved there could be a total of four (4) residential dwellings on-site as per the provisions of Policy No. 7 (assuming lot subdivided into two parcels both greater than 10 hectares). In this regard it should be noted that at this point in time Planning Services consider that its position on a subdivision proposal may not be favourable primarily having regard to predominant lot sizes in the locality (noting that within a 3km radius of the subject site there are only two (2) freehold lots with areas less than 28 hectares).
- It is unfortunate that the current owners of the site in conflict, however this is not necessarily a valid planning reason for supporting the proposal.
- The use of this existing building for permanent residential purposes, resulting in three (3) houses on-site is not necessarily considered to be in conflict with the Rural Multiple Occupancy zoning.
- The building the subject of this application is existing and has been constructed to comply with the applicable Building Code of Australia requirements for a dwelling, thus there has been considerable outlay and expenditure by the landowners on this building that is currently required to be decommissioned by the landowner upon completion of the new dwelling.

After considering all of the above, although there is some merit that Council may wish to give its own due consideration to, from a planning perspective it is considered that approval to a third house in this instance is not justified primarily from a rural enterprise operational management perspective having regard to the nature of the lot with a lot size of approximately 28 hectares.

Should Council consider that this proposal is appropriate and are considering approving the application, the following is provided for Council's reference:

*That Council with respect to the planning application for the Proposed Third House at No. 986 (Lot 40) Hazelvale Road, Hazelvale, grant Planning Approval subject to the following:*

Conditions

1. *Development to be in accordance with the attached stamped approved plans dated 4 June 2013.*
2. *Approval to a Third House on the subject land shall not be viewed as providing a basis for subdivision of the land.*

*Advice Note:*

1. *Approval for the use of this building as a Third House hereby revokes the requirement associated with Planning Approval 2010/205 pertaining to the building to be decommissioned upon completion of the Single House the subject of Planning Approval 2010/205 and Building Permit 7050.*

**Consultation:**

External Consultation

- Applicant
- Three (3) adjoining landowners inviting comment on the proposal

Internal Consultation

- Development Co-ordination Unit

**Statutory Obligations:**

Town Planning Scheme No. 3 (TPS No. 3) specifies the pertinent development requirements for the site.

Should Council refuse this Planning Application, as per the provisions of the *Planning and Development Act 2005* the applicant can apply to the State Administrative Tribunal for a Right of Review.

**Policy Implications:**

Policy No. 7: *Second Dwellings/Additional Houses and Chalet Developments on Rural Zoned Lots* provides guidelines on the extent of additional houses on Rural Zoned Lots and associated conditions – noting that Clause 5.3.2 of TPS No. 3 states that no more than two single houses shall be permitted on any lot in the Rural Zone, unless the written approval of Council is granted. Approval will be not be granted if, in the opinion of Council, the use is deemed to conflict with Rural zoning.

Clause 8.2.5 of TPS No. 3 states:

*A Town Planning Scheme Policy shall not bind the Council in respect of any application for planning consent but the Council 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 Councils current Budget or Plan for the Future.

Should the applicant/owners apply to the State Administrative Tribunal for a Right of Review, the Shire of Denmark will need to cover its costs associated with such process – noting depending on the nature of the review expenses incurred could extend to legal representation costs.

**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.

<b>COUNCIL RESOLUTION &amp; OFFICER RECOMMENDATION</b>	ITEM 8.1.1
MOVED: CR GILLIES	SECONDED: CR SEENEY
That Council with respect to the planning application for the Proposed Third House at No. 986 (Lot 40) Hazelvale Road, Hazelvale:	
1. Refuse Planning Approval on the basis that the need for a third house for rural enterprise management purposes is not substantiated primarily having regard to the property having a lot size of approximately 28 hectares;	
2. Advise the applicant/landowner that the requirement for the decommissioning of the building upon completion of the Single House the subject of Planning Approval 2010/205 and Building Permit 7050 remains.	
CARRIED: 10/0	Res: 020913

<b>8.1.2 DRAFT PLANNING POLICY NO. 45: PLANNING APPLICATION PROCESS FOR HERITAGE PLACES</b>
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<b>File Ref:</b>	PLN.70K; PLN.8
<b>Applicant / Proponent:</b>	Shire of Denmark
<b>Subject Land / Locality:</b>	Not applicable
<b>Disclosure of Officer Interest:</b>	Nil
<b>Date:</b>	27 August 2013
<b>Author:</b>	Annette Harbron, Director of Planning & Sustainability
<b>Authorising Officer:</b>	Annette Harbron, Director of Planning & Sustainability
<b>Attachments:</b>	8.1.2 – Draft Planning Policy 45: Planning Application Process for Heritage Places

**Summary:**

The Shire of Denmark's Municipal Heritage Inventory (2011) provides a list of places which the community recognises as having cultural heritage significance – noting such significance may be the aesthetic, historic, scientific or social significance that the place may have for present and future generations.

Appendix VII - Schedule of Heritage Places in Town Planning Scheme No. 3 (TPS No. 3) contains 61 places – being those places listed in the Shire of Denmark's 1999 Municipal Heritage Inventory (which was superseded by the adoption of the 2011 Municipal Heritage Inventory). The Shire of Denmark's Municipal Heritage Inventory (2011) contains 123 listings and 20 listings on the review list.

TPS No. 3 requires that for planning applications pertaining to those places listed in Appendix VII – Schedule of Heritage Places are to be the subject of public notification prior to the application being determined. There is however no formal process/policy in place that ascertains how Planning Services will deal with planning applications on properties that are listed in the Municipal Heritage Inventory (2011) and not in TPS No. 3.

As a result, Planning Services have prepared Draft Policy 45: Planning Application Process for Heritage Places (draft Policy 45) for Council's consideration and adoption to facilitate public advertising in accordance with Clause 8.2.2 of TPS No. 3.

**Background:**

At its Ordinary Meeting of Council held on 28 June 2011, Council considered the Municipal Heritage Inventory (2011) and resolved the following:

**Res No: 150611**

*That Council with respect to the Municipal Heritage Inventory (June 2011):*

1. *Note the submissions received;*
2. *Adopt it as the final Municipal Heritage Inventory of the Shire of Denmark, thereby superseding the 1999 Municipal Heritage Inventory;*
3. *Advise submitters of Council's resolution;*
4. *Forward a copy of the final Municipal Heritage Inventory to the Heritage Council of Western Australia and the Denmark Historical Society for their records; and*
5. *Acknowledge the work undertaken by the Municipal Heritage Inventory Working Group in the review and process.*

**Res No: 160611**

*That Council with respect to the recommendations contained in State Planning Policy 3.5 – Historic Heritage Conservation request the CEO to have prepared report(s) in relation to:*

1. *Amending the Town Planning Scheme No. 3 having regard to the Model Scheme Text Part 7 – Heritage Protection provisions;*
2. *Preparation of a Heritage List and/or Heritage Areas as per the Model Scheme Text provisions in relation to Heritage Protection, using the Municipal Heritage Inventory*

*level of significance categories of "Exceptional" and "Considerable" as a guide in the first instance.*

3. *Preparation of a Draft Local Planning Policy on Heritage.*

Res No: 170611

*That Council with respect to the Municipal Heritage Inventory Review Working Group resolve that:*

1. *The Working Group have a continuing role of assisting Council and administration in the following areas:*
  - *Ongoing update of the MHI as and when required;*
  - *Continuing work and research on places referred to the Review List;*
  - *The proposed Scheme Amendment as it relates to heritage and the preparation of a heritage list;*
  - *The proposed Local Planning Policy on Heritage.*
2. *It reviews the Working Groups Terms of Reference to reflect its changed role.*

**Comment:**

At the Municipal Heritage Inventory Review Working Group meeting held on 27 August 2013, the Working Group discussed the risks and merits of delaying the development of a Heritage Policy and Heritage List Scheme Amendment to TPS No. 3 compared to awaiting the development of TPS No. 4 given Council's recent resolution to initiate a new Town Planning Scheme.

In this regard the Working Group members took into account the following:

- The role and purpose of the Municipal Heritage Inventory;
- The current heritage provisions in TPS No. 3;
- The Shire's current process of considering planning applications for Municipal Heritage Inventory listed properties;
- The role of State Planning Policy 3.5 in consideration of all planning applications;
- The Model Scheme Text provisions relating to Heritage Protection;
- The anticipated timeframes for TPS No. 4; and
- The differences between a Local Planning Policy and a Council Policy.

After due consideration of the above, the Working Group determined the following actions:

1. *Director of Planning & Sustainability to prepare a Local Planning Policy on the planning application process for Heritage Places for Council's consideration as soon as possible.*
2. *A Scheme Amendment to TPS 3 to be prepared by the Director of Planning & Sustainability for Council's consideration in due course, with the purpose of the Scheme Amendment being to add places into Appendix VII – Schedule of Heritage Places.*

*Specifically in relation to the Scheme Amendment:*

- a) *Director of Planning & Sustainability to provide a black & white hard copy of the 2011 MHI for Working Group Members as soon as possible;*
- b) *Working Group Members to review the 2011 MHI Place Record Forms and give consideration to those places denoted with a 'Considerable' Level of Significance being added to Appendix VII – Schedule of Heritage Places for discussion at the next Working Group meeting.*

Attached at Attachment 8.1.2 is draft Policy 45.

In summary, the key aspects of draft Policy 45 are as follows:

- Definition of 'Heritage Place', being:

- a) A place that is listed in the Shire of Denmark's Municipal Heritage Inventory (2011);
  - b) A place that is included on the Review List included in the Shire of Denmark's Municipal Heritage Inventory (2011);
  - c) A place that is listed in Appendix VII – Schedule of Places of Heritage Value in the Shire of Denmark's Town Planning Scheme No. 3; and/or
  - d) Any other place considered to have cultural heritage significance in accordance with the Heritage of Western Australia Act 1990.
- Public notification requirements are included, noting that referral of the proposal to the Denmark Historical Society and/or the State Heritage Office (depending on listing type) for comment is mandatory for all planning applications pertaining to a heritage place.
  - Inclusion of a condition that may be imposed on a planning approval pertaining to photographic archival record requirements.

It should be noted that Planning Services already administratively undertake the public notification requirements as referenced in draft Policy 45 thus there is no additional impost – moreso is now documented for the purposes of consistency, transparency and accountability.

**Consultation:**

As per Clause 8.2.2 of TPS No. 3, the draft Policy 45 is required to be advertised for public comment for a minimum period of 21 days. In this regard the following is proposed:

- Advertising notices in the Denmark Bulletin and Walpole Weekly inviting public comment on the proposal (NB: as per TPS No. 3 is required to be advertised for two consecutive weeks); and
- Advertising notice inviting public comment on the proposal being displayed at the Shire Administration Office, the Shire Library and on the Shire's website.

**Statutory Obligations:**

Clause 8.2 of TPS No. 3 sets out the requirements for the preparation and adoption of TPS No. 3 policies, noting a Scheme policy shall only become operative once the procedures contained within Clause 8.2 have been complied with.

**Policy Implications:**

Upon final adoption of draft Policy 45, the policy will be included in the Shire's Planning Policy Manual.

**Budget / Financial Implications:**

Advertising costs associated with draft Policy 45 are provided for within the 2013/14 Budget (Account No: 1040302).

**Strategic Implications:**

There are no known significant strategic implications relating to the report or 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:**

The key objective of draft Policy 45 is to provide guidance to landowners, applicants, the community and Planning Services staff in relation to the assessment process of planning applications for heritage places such that heritage significance is given due weight in the planning application decision making process.

**Voting Requirements:**

Simple majority.

<b>COUNCIL RESOLUTION &amp; OFFICER RECOMMENDATION</b>	ITEM 8.1.2
MOVED: CR SYME	SECONDED: CR OSBORNE

That Council with respect to draft Town Planning Scheme Policy No. 45: Planning Application Process for Heritage Places adopt it for public comment for a minimum period of 21 days in accordance with Clause 8.2.2 of Town Planning Scheme No. 3.

CARRIED: 10/0

Res: 030913

## 8.2 Director of Community & Regulatory Services

### 8.2.1 “DOGTOPIA” DOG PARK & “OFF LEAD” EXERCISE STRATEGY

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

#### Summary:

The officer report discusses the outcome of a review into alternate locations for a dog park and recommends that Council endorse the strategy that nominates;

- a) Laing Park, Lot 101 Ocean Beach Rd as the site that will be developed as the primary dog park for the Shire.
- b) Nellie Saw Park, Lot 1054 Horsley Rd as a low key fenced small dog focused “off lead” exercise area for the Denmark locality.
- c) The unnamed portion of reserve 32279, Lot 1001 that is adjacent to Walters Park that is on Campbell Rd near the corner of Inlet Drive as a low key “off lead” exercise area, for the Ocean Beach locality.
- d) Totally excluding dogs from the playing surfaces of the Mclean Park Oval complex.
- e) An investigation of the practicalities of providing dog owners with relatively easy access to the eastern section of Ocean Beach that is under the control of the City of Albany.

And advertise it for public comments for a 60 day period prior to considering it for adoption as part of its 10 year financial plan and amending its Dog Local Law accordingly.

#### Background:

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

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

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

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

This proposal was referred to the 5 March 2013 meeting which rejected the following the recommendation on the casting vote of the Shire President who voted against the proposal in accordance with established Council protocol:

*“That Council note the initial comments in relation to the concept plan and endorse the Annie Harrison Park Dog Park concept plan for the purposes of advertising for public comment for a 60 day period prior to considering it for adoption as part of its 10 Year Long Term Financial Plan.”*

*At the time of the vote the Shire President noted that the Concept Plan should be reviewed to take into account some of the concerns of Councillors which had been highlighted during debate such as;*

- *The fencing;*
- *The font size; and*
- *The proposed car parking on the eastern side of Hollings Road.*

**Comment:**

Having considered the discussion in Council, the premium that is placed on Annie Harrison Park and having discussed the matter with members of the community who were familiar with the needs of local dog owners a decision was made to see if there was an alternative venue(s) that would allow Annie Harrison Park to be retained in its current state will cater for the anticipated increase in dog owners over the next 20 years.

This process identified the following relatively unused areas of land that could all be nominated as “off lead” exercise areas for dogs significantly increasing the recreational opportunities that are available for dog owners within the Shire of Denmark:

Laing Park: As the site that will be developed as the primary dog park.

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

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

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

Nellie Saw Park: As a low key fenced small dog focused “off lead” exercise area.

Nellie Saw Park is 3035m<sup>2</sup> park that runs between Hollings Rd and Russell Rise. It is intended to fence it and in the longer term develop it as a low key secondary dog park with a few pieces of agility equipment that are aimed primarily at smaller dogs with the idea of providing an “off lead” area on that side of town.

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

A portion of reserve 32279, Lot 1001 on Campbell Rd near the corner of Inlet Drive that is around 8000m<sup>2</sup> and is currently unused and only slashed once a year is proposed as a further secondary low key “off lead” exercise area. Development of this park would be limited mowing it regularly for usage without any further development other than the provision of some parking and possibly a front fence.

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

Ocean Beach East: Research the practicality providing relatively easy access from the existing “off lead” area to the eastern section of Ocean Beach.

An investigation of the practicalities of providing dog owners with relatively easy access to the eastern section of Ocean Beach that is under the control of the City of Albany has also been included for consideration as part of the “Dogtopia” dog exercise strategy.



While the area would have to be classified as an “off lead” area by the City of Albany the reason why this has been included is that if a practical way of getting easy access to the eastern section of Ocean Beach can be identified then significant recreational opportunities will be opened up for dogs and their owners.

While this concept is yet to be discussed with the Surf Club it could be achieved by:

- a) Creating an alternate access path across the top of Surf Club building that could be available to dog owners either year round or only during winter and spring.
- b) The acquisition of a pontoon bridge that could be removed during bar openings.
- c) Allowing dogs to cross the beach in front of the Surf Club during winter and spring while strictly excluding them at other times of year.

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

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

- 1) Connection to the existing Heritage Rail trail and the cycle path to Ocean Beach.
- 2) The entire park would be an “off lead” dog exercise area which require a change in the park’s status under Council’s Dog Local Laws.
- 3) Defined but interconnected large and small dog areas with suitably sized dog agility equipment.
- 4) A BBQ area where dog owners would be able to have a BBQ with their dogs present.
- 5) Barrier landscaping as opposed to internal fencing where this is practical.
- 6) Separate doubled gates with in and out paths to both the large and small dog areas that will prevent dogs escaping and enable dogs to be socialised before entering and controlled when leaving.
- 7) Possibly a dog niche wall and the provision of a public toilet.

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

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

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

All four are also supportive of the multiple areas listed in the proposed “Dogtopia” strategy.

In terms of the facilities costs it is envisaged that the development of the main Laing Park dog park will be in the vicinity of \$150,000 with this rising to \$180,000 if composting toilets are provided and \$270,000 if a more substantial conventionally operated block is

constructed. Nellie Saw Park is likely to cost less than \$10,000 to develop and the unnamed portion of Walters Park is likely to cost less than \$5,000 and notwithstanding these costs all of these parks with exception of Nellie Saw Park which needs fencing are essentially ready for basic "off lead" exercise usage today.

It is envisaged that if Council is successful in communicating its vision that a reasonable amount of these figures will be funded through grants, donations, volunteer labour and bequeathed donations. It is intended to form a Dog Park Development Working Group if the proposal is adopted as part of Council's 10 financial year plan.

From the above comments it would appear that the draft concept is thematically sound and there is sufficient support from interested groups to warrant the proposed dog exercise area being advertised for public comment prior to it being referred back to Council with an implementation plan for adoption as part inclusion in Council's 10 year financial plan.

**Consultation:**

Consultation has taken place with the Denmark Dog Club, Denmark Animal Carers, CDB Streetscape Working Group, Paths and Trails Advisory Committee and local Veterinary Surgeons and they are supportive of the concept of a dog park and it is simply a case of finding a suitable location.

**Statutory Obligations:**

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

**Policy Implications:**

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

**Budget / Financial Implications:**

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

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

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

On balance the CEO notes that it is his view that the concept of investigating the practicalities of providing dog owners with a relatively easy access to the eastern section of Ocean Beach, that is under the control of the City of Albany, is not worth pursuing at this time due to the difficulties of separating activities from a patrolled beach, the fact that it is within a Council's jurisdiction, the seasonal nature of access and the huge likely cost of providing alternate access as indicated.

In the CEO's opinion, reasonable alternatives currently exist within close proximity for beach exercise by dogs and their owners at Lights Beach and the other side of Prawn Rock channel that, together with the risk, would make the practical policing and enforcement and cost currently not feasible.

**Strategic Implications:**

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

**Sustainability Implications:****➤ Environmental:**

There are no known negative environmental considerations relating to the report or officer recommendation and presence of dedicated dog park will reduce the incidence of dogs being allowed to free run in the bush where their scent trail causes disruption to native animals.

The regular mowing of lawns produces a carbon footprint after plant sequestration of approximately 3.5 tonnes of CO<sub>2</sub> per hectare per year. The regular mowing of the proposed areas would add around 8 tonnes per year to Council's carbon footprint.

**➤ Economic:**

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

**➤ Social:**

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

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

**DENMARK**

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

**MANJIMUP**

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

**PLANTAGENET**

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

**Voting Requirements:**

Simple Majority.

**OFFICER RECOMMENDATION****ITEM 8.2.1**

That Council endorse for the purposes of advertising for public comments for a 60 day period the proposed "Dogtopia" Dog Park and "Off Lead" Exercise strategy as follows:

1. Laing Park, Lot 101 Ocean Beach Rd as the site that is proposed to be developed as the primary dog park, for the Shire.
2. Nellie Saw Park, Lot 1054 Horsley Rd as a low key fenced small dog focused "off lead" exercise area.
3. The unnamed portion of reserve 32279, Lot 1001 that is adjacent to Walters Park that is on Campbell Rd near the corner of Inlet Drive as a low key "off lead" exercise area.
4. Totally excludes dogs from the playing surfaces of the Mclean Park Oval complex.

**COUNCIL RESOLUTION**

ITEM 8.2.1

MOVED: CR LEWIS

SECONDED: CR OSBORNE

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

1. Laing Park, Lot 101 Ocean Beach Rd as the site that is proposed to be developed as the primary dog park, for the Shire.
2. Nellie Saw Park, Lot 1054 Horsley Rd as a low key fenced small dog focused “off lead” exercise area.
3. The unnamed portion of Reserve 32279, Lot 1001 that is adjacent to Walters Park that is on Campbell Rd near the corner of Inlet Drive as a low key “off lead” exercise area.
4. Totally excludes dogs from the playing surfaces of the Mclean Park Oval complex.
5. The benefits and dis-benefits relating to the practicality of providing dog owners with relatively easy on lead access to the eastern section of Ocean Beach that is under the control of the City of Albany.

5.18pm – Cr Marshall entered the room.

**AMENDMENT**

MOVED: CR SEENEY

SECONDED: CR GILLIES

That part 5 be deleted.

Cr Morrell called a point of order to the effect that he believed that Cr Hinds was not speaking to the motion.

The Deputy Shire President ruled in favour of the point of order by Cr Morrell and requested Cr Hinds to confine his debate to the motion.

**PROCEDURAL MOTION**

MOVED: CR HINDS

The ruling of the Deputy Shire President be disagreed with.

LAPSED FOR WANT OF A SECONDER

THE AMENDMENT WAS THEN PUT & CARRIED: 10/1

Res: 040913

**AMENDED MOTION**

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

1. Laing Park, Lot 101 Ocean Beach Rd as the site that is proposed to be developed as the primary dog park, for the Shire.
2. Nellie Saw Park, Lot 1054 Horsley Rd as a low key fenced small dog focused “off lead” exercise area.
3. The unnamed portion of Reserve 32279, Lot 1001 that is adjacent to Walters Park that is on Campbell Rd near the corner of Inlet Drive as a low key “off lead” exercise area.
4. Totally excludes dogs from the playing surfaces of the Mclean Park Oval complex.

THE AMENDED MOTION BECAME THE SUBSTANTIVE MOTION WHICH WAS PUT & CARRIED: 11/0

Res: 050913

**8.3 Director of Infrastructure Services**

Nil

## 8.4 Director of Finance & Administration

### 8.4.1 FINANCIAL STATEMENT FOR THE MONTH ENDING 31 JULY 2013

<b>File Ref:</b>	FIN.1
<b>Applicant / Proponent:</b>	Not applicable
<b>Subject Land / Locality:</b>	Denmark
<b>Disclosure of Officer Interest:</b>	Nil
<b>Date:</b>	22 August 2013
<b>Author:</b>	Steve Broad, A/Director of Finance and Administration
<b>Authorising Officer:</b>	Steve Broad, A/Director of Finance and Administration
<b>Attachments:</b>	8.4.1 - Monthly Financial Report

#### Summary:

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

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

#### Background:

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

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

#### Comment:

Shire Trust Funds have been invested for 90 days with the National Bank, maturing 22 October 2013 at the quoted rate of 4.02%.

Municipal Funds have been invested for 30 days with the National Bank, maturing 29 August at the quoted rate of 3.11%.

No reserve funds have been placed on investment, being required for short term cash flow requirements until 2013/14 rating income is received.

#### KEY FINANCIAL INDICATORS AT A GLANCE

As the 2013/14 Municipal Budget was only adopted on 30 July 2013 (the period the subject of this Report) there is very little activity available for comparison purposes.

#### Consultation:

Nil

#### Statutory Obligations:

Local Government Act 1995 Section 5.25 (1)

Local Government (Financial Management) Regulations 1996

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

**Policy Implications:**

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

*For the purposes of Local Government (Financial Management) Regulation 34 regarding levels of variances for financial reporting, Council adopt a variance of 10% or greater of the annual budget for each program area in the budget, as a level that requires an explanation or report, with a minimum dollar variance of \$5,000.*

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

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

**Budget / Financial Implications:**

There are no significant trends or issues to be reported.

**Strategic Implications:**

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.

<b>COUNCIL RESOLUTION &amp; OFFICER RECOMMENDATION</b>	<b>ITEM 8.4.1</b>
MOVED: CR ROWLAND	SECONDED: CR PEDRO
That with respect to Financial Statements for the month ending 31 July 2013, Council;	
1. Receive the Financial Report, incorporating the Statement of Financial Activity and other supporting documentation.	
2. Endorse the Accounts for Payment as listed.	
CARRIED: 11/0	Res: 060913

<b>8.4.2 FINANCIAL MANAGEMENT – DISPOSAL/WRITE OFF OF PLANT, FURNITURE AND EQUIPMENT ASSETS</b>
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<b>File Ref:</b>	FIN.1
<b>Applicant / Proponent:</b>	Not applicable
<b>Subject Land / Locality:</b>	Denmark
<b>Disclosure of Officer Interest:</b>	Nil
<b>Date:</b>	28 August 2013
<b>Author:</b>	Steve Broad, A/Director of Finance and Administration
<b>Authorising Officer:</b>	Steve Broad, A/Director of Finance and Administration
<b>Attachments:</b>	8.4.2 – Disposal/ Write Off of Plant, Furniture and Equipment

**Summary:**

Council is being requested to endorse the Disposal/Write Off of certain Plant, Furniture and Equipment Assets as at 30 June 2013.

**Background:**

Amendment to the Local Government (Financial Management) Regulations 1996 with the introduction of Regulation 17A. "Assets, valuation of for financial reports etc." has prompted a review of the Shire's Plant, Furniture and Equipment Asset Registers – refer Attachment 8.4.2.

**Comment:**

A review of all Plant, Furniture and Equipment has been undertaken to ensure an accurate record and condition measurement of the Shire's assets to ensure a meaningful outcome towards the implementation of Fair Value of these assets.

The review has highlighted that there are a large number of items recorded that have either been:

- a) Disposed of as they have reached end of their useful life,
- b) Disposed of yet remain on the asset register, or
- c) Do not reach the Capitalisation threshold of \$1,000 as set in the Shires Significant Accounting Policy.

Whilst these assets remain recorded on the Shire's Asset register a false impression of both asset value and replacement gap is given.

**Consultation:**

Council's Auditors have been consulted with respect to the process in which the review of the Asset register was to be conducted.

**Statutory Obligations:**

Local Government Act 1995 – Sections 6.7, 6.10 and 6.12 relate.

Regulation 17A. of the Local Government (Financial Management) Regulations 1996 relates and reads as follows;

17A. *Assets, valuation of for financial reports etc.*

- (1) *In this regulation —*  
**fair value**, in relation to an asset, means the fair value of the asset measured in accordance with the AAS.
- (2) *Subject to subregulation (3), the value of an asset shown in a local government's financial reports must be the fair value of the asset.*
- (3) *A local government must show in each financial report —*

- a) for the financial year ending on 30 June 2013, the fair value of all of the assets of the local government that are plant and equipment; and
  - b) for the financial year ending on 30 June 2014, the fair value of all of the assets of the local government —
    - i. that are plant and equipment; and
    - ii. that are —
      - (i) land and buildings; or
      - (ii) infrastructure;
- and
- c) for a financial year ending on or after 30 June 2015, the fair value of all of the assets of the local government.
- (4) A local government must revalue all assets of the local government of the classes specified in column 1 of the Table to this subregulation on the day specified in column 2 of the Table and at the end of each subsequent period of 3 years.

Table

<b>Class of asset</b>	<b>Day</b>
Plant and equipment	30 June 2016
Land, buildings and infrastructure for which the fair value was shown in the local government's annual financial report for the financial year ending on 30 June 2014	30 June 2017
All other classes of asset	30 June 2018

**Policy Implications:**

The proposed Disposal/Write Off of assets is presented taking into consideration the Shire of Denmark's Significant Accounting Policies and in particular the Capitalisation threshold set at \$2,000.

**Budget / Financial Implications:**

There are no significant trends or issues to be reported.

It should be noted that Council, pursuant to Resolution No. 080912 of 4 September 2012, to dispose of (or gift) the rubbish bins worth \$68,105 and most of the balance of the assets not previously donated, such as the occasional computer assets gifted to community groups and such like, will be retained if they are functional and still utilised.

**Strategic Implications:**

The review of Assets is an integral part of overall Asset Management Planning and will also lead to a realistic approach to the introduction of Fair Value of Assets.

**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:**

Absolute Majority.

5.43pm – Cr Lewis & Cr Rowland left the room.

5.43pm – Cr Rowland returned to the room.

5.44pm – Cr Lewis returned to the room.

5.44pm – Cr Morrell left the room.

5.56pm – Cr Morrell returned to the room.

**COUNCIL RESOLUTION & OFFICER RECOMMENDATION**

ITEM 8.4.2

MOVED: CR MORRELL

SECONDED: CR SYME

That with respect to the Disposal/Write Off of Plant, Furniture and Equipment Assets effective 30 June 2013, Council endorse the Disposal/Write Off of assets as listed with a total cost value of \$296,087.31 and Current Depreciation of \$296,087.31.

CARRIED BY AN ABSOLUTE MAJORITY: 11/0

Res: 070913

## 8.5 Chief Executive Officer

The Deputy Shire President announced that with respect to Item 8.5.1, the Development Assessment Panel had advised the DAP members, himself and Cr Pedro, were permitted to participate in discussion and vote on the matter in their roles as Elected Members for the Shire of Denmark.

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

<b>File Ref:</b>	A457a (2013/153)
<b>Applicant / Proponent:</b>	Shire of Denmark
<b>Subject Land / Locality:</b>	No. 82-90 (Lot 50) South Coast Highway (cnr Hardy Street), Denmark
<b>Disclosure of Officer Interest:</b>	Nil
<b>Date:</b>	30 August 2013
<b>Author:</b>	Dale Stewart, Chief Executive Officer
<b>Authorising Officer:</b>	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"

#### Summary:

This report follows a briefing session convened by the Chief Executive Officer on the 29 August 2013 with Senior Staff and a number of elected members that were able to either attend and or participate (it excluded Development Assessment Panel (DAP) assessing members) to inform them of receipt of the above mentioned application.

This report reflects the outcomes of that session whereby the elected members present requested that the CEO prepare a report on the process of Council being in a position to make a submission with respect to the application, to the Great Southern Joint Development Assessment Panel (GSJDAP), should it feel a desire to do so, dependent upon representation of the community and or elected members own views on the application.

#### Background:

At the briefing session on the 29 August 2013, the elected members present requested that the CEO prepare a report outlining the process that the Council would need to go through, should elected members as a majority via a Council resolution, feel it necessary to make a submission on the proposed development to the GSJDAP.

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 will be 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 has been scheduled for 17 September 2013 to inform the public of the process and the proposal.
- 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 80<sup>th</sup> 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).

#### Previous Application

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.*

It should be noted that this application was determined by the Council as DAPs were only introduced by the State Government to take effect from 1 July 2011.

The applicant's lodged a Right of Review with the State Administrative Tribunal and as a result of mediation processes, the Shire of Denmark granted Planning Approval on the 5 January 2010 – refer attached approved plans at Attachment 8.5.1 b). This Planning Approval has now expired.

**Comment:**

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 to be advertised for public comment from 5 September 2013 to 4 October 2013 (inclusive), with a Community Information Session convened for 17 September 2013 (6pm commencement).

**Statutory Obligations:**

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

**Policy Implications:**

There are no 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 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:**

There are no known environmental considerations relating to the report or officer recommendation in respect to making a submission on the development application or not.

➤ **Economic:**

Economic considerations relating to the report or officer recommendation in respect to making a submission on the development application or not are, in the opinion of the author, too hypothetical to make any informed comment on.

➤ **Social:**

The background of the genesis of this report acknowledges that the author has made the assumption, from both the previous 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.

In the opinion of the author it can be also be assumed that the public will not be totally familiar with the fact that on this occasion, as opposed to the previously submitted development application on this same site, that it will not be assessed by 'their' Council or Councillors, but by an independent Assessment Panel. 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.

<b>COUNCIL RESOLUTION &amp; OFFICER RECOMMENDATION</b>	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:</p> <ol style="list-style-type: none"> <li>1. Consider that they may wish to make a submission on such application dependent on the outcome(s) from:                     <ol style="list-style-type: none"> <li>a) Proposed liaisons with Main Roads WA pertaining to the planning application;</li> <li>b) Elected members considering the input from the Public Forum on the 17 September 2013;</li> <li>c) Elected members being copied public submissions on the proposal for their information in a timely manner;</li> <li>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.</li> </ol> </li> <li>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.</li> <li>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;</li> <li>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.</li> <li>5. Suggest to the proponents that they make themselves available to answers questions relating to the proposal at the scheduled Public Forum.</li> </ol>	
CARRIED: 11/0	Res: 080913

**6.03pm - 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.

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**

<b>File Ref:</b>	Policy Manual
<b>Applicant / Proponent:</b>	Not applicable
<b>Subject Land / Locality:</b>	Not applicable
<b>Disclosure of Officer Interest:</b>	The CEO declares and financial interest in the policy as it relates to a condition of is employment
<b>Date:</b>	2 September 2013
<b>Author:</b>	Dale Stewart, Chief Executive Officer
<b>Authorising Officer:</b>	Dale Stewart, Chief Executive Officer
<b>Attachments:</b>	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;

7. CEO designated house - rent free, noting a residential tenancy lease is still required;
8. Designated Senior Officer in a Council supplied house – \$150 rent per week, noting a residential tenancy lease is still required;
9. 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;
10. If the officer lives within the Shire of Denmark in their own home – a payment of \$250 per week;
11. 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.

12. 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.

<b>COUNCIL RESOLUTION &amp; OFFICER RECOMMENDATION</b>	ITEM 8.5.2
MOVED: CR SYME	SECONDED: CR HINDS

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 \$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.*

**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.*

**9. COMMITTEE REPORTS & RECOMMENDATIONS**

Nil

**10. MATTERS BEHIND CLOSED DOORS**

Nil

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

Nil

**12. CLOSURE OF MEETING**

*6.40pm – There being no further business to discuss the Deputy Shire President, Cr Sampson, declared the meeting closed.*

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

Signed: \_\_\_\_\_

*Dale Stewart – Chief Executive Officer*

Date: \_\_\_\_\_

These minutes were confirmed at the meeting of the \_\_\_\_\_

Signed: \_\_\_\_\_

*(Presiding Person at the meeting at which the minutes were confirmed.)*