



Minutes

ORDINARY MEETING OF COUNCIL TO BE HELD IN THE COUNCIL CHAMBERS, 953 SOUTH COAST HIGHWAY, DENMARK ON TUESDAY, 11 NOVEMBER 2014.

Contents	Page No.
	2
1. DISCLAIMER	3
2. DECLARATION OF OPENING/ANNOUNCEMENT OF VISITORS	3
3. RECORD OF ATTENDANCE/APOLOGIES/APPROVED LEAVE OF ABSENCE	3
4. ANNOUNCEMENTS BY THE PERSON PRESIDING	4
5. PUBLIC QUESTION TIME	4
4.1 RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE	4
4.2 PUBLIC QUESTIONS	4
4.3 QUESTIONS BY MEMBERS OF WHICH DUE NOTICE HAS BEEN GIVEN	7
4.4 PRESENTATION, DEPUTATIONS & PETITIONS	7
4.4.1 PETITION – REQUEST SHIRE OF DENMARK TO REJECT THE PROPOSAL FOR AN ADVENTURE PARK AT SHADFORTH (PROPOSAL NO. A1712-A343- 2014/97)	7
6. APPLICATIONS FOR LEAVE OF ABSENCE	8
5.1 CR MORRELL – 11 to 26 DECEMBER 2014	8
5.2 CR GILLIES – WITHDRAWAL OF LEAVE OF ABSENCE	8
5.3 CR GILLIES – REQUEST TO BE PRESENT VIA INSTANTANEOUS COMMUNICATION	9
7. CONFIRMATION OF MINUTES	9
6.1 ORDINARY COUNCIL MEETING – 21 OCTOBER 2014	9
8. ELECTED MEMBERS MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN	9
9. REPORTS OF OFFICERS	10
8.1 DIRECTOR OF PLANNING & SUSTAINABILITY	10
8.1.1 PROPOSED HOLIDAY HOME (LARGE) – NO. 7 (LOT 116) ADAMS ROAD, DENMARK	10
8.1.2 PROPOSED FIVE (5) GROUPED DWELLINGS – NO. 21 (LOT 943) BARNETT STREET, DENMARK	15
8.1.3 PROPOSED SINGLE HOUSE ADDITIONS/ALTERATIONS - NO. 17 (LOT 865) PATERSON STREET, DENMARK	21
8.1.4 SPRINGDALE BEACH ESTATE FORESHORE MANAGEMENT PLAN	25
8.1.5 SCHEME AMENDMENT 138 – REZONING NO. 10 (LOT 402) MYERS ROAD, SHADFORTH FROM 'RURAL' TO 'SPECIAL RURAL'	30
8.2 DIRECTOR OF COMMUNITY & REGULATORY SERVICES	37
8.2.1 PRAWN ROCK CHANNEL, OCEAN BEACH DOG EXERCISE AREAS & DRAFT SPECIFIED DOG EXERCISE OR PROHIBITED AREAS POLICY	37
8.2.2 ITINERANT AND STATIC VENDORS ON COUNCIL LAND	49
8.3 DIRECTOR OF INFRASTRUCTURE SERVICES	59
8.3.1 PUBLIC ACCESS IMPROVEMENTS OCEAN BEACH	59
8.4 DIRECTOR OF FINANCE & ADMINISTRATION – Nil	61
8.5 CHIEF EXECUTIVE OFFICER	62
8.5.1 DENMARK TOURISM INC. RENEWAL OF LEASE & REQUEST TO SUB-LEASE TO DARK SIDE CHOCOLATES	62
10. COMMITTEE REPORTS & RECOMMENDATIONS – Nil	65
11. MATTERS BEHIND CLOSED DOORS	69
10.1 2014 AGRICULTURAL SCHOLARSHIP	69
12. NEW BUSINESS OF AN URGENT NATURE INTRODUCED BY DECISION OF MEETING	65
11.1 REGIONAL ROAD GROUP FUNDING 2014/15	65
13. CLOSURE	72

Ordinary Council Meeting

11 November 2014

DISCLAIMER

These minutes and resolutions are subject to confirmation by Council and therefore prior to relying on them, one should refer to the subsequent meeting of Council with respect to their accuracy.

No responsibility whatsoever is implied or accepted by the Shire of Denmark for any act, omission or statement or intimation occurring during Council/Committee meetings or during formal/informal conversations with staff.

The Shire of Denmark disclaims any liability for any loss whatsoever and howsoever caused arising out of reliance by any person or legal entity on any such act, omission or statement or intimation occurring during Council/Committee meetings or discussions. Any person or legal entity who acts or fails to act in reliance upon any statement does so at that person's or legal entity's own risk.

In particular and without derogating in any way from the broad disclaimer above, in any discussion regarding any planning application or application for a license, any statement or limitation or approval made by a member or officer of the Shire of Denmark during the course of any meeting is not intended to be and is not taken as notice of approval from the Shire of Denmark. The Shire of Denmark warns that anyone who has an application lodged with the Shire of Denmark must obtain and should only rely on WRITTEN CONFIRMATION of the outcome of the application, and any conditions attaching to the decision made by the Shire of Denmark in respect of the application.

1. DECLARATION OF OPENING/ANNOUNCEMENT OF VISITORS

4.04pm - *The Shire President, Cr Thornton, declared the meeting open.*

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

MEMBERS:

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

STAFF:

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

APOLOGIES:

Mr Rob Whooley (Director of Infrastructure Services)

ON APPROVED LEAVE(S) OF ABSENCE:

Cr Roger Seeney (pursuant to Council Resolution No. 070914)

ABSENT:

Nil

VISITORS:

Members of the public in attendance at the commencement of the meeting: 21
 Members of the press in attendance at the commencement of the meeting: 1

DECLARATIONS OF INTEREST:

Name	Item No	Interest	Nature
Cr Thornton	11.1	Proximity	Cr Thornton owns property within the proximity of Churchill Road.
Cr Morrell	8.2.1	Proximity	Cr Morrell owns property within close proximity to Reserve No. 22248.

3. ANNOUNCEMENTS BY THE PERSON PRESIDING

Nil

4. PUBLIC QUESTION TIME

4.1 RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE

Nil

4.2 PUBLIC QUESTIONS

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

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

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

Questions from the Public

4.2.1 Ms Jill Williams – (Item 8.2.1 – Prawn Rock Channel, Ocean Beach Dog Exercise Areas & Draft Specified Dog Exercise or Prohibited Areas Policy)

Ms Williams highlighted the importance of Wilson Inlet to a number of species of shorebirds and expressed concern for their well-being should the area be retained as an off lead dog exercise area.

4.2.2 Mrs Angela Dickinson – (Item 8.2.1 – Prawn Rock Channel, Ocean Beach Dog Exercise Areas & Draft Specified Dog Exercise or Prohibited Areas Policy)

Ms Dickinson expressed concern for the habitat of shorebirds at Wilson Inlet should the area be retained as an off lead dog exercise area and suggested that Council could either consider alternative off lead areas, resolve that dogs are kept on leashes at the sandbar or fence the area to protect the birds.

4.2.3 Mr Brad Kneebone – (Item 8.2.1 – Prawn Rock Channel, Ocean Beach Dog Exercise Areas & Draft Specified Dog Exercise or Prohibited Areas Policy)

Mr Kneebone spoke on behalf of Birdlife Australia expressing opposition to Wilson Inlet being retained as an off-lead dog exercise area due to the considerable impact it had on migratory shorebirds. Mr Kneebone referred to a number of Council adopted strategies and plans which referred to the significance and protection of the shorebirds at Wilson Inlet. Mr Kneebone stated that whilst there were other dog exercise areas for dogs in the Shire there were no other areas for the birds that migrate to Wilson Inlet each year. Mr Kneebone suggested that temporary fencing could be an option and provided Councillors with a map showing the location where a fence could be erected.

4.2.4 Mr Tim Shales – (Item 8.2.1 – Prawn Rock Channel, Ocean Beach Dog Exercise Areas & Draft Specified Dog Exercise or Prohibited Areas Policy)

Mr Shales stated that he supported a shared use arrangement at Wilson Inlet for dogs and birds and that the area had been a dog exercise area for many years. Mr Shales said the area was also easily accessible for all people.

4.2.5 Mr Basil Schur – (Item 8.2.1 – Prawn Rock Channel, Ocean Beach Dog Exercise Areas & Draft Specified Dog Exercise or Prohibited Areas Policy)

Mr Schur stated that he supported the Shire provided dog exercise areas however he wondered whether the Shire had jurisdiction of the area at Wilson Inlet as it was Unclaimed Crown Land. Mr Schur also expressed concern regarding policing people with dogs near the Ocean Beach Surf Club should the area be specified as a thoroughfare to the off lead area, as it had been suggested.

The Chief Executive Officer stated that under the Dog Act, Council could specify areas which were not under the jurisdiction of Council.

4.2.6 Mr Jay Piercy – Item 8.2.2 (Itinerant and Static Vendors on Council Land)

Mr Piercy, owner and operator of an organic farm, stated that he would like to apply for a traders permit to trade in the Denmark Visitor Centre carpark on Saturday mornings. Mr Piercy asked where a farmers market could be set up in Denmark.

The Director of Community & Regulatory Services stated that there was provision in the draft Policy for an additional vendor at the Denmark Visitor Centre (DVC) however the proposal would need to be discussed the DVC's Chief Executive Officer. Mr Harwood advised Mr Piercy that he would need to firstly make a formal application.

Mr Harwood stated a farmers market would not come under the policy and that it was a concept that, should a proposal be submitted, would need to be considered by Councillors and the Chief Executive Officer particularly in relation to a suitable location.

The Chief Executive Officer stated that the concept of a local farmers market had been raised in previous years by some residents however it had never been pursued. Mr Stewart provided some guidance as to what would be required to run a farmers market in Denmark.

4.2.7 Mr Andrew Dickinson – Item 8.2.1 (Prawn Rock Channel, Ocean Beach Dog Exercise Areas & Draft Specified Dog Exercise or Prohibited Areas Policy)

Mr Dickinson stated that he supported dogs being excluded from the Wilson Inlet sandbar area due to the area being an important habitat for vulnerable, migratory shorebirds. Mr Dickinson said that he believed dogs and children posed a direct threat to the birds and urged Council to consider impacts on the environment before making any decision.

4.2.8 Ms Jeanette Campbell – Item 8.2.1 (Prawn Rock Channel, Ocean Beach Dog Exercise Areas & Draft Specified Dog Exercise or Prohibited Areas Policy)

Ms Campbell suggested that perhaps Council could gather all of the facts and statistics relating the impact of dogs on the birds as opposed to people and other uses of the area. Ms Campbell stated that she supported the retention of the dog exercise area noting that it was easily accessible for all people.

4.2.9 Ms Karen Atkinson – Item 8.1.1 (Proposed Holiday Home (Large) – No. 7 (Lot 116) Adams Road, Denmark)

Ms Atkinson, a nearby resident to the proposed new holiday home, urged Council not to approve the application on the grounds of the impact holiday homes were having in their residential area, noting that approximately 50% of homes in the Weedon Hill area were now commercial holiday homes.

4.2.10 Mr Andrew Gill – Item 8.1.1 (Proposed Holiday Home (Large) – No. 7 (Lot 116) Adams Road, Denmark)

Mr Gill, a nearby resident to the proposed new holiday home, urged Council not to approve the application on the grounds of the impact holiday homes were having in their residential area. Mr Gill stated that, in his and his wife's experience, holiday makers gave little consideration to nearby residents and when they had lodged complaints they had been the subject of abuse from the occupier. Mr Gill stated that he was appalled that the Officer had recommended approval given the current saturation of holiday homes in the Weedon Hill area.

4.2.11 Ms Amelia Monaghan – Item 4.4.1 (Petition – Request Shire of Denmark to Reject the Proposal for an Adventure Park at Shadforth. Proposal No. A1712-A343-2014/97)

Ms Monaghan spoke as one of the applicants and provided some background to the proposed Denmark Thrills Adventure Park stating that the idea was for people of all ages to enjoy some healthy fun. Ms Monaghan provided some clarification on some elements of the application.

5.09pm – Cr Gillies left the room.

5.10pm – Cr Gillies returned to the room.

4.2.12 Ms Anna Admore – Item 8.2.2 (Itinerant and Static Vendors on Council Land)

Ms Admore asked whether Council could determine a suitable location for a farmers market.

The Shire President advised that she would need to meet with the Director of Community & Regulatory Services in the first instance to discuss the concept prior to Council considering a suitable location.

The Chief Executive Officer provided advice as to the type of information that Council would need to have prior to considering providing a location for a farmers market and stated that when the suggestion had been made in the past there hadn't been any individual or group to drive the project. Mr Stewart advised that it was important that there was some continuity and consistency to a farmers market.

5.17pm – Cr Sampson left the room.

4.2.13 Mr Ray Creese – Item 8.2.1 (Prawn Rock Channel, Ocean Beach Dog Exercise Areas & Draft Specified Dog Exercise or Prohibited Areas Policy)

Mr Creese stated that he supported the conservation of wildlife and had not noticed little interaction between his dog and the shorebirds at Wilson Inlet. Mr Creese supported the retention of the off-lead dog exercise area at the Wilson Inlet sandbar and suggested that perhaps some educational signage could be erected at the location to educate users on the significance and conservation of the migratory shorebirds.

5.18pm – Cr Sampson returned to the room.

4.2.14 Ms Vanessa Fyfe – Item 8.2.1 (Prawn Rock Channel, Ocean Beach Dog Exercise Areas & Draft Specified Dog Exercise or Prohibited Areas Policy)

Ms Fyfe stated that she supported the shared use of the Wilson Inlet sandbar and that the area was easily accessible for all people, particularly because it was relatively flat and there were no steps or slopes to contend with for people who may have reduced mobility.

4.2.15 Mr Gavin Begbie – Item 8.2.1 (Prawn Rock Channel, Ocean Beach Dog Exercise Areas & Draft Specified Dog Exercise or Prohibited Areas Policy)

Mr Begbie advised that he frequented the area and hadn't seen many dogs chasing birds. Mr Begbie stated that responsible dog ownership was vital and that education was most important which would hopefully assist in providing a compromise so that the area could be shared by the birds and the dogs.

4.2.16 Mrs Trish Begbie – Item 8.2.1 (Prawn Rock Channel, Ocean Beach Dog Exercise Areas & Draft Specified Dog Exercise or Prohibited Areas Policy)

Ms Begbie stated that she had been walking dogs in the area for years and couldn't see why there was such an urgency to change the status quo, particularly given that there had been no incidents.

4.2.17 Mr Paul Fyfe – Item 8.2.1 (Prawn Rock Channel, Ocean Beach Dog Exercise Areas & Draft Specified Dog Exercise or Prohibited Areas Policy)

Mr Fyfe stated that he agreed with the last four speakers and the area was important to retain as an off-lead dog exercise area. Mr Fyfe said that he believed that people liked to exercise their dogs at the beach in the summer because of the risk of snakes on the trails and that Lights Beach sometimes became too crowded.

4.2.18 Mr Roy Langridge – Item 8.2.1 (Prawn Rock Channel, Ocean Beach Dog Exercise Areas & Draft Specified Dog Exercise or Prohibited Areas Policy)

Mr Langridge stated that he supported the continued shared use of the Wilson Inlet sandbar.

4.2.19 Ms Delma Baesjou – Item 8.1.4 (Springdale Beach Estate Foreshore Management Plan)

Ms Baesjou spoke on behalf of the applicant and noted that they supported the Officer Recommendation.

4.2.20 Ms Delma Baesjou – Item 8.1.4 (Scheme Amendment 138 – Rezoning No. 10 (Lot 402) Myers Road, Shadforth from 'Rural' to 'Special Rural')

Ms Baesjou spoke on behalf of the applicant and noted that they supported the Officer Recommendation.

5.39pm – Cr Morrell left the room.

4.3 QUESTIONS BY MEMBERS OF WHICH DUE NOTICE HAS BEEN GIVEN

Nil

4.4 PRESENTATIONS, DEPUTATIONS & PETITIONS

4.4.1 Petition – Request Shire of Denmark to Reject the Proposal for an Adventure Park at Shadforth (Proposal No. A1712-A343-2014/97)

A Petition containing 120 signatures has been received on 3 November 2014, submitted by Mr Gaham Greenhalgh with the following preamble.

“Petition to request the Shire of Denmark to reject the proposal for an Adventure Park at Shadforth. Proposal No. A1712-A343-2014/97”.

The Shire President noted that, pursuant to the Shire of Denmark’s Standing Orders Local Law, for a Petition to be an effective document it was required to be in the correct format which included having the addresses of the signatories and being addressed to the Shire President.

5.41pm – Cr Morrell returned to the room.

OFFICER RECOMMENDATION

ITEM 4.4.2

That the Petitioner be thanked for the petition and it be included in submissions with respect to the proposed Private Recreation (Adventure Park) – Part of No. 380 (Lot 343) Mt Shadforth Road and No. 75 (Lot 344) McNabb Road, Shadforth that will be referred to Council for determination in due course.

COUNCIL RESOLUTION

ITEM 4.4.2

MOVED: CR MORRELL

SECONDED: CR GILLIES

Notwithstanding that the Petition cannot be defined as an effective Petition pursuant to the Council’s Standing Orders Local Law, Clause 3.4, that the Petitioner be thanked for the petition and it be included in submissions with respect to the proposed Private Recreation (Adventure Park) – Part of No. 380 (Lot 343) Mt Shadforth Road and No. 75 (Lot 344) McNabb Road, Shadforth that will be referred to Council for determination in due course.

CARRIED UNANIMOUSLY: 8/0

Res: 011114

The Shire President requested that it be noted that since receiving the petition, a couple of the signatories had requested that their names be removed.

5. APPLICATIONS FOR FUTURE LEAVE OF ABSENCE

A Council may, by resolution, grant leave of absence, to a member, for future meetings.

5.1 Cr Morrell – 11 – 26 December 2014

COUNCIL RESOLUTION

ITEM 5.1

MOVED: CR GILLIES

SECONDED: CR PEDRO

That Cr Morrell be granted Leave of Absence from 11 to 26 December 2014.

CARRIED UNANIMOUSLY: 8/0

Res: 021114

5.2 Cr Gillies – Withdrawal of Leave of Absence

Cr Gillies requested that her approved Leave of Absence for the meeting to be held on Tuesday, 23 December 2014 by withdrawn.

Pursuant to the Section 10 (1) (b) and (1a) of the Local Government (Administration) Regulations 1996, the following rescission Motion requires the expressed support from at least one third (3) of the Councillors, whether present or not, inclusive of the mover, prior to it being considered.

Cr Morrell, Cr Thornton & Cr Pedro expressed their support for the rescission.

COUNCIL RESOLUTION

ITEM 5.2

MOVED: CR MORRELL

SECONDED: CR THORNTON

That Council rescind Council Resolution No. 160714 as Cr Gillies will be requesting to attend the meeting to be held on Tuesday, 23 December 2014 by instantaneous communication.

CARRIED BY AN ABSOLUTE MAJORITY: 7/1

Res: 031114

5.3 Cr Gillies – Request to be Present via Instantaneous Communication

COUNCIL RESOLUTION	ITEM 5.3
MOVED: CR MORRELL	SECONDED: CR THORNTON
<p>That pursuant to Section 14A of the Local Government (Administration) Regulations 1996, Council grant approval for Cr Kelli Gillies to be present at the Ordinary Council meeting to be held on Tuesday, 23 December 2014 by instantaneous communication from Sha To Villa, Jalan Dhayna Pura, Gang Melon No. 5, Seminyak Bali, Indonesia.</p>	
CARRIED BY AN ABSOLUTE MAJORITY: 8/0	Res: 041114

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 21 October 2014 be confirmed as a true and correct record of the proceedings.

COUNCIL RESOLUTION	ITEM 6.1
MOVED: CR MORRELL	SECONDED: CR PEDRO
<p>That the minutes of the Ordinary Meeting of Council held on the 21 October 2014 be confirmed as a true and correct record of the proceedings, subject to the following amendment;</p> <p>1. Page 5 – Item 4.2.9 – the following words be added “and the owner and skipper of the boat involved in the alleged incident”.</p>	
CARRIED UNANIMOUSLY: 8/0	Res: 051114

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 HOLIDAY HOME (LARGE) – NO. 7 (LOT 116) ADAMS ROAD, DENMARK

File Ref:	A791 (2014/186)
Applicant / Proponent:	M & N Crofts
Subject Land / Locality:	No.7 (Lot 116) Adams Road, Denmark
Disclosure of Officer Interest:	Nil
Date:	28 October 2014
Author:	Marieke de Vries, Senior Town Planner
Authorising Officer:	Annette Harbron, Director of Planning & Sustainability
Attachments:	8.1.1a – Planning Application Documentation 8.1.1b – Schedule of Submissions 8.1.1c – Proponent’s Response to Submission Received 8.1.1d – Map of Area Highlighting Location of Nearby Approved Holiday Homes 8.1.1e – Site Photos

Summary:

The proponent is seeking Planning Approval for a Holiday Home (Large) at No.7 (Lot 116) Adams Road, Denmark.

Having regard to the issues raised from the submissions received and the objectives and provisions of Town Planning Scheme Policy No. 19.4: Holiday Homes (Policy 19.4), it is recommended that Planning Approval be granted subject to appropriate conditions.

Background:

Current Application

An application for Planning Approval was lodged with Planning Services in September 2014 seeking Planning Approval to use an under construction dwelling as a Holiday Home (Large – max 8 guests) – refer Attachment 8.1.1 a.

Policy 19.4

Policy 19.4 was adopted by Council at its meeting of 6 November 2012. Policy 19.4 provides details on preferred locations for the establishment/operation of holiday homes, minimum development standards that dwellings need to comply with and management responsibilities to ensure that holiday homes are managed appropriately whilst ensuring the local character and amenity of the area is not compromised.

As per the provisions of Policy 19.4, the subject site is located within ‘Area 1 – Wilson Inlet Environs’ – which is one of the preferred locations for holiday homes to establish. The Policy identifies Area 1 as combining amenity settings, inlet locations and the provision of relatively close proximity to natural attractions and the Denmark town site.

At the Ordinary Meeting of Council held on 19 August 2014, supplementary to Council’s resolution to refuse Planning Approval for a Holiday Home (Standard) at No. 32 (Lot 128) Gilbert Avenue, Weedon Hill (Res No: 040814), Council resolved the following (Res No: 050814):

That Staff be requested to conduct;

1. A noise audit of the Weedon Hill area during the next summer holiday period; and
2. Subject to Part 1, a general review of Town Planning Policy No. 19.4 – Home Holidays including consideration of possible removal of Weedon Hill from preferred Area 1.

It is noted that the above is a current action, with the noise audit planned for this coming summer (2014/2015).

Consultation:**External Consultation:**

- The application was referred to thirteen (13) adjoining landowners inviting comment on the proposal.
- The applicant

Internal Consultation:

- Development Co-ordination Unit

Statutory Obligations:

Town Planning Scheme No. 3 (TPS No. 3) specifies the pertinent planning provisions for the proposed use.

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 19.4 – Holiday Homes provides details on preferred locations for the establishment/operation of holiday homes, minimum development standards that dwellings need to comply with and management responsibilities to ensure that holiday homes are managed appropriately whilst ensuring the local character and amenity of the area is not compromised.

Clause 8.2.4 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 Council's current Budget or Plan for the Future.

Strategic Implications:

The report and officer recommendation is consistent with Council's adopted Mission and Vision and assists to achieve the following specific adopted Strategic Objectives and Goals.

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

Governance Goal: Planning - That the Shire of Denmark work with other relevant authorities and agencies to develop and implement planning policies and decisions that not only reflect the wishes of the community, but also provide the region with appropriate development options.

Sustainability Implications:**➤ Governance:**

There are no known significant governance considerations relating to the report or officer recommendation, however it is noted that Planning Approval and registration of the premises as a Holiday Home with Health Services is a statutory requirement for Holiday Homes.

➤ Environmental:

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

➤ **Economic:**

Holiday Homes, when managed to a high standard make a positive contribution to Denmark’s tourism industry.

➤ **Social:**

Two of the key objectives of Policy 19.4 are to:

- Ensure that the predominant residential nature and character of neighbourhoods are retained; and
- Minimise negative impacts of holiday homes on the amenity of adjoining residents.

To this regard it is considered that with the proper management of holiday homes negative impacts can be minimised. Attest to this is a holiday home in Knowles Court that when advertised received twelve (12) objections. This holiday home was granted approval to operate by the Shire of Denmark in July 2013 and has operated without complaint since.

➤ **Risk:**

Risk	Risk Likelihood (based on history and with existing controls)	Risk Impact / Consequence	Risk Rating (Prior to Treatment or Control)	Principal Risk Theme	Risk Action Plan (Controls or Treatment proposed)
That the Holiday Home is not managed to a high standard.	Possible (3)	Minor (2)	Moderate (5-9)	Failure to meet Statutory, Regulatory or Compliance Requirements	In circumstances where valid complaints regarding a holiday home are received, the Shire has the right to not renew the approvals to operate.

Comment/Conclusion:

In accordance with Town Planning Scheme No. 3 (TPS No. 3), the subject site (lot size of 1125m²) is zoned “Residential (R 10)”. As per Table 1 – Zoning Table of TPS No.3, the use class of ‘Holiday Home (Large) is an ‘SA’ use in a Residential zone – that is Council may, at its discretion, permit the use in the zone after giving public notice of the application in accordance with Clause 6.4 of the TPS No. 3.

Public advertising of the proposal was undertaken in accordance with Clause 6.4 of TPS No. 3 (refer ‘Consultation’ section of the report), with one (1) submission received objecting to the proposal. Attached at Attachment 8.1.1b is the Schedule of Submissions – with the submission received being entered into the schedule as verbatim. Column 4 of the Schedule of Submissions represents Planning Services comments/response to the submission. The proponent has also provided a response to the submission received – refer Attachment 8.1.1c.

Having regard to the issues raised from the submission and assessment of the proposal having regard to the objectives and provisions of Policy 19.4, it is recommended that Planning Approval be granted subject to appropriate conditions being imposed. As Planning Approval is only granted initially for 12 months from the date of registration of the premises as a holiday home, in circumstances where valid complaints regarding the holiday home operations are received, the Shire has the right to not renew the approvals to operate.

Voting Requirements:

Simple majority.

OFFICER RECOMMENDATION

ITEM 8.1.1

That Council with respect to the planning application for the Proposed Holiday Home (Large) at No.7 (Lot 116) Adams Road, Denmark:

1. Notes the submission received.
2. Grants Planning Approval subject to the following:

Conditions

- a) The Holiday Home shall be in accordance with the attached stamped approved details/plans dated 19 September 2014.
- b) A barrier or bollards to be provided along the eastern edge of the driveway to delineate the edge of the driveway for the benefit of drivers to the satisfaction of the Shire of Denmark (Planning Services).
- c) This approval is valid for a temporary period of 1 year only and shall be subject to a new application in 12 months from the date of registration with the Shire of Denmark (refer Condition d), after which it may be renewed for a three year period (refer Advice Note i).
- d) Prior to the commencement of activities, the premises must be registered with the Shire of Denmark (Health Services) as a holiday home, with fees payable as per Councils operative Fees and Charges Schedule at the initial 'premises' application stage and annually thereafter (refer Advice Note ii).
- e) A maximum of eight (8) persons exclusive of the owner/operator may be accommodated at any one time within the holiday home.
- f) The holiday home can only be rented for a maximum period of 3 months to any one person in any one twelve (12) month period.
- g) Owner/operators must provide and maintain a register of all people who utilise the holiday home during the year to Council's satisfaction. A receipt book must be kept.
- h) Prior to the commencement of activities, the applicant shall provide a copy of an approved Property Management Plan to adjoining land owners/occupiers (see Advice Note iii for extent of properties that notices are to be provided to). Copies of such correspondence shall be provided to the Shire of Denmark for its records.
- i) Prior to the commencement of activities, hardwired smoke alarms to be provided in the bedrooms and emergency lighting to exit the building to the satisfaction of the Shire of Denmark (Building Services) - refer Advice Note iv.
- j) Provision of three (3) car parking bays associated with the development, with the car parking bays, manoeuvring and circulation areas to be suitably constructed, sealed (concrete, asphalt or brick pavers), drained and thereafter maintained.
- k) The following information shall be provided to all tenants at the commencement of an agreement to occupy the premises:
 - Annual Registration Certificate;
 - Caretaker/manager or management company and its contact details;
 - Emergency contact details;
 - Code of Conduct; and
 - Fire and Emergency Plan.
- l) The provision of the following fire safety measures to the satisfaction of the Shire's Community Emergency Services Manager:
 - A fire blanket in the kitchen area;
 - Fire extinguishers;
 - Maintenance of a Building Protection Zone around the dwelling;
 - Implementation and display of the Fire and Emergency Plan;
- m) Signage shall be limited to a 0.2m² nameplate on the property.

Advice Notes

- i. Should the Shire receive valid complaints or the above conditions of approval are not adhered to, Council may consider refusing to grant a new and/or longer approval.
- ii. Please contact the Shire's Principal Environmental Health Officer on 9848 0300 regarding the requirements for registration of the premises as a 'Holiday Home', noting approval will not be forthcoming until all relevant conditions of this Planning Approval have been complied with.
- iii. The 'Property Management Plan' shall be provided to the following properties:
 - No.3 (Lot 114) Adams Road, Denmark
 - No.4 (Lot 113) Payne Road, Denmark
 - No.6 (Lot 112) Payne Road, Denmark
 - No.8 (Lot 111) Payne Road, Denmark

- No.10 (Lot 110) Payne Road, Denmark
- No.12 (Lot 109) Payne Road, Denmark
- No.13 (Lot 119) Adams Road, Denmark
- No.11 (Lot 118) Adams Road, Denmark
- No.9 (Lot 117) Adams Road, Denmark
- No.4 (Lot 204) Adams Road, Denmark
- No.8 (Lot 209) Adams Road, Denmark
- No.36 (Lot 1) Gilbert Avenue, Denmark
- No.18 (Lot 30) Gilbert Avenue, Denmark
- iv. In relation to Condition i, there is a need to provide emergency lighting on exit paths and hardwired smoke alarms are required in all bedrooms.
- v. The applicant is advised that all activities on-site are to comply with the Environmental Protection (Noise) Regulations 1997.
- 3. Advise the submitters of Council's decision.

COUNCIL RESOLUTION

ITEM 8.1.1

MOVED: CR MORRELL

SECONDED: CR LEWIS

That Council with respect to the planning application for the Proposed Holiday Home (Large) at No.7 (Lot 116) Adams Road, Denmark:

1. Notes the submission received.
2. Refuse Planning Approval on the following basis;
 - a) It will have an effect on several immediate neighbours, loss of amenity, adverse effect on parking conditions and flow of traffic on the adjacent road.
 - b) The level of holiday homes (41%) in the Adams Road area has exceeded the level acceptable in a residential zone.
 - c) Council is investigating changing the relevant policy to exclude Weedon Hill from preferred area 1 of the relevant Local Planning Policy No. 19.4.
 - d) The key objectives of Local Planning Policy No. 19.4 is to ensure that the predominant character and amenity of the neighbourhood is retained.

6.16pm – *The Director of Finance & Administration left the room.*

6.25pm – *The Director of Finance & Administration returned to the room.*

CARRIED: 6/2

Res: 061114

REASONS FOR CHANGE

Council wished to refuse the application for the reasons stated in the Resolution.

8.1.2 PROPOSED FIVE (5) GROUPED DWELLINGS – NO. 21 (LOT 943) BARNETT STREET, DENMARK

File Ref:	A3127 (2014/113)
Applicant / Proponent:	Define Creations Design & Drafting on behalf of Retirees WA (Inc)
Subject Land / Locality:	No.21 (Lot 943) Barnett Street, Denmark
Disclosure of Officer Interest:	Nil
Date:	28 October 2014
Author:	Marieke de Vries, Senior Town Planner
Authorising Officer:	Annette Harbron, Director of Planning & Sustainability
Attachments:	8.1.1a – Planning Application Documentation 8.1.1b – Submissions Schedule

Summary:

The proponent is seeking planning approval for five (5) grouped dwellings to be used for aged housing. In accordance with Town Planning Scheme No. 3 (TPS No. 3), the subject site has a Scheme Reservation of 'Parks & Recreation', with the ultimate purpose being "Pensioners' Homes Site" as per a Conditional Tenure granted to Retirees WA Inc.

Having regard to the application and the relevant provisions of Town Planning Scheme No. 3 (TPS No.3), the Shire's Local Planning Strategy (2011) and the Residential Design Codes, it is recommended that Planning Approval be granted subject to appropriate conditions.

Background:

Current Application

An application for Planning Approval was lodged with Planning Services in June 2014 to develop five (5) grouped dwellings. Following liaison with the proponent, amended plans were received in August 2014 – refer Attachment 8.1.1a.

Consultation:

External Consultation:

Given the land is reserved as 'Parks and Recreation' in TPS No. 3 (albeit that as per a Conditional Tenure the land is to be developed for pensioners' homes sites) the proposal was advertised for public comment in accordance with Clause 6.4 of TPS No.3 as follows:

- A sign was placed on the property from 16 September 2014 to 6 October 2014;
- The application was referred to five (5) adjoining landowners inviting comment; and
- The application was referred to the Department of Lands and the Water Corporation inviting comment.

Internal Consultation

- Development Co-ordination Unit

Statutory Obligations:

Town Planning Scheme No. 3 sets out the relevant statutory obligations relating to this proposal.

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.

Section 75 of the *Land Administration Act 1997* sets out the relevant statutory obligations relating to the use of Crown land that is subject to conditional tenure. It is noted that should the land not be developed in accordance with the specified use the conditional tenure of the land is liable to be forfeited.

Policy Implications:

Given the land is reserved as 'Parks and Recreation' in TPS No. 3 and the proposal is for five (5) grouped dwellings that is not consistent with such Scheme Reservation (albeit the tenure provisions that relate to the site), there is no delegation for staff to determine applications of this nature, thus the reason for this application being referred to Council for determination.

Budget / Financial Implications:

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

Should Council refuse to grant planning approval on the grounds of the 'Parks & Recreation' reservation in TPS No. 3, as per Clause 2.3.1 of TPS No. 3 the owner of the land may, if the land is injuriously affected, thereby seek to claim compensation from Council for such injurious affection.

Strategic Implications:

The report and officer recommendation is consistent with Council's adopted Mission and Vision and assists to achieve the following specific adopted Strategic Objectives and Goals.

Social Objective: Denmark's communities, people and places are connected and creative, vibrant and dynamic, healthy and safe.

Social Goal: Population - That the Shire of Denmark monitor the availability of low-cost and rental housing in its region, and, if appropriate, encourages and works with relevant authorities, organisations and developers to provide a diverse range of accommodation that caters for the various sectors of the community.

Social Goal: Housing - That the Shire of Denmark monitor the availability of low-cost and rental housing in its region, and, if appropriate, encourages and works with relevant authorities, organisations and developers to provide a diverse range of accommodation that caters for the various sectors of the community.

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

Governance Goal: Planning - That the Shire of Denmark work with other relevant authorities and agencies to develop and implement planning policies and decisions that not only reflect the wishes of the community, but also provide the region with appropriate development options.

Sustainability Implications:**➤ Governance:**

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

➤ Environmental:

There are no known significant environmental considerations relating to the report or officer recommendation, noting that clearing of vegetation will not be required for the development.

➤ Economic:

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

➤ Social:

Noting that Denmark has a higher percentage of middle and aged people the provision of aged accommodation has a social benefit to the community.

➤ **Risk:**

Risk	Risk Likelihood (based on history and with existing controls)	Risk Impact / Consequence	Risk Rating (Prior to Treatment or Control)	Principal Risk Theme	Risk Action Plan (Controls or Treatment proposed)
Council refuses the application on the basis of the 'Parks & Recreation' reservation in TPS No. 3.	Possible (3)	Moderate (3)	Moderate (5-9)	Inadequate Engagement - Community / Stakeholders / Crs	Accept Officer Recommendation

Comment/Conclusion:

Noting that the proposed land use of 'Grouped Dwelling' is at odds with what would normally be considered in keeping with the intent of a Parks and Recreation Reserve the proposal was advertised for public comment in accordance with Clause 6.4 of TPS No.3 (refer 'Consultation' section of the report) – with three (3) submissions received during the advertising period.

Attached at Attachment 8.1.1b is the Schedule of Submissions – with the submissions received being entered into the schedule as verbatim. Column 4 of the Schedule of Submissions represents Planning Services comments/response to the submission.

➤ *Town Planning Scheme No. 3 (TPS No. 3)*

In accordance with TPS No.3, the subject site is reserved as 'Parks and Recreation'.

In this regard Clause 2.2 of TPS No. 3 states:

Where an application for planning consent is made with respect to reserved land the Council shall have regard to the ultimate purpose intended for the reserve and the Council shall, in the case of land reserved for the purposes of a public authority, confer with that authority before granting its consent.

As per the above, when considering an application for planning consent with respect to reserved land the Council shall have regard to the ultimate purpose intended. Whilst reserved under TPS No.3 as 'Parks and Recreation', the land is the subject of a Conditional Tenure granted to Retirees WA Inc. for the purposes of "Pensioners' Homes Site".

➤ *Local Planning Strategy (2011)*

In accordance with the Local Planning Strategy, the subject land is designated 'Urban Residential' – noting this was designated as such in recognition of the Conditional Tenure on the land and the following relevant provisions from the Local Planning Strategy:

As per the Local Planning Strategy, the following provisions are relevant:

- Objective – To identify appropriate urban residential and special residential land supply to accommodate and guide the future orderly growth of the Denmark townsite.
- Strategy g) - Support the development of aged accommodation in suitable locations having regard to issues including but not limited to close proximity to commercial and community facilities, good accessibility (both vehicular and pedestrian access) and topography of the site having regard to the nature of the occupants.
- Implementation Point 5 – Council support private and public development of aged accommodation in suitable locations having regard to issues including but not limited to close proximity to commercial and community facilities, good accessibility (both vehicular

and pedestrian access) and topography of the site having regard to the nature of the occupants.

➤ *Residential Design Codes*

Notwithstanding there is no density coding that applies to the site given the site is reserved 'Parks & Recreation' in TPS No.3, it is appropriate that the Residential Design Codes form the primary basis for assessment purposes – noting in this regard Planning Services provided advice to the applicant/landowner that the R20 density coding provisions (as well as the Aged & Dependent Persons' Dwelling provisions given the form of development proposed) should generally apply to the development proposal having regard to the zoning of the adjoining Residential zoned properties.

The proposal has been assessed in accordance with the Residential Design Codes and complies accordingly.

Having regard to the above, from a Planning Services perspective the proposal as presented is appropriate and it is considered that Planning Approval should be granted with appropriate conditions.

Voting Requirements:

Simple majority.

6.28pm – Cr Gillies left the room.

6.30pm – Cr Gillies returned to the room.

6.33pm – Cr Lewis left the room.

COUNCIL RESOLUTION & OFFICER RECOMMENDATION	ITEM 8.1.2
MOVED: CR OSBORNE	SECONDED: CR SAMPSON

6.34pm – Cr Lewis returned to the room.

That with respect to the planning application for the Proposed Five (5) Grouped Dwellings for No. 21 (Lot 943) Barnett Street, Denmark, Council resolves to:

1. Note the submissions received.
2. Grant Planning Approval subject to the following:

Conditions

- a) The development shall be in accordance with the attached stamped approved plans dated 26 August 2014 including the following modifications:
 - Visitor parking bays being relocated to the western side of the driveway off Barnett Street, with the configuration being perpendicular to the driveway
- b) The dwellings to be occupied by an aged person (defined as aged 55 years or over) or the surviving partner of an aged person (refer Advice Note i).
- c) All dwellings are to incorporate, as a minimum, the following:
 - An accessible path of travel from the street frontage, car parking area of drop-off point in accordance with the requirements of AS4299 clause 3.3.2 (as amended)
 - Level entry to the front entry door with preferably all external doors having level entries
 - All external and internal doors to provide a minimum 820mm clear opening (AS4299 Clause 4.3.3 (as amended))
 - Internal corridors to be a minimum 1000mm wide; width to be increased to a minimum of 1200mm in corridors with openings on side walls
 - A visitable toilet (AS4299 Clause 1.4.12 (as amended)), preferably located within a bathroom

- Toilet and toilet approach doors shall have a minimum 250mm nib wall on the door handle side of the door and provision for the installation of grab rails in accordance with AS4299 Clause 4.4.4(h) (as amended)
- d) The provision of a pedestrian footpath along the Barnett Road frontage of the property to the specification and satisfaction of the Shire of Denmark (Infrastructure Services).
- e) The vehicle crossover shall be suitably constructed, drained and sealed (concrete, asphalt or brick pavers) to the satisfaction and specifications of the Shire of Denmark (Infrastructure Services) and thereafter maintained – refer attached vehicle crossover application form.
- f) All vehicle parking, manoeuvring and circulation areas shall be suitably constructed, sealed (asphalt, concrete or brickpavers), drained, kerbed, marked, signed (where required) and thereafter maintained.
- g) Provision of a minimum of two (2) visitor's car parking bays on-site, noting the following specific requirements:
 - One (1) bay to be wheelchair accessible with a minimum width of 3.8 metres in accordance with Clause AS4299 Clause 3.7.1 (as amended);
 - Visitor car parking spaces to be clearly marked and signposted as dedicated for visitor use only; and
 - Accessible path of travel for people with disabilities to be provided to the dwellings.
- h) Bollard style lighting to be provided along the internal access driveway.
- i) All stormwater and drainage runoff from all roofed and impervious areas is to be retained on-site or connected to a legal point of discharge to the satisfaction of the Shire of Denmark (Infrastructure Services).
- j) Prior to the issuance of the building permit, a detailed stormwater management plan (incorporating water sensitive urban design principles) must be submitted to and approved by the Shire of Denmark (Infrastructure Services).
- k) All walls and fences to be erected forward of the building line must be visually permeable when higher than 1.2 metres above natural ground level. Furthermore, walls and fences must be truncated or reduced to no higher than 0.75 metres within 12.5 metres of where walls and fences adjoin vehicle access points where a driveway meets a public street or where two streets intersect.
- l) External clothes drying area(s) appurtenant to the dwellings shall be provided in a location such that they are screened from public view from the street.
- m) Landscaping shall be carried out in areas as identified on the approved plans and thereafter shall be maintained as landscaped areas at all times.
- n) At the time of lodgement of the building permit application, the developer to pay the Development Contributions for Road Infrastructure fee as per the Shire of Denmark's Operative Fees and Charges Schedule (refer Advice Note ii).
- o) The approved development is to be connected to a reticulated water supply provided by a licensed water provider.
- p) The approved development shall be connected the reticulated sewer network.
- q) Immediately prior to the occupation of the development for its approved purpose, the developer shall notify the Shire of Denmark (Planning Services), in writing, of the effective completion of the approved development such that a Final Inspection can be carried out to determine compliance with the conditions contained on this Planning Approval.

Advice Notes

- i. In the event that the development is subject to a future subdivision, a condition is likely to be imposed requiring a Section 70A Notification under the Transfer of Land Act 1893 (as amended) and registered against the Certificate of Title to the land the subject of the application advising the owners, their heirs and successors in title that that at least one occupant of each dwelling is required to be an aged person or the surviving partner of an aged person.
- ii. In relation to Condition n), as per the Council's 2014/15 Fees & Charges Schedule, the applicable development contribution fee is \$1,850 per residential dwelling.

- iii. As per advice received from the Water Corporation, the proponent is advised that an easement may be required over the sewer line that traverses the property. The proponent is advised to liaise directly with the Water Corporation on this matter.
 - iv. It is the responsibility of the applicant to ensure that building setbacks correspond with the legal description of the land. This may necessitate re-surveying and re-pegging the site. The Shire of Denmark will take no responsibility for incorrectly located buildings.
 - v. It is the responsibility of the applicant/owner to search the title of the property to ascertain the presence of any easements and/or restrictive covenants that may apply.
3. Advise the submitters accordingly.

CARRIED UNANIMOUSLY: 8/0

Res: 071114

6.35pm - Public Question Time

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

8.1.3 PROPOSED SINGLE HOUSE ADDITIONS/ALTERATIONS - NO. 17 (LOT 865) PATERSON STREET, DENMARK
--

File Ref:	A1566 (2014/153)
Applicant / Proponent:	D Stephens
Subject Land / Locality:	No. 17 (Lot 865) Paterson Street, Denmark
Disclosure of Officer Interest:	Nil
Date:	30 October 2014
Author:	Marieke de Vries, Senior Town Planner
Authorising Officer:	Annette Harbron, Director of Planning & Sustainability
Attachments:	8.1.3a – Planning Application Documentation 8.1.3b – Schedule of Submissions 8.1.3c – Applicant’s Responses to Submissions Received

Summary:

The proponent is seeking Planning Approval for Single House Additions/Alterations (Carport) at No. 17 (Lot 865) Paterson Street, Denmark. Approval is sought for a side setback variation from the Deemed-to-comply criteria of the Residential Design Codes (R-Codes).

Having regard to the issues raised from the submission received and the relevant Design Principle criteria in the R-Codes relating to lot boundary setbacks, it is considered that the setbacks as proposed are appropriate and it is recommended that Planning Approval be granted subject to appropriate conditions.

Background:Current Application

An application for Planning Approval was lodged with Planning Services in August 2014 for Single House Additions/Alterations (Carport) and an Outbuilding. Amended plans were received in October 2014 following consultation with the adjoining landowner - refer Attachment 8.1.3a.

It should be noted that the Outbuilding was recently approved under delegation via a separate Planning Approval.

Consultation:External Consultation

- Applicant
- One (1) adjoining landowner inviting comment on the proposal

For Council’s information, as part of the assessment of a planning application that is to be assessed against the Design Principles of the R-Codes, proposals are referred to affected adjoining landowners for comment by Planning Services. In this regard the following information is relevant as to the role of submissions in the decision-making process:

- Whilst all comments relating to a proposal are considered in the final determination of an application, and a submission objecting to a proposal may be lodged, there is no obligation from the Shire of Denmark to refuse such a proposal based on this alone.
- Similarly just because the neighbour supports a proposal, there is no obligation from the Shire of Denmark to approve such a proposal – each application will be considered on its planning merits and determined accordingly.
- The aim of public consultation is not to shift the responsibility or power away from the decision-maker.
- Quantity of submissions is not a consideration – the key is what the issues/concerns are arising from the submission(s) received.

Internal Consultation

- Development Co-ordination Unit

Statutory Obligations:

TPS No. 3 and the R-Codes specify the pertinent planning provisions for the proposal.

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:

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.

Strategic Implications:

The report and officer recommendation is consistent with Council’s adopted Mission and Vision and assists to achieve the following specific adopted Strategic Objectives and Goals.

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

Governance Goal: Planning - That the Shire of Denmark work with other relevant authorities and agencies to develop and implement planning policies and decisions that not only reflect the wishes of the community, but also provide the region with appropriate development options.

Sustainability Implications:

➤ **Governance:**

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

➤ **Environmental:**

There are no known significant governance 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

➤ **Risk:**

Risk	Risk Likelihood (based on history and with existing controls)	Risk Impact / Consequence	Risk Rating (Prior to Treatment or Control)	Principal Risk Theme	Risk Action Plan (Controls or Treatment proposed)
The proponent may lodge an application for review to the State Administrative Tribunal if the Council’s decision was to refuse the proposal.	Possible (3)	Minor (2)	Moderate (5-9)	Failure to meet Statutory, Regulatory or Compliance Requirements	Accept Officer Recommendation as the decision is based on sound planning grounds. If a decision is made to refuse the application, Council is to provide sound reasoning to support solid defence at the State Administrative Tribunal should the applicant wish to pursue a Right of Review.

Comment/Conclusion:

In accordance with Town Planning Scheme No. 3 (TPS No. 3) the subject site is zoned "Residential (R10/20)" and a 'Single House' is a "P" use – that is the use is permitted provided the relevant standards and requirements are complied with.

Planning Services have assessed the proposal having regard to the R-Codes and the proposal is generally compliant (or can be conditioned to comply) with the Deemed-to-Comply criteria with the exception of the following:

- Side boundary (north/west) setback – proposal is for five (5) posts to be located on the boundary with the roof sheeting having a setback of 450mm; Deemed-to-Comply minimum setback is 1.5m based on a total length greater than 9m (11.6m) and wall height less than 3.5m (noting as per the R-Codes, posts associated with verandahs, patios, carports and the like are classed as 'walls' for the purposes of setbacks).

As per the R-Codes, where proposals do not meet the Deemed-to-Comply criteria, the proposal is assessed having regard to the relevant Design Principles criteria – which in this instance are:

P3.1 Buildings set back from lot boundaries so as to:

- *reduce impacts of building bulk on adjoining properties;*
- *provide adequate direct sun and ventilation to the building and open spaces on the site and adjoining properties; and*
- *minimise the extent of overlooking and resultant loss of privacy on adjoining properties.*

The proposal was referred to the one (1) adjoining landowner, with one (1) submission received. Attached at Attachment 8.1.3b is the Schedule of Submissions – with the submission received being entered into the schedule as verbatim. Column 4 of the Schedule of Submissions represents Planning Services comments/response to the submission.

Attached at Attachment 8.1.3c is the applicant's responses to the submission received. Planning Services have no further comments to make on the applicant's response with the exception of the following clarification/correction points:

- The applicant was advised that the original proposal for the outbuilding resulted in a wall height that exceeded the provisions of Policy 13.4: Outbuildings, thus would be referred to the adjoining landowner for comments as part of the assessment process.
- The applicant was advised that the carport proposal would be referred to the adjoining landowner for comment as part of the assessment process as it exceeded the wall length that can be considered under the Deemed-to-comply criteria of the R-Codes, and that if a valid objection was received the matter would be referred to Council for determination if a mediated outcome could not be achieved.

Having regard to the issues raised from the submissions and assessment of the proposal having regard to the R-Codes, it is considered that the setbacks as proposed are appropriate thus it is recommended that Planning Approval be granted subject to appropriate conditions being imposed.

Voting Requirements:

Simple majority.

6.36pm – Cr Rowland left the room.

6.37pm – The Chief Executive Officer left the room.

6.37pm – Cr Rowland returned to the room.

6.40pm – The Chief Executive Officer returned to the room.

COUNCIL RESOLUTION & OFFICER RECOMMENDATION

ITEM 8.1.3

MOVED: CR ROWLAND

SECONDED: CR GILLIES

That Council with respect to the planning application for the Proposed Single House Additions/Alterations on No. 17 (Lot 865) Paterson Street, Denmark:

1. Note the submissions received;
2. Grant Planning Approval subject to the following:

Conditions

- a) Development shall be in accordance with the attached stamped approved plans dated 19 August 2014 (site plan) and 27 October 2014 (floor plan and elevations).
- b) The vehicle crossover shall be suitably constructed, drained and sealed (concrete, asphalt or brick pavers) to the satisfaction and specifications of the Shire of Denmark (Infrastructure Services) and thereafter maintained– refer attached vehicle crossover application form.
- c) Stormwater and drainage runoff from all roofed and impervious areas is to be retained on-site or connected to a legal point of discharge to the satisfaction of the Shire of Denmark (Infrastructure Services).

Advice Notes

- i. It is the responsibility of the applicant/owner to ensure that building setbacks correspond with the legal description of the land. This may necessitate re-surveying and re-pegging the site. The Shire of Denmark will take no responsibility for incorrectly located buildings.
 - ii. It is the responsibility of the applicant/owner to search the title of the property to ascertain the presence of any easements and/or restrictive covenants that may apply.
3. Advise the submitter of Council's decision.

CARRIED UNANIMOUSLY: 8/0

Res: 081114

8.1.4 SPRINGDALE BEACH ESTATE FORESHORE MANAGEMENT PLAN
--

File Ref:	WAPC 146458
Applicant / Proponent:	Opus International Consultants (PCA) Pty Ltd on behalf of LWP Denmark Pty Ltd
Subject Land / Locality:	Wilson Inlet Foreshore Reserve Adjoining Springdale Beach Estate
Disclosure of Officer Interest:	Nil
Date:	3 November 2014
Author:	Donna Sampey, Sustainability Officer
Authorising Officer:	Annette Harbron, Director of Planning & Sustainability
Attachments:	8.1.4a – Draft Foreshore Management Plan: Springdale Beach Estate 8.1.4b – Schedule of Submissions

Summary:

In September 2014 Council resolved to endorse the draft Springdale Beach Estate Foreshore Management Plan (SBEFMP) for public advertising purposes.

The draft SBEFMP was advertised for public comment, with five (5) submissions received.

Following review of submissions and additional considerations from Shire staff, it is recommended that Council adopt the draft SBEFMP with two minor modifications relating to Table 2: Management Issues, Recommendations and Actions for the Foreshore Reserve.

Background:

Council considered the draft SBEFMP at the Ordinary Meeting of Council held on 9 September 2014 wherein they resolved as follows (Res No: 040914):

That with respect to the Draft Springdale Beach Estate Foreshore Management Plan, Council endorse it for public advertising purposes for a minimum period of 28 days.

Consultation:

Public advertising of the draft SBEFMP (refer Attachment 8.1.4a) commenced on 25 September 2014 and closed on 24 October 2014. During the advertising period the following consultation took place:

- Advertising notice in the Denmark Bulletin on 25 September 2014 inviting public comment;
- Referral to the 32 landowners (excluding LWP Denmark Pty Ltd) in the adjoining Springdale Beach Estate inviting public comment;
- Referral to the following government departments/interested stakeholders inviting comment:
 - Department of Water
 - Department of Planning
 - Department of Lands
 - Department of Aboriginal Affairs
 - Denmark Historical Society
- Advertising notice inviting public comment on the proposal and the associated draft plan displayed at the Shire Administration Office, the Shire Library and the Shire's website for the duration of the public advertising period.

At the close of the advertising period, a total of five (5) submissions were received – two (2) from the public and three (3) from government departments. Attached as Attachment 8.1.4b is the Schedule of Submissions – with all submissions received being entered into the schedule as verbatim. Column 4 of the Schedule of Submissions represents Sustainability Service's comments/response to the submissions.

Statutory Obligations:

The requirement for the SBEFMP arises from Subdivision Approval 146458.

Policy Implications:

Council Policy P100509 Wilson Inlet Foreshore Reserves Management Plan 2008, states: "Council received and adopted the *Wilson Inlet Foreshore Reserves Management Plan 2008* as amended, with a view for the Shire to work towards implementing the recommendations stipulated within the Plan".

In accordance with the Wilson Inlet Foreshore Reserves Management Plan 2008, the following recommendations and actions are relevant to the Springdale Beach Recreation Node:

Recommendations:

- 2.5l) *It is recommended that WIMAG's (Wilson Inlet Management Advisory Group) advice regarding Springdale Beach be considered in the assessment of development proposals.*
- 2.5m) *It is recommended that development at the Springdale Beach Recreation Node provide low-impact recreational facilities.*
- 2.5n) *It is recommended that the Shire and relevant management bodies restrict any development or major disturbance at Springdale Beach to avoid impact on heritage sites.*

Actions:

- *Consider WIMAG's advice regarding Springdale Beach in the assessment of development proposals.*
- *Ensure that development proposals do not adversely impact on heritage sites.*
- *Consider the following low-impact recreational facilities for development at the Springdale Beach Recreational Node:*
 - *Restoring the historic jetty, in keeping with its heritage aesthetic, as a fishing platform*
 - *Establishing wheelchair-accessible walk trails up to the adjacent subdivision*
 - *Redeveloping the shelter and the surrounding area (with minimal clearing) to provide seats and picnic facilities and pedestrian access to the fishing platform*
- *Erect barriers and signs to ensure that there is no public vehicle access from the subdivisions adjoining Springdale Beach.*
- *Ensure that no boats or dinghies are left on Springdale Beach.*

Due regard has been given to the above recommendations and actions in the draft SBEFMP.

Budget / Financial Implications:

In accordance with WAPC Condition 18, LWP are responsible for implementing the majority of recommendations associated with the SBEFMP.

Post-clearance of subdivision conditions and completion of the 24-month developer maintenance period, the Shire will be responsible for maintenance and up-keep – which is expected to be incorporated into normal Shire-operations.

The only significant project item that has been referenced as responsibility of the Shire of Denmark in the draft SBEFMP is "consideration of re-instatement of a fishing platform or jetty at Springdale Beach". In this regard, implementation of this action item would be reliant on appropriate funding sources being identified, environmental and cultural heritage impact assessments being undertaken as required and the relevant statutory approvals being obtained.

Strategic Implications:

The report and officer recommendation is consistent with Council's adopted Mission and Vision and assists achieve the following specific adopted Strategic Objectives and Goals.

Environment Objective - Denmark's natural environment is regionally significant, wild and beautiful, yet so inviting and fragile that its protection and enhancement is carefully balanced in meeting the needs of current and future generations' lifestyle, development and tourism needs.

Natural Environment Goal - That the Shire of Denmark acknowledge the importance of the natural environment to the residents of Denmark and the region, and works with residents and

all relevant agencies to maintain a high standard of environmental protection and its integration with community life.

Waterways Goal - That the Shire of Denmark acknowledge the importance of rivers, inlets and coastline to residents, visitors and the local economy, and implements and advocates for policies with other relevant authorities and organisations to maintain these to a high standard of health and amenity.

Economic Objective – Denmark’s economy is diverse and vibrant – its primary industries of tourism and agriculture rely on and enjoy natural and other assets that are sensibly managed and promoted.

Development Goal – That the Shire of Denmark closely monitor development and associated infrastructure needs in the region, and acts in conjunction with other authorities and agencies to plan development which is sensitive, timely and appropriate to the community’s needs.

Social Objective – Denmark’s communities, people and places are connected and creative, vibrant and dynamic, healthy and safe.

Recreation Goal - monitor all forms of recreational and cultural facilities and services, and take careful account of the level of community support for those in determining the improvements or new facilities to be supported together with their relative contribution to personal and community well-being.

Sustainability Implications:

➤ **Governance:**

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

➤ **Environmental:**

Implementation of recommendations within the SBEFMP such as weed control, revegetation activities and erosion control will increase the environmental values of the Springdale Beach foreshore area.

Implementation of recommendations within the SBEFMP will accommodate the needs of the current and future residents of the Springdale Beach Estate and Denmark community, whilst maximising recreational opportunities and protecting and enhancing the natural environment.

➤ **Economic:**

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

➤ **Social:**

Springdale Beach has been utilised as a low-impact recreation node from early in Denmark’s European history. Development of the adjacent Springdale Beach Estate will see increasing usage of the area, thus it is appropriate that the area is appropriately managed. The SBEFMP seeks to sustainably manage this use, promote ease of access to the beach and Denmark-Nornalup Heritage Rail Trail from Springdale Beach Estate and promote inherent heritage and recreational values.

The Springdale Beach foreshore area contains three sites which are listed in the Shire of Denmark’s Municipal Heritage Inventory (2011):

- 1927 Rail Line (Torbay-Denmark portion of the Denmark-Nornalup Heritage Rail Trail);
- Springdale Beach Ochre Source and stone arrangement; and
- Reso Seats (seating on the beach).

➤ **Risk:**

Risk	Risk Likelihood (based on history and with existing controls)	Risk Impact / Consequence	Risk Rating (Prior to Treatment or Control)	Principal Risk Theme	Risk Action Plan (Controls or Treatment proposed)
Council do not endorse the draft SBEFMP	Unlikely (2)	Minor (2)	Low (1-4)	Damage to Physical Assets	Manage by treating any impacts to the area as they occur through normal Shire operations and utilising existing management plans for the wider area. Work required will be at Council's expense.
Council endorse the draft SBEFMP without accepting officer recommendations	Unlikely (2)	Minor (2)	Low (1-4)	Damage to Physical Assets	Accept Risk

Comment/Conclusion:

Both submissions received from the public did not agree with the SBEFMP's recommendation to prohibit small boat storage and/or launch from Springdale Beach. While the SBEFMP's recommendation at this time is in accordance with the *Wilson Inlet Foreshore Reserves Management Plan 2008*, boat launching facilities and storage could be considered in future revisions of the SBEFMP.

One public submission requested retention of an American Redwood tree, which is a species introduced to Australia. Retention of the tree is not supported by the Officer, given its potential impacts to the surrounding foreshore vegetation (eg. shading of native understorey species, potential spread to other areas) and is not in accordance with the objectives of the SBEFMP to "protect ecological aspects".

All other public and government agency submission comments have been addressed in the draft SBEFMP.

Overall, Sustainability Services recommends Council endorse the draft SBEFMP, with the following modifications to Table 2: Management Issues, Recommendation and Actions for the Foreshore Reserve:

- Amend 'Management Action' No. 14 ("Install 6 – 7 car park bays at southern end of Beaufortia Gardens") to include the requirement for the car park design to be approved by the Shire's Director of Infrastructure Services prior to commencement of work; and,
- Include in 'Fire Management' the requirement for a fire service access way between Beaufortia Gardens and the Denmark-Nornalup Heritage Rail Trail, with access way to be gated and locked at both ends.

This modification is recommended as it is in accordance with the approved Springdale Beach Estate Bushfire Management Plan (BFMP), which was finalised after completion of the draft SBEFMP, and is the only recommendation from the BFMP for the area covered by the SBEFMP.

Voting Requirements:

Simple majority.

6.44pm – Cr Sampson left the room.

6.46pm – Cr Sampson returned to the room.

COUNCIL RESOLUTION & OFFICER RECOMMENDATION

ITEM 8.1.4

MOVED: CR GILLIES

SECONDED: CR OSBORNE

That with respect to the draft Springdale Beach Estate Foreshore Management Plan, Council:

1. Note the submissions.
2. Adopt Attachment 8.1.4a as the final plan with the following modifications to Table 2:
 - Amend 'Management Action' No. 14 to include the requirement for the car park design to be approved by the Shire's Director of Infrastructure Services prior to commencement of work; and,
 - Include in 'Fire Management' the requirement for a fire service access way between Beaufortia Gardens and the Denmark-Nornalup Heritage Rail Trail, with the access way to be gated and locked at both ends.
3. Advise the submitters accordingly.

CARRIED UNANIMOUSLY: 8/0

Res: 091114

8.1.5 SCHEME AMENDMENT 138 – REZONING NO. 10 (LOT 402) MYERS ROAD, SHADFORTH FROM ‘RURAL’ TO ‘SPECIAL RURAL’

File Ref:	TPS3/SA138 (A665)
Applicant / Proponent:	Ayton Baesjou Planning on behalf of Hillboi Nominees Pty Ltd
Subject Land / Locality:	No. 10 (Lot 402) Myers Road, Shadforth
Disclosure of Officer Interest:	Nil
Date:	27 October 2014
Author:	Annette Harbron, Director of Planning & Sustainability
Authorising Officer:	Annette Harbron, Director of Planning & Sustainability
Attachments:	8.1.5 a – Advertised Scheme Text Provisions, Zoning Map and Subdivision Guide Plan 8.1.5b – Schedule of Submissions 8.1.5c – Proponent’s Comments in Response to Submissions

Summary:

In May 2014 Council resolved to initiate Scheme Amendment No. 138 to rezone No. 10 (Lot 402) Myers Road, Shadforth from ‘Rural’ to ‘Special Rural’ to facilitate the creation of seven (7) freehold lots for rural living purposes.

Scheme Amendment No. 138 was advertised for public comment, with ten (10) submissions received.

It is recommended that Council grant final approval with modifications to Scheme Amendment No. 138 and refer the document to the Western Australian Planning Commission (WAPC)/Minister for Planning for final approval.

Background:

At its meeting of 27 May 2014, Council considered a request to initiate Scheme Amendment No. 138 to Town Planning Scheme No. 3 (TPS No. 3) wherein they resolved the following (Res No: 120514):

That with respect to the request to initiate a Scheme Amendment to rezone No. 10 (Lot 402) Myers Road, Shadforth from “Rural” to “Special Rural”, Council:

1. Pursuant to Section 75 of the Planning and Development Act 2005 initiate Town Planning Scheme No. 3 Amendment No. 138 by:
 - a) Rezoning No. 10 (Lot 402) Myers Road, Shadforth from “Rural” to “Special Rural – SR26” and amend the Scheme maps accordingly.
 - b) Inserting Special Rural Zone No. 26 provisions in Appendix VI – Special Rural Zone of the Scheme Text as follows:
 - Column 1 – Particulars of the Land
26. No. 10 (Lot 402) Myers Road, Shadforth
 - Column 2 – Proposed Uses
Rural Smallholding
Permitted Uses (P): Single House
Permitted at Council’s Discretion (AA): Rural Pursuit, Horticulture, Holiday Accommodation, Holiday Home (Standard), Holiday Home (Large), Home Occupation, Home Business, Cottage Industry
 - Column 3 – Special Provisions
 - i. Subdivision and development shall generally be in accordance with the Subdivision Guide Plan 12-39-SGP(e) dated May 2014.
 - ii. The minimum lot size shall be 4.0 hectares.
 - iii. Building envelopes (maximum 3000m²) should generally be as per the endorsed Subdivision Guide Plan, with all buildings and effluent disposal systems to be located within the building envelopes.

- iv. Any proposals seeking to vary the location of the building envelopes needs to at least have regard to the following:
 - a. A minimum front boundary setback of 20 metres to Myers Road and the new road off Cussons Road.
 - b. A minimum setback of 100 metres to the South Coast Highway lot frontage.
 - c. A minimum setback of 50 metres to Cussons Road lot frontage.
 - d. Minimum side and rear boundary setbacks of 15 metres, with the exception that Lots 3 and 4 are to have a side/rear boundary setback of 100 metres having regard to the extreme fire risk associated with the adjoining vegetation.
 - e. Minimum setback of 30 metres from the Vegetation Protection Area as identified on the Subdivision Guide Plan.
 - f. Visual impact/amenity from adjoining roads.
 - g. Other issues as identified on the Opportunities and Constraints Plan for the land as provided for in the Scheme Amendment 138 documentation
 - v. Zincalume or white coloured roofs and external wall materials shall not be permitted.
 - vi. No boundary fencing shall be constructed of fibre cement, metal sheeting or wooden picket. If fencing is utilised, it should be of rural construction such as post and strand (or similar) to the satisfaction of Council.
 - vii. Vegetation Protection and Revegetation
 1. No clearing of vegetation shall occur except for:
 - Clearing to comply with requirements of the Bush Fires Act 1954 (as amended).
 - Clearing within the building envelope as may be reasonably required to construct an approved building and curtilage.
 - Trees which are dead, diseased and dangerous.
 - Clearing to gain vehicular access to an approved dwelling or any other clearing which may be approved by the Council.
 2. Council may request the Commission to impose a condition at the time of subdivision for the revegetation of areas shown on the Subdivision Guide Plan. Council shall require the use of endemic native shrubs and trees and shall require that these are maintained for a period of at least three years.
 3. Additional tree planting may be required as a condition of development approval.
 - viii. With the intention of preventing erosion or practices detrimental to the amenity within the zone, 'Rural Pursuit' and 'Horticulture' land uses shall not be permitted unless with the consent of the Council. The Council may impose limits on stocking or any other conditions as it sees fit and may vary such conditions in the light of prevailing seasonal conditions.
 - ix. The keeping of livestock shall be restricted to fenced, pastured areas of the lot. The owner is responsible for the construction and maintenance of stock proof fencing to protect remnant vegetation.
 - x. Provision of potable water shall be the responsibility of the individual landowner at the time of development and shall involve the installation of a water storage tank of not less than 92,000 litre capacity.
 - xi. On-site effluent disposal shall be the responsibility of the individual landowner at the time of development, with the effluent disposal system to be approved by Council.
 - xii. Subdivision and development shall be in accordance with the approved Fire Management Plan for the land.
 - xiii. All Single Houses shall be constructed to AS3959-2009 Construction of Buildings in Bushfire Prone Areas (as amended), with no building requiring greater construction rating than BAL-29.
 - xiv. When considering the land use of 'Holiday Accommodation', support of a holiday accommodation proposal will only be forthcoming where the accommodation is limited to solely within the dwelling.
2. Refer Town Planning Scheme No. 3 Scheme Amendment No. 138 to the Environmental Protection Authority in accordance with Section 81 of the Planning and Development Act 2005.
 3. Determine that Town Planning Scheme No. 3 Amendment No. 138 is consistent with the criteria listed under Section 25(2) of the Town Planning Regulations 1967 and resolve to

proceed to advertising of the amendment for public inspection after consideration by the Environmental Protection Authority.

In line with Council's resolution the documentation was updated by the proponent, with referral of the Scheme Amendment No. 138 documentation to the Environmental Protection Authority (EPA) in accordance with Section 81 of the *Planning and Development Act 2005* occurring on 20 June 2014.

The EPA considered the proposal and determined that the proposed scheme amendment should not be assessed under Part IV Division 3 of the *Environmental Protection Act 1986* and that it was not necessary to provide any advice or recommendations. Advice of this determination was provided to Planning Services via letter dated 14 July 2014.

Consultation:

Public advertising of Scheme Amendment No. 138 (refer Attachment 8.1.5a for the proposed Scheme Text provisions, Zoning Map and SGP – noting that due to the size of the document, a copy of the Scheme Amendment report documentation is available for Councillors via Dropbox or USB, with a printed version available for Councillors upon request) commenced on 7 August 2014 and closed on 26 September 2014 (being 51 days, statutory requirement is minimum 42 days). During the advertising period the following consultation took place:

- Advertising notice in the Denmark Bulletin on 7 August 2014 inviting public comment;
- Referral of the Scheme Amendment documentation to the following government departments/servicing authorities inviting comment:
 - Department of Aboriginal Affairs
 - Department of Agriculture and Food WA
 - Department of Environment Regulation
 - Department of Fire & Emergency Services
 - Department of Health
 - Department of Planning
 - Department of Water
 - Main Roads WA
 - State Heritage Office
 - Telstra
 - Water Corporation
 - Western Power
- Referral to 95 landowners within 1km radius of the subject lot inviting comment;
- Sign on –site inviting public comment; and
- Scheme Amendment documentation was available for viewing at the Shire Administration Office and on the Shire's website.

At the close of the advertising period, a total of ten (10) submissions were received – two (2) from the public and eight (8) from government departments/servicing authorities. Attached as Attachment 8.1.5b is the Schedule of Submissions – with all submissions received being entered into the schedule as verbatim. Column 4 of the Schedule of Submissions represents Planning Services comments/response to the submissions and any modifications recommended as a result.

Attached as Attachment 8.1.5c is the proponent's responses to the submissions received.

Statutory Obligations:

- *Planning and Development Act 2005* – TPS No. 3 is an operative Local Planning Scheme under the Act;
- *Town Planning Regulations 1967* – The Regulations set the procedure for amending a town planning scheme; and
- Town Planning Scheme No. 3 – the land is currently zoned 'Rural'.

Policy Implications:

The following policies have been given due consideration in relation to this proposal:

- State Planning Policy No. 1: State Planning Framework Policy
- State Planning Policy No. 2.5: Land Use Planning in Rural Areas
- State Planning Policy No. 3 – Urban Growth and Settlement
- State Planning Policy No. 3.4: Natural Hazards and Disasters
- Draft Country Sewerage Policy
- Town Planning Scheme Policy No. 5: Minimum Setbacks
- Town Planning Scheme Policy No. 29: Rural Settlement Strategy

Budget / Financial Implications:

Fees associated with the amendment have been paid as per Council's operative Fees and Charges Schedule applicable at the time of lodging the formal request to amend TPS No. 3.

As per Council's operative Fees & Charges Schedule, Planning Services are recording officer time associated with this Scheme Amendment on the basis that if the costs exceed \$2000.00 (being the amount paid upfront by the proponent) then additional costs will apply and an invoice will be issued to the proponent's accordingly.

Strategic Implications:

The site is designated in the adopted Local Planning Strategy as 'Rural Smallholdings', and due regard has been given to the relevant Local Planning Strategy provisions within Scheme Amendment 138.

The report and officer recommendation is consistent with Council's adopted Mission and Vision and assists achieve the following specific adopted Strategic Objectives and Goals.

Social Objective: Denmark's communities, people and places are connected and creative, vibrant and dynamic, healthy and safe.

Social Goal: Lifestyle – that the Shire of Denmark endeavour to maintain and improve the standards and style of living, together with the creative and vibrant culture, that residents and visitors have come to expect.

Environment Objective: Denmark's natural environment is regionally significant, wild and beautiful, yet so inviting and fragile that its protection and enhancement is carefully balanced in meeting the needs of current and future generations' lifestyle, development and tourism needs.

Environment Goal: Natural Environment – that the Shire of Denmark acknowledge the importance of the natural environment to the residents of Denmark and the region, and works with residents and all relevant agencies to maintain a high standard of environmental protection and its integration with community life.

Economic Objective: Denmark's economy is diverse and vibrant – its primate industries of tourism and agriculture rely on and enjoy natural and other assets that are sensibly managed and promoted.

Economic Goal: Development – that the Shire of Denmark closely monitor development and associated infrastructure needs in the region, and acts in conjunction with other authorities and agencies to plan development which is sensitive, timely and appropriate to the community's needs.

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

Governance Goal: Planning – that the Shire of Denmark work with other relevant authorities and agencies to develop and implement planning policies and decisions that not only reflect the wishes of the community, but also provide the region with appropriate development options.

Sustainability Implications:

➤ **Governance:**

All processes associated with Amendment 138 have been actioned as per the requirements of the *Town Planning Regulations 1967*.

➤ **Environmental:**

There are no known significant environmental considerations relating to the report or officer recommendation, noting that the proposed Scheme provisions address the relevant environmental related matters for the development of the site (e.g. identification of building envelope areas, vegetation protection areas and creek revegetation areas; effluent disposal arrangements; fire protection measures etc).

➤ **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.

➤ **Risk:**

Risk	Risk Likelihood (based on history and with existing controls)	Risk Impact / Consequence	Risk Rating (Prior to Treatment or Control)	Principal Risk Theme	Risk Action Plan (Controls or Treatment proposed)
That the WAPC/Minister for Planning do not support the Amendment proposal	Unlikely (2)	Insignificant (1)	Low (1-4)	Inadequate Engagement - Community / Stakeholders / Crs	Manage by liaison with Department of Planning staff as the amendment progresses.

Comment/Conclusion:

Having regard to the submissions received and a review of the Scheme Amendment documentation by Planning Services, the following modifications to the Subdivision Guide Plan, the Scheme Amendment report and/or the associated Scheme Amendment provisions are recommended:

- a) Delete the Strategic Fire Access Route from proposed Lot 2 connecting the new road and South Coast Highway;
- b) Include a new Strategic Fire Access Route on the south-western boundary of proposed Lot 4 such that it connects with the Strategic Fire Access Route on the adjoining No. 20 (Lot 3) Ruhen Place, with the fire access gate to be relocated accordingly to facilitate such connection.
- c) Include the land to the north west of the waterway on proposed Lot 7 as being in the area to be revegetated.
- d) Amend Special Provision i) to modify the reference of “Subdivision Guide Plan 12-39-SGP(e) dated May 2014” to “Subdivision Guide Plan 12-39-SGP(f)” on the basis that amendments are recommended to be undertaken to the Subdivision Guide Plan that was advertised (being Version e); thus a new Version f will be compiled as a result of the recommended modifications.

From a Planning Services perspective it is considered that subject to the above modifications being incorporated, Amendment 138 and the associated Subdivision Guide Plan will provide for an appropriate development form for the site.

Voting Requirements:

Simple majority.

COUNCIL RESOLUTION & OFFICER RECOMMENDATION

ITEM 8.1.5

MOVED: CR MORRELL

SECONDED: CR OSBORNE

That with respect to Scheme Amendment 138 to rezone No. 10 (Lot 402) Myers Road, Shadforth from "Rural" to "Special Rural", Council:

1. Notes the submissions received.
2. Require the following modifications be undertaken to the Subdivision Guide Plan and/or the associated Scheme Amendment No. 138 report documentation:
 - a) Delete the Strategic Fire Access Route from proposed Lot 2 connecting the new road and South Coast Highway;
 - b) Include a new Strategic Fire Access Route on the south-western boundary of proposed Lot 4 such that it connects with the Strategic Fire Access Route on the adjoining No. 20 (Lot 3) Ruhen Place, with the fire access gate to be relocated accordingly to facilitate such connection.
 - c) Include the land to the north west of the waterway on proposed Lot 7 as being in the area to be revegetated.
3. Adopts Scheme Amendment No. 138 for final approval with modifications by:
 - a) Rezoning No. 10 (Lot 402) Myers Road, Shadforth from "Rural" to "Special Rural – SR26" and amend the Scheme maps accordingly.
 - b) Inserting Special Rural Zone No. 26 provisions in Appendix VI – Special Rural Zone as follows:
 - Column 1 – Particulars of the Land
26. No. 10 (Lot 402) Myers Road, Shadforth
 - Column 2 – Proposed Uses
Rural Smallholding
Permitted Uses (P): Single House
Permitted at Council's Discretion (AA): Rural Pursuit, Horticulture, Holiday Accommodation, Holiday Home (Standard), Holiday Home (Large), Home Occupation, Home Business, Cottage Industry
 - Column 3 – Special Provisions
 - i. Subdivision and development shall generally be in accordance with the Subdivision Guide Plan 12-39-SGP(f).
 - ii. The minimum lot size shall be 4.0 hectares.
 - iii. Building envelopes (maximum 3000m²) should generally be as per the endorsed Subdivision Guide Plan, with all buildings and effluent disposal systems to be located within the building envelopes.
 - iv. Any proposals seeking to vary the location of the building envelopes needs to at least have regard to the following:
 - a. A minimum front boundary setback of 20 metres to Myers Road and the new road off Cussons Road.
 - b. A minimum setback of 100 metres to the South Coast Highway lot frontage.
 - c. A minimum setback of 50 metres to Cussons Road lot frontage.
 - d. Minimum side and rear boundary setbacks of 15 metres, with the exception that Lots 3 and 4 are to have a side/rear boundary setback of 100 metres having regard to the extreme fire risk associated with the adjoining vegetation.
 - e. Minimum setback of 30 metres from the Vegetation Protection Area as identified on the Subdivision Guide Plan.
 - f. Visual impact/amenity from adjoining roads.
 - g. Other issues as identified on the Opportunities and Constraints Plan for the land as provided for in the Scheme Amendment 138 documentation
 - v. Zinalume or white coloured roofs and external wall materials shall not be permitted.

- vi. No boundary fencing shall be constructed of fibre cement, metal sheeting or wooden picket. If fencing is utilised, it should be of rural construction such as post and strand (or similar) to the satisfaction of Council.
 - vii. Vegetation Protection and Revegetation
 1. No clearing of vegetation shall occur except for:
 - Clearing to comply with requirements of the Bush Fires Act 1954 (as amended).
 - Clearing within the building envelope as may be reasonably required to construct an approved building and curtilage.
 - Trees which are dead, diseased and dangerous.
 - Clearing to gain vehicular access to an approved dwelling or any other clearing which may be approved by the Council.
 2. Council may request the Commission to impose a condition at the time of subdivision for the revegetation of areas shown on the Subdivision Guide Plan. Council shall require the use of endemic native shrubs and trees and shall require that these are maintained for a period of at least three years.
 3. Additional tree planting may be required as a condition of development approval.
 - viii. With the intention of preventing erosion or practices detrimental to the amenity within the zone, 'Rural Pursuit' and 'Horticulture' land uses shall not be permitted unless with the consent of the Council. The Council may impose limits on stocking or any other conditions as it sees fit and may vary such conditions in the light of prevailing seasonal conditions.
 - ix. The keeping of livestock shall be restricted to fenced, pastured areas of the lot. The owner is responsible for the construction and maintenance of stock proof fencing to protect remnant vegetation.
 - x. Provision of potable water shall be the responsibility of the individual landowner at the time of development and shall involve the installation of a water storage tank of not less than 92,000 litre capacity.
 - xi. On-site effluent disposal shall be the responsibility of the individual landowner at the time of development, with the effluent disposal system to be approved by Council.
 - xii. Subdivision and development shall be in accordance with the approved Fire Management Plan for the land.
 - xiii. All Single Houses shall be constructed to AS3959-2009 Construction of Buildings in Bushfire Prone Areas (as amended), with no building requiring greater construction rating than BAL-29.
 - xiv. When considering the land use of 'Holiday Accommodation', support of a holiday accommodation proposal will only be forthcoming where the accommodation is limited to solely within the dwelling.
4. Authorises the Shire President and Chief Executive Officer to execute the documentation for forwarding to the Western Australian Planning Commission seeking final approval by the Minister for Planning.
 5. Advises the submitters of Council's resolution.

CARRIED UNANIMOUSLY: 8/0

Res: 101114

8.2 Director of Community & Regulatory Services

8.2.1 PRAWN ROCK CHANNEL, OCEAN BEACH DOG EXERCISE AREAS & DRAFT SPECIFIED DOG EXERCISE OR PROHIBITED AREAS POLICY

File Ref:	ORG.79
Applicant / Proponent:	Not applicable
Subject Land / Locality:	Reserve 20578 (Prawn Rock Channel)
Disclosure of Officer Interest:	Nil
Date:	30 October 2014
Author:	Gregg Harwood, Director of Community & Regulatory Services
Authorising Officer:	Gregg Harwood, Director of Community & Regulatory Services
Attachments:	8.2.1 – Schedule of Submissions

Summary:

This report considers the comments that have been received in response to the advert seeking public comment in regards to the Prawn Rock Channel dog exercise area and recommends that Council retain the area south east of Prawn Rock Channel as an “off lead” dog exercise area as described in the attached map.

In addition, a draft Council Policy P050203 – Specified Dog Exercise or Prohibited Areas, is provided for Council’s consideration, pursuant to Section 31 of the Dog Act 1976, to specify the following areas within the Shire of Denmark:

- a) Designated Dog Exercise Areas (leash free);
- b) Rural Leashing (leash compulsory) Areas;
- c) Dog Prohibited Areas; and
- d) Dog Prohibited Areas at Certain Times.

Background:

At its 25 March 2014 Council considered a proposed Dog Exercise Area Strategy and resolved the following in Resolution No. 040314:

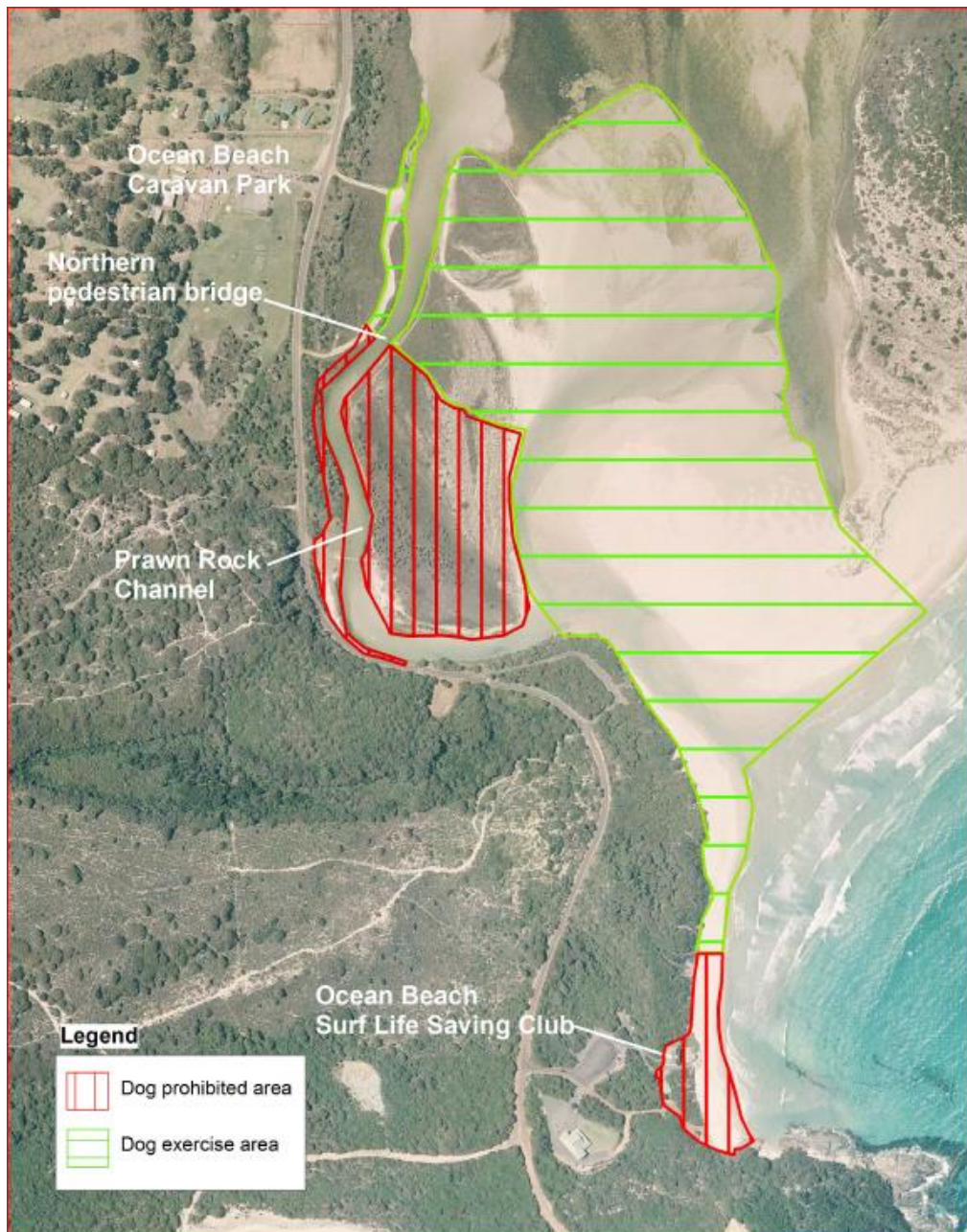
“That with respect to the proposed Dog Park Strategy, Council;

1. *Develop Laing Park, Lot 101 Ocean Beach Road as the primary developed dog park for the Shire.*
2. *Develop the unnamed cleared portion of Reserve 32279, Lot 1001 that is adjacent to Walters Park that is on Campbell Rd near the corner of Inlet Drive as a low key “off lead” exercise area.*
3. *Amend its Dog Local Laws in accordance with parts 1 and 2.*
4. *Ban dogs from the playing surfaces of the Mclean Park Oval complex.*
5. *Consider the allocation of \$3,000 in its 2014/2015 budget to engage an architect to prepare a development plan for the Laing Park site to ensure that it is developed in a way that best utilises the site from a dog owners perspective while taking into account parking and access factors as well as the needs of adjoining property owners and Trail users.*
6. *Plan for an allocation of \$20,000 per year in years 2-10 of the Forward Financial Plan to implement the Strategy.*
7. *Engage further with the community regarding dog access to the sandbar at Prawn Rock Channel, to further protect the habitat of migratory birds.”*

Consultation:

The Prawn Rock Channel proposal was advertised for public comment in the Denmark Bulletin on 4 September 2014 and specific, known interest groups were also contacted.

As part of the process the map below was prepared that displayed the gazetted exercise area and copies of these and the advert were displayed at the main entrance to this area, as well as on Council’s website.



Outcome of this public consultation have been collected in the attached table (refer Attachment 8.2.1) and is summarised as follows, a total of 28 submissions were received:

Total number of submissions	28
Total number of comments in support of retaining Prawn Rock Channel dog exercise areas.	25
Total number of comments seeking closure and or limitation of the Prawn Rock Channel dog exercise area.	3

The comments supporting the retention of the Prawn Rock Channel dog exercise area also cited the areas desirability as a flat area and safe water body that is readily accessible for seniors and smaller and older dogs as opposed to Lights Beach which is far harder to access and known for heavier swells that wash dogs of their feet and drown them.

Some of the supportive comments also expressed a desire to be able to access the dog exercise area via the main Ocean Beach swimming beach when inlet water levels prevent access via Prawn Rock Channel as is currently the case with the bar not having been opened.

Substantive submissions regarding the retention of the area were also received from local dog trainer Sam Blythe and Search Dogs Australia.

The comments seeking closure and/or limitation of the area focused on the impact the dogs have on shore birds and in particular migratory ones. Greenskills and Birdlife Australia also made substantive submissions expressing this perspective and the salient section of their most recent submission (22/10/2014) reads as follows:

“BirdLife’s position in resolving this issue is as follows in order from most to least acceptable:

(a) The priority is for dogs to be excluded from the bar area. This simply and correctly acknowledges the importance of the bar area for shorebirds and seabirds and the continuous threats and impacts that dogs impose on their welfare.

(b) Prawn Rock Channel island be adopted as the only off-lead dog exercising area (in the general bar area) by construction of a perimeter track on the island. PRC is not well utilised by shorebirds and seabirds (far less so than the sandy bar area) and would be in substitution of the dog presence on the bar area.

*(c) The adoption of effectively placed, removable lightweight fencing to direct people and **on-lead** dog traffic away from the more bird sensitive bar area north of a west-east line from the lookout above the main channel towards a more south-easterly route from PRC island to the southern section of the bar area and eastern section of Ocean Beach. The fencing installed, as and when necessary, may require adjustment of location from time to time depending on the movement of exposed sand and shallow water. We can supply a map showing typical fence location if required.*

Note : *Keeping dogs on-lead while passing the fenced area is most important as dogs off-lead are rarely controlled as proven by studies in other states, eg Victoria and will take no notice of any fence.*

An integral part of the strategy adopted by Council for the bar area to offer the protection sought for birds should be an ongoing community education and awareness program including appropriate signage.

Finally, given the Shire’s recent dog exercising strategy giving extended facilities for dogs, there is a need and an opportunity for Council to find a better balance between perceived community needs for more dog areas and the neglected needs of protection for wildlife.”

Council Officers also met onsite with Brad Kneebone and Geoff Taylor of Birdlife Australia on 6 August 14 to discuss their suggestions for reducing the likelihood of negative impacts by dogs.

At this meeting they advised the following:

- 1) They have no issues with birds and dogs at Prawn Rock Channel.
- 2) The need to consider all approaches to dog exercise area eg. from the lookout.
- 3) Breeding season is October to April. Bird activity decreases during other times of the year, but some birds will still be present.

- 4) Fencing of bird breeding areas – would be a seasonal location, to be moved every month during the breeding season.
- 5) Dogs can still run under fencing.
- 6) The potential for using bunting or chicken wire type fencing to prevent dog access.
- 7) That the entire Wilson Inlet sandbar area to Poddy Shot needs to be managed for birds v's dogs.
- 8) Suggested keeping dogs on leashes until they pass the temporary fencing, then let dogs off leash.
- 9) Suggested that a protocol was required.
- 10) That signage and education was needed.

The Shire's Sustainability Officer has also provided the following comments for Council's consideration:

"There is a need to review the allowance of dogs on the Wilson Inlet sandbar, given its known use by migratory shorebirds for roosting and feeding. Some of these migratory birds are protected under Commonwealth legislation and international agreements. The presence of dogs (amongst other external factors) has the potential for direct (predation, crushing of eggs) and indirect (disturbance) impacts to birds, compromising their survival during migration.

Background-

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

From the Coastal Reserves Management Strategy and Action Plan: Pg 59 - Dogs are also known to cause disturbance to shorebird habitat areas located within the dunes. This is particularly an issue at the Wilson Inlet bar area which is currently a designated Dog Exercise Area. Therefore, it is suggested that the Shire review their Dog Exercise Areas to consider their appropriateness from an environmental and social perspective, and make changes if necessary. The Wilson Inlet mouth and bar area is the second most important area of the inlet for shorebirds and the most important site for seabird roosting. At least 10 species of migratory birds, 6 species of resident shorebirds and 7 species of seabird are known to utilise the area.

Recommendation LUC3 - for the Shire to "Undertake a review of the Shire's designated Dog Exercise Areas and change if necessary".

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

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

Some of the migratory birds listed under JAMBA, CAMBA, ROKAMBA and Bonn Convention (International agreements) which have been counted at Wilson Inlet are

below (from Wilson Inlet Foreshore Reserves Management Plan, 2008). These birds are declared under s209 of the Environment Protection and Biodiversity Conservation Act 1999- list of migratory species. All migratory species roost and feed over summer:

- Bar-tailed Godwit
- Common Greenshank
- Red-necked Stint - Wilson inlet identified as site of international importance for this species in the Australian Government's Conservation notes for the species.
- Sharp-tailed Sandpiper
- Curlew Sandpiper – also WA State-Listed as Vulnerable (Wildlife Conservation Act 1950 (Western Australia): November 2012).
- The Red capped plover, although not listed at any level is a resident shorebird known to breed on the sandbar between Jul/Aug to March.

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

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

The Department of Water (DOW) has previously given approval to representatives from Birdlife Australia to erect temporary fencing around breeding areas once birds are present at the Wilson Inlet sandbar. Temporary restrictions to people, dog and vehicle movement on beaches has been implemented in other local governments Eg. Shire of Jerramungup, where shorebirds are known to nest.

Recommendation:

1. Restrict all access to areas of the Wilson Inlet sandbar when shorebirds are breeding using temporary fencing, considering the following:
 - a) Leave an unfenced corridor through the sandbar for transit from the Ocean Beach lookout and Prawn Rock channel carpark to Ocean Beach
 - b) Bird breeding activity to be monitored by Birdlife Australia. Fence to be erected by the group at commencement of breeding and removed once birds have fledged and moved on. Fence to be moved at least monthly during breeding season to take account of changing water levels in the inlet and breeding activity. The Shire does not have the resources to erect, move and remove the fence.
 - c) When birds are not breeding, no restrictions on access to the sandbar. Dogs can be off-lead.
 - d) Fence type – suggest star pickets or temporary plastic posts and 3-strand sighter wire. This type of fence will still allow birds access through the fence (as opposed to a mesh fence).

- e) *Dogs to be kept on a leash while on the sand bar whenever fencing is in place. Can be let off leash once on Ocean Beach (seaward side of foredunes). Policing by Ranger, but mainly requires people to do the right thing. Education and awareness will be important.*
- f) *Signage will be important. Will require educational signage and list of restrictions placed at points of access to sandbar. Temporary 'Warning' signs to be placed on/around the fenced area.*
- g) *Internal Shire procedure required to cover temporary fencing and roles and responsibilities.*
- h) *Outcome to be incorporated into Shire's Dog Exercise Strategy and maps. "*

Statutory Obligations:

With the recent changes to Section 31 of the Dog Act 1976, Council has the power to specify dog exercise, on lead and prohibited areas as opposed to amending its Dog Local Laws, which was previously the case.

The draft Policy proposed under Policy Implications includes the Ocean Beach and Prawn Rock Channel areas as well as other areas previously determined under the Shire of Denmark Dogs Local Law.

Policy Implications:

The proposed Policy P050203 reads as follows;

"P050203 SPECIFIED DOG EXERCISE OR PROHIBITED AREAS

Objective

Pursuant to the Dog Act 1976, dogs, within a townsite, must be on a leash or held by a person who is capable of controlling the dog in any public place (any place to which the public may lawfully have access) including; Beaches; Parks & gardens, car parks etc.. with the exception that on permitted beaches, dogs may be exercised without restraint but the owner must be in attendance and capable of restraining the dog if necessary.

This Policy provides details and information of areas within the Shire of Denmark which Council has specified as;

- *Designated Dog Exercise Areas (leash free);*
- *Rural Leashing (leash compulsory) Areas;*
- *Dog Prohibited Areas; and*
- *Dog Prohibited Areas at Certain Times.*

Policy

Pursuant to the Dog Act 1976, Council has specified by Absolute Majority the following areas where the owner or person liable for the control of a dog may exercise or otherwise take their dog.

Pursuant to Section 31 (3A) the following public places or classes of public places under the care and control of Council and whether in a townsite or not are hereby designated;

DESIGNATED DOG EXERCISE AREAS (LEASH FREE)

- *Denmark locality*
 - *Annie Harrison Park – Cnr Barnett Street and Hollings Road (portion of Reserve 15513 being the grassed area).*
 - *Reserve 22248 – bounded by Inlet Drive and Crowea Road.*
- *Ocean Beach locality*
 - *Lights Beach*
 - *Laing Park – 104 Ocean Beach Road (Reserve 45377).*

- Reserve 32279 (portion of) – Cnr Campbell Road and Inlet Drive
 - Reserve 20578 – Ocean Beach (including a portion of the area known as ‘Dog Island’), from the northern most pedestrian bridge, closest to the Ocean Beach Caravan Park, all land north, all of the sand area to the south, except for the grassed area immediately around Prawn Rock Channel (both sides). (Please note: Reserve 20578 ceases 100m north of the Denmark Surf Life Saving Club rooms) – Refer attached map.
 - Reserve 24913 (portion of) – from the National Park of William Bay to the end of Back Beach to the south (high watermark).
- Peaceful Bay locality
 - To the east of the main swimming area (boat launching side), as denoted by signs.
 - Parryville locality
 - Parry Beach (must be restrained in car park and camping area)
 - Boat Harbour (must be restrained or under the control of the owner)
 - Nornalup Townsite
 - Nil

Pursuant to Section 31 (2) (b) the following public places outside of the Denmark Townsite and not under the care and control of Council are exempt from the requirement to be on a leash also;

OTHER DOG EXERCISE AREAS (LEASH FREE) (OUTSIDE OF THE DENMARK TOWNSITE)

- Ocean Beach locality – Unallocated Crown Land (UCL) immediately east of the island known as “Dog Island” being the Wilson Inlet sandbar in the Shire of Denmark.

Pursuant to Section 31 (3B) the following public places or classes of public places under the care and control of Council and outside of a Townsite are designated;

RURAL LEASHING (LEASH COMPULSORY) AREAS

Nil

Pursuant to Section 31 (2B) (a) the following public places or classes of public places under the care and control of Council are designated;

DOG PROHIBITED AREAS AT ALL TIMES (WITH OR WITHOUT A LEASH)

- A public building, unless permitted by a sign.
- A theatre or picture gardens.
- All premises or vehicles classified as food premises or food vehicles under the Health (Food Hygiene) Regulations 1993.
- McLean Park – Brazier Street (portion of Reserve 15513 being the playing surfaces).
- Berridge Park – Hollings Road (portion of Reserve 14376 and whole of Reserve 19912, total grass area).
- Prawn Rock Channel, grassed areas – Ocean Beach Road (portion of Reserves 20578 and 24596). Both sides of channel, south from the northern pedestrian bridge and comprising all of that land on the island south of the pedestrian path (refer map).
- Ocean Beach (portion of Reserve 24913), the adjacent beach to a distance of 120 metres to the south and 120m to the north, as measured from the Denmark Surf Life Saving Club.
- Norm Thornton Park – Reserve 15700.

- *Peaceful Bay – swimming beach (indicatively the west side of the Sea Rescue Building).*

Pursuant to Section 31 (2B) (b) the following public places or classes of public places under the care and control of Council are designated;

DOGS PROHIBITED AREAS AT CERTAIN TIMES (WITH OR WITHOUT A LEASH)
Nil

Pursuant to Section 31(3C) these specified areas were advertised by local public notice in the Denmark Bulletin on XXX.

Note: These declarations are subject to any written law of the Commonwealth about assistance animals as defined in the Disability Discrimination Act 1992, Section 9(2).

Responsibility for implementation

The Director of Community & Regulatory Services is responsible for implementation of this policy.”

As per the Shire’s Coastal Reserves Management Strategy and Action Plan 2010-2020 the following recommendations are relevant;

- LUC3 : undertake a review of the Shire’s designated Dog Exercise Areas and change if necessary; and
- OB7: Replace the signage showing the dog exercise areas with clearer, easily-interpretable information regarding which areas are prohibited.

Budget / Financial Implications:

There will be costs associated with improved signage at Prawn Rock Channel and other areas as required, however it is anticipated that this expense can be accommodated for within current budget allocations.

Strategic Implications:

The report and officer recommendation is consistent with Council’s adopted Mission and Vision and assists achieve the following specific adopted Strategic Objectives and Goals.

Population: ...closely monitors its population growth over the next two decades, to put into place advocacy, policies and infrastructure that reflect the needs of a diverse age range and which will be attractive to both present and new residents.

Lifestyle: ...endeavour to maintain and improve the standards and style of living, together with the creative and vibrant culture, that residents and visitors have come to expect.

Recreation: ...monitor all forms of recreational and cultural facilities and services, and take careful account of the level of community support for those in determining the improvements or new facilities to be supported together with their relative contribution to personal and community well-being.

Environment Objective - Denmark’s natural environment is regionally significant, wild and beautiful, yet so inviting and fragile that its protection and enhancement is carefully balanced in meeting the needs of current and future generations’ lifestyle, development and tourism needs.

Sustainability Implications:**➤ Governance:**

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

➤ Environmental:

Some submissions received detailed the potential negative environmental considerations relating to the disturbance by dogs of shore birds that nest and feed on the sandbar.

While these comments are supported, they could be counter balanced against the fact that the presence of dedicated dog exercise areas reduces the wide spread negative consequences that result from a lack of exercise areas in the form of dogs being allowed to run free on beaches and in bush land generally across the Shire because owners feel that they have nowhere to take them.

The second counter balancing agreement is that the Ocean Beach sandbars have been used as dog exercise areas for many years and even at one point in time for motor racing and the birds are still there.

Councillors should also note that while the inlet's sandbars are an attractive niche for shorebirds they are not necessarily a reliable one as there are some years where the bar does not open and the water level remains high flooding most areas. This can be seen with the inlet's current height and would also have been true when the Inlet was in its original unmanaged state where the bar would have remained closed until it built up enough hydrostatic head (while flooding the Ocean Beach Road area, the Rivermouth precinct and most of Young's Siding in the process) to blow the bar out.

Given these factors, if Councillors were of a mind to be securing shorebird habitats the construction of small islands in the inlet may actually be an alternative long term option and consultation should be undertaken with the Department of Water as the management body for the water body .

➤ Economic:

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

➤ Social:

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.

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

These numbers indicate that there are high levels of dog ownership across the region which means that Council should be retaining and if anything increasing its numbers of dog exercise areas that it has.

Similarly many of Denmark's dog owners are seniors that have smaller and often older dogs meaning that alternate locations such as Lights Beach are too rough for small dogs to swim and too steep for older owners to access.

The dream of being able to walk along a beach and swim with one’s dog is one of the many reasons why people visit and eventually settle in Denmark.

➤ **Risk:**

Risk	Risk Likelihood (based on history and with existing controls)	Risk Impact / Consequence	Risk Rating (Prior to Treatment or Control)	Principal Risk Theme	Risk Action Plan (Controls or Treatment proposed)
That disturbance of birds by dogs will lead to a loss of bird species habituating the area	Possible (3)	Minor (2)	Moderate (5-9)	Inadequate Natural Environ.Man agement Practices	Manage by periodic surveillance of area and signage and education when needed
That... closure/ reduction of the “off lead” area will lead to loss of amenity and enjoyment of public open space for dog owners	Almost Certain (5)	Moderate (3)	High (10-16)	Ineffective Management of Facilities and Events	Treat through adoption of officer recommendation that the area be kept open.

Comment/Conclusion:

The majority of the submissions received were supportive of the retention of the area southeast of Prawn Rock Channel as an “off lead” dog exercise area.

Given this level of support it is the officer’s opinion that the “off lead” dog exercise area at Prawn Rock Channel should be retained as is with management measures pertaining to improved educational signage being progressed as soon as possible.

Voting Requirements:

Absolute majority (pursuant to Section 31 of the Dog Act 1976).

COUNCIL RESOLUTION	ITEM 8.2.1
MOVED: CR PEDRO	SECONDED: CR OSBORNE

7.25pm – Cr Morrell left the room.
 7.27pm – Cr Morrell returned to the room.
 7.27pm – Cr Lewis left the room.
 7.28pm – Cr Lewis returned to the room.

That Council retain the Prawn Rock Channel dog exercise area as there is strong public support for its use and clarify its boundaries by adopting the proposed Council Policy P050203 SPECIFIED DOG EXERCISE OR PROHIBITED AREAS as a Section 31 of the Dog Act 1976 declaration noting that proposed policy P050203 maintains all of the areas that were previously identified in Council’s Dog Local Laws Subject to the following conditions:

1. Advise Bird Life Australia that it is prepared to contribute up to \$500 per annum in fencing materials to allow that group to erect and subsequently remove seasonal fencing in locations that have been approved by Council’s CEO, the City of Albany and the Department of Water (as required) to reduce the likelihood of dogs disturbing breeding, foraging and roosting birds.
2. That improved educational signage be erected at strategic points in the Prawn Rock Channel dog exercise area, with input from Birdlife Australia regarding the signage content.

3. That Council staff meet with key stakeholders on at least an annual basis to evaluate the effectiveness of such measures and that they are practical and consistent with the area's use as an "off lead" exercise area, whilst recognising the purpose of seasonal fencing.
4. Adopt the proposed new policy P050203 titled Specified Dog Exercise or Prohibited Areas pursuant to Section 31 of the Dog Act 1976, to specify areas within the Shire of Denmark subject to amendment by;
 - a) Deletion of "Other Dog Exercise Areas (Leash Free) (Outside Of The Denmark Townsite)" as:
 - i. Designated Dog Exercise Areas (leash free)
 - ii. Delete Reserve 22248 due to its indigenous site value.
 - b) Amend Rural Leashing (leash compulsory) Areas from Nil to include the Unallocated Crown Land (UCL) immediately east of the island known as 'Dog Island' being the Wilson Inlet Sandbar in the Shire of Denmark.

7.47pm – The Director of Finance & Administration left the room.

LOST: 1/7

Res: 111114

OFFICER RECOMMENDATION

ITEM 8.2.1

MOVED: CR MORRELL

That with respect to the retention of the Prawn Rock Channel "off lead" dog exercise area and the proposed new Policy regarding specified and prohibited areas for dogs, Council;

1. Note the submissions received.
2. Retain the Prawn Rock Channel dog exercise area as described in the attached map as an "off lead" dog exercise area.
3. Adopt the proposed new policy P050203 titled Specified Dog Exercise or Prohibited Areas, pursuant to Section 31 of the Dog Act 1976, to specify areas within the Shire of Denmark as:
 - a) Designated Dog Exercise Areas (leash free);
 - b) Rural Leashing (leash compulsory) Areas;
 - c) Dog Prohibited Areas; and
 - d) Dog Prohibited Areas at Certain Times.
4. Require the installation of new signage that shows the dog exercise area and provides education about shorebirds in the area.
5. Advise parties that have made submissions of Council's decision.

LOST FOR WANT OF A SECONDER

COUNCIL RESOLUTION

ITEM 8.2.1

MOVED: CR PEDRO

SECONDED: CR GILLIES

7.53pm – Cr Morrell declared a proximity interest on the basis that he owns property within close proximity of Reserve 22248. Cr Morrell left the room and did not participate in discussion or vote on the matter.

That with respect to the retention of the Prawn Rock Channel “off lead” dog exercise area and the proposed new Policy regarding specified and prohibited areas for dogs, Council;

1. Note the submissions received.
2. Retain the Prawn Rock Channel dog exercise area as described in the attached map as an “off lead” dog exercise area.
3. Adopt the proposed new policy P050203 titled Specified Dog Exercise or Prohibited Areas, pursuant to Section 31 of the Dog Act 1976, to specify areas within the Shire of Denmark as:
 - a) Designated Dog Exercise Areas (leash free);
 - b) Rural Leashing (leash compulsory) Areas;
 - c) Dog Prohibited Areas; and
 - d) Dog Prohibited Areas at Certain Times.
 - e) Noting the deletion of Reserve 22248 due to its indigenous site value.
4. Require the installation of new signage that shows the dog exercise area and provides education about shorebirds in the area.
5. Advise parties that have made submissions of Council’s decision.
6. Advise Bird Life Australia that it is prepared to contribute up to \$500 per annum in fencing materials to allow that group to erect and subsequently remove seasonal fencing in locations that have been approved by Council’s CEO, the City of Albany and the Department of Water (as required) to reduce the likelihood of dogs disturbing breeding, foraging and roosting birds.
7. That improved educational signage be erected at strategic points in the Prawn Rock Channel dog exercise area, with input from Birdlife Australia regarding the signage content.
8. That Council staff meet with key stakeholders on at least an annual basis to evaluate the effectiveness of such measures and that they are practical and consistent with the area’s use as an “off lead” exercise area, whilst recognising the purpose of seasonal fencing.

7.54pm – The Director of Finance & Administration returned to the room.

CARRIED UNANIMOUSLY: 7/0

Res: 131114

REASONS FOR CHANGE

Council added parts 6, 7 & 8 and included part e) under part 3.

7.55pm – Cr Morrell returned to the room.

8.2.2 ITINERANT AND STATIC VENDORS ON COUNCIL LAND

File Ref:	HLTH.4
Applicant / Proponent:	Various
Subject Land / Locality:	William Bay, Ocean Beach, Berridge Park and other locations within the Shire
Disclosure of Officer Interest:	Nil
Date:	30 October 2014
Author:	Gregg Harwood, Director of Community & Regulatory Services
Authorising Officer:	Gregg Harwood, Director of Community & Regulatory Services
Attachments:	8.2.2a – Advertisement & Expression of Interest Form 8.2.2b – Submissions & Expressions of interest

Summary:

This report considers community feedback and expressions of interest in regards to a draft policy titled “Principles supporting the Shire of Denmark Activities on Thoroughfares & Trading in Thoroughfares & Public Places Local Law” and a call for expressions of interest received regarding setting up a static food van in one or more of the following locations;

- Berridge Park near the old basketball courts;
- Ocean Beach Car Park;
- Rivermouth (Smith Bros Park)
- William Bay Car Park
- Lights Beach
- Parry Beach
- Peaceful Bay Swimming Beach
- Peaceful Bay Proposed Trailer Park
- Nornalup Settlers car park
- Visitor’s Centre car park
- Any other area not in a road reserve and at least 300m from a competing fixed food premises

The officer report recommends that Council adopt the draft policy subject to the removal of both Peaceful Bay trading locations and offer trading opportunities to individuals to operate at the William Bay Car Park, the Visitor’s Centre car park and Berridge Park for the years 2014/2015 and 2015/2016.

Background:

At its 19 August 2014 meeting Council resolved as follows (Resolution No. 070814);

“That with respect to the owners of the Drift Van’s request for a food van trading opportunity that Council:

1. *Reiterate its commitment to maintaining the 300m clearance to competing food premises that is found in its Trading in Thoroughfares and Public Places Local Laws.*
2. *Refuse the request for a food van site at the Berridge Park car park and or near the old basketball courts adjacent as it is within 300m of CBD food premises and will compete unfairly with businesses in the CBD.*
3. *Refuse the request for a food van site in at Ocean Beach because there is already a kiosk at the Surf Club, parking is at a premium at this location during peak periods and it represents an unacceptable safety hazard and distraction for children during those periods.*
4. *Refuse the request for a food van site at Prawn Rock Channel due to the fact that parking is at a premium at this location during peak periods and it represents an unacceptable safety hazard and distraction for children in either of the car parks during those periods.*

5. *Refuse the request for food van site at the Kwoorabup Community Park car park because parking is at a premium at this location at peak periods and it represents an unnecessary distraction for children during those periods.*
6. *Authorise a trading permit to the Drift Van for the Lights Beach car park for a period ending 30 June 2015 subject to conditions as the Chief Executive Officer sees fit pursuant to the officer's delegation and the intent contained in the draft Policy.*
7. *Advertise for expressions of interest for Trading Permits for periods up to two (2) years for all locations specified in the table to this report that are at least 300m from the nearest Shop (selling similar products) in accordance with the principles and constraints detailed in that table, noting that;*
 - a. *Requests deemed to comply may be approved by the Chief Executive Officer under delegation and;*
 - b. *If there are competing proposals for a particular site, that these requests are referred to Council for consideration in accordance with the matters allowed for pursuant to the Local Law and proposed Policy (draft).*
8. *Advertise the draft Policy contained within the Officer's Report (noting the changes to not permit the use of Kwoorabup Community Park) for comment for 28 days.*
9. *Note the comments received, thank the submitters for contributing and invite them to make additional comment on the draft Policy.*
10. *Refuse the request for any additional Food Van other than soft serve ice cream at William Bay Car Park due to the natural beauty of the site and the possibility of degradation by windblown rubbish."*

Consultation:

In accordance with the Council's resolution (No. 070814) the proposed policy and the trading opportunities were advertised in the Denmark Bulletin (published on the 25 September 2014), on Council's website and Notice Boards for a period of 28 days.

Advice of the impending comment/expression of interest period was also sent to persons who had previously commented when the matter was last considered by Council as well as residents of the Shire who are known to be potentially interested in mobile food vending.

A total of five responses were received. Three were in relation to the advertised trading opportunities, two expressed opposition to the concept of allowing a mobile food van at Peaceful Bay and one expressed opposition to foods vans at Rivermouth foreshore. These objections were in relation to their competition with nearby fixed food premises and no comments were received in regards to the proposed policy itself.

The Denmark Chamber of Commerce were also contacted but they did not make comment on this occasion but did so when the matter was last considered by Council. The proponents of the Drift Van that stimulated this process were also notified but they have sold their van and did not make a submission.

Statutory Obligations:

Council has power to control and issue trader's permits to use its land under the Local Government Act 1995 and the Shire of Denmark Activities on Thoroughfares and Trading in Thoroughfares and Public Places Local Law 2001. These local laws contain a 300m clearance to competing food premises requirement.

The Chief Executive Officer is delegated authority under D070402 to issue and renew Itinerant Food Vendors licenses subject to compliance of all vehicles and equipment to be used by the applicant with all relevant requirements of the Health Act 1911 and the Food Act 2008.

The Chief Executive Officer in exercising authority under Section 5.44 of the Local Government Act 1995 has delegated this power/duty to the Principal Environmental Health Officer.

Extracts from the Shire of Denmark Activities on Thoroughfares and Trading in Thoroughfares and Public Places Local Law 2001 that relate include;

6.3 *Trader's permit*

- (1) *A person shall not carry on trading unless that person is –*
 - a) *the holder of a valid trader's permit; or*
 - b) *an assistant specified in a valid trader's permit.*
- (2) *Every application for a trader's permit shall –*
 - a) *state the full name and address of the applicant;*
 - b) *specify the proposed number of assistants, if any, to be engaged by the applicant in trading,*
 - c) *as well as their names and addresses if already engaged;*
 - d) *specify the location or locations in which the applicant proposes to trade;*
 - e) *specify the period of time for which the permit is sought, together with the proposed days and hours of trading;*
 - f) *specify the proposed goods or services which will be traded; and*
 - g) *be accompanied by an accurate plan and description of any proposed structure or vehicle which may be used by the applicant in trading.*
- (3) *The conditions subject to which the local government may approve an application for a trader's permit include that the permit holder is permitted to remain at a particular location for as long as there is a customer making a purchase, but if there is no customer making a purchase the permit holder must move on from that location within a reasonable time of the last purchase having been made.*

6.8 *Conduct of stallholders and traders*

- (1) *A stallholder while conducting a stall or a trader while trading shall –*
 - a) *display her or his permit to do so in a conspicuous place on the stall, vehicle or temporary structure or if there is no stall, vehicle or temporary structure, carry the permit with her or him while conducting a stall or trading;*
 - b) *not display a permit unless it is a valid permit; and*
 - c) *when selling goods by weight, carry and use for that purpose, scales tested and certified in accordance with the provisions of the Weights and Measures Act 1915.*
- (2) *A stallholder or trader shall not –*
 - a) *attempt to conduct a business within a distance of 300m of any shop or permanent place of business that is open for business and has for sale any goods or services of the kind being offered for sale by the stallholder or trader;*
 - b) *deposit or store any box or basket containing goods on any part of a thoroughfare so as to obstruct the movement of pedestrians or vehicles;*
 - c) *act in an offensive manner;*
 - d) *use or cause to be used any apparatus or device including any flap or shelf, whereby the dimensions of a stall, vehicle or structure are increased beyond those specified in the permit; or*
 - e) *in the case of a trader, carry on trading from a public place, unless there is adequate parking for customers' vehicles reasonably close to the place of trading.*

Policy Implications:

Council's Delegation D070402 gives guidance to the Chief Executive Officer and staff in handling in issuing permits to trade in public places.

Development of a Policy on the preferred location of Trading sites and conditions that might relate to the assessment of an application would be beneficial to staff in providing quality customer service outcomes by promptly dealing with food van inquiries.

A draft Policy could read as follows;

"Principles supporting the Shire of Denmark Activities on Thoroughfares & Trading in Thoroughfares & Public Places Local Law

Objectives

1. *To facilitate approval of Trading Licences using public places, as defined below and therefore reducing administrative matters being placed on Council.*
2. *To protect existing levels of public amenity and safety from the impact of trading activities by adequately addressing potential risk management issues.*
3. *Maintain equity in the regulation of trading in public places by promoting fairness and certainty to traders and the community.*
4. *Protect the financial interest of ratepayers through appropriate management of traders in public places and to support the development and retention of local small business within the Shire of Denmark.*

Policy

Trading in public places allows for a variety of activities to either sell, offering for sale or hire goods and wares to the public. Before a licence can be considered, it is necessary to assess the proposed location and the impact it may have on other traders, traffic flow, pedestrians, the community and also if the proposal is likely to have a detrimental effect on established businesses currently selling the same or similar produce or services close by.

Given the many unique forms and locations of products for trade proposed to the Shire of Denmark, all applications for a Trading Licence are to be lodged and will be assessed in conjunction with the Shire of Denmark Activities on Thoroughfares & Trading in Thoroughfares & Public Places Local Law. In addition to this, the application will be assessed on their individual merits and the information supplied in the application, in line with but not limited to the following:

1. *Applications for general Trading at an eligible trading location will be widely advertised in the local media at least three months prior to the renewal of a license based on the following principles;*
 - *A trading location is defined in the attached table.*
 - *Trading Licences will be limited to a period of no more than two (2) years.*
 - *The Shire will assess applications for Trading Licences for commercial activities with reference to the Local Law and the criteria set out in this Policy.*
2. *Applications for trading are to be accompanied by a supporting statement of the land owner and/or occupier on which the trading activity is to occur (unless the landowner is the Shire of Denmark).*
3. *The Shire of Denmark will assess the suitability of proposed Trading activities utilising local government owned or management land. This assessment will consider the consistency of the proposed activity with the land use and vesting of the parcel of land or any management order that is attached to the parcel of land.*
4. *Except in the case of an event approved in accordance with the Shire of Denmark Events, Concerts & Other Organised Gatherings Policy, events held on Local Government property and public places, only one Trading Licence will be approved for a trading location at any one time.*
5. *A Trader must not attempt to conduct a business within a distance of 300m of any*

shop or permanent place of business that is open for business and has for sale any goods or services of the kind being offered for sale by the Trader. In determining an application, Officers of the Council may contact the Denmark Chamber of Commerce (Inc.) and / or identified nearby business proprietors to ascertain whether goods offered for sale may compete with existing nearby businesses and / or whether they wish to object to the proposal.

- 6. Traders are not permitted to sell offensive, illegal, prohibited, counterfeit or unauthorised goods including goods bearing trademarks for which the Trader does not have a license to sell.*
- 7. Where a time restriction will be specified, the Trader must be removed from the prescribed locations within 15 minutes of closure and the area surrounding the Trader must be left in a clean and litter free condition.*
- 8. Traders must comply with any lawful direction given by a Shire of Denmark Authorised Officer.*
- 9. Subject to approval from the land owner and existing business, trading may be undertaken in car parking areas outside hours of operation of the existing business. Should the use of the premises and hours of trade alter, the Trading Licensee will be required to notify the Shire of Denmark and apply for an amendment to the Trading Licence.*
- 10. All Trading Licence applications and renewals will be considered by the Shire of Denmark in accordance with, but not limited to, the following -*
 - Stationary trading must only occur on a hard stand areas;*
 - Except in the case of mobile traders, for example, ice cream vans, the use of Shire of Denmark road reserves will not be permitted for trading unless it can be shown not to adversely impact on traffic movement.*
 - The licensee will be responsible for any damage to Shire property from the trading activity or customers of the trading activity.*
 - Trading must not impede traffic flow or cause a traffic hazard or pose a danger to the safety of the general public.*
 - Trading must not prevent access to pedestrian foot paths.*
 - Reference to complaints of performance from previous years at the site or other sites.*
 - No tables, chairs or the like are to be provided by the licensee that impede or block footpaths or car park bays.*
 - Where food is proposed to be sold, the vehicle, stall or place of trading must notify/register in accordance with the Food Act 2008 and associated Regulations;*
 - Operators of mobile trading vehicles shall not create any noise or disturbance that is likely to cause a nuisance to any person in the vicinity of the mobile trader.*
 - Applicant must provide written approval from the relevant event organiser when submitting an application for a Trading Licence in relation to an event.*
 - Traders must obtain their own public liability insurance to the minimum value of \$10,000,000 as they will not be covered by the Shire of Denmark's insurance policy.*
 - Traders must not connect to or utilise any Shire of Denmark utilities without prior approval and an additional charge.*

Should the application for trading be considered unsuitable by the officers of the Shire of Denmark in accordance with legislation and the above conditions, or any other condition applicable to the application, the application will be referred to Council for their consideration as to the suitability of the activity in the community.

All applicants for Trading Licences are to be advised of their right to object to a decision of Local Government. In accordance with section 9.4 of the Local Government Act 1995, such a person may object to a decision of local government and lodge an appeal to the decision by lodging an objection within 28 days of the decision."

Itinerant Trading Locations in the Shire of Denmark					
Potential Itinerant Trading (Annual or Biennial) Sites	Proximity to Existing Shop (that may sell a similar product)	Comments	Current Approvals / Conditions	Predicted or Likely Usage	Suitability / Opportunity for Number of Trading Bays
Berridge Park	Less than 300m	Immediately adjacent the CBD	Ice creams and cool drinks	Market Days, identified event days and summer / seasonal	Single car plus trailer or van or utility
Visitors Centre Car park	Less than 300m	Immediately adjacent the CBD and future Supermarket	Seasonal fresh produce & Fish Van	Summer / seasonal	Single car plus trailer or van or utility
Rivermouth (Smith Bros Park)	Less than 300m		Bike Hire, Canoe and Kayak hire allied to adjoining leased property	Throughout the year	Limited access to grass areas – suitable whilst allied to existing adjoining Shop
Lights Beach	Greater than 300m	Lights Beach Tearooms have closed down but are greater than 300m	Nil	Summer / seasonal	Single car plus trailer or van or utility
Parry Beach	Greater than 300m	No perceived conflict	Fish Van	Summer / seasonal	Single car plus trailer or van or utility
Peaceful Bay Swimming Beach Car park	Less than 300m	Peaceful Bay Caravan Park Shop is adjacent	Nil	Summer / seasonal	Single car plus trailer or van or utility
Peaceful Bay proposed Trailer Park	Greater than 300m	Peaceful Bay Caravan Shop is greater than 300m	Nil	Summer / seasonal	Single car plus trailer or van or utility
Nornalup (Settlers Park)	Greater than 300m	Nornalup Tearooms has closed down but does not normally provide takeaways	Nil	Summer / seasonal	Single car plus trailer or van or utility
William Bay Car Park	Greater than 300m	No perceived conflict	Ice creams and cool drinks	Summer / seasonal	Single car plus trailer or van or utility
Other Areas not being within a Road Reserve (and greater than 300m from a Shop offering food or drink)	Greater than 300m ?	As requested and considered in context of the Local Law and any governing Policies of Council			

Budget / Financial Implications:

There are no known financial implications upon the Council’s current Budget or Long Term Financial Plan.

Strategic Implications:

The report and officer recommendation is consistent with Council’s adopted Mission and Vision and assists to achieve the following specific adopted Strategic Objectives and Goals.

Population: ...closely monitors its population growth over the next two decades, to put into place advocacy, policies and infrastructure that reflect the needs of a diverse age range and which will be attractive to both present and new residents.

Lifestyle: ...endeavour to maintain and improve the standards and style of living, together with the creative and vibrant culture, that residents and visitors have come to expect.

Recreation: ...monitor all forms of recreational and cultural facilities and services, and take careful account of the level of community support for those in determining the improvements or new facilities to be supported together with their relative contribution to personal and community well-being.

Tourism: ...acknowledge the importance of tourism to the region, and, by innovative policies, practices and partnerships, facilitates and encourages the greater year-round sustainability of tourism, whilst monitoring and managing its impacts.

Sustainability Implications:

➤ **Governance:**

The proposed Policy would provide guidance to Council Officers on preferred locations when considering applications for itinerant food vendors.

➤ **Environmental:**

There are no significant environmental considerations associated with the officer report and recommendation.

➤ **Economic:**

Tourism is an important local industry and the presence of food vans in areas where other premises are not viable will contribute to the facilities in Denmark that are available for tourists and residents.

However food vans have the potential to negatively impact fixed food premises when they are allowed to compete directly with them as their cost base is much lower.

➤ **Social:**

There are no significant social considerations associated with the officer report and recommendation.

➤ **Risk:**

Risk	Risk Likelihood (based on history and with existing controls)	Risk Impact / Consequence	Risk Rating (Prior to Treatment or Control)	Principal Risk Theme	Risk Action Plan (Controls or Treatment proposed)
That mobile food vendors will compete unfairly with local fixed premises that have higher overheads.	Almost Certain (5)	Moderate (3)	High (10-16)	Not Meeting Community expectations	Control through policy settings

That mobile food vendors will trade in areas and act as an attractant that puts people in danger	Possible (3)	Major (4)	High (10-16)	Inadequate Employee, Visitor or Public Safety & Security	Control through policy settings
That unregulated mobile food vendors will congregate in well patronised areas and create mini market places that detract from the amenity of those locations.	Almost Certain (5)	Minor (2)	Moderate (5-9)	Not Meeting Community expectations	Manage through policy settings
That competition between mobile food vendors will lead to disputes between vendors	Likely (4)	Minor (2)	Moderate (5-9)	Not Meeting Community expectations	Manage through policy settings

Comment/Conclusion:

The Officer believes that the wording and context of the proposed policy achieves the balance between meeting the needs of both local entrepreneurs and business interests whilst protecting the community’s ambiance.

The comments and expressions of interest that have been received in regards to the various trading locations are summarised as follows:

Peaceful Bay Progress Association:

That mobile vendors at Peaceful Bay will compete unfairly and undermine the viability of the Peaceful Bay Caravan Park Shop.

Peaceful Bay Caravan Park:

That mobile vendors at Peaceful Bay will compete with foreshore users for parking and space and will undermine the viability of the Peaceful Bay Caravan Park Shop which has significant costs associated with staying open over winter.

The shop operates all year round and provides essential services like mail delivery for the local community and year round employment for some local residents. In addition to this, being open year round the shop directs tourists to other fixed businesses in the area who are also do it tough during the winter months. Its staff are also members of local volunteer emergency service organisations and support local community activities.

Officer Comment: It is the officer’s recommendation that the Peaceful Bay sites be removed from the proposed policy.

Rivermouth Caravan Park:

The Denmark Rivermouth Caravan Park sells pre-packaged food and fresh coffee to caravan clientele and the general public. They will be applying to the Council to extend their office and provide a facility for service of fish and chips to enhance the area. They feel a mobile food van at the Rivermouth Caravan Park or Smith Brothers Park would be in direct conflict to all the work that they have put in to the area for the previous 11 years and be detrimental to their future aspirations for their business.

Officer Comment: Denmark Rivermouth Caravan Park’s submission is supported by Council Officers and the Rivermouth location is not included in the draft Policy.

Mr Jim Sharp:

Mr Sharp has operated ice cream vans within the Shire of Denmark for the past 27 years and has a proven track record of positive dealings with council staff and providing tourism advice and visitor support services.

Mr Sharp has already paid his 2014/2015 licence fees for the Berridge Park and William Bay sites and has offered to pay \$350 for the Berridge Park site & \$525 for the William Bay site in 2015/2016.

Officer Comment: In considering Mr Sharp’s request for the Berridge Park location Councillors should note that it is within 300m of premises that sell soft serve and other ice cream products but approval of this operator at Berridge Park is supported as his ongoing use of the site pre-dates the commencement of all of these current businesses.

The renewal of both of Mr Sharp’s trading locations is consistent with the proposed policy and supported by Council Officers.

Mr Todd & Mrs Sue Morley:

Mr & Mrs Morley have been operating a frozen seafood van at the Visitor Centre on Saturday mornings since 2009. They have applied to continue this practice on the basis of paying the standard \$360 annual licence fee.

Officer Comment: The continuation of this trading licence is consistent with the proposed policy and supported by both Council Officers and the Chief Executive Officer of the Denmark Visitor Centre.

Mr Jacob Ammon:

Mr Ammon has applied to operate a kebab trailer from the Rivermouth car park on the basis of paying the standard \$360 annual licence fee.

Officer Comment: This proposal is contrary to the proposed policy which only allows activities in Rivermouth precinct that are allied to the existing adjoining Shop.

Given that a kebab trailer would compete unfairly with the Caravan Park Shop the applicant has been contacted and asked to consider applying for an alternate location.

Submission Action Summary

Proponent	Location	Recommended Action
Peaceful Bay Progress	Peaceful Bay	Remove Peaceful Bay from policy
Peaceful Bay Caravan Park	Peaceful Bay	Remove Peaceful Bay from policy
Rivermouth Caravan Park	Rivermouth	Nil as policy reflects this stance
Jacob Ammon	Rivermouth	Decline request as in conflict with policy
Todd & Sue Morley	Visitors Centre	Offer a trading licence
Jim Sharp	Berridge Park & William Bay	Offer a trading licence for each location.

Voting Requirements:

Simple majority.

OFFICER RECOMMENDATION

ITEM 8.2.1

That having considered the public comments and expression of interest that have been received regarding the draft policy titled “Principles supporting the Shire of Denmark Activities on Thoroughfares & Trading in Thoroughfares & Public Places Local Law” and its call for expressions of interest in setting up a static food van in one or more of the advertised locations Council;

1. Adopt the draft policy, including the Table titled 'Itinerant Trading Locations in the Shire of Denmark, subject to the removal of both Peaceful Bay trading locations;
2. Offer trading opportunities to the following individuals to operate at the William Bay Car Park, the Denmark Visitor Centre car park and Berridge Park to the following individuals for the 2014/2015 and 2015/2016 financial years.

William Bay Car Park: Jim Sharp (ice cream van only)
 2014/2015 Fee (already paid \$360 for both sites)
 2015/2016 Fee \$525.00

Berridge Park Car Park: Jim Sharp (ice cream van only)
 2014/2015 Fee (already paid \$360 for both sites)
 2015/2016 Fee \$350.00

Visitors Centre Car Park: Todd & Sue Morley (raw/frozen/package sea food van)
 2014/2015 Fee (\$360 for site)
 2015/2016 Fee (As per 2015/2016 Fees & Charges)

3. Advise Jacob Ammon that his request for approval to operate a kebab trailer at the Rivermouth car park has been rejected due to the fact that it will compete unfairly with the current and planned uses of the Rivermouth Caravan park shop.

COUNCIL RESOLUTION

ITEM 8.2.1

MOVED: CR MORRELL

SECONDED: CR GILLIES

That having considered the public comments and expression of interest that have been received regarding the draft policy titled "Principles supporting the Shire of Denmark Activities on Thoroughfares & Trading in Thoroughfares & Public Places Local Law" and its call for expressions of interest in setting up a static food van in one or more of the advertised locations Council;

1. Adopt the draft policy, including the Table titled 'Itinerant Trading Locations in the Shire of Denmark, subject to;
 - a) the removal of both Peaceful Bay trading locations; and
 - b) the addition of the words "up to three" be added in front of the number of trading bays permitted at the Visitor Centre Carpark.
2. Offer trading opportunities to the following individuals to operate at the William Bay Car Park, the Denmark Visitor Centre car park and Berridge Park to the following individuals for the 2014/2015 and 2015/2016 financial years.

William Bay Car Park: Jim Sharp (ice cream van only)
 2014/2015 Fee (already paid \$360 for both sites)
 2015/2016 Fee \$525.00

Berridge Park Car Park: Jim Sharp (ice cream van only)
 2014/2015 Fee (already paid \$360 for both sites)
 2015/2016 Fee \$350.00

Visitors Centre Car Park: Todd & Sue Morley (raw/frozen/package sea food van)
 2014/2015 Fee (\$360 for site)
 2015/2016 Fee (As per 2015/2016 Fees & Charges)

3. Advise Jacob Ammon that his request for approval to operate a kebab trailer at the Rivermouth car park has been rejected due to the fact that it will compete unfairly with the current and planned uses of the Rivermouth Caravan park shop.

CARRIED UNANIMOUSLY: 8/0

Res: 141114

REASONS FOR CHANGE

Council added part b) to Part 1 of the Officer Recommendation.

8.05pm – Cr Gillies left the room.

8.3 Director of Infrastructure Services

8.3.1 PUBLIC ACCESS IMPROVEMENTS OCEAN BEACH

File Ref:	A5551
Applicant / Proponent:	Not applicable
Subject Land / Locality:	Ocean Beach Foreshore Area
Disclosure of Officer Interest:	Nil
Date:	21 October 2014
Author:	Rob Whooley, Director of Infrastructure Services
Authorising Officer:	Rob Whooley, Director of Infrastructure Services
Attachments:	Nil

Summary:

This item recommends Council modify, reallocate and increase the budgeted amounts for the replacement of pavers and public accessways adjacent to the Denmark Surf Club Boat Shed and Kiosk.

Background:

Council allocated a total of \$13,500 to carry out upgrade works to the paved surf lifesaving lookout area and both the eastern and western sand ramps that lead to the beach.

The area suffered some undermining as a result of tidal movements over the winter period. The paved area which requires work is approximately 200 square metres.

The area under consideration for improvement is public land and not contained within the Surf Club Lease. The Surf Club lease covers the buildings footprint and land in between the Boat Shed/Kiosk and Clubhouse as well as a portion of land to the north and east.

Consultation:

A brief discussion with the Denmark Surf Club President (and one other committee member) in terms of expectations, resources and timing suggest that the potential scope, logistics and co-ordination of the works could be difficult to organise under a “busy bee” arrangement.

Statutory Obligations:

There are common law, safety and liability obligations relating to the standard of the area.

Policy Implications:

There are no policy implications.

Budget / Financial Implications:

The available combined budget for both the ramps (Job 52120 - \$6,000) and the paving work (Job 52121- \$7,500) is \$13,500. The estimated cost to replace the paved area to a higher standard and undertake nominal access ramp improvements is \$20,500. It is proposed that the resultant shortfall in funding of \$7,000 be identified to enable the Budget to be brought back into a nil deficit or surplus position no later than the statutory Budget Review process which is generally presented to Council in February each year.

Notwithstanding the above Council’s current surplus position of \$1,491 would become a deficit position of \$5,509.

Strategic Implications:

The report and officer recommendation is consistent with Council’s adopted Mission and Vision and assists achieve the following specific adopted Strategic Objectives and Goals.

Public Safety: ...work with relevant authorities and organisations to maintain a safe and secure environment for its residents and visitors.

Development: ...closely monitor development and associated infrastructure needs in the region, and acts in conjunction with other authorities and agencies to plan development which is sensitive, timely and appropriate to the community’s needs.

Planning: ...work with other relevant authorities and agencies to develop and implement planning policies and decisions that not only reflect the wishes of the community, but also provide the region with appropriate development options.

Tourism: ...acknowledge the importance of tourism to the region, and, by innovative policies, practices and partnerships, facilitates and encourages the greater year-round sustainability of tourism, whilst monitoring and managing its impacts.

Sustainability Implications:

➤ **Governance:**

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

➤ **Environmental:**

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

➤ **Economic:**

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

➤ **Social:**

Ocean Beach is used by a diverse cross section of the community and visitors. There can be little doubt of the need to maintain these highly used areas in a reasonably safe and presentable condition.

➤ **Risk:**

Risk	Risk Likelihood (based on history and with existing controls)	Risk Impact / Consequence	Risk Rating (Prior to Treatment or Control)	Principal Risk Theme	Risk Action Plan (Controls or Treatment proposed)
That injury may occur due to ground levels	Possible (3)	Moderate (3)	Moderate (5-9)	Inadequate Employee, Visitor or Public Safety & Security	Accept Officer Recommendation

Comment/Conclusion:

Examination of the area shows that the extent of work is greater than perhaps envisaged, when this project was discussed during the 2014/15 Budget process, noting:

1. The retaining wall which supports this area was partially undermined
2. Proof compaction to 2m deep will be required to prevent longer term settlement
3. Hazardous changes of grade and steps exist at all entrances and exits to the surf lifesaving shed/kiosk.
4. There is a particularly hazardous step on the western beach access ramp north of the public wash-down shower.
5. Timing - Summer is fast approaching and the logistics and co-ordination may prove difficult in the short-term.

Council’s original intention that the surf club members lay bricks supplied by Council may not address all these issues. Fill material will be required, sawcutting and removal of waste material is also necessary. The scope of work is a little more than a weekend “busy bee” of lifting the old pavers and replacing with new ones.

It is therefore recommended that contractors, assisted by Council staff, undertake the works (ie. check and rectify any potential longer term existing earthworks issues re-level and shape the site to remove existing hazards) before the summer season. To facilitate this additional funds will be required to be allocated.

As part of these works some improvement will also be made to the public access ramps. Further upgrade of the ramp areas will be included for Council’s consideration as part of the 2015/16 budget deliberations process.

Voting Requirements:
 Absolute majority required.

8.06pm – *The Director of Community & Regulatory Services left the room.*

8.07pm – *Cr Gillies returned to the room.*

8.07pm – *Cr Osborne left the room.*

8.07pm – *The Director of Community & Regulatory Services returned to the room.*

COUNCIL RESOLUTION & OFFICER RECOMMENDATION	ITEM 8.3.1
MOVED: CR ROWLAND	SECONDED: CR THORNTON
<p>That Council, in order to improve the public access area south of the Surf Club, provide an additional net amount of \$7,000 and amend the 2014/15 Budget as follows;</p> <ol style="list-style-type: none"> 1. Increase Job Number 52121 (Replace pavers and slabs at Surf Club) by \$13,000 from \$7,500 to \$20,500; 2. Reduce Job Number 52120 (Public Access Ramps) by \$6,000; 3. Reduce Council’s current budget surplus position of \$1,491 by \$7,000 resulting in a budget deficit position of \$5,509; 4. Request the Director of Finance & Administration to identify savings to cover the resultant shortfall in funding of \$7,000 to enable the Budget to be brought back to a nil deficit or surplus position no later than the statutory Budget Review process which is generally presented to Council in February each year. 	
<p>8.12pm – <i>Cr Osborne returned to the room.</i></p>	
CARRIED BY AN ABSOLUTE MAJORITY: 6/2	Res: 151114

8.4 Director of Finance & Administration
 Nil

8.5 Chief Executive Officer

8.5.1 DENMARK TOURISM INC. RENEWAL OF LEASE & REQUEST TO SUB-LEASE TO DARK SIDE CHOCOLATES

File Ref:	A3186
Applicant / Proponent:	Denmark Tourism Inc.
Subject Land / Locality:	No. 73 (Lot 501), Reserve 48198, South Coast Highway, Denmark
Disclosure of Officer Interest:	Nil
Date:	3 November 2014
Author:	Claire Thompson, Executive Assistant
Authorising Officer:	Annette Harbron, Acting Chief Executive Officer & Director of Planning & Sustainability
Attachments:	8.5.1 – Sub-Lease between DTI & Dark Side Chocolates

Summary:

Denmark Tourism Inc. (DTI) are requesting Council's approval to Sub-Lease a portion of the Denmark Visitor Centre building to Dark Side Chocolates for a period of up to seven (7) years (initial four years with option to renew for a further three) from 2014 to 2021. DTI's current lease with the Shire of Denmark expires in 2017 and, to ensure security of tenure for the Sub-Lessee, Council is also asked to consider authorising the CEO and Shire President to negotiate a new five (5) year Lease from 2017 to 2022.

Background:

Pursuant to the DTI's Lease with Council, written Council approval is required to allow sub-lease arrangements and as such the matter is presented to Council for formal consideration.

Whole of Reserve 48198, the subject of a management order to the Shire of Denmark for the purpose of "Community Purposes, has been leased to DTI since 1 May 2007, with the lease due to expire on 30 April 2017.

In June 2011, DTI exercised their option to renew their Lease (pursuant to Clause 8.3 of their Lease) which was due to terminate on 30 April 2012 and Council approved a further five (5) year term. Their current Lease termination date is 30 April 2017.

DTI currently have one other Sub-Lease which is with the Woodturners of Denmark Inc.

Consultation:

Nil

Statutory Obligations:

Local Government Act 1995.

Policy Implications:

Council Policy P110102 – Leasing of Land and/or Buildings to Community Groups relates with respect to the proposed new Lease between Council and DTI.

Budget / Financial Implications:

The sub-leases may have an impact upon future budgets depending upon the success and value of the lease by allowing Council to reduce its contribution to the net operating shortfall of the Denmark Visitor Centre.

The preparation and negotiation of a new Lease between Council and DTI can be managed by Council Officers.

Pursuant to Council Resolution No. 130914, the Minister for Local Government has been requested to grant DTI exemption from being levied a local government rating charge.

Strategic Implications:

The report and officer recommendation is consistent with Council’s adopted Mission and Vision and assists achieve the following specific adopted Strategic Objectives and Goals.

Economic Objective - Denmark’s economy is diverse and vibrant - its primary industries of tourism and agriculture rely on and enjoy natural and other assets that are sensibly managed and promoted.

GOALS

Tourism: ...acknowledge the importance of tourism to the region, and, by innovative policies, practices and partnerships, facilitates and encourages the greater year-round sustainability of tourism, whilst monitoring and managing its impacts.

Sustainability Implications:

➤ **Governance:**

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

➤ **Environmental:**

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

➤ **Economic:**

Tourism is generally considered to be the main economic driver for the Shire of Denmark and the Lease and Service Agreement between the Shire of Denmark and DTI underpin these activities within the Shire.

➤ **Social:**

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

➤ **Risk:**

Risk	Risk Likelihood (based on history and with existing controls)	Risk Impact / Consequence	Risk Rating (Prior to Treatment or Control)	Principal Risk Theme	Risk Action Plan (Controls or Treatment proposed)
That Council not approve a new Lease between DTI for a term equal to or beyond that of the proposed Sub-Lease term.	Rare (1)	Moderate (3)	Low (1-4)	Business Disruption	Accept Officer Recommendation
That Council not approve the Sub-Lease between DTI and Dark Side Chocolates.	Rare (1)	Minor (2)	Low (1-4)	Business Disruption	Accept Officer Recommendation

Comment/Conclusion:

Clause 7.2 of the head Lease, regarding sub-lease arrangements states, “The Lessee will not assign, sub-let, mortgage, charge or encumber the Leased Premises or any part of the Leased Premises or otherwise part with the possession of the Leased Premises or any part of the leased Premises without the prior written consent of the Lessor. Such consent would not be unreasonably withheld by the Lessor”. This provision restricts Council’s ability to withhold such approval if the purpose is consistent and Council would need to have strong reasons to do so.

The benefit of such an arrangement from the Visitor Centre perspective is that a commercial lease fee will be paid by the private operator which will increase income to DTI and by ceasing

to operate the retail area, which is understood to operate on ever decreasing returns, will save additional costs.

The amount of rental return for the proposed Sub-Lease is \$7,200 plus GST per annum.

In order for DTI to enter into a Sub-Lease for a term beyond 2017, as proposed, Council is requested to authorise the CEO, in conjunction with the Shire President, to negotiate a new Lease with DTI for a five (5) term, which would be a term from 1 May 2017 to 30 April 2022.

Voting Requirements:

Simple majority.

OFFICER RECOMMENDATION

ITEM 8.5.1a

That, subject to authorising a new Lease between the Shire of Denmark and Denmark Tourism Inc. for a period of five (5) years from 1 May 2017 to 30 April 2022, Council approve Denmark Tourism Inc.'s request to Sub-Lease 48sqm of the Denmark Visitor Centre building to Dark Side Chocolates for a four (4) plus three (3) year term.

8.22pm – Cr Sampson left the room.

8.23pm – Cr Sampson returned to the room.

COUNCIL RESOLUTION

ITEM 8.5.1a

MOVED: CR OSBORNE

SECONDED: CR ROWLAND

That, subject to authorising a new Lease between the Shire of Denmark and Denmark Tourism Inc. for a period of five (5) years from 1 May 2017 to 30 April 2022, Council approve Denmark Tourism Inc.'s request to Sub-Lease 48sqm of the Denmark Visitor Centre building to Dark Side Chocolates for a four (4) plus three (3) year term with the following replacement Item 7 to read, "Council may wish to relocate Dark Side Chocolates to an alternative location within the Denmark Visitor Centre within the term of the lease and if so, Council would meet all relocation costs."

CARRIED UNANIMOUSLY: 8/0

Res: 161114

REASONS FOR CHANGE

Council wished to amend Item 7 in the draft Sub-Lease.

OFFICER RECOMMENDATION

ITEM 8.5.1b

That with respect to the current Lease between Denmark Tourism Inc. and the Shire of Denmark, expiring on 30 April 2017, Council authorise the Chief Executive Officer and the Shire President to negotiate a new Lease with Denmark Tourism Inc. to commence from 1 May 2017 to 30 April 2022.

COUNCIL RESOLUTION

ITEM 8.5.1b

MOVED: CR GILLIES

SECONDED: CR PEDRO

That with respect to the current Lease between Denmark Tourism Inc. and the Shire of Denmark, expiring on 30 April 2017, Council authorise the Chief Executive Officer and the Shire President to negotiate a draft new Lease with Denmark Tourism Inc. to commence from 1 May 2017 to 30 April 2022 with the final lease to be considered by Council at its meeting of Tuesday, 2 December 2014.

CARRIED UNANIMOUSLY: 8/0

Res: 171114

REASONS FOR CHANGE

Council included reference to the draft lease being brought back to Council for consideration.

9. COMMITTEE REPORTS & RECOMMENDATIONS

Nil

8.58pm – The Shire President declared that Council would consider an item of urgent business under the Item 11 prior to considering Item 10 on the Agenda.

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

Prior to consideration of Item 11 the Chief Executive Officer, through the Presiding Person, brought to the attention of the meeting the following disclosure(s) of interest:

Cr Thornton declares a proximity interest on the basis that he owns property within close proximity of Churchill Road.

8.58pm - Cr Thornton requested the Deputy Shire President, Cr Sampson, to assume the chair as the Presiding Person, left the room and did not participate in discussion or vote on the matter.

Cr Sampson assumed the chair as the Presiding Person.

COUNCIL RESOLUTION & OFFICER RECOMMENDATION		ITEM 11
MOVED: CR PEDRO		SECONDED: CR OSBORNE
That Council accept an Item of New Business relating to additional road grants available for Denmark through Regional Road Group Funding 2014/15.		
CARRIED UNANIMOUSLY: 7/0		Res: 181114

11.1 REGIONAL ROAD GROUP FUNDING 2014/15	
File Ref:	GOV.21.A
Applicant / Proponent:	Not applicable
Subject Land / Locality:	Churchill Road
Disclosure of Officer Interest:	Nil
Date:	21 October 2014
Author:	Rob Whooley, Director of Infrastructure Services
Authorising Officer:	Rob Whooley, Director of Infrastructure Services
Attachments:	Nil

Summary:

This item recommends Council accept additional funding of \$173,118.00 which has become available through the Regional Road Group for expenditure in the current 2014/15 financial year on the Churchill Road upgrade.

Background:

Through Regional Road Groups the State Government provides Local Government with a voice in how the State’s contribution to local roads is spent. This organisational structure and regional framework is in recognition of the greater understanding of the local community’s road needs that Local Government elected representatives have.

The delegation of responsibility provided to Regional Road Groups is through the statutory powers of the Commissioner of Main Roads to provide local road funding from a statewide perspective.

Through the various Regional Road Groups (ours being the Great Southern) Elected Members are able to influence road funding decisions and make recommendations that are of direct benefit to local communities and the general Western Australian road user.

The Regional Road Groups make recommendations to the State Advisory Committee which oversees the program and reports to the Minister through the Commissioner of Main Roads.

Funding for Regional Road Group Projects is provided on the basis of 2/3rd Mainroads WA and 1/3rd Council.

In 2012/13 Council endorsed a road project application for funding for the upgrade of Churchill Road. Churchill Road carries approximately 49 vehicles per day.

The total cost of the project was estimated at \$445,200.00.

This project was supported by the Great Southern Regional Road Group but only partially funded due to an oversubscription of projects.

Of the \$296,800.00 requested, Council received \$123,682.00. This level of funding is inadequate for the proposed works with a shortfall of \$173,118.00.

The author of this report became aware that surplus funding for expenditure in the current 2014/15 financial year has become available through the Regional Road Group. As Churchill Road is partially funded and effectively a continuing project, it is eligible for these funds.

The Great Southern Technical Working Group has given "in-principle" support for the surplus funding to be made available to the Shire of Denmark in order to complete these works.

Consultation:

- Mainroads WA Officers
- Regional Road Group Technical Working Group.
- Council expressed a desire to see how certain roads would score in a regional context. Mt Lindesay and Churchill Road were included in the draft 2014-15 program on this basis.
- Council Resolutions 121213, 131213 and 141213 accepted "in principle" over \$1 million funding for consideration in the 2014/15 budget. Churchill Road was one of the projects.

Statutory Obligations:

There are no statutory obligations.

Policy Implications:

There are no policy implications.

Budget / Financial Implications:

The available additional funding of \$173,118.00 must be matched with a 50% contribution by Council (ie \$86,559.00).

If Council accepts the additional funding the total amount available for Churchill Road will be \$445,200.00.

Council may:

- accept and commit to provide matching funds, or
- decline the additional funding.

The additional funding required for this work can be sourced from the Roads to Recovery account (GL 112201840).

These works are compatible with the intent of the Roads to Recovery funding and there is no problem with combining both State and Federal funding for this purpose.

Strategic Implications:

The report and officer recommendation is consistent with Council's adopted Mission and Vision and assists achieve the following specific adopted Strategic Objectives and Goals.

Public Safety: ...work with relevant authorities and organisations to maintain a safe and secure environment for its residents and visitors.

Fire Management: ...work collaboratively with relevant agencies to maintain a high level of planning, communication and infrastructure for effective fire and emergency management.

Development: ...closely monitor development and associated infrastructure needs in the region, and acts in conjunction with other authorities and agencies to plan development which is sensitive, timely and appropriate to the community's needs.

Transport: ...acknowledge the importance of transport through and within its area, and, with the help of other relevant authorities and agencies, develops, implements and advocates for policies that provide quality, efficient and effective transport infrastructure and options.

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

Planning: ...work with other relevant authorities and agencies to develop and implement planning policies and decisions that not only reflect the wishes of the community, but also provide the region with appropriate development options.

Structure: ...ensures that it has a structure that is transparent, trustworthy, flexible, consultative and collaborative, and is able to attract and retain a high standard of Councillors and Senior Management.

Funding: ...be fiscally responsible and seek to develop both safe income generating assets and the maximisation of external funding, that will benefit the community and assist in meeting its aims and obligations.

Co-operation & Community Input: ...acknowledge that it also has a regional role, and endeavours to work collaboratively with neighbouring local governments, the State Government and external organisations, whilst remaining responsive to the voice of its own community.

Sustainability Implications:**➤ Governance:**

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

➤ Environmental:

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

➤ Economic:

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

➤ Social:

Churchill Road provides an additional route across the Denmark River. Whilst this would not be a suitable fire escape route it would be suitable for all other types of traffic diversion based upon any event which prevented the main bridge or that portion of the highway between town and the Denmark Mt Barker Road being used.

➤ **Risk:**

Risk	Risk Likelihood (based on history and with existing controls)	Risk Impact / Consequence	Risk Rating (Prior to Treatment or Control)	Principal Risk Theme	Risk Action Plan (Controls or Treatment proposed)
That Council decline the funding	Possible (3)	Moderate (3)	Moderate (5-9)	Inadequate Financial, Accounting or Business Acumen	Accept Officer Recommendation
That Council decline the funding	Possible (3)	Moderate (3)	Moderate (5-9)	Not Meeting Community expectations	Accept Officer Recommendation

Comment/Conclusion:

Should Council decline the additional funding, it is preferable that the decision be made as soon as possible, so funds can potentially be reallocated through the Regional Road Group to other Councils.

A possible alternative motion would be that Council thank the Regional Road Group for their offer but decline to accept the additional amount due to budgetary considerations.

Voting Requirements:

Absolute majority required.

COUNCIL RESOLUTION & OFFICER RECOMMENDATION	ITEM 11.1
MOVED: CR MORRELL	SECONDED: CR PEDRO
That Council, in order to complete the Churchill Road upgrade project:	
1. Accept the additional \$173,118.00 funding provided under the 2014/15 State Road Funds to Local Government arrangement as endorsed by the Great Southern Regional Road Group and source the matching \$86,559.00 contribution required of Council from the Roads to Recovery funds (GL 112201840).	
2. Amend Mainroads WA Project Grants Income Account 112281030 from \$851,378.00 to \$1,024,496.00.	
3. Amend Expenditure Account 50311 – Churchill Road Upgrade- from \$185,523.00 to \$445,200,00.	
CARRIED UNANIMOUSLY BY AN ABSOLUTE MAJORITY: 7/0	Res: 191114

9.00pm – Cr Thornton returned to the room and resumed the Chair as the Presiding Person.

The Shire President announced that the meeting would now move to Item 10 on the Agenda.

10. MATTERS BEHIND CLOSED DOORS

COUNCIL RESOLUTION & OFFICER RECOMMENDATION	ITEM 10
MOVED: CR PEDRO	SECONDED: CR ROWLAND
<p>That pursuant to Section 5.23 (2) (b) of the Local Government Act 1995 and Clause 3.7 of the Shire of Denmark Standing Orders Local Law, Council move behind closed doors for the consideration of Item 10.1 & Item 10.2 to allow the successful applicants names to remain confidential to Council until the official announcement at the winners' current School's 2014 Graduation Ceremony.</p>	
CARRIED UNANIMOUSLY: 8/0	Res: 201114

9.00pm – The Director of Finance & Administration, the Director of Community & Regulatory Services and the Director of Planning & Sustainability left the room and did not return.

10.1 2014 AGRICULTURAL SCHOLARSHIP	
File Ref:	PBR.10
Applicant / Proponent:	Various
Subject Land / Locality:	Not applicable
Disclosure of Officer Interest:	Nil
Date:	27 October 2014
Author:	Claire Thompson, Executive Assistant
Authorising Officer:	Dale Stewart, Chief Executive Officer
Attachments:	10.1a – Applications (Confidential for Councillors) 10.1b – List of Previous Recipients

Summary:

Council is requested to rescind Resolution No. 141014 and reassess this year's applications for the Shire of Denmark Agricultural Scholarship.

Background:

The Denmark Agricultural College Scholarship has been a Policy of Council's for over 10 years.

A list of previous recipients is attached as Attachment 10.1b.

At its meeting held on 21 October 2014 Council considered the applications and awarded the Scholarship however in actioning Council's Resolution, Officers have discovered that the successful applicant was in fact in Year 9 and not Year 10 and therefore was ineligible for the Scholarship.

Consultation:

This Award was marketed and promoted as follows;

- General Advertisement in the Denmark Bulletin & the Walpole Weekly;
- General Advertisement on Council's Notice Boards;
- General Advertisement on Council's website;
- Email to Councillors & Employees to assist with promoting the awards;
- Specific Email to Council's Youth Centre Co-ordinator, Manager of Recreation & Youth Services and the Senior Librarian requesting their assistance in promoting the awards;
- Phone conversation with the Denmark High School & Denmark Agricultural College Principals.
- Email to Denmark High School & Denmark Agricultural College Principals with link to application forms on Council's website.
- The Chief Executive Officer met with students from the Denmark Agricultural College to promote the Scholarship on 1 September 2014.

A Council Officer contacted the Denmark High School who confirmed that the applicant who was awarded the Scholarship pursuant to Council Resolution No. 141014 was in fact in Year 9 not year 10.

Statutory Obligations:

Section 10 (1) (b) and (1a) of the Local Government (Administration) Regulations 1996 relates to rescinding Council resolutions.

Policy Implications:

Policy P080201 – Denmark Agricultural College Scholarship reads as follows;

Council shall make available an annual Denmark Agricultural College Scholarship.

Objective

To encourage and assist Year 10 students attending the Denmark District High School or Year 10 students residing in the Denmark Shire to pursue higher education.

Guidelines

- a) *The applicant must be a student who intends to complete Years 11 & 12 at the WA College of Agriculture – Denmark and is either;*
 - *Completing Year 10 at the Denmark High School; or*
 - *Completing Year 10 at the WA College of Agriculture – Denmark; or*
 - *A Year 10 student residing in the Denmark Shire.*
- b) *The Scholarship will not be based wholly on academic record. Interest in agriculture and family need is a consideration.*
- c) *Preference will be given to those students who are likely to continue agricultural pursuits within the Shire boundaries.*
- d) *The Scholarship amount will be determined by Council and 50% will be paid at the start of the first year and upon successful completion and continuation, 50% will be paid at the start of the second year.*
- e) *The CEO and/or the Shire President address the Seniors School students at the commencement of the advertising of the program (generally in September) to promote the Scholarship;*
- f) *The Sponsorship be widely promoted in local papers, notice boards and Council's website to both potential nominees and their parents or guardians;*
- g) *A Scholarship will not be awarded if no applicants are suitable.*
- h) *The decision of Council and/or the delegated Committee shall be final.*
- i) *The closing date for applications will be determined each year by the CEO to allow sufficient time for determination of the winner by Council at presentation at the relevant school's graduation ceremony.*

Budget / Financial Implications:

Council's 2014/15 Budget includes an amount of \$1,000 for the Agricultural Scholarship (GL1610822).

Strategic Implications:

The report and officer recommendation is consistent with Council's adopted Mission and Vision and assists achieve the following specific adopted Strategic Objectives and Goals, specifically the following goals;

Education: ...work with relevant authorities and organisations that encourage the growth and diversity of educational opportunities and facilities for all age groups both in the town of Denmark and in its outlying communities.

Youth: ...encourage opportunities, employment and facilities for young people, and aims to involve them in decisions made within the community.

Sustainability Implications:

➤ **Governance:**

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

➤ **Environmental:**

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

➤ **Economic:**

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

➤ **Social:**

Council’s Agricultural College Scholarship provides financial assistance to a local student who intends to pursue higher education at the Denmark Agricultural College.

➤ **Risk:**

Risk	Risk Likelihood (based on history and with existing controls)	Risk Impact / Consequence	Risk Rating (Prior to Treatment or Control)	Principal Risk Theme	Risk Action Plan (Controls or Treatment proposed)
That no application is suitable and therefore the 2014 Agricultural Scholarship is not awarded.	Rare (1)	Insignificant (1)	Low (1-4)	Not Meeting Community expectations	Accept Risk

Comment/Conclusion:

Three (3) eligible applications have been received and have been provided to Councillors as a confidential attachment. Applications closed on Friday, 3 October 2014.

Part g) of Council Policy states, “A Scholarship will not be awarded if no applicants are suitable.”

Council’s Resolution No. 141014 has remained confidential to Councillors, the Chief Executive Officer and the Executive Assistant.

Voting Requirements:

Absolute majority for 10.1a & Simple majority for 10.1b.

Pursuant to the Section 10 (1) (b) and (1a) of the Local Government (Administration) Regulations 1996, the following rescission requires the expressed support from at least one third (3) Councillors, inclusive of the mover, prior to it being considered.

Cr Gillies, Cr Pedro and Cr Lewis expressed their support for the rescission.

COUNCIL RESOLUTION & OFFICER RECOMMENDATION	ITEM 10.1a
MOVED: CR GILLIES	SECONDED: CR PEDRO
That Council rescind Council Resolution No. 141014 as the Applicant who was selected for the 2014 Agricultural Scholarship at the Council meeting held on Tuesday, 21 October 2014 has been deemed ineligible due to the fact that the student is in Year 9 and not Year 10.	
CARRIED UNANIMOUSLY AND BY AN ABSOLUTE MAJORITY: 8/0	Res: 211114

COUNCIL RESOLUTION & OFFICER RECOMMENDATION	ITEM 10.1b
MOVED: CR OSBORNE	SECONDED: CR ROWLAND
<p>That with respect to the 2014 Denmark Agricultural College Scholarship, Council;</p> <ol style="list-style-type: none"> 1. Announce Patrick Swallow as the successful applicant at their current Schools graduation ceremony in 2014 and present them with the first year's payment of \$500; and 2. Keep the name of the recipient of this scholarship and the decision of this meeting confidential to Council, Seniors Officers and the Executive Assistant and embargoed until the announcement. 	
CARRIED UNANIMOUSLY: 8/0	Res: 221114

12. CLOSURE OF MEETING

9.05pm – There being no further business to discuss the Shire President, Cr Thornton, declared the meeting closed.

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

Signed: _____
Dale Stewart – Chief Executive Officer

Date: _____

These minutes were confirmed at the meeting of the _____

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