

Celebrating 100 year of Local Government in 2011

Shire of Denmark



Ordinary (Decision Making) Council Meeting

MINUTES



Held on the

22 November 2011

ORDINARY (DECISION MAKING) MEETING OF COUNCIL

HELD IN THE COUNCIL CHAMBERS,
953 SOUTH COAST HIGHWAY, DENMARK ON TUESDAY,
22 NOVEMBER 2011.

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Ordinary Council Meeting

22 November 2011

DISCLAIMER

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1. DECLARATION OF OPENING/ANNOUNCEMENT OF VISITORS

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

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 Adrian Hinds
- Cr Jan Lewis
- Cr Barbara Marshall
- Cr Ian Osborne
- Cr Dawn Pedro
- Cr Belinda Rowland
- Cr Roger Seeney
- Cr Alex Syme

STAFF:

- Mr Dale Stewart (Chief Executive Officer)
- Mr Garry Bird (Director of Finance & Administration)
- Mrs Annette Harbron (Director of Planning & Sustainability)
- Mr Gregg Harwood (Director of Community & Regulatory Services)
- Mr Rob Whooley (Director of Infrastructure Services)
- Ms Kevina Richardson (Customer Service Officer – Planning & Sustainability)

APOLOGIES:

- Cr Phil Barnes

ON LEAVE OF ABSENCE:

Nil

ABSENT:

Nil

VISITORS:

- Members of the public in attendance at the commencement of the meeting: 8
- Members of the press in attendance at the commencement of the meeting: 1

DECLARATIONS OF INTEREST:

Name	Item No	Interest	Nature
Cr Rowland	8.5.2	Proximity & Financial	Cr Rowland owns a rental property at 25 Price Street.
Cr Thornton	8.5.1	Impartiality	Cr Thornton is a member of Denmark Tourism Inc.
Cr Marshall	8.5.2	Impartiality	Cr Marshall's signature is on the petition.
Mr Dale Stewart	8.2.1	Impartiality	Anne Gray (spouse of Gavin Gray) is distantly related and is an adjoining owner to the dam.

3. ANNOUNCEMENTS BY THE PERSON PRESIDING

3.1 Regional Achievement & Community Awards

The Shire President announced that the Denmark Recreation Centre had recently been awarded, as part of the Living Longer Living Longer Service, a Gold Excellence Award for outstanding service to the community over five years and runner up as Most Outstanding Regional Provider for length of service, participation numbers and amount of classes offered. Cr Thornton presented the awards to Denmark Recreation Centre long time servicing employee, Helen Powley. Cr Thornton stated that the awards were an excellent achievement for the Shire and the Denmark Recreation Centre.

3.2 Leave of Absence

Cr Thornton announced a request of Leave of Absence by Cr Phil Barnes. This matter will be dealt with under Item 5 of this meeting.

3.3 Late Items

Cr Thornton announced two late items to be dealt with under Item 11 of this meeting. Item 11.1 is pertaining to setting of the date for the Annual Electors Meeting. Item 11.2 is pertaining to another matter of urgent business.

4. PUBLIC QUESTION TIME

4.1 RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE

Nil

4.2 PUBLIC QUESTIONS

In accordance with Section 5.24 of the Local Government Act 1995, Council conducts a public question time to enable members of the public to address Council or ask questions of Council. The procedure for public question time can be found on the back of the front cover of this Agenda.

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

In accordance with clause 3.2 (2) & (3) of the Shire of Denmark Standing Orders Local Law, a second Public Question Time will be held, if required and the meeting is not concluded prior, no later than 6.00pm.

Questions from the Public

4.2.1 Mr Stuart Young – Item 8.1.1 (Final Adoption of Scheme Amendment 122 – Lots Bounded by Mount Shadforth Rd and Warham Rd, Denmark)

Mr Young enquired whether any reply from the Water Corporation pertaining to Amendment 122 had been received. The Director of Planning and Sustainability replied that no advice has been received.

4.2.2 Mr Gavin Gray – Item 8.2.1 (Fishing Closure – Sheoak Drive Park)

Mr Gray spoke in support of Item 8.2.1 as an adjoining landowner.

4.2.3 Ms Dawn Cottam - Item 8.5.2 (Special Electors Meeting Motions)

Ms Cottam spoke of her concerns regarding the potential future commercial zoning of Welsh Street, Price Street and Mitchell Street.

4.19pm - Director of Infrastructure Services left the meeting.

4.20pm - Director of Infrastructure Services returned to the meeting.

4.3 QUESTIONS BY MEMBERS OF WHICH DUE NOTICE HAS BEEN GIVEN

4.4 PRESENTATIONS, DEPUTATIONS & PETITIONS

Nil

5. APPLICATIONS FOR LEAVE OF ABSENCE

5.1 Cr Barnes

COUNCIL RESOLUTION	ITEM 5.1
MOVED: CR THORNTON	SECONDED: CR SAMPSON
That Councillor Barnes be granted leave of absence for the Ordinary Council Meetings of December 2011 through to and including February 2012 (a period of 3 months).	
CARRIED: 11/0	Res: 031111

6. CONFIRMATION OF MINUTES

6.1 ORDINARY COUNCIL MEETING

COUNCIL RESOLUTION & OFFICER RECOMMENDATION	ITEM 6.1
MOVED: CR MARSHALL	SECONDED: CR ROWLAND
That the minutes of the Ordinary Meeting of Council held on the 15 November 2011 be confirmed as a true and correct record of the proceedings, subject to the following amendment;	
1. Page 5 – under Item 3.2.6, add the words “Mr Fleming presented a Petition to Council containing 22 signatures with a preamble as follows; “Proposed Commercial Designation of Welsh, Horsley and Price Streets in Local Planning Strategy, We, the undersigned, request Council to reconsider the intention to designate the above streets as commercial, and request that the streets retain their existing residential status.”	
CARRIED: 11/0	Res: 041111

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

7.1 STANDING ORDERS LOCAL LAW SHIRE OF DENMARK (1ST MOTION)

File Ref:	CR.3
Applicant / Proponent:	Cr Adrian Hinds
Subject Land / Locality:	This information was not provided by the Councillor
Disclosure of Councillor Interest:	This information was not provided by the Councillor
Date:	10 November 2011
Author:	Cr Adrian Hinds
Attachments:	This information was not provided by the Councillor

Summary:

This information was not provided by the Councillor.

Background:

This information was not provided by the Councillor.

Comment:

At present the "breaking down of complex questions" depends on the wishes of the Presiding Person.

It is both commonsensical and democratic that Council should decide on separate matters, separately, even though they may be part of a wider subject. However any Presiding Person may have a different agenda.

This motion re-establishes Council as the final authority in governing its own business, as it would be in most other organisations.

Consultation:

This information was not provided by the Councillor.

Statutory Obligations:

This information was not provided by the Councillor.

Policy Implications:

This information was not provided by the Councillor.

Budget / Financial Implications:

This information was not provided by the Councillor.

Strategic Implications:

This information was not provided by the Councillor.

Sustainability Implications:➤ **Environmental:**

This information was not provided by the Councillor.

➤ **Economic:**

This information was not provided by the Councillor.

➤ **Social:**

This information was not provided by the Councillor.

Voting Requirements:

The motion requires an absolute majority decision of Council (to change a Local Law).

ITEM 7.1

MOVED: CR HINDS

That to theShire of Denmark.. Standing Orders Local Law.... Part 10.5.. Breaking down of complex questions.... be added the following
(2) When a motion has two or more parts, any member may move a motion to require that the parts may be debated separately or in particular groupings of parts.

LAPSED FOR WANT OF A SECONDER

**Absolute majority required.*

CEO comment

An item relating to the Shire of Denmark Standing Orders Local Law was considered by Council at its meetings held in October 2008. A copy of the Report and subsequent resolution is attached.

At the Induction Day for new Councillors held on Wednesday, 9 November 2011 it was noted that training would be required on the Standing Orders Local Law. It is therefore suggested that the Local Law could be reviewed by way of a Council Workshop which could also address this training requirement.

The Western Australian Local Government Association (WALGA) have been developing a Model Standing Orders Local Law however this task has not yet been completed.

Following Workshop(s) on the matter there is scope for Council to either continue with the existing Local Law, amend the Local Law or replace the Local Law with a Council Policy (which would allow Council more flexibility in meeting processes).

If Council was inclined to support the Councillor's Notice of Motion then it would have to be advertised for a minimum period of six (6) weeks in the West Australian inviting public submissions (refer to part 3 of the Local Government Act 1995).

OFFICER RECOMMENDATION

ITEM 7.1

That the Chief Executive Officer convene a workshop on the Council's Standing Orders Local Law with a view to training on its use and application and also to determine whether a report to Council is required recommending changes, minor or substantial, and or the merits of repealing the local law in favour of a Policy of Council on Meeting Procedures that Council could easily amend from year to year as the Council of the day saw fit.

THE OFFICER RECOMMENDATION WAS NOT MOVED AS A MOTION

7.2 STANDING ORDERS LOCAL LAW SHIRE OF DENMARK (2ND MOTION)

File Ref:	CR.3
Applicant / Proponent:	Cr Adrian Hinds
Subject Land / Locality:	This information was not provided by the Councillor
Disclosure of Councillor Interest:	This information was not provided by the Councillor
Date:	10 November 2011
Author:	Cr Adrian Hinds
Attachments:	This information was not provided by the Councillor

Summary:

This information was not provided by the Councillor.

Background:

This information was not provided by the Councillor.

Comment:

At the Shire's Sep 2011 meeting it was ruled that the seconders to amendments did not have the right to speak (clearly not a fair situation). This was queried with the Administration and after referring to 3 sources it was established that a seconder did have the right to speak. The brand new Council had this, probably mystifying matter, explained to them in Oct 2011.

The Standing Orders Local Laws are the first, and most convenient, point of reference. It is better, therefore, to have a clear statement in the Standing Orders Local Laws than digging through legal references in the middle of a meeting.

My preference is to add the change to an existing Part/Clause rather than having a separate new Part/Clause and a painful exercise of renumbering the Parts/Clauses.

Also the Part/Clause needs to be retitled.

Consultation:

This information was not provided by the Councillor.

Statutory Obligations:

This information was not provided by the Councillor.

Policy Implications:

This information was not provided by the Councillor.

Budget / Financial Implications:

This information was not provided by the Councillor.

Strategic Implications:

This information was not provided by the Councillor.

Sustainability Implications:

➤ **Environmental:**

This information was not provided by the Councillor.

➤ **Economic:**

This information was not provided by the Councillor.

➤ **Social:**

This information was not provided by the Councillor.

Voting Requirements:

The motion requires an absolute majority decision of Council (to change a Local Law).

ITEM 7.2

MOVED: CR HINDS

That to the... Shire of Denmark..Standing Orders Local Law.....Part 10.10 Order of Amendments.... be added
 (2) Both the mover and the seconder of an amendment have the right to speak but no right of reply.
 And
 That part 10.10 be retitled as "Order of Amendments and Rights to speak to Amendments"

LAPSED FOR WANT OF A SECONDER

**Absolute majority required.*

CEO comment

An item relating to the Shire of Denmark Standing Orders Local Law was considered by Council at its meetings held in October 2008, a copy of the Report and subsequent resolution is attached.

At the Induction Day for new Councillors held on Wednesday, 9 November 2011 it was noted that training would be required on the Standing Orders Local Law. It is therefore suggested that the Local Law could be reviewed by way of a Council Workshop which could also address this training requirement.

The Western Australian Local Government Association (WALGA) have been developing a Model Standing Orders Local Law however this task has not yet been completed.

Following Workshop(s) on the matter there is scope for Council to either continue with the existing Local Law, amend the Local Law or replace the Local Law with a Council Policy (which would allow Council more flexibility in meeting processes).

If Council was inclined to support the Councillor’s Notice of Motion then it would have to be advertised for a minimum period of six (6) weeks in the West Australian inviting public submissions (refer to part 3 of the Local Government Act 1995).

7.3 WENTWORTH ROAD DAM

File Ref:	CR.3
Applicant / Proponent:	Cr Adrian Hinds
Subject Land / Locality:	This information was not provided by the Councillor
Disclosure of Councillor Interest:	This information was not provided by the Councillor
Date:	7 November 2011
Author:	Cr Adrian Hinds
Attachments:	This information was not provided by the Councillor

Summary:

This information was not provided by the Councillor.

Background:

This information was not provided by the Councillor.

Comment:

The new Council was given a short briefing on the Wentworth Rd dam issue in October 2011 but new councillors may need more detail.

Also, some recent correspondence from and to the WA Minister for Planning was discussed, but neither the Minister's letter nor the reply made on behalf of Council was made available.

Full transparency is necessary.

Consultation:

This information was not provided by the Councillor.

Statutory Obligations:

This information was not provided by the Councillor.

Policy Implications:

This information was not provided by the Councillor.

Budget / Financial Implications:

This information was not provided by the Councillor.

Strategic Implications:

This information was not provided by the Councillor.

Sustainability Implications:

➤ **Environmental:**

This information was not provided by the Councillor.

➤ **Economic:**

This information was not provided by the Councillor.

➤ **Social:**

This information was not provided by the Councillor.

Voting Requirements:

This motion would require a simple majority.

COUNCIL RESOLUTION & OFFICER RECOMMENDATION		ITEM 7.3
MOVED: CR HINDS		SECONDER: CR OSBORNE
That the documents and correspondence relating to the approval and construction of the dam located on the property at the corner of the South Coast Highway and Wentworth Road (Lot 303 Wentworth Rd.) be made available to all new Councillors.		
CARRIED: 9/2		Res: 051111

8. REPORTS OF OFFICERS

Councillors are encouraged to identify those Agenda Items from Item 8 (Officer Reports) through to and inclusive of Item 9 (Committee Recommendations) that they would like to discuss, debate, amend, ask questions in relation to or make comment on during that meeting.

ITEM NO.	HEADING	Declarations of Interest Yes / No	Absolute Majority Yes / No
8.1.1	FINAL ADOPTION OF SCHEME AMENDMENT NO.122 – LOTS BOUNDED BY MOUNT SHADFORTH ROAD AND WARHAM ROAD, DENMARK	No	No
8.2.1	FISHING CLOSURE- SHEOAK DRIVE PARK	No	No
8.2.2	TINGLEDALE HALL & TENNIS CLUB – NEW TOILET BLOCK AND SHELTER AREA	No	No
8.4.1	FINANCIAL STATEMENT FOR THE MONTH ENDING 31 OCTOBER 2011	No	Yes
8.4.2	DENMARK RSL SUB BRANCH – RELOCATION OF WAR MEMORIAL	No	Yes
8.5.1	DENMARK TOURISM (INC) – SUB-LEASE OF RESERVE 48198	Yes	No
8.5.2	SPECIAL ELECTORS MEETING MOTIONS	Yes	No
9.1	PATHS & TRAILS ADVISORY COMMITTEE – DENMARK NORNALUP HERITAGE RAIL TRAIL BRIDGE	No	No

If any of the above items are identified by Council they will be excluded from the following En-bloc recommendation.

Prior to consideration of Item 8 through the Presiding Person the Chief Executive Officer brought to the attention of the meeting the following disclosure(s) of interest:

Cr Rowland declares a proximity and financial interest to Item 8.5.2 on the basis that she is an owner of land at 25 Price Street Denmark.

Cr Marshall declares an impartiality interest to Item 8.5.2 on the basis that her signature is on a petition relating to the matter.

Cr Thornton declares an impartiality interest to Item 8.5.1 on the basis that he is a member of Denmark Tourism Inc.

COUNCIL RESOLUTION & OFFICER RECOMMENDATION	ITEM 8
MOVED: CR SEENEY	SECONDED: CR SYME
That the Officer Recommendations with respect to items 8.1.1, 8.2.2, 8.4.2, 8.5.1 and 9.1 be adopted en bloc.	
CARRIED BY AN ABSOLUTE MAJORITY: 10/1	Res: 061111

8.1 Director of Planning & Sustainability

8.1.1 FINAL ADOPTION OF SCHEME AMENDMENT NO.122 – LOTS BOUNDED BY MOUNT SHADFORTH ROAD AND WARHAM ROAD, DENMARK

File Ref:	TPS3/SA122
Applicant / Proponent:	Ayton Baesjou Planning
Subject Land / Locality:	165 (Lot 1), 191 (Lot 22) and 251 (Lot 632) Mount Shadforth Road and 68 (Lot 355) Warham Road
Disclosure of Officer Interest:	Nil
Date:	7 November 2011
Author:	Annette Harbron, Director of Planning & Sustainability
Authorising Officer:	Annette Harbron, Director of Planning & Sustainability
Attachments:	Attachment 8.1.1 a) - Amendment 122 'For Public Comment' Report Attachment 8.1.1 b) - Schedule of Submissions

Summary:

In April 2011, Council resolved to initiate Scheme Amendment No. 122 to rezone the lots bounded by Mt Shadforth Road and Warham Road, Denmark from "Rural" to "Special Residential".

It is recommended that Council grant final approval with modifications to Scheme Amendment No. 122 and refer the document to the Western Australian Planning Commission (WAPC)/Minister for Planning for final approval.

Background:

At its meeting of 27 April 2011, Council considered a request to initiate Scheme Amendment No. 122 to Town Planning Scheme No. 3 (TPS No. 3) wherein they resolved the following (Res No. 160411):

That Council with respect to the request to rezone lots bounded by Mt Shadforth Road and Warham Road, Denmark:

1. *Pursuant to Section 75 of the Planning and Development Act 2005 initiate Town Planning Scheme No. 3 Amendment No. 122 subject to the applicant undertaking the following modifications to the Scheme Amendment documentation (including the Subdivision Guide Plan) to the satisfaction of the Director of Planning & Sustainability:*
 - a. *Retention of crossovers onto Mount Shadforth Road only where it provides access to existing development.*
 - b. *All new lots to gain access off Warham Road (lot frontage).*
 - c. *Restricted access onto Mount Shadforth Road for newly created lots for emergency purposes only in order to comply with Element 2.3 Cul-de-sacs of Planning for Bush Fire Protection Guidelines (May 2010). This criterion requires a maximum length of 200 metres and where emergency access is provided between cul-de-sac heads, maximum length can be increased to 600 metres provided no more than 8 lots are serviced.*
 - d. *The upgrade of Warham Road to the satisfaction of the Council's Director of Infrastructure Services.*
 - e. *The upgrade of the intersection of Mount Shadforth Road and Warham Road.*
 - f. *The subdivision layout as currently provided for on Pt Lot 356 may alter depending on the outcome of the road closure process.*
2. *Amend Town Planning Scheme No. 3 by:*
 - a. *Rezoning 251 (Pt 356), 191 (Lot 22) and 165 (Lot 1) Mount Shadforth Road and 68 (Lot 355) Warham Road, Denmark from the 'Rural' zone to the 'Special Residential' zone.*
 - b. *Amending Appendix XIV – Special Residential Zone Provisions Relating to Specified Areas, by including Special Residential Zone Area No. 15 as follows:*
 - *Column 1 – Particulars of the Land*
SRes 15 Warham Road Special Residential Zone

251 (Pt 356), 191 (Lot 22) and 165 (Lot 1) Mount Shadforth Road and 68 (Lot 355) Warham Road, Denmark

- Column 2 – Proposed Uses
Permitted Use (P): Single House, Home Occupation
Permitted at Council's Discretion (AA): Cottage Industry, Home Business
- Column 3 – Special Provisions
 - i) The minimum size for new lots is 5000m²
 - ii) Subdivision shall generally be in accordance with the endorsed Subdivision Guide Plan
 - iii) All buildings shall be located as follows:
 - 8m from the Warham Road lot frontage;
 - 10m from the rear of the lot/Mount Shadforth Road;
 - 5m from the side of the lot; and
 - Development (excluding fences) to be setback 30m from Millars Creek.
 - iv) No clearing of remnant vegetation shall occur except for:
 - Clearing to comply with the requirements of the Shire of Denmark Annual Fire Regulation Notice;
 - Removal of trees that are diseased or dangerous;
 - Clearing required to establish/maintain a fuel reduced Building Envelope;
 - Clearing to gain vehicular access to an approved dwelling; or
 - Any other clearing which may be approved by the Council.
 - v) If boundary fencing is utilised, it shall be of rural construction such as pine posts/steel posts and strand to the satisfaction of Council.
 - vi) On-site effluent disposal shall be the responsibility of the individual landowner and shall involve the use of Alternative Treatment Unit's approved by Council in accordance with Health Department of WA regulations and guidelines.
 - vii) Council shall request the WAPC to impose a conditions at the subdivision stage requiring the subdivider to advise prospective purchasers of land of the following:
 - Fire management guidelines and responsibilities; and
 - That sewer and reticulated water are not available.
 - viii) Council shall request the WAPC to impose a condition at the time of subdivision for additional tree/shrub planting for screening purposes along Mount Shadforth Road.
 - ix) Council shall request the WAPC to impose a condition at the time of subdivision for Warham Road to be upgraded to the satisfaction of Council.
 - 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 no less than 92kl capacity and provision of a minimum roof catchment of 200m².

c. Amending the Scheme Maps accordingly.

3. Refer Town Planning Scheme No. 3 Scheme Amendment No. 122 to the Environmental Protection Authority in accordance with Section 81 of the Planning and Development Act 2005.
4. Determine that Town Planning Scheme No. 3 Amendment No. 122 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 amended accordingly by the applicants (refer Attachment 8.1.1 a), with referral of the Scheme Amendment No. 122 documentation to the Environmental Protection Authority (EPA) in accordance with Section 81 of the *Planning and Development Act 2005* occurring on 15 June 2011.

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 11 July 2011.

Public advertising of Scheme Amendment No. 122 commenced on 11 August 2011 and closed on 26 September 2011 (being 47 days; statutory requirement is minimum 42 days). During the advertising period the following consultation took place:

- Advertising notice in the Denmark Bulletin on 11 August 2011 inviting public comment;
- Referral of the Scheme Amendment documentation to the following government departments/servicing authorities inviting comment:
 - Fire and Emergency Services Authority
 - Department of Health
 - Department of Water
 - Western Power
 - Telstra
 - Water Corporation
 - Department of Environment and Conservation
 - Department of Agriculture
- Referral to nineteen (19) landowners in the vicinity of the lot inviting comment:
- Scheme Amendment documentation was available for viewing at the Shire Administration Office, Shire library and on the Shire's website.

Comment:

At the close of the advertising period, a total of thirteen (13) submissions were received (seven (7) from the public and six (6) from government departments/servicing authorities). Attached as Attachment 8.1.1 b) 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.

In summary, the main issues referenced in the submissions related to:

- The need for a fire management plan to be provided for at subdivision stage to address on ground fire protection issues;
- The need for the use of alternative effluent disposal systems and on-site stormwater management arrangements given the proximity to Millar's Creek;
- Concerns with the emergency/access egress being upgraded such that it will allow access to vehicles other than emergency vehicles;
- The need to upgrade the Warham Road/Mount Shadforth Road intersection;
- The need for Warham Road to be sealed given increased traffic usage, including an adequate turn-around and passing bays if required to minimise the need for extensive tree removal within the road reserve;
- The need to minimise extensive tree removal on properties; and
- Questioning the need for a standpipe within this subdivision given the existence of one at the end of Kerr Close.

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 and/or the associated Scheme Amendment provisions are recommended:

- A notation being included on the Subdivision Guide Plan referencing that the closure of the unmade un-named road reserve which divides Lot 22 is subject to the requirements of the *Land Administration Act 1997* and relevant *Land Administration Regulations 1998*;
- Notation f. on the Subdivision Guide Plan being amended to include reference to Lot 22 as well;
- Include reference to the road reserve which divides Lot 22 needing to be zoned 'Special Residential' as it is currently unzoned in TPS No. 3;
- A notation being included on the Subdivision Guide Plan referencing that the fire management plan for the area may result in the location of the standpipe and/or emergency access/egress links being modified accordingly;

- Insert a new Special Provision to read “Council shall request the WAPC to impose conditions at the subdivision stage requiring the preparation of a fire management plan and implementation of the specific fire protection measures set out in such plan;
- Special Provision vi) being amended to require the use of alternative treatment units on all lots (NB: this was required by Council at the initiation stage of the Scheme Amendment however was not provided in the advertised version of the Scheme Amendment);
- Notation d. on the Subdivision Guide Plan and Special Provision ix) being amended such that there is reference to the specific details pertaining to Warham Road road upgrading requirements – that is:
 - The road is to be two coat sealed;
 - The road alignment and pavement width are to be designed such that remnant vegetation retention within the road reserve is maximised (i.e. reduced pavement widths with use of passing bays where required); and
 - An appropriately sized cul-de-sac/turn-around area is to be provided.
- Special Provision ii) being amended to read: “Subdivision and development shall generally ...”
- The notations on the Subdivision Guide Plan and Special Provision iii) being amended to read: “Building envelopes should generally be as per the Subdivision Guide Plan. Any proposals seeking to vary the location of the building envelopes need to at least have regard to the following:
 - A minimum setback of 8 metres from the Warham Road lot frontage;
 - A minimum setback of 10 metres from the rear of the lot (i.e. Mount Shadforth Road);
 - A minimum setback of 5 metres from the side boundaries;
 - Development (excluding fences) to have a minimum setback of 30 metres from Millar’s Creek;
 - Existing remnant vegetation on-site;
 - Visual impact/amenity from adjoining roads and/or residential development on surrounding lots; and
 - Other issues as identified on the Opportunities & Constraints Plan for the land as provided for in the Scheme Amendment 122 documentation.

Consultation:

As referenced in the ‘Background’ section of this report, Scheme Amendment No. 122 was available for public comment from 11 August 2011 to 26 September 2011.

Statutory Obligations:

Town Planning Regulations 1967 - the Regulations set the procedures for amending a Town Planning Scheme.

Policy Implications:

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

Budget / Financial Implications:

The proponent paid the relevant Scheme Amendment fees as per Council’s operative Fees & Charges Schedule applicable at the time of lodging the formal request to amend Town Planning Scheme No. 3.

As per Council’s operative Fees & Charges Schedule, Planning Services are currently recording officer time associated with this Scheme Amendment on the basis that if the costs exceed \$1500.00 (being the amount paid upfront by the applicants) then additional costs will apply and an invoice will be issued to the applicant’s accordingly.

All costs associated with the required on-ground fire protection measures and road upgrading is to be met by the subdivider(s) at the time of subdivision.

Strategic Implications:

As per the Shire of Denmark’s Local Planning Strategy (LPS), which was adopted by Council at the Special Meeting held on 4 October 2011 and is currently being considered

by the Western Australian Planning Commission for endorsement, the subject lots have a designation of 'Special Residential'.

Sustainability Implications:

➤ **Environmental:**

The amendment incorporates the protection of the environment features such as the 30m setback of all development from Millars Creek, retention where possible of remnant vegetation and use of alternative treatment units on all new lots created.

➤ **Economic:**

The rezoning of the subject land will facilitate settlement within close proximity to the townsite and allow for the efficient use of land.

➤ **Social:**

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

Voting Requirements:

Simple majority.

At the meeting held on the 15 November 2011, Cr Syme referred to the submission received from the Water Corporation which stated that they had no concerns with the proposed amendment as it was stated in the amendment report that water and wastewater services for future lots are to be accommodated by on-site means.

The Director of Planning & Sustainability advised that herself and the Chief Executive Officer also had concerns about the Water Corporations comments, as the subdivision area was indeed within the jurisdiction of the Water Corporation. Mrs Harbron advised that the Regional Manager, for the Water Corporation, had been contacted who had stated that he would be reviewing their submission and that she would advise Councillors of any amendment to their submission, should one be received.

COUNCIL RESOLUTION & OFFICER RECOMMENDATION	ITEM 8.1.1
<p>That Council with respect to Scheme Amendment No. 122 to rezone lots bounded by Mt Shadforth Road and Warham Road from "Rural" to "Special Residential":</p> <ol style="list-style-type: none"> 1. Notes the submissions received; 2. Requires the applicant to undertake the following modifications to the Subdivision Guide Plan provided for in the documentation to the satisfaction of the Director of Planning Sustainability: <ol style="list-style-type: none"> a) A notation being included referencing that the closure of the unmade un-named road reserve which divides Lot 22 is subject to the requirements of the <i>Land Administration Act 1997</i> and relevant <i>Land Administration Regulations 1998</i>. b) Notation f. being amended to include reference to Lot 22 as well. c) A notation being included referencing that the fire management plan for the area may result in the location of the standpipe and/or emergency access/egress links being modified accordingly. d) Notations being amended to reference that building envelopes should generally be as per the Subdivision Guide Plan, and that any proposals seeking to vary the location of the building envelopes need to at least have regard to the following: <ul style="list-style-type: none"> • A minimum setback of 8 metres from the Warham Road lot frontage; • A minimum setback of 10 metres from the rear of the lot (i.e. Mount Shadforth Road); • A minimum setback of 5 metres from the side boundaries; • Development (excluding fences) to have a minimum setback of 30 metres from Millar's Creek; 	

- Existing remnant vegetation on-site;
 - Visual impact/amenity from adjoining roads and/or residential development on surrounding lots; and
 - Other issues as identified on the Opportunities and Constraints Plan for the land provided for in the Scheme Amendment 122 documentation.
- e) Notation d. being amended such that there is reference to the specific details pertaining to Warham Road road upgrading requirements – that is:
- The road is to be two coat sealed;
 - The road alignment and pavement width are to be designed such that remnant vegetation retention within the road reserve is maximised (i.e. reduced pavement widths with use of passing bays where required); and
 - An appropriately sized cul-de-sac/turn-around area is to be provided.
3. Adopts for final approval with modifications by:
- a) Rezoning Lots 632, 22 and 1 Mount Shadforth Road and Pt Lot 355 Warham Road, Denmark from 'Rural' to 'Special Residential – SRes 15';
 - b) Zoning the unmade un-named road reserve which divides Lot 22 Mount Shadforth Road, Denmark as 'Special Residential – SRes 15';
 - c) Amending Appendix XIV – Special Residential Zone Provisions Relating to Specified Areas as follows:
 - Column 1 – Particulars of the Land
SRes 15 Warham Road Special Residential Zone
Lots 632, 22 and 1 Mount Shadforth Road and Pt Lot 355 Warham Road, Denmark
 - Column 2 – Proposed Uses
Permitted Use (P): Single House, Home Occupation
Permitted at Council's Discretion (AA): Cottage Industry, Home Business
 - Column 3 – Special Provisions
 - i) The minimum size for new lots is 5000m².
 - ii) Subdivision and development shall generally be in accordance with the endorsed Subdivision Guide Plan.
 - iii) Building envelopes should generally be as per the Subdivision Guide Plan. Any proposals seeking to vary the location of the building envelopes needs to at least have regard to the following:
 - A minimum setback of 8 metres from the Warham Road lot frontage;
 - A minimum setback of 10 metres from the rear of the lot (i.e. Mount Shadforth Road);
 - A minimum setback of 5 metres from the side boundaries;
 - Development (excluding fences) to have a minimum setback of 30 metres from Millar's Creek;
 - Existing remnant vegetation on-site;
 - Visual impact/amenity from adjoining roads and/or residential development on surrounding lots; and
 - Other issues as identified on the Opportunities and Constraints Plan for the land provided for in the Scheme Amendment 122 documentation.
 - iv) No clearing of remnant vegetation shall occur except for:
 - Clearing to comply with the requirements of the Shire of Denmark's Annual Fire Regulation Notice;
 - Removal of trees that are diseased or dangerous;
 - Clearing required to establish/maintain a fuel reduced Building Envelope;
 - Clearing to gain vehicular access to an approved dwelling; or
 - Any other clearing which may be approved by the Council.
 - v) If boundary fencing is utilised, it shall be of rural construction such as pine posts/steel posts and strand to the satisfaction of Council.

- vi) On-site effluent disposal shall be the responsibility of the individual landowner and shall involve the use of on-site Alternative Treatment Units approved by Council in accordance with Health Department of WA regulations and guidelines.
 - vii) Council shall request the WAPC to impose conditions at the subdivision stage requiring the subdivider to advise prospective purchasers of the land of the following:
 - Fire management guidelines and responsibilities; and
 - That sewer and reticulated water are not available.
 - viii) Council shall request the WAPC to impose a condition at the time of subdivision for additional tree/shrub planting for screening purposes along Mount Shadforth Road.
 - ix) Council shall request the WAPC to impose a condition at the time of subdivision for Warham Road to be upgraded to the satisfaction of Council generally as per the following:
 - The road is to be two coat sealed;
 - The road alignment and pavement width are to be designed such that remnant vegetation retention within the road reserve is maximised (i.e. reduced pavement widths with use of passing bays where required); and
 - An appropriately sized cul-de-sac/turn-around area being provided.
 - 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 92kl capacity and provision of a minimum roof catchment of 200m².
 - xi) Council shall request the WAPC to impose conditions at the subdivision stage requiring the preparation of a fire management plan and the implementation of the specific fire protection measures as set out in such plan.
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. Advise the submitter's of Council's decision.

CARRIED BY EN BLOC RESOLUTION NO. 061111

8.2 Director of Community & Regulatory Services

The Chief Executive Officer declared an impartiality interest to Item 8.2.1 as he is a distant relative of one of the affected landowners who adjoins the reserve.

8.2.1 FISHING CLOSURE- SHEOAK DRIVE PARK

File Ref:	A3057
Applicant / Proponent:	Not applicable
Subject Land / Locality:	Shoek Drive, East River Rise/ Airfield Estate
Disclosure of Officer Interest:	Nil
Date:	20 October 2011
Author:	Gregg Harwood, Director of Community & Regulatory Services
Authorising Officer:	Gregg Harwood, Director of Community & Regulatory Services
Attachments:	8.2.1 a) - Property Owner Survey 8.2.1 b) - Survey Results 8.2.1 c) - Letter of Complaint

Summary:

This report considers the outcome of a survey that was distributed to East River Rise/ Airfield Estate property owners regarding the potential closure of the Park on Shoek Drive to recreational fishing and recommends that Council resolve to close the water body to fishing on the basis of that survey's results.

Background:

During the previous marringing season Council staff and nearby Councillors received complaints from East River Rise/Airfield Estate residents regarding the antisocial behaviour and litter being left behind.

One resident has approached Council with a request that the reserve be closed to fishing and survey of property owners in the area has indicated a majority of support for the closure among those who responded to the survey.



Out of the 42 forms that were mailed out 13 were returned (summary attached) which represents a 30% response rate. The returned forms indicated that 9 property owners supported the closure while 4 objected.

Given that the response rate does not reflect a majority of the property owners (50%) the matter has been referred to Council for determination.

Comment:

The substance of the complaints from residents is that people fishing in the reserve periodically leave cat food and sardine tins, bait and abandoned fishing equipment either in the water or on the foreshore margin. In addition to this some residents have had their outdoor furniture stolen off their verandas and taken down to the foreshore presumably by people fishing in the reserve who have decided to enjoy their evening in comfort.

One resident has advised that she collected 3 bags of rubbish from around the water body last season and adjoining property owners feel quite intimidated by the fact that if some fishermen are bold enough to "borrow" their outdoor furniture they may also be bold enough break into properties in the area.

East River Rise/ Airfield Estate is a relaxed, secure special rural estate and the survey responses and additional comments reflect that lifestyle expectation and the central issue in considering this request is whether or not the desire of surrounding residents for security and amenity overrides the wider community's right to use a public park. The other issue that runs parallel to this is the question of whether or not it is realistic for a person who buys land next a community facility, CBD or park that draws benefit from that facility should be able to complain about factors that are intrinsically associated with that facility's use.

Notwithstanding the preceding hierarchy of land use debate there are environmental benefits that will flow from the proposed closure as it will prevent pollution of the water body through abandoned bait, tins cans, abandoned fishing gear and plastic bags and reduce the risk of public injury through contact with these items.

Another factor that Council needs to consider in regards to any closure is the enforceability of that closure and in this case residents in the area will expect Council's rangers to be available out of hours to enforce the closure. It is estimated that the cost of out of hours calls could be as high as \$7500 in the first season with these costs decreasing in future seasons as the community grasps that Council is serious about enforcing the closure.

Another factor that will complicate enforcement is the fact that erecting a sign closing the reserve to fishing, this Council referral and subsequent media coverage will advertise the water body's presence as "rarely fished area" that will be a target for future poaching as for many fishermen the excitement of getting to a rarely fished area is half the fun.

In summary the points for and against the closure are as follows:

For the closure:

- 1) Preserve amenity and security of the area.
- 2) Prevents pollution of the water body through abandoned bait, tins cans, abandoned fishing gear and plastic bags and reduce the risk of public injury through contact with these items.
- 3) It will help to preserve the fish stock in the long term as amateur fishermen if left unregulated have the time and resources to fish water body to the point where its resources are largely depleted.
- 4) It is likely that the scale of the problem at this reserve will increase as the region's population and tourist numbers increase and it easiest to close the reserve to fishing now while the numbers of people fishing in the reserve is still small.
- 5) That where practicable all of Council's urban reserves should operate as "nature reserves" and be closed to fishing.

Against the closure:

- 1) The reserve is a public reserve and public should be able to have access to it.
- 2) The closure will also mean that residents of the East River Rise/ Airfield Estate will not be able to fish in the reserve and risk infringement if they do so.
- 3) That problem is relatively minor and could be managed through either periodic community volunteer or Council funded clean ups.
- 4) People living near community facilities should be realistic and expect some level of impact in return for the benefit that these facilities bring.
- 5) That property security is in the first instance the responsibility of the individual land owner and that in the first instance they should take reasonable steps to secure their own property rather than limiting the rights of the wider community.

Summary officer recommendation:

Closure of the reserve to fishing is recommended on the following basis;

- 1) The anti social behaviour that is periodically associated with fishing in the reserve means that its closure is consistent with the amenity objectives of the East River Rise/ Airfield Estate and the lifestyle expectations of its residents.
- 2) It will help to preserve the fish stock in the long term which in turn can be used to restock other water ways as part of environmental initiatives.
- 3) That where practicable all of Council's urban reserves should operate as "nature reserves" and be closed to fishing.
- 4) It is an inevitable long term decision given the region's increasing population and tourist numbers.

Consultation:

A survey regarding the closure proposal was mailed to all East River Rise/ Airfield Estate property owners and the results of the survey were mailed to all of the survey respondents.

Statutory Obligations:

Council has the power under its Property Local Laws to close the reserve for fishing.

Policy Implications:

Nil

Budget / Financial Implications:

It is estimated that the cost of out of hour's calls could be as high as \$7500 in the first season with these costs decreasing in future seasons as the community grasps that Council is serious about enforcing the closure.

In addition to this an allocation of approximately \$400 will be required for advisory signage regarding the closure.

Strategic Implications:

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

Sustainability Implications:**➤ Environmental:**

The closure of this reserve to fishing will prevent pollution of the water body through abandoned bait, tins cans, abandoned fishing gear and plastic bags and reduce the risk of public injury through contact with these items.

It will also help to preserve fish stocks in the long term which in turn can be used to restock other water ways as part of environmental initiatives.

➤ Economic:

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

➤ Social:

The proposed is potential point of social conflict as it pits interests of local property owners against the freedoms of the local community.

Voting Requirements:

Simple majority.

COUNCIL RESOLUTION & OFFICER RECOMMENDATION

ITEM 8.2.1

That with respect to Reserve 46542, at the Sheoak Drive Park, Council immediately close it to fishing and install appropriate signage.

DEFERRAL MOTION

MOVED: CR THORNTON

SECONDED: CR MARSHALL

That the item be deferred pending investigation regarding the possible rights of Indigenous persons to access the reserve for fishing purposes.

CARRIED: 11/0

Res: 071111

8.2.2 TINGLEDALE HALL & TENNIS CLUB – NEW TOILET BLOCK AND SHELTER AREA

File Ref:	A3057
Applicant / Proponent:	Tingledale Hall & Tingledale Tennis Club
Subject Land / Locality:	Tingledale Hall, 554 Valley of the Giants Rd
Disclosure of Officer Interest:	Nil
Date:	20 October 2011
Author:	Damian Schwarzbach – Manager of Recreation Services
Authorising Officer:	Gregg Harwood – Director of Community & Regulatory Services
Attachments:	8.2.2 - Letters of Support from: Tingledale Hall Committee & Tingledale Tennis Club

Summary:

The Tingledale Hall Committee and Tennis Club have approached Council to build a new toilet block and shelter facility at the Hall site.

The report recommends that Council support the project and instruct the Officer to apply for funding through a Lotterywest grant.

Background:

The Tingledale, Bow Bridge, Kentdale and Hazelvale communities have been utilising the Tingledale Hall since it was built in 1925. The Hall was built as a school for the group settlement children living in the area. When the school closed in 1963, the Hall was to become a central social and meeting place for people living in the west end of the Shire of Denmark. The teacher’s living quarters were repositioned next to the Hall to act as a kitchen area in 1980.

The Tingledale Hall site is on a key tourism route, located 4km from the tourism icon Valley of the Giants Tree Top Walk, 50km from Denmark, 17km from Peaceful Bay and 14km from Nornalup.

The hall is on a 2.1256 hectare reserve that is vested in Council and Hall is leased to the Tingledale Hall Committee.

Council currently contributes \$1,500.00 per annum for the maintenance of the Hall and its usage of the Hall is as follows:

The Shire of Denmark utilise the hall every second year for Council meetings.

In 1993, Council contributed \$2,000.00 towards upgrading of facilities at the tennis courts.

In 1998, Council contributed \$1,000.00 towards the completion of the tennis court surfacing.

In 1999, Council paid \$1,678.00 for repairs to the ablution facilities.

In 2001, Council contributed \$7,000.00 towards the upgrading of the kitchen facilities.

In 2005, Council contributed \$3,866.00 towards installing a retaining wall behind the toilet block and round the gazebo incorporating wheelchair/pram access to the gazebo.

Comment:

Ensuring the appropriate infrastructure is important for the development of any community, and Tingle Dale are no exception. The Hall is an important family, sporting, social and cultural meeting place for the district and surrounds.

This project should ensure the toilets and shelter are adequate facilities for the community for the next 20 years.

The Hall is utilised by the following groups:

- BTH Ladies Club
- Walpole Tingle Dale LCDC
- Tingle Dale Tennis Club
- Zumba exercise class
- Tingle Dale Art group
- Walpole Nornalup National Parks Association
- Stretch classes
- Valley of the Giants Heritage & Tourism Association
- Tingle Dale Volunteer Bush Fire Brigade
- West Zone Fire Brigades
- Electoral Polling Booth
- Celebration events – significant birthdays, weddings, family reunions etc.

With all the above events, the committee has reported the Hall becoming crowded and participants overflowing to the grassed area behind the Hall.

The shelter will provide further covered space which would enable larger events to be held and may lead to increased usage.

The Tingle Dale Tennis Club plays tennis all year round. The covered shelter would provide protection against the sun and inclement weather during winter. The current gazebo cannot provide cover for the number of playing members.

The Tennis Club has 41 members, made up of 6 juniors and 35 seniors. The membership of the club has remained at a similar size for the past 3 years.

The Tennis Club appears in a solid financial situation with \$2,872.35 in their current account and \$21,307.29 in a term deposit.

The Lotterywest grant is titled Community Spaces – Buildings & Fit out. This particular project complies with the conditions of the grant. Applicants can receive up to 100% of the amount requested, but a contribution from Council and the Tennis Club/Hall committee would be viewed more favourably. The grant round has no close date and Council would be able to apply when ready.

The officer suggests a one third contribution, Council to contribute 33% with the Hall Committee/Tennis Club funding the balance from Lotterywest and/or the Department of Sport & Recreation or other sources.

The shelter area is quoted to cost \$28,937.00, which includes the construction, concrete pad, electrical and a small storeroom area at the rear.

The minimum requirement for toilets according to 2011 Building Code of Australia is:

- Male – 1 w/c (up to 100 people) & 1 washbasin (up to 50 people)
- Female – 1 w/c (up to 25 people) & 1 washbasin (up to 50 people)
- Unisex disability friendly – 1 w/c & 1 washbasin (which will cater for up to 50 people)

The addition of a unisex disability friendly at the Tingledale Hall will enable the premises to handle overflow from either of the male or female toilets.

There are 2 scenarios for consideration for the toilet block.

Scenario one – Refurbishment of existing structure including additional unisex disability friendly toilet. Estimated Cost \$19,700.00.

Scenario Two – Build New Toilet Block including additional unisex disability friendly toilet. Estimated Cost \$36,148.00.

Due to its age the existing toilet block is requiring increasing levels of ongoing maintenance and will; eventually need to be upgraded as the Hall's usage grows. A new facility with a unisex disability friendly toilet will provide for the both the Hall's current and future requirements and should be relatively maintenance free for the next 20 years.

These savings will be even greater the facility will be new and there should be minimal maintenance costs in the first few years. The proposed upgrade will also present well to both community user groups who use the hall as well as passing tourists who utilise the public toilets and grassed areas at the hall.

The total cost for the project:

Scenario one – \$48,637.00 Shelter and refurbished toilet block.

Scenario two - \$65,085.00 Shelter and new toilet block.

In the event Lotterywest grant application is not successful Council and the Tingledale Hall Committee/Tennis club will need to consider whether the project can still go ahead with extra contribution from both parties, or whether the project is placed on hold until such time as other funding avenues are pursued.

Consultation:

Department of Sport and Recreation
Lotterywest

Statutory Obligations:

Nil

Policy Implications:

Policy P110304 (SUSTAINABILITY & COLLOCATION (SPORT & RECREATION FACILITIES) relates and reads as follows;

“Council will give priority support to facility development or redevelopment that shows capacity for collocating or the sharing of resources.

Applicants must be community based organizations and incorporated under the WA Association Incorporations Act 1997.

Council will require community based organisations seeking public funds of greater than \$10,000 for developing new or refurbishing current facilities to have a business plan appropriate to the size of their organisation.

Council will contribute to a maximum of one-third (1/3) only of major facility development / redevelopment with a project cost greater than \$50,000 to demonstrate the need for

such development and their strategies to ensure that the development will be viable for a least the next 10 years or such period requested by Council.”

Budget / Financial Implications:

The cost would be requested to be considered in the 2012/13 budget of \$21,695.00.

Strategic Implications:

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

Sustainability Implications:

➤ **Environmental:**

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

➤ **Economic:**

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

➤ **Social:**

Council has recognised the significant community value of organised competitive sport and less formal passive and active recreational activities.

The Tingledale Hall and Tennis Club provides services for children, youth, adults and seniors members of the community.

The positive social interaction between members, as well as the health benefits derived from the physical exercise of active participation in the sport result in a sense of personal wellbeing / good health in each member and, collectively, within the community.

Voting Requirements:

Simple majority.

At the meeting held on the 15 November 2011, Cr Sampson asked whether the Club’s contribution would be cash or in kind.

The Director of Community & Regulatory Services confirms his advice that the group is prepared to use their own cash if necessary but would prefer to make in kind contributions and that the final cash/in kind breakdown will depend on the grant funding received.

COUNCIL RESOLUTION & OFFICER RECOMMENDATION	ITEM 8.2.2
<p>That with respect to the request from the Tingledale Hall Committee & Tennis Club to build a new toilet block and shelter facility at the site, Council support the project and;</p> <ol style="list-style-type: none"> 1. Authorise the Chief Executive Officer to instruct officers to assist the Tingledale Hall Committee and the Tennis Club in applying for relevant funding and; 2. Advise that Council’s financial contribution to the project is limited to one third of the capital cost of the project, being an anticipated \$21,695.00 of the estimated total project cost of \$65,085.00 and; 3. Consider in the 2012/13 budget an allocation of \$21,695.00 for its financial contribution to the project. 	
<p>CARRIED BY EN BLOC RESOLUTION NO. 061111</p>	

8.3 Director of Infrastructure Services

Nil

8.4 Director of Finance & Administration**8.4.1 FINANCIAL STATEMENT FOR THE MONTH ENDING 31 OCTOBER 2011**

File Ref:	FIN.1
Applicant / Proponent:	Not Applicable
Subject Land / Locality:	Denmark
Disclosure of Officer Interest:	Nil
Date:	7 November 2011
Author:	Garry Bird, Director of Finance and Administration
Authorising Officer:	Garry Bird, Director of Finance and Administration
Attachments:	8.4.1 - Monthly Financial Report

Summary:

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

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

Background:

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

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

Comment:

Shire Trust Funds have been invested for eighty days with the National Bank, maturing 19 December 2011 at the quoted rate of 5.70%

Reserve Funds have been invested with Members Equity Bank, placed in an on call cash account at the rate of 5.60%.

A new municipal investment of \$1,500,000 has been placed with the National Bank for a term of 90 days at the rate of 5.72%.

Key Financial Indicators at a Glance

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

- Taking into consideration the adopted Municipal Budget and subsequent amendments identified, the estimated 30 June 2012 end of year position is estimated to be a small surplus of \$289 (Note 5).
- Operating income and expenditure are both slightly higher than that predicted for 30 October 2011 (Statement of Financial Activity).
- The 2011/12 Capital Works Program has now commenced, with 3.85% of works completed as at 31 October 2011 (Note 10).
- Rates Collection percentage of 68.04% is in keeping with historical collection rates (Note 6).
- Various transfers to and from Reserve Funds have not been made, generally being undertaken in conjunction with the relevant project.
- Salaries and Wages expenditure is proceeding as per budget estimates (not reported in Financial Statement).

Consultation:

Nil

Statutory Obligations:

Local Government Act 1995 Section 5.25 (1)

Local Government (Financial Management) Regulations 1996

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

Policy Implications:

Policy P040222 relates as follows;

MATERIAL VARIANCES IN BUDGET AND ACTUAL EXPENDITURE

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

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

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

Budget / Financial Implications:

There are no significant trends or issues to be reported.

Note 5 Adopted Budget Amendments and Variations contained within the attached Report recommends the following budget amendment;

Increase expenditure (Acc# 1551054 Purchase Plant and Equipment) and income (Acc# 1550113 – SES Capital Grant) by \$80,000 to reflect a grant provided by the Fire and Emergency Services of WA (FESA) for a new personnel carrier vehicle for Denmark SES, which was not advised at the time of adopting the Budget.

Strategic Implications:

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

Sustainability Implications:

➤ **Environmental:**

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

➤ **Economic:**

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

➤ **Social:**

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

Voting Requirements:

Absolute Majority required for proposed budget amendment/s.

COUNCIL RESOLUTION & OFFICER RECOMMENDATION	ITEM 8.4.1
MOVED: CR SAMPSON	SECONDED: CR MARSHALL
That with respect to Financial Statements for the month ending 31 October 2011, Council;	
<ol style="list-style-type: none"> 1. Receive the Financial Report, incorporating the Statement of Financial Activity and other supporting documentation. 2. Adopt the budget amendments proposed in Note 5 Adopted Budget Amendments and Variations. 3. Endorse the Accounts for Payment as listed. 	
CARRIED BY AN ABSOLUTE MAJORITY: 11/0	RES: 081111

8.4.2 DENMARK RSL SUB BRANCH – RELOCATION OF WAR MEMORIAL
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File Ref:	A3056
Applicant / Proponent:	Denmark RSL Sub-Branch
Subject Land / Locality:	(Reserve 19050) Lot 205 South Coast Highway (cnr Hollings Road)
Disclosure of Officer Interest:	Nil
Date:	7 November 2011
Author:	Garry Bird, Director of Finance & Administration
Authorising Officer:	Dale Stewart, Chief Executive Officer
Attachments:	8.4.2 a) Denmark RSL Proposal

Summary:

The Denmark RSL Sub-Branch is requesting Council to reconsider an earlier funding request to relocate the existing War Memorial on the corner of Hollings Road and South Coast Highway. This report recommends that Council support the proposal and allocate appropriate funds to assist with the cost of the project in the 2011/2012 Budget.

Also included within the request was approval to relocate and cover the gun at the RSL Hall, which has been deferred pending further discussions with key stakeholders such as the CBD Working Group, Denmark Arts Inc, Denmark Cottage Crafts Inc and possibly others.

Background:

The Memorial was erected post World War I and is sited on Reserve 19050 which is vested in the Shire of Denmark for the purpose of 'Memorial'. It is currently maintained predominately by Council (included in GL 1058162 – Memorial Maintenance) and the structure is listed on Council's Municipal Heritage Inventory (MHI).

The letter (attached) from the Denmark RSL notes that "it was the RSL who purchased that land for the specific purpose of building a Memorial to those who gave their lives. The RSL believes that that site should stand in perpetuity to their memory". The Reserve was vested in the Shire of Denmark on 10 June 1936.

This proposal was previously considered by Council at the November 2011 Ordinary Meeting of Council, where it was resolved as follows (Resolution No. 121110);

"That with respect to the Denmark RSL Sub-Branch's request to relocate the War Memorial on Reserve 19050, at Lot 205 South Coast Highway, Denmark, further back onto the same Reserve, Council;

1. *Grant approval for the project subject to the retention of the existing Conifer Tree;*
2. *Provide letters of support for funding application/s made by the Denmark RSL Sub-Branch for the project;*
3. *Agree to including a financial contribution of \$11,000 (inc. GST), reflecting cash and/or in-kind services, in the 2011/2012 Municipal Budget towards the cost of the project, subject to confirmation of approval of external funding application/s and the Denmark RSL Sub-Branch confirming, by June 2011, that they have sufficient funds to complete the project in 2011/12;*
4. *Request that the Denmark RSL Sub-Branch undertake a Heritage Assessment/Impact Statement of the site (which can be funded in 2011/12 from the Council's financial contribution), provide a copy of it to Council and comply with any recommendations contained therein; and*
5. *Require the Denmark RSL Sub-Branch to lodge a Building Application noting that the need for submitting a development application and advertising is waived, given it is on Council land and that they have demonstrated significant consultation with their members.*
6. *Council fees are waived pursuant to Policy P100606.*

REASONS FOR CHANGE

Council wished to remove approval to plant a lone pine on site given the Council's Parks Supervisor's concerns about the size and root structure of the tree."

As per this Resolution, the matter was referred to the 2011/12 Municipal Budget process, where it was subsequently deferred from the Budget to a later year, as it appeared at the time that the external funding would not be forthcoming.

Comment:

Given that the project itself has previously been supported by Council, the issue is whether Council wishes to fund the previously requested works in the current financial period.

As the majority of the works relate to in-kind expenses such as staff time and equipment costs, such an allocation could be made without significant impact on the current Municipal Budget.

It has been observed that the number of people attending the Denmark ANZAC Day Service has been increasing steadily over the years and it is agreed that the proposal to move the Memorial back and remove the front wall will create more public space within the Reserve and 'open' the area up.

Crowds of people encroaching on the Hollings Road / South Coast Highway intersection on ANZAC Days is a major concern with respect to the public safety and the interruption to the traffic flow through the main eastern entrance to the townsite.

Currently most of the Reserve is not actually utilised. There is a bench and table on the site which is located behind the Memorial however the Author is unsure how often it is used given that it is essentially 'tucked away' and not very visible to the public from the footpath.

Denmark RSL Sub-Branch's requests of Council;

- Removal (& replacement if possible) of some lawn (indicative \$1,000);
- Removal and relocation of rose gardens in new beds (indicative \$1,000);
- Some siteworks for assisting the contractor/s (indicative \$3,000);
- Supply of one or more commemorative, reflective park benches (indicative \$1,000);
- The addition of a Heritage Assessment/Impact Statement (as per the earlier Resolution) at a cost of \$1,000.

Total contribution \$7,000.

The Denmark RSL have been successful in securing a grant of \$52,455 from Lotterywest for construction works, in addition to a further \$4,000 from the Department of Veterans Affairs.

Consultation:

Denmark RSL Sub-Branch

Statutory Obligations:

Local Government Act 1995

The Act requires an absolute majority of Council to amend the adopted Municipal Budget.

Policy Implications:

Nil

Budget / Financial Implications:

The entire project is expected to cost around \$80,000. Should Council support the Officer’s Recommendation the total net contribution of Council would be \$7,000 (incl. GST) made up of \$5,000 in kind (siteworks, garden relocation etc.) and \$2,000 cash component which may also be put towards the proposed Heritage Assessment/Impact Statement and purchase and installation of a park bench.

Strategic Implications:

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

Sustainability Implications:

➤ **Environmental:**

There are no environmental implications arising from the report or officer recommendation.

➤ **Economic:**

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

➤ **Social:**

The concept of relocating the Memorial and “refurbishing” it will provide a more suitable venue for ‘growing’ ANZAC Day events and improve the generally functionality of the Reserve.

Voting Requirements:

Absolute majority.

COUNCIL RESOLUTION & OFFICER RECOMMENDATION	ITEM 8.4.2
<p>That with respect to the Denmark RSL Sub-Branch’s request for funding to assist with the relocation of the war memorial on Reserve 19050, at Lot 205 South Coast Highway, Denmark, Council;</p> <ol style="list-style-type: none"> 1. Approve funding for in-kind works of \$5,000 to remove and replace lawn, removal and relocation of rose garden beds and site works. Such funding to be reallocated from Acc# 1228002 Roadwork’s Maintenance to new capital works Acc# 1051154, Job 50111); 2. Approve funding of \$1,000 for the purchase and installation of commemorative park benches to be allocated to new capital works Acc# 1051154, Job 50111; 3. Amend the 2011/12 Municipal Budget by adding \$56,455 to new capital works Acc# 1051154 Job 50111 (total value \$63,455) and adding \$56,455 of income to Acc# 1057423, to represent the total value of the project in Council’s Asset Register; and 4. Approve \$1,000 for the cost of a heritage assessment/impact statement which is to be completed prior to the commencement of any works. Such funding to be allocated from Acc# 1040112 – Planning Contract Services. <p>CARRIED BY EN BLOC RESOLUTION NO: 061111</p>	

8.5 Chief Executive Officer

Cr Thornton declares an impartiality interest to Item 8.5.1 on the basis that he is a member of Denmark Tourism Inc and as a consequence there may be a perception that his impartiality on this matter may be affected.

Cr Thornton declares that he will consider this matter on its merits and vote accordingly.

8.5.1 DENMARK TOURISM (INC) – SUB-LEASE OF RESERVE 48198

File Ref:	A3167
Applicant / Proponent:	Denmark Tourism Inc
Subject Land / Locality:	Lot 3000 South Coast Highway, Denmark
Disclosure of Officer Interest:	Nil
Date:	10 November 2011
Author:	Dale Stewart, Chief Executive Officer
Authorising Officer:	Dale Stewart, Chief Executive Officer
Attachments:	Yes

Summary:

Correspondence has been received from Denmark Tourism Inc (DTI) seeking approval from Council to allow a sub-lease of portion of the Denmark Visitors Centre, in accordance with the provisions of the lease.

Denmark Tourism proposes to sub-lease the former gallery area at the Visitors Centre to private enterprise with the aim of improving the financial operations and viability of the Visitors Centre.

Background:

Interest in leasing the area was recently advertised by the Board.

An extract of the Expression of Interest document for the information of Elected Members follows;

“Denmark Tourism Inc is seeking ‘Expressions of Interest’ from DTI members interested in occupying the ‘Exhibition Space’ of approximately 48sqm at the Denmark Visitor Centre on a commercial basis.”

“The DVC serves between 85,000-95,000 visitors per annum. This is an opportunity not to be missed by a private enterprise that wants to bring its product or service to Denmark’s substantial tourism industry.

The future use of the DVC’s ‘exhibition space’ must fairly represent in a professional way and to the satisfaction of DTI the sale of tourism related products or a service that supports the promotion of tourism in Denmark. The winning applicant is not permitted to:

- 1. Sell consumables that are in direct conflict with the current stock sold by the Denmark Visitor Centre (e.g. cheese, olive oil, honey, preserves, chocolate, nuts, fudge);*
- 2. Sell products that are in direct conflict with products sold by the Eco Discovery Shop located at the DVC;*
- 3. Offer hire equipment; or*
- 4. Sell tours.*

Those members that are interested in submitting should do so with the following in mind:

- 1. The business will need to synergise with the overall operation of the DVC and enhance the visitor experience.*
- 2. That a minimum commercial rent will apply.*

3. *The business will need to maintain opening hours in line with the DVC. Open every day (except for Christmas day) from 9am to 5pm.*
4. *Sub-lease of space required to be approved by Denmark Shire Council."*

Two expressions were received and the Board has determined that the offer from Ulyquin Jewellers (a local Jeweller) is preferred.

The space is approximately 48sqm and DTI propose to charge \$150 per sqm plus GST and outgoings. The business will maintain the same opening hours as the DVC.

Written Council approval is required to allow sub-lease arrangements and as such the matter is presented to Council for formal consideration.

Reserve 48198 has been leased to DTI since 1 May 2007, with the lease due to expire on 30 April 2017.

Council has previously approved a sub-lease to allow the Denmark Woodturners Inc to operate out of the Visitors Centre and this request does not alter or impact on that sub-lease.

In addition Council in April 2011 resolved to support the sub-lease of the former retail space to Out of Sight Tours. This last area proposed to be subleased involved the area formerly used (from time to time) as a Gallery (which was proposed to be leased to the Mill Art Group at the time but that proposal was since withdrawn).

Council's resolution at that time was;

"That Council agree to the proposed sub-leases at the Denmark Visitors Centre, subject to the following conditions;

1. *Full details of the proposed sub-leases be submitted to the Shire for approval by the Shire President and Chief Executive Officer prior to signing by representatives of Denmark Tourism Inc, such details to include lessee, term, a service agreement, lease/rental income and a copy of the sub-lease document.*
2. *An independent valuation be obtained to establish the market value of the proposed sub-lease areas and that this valuation be the basis by which final lease fees are negotiated with the sub-lessees."*

The matter is put to Council at this time notwithstanding the previous resolution due to the change of Council, efflux of time and change of use proposed from that which was previously agreed – from Art to Jewellery.

Comment:

The provisions of the lease in regards to sub-lease arrangements states "such consent would not be unreasonably withheld by the Lessor".

This provision restricts Council's ability to withhold such approval and would obviously need to have strong reasons to do so.

The benefit of such an arrangement from the Visitors 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 reasons why the Board chose the Ulyquin submission include:

1. "There is no other business in Denmark selling local hand-crafted jewellery and therefore Ulyquin will not be in direct competition with any other business in Denmark. The Board considered this to be very important.

2. Jewellery is considered a form of art, just like items whittled by the Woodturners is considered art , the pottery produced by the potters is considered art, the paintings produced by local painters is considered art, etc
3. There is also a strong possibility that the jewellery will be made on site and this opens up the opportunity for visitors to design custom-made jewellery. This provides an interactive experience similar to that provided by the Woodturners.”

The amount of rental return for the proposed sub-leases is not yet known and will be determined by the Expressions of Interest received.

All of these issues are able to be managed by DTI and to provide Council with the confidence that Visitor Centre operations will not be unduly affected; approval of the sub-lease could contain appropriate conditions to ensure the quality of service is maintained.

Statutory Obligations:

Local Government Act 1995

Policy Implications:

There are no Policy implications.

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 Visitor Centre.

The result would be that the DTI has 3 sub-leases in place within the DVC including;

- Denmark Woodturners
- Out of Sight Tours and;
- Ulyquin Jewellers.

The DTI is also currently allowing the Denmark Historical Society to utilise the tower (formerly the Barometer Tower) for Historical Display purposes and this area is intended to be used by community groups , free of charge, until such as the Board is successful with developing an interactive interpretative facility within the Tower as an attraction.

Strategic Implications:

Tourism and visitor servicing are important strategic issues for the Shire of Denmark, given the importance of tourism to the local economy.

Sustainability Implications:

➤ **Environmental:**

There are no environmental implications arising from the proposed Leases.

➤ **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 social implications arising from the proposed sub-lease arrangements.

Voting Requirements:

Simple majority.

COUNCIL RESOLUTION & OFFICER RECOMMENDATION

ITEM 8.5.1

That Council agree to the request of the Denmark Tourism Inc to sub-lease the former gallery area at the Denmark Visitors Centre, to Ulyquin Jewellers, subject to the following conditions;

1. Full details of the proposed sub-lease be submitted by the Denmark Tourism Inc. to the Shire for approval by the Council's Shire President and Chief Executive Officer prior to signing by representatives of Denmark Tourism Inc, with such details to include lessee, term, a service agreement and lease/rental income.
2. An independent valuation is obtained to establish the market value of the proposed sub-lease area and that this valuation is the basis by which final lease fees are negotiated with the sub-lessees.

CARRIED BY EN BLOC RESOLUTION NO: 061111

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

Cr Marshall declares an impartiality interest to Item 8.5.2 on the basis that her signature is on a petition regarding this matter and as a consequence there may be a perception that her impartiality on this matter may be affected.

Cr Marshall declares that she will consider this matter on its merits and vote accordingly.

Cr Rowland declares a proximity and financial interest to Item 8.5.2 b) on the basis that she is an owner of land at 25 Price Street Denmark and did not participate in discussion or vote on the matter.

8.5.2 SPECIAL ELECTORS MEETING MOTIONS

File Ref:	PLN.46 & ELC.3
Applicant / Proponent:	Not applicable
Subject Land / Locality:	Not applicable
Disclosure of Officer Interest:	Nil
Date:	9 November 2011
Author:	Dale Stewart, Chief Executive Officer
Authorising Officer:	Dale Stewart, Chief Executive Officer
Attachments:	8.5.2 a) – Community Consultation Presentation (J Fleming) 8.5.2 b) – Letter & Petition 8.5.3 c) – Electors Meeting Minutes (25 October 2011)

Summary:

This report considers the three (3) motions arising from the Special Electors Meeting held on the 25 October 2011 with respect to the Local Planning Strategy (LPS).

Background:

The Meeting was called due to there being in excess of 100 electors (the number required to convene an electors meeting) who called for the meeting via a petition (approximately 123 people signed the petition) which was received by Council on 30 September 2011.

Council convened a previously scheduled Special Meeting of Council to consider the LPS on the 4 October 2011 at which the Council adopted the LPS with significant amendments based on community input and the numerous deputations and submissions received.

Following adoption of the LPS (with the significant amendments referred to), the Special Meeting of Electors was subsequently held in the Council Chambers on the 25 October 2011 and was attended by 42 Electors, not including Staff or Councillors.

The three (3) motions arising from the Special Meeting of Electors, that Council must consider, are as follows;

Motion One

“This meeting calls on the Denmark Shire Council when developing the Town Planning Scheme from the current LPS with regard to the alternative river crossing and link road proposal that:

1. *It carries out a requirements study which focuses on the objectives of the alternative crossing and link road proposal;*
2. *The requirements study will prioritise the objectives and document multiple planning options, including environmental, social and economic implications, to fulfill the requirements;*
3. *The resulting planning options will be incorporated into the Planning Scheme;*
4. *In respect to all requirements and planning options, Council will seek community input in the form of independent and professionally facilitated workshops in order to elicit community views and aspirations.”*

Motion Two

“That Council reconsider the need for commercial designation in the Local Planning Strategy for the following streets;

- *Welsh*
- *Horsley*
- *Price.”*

Motion Three

“This meeting calls on the Denmark Shire Council to formulate a Community Consultation and Engagement Policy.

In the Policy, the following, will form the basis of the document:

1. *Objectives*
2. *Definitions*
3. *Roles and Responsibilities of the Council*
4. *When will Council Undertake Formal Community Consultation?*
5. *Key Principles*

That this policy be developed through a process of community engagement and consultation led by a Working Group comprised of representatives of Council members, Council Administration and Community representatives.”

Comment:

Council endorsed a number of significant modifications to the Draft LPS which now form the adopted LPS (subject to endorsement or modification requests by the Western Australian Planning Commission).

Dealing with the three carried substantive motions that came from the floor of the electors meeting, it is the view of staff that Council need not alter its adopted positions with respect to the long term strategic land use planning provided for in the Shire (its LPS). The view of the CEO and Director of Planning & Sustainability is that the outcomes are sound and in the long term interests of the overwhelming majority of current and future residents and ratepayers of the Shire, and reflects proper and orderly planning, particularly given various previous planning approvals and subdivision approvals by the State Government (with respect to properties abutting McLean Rd for example).

With respect to the proposed consultation mechanisms recommended by the Electors Meeting, it is recommended that the CEO be instructed to review the existing Council Community Consultation Policy considering the recommended approach provided by Mr J Fleming and in light of some improvement opportunities identified following the LPS consultation process. In hindsight, the current policy (refer Policy Implications for the current Policy) only refers to the Local Government Act as the relevant statutory guiding

legislation with respect to consultation. This is patently incorrect when one considers the myriad of Acts and Regulations that Council is bound by (at last count over 200 separate Acts of Parliament – Federal and State).

It is considered premature to adopt the motions 1 and 3 and the policy suggested by Mr Fleming at this point in time without an in-depth review, as the current suggested policy has financial implications on the Council not covered by the current Policy (or Council's adopted Budget), particularly in relation to external facilitated consultation and engagement.

The author is of the view that the staff need to review the Community Consultation Policy (CCP) in-house prior to it being considered by Council and at that time Council may wish to determine that this policy is put out for public comment. It is the view of the author that there are too many of Council's decisions and actions (that affect the community in one way or another) that are bound by legislative nuances, timelines and guidelines for it to be 'workshopped' by the community or indeed, included in any detail in a complex single policy.

The CEO is of the view that too complex a CCP could unnecessarily add delays and cost to Council's operations without any additional beneficial outcome. That is not to underestimate or devalue the need for appropriate consultation on important decisions affecting the community or sectors of the community or indeed on individuals, but the LPS process was one of an extremely long gestation and one shouldn't necessarily develop new policy reacting to the community consultation of a particular event or activity.

At the end of the day, what governs consultation first and foremost, is the relevant laws (if any). The laws often set minimum timeframes and to some extent the where and how and thereafter the detail relevant to the example or circumstance. It is difficult to arrive at a CPP that attempts to predict and respond to every foreseeable development or initiative that Council is faced with determining. That is why the existing CCP is a Policy and Policies of Council are not legally binding and are intended to guide staff day to day (where the law doesn't prevail) and as guidance to staff and the 12 Councillors elected by the community to represent the community's interests individually and as a collective.

Consultation:

The comment of the Council's Director of Planning & Sustainability (and supported by the CEO) in relation to motions One and Two follow;

Motion One

In considering the submissions on the draft LPS at the Special Meeting of Council held on 4 October 2011, it should be noted that Council resolved to include the following as a modification to the draft LPS:

"Modification 74 - Amend Implementation Point 1 of Part 1 Section 4.10 *Transport* and Part 2 Section 6.13.1 *Roads* to read:

Undertake public consultation on the bridge crossing point proposed and any road upgrades required that have not already been the subject of separate planning approval processes (i.e. structure planning, scheme amendments and/or subdivision approvals) throughout the consideration and design processes".

Assuming that the Western Australian Planning Commission support this modification as part of their endorsement consideration processes, the Shire of Denmark will be giving effect to the intent of this motion as and when any proposals for a bridge crossing point and the associated linking additional neighbourhood connector roads are being considered further – noting that such proposals may be progressed outside of the Town Planning Scheme processes.

Motion Two

From the public submissions received on the draft LPS, there were three (3) objections to the 'Mixed Use' designation applying to properties on Welsh Street (P116, P120 and P126), one (1) objection to the 'Mixed Use' designation applying to properties on the western side of Price Street (P130) and no objections to the 'Mixed Use' designation applying to the properties on the eastern side of Horsley Road adjacent to the former Hospital Site (NB: one resident did however do a deputation to the Special Meeting of Council raising concerns with the proposed designation).

Specifically in relation to the Welsh Street 'mixed use' designation, the comments provided by Planning Services in response to the three (3) submissions received were as follows:

- As per Local Planning Policy 31: Commercial Strategy, Welsh Street is the boundary of the CBD (with the properties on the southern side incorporated within the CBD boundary). Having regard to it is considered appropriate to provide a 'Mixed Use' designation on the properties both north and south of Welsh Street. As per the LPS, mixed use development is defined as "the compatible mixing of a range of appropriate uses (generally commercial/other non-residential uses on the same site with a residential development), integrated in close proximity to each other to improve the efficiency and amenity of neighbourhoods, reduce travel demand, increase walkability, and make more efficient use of available space and buildings.
- In-principle the opportunity to develop aged housing on-site is not compromised by a 'mixed use' designation.

The above comments are still valid and considered appropriate, thus it is recommended that the 'Mixed Use' designation be retained.

Specifically in relation to the Price Street 'mixed use' designation, the comments provided by Planning Services in response to the one (1) submission received were as follows:

- In accordance with Town Planning Scheme No. 3, all of the properties on Price Street (with the exception of one) have a zoning of 'Professional Office' – with R20 applying to the western side and R25 to the eastern side. The objective for this zone is "to provide for a mixture of residential and professional office uses where both low intensity professional office and associated commercial uses can co-exist with residential uses, where the residential nature, amenity and density of the street can be maintained, where places of heritage value are protected and where the built form of the area is enhanced.
- The draft LPS essentially reflects the current zoning by designating the western side of Price Street as 'Mixed Use' and the eastern side as 'Town Centre – Inner Core'.

The above comments are still valid and considered appropriate, thus it is recommended that the 'Mixed Use' designation be retained.

Specifically in relation to the Horsley Road 'mixed use' designation, the draft LPS proposed this designation on the basis that it was considered an appropriate area for consulting rooms and other medical related facilities to support the nearby hospital. It should be noted that Horsley Road has also been identified as a neighbourhood connector road.

Having regard to the above, it is considered appropriate that the 'Mixed Use' designation be retained.

Conclusion

A LPS is not a zoning document thus has not rezoned land and nor will it in the short-term. The LPS will form the strategic direction that a new Town Planning Scheme will

take and prior to any specific land being incorporated in a new Town Planning Scheme that proposes zoning changes, the Shire will undertake consultation with affected landowners.

Designating land in an LPS and/or rezoning for that matter does not mean that the properties have to discontinue their current usage and/or impact on any ability to sell the land. As per any Town Planning Scheme, as long as land is being lawfully used for a purpose at the time of a Scheme (or Scheme Amendment) coming into effect, such development can continue and has "Non-Conforming Use Rights".

Should Council consider it appropriate to modify the 'mixed use' designation on all or any of the properties referenced in the motion from the Elector's Special Meeting, it would be highly recommended that consultation needs to occur with all relevant property owners prior to formally considering this matter, particularly given that some properties already have 'commercial' type zonings under Town Planning Scheme No. 3.

Statutory Obligations:

The procedures for Electors meetings are as set out in the Local Government Act 1995, sections 5.26 to 5.33 and the Local Government (Administration) Regulations 1996, sections 15 to 18.

Specific sections relating to the motions that arose from the Electors Meeting are as follows;

5.32. Minutes of electors' meetings

The CEO is to —

- a) cause minutes of the proceedings at an electors' meeting to be kept and preserved; and
- b) ensure that copies of the minutes are made available for inspection by members of the public before the council meeting at which decisions made at the electors' meeting are first considered.

A copy of the Minutes of the Electors Meeting is attached (Attachment 8.5.2 c).

5.33 Decisions made at electors' meetings

- 1) All decisions made at an electors' meeting are to be considered at the next ordinary council meeting or, if that is not practicable —
 - a) at the first ordinary council meeting after that meeting; or
 - b) at a special meeting called for that purpose, whichever happens first.
- 2) If at a meeting of the council a local government makes a decision in response to a decision made at an electors' meeting, the reasons for the decision are to be recorded in the minutes of the council meeting.

Policy Implications:

Council's current Community Consultation Policy states as follows;

Objectives

To ensure appropriate and effective community consultation is an integral part of the development and implementation of all of the Shire of Denmark's projects, programmes and policies.

Policy

1. The Shire of Denmark is committed to community consultation in its decision-making processes.
2. The Shire of Denmark, whilst agreeing to involve the community wherever appropriate in its decision-making processes, acknowledges that it may not be possible ultimately to carry out the total wishes of the community on every occasion, the Council nonetheless wishes to discover a broad range of community views on as many aspects of its business as possible.

Statutory Implications

The Local Government Act 1995 contains certain requirements in the area of “community consultation”. The Act requires the Council to advertise a variety of different things via “local public notice” or “statewide public notice”; both of which are defined in sections 1.7 and 1.8 of the Act. These include, but are not limited to advertising local laws, differential rating, Plan for the Future, business plans and the annual report.

This policy is designed to provide for consultation additional to that provided for in the Act.

Guidelines

1. This policy provides for community consultation on operational issues, being functions of the CEO, and Council related issues.
2. The CEO is expected to establish staff operational guidelines to ensure a high level of community consultation takes place, where appropriate, on operational issues. Operational issues, for the purposes of this policy includes:
 - a) Carrying out of significant works contained within Council's annual works programme that have not been subjected to prior community consultation when being considered as part of Council's earlier decision-making processes.
 - b) Implementation of services, programmes, projects, etc provided for on Council's budget that have not been subjected to prior community consultation when being considered as part of Council's earlier decision-making processes.
 - c) Consideration of planning and building applications.
 - d) Other operational issues as determined from time to time by the CEO and/or the Council.
3. All new projects, new programmes, new policies and significant reviews of existing projects, programmes and policies, when being submitted for consideration by Council shall be accompanied by a “community consultation plan” (CCP).
4. A CCP shall detail:
 - a) The objectives of the community consultation exercise.
 - b) The stakeholders to be consulted.
 - c) The timing and duration of the consultation.
 - d) The method of consultation to be used to achieve the objectives.
 - e) How the stakeholders may be supported in their consultation.
 - f) Estimated cost of the consultation and budgeted funds available.
 - g) Post consultation review process.
5. The Council will, after consideration of the CCP, determine the level and extent of community consultation to be carried out.
6. The Council recognises the following as appropriate methods of consultation to be considered in any CCP:
 - a) Individual letters
 - b) Householder mailings
 - c) Advertising in addition to statutory requirements
 - d) Public or stakeholders meetings/workshops
 - e) Public displays
 - f) Formal questionnaires or surveys
 - g) Use of specialist consultants
7. Following each community consultation exercise a post consultation review is to be carried out as provided for in the CCP. The purpose of this review is to examine the effectiveness and appropriateness of each consultation exercise with the view to implementing continual improvement.

Budget / Financial Implications:

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

Strategic Implications:

The Shire of Denmark's long term vision for the Shire comprises:

1. Character and lifestyle sustained through careful planning
2. A robust economy, based on local resources and skills.

3. A caring, cohesive community.
4. An expanded range of educational services.
5. A very attractive district to visit.

Sustainability Implications:

➤ **Environmental:**

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

➤ **Economic:**

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

➤ **Social:**

The review of the existing Community Consultation Policy will assist achieve a caring and cohesive community in accordance with our Vision.

Voting Requirements:

Simple majority.

COUNCIL RESOLUTION & OFFICER RECOMMENDATION	ITEM 8.5.2 a)
MOVED: CR MARSHALL	SECONDED: CR ROWLAND
<p>That Council with respect to motion number one from the Special Meeting of Electors resolve that it reaffirms the relevant implementation strategy contained in the Local Planning Strategy with respect to a desired future additional Denmark River Bridge which states as follows;</p> <p>“Undertake public consultation on the bridge crossing point proposed and any road upgrades required that have not already been the subject of separate planning approval processes (i.e. structure planning, scheme amendments and/or subdivision approvals) throughout the consideration and design processes”.</p>	
CARRIED: 11/0	Res: 091111

4.59pm – Cr Rowland declared a proximity and financial interest and left the room and did not participate in discussion or vote on the matter.

FORMER OFFICER RECOMMENDATION	ITEM 8.5.2 b)
<p>That Council with respect to motion number two from the Special Meeting of Electors resolve that it reaffirms its decision to retain the future mixed use designation in the Local Planning Strategy for the properties in Welsh, Horsley and Price Streets as;</p> <ol style="list-style-type: none"> 1. It demonstrates proper and orderly planning for the commercial business district during the expected 20 year life of the Strategy and; 2. Any proposed change to the zoning of properties in the affected streets in the future will be the subject of specific consultation. 	

COUNCIL RESOLUTION & OFFICER RECOMMENDATION	ITEM 8.5.2 b)
MOVED: CR SAMPSON	SECONDED: CR GILLIES
<p>That Council with respect to motion number two from the Special Meeting of Electors resolve that it reaffirms its decision to retain the future mixed use designation in the Local Planning Strategy for the properties in Welsh, Horsley and Price Streets as;</p> <ol style="list-style-type: none"> 1. It demonstrates proper and orderly planning for the commercial business district during the expected 20 year life of the Strategy and; 2. Any proposed change to the zoning of properties in the affected streets in the future will be the subject of specific consultation, noting that the zoning of the land for such purpose will only be progressed when there is a demonstrated need for the land to be zoned accordingly. 	
CARRIED: 10/0	Res:101111

5.03pm- Cr Rowland returned to the meeting.

FORMER OFFICER RECOMMENDATION

ITEM 8.5.2 c)

That Council with respect to motion number three from the Special Meeting of Electors resolve that it requests the CEO to review the Council's current Community Consultation Policy taking into account the motion together with the example Policy suggested during the electors meeting for consideration by Council at its December 2011 Meetings.

COUNCIL RESOLUTION & OFFICER RECOMMENDATION

ITEM 8.5.2 c)

MOVED: CR SEENEY

SECONDED: CR LEWIS

That Council with respect to motion number three from the Special Meeting of Electors resolve that it requests the CEO, in conjunction with Senior Staff, to;

1. Review the Council's current Community Consultation Policy taking into account the motion and example Policy suggested during the electors meeting and;
2. Present a draft amended policy for consideration by Council at its December 2011 and;
3. Recommend any consultative mechanisms proposed on the draft prior to its consideration as a final adopted Policy of Council.

CARRIED: 11/0

Res:111111

9. COMMITTEE REPORTS & RECOMMENDATIONS

9.1 PATHS & TRAILS ADVISORY COMMITTEE – DENMARK NORNALUP HERITAGE RAIL TRAIL BRIDGE

File Ref:	ORG.29
Applicant / Proponent:	Shire of Denmark
Subject Land / Locality:	Denmark Nornalup Heritage Rail Trail Bridge
Disclosure of Officer Interest:	Nil
Date:	10 November 2011
Author:	Rob Whooley, Director of Infrastructure Services
Authorising Officer:	Rob Whooley, Director of Infrastructure Services
Attachments:	No

Summary:

This item recommends that Council support the recommendations made by the Paths and Trails Advisory Committee at its meeting on the 7th September 2011 relating to the Denmark Nornalup Heritage Rail Trail.

Background:

The Director of Infrastructure Services has in previous years recommended that Council allocate funding in the Annual Budget for repairs to the bridge structure. This request has not been supported.

The Paths and Trails Advisory Committee at its meeting on the 7th September 2011 resolved;

‘That Council consider undertaking a structural analysis and funding a maintenance regime of the Rail Bridge.’

Comment:

The Paths and Trails Committee have discussed at length the reasons behind the necessity of maintaining the Heritage Rail Trail Bridge. It is a bridge in which links East and West sections of the Heritage Trail and carries a high number of foot traffic. If the bridge were deemed unsafe it would then refer the foot traffic to the main bridge along South Coast Hwy as the only link between East and West.

Consultation:

Paths & Trails Advisory Committee.

Statutory Obligations:

There are no statutory obligations.

Policy Implications:

The following policies are applicable

P040223 TEN YEAR FINANCIAL PLAN & MUNICIPAL BUDGET POLICY

P080601 SENIORS POLICY

Subsection **SAFETY AND SECURITY** identifies as the number one objective the desire to create and maintain a Shire that is safe, welcoming and friendly for Seniors. A strategy in achieving that objective is to

- a) Make upgrading of key walkways close to town facilities a major priority with secure road-crossings at key intersections, with special regard for the transport of handicapped and older persons.
- b) improve streets, footpaths and trails to address concerns such as slipping, trips and falls.

Subsection **TRANSPORT, ROADS AND INFRASTRUCTURE** recognises the importance of safe, well-built walkways, especially around the township for access to shopping and services with this being the number one objective. The priority strategies to meet that objective are:

- a) Upgrade key walkways close to town facilities as a major priority.
- b) Educate public, but especially Seniors, to availability of such walkways.
- c) Include shelter and rest facilities on long stretches of walkways

Budget / Financial Implications:

The anticipated cost of the proposed structural repairs has not been included in the current budget.

Approximately two years ago received preliminary advice from Bridge Engineers from Main Roads WA that suggested indicative works required would be in the order of \$100,000.00 to \$150,000.00. Council has included this in the Long Term Financial Plan (draft) in forward years.

Strategic Implications:

The structural integrity is currently not in question, should maintenance repairs be undertaken in the short term (the next year or two).

Sustainability Implications:

➤ **Environmental:**

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

➤ **Economic:**

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

➤ **Social:**

There are obvious significant social considerations relating to the condition and functioning of trails and pathways – particularly where the elderly, the young and people with mobility difficulties (both temporary and permanent) are concerned.

Voting Requirements:

Simple majority.

At the meeting held on the 15 November 2011, Cr Syme noted that the Officer Recommendation did not refer to any alternative funding options such as seeking grant funding and Cr Marshall noted that perhaps the structural analysis should be done before quotes are obtained.

The Chief Executive Officer provides an amended Officer Recommendation to include reference to confirming that it was always the intention of Officers to apply for relevant grants, once a quote or quotes have been obtained.

The following comments from Council's Senior Engineering Technical Officer also relate;

The following information was received via email from Regional Bridging (Engineers acting for Main Roads WA) in 2009, relating to the Denmark Railway Bridge;

"... a rough estimate for you in relation to the works outlined below.

The price is inclusive of materials, labour, insurances, scaffolding, plant/equipment and accommodation costs for 5 men for 19 days. The breakdown of the work schedule in brief is:

- 3 days for mob/demob and collection of materials*
- 6 days to descale*

- 6 days for preparation & painting
- 4 days for top rail

We have priced this using a primer and top coat system that is recommended for steel work over sea water. We also take environmental protection into account and take measures to ensure no contaminants are released into the water. Also as Regional Bridging is quality accredited to the AS/NZS ISO 9001:2000 standard and certified to the AS/NZS 4801:2001 Occupational Health and Safety standard, we compile a Quality Management plan and Occupational Health and Safety Management plan for the work. Safety is always paramount when we carry out any work and we ensure our employees wear PPE at all times.

The cost is estimated to be in the scale of: \$93,304 inc GST”

Advice from Council’s Director of Infrastructure Services (a qualified Civil Engineer as opposed to a Structural Engineer) is that the structural integrity of the bridge is not in question; more that maintenance is required to ensure the structural integrity is maintained. This is supported by the inspection performed by structural engineers acting on behalf of Main Roads WA in 2009.

COMMITTEE RECOMMENDATION	ITEM 9.1
That Council consider undertaking a structural analysis and funding a maintenance regime of the Rail Bridge.	

FORMER OFFICER RECOMMENDATION	ITEM 9.1
That Council request the Chief Executive Officer to instruct officers to obtain quotes for the maintenance works required to the Denmark-Nornalup Heritage Rail Trail Bridge over the Denmark River for consideration in the 2012/13 Budget.	

COUNCIL RESOLUTION & OFFICER RECOMMENDATION	ITEM 9.1
That Council request the Chief Executive Officer to instruct officers to obtain quotes for the maintenance works required to the Denmark-Nornalup Heritage Rail Trail Bridge over the Denmark River for both consideration in the 2012/13 Budget and for the purposes of identifying potential grant fund opportunities.	
CARRIED BY EN BLOC RESOLUTION NO: 061111	

10. MATTERS BEHIND CLOSED DOORS
Nil.

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

11.1 Annual Electors Meeting

COUNCIL RESOLUTION	ITEM 11.1
MOVED: CR HINDS	SECONDED: CR MARSHALL
That Council approve an item of new business relating to setting the date of Council’s Annual Electors Meeting.	
CARRIED: 11/0	Res: 121111

COUNCIL RESOLUTION	ITEM 11.1
MOVED: CR SEENEY	SECONDED: CR SAMPSON
That Council approve the date of Council's Annual Electors Meeting as being Tuesday 20 th December 2011 commencing at 7.00pm.	
CARRIED: 11/0	Res: 131111

11.2 Censure Motion

COUNCIL RESOLUTION	ITEM 11.2
MOVED: CR SYME	SECONDED: CR PEDRO
That Council approve an item of new business relating to a proposed censure motion.	
CARRIED: 9/2	Res: 141111

Cr Hinds asks for the names of the persons voting for and against to be recorded.

Against – Cr Hinds and Cr Osborne

For – Cr Thornton, Cr Sampson, Cr Gillies, Cr Lewis, Cr Marshall, Cr Pedro, Cr Rowland, Cr Seenev and Cr Syme

COUNCIL RESOLUTION	ITEM 11.2
MOVED: CR SYME	SECONDED: CR PEDRO
That this Council formally censures Councillor Adrian Hinds for breaching confidentiality as stated in the Shire of Denmark Code of Conduct and Shire of Denmark Standing Orders Local Law and as requested and agreed by councillors and senior officers.	
CARRIED: 9/2	Res:151111

The Presiding Person Cr Thornton asked that Cr Symes reasons for the motion be recorded in the minutes as follows:

- *Cr Hinds previously breached councillor confidentiality at the special electors meeting on October 25th.*
- *Subsequently, during the councillors induction session on 9th November, councillors expressed concern in confidence, to Cr Hinds regarding his conduct at the electors meeting and at another forum.*
- *A week later on November 17th, a letter from Cr Hinds was published in the Denmark Bulletin again breaching councillors confidentiality.*
- *Cr Hinds actions are impeding councillors having open and frank discussions in confidence. Trust between councillors has been breached. Trust between councillors and senior officers has been breached.*
- *Cr Hinds was re-elected for a further 2 year term as a Denmark Shire Councillor on October 15th.*
- *Cr Hinds has previously served as a councillor for 4 years prior to October 15th during which time he has been counselled on the need for confidentiality.*
- *Cr Hinds was during this time was also counselled and asked to refrain from publicly criticising staff.*
- *Cr Hinds caused frustration to the previous council and shire administration.*
- *With our new council following the October 15 elections, I believe this council needs to put its stamp on how it wishes to conduct itself and what it expects of all councillors.*
- *This council needs to start off in the manner it intends to go on.*

5.35pm – The Director of Finance & Administration left the meeting.

5.37pm – The Director of Finance & Administration returned to the meeting.

5.54pm – The Director of Infrastructure Services left and did not return to the meeting.

6.04pm - SECOND PUBLIC QUESTION TIME

The Shire President stated that the second public question time would begin however, noted that the only members of the public in the public gallery had previously addressed Council during the first Public Question Time and therefore were not permitted to speak on the same matter. There were no questions.

12. CLOSURE OF MEETING

There being no further business to discuss the Shire President, Cr Thornton, declared the meeting closed at 6.05pm.

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

Signed: _____

Dale Stewart – Chief Executive Officer

Date: 23 November 2011

These minutes were confirmed at the meeting of the _____

Signed: _____

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