



# Minutes

## ORDINARY MEETING OF COUNCIL

HELD IN THE COUNCIL CHAMBERS,  
953 SOUTH COAST HIGHWAY, DENMARK ON  
THURSDAY, 19 DECEMBER 2013.

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# Ordinary Council Meeting

19 December 2013

## DISCLAIMER

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

11.07am – *The Presiding Person, Cr Thornton, declared the meeting open.*

**2. RECORD OF ATTENDANCE/APOLOGIES/APPROVED LEAVE OF ABSENCE****MEMBERS:**

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

**STAFF:**

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

**APOLOGIES:**

Cr Dawn Pedro  
Mr Rob Whooley (Director of Infrastructure Services)

**ON LEAVE OF ABSENCE:**

Nil

**ABSENT:**

Nil

**VISITORS:**

Members of the public in attendance at the commencement of the meeting: 7  
Members of the press in attendance at the commencement of the meeting: Nil

**DECLARATIONS OF INTEREST:**

Nil

**3. ANNOUNCEMENTS BY THE PERSON PRESIDING**

The Shire President stated that whilst he had no announcements he asked Cr Lewis to address the meeting.

Cr Lewis announced that she had recently received a book titled “Flavours of the Great Southern” which had several pictures and articles relating to eateries and wineries in the Great Southern. Cr Lewis noted that Denmark was very well represented and asked whether she could table the book and perhaps the Chief Executive Officer could make it available to the public in the Administration Office reception area.

*The Chief Executive Officer agreed to the request.*

#### 4. PUBLIC QUESTION TIME

##### 4.1 RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE

Nil

##### 4.2 PUBLIC QUESTIONS

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

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

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

##### Questions from the Public

##### 4.2.1 Ms Jana Shearer – Falun Gung Practice at Berridge Park

Ms Shearer stated that they had recently be asked to cease meditating on a grassed area of Berridge Park opposite Ravens. Ms Shearer provided Council with an overview of the principles of the practice noting that they are not selling anything nor raising money. Ms Shearer advised that they had spoken to the proprietor of Ravens who had agreed that he would be happy for them to continue at that location if they had a smaller sign and detailed other locations such as Fremantle and Albany where Falun Gung had been practiced in a public place for a number of years. Ms Shearer presented a Petition containing 192 signatures and requested Council to allow them to continue practising Falun Gung at Berridge Park, opposite Ravens.

##### 4.2.2 Mr Nicolas Raven – Falun Gung Practice at Berridge Park

Mr Raven stated that he respected the principles of Falun Gung however he had made the complaint because of the visual impact of their large sign, opposite his business. Mr Raven stated that he had built his business at that location largely because of the visual aspect of the Park and the Denmark River however the activity had been impacting negatively on his patrons' view of the park. Mr Raven noted that he would be happier if their sign was smaller and asked Council to maintain their signage regulations.

*The Shire President advised that the item was not on the Agenda and that he would leave the matter in the hands of the Administration.*

##### 4.2.3 Mrs Sandi Plater – Item 8.5.1 (Lease of Part Lot 300, Corner of South Coast Highway and Denmark – Mount Barker Road, Denmark)

Mrs Plater of Denmark Landscape Supplies stated she had had previous discussions with Councillors & Staff regarding concerns she had about the tender being awarded to a non-local business who was in direct competition with local businesses. Mrs Plater stated that they had not put in a tender because they had no use for the land however if Council awarded the Tender to Soil Solutions it would have a huge, negative impact on their business and possibly other businesses. Mrs Plater urged Council to keep local businesses afloat and not support the Tender submitted by Albany based Soil Solutions.

- 4.2.4 Mr Matthew Cybula – Item 8.5.1 (Lease of Part Lot 300, Corner of South Coast Highway and Denmark – Mount Barker Road, Denmark)**  
 Mr Cybula of Denmark Transport stated that he and Denmark Earthmoving had agreed that they could share the lease, with an appropriate agreement, and that there was nowhere else available in Denmark to lease land for businesses needing to store equipment or machinery.
- 4.2.5 Ms Kim Burke – Item 8.5.1 (Lease of Part Lot 300, Corner of South Coast Highway and Denmark – Mount Barker Road, Denmark)**  
 Ms Burke of Denmark Earthmoving noted concerns about the possible negative effect of the Tender being awarded to a non-local business that was in direct competition with local businesses. Ms Burke stated that Denmark Earthmoving and Denmark Transport had agreed to join forces and share the Lot should one of them be awarded the Tender.
- 4.2.6 Mr Alex Syme – Item 8.4.1 (Shire of Denmark – 2012/13 Annual Report & Electors Meeting)**  
 Mr Syme referred to the Shire President’s report and that the picture of the Councillors did not show the previous Councillors. Mr Syme stated the he believed the photo of Kwoorabup Community Park within the Chief Executive Officer’s report was actually of the Department of Health’s reserve and suggested that Council may like to look at using an alternative photo. Mr Syme also noted that the statement about the Riverside Club’s successful grant should mention that the application was actually auspiced by the Shire of Denmark not the community group.
- 4.2.7 Mr Alex Syme – Fire Hazards in Urban Areas**  
 Mr Syme advised that he had recently noticed fire hazards near Cherax Lane and Smith Street, which was required to be assessed prior to the fire season. Mr Syme suggested that perhaps Council needed to investigate the matter and keep in mind that non-compliance could lead to major fire hazards within urban areas.

*The Chief Executive Officer responded stating that all of Mr Syme’s comments relating to the Annual Report could be easily provided for and that the Director of Community & Regulatory Services would refer Mr Syme’s comments to the Council’s Law Enforcement Officers and Community Emergency Services Manager for further investigation.*

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

**4.4 PRESENTATIONS, DEPUTATIONS & PETITIONS**  
 Nil

**5. APPLICATIONS FOR LEAVE OF ABSENCE**

<b>COUNCIL RESOLUTION</b>	<b>ITEM 5</b>
MOVED: CR MORRELL	SECONDED: CR SEENEY
That Cr Gillies be granted leave of absence for the meeting of 25 March 2014 and Cr Lewis be granted leave of absence for the meeting of 4 March 2014.	
CARRIED: 8/0	Res: 281213

**6. CONFIRMATION OF MINUTES**

**6.1 ORDINARY COUNCIL MEETING**

<b>COUNCIL RESOLUTION &amp; OFFICER RECOMMENDATION</b>	<b>ITEM 6.1</b>
MOVED: CR GILLIES	SECONDED: CR MORRELL
That the minutes of the Ordinary Meeting of Council held on the 3 December 2013 be confirmed as a true and correct record of the proceedings.	
CARRIED UNANIMOUSLY: 8/0	Res: 291213

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

Nil

**8. REPORTS OF OFFICERS**

**8.1 Director of Planning & Sustainability**

Nil

**8.2 Director of Community & Regulatory Services**

Nil

**8.3 Director of Infrastructure Services**

Nil

**8.4 Director of Finance & Administration**

**8.4.1 SHIRE OF DENMARK – 2012/13 ANNUAL REPORT & ELECTORS MEETING**

<b>File Ref:</b>	FIN.31
<b>Applicant / Proponent:</b>	Not applicable
<b>Subject Land / Locality:</b>	Not applicable
<b>Disclosure of Officer Interest:</b>	Nil
<b>Date:</b>	13 December 2013
<b>Author:</b>	Kim Dolzadelli, Director of Finance & Administration
<b>Authorising Officer:</b>	Dale Stewart, Chief Executive Officer
<b>Attachments:</b>	8.4.1a – 2012/2013 Draft Annual Report including Annual Financial Report 8.4.1b – Management Letter

**Summary:**

To accept the Shire of Denmark 2012/13 Annual Report as circulated with the Agenda, including the Annual Financial Report and Audit report, and to set a date for the Annual Electors meeting.

**Background:**

Each local government is to prepare an Annual Report for each financial year. The Annual Report is a record of the Council’s activities for the financial year and is part of the accountability principles established for Local Government.

**Comment:**

The Council is required to accept the Annual Financial Report by 31 December following the financial year end or no later than two months after receiving the Audit Report.

The Audit Report was received on 19 November 2013 and a copy of this including 2012/2013 Annual Financial Statements was forwarded to the Department of Local Government and Communities on 10 December 2013.

The Audit Report and Management Letter will be the subject of an Audit Committee meeting scheduled for 10:00am, 19 December 2013 where the Committee will consider any action that may be required from the management letter. The Audit Report forms part of the Annual Report and the management letter is provided as an attachment to this meeting for transparency.

Comment on the financial position of the Council and operational and strategic activities are contained within the draft Annual Report for consideration.

The Annual Elector's Meeting must be held within 56 days of accepting the Annual Report with appropriate notice of the meeting given. This effectively means that the Annual Electors Meeting must be held no later than Thursday, 13 February 2014.

The Officer recommends that the date for the Annual Electors meeting be set for Tuesday, 21 January 2014 to coincide with Council's next Ordinary Meeting date.

**Consultation:**

Shire of Denmark Audit Advisory Committee.  
Mr R Harrison, Lincolns Chartered Accountants.

**Statutory Obligations:**

- Local Government Act 1995 Division 5 Annual Reports and Planning Sections 5.53 to 5.55.
- Local Government Act 1995 Section 5.27 and 5.29.
- Local Government (Financial Management) Regulations 1996.
- Local Government (Administration) Regulations 1996.

**Budget / Financial Implications:**

The 2012/13 Annual Report is printed and collated in-house by Shire Staff, the costs of which are included in operating budgets for the 2013/14 financial year.

**Policy Implications:**

Nil

**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:**

An Absolute majority is required for Officer Recommendation 8.4.1 A.

A simple majority is required for Officer Recommendation 8.4.1 B.

11.57am – Cr Sampson left the room.

11.58am – Cr Sampson returned to the room.

**OFFICER RECOMMENDATION**

**ITEM 8.4.1 A**

That Council Accepts the Annual Report including the Annual Financial Report and Audit Report for the 2012/2013 year.

At its meeting held on the 19 December 2013 at 10.00am, the Audit Advisory Committee made the following recommendation;

*“That the Shire of Denmark Audit Committee recommends to Council that the 2012/13 Annual Financial Statements including Auditors Report be accepted.”*

**COUNCIL RESOLUTION**

**ITEM 8.4.1 A**

MOVED: CR LEWIS

SECONDED: CR GILLIES

That Council Accepts the Annual Report including the Annual Financial Report and Audit Report for the 2012/2013 year, subject to the following indicative changes;

1. Page 5 – inclusion of reference to the Indigenous dual naming project
2. Page 5 – inclusion of a paragraph relating to the proposed acquisition of land suitable for a waste site for the shire.
3. Page 7 – inclusion of reference to Councillor photographs and information with respect to Councillors whose term expired in October 2013.
4. Page 9 – replacement on the photograph with respect to Kwoorabup Community Park with a photograph that more clearly depicts the improvements.
5. Page 14 – amendment of the reference to the riverside clubs success in obtaining a regional development grant to reflect the fact that it was the Council’s application in conjunction with the club.
6. Page 18 – inclusion under the section entitled ministerial visits to reference the meeting with the Premier of Western Australia and the five main discussion points that Council raised with him.

**AMENDMENT**

MOVED: CR MORRELL

SECONDED: CR OSBORNE

That part 3 be removed and the rest of the dot points be renumbered accordingly.

LOST: 1/7

Res: 301213

THE ORIGINAL MOTION WAS THEN PUT & CARRIED BY AN ABSOLUTE MAJORITY: 7/1

Res: 311213

**COUNCIL RESOLUTION & OFFICER RECOMMENDATION**

**ITEM 8.4.1 B**

MOVED: CR MORRELL

SECONDED: CR GILLIES

That Council hold the Annual Electors meeting on Tuesday, 21 January 2014 in the Council Chambers, Denmark, commencing at 8:00pm.

CARRIED UNANIMOUSLY: 8/0

Res: 321213



## 8.5 Chief Executive Officer

### 8.5.1 LEASE OF PART LOT 300, CORNER OF SOUTH COAST HIGHWAY AND DENMARK - MOUNT BARKER ROAD, DENMARK

<b>File Ref:</b>	Tender No. 3 of 2013/2014 and A5561
<b>Applicant / Proponent:</b>	Not applicable
<b>Subject Land / Locality:</b>	Lot 300, Corner of South Coast Highway & Denmark-Mt Barker Road, Denmark
<b>Disclosure of Officer Interest:</b>	Nil
<b>Date:</b>	12 December 2013
<b>Author:</b>	Dale Stewart, Chief Executive Officer
<b>Authorising Officer:</b>	Dale Stewart, Chief Executive Officer
<b>Attachments:</b>	8.5.1a –Tender Advertisement 8.5.1b –Tender Document 8.5.1c – Draft Lease

#### Summary:

This report considers the tenders received for the lease of portion of Lot 300 (Pig Pen area), corner of South Coast Highway and Denmark – Mount Barker Road, Denmark and the officer recommends selecting one of the tenderers. Nothing precludes Council from not accepting any tender.

#### Background:

Council advertised for lease portion of Lot 300 (up to 7,640 square metres) in accordance with the attachments 8.5.1 a-c (advertisement, tender documentation and draft lease).

The valuation received for the property from Opteon, dated 25 June 2013 was \$27,000 per annum plus GST.

Tenders were called for this property earlier in the year and Council considered the Tenders at its meeting held on 30 July 2013. The subsequent resolution was as follows (Resolution No. 260713);

*“That with respect to the tendering of portion of Lot 300, corner of South Coast Highway and the Denmark – Mt Barker Road, Denmark, Council reject all tenders for the short term use of the site and convene a workshop comprising of Elected Members and Senior Staff on the long term Local Planning Strategy objectives proposed for the site, prior to considering re-tendering or an Expression of Interest process that could facilitate these long term objectives not least of which includes funding towards the proposed Denmark Light Industrial Area and/or relocation of the Shire Depot.”*

Councillors subsequently conducted a workshop with Senior Staff and concluded that a concept plan should be developed but that leasing in the interim would be acceptable subject to the tendered clearly knowing that the lease term was finite.

Denmark Earthmoving Contractors has been in business since 1988 and operating successfully from the old saleyards site (reserve 27101) on the corner of South Coast Highway and the Denmark – Mt Barker Road on taking over the lease from North East Equity.

The company's current lease expires in December 2015 when Council's intent for the whole of the Lot 300 is to convert the usage(s) to activities more in keeping with that of a Business Park.

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

The tenderers are aware of this intent and the short term nature of the current proposed lease.

**Comment:**

At the close of the tender period, three tenders were received and were as follows;

- Soil Solutions \$35,000.00 (ex GST) per annum
- Denmark Earthmoving \$30,000.00 (ex GST) per annum
- Denmark Transport \$13,636.36 (ex GST) per annum

The Council’s tender specification for the lease noted that tenders would be selected based on the following criteria:

Criteria No.	Criteria	Weighting %
1	Use / Activity Proposed for the Site	50%
2	Lease Period	10%
3	Rent Consideration	30%
4	Conditions of Tender	10%
		100%

Rank for weighting: 1 (poor) – 5 (excellent).

Tenderer	Criteria 1	Criteria 2	Criteria 3	Criteria 4	Total Score
Denmark Transport	2.5	0.5	0.6	0.5	4.1
Soil Solutions	2.5	0.5	1.5	0.5	5
Denmark Earthmoving	2.5	0.5	1.2	0.5	4.7

All Tenders received were found to satisfy criteria 1, 2 & 4 equally therefore Criteria 3 (Rent Consideration) became the determining factor in the recommended choice of tender.

Accordingly, the conforming submission received from Vancouver Waste Services t/as Soil Solutions is recommended.

**Consultation:**

Nil

**Statutory Obligations:**

All the statutory obligations, pursuant to the Local Government Act 1995 (Section 3.58) for inviting and considering tenders, have been met.

**Policy Implications:**

There are no policy implications.

**Budget / Financial Implications:**

The rental valuation provided by Opteon (formerly Albany Valuation Services) for the “pig pen” area of \$27,000 pa will be realised should the tender from Soil Solutions received be accepted.

The Council’s 2013/2014 Budget includes the sum of \$29,740, which represents predicted annual income from the current two leases on the balance of Lot 300.

Should Council accept either of the two higher tenders it is predicted that Council will at least realise budget (estimated based on only 4 months lease).

**Strategic Implications:**

Following the demise of the previous lessee of the site, Denmark Civil Works, Soil Solutions have, it would appear, received greater requests for servicing Denmark from

Albany, to which they have concluded that a Denmark based operation would suit their business operations. The question of whether Council leasing a portion of its freehold land to a business that may be in competition with an existing business within the Shire is one that Council may give some consideration to, but only in accordance with the conditions of the advertised tender.

If Council was inclined to support the concerns that by providing the land for lease to a new business entity, that it would increase competition to an existing business activity within the Shire, then Council would need to reject all tenders and retender on the basis that it only offered the land for usage(s) that were currently not available in the Shire.

The proposed lease provides for retention of the communities unrestricted access to the saleyards.

The lease requires the successful tenderer to obtain Planning Approval from the Council prior to commencing any occupation / lease. If they are not able to obtain Planning Consent then the tender becomes effectively void. All of the proposed uses tendered are compatible with previous usage of the site and the officer sees no impediments why there shouldn't be planning consent provided in due course (with conditions as relevant / required by Council Planning Staff).

**Sustainability Implications:**

➤ **Environmental:**

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

➤ **Economic:**

Councillors should be aware that Council Officers have previously received a telephone call from a local landscape business operating within the Shire, which it should be noted did not tender for the proposed leased area, stating that if Soil Solutions are approved as the successful tenderer that it may have significant implications on their commercial operations.

Soil Solutions intend to operate a landscaping supplies service selling products from building sands through to manures, mulches and decorative rock. They also intend using the site to potentially receive green waste for processing. Any of the relevant uses would be subject to receiving planning approval from the Council.

The previous lessee of the site operated an earth moving business and landscape suppliers business and has since gone into receivership.

➤ **Social:**

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

**Voting Requirements:**

Simple majority.

12.15pm – Cr Morrell left the room.

12.17pm – Cr Morrell returned to the room.

<b>COUNCIL RESOLUTION &amp; OFFICER RECOMMENDATION</b>		ITEM 8.5.1
MOVED: CR SAMPSON		SECONDED: CR GILLIES
That Council accepts the tender received from Vancouver Waste Services t/as Soil Solutions for the lease of portion of Lot 300, corner of South Coast Highway and the Denmark - Mount Barker Road, Denmark a lease of \$35,000 pa plus GST, with the lease to expire no later than 31 December 2015, subject to the lessee obtaining planning approval for the intended usage at the site.		
CARRIED: 8/0		Res: 331213

## 8.5.2 APPOINTMENT OF COMMUNITY MEMBERS ON COUNCIL COMMITTEES & WORKING GROUPS

<b>File Ref:</b>	CR.1
<b>Applicant / Proponent:</b>	Various
<b>Subject Land / Locality:</b>	Not applicable
<b>Disclosure of Officer Interest:</b>	Nil
<b>Date:</b>	11 December 2013
<b>Author:</b>	Claire Thompson, Executive Assistant
<b>Authorising Officer:</b>	Dale Stewart, Chief Executive Officer
<b>Attachments:</b>	8.5.2 a – Advertisement 8.5.2 b – Nomination Forms

### Summary:

This report recommends that Council review the attached Nominations for Community Members on Council Committees & Working Groups and appoint members for the ensuing two (2) years, with their terms expiring in October 2015.

### Background:

At its meetings held on the 22 October 2013, Council resolved to continue with the following Council Committees and Working Groups and advertise for the Community Member positions on them;

- Cemetery Advisory Committee
- Disability Services Advisory Committee
- Paths & Trails Advisory Committee
- Seniors Advisory Committee
- Youth Advisory Committee
- CBD Development Working Group.

In addition, Council resolved to seek community members for the community vacancies on the South Coast Management Group.

Advertising commenced on 7 November 2013 for a period of two (2) weeks.

### Comment:

It is noted that insufficient nominations were received for the Cemetery Advisory Committee, the Youth Advisory Committee and the South Coast Management Group. This notwithstanding, it would be beneficial if Council could consider the appointment of the community members who have nominated thus far to enable those Committees and Working Groups to gain sufficient members for a quorum which in turn means that they can start formal meetings again.

The following is a summary of the Nominations received, copies of which are included in Attachment 8.5.2 b.

#### CEMETERY ADVISORY COMMITTEE

(3 vacancies)

Two nominations have been received.

- Judy Ross
- Colin Cayless

It is proposed that the unfilled vacancy be re-advertised.

#### DISABILITY SERVICES ADVISORY COMMITTEE

(5 vacancies including one Health or Allied Health Professional)

Five nominations have been received.

- Richard Keasy
- Peter Boyes

- Dale Fewings
- Adrian Hinds
- Carolyn Birdseye

Mr Adrian Hinds and Mrs Dale Fewings both health formal allied health qualifications and could fill the role of Health or Allied Health Professional, albeit this is still a community member position.

#### PATHS & TRAILS ADVISORY COMMITTEE

(3 vacancies)

Three nominations have been received.

- Diane Harwood
- Andi Adams
- Lisa Clarke

#### SENIORS ADVISORY COMMITTEE

(1 vacancy)

Three nominations have been received.

- Dennis O'Brien
- Adrian Hinds
- Linda Taylor

#### YOUTH ADVISORY COMMITTEE

(2 vacancies plus 2 vacancies for persons aged between 12-17 years)

One nominations have been received, both of whom are over the age of 17).

- Ray Stitt

It is proposed that the unfilled vacancies be readvertised, a letter be sent to the Denmark High School requesting their assistance in raising awareness of the positions for 2 persons aged between 12 – 17 and a Memorandum be sent to the Manager of Recreation and Youth Services requesting his assistance in promoting the positions also.

#### CBD DEVELOPMENT WORKING GROUP

(1 vacancy)

- Dawn Cottam

#### SOUTH COAST MANAGEMENT GROUP (2 vacancies)

- Jenny Brenton

It is proposed that the unfilled vacancy be readvertised.

Where there are less nominations that vacant positions Council have the option to re-advertise the positions or amend the Membership of any of the Committees or Groups to either reduce the number of community members and/or amend the community member position to be that of a representative of a relevant local organisation or agency.

#### **Consultation:**

The vacant positions were advertised in the Denmark Bulletin, Council Notice Boards and Council's website. Letters were also sent to all previous community members thanking them for their past service and inviting them to reapply.

#### **Statutory Obligations:**

Section 5.10 (1) of the Local Government Act 1995 relates to the appointment of committee members.

#### *5.10. Committee members, appointment of*

- 1) *A committee is to have as its members —*

- a) *persons appointed\* by the local government to be members of the committee (other than those referred to in paragraph (b)); and*
- b) *persons who are appointed to be members of the committee under subsection (4) or (5).*

**Policy Implications:**

There are no policy implications.

**Budget / Financial Implications:**

There are no known financial implications upon the Council's current 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:**

Community members on Council Committees and Working Groups provide an important 'community' perspective on Council functions, service provisions and strategic direction.

**Voting Requirements:**

Absolute majority required, pursuant to section 5.10 (1) (a) of the Local Government Act 1995.

**OFFICER RECOMMENDATION**

ITEM 8.5.2

That with respect to the Nominations received for Community Member vacancies on Council Committees, Council Working Groups and the South Coast Management Group, Council;

1. Appoint the following community members;
  - a) Judy Ross & Colin Cayless to the Cemetery Advisory Committee;
  - b) Richard Keasy, Peter Boyes, Dale Fewings, Adrian Hinds and Carolyn Birdseye to the Disability Services Advisory Committee, noting that \_\_\_\_\_ is being appointed as the Health or Allied Health Professional Community Member.
  - c) Diane Harwood, Andi Adams and Lisa Clarke to the Paths & Trails Advisory Committee;
  - d) \_\_\_\_\_ to the Seniors Advisory Committee;
  - e) Ray Stitt be appointed to the Youth Advisory Committee;
  - f) Dawn Cottam to the CBD Development Working Group;
  - g) Jenny Brenton to the South Coast Management Group.
2. Advertise locally and solicit nominations for the remaining vacancies on the;
  - a) Cemetery Advisory Committee (1 vacancy);
  - b) Youth Advisory Committee (3 vacancies including 2 for persons aged between 12 – 17 years);
  - c) South Coast Management Group (1 vacancy).

**COUNCIL RESOLUTION**

ITEM 8.5.2

MOVED: CR LEWIS

SECONDED: CR GILLIES

That with respect to the Nominations received for Community Member vacancies on Council Committees, Council Working Groups and the South Coast Management Group, Council;

1. Appoint the following community members;
  - a) Judy Ross & Colin Cayless to the Cemetery Advisory Committee;
  - b) Richard Keasy, Peter Boyes, Dale Fewings, Adrian Hinds and Carolyn Birdseye to the Disability Services Advisory Committee, noting that Dale Fewings is being appointed as the Health or Allied Health Professional Community Member.
  - c) Diane Harwood, Andi Adams and Lisa Clarke to the Paths & Trails Advisory Committee;
  - d) Linda Taylor to the Seniors Advisory Committee;
  - e) Dawn Cottam to the CBD Development Working Group;
  - f) Jenny Brenton to the South Coast Management Group.
2. Acknowledge receipt of Ray Stitt's nomination for the Youth Advisory Committee at this point in time, however delay consideration of the appointment of any Community Members to the Youth Advisory Committee until further advertising and solicitation of nominations for vacancies (4 vacancies including 2 for persons aged between 12-17 years) has been undertaken, including the new addition of the requirement for all members of the Committee, other than youth, to be able to demonstrate a satisfactory Working with Children Clearance, at the expense of Council.
3. Advertise locally and solicit nominations for the remaining vacancies on the;
  - a) Cemetery Advisory Committee (1 vacancy);
  - b) South Coast Management Group (1 vacancy).

CARRIED BY AN ABSOLUTE MAJORITY: 7/1

Res: 341213

**REASONS FOR CHANGE**

Council understood there was some fresh interest from community members regarding the vacancies on the Youth Advisory Committee and that those nominations were yet to be received. As Council's elected representative on the Committee, Cr Lewis preferred to see this decision deferred until further advertising and solicitation for all four vacancies be finalised.

### 8.5.3 REVIEW OF SHIRE OF DENMARK LOCAL LAWS

<b>File Ref:</b>	LEG.1
<b>Applicant / Proponent:</b>	Not applicable
<b>Subject Land / Locality:</b>	Shire of Denmark
<b>Disclosure of Officer Interest:</b>	Nil
<b>Date:</b>	13 December 2013
<b>Author:</b>	Dale Stewart, Chief Executive Officer
<b>Authorising Officer:</b>	Dale Stewart, Chief Executive Officer
<b>Attachments:</b>	No

#### Summary:

The purpose of this report is to seek approval from Council to commence the process of reviewing the Council's Local Laws.

#### Background:

The Local Government Act 1995 (the Act), requires that the Council must every eight (8) years after adoption of any Local Law, or the last review, conduct a review of the Local Law to ensure that it still retains currency.

#### Comment:

Generally and specifically the first part of the review was to establish whether there were any Local Laws that were considered obsolete and consequently requiring repeal without being replaced. The Department of Local Government Local Laws Register has been referred to.

There are two situations that may lead to the repeal of a Local Law;

1. Repealing a local law with the intent of making a new Local Law for substantially the same purpose, but reflecting contemporary practices i.e. new Standing Orders Local Law that reflects contemporary meeting procedure practices; or
2. A Local Law is deemed to be no longer necessary, has a defunct purpose or has been superseded by other legislation.

It is proposed that the Shire conduct a review in accordance with S3.16 of the Act of the following Local Laws;

- Pest plants
- Parking & parking facilities
- Health
- Fencing
- Extractive Industries Local Law 2005
- Activities in Thoroughfares and Trading in Thoroughfares and Public Places Local Law 2001
- Standing Orders Local Law 2001
- Local Government Property Local Law 2006
- Dogs Local Law 2001
- Bushfire Brigades Local Law 2001
- Local Laws Relating to the Denmark Cemetery (Reserve 11655) 2005.

In addition it is proposed that Staff via this same process will consider the introduction of a new Local Law based on the Model Waste Local Law, due to the introduction of by the Waste Avoidance and Resource Recovery Act 2007 (WARR).

Section 3.16 of the Act provides the process to be followed for a review of Local Laws. It is appropriate to point out that any outcomes from a review that result in amendments to a Local Law must then be processed as though it was a change to the Local Law and the amendments formally adopted using S3.12 of the Act.



This in effect means there are two distinct processes to follow - the first being a review and the second the implementation of the outcome of the review.

To commence the review process the Council is required to advertise state-wide its intention to review the Local Laws.

A Discussion Paper outlining each Local Law the subject of review will need to be prepared as to what changes have been proposed, other changes that may be required for administrative or legal reasons and suggested amendments to the level of penalties that may be applied in the event of a breach of the Local Law.

The terminology and drafting standards have changed over the years as to whether the current local law is still able to be enforced and not be deemed to be anti-competitive.

**Consultation:**

To commence the review process the Council is required to advertise state-wide its intention to review the Local Laws. The review is required to be advertised locally as well and the community will be able to access the information and make comments and submissions. Staff will also make comments within the period of the review as to practical implication issues associated with the Local Laws.

**Statutory Obligations:**

Local Government Act 1995, the following sections relate;

- Section 2.7 The role of the Council
- Section 3.1 General function
- Section 3.12 Adoption of a Local Law
- Section 3.16 Periodic Review of Local laws.

The last Local Law review was undertaken in 2008 and is being undertaken at this time due to the need to prepare modifications to our Health Local Laws and Bush Fire Locals pursuant to previous Council Resolutions.

Interpretation Act 1984, the following section relates:

Section 43(4) describes the requirements to amend subsidiary legislation S3.16 of the Act requires the Council to carry out a formal review of its Local Laws every 8 years.

Following the review of the Local Laws any amendments will be processed in accordance with S3.12 of the Act.

**Policy Implications:**

There are no policy implications.

**Budget / Financial Implications:**

The cost of advertising of the review is included in the Budget under General Advertising (Account 1420152).

The cost of the Local Laws review and preparation of new Local Laws is accommodated under 1420322 Strategic Planning and General Consultancies Budget (Account 1420322) at a total estimated cost of \$9,000.

**Strategic Implications:**

There are no known significant strategic implications.

**Sustainability Implications:**

➤ **Environmental:**

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

➤ **Economic:**

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

➤ **Social:**

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

**Voting Requirements:**

Simple majority.

<b>COUNCIL RESOLUTION &amp; OFFICER RECOMMENDATION</b>	<b>ITEM 8.5.3</b>
MOVED: CR SEENEY	SECONDED: CR GILLIES
<p>That with respect to its Local laws, Council:</p> <ol style="list-style-type: none"> <li>1. Proceed with the Review of the following Local Laws as per the Department of Local Government Laws Register in accordance with section 3.16 of the Local Government Act 1995;                     <ul style="list-style-type: none"> <li>• Pest Plants</li> <li>• Parking &amp; Parking Facilities</li> <li>• Health</li> <li>• Fencing</li> <li>• Extractive Industries Local Law</li> <li>• Activities in Thoroughfares and Trading in Thoroughfares and Public Places Local Law</li> <li>• Standing Orders Local Law</li> <li>• Local Government Property Local Law</li> <li>• Dogs Local Law</li> <li>• Bushfire Brigades Local Law</li> <li>• Local Laws Relating to the Denmark Cemetery (Reserve 11655).</li> </ul> </li> <li>2. Advertise the Review of the current Local Laws as per the Department of Local Government Local Laws Register in accordance with section 3.16 (2) of the Local Government Act 1995.</li> <li>3. Consider the need to develop a Waste Local Law during the above review process.</li> </ol>	
CARRIED UNANIMOUSLY: 8/0	Res: 351213

**12.50pm - Public Question Time**

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

**9. COMMITTEE REPORTS & RECOMMENDATIONS**

Nil

**10. MATTERS BEHIND CLOSED DOORS**

Nil

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

Nil

**12. CLOSURE OF MEETING**

The Shire President thanked all Staff & Council Members for their efforts throughout the year and noted that it had been good working with them. Cr Thornton wished everyone a Merry Christmas.

*12.51pm – There being no further business to discuss the Presiding Person, Cr Thornton, declared the meeting closed.*

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

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

*Dale Stewart – Chief Executive Officer*

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

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

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

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