



ORDINARY MEETING OF COUNCIL

HELD IN THE COUNCIL CHAMBERS,
953 SOUTH COAST HIGHWAY, DENMARK ON
TUESDAY, 28 JULY 2015.

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Ordinary Council Meeting

28 July 2015

DISCLAIMER

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1. DECLARATION OF OPENING/ANNOUNCEMENT OF VISITORS

The Shire President has advised in writing on 8 July 2015 that he is unable to preside at this meeting, pursuant to Section 5.6 (1), as he will be attending the meeting via Skype or FaceTime (instantaneous communication) which often drops out or may not occur at all.

Pursuant to Section 5.34, the Deputy Shire President may perform the functions of the Shire President and has agreed to perform the role of Presiding Person.

4.01pm – The Deputy Shire President and Presiding Person, Cr Sampson, declared the meeting open.

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

MEMBERS:

Cr Ross Thornton (Shire President) (via instantaneous communication pursuant to Council Resolution No. 020715) (from 4.12pm)

Cr John Sampson (Deputy Shire President)

Cr David Morrell

Cr Ian Osborne

Cr Dawn Pedro

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) (from 4.28pm)

Ms Claire Thompson (Executive Assistant)

APOLOGIES:

Cr Kelli Gillies

Mr Martin Buczak (Acting Director of Infrastructure Services)

ON APPROVED LEAVE(S) OF ABSENCE:

Cr Jan Lewis (pursuant to Council Resolution No. 010215)

ABSENT:

Nil

VISITORS:

Members of the public in attendance at the commencement of the meeting: 4

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

DECLARATIONS OF INTEREST:

Nil

3. ANNOUNCEMENTS BY THE PERSON PRESIDING

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

4. PUBLIC QUESTION TIME

4.1 RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE

4.1.1 Mr Michael Stokes – Item 4.1.1 (Mr Jesz Fleming – McGeary’s Rock Boat Ramp Study)

At the meeting held on 7 July 2015, Mr Stokes referred to Item 4.1.1 on the Agenda and some questions of the Chief Executive Officer which were taken on notice. A copy of the questions and the written response posted to Mr Stokes is copied below;

“Thankyou for your questions relating to Item 4.1.1 on the Agenda, directed to myself, taken on notice by the Shire President at the Council meeting of 7 July 2015.

My responses follow and these, together with your questions, will be included in the agenda for the Council Meeting of 28 July 2015.

1. You state it is your “professional opinion” that the study is not a waste of money. Could you please advise:
 - a. What your professional qualifications are, and
 - b. How those professional qualifications relate to infrastructure and marine facilities.

Response:

For the record, my qualifications are;

- *Diploma in Local Government (Clerk);*
- *Member of Local Government Managers Australia (LGMA) (WA);*
- *Board Member of LGMA WA;*
- *Fellow of the Australian Institute of Management (FAIM);*
- *Member of the Institute of Public Administration Australia (IPAA);*
- *Executive Leadership Development Program 2000;*
- *Employment as a Local Government CEO in WA for almost 12 years*
- *Employment as a Local Government Deputy CEO / Manager of Finance in WA for 10 years and;*
- *Employment in various Local Governments in WA for over 29 years.*

These qualifications do not relate to infrastructure and marine facilities. That is why the Council and Department of Transport are contracting appropriate independent expertise.

2. Council has stopped boat launching at Ocean Beach at certain times. You state “that we would and should be rightly and soundly criticised” for not seeking “independent and suitably qualified answers” to this issue. This raises the following questions:
 - a. Why did Council stop boat launching without such suitable advice (apart from a questionable risk assessment from Councils insurer?)
 - b. Given that boat launching is stopped without such appropriate independent advice, does this not show Council has “already determined the conclusion”?

Response:

- a. *Your opinion is that the advice was questionable – it is not mine.*
- b. *A hypothetical question that was prefaced on a potentially fallacious argument, and given that I do not agree with the prefaced argument, the conclusion I also do not concur with.*

3. The application to Department of Transport states that Council will produce detailed engineering drawings, detailed cost estimates, hydrographic survey and environmental impact amongst other things. For \$26,000 don't you think, in your "professional opinion", this will either be unachievable or an extremely "brief" concept desktop report?

Response:

Time will tell whether the received report achieves the stated intentions of the funding and whether this is to the satisfaction of the funding agency and the Council.

The draft Brief to be let does not however (supported by the funding agency) include detailed engineering drawings – only conceptual.

4. You state this a "joint" study with Department of Transport. Isn't it true that the Department of Transport will have no input into the study?

Response:

That is not correct – they will approve the Brief as per the funding Guidelines.

5. Isn't it true that the DOT will only provide [sic] funding on receipt of all the stated criteria in the application as submitted by Council Officers?

Response:

I am completely confident that the Council will satisfy the funding requirements of the Department.

6. In light of the above isn't it misleading to Council and the Community to say this is a "joint" study (accepting that DOT will provide funding if all criteria are met)?

Response:

No.

7. Which Council Officer submitted the application to DOT?

Response:

The application was submitted by the Infrastructure Services Directorate of Council.

8. Has the contract to undertake the study been let?

Response:

No.

9. If so who has it been let to?

Response:

Not applicable given to the answer to question 8.

10. Pursuant to Councils purchasing policy, how many quotes were sought and when were they received?

Response:

Not applicable given to the answer to question 8.

11. *What companies submitted quotes and how much were they?*

Response:

Not applicable given to the answer to question 8.

12. *Can we receive a copy of :*
a. The application to DOT?
b. The scope of works that quotes were sought on?

Response:

Given you question number 3 it is presumed that you already have a copy of the application – however if this is not the case then you are welcome to receive a copy. Please make contact with the Infrastructure Services Directorate on telephone 9848 0300 or email enquiries@denmark.wa.gov.au and one will be emailed to you.

As to the scope of works that quotes have been sought on – competitive quotes have yet to be sought.

I thank you for your questions and should you require further information or advice on this matter please contact the undersigned on telephone (08) 9848 0300 or email enquiries@denmark.wa.gov.au.”

4.1.2 Dr Cyril Edward – Item 8.5.2 (Aquatic Facility Options)

At the meeting held on 7 July 2015, the Shire President provided a copy of a letter which had been received from Dr Edwards noting that the statements and questions would be taken on notice and responded to in writing.

The response provided to Dr Edwards is copied below.

“Thank you for your questions relating to Item 8.5.2 on the Agenda, taken on notice by the Shire President at the Council meeting of 7 July 2015.

My responses follow and these, together with your questions, will be included in the agenda for the Council Meeting of 28 July 2015.

1. Agenda item §8.5.2 – completeness of options to be considered

Assuming that the formal title of §8.5.2 is “Aquatic Facility Options” is to be taken seriously and include all options, it seems reasonable to suppose that DACCI should be allowed to present its own model. To date, councillors have been asked to consider only the administration’s modification of the Bollig-PTX Concept Plan coupled with a funding model designed to fail.

Thus, part 1 of this recommendation, which promises a Public Information Forum to be held on 11 August 2015, should be expanded to allow DACCI to explain to the community how the comprehensive facility might be within reach.

Q1 “Will Council invite DACCI to outline its own proposal at this forum?”

Response:

The Council resolution was to provide Council the opportunity to present to the community on its proposal and is and was not envisaged as a ‘debate’ forum. Therefore it is my opinion that such a forum should not allow ‘presentations’ by those that seek to present their view, whatever that view may be. The Public Forum is open for whomever to attend of course and to contribute their ideas and ask questions. The rules for the forum will be those determined on the evening by the Chairperson.

Any organisation, including DACCI, is welcome of course to convene their own information evening or forum advocating or publishing information on the merits of their proposal.

2. Officer recommendation §8.5.2 –forum publicity

Part 2 of this recommendation asks the CEO to prepare information for the Forum, Displays in the Shire Administration Office and Library.

DACCI wishes to remind councillors that in the lead up to the 2013 Referendum, the CEO refused to allow any of DACCI’s informative publicity to be displayed in any Shire facility. The rationale was his wish to avoid encouraging community members to believe that council supported such a comprehensive aquatic facility.

Q2 “Will Council offer DACCI equal publicity opportunities in community spaces?”

Response:

The officer’s opinion is that such a request to allow space on Council’s premises or notice boards should not be supported. The Council resolution is to convene an information forum and conduct a survey – not to engage in a debate. The Council has already concluded the question of whether it should construct a larger aquatic facility in 2013.

3. Officer recommendation §8.5.2 – residents and ratepayers

In order to present survey recipients with a completely unbiased presentation of the issues, DACCI will need to address the same 7,025 ratepayers and residents as Council.

Q3 “Will Council either allow DACCI to share its mail-out or provide a list of names and addresses as it did in the 2013 Referendum?”

Response:

The CEO has to comply with the expectations of resident and ratepayer privacy and the Local Government Act 1995’s limitations on access to such information to third parties. If an application is submitted for this to occur as suggested however, then it will be assessed on its merits.

4. Officer recommendation §8.5.2 – part 4

Part 4 of this recommendation outlines some of the key parameters on which the Council’s Gym Pool concept is based, but fails to identify others on the proposed ballot sheet. In particular, the fact that access will be restricted must be emphasised not hidden in the preamble to the bullet points in §8.5.2

Q4 “Will Council advise community members (in the survey document) that patron access is restricted to discrete users and user groups and will not therefore be classified as a Group 1 pool offering full public access with all the health and safety features judged mandatory for public swimming pools?”

Response:

Yes it is the officer’s intention that this will be made clear at the forum and on the information available to voters.

5. Key parameters – estimated construction cost

The Officer’s Report to the Council Meeting on 5 May 2015 included an attachment entitled “Detailed Costing Spread Sheet Twin Torino Model” which identified a project cost minimum of \$1.016M contingent on a basic (Kosters) build-style estimated at \$360k. However a choice of a more expensive (de-luxe) build, estimated to cost \$900k, was implied in the risk assessment process where it was listed as “Community/Council choice”.

It follows that since the Deluxe build would add a further \$540k to the minimum cost plus a further \$81k (15% in designs, certifications, fees etc.) the total would rise to \$1.637M. Yet the proposed wording of the first bullet point in §8.5.2 confirms that a decision has already been made to aim for the cheap build (i.e. \$1.2M). For comparison note that the \$8.300M Bollig-PTX layout assumed a build cost of \$2200 per m2 but would fall to only \$6.292M if the same ‘cheap build’ figure of \$1000 per m2 were used.

The implications of this choice are serious. At the 1 April 2014 meeting with DACCI the Shire President correctly identified the trade off between build quality and durability. Whereas the Bollig-PTX pool was planned to last, electing the lowest quality build for the Gym Pool will ensure that it indeed becomes the “sacrificial pool” that was the focus of that meeting. It is therefore misleading to pretend that the Gym Pool may be regarded as part of a staged design.

Q5a “Will Council explain (in the survey document) the nature of the trade off between build quality and durability and offer a choice of the revised construction cost estimate of \$1.6M rather than \$1.2M?”

Response:

The matter can be discussed in the information forum however the question is set and approved by Council. The preamble to the question may be able to highlight such options however this detail has not been determined at the time of writing this reply.

Q5b If not, and the lower figure remains, will it confirm that the Gym Pool is a short term (specify term) to be a sacrificial pool service a small segment of the community?”

Response:

I confirm that the proposed smaller aquatic facility will service a smaller portion of the community than the much larger alternative. Will that be made clear in the information forum and in the preamble to the question – yes – that is the intent. Will it be sacrificial? That is not the intent of the facility.

6. Key parameters –reserve funds

The second bullet point in part 4 indicates that part of the capital cost will come from an existing reserve fund of \$100k. If this is the Aquatic Facility Development Reserve [AFDR] fund established in 2012 to help build the kind of comprehensive facility recommended by the Needs Assessment, the Feasibility Study and Council's own Project Team in 2012, any withdrawals will have a negative impact on the long term goal.

Q6 "Will Council give an undertaking to preserve the AFDR for the comprehensive Denmark Aquatic Facility as originally intended?"

Response:

As CEO I do not propose to submit such a recommendation to Council. Of course that prerogative is up to any Councillor to so propose (a notice of motion).

Regardless of a resolution of the Council of, say today, a subsequent Council of the day in adopting the Annual Budget can override such a decision. Any Council can change the purpose of any reserve fund to 'almost' anything else, by Budget decision and/or by resolution of the Council with appropriate advertising of the intent.

The current and original purpose of the Council's Cash Backed Reserve Fund is "To be used for the development of Aquatic Facilities."

7. Key parameters – grants from various sources

The preamble to §8.5.2 clearly refers only to Government Grants yet the fourth bullet point quotes estimates \$300k 'from various sources'.

Q7 "Would it not be preferable to make the preamble and bullet point internally consistent?"

Response:

The Council has adopted the question and unless the Council wishes to change it, that will be what is asked. The flexibility of highlighting grants from 'various sources' in the opinion of the officer does not detract from the intent, nor is misleading.

8. Key parameters – estimated loan requirement and operating costs

The third bullet point in §8.5.2 refers to a loan of \$800k and the fifth and final bullet point claims that debt servicing, depreciation and maintenance are included in the estimated rate increase of 1%. Assuming that the 2015/16 rates income will be 6% larger than that in 2014 would suggest that \$55.4k will be the indicative ratepayer contribution to the Gym Pool.

However, repaying principal and interest (at 4%pa) quarterly over 25 years would cost \$50.8k each year and when this is added to the estimated annual operating costs of \$49.6k already identified in the "Detailed Costing Spread Sheet Twin Torino Model" (Attachment 8.5.2, 5 May 2015) there is clearly a need for an annual subsidy greater than \$100k.

The same document dismisses unidentified staff salaries as "unknown but will be mostly offset by income". Yet no revenue model has been proffered: income is an unknown variable. Likewise, it is not clear whether additional staff will be required or whether existing staff will be expected to work harder.

In stark contrast to this casual approach, the CCA Feasibility Study carefully identified a whole range of typical aquatic facility expenditures and, more importantly the likely revenue to be generated with assumed catchment populations (and their growth), throughput rates, entry fee structure and appetite for risk.

The Denmark community cannot possibly be expected to make a considered and intelligent judgement in the absence of all the relevant information.

Q8 “Will Council agree that the financial estimates presented to the community in the draft question are woefully inadequate – and if so, will Council defer the proposed survey until a more robust business case can be developed?”

Response:

The Council’s resolution is clear and is intended to be implemented by the officers as requested. Information regarding the detail of the financial and other assumptions will be available at the information forum and is intended to be available also on the Council’s website prior to the commencement of the survey.

9. Officer recommendation §8.5.2 – the staging scenario

One of the key features of the fully comprehensive facility envisaged in the Bollig- PTX concept plan is the centralised reception area designed to service both wet and dry operations. Pool managers, facility designers, LIWA, RLS and Watch Around Water will all confirm the importance of such a feature for it allows reception staff to double as extra lookouts for swimmers in difficulty.

The floor plan of the proposed Gym Pool shown in the 5 May Attachment 8.5.2 effectively rules out this feature and torpedoed the Officer’s claim that the Gym Pool [will be] “able to be staged to be part of a larger indoor heated facility”.

Yet staging should not be ruled out altogether. A properly conceived design such as the Bollig-PTX concept plan can be reorganised for staging – albeit at additional expense. DACCI’s offers to work with Council to develop such a staging plan have been rebuffed for no apparent reason. Similarly, our requests to put the Gym Pool concept on hold until Round 2 of NSRF funding has been decided have fallen on deaf ears.

The professional Needs Assessment (Jill Powell) and Feasibility Study (Coffey Commercial Advisory) appear in danger of abandonment in favour of a perceived in- house wisdom which is not supported by any evidence.

Page 45 of Officer’s Report identifies key principles re community consultation.

Q9 “Does Council consider that it has subscribed faithfully to each of the six commitments listed on page 45 of §8.5.2?”

Response:

In the officers opinion, yes.

I trust the above answers your questions however should you require further information or advice on this matter please contact the undersigned on telephone (08) 9848 0300 or email enquiries@denmark.wa.gov.au.”

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 **Mr Basil Schur – McIntosh Road Tip Shop & Recycling Centre**

Mr Schur, from Green Skills, highlighted concern about the car park area around the tip shop, stating that in winter it became very wet and in summer the dust caused problems. Mr Schur provided Councillors with a photograph showing the large puddles in the carpark and stated that they had been asking Council for a number of years to pave the area and provide required drainage. Mr Schur outlined the benefits that the shop and recycling centre had brought to the Denmark community over the past 11 years and asked whether Council would include any funds in the 2015/16 budget towards fixing the problem. Mr Schur advised that Green Skills would consider a contribution towards the cost of the works.

The Deputy Shire President advised that Council had adopted the 2015/16 budget at a meeting held on Monday, 27 July 2015.

The Chief Executive Officer advised Mr Schur that unfortunately there had been no funds allocated in the adopted budget towards the requested works. Mr Stewart stated that he believed there to be two issues, one being drainage and the other being sealing and that he was prepared to have Council Officers investigate the matter and refer it to the Waste Management Advisory Committee for consideration.

Cr Morrell stated that he believed that the tip shop and recycling centre make a significant contribution to the community of Denmark particularly with reducing the amount of material going into landfill.

Cr Seeney asked whether the drainage issue could be looked at as a priority.

The Chief Executive Officer responded yes.

4.2.2 Mr Robert Whooley – Item 4.1.1 (Mr Michael Stokes – Item 4.1.1 (Mr Jesz Fleming – McGeary’s Rock Boat Ramp Study))

Mr Whooley referred to Item 4.1.1 on the Agenda and asked the following questions;

“Mr Micheal Stokes question 3 related to the application – not brief. Is it not true that the application to the department of Transport stated that detailed engineering drawings would be produced?

Mr Micheal Stokes question 4 related to the study not approval of the brief. Is it not true that that the Department of Transport will have no input into the study?

Mr Micheal Stokes question 7 was very specific. The question was which Council Officer submitted the application. Accepting that the engineering support officer (secretary) actually submitted the application – isn’t it true that none of Councils engineer officers had any input into the application?

Isn’t it true that the CEO effectively submitted this application utilising the engineering support officer?

Isn’t it true that the application was submitted in the name of the former director of infrastructure utilising his electronic signature?

Isn’t it misleading to Council and the Community to not answer this question directly in light of the obvious intent of the question?

Is there any particular reason why the questions asked by Mr Stokes treated so evasively?”

The Deputy Shire President stated that the questions would be taken on notice and responded to in writing by the Chief Executive Officer, with a copy of the questions and the response being published in the next Council Agenda.

4.3 QUESTIONS BY MEMBERS OF WHICH DUE NOTICE HAS BEEN GIVEN

Nil

4.4 PRESENTATIONS, DEPUTATIONS & PETITIONS

In accordance with Section 5.24 of the Local Government Act 1995, Sections 5, 6 and 7 of the Local Government (Administration) Regulations and section 3.3 and 3.13 of the Shire of Denmark Standing Orders Local Law, the procedure for persons seeking a deputation and for the Presiding Officer of a Council Meeting dealing with Presentations, Deputations and Petitions shall be as per Council Policy P040118 which can be downloaded from Council’s website at <http://www.denmark.wa.gov.au/council-meetings>.

In summary however, prior approval of the Presiding Person is required and deputations should be for no longer than 15 minutes and by a maximum of two persons addressing the Council.

Nil.

5. APPLICATIONS FOR FUTURE LEAVE OF ABSENCE

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

| | |
|---|---------------------|
| COUNCIL RESOLUTION | ITEM 5.1 |
| MOVED: CR ROWLAND | SECONDED: CR SEENEY |
| That Cr Morrell be granted leave of absence from scheduled or unscheduled Council or special meetings of the Council from 21 September 2015 to 13 October 2015 (inclusive). | |
| CARRIED UNANIMOUSLY: 7/0 | Res: 200715 |

The Deputy Shire President advised that he wished to make another announcement and read out a letter from the Denmark Country Club which had been sent to the Shire President, Cr Ross Thornton on 10 July 2015. The letter read as follows;

“Dear Ross

We were delighted to hear the news recently announced by Minister Terry Redman regarding funding for a \$15 million wastewater recycling scheme for Denmark.

As you know the Denmark Country Club’s development project was predicated on the basis that our water needs would initially be met from ground water with the objective of supplementing or replacing ground water with recycled wastewater when it became available. The Shire has been instrumental in bringing this objective to a satisfactory conclusion. The process has been long and at times difficult, and we are well aware of the time and effort which has been invested by you and other Councillors, and by CEO Dale Stewart and his team.

There is clearly a way yet to travel before we are watering grass with recycled wastewater, but we wanted all at the Shire to know just how much we appreciate the effort which has been put into this process. It is terrific news for the Inlet, for the town, for the Country Club and for the region. Well done indeed!

*With kind regards
Yours sincerely
Phillip Middleton, President”*

| | |
|--|---------------------|
| COUNCIL RESOLUTION | |
| MOVED: CR MORRELL | SECONDED: CR SEENEY |
| That the letter be received and the Denmark Country Club be thanked for their remarks. | |
| CARRIED UNANIMOUSLY: 7/0 | Res: 210715 |

6. CONFIRMATION OF MINUTES

6.1 ORDINARY COUNCIL MEETING

| | |
|---|----------------------|
| COUNCIL RESOLUTION & OFFICER RECOMMENDATION | ITEM 6.1 |
| MOVED: CR SEENEY | SECONDED: CR MORRELL |
| That the minutes of the Ordinary Meeting of Council held on the 7 July 2015 be confirmed as a true and correct record of the proceedings. | |
| CARRIED UNANIMOUSLY: 7/0 | Res: 220715 |

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

Nil

8. REPORTS OF OFFICERS

8.1 Director of Planning & Sustainability

8.1.1 PROPOSED ADDITIONS/ALTERATIONS TO THE KIOSK/ADMINISTRATION BUILDING FOR THE DENMARK RIVERMOUTH CARAVAN PARK

| | |
|--|--|
| File Ref: | A1324 |
| Applicant / Proponent: | N Phillips on behalf of Jenbrook Nominees Pty Ltd |
| Subject Land / Locality: | No. 1 (Lot 1084) Inlet Drive, (Reserve 46241) |
| Disclosure of Officer Interest: | Nil |
| Date: | 20 July 2015 |
| Author: | Annette Harbron, Director of Planning & Sustainability |
| Authorising Officer: | Annette Harbron, Director of Planning & Sustainability |
| | 8.1.1a – Planning Application Documentation |
| | 8.1.1b – Letter from Lessee dated 7/7/2015 re: 10 year forecast development plan proposals |
| Attachments: | 8.1.1c – Approved Development Plan (2004) |
| | 8.1.1d – Item 9.1.5 from 16 October 2007 (with attachments) |

Summary:

The lessee (Jenbrook Nominees Pty Ltd) is seeking to formally lodge planning approval for additions/alterations to the existing kiosk/administration office building on No. 1 (Lot 1084) Inlet Drive, Denmark (being Reserve 46241).

As per the provisions of the lease and the Shire of Denmark's Procedure *OP040239: Construction of New or Significant Alterations to Building Structures on Council Land*, owner approval of the proposed development is required to be obtained prior to formal assessment of a Planning Application. In this regard, as per Delegation 130311: *Building Structures on Council Land*, the Chief Executive Officer only has delegation to sign on behalf of Council as the landowner for minor developments (defined as gazebos, verandahs, sheds and fences), with all major development applications to be referred to Council for Council consideration.

Since lodging the proposal, the lessee has also provided Council of their 10 year forecast development plan for the Caravan Park and are seeking Council's in-principal support to such proposals before progressing them further.

Given that the lessee has recently provided Council with a 10 year forecast development plan for the site that is not entirely consistent with the current approved Development Plan (2004), the fact that the tourism and caravan industry landscape has substantially changed since 2004, and the strategic function and importance/value of this site and the entire Rivermouth Precinct from a tourist, recreational and environmental perspective, it is considered appropriate that a new Development Plan be prepared for the site to ensure that the level of development, services & facilities provided is appropriate for the site and the Rivermouth Precinct.

Background:

Planning Application

An application for Planning Approval was lodged with Planning Services in May 2015 for additions/alterations to the existing shop/kiosk/administration office building on No. 1 (Lot 1084) Inlet Drive, Denmark (being Reserve 46241). Attached as Attachment 8.1.1a is the planning application documentation submitted to date.

Upon receipt of the Planning Application, Planning Services advised the applicant that the Planning Application was deemed incomplete until such time as the landowner (being the Shire of Denmark) has signed the planning application form, and that as per the provisions of the lease (being Clause 2(14) Lessee's Additions and Alterations) pertaining to the site and the Shire of Denmark's Procedure *OP040239: Construction of New or Significant Alterations to*

Building Structures on Council Land, owner approval of the proposed development is required to be obtained prior to formal assessment of a Planning Application. In this regard, as per Delegation 130311: *Building Structures on Council Land*, the Chief Executive Officer only has delegation to sign on behalf of Council as the landowner for minor developments (defined as gazebos, verandahs, sheds and fences), with all major development applications to be referred to Council for Council consideration.

At the Ordinary Meeting of Council held on 16 June 2015, Council considered the proposed Kiosk/Administration Office Building proposal and resolved as follows (Res No. 060615):

That with respect to the proposed additions/alterations to the Kiosk/Administration Office Building for Denmark Rivermouth Caravan Park at No. 1 (Lot 1084) Inlet Drive, Denmark, Council defer the matter until the 28 July 2015 Council Meeting.

As a result of the above Council resolution, the lessee was invited to the 7 July 2015 Strategic Briefing Session with Councillors and Executive Staff to discuss the building proposal further with Councillors prior to them considering the matter at the 28 July 2015 Ordinary Meeting of Council. At the Strategic Briefing Session, the lessee submitted a letter detailing a 10 year forecast development plan for the caravan park site and indicated that he was seeking in-principal support to the development plan proposals prior to formal plans being submitted to Council – refer Attachment 8.1.1b.

Approved Development Plan for the Site

At the Ordinary Meeting of Council held on 28 September 2004, Council considered a redevelopment concept plan for the Denmark Rivermouth Caravan Park and resolved as follows (Res No. 295/04):

- (1) *That Council support the upgrading/redevelopment of the Rivermouth Caravan Park at Location 1084 (Reserve 46241) Inlet Drive, subject to:*
 - (i) *The development being in accordance with the overall plan No. NP-03 and dated 7 September 2004.*
 - (ii) *Support being provided by the Department of Environment.*
 - (iii) *Connection of all park homes, ensuite sites and ablution facilities to reticulated sewer.*
 - (iv) *Any fill and drainage works being to the satisfaction of the Manager, Engineering Services.*
 - (v) *No vehicular access to Inlet Drive other than the existing entry and that required by (xiv).*
 - (vi) *The present on-site effluent disposal pond being decommissioned, filled and stabilised to Council's satisfaction.*
 - (vii) *All external building designs, materials and finishes being to the satisfaction of Council. The use of natural earth, vegetation colours are favoured. The use of white, off white and unpainted zincalume is not permitted.*
 - (viii) *The reserve boundary with the adjoining Inlet foreshore being marked to the satisfaction of Council with open style picket fence to a maximum height of 900mm.*
 - (ix) *Each stage of development being subject to an application for Planning Consent with the Manager Planning & Development granted delegated authority to approve development that is consistent with the approved overall development plan dated 7 September 2004.*
 - (x) *All internal roadways being sealed, paved and drained to the satisfaction of the Manager, Engineering Services. Car parking spaces are to be a minimum 2.7m wide.*
 - (xi) *Compliance with TPS Policy 32 – Signs.*
 - (xii) *Compliance with all Health & Building regulations.*
 - (xiii) *Compliance with the Caravans & Camping Act and associated Regulations.*

- (xiv) *An emergency fire exit along the western boundary of the reserve onto Inlet Drive being established to the satisfaction of Council. This fire exit will require a gate to restrict unwanted access onto the reserve and be secured with a 'H' lock and display a sign stating 'Emergency Access Only'. It should be located to avoid removal of trees.*
- (xv) *The proponents indemnifying Council against any possible claims that may result from a flood event over this land.*

Attached at Attachment 8.1.1c is the approved Development Plan.

It should be noted that the Development Plan was prepared by the proponent for Council's consideration during the current lease negotiations occurring in 2003/2004; with formal adoption by Council required as per the following Recital in the current lease:

C. The Lessor has expressed in principle support for the upgrading and/or redevelopment of the Premises SUBJECT TO the Lessee submitting detailed plans to the Lessor and obtaining all necessary Approvals for such plans and SUBJECT TO a formal resolution by the Council of the Lessor confirming consent and approval of such upgrading and/or redevelopment of the premises.

Development at the Rivermouth Caravan Park has generally occurred in accordance with the approved Development Plan to date and the associated requirements of Council Resolution 295/04 - noting that the outstanding works referenced in the Council report to the 16 June 2015 Ordinary Meeting have since been addressed by the lessee.

Planning Approval for New Kiosk/Communal Area Building

At the Ordinary Meeting of Council held on 16 October 2007, Council considered a planning application for a kiosk, refreshment/TV room and communal area building for patron and public use in the location identified as 'BBQ area' on the approved Development Plan, and resolved as follows (Res No. 352/07):

That Council grant planning consent for the relocation of the existing kiosk and development of a new refreshment/TV room and communal area for the use of patrons of the Rivermouth Caravan Park only subject to the following conditions:

- 1) This approval is for the relocation and modest expansion (20m²) of the existing kiosk function to the new building.*
- 2) This approval does not permit either the development of a shop, fast food outlet or restaurant or other similar use offering goods and services directly to the public.*
- 3) The development being connected to reticulated water and sewerage.*
- 4) The development being constructed at a minimum building height of 2.5m AHD as required by clause 5.27.3 of the scheme.*
- 5) No direct access from the building to the foreshore is permitted and the reserve boundary with the inlet being marked with an open style boundary fence to a maximum height of 900mm. Detailed plans are to be approved by Council's Engineering Department prior to any works commencing.*
- 6) The proponents indemnifying Council against any possible claims that may result from a flood event over this land.*
- 7) Completion of a Food Premises Notification Form to the satisfaction of the Environmental Health Officer.*

Attached at Attachment 8.1.1d is the relevant Council report and associated attachments.

The abovementioned Planning Approval was not enacted upon and has subsequently lapsed. From a recent discussion with the lessee, he advised that this proposal was not proceeded with due to the requirement to restrict sales to caravan park patrons only.

Consultation:

The Officer has considered the requirement for consultation and/or engagement with persons or organisations that may be unduly affected by the proposal and considered Council's Community Engagement Policy P040123 and the associated Framework and believes that in relation to the Officer Recommendation that a new Development Plan for the site should be prepared, any draft Development Plan would be the subject to community consultation. Noting that a draft Development Plan would need to be referred back to Council for formal consideration of adopting for public advertising purposes, such report at that time would provide further details on the appropriate community consultation to be undertaken.

Councillors and Executive Staff undertook a site visit of the Denmark Rivermouth Caravan Park on 3 March 2015, with the lessee advising at that point in time that he was in the throes of preparing a proposal that would involve increasing the size of the kiosk/administration building for Council's consideration in due course.

Statutory Obligations:

Clause 2(14) of the lease between Jenbrook Nominees Pty Ltd and the Shire of Denmark (which expires on 31 March 2025) states:

Lessee's Additions and Alterations

- (a) Not to cut maim injure or make any external or internal additions or alterations to the roof walls floors partitions ceilings fixtures fittings foundations or supports without the prior written consent of the Lessor.*
- (b) Not to alter the elevation plan architectural appearance or any buildings erections and improvements on the premises without the prior written consent of the Lessor.*
- (c) Any alterations, additions or improvements made to the Premises with the written consent of the Lessor shall comply with all statutory requirements.*
- (d) The Lessee shall apply for and obtain all necessary Approvals prior to commencing any alterations, additions or improvements to the Premises.*

Consequently, and moreso having due regard to the Shire's Procedure *OP040239: Construction of New or Significant Alternations to Building Structures on Council Land* and related Delegation 130311: *Building Structures on Council Land*, this matter is being referred to Council for consideration accordingly.

Should Council consent to the proposal as the landowner, it should be noted that Council as the decision making authority could still refuse the Planning Application - noting however that the applicant then has the ability to lodge a Right of Review with the State Administrative Tribunal as per the *Planning and Development Act 2005*.

Clause 4(17) of the lease states:

Upgrading of Premises

The Lessee shall submit from time to time to the Lessor works plans for upgrading of the Premises complying with all statutory requirements and the Lessee agrees to make satisfactory progress with upgrading of the premises throughout the Term in accordance with such works plans as amended by reasonable requirements of the Lessor or other necessary Approvals.

In this regard, the Lessee has undertaken development on-site generally in accordance with the approved Development Plan of 2004.

Development of the park is governed by Town Planning Scheme No. 3, the *Caravan Parks & Camping Grounds Act 1995* and the *Caravan Parks & Camping Grounds Regulations 1997*.

At this point in time a formal assessment of the proposal has not been undertaken by Planning Services, however a key issue that has been identified from a preliminary review is that no formal details have been provided of the improvements/upgrades proposed for the existing building to ensure that there is a complementary visual interface of the new and existing building on-site. Recent discussions have occurred with the lessee to ascertain what they proposed to do in this regard and verbal advice was received that it is likely the building would be painted in similar colours to match. From a Planning Services perspective it is considered appropriate that Council require a detailed colours and materials schedule for the proposed and existing building accompany the planning application documentation for assessment purposes accordingly.

Policy Implications:

There are no policy implications.

Budget / Financial Implications:

Clause 4(3) of the lease states:

Ownership of Lessee Improvements, Fixtures & Fittings

- (a) *At the expiration or sooner determination of the Term or any renewal thereof whether by effluxion of time or caused by the surrender of the Term by the Lessee or its termination by the Lessor because of any breach of the conditions and covenants herein contained or for any other reason the Lessor shall pay to the Lessee compensation the equivalent to the value of all fixed capital improvements made by the Lessee on the Premises and in default of agreement to be determined by a valuer who is a member of the Australian Property Institute (Western Australian Division) ("Valuer") nominated by the President for the time being of the Institute at the request of the Lessor or the Lessee and the costs of the determination shall be borne equally between the Lessor and the Lessee PROVIDED THAT the obligation to pay for fixed capital improvements is only if the Lessor intends to continue to lease the Premises as a Caravan Park to a third party but not to the Lessee or the lessee of the day pursuant to an assignment of this Lease and PROVIDED THAT if the Lessor enters into a new lease of the Premises ("New Lease") within 2 years from the date of expiration or sooner determination of the Term then any payment due to the Lessee shall be paid by the Lessor to the Lessee within 30 days of the date of commencement of such New Lease.*
- (b) *If the Lessor does not intend to continue to lease the Premises as a Caravan Park as referred to in clause 4(3)(a) then subject to clause 4(3)(c) the Lessee immediately before the determination of the Term shall remove all Buildings Structures improvements fixtures fittings plant machinery equipment utensils shelving counters safes and other material things or articles belonging to or brought upon the Premises by the Lessee and promptly make good to the reasonable satisfaction of the Lessor all damage caused or occasioned by such removal.*
- (c) *The Lessor and the Lessee agree that notwithstanding the provisions of clause 4(3)(b) on the expiration of the Lease or surrender of the Premises the Lessor shall have the right to purchase at a price to be mutually agreed or failing agreement at a current market valuation the Buildings Structures improvements and fixtures removable under clause 4(3)(b) if it shall give the Lessee notice in writing of its intention to do so not less than THREE (3) months before the expiration of the Term or if the Term shall be determined by re-entry not more than FOURTEEN (14) days after such re-entry. Any valuation required to be made hereunder shall be made by the Valuer referred to in clause 4(3)(a) at the request of the Lessor and the Lessee or of either of them and the costs of any such valuation shall be paid by the Lessor and the Lessee in equal shares.*
- (d) *If the Lessor does not intend to continue to lease the Premises as a Caravan Park upon the determination of the Term by the effluxion of time the Lessor shall give notice in writing to the Lessee no less than FIVE (5) years prior to the determination of the Term by effluxion of time of such intention.*

The Shire's Director of Finance & Administration is currently seeking advice on how this and similar contingent liabilities should be best accounted for from an accounting perspective.

The 2015/2016 draft budget, which is to be considered by Council for adoption at the Special Meeting of Council to be held on 27 July 2015, has included an allocation of \$10,000 to assist with facilitating (if required) an updated Development Plan for the Denmark Rivermouth Caravan Park site.

It should also be noted that within the 2015/2016 draft budget, an allocation of \$10,000 to assist with facilitating (if required) a Development Plan for the Peaceful Bay Caravan Park site has also been included.

Strategic Implications:

Given that the lessee has recently provided Council with a 10 year forecast development plan for the site that is not entirely consistent with the current approved Development Plan (2004), the fact that the tourism and caravan industry landscape has substantially changed since 2004, and the strategic function and importance/value of this site and the entire Rivermouth Precinct from a tourist, recreational and environmental perspective, it is considered appropriate that a new Development Plan be prepared for the site to ensure that the level of development, services & facilities provided is appropriate for the site and the Rivermouth Precinct.

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

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

Sustainability Implications:

➤ **Governance:**

Due regard has been given to the relevant Council Policy, Organisational Procedure Manual and Delegation Register provisions relating to the report and officer recommendation.

➤ **Environmental:**

Environmental considerations relating to the development proposal will be considered as part of the Development Plan and/or planning application process.

As per Clause 4(12)(b) of the lease, the Lessee shall ensure that all new fixed buildings as defined by the Act are built at or above Australian Height Datum 1.8 metres and the Lessee shall indemnify the Lessor against all loss and damage incurred by it on account of loss, damage or injury caused by flooding. This matter can be dealt with as a condition of planning approval if granted.

➤ **Economic:**

The Denmark Rivermouth Caravan Park makes a positive contribution to Denmark's tourism industry.

➤ **Social:**

Social considerations (built heritage and indigenous heritage – given the property is adjacent to Denmark River) will be considered as part of the Development Plan and/or planning application process.

The Aboriginal Cultural Heritage Management Plan for Southern Section of Kwoorabup Beelia (Denmark River), which was adopted by Council at the 26 July 2011 Ordinary Meeting (Res No. 060711) as a guiding document to protect and manage the indigenous heritage values of the Kwoorabup Beelia (Denmark River), does not have any specific recommendations in relation to the Denmark Rivermouth Caravan Park site.

➤ **Risk:**

| Risk | Risk Likelihood (based on history and with existing controls) | Risk Impact / Consequence | Risk Rating (Prior to Treatment or Control) | Principal Risk Theme | Risk Action Plan (Controls or Treatment proposed) |
|---|---|---------------------------|---|--|--|
| That Council does not support the proposal for a redeveloped kiosk/administration building, thus not supporting the planning application as the landowner | Unlikely (2) | Insignificant (1) | Low (1-4) | Inadequate Engagement - Community / Stakeholders / Crs | Accept Officer Recommendation regarding in-principle support to the proposal at this stage |
| That Council does not support the development of a new Development Plan for the site | Unlikely (2) | Moderate (3) | Moderate (5-9) | Inadequate Engagement - Community / Stakeholders / Crs | Accept Officer Recommendation |

Comment/Conclusion:

Having regard to the approved 2004 Development Plan for the Denmark Rivermouth Caravan Park, it is considered that the proposal for additions/alterations to the existing kiosk/administration office building is generally consistent with the approved Development Plan in terms of such a facility being located in this vicinity – albeit the proposal is for the building to be substantially increased in size and having a setback of approximately 1.2 metres to the northern boundary (current building has a minimum setback of approximately 10.0 metres).

One could question the need for the size of the building for this purpose and/or the internal layout (i.e. being divided into two separate spaces) however it is considered that this is primarily an operational risk of the lessee’s; noting however that Council may have a future contingent liability associated with the building as a capital improvement on the land if the lease is renewed to another party for the purposes of a caravan park and not the current lessee. From discussions with the lessee, the justification/rationale for the size and configuration of the building is that the current kiosk and reception/administration operations are combined and during peak periods it can get busy with staff and customer numbers, thus segregating the two aspects of the business is likely to be of benefit for all parties.

Specifically in relation to the use of the building, Clause 2(12)(a) of the lease states:

To use the Premises only for the Purpose and not to carry on or permit to be carried on at the Premises any trade or business other than that of a caravan and camping park including a refreshment room and kiosk for the supply of food, goods and equipment normally required by caravaners, campers and other members of the public resorting to and/or using the Premises as a holiday resort without the prior written consent of the Lessor.

In this regard the lessee has confirmed that they are seeking to provide food, goods and equipment for the primary benefit of caravan park patrons – refer Attachment 8.1.1a.

That said it is known that in 2007 the lessee proposed to provide a kiosk facility for patron and public use, with Council resolving to allow only a 20m² expansion of the existing kiosk building and restricted the development to only cater for caravan park patrons – see ‘Background’ section of this report and Attachment 8.1.1d for detailed information.

Noting that there is public foreshore land directly opposite the caravan park, the sale of some products (i.e. ice creams, drinks etc.) to the general public is inevitable and unavoidable – and from a lease and town planning perspective (noting the land use of shop is an “AA” use class in

the ‘Tourist’ zone) it is considered that this will not be in conflict with the general purpose/intent of the lease and/or Town Planning Scheme No. 3.

Therefore Council, and the lessee, may wish to give consideration to whether a café/restaurant and/or shop in this location is appropriate – particularly in light of the strategic function and importance/value of the entire Rivermouth Precinct from a tourist and recreational usage perspective.

In this regard it is considered that the best mechanism to consider appropriate development options for the site that will be of benefit to the caravan park patrons, lessee and the broader users of the Rivermouth Precinct, is to prepare an updated Development Plan for the site – with a draft Development Plan being developed and such draft Development Plan being the subject of community consultation prior to final consideration by Council of approving a new Development Plan for the site.

Voting Requirements:

Simple majority.

OFFICER RECOMMENDATION

ITEM 8.1.1

That with respect to the proposed additions/alterations to the Kiosk/Administration Office Building for Denmark Rivermouth Caravan Park at No. 1 (Lot 1084) Inlet Drive, Denmark, Council:

1. Advises the lessee that consent to the proposal as required under Clause 2(14) of the lease between the Shire of Denmark and Jenbrook Nominees Pty Ltd is in-principally agreed to, however formal consent is to be deferred until such time as the Shire of Denmark and Jenbrook Nominees Pty Ltd progress discussions on the development of a new Development Plan, such that the level of development, services and facilities provided are appropriate for the Caravan Park site and the Rivermouth Precinct.
2. Advises the lessee that the 10 year forecast development plan works submitted for the site, including the proposed additions/alterations to the Kiosk/Administration Office Building, are to form the initial basis for development considerations for the updated Development Plan.

COUNCIL RESOLUTION

ITEM 8.1.1

MOVED: CR OSBORNE

SECONDED: CR MORRELL

That with respect to the proposed additions/alterations to the Kiosk/Administration Office Building for Denmark Rivermouth Caravan Park at No. 1 (Lot 1084) Inlet Drive, Denmark, Council:

1. Advises the lessee that in principle support is given to the proposal as required under Clause 2 (14), however formal consent is to be deferred until such time as the Shire of Denmark and Jenbrook Nominees Pty Ltd progress discussions on the development of a new Development Plan, such that the level of development, services and facilities provided are appropriate for the Caravan Park site and the Rivermouth Precinct.
2. Advises the lessee that the 10 year forecast development plan works submitted for the site, including the proposed additions/alterations to the Kiosk/Administration Office Building, are to form the initial basis for development considerations for the updated Development Plan.

CARRIED UNANIMOUSLY: 7/0

Res: 230715

REASONS FOR CHANGE

Council reworded part 1 to provide clarity to the reader.

8.2 Director of Community & Regulatory Services
Nil

8.3 Director of Infrastructure Services
Nil

8.4 Director of Finance & Administration
Nil

8.5 Chief Executive Officer

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| 8.5.1 STRATEGIC REGIONAL ECONOMIC DEVELOPMENT PLANNING ALLIANCE |
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| | |
|--|---|
| File Ref: | New |
| Applicant / Proponent: | City of Albany |
| Subject Land / Locality: | Local authorities of the Shires of Denmark and Plantagenet and City of Albany |
| Disclosure of Officer Interest: | Nil |
| Date: | 21 July 2015 |
| Author: | Dale Stewart, Chief Executive Officer |
| Authorising Officer: | Dale Stewart, Chief Executive Officer |
| Attachments: | 8.5.1 – Memorandum of Understanding |

Summary:

The Shires of Denmark and Plantagenet are invited to sign a Memorandum of Understanding (MOU) with the City of Albany.

Background:

The Shire President and Chief Executive Officer (CEO) have been meeting regularly over the past 3 years with the Shire President and Mayor and CEO’s of the Shire of Plantagenet and City of Albany discussing strategic matters of mutual interest including ANZAC, tourism, joint marketing and promotion and economic development generally.

Consultation:

Consultation in the formation of the proposed MOU has been between the respective local authorities Mayor / Shire Presidents and CEO’s.

Statutory Obligations:

There are no statutory obligations or implications with respect to signing the proposed MOU.

If the Councils’ were now, or subsequently, inclined to proceed down the path of formalising the structure into a Regional Organisation of Councils (ROC), then the provisions of the Local Government Act 1995 would relate (Division 4 of Part 3). That is not proposed at this point in time due to the encompassing administrative burdens on such entities.

Policy Implications:

Policy P040216, the Council’s Regional Price Preference Policy relates to some extent in relation to dot point 2 of the proposed MOU (No competing against each other in the Economic Development Space’). This policy provides ‘buy local’ advantage to certain businesses in the Shire of Denmark and adjoining three local governments’ to varying degrees as detailed below.

The officers view however is that the intent of the MOU is far broader reaching than specific reference to this Policy. Indeed it is intended that this Policy will be referred to a subsequent Council meeting to review the Policy formally given recent concerns expressed by members of the Denmark Chamber of Commerce and indeed the Chamber on some member's behalf.

The CEO's opinion is that this should not detract from entering into this broader strategic alliance via the MOU proposed.

Regional Price Preference Policy

Objective

To provide price preference to regional suppliers tendering for contracts with Council.

Policy

1. Price preference will apply to all tenders invited by Council for the supply of goods and services and construction (building) services, unless Council resolves that this policy not apply to a particular tender.
2. The following levels of preference will be applied under this policy:
 - a) Goods and Services up to a maximum price reduction of \$50,000
10% to businesses located within the Shire of Denmark
5% to businesses located within the City of Albany and Shires of Plantagenet and the Walpole Ward of the Shire of Manjimup.
 - b) Construction (Building) Services up to a maximum price reduction of \$50,000.
5% to businesses located within the Shire of Denmark
2.5% to businesses located within the City of Albany and Shires of Plantagenet and the Walpole Ward of the Shire of Manjimup.
 - c) Goods and Services, including Construction (Building) Services up to a maximum price reduction of \$500,000, if Council is seeking tenders for the provision of those goods or services for the first time, due to those goods or services having been, until then, undertaken by Council.
10% to businesses located within the Shire of Denmark
5% to businesses located within the City of Albany and Shires of Plantagenet and the Walpole Ward of the Shire of Manjimup.
1. The levels of preference outlined in 2.2 above, will only apply to businesses that have been located within the local government areas specified for at least 6 months prior to the closing date of tenders.
2. Only those goods or services identified in the tender as being from regional sources will be included in the discounted calculation that forms a part of the assessment of a tender.
3. It should be noted that price is only one of the factors to be assessed when Council decides to accept the tender it thinks would be the most advantageous to accept.

It is proposed to review the Council's current Regional Price Preference Policy as a result of recent concerns expressed in the community as a distinct separate action.

Budget / Financial Implications:

The Council's draft Budget for the 2015/16 financial year also includes reference to the development of a joint Regional Economic Development Strategy between the three local governments (\$30,000 provision). Whilst it is early in the conceptual development, an indicative budget is over \$120,000, which could be funded from the three local governments and other parties such as the Great Southern Development Commission and Regional Development Australia (Great Southern).

Strategic Implications:

The report and officer recommendation is consistent with Council's adopted Mission and Vision and will in the officers' opinion be a key driver in assisting to achieve the following specific adopted Strategic Objectives and Goals.

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

GOALS - That the Shire of Denmark.....

Agriculture: ...acknowledge agriculture as a diverse and prominent industry in the region, and implements and advocates for policies and strategies that will assist farming to improve its effectiveness and viability.

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

Employment: ...identify the key economic drivers in the region and develop, implement and advocate for policies that will provide and assist viable and acceptable employment opportunities for residents and ratepayers.

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

Communication: ...acknowledges the importance of high quality and reliable communication networks, and assists and advocates for the timely growth, capacity and improvement of them.

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

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

GOALS - That the Shire of Denmark.....

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

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

Sustainability Implications:**➤ Governance:**

Governance considerations relating to the MOU are detailed under Strategic implications and the comments section below.

➤ Environmental:

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

➤ **Economic:**

The principal imperative of the proposed MOU is to increase employment and the retention of young persons via working collaboratively and cooperatively in identifying opportunities and the joint advocacy, lobbying, marketing and promotion of those opportunities.

➤ **Social:**

There are no known significant social considerations relating to signing of the MOU.

➤ **Risk:**

| Risk | Risk Likelihood (based on history and with existing controls) | Risk Impact / Consequence | Risk Rating (Prior to Treatment or Control) | Principal Risk Theme | Risk Action Plan (Controls or Treatment proposed) |
|-------------------------------|---|---------------------------|---|------------------------------------|--|
| That the MOU isn't effective. | Unlikely (2) | Minor (2) | Low (1-4) | Not Meeting Community expectations | Accept Risk noting that there is no penalty for exiting from the MOU, or end or review date. |

Comment/Conclusion:

The purposes, objectives and outcomes of the MOU proposed are as follows;

OBJECTIVES

The objectives of the Strategic Regional Economic Development Plan shall be:

To formalise a grouping of the three local authorities - City of Albany, Shire of Denmark and Shire of Plantagenet - for the purpose of furthering Economic Development in the sub-region, recognising that what is good for one is good for all.

HOW WILL THIS BE ACHIEVED

- Lobbying State and Federal Governments for direct or indirect assistance to encourage economic growth and employment. This will include, but not be limited to, improved and better access, power, water and communications .
- Not competing against each other in the Economic Development space.
- Encouraging business and industry to come to the area, stay in the area and grow in the area.
- Working with other agencies as a single entity.
- Recognising current strengths and building upon existing industries such as agriculture and tourism as well as newer industries.
- Sharing research and information on possible economic opportunities.
- Making joint submissions where appropriate and advantageous.
- Considering the development of Strategic Regional Economic Development Plan covering the Districts of the three participant councils.
- Preparing a Strategic Regional Economic Development Plan covering the Districts of the three participant councils.

SUCCESS WILL BE MEASURED BY

- Outcomes not inputs.
- An increase in employment in the sub-region across all demographics .
- The retention of young people in the sub-region.

In the opinion of the CEO, The intent of the MOU is really one of 'goodwill' and does not create any legally binding obligations on any of the signatories. Indeed there is no 'out', penalty or review clauses.

The document merely reflects the actions and discussion of goodwill and intent to ‘work together’ that has been evident in the past three years by the local authorities involved.

With a State Election coming up every 4 years (next due on 11 March 2017), the opportunity presents to collectively advocate for services, facilities and infrastructure that will benefit the region and sub-region as a whole. The local authorities represent the three largest populations of the Great Southern and are adjoining and have a significant community of interest.

Examples only (of areas to explore collaboratively) include; tourism marketing and promotion, gas pipelines, upgrade of the Albany and South Coast Highways, Water and Waste Water, etc.

Voting Requirements:

Simple majority.

| | |
|--|--------------------|
| COUNCIL RESOLUTION & OFFICER RECOMMENDATION | ITEM 8.5.1a |
| MOVED: CR MORRELL | SECONDED: CR PEDRO |
| That Council enter in a Memorandum of Understanding with the Shire of Plantagenet and City of Albany to further the economic development of the sub-region subject to acknowledgment by the other two parties that the Shire of Denmark currently has a Regional Price Preference Policy that it is currently reviewing, and reserves the right to retain. | |
| CARRIED UNANIMOUSLY: 7/0 | Res: 240715 |

4.28pm – *The Director of Community & Regulatory Services entered the room.*

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|---|----------------------|
| COUNCIL RESOLUTION & OFFICER RECOMMENDATION | ITEM 8.5.1b |
| MOVED: CR PEDRO | SECONDED: CR ROWLAND |
| That Council request a report by the CEO on the current adopted Regional Price Preference Policy, and its application and stated objectives, given recent concerns expressed by local businesses and the Denmark Chamber of Commerce regarding local procurement practices of the Shire of Denmark. | |
| CARRIED UNANIMOUSLY: 7/0 | Res: 250715 |

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

Cr Seeney is a member of the Denmark Lions Club which sub-lets a shed on their site to the Denmark Yacht Club and as a consequence there may be a perception that his impartiality on this matter may be affected. Cr Seeney declares that he will consider this matter on its merits and vote accordingly.

The Director of Community & Regulatory Services owns a yacht and is in the process of becoming a member of the Denmark Yacht Club and as a consequence there may be a perception that his impartiality on this matter may be affected. Mr Harwood declares that he will consider this matter on its merits and advise Council accordingly.

8.5.2 DENMARK YACHT CLUB – CONCEPT PLANS

| | |
|--|--|
| File Ref: | A3171 |
| Applicant / Proponent: | Denmark Yacht Club |
| Subject Land / Locality: | Reserve No. 36714 (Ricketts Reserve) - No. 5 (Lot 966) Inlet Drive, Denmark |
| Disclosure of Officer Interest: | Nil |
| Date: | 24 June 2015 |
| Author: | Dale Stewart, Chief Executive Officer |
| Authorising Officer: | Dale Stewart, Chief Executive Officer |
| Attachments: | 8.5.2a – Brown & Root - Proposed Yacht Club and Marina Facilities 2000 8.5.2b – Denmark Yacht Club's suggested amendment to layout plan |

Summary:

This report outlines support for the request of the Denmark Yacht Club Incorporated (DYC) to commence planning for the development of portion of Reserve (Management Order) Number 36714, for the purposes of a Yacht Club.

The Reserve which has a management order in favour of Council with power to lease for periods up to 21 years. The purpose of the reserve is established and set aside for the purposes of 'Recreation Yacht Club'.

Background:

The Chief Executive Officer wrote to the Denmark Yacht Club in March 2015 with the following as background.

"I am writing to in response to your letter that we received on the 4 November 2014 seeking permission the build a fenced area on the Lions Club lease area for the purpose of storing boats on site. I firstly apologise for my delay in responding.

Your request has been discussed at a recent Council Briefing Session and following that, I advise that the Council are not inclined to support your proposal or any expansion of your Club's current sub-leasing arrangements for a number of reasons.

Firstly, allowing your group to build a fenced area on the Lions Club lease hold area for the purpose of storing boats is a short term decision that will have the potential effect of anchoring your Club to the area when other, more compatible groups such as historical restorations, men's sheds and the like are starting to compete for space in the precinct.

Secondly, and perhaps most importantly, is that there is a perfectly suitable reserve under the care and control of Council termed the 'Ricketts Reserve' that is vested in Council for the purposes of 'Recreation Yacht Club' immediately adjacent. Council already has the ability to lease all (or parts) of the land for period of up to 21 years and there has been a previous



Above: Ricketts Reserve (1.195ha)

Perceptions of safety, security and the like can easily be dealt with cheap modern security features and access to the current boat launching facilities at the Rivermouth or Denmark River are no greater distance from this Reserve than across the road on the Heritage Precinct. In time – with planning and grants – launching, retrieval and/or even mooring of yachts can hopefully occur at the Yacht Club Reserve itself. Surely that would be the ideal scenario for the Club to work towards.

Given these factors, Council’s preferred scenario is for your Club to be incrementally relocating itself to the nominated foreshore location and staff are willing to assist your group in applying for grant funding to assist in that process.

Alternatively, should you wish to pursue the idea of testing Council’s formal consideration of seeking additional land / lease at the existing Heritage Reserve, then I firstly require written support for the request from the Lessee (the Lions Club) including detail of what area you require, by when and what purposes you will put the land to (location, construction, sheds, fencing etc).”

The Club, in considering this correspondence, advised that they concurred with the Concept of “relocating” to the site rather than competing for space at the Heritage Precinct on the Denmark No. 3 Railway Station Reserve.

Indeed they provided a suggested amendment to the 2000 Denmark Yacht Club / Denmark Marina Facility Conceptual Layout Plan, contained in the Brown & Root Services document received by Council in that same year, together with a indicative Yacht Club (draft only) basic Clubhouse facility. (refer Attachment 8.5.2b).

Consultation:

The Officer has considered the requirement for consultation and/or engagement with persons or organisations that may be unduly affected by the proposal and considered Council’s Community Engagement Policy P040123 and the associated Framework and believes that some additional external/internal engagement or consultation is required, as detailed within the Officer’s Recommendation.

If the Council believed that there was current or further competing demands for this Reserve then it would be wise to advertise Council’s intent to enter into an in principle agreement with the Yacht Club regarding development and use of portions of this Reserve.

The Officer is of the view that there would be no current community group that would have a competing interest in the Reserve, save the interest of Denmark Tidy Towns who assisted construct the gazebo at the site.

Nearby residents may also feel that they should be consulted, notwithstanding that the Reserve has, since inception, been vested for the purposes of Recreation Yacht Club. They, together with other residents and ratepayers and community groups, would be invited to make comment during the consultation phase associated with the concept plan.

Statutory Obligations:

Section 3.58 of the Local Government Act 9155 relates, in that the Council can dispose (including by definition, lease) land under its control to ‘not for profit’ community groups without advertising, subject to the Land Administration Act 1997 (approval of the Minister for Lands, not longer than 21 years and being consistent with the purposes of the Management Order).

Nothing however prevents the Council from advertising a proposal to enter into a lease, with a community group, if the Council was of the view that the proposed lease might be controversial, there might be competing and relevant interests, or otherwise require community engagement.

Policy Implications:

The following Council Policies have some relevance and guide the development request and consistent with the policies;

P110304 Sustainability & Collocation (Sport & Recreation Facilities)

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.

P110104 Denmark Railway Station No. 3 Reserve – Heritage Precinct Concept Plan

Council has adopted a Concept Plan for the Denmark Historical Railway Station Precinct, located between Hollings Road, Crellin Street and Inlet Drive, Denmark. The Plan provides guidance as to the use of the Reserve and future enhancement and development.

P110102 Leasing of Land and/or Buildings to Community Groups

With respect to community groups exclusively occupying, or seeking to exclusively occupy, Council property or buildings;

- a. There be a signed lease based on Council's standard 'not for profit' lease prior to occupation or upon renewal;*
- b. Council desires lessees to be incorporated (with the exception of Volunteer Bush Fire brigades which are covered under the Bush Fires Act);*
- c. Contribution by Council towards legal costs (if required) by Council 100%;*
- d. Have differing rentals discounted to market valuation depending upon the following factors;*
 - i. To what degree the property is utilised for charitable, not for profit or sporting purposes;*
 - ii. The ability of the lessee to derive income from use of the property including sub-leases, rental hire and the presence of a liquor license;*
 - iii. The strategic value of the land in the short term to Council;*
 - iv. To what degree if any that the use is competing with commercial enterprise;*
- e. Where the applied rental is lower than a valuation or real estate rental appraisal, Council indicate that contra difference in its annual budget, for that property;*
- f. Offer local authority rate exemption, rebate or donation (rather than exemption contra);*
- g. Offer Council insurance of the buildings and Council owned property / contents without recoup of the annual premium and to encourage repairs and reinstatement through insurance claims, Council will meet all bar the first \$500 of any insurance excess on claims;*
- h. All outgoings and consumable costs to be met by the lessee including but not limited to water, sewer, gas, telephone, ESL, refuse charges, etc;*
- i. Lessees to meet all ongoing internal and external building and grounds maintenance other than structural building repairs;*
- j. Leases require endorsement of Council prior to signing;*
- k. Have differing tenure and renewal rights and terms depending upon the strategic future requirements for that land and or building(s) but based on a maximum of 21 years including any right of renewal (subject to the prevailing management order if applicable);*
- l. The use of the property is consistent with the zoning and/or management order and power to lease exists (if required).*
- m. Reflecting the non 'exclusive club' usage and fact that they perform a valuable Council service for wide community benefit Council annually (subject to annual budget deliberation) contributes to the maintenance of the following leased Halls;*
 - i. Parryville Hall \$2,000;*
 - ii. Tingle Dale Hall \$2,000;*
 - iii. Scotsdale Hall \$2,000 (nb: Hall is owned by Scotsdale Progress Association on Association vested land);*
 - iv. Kentdale Hall \$2,000;*
 - v. RSL Hall \$3,000;*
 - vi. Museum Building maintenance is 100% Council responsibility;*
 - vii. Normalup Hall \$2,000;*
 - viii. Morgan Richards Community Centre \$2,000; and*
 - ix. Peaceful Bay Hall (& Les Carpenter Shed) \$2,000.*

- n. Council's Principal Building Surveyor at least on an annual basis inspect all leased buildings and land to ascertain their state of maintenance pursuant to the lease and priority for future and long term maintenance in conjunction with the lessee.
- o. The definition of 'exclusive occupation' does not include reference to yearly licenses to occupy storage space within a building such as at the Denmark Recreation Centre.

Budget / Financial Implications:

The Council's current draft Budget for the 2015/16 financial year includes a provision of \$3,000 towards the development of a draft Concept Plan for the site, in conjunction with the Yacht Club.

The Officer suggests that should this principle be accepted that the draft Concept Plan, once completed, will be referred to the community, in general, for comment.

The development of buildings and or marina facilities, in time, would need to be considered in the context of Council's overall budget and financial planning and there would be some expectation of the Council contributing towards construction costs. It would not be unreasonable to also suggest that the Government, via the Department of Sport & Recreation and/or the Department of Transport (Recreational Boating & Facilities Scheme), would also contribute significantly.

Development of a marina, inclusive of associated dredging, would not be insignificant in cost but could be incrementally provided and in the short term, the Club would only need access to land for a fenced compound and/or shed. Water based activities from this Reserve, would probably not eventuate until waste water outfall from the nearby Water Corporation Treatment Plant ceased. This is proposed to commence in the year 2018 pursuant to the recent Government announcement.

Strategic Implications:

The following guiding Strategic Documents of the Council relate;

1. Proposed Yacht Club and Marina Facilities Denmark – Brown & Root – 1 Oct 2000 (received by Council 28 November 2000, noting that alternative sites should be investigated).
2. The Denmark Boating & Facilities Plan (2007) (received by Council 16 October 2007 with the request to implement the plan) has the following strategic recommendations relating;

Yacht Club Reserve

- *Management of current uses and activities by:*
 - *The Yacht Club reserve is currently unused as it is not suitable for any vessels to launch from and does not have any shade areas or seating for short term visits e.g. picnics*
- *Planned construction of additional facilities to accommodate future increase in demand*
 - *Completion of the previously planned renovations to the reserve including expansion of sailing boat set up and launching area.*
 - *Dredging of the Eastern side of the reserve and construction of a small marina providing protection and public boat launching ramps. (long term proposal)*
 - *Construction of picnic furniture, seating, shade and possibly BBQ*
 - *A Clubhouse for the yacht club could be constructed if the area was made suitable for the running of events. The Clubhouse would need to be funded by the Club however it could start small and expand over time.*
- *Mitigation strategies to restrict inappropriate vessels and activities and divert them to more appropriate sites:*
 - *Develop the area for sail boats only*
 - *Restrict launch ramp to shallow draft vessels Or craft under 5m in length*

- *Open Launch ramp at peak times only, at other times*
- *allow beach launching of sail boats only*

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

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

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

Sustainability Implications:

➤ **Governance:**

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

➤ **Environmental:**

The proposed development would need to be done in an environmentally sensitive manner inclusive of disposal of any effluent. The existing public toilets could potentially be utilised and/or modified to accommodate.

➤ **Economic:**

The proposed development would provide additional tourism and recreational facility for residents and visitors alike.

➤ **Social:**

The proposed development would provide additional social opportunity for all ages.

➤ **Risk:**

| Risk | Risk Likelihood (based on history and with existing controls) | Risk Impact / Consequence | Risk Rating (Prior to Treatment or Control) | Principal Risk Theme | Risk Action Plan (Controls or Treatment proposed) |
|---|---|---------------------------|---|--|---|
| That there are competing interest for development of the Reserve. | Unlikely (2) | Minor (2) | Low (1-4) | Inadequate Engagement - Community / Stakeholders / Crs | Manage by providing in principle support at this point in time until such time that the proposed Concept Plan is referred for public comment. |

Comment/Conclusion:

The request and desires of the Denmark Yacht Club to transition to relocation of their activities commencing with compound, fencing, shed, through to eventually a Clubhouse and Marina, also allows for the Heritage Precinct to be used for its predominate and preferred purposes.

Ultimately, the Reserve is well suited for utilisation for its intended purpose – that being Recreation Yacht Club. Indeed, no doubt, the Reserve was reclaimed for the purpose.

The existence of the existing Council owned gazebo and public toilets, in the opinion of the Chief Executive Officer, do not detract from the request and would probably be retained and/or modified, as required.

It would probably be advisable for the Council to ensure that any eventual lease with the Club contained a requirement for some general public access to the southern most point of the Reserve and/or the marina. This detail would be considered at a later date.

The Club has no urgent desires to construct anything substantive on the Reserve whilst the process of concept planning and community engagement took place over the next six months.

Voting Requirements:

Simple majority.

COUNCIL RESOLUTION & OFFICER RECOMMENDATION

ITEM 8.5.2

MOVED: CR OSBORNE

SECONDED: CR SEENEY

That with respect to the request by the Denmark Yacht Club to lease a portion of Reserve No. 36714 (Ricketts Reserve) for the purposes of a Yacht Club, Council;

1. Agree in principle to the request;
2. Authorise the Chief Executive Officer to;
 - a) Engage with the Club regarding the development of a Concept Plan; and
 - b) Advertise the agreed Concept Plan to the community for a minimum 60 day advertising period.

CARRIED UNANIMOUSLY: 7/0

Res: 260715

9. COMMITTEE REPORTS & RECOMMENDATIONS

9.1 DISABILITY SERVICES ADVISORY COMMITTEE – MOKARE HERITAGE TRAIL

| | |
|--|--|
| File Ref: | SER.8 & A3027 & A3188 |
| Applicant / Proponent: | Not applicable |
| Subject Land / Locality: | Not applicable |
| Disclosure of Officer Interest: | Nil |
| Date: | 14 July 2015 |
| Author: | Claire Thompson, Executive Assistant |
| Authorising Officer: | Dale Stewart, Chief Executive Officer |
| Attachments: | 9.1 – Schedule 1 and 2 of the Disability Services Act 1993 |

Summary:

This report considers a recommendation from the Disability Services Advisory Committee for Council to request Council Officers to prepare a report for Council's consideration as to whether they would support a grant application to improve the accesses (southern and northern ends) on the eastern side of the Mokare Heritage Trail.

Background:

The Shire of Denmark's Disability Access & Inclusion Plan 2013-2018 includes reference to exploring options & funding for conversion of the north east steps to the Denmark Traffic Bridge, off the Mokare Heritage Trail, to an accessible ramp.

During their consideration of this action item under the Plan, the Disability Committee Advisory Committee members also raised concern with the accessibility of the south, eastern end of the Trail.

At their meeting held on 21 May 2015, the Disability Services Advisory Committee resolved as follows;

"That the Disability Services Advisory Committee recommend that Council request Officers to prepare a report for Council to consider whether they would support a grant application to the Disability Services Commission's Community Infrastructure Grants Fund to improve the accesses (southern and northern ends) on the eastern side of the Mokare Heritage Trail."

Consultation:

The Officer has considered the requirement for consultation and/or engagement with persons or organisations that may be unduly affected by the proposal and considered Council's Community Engagement Policy P040123 and the associated Framework and believes that no additional external/internal engagement or consultation is required, at this time.

In developing the draft Shire of Denmark Bike Plan (currently out for public comment until 21 August 2015) Green Skills undertook extensive community consultation. As noted in the draft plan, a common theme was 'very strong support for upgrading Mokare Heritage Trail around the river'.

Statutory Obligations:

Section 28 (1) of the Disability Services Act 1993 (Western Australia) states that "each public authority must have a disability access and inclusion plan to ensure that in so far as its functions involve dealings with the general public, the performance of those functions furthers the principles in Schedule 1 and meets the objectives in Schedule 2 of the Act." A copy of Schedule 1 and 2 are attached.

Section 29B of the Disability Services Act 1993 states that “a public authority that has a disability access and inclusion plan must take all practicable measures to ensure that the plan is implemented by the public authority and its officers, employees, agents or contractors.”

The Shire of Denmark’s adopted Disability Access & Inclusion Plan 2013-2018, under Strategy 2.2 includes an action item which states “Explore options & funding for conversion of the south east steps to the Denmark Traffic Bridge, off the Mokare Walk Trail, to an accessible ramp.”

The commonwealth Disability Discrimination Act 1992 also relates.

The objects of this Act are:

- a) *to eliminate, as far as possible, discrimination against persons on the ground of disability in the areas of:*
 - (i). *work, accommodation, education, access to premises, clubs and sport; and*
 - (ii). *the provision of goods, facilities, services and land; and*
 - (iii). *existing laws; and*
 - (iv). *the administration of Commonwealth laws and programs; and*
- b) *to ensure, as far as practicable, that persons with disabilities have the same rights to equality before the law as the rest of the community; and*
- c) *to promote recognition and acceptance within the community of the principle that persons with disabilities have the same fundamental rights as the rest of the community.*

The Human Rights Commission deals with complaints made under the Disability Discrimination Act 1992 and whilst the Commission refers to “footpaths” coming under the definition of “premises” under the Act it does not refer at all to “trails”.

The Human Rights Commission notes that a “footpath” should, as far as possible, allow for a continuous accessible path of travel so that people with a range of disabilities are able to use it without encountering barriers. The Commission also notes that topographical issues, historical practices and local conditions will affect the capacity of local government authorities to achieve this level of good practice in all circumstances.

On balance, the Officer’s view is that there is no guiding legislation (State or Commonwealth) that relates to requiring the Shire of Denmark to ensure that any or all of its trails, under its care and management’ meet any accessibility requirements or standard. Therefore, the Council is at liberty to determine to its practical ability, on behalf of its community, how accessible such facilities are.

Policy Implications:

Policy P110710, Disability Access & Inclusion Policy Statement, reads as follows;

The Shire of Denmark is committed to ensuring that the community is an accessible and inclusive community for people with disabilities, their families and carers.

The Shire of Denmark interprets an accessible and inclusive community as one in which all Council functions, facilities and services (both in-house and contracted) are open, available and accessible to people with disabilities, providing them with the same opportunities, rights and responsibilities enjoyed by all other people in the community.

The Shire of Denmark recognises that people with disabilities are valued members of the community who make a variety of contributions to local social, economic and cultural life. The Shire believes that a community that recognises its diversity and supports the participation and inclusion of all of its members makes for a richer community life.

The Shire of Denmark believes that people with disabilities, their families and carers who live in country areas should be supported to remain in the community of their choice.

Budget / Financial Implications:

There are no known financial implications upon either the Council's current Budget or Long Term Financial Plan however should Council resolve to initiate a project or projects to upgrade the eastern side of the Trail (either the accesses only and/or the entire length of the eastern side as recommended in the draft Bike Plan) then there would be financial implications. The amount suggested in the draft Bike Plan is over \$235,000.

The Disability Services Commission's Community Infrastructure Grants are generally open each year, have a total funding pool of \$675,000 (2015 round) and are available to incorporated organisations, local governments, community groups and for-profit organisations. The maximum grant available per application is \$50,000. This year's round closed 10 July 2015 however it is likely that they will be available again in 2016. It is highly likely that there would be other grant sources available as well.

The Officer has recommended that two signs be erected at each end of the eastern side of the Trail and that some investigation and maintenance be undertaken. The cost of these works is minimal and would be able to be accommodated in Council's 2015/16 Budget under parks and reserves general maintenance.

Strategic Implications:

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

SOCIAL OBJECTIVE - Denmark's communities, people and places are connected and creative, vibrant and dynamic, healthy and safe.

SOCIAL GOALS

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

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

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

Sustainability Implications:**➤ Governance:**

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

➤ Environmental:

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

Upgrading the eastern side of the Trail could have significant environmental implications and the level of impact would need to be investigated prior to undertaking any works or community consultation.

➤ Economic:

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

➤ **Social:**

There is substantial community interest in the condition of the eastern side of the Mokare Walk Trail which is evident through the community consultation undertaken by Green Skills for the draft Bike Plan and the interest of the Council's Disability Services Advisory Committee and Paths & Trails Advisory Committee.

Whilst not the subject of this report, in the Officer's opinion, any major redevelopment and upgrade of the eastern side of the Mokare Walk Trail should be the subject of further community consultation.

➤ **Risk:**

| Risk | Risk Likelihood (based on history and with existing controls) | Risk Impact / Consequence | Risk Rating (Prior to Treatment or Control) | Principal Risk Theme | Risk Action Plan (Controls or Treatment proposed) |
|--|---|---------------------------|---|-----------------------------|---|
| That Council do not support the Committee or Officer Recommendation. | Unlikely (2) | Insignificant (1) | Low (1-4) | Errors, Omissions or Delays | Accept Risk |

Comment/Conclusion:

The picture below shows the current access at the south, eastern end of the Trail and, in the Officer's opinion and whilst perhaps not fully compliant to disability accessible standards, it is functional and would provide sufficient access for most people. The access is also compatible, if not better than, the condition of the rest of the eastern side of the trail.



Above - South East Access

In the Officer's opinion, if Council were to provide a fully compliant, accessible ramp (at considerable cost both in dollar terms and disturbance of vegetation) then consideration of upgrading the entire eastern side to a similar accessible standard should be given. This would involve lifting most of the trail to a height above 600AHD to prevent seasonal flooding, widening the path to a standard of 1800 - 2000mm (dual use) and sealing it.

There are many trails within the Shire of Denmark, managed by the Council, which are not sealed, fully compliant footpaths because generally that is the nature of a 'bush trail', unlike a dual / shared use footpath.

This notwithstanding, members of the Disability Services Advisory Committee and the Paths & Trails Advisory Committee frequently highlight concerns regarding the general condition of the Mokare Heritage Trail (eastern side mostly), including overgrown vegetation, cracked pavers and seasonal flooding. The Officer is of the opinion that this is likely because of the proximity of the trail to the CBD and perhaps more frequent use than other trails within the Shire.

The draft Bike Plan recommends a substantial upgrade of the eastern side of the Mokare Trail, incorporating a ramp entrance to the path along South Coast Highway stating that the trail is subject to substantial winter flooding and a very uneven path, noting that a boardwalk may be required at an estimated cost of approximately \$235,000 (plus extra for drainage works required).

Pictured below is the only access directly from the trail to the Traffic Bridge on South Coast Highway. Trail users can, of course, go under the bridge to the opposite side of the road, however the only access back onto the Traffic Bridge (from that side) is up a steep, gravel driveway and across the road back to the footpath on the southern side of the bridge.



Above - North Eastern Access

Alternatively pedestrians/cyclists can veer off the Trail prior to these steps (opposite the Bandstand) and go around the back of the Riverside Club to the footpath.

At their meeting held on 19 January 2015, the Council's Paths & Trails Advisory Committee (PATAC) requested, *"That the CEO request the Director of Planning and Sustainability to consider requesting the Denmark Riverside Club to plan a connection of the Mokare Trail through the development and upgrade of the Denmark Riverside Club. This being for Disability Access to the Mokare Trail."*

At their meeting held on 30 March 2015, the PATAC resolved as follows, *"That Infrastructure Services staff investigate the possibility for grant funding to raise the trail above the high water mark and initiate the public consultation process with regard to the proposed works to modify the trail to disability access standard on the eastern side of the Mokare trail."*

Council's Infrastructure Services have advised that they are awaiting the adoption of the Bike Plan and the recommendations therein before pursuing the availability of grant funding to undertake improvements to the eastern side of the Trail including modifying it to a disability access standard.

The Officer has provided an alternate recommendation to that of the Disability Services Advisory Committee due to the fact that community & committee concerns relating to the condition of the eastern side of the Mokare Heritage Trail are already included as high and medium priorities in the Council's Path Development Plan 2007 (priority table) and the draft Bike Plan, as well as being a topic of discussion and consideration of the PATAC. The Officer is also confident that alternative access option(s) for the north, eastern access will be considered into the Denmark Riverside Club's Stage 2 Concept Plans for consideration of the Council.

In the interim, the Officer suggests that signage be erected at both ends of the eastern side of the trail advising users that the trail is subject to seasonal flooding and that Infrastructure Services be requested to investigate overgrown vegetation which may cause accessibility issues for users.

Voting Requirements:

Simple majority.

COMMITTEE RECOMMENDATION

ITEM 9.1

That the Disability Services Advisory Committee recommend that Council request Officers to prepare a report for Council to consider whether they would support a grant application to the Disability Services Commission's Community Infrastructure Grants Fund to improve the accesses (southern and northern ends) on the eastern side of the Mokare Heritage Trail.

OFFICER RECOMMENDATION

ITEM 9.1

That with respect to improving the access (southern and northern ends) of the eastern side of the Mokare Heritage Trail, Council;

1. Thank the Disability Services Advisory Committee for their recommendation and advise that, at this time, it considers the access at the south, eastern end of the Trail to be functional, acceptable and compatible with the current accessibility standard of the eastern side of the trail and that Council will consider the recommendations to upgrade the Mokare Heritage Trail within the draft Bike Plan when;
 - a) It is presented back to Council following the conclusion of the consultation period; and
 - b) Council considers the Riverside Club Stage 2 Concept Plan due to Council in coming months.

- 2. Request Infrastructure Services to;
 - a) Erect a sign at both ends of the eastern side of the Trail to read as follows;

This trail is subject to seasonal flooding generally when the water level of the Denmark River and Wilson Inlet is above 600AHD. To check the current water level of the Wilson Inlet on the Department of Water’s Water Information Reporting website go to <http://kumina.water.wa.gov.au/waterinformation/wir/reports/publish/603032/teb.htm>
- Assess the need and schedule appropriate maintenance to the vegetation on either side of the trail, particularly with respect to sword grass and watsonia.

| | |
|---|----------------------|
| COUNCIL RESOLUTION & OFFICER RECOMMENDATION | ITEM 9.1 |
| MOVED: CR SEENEY | SECONDED: CR OSBORNE |
| <p>That with respect to improving the access (southern and northern ends) of the eastern side of the Mokare Heritage Trail, Council;</p> | |
| <p>1. Thank the Disability Services Advisory Committee for their recommendation and advise that, at this time, it considers the access at the south, eastern end of the Trail to be functional, acceptable and compatible with the current accessibility standard of the eastern side of the trail and that Council will consider the recommendations to upgrade the Mokare Heritage Trail within the draft Bike Plan when;</p> <ul style="list-style-type: none"> a) It is presented back to Council following the conclusion of the consultation period; and b) Council considers the Riverside Club Stage 2 Concept Plan due to Council in coming months. | |
| <p>2. Request Infrastructure Services to;</p> <ul style="list-style-type: none"> a) Erect a sign at both ends of the eastern side of the Trail to read as follows; <p><i>This trail is subject to seasonal flooding generally when the water level of the Denmark River and Wilson Inlet is above 600mm AHD. To check the current water level of the Wilson Inlet on the Department of Water’s Water Information Reporting website go to http://kumina.water.wa.gov.au/waterinformation/wir/reports/publish/603032/teb.htm</i></p> b) Assess the need and schedule appropriate maintenance to the vegetation on either side of the trail, particularly with respect to sword grass and watsonia; and c) Survey the levels of the current eastern path to ascertain any sections that would be inundated if the height of the Wilson Inlet was above 700mm AHD and to make recommendation to the Paths and Trails Advisory Committee on costs and approaches to achieve a minimum path service level of 700mm. | |
| CARRIED: 6/1 | Res: 270715 |

REASONS FOR CHANGE

Council included part 2 c) to initiate a survey of the eastern side of the trail including recommendation to the Council’s Paths & Trails Advisory Committee of the costs and approaches to raise sections which occasionally are inundated with water.

10. MATTERS BEHIND CLOSED DOORS

Nil

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

Nil

12. CLOSURE OF MEETING

4.55pm – There being no further business to discuss the Deputy Shire President, Cr Sampson, declared the meeting closed.

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

Signed: _____

Dale Stewart – Chief Executive Officer

Date: _____

These minutes were confirmed at the meeting of the _____

Signed: _____

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