

# Shire of Denmark Minutes



## ORDINARY (DECISION MAKING) MEETING OF COUNCIL

HELD IN THE COUNCIL CHAMBERS,  
SOUTH COAST HIGHWAY, DENMARK,  
ON TUESDAY, 20 APRIL 2010.

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# Ordinary Council Meeting

27 April 2010

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

4.07pm – The Shire President, Cr Thornton, declared the meeting open.

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

MEMBERS PRESENT:

- Cr Ross Thornton (Shire President)
- Cr Ken Richardson-Newton (Deputy Shire President)
- Cr Phil Barnes
- Cr Kim Barrow
- Cr George Ebbett
- Cr Adrian Hinds
- Cr Dawn Pedro
- Cr Richard Phair
- Cr John Sampson
- Cr Alex Syme
- Cr John Wakka

STAFF:

- Mr Dale Stewart (Chief Executive Officer)
- Mr Garry Bird (Director of Finance & Administration) *(from 4.12pm)*
- Mr Gregg Harwood (Director of Community & Regulatory Services)
- Mr Rob Whooley (Director of Infrastructure Services)
- Mr Sam Williams (Director of Planning & Sustainability)
- Ms Claire Thompson (Executive Assistant)

APOLOGIES:

Nil

ON LEAVE OF ABSENCE:

Cr Robert Laing

ABSENT:

Nil

VISITORS:

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

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

DECLARATIONS OF INTEREST:

Name	Item No	Interest	Nature
Mr Dale Stewart	9.5.1	Financial	Mr Stewart's children deliver newspapers within the Denmark townsite.
Cr Ken Richardson-Newton	9.1.4	Financial	Cr Richardson-Newton is a tourist accommodation operator.
Cr John Sampson	9.1.7	Proximity	Cr Sampson is an adjoining neighbour to Lights Road Protection Zone.
Mr Duncan Ross (Report Author)	9.1.5	Financial	Mr Ross's partner works at a nearby winery.
Cr George Ebbett	12.1	Impartiality	Mr Ebbett is the Chairman of the Wilson Inlet Management Advisory Group & a commercial fisherman operating in Wilson Inlet.

### 3. ANNOUNCEMENTS BY THE PERSON PRESIDING

*The Shire President stated that there would be a slight amendment to the Agenda for future meetings in that Item 5 titled Members' Reports will be removed as it is not required.*

### 4. PUBLIC QUESTION TIME

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

Nil

#### 4.2 PUBLIC QUESTIONS

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

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

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

##### 4.2.1 Mr Don McMaster – Item 9.1.7 (Request to Initiate Scheme Amendment No. 123 – Omnibus Amendment)

Mr McMaster handed Councillors & the CEO a printout of the questions which he would like answered in relation to proposed changes to Lights Road Landscape Protection Subdivision conditions.

- “1. Considering that the concerns currently under review concerning Lights Road Landscape Protection Zone were initiated by Mr Rob Whooley the Director of Infrastructure Services an owner of one of the lots and as I understand, two dogs, are Councillors aware that at the meeting of 20/04/10 Mr Whooley, did no declare an interest?
2. Has the Director of Infrastructure Services declared an interest at this meeting?
3. Do you realize that in ratifying the points on Lights Road Landscape Protection you will be customizing conditions which are the conditions the current owners accepted at the time of purchase?
4. Are you aware that while there are three subdivision lots there will be four dwellings each entitled to have two dogs: eight dogs in all legally on the subdivision?
5. Are you prepared to be specific as to the areas in which each of these possible pairs of dogs will be contained and the nature of fencing: height, distance from the ground, gate arrangement and mesh size that will ensure the dogs do not run free in a pack? In the past neighbourhood dogs have killed sheep, chooks and guinea pigs on my property.
6. Given that some breeds of dogs are more likely to attach stock than others and even more so for males wanting to impress a female are you prepared to place restrictions in relation to size, breed and gender of dogs permitted on the subdivision?
7. Are you aware that the section of the new conditions regarding setbacks seem to have already been infringed on Mr Whooley's lot by the

- positioning of a shed and going by the siteworks the house may well excessively infringe the stated setback from the Priority Conservation Area?
8. Considering that the set conditions have already been breached in different ways does Council intend to address future breaches of the set conditions and to impose appropriate penalties?
  9. If Council does not have the will or the power to enforce the conditions which it has applied to this subdivision how then is my livelihood and my sheep flock to be protected?
  10. Are you in support of the existing loophole of merely have to write a letter to have subdivision conditions relaxed or changed? If so, what is the point of having set these conditions in the first instance?
  11. Recently a ranger returned on of Mr Robert Whooley's dogs which I had caught on my property. The ranger indicated to me he would impound the dog but evidently gave it back straight away. This dog has no identification and no licence tag. It is possible that it is microchipped but this would need to be verified. On Anzac Day when Mr Whooley was at his block the dog again entered my yard. I contained it and called the ranger who again returned it to his line manager. Do you think this dog should have been impounded and the owner fined?"

*The CEO responded to questions 1 & 2 by stating that Mr Whooley was not the author of the report nor had he provided advice on the matter and therefore was not required to declare an interest in the item pursuant to section 5.70 of the Local Government Act 1995.*

*The Shire President advised that the remaining questions would be taken on notice and replied to in writing.*

*4.12pm – The Director of Finance & Administration entered the meeting.*

**4.2.2 Ms Janice Marshall – Item 9.1.1 - (Friends of Reserves Groups Strategy)**

Ms Marshall commended the actions by Council Officers in creating the strategy and stated that she believed that it would enable the community to work collaboratively with the Shire in managing Council reserves.

**4.2.3 Mr Tony Pedro – Tenders for Fire Equipment**

Mr Pedro expressed concern about a bulldozer which didn't have any lights turning up to a recent fire and stated that he believed that a more structured tender system should be in place to ensure that contractors knew exactly what services and equipment were to be provided.

Mr Pedro asked, "What do you think of the idea for the next 2010-2011 burning seasons having a system whereby tenders are called to provide a fire heavy suppression?"

*The Shire President responded by saying that there was a tender system already in place and that a contract had been let this year which would include the contractor being on call and assisting with the prescribed burns.*

*The Director of Community & Regulatory Services stated that Mr Pedro's proposal to have equipment available on extreme fire days was good however it would be difficult to assess.*

*Cr Syme asked whether tenders include specifications such as a lights requirement on machinery.*

*The Director of Infrastructure Services stated that operational requirements vary and they do request some things when sourcing equipment however sometimes they had to take the best that they can get.*

*The Shire President stated he was a member of the Bush Fire Advisory Committee and he would raise Mr Pedro's concerns at the next meeting of that Committee.*

**4.2.4 Ms Joan Merrified - Item 9.1.7 (Request to Initiate Scheme Amendment No. 123 – Omnibus Amendment)**

Ms Merrified spoke as the owner of a property on Lights Road which would be affected by the omnibus amendment and gave background on the development of the Lights Road Landscape Protection Zone. Ms Merrified expressed concern whether, should the amendment be approved, Council would be policing any roaming of cats & dogs because she didn't believe that it was being policed now even though it was against the current Landscape Protection Zone.

Ms Merrified urged Council to consider other landholders in the area.

**4.2.5 Mr Gary Capelli – Item 9.1.4 (Review of Tourism Signs and Related Policies)**

Mr Capelli spoke as the owner of a local winery and the importance of signage to his business. Mr Capelli suggested that perhaps Council could consider getting a business focus group together to a talk about what is happening with signage in the shire.

*The Shire President responded by saying that the Alternate Officer Recommendation included provision for a review of the Tourism Signage Review document and that the Director of Planning & Sustainability would canvass the business community as part of that review process.*

**4.2.6 Mr Brian Humphries – Electrical and Fire Safety Regulations**

Mr Humphries gave background in relation to his concerns regarding electrical and fire safety compliance within the shire with reference to legislation introduced by the Office of Energy Safety in the WA Department of Commerce which took effect from 9 August 2009. Mr Humphries asked the following question;

“To the CEO, can you assure Council and the public that all tourist accommodation facilities in Denmark are fully compliant to the new electrical and fire safety regulations?”

Mr Humphries referenced legislation which requires all rental properties to have mains powered smoke detectors installed and asked the CEO, “Since August/October 2009 when the new electrical and fire safety legislation came into effect until the present date, has the Shire issued any rectification notices for non-compliance to the installation of the Residual Circuit Devices or of hard-wired smoke detectors in any of different types of properties that I have mentioned? If none have been issued, on what basis does the Shire give assurance to the public that all tourist accommodation is fully compliant to the new electrical and fire safety regulations?”

Mr Humphries also noted that Federal Minister Combet had recommended RCDs be fitted to protect against possible fire in those homes that have had foil insulation installed under the Government's free home insulation program. Mr

Humphries asked the CEO, “Are you aware of any homes in Denmark having participated in the Federal Govt’s free home insulation scheme? If so, are those homes fully compliant to the new electrical and fire safety regulations? If you are not aware, how might you ascertain if there are any such homes in Denmark and also that they are compliant to these new safety regulations?”

*The CEO stated that he would take the questions on notice and respond to them in writing.*

Mr Humphries then asked the Director of Planning & Sustainability, “Will these new mandatory electrical and fire safety regulations be accommodated in the forthcoming draft Tourism Policy insomuch as they have relevance to the provision of tourist accommodation? And will you also advise the Denmark Visitor Centre and seek their good efforts to validate the compliance of all holiday accommodation listed through the DVC?”

*The Director of Planning & Sustainability replied that the draft Tourism Strategy included reference to mandatory electrical standards for holiday accommodation.*

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

Nil

**4.4 PRESENTATIONS, DEPUTATIONS & PETITIONS**

Nil

**5. MEMBERS’ REPORTS**

In accordance with Policy P040127 Councillor reports are included in the Council’s Information Bulletin, available on Council’s website.

**6. APPLICATIONS FOR LEAVE OF ABSENCE**

Nil

**7. CONFIRMATION OF MINUTES**

**7.1 ORDINARY COUNCIL MEETING**

<b>COUNCIL RESOLUTION &amp; OFFICER RECOMMENDATION</b>	<b>ITEM 7.1</b>
<b>MOVED: CR SAMPSON</b>	<b>SECONDED: CR WAKKA</b>
That the minutes of the Ordinary Meeting of Council held on the 20 April 2010 be confirmed as a true and correct record of the proceedings,	
1. Page 14 – remove the words ‘did not specifically’ where they appear twice; and	
2. Page 14 – added the words “Cr Syme sought advice as to the correct legal description of the property”.	
<b>CARRIED: 11/0</b>	<b>Res: 040410</b>

**8. ELECTED MEMBERS MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN****8.1 CLEARING AND EXCAVATION OF CREEK BETWEEN ZIMMERMAN STREET & INLET DRIVE**

<b>File Ref:</b>	A2187
<b>Applicant / Proponent:</b>	Not applicable
<b>Subject Land / Locality:</b>	Reserve 36260, Zimmerman Street & Inlet Drive
<b>Disclosure of Officer Interest:</b>	Nil
<b>Date:</b>	15 April 2010
<b>Author:</b>	Cr Alex Syme
<b>Authorising Officer:</b>	Not applicable
<b>Attachments:</b>	No

**Comment**

The Shire has cleared along side of this creek from opposite the Works Depot in Zimmermann Street to Inlet Drive sufficient to allow an excavator access to then dig out the creek turning it into a drain over a more than one kilometre stretch. Much of the work has been conducted within Reserve 36260 vested in the Water Authority of WA and a further substantial length within and along the Heritage Rail Trail. The creek receives treated effluent from the Denmark Waste Water Treatment Plant but with the greatest volume of water generated by its catchment now coming from urban developed areas as far as Cussons Road.

The work carried out by the Shire breaches the fundamental principles of land and water management.

It is critical for remedial work to be carried out immediately on this creek prior to a significant autumn to early winter rainfall event. Such remedial work could include the installation of 'riffle zones' in the creek. Shire staff training could include instruction in the implementation 'Streamlining' which is a sophisticated NRM land and water management tool that has been widely applied within the catchments of estuaries in the Shire.

There is widespread concern and community interest in the management of Wilson Inlet and the Shire should not be or seen to be a contributor to negative impacts on the Inlet.

**Comment from the Director of Infrastructure Services**

The Director of Infrastructure Services provides the following comments and Officer Recommendation;

The stormwater/ treated effluent transport channel, between Zimmerman Street and the large private dams into which this discharges, has been cleaned out.

The works were carried out to assist in alleviating recent and more consistent flooding experienced in Zimmerman Street, Pierce Street and Inlet Drive. Additionally the tourist accommodation at the Denmark Rivermouth Caravan Park and Denmark Waters B&B experienced up to 0.5m of water flooding their properties. There are obvious health concerns relating to this type of inundation particularly where septic tanks and tourists are involved.

The inability of the system to carry the discharge has resulted in backwater building up back over Zimmerman Street. The overflow entered the Pierce Street system as contra-flow and ultimately surcharged the Caravan Park system. The surcharge also spilled over into the storage area opposite Denmark Waters B&B creating a contra-flow which caused their flooding.

In order to rehabilitate the channel a reasonably large machine was required. Whilst any clearing is undesirable the extent was kept to a bare minimum. Discussions with



Councils Rehabilitation Officer suggest that little rehabilitation will be required and the recovery is already evident on the ground.

In terms of erosion and sedimentation affecting Wilson Inlet the channel soil is assessed as being reasonably stable. The channel in question does not discharge directly into the Inlet. There are two large water bodies on private property into which the channel discharges. These water bodies are large enough to allow most suspended silts time to settle out before the water enters the Inlet. Notwithstanding this we will closely monitor the performance of the channel for erosion, revegetation and weed management. If required, assistance will be provided to return the affected area to a more “natural” state.

Council’s Engineering Department is very keen to protect all streams, drains and other water transport mechanisms from silting and pollution. Much more needs to be done in this area and having appropriate protection in place will greatly minimise maintenance impacts. Discussions with one of Council’s NRM officers show strong agreement on this point.

Training in protection of waterways supported by budget allocations to implement the required measures would be greatly appreciated.

**OFFICER RECOMMENDATION**

**ITEM 8.1**

That Council request:

1. The CEO to arrange training for relevant Shire staff in protection of waterways/ catchment management
2. The Council’s Director of Infrastructure Services to:
  - a. Monitor the channel and take appropriate action to minimise erosion if it occurs;
  - b. Monitor the revegetation and liaise with Council’s Revegetation Officer in determining what action may be required; and
  - c. Monitor any re-occurrence of weeds and take measures to control them until sufficient revegetation has occurred.

**COUNCIL RESOLUTION & NOTICE OF MOTION**

**ITEM 8.1**

**MOVED: CR SYME**

**SECONDED: CR EBBETT**

1. That Council, having become aware of the clearing along and excavation of a major creek flowing into Wilson Inlet, request the Shire’s Director of Infrastructure Services to implement as a matter of urgency the following remedial works in order to limit negative impacts on the Inlet:
  - The placement of structures in the excavated creek sufficient in size and number to slow water flow and cause overland flows and flooding;
  - Such works to be planned and implemented with advice and concurrence of the Water Corporation and the Department of Water;
  - Stabilisation of the cleared areas with brush or other means and assist revegetation as required;
  - Draw up and implement a weed control plan with a minimum 2 year horizon.
2. That Council request the CEO to arrange training for relevant Shire staff in the principles and aims of catchment management on the south coast, in particular within the Shire of Denmark.

**CARRIED: 7/4**

**Res: 050410**

*Cr Syme requested that all Councillors’ votes on the above resolution be recorded.*

**FOR:** Cr Ebbett, Cr Hinds, Cr Pedro, Cr Syme, Cr Thornton, Cr Barnes & Cr Sampson.

**AGAINST:** Cr Barrow, Cr Richardson-Newton, Cr Wakka & Cr Phair.

*5.36pm – The Director of Infrastructure Services left the meeting.*

## 9. REPORTS OF OFFICERS

### 9.1 Director of Planning & Sustainability

#### 9.1.1 FRIENDS OF RESERVES GROUPS STRATEGY

<b>File Ref:</b>	REM 20
<b>Applicant / Proponent:</b>	Not applicable
<b>Subject Land / Locality:</b>	Shire bushland, foreshore and coastal reserves
<b>Disclosure of Officer Interest:</b>	Nil
<b>Date:</b>	7 April 2010
<b>Author:</b>	Helen Heydenrych, Natural Resource Management Officer
<b>Authorising Officer:</b>	Sam Williams, Director of Planning and Sustainability
<b>Attachments:</b>	Yes – page 1

#### **Summary:**

The *Friends of Reserves Strategy* has been advertised for public comment and has been reviewed. Council is requested to adopt the attached *Friends of Reserves Strategy (April 2010)*.

#### **Background:**

The Shire of Denmark Wilson Inlet Foreshore Management Plan 2008 (adopted by Council Res 111108) and the Mt Hallowell Management Plan 2008 (adopted by Council Res 100708) identify numerous management activities which are recommended for implementation by “Friends of Reserve” groups.

Interest has been expressed by residents neighbouring Mt Hallowell Reserve and Morgan Street Reserve to form a “Friends of Reserve” volunteer bush carer groups. The attached strategy was drawn up by the Natural Resource Management Officer in order to provide a user-friendly and structured approach to the formation of these groups. The Strategy was received by Council and advertised for public comment in November 2009 for a period of 3 weeks. Two written comments, and one telephonic comment, were received from members of the Denmark public.

The strategy outlines a clear organisational process to ensure that activities undertaken by volunteer groups in Shire managed reserves are in accordance with Shire approved management objectives for the conservation of natural values and biodiversity of the reserves.

The strategy also clearly states the shared responsibility of the Shire of Denmark and the volunteers involved to provide for the safety of the individuals involved in volunteer bush care work. This includes a requirement of a keeping a register of volunteer group members with the Shire of Denmark, and a good record of all activities undertaken according to an agreed Activity Plan for each reserve. The formation of the group is required to be inclusive of all community members wishing to assist with bush care in their local neighbourhood.

#### **Comment:**

The Strategy is intended to make the process of forming “Friends of Reserves” groups a simple and community inclusive process, and assist volunteers in undertaking activities in reserves safely, according to an approved Activity Plan. It has been difficult to properly recognise and thank the community members for volunteer works undertaken in reserves in the past, and it is hoped that a good record keeping of works will provide the foundation for being able to monitor and acknowledge the input of our community into the care of Shire managed reserves.

**Consultation:**

The Strategy was advertised for public comment in November 2009 for a period of 3 weeks, and two written comment and one telephonic comment, were received from members of the Denmark public. The current version has been revised to incorporate suggested changes, and has been recirculated to those members who submitted comment.

The current (April 2010) version has been well received by community members, who have considerable experience in volunteer bush care activities.

**Statutory Obligations:**

There are no statutory obligations.

**Policy Implications:**

The Strategy, once adopted by Council, will provide policy for the formation of Shire of Denmark "Friends of Reserves" community volunteer groups.

**Budget / Financial Implications:**

There are no known financial implications upon the Councils current Budget or Plan for the Future.

**Strategic Implications:**

Although there is no significant strategic implications with regards this report, it should be noted that the bush care volunteers assist with implementing strategic management actions in accordance with Council approved Shire of Denmark Reserve Management Plans for our bushland, foreshore and coastal reserves.

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

Volunteer bush care activities in reserves assist Council with the ongoing maintenance of reserves, particularly through weed and litter removal. The natural values of Denmark's reserves are enhanced by these management activities.

➤ **Economic:**

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

➤ **Social:**

The Strategy improves and formalises the process for the formation of Friends of Reserves volunteer bush carer groups for Shire managed reserves, and assists with the process for a better recognition of the contribution that these groups make to the upkeep of the Shire managed bushland reserve areas. It also provides a foundation for ensuring good social relationships between the Shire of Denmark staff/Council, and the members of the public who volunteer their time to maintain and improve the natural values of the bush in our public reserves.

**Voting Requirements:**

Simple majority.

5.40pm – The Director of Finance & Administration left the meeting.

5.42pm - The Director of Finance & Administration & the Director of Infrastructure Services returned to the meeting.

<b>COUNCIL RESOLUTION &amp; OFFICER RECOMMENDATION</b>	ITEM 9.1.1
MOVED: CR EBBETT	SECONDED: CR PEDRO
That Council adopt the Shire of Denmark Friends of Reserves Strategy (April 2010).	
CARRIED: 11/0	Res: 060410

**9.1.2 FENCING RELOCATION OF HERITAGE TRAIL – WENTWORTH ROAD**

<b>File Ref:</b>	A3905
<b>Applicant / Proponent:</b>	Ayton Baesjou Planning on behalf of Mr Steve Birkbeck
<b>Subject Land / Locality:</b>	Location 7664, Reserve 42507, Wentworth Road, Denmark
<b>Disclosure of Officer Interest:</b>	Nil
<b>Date:</b>	31 March 2010
<b>Author:</b>	Duncan Ross, Senior Planning Officer
<b>Authorising Officer:</b>	Sam Williams, Director of Planning & Sustainability
<b>Attachments:</b>	Yes – page 9

**Summary:**

The proponent proposes to realign a small section of fence (approximately 750m both sides) located within the Denmark to Nornalup Heritage Rail Trail (trail).

The proponent has been managing parts of the land comprising the trail for a number of years due to the existing fence alignment not located on the current cadastral reserve boundaries. Given the proponents future business interests (relating to horticulture) on the property, fencing of the trail in a manner that is beneficial to the Shire and provides a physical barrier for the proponent is proposed at the proponents cost.

The realignment of the fencing as proposed is supported, subject to appropriate conditions of approval.

**Background:**

The construction and maintenance of the trail is currently maintained by Green Skills on behalf of the Shire. The trail is multi-use, available for walkers, mountain bikers and for the Denmark to Parker Road section, horse riders. Motorbikes are not permitted.

The section of trail subject to this request consists of a barbed wire fenced area varying between 5m and 150m in width, which is understood to have been fenced by Green Skills and in no way correlates to existing cadastral boundaries as shown on the attached plan. Visually the trail from Wentworth Road to the west resembles a gravel driveway.

**Comment:**

This report firstly assesses the proposed northern fence alignment, and then secondly the proposed southern fence alignment.

The northern fence alignment consists of a small barbed wire fence located approximately 25m to the south of the actual northern trail boundary. It is proposed to widen this section of the trail, by pushing the fence approximately 15m to the north and planting a 10m portion of this area with vegetation. This will effectively reduce the area of the heritage trail under the management of the proponent, from 25m to approximately 10m. Planting is proposed to be undertaken at the proponents cost and is seen as a mechanism to visually buffer future activities occurring on the adjoining property. This approach is supported, as the alignment achieves positive outcomes, being the removal of the barbed wire, visual widening of the trail and the vegetative buffer screening future activities occurring on the adjoining land. Requesting the fence be located accurately on the actual boundary would not increase the usability or attractiveness of the trail and is not recommended.

The southern fence as proposed has been undertaken in a manner that will protect two private stands of vegetation. The proponent states they will fence these areas and merge these into the trail and although essentially unusable for walking or riding purposes, there are environmental benefits from taking such an approach, most

notably protection from cattle grazing. A small area situated between these two stands of vegetation is proposed to be fenced for use by the adjoining property owner, generally to allow access and grazing. This is supported as this part of the trail offers little to people currently wishing to use the trail.

Overall the fencing realignment as shown is supported for the following reasons:

- The fencing significantly widens the width of the existing heritage path at no cost to Council;
- The fencing will protect two small stands of existing vegetation from grazing pressures;
- The northern fence line will continue to provide access for users of the path to all land considered part of the trail;
- The fencing will not alter the current cadastral boundaries and will not be a catalyst for a claim for adverse possession.

It must be noted that the proponent's state:

*"The owners would be prepared to consider a landswap to formalise the use of the land should Council feel this is desirable".*

This is not supported as it may restrict future access arrangements and therefore land should remain in current ownership.

**Consultation:**

No consultation has been undertaken as a result of this request, however it could be argued the request could be deferred pending comment from Green Skills who maintain completed sections of the Heritage Trail. It is not recommended that this be done, as the Council has jurisdiction to determine changes to its own land such as this which does not require formal input from Green Skills.

**Statutory Obligations:**

There are no statutory obligations.

**Policy Implications:**

There are no policy implications.

**Budget / Financial Implications:**

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

**Strategic Implications:**

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

**Sustainability Implications:**

➤ **Environmental:**

The fencing request will protect some existing vegetation, which is worthy of protection.

➤ **Economic:**

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

➤ **Social:**

The Denmark Nornalup Heritage Trail is a well used public recreational accesway.

**Voting Requirements:**

Simple majority.

At the meeting held on the 20 April 2010;

1. Cr Syme raised concerns over a number of incorrect statements within the report such as Green Skills managing the trail, when in fact Council is the manager and contracts Green Skills for certain tasks from time to time; and
2. Cr Hinds requested a map be prepared to show the fencing along the boundaries of the reserve.

The Director of Planning & Sustainability has provided an additional map, amended incorrect statements within the report and provides an Alternate Officer Recommendation.

At the meeting held on the 20 April 2010, Cr Sampson noted that there was some infrastructure on the reserve and requested a map showing the type and location of the infrastructure be provided to Council.

The Director of Planning & Sustainability is investigating the matter and will endeavour to provide information for Councillors at the meeting.

<b>COUNCIL RESOLUTION &amp; OFFICER RECOMMENDATION</b>	ITEM 9.1.2
MOVED: CR RICHARDSON-NEWTON	SECONDED: CR WAKKA
<p>That with respect to the application to realign an existing fence line at Reserve Location 7664, Reserve 42507, Wentworth Road, Denmark as shown on the attached plans dated 16 March 2010 be approved subject to the following conditions:</p> <ol style="list-style-type: none"> <li>1. No ownership change to any of the land shall result as a result of this decision.</li> <li>2. The applicant shall undertake the fencing at their cost to the satisfaction of the Director of Planning and Sustainability.</li> <li>3. Access shall be retained into all areas under the legal boundary of the Heritage Trail, to the satisfaction of the Director of Planning and Sustainability.</li> <li>4. No infrastructure shall be constructed on any part of the Denmark Nornalup Heritage Trail managed by the proponent without further Council approval.</li> <li>5. Revegetation to be undertaken in consultation with Green Skills to the satisfaction of the Director of Planning and Sustainability.</li> <li>6. Council reserves the right to withdraw this approval at any time.</li> </ol>	
LOST: 4/7	Res: 070410

<b>COUNCIL</b>	<b>RESOLUTION</b>	<b>&amp;</b>	<b>ALTERNATE</b>	<b>OFFICER</b>	<b>ITEM 9.1.2</b>
<b>RECOMMENDATION</b>					
MOVED: CR EBBETT			SECONDED: CR HINDS		
That with respect to the application to realign the existing fence line at Location 7664 and Reserve 42507 Wentworth Road, Denmark, defer consideration pending the following:					
<ol style="list-style-type: none"> <li>1. The provision of a structural certification for the large dam constructed on Lot 303 South Coast Highway (corner of South Coast Highway and Wentworth Road). Should the structural certification require further works to the dam to ensure its safety, these works are to be undertaken to the satisfaction of the Director of Planning and Sustainability.</li> <li>2. The submission of a development application for all infrastructure (pipes, conduits etc) currently being installed within the Heritage Rail Trail subject to this application (Location 7664 and Reserve 42507 Wentworth Road, Denmark).</li> <li>3. The provision of a conceptual plan identifying the ultimate development of Lot 303 South Coast Highway to the satisfaction of the Director of Planning and Sustainability.</li> </ol>					
<b>AMENDMENT</b>					
MOVED: CR PHAIR			SECONDED: CR RICHARDSON-NEWTON		
That a part 4 be added which states "Being referred to the Paths & Trails Advisory Committee for comment".					
CARRIED: 8/3			Res: 080410		
<b>AMENDED MOTION</b>					
That with respect to the application to realign the existing fence line at Location 7664 and Reserve 42507 Wentworth Road, Denmark, defer consideration pending the following:					
<ol style="list-style-type: none"> <li>1. The provision of a structural certification for the large dam constructed on Lot 303 South Coast Highway (corner of South Coast Highway and Wentworth Road). Should the structural certification require further works to the dam to ensure its safety, these works are to be undertaken to the satisfaction of the Director of Planning and Sustainability.</li> <li>2. The submission of a development application for all infrastructure (pipes, conduits etc) currently being installed within the Heritage Rail Trail subject to this application (Location 7664 and Reserve 42507 Wentworth Road, Denmark).</li> <li>3. The provision of a conceptual plan identifying the ultimate development of Lot 303 South Coast Highway to the satisfaction of the Director of Planning and Sustainability.</li> <li>4. Being referred to the Paths &amp; Trails Advisory Committee for comment.</li> </ol>					
THE AMENDED MOTION THEN BECAME THE SUBSTANTIVE MOTION WHICH WAS THEN PUT & CARRIED: 7/4					
Res: 090410					

*Cr Richardson-Newton requested that all Councillors' votes on the above resolution be recorded.*

**FOR:** Cr Ebbett, Cr Hinds, Cr Phair, Cr Pedro, Cr Syme, Cr Barnes & Cr Sampson.

**AGAINST:** Cr Richardson-Newton, Cr Barrow, Cr Thornton & Cr Wakka.

**6.12pm - Public Question Time**

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

<b>COUNCIL RESOLUTION</b>	
MOVED: CR HINDS	SECONDED: CR RICHARDSON-NEWTON
That the meeting be adjourned for a short break.	
LOST: 4/7	Res: 100410

6.13pm - Cr Barrow & Cr Ebbett left the meeting.

6.13pm - The Director of Infrastructure Services left the meeting.

**9.1.3 CONSTRUCTION OF COLORBOND STEEL HANGAR**

<b>File Ref:</b>	A3209
<b>Applicant / Proponent:</b>	Charles Michael Owen
<b>Subject Land / Locality:</b>	Shown as Hangar Site 2 Pt. Reserve 41390 Wrightson Road, Denmark
<b>Disclosure of Officer Interest:</b>	Nil
<b>Date:</b>	7 April 2010
<b>Author:</b>	Duncan Ross, Senior Planning Officer
<b>Authorising Officer:</b>	Sam Williams, Director of Planning & Sustainability
<b>Attachments:</b>	Yes – page 13

**Summary:**

The applicant proposes to construct a 12m by 12m aircraft hangar with a total height of 4.35m on the above site. The hangar is to be constructed on Council’s leasehold land comprising the Denmark Aerial Landing Ground as shown on the attached plans and is to be constructed using steel frames and clad with ‘wilderness’ coloured colorbond metal sheeting for the roof and walls. The plans show a 10,000 litre watertank located at the rear of the hangar.

The application should be approved subject to conditions.

**Background:**

The land is contained within Reserve 41390 which is a public use reserve under Town Planning Scheme No. 3 (TPS No.3) for the purpose of an aerial landing ground. Clause 2.2 of the TPS No.3 sets out the process for considering applications on reserved land as follows:

**2.2 MATTERS TO BE CONSIDERED BY COUNCIL**

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

The application has been internally assessed by Council officers who support the application with specific building, health and engineering conditions/advice notes being recommended.

No delegated power is available for the Director of Planning and Sustainability to determine applications on reserve land, hence the application being referred to Council for consideration.

**Comment:**

Notwithstanding, Local Planning Policy No. 25 does not apply to the Reserve vested in Council, however in this instance the proposal has been assessed against Policy No. 25 Denmark Airport Hangar Lots which has the following aim and objectives:



**AIM:**

*To ensure any new development on the lots created by the airport subdivision will be carried out and managed as hangar lots, and not be used for any competing, alternative or inappropriate land uses.*

**OBJECTIVES:**

1. *To prevent buildings or vacant lots being used for any other purpose than that associated with aircraft.*
2. *To provide strict design and amenity controls to ensure appropriate development takes place on this land.*

In addition the proposal requires consideration against the following specific requirements of the policy:

<p><b><u>1. DEVELOPMENT APPLICATIONS</u></b></p> <p>1.1 All proposals to erect buildings or structures of any kind on this land or use of this land will require the submission of an application for planning consent to Council.</p> <p>1.2 Applications shall be accompanied by detailed plans produced to a workable scale, including the detail of external building materials and finishes. Such applications shall also have regard to the policy clauses listed below.</p>	<p><i>Undertaken by this Development Application being presented to Council for consideration.</i></p> <p><i>Provided. Refer to application plans (attachment 1).</i></p>
<p><b><u>2. AMENITY</u></b></p> <p>2.1 Hangar development is to be of a single storey in scale but of an adequate height to allow the parking of aircraft.</p> <p>2.2 All external building finishes are to be sympathetic to the surrounding landscape in design, colour and material. Roofs and external materials shall be of natural earth or vegetation colours in green and brown tonings. White and off white colours will not be permitted.</p> <p>2.3 N/A</p> <p>2.4 N/A.</p> <p>2.5 N/A</p> <p>2.6 N/A</p> <p>2.7 There shall be no boundary setbacks for structures on lots providing the structure meets all Building Code of Australia standards for construction.</p> <p>2.8 Where a toilet and hand basin are proposed to be incorporated into a hangar development all effluent and grey water disposal shall be carried out in an approved effluent disposal system located on site. Such effluent disposal systems are to meet all health and environmental authority requirements / guidelines.</p> <p>2.9 All stormwater is to be disposed of appropriately on site and/or in a manner to the satisfaction of the Manager, Engineering Services.</p>	<p><i>Single storey with a building height of 4.35m.</i></p> <p><i>External materials consisting of 'wilderness' colorbond cladding deemed consistent with amenity requirements.</i></p> <p><i>Complies currently and will require a Building Licence to be issued. It is noted nil setbacks will be requested for sheds adjacent to the runway.</i></p> <p><i>Requires approval from the Principal Environmental Health Officer at Building Licence stage and has been referred to as a condition of consent.</i></p> <p><i>Reflected as a condition of consent.</i></p>

<p><b>3. ALTERATIONS / ADDITIONS</b>          3.1 N/A          3.2 N/A          3.3 N/A</p>	
<p><b>4. ALTERATIONS REQUIRED BY A STATUTORY AUTHORITY</b>          4.1 N/A</p>	
<p><b>5. CLEANING, MAINTENANCE &amp; REPAIR</b>          5.1 All buildings and structures must be kept in good repair and condition to the satisfaction of Council.          5.2 The hangar area including open yards must be kept in a clean and tidy state, free from excess dirt and rubbish to the satisfaction of Council.          5.3 Council will require individual lot owners to carry out any remedial works in association with clauses 5.1 and 5.2 within a nominated time period.          5.4 All waste oil or used aircraft cleaning and maintenance products are to be stored correctly on site until they are disposed of appropriately in a manner that meets all regulatory authority requirements. This may involve the installation of sealed grease traps and pits to ensure no oil or similar products escape or are disposed off into the ground.</p>	<p><i>5.1 – 5.4 reflected as a generic advice note.</i></p>
<p><b>6. CAR PARKING</b>          6.1 Owners and visitors of/to the hangar lots will park their vehicles within their lot and/or hangar at all times.</p>	<p><i>Reflected as a condition of consent.</i></p>
<p><b>7. FIRE</b>          7.1 The owners will provide a suitable fire fighting facility capable of fighting an aviation related fire event to the satisfaction of Council, the Bush Fire Service and aviation authorities.          7.2 Owners of the hangar lots shall comply at their own cost with all directions given from time to time by Council, the Bush Fire Service and aviation authorities in relation to:          a) The storage of petrol, oil or any other material of an explosive, inflammable or dangerous nature;          b) The provision, installation and maintenance of suppressors on the owners electrical equipment to prevent interference with radio, radar or television transmission and reception;          c) Reasonable precautions against the outbreak of fire on the hangar area or in any building, hangar or structure thereon;          d) The prevention, outbreak, spread and control of fire on the hangar</p>	<p><i>The Shire’s Community Fire Manager has confirmed no specific fire fighting requirements are required for the planning approval, however there will be specific fire protection considerations undertaken during the Building Licence Stage relating to the design of the building.</i></p>

area and the land or in any building, hangar or structure thereon.	
<p><b>8. USE OF THE HANGAR AREA</b></p> <p>8.1 The use of any lot or building constructed thereon shall only be for the purposes associated with aircraft and may include garaging of aircraft or motor vehicles, operation base for an aircraft charter company, aircraft maintenance, storage of aviation fuels and oils (that storage is to meet all relevant safety standards), operation base for a car hire company, and a base for radio communications with air traffic.</p> <p>8.2 N/A</p> <p>8.3 No person is permitted to sleep within, or use as accommodation the hangar area or any buildings thereon.</p> <p>8.4 No activity is permitted within the hangar area that may in the opinion of Council become a nuisance, annoyance or danger to any person or Council, or which may interfere with the proper employment of any area within the Airport.</p>	<p><i>Reflected as a condition of consent.</i></p> <p><i>Reflected as a condition of consent.</i></p> <p><i>Reflected as an advice note.</i></p>

In addition to the above table, the applicant is made aware generically that the Council will enforce the requirements of Policy No. 25 in a manner that is consistent with the intent of the policy. This will ensure all specific requirements of the policy can be addressed where deemed appropriate by the Shire.

Overall the proposal is consistent with the requirements of the policy as the use of the site to establish an individual hangar is permitted.

**Consultation:**

No consultation has been undertaken as a result of this application.

**Statutory Obligations:**

Town Planning Scheme No. 3 – land is zoned reserve and the TPS No.3 contains specific provisions relating to land use and development on reserve land.

**Policy Implications:**

TPS No.3 Policy No. 25 ‘Denmark Airport Hangar Lots’ is relevant to this application as it stipulates the necessary design and building requirements.

**Budget / Financial Implications:**

The applicant has recently been sent a lease agreement from the Shire and will need to agree, sign and return this prior to any development occurring. The lease agreement will provide \$195 to the Shire on an annual basis.

**Strategic Implications:**

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

**Sustainability Implications:**

➤ **Environmental:**

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

➤ **Economic:**

The ongoing development of the Shires airport site is anticipated to improve air related tourism, short term visitor numbers and accessibility to the Denmark. A number of successful aviation events have recently been held at the airport, and these have been extremely well received.

➤ **Social:**

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

**Voting Requirements:**

Simple majority.

6.15pm – Cr Ebbett & Cr Barrow returned to the meeting.

6.16pm – The Director of Infrastructure Services returned to the meeting.

OFFICER RECOMMENDATION

ITEM 9.1.3

That Council grant Planning Consent for the 12m x 12m Hangar Building and associated Watertank on Lease Area 2 (Pt. Reserve 41390) Wrightson Road, Denmark subject to the following conditions:

1. This approval shall have no effect until the applicant provides evidence of the completed/executed lease document showing ownership of the land to the satisfaction of the Director of Planning & Sustainability.
2. The development to be in accordance with the attached stamped approved plans and where marked in red dated 16 March 2010.
3. The hangar building being clad in 'wilderness' colorbond metal sheeting for the walls and roof.
4. All stormwater to be disposed of on-site to the satisfaction of the Director of Infrastructure Services.
5. Any on-site potable water supply and/or effluent disposal system to be approved and constructed to the satisfaction of the Shire's Principal Environmental Health Officer.
6. All parking associated with owners and visitors of/to the hangar lots are required to park their vehicles within their lot and/or hangar at all times.
7. The hangar shall not be used for habitable purposes and the use of any lot or building constructed thereon shall be associated with aircraft only.

Advice Notes:

- i Council advises that the leased area is covered by adopted Town Planning Scheme Policy No 25 'Denmark Airport Hangar Lots' which controls the use and development within the hangar area and all development is required to comply with the requirements of that Policy (copy attached).
- ii Please contact the Shire's Building Surveyor on 9848 0300 (Quote Building Licence No. 6937) regarding additional plans and details required to progress the Building Licence application.
- iii If in the opinion of Council, the approved use causes nuisance or annoyance to neighbours or owner/occupiers of the land in the vicinity of the approved use, Council may withdraw or amend this approval.

At the meeting held on the 20 April 2010;

1. Cr Syme sought advice in relation to the relevance of Local Planning Policy No. 25; and
2. Cr Thornton sought advice in relation to comment on setbacks.

The Director of Planning & Sustainability has amended the report to address the Councillors concerns and provides the following Alternate Officer Recommendation.

<b>COUNCIL RECOMMENDATION</b>	<b>COUNCIL RESOLUTION &amp; ALTERNATE OFFICER</b>	<b>ITEM 9.1.3</b>
MOVED: CR BARNES		SECONDED: CR SYME
<p>That Council grant Planning Consent for the 12m x 12m Hangar Building and associated Watertank on Lease Area 2 (Pt. Reserve 41390) Wrightson Road, Denmark subject to the following conditions:</p> <ol style="list-style-type: none"> <li>1. This approval shall have no effect until the applicant provides evidence of the completed/executed lease document showing ownership of the land to the satisfaction of the Director of Planning &amp; Sustainability.</li> <li>2. The development to be in accordance with the attached stamped approved plans and where marked in red dated 16 March 2010.</li> <li>3. The hangar building being clad in 'wilderness' colorbond metal sheeting for the walls and roof.</li> <li>4. All stormwater to be disposed of on-site to the satisfaction of the Director of Infrastructure Services.</li> <li>5. Any on-site potable water supply and/or effluent disposal system to be approved and constructed to the satisfaction of the Shire's Principal Environmental Health Officer.</li> <li>6. All parking associated with owners and visitors of/to the hangar lots are required to park their vehicles within their lot and/or hangar at all times.</li> <li>7. The hangar shall not be used for habitable purposes and the use of any lot or building constructed thereon shall be associated with aircraft only.</li> </ol> <p>Advice Notes:</p> <ol style="list-style-type: none"> <li>i Council advises that the leased area is guided by adopted Town Planning Scheme Policy No 25 'Denmark Airport Hangar Lots' which will control the use and development within the hangar area and all development is required to comply with the requirements of that Policy (copy attached).</li> <li>ii Please contact the Shire's Building Surveyor on 9848 0300 (Quote Building Licence No. 6937) regarding additional plans and details required to progress the Building Licence application.</li> </ol>		
CARRIED: 11/0		Res: 110410

6.24pm - Cr Richardson-Newton declared a financial interest in Item 9.1.4 on the basis that he is a tourist accommodation operator. Cr Richardson-Newton left the room and did not participate in discussion or vote on the matter.

6.24pm – The Director of Community & Regulatory Services left the meeting.

<b>9.1.4 REVIEW OF TOURISM SIGNS AND RELATED POLICIES</b>	
<b>File Ref:</b>	PLN-36
<b>Applicant / Proponent:</b>	Shire of Denmark
<b>Subject Land / Locality:</b>	Shire of Denmark
<b>Disclosure of Officer Interest:</b>	Nil
<b>Date:</b>	9 April 2010
<b>Author:</b>	Duncan Ross, Senior Planning Officer
<b>Authorising Officer:</b>	Sam Williams, Director of Planning & Sustainability
<b>Attachments:</b>	Yes – page 23

**Summary:**

In May 2009 the Shire of Denmark approached Eugene Stankevicius (Manager Brand WA – Tourism, Western Australia) to undertake an audit of existing tourism signs within the Shire. The Shire has subsequently been presented with the completed Tourism Signage Review (attachment 1) which outlined a series of recommendations in terms of tourism marketing and branding directly related to tourism signs within Denmark.

Based on the recommendations of this review it is recommended that Council resolve to:

1. Receive and accept the Tourism Signage Review and instruct the Director of Planning and Sustainability to formally review the document;
2. In line with the review undertaken by the Director of Planning and Sustainability, undertake the recommendations numbered 1-175 (Part D) contained within the Tourism Signage Review; and
3. Review the Shire's Local Planning Policy No. 32 – Signs, to include a specific section and recommendations for Tourism Signs. This review is to be undertaken in accordance with Council's Community Consultation Policy, which will include, but not be limited to seeking comment from the Denmark Visitor's Centre and Denmark Chamber of Commerce.

**Background:**

The findings of the review focussed generally on those existing tourism signs located within the road reserve, and those requiring approval from Main Roads WA.

Tourism signs play an important role for visitors and should be a priority for the Shire given the high proportion of tourists who visit the area annually. Signs are as much about branding Denmark as a whole as it is about promoting individual businesses and in this regard Council has acknowledged there are numerous examples of illegal, poor quality and hazardous signs that contribute little to the overall image the Shire is keen to promote.

One of the ongoing contributors to this situation is the fact the Shire has limited and ambiguous policy and statutory directive in order to deal with sign application requests, maintenance or compliance issues. Subsequently the recommendations within the review provide new guidance as to where and how Council should be applying tourist sign standards throughout the Shire and how to go about this.

One of the key findings of the report is that many of the existing signs within the Shire need to be replaced. Tourism signs standards (including lettering, colours and symbols) are consistent throughout Western Australia however many of the tourist attractions within Denmark have been provided signs inconsistent with what their particular business are eligible for. Compounding this is the large number of illegal signs tourist operators provide to 'promote' their own business. Whilst the Shire recognises the importance signs play in terms of business promotion and exposure, many of these signs are harming Denmark's image as a serious player in the tourist market in the South West, and contribute little to coordinated and cohesive tourism approach the Shire favours.

Up until this current time, the Shire has been relatively powerless to enforce consistent standards for tourist operators. The recommendations of this report are intended to provide a framework to resolve these issues and promote a coordinated approach to tourist branding within Denmark.

**Comment:**

Accepting and reviewing the Tourist Signage Review is the first step in achieving a quality long term tourism approach for the Shire.

It is recommended as part of this resolution that the Director of Planning and Sustainability determine what actions are to be undertaken as recommended in Part D of the review. Part D provides a comprehensive list of actions the Shire should immediately undertake including removing tourism signs for business that no longer exist and the removal of illegal signs that have no (and will not be eligible for) formal approval.

Some more contentious recommendations, such as the removal or upgrading of the Information Bay at the eastern approach to town (by the Golf Club) will be presented to Council as further agenda items once the necessary consultation has been undertaken with the relevant bodies, such as with the Denmark Visitor Centre. Guidance on this will be given through the review undertaken by the Director of Planning and Sustainability.

Shire Officers will work closely with Tourism WA, and other stakeholders (such as Main Roads WA) to inform the development of the policy amendment. The recommendations of the amendments to Policy No.32 - Signs will then be presented to Council for consideration in due course.

**Consultation:**

No consultation has been undertaken as a result of this report. However, the implementation of a Review of Council Policy No.32 will be undertaken in accordance with Council's Community Consultation Policy, which will include, but not be limited to seeking comment from the Denmark Visitor's Centre and Denmark Chamber of Commerce.

**Statutory Obligations:**

There are no statutory obligations.

**Policy Implications:**

If agreed by Council, Policy No. 32 – Signs will need to be reviewed to include a specific section on Tourism Signs.

**Budget / Financial Implications:**

It is recommended Council take ownership of the recommendations within the Tourist Signage Review and replace those signs needing to be either replaced, removed or modified. The Director of Planning and Sustainability has requested that \$20,000 be set aside in the upcoming budget to undertake the recommendations.

**Strategic Implications:**

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

**Sustainability Implications:**

➤ **Environmental:**

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

➤ **Economic:**

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

➤ **Social:**

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

**Voting Requirements:**

Simple majority.

*6.25pm – The Director of Infrastructure Services left the meeting.*

**OFFICER RECOMMENDATION**

**ITEM 9.1.4**

That Council resolve the following in relation to the Tourist Signage Review prepared by Tourism Western Australia in August 2009:

1. Receive and accept the Tourism Signage Review and instruct the Director of Planning and Sustainability to review the document;
2. In line with the review undertaken by the Director of Planning and Sustainability, undertake the recommendations numbered 1-175 (Part D) within the Tourism Signage Review; and
3. Review the Shire's Local Planning Policy No. 32 – Signs, to include a specific section and recommendations for Tourism Signs.

At the meeting held on the 20 April 2010, Cr Syme stated that there were a number of errors within the Tourist Signage Review prepared by Tourism WA, including the mapping.

The Director of Planning & Sustainability provides the following Alternate Officer Recommendation to address Cr Syme's concerns.

6.29pm – The Director of Infrastructure Services returned to the meeting.

<b>COUNCIL RECOMMENDATION</b>	<b>RESOLUTION</b>	<b>&amp;</b>	<b>ALTERNATE OFFICER</b>	<b>ITEM 9.1.4</b>
MOVED: CR EBBETT			SECONDED: CR BARROW	
That Council resolve the following in relation to the Tourist Signage Review prepared by Tourism Western Australia in August 2009:				
1. Receive the Tourism Signage Review and instruct the Director of Planning and Sustainability to review the document;				
2. Subject to a review to be undertaken by the Director of Planning and Sustainability, in consultation with the Denmark Tourism Inc, Denmark Historical Society, Denmark Chamber of Commerce and affected operators undertake the recommendations numbered 1-175 (Part D) within the Tourism Signage Review; and				
3. Review the Shire's Local Planning Policy No. 32 – Signs, to include a specific section and recommendations for Tourism Signs.				
CARRIED: 9/1				Res: 120410

6.32pm – Cr Richardson-Newton returned to the meeting.

<b>9.1.5 CELLAR SALES AND ANCILLARY PRODUCT SALES</b>	
<b>File Ref:</b>	A408
<b>Applicant / Proponent:</b>	Singlefile Estate Wines Pty Ltd.
<b>Subject Land / Locality:</b>	No. 90 (PT494) Walter Road, Denmark
<b>Disclosure of Officer Interest:</b>	The author's partner works at the nearby Lake House winery and it could be considered the author has a financial interest. This disclosed interest has not affected the author's recommendation.
<b>Date:</b>	9 April 2010
<b>Author:</b>	Duncan Ross, Senior Planning Officer
<b>Authorising Officer:</b>	Sam Williams, Director of Planning & Sustainability
<b>Attachments:</b>	Yes – page 157

**Summary:**

The proponent wishes to convert an existing outbuilding into a Cellar Sales premises on an established vineyard as outlined (Attachment 1). All wine currently produced by the vineyard is sold off site under the established Producers Licence, generally to restaurants and liquor outlets in and around Perth and Denmark.

The application requires special consideration for the following reason:



- In addition to the wine produced on site, it is proposed to sell a small percentage of imported wines (from around Australia and overseas) and boutique beers as described in Attachment 2 – Proposed Operating Details, dated 12 February 2010. Cellar Sales usually involves the sale of wine produced solely on site in accordance with an established ‘Producers’ liquor licence.

The usual process would thereby involve the application being determined under delegation by the Director of Planning and Sustainability, however given the nature of the proposal, it is recommended Council be made aware of and subsequently determine this application.

It is recommended the application be approved, subject to conditions.

**Background:**

Cellar Sales is an ‘SA’ land use class, which means that Council may at its discretion permit use in the zone after giving notice of application in accordance with Clause 6.4 of the TPS No.3. The proposal was subject to the required period of public comment and no submissions were received.

The proposal is generally consistent with the definition of ‘Cellar Sales’ contained within the Town Planning Scheme No. 3 (TPS No.3) as follows:

*“Cellar Sales - means the demonstration and/or sale of wine products derived from an established vineyard and/or orchard on the owner’s property and includes the sale of ancillary products.”*

Ancillary sales would generally extend to the sale of gifts such as coffee table books, t-shirts, aprons etc as proposed by the proponent’s.

Given the operational details of the proposal, the proponent’s will most likely require a ‘Tavern’ licence from the Office of Racing, Gaming and Liquor, although there are other options such as a tourist related ‘Special’ licence. Having spoken to the said Office, it has been stated the application can be assessed under the TPS No.3 land use class of ‘Cellar Sales’ and this will not affect the proponent’s ability to sell imported wines and boutique beers or obtain the necessary liquor licence to operate in accordance with the details outlined in Appendix 2.

TABLE 1 below, sourced from the Office of Racing, Gaming and Liquor defines the different licence types relevant to this application:

<b>TABLE 1: Department of Racing, Gaming and Liquor Definitions</b>	
<b>Producer’s Licence</b>	<i>A producer’s licence authorises the licensee to sell liquor that has actually been produced by, or under the control or direction of, that person. The holder of a producer’s licence can only sell and supply liquor on and from its licensed premises and not otherwise.</i>
<b>Tavern Licence</b>	<i>Authorises the sale and supply of liquor for consumption on and off the licensed premises. A holder of a tavern licence does not need to provide accommodation.</i>
<b>Special Facility Licence - Tourism</b>	<i>A special facility licence may be granted for the purpose of allowing the sale of liquor to persons likely to be attracted to, or present at, a place that, in the opinion of the licensing authority, is or will become — (a) an attraction for tourists; or (b) a facility that enhances the State’s tourist industry.</i>

Under the TPS No.3 it is recommended avoiding the issue a of ‘Tavern’ land use approval, defined as follows:

**Tavern** - means land and buildings the subject of a Tavern licence granted under the provisions of the Liquor Act, 1970 (as amended).

This would limit the Shire's ability to control the conditions of which the activity could operate under, however under a modified 'Cellar Sales' land use class, the conditions of approval can be applied by the Office of Racing, Gaming and Liquor. Council should therefore support the application to operate as outlined, and subject to approval of this application, write to the Office of Racing, Gaming and Liquor advising of the decision and specific conditions of Council approval.

Assuming planning approval is granted, the activity will also need to be issued the following certificates under the Liquor Control Act 1988 by Council:

- Section 39 – Certificate of Local Health Authority;
- Section 40 – Certificate of Local Health Authority.

These will be issued upon approval of this application.

**Comment:**

The property is located in an area well known and surrounded by existing vineyards with operational cellar doors.

It is important to note, at a general level, the existing building will need to be upgraded, issued with the relevant building classifications during the Building Licence application and inspected by the Shire's Principal Environmental Health Officer (PEHO) prior to opening. This will also include assessment of existing effluent disposal systems. All building upgrades can be satisfactorily addressed during the building licence application and require limited consideration during this current planning consent application.

The operational details bind the way in which the activity will operate, including the number of patrons, operational hours, type of products sold and future events, such as bands and musicians that will be on site. Conditions of approval will also control the activity in accordance with Council requirements.

The main consideration requiring assessment of this application is the fact the proponent's want to deviate away from the general standards afforded to cellar sales as found elsewhere in the Shire. The proponent states (in excess of) 70% of all sales will be derived from wine produced by the property, with the remaining 30% being imported wines or boutique beers. This figure is deemed acceptable as there will be instances when people want to experience something other than what is produced on site, and this could include imported wines and boutique beers.

This approach will be self regulating to a certain degree. People visit Denmark wineries to experience, in most cases, the wines that are grown locally. It is unlikely a large percentage of the sales from this premise will involve imported wines and boutique beers as from a purely business perspective wines produced and sold on site will return higher profits than those needing to be imported. Therefore, the proponent's would be wise to promote their own product as much as possible.

Whilst there is a risk this application could set a precedent for similar applications within the Shire, it is not considered that this will be detrimental to the amenity, character or primary purpose of existing wineries or rural areas within the Shire. Denmark, as an increasingly popular tourist destination should be seeking to provide as many attractions as possible with a wide degree of differentiation, and business variation should be encouraged where possible. Existing wineries throughout the Shire currently promote numerous points of difference including, the setting, the quality of wines, the winemakers, the sale of ancillary products (e.g. artworks), live music or the wine prices. The sale of small volumes of imported wines and boutique beers is another example of differentiation which should be encouraged.

Whilst there is the perception that wineries are extremely profitable enterprises, the fact remains that significant investment and expenditure is required to maintain such a venture and Council should encourage such ventures to continue to invest in the Shire, particularly if it wants to continue to promote itself as a wine region.

Other considerations include:

- Events proposed to be held on site are generally dealt with on a case by case basis by the Council and the Office of Racing, Gaming and Liquor (by issuing 'Special' liquor licences) and it is recommended this approach continue to apply in this instance.
- The operating hours, although stated as being at the proponent's discretion should be limited to between 10am and 7pm (7 days per week). Any variations to this shall require further Council approval.
- The Cellar Sales building will need to be inspected by the Principal Environmental Health Officer (PEHO) for final approval prior to opening.
- Council generally limits the number of people after assessing amongst other considerations the number of toilets, capacity of seating areas and the number of car parks. 50 people are deemed appropriate by the Shire's PEHO in this instance without providing a third toilet.

**Consultation:**

The proposal was advertised for public comment in accordance with clause 6.4 of the TPS No.3 for a period of 21 days as follows:

1. An advertisement was placed in the Albany Advertiser from Thursday 18/02/10; and
2. The application was referred to neighbours for comment.

No submissions were received.

**Statutory Obligations:**

Prior to operating, the proponent's will need to obtain the appropriate liquor licence from the Office of Racing Gaming and Liquor under the Liquor Control Act 1988. A copy of this shall be provided to the Shire.

**Policy Implications:**

The site is subject to Policy No. 29 – Rural Settlement Strategy. In summary the following objectives of the policy are relevant to this application:

**6.3 Objectives**

- 6.3.1 *To conserve the potential of the area to support horticulture on capable land and in such a manner that it will not further exacerbate problems identified in the above management issues.*
- 6.3.2 *To encourage horticultural activities on appropriate land.*
- 6.3.4 *To encourage the development of small scale tourist orientated developments such as holiday accommodation providing they will not compromise the primary objective 6.3.1 above.*

The application is deemed to be consistent with Policy No. 29.

**Budget / Financial Implications:**

There are no known financial implications upon the Councils current Budget or Plan for the Future.

**Strategic Implications:**

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

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

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

➤ **Economic:**

The operation of an additional Cellar Door will enhance Denmark's wine producing credentials and bring tourist dollars into the Shire. Such activities have flow on effects for ancillary businesses, including accommodation providers, tourist operators, local eateries and existing cellar doors where by people visit more than one premise in a day. In addition a small number of staff will be required at the premise, creating some jobs within the Shire benefiting the local community.

➤ **Social:**

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

**Voting Requirements:**

Simple majority.

6.32pm – The Director of Finance & Administration left the meeting.

**OFFICER RECOMMENDATION**

ITEM 9.1.5

That the application submitted by Singlefile Estate Pty Ltd to convert an existing outbuilding to allow for modified Cellar Sales at No. 90 (PT494) Walter Road, Denmark be approved subject to the following conditions:

1. The activity being undertaken and developed in accordance with the attached stamped approved plans and where marked in red dated 22 January 2010.
2. The cellar sales/kitchen building shall be connected to an onsite water supply and effluent disposal system to the satisfaction of the Shire's Principal Environmental Health Officer.
3. The hours of operation shall be restricted to between 10am – 7pm (7 days a week) unless a variation is approved in writing by Council.
4. The number of people on site shall be initially limited to 50, without further upgrading of toilet numbers to the satisfaction of the Shire's Principal Environmental Health Officer.
5. The proponents providing a list of all sale products (wines, boutique beers, ancillary products etc.) to the satisfaction of the Director of Planning and Sustainability and only these products to be sold on site.
6. The site providing a minimum of 13 car parking bays (including 1 disabled) to be a minimum of 5.4m x 3.0m; constructed, drained and signed to the satisfaction of Shire of Denmark.
7. A minimum of 70% of all alcoholic products sold on site shall be produced by the winery and the proponents shall keep a record of this, and present this to Council on an annual basis or when otherwise requested.

**Advice Notes:**

- i. No signage has been approved as part of this application.
- ii. Future events which require modifications to any approved liquor licence or condition above will be dealt with on a case-by-case basis in accordance with relevant Shire policies.
- iii. The Shire's Building Surveyor advises that the application will require a building licence and the issue of a Certificate of Classification.
- iv. The Cellar Sales and kitchen will need to comply with the Food Act 2008, the Food Regulations 2009 and AS4674 Design Construction and fit out of food premises. The fit-out of the Cellar Sales building shall be in accordance with the direction of the Shire's Principal Environmental Health Officer and no activity shall commence until a final inspection and approval to operate has been granted by the Shire's Principal Environmental Health Officer
- v. A copy of the approved liquor licence shall be provided to Council.

At the meeting held on the 20 April 2010, there was general concern relating to the reference to 70% alcohol and whether this would create a precedent for existing and future cellar sales operators.

The Director of Planning & Sustainability provides the following Alternate Recommendation to address the concerns raised.

<b>COUNCIL</b>	<b>RESOLUTION</b>	<b>&amp;</b>	<b>ALTERNATE</b>	<b>OFFICER</b>	<b>ITEM 9.1.5</b>
RECOMMENDATION					
MOVED: CR BARROW					SECONDED: CR BARNES

6.38pm – The Chief Executive Officer left the meeting.

6.39pm – The Chief Executive Officer returned to the meeting.

6.41pm – The Director of Finance & Administration returned to the meeting.

That the application submitted by Singlefile Estate Pty Ltd to convert an existing outbuilding to allow for modified Cellar Sales at No. 90 (PT494) Walter Road, Denmark be approved subject to the following conditions:

1. The activity being undertaken and developed in accordance with the attached stamped approved plans and where marked in red dated 22 January 2010.
2. The cellar sales/kitchen building shall be connected to an onsite water supply and effluent disposal system to the satisfaction of the Shire’s Principal Environmental Health Officer.
3. The hours of operation shall be restricted to between 10am – 7pm (7 days a week) unless a variation is approved in writing by Council.
4. The number of people on site shall be initially limited to 50, without further upgrading of toilet numbers to the satisfaction of the Shire’s Principal Environmental Health Officer.
5. The proponents providing a list of all alcohol sale products (wines, boutique beers etc.) to the satisfaction of the Director of Planning and Sustainability.
6. The site providing a minimum of 13 car parking bays (including 1 disabled) to be a minimum of 5.4m x 3.0m; constructed, drained and signed to the satisfaction of Shire of Denmark.
7. A minimum of 70% of all alcoholic products sold by volume on site shall be produced by the winery and the proponents shall keep a record of this, and present this to Council on an annual basis or when otherwise requested.

**Advice Notes:**

- i. No signage has been approved as part of this application.
- ii. Future events which require modifications to any approved liquor licence or condition above will be dealt with on a case-by-case basis in accordance with relevant Shire policies.
- iii. The Shire's Building Surveyor advises that the application will require a building licence and the issue of a Certificate of Classification.
- iv. The Cellar Sales and kitchen will need to comply with the Food Act 2008, the Food Regulations 2009 and AS4674 Design Construction and fit out of food premises. The fit-out of the Cellar Sales building shall be in accordance with the direction of the Shire’s Principal Environmental Health Officer and no activity shall commence until a final inspection and approval to operate has been granted by the Shire’s Principal Environmental Health Officer
- v. A copy of the approved liquor licence shall be provided to Council.

LOST: 4/7

Res: 130410

**COUNCIL RESOLUTION & CR THORNTON'S RECOMMENDATION** ITEM 9.1.5  
**MOVED: CR SAMPSON** SECONDED: CR PHAIR

That the planning application submitted by Singlefile Estate Pty Ltd to convert an existing outbuilding to allow for modified Cellar Sales at No. 90 (PT494) Walter Road, Denmark be approved subject to the following conditions:

1. Approval being received from the Office of Racing, Gaming & Liquor for a Special Facility Licence – Tourism.
2. Council to advise the Office of Racing, Gaming & Liquor that should approval be granted for a Special Facility Licence – Tourism a condition of approval under section 40 of the Liquor Control Act be;
  - a. A minimum of 70% of all alcoholic products sold on site shall be produced by the winery;
  - b. The hours of operation to be restricted to between 10am – 7pm (7 days per week).
3. The development being in accordance with the plans dated 22 January 2010 (as marked in red).
4. The cellar sales/kitchen building being connected to an onsite water supply and effluent disposal system to the satisfaction of the Council's Principal Environmental Health Officer.
5. The development providing a minimum of 13 car parking bays (including 1 disabled bay of minimum size 5.4m x 3.0m) constructed to the satisfaction of the Shire of Denmark.
6. The number of guests be restricted to 50 until further upgrading of ablution facilities occurs.

**Advice Notes:**

- i. No signage has been approved as part of this application.
- ii. Future events which require modifications to any approved liquor licence or condition above will be dealt with on a case-by-case basis in accordance with relevant Shire policies.
- iii. The Shire's Building Surveyor advises that the application will require a building licence and the issue of a Certificate of Classification.
- iv. The Cellar Sales and kitchen will need to comply with the Food Act 2008, the Food Regulations 2009 and AS4674 Design Construction and fit out of food premises. The fit-out of the Cellar Sales building shall be in accordance with the direction of the Shire's Principal Environmental Health Officer and no activity shall commence until a final inspection and approval to operate has been granted by the Shire's Principal Environmental Health Officer
- v. A copy of the approved liquor licence shall be provided to Council.

**CARRIED: 11/0**

**Res: 140410**

**REASONS FOR CHANGE**

1. The control and auditing of alcoholic products is by way of the Liquor Control Act and Council can request conditions under section 40 of this Act (point 2).
2. Deleting point 5 as sale products and brands vary dependent on demand. The imposition is onerous for both the Council and the proponent as products will be continually revolving and changing.

**COUNCIL RESOLUTION**

**MOVED: CR SYMES**

**SECONDED: CR HINDS**

That the meeting be adjourned for a short break.

**LOST: 3/8**

**Res: 150410**

**9.1.6 DRAFT TOWN PLANNING SCHEME POLICY – ‘PROVIDING PUBLIC ART’**

<b>File Ref:</b>	PLN61
<b>Applicant / Proponent:</b>	Not applicable
<b>Subject Land / Locality:</b>	Not applicable
<b>Disclosure of Officer Interest:</b>	Nil
<b>Date:</b>	12 April 2010
<b>Author:</b>	Phil Shephard, Planning Officer (Casual)
<b>Authorising Officer:</b>	Sam Williams, Director of Planning and Sustainability
<b>Attachments:</b>	Yes – page 177

**Summary:**

To consider a draft town planning scheme policy covering the requirement for certain developments approved within the Shire to either incorporate public art or contribute financially to a Shire managed fund for this purpose.

It is recommended the draft be advertised to enable consultation to take place prior to the policy being finalised.

**Background:**

In accordance with the Cultural Plan to be considered by Council shortly, this draft policy would assist Council in encouraging and incorporating public art within Denmark. The introduction of a public art policy is an initiative of Council that has also been requested by the Denmark Arts Council.

**Comment:**

The incorporation of public art within developments in Denmark will encourage the expression of the town's and community's identity and enhance the artistic talents and diversity available.

The draft policy requires that all developments over a certain value (\$500,000) to either physically incorporate public art projects (approved by Council) or contribute financially to a fund managed by Council for the purpose of incorporating public art into areas around Denmark.

The draft policy contains background, definitions, objectives and policy statements to guide Council when considering proposals for development and public art. The policy has been prepared to ensure there is an equitable approach to the incorporation of public art within developments and it is intended to apply to both public and private sector developments.

The objectives of the Policy are as follows:

- 1 *To enhance the natural and built assets and appearance, character and amenity of public spaces and developments through the inclusion of high quality public art.*
- 2 *To require developers to integrate public art within new substantial developments within the Shire of Denmark through the development and subdivision approval process.*
- 3 *To establish an equitable system for the provision of public art by developers.*

It also clearly sets out the policy does not apply to developments less than \$500,000 in construction cost value or residential dwellings and sets out acceptable development criteria for all approved public artworks.

The draft policy has been prepared following assessment of other similar policies and guidelines used by other local governments.

**Consultation:**

The draft Policy is required to be advertised in accordance with Clause 8.2.2 of the scheme being once a week for two consecutive weeks in a newspaper circulating in the area giving details of the draft and inviting submissions for a period of not less than 21 days.

This consultation will also need to comply with the Community Consultation Policy (P040123).

**Statutory Obligations:**

Clause 8.2 'Town Planning Scheme Policies' sets out the requirements for the preparation and adoption of town planning scheme policies.

Clause 8.2.1 states:

*"In order to achieve the objectives of the Scheme, the Council may make Town Planning Scheme Policies relating to parts or all of the Scheme Area and relating to one or more of the aspects of the control of development and land use."*

Clause 8.2.2 sets out the adoption requirements for a town planning scheme policy and states:

*"A Town Planning Scheme Policy shall become operative only after the following procedures have been completed:*

- (a) the Council having resolved to adopt a draft Town Planning Scheme Policy, shall advertise a summary of the draft policy once a week for two consecutive weeks in a newspaper circulating in the area giving details of where the policy may be inspected and where, in what form, and during what period (being not less than 21 days) submissions may be made to the Council;*
- (b) the Council shall review its draft Town Planning Scheme Policy in the light of any representations made and shall then decide to finally adopt the draft policy with or without amendment, or not proceed with the policy;*
- (c) following final adoption of a Town Planning Scheme Policy, details thereof shall be advertised publicly and a copy kept with the Scheme documents for inspection during normal office hours."*

The status and powers of an adopted town planning scheme policy is set out in clause 8.2.4 where it states:

*"A Town Planning Scheme Policy shall not bind the Council in respect of any application for planning consent but the Council shall take into account the provisions of the policy and the objectives which the policy was designed to achieve before making its decision."*

**Policy Implications:**

The policy is only a draft at this stage. If formally adopted by Council following the consultation phase it will become an adopted town planning scheme policy under the provisions of the scheme (clause 8.2) and will apply as set out in the Policy.

**Budget / Financial Implications:**

There are no known financial implications upon the Councils current Budget or Plan for the Future. The costs of advertising and referral of the draft policy are provided for within the existing 2009/10 Budget.

Note: this will have implications for the Council's buildings proposed with a cost of construction over \$500,000.

**Strategic Implications:**

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



**Sustainability Implications:**

➤ **Environmental:**

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

➤ **Economic:**

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

➤ **Social:**

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

**Voting Requirements:**

Simple majority.

OFFICER RECOMMENDATION

ITEM 9.1.6

That Council in accordance with clause 8.2.2 of Town Planning Scheme No.3 adopt the draft Town Planning Scheme Policy 'Providing Public Art' and advertise the draft in the local newspaper(s) for a period of 21 days for public inspection and comment.

In response to the discussion by Council regarding the number of commercial, civic or grouped dwelling development applications received over the past two years that would have been impacted by such a policy, i.e. value exceeding \$500,000, the following is provided:

Applicant's Name & Address	Property Address	Type of Development	Value
Owner	Ocean Beach Caravan Park 770 Ocean Beach Road	Ablution Block	\$767,600.00
TPG Town Planning & Urban Design	50 South Coast Highway	Retail Centre	\$5,000,000.00
Roberts Gardiner Architects	14 Inlet Drive	Residential/Tourist Development (32 strata)	\$5,000,000.00
Owner	42 (L1078) Scotsdale Road	New Hospital	\$15,000,000.00
Owner	Lot 110 (222) Scotsdale Road	School Hall	\$640,000.00
Owner	Lot 50 Ocean Beach Road	12 x Single Bedroom Dwellings	\$1,104,000.00
Yaran Pty Ltd	Lot 358 (50) Smith Street	68 Grouped Dwelling	\$6,366,000.00

Furthermore, in acknowledging concerns regarding the impost of applying a flat 1% provision for public art contribution for all commercial, civic and grouped dwelling developments exceeding \$500,000, Council's Administrative Staff have reviewed the Public Art Policy currently before Council and are recommending a staggered method for the provision of public art. It is proposed that developments with a value ranging between \$500,000 and \$1M will be required to provide a 0.5% contribution and those exceeding \$1M will be required to provide a 1% contribution.

Based on this, the following alternative officer recommendation is proposed.

**ALTERNATE OFFICER RECOMMENDATION**

**ITEM 9.1.6**

That with respect to the proposal to implement the Policy 'Providing Public Art' for the Shire of Denmark, Council undertake the following:

1. Request Council's Administrative staff to undertake the following modifications to the policy:
  - i. State that all Development Applications with a value ranging between \$500,000 and \$1,000,000 provide a public art contribution comprising 0.5% of the construction cost on-site.
  - ii. State that all Development Applications with a value exceeding \$1,000,000 provide a public art contribution comprising 1% of the construction cost on-site.
2. Subject to the modifications being undertaken, in accordance with Clause 8.2.2 of TPS No. 3 prior to adopting the draft Town Planning Scheme Policy 'Providing Public Art' advertise the draft in the local newspaper(s) for a period of 21 days for public inspection and comment.

<b>COUNCIL RESOLUTION</b>	<b>ITEM 9.1.6</b>
MOVED: CR HINDS	SECONDED: CR RICHARDSON-NEWTON

6.54pm – *The Director of Community & Regulatory Services returned to the meeting.*

That consideration of item 9.1.6 be deferred until the Shire's Cultural Plan has been considered.	
CARRIED: 9/2	Res: 160410

6.55pm - *Cr Sampson declared a proximity interest in Item 9.1.7 in that he is an adjoining neighbour to the Lights Road Protection Zone. Cr Sampson left the room and did not participate in discussion or vote on the matter.*

6.55pm – *Cr Hinds left the meeting.*

<b>9.1.7 REQUEST TO INITIATE SCHEME AMENDMENT No. 123 – OMNIBUS AMENDMENT</b>
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<b>File Ref:</b>	TPS3/A123
<b>Applicant / Proponent:</b>	Not applicable
<b>Subject Land / Locality:</b>	Various
<b>Disclosure of Officer Interest:</b>	None
<b>Date:</b>	8 April 2010
<b>Author:</b>	Phil Shephard, Planning Officer (Casual)
<b>Authorising Officer:</b>	Sam Williams, Director of Planning & Sustainability
<b>Attachments:</b>	Yes – page 181

**Summary:**

Council Staff have prepared an omnibus amendment to undertake several modifications to the existing scheme text as a result of recent Council decisions and other matters which are discussed in the Comments section below.

It is recommended that Council initiate the scheme amendment and refer the amendment to the EPA for environmental assessment as required by the *Planning and Development Act*.

**Background:**

Nil

**Comment:**

Amendment No. 123 (copy attached) seeks to:

- 1) Modifying the present scheme provisions for the Lights Road Landscape protection Zone to allow for domestic pets to be kept within the zone.
- 2) Including Lots 131 & 132 Glendale Close, Denmark within the Drainage and Waterbodies Reserve.
- 3) Including Lot 134 Glendale Close, Denmark within the Public Use Reserve.
- 4) Modifying the interpretation of 'Owner' to remove 'lessee' from the definition.
- 5) Removing the 'Tree Felling' interpretation from Appendix 1 – Interpretations and land use class from Table 1 – Zoning Table.
- 6) Modifying Clause 5.29 'Development of Other Structures' by including standards for the development of these minor structures.
- 7) Replacing the existing Appendix III 'Application for Planning Consent' form in the Scheme Text with the 'Form of Application for Planning Approval' form from the Model Scheme Text.
- 8) Including an interpretation and land use class for 'Microbreweries' to control their development within the Shire.
- 9) Modify the reference to the Development Plan for Karma Chalets within Appendix XIII – Schedule of Tourist Zones.
- 10) Including additional interpretations and land use classes to ensure all land use classes are adequately defined and classified within the Table 1 – Zoning Table.

In addition, the amendment will require modifications to the Table of Contents and Scheme Map accordingly.

Staff have also been progressing the revision of all scheme provisions relating to fire protection as required by Council at its 21 July 2009 meeting. Staff will present the fire protection amendment proposal to the May 2010 round of meetings.

The scheme proposals are explained within the attached draft amendment document.

#### **Consultation:**

The amendment when initiated will be referred to the EPA for assessment. Upon completion of the EPA assessment (and subject to a positive response), the amendment will be advertised for 42 days.

Advertising will include: advertisement in local newspapers, sign/s on-site (where applicable), letters to adjoining/nearby landowners, referral to relevant Government agencies and a notice on Council's notice board.

Upon completion of the advertising period, Council is required to consider any submissions received and determine whether it wishes to seek final approval to the amendment by the WA Planning Commission/Minister for Planning.

#### **Statutory Obligations:**

- *Planning & Development Act 2005* and *Town Planning Regulations 1967* sets out the procedures to undertake an amendment to a Local Planning Scheme including referral to EPA, public notice period, referral to WAPC and Minister's decision-making powers.

#### **Policy Implications:**

Town Planning Scheme Policy No. 4 'Town Planning Scheme Amendment - Documentation'. A copy of the scheme amendment document has been provided for each Councillor within this agenda.

#### **Budget / Financial Implications:**

There are no known financial implications upon the Council's current Budget or Plan for the Future. The costs of preparation, advertising and referral of the amendment are provided for within the existing 2009/10 Budget.

#### **Strategic Implications:**

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

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

There are no known significant environmental considerations relating to the report or officer recommendation. The assessment by the EPA will identify any environmental matters that are required to be addressed through the amendment process.

➤ **Economic:**

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

➤ **Social:**

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

**Voting Requirements:**

Simple majority.

6.57pm – *The Executive Assistant left the meeting.*

6.58pm – *Cr Hinds returned to the meeting.*

7.00pm - *The Executive Assistant returned to the meeting.*

7.02pm – *Cr Wakka left the meeting.*

## OFFICER RECOMMENDATION

## ITEM 9.1.7

That Council pursuant to the *Planning and Development Act 2005* initiate Amendment No. 123 to Town Planning Scheme No. 3 as follows:

1. Modifying the present scheme provisions for the Lights Road Landscape protection Zone to allow for domestic pets to be kept within the zone.
2. Including Lots 131 & 132 Glendale Close, Denmark within the Drainage and Waterbodies Reserve.
3. Including Lot 134 Glendale Close, Denmark within the Public Use Reserve.
4. Modifying the interpretation of 'Owner' to remove 'lessee' from the definition.
5. Removing the 'Tree Felling' interpretation from Appendix 1 – Interpretations and land use class from Table 1 – Zoning Table.
6. Modifying Clause 5.29 'Development of Other Structures' by including standards for the development of these minor structures.
7. Replacing the existing Appendix III 'Application for Planning Consent' form in the Scheme Text with the 'Form of Application for Planning Approval' form from the Model Scheme Text.
8. Including an interpretation and land use class for 'Microbreweries' to control their development within the Shire.
9. Modify the reference to the Development Plan for Karma Chalets within Appendix XIII – Schedule of Tourist Zones.
10. Including additional interpretations and land use classes to ensure all land use classes are adequately defined and classified within the Table 1 – Zoning Table.
11. Amend the Table of Contents accordingly.
12. Amend the face of the Scheme map accordingly.

And forward it to the Environmental Protection Authority (EPA) for assessment and environmental clearance and once authorised by the EPA, it be advertised for public submissions for a period of 42 days.

At the meeting held on the 20 April 2010, Cr Syme asked whether, given that Cr Sampson's interest only related to part 1, each item within the Officer Recommendation could be discussed separately to allow Cr Sampson to participate in discussion on items 2 – 12.

At the meeting, the Shire President stated that he would allow each item to be discussed separately.

Accordingly, the Officer Recommendation has been split into two sections.

**ALTERNATE OFFICER RECOMMENDATION**

**ITEM 9.1.7 (a)**

That Council pursuant to the *Planning and Development Act 2005* initiate Amendment No. 123 to Town Planning Scheme No. 3 as follows and forward it to the Environmental Protection Authority (EPA) for assessment and environmental clearance and once authorised by the EPA, it be advertised for public submissions for a period of 42 days:

1. Modifying the present scheme provisions for the Lights Road Landscape protection Zone to allow for domestic pets to be kept within the zone.

**ALTERNATE OFFICER RECOMMENDATION**

**ITEM 9.1.7 (b)**

That Council pursuant to the *Planning and Development Act 2005* initiate Amendment No. 123 to Town Planning Scheme No. 3 to also include the following and forward it to the Environmental Protection Authority (EPA) for assessment and environmental clearance and once authorised by the EPA, it be advertised for public submissions for a period of 42 days:

1. Including Lots 131 & 132 Glendale Close, Denmark within the Drainage and Waterbodies Reserve.
2. Including Lot 134 Glendale Close, Denmark within the Public Use Reserve.
3. Modifying the interpretation of 'Owner' to remove 'lessee' from the definition.
4. Removing the 'Tree Felling' interpretation from Appendix 1 – Interpretations and land use class from Table 1 – Zoning Table.
5. Modifying Clause 5.29 'Development of Other Structures' by including standards for the development of these minor structures.
6. Replacing the existing Appendix III 'Application for Planning Consent' form in the Scheme Text with the 'Form of Application for Planning Approval' form from the Model Scheme Text.
7. Including an interpretation and land use class for 'Microbreweries' to control their development within the Shire.
8. Modify the reference to the Development Plan for Karma Chalets within Appendix XIII – Schedule of Tourist Zones.
9. Including additional interpretations and land use classes to ensure all land use classes are adequately defined and classified within the Table 1 – Zoning Table.
10. Amend the Table of Contents accordingly.
11. Amend the face of the Scheme map accordingly.

7.05pm – Cr Wakka returned to the meeting.

**COUNCIL RESOLUTION**

**ITEM 9.1.7**

MOVED: CR SYME

SECONDED: CR PEDRO

That item 9.1.7 be deferred in consideration of clarifying the matters relating to the Lights Road Landscape Protection Zone.

CARRIED: 8/2

Res: 170410

7.12pm – Cr Sampson returned to the meeting.

**9.2 Director of Community & Regulatory Services**

Nil

## 9.3 Director of Infrastructure Services

### 9.3.1 DEVELOPER CONTRIBUTIONS : ROAD INFRASTRUCTURE

<b>File Ref:</b>	ENG 2
<b>Applicant / Proponent:</b>	Shire of Denmark
<b>Subject Land / Locality:</b>	Planning Cells A-G
<b>Disclosure of Officer Interest:</b>	Nil
<b>Date:</b>	10 March 2010
<b>Author:</b>	Rob Whooley, Director of Infrastructure Services
<b>Authorising Officer:</b>	Rob Whooley, Director of Infrastructure Services
<b>Attachments:</b>	No

#### Summary:

This item recommends that Council, subject to WAPC agreement and advertising, amend the Fees and Charges Schedule to include a Developer Contribution Fee.

#### Background:

Local government is confronting significant financial pressures emanating from, amongst other factors, the increased service demands of residents, the propensity of higher levels of government to devolve service delivery which manifests in 'cost shifting', and the greater imposition of constraints on revenue-raising.

One of the responses to this fiscal stress has been the expanded use of charges by some local governments to fund future service provision.

In the case of infrastructure charges imposed on land developers, the charges usually represent an amalgam of supply-side and demand-side concerns. The reason for the charges is to contribute to the inevitable future upgrading of the existing road reserve infrastructure resulting from the increased traffic, pedestrians and stormwater runoff due to impermeable area increase and the capacity of downstream infrastructure as a result of reduced times of concentration. There are also significant environmental concerns and pressures associated with the increased demand.

Examples of the pressures are:

- Greenfield development of land for urban purposes, where there are standard requirements for infrastructure but Council may require infrastructure over and above the normal standard.
- Infill development and redevelopment, where standard conditions of development apply, but where the upgrading of existing infrastructure is required outside the development area.

#### Comment:

Developer contributions will, over time, help to contribute to future costs associated with growth.

There is no doubt that Councils District and Local Distributor Road reserves (and the infrastructure they contain) need substantial upgrades to cope with the already increasing demand.

The purpose of the contribution is not to remove the necessity for Developers to provide specific infrastructure, or interface upgrades where they are required, but rather to deal with the issues associated with having the ability to recover the overall surplus capacity that currently exists within the road reserve infrastructure.

There are many differing opinions on models or methodologies applicable to the funding of the required upgrades.

There are inherent difficulties in applying the supply-side principle of long-run marginal cost pricing and demand-side concepts to establish and recoup the individual benefits accruing from Councils infrastructure services.

Within communities there is qualified widespread acceptance for the notions of “cost recovery” and “user pays”. Nevertheless substantial questions remain.

In the case of public infrastructure:

- What are the future implications?
- Which costs should be counted?
- How are these costs to be measured?
- What defines a user?
- Is this a cross subsidy?
- How would this otherwise be paid for?

Since there are usually multiple users and multiple beneficiaries, how much should each pay and what form should payment take?

Factors that enter into the stormwater equation for example are catchment characteristics such as type, shape, vegetation, soil types, outfall destinations, population, land use and many others. Similar complications exist for road reserve upgrades.

The combination of all these factors results in difficulties in assessing when charges are or are not applicable.

One approach is the notion of the “distribution of benefits”. This results in costs being graduated from no subsidy to full subsidy depending upon whether the benefit is perceived as being purely private or purely public.

A second approach extends the above by additionally categorising whether the works are a “need”, an “upgrade” or an “amenity”.

Within the interface and downstream effects area, both of these approaches suffer from assessment and implementation difficulties. They can be complicated by very subjective views based upon individual impressions of the benefits that are derived.

A third approach is the “subsidy by default” scenario in which Council picks up the costs at a later stage based upon “good reason”, which can cover socio-political criteria like “ability to pay”, “current efficiency or effectiveness” or “cost being prohibitive”.

***Into this third category falls Councils inability to define the extent, cost and specific details of the future upgrades.***

This third approach assimilates the presumption that the upgrade of infrastructure is paid for through general taxation and rates and therefore the infrastructure should somehow constantly evolve to meet the minimum standards. The hope may be that some future funding source will resolve the issues being generated. This is not very likely and figures supplied by Council to WALGA show current funding is not keeping pace with the preservation task. In the Great Southern region Councils are only meeting 65% of the expenditure required to just maintain the road reserve status quo.

The written down value compared to the replacement cost is, on average below 60%, making the road equation for the Great Southern the worst in the state. Within the Great Southern region Denmark only spends 15% of its own revenue capacity on road preservation putting it into the lowest ranks of the 70 comparative Shires in WA categorised as agricultural without large towns.

It is clear, without going into a detailed exercise of producing cost and benefit data that would withstand serious scrutiny and by definition require similar “locked-in” planning and development strategies, that a broad based, reasonably equitable contribution fund is required to cater for the increasing demand being placed upon the Distributor Road reserves.

Currently the definition of users, or beneficiaries, is unresolved for many services and so are appropriate payment vehicles.

Developers have often questioned the need for “headworks” charges and have understandably been suspicious of the need and fairness of any such charges.

It is fundamental to any scheme that the following be demonstrated:

- Both the need and the link to the proposed development
- Genuine pre-estimate of costs that is transparent and repeatable
- Inherent fairness in terms of the costs being equally distributed
- A realistic and transparent increase/decrease in costs to keep costs relative
- A high level of transparency and accountability

In order to achieve these measures Councils engineering services in conjunction with OPUS Engineering Consultants looked at the infrastructure needs as they relate to reserves (road, drainage and parks). The types of infrastructure examined were the roads, pedestrian facilities, stormwater, streetlighting, verges, street furniture, etc.

Planning zones A-G were divided into catchments serviced by Horsley Road, Scotsdale Road, Mt Shadforth Rd and Ocean Beach Rd. A separate catchment area was made up of the CBD as defined in Councils planning documents.

Within each of the catchments the total number of potential Lots was calculated using Town Planning Scheme 3.

The reasonable and foreseeable upgrades required to our 3 local distributor roads for a distance within 1 kilometre from the CBD have been estimated. The requirements of the CBD are calculated separately.

The following broad data and costs resulted from the study and is supplied to provide an indication of the future infrastructure needs outside of any specific development area.

Planning Unit	Lots	Planning Unit	Lots
A	250	H	140
B	50	H1	130
C	70	I	414
D	30	(Weedon Hill)	
E	200	Heather Rd	30
F	9	RSH8	90
G	530	Springdale Beach	172

(Source: Shire Planning Officer - Local Planning Strategy)

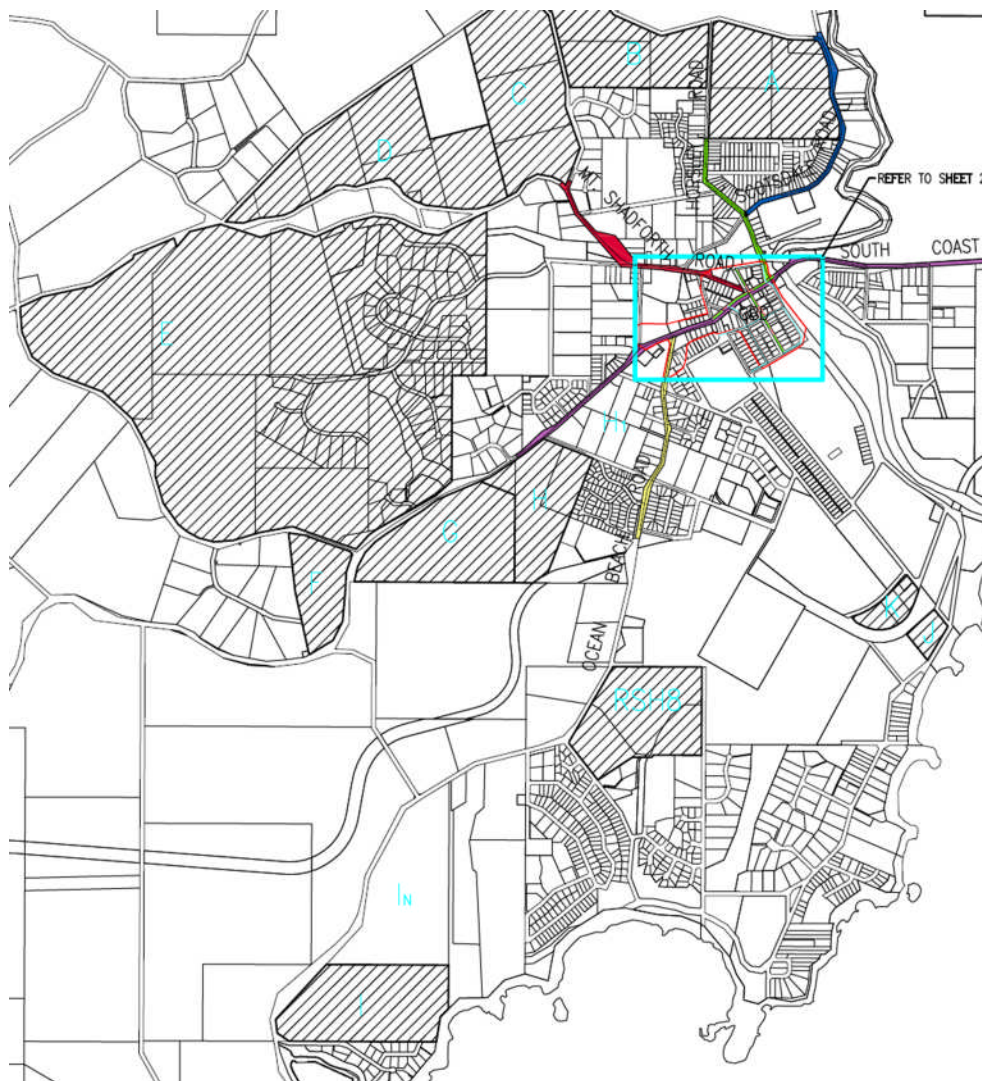


Major Arterial Road	Planning Unit areas according to Plan 3 Urban Settlement Map (2003)	Area (Ha)	Lot density according to Plan 3 Urban Settlement Map (2003)	Lots	Additional Expected AADT (8 per lot)	Counted AADT (Provided by: Paul Lopresti, Shire Denmark, March 07)	
Ocean Beach Road	One third H1 RSH 8 I (Weedon Hill) Heather Rd	24	R20	52	416	20/09/2006	3276
				90	720	21/12/2006	3653
				414	3312		
				30	240		
				586	4688		
<b>Total Future AADT</b>							<b>8341</b>
Scotsdale road	Half A	29	R12.5	125	1000	29/09/2006	1297
				<b>Subtotal</b>	<b>125</b>	<b>1000</b>	4/01/2007
<b>Total Future AADT</b>							<b>2551</b>
Horsley Road	Half A Half B	29	R12.5	125	500	29/09/2006	2132
				99	100		
Holling Road (Combined Scotsdale and Horsley)				<b>Subtotal</b>	<b>150</b>	4/01/2007	2902
				<b>Total Future AADT</b>			
Kearsley Road	C Half B	99	R10	70	560		
				25	100		
				99	240		
				26	800		
Mount Shadforth Road	D Half E	99		30	240	20/11/2006	890
				<b>Total</b>	<b>225</b>	<b>1700</b>	21/12/2006
<b>Total Future AADT</b>							<b>2751</b>
Sth Coast Highway West	Half E F G H Two Third H1	248		100	800	No recent Traffic Counts available	
				9	72		
				22	4240		
				18	1120		
				<b>Subtotal</b>	<b>78</b>		
<b>Total Future AADT</b>							<b>6856</b>
Sth Coast Highway East	Springdale Beach Subdv			172	1376	No recent Traffic Counts available	
				<b>Subtotal</b>	<b>172</b>		
<b>Totals</b>				<b>1890</b>	<b>16220</b>		








Catchment Table

Road	Predicted AADT	Predicted Peak per hour (10%) single lane volume	Design Capacity for Undivided road, inner lane.  (Veh/hr) *
Ocean Beach RD	8341	417	900
Scottsdale RD	2551	128	900
Horsley RD	3502	175	900
Mt. Shadforth RD	2751	138	900
Sth Coast Highway West	6856	343	900
Sth Coast Highway East	1376	69	900

\* Source: *Austrroads* Guide to Traffic Engineering Practice, Part 3. Roadway capacity.



Catchment Routes

Route color code	Road	Total length of works (m)	Total Cost per area	Average Cost per meter	New Lots feeding onto road (estimation)	Total Headworks per lot per Study Route
	Ocean Beach Road	958	\$ 1,095,229.57	\$ 1,143.25	586	\$ 1,868.99
	Scotsdale Road	1100	\$ 1,461,915.71	\$ 1,329.01	125	\$11,695.33
	Horsley Road	442	\$ 511,695.77	\$ 1,157.68	150	\$ 3,411.31
	Mt Shadforth Road	1056	\$ 1,271,000.40	\$ 1,203.60	225	\$ 5,648.89
	Sth Cst Hwy West	1191	\$ 1,446,674.21	\$ 1,214.67	857	\$ 1,688.07
	Sth Cst Hwy East	804	\$ 1,112,430.86	\$ 1,383.62	172	\$ 6,467.62
	CBD (Divided over total new lots)	-	\$ 2,361,514.29	-	2115	\$ 1,116.56

Headwork Cost per Lot as per 15 June 2007

The costs derived above are supported by detailed schedules contained within a report received from OPUS.

The Headworks Cost per Lot shows a complex cost arrangement which on the face of it would make developing along Scotsdale Road much more expensive than other areas.

The study itself however demonstrates that a genuine pre-estimate of the infrastructure needs has been undertaken. A reasonable way of managing the disparity would be to distribute all costs over all potential new Lots. The result of averaging out the cost is an amount per Lot of \$3,778.

Arguably there would be no immediate need to upgrade infrastructure if there was no development. Developers will put the case that the upgrade of infrastructure benefits the wider community therefore some contribution from existing ratepayers would be anticipated.

Without further development/subdivision existing infrastructure would cycle into a renewal phase with all costs being met by existing ratepayers. It is reasonable for the existing ratepayers to contribute to upgrades as well.

A 40/60 split (developer/ratepayer) is proposed - ie a Developer Contribution of \$1,511 per Lot. In the case of Strata and Grouped Dwellings \$1,511 per dwelling and in the case of commercial or industrial development \$1,511 per 1000 m<sup>2</sup> of land or floorspace (whichever is greater).

There are a number of large subdivisions moving rapidly towards formalisation with conditions about to be imposed by the West Australian Planning Commission.

**Consultation:**

Department of Planning and Infrastructure has advised that these charges (where accompanied by genuine pre-estimates) can be applied as a condition to development and subdivision applications. This has always been the case and is not dependent upon recent changes to the Planning and Development Act.

Developers are aware that the development process impacts existing infrastructure. Indications are that charges would be accepted provided they are equitable.

The WAPC has requested that Council advise them of any formal requirement for development contribution along with supporting documents so they may consider the matter when imposing development conditions.

**Statutory Obligations:**

Occupational Safety and Health Act  
Disability Services Act  
Main Road WA Act  
Local Government Act  
Planning and Development Act

**Policy Implications:**

Nil

**Budget / Financial Implications:**

The maintenance and upgrading needs of Councils largest asset is not being met through current budget resource allocations or available funding sources. Given the projected rate of development the maintenance shortfall will increase as greater service capacity and infrastructure is demanded within the road reserve.

The Development Contribution should be linked annually to relevant CPI indicators.

**Strategic Implications:**

This strategy is an integral part of Council's Road Capital Renewal and Maintenance Program, as detailed in strategic plans, which describe management of the Shire's road network including sealing of roads, gravel sheeting, maintenance, street lighting and street furniture with an objective to improve and preserve the quality and life of the road infrastructure system, so as to provide an adequate and safe road network to cater for local residents and anticipated increases in tourist and commercial activities.

It is understood that Council will ultimately include other facilities in a Developer Contribution Fee. At this stage the road reserve infrastructure immediate future needs have been assessed and it would be prudent to receive a diminished contribution as opposed to no contribution.

There can be no doubt that a Developer Contribution Fee will constantly evolve as items are updated, added and removed from any detailed schedule.

**Sustainability Implications:**

➤ **Environmental:**

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

➤ **Economic:**

There are obvious significant economic considerations relating to the report or officer recommendation.

➤ **Social:**

It is expected that people will benefit from an increase in contributions from developers to prevent current surplus capacity in infrastructure being diminished.

**Voting Requirements:**

Simple majority.

<b>COUNCIL RESOLUTION &amp; OFFICER RECOMMENDATION</b>	<b>ITEM 9.3.1</b>
<b>MOVED: CR EBBETT</b>	<b>SECONDED: CR RICHARDSON-NEWTON</b>
That, subject to support by the West Australian Planning Commission, Council advertise for public comment the intention to:	
1. Amend the Fees and Charges Schedule to include a Developer Contributions for Road Infrastructure of;	
a) \$1,511 per Lot (Subdivision), or	
b) \$1,511 per Dwelling (Group or Strata Developments), or	
c) \$1,511 per 1000m <sup>2</sup> of land or floorspace, whichever is the greater (Industrial or Commercial).	
<b>CARRIED: 8/3</b>	<b>Res: 180410</b>

### 9.3.2 TRANSFER OF OLD ALIGNMENT OF SOUTH COAST HIGHWAY NOW KNOWN AS NUMBAT ROAD

<b>File Ref:</b>	GOV 49
<b>Applicant / Proponent:</b>	Shire of Denmark
<b>Subject Land / Locality:</b>	South Coast Hwy/ Bastiani Rd/ Numbat Rd
<b>Disclosure of Officer Interest:</b>	Nil
<b>Date:</b>	13 April 2010
<b>Author:</b>	Rob Whooley, Director of Infrastructure Services
<b>Authorising Officer:</b>	Rob Whooley, Director of Infrastructure Services
<b>Attachments:</b>	Yes – page 205

#### Summary:

This item recommends Council endorse a proclamation by Main Roads WA to gazette a former alignment of the South Coast Highway as a local road.

#### Background:

A 660 metre length of the South Coast Highway (SLK 442.02 – SLK 442.68) near Bastiani Road was realigned approximately 10 years ago.

The old portion of the highway was never removed. When the works were done, property access was not extended to the new piece of the South Coast Highway.

Residents used the old piece of highway to connect to Bastiani Rd and then on to the realigned highway.

Following an approach by residents to have a clearly defined street address the portion of old South Coast Highway has been named Numbat Road.

Main Roads WA would like to formalise the transfer of the old portion of South Coast Highway to Council.

#### Comment:

The letter from Main Roads WA with the proclamation plans (Dwg No's. 0921-0291-00 and 0921-0293-00) are attachments to this item.

#### Consultation:

Nil

#### Statutory Obligations:

Local Government Act

#### Policy Implications:

There are no policy implications.

#### Budget / Financial Implications:

There are no current financial implications

#### Strategic Implications:

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

#### Sustainability Implications:

##### ➤ Environmental:

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

##### ➤ Economic:

The old piece of highway was built to a high standard and given the very low traffic volume it is not going to require much up-keep in the foreseeable future.

➤ **Social:**

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

**Voting Requirements:**

Simple majority.

<b>COUNCIL RESOLUTION &amp; OFFICER RECOMMENDATION</b>	<b>ITEM 9.3.2</b>
MOVED: CR BARROW	SECONDED: CR RICHARDSON-NEWTON
That Council endorse the proclamation plans comprising of drawing numbers 0921-0291-00 and 0921-0293-00 and accept the section of the old alignment of South Coast Highway (SLK 442.16- 442.60) now known as Numbat Road.	
CARRIED: 11/0	Res: 190410

**9.4 Director of Finance & Administration**

**9.4.1 FINANCIAL STATEMENT FOR THE MONTH ENDING 31 MARCH 2010**

<b>File Ref:</b>	FIN 1
<b>Applicant / Proponent:</b>	Not Applicable
<b>Subject Land / Locality:</b>	Denmark
<b>Disclosure of Officer Interest:</b>	Nil
<b>Date:</b>	12 April 2010
<b>Author:</b>	Garry Bird, Director of Finance and administration
<b>Authorising Officer:</b>	Garry Bird, Director of Finance And Administration
<b>Attachments:</b>	Yes – page 209

**Summary:**

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

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

**Background:**

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

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

**Comment:**

Nil

**Consultation:**

Nil

**Statutory Obligations:**

Local Government Act 1995 Section 5.25 (1)

Local Government (Financial Management) Regulations 1996

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

**Policy Implications:**

Policy P040222 relates as follows;

**P040222      MATERIAL VARIANCES IN BUDGET AND ACTUAL EXPENDITURE**

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

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

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

*ADDED by Res: 020808 / 19 August 2008*

Upon completion of the above reconciliations and procedures, various matters have been identified as requiring the attention of Council, in accordance with the following Resolution of Council, adopted at the Special Meeting held 28 July 2009. These matters are addressed in the Budget vs Actual Variance Report included within the Statement of Financial Activity.

**Budget / Financial Implications:**

Other than the matters identified in the Budget vs Actual Variance Report, income and expenditure is proceeding as per budget forecasts and the end of year position should be as per that projected in the 2009/10 Municipal Budget, assuming all projects proceed and are completed in this timeframe.

**Strategic Implications:**

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

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

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

**➤ Economic:**

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

**➤ Social:**

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

**Voting Requirements:**

Simple majority.

<b>COUNCIL RESOLUTION &amp; OFFICER RECOMMENDATION</b>	ITEM 9.4.1
MOVED: CR SAMPSON	SECONDED: CR WAKKA
That Council;	
1. Receive the financial report for the month ending 31 March 2010, incorporating the Statement of Financial Activity and Budget vs Actual Variance Report.	
2. Endorse the Accounts for Payment as listed.	
CARRIED: 11/0	Res: 200410

**9.4.2 GREAT SOUTHERN COMMUNITY HOUSING ASSOCIATION INC - APPLICATION FOR RATING EXEMPTION**

<b>File Ref:</b>	4070
<b>Applicant / Proponent:</b>	Great Southern Community Housing Association Inc
<b>Subject Land / Locality:</b>	Lot 3; 15 Scotsdale Rd, Denmark
<b>Disclosure of Officer Interest:</b>	Nil
<b>Date:</b>	13 April 2010
<b>Author:</b>	Garry Bird, Director of Finance and Administration
<b>Authorising Officer:</b>	Dale Stewart, Chief Executive Officer
<b>Attachments:</b>	No

**Summary:**

An application has been received from the Great Southern Community Housing Association Inc (GSCHA) seeking a rating exemption for the property at Lot 3 Scotsdale Rd, in accordance with the provisions of the Local Government Act Section 6.26(g) which provides for such an exemption if the land is used exclusively for charitable purposes.

**Background:**

This property has recently been transferred to the ownership of the Great Southern Community Housing Association from the WA State Government, and it is the provision of subsidised housing which forms the basis of their application for rating exemption, in that such a service should be considered charitable.

Enquiries with other local authorities who have assessed similar applications indicates that the applications of section 6.26 (g) has been problematic as there is very little guidance on what constitutes charitable activity. These local authorities (Gosnells, Stirling, Kwinana and Wanneroo) have applied a strict interpretation, which have been successfully appealed on several occasions by various applicants at the State Administrative Tribunal (SAT)

A similar application from Amaroo Villages Inc was considered at the 23 March 2010 Ordinary Meeting of Council, with it being subsequently resolves as follows (Resolution No. 210310);

*“That Council refuse the application from Amaroo Villages Inc for an exemption from rating under the provisions of section 6.26 (g) of the Local Government Act 1995 on the basis that charitable activity at Lot 51 Hardy Street has not been demonstrated.”*

**Comment:**

In order to assess the application, certain information was requested from GSCHA, which has now been received and assessed as follows;

1. A COPY OF THE CONSTITUTION OF THE GREAT SOUTHERN COMMUNITY HOUSING ASSOCIATION.



The objectives of the constitution of GSCHA Inc include;

- To assist in the alleviation of poverty through the provision of affordable housing
- To provide and manage reasonable quality, secure, affordable housing for those people on low to moderate incomes.

These objectives indicate that charitable activity is provided at this property by GSCHA and would support the claim for charitable exemption from rates.

2. A COPY OF THE LEASE AGREEMENT WITH TENANTS OF THE ACCOMMODATION.

The lease provides no evidence of charitable activity, although it is noted that the weekly rent is \$126.60, which would appear to be less than market rent.

3. ANNUAL FINANCIAL REPORT FOR THE 2008/09 FINANCIAL YEAR.

No matters were raised by the Auditor in the 2008/09 financial year.

4. ANY OTHER RELEVANT INFORMATION THAT MAY ASSIST YOUR CLAIM.

Documents provided that further support the claim are a Statement from the Australian Tax Office (ATO) stating that GSCHA are a public benevolent institution and are exempt from income tax, fringe benefits tax and have concessions on GST payable.

Further, GSCHA have supplied information that states they are subsidising the rent payable by the tenant of this property by 30% in accordance with ATO requirements.

It is the view of staff that the GSCHA have demonstrated charitable activity (in the form of subsidised housing) at lot 3 Scotsdale Rd and as such the application should be approved.

**Consultation:**

Great Southern Community Housing Association Inc.

**Statutory Obligations:**

- Local Government Act 1995 Section 6.26 (g); and
- Local Government (Financial Management) Regulations 1996.

As stated above, section 6.26 (g) provides for an exemption from rates if a property is used exclusively for charitable purposes.

In the event such an application is refused, the applicant may appeal to the Minister for Local Government, however recent examples would suggest that appeals have been referred to the SAT for review.

**Policy Implications:**

There are no policy implications.

**Budget / Financial Implications:**

In the 2009/10 financial year, Great Southern Community Housing Association Inc was levied \$699.49 in municipal rates. If the application was approved the rates base of the Shire would reduce by the same amount, requiring the funds to be replaced by additional revenue or savings in expenditure in the 2010/11 financial year.

**Strategic Implications:**

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

**Sustainability Implications:**

➤ **Environmental:**

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

➤ **Economic:**

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

➤ **Social:**

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

**Voting Requirements:**

Simple majority

<b>COUNCIL RESOLUTION &amp; OFFICER RECOMMENDATION</b>	<b>ITEM 9.4.3 (a)</b>
<b>MOVED: CR RICHARDSON-NEWTON</b>	<b>SECONDED: CR EBBETT</b>
That with respect to 15 (Lot 3) Scotsdale Road, Denmark Council approve the application from the Great Southern Community Housing Association Inc for an exemption from rating under the provisions of section 6.26 (g) of the Local Government Act 1995 with such exemption to be effective from 1 July 2010.	
<b>CARRIED: 9/2</b>	<b>Res: 210410</b>

At the meeting held on the 20 April 2010, the CEO noted that he would provide an additional Officer Recommendation in relation to the cost shifting impact of transferring State Government managed subsidised community housing to community groups (in relation to rates).

<b>COUNCIL RESOLUTION &amp; ADDITIONAL OFFICER RECOMMENDATION</b>	<b>ITEM 9.4.3 (b)</b>
<b>MOVED: CR RICHARDSON-NEWTON</b>	<b>SECONDED: CR PHAIR</b>
That Council submit the following Notice of Motion to the Western Australian Local Government Association (WALGA) Annual General Meeting; That WALGA lobby the State Government to recognise and permanently compensate Local Governments in Western Australia for the loss of rate income where rateable assessments become non-rateable as a result of any State Government policy or decision that transfers responsibility for public housing from the Department of Housing (Homeswest) to a not-for-profit, charitable organisation.	
<b>CARRIED: 11/0</b>	<b>Res: 220410</b>

**9.5 Chief Executive Officer**

The CEO declared a financial interest in Item 9.5.1 on the basis that his children deliver newspapers within the Denmark townsite.

7.44pm – Director of Finance & Administration left the meeting.

<b>9.5.1 DRAFT LITTER PREVENTION STRATEGY</b>	
<b>File Ref:</b>	ORG16
<b>Applicant / Proponent:</b>	Not applicable
<b>Subject Land / Locality:</b>	Whole of Shire
<b>Disclosure of Officer Interest:</b>	Nil
<b>Date:</b>	14 April 2010
<b>Author:</b>	Claire Thompson, Executive Assistant
<b>Authorising Officer:</b>	Garry Bird, Director of Finance & Administration
<b>Attachments:</b>	Yes – page 231

**Summary:**

The report recommends the adoption of the draft Litter Prevention Policy.

**Background:**

At the Annual Meetings of Electors on 2 February 2010, the meeting resolved “That the meeting request the Council to request its CEO to prepare a report for its consideration on the Council’s current litter prevention strategies and practices with a view to adopting an overall Shire of Denmark Litter Prevention Strategy.”

A report was included in the February 2010 Agenda and at the February 2010 Council meetings Council considered the draft Litter Prevention Strategy. On the 23 February 2010 Council resolved as follows;

*“That Council advertise seeking comment on the draft ‘Shire of Denmark Litter Prevention Strategy’ contained in the report and, in the interim, consider the intent of the draft strategy in the 2010/11 Budget and Forward Financial Plan deliberations.”*

**Comment:**

The draft Policy was advertised in the Denmark Bulletin, on Council’s website and Council’s Notice Boards. Individual letters inviting comment were sent to the following community groups;

- Denmark Tidy Towns
- Peaceful Bay Progress Association
- Nornalup Residents and Ratepayers Association
- Denmark Chamber of Commerce
- Denmark Environment Centre
- Denmark Tourism Inc
- Denmark Lions
- Denmark Surf Life Saving Club
- Denmark Primary School
- Denmark High School
- Golden Steiner School
- Denmark Agricultural College.

Two submissions were received which are summarised below;

Submissions	Officer Comment
Submission 1 – made by the Denmark Environment Centre	

<p>Supports the Strategy and notes the following;</p> <ol style="list-style-type: none"> <li>1. We are not sure what a Local Reserve Strategy is. Could it be the Local Friends of Reserves Strategy;</li> <li>2. Signage can itself be visual pollution, so we ask that signs be small, with a simple and clear message;</li> <li>3. Rearrange dot points so that all those about volunteers and community groups are together.</li> </ol>	<ol style="list-style-type: none"> <li>1. Draft Policy amended to replace the words “Local Reserve Strategy” with the words “Friends of Reserve Strategy”.</li> <li>2. Noted.</li> <li>3. Dot points have been numbered for easy reference and rearranged.</li> </ol>
<p>Submission 2 – made by Mr Tony Ireland (local business owner &amp; resident)</p> <p>Recommend that car litter bags be made available for distribution from accommodation and other tourist facilities within the shire. Presenting departing guests with a bag promoting a litter free Denmark would be of assistance.</p>	<p>Covered under strategy number 14.</p>

**Consultation:**

Consultation has been completed as detailed under the Comment section of this report.

**Statutory Obligations:**

Nil

**Policy Implications:**

Should Council adopt the draft Litter Prevention Policy it will be included in Council’s Policy Manual.

**Budget / Financial Implications:**

The suggested Policy has only minor financial implications upon the Council’s current Budget and Plan for the Future.

This principally relates to the suggested \$2 per bag donation for community group collected clean-ups and providing free of charge car litter bags. It is anticipated that in the first year this may cost the Council approximately \$2,000 and can be reviewed each budget thereafter (in terms of take up and value).

It is emphasised that the draft Policy recommends donations to community groups and not businesses or individuals. To extend the program to individuals and or businesses would in the opinion of the author be more difficult to manage and be subject to greater risk of ‘roting’.

**Strategic Implications:**

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

**Sustainability Implications:**

➤ **Environmental:**

The proposed strategy supports the principle of Denmark being seen as clean and green with active strategies and actions to demonstrate it in conjunction with community effort.

➤ **Economic:**

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

➤ **Social:**

A sense of pride for residents & ratepayers could be associated with a litter free Shire and this strategy provides mechanisms and strategies for the whole community to get involved with assisting to create and maintain a 'clean, green' environment.

**Voting Requirements:**

Simple majority.

Author note: Should the Friends of Reserves Strategy (under Item 9.1.1) not be adopted by Council then strategy number 6 in the draft Litter Prevention Policy will need to be removed or amended.

<b>COUNCIL RESOLUTION &amp; OFFICER RECOMMENDATION</b>		ITEM 9.5.1
MOVED: CR SYME	SECONDED: CR RICHARDSON-NEWTON	
That Council adopt the draft 'Shire of Denmark Litter Prevention Policy' contained in the report and consider the allocation of financial resources in the 2010/11 Budget and 10 Year Forward Financial Plan to implement the various strategies in the adopted Policy.		
CARRIED: 11/0	Res: 230410	

**10. COMMITTEE REPORTS & RECOMENDATIONS**

Nil

**11. MATTERS BEHIND CLOSED DOORS**

Nil

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

<b>COUNCIL RESOLUTION</b>		ITEM 12.1
MOVED: CR EBBETT	SECONDED: CR RICHARDSON-NEWTON	
That Council accept an item of New Business in relation to Council considering the dredging of the pinch points in the delta as indicated by Case Koning in his presentation to Council last week.		
CARRIED: 11/0	Res: 240410	

**12.1 Cr Ebbett – Dredging of Wilson Inlet**

*Prior to any consideration of Item 12.1 Cr Ebbett made the following declaration:*

*"I am Chairman of the Wilson Inlet Management Advisory Group and a commercial fisherman operating in the Wilson Inlet and as a consequence there may be a perception that my impartiality on this matter may be affected. I declare that I will consider this matter on its merits and vote accordingly."*

<b>COUNCIL RESOLUTION</b>	ITEM 12.1
MOVED: CR EBBETT	SECONDED: CR RICHARDSON-NEWTON
<p>That Council delegate responsibility to the Chief Executive Officer to, at the earliest opportunity, dredge the pinch point indicated in the middle (east) gutter of the bar delta with the express purpose of improving marine exchange to Wilson Inlet regardless of an eastern or a western opening subject to the following conditions;</p> <ol style="list-style-type: none"> <li>1. Obtaining approvals from the Department of Water, Water Corporation and the Department of Environment &amp; Conservation;</li> <li>2. Preference being removal of the dredged material from the Wilson Inlet; and</li> <li>3. A net maximum cost to Council of \$30,000.00 including the ability to negotiate the sale of the material.</li> </ol>	
CARRIED WITHOUT AN ABSOLUTE MAJORITY: 6/5	Res: 250410

<b>COUNCIL RESOLUTION</b>	ITEM 12.1
MOVED: CR HINDS	SECONDED: CR BARNES
<p>That Council accept a change to the previous motion.</p>	
CARRIED BY AN ABSOLUTE MAJORITY: 9/2	Res: 260410

<b>COUNCIL RESOLUTION</b>	ITEM 12.1
MOVED: CR PHAIR	SECONDED: CR SAMPSON
<p>That Council delegate responsibility to the Chief Executive Officer to, at the earliest opportunity, dredge the pinch point indicated in the middle (east) gutter of the bar delta with the express purpose of improving marine exchange to Wilson Inlet regardless of an eastern or a western opening subject to the following conditions;</p> <ol style="list-style-type: none"> <li>1. Obtaining approvals from the Department of Water, Water Corporation and the Department of Environment &amp; Conservation;</li> <li>2. Preference being removal of the dredged material from the Wilson Inlet; and</li> <li>3. A net maximum cost to Council of \$10,000.00 including the ability to negotiate the sale of the material.</li> </ol>	
CARRIED BY AN ABSOLUTE MAJORITY: 7/4	Res: 270410

*Cr Richardson-Newton requested that all Councillors' votes on the above resolution be recorded.*

**FOR:** *Cr Wakka, Cr Hinds, Cr Phair, Cr Pedro, Cr Thornton, Cr Barnes, Cr Richardson-Newton & Cr Barrow.*

**AGAINST:** *Cr Ebbett, Cr Pedro, Cr Syme & Cr Sampson.*

**13. CLOSURE OF MEETING**

*8.34pm - There being no further business to discuss the Shire President, Cr Thornton, declared the meeting closed.*

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

Signed: \_\_\_\_\_  
*Dale Stewart – Chief Executive Officer*

Date: 28 April 2010

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

Signed: \_\_\_\_\_  
*(Presiding Person at the meeting at which the minutes were confirmed.)*