

Shire of Denmark Minutes



ORDINARY (DISCUSSION ONLY) MEETING OF COUNCIL

HELD IN THE COUNCIL CHAMBERS,
953 SOUTH COAST HIGHWAY, DENMARK,
ON TUESDAY, 24 AUGUST 2010.

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Ordinary Council Meeting

24 August 2010

DISCLAIMER

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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:

- 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 Richard Phair
- Cr John Sampson
- Cr Alex Syme
- Cr John Wakka
- Cr Dawn Pedro

STAFF:

- Mr Garry Bird (Acting Chief Executive Officer)
- Mr Gregg Harwood (Director of Community & Regulatory Services)
- Mr Rob Whooley (Director of Infrastructure Services)
- Mr Sam Williams (Director of Planning & Sustainability)
- Ms Kevina Richardson (Customer Service Officer)

APOLOGIES:

Mr Dale Stewart (Chief Executive Officer)

ON LEAVE OF ABSENCE:

Cr Robert Laing

ABSENT:

Nil

VISITORS:

Members of the public in attendance at the commencement of the meeting: 16
 Members of the press in attendance at the commencement of the meeting: 2

DECLARATIONS OF INTEREST:

Name	Item No	Interest	Nature
Cr Phil Barnes	8.1.1	Impartiality	Cr Barnes is a member of the Denmark Environment Centre.
Cr Phil Barnes	8.5.3	Impartiality	Cr Barnes is a member of the Denmark Community Windfarm.
Cr Dawn Pedro	8.1.1	Impartiality	Cr Pedro is a member of the Denmark Environment Centre who may be building in the next 12 months.
Cr Alex Syme	8.1.1	Impartiality	Cr Syme is a member of the Denmark Environment Centre who may be building in the next 12 months.
Cr John Sampson	8.1.1	Impartiality	Cr Sampson is a member of the Denmark Environment Centre who may be building in the next 12 months.

3. ANNOUNCEMENTS BY THE PERSON PRESIDING

Nil

4. PUBLIC QUESTION TIME

4.1 RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE

Nil

4.2 PUBLIC QUESTIONS

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

Mr Neunuebel spoke in appreciation of various changes within the Shire of Denmark recently, including but not limited to: Ocean Beach Toilet Upgrade, Cycle Track on Ocean Beach Road, Beach Signage, Strickland Street upgrade and the Denmark Visitors Centre.

4.3 QUESTIONS BY MEMBERS OF WHICH DUE NOTICE HAS BEEN GIVEN

Nil

4.27pm – Cr Pedro left the meeting.

4.4 PRESENTATIONS, DEPUTATIONS & PETITIONS

4.4.1 Ms Susan Willetts – Petition

Ms Willetts presented a petition to Council relating to recent clearing at Smith Street which contained 309 signatures.

4.4.2 Mr Bob Fowler – Proposed Tavern with Restrictions at Willoughby Park Winery

Mr Fowler, as owner of Willoughby Park Winery, spoke in support of his application.

4.34pm – Cr Pedro returned to the meeting.

5. APPLICATIONS FOR LEAVE OF ABSENCE

Nil

6. CONFIRMATION OF MINUTES

6.1 ORDINARY COUNCIL MEETING

COUNCIL RESOLUTION & OFFICER RECOMMENDATION	ITEM 6.1
MOVED: CR RICHARDSON-NEWTON	SECONDED: CR SYME
That the minutes of the Ordinary Meeting of Council held on the 17 August 2010 be confirmed as a true and correct record of the proceedings.	
CARRIED: 10/1	Res: 060810

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

The following Notices of Motion were submitted prior to the meeting held on the 17 August 2010 and therefore they both comply with the Shire of Denmark Standing Orders Local Law clause 3.10.

7.1 PRIVATE WORKS & COUNCIL'S TOOLS AND EQUIPMENT POLICIES

File Ref:	ADMIN.2
Applicant / Proponent:	Not applicable
Subject Land / Locality:	Not applicable
Disclosure of Officer Interest:	Nil
Date:	5 August 2010
Author:	Cr Richardson-Newton, Deputy Shire President
Attachments:	No

Comment:

Council's current Policies read as follows;

P140101 PRIVATE WORKS POLICY

Council not tender for private works and only undertake private works as approved by the CEO or Director of Infrastructure Services in the following circumstances:

1. Direct requests from Government Departments.
2. For ratepayers where the value of works billed is likely to be under \$500 and does not detract from Councils normal works programming.
3. Direct requests from developers/individuals when local contractors either cannot take the contract or are not invited to do so.
4. For sporting and local non-profit organisations.
5. Private Works only involves 'wet hire' of plant and equipment.
6. Council employees are permitted to hire Councils Plant & Equipment for works on their own property or minor private tasks subject to it not involving commercial profit or gain. In these circumstances only duly trained personnel shall operate the hired machinery and all cost of hire be charged at normal adopted rates unless the hirer is also the trained operator. In such cases the charge to apply will be the adopted Council hire fee less the operator's hourly wage rate and overhead calculation.

AMENDED by Res: 230109 / 27 January 2009

P140401 COUNCIL TOOLS AND EQUIPMENT

1. Private use by Council employees of Councils tools and equipment not be permitted under any circumstances.
2. All tools and equipment belonging to the Shire of Denmark be clearly marked to identify ownership. (Note: This policy does not apply to consumable items such as fence posts, nuts, bolts, sharpening files, drainage pipes, etc.).
3. Private use is defined as use by an employee on non work related tasks and is intended to support the Councils Code of Conduct dealing with similar provisions.
4. Council's tools and equipment is defined as small items of plant such as the asset class known as 'minor plant and equipment'. Such things typically include chainsaws, electrical tools and equipment, whipper snippers, mowers and the like. Plant that is licensed and assets falling into the class of Motor Vehicles and Major Equipment or Computer Equipment is not covered by this policy.
5. Nothing in this policy prevents a Council employee hiring equipment under the Councils Private Works Policy.

ADDED by Res: 349/97 / 23 September 1997

AMENDED by Res: 230109 / 27 January 2009

Some ratepayers have approached me regarding the Staff using and or hiring Council Equipment and the charges associated with the hire or use. In order to alleviate any misconceptions associated with this practice and to follow the advice given by the CCC, I believe it would be in Council's best interest to amend the policies as indicated.

At the meeting held on the 17 August 2010, Cr Laing asked whether there were any potential industrial relations implications associated with the removal of these entitlements.

The Acting CEO advised at the time that it was his view there were not as the benefits obtained under the Private Works Policy do not form part of the Employment Contract however he is investigating the matter with Council's Human Resources Consultant, WALGA Workplace Solutions and will provide comment at the meeting.

CEO Comment

The Policies were specifically amended to permit the occasional requests of employees to hire Council plant in January 2009. Advice to Council at the time by myself was that it was contrary to the advice of the Corruption & Crime Commission but that it was my view, as CEO, that the risks could be managed. Having said that, probably the biggest risk, which is the most difficult to manage, is that of public perception. Since adoption of the amended Policy there have been only two employees that have utilised the Policy. It is probably fair to say that the intent of the Policy has generated complaints by two ratepayers who have questioned some of the works notwithstanding that all allegations & concerns have been proven to be unfounded. The CEO is concerned at the risk of perception and appreciates why the Notice of Motion has been put.

COUNCIL RESOLUTION & COUNCILLOR NOTICE OF MOTION	ITEM 7.1
CARRIED: CR RICHARDSON-NEWTON	SECONDED: CR HINDS
That Council, as a result of concerns express by ratepayers as to the perception of lack of transparency of the existing practice of Council employees being able to hire Council equipment and in supporting the recommendations of the Anti Corruption Commission in 1997 (now known as the Corruption and Crime Commission of WA), amend Policies P140101 Private Works and P140401 Council Tools and Equipment, as follows;	
<ol style="list-style-type: none"> 1. Amend Part 6 of Policy P140101 such that it reads "Council employees are not permitted to hire Councils Plant & Equipment for works." and; 2. Delete Part 5 of Policy P140401. 	
LOST: 5/6	Res: 070810

7.2 EXISTING SHED LOT 16 MOONEY VALLEY ROAD CNR LIGHTS ROAD

File Ref:	A2048
Applicant / Proponent:	Not applicable
Subject Land / Locality:	16 Mooney Valley Place
Disclosure of Officer Interest:	Nil
Date:	11 August 2010
Author:	Cr Richardson-Newton, Deputy Shire President
Attachments:	No

Summary:

That Council, as a result of concerns expressed by the ratepayer owner amend part 2 of resolution 175/07 to read that Council approves the 'Deep Ocean' (dark blue) & 'Iron Stone' (dark blue with hint of red) colourbond cladding as proposed by the owner

Background:

An application for Planning Consent & Building Licence was submitted for assessment on 13 April 2007 for retrospective approval of a shed at the above property for the purpose of storing belongings while the landowner is travelling. The plans show an outbuilding 20m by 11m (220m²) on a concrete pad set back 35m from Lights Road clad with 'Deep Ocean' (dark blue) & 'Iron Stone' (dark blue with hint of red) colourbond cladding.

At the full Council meeting of the 26th June 2007, Council resolved (No. 175/07) as follows;

"That Council issue Planning Consent for the development of an Outbuilding on vacant Special Rural zoned land at Lot 16 Mooney Valley Place subject to the following conditions and advice:

- 1) *The proposal being developed in accordance with the plans dated 13 April 2007.*
- 2) *The exterior finish being replaced, within three months, with a satisfactory green or brown toning so as to blend in with the native vegetation colours.*
- 3) *The Clearing Control area between Lights Road and the top of the Outbuilding's batter being stabilised and planted with native vegetation indigenous to the area, within three months, and maintained for a period of not less than 3 years until established. Any seedlings not established after 12 months to be replaced with fresh seedlings.*

ADVICE: The replanting is to, on maturity, provide an effective visual screen of the building & earthworks from passing traffic on Lights Road.

- 4) *All Stormwater to be retained on-site.*
- 5) *The outbuilding not to be used for habitable purposes.*
- 6) *A plan of earthworks, proposed dwelling, effluent disposal system and outbuilding being submitted, within three months, showing the area of all works to be undertaken on the lot.*
- 7) *Any alteration to the building envelope is to be submitted to Council for consideration as a separate application.*
- 8) *Suitable fire control measures being established around the building in accordance with the requirements of Councils adopted policy 36 - 'Building Design for Fire Safety in Specified Areas'.*

ADVICE: Fire control measures may necessitate the selection of low fire risk vegetation within Condition 3."

Comment:

Council's resolution on the 26 June 2007 requesting green or brown toning is consistent with TPS No.3 that states for the subdivision comprising this application that buildings shall be constructed with materials that are sympathetic to the existing elements in terms of design, materials and colour.

However, at the request of the ratepayer this motion is currently before Council for consideration.

Consultation:

This proposal has not been subject to any public consultation.

Statutory Obligations:

Planning & Development Act 2005 – Town Planning Scheme No. 3 is an operative Local Planning Scheme under the Act.

Policy Implications:

The following adopted Town Planning Scheme polices apply to the land:

5 – ‘Setbacks’

13.2 - ‘Outbuildings’

36 - ‘Building Design for Fire Safety in Specified Areas’

Budget / Financial Implications:

Initiating a prosecution under the Scheme may attract fees for legal services.

Strategic Implications:

There are no known strategic implications.

Sustainability Implications:

➤ **Environmental:**

There are no known significant environmental considerations relating to the report or Councillor Notice of Motion.

➤ **Economic:**

There are no known significant economic considerations relating to the report or Councillor Notice of Motion.

➤ **Social:**

There are no known significant social considerations relating to the report or Councillor Notice of Motion.

Voting Requirements:

A Simple majority is required pursuant to legislation.

Officer comment

Should Council resolve to amend this condition it would be undermining the position of the planning department as we rely on the Scheme being consistently administered and only altered in the case of extreme circumstances, which this isn't. Furthermore, should Council amend the condition it would be sending a message to ratepayers that if they disregard Council's conditions on planning approvals for long enough, Council will eventually exonerate them.

OFFICER RECOMMENDATION

ITEM 7.2

That Council uphold its decision of the 26 June 2007 and request the exterior finish to be of brown and green toning as this is on accordance with Town Planning Scheme No.3 (TPS3).

COUNCIL RESOLUTION & COUNCILLOR NOTICE OF MOTION	ITEM 7.2
MOVED: CR RICHARDSON-NEWTON	SECONDED: CR BARROW
That Council amend part 2 of resolution 175/07 to read that Council approves the “‘Deep Ocean’ (dark blue) & ‘Iron Stone’ (dark blue with hint of red)” colourbond cladding to replace the words “satisfactory green or brown toning: so as to blend in with the native vegetation”, as requested by the owner.	
LOST: 9/2	Res: 080810

8. REPORTS OF OFFICERS

8.1 Director of Planning & Sustainability

Prior to any consideration of Item 8.1.1 Cr Barnes made the following declaration:

‘I am a member of the Denmark Environment Centre and as a consequence there may be a perception that my impartiality on this may be affected.’

Prior to any consideration of Item 8.1.1 Cr Pedro made the following declaration:

‘I am a member of the Denmark Environment Centre and as a consequence there may be a perception that my impartiality on this may be affected.’

Prior to any consideration of Item 8.1.1 Cr Sampson made the following declaration:

‘I am a member of the Denmark Environment Centre and as a consequence there may be a perception that my impartiality on this may be affected.’

Prior to any consideration of Item 8.1.1 Cr Syme made the following declaration:

‘I am a member of the Denmark Environment Centre and as a consequence there may be a perception that my impartiality on this may be affected.’

8.1.1 FINAL ADOPTION OF DRAFT TOWN PLANNING SCHEME POLICY – PUBLIC ART

File Ref:	PLN61
Applicant / Proponent:	Not applicable
Subject Land / Locality:	Not applicable
Disclosure of Officer Interest:	Nil
Date:	5 August 2010
Author:	Cindy Simpson, Senior Planning Officer
Authorising Officer:	Sam Williams, Director of Planning & Sustainability
Attachments:	Yes – page 1

Summary:

The draft Town Planning Scheme policy for ‘Public Art’ was advertised and one submission was received. It is recommended that Council adopt it as a final Scheme policy.

Background:

Council at its 25 May 2010 adopted a draft of the above policy to enable consultation and referral to occur. The policy was advertised in the Denmark Bulletin and referred to Denmark Arts Council. One submission was received, where amongst other items it recommends the provision of 1% for Art.

Comment:

One submission was received on the policy (refer attachment). The submission raise valid points which are however, better dealt with under Council Public Art Strategy (Cultural Plan). There are therefore no changes to the policy.

Consultation:

Consultation on the draft policy took place as referred to under 'background'.

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 that Council may make a Town Planning Scheme Policy in order to achieve the objectives of the Scheme. Clause 8.2.2 sets out the adoption requirements for a town planning scheme policy and the status and powers of an adopted town planning scheme policy is set out in clause 8.2.4.

Policy Implications:

There final adoption of this draft policy will create a new town planning scheme policy under the provisions of the Scheme (clause 8.2).

Budget / Financial Implications:

There are no known financial implications upon the Council's current Budget or Plan for the Future. The costs of advertising and referral of the draft policy is provided for in the 2010/2011 budget. Any monies received from developers in-lieu of providing public art shall be kept by Council in a Public Art Trust Fund specifically for the purposes of providing public art within the locality as defined under the Land Administration Act or as agreed by the Shire of Denmark to be undertaken in accordance with Council's Public Art Strategy.

Strategic Implications:

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

Sustainability Implications:**➤ Environmental:**

The implementation of the policy will enhance the natural and built asset and appearance, character and amenity of public spaces and developments through the inclusion of high quality public art.

➤ Economic:

The implementation of the policy will provide an equitable system for the provision of public art by developers.

➤ Social:

The implementation of the policy will facilitate Shire's supports for the provision of public art on both public and private land that enhances our sense of place; reflects our local culture and customs; celebrates our uniqueness; or interprets local history/events. Public art adds to the overall attractiveness and richness of a community and will also enhance opportunities within the local arts community.

Voting Requirements:

Simple majority.

At the meeting held on the 17 August 2010, Cr Richardson-Newton referred to the date specified in the Background section of the report stating that it was in fact the May 2010 meeting which adopted the draft Policy for advertising purposes.

The Director of Planning & Sustainability corrected the report and replaced the words "27 April 2010" with "25 May 2010".

COUNCIL RESOLUTION & OFFICER RECOMMENDATION	ITEM 8.1.1
MOVED: CR BARNES	SECONDED: CR SYME
That Council with respect to the draft 'Public Art' Town Planning Scheme Policy:	
<ol style="list-style-type: none"> 1. Note the submission received on the draft policy. 2. Adopt the attached 'Public Art' Policy as a final Town Planning Scheme Policy 3. In accordance with clause 8.2.2 (c) of Town Planning Scheme No.3 advertise the final Policy accordingly. 	
CARRIED: 9/2	Res: 090810

8.1.2 A CLIMATE CHANGE STRATEGY AND ADAPTIVE PLANNING/POLICY MECHANISMS FOR THE SHIRE OF DENMARK AND COMMUNITY

File Ref:	ORG.54
Applicant / Proponent:	Climate Change Advisory Committee
Subject Land / Locality:	Not applicable
Disclosure of Officer Interest:	Nil
Date:	6 August 2010
Author:	Helen Heydenrych, Natural Resource Manager Officer
Authorising Officer:	Sam Williams Director of Planning and Sustainability
Attachments:	Yes

Summary:

The Council's Climate Change Advisory Committee (CCAC) recommends that Council request the CEO and the Planning and Sustainability Directorate, to prepare a number of reports for consideration by the CCAC and Council, relating to high priority Climate Change adaptation policy and planning mechanisms. This would include the preparation of a Climate Change Strategy and the review of appropriate planning policies for street lighting, new housing subdivision developments, building design and energy and water installations, where these have relevance to energy consumption, water capture/conservation, alternative energy production or reduction of per capita greenhouse gas emissions.

The proposed benefits to Council and Community include progress towards carbon neutrality targets and reduction in per capita greenhouse gas emissions in the Shire of Denmark.

Background:

The Shire has demonstrated its commitment to addressing climate change by the formation of the CCAC and the recent signing of the WALGA Declaration on Climate Change. The CEO and Cr. Sampson attended the 2010 International Climate Change Adaptation conference *Climate Adaptation Futures Preparing for the unavoidable impacts of climate change* held at the Gold Coast 29 June to 1 July 2010. The recommendations listed in this item reflect the outcome of the conference and the CCAC's deliberations on reports and some of the recommendations made by the CEO and Cr Sampson.

Comment:

Parts of the Shire's built and natural infrastructure are vulnerable to climate change. The recommendations seek to address this and develop policies and strategies that minimise and manage the risks to Shire and freehold landholdings in the long term as much as possible. It also seeks to develop policies so that new infrastructure and developments are undertaken with climate change risks in mind and minimise the dependence of private and public buildings on standard grid based infrastructure, i.e. scheme water and coal fired power provision.

Consultation:

The CEO and the Director of Planning and Sustainability.

Statutory Obligations:

There are no statutory obligations.

Policy Implications:

There are policy implications with respect to revision of Local Planning and Development Policies, to include consideration of energy, water and building design to achieve reduction of per capita greenhouse gas emissions.

Budget / Financial Implications:

There are no known financial implications upon the Council's current Budget or Plan for the Future. However, the replacement of public street lighting or preparation of a coastal inundation assessment may require financing from the current or the 2011/2012 budget, if it is intended to be financed in those years. In the first instance the Committee & Officer Recommendation only requests reports on the various topics.

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. However, the proposed outcomes of policy requirement for planning and development to ensure an overall reduction of per capita greenhouse gas emissions, is likely to contribute to long term environmental and sustainability benefits.

➤ Economic:

There are no known significant economic considerations relating to the report or officer recommendation. However it is acknowledged that the implementation of any climate change policy may have cost implications.

➤ Social:

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

Voting Requirements:

Simple majority.

At the meeting held on the 17 August 2010;

- Cr Phair stated that he disagreed with Officer reports including links to website and noted that Minutes should be stand alone and if there are items on websites that should be referenced by Councillors for the purpose of making a decision, then the information should be downloaded and attached to the Minutes;
- Cr Sampson tabled a document published by the Australian Academy of Science titled The Science of Climate Change for the information of Councillors;
- Cr Hinds requested that a definition of the term "Climate Change sceptic" be included within the Officers report;
- Cr Barrow expressed concern regarding the use of the words "compulsory" and "mandatory" which was endorsed by Cr Phair who requested the Director of Planning & Sustainability provide an Alternate Officer Recommendation does not refer to 'compulsory' or 'mandatory'.
- Cr Syme requested that the document that Cr Sampson tabled titled "The Science of Climate Change" be included as an attachment to Item 8.1.2;

- Cr Phair referred to information that he had printed from the Climate Change Australia website and requested that the information also be attached as an amendment to Item 8.1.2; and
- Cr Syme requested that an additional Recommendation be included in next week's Agenda to allow Councillors to vote on whether or not Cr Sampson's & Cr Phair's information should be included as attachments in the Minutes.

The Director of Planning & Sustainability has removed the website references from the report and included Cr Sampson's and Cr Phair's documents as attachments and therefore has not provided an additional recommendation as per Cr Syme's request. With regard to Cr Hinds' request, the Director of Planning & Sustainability advised that he has removed reference to the word "sceptic" from the document.

OFFICER RECOMMENDATION

ITEM 8.1.2

The Climate Change Advisory Committee recommends that Council request the CEO to have the Planning & Sustainability Directorate prepare a report or reports for the Climate Change Advisory Committees consideration within the next 12 months on the following topics;

1. The consideration of a Climate Change Strategy including separate Strategies and Carbon Neutrality targets for;
 - the Council's operations and;
 - the Community.
2. The consideration of a review of the Councils 'Guidelines for the Development and Subdivision of Land', to require developers to install low energy public street lighting;
3. Requesting Western Power, through the South Coast Power Working Group, to ensure that all new or replacement installations of public street lighting in the Shire of Denmark is low energy lighting;
4. The need for the preparation of a coastal inundation and erosion strategy with respect to Council and Private Assets for the Shire of Denmark focusing on the following three areas in priority order;
 - Peaceful Bay;
 - Ocean Beach and Wilson Inlet and;
 the balance of the coastline of the Shire of Denmark.
5. The preparation of a Local Planning Policy considering the incorporation of compulsory rainwater tanks to be installed on different sized and zoned properties in the Shire with the objective of moving towards a reduced reliance by Council, the business community and its residents on increasingly expensive and energy and capital intensive centralised / 'grid' scheme water.
6. The preparation of a Local Planning Policy considering the incorporation of compulsory renewable energy systems to be installed on different sized and zoned properties in the Shire with the objectives of;
 - moving towards reduced reliance by Council, the business community and its residents on increasingly expensive energy and energy and capital intensive centralised / 'grid' power and;
 - reducing the increasing incidence and per capita output of greenhouse gas emissions.
7. The need to review Local Planning Policy # 33, 'Energy Efficiency Subdivision Design & Residential Building Design' to modernise the 10 year old Policy and to consider the incorporation of the mandatory application of passive solar and similar design principles espoused within the present 'guiding' policy.

The Director of Planning & Sustainability provides the following Alternate Officer Recommendation to address concerns raised by Cr Barrow & Cr Phair.

COUNCIL RESOLUTION & ALTERNATE OFFICER ITEM 8.1.2

RECOMMENDATION

MOVED: CR SAMPSON

SECONDED: CR SYME

That Council, on the recommendation of Council’s Climate Change Advisory Committee, request the CEO to have the Planning & Sustainability Directorate prepare a report or reports for the Climate Change Advisory Committees consideration within the next 12 months on the following topics;

1. The consideration of a Climate Change Strategy including separate Strategies and Carbon Neutrality targets for;
 - o the Council’s operations and;
 - o the Community.
2. The consideration of a review of the Councils ‘Guidelines for the Development and Subdivision of Land’, to require developers to install low energy public street lighting;
3. Requesting Western Power, through the South Coast Power Working Group, to ensure that all new or replacement installations of public street lighting in the Shire of Denmark is low energy lighting;
4. The need for the preparation of a coastal inundation and erosion strategy with respect to Council and Private Assets for the Shire of Denmark focusing on the following three areas in priority order;
 - o Peaceful Bay;
 - o Ocean Beach and Wilson Inlet and;
 - o the balance of the coastline of the Shire of Denmark.
5. The preparation of a Local Planning Policy considering the incorporation of rainwater tanks to be installed on different sized and zoned properties in the Shire with the objective of moving towards a reduced reliance by Council, the business community and its residents on increasingly expensive and energy and capital intensive centralised / ‘grid’ scheme water.
6. The preparation of a Local Planning Policy considering the incorporation of renewal energy systems to be installed on different sized and zoned properties in the Shire with the objectives of;
 - o moving towards reduced reliance by Council, the business community and its residents on increasingly expensive energy and energy and capital intensive centralised / ‘grid’ power and;
 - o reducing the increasing incidence and per capita output of greenhouse gas emissions.
7. The need to review Local Planning Policy # 33, ‘Energy Efficiency Subdivision Design & Residential Building Design’ to modernise the 10 year old Policy and to consider the incorporation of the application of passive solar and similar design principles espoused within the present ‘guiding’ policy.

AMENDMENT

MOVED: CR HINDS

That Council remove sections 1, 2, 3, 5 and 6 of the Alternate Officer Recommendation.

LAPSED FOR WANT OF A SECONDER.

DEFERRAL MOTION

MOVED: CR HINDS

SECONDED: CR RICHARDSON-NEWTON

That the item be deferred until such time as a strategic briefing has been provided to Councillors by the responsible officer and after a period of three months from the date of this meeting.

LOST: 3/8

Res: 100810

THE ORIGINAL MOTION WAS THEN PUT & CARRIED: 7/4

Res: 110810

Cr Sampson requested that all Councillors' votes on the above resolution be recorded.

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

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

<p>8.1.3 SCHEME AMENDMENT REQUEST - LOCATIONS 2062, 2466, 5504, 7603 CNR. SOUTH COAST HIGHWAY/WILLIAM BAY ROAD</p>

File Ref:	A805/TPS3A114
Applicant / Proponent:	Ayton Taylor Burrell
Subject Land / Locality:	2 (Lot 646) William Bay Road, Denmark (Locations 2062, 2466, 5504 & 7603)
Disclosure of Officer Interest:	Nil
Date:	4 August 2010
Author:	Cindy Simpson, Senior Planning Officer
Authorising Officer:	Sam Williams, Director of Planning & Sustainability
Attachments:	Yes – page 7

Summary:

Council has received a Scheme Amendment Request (SAR) to consider rezoning land on the corner of South Coast Highway and William Bay Road from 'Rural' to 'Landscape Protection' zone. It is recommended that Council not support the SAR.

Background:

The SAR request was received in accordance with Council Policy A. 80 'Scheme Amendment Request and was referred to relevant state department. The SAR was tabled in Council agenda of 26 August 2008 with a recommendation that Council defer consideration thereof as the proposal/design does not adequately address fire protection requirements and those impacts on remnant vegetation protection. At request of the applicant, the item was withdrawn from the agenda.

Further information has been provided by the applicant (i.e. a Fire Management Plan and Land Capability Assessment Report) and it has been requested that the SAR be dealt with.

Comment:

Proposal

The SAR proposes to rezone four lots on the corner of William Bay Road and South Coast Highway from 'Rural' to 'Landscape Protection' zone. It is proposed to develop 20 strata title lots in three clusters around the four dwellings already located on the property.

Town Planning Scheme No. 3

Under the Shire's TPS No. 3, the land is zoned 'Rural'. It is proposed to rezone the land to Landscape Protection Zone. The objectives of the 'Landscape Protection' zone are:

“for retreat type subdivision and development where it can be demonstrated that such development will be compatible with the protection of, and where appropriate rehabilitation of, the flora, fauna and landscape qualities of the zone, particularly in terms of:

- *Landscape qualities and scenic values;*
- *Revegetation and regeneration;*
- *Surface and ground water quality;*
- *Waterway environment, turbidity, salination and nutrient enrichment;*
- *Native flora and fauna; and*

- *Wild fire protection.*”

Draft Local Planning Strategy

Under the draft Local Planning Strategy (2005), the subject land is proposed for ‘Landscape Protection’ zone. This strategy has however, not been approved by the WAPC and for this reason, this authority is not supporting this proposal (refer consultation section). This draft LPS is currently being reviewed and all areas shown as future ‘Landscape Protection’ has been deleted.

Planning for Bushfire Protection

The Fire Management Plan submitted in support of the SAR indicates that the bush fire hazard assessment for the proposed development site is extreme. The following fire management methods are proposed:

- Road system
- Firebreak systems
- Dwelling construction
- Building protection zone: 20m but preferably 30m where feasible
- Hazard separation zone: Additional 70m in addition to the 30m building separation zone. Bush fire fuel loading must be maintained below 4-6 tonnes/ha in Jarrah/Marri vegetation below 6- tonnes/ha in Karri vegetation. Maintenance of fuel reduction zone will be mosaic burning or slashing.
- Hazard reduction
- Driveways
- Fire fighting facilities.

Land Capability

The land capability report illustrates that the majority of the development is located on well drained gravelly clays with some granite boulders outcropping. These gravel clays have a high nutrient-holding capacity. An area of land of peaty nature could exhibit acid sulphate soil (ASS) tendencies if disturbed. No development disturbance of these soils is proposed.

Conservation of Remnant Vegetation

The SAR states that it is proposed to protect 90% of the remnant vegetation. A unique feature of the vegetation is that it has not been burnt for many years and provides a useful site for comparison with sites managed by DEC which have been regularly burnt. The owners propose much of the vegetation be set aside for research.

It should however, be noted that all strata title blocks are proposed on Part Lot 2062 and Lot 5504. Loss of remnant vegetation due to clearing for development and fire management purposes will therefore occur on these blocks only. Nearly all remnant vegetation on Lot 5504 will be impacted on through either clearing or fuel reduction. Part Lot 2466 will minimally be impacted on by the hazard separation zone.

Current Development Potential of Subject Land

Council’s “TPS Policy 7 – Second Dwellings/Additional Houses and Chalet Development on Rural Zoned Lots” allows for the construction of a second dwelling on lots larger than 10ha. The development potential of the subject land is therefore as follows:

Lot	Size (ha)	Existing number of houses	Potential number of houses under TPS Policy 7
2062	45,8686 ha	2	2
2466	60.3338 ha	0	2
5504	4.6048 ha	1	1
7603	0.6598 ha	0	1

All strata title lots are proposed on Lot 5504 and Part Lot 2062 which are currently developed at full potential under Council's TPS Policy No. 7 (refer above). All remaining vegetation on these lots, including the remaining subject lots is protected under the *Environmental Protection Act 1986* and a clearing permit is required unless the clearing is for an exempt purpose. The protection of the remnant vegetation on these lots therefore does not hinge on the rezoning thereof to 'Landscape Protection' zone. Notwithstanding this, it is acknowledged that development potential remain on Part Lot 2466 (2 houses) and Lot 7603 (1 house).

Furthermore, the aim of the 'Landscape Protection' zone is the protection of fauna, flora and landscape qualities. It is argued that knowledge gained over the last decade on the risk of fire to buildings and life and requirements of Fire Management Plan to clear for this purposes is in conflict with the objectives of this zone.

Consultation:

The SAR was referred to Department of Planning (DoP), Department for Environment and Conservation (DEC) and Department of Water (DoW).

All agencies have responded and their responses are summarised below:

- The DoP opposes the proposal as it conflicts with many of their policies and is not adequately justified within the proposal given the intention to restrict these types of development to existing development nodes. They also have concerns with the nature, scale and intensity of the proposal given its locality. Without the approval of the DoP, a formal scheme amendment is unlikely to be successful.
- The DoW generally does not support proposals that result in clearing of remnant vegetation. Comment that whilst the plan has some merits the present design is not supported particularly access to Part Lot 2466 and the village green.
- DEC provides substantial advice outlining the conservation and heritage values in the area. Advice is also provided on the requirements should the proposal proceed including, vegetation protection, fauna protection, bushfire protection planning, clearing restrictions/permits, proximity to National Park and management activities, storm water management, acid sulphate soils and visual analysis.

Statutory Obligations:

- Planning & Development Act 2005 – TPS No. 3 is an operative Local Planning Scheme under the Act
- Town Planning Scheme No. 3 – zoned Rural

Policy Implications:

- Council Policy A.80 'Scheme Amendment Requests' – the SAR has been submitted and proceed in accordance with the Policy
- Draft Denmark Local Planning Strategy – current draft version being prepared does not support the Landscape Protection Zone.

Budget / Financial Implications:

The consultant has paid the SAR fee.

Strategic Implications:

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

Sustainability Implications:

➤ **Environmental:**

The rezoning proposed by the SAR will facilitate development of 20 survey strata lots with resultant clearing for development and fire management purposes and loss of remnant vegetation. It will further have an impact on high value landscapes.

➤ **Economic:**

The rezoning proposed by the SAR will facilitate development of 20 survey strata lots in an area of extreme bush fire hazard with potential for loss of buildings and life.

➤ **Social:**

The rezoning proposed by the SAR will facilitate development 15km from the Denmark townsite resulting increase private vehicle kilometres travelled and settlement away from services and facilities.

Voting Requirements:

Simple majority.

COUNCIL RESOLUTION	ITEM 8.1.3
MOVED: CR SYME	SECONDED: CR WAKKA
That Council support the Scheme Amendment Request to rezone Lot and Part Lots 2062, 2466, 5504 & 7603 corner South Coast Highway and William Bay Road from 'Rural' to 'Landscape Protection' zone.	
LOST: 4/7	Res: 120810

COUNCIL RESOLUTION & OFFICER RECOMMENDATION	ITEM 8.1.3
MOVED: CR RICHARDSON-NEWTON	SECONDED: CR EBBETT
That Council with respect the Scheme Amendment Request to rezone Lot and Part Lots 2062, 2466, 5504 & 7603 corner South Coast Highway and William Bay Road from 'Rural' to 'Landscape Protection' zone, not support the request for the following reasons:	
<ol style="list-style-type: none"> 1. Council's current draft Local Planning Strategy does not support the Landscape Protection zone in this locality; and 2. The proposal is not in accordance with the objectives of the 'Landscape Protection' zone which is to protect fauna and flora and landscape qualities due to clearing of remnant vegetation for development and bushfire protection. 	
CARRIED: 10/1	Res: 130810

5.50pm - Director of Infrastructure Services left the meeting.

5.57pm – Director of Infrastructure Services returned to the meeting.

6.03pm – Directory of Community & Regulatory Services left the meeting.

6.07pm – Director of Community & Regulatory Services returned to the meeting.

6.08pm - Public Question Time

The Shire President stated that the second public question time would begin & called for questions from members of the public.

Mrs Marie Redman - Item 8.1.4 – Proposed Tavern with Restrictions at Willoughby Park Winery.

Mrs Redman spoke against the proposal and said that should this tavern licence be given support by the Council then that would set a precedent for the other wineries of Denmark to follow suit.

Mr Michael Goundrey - Item 8.1.4 – Proposed Tavern with Restrictions at Willoughby Park Winery.

Mr Goundrey, as an interested party, spoke in support of the item.

Ms Annette Lane - Item 8.1.4 – Proposed Tavern with Restrictions at Willoughby Park Winery.

Ms Lane, as the Lessee of the Denmark Tavern, spoke against the proposal.

Mrs Marilyn Fowler - Item 8.1.4 – Proposed Tavern with Restrictions at Willoughby Park Winery.

Mrs Fowler, as the proponent, spoke in support of the proposal.

Mrs Katrina Hithersay - Item 8.1.4 – Proposed Tavern with Restrictions at Willoughby Park Winery.

Mrs Hithersay, as owner of neighbouring property to where the proposed tavern is situated, spoke against some of the conditions stipulated within the Officer's Recommendation.

6.31pm – Director of Infrastructure Services left the meeting.

6.35pm – Director of Infrastructure Services returned to the meeting.

8.1.4 PROPOSED TAVERN WITH RESTRICTIONS AT WILLOUGHBY PARK WINERY

File Ref:	A3285
Applicant / Proponent:	Timiama Pty Ltd
Subject Land / Locality:	No. 678 (Lot 42) South Coast Highway, Denmark
Disclosure of Officer Interest:	Nil
Date:	9 August 2010
Author:	Duncan Ross, Senior Planning Officer
Authorising Officer:	Sam Williams, Director of Planning & Sustainability
Attachments:	Yes – page 59

Summary:

The proponent has sought planning approval for a tavern to enable beer produced on site to be consumed on-site and sold as a takeaway associated with the recently approved microbrewery (refer planning application 47/2010 – February 2010).

It is recommended Council approve the application (Appendix 1), however issue a 'restricted' tavern licence under section 40 application with the Office of Gaming, Racing and Liquor.

Background:

The land and building has previously been approved as a winery with cellar sales (formerly West Cape Howe, now Willoughby Park). More recently a proposal to incorporate a microbrewery (Appendix 2) was approved with the microbrewery being intended to complement and operate in conjunction with the existing winery, as opposed to being a self-sufficient venture. This was clearly stipulated in the Council planning report as follows:

The proposal is to incorporate a microbrewery in conjunction with the existing West Cape Howe winery operation. The proposal involved brewing beer for tasting and sale from the premises using the existing winery tourist facilities (i.e. sales area, toilets, car park, licensed garden area etc.).

Comment:

This application represents a continuation of a recent trend of some wineries and tourist attractions to expand into the sale of liquor beyond those historically associated with such uses. The majority of these businesses are seeking to sell beer to complement cellar door sales and this trend is expected to continue into the future.

In this instance the application should be supported as the beer to be sold is being brewed on-site and in the officer's opinion can suitably be accommodated without generating adverse effects on the wider environment. The consumption of beer on site under a restricted tavern licence will not result in characteristics commonly associated with pubs etc generally located in town centres.

Based on the above there are effectively three main issues that require consideration as follows:

- **Hours of Operation:**

It is recommended any approval for the tavern licence be consistent with the operating hours with the existing cellar door. This is between 10am and 5pm - seven days per week. Any future event outside these hours can be dealt with on a case-by-case basis as has occurred previously where temporary changes to an approved liquor licence have been sought to cater for special events.

The proponent requested permanent extension of trading hours to 7pm Monday to Thursday, 10pm Friday and Saturday and 9pm Sunday.

This is not supported given the following:

- The zoning of the property is Rural and the purpose and intent of this zone under TPS 3 is as follows:

“Rural Zone- for the range of normal rural activities conducted in the Shire and to protect such land from inappropriate uses”

Extending trading hours for a tavern with restrictions is more akin to a Commercial or Tourist zone and does not reflect the intent of the Rural zone as identified above.

- Approving a tavern with restrictions would have the potential to unfairly compete with existing premises that are located in appropriately zoned areas, i.e. businesses within the Denmark town centre that are zoned Commercial, or other ventures that have the appropriate zoning such as Tourist.
- By permitting an extension of trading past 5pm the use begins to conflict with the expectations of the property under its existing producer licence and becomes a more intensive land use, which again is incompatible with the intentions of the rural zoning and would have the capability to impact on the existing rural amenity.

It is noted that the extension of the hours of operation to 7pm to 10pm would only be supported by Council's Planning Staff where an appropriate zoning was provided. In this case, this would require the property being zoned 'Tourist' or 'Commercial', which is consistent with requirements imposed on other businesses elsewhere in the Shire.

In closing on this point, any support to extended trading hours for a tavern with restrictions within a Rural zoning ahead of any rezoning would be contrary to orderly and proper planning and is strongly opposed.

- **Number of People:**

The current cellar sales allows for 50 people to be on site at any one time. It is recommended with the intensification of the premise that up to 70 patrons is suitable. The site is limited by the amount of outdoor seating available, and as the majority of additional seats are associated with the tavern and indoors, the wider implications of increasing the number of people on site is deemed to be small. For context, 'tavern'

approved uses which include the Denmark Hotel on Hollings Road is licenced for 400 people, with the Chocolate Lounge on South Coast Highway licensed for 50 people under a restricted tavern license. Given this, it is considered 70 people on site are an appropriate number.

• **Car Parking:**

Based on TPS No.3 standards the site should provide 13 car parks for the existing cellar door sales. A tavern is explicitly listed as requiring one car park per 5m² of public area. If this standard was applied to the tavern area shown, 72 car parks would be required for the tavern, resulting in 85 car parks being provided in total.

Given the site’s Rural zoning it is recommended the parking standard in this instance be relaxed and applied at a rate of one car park per four persons for the 70 people, which results in 22 fully constructed, sealed and line marked car bays being required (18 for patrons and four for staff). Any future increase in the number of people on site will require the applicant to demonstrate appropriate additional car parks. Should any overflow parking be required for special events this can be adequately accommodated on site.

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 Denmark Bulletin on Thursday 8/07/10; and
2. The application was referred to nearby residents for comment.

Six submissions (Appendix 3) were received, detailed as follows:

Name	Officer Response
<p>Submission 1: Private Resident.</p> <p>Opposes the proposal as it is impossible to control any unruly behaviour associated with taverns and this will be exacerbated in this instance as the site is out of the town centre.</p> <p>Noise levels from the proposed tavern will upset the wider broad acre farming and rural atmosphere.</p> <p>Denmark has enough liquor outlets and approving this application would represent a bad planning decision.</p>	<p>Submission Noted.</p> <p>The Shire successfully provides numerous establishments that serve liquor without any noticeable adverse social implications on neighbouring properties. The application is not to be confused with other establishments that have an ‘unrestricted’ tavern licence, commonly associated with a pub or hotel. The restricted tavern licence which will enable the microbrewery to sell beer will also limit the ability of the microbrewery to generate characteristics typically associated with a pub for example. In addition the hours of operation will be limited to those already associated with the cellar door, generating no obvious effects on the wider environment or wider rural amenity.</p> <p>All noise from land uses and activities are governed by the Environmental Protection (Noise) Regulations 1997 which limit the amount and type of noise permitted in certain areas. It is recommended that an advice note be placed on the approval to ensure that the applicant and landowner are made aware of their responsibilities.</p> <p>The approval of a restricted tavern licence will</p>

	<p>not result in the site being viewed as a liquor outlet per se. Rather it will complement an existing tourist attraction (winery) and will be reflective of other successful tourist ventures throughout Western Australia. Denmark as a tourist destination is responding to business and customer demands and diversification of activities on site is seen as a positive attribute to the Denmark context overall.</p>
<p>Submission 2: Private Resident.</p> <p>No need for extended hours of operation as any extended hours can be dealt with on a case by case basis under a special licence.</p> <p>Parking concerns relating to location of overflow parking, and suggests planting be undertaken along eastern boundary and ensure all parking faces west to avoid light spill onto adjoining residences.</p> <p>Previous agreements and conditions of planning approval relating to the original winery were not adhered to or seemingly enforced.</p>	<p>Submission Noted.</p> <p>It is agreed any activities to be undertaken as a result of this tavern licence request should be undertaken in accordance with the existing hours of the proposed winery and cellar door. There is no justification or need to extend the hours of this particular premise beyond its current 5pm closure on a regular basis. As stated, any special events can apply to have their liquor licence amended under a special licence application, which will be specific to the nature of the event.</p> <p>Parking shall be provided in locations approved by the Director of Planning and Sustainability. It is not however recommended any boundary planting be undertaken as the general hours of operation associated with the business would not generally result in large numbers of vehicles entering and leaving the site after dark, given the 5pm closure. As such there are not expected to be any significant effects relating to light spill onto adjoining residences that would warrant planting a boundary vegetative screen, particularly given the distances between uses.</p> <p>However for any special events for hours of operation variations outside 5pm, car parking will be required to be provided at a location satisfactory to the Director of Planning and Sustainability. This is reflected as an advice note.</p>
<p>Submission 3: Department of Environment and Conservation (DEC)</p> <p>DEC does not object to the proposal however advises the site is in close proximity to lands managed by DEC. DEC wishes consideration be given to the following issues:</p> <ul style="list-style-type: none"> • Prescribed burning takes place in the vicinity on the DEC estate; • Herbicides and other chemicals are used on the DEC estate; 	<p>Submission Noted.</p> <p>It is recommended that an advice note be placed on the approval to ensure that the applicant and landowner are made aware of adjoining activities that may take place from time to time.</p>

Feral animal control is undertaken on the DEC estate.	
Submission 4: Department of Water (DOW) No comment to offer at this stage of the Planning process.	Submission Noted.
Submission 5: Department of Health (DOH) No objection to the proposal subject to details of the on-site wastewater treatment and disposal system serving the development being acceptable to the DOH at building application stage.	Submission Noted. It is recommended an advice note be added to the approval requiring the on-site wastewater treatment and disposal system to be approved by the DOH.
Submission 6 Main Roads WA No objection however advises that any changes to the access into the property will require Main Roads WA approval.	Submission Noted. It is recommended an advice note be added advising the applicant of Main Roads requirements.

Statutory Obligations:

This proposal will require a liquor license from Office of Racing, Gaming and Liquor (ORGL). The applicant has requested approval from Council prior to lodging their application with ORGL.

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:

5.3 Objectives

5.3.3 *To encourage tourist orientated development in appropriate locations.*

5.3.5 *To provide for the expansion of Denmark's urban area.*

5.3.7 *To retain and maintain the natural resources on which the Shire's tourism industry is based.*

The application is deemed to be consistent with Policy No. 29, bearing in mind the following specific comment in relation to this catchment:

"The predominant management issues are protection of landscape, rural character, remnant vegetation... and conflict between intensive agriculture, hobby farms and expansion of the Denmark town site".

Budget / Financial Implications:

There are no budget considerations relating to the report or officer recommendation.

Strategic Implications:

The site may be located within the buffers associated with the proposed Light Industrial Area (LIA) at McIntosh Road and this may affect the property in the future. The actual impacts are not possible to quantify given the progress of the industrial proposal to date. Likely impacts may revolve around noise and dust generation.

Sustainability Implications:**➤ Environmental:**

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

➤ Economic:

The operation of the microbrewery will enhance Denmark's tourism industry. 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 jobs within the Shire benefiting the local community.

➤ Social:

There are no known social considerations relating to the report or officer recommendation. As with all application involving liquor provision and consumption on site, there is the perception that greater access to alcohol will in turn lead to increased social issues. It must be stressed however that as in all cases such as this, the onus is on the operator to serve products responsibly.

Voting Requirements:

Simple majority.

OFFICER RECOMMENDATION**ITEM 8.1.4**

That with respect to the development application lodged for a tavern, Council resolve to grant planning approval for a tavern with restrictions at No. 678 (Lot 42) South Coast Highway, Denmark 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 14 June 2010.
2. The hours of operation shall be limited to between 10am-5pm seven days a week (see advice note i).
3. A minimum of 22 car parking bays (including 1 disabled to be a minimum of 5.4m x 2.7m); bitumised, drained, line-marked and signed to the satisfaction of the Director of Infrastructure Services. (see advice note ii)
4. No more than 70 patrons to be on site (including both the Tavern and Cellar Door) at any one time, and any temporary variations shall be approved in writing by the Director of Planning & Sustainability.
5. No liquor products other than those produced on site, which are limited to beer and wine, are to be sold from the premises.
6. The applicant entering a formal understanding to the Shire's satisfaction acknowledging a light industrial area and land fill site may be constructed within proximity of their site and there may be noise and other impacts on their business.

Advice Note

- i) Hours of operation are consistent with the approved winery cellar door and any temporary variation shall be approved by Council in writing.
- ii) The applicant is advised all trees located on the property between South Coast Highway and the existing vehicle accessway are protected via a condition of a historic subdivision approval for screening purposes. Any modifications to the parking within the vicinity of these trees should be undertaken in a manner that retains all vegetation.
- iii) 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.

- iv) No signs have been approved as part of this application.
- v) The applicant is advised at Building Licence stage the on-site wastewater treatment and disposal system will require approval from the Department of Health.
- vi) A copy of the approved liquor licence shall be provided to Council.
- vii) The Shire's Building Surveyor requests the following:
 - Where the floor area exceeds 500m² of any building fire hydrants and water supply to be provided to BCA requirements.
 - Energy efficiency details needs to be provided.
 - Disabled facility requirements needs to be provided including details on circulation areas.
 - Full plans and specifications required.

Please contact the Shire's Building Surveyor on (08) 9848 0300 to discuss any of these matters.
- viii) Any extra car parking required for special events shall be required to be provided at a location satisfactory to the Director of Planning and Sustainability.
- ix) Any changes to the entry/exit to the property shall require approval from Main Roads WA.

COUNCIL RESOLUTION	ITEM 8.1.4
MOVED: CR RICHARDSON-NEWTON	SECONDED: CR BARROW

That with respect to the development application lodged for a tavern, Council resolve to grant planning approval for a tavern with restrictions at No. 678 (Lot 42) South Coast Highway, Denmark 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 14 June 2010.
2. The hours of operation shall be that the permanent hours of trading be extended to 7.00pm Monday to Thursday, 10.00pm Friday and Saturday and 9.00pm Sunday.
3. A minimum of 22 car parking bays (including 1 disabled to be a minimum of 5.4m x 2.7m); bitumised, drained, line-marked and signed to the satisfaction of the Director of Infrastructure Services. (see advice note ii)
4. No more than 70 patrons to be on site (including both the Tavern and Cellar Door) at any one time, and any temporary variations shall be approved in writing by the Director of Planning & Sustainability.
5. No liquor products other than those produced on site, which are limited to beer and wine, are to be sold from the premises.
6. The applicant entering a formal understanding to the Shire's satisfaction acknowledging a light industrial area and land fill site may be constructed within proximity of their site and there may be noise and other impacts on their business.

Advice Note

- i) The applicant is advised all trees located on the property between South Coast Highway and the existing vehicle accessway are protected via a condition of a historic subdivision approval for screening purposes. Any modifications to the parking within the vicinity of these trees should be undertaken in a manner that retains all vegetation.
- 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.

<p>iii) No signs have been approved as part of this application.</p> <p>iv) The applicant is advised at Building Licence stage the on-site wastewater treatment and disposal system will require approval from the Department of Health.</p> <p>v) A copy of the approved liquor licence shall be provided to Council.</p> <p>vi) The Shire’s Building Surveyor requests the following:</p> <ul style="list-style-type: none"> • Where the floor area exceeds 500m² of any building fire hydrants and water supply to be provided to BCA requirements. • Energy efficiency details needs to be provided. • Disabled facility requirements needs to be provided including details on circulation areas. • Full plans and specifications required. <p>Please contact the Shire’s Building Surveyor on (08) 9848 0300 to discuss any of these matters.</p> <p>vii) Any extra car parking required for special events shall be required to be provided at a location satisfactory to the Director of Planning and Sustainability.</p> <p>viii) Any changes to the entry/exit to the property shall require approval from Main Roads WA.</p> <p>AMENDMENT</p> <p>MOVED: CR SYME SECONDED: CR SAMPSON</p> <p>That part two to be replaced with the words; “The hours of operation shall be limited to between 10am-5pm seven days a week”.</p> <p>LOST: 4/7 Res: 140810</p> <p>THE ORIGINAL MOTION WAS THEN PUT & CARRIED: 6/5 Res: 150810</p>
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Cr Sampson requested that all Councillors’ votes on the above resolution be recorded.

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

AGAINST: *Cr Sampson, Cr Thornton, Cr Syme, Cr Ebbett, and Cr Pedro.*

<p>COUNCIL RESOLUTION</p> <p>MOVED: CR HINDS SECONDED: CR BARROW</p> <p>That the meeting be adjourned for a short break, the time being 6.51pm.</p> <p>CARRIED: 10/1 Res: 160810</p>

7.05pm - The meeting resumed with all members and staff that were present prior to the adjournment.

8.1.5 DRAFT NORNALUP CHARACTER STUDY

File Ref:	PLN 54
Applicant / Proponent:	Not applicable
Subject Land / Locality:	Nornalup Settlement
Disclosure of Officer Interest:	Nil
Date:	9 August 2010
Author:	Cindy Simpson, Senior Planning Officer
Authorising Officer:	Sam Williams, Director of Planning & Sustainability
Attachments:	Yes – page 71

Summary:

The Draft Nornalup Character Study (August 2010) has been finalised and it is recommended that Council adopt the Draft Character Study for advertising for public comment.

Background:

In May 2006, the Nornalup Residents and Ratepayers Association requested that Council provide them with assistance to preserve the unique character of Nornalup and give guidance to any future development in the area. Council appointed Howard & Heaver Architects (H & H Architects) in June 2007 to undertake the preparation of the Nornalup Character Study.

At their meeting of 25 September 2007, Council resolved to accept the proposed community questionnaire for distribution to landholders as part of the Draft Nornalup Character Study. The aim of the questionnaire was for all interested parties to have input into what they believe are the special characteristics of Nornalup.

The results of the questionnaires were collated by H & H Architects and used to develop details within the Draft Character Study. A draft was advertised for public comment during the month of January 2009 and a public workshop was held on 7 January. 43 people attended the meeting including Department of Indigenous Affairs and Environment and Conservation. Walpole Weekly published an article in their January 14, 2009 edition (refer attachment).

Of importance is the major outcome of the meeting. Those present felt that Nornalup's character is defined not only by its built environment but also by its natural setting and Aboriginal Cultural Heritage and that the strategy should be built upon to include these two aspects.

Based on this, South Coast NRM provided funds under their "Restoring Connections" program for the preparation of the Cultural Heritage Assessment of Nornalup Townsite and appointed David Guilfoyle of Applied Archaeology Australia to undertake the assessment. The assessment was completed and received by Council on 11 September 2009.

Comment:

The Draft Nornalup Character Strategy consists of 5 chapters as follows:

- Executive Summary
- Chapter 1: Introduction
- Chapter 2: Built Environment
- Chapter 3: Environmental Values
- Chapter 4: Cultural Heritage
- Chapter 5: Conclusion

Chapter 2 on the built environment provides a description of the settlement, streetscape and house characteristics, a future vision and makes recommendations for subdivision and infill development, street frontages, fencing and landscaping, roads, new buildings, conservation and adaptation of existing buildings, community area and sustainability guidelines. This chapter consist of the work undertaken by H & H Architects.

Council's Natural Resource Management Officer, Helen Heydenrych completed the chapter on Environmental Values (chapter 3) which provides a description of the set of naturally present environmental features, conditions and climate within which the settlement of Nornalup exists.

Chapter 4 discusses the Cultural Heritage and is a summary of the report "Cultural Heritage Assessment of Nornalup Townsite". This summary sets out the heritage values as it relates to the Nornalup settlement and management recommendations stemming from the investigations. It does not provide detailed description of the anthropological and archaeological background contained in the study.

Consultation:

The following consultation has occurred on the Draft Nornalup Character Study:

- A questionnaire was sent out to all ratepayers of Nornalup which provided the residents with an opportunity to have input into what they believe are the special characteristics of Nornalup.
- The draft Character Study was advertised during January 2009 for public comment.
- A workshop was held on 7 January 2009 where the draft Character Study was presented and an opportunity provided to residents to provide input.

Following adoption of the Draft Character Study, it will be advertised for public comment.

Statutory Obligations:

There are no statutory obligations relating to the preparation of the Character Study.

Policy Implications:

The implementation of the Nornalup Character Study will result in the preparation of a Town Planning Scheme Policy as it relates to development standards for Nornalup.

Budget / Financial Implications:

Recommendation contained within the Nornalup Character Study will financial implications upon the Councils current and future budget.

Strategic Implications:

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

Sustainability Implications:

➤ **Environmental:**

The implementation of the Nornalup Character Study will result in an increased awareness of the environmental values surrounding Nornalup.

➤ **Economic:**

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

➤ **Social:**

The implementation of the Nornalup Character Study will ensure the built form of the Nornalup townsite retains its unique feel and will support the indigenous community

and identify, acknowledge, protect, enhance, manage and promote indigenous, cultural and natural heritage. It will facilitate visual amenity and 'sense of place'.

Voting Requirements:

Simple majority.

OFFICER RECOMMENDATION

ITEM 8.1.5

That with respect to the Draft Nornalup Character Study, Council;

1. Advertise the report for a period of 28 days to allow public comment to be received.
2. Request that staff prepare a Town Planning Scheme Policy for Nornalup based on the Character Study.

At the meeting held on the 17 August 2010, Cr Laing requested that the advertising period be extended given that organisations such as the Nornalup Residents & Ratepayers Association only meet every two months and should be given sufficient time to inform and liaise with their members & residents.

In response, the Director of Planning & Sustainability provides the following Alternate Officer Recommendation which stipulates an extended advertising period and incorporates minor amendments from the Nornalup Residents and Ratepayers Association, on page 13 of the Study (amended page attached).

COUNCIL RESOLUTION & ALTERNATE OFFICER RECOMMENDATION	ITEM 8.1.5
MOVED: CR PHAIR	SECONDED: CR EBBETT
That with respect to the revised Draft Nornalup Character Study, to incorporate comments made by the Nornalup Residents & Ratepayers Association Inc., Council;	
<ol style="list-style-type: none"> 1. Advertise the report for a period of 90 days to allow public comment to be received. 2. Request that staff prepare a Town Planning Scheme Policy for Nornalup based on the Character Study. 	
CARRIED:11/0	Res: 170810

7.13pm – Director of Planning & Sustainability left the meeting & did not return.

8.2 Director of Community & Regulatory Services

8.2.1 SHIRE OF DENMARK ANNUAL FIRE REGULATION NOTICE 2010/2011

File Ref:	FIRE.1
Applicant / Proponent:	Not applicable
Subject Land / Locality:	All privately held land within the Shire of Denmark
Disclosure of Officer Interest:	Nil
Date:	7 August 2010
Author:	Gregg Harwood, Director of Community & Regulatory Services
Authorising Officer:	Gregg Harwood, Director of Community & Regulatory Services
Attachments:	Yes – page 97

Summary:

The 2010/2011 Annual Fire Regulation Notice is due to be issued in September 2010.

This report considers the attached Notice which incorporated four changes that were recommended by the Bush Fire Advisory Committee on the 29 July 2010 and recommends that Council for adoption the notice for distribution in September 2010.

Background:

The Bush Fire Advisory Committee is required to consider the proposed notice and make recommendations to Council. Once the notice has been approved by Council it's then the task of Council's administration to ensure its distribution and enforcement.

Comment:

In addition to a number of style and formatting changes the 2010/2011 Annual Fire Regulation Notice also contains number of minor changes, common sense changes that will help further reduced the fire hazard in Denmark. These changes are as follows:

The descriptions of fuel loadings have been revised.

Reg 1 & 2 vacant residential land must now be fuel reduced or managed in accordance with an approved fire management plan.

Reg 3 vacant special residential and special rural land must now be fuel reduced to a "developed state" meaning that a fuel reduced building envelope in accordance with the subdivision guide plan must now be fuel established and an access route to it maintained unless the property is managed in accordance with an approved fire management plan.

Reg 6 stipulates the usage of Ag Dept recommended stocking rates where grazing is being used to manage pasture fire risk.

Regulation 13 contains a note that "All garden refuse that is to be burnt must be dry and not green so as to prevent a smoke nuisance."

The prohibited burning period has been extended to the 26 April 2010.

Regulation 6 mentions that Council may approach land holders holding rural properties with high loadings that are near residential areas and ask them to reduce the fuel loading on parcels of land under 40 hectares.

The Bush Fire Advisory Committee discussed the 2010/2011 Fire Regulation Notice and resolved that the following changes should be made to it.

7.5.1 Insertion of a Clause Relating to Building Protection zones in rural areas into Regulation 6

"That the Denmark Bush Fire Advisory Committee recommends to Council that: Regulation 6 of the Fire Regulation Notice as presented be amended to include a clause relating to rural properties by inserting a new regulation 6(a) that using the wording of regulation 3(a) relating to building protection zones and that the existing 6(a), 6(b) & 6(c) be renumbered 6(b), 6(c) & 6(d)."

7.5.2 Harvest be Removed and Replaced with Machinery and Vehicles Ban

"That the Denmark Bush Fire Advisory Committee recommends to Council that; The words "Harvest Ban" be removed from the Fire Regulation Notice as presented and replaced with "Machinery and Vehicle Ban"."

7.5.3 Fire Regulations Notice page 2 delete "Fire Control Officer" and replace with Ranger

"That the Denmark Bush Fire Advisory Committee recommends to Council that;

“contact your local fire control officer for advice on the methods that are applicable to your property” be deleted from page 2 of the Fire Regulation Notice as presented be replaced with “contact the Shire of Denmark’s Rangers for advice on the methods that are applicable to your property”.”

7.5.4 Length of Prohibited Fire Season

“That the Denmark Bush Fire Advisory Committee recommends to Council that; The 2010/11 Fire Regulation Notice be amended to bring the Prohibited Season back to 28 Feb 2011 which is consistent with the 2009-2010 notice.”

7.5.5 That the 2010/11 Fire Regulation Notice be adopted subject to Amendments 7.5.1 – 7.5.4.

“That the Denmark Bush Fire Advisory Committee recommends to Council that; The 2010/11 Fire Regulation Notice be adopted subject to amendments 7.5.1 – 7.5.4 being added to it.”

7.5.6 Ministerial Approval for Proposed Extension to Restricted Fire Season

“Director of Community and Regulatory Services write to Grant Olsen FESA Great Southern Regional Director regarding ministerial approval for the proposed extensions to the restricted fire season in the 2010/11 Fire Regulation Notice.”

The changes recommended by BFAC are practical, achievable and enforceable and have the support of both the Chief Fire Control Officer and Council staff.

In order to simplify Council’s consideration of this matter the recommended changes have been incorporated into the attached amended Fire Regulation Notice and the process of gaining ministerial approval for the proposed extensions to the restricted fire season in the 2010/11 Fire Regulation Notice has already been initiated with Grant Olsen FESA Great Southern Regional Director who has confirmed that this is both possible and readily achievable.

On this basis the revised 2010/11 Fire Regulation Notice is presented to Council for adoption.

Consultation:

Chief Bush Fire Control Officer, Former Community Fire Manager (Graeme Hockley) and CEO based on feedback from landowners.

Statutory Obligations:

The Bush Fires Act 1954 gives Council the statutory power to issue the fire regulation notice.

In accordance with the Bushfires Act the fire regulation notice is sent to all landowners as an alternative to gazettal of the notice.

Policy Implications:

Council has several policies relevant to the fire regulation notice. The fire regulation notice will comply with these policies. The policies mainly refer to the number of brigades, open air fires, burning periods, etc.

Budget / Financial Implications:

It is proposed that the fire regulation notice for 2010/2011 be professionally printed. It is estimated that this will cost \$2,500.

Strategic Implications:

Communication to residents of their statutory requirements under the Bush Fires Act 1954 will assist in minimising the risk of wild fires.

Sustainability Implications:

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

➤ **Environmental:**

The adoption, distribution and enforcement of 2010-2011 fire regulation notice will reduce the risk that wild fire pose to Denmark’s local environment.

➤ **Economic:**

The adoption, distribution and enforcement of 2010-2011 fire regulation notice will reduce the risk that wild fire pose to Denmark’s economy.

➤ **Social:**

The adoption, distribution and enforcement of 2010-2011 fire regulation notice will reduce the risk that wild fire poses the social fabric and the amenity of Denmark’s neighbourhoods.

Voting Requirements:

Simple majority

COUNCIL RESOLUTION & OFFICER RECOMMENDATION		ITEM 8.2.1
MOVED: CR WAKKA		SECONDED: CR SAMPSON
That with respect to the 2010/2011 Fire Regulation Notice, Council;		
1. Adopt the 2010/2011 Fire Regulation Notice which has been amended to incorporate the four recommendations of the Bush Fire Advisory Committee 29 July 2010; and		
2. Request the Director of Community & Regulatory Services to write to FESA Great Southern regarding Ministerial approval for the proposed extensions to the restricted fire season in the 2010/11 Fire Regulation Notice.		
AMENDMENT		
MOVED: CR SYME		SECONDED: CR PEDRO
That the following words be added before the “;” in part 1, “subject to section 13 being amended as follows ‘24 th December 2010 through till 28 th February 2011’ be deleted and replaced with ‘1 st November 2010 through till 15 th April 2011’.		
LOST: 4/7		Res: 180810
THE ORIGINAL MOTION WAS THEN PUT & CARRIED: 11/0		Res: 190810

8.3 Director of Infrastructure Services

Nil

8.4 Director of Finance & Administration

8.4.1 FINANCIAL STATEMENT FOR THE MONTH ENDING 31 JULY 2010

File Ref:	FIN 1
Applicant / Proponent:	Not Applicable
Subject Land / Locality:	Denmark
Disclosure of Officer Interest:	Nil
Date:	10 August 2010
Author:	Garry Bird, Director of Finance and Administration
Authorising Officer:	Garry Bird, Director of Finance And Administration
Attachments:	Yes – page 113

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:

Councillors will note from that the Attached Finance Report is slightly modified for this month, due to it being the first report of the new financial year and some reports showing monthly comparisons not being applicable.

No municipal investments have been placed for this month, with these funds required to meet cashflow needs for the first month of the financial year.

The Financial Statement for the month ending 31 July 2010 may be subject to revision as there are still outstanding budget entries to be made for the new financial year.

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 27 July 2010. These matters are addressed in the Budget vs Actual Variance Report included within the Statement of Financial Activity.

Budget / Financial Implications:

Nil

Strategic Implications:

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

Sustainability Implications:

➤ **Environmental:**

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

➤ **Economic:**

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

➤ **Social:**

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

Voting Requirements:

Simple majority.

COUNCIL RESOLUTION & OFFICER RECOMMENDATION	ITEM 8.4.1
MOVED: CR SAMPSON	SECONDED: CR HINDS
That with respect to Financial Statements for the month ending 31 July 2010, Council;	
<ol style="list-style-type: none"> 1. Receive the financial report, incorporating the Statement of Financial Activity and Budget vs Actual Variance Report; and 2. Endorse the Accounts for Payment as listed. 	
CARRIED: 11/0	Res: 200810

8.4.2 REQUEST FOR FINANCIAL CONTRIBUTION – BELLANGER CENTENARY CELEBRATION (NORNALUP)

File Ref:	ORG31
Applicant / Proponent:	Nornalup Residents and Ratepayers Association Inc
Subject Land / Locality:	Nornalup
Disclosure of Officer Interest:	Nil
Date:	10 August 2010
Author:	Garry Bird, Director of Finance & Administration
Authorising Officer:	Dale Stewart, Chief Executive Officer
Attachments:	Yes – page 129

Summary:

Correspondence has been received from the Nornalup Residents and Ratepayers Association Inc requesting a financial and in-kind contribution from Council of \$3,860 towards the upcoming 100 year anniversary of the settlement of Nornalup by the Bellanger family.

A copy of the correspondence received from the Association is attached for the information of Elected Members.

Background:

The celebration, to take place at Settlers Park in November 2010, will commemorate the settlement of the Nornalup townsite by the Bellanger family in November 1910.

In summary, the Association plan to relocate the existing water tank adjacent to the Hall and place a granite boulder with an appropriately worded plaque, acknowledging the settlement of the townsite.

The activities proposed and associated funding requested from Council is summarised as follows;

• Cart granite boulder to identified site at Hall (in-kind)	\$300
• Plaque for boulder	\$300
• Pea gravel and compaction	\$500
• Sand pad for new tank site	\$1,000
• Relocate existing tank and connect to water	\$1,260
• Contribution towards Dinner	\$500
TOTAL	\$3,860

In addition, there will be a function in October 2010, hosted by the Department of Environment and Conservation (DEC) to commemorate the 100 year anniversary of the oldest park in Western Australia. It should be noted that these are two separate events and Council has not been invited/requested to contribute to this celebration at this stage.

Comment:

It is recommended by staff that the request be approved, given the importance of the occasion to the Nornalup community.

Statutory Obligations:

Local Government Act 1995
 Local Government (Financial Management) Regulations 1996

Policy Implications:

Nil

Budget / Financial Implications:

The 2010/11 Municipal Budget contains no specific allocation for this purpose, although Account # 1410082 Donations Gifts and Gratuities has a budget of \$11,000 unallocated at this early stage of the financial year, which could accommodate this request.

Strategic Implications:

Nil

Sustainability Implications:

➤ **Environmental:**

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

➤ **Economic:**

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

➤ **Social:**

The commemoration of the 100 year anniversary of the settlement of the Nornalup townsite will provide a unique social occasion for residents (past and present) to reflect on the past 100 years of the township and provide a permanent reminder for future residents and visitors of the settlement of Nornalup.

Voting Requirements:

Simple majority.

COUNCIL RESOLUTION & OFFICER RECOMMENDATION	ITEM 8.4.2
MOVED: CR PHAIR	SECONDED: CR SYME
That Council agree to contribute up to \$3,860 towards relocating the existing water tank and the placement of a boulder and plaque at the Nornalup Hall in recognition of the 100 year anniversary of the settlement of the Nornalup townsite, with such funding to be provided from Acc# 1410082 Donations, Gifts and Gratuities.	
CARRIED: 11/0	Res: 210810

8.5 Chief Executive Officer

8.5.1 REVIEW OF DELEGATIONS

File Ref:	Delegations Register
Applicant / Proponent:	Not applicable
Subject Land / Locality:	Not applicable
Disclosure of Officer Interest:	Nil
Date:	11 August 2010
Author:	Claire Thompson, Executive Assistant
Authorising Officer:	Dale Stewart, Chief Executive Officer
Attachments:	Yes – page 133

Summary:

Pursuant to section 5.18 of the Local Government Act 1995, Delegations of Authority granted by Council are to be reviewed every financial year.

This report recommends continuation of the current delegations with amendments as listed below and detailed in the attachment.

Background:

To assist in the effective administration of the Shire, Council has granted various delegations. Delegations made under the Local Government Act 1995 (as opposed to some other Acts) can generally only be made to the Chief Executive Officer (CEO) or Council Committees. Where appropriate, the CEO can on delegate to other Council employees, with conditions as specified, unless the delegation to the CEO specifically removes this right of on-delegation.

Delegations under other legislation are often made direct to the Officer or position concerned.

Council’s last review of its delegations was on 28 July 2009, resolution 150709.

This item was presented to Council at its meetings of July 2010 and was deferred (Resolution No. 250710) to the August 2010 round of meetings to allow Councillors sufficient time to review the document.

Comment:

A copy of the existing Delegations Register with the proposed amendments is attached. Items being deleted have been marked through with a line and additions are shown as underlined.

Amendments to the Delegations Register

Delegation Number	Amendment
D030201	Added the words “and Council Policy P040229” at the end of the first paragraph and added the words “and inclusion in monthly Financial Report to Council” under Recording Requirements.
D040101	Increased the maximum donation sum from \$2,000 to \$2,400 and added the words “and included in Council’s monthly Information Bulletin” under Recording Requirements.
D040103	Included reference to Council Policy P040209.
D040106	Corrected file reference from CON2 to CR2.
D040201	Remove the word “CEO’s” from Recording Requirements.
D040204	Added the words “subject to compliance with Council Policy P040201.
D040208	Added an on-delegation to the relevant Director. Included Organisation Wide Procedure number under Recording

	Requirements.
D040209	Included Organisation Wide Procedure number under Recording Requirements.
D040210	Minor grammatical corrections.
D040212	Included cross reference to Council Delegation D040205.
D040213	Included organisation responsible for the 'Making Local Laws – Procedure Checklist'.
D040214	Minor grammatical correction to part 5.
D040216	Minor grammatical corrections and reference to Organisation Wide Procedure number under Recording Requirements.
D040217	Minor grammatical corrections.
D040218	Minor grammatical corrections.
D040221	Included Organisation Wide Procedure number under Recording Requirements.
D040222	Included Organisation Wide Procedure number under Recording Requirements.
D040225	Minor spelling corrections.
D050101	Remove the year “2009” from the second last dot point.
D050201	Changes to wording of parts a) & b).
D050302	CEO changed to Chief Executive Officer.
D100201	Minor grammatical corrections.
D100202	Amend year from 2009/2010 to 2010/2011.
D100501	Change to Bibbulmun Track Foundation email contact (as per their advice) and minor grammatical corrections.
D100601	Removal of reference to the Senior Management Group (SMG). Removal of part (18) causes renumbering of some parts. Correction of “Town Planning Appeal Tribunal” to “State Administrative Tribunal”.
D110102	Deleted – no longer required as fees and charges for tables & chairs are now included in the Fees & Charges Schedule.
D120106	Include the words “Reference to Council’s adopted Fees & Charges Schedule for the relevant fees” included under the Recording Requirements.
D120109	Minor spelling correction.
D130201	CEO changed to Chief Executive Officer.
D130203	CEO changed to Chief Executive Officer.
D130308	Added the words “in accordance with Council Policy P100606”. Minor grammatical corrections, addition of the words “included in Council’s monthly Information Bulletin” and included Organisation Wide Procedure number under Recording Requirements.
D130310	Minor spelling correction.

Consultation:

Nil

Statutory Obligations:

- Local Government Act 1995

Sections 5.16 to 5.18 relate to Council delegations to Committees.

Sections 5.42 to 5.46 relate to Council delegations to the CEO.

- Local Government (Miscellaneous Provisions) Act 1960

Section 374AAB relates to a Local Government may delegate authority to a person to approve plans of buildings or unauthorised building work.

Section 5.16 states;

5.16. Delegation of some powers and duties to certain committees

- (1) *Under and subject to section 5.17, a local government may delegate* to a committee any of its powers and duties other than this power of delegation.
* Absolute majority required.*
- (2) *A delegation under this section is to be in writing and may be general or as otherwise provided in the instrument of delegation.*
- (3) *Without limiting the application of sections 58 and 59 of the Interpretation Act 1984 —*
- a) *a delegation made under this section has effect for the period of time specified in the delegation or if no period has been specified, indefinitely; and*
 - b) *any decision to amend or revoke a delegation under this section is to be by an absolute majority.*
- (4) *Nothing in this section is to be read as preventing a local government from performing any of its functions by acting through another person.*

5.17. Limits on delegation of powers and duties to certain committees

- (1) *A local government can delegate —*
- a) *to a committee comprising council members only, any of the council's powers or duties under this Act except —*
 - (i) *any power or duty that requires a decision of an absolute majority or a 75% majority of the local government; and*
 - (ii) *any other power or duty that is prescribed;*
 - b) *to a committee comprising council members and employees, any of the local government's powers or duties that can be delegated to the CEO under Division 4; and*
 - c) *to a committee referred to in section 5.9(2)(c), (d) or (e), any of the local government's powers or duties that are necessary or convenient for the proper management of —*
 - (i) *the local government's property; or*
 - (ii) *an event in which the local government is involved.*
- (2) *A local government cannot delegate any of its powers or duties to a committee referred to in section 5.9(2)(f).*

5.18. Register of delegations to committees

A local government is to keep a register of the delegations made under this Division and review the delegations at least once every financial year.

5.42. Delegation of some powers and duties to CEO

- (1) *A local government may delegate* to the CEO the exercise of any of its powers or the discharge of any of its duties under this Act other than those referred to in section 5.43.*

**Absolute majority required.*

- (2) *A delegation under this section is to be in writing and may be general or as otherwise provided in the instrument of delegation."*

5.43. Limits on delegations to CEO's

A local government cannot delegate to a CEO any of the following powers or duties –

- (a) *any power or duty that requires a decision of an absolute majority or a 75% majority of the local government;*
- (b) *accepting a tender which exceeds an amount determined by the local government for the purpose of this paragraph;*
- (c) *appointing an auditor;*
- (d) *acquiring or disposing of any property valued at an amount exceeding an amount determined by the local government for the purpose of this paragraph;*
- (e) *any of the local government's powers under section 5.98, 5.99 or 5.100;*
- (f) *borrowing money on behalf of the local government;*
- (g) *hearing or determining an objection of a kind referred to in section 9.5;*
- (h) *any power or duty that requires the approval of the Minister or the Governor; or*

- (i) *such other powers or duties as may be prescribed.*”

5.44. CEO may delegate powers and duties to other employees

- (1) *A CEO may delegate to any employee of the local government the exercise of any of the CEO’s powers or the discharge of any of the CEO’s duties under this Act other than this power of delegation.*
- (2) *A delegation under this section is to be in writing and may be general or as otherwise provided in the instrument of delegation.*
- (3) *This section extends to a power or duty the exercise or discharge of which has been delegated by a local government to the CEO under section 5.42, but in the case of such a power or duty —*
- a) *the CEO’s power under this section to delegate the exercise of that power or the discharge of that duty; and*
- b) *the exercise of that power or the discharge of that duty by the CEO’s delegate,*
- are subject to any conditions imposed by the local government on its delegation to the CEO.*
- (4) Subsection (3)(b) does not limit the CEO’s power to impose conditions or further conditions on a delegation under this section.
- (5) In subsections (3) and (4) —
- conditions** includes qualifications, limitations or exceptions.

5.45. Other matters relevant to delegations under this Division

- (1) *Without limiting the application of sections 58 and 59 of the Interpretation Act 1984 —*
- a) *a delegation made under this Division has effect for the period of time specified in the delegation or where no period has been specified, indefinitely; and*
- b) *any decision to amend or revoke a delegation by a local government under this Division is to be by an absolute majority.*
- (2) *Nothing in this Division is to be read as preventing —*
- a) *a local government from performing any of its functions by acting through a person other than the CEO; or*
- b) *a CEO from performing any of his or her functions by acting through another person.*

5.46. Register of, and records relevant to, delegations to CEO’s and employees

- (1) *The CEO is to keep a register of the delegations made under this Division to the CEO and to employees.*
- (2) *At least once every financial year, delegations made under this Division are to be reviewed by the delegator.*
- (3) *A person to whom a power or duty is delegated under this Act is to keep records in accordance with regulations in relation to the exercise of the power or the discharge of the duty.*

Policy Implications:

There are no policy implications.

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:**

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

➤ **Social:**

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

Voting Requirements:

Absolute majority.

COUNCIL RESOLUTION & OFFICER RECOMMENDATION	ITEM 8.5.1
MOVED:CR SAMPSON	SECONDED: CR WAKKA
That Council adopt the Delegations Register 2010/2011 with additions, deletions and amendments as per the appendix.	
CARRIED BY AN ABSOLUTE MAJORITY: 11/0	Res: 220810

8.5.2 POLICY MANUAL REVIEW – POLICIES P040216 TO P070601

File Ref:	ADMIN 2
Applicant / Proponent:	Not applicable
Subject Land / Locality:	Not applicable
Disclosure of Officer Interest:	Nil
Date:	11 August 2010
Author:	Dale Stewart, Chief Executive Officer
Authorising Officer:	Dale Stewart, Chief Executive Officer
Attachments:	No

Summary:

This report recommends amendments to Council’s Policy Manual following discussion by Councillors at briefing sessions held in June & July 2010.

Background:

The following policies were reviewed by Councillors in June & July 2010 during Council Briefing Sessions;

- P040216 Regional Price Preference Policy
- P040217 CEO Performance Review
- P040218 Interest of Sundry Debtors
- P040219 Education & Study Assistance
- P040220 Purchasing Policy
- P040221 Fines & Infringements
- P040222 Material Variances in Budget & Actual Expenditure
- P040223 Ten Year Financial Plan & Municipal Budget Policy
- P040224 Recognition of Service Policy
- P040225 Gratuity Payments Policy
- P040226 Asset Management Policy
- P040227 Debt Collection Policy
- P040228 Annual Financial Report & Annual Report

P040229	Investment Policy
P040230	Investment – Federal Government Guarantee on Deposit
P040231	Customer Service Charter
P040232	2009/10 Municipal Budget Policies
P040233	Donation of Funds to Emergency and Disaster Recovery
P050101	Burning of Garden Refuse
P050102	Camping & Cooking Fire
P050103	Burning on Sundays
P050104	Property Ownership Details for Fire Control Officer
P050105	Brigade Units Inspection
P050106	Bushfire Fuel Facilities
P050107	Brigade Numbers & Advisory Committee Structure

Comment:

The Policies reviewed which were discussed as requiring referral to Councillor for debate / consideration are detailed below together with comments and recommendations from the author.

P040217 CEO PERFORMANCE REVIEW

1. That the performance of the CEO be reviewed once each year of employment.
2. That time on the day of an ordinary Council meeting, prior to a review, be closed to enable all Councillors to have input into the review of the CEO's performance.
3. That the task of conducting the performance review in a closed meeting with the CEO be delegated to the Shire President and Deputy Shire President, using the performance criteria as mutually agreed upon.
4. That a record of proceedings be prepared by the CEO and when confirmed by the President and Deputy Shire President, be provided to all Council members on a confidential basis.

Staff Comment

This policy appears to be working well and providing the community, Councillors and staff with appropriate guidance.

CEO Recommendation

That the policy be retained without alteration.

CEO Decision based on Councillor input

That part 1 be amended to read "That the performance of the CEO be reviewed annually on the employment commencement anniversary date."

The following Policy be added as an additional Council Policy;

P040234 DESIGNATED SENIOR STAFF APPRAISALS

The CEO is to table for Councillors information the annual performance appraisals of all designated Senior Staff following each of their individual annual reviews.

P040218 INTEREST ON SUNDRY DEBTORS

1. Council not charge interest on general sundry debtors.
2. Interest charges on rates debtors be maintained.
3. Interest default clauses be incorporated into any new or renewed commercial leases.

Staff Comment

This policy is redundant with the adoption of Policy P040227 Debt Collection.

CEO Recommendation

That the policy be repealed.

CEO Decision based on Councillor input

That the policy be recommended to Council for repeal.

P040219 EDUCATION AND STUDY ASSISTANCE

Policy

Employees may be assisted to undertake courses of study at tertiary education institutions such as universities, technical colleges, accredited organizations and private companies. The pre-requisites are that the course(s) complement the organisation's goals and strategies; and are relevant to the work of the employee.

Objective

To encourage studies for employees in courses relevant to their positions and to the Local Government.

Procedure

1. **Eligibility For Assistance**

To be considered for assistance employees need to satisfy the following criteria:

- a) Approved courses shall be such that they will improve employees' qualifications and be appropriate to their current classification or advancement.
- b) Employment must be of a continuing nature.
- c) The subjects involved shall not be repeat subjects. Repeated subjects must normally be completed in own time, although submissions for time off for repeated subjects without pay or with such time to be made up, will be considered on merit.

2. **Time off for Lectures**

Employees may be permitted time off with pay up to five hours per week, including travelling time, providing the equivalent period of time attending lectures is incurred in the employee's own time, subject to:

- a) the number of staff attending courses of study at any one time shall not unduly interfere with work of the Local Government or any one department; and
- b) study release may, at the Chief Executive Officer's discretion, be waived from time to time under extreme workload conditions.

3. **Examination Leave**

Employees undertaking examinations arising from an approved course of study may apply to the Chief Executive Officer for time off with pay to sit for examinations that are scheduled during working hours.

4. **Reimbursement of Fees**

An employee who undertakes an approved course of study may apply to the Chief Executive Officer to have compulsory fees (other than for supplementary examinations, higher education contribution scheme and late enrolment or late entry fees) reimbursed, after successful completion of the semester/term.

Expenditure for books, stationery, equipment, parking and travel are not reimbursed, although such expenses may be eligible deductions for taxation purposes.

Claims for payment shall be accompanied by official receipts for fees paid, together with an official statement from the educational organisation, indicating passes in those subjects.

5. **Continuity**

To continue to qualify for assistance under the education policy, employees will need to successfully complete each semester's subjects.

6. **Withdrawal of Support for Unsatisfactory Progress**

Support may be withdrawn subject to:

- a) Review of semester results,
- b) Behaviour and progress of the employee,

- c) The educational requirements of the educational organisation, or
- d) Repeated subject failures associated with any study course.

7. Promotion

The successful completion of any approved course shall not necessarily entitle an employee to a higher classification or grading.

8. Accumulation of Assistance

Education and study assistance is not accumulative.

Responsibility

Each individual staff member is required to ensure that their eligibility for education and study assistance is maintained. The relevant Director must ensure that this procedure is adhered to.

Refer also Policy P040210

Staff Comment

This policy appears to be working well and providing staff with the appropriate guidance.

CEO Recommendation

That the policy be retained without modification.

CEO Decision based on Councillor input

That the policy be recommended to Council for amendment to make it explicit that staff required prior approval for courses that would be considered for reimbursement.

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.

Staff Comment

This policy appears to be working well and providing staff with the appropriate guidance.

CEO Recommendation

That the policy be retained without modification.

CEO Decision based on Councillor input

That the policy be reviewed by Council noting that at least one Cr believed the \$5,000 sum should be reviewed to be approximately \$2,000.

P040230 INVESTMENT – FEDERAL GOVERNMENT GUARANTEE ON DEPOSIT

Council has resolved to not accept the Federal Government Guarantee on Deposits, given the relatively low level of risk associated with Councils Investment Policy.

NB: This guarantee option expires on 12 October 2011 after which date this Policy then becomes redundant.

Staff Comment

This policy is now redundant due to legislative change and is no longer valid or required.

CEO Recommendation

That the policy be repealed.

CEO Decision based on Councillor input

That the policy be recommended to Council for repeal.

P050101 BURNING OF GARDEN REFUSE

1. No burning of garden refuse is permitted in the restricted burning season without a permit.
2. No burning of garden refuse is permitted throughout the entire prohibited fire season.

Staff Comment

This policy appears to be working well and providing staff with the appropriate guidance.

CEO Recommendation

That the policy be retained without modification.

CEO Decision based on Cr input

In light of Item 9.2 on this Agenda, add a part 3 to read "All garden waste that is burnt is to be thoroughly dry so as to not cause a smoke nuisance to neighbouring properties."

P050102 CAMPING & COOKING FIRES

Pursuant to the powers under Section 25 (1a) of the Bush Fires Act 1954, the Shire of Denmark hereby prohibits the lighting of fires in the open air in its district for the purpose of camping or cooking during the prohibited burning times, unless the fire is:

- (a) at a person's home; or
- (b) in an area which –
 - (i) is set aside for that purpose by the State Authority or local government responsible for the care, control or management of the land; and
 - (ii) bears the State Authority's or local government's sign denoting that purpose;
 - (iii) and all combustible material is cleared from within a 5 metre radius of the fire.

Staff Comment

This policy appears to be working well and providing staff with the appropriate guidance.

CEO Recommendation

That the policy be retained without modification.

CEO Decision based on Councillor input

That the policy be reviewed by Council.

At the Briefing Session Councillors discussed whether the Policy supporting camping & cooking fires during the year other than the "prohibited" period should be altered to also include the "restricted" period. In addition discussion occurred on whether or not there should be any areas in the Shire where a fire is permitted during the prohibited period (such as at registered Caravan Parks, as is the present case).

The CEO in consulting with the Chief Bush Fire Control Officer (CBFCO) and the Director of Community & Regulatory Services observes that recently Council wrote to all Brigades seeking input into changes to the Annual Fire Regulation Notice and no

concerns were raised by the Brigades nor the Bush Fire Advisory Committee in relation to this issue. Feedback from the CBFCO is that there is little documented evidence of fire incidents caused through camping or cooking fires outside of the prohibited season. The Director of Community & Regulatory Services confirms that of all the fires since 2003, only once incident of a fire emanating from a campfire and cooking fire has occurred with that incident being the Peaceful Bay fire in April 2010. With approximately 20-25 fires pa, the frequency and incidence would appear to not warrant a change to the policy to extend the restriction on campfires or cooking fires.

The view of the CBFCO is that there is no need to alter the camping & cooking fires "season" nor the current permitted designated locations. Indeed the Bush Fire Advisory Committee & the Director of Community & Regulatory Services, at Item 8.2.1 in this Agenda, recommend that Council adopt the Annual Fire Regulation Notice 2010/11 with some minor amendments but none that alter Policy P050102.

The CEO notes however that the Annual Fire Regulation Notice this year and last year supports camping and cooking fires during the prohibited fire season, except when the "fire danger rating today" indicates "very high" or above. Council's Policy P050102 should be amended to reflect this.

P050106 BUSHFIRE FUEL FACILITIES

In an emergency, Council permit Bushfire Brigades to use fuel facilities at the Shire Depot for its bushfire vehicles and equipment. Costs to be set against respective brigades ESL budget.

Staff Comment

This policy appears to be working well and providing staff with the appropriate guidance.

CEO Recommendation

That the policy be retained without modification.

CEO Decision based on Councillor input

That the title be amended to include the word 'vehicle' before the word "Fuel".

P050107 BRIGADE NUMBERS & ADVISORY COMMITTEE STRUCTURE

NUMBER OF BRIGADES (A total of 18)

Hazelvale

Tingledale

Mehniup

Nornalup

Peaceful Bay

Kordabup/Owingup

Somerset Hill

Harewood

Carmarthen

Parryville

Shadforth/Scotsdale

Denmark East

Mt Lindesay

William Bay

Ocean Beach

Denmark Town

NUMBER OF FIRE CONTROL OFFICERS

To be determined annually.

ADVISORY COMMITTEE COMPOSITION

Chief Bush Fire Control Officer

Deputy Chief Fire Control Officer
 Fire Weather Officer
 FCO, or FCO's representative, from each Brigade
 One Shire delegate
 Fire and Emergency Services Authority (FESA) representative
 Dept of Conservation and Land Management (CALM) representative

Community Fire Manager (CFM) to undertake secretarial duties.

The Chairman and Deputy Chairman to be elected annually at the Annual General Meeting of the Advisory Committee.

Members not eligible for election as Chairman or Deputy Chairman:-

- Shire Delegate
- Dept of Conservation and Land Management (CALM) representative
- Fire and Emergency Services Authority (FESA) representative
- Secretary

The Committee shall meet as often as its Chairman or Council decides, but no less than two times per year. Once in October and once in February.

Annual General Meeting to be held on the first week in June.

Elections for Chief Bush Fire Control Officer and Deputy Chief Bush Fire Control Officer to be held at the AGM.

Resolutions from all meetings must be ratified by the Advisory Committee and recommended to Council.

Staff Comment

This policy appears to be working well and providing staff with the appropriate guidance.

CEO Recommendation

That the policy be retained without modification.

CEO Decision based on Councillor input

That the policy be reviewed by Council to consider minor changes.

- a) Include the words "with Kordabup/Owingup and Shadforth/Scotsdale operating as combined brigades" after the words "A total of 18".
- b) Under ADVISORY COMMITTEE COMPOSITION;
 - (i) replace the words "FCO, or FCO's representative, from each Brigade" with the words "All current and incoming FCOs, or Proxy FCOs representative, from each Brigade.";
 - (ii) Replace the words "One Shire delegate" with the words "One Shire Councillor delegate."; and
 - (iii) Replace the words "Community Fire Manager (CFM) to undertake secretarial duties" with the words "Community Emergency Services Manager to undertake secretarial duties".
- c) Members not eligible for election as Chairman or Deputy Chairman:- be amended to state as follows;
 - Shire Councillor Delegate
 - Dept of Conservation and Land Management (CALM) representative
 - Fire and Emergency Services Authority (FESA) representative
 - Secretary

P050201 ATTENDING TO KANGAROOS

Council acknowledges that it is not the lead agency when dealing with wildlife however will support the community of the Shire of Denmark in responding to requests for the destruction and removal of injured kangaroos or removal of deceased kangaroos, from roads / road verges in the Shire.

Staff Comment

This policy appears to be working well and providing staff with the appropriate guidance.

CEO Recommendation

That the policy be retained without modification.

CEO Decision based on Cr input

That the policy be amended to read as follows;

“Council acknowledges that it is not the lead agency when dealing with wildlife however will support the community of the Shire of Denmark in responding to requests for the destruction and removal of injured kangaroos or removal of deceased kangaroos, from Council roads / road verges in the Shire, noting that the removal of deceased kangaroos (and other animals) from the South Coast Hwy and Mt Barker – Denmark Rd is the responsibility of Main Roads WA.”

Consultation:

Councillors and Directors.

Statutory Obligations:

There are no statutory obligations.

Policy Implications:

Should Council agree to amend the policies as recommended then Council’s Policy Manual will be updated accordingly to reflect those changes.

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:**

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.

COUNCIL RESOLUTION & OFFICER RECOMMENDATION

ITEM 8.5.2

MOVED: CR WAKKA

SECONDED: CR RICHARDSON-NEWTON

That with respect to Council’s Policy Manual, the following Policies be amended as follows;

1. P040217 CEO PERFORMANCE REVIEW
 - a) That part 1 be amended to read “That the performance of the CEO be reviewed annually on the employment commencement anniversary date.”
 - b) The following Policy be added as an additional Council Policy;
P040234 DESIGNATED SENIOR STAFF APPRAISALS
The CEO is to table for Councillors information the annual performance appraisals of all designated Senior Staff following each of their individual annual reviews.
2. P040218 INTEREST ON SUNDRY DEBTORS
Repeal – replaced with the adoption of Policy P040227 Debt Collection.
3. P040219 EDUCATION & STUDY ASSISTANCE
 - a) Amend the Policy to make it explicit that staff require prior approval for courses that would be considered for reimbursement.
4. P040222 MATERIAL VARIANCES IN BUDGET AND ACTUAL EXPENDITURE
No change to \$5,000 limit.
5. P040230 INVESTMENT – FEDERAL GOVERNMENT GUARENTEE ON DEPOSIT
Repeal – redundant due to legislative changes.
6. P050101 BURNING OF GARDEN REFUSE
 - a) Add part 3 to read “All garden waste that is burnt is to be thoroughly dry so as to not cause a smoke nuisance to neighbouring properties.”.
7. P050102 CAMPING & COOKING FIRES
 - a) Replace the full stop under Part (b) (iii) with the word “and;” and add part (b) (iv) to state “the fire danger rating today indicates “high or low - moderate”.”
8. P050106 BUSHFIRE FUEL FACILITIES
 - a) Amend the title to include the word ‘vehicle’ before the word “Fuel”.
9. P050107 BRIGADE NUMBERS & ADVISORY COMMITTEE STRUCTURE
 - a) Include the words “with Kordabup/Owingup and Shadforth/Scotsdale operating as combined brigades” after the words “A total of 18”.
 - b) Under ADVISORY COMMITTEE COMPOSITION;
 - (i) replace the words “FCO, or FCO’s representative, from each Brigade” with the words “All current and incoming FCOs, or Proxy FCOs representative, from each Brigade.”;
 - (ii) Replace the words “One Shire delegate” with the words “One Shire Councillor delegate.”; and
 - (iii) Replace the words “Community Fire Manager (CFM) to undertake secretarial duties” with the words “Community Emergency Services Manager to undertake secretarial duties”.
 - c) Members not eligible for election as Chairman or Deputy Chairman:- be amended to state as follows;
 - Shire Councillor Delegate
 - Department of Environment and Conservation (DEC) representative
 - Fire and Emergency Services Authority (FESA) representative
 - Secretary
10. P050201 ATTENDING TO KANGAROOS
 - a) Amend the policy to read as follows;
“Council acknowledges that it is not the lead agency when dealing with wildlife however will support the community of the Shire of Denmark in responding to requests for the destruction and removal of injured kangaroos or removal of deceased kangaroos, from Council roads / road verges in the Shire, noting that the removal of deceased kangaroos (and other animals) from the South Coast Hwy and Mt Barker – Denmark Rd is the responsibility of Main Roads WA.”

AMENDMENT

MOVED: CR SYME

SECONDED: CR PEDRO

That Council amend Section 7, Point ‘a’ to read as follows:

Add after the words ‘prohibited burning time’ add ‘and restricted burning’.

LOST: 3/8

Res: 230810

THE ORIGINAL MOTION WAS THEN PUT & CARRIED: 11/0

Res: 240810

Prior to any consideration of Item 8.5.3 Cr Barnes made the following declaration:

'I am a member of the Denmark Community Windfarm and as a consequence there may be a perception that my impartiality on this may be affected.'

8.5.3 WINDFARM - RESERVE 24913 – UNDERGROUND POWER EASEMENT

File Ref:	REM.13
Applicant / Proponent:	State Land Services
Subject Land / Locality:	Class A Reserve 24913, Ocean Beach Rd, Denmark
Disclosure of Officer Interest:	None
Date:	11 August 2010
Author:	Dale Stewart, Chief Executive Officer
Authorising Officer:	Dale Stewart, Chief Executive Officer
Attachments:	No

Summary:

State Land Services (SLS) writes seeking Council's support for a new underground power easement to service the Denmark Community Windfarm Inc.'s proposed Wind Energy Facility (WEF), considered for part of Reserve 24913.

Background:

Council at its meeting of 27 May 2008, in relation to a request for a road access easement resolved;

"That with respect to the requested easement over Class A Reserve 24913 for access to the proposed Wind Energy Facility, Council support an easement subject to;

- 1. Councils preferred route being to the satisfaction of the Councils Director of Planning & Sustainability and subject to receipt of advice from Councils Natural Resource Management Officer & the Department of Environment & Conservation as to the most environmentally acceptable option based on;*
 - i. not being through the Councils Lime Quarry;*
 - ii. allowing for a road construction that will fit harmoniously with the natural contours of the landscape;*
 - iii. being located low in the landscape to avoid unnecessary visual impact and minimise soil erosion caused by run off or wind; and*
 - iv. being limited to a 5.5m maximum cleared width for its non reciprocal part length.*
- 2. The proponent being required during Wind Energy Facility construction, to maintain, to the satisfaction of Councils Director of Infrastructure Services, the access road for its existing constructed length subject to the reciprocal right of access;*
- 3. Any carpark facilities being constructed on the proposed Wind Energy Facility Reserve and not on the easement;*
- 4. Submission of a landscaping plan to the satisfaction of the Councils Director of Planning & Sustainability with respect to priority species protection, dieback control (LPP #1), weed eradication and post construction rehabilitation."*

Council at its meeting of 24 November 2009 resolved;

"That Council with respect to the request by the Minister for Lands to comment on the excision and proposed change of purpose of portion of 'A' Class Reserve 24913 for a proposed Wind Energy Facility (WEF);

- 1. Revoke its decision of 24 March 2009 being resolution number 280309 and;*

2. Advise the Minister that having consulted a significant number of its ratepayers, with approximately 69% of respondents in the 2008 Community Needs and Customer Satisfaction Survey being in support, and notwithstanding that the location of a wind energy facility at this site as with most locations within the Shire, would be a contentious issue, is satisfied that the short, medium and long term environmental, social and economic interests of the Shire are best achieved with a decision to support the excision and change of purpose subject to the area and location being in accordance with the Town Planning Scheme 3, Scheme Amendment No. 88 (the land already zoned WEF); and
3. Reaffirm its resolution number 240508 of 27 May 2008.”

Comment:

This request for easement is presumably the last land tenure hurdle prior to receiving a lease from SLS to commence lodgement of a development application.

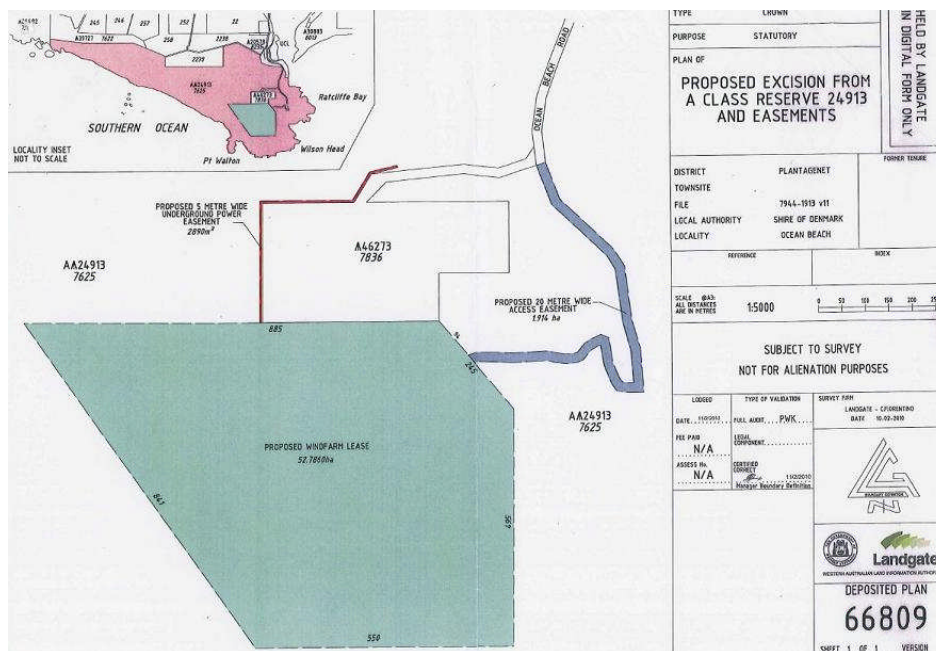
The intended route of the easement for underground power runs along an existing cleared ‘fenceline’ that Council had surveyed approximately two years ago. It is not expected that any additional clearing will need to be undertaken for the underground power.

The attached plan details the route shown red on Deposited Plan 66809. The route on DP66809 is not intended to encroach onto Reserve 46273. SLS enquires if the underground power route is acceptable, noting from prior correspondence the Shire has agreed in principle to the road access route shown blue on DP66809.

Consultation:

Council’s Director of Infrastructure Services advises that he has no concerns regarding the proposed route in respect to the lime quarry or access to the lime quarry.

SLS also verbally advise that ‘under no circumstances’ would the State consider a future expansion of the lime quarry westwards into the A class reserve, which might have been a consideration to not supporting the proposed alignment of the easement in terms of future expansion of the quarry (in that direction) if the Council was so inclined into the future.



Statutory Obligations:

- Town Planning Scheme No. 3 – the subject land is contained within the Public Use Reserve for wind energy facility under the scheme.

- Land Administration Act 1997 Sections 12, 42, 43, 44, 50 & 144 specifically relate - sets out the requirements and procedures for creating a crown lease and access easements.

Ceding the proposed easement from the A Class reserve requires tabling in both houses of Parliament.

Policy Implications:

Shire of Denmark Coastal Management Plan 2003.

Budget / Financial Implications:

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

Strategic Implications:

➤ **Economic:**

There are potentially significant economic benefits from the development of a windfarm within the Shire. The first and foremost benefits stem from the facility itself assisting with local investment and employment and provision of renewable energy into a currently stretched part of the South West Integrated System (SWIS). Denmark and Walpole, being at the end of the SWIS are 'edge of grid, the estimated 1.8 MW (Megawatt) WEF would assist residential and business customers with meeting these power needs. Secondary benefits would probably also flow from a likely increased 'local interest' in the renewable industry with education, innovation and interpretation (tourism) opportunities thereafter.

➤ **Environmental:**

The easement is concurrent with clearing undertaken for fence line and survey works by Council some 2 years ago. As a result there should be little environmental concerns with the alignment chosen. This notwithstanding the proponent will be required to seek any clearing permits if required.

➤ **Social:**

There are significant social considerations relating to the location of a WEF at Wilson Head.

Voting Requirements:

Simple majority.

COUNCIL RESOLUTION & OFFICER RECOMMENDATION	ITEM 8.5.3
MOVED: CR SYME	SECONDED: CR EBBETT

That with respect to the requested underground power easement over Class A Reserve 24913 for access to the proposed Wind Energy Facility, Council support an easement subject to;

1. The easement being used for underground power installation (and maintenance of that infrastructure) only;
2. The easement being a maximum of 5m wide and adjoining Council’s surveyed boundary line of the Lime Quarry as per the deposited plan 66809 version 1;
3. The proponent being required to obtain all necessary approvals from the Department of Conservation and Environment for any clearing and complying with any requirements regarding rare flora if such concerns are raised by that Department.
4. Should a development application be lodged with respect to installation of underground power the proponent is advised that the following conditions may be imposed at that time;
 - a) priority species protection, dieback control (LPP #1), weed eradication and post construction rehabilitation; and/or
 - b) ensuring that they liaise with the Council’s Director of Infrastructure Services to ensure that there is no negative impact on Council’s Lime Quarry access road, fence and embankment as a result of the underground power installation or associated works.

AMENDMENT

MOVED: CR HINDS

SECONDED: CR RICHARDSON-NEWTON

That Council amend section 4b to read as follows:

“4 b) ensuring that they liaise with the Council’s Director of Infrastructure Services to ensure that there is no negative impact on Council’s Lime Quarry access road, fence and embankment or compromise access to future extraction of the remaining body of lime rock as a result of the underground power installation or associated works.”

LOST: 4/7

Res: 250810

THE ORIGINAL MOTION WAS THEN PUT & CARRIED: 11/0

Res: 260810

9. COMMITTEE REPORTS & RECOMENDATIONS

9.1 DISABILITY SERVICES COMMITTEE – APPOINTMENT OF COMMUNITY MEMBER

File Ref:	ORG
Applicant / Proponent:	Not applicable
Subject Land / Locality:	Not applicable
Disclosure of Officer Interest:	Nil
Date:	10 August 2010
Author:	Gregg Harwood - Director of Community & Regulatory Services
Authorising Officer:	Gregg Harwood, Director of Community & Regulatory Services
Attachments:	No

Summary:

At the meeting held on the 14 July 2010 the Disability Services Committee made following recommendation to Council that Carol Mundell be appointed to the Disability Services Committee as a Community Representative.

“That the Disability Services Committee recommends to Council that: Carol Mundell be appointed to the Disability Services Committee as a Community Representative.”

Comments:

The appointment of Carol Mundell is welcomed as she will provide practical insight into disability access issues.

Voting Requirements:

Absolute majority.

COUNCIL RESOLUTION & COMMITTEE DECISION & OFFICER	ITEM 9.1
RECOMMENDATION	
MOVED: CR HINDS	SECONDED: CR EBBETT
That Council appoint Carol Mundell as a Community Representative on the Shire of Denmark Disability Services Committee.	
CARRIED BY AN ABSOLUTE MAJORITY: 11/0	Res: 270810

9.2 WASTE MANAGEMENT ADVISORY COMMITTEE - BURNING OF GREEN WASTE

File Ref:	Waste 1
Applicant / Proponent:	Caroline Oliff
Subject Land / Locality:	All Built Areas of the Shire of Denmark
Disclosure of Officer Interest:	Nil
Date:	7 Aug 2010
Author:	Gregg Harwood, Director of Community & Regulatory Services
Authorising Officer:	Gregg Harwood, Director of Community & Regulatory Services
Attachments:	Yes – page 263

Summary:

This report considers a request from a resident for Council to take steps to either reduce or ban the burning of green waste in residential areas and for Council to purchase a mobile shredder to provide a free mulching service or provide a periodic bulk green waste collection service so residents do not have any reason to burn garden waste.

The report considers this request and lists a number of management options to address the problem and recommends that Council initiate an education program and speak directly to problem individuals and investigate a monthly “bio bin” green waste collection service.

Background:

Council has received substantive complaints from a resident regarding the health impacts associated with residents burning incompletely dried garden wastes both in her immediate area and strategically across the Shire’s built up areas.

The resident’s preferred solution is for Council to ban the burning of green waste and for Council to provide a free mulching service so that residents do not need to burn. She also submitted the attached policy from the Shire of Armidale a town of 25,000 people in NSW as a best practice model to follow.

A Health Dept of Western Australia fact sheet titled “Bushfire Smoke” is also attached which discusses the health impacts of smoke from bushfires but is equally applicable in regards to smoke inappropriate back yard burning.

Comment:

Section 4.2 of Council Health Local laws prohibits the burning of garden waste that is still green and allows Council to require residents to apply for specific permission to burn garden refuse. This local law however is only enforceable through the courts as local laws made under the Health Act 1911 and do not have infringement powers attached to them.

In terms of managing the nuisance associated with the burning of green garden waste Council has a number of options:

- 1) To continue the status quo where Council staff act on the basis of written complaints and speak to problem residents who regularly burn green garden waste with the following improvements:
 - a) The education of residents in problem areas using activities such as mail outs and articles in media.
 - b) Council's Rangers stopping and talking to people they see burning inappropriately when on patrols.

Adopting this approach can be justified on the basis that on average Council only receives one complaint per year regarding the burning of garden wastes.

- 2) All of the measures in option 1 with the prosecution of the worst offenders. The limitation of this approach is that Health Act prosecutions usually take several months to get to court, require the same standard of proof as any other criminal case and are often dismissed by magistrates who are vexed by the seemingly trivial nature of Health Act prosecutions when compared to other matters before them.
- 3) All of the measures in option 1 with a requirement to obtain permits being enforced and where necessary with prosecutions mentioned in option 2. In considering this option it should be noted that a system requiring the inspection of individual heaps and the issuing of permits and would require at least 0.5 FTE in additional staffing to inspect the heaps, issue the permits and to police unauthorised fires which equates to 0.5% rate increase.

While this approach may resolve the problem smoke, the difficulties associated with gaining permits will lead to either illegal waste dumping issues and an increased bush fire risk as a result of garden waste not being dealt with.

- 4) All of the measures in option 1 with an air quality monitoring program as a precursor to determine if any further action is warranted. The advantage of monitoring is that it would prove conclusively whether there is in fact a chronic problem that needs to be resolved in the entire built up area or whether it is just a local issue associated with a few problematic neighbours with an occasional wider problem on still clear autumn days.

The problem with this approach is that the Dept of Environment and Conservation have advised that while they have conducted a monitoring program in Albany they are not prepared to conduct one in Denmark and they have advised that if Council wanted conduct a program they would have to do so using environmental consultants at their own cost. Given that the cost of such a study would be in the region of \$20-40,000 this level of expenditure is currently not warranted given that this issue does not appear to be a wide spread problem and only occurs for a short period of time.

- 5) All of the measures in option 1 and possibly 2 or 3 with Council purchasing and operating a mobile mulcher that mulches garden waste either for free or at a low cost.

The problems with this approach is that Council has already been down this path and made a decision to sell its mobile mulcher in 2007 on the basis that it required skilled operators that could be used elsewhere in Council's works program and was competing needlessly with private contractors.

The other problem with this approach is that unless the mulching service works weekends people will need to be in the position where they have sufficiently flexible work arrangements to book the mulcher when it is operating. They also need to have a use for the mulch it produces.

- 6) All of the measures in option 1 and possibly 2 or 3 with each residence in the built up area being provided with monthly 240 litre composting "bio bin" green waste collection as is the case in the built up areas of the City of Albany.

If such a service was provided the garden waste would be collected in a compacter truck and shredded at either McIntosh Rd or Great Southern Sands in Albany. In considering this option Committee members should note that if the shredding was to take place locally Council would need to either buy or hire a shredder. The annual cost of providing the service to each residence is likely to be over \$100 per year.

The disadvantage of this service is that it will only take waste small enough to fit in the bin. The experience in the City of Albany however is that these bins with regular use are sufficient to handle the green waste generated by smaller blocks.

The advantage of the "bio bin" system is that it is simple to administer, keeps green waste out of the normal waste stream and is time flexible. This means that it is available to all of the residents in the built up area all of the time.

Conclusion

In considering the foregoing options it appears that the best approach is as follows:

- 1) To continue the current approach where Council staff act on the basis of written complaints and speak to problem residents who regularly burn green garden waste with the inclusion of an education program.
- 2) To investigate the costs of a monthly 240 litre composting "bio bin" green waste collection service.

Consultation:

Nil

Statutory Obligations:

Health Act nuisance provisions, Council's Health Local Laws

Policy Implications:

There are no policy implications.

Budget / Financial Implications:

If a mulcher or "bio bin" service is implemented there will be significant financial implication on both Councils current Budget and Plan for the Future.

Strategic Implications:

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

Sustainability Implications:

➤ **Environmental:**

While the smoke from the burning of green garden waste is an environmental issue impacts such as the spread of weeds through illegal dumping resulting from a lack of readily available disposal options are also a risk in terms of Denmark’s local environment.

➤ **Economic:**

There are no known significant economic implications relating to the report or the officer recommendation with exception of possible rate increases depending on which approach is being considered.

➤ **Social:**

Unnecessary and unwanted smoke from regular inappropriate green garden waste burning represents a health risk and detracts from the amenity of neighbourhoods.

Voting Requirements:

Simple majority.

COUNCIL RESOLUTION & COMMITTEE & OFFICER	ITEM 9.2
RECOMMENDATION	
MOVED: CR SYME	SECONDED: CR RICHARDSON-NEWTON
That with respect to the burning of green waste within the Shire of Denmark, Council;	
1. Continue the current approach where Council staff act on the basis of written complaints and speak to problem residents who regularly burn green garden waste with the following improvements:	
a. Education programs in problem areas using activities such as letter box drops and articles in the media.	
b. Council's Rangers stopping and talking to people they see burning inappropriately when on patrols.	
2. Investigate the cost and suitability of a monthly 240 litre composting "bio bin" green waste collection service.	
AMENDMENT	
MOVED: CR HINDS	
That Council add a part 3 that reads:	
"That Council devise and carry out a small pilot study of providing a kerbside green waste mulching and collection service on a seasonal basis."	
LAPSED FOR WANT OF A SECONDER	
THE ORIGINAL MOTION WAS THEN PUT & CARRIED: 10/1	Res: 280810

7.51pm – Cr Sampson and the Director of Community & Regulatory Services left the meeting.

8.00pm - Cr Barrow left the meeting.

8.00pm - Cr Sampson and the Director of Community & Regulatory Services returned to the meeting.

8.04pm – Cr Wakka left the meeting.

8.06pm – Cr Wakka and Cr Barrow returned to the meeting.

9.3	BUSH FIRE ADVISORY COMMITTEE - PROVISION OF EARTHMOVING PLANT FOR FIRE FIGHTING
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File Ref:	FIRE.1
Applicant / Proponent:	Shire Of Denmark
Subject Land / Locality:	All Areas of the Shire of Denmark
Disclosure of Officer Interest:	Nil
Date:	7 August 2010
Author:	Gregg Harwood, Director of Community & Regulatory Services
Authorising Officer:	Gregg Harwood, Director of Community & Regulatory Services
Attachments:	Yes – page 279

Summary:

This report considers a submission asking Council to call tenders or quotes for local contractors to provide dozers and heavy duty loaders including drivers, for bush fire suppression within the Denmark Shire and adjoining lands in forthcoming fire season and recommends that Council adopt this practice.

Background:

A submission has been received from an experienced Bush Fire Brigade member asking Council to consider calling for tenders or quotes from local contractors to provide dozers and heavy duty loaders including drivers, for bush fire suppression within the Denmark Shire and adjoining lands in forthcoming fire season.

Comment:

The submission was considered by the Bush Fire Advisory Committee at its 29 July 2010 meeting and reads as follows:

“there is an opportunity for Council to provide the community with a better bush fire security through calling for tenders from local contractors to provide dozers and heavy duty loaders including a driver, for bush fire suppression within the Denmark Shire and adjoining lands in forthcoming fire seasons”.

Contractors should state;

- Machines available*
- Capacity to transport the dozer/loader to a bush fire.*
- An hourly rate while the machine is involved in suppression.*
- A standby rate while on site if needed.*
- Also on very high or extreme fire danger days, the contractor is to provide a standby hourly rate to ensure the low loader is on the same work site as the dozer/heavy loader to allow for rapid arrival at the bush fire if called.*

The Contractors that provide tenders must have equipment suitable for bush fire suppression;

- 1. Fitted with front and rear lights*
- 2. Fire extinguishers*
- 3. Preferably an air-conditioned cab (not essential)*
- 4. Clean engine compartment to avoid indrawn sparks risking onboard fires.*

This would be under the provision of Council approval and pass inspection of all machinery, the machinery to have adequate stability in a fire ground, safety aspect. Preference would be given to those that are DEC trained and accredited.”

In considering the submission it should be noted that Council does keep extensive resource logs which include lists of available plant (both government and privately owned) as part of its emergency management arrangements and that these logs are updated using both local knowledge and information from the DEC and FESA

resource logs at the start of each fire season. In addition to this Council staff also call local contractors on high risk fire days to determine the location and likely availability of their plant.

Notwithstanding the measures currently being undertaken there is benefit in Council going to the market on a seasonal basis to determine a list of preferred suppliers in the various parts of the Shire providing the resultant list does limit the élan of incident controllers by requiring them to only use contractors on the list when in many cases suitable plant can be immediately sourced from close by.

When considering the characteristics of suitable of both equipment and plant operators it should be noted that in addition to those raised by the submission the following additional points should be considered when compiling an approved contractors list:

- 1) The types of terrain the nominated plant can safely operate in.
- 2) Whether the equipment has been specifically designed and engineered for the purpose for which it is being used.
- 3) Whether DEC or FESA will accept the equipment in the event that an incident is handed over to them.
- 4) The age and maintenance level of the equipment.
- 5) The contractor's ability to maintain dieback hygiene procedures.
- 6) The contractor's and their plant operator's previous experience with fighting fires.
- 7) DEC training, certification and references.
- 8) Preparedness to work alongside fire crews and follow the incident controller's directions on the fire ground.

The item was discussed at BFAC and the only concern expressed was that the presence of a preferred contractors list should not lock incident controllers into using particular contractors when a local farmer may have suitable equipment close by and can attend to the fire more expediently.

The Bush Fire Advisory Committee subsequently made the following recommendation;

“That the Community Emergency Services Manager advertise for expressions of interest and compile a list of preferred earthmoving contractor for the purpose of fighting wildfires.”

Consultation:

Nil

Statutory Obligations:

Apart from being good business practice at the level of expenditure normally associated with wildfire responses there are no known statutory obligations associated with this report or the officer recommendation.

Policy Implications:

There are no policy implications.

Budget / Financial Implications:

Apart from being good business practice 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:**

Ready access to skilled operators and modern suitably sized equipment will reduce the risk that wild fire poses to Denmark’s local environment.

➤ **Economic:**

Ready access to skilled operators and modern suitably sized equipment will reduce the risk that wild fire poses to Denmark’s economy ongoing.

➤ **Social:**

Ready access to skilled operators and modern suitably sized equipment will reduce the risk that wild fire poses the social fabric and the amenity of Denmark’s neighbourhoods.

Voting Requirements:

Simple majority.

The Officer provides the following revised officer recommendation to accommodate the Chief Fire Control Officer’s comments and to more fully reflect the intent of the report.

COUNCIL RESOLUITON & OFFICER RECOMMENDATION	ITEM 9.3
MOVED: CR HINDS	SECONDED: CR SYME
That Council advertise for expressions of interest and compile a list of preferred earthmoving contractor for the purpose of fighting wildfires on the basis that the creation of a list does not lock incident controllers into using particular contractors when suitable equipment is close by and is available to attend to the fire more expediently.	
CARRIED: 11/0	Res: 290810

9.4 BUSH FIRE ADVISORY COMMITTEE – APPOINTMENT OF FIRE CONTROL OFFICERS 2010/2011

File Ref:	FIRE.1
Applicant / Proponent:	Shire Of Denmark
Subject Land / Locality:	All Areas of the Shire of Denmark
Disclosure of Officer Interest:	Nil
Date:	7 August 2010
Author:	Gregg Harwood, Director of Community & Regulatory Services
Authorising Officer:	Gregg Harwood, Director of Community & Regulatory Services
Attachments:	No

Summary:

Denmark Volunteer Bush Fire Brigades have submitted their minutes of Annual General Meetings outlining their recommendations for Fire Control Officers for 2010/2011 and these recommendations have been endorsed by BFAC at its annual general meeting on 29 July 2010.

This item recommends that Council appointment the Fire Control Officers that have been nominated by the Bush Fire Advisory Committee for the 2010/2011 fire season.

Background:

The following persons have been recommended for appointment as Fire Control Officers for 2010/2011 by the 29 July 2010 meeting of annual general meeting of BFAC.

The reason for the revised officer recommendation is that Nathan Hall has been appointed Community Emergency Services Manager (CESM). His name has been

added to the list. Stuart Dyson the newly appointed Shire Ranger has also been added to the list.

SHIRE OF DENMARK

Chief Fire Control Officer
 Deputy Chief Fire Control Officer
 Fire Weather Officer
 Shire of Denmark (CESM)

OFFICER

Adrian Kranendonk
 Marius Wakka
 Richard Ryde
 To Be Advised (once the position is filled)

BRIGADE

Carmarthen
 Denmark East
 Harewood
 Hazelvale
 Kordabup
 Mehniup
 Mt Lindesay
 Nornalup
 Ocean Beach
 Owingup
 Parryville
 Peaceful Bay
 Scotsdale
 Shadforth
 Somerset Hill
 Tingledale
 Town
 William Bay
 V.F.R.S.
 Shire of Denmark

OFFICER

Don Nekel
 Richard Ryde
 Graeme Thallon
 John Pierce
 Bruce Pringle
 David Guthrie
 Ross Thornton
 Jean-Marc Merat
 Joe Baker
 Samantha Blythe
 Kevin Hard
 Alec Cull
 Sid Marshall
 Wayne Kranendonk
 Roger Seeney
 Brian Vigus
 Don Atkinson
 Joan Merrifield
 Gary Stanway
 Dick Dimmock

Comment:

All brigade officers in the above list have carried out senior/management roles in their respective brigades.

Nathan Hall (CESM) has 12 years experience as a fire fighter with the Roleystone joint Bushfire Brigade & VFRS and has 4 years experience as a specialist fire ranger with the City of Armadale.

Consultation:

Nil

Statutory Obligations:

There are statutory obligations as detailed in the Bush Fires Act 1954, regarding the appointment of Fire Control Officers.

Policy Implications:

There are no policy implications.

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:**

The operation of an efficient Bushfire Brigades will reduce the risk that wild fire poses to Denmark’s local environment.

➤ **Economic:**

The operation of an efficient Bushfire Brigades will reduce the risk that wild fire poses to Denmark’s economy ongoing.

➤ **Social:**

The operation of an efficient Bushfire Brigades will reduce the risk that wild fire poses the social fabric and the amenity of Denmark’s neighbourhoods.

Voting Requirements:

Simple majority.

COUNCIL RESOLUTION & OFFICER RECOMMENDATION		ITEM 9.4
MOVED: CR WAKKA		SECONDED: CR EBBETT
That Council appoint the following as Fire Control Officers, in their respective brigade boundaries, for 2010/2011.		
SHIRE OF DENMARK		OFFICER
Chief Fire Control Officer		Adrian Kranendonk
Deputy Chief Fire Control Officer		Marius Wakka
Fire Weather Officer		Richard Ryde
Shire of Denmark (CESM)		Nathan Hall
Shire of Denmark		Dick Dimmock
Shire of Denmark		Stuart Dyson
BRIGADE		OFFICER
Carmarthen		Don Nekel
Denmark East		Richard Ryde
Harewood		Graeme Thallon
Hazelvale		John Pierce
Kordabup		Bruce Pringle
Mehniup		David Guthrie
Mt Lindesay		Ross Thornton
Nornalup		Jean-Marc Merat
Ocean Beach		Joe Baker
Owingup		Samantha Blythe
Parryville		Kevin Hard
Peaceful Bay		Alec Cull
Scotsdale		Sid Marshall
Shadforth		Wayne Kranendonk
Somerset Hill		Roger Seeney
Tingledale		Brian Vigus
Town		Don Atkinson
William Bay		Joan Merrifield
V.F.R.S.		Gary Stanway
CARRIED: 11/0		Res: 300810

9.5	COMMUNITY PARK DEVELOPMENT WORKING GROUP
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File Ref:	A5366/ORG.72
Applicant / Proponent:	Not applicable
Subject Land / Locality:	Not applicable
Disclosure of Officer Interest:	Nil
Date:	5 August 2010
Author:	Rob Whooley, Director of Infrastructure Services
Authorising Officer:	Rob Whooley, Director of Infrastructure Services
Attachments:	No

Summary:

This item recommends the continuation of the Community Park Development Working Group with the People for Parklands representative and Council's Head Gardener being reinstated on the Committee Members and Delegates List and the Terms of Reference for this Working Group to be updated.

Background:

In October 2007 Council formed the Community Park Development Working Group as per the following resolution (No. 362/07).

1. *That a Community Park Development Working Group be established.*
2. *That the structure of the Community Park Development Working Group be as follows:*
 - *3 x Councillors*
 - *2 x Community Members*
 - *1 x People for Parklands Denmark Inc.*
 - *Council's Head Gardener*
 - *(The two community members to be appointed by the Chief Executive Officer)*
 - *CHAIRMAN: to be elected by the Group from the membership.*
 - *MEETINGS: as often as determined by the Working Group.*
 - *SECRETARIAL: Council to provide.*
 - *TERMS OF REFERENCE: Prepare and recommend to Council a Community Park development plan, including costings and timelines. Liaison with Health Facility landscape architect.*
3. *That Councillor representatives be appointed at the Special Meeting of Council on the 23 October 2007."*

In October 2009 at the Special Meeting of Council, the People for Parklands member and Council's Head Gardener were inadvertently left of the Committee Members and Delegates List. These members should be reinstated.

The original terms of reference are as follows:

Terms of Reference

The Community Park Development Working Group was established on the 16 October 2007 (Resolution No. 362/07), with the following objectives;

- *To assist with the preparation of a Development Plan for the Community Park, including scope of works, estimated costings & proposed timeframes and recommend the Plan to Council; and*
- *Liaise with the Denmark Health Facility landscape Architect.*

These Terms of Reference have now been completed with a Concept Plan having been approved by Council in September 2009 and scope of works, costings and timeframes completed by the Director of Infrastructure Services in January 2010. Liaison with the Architect for the Denmark Health Facility occurred during the planning process.

Comment:

Nil

Consultation:

Community Park Development Working Group

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 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:**

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 9.5

That Council approve the continuation of the Community Park Development Working Group with new Terms of Reference to read as follows;

1. The role of the Community Park Working Group is to provide guidance to the Director of Infrastructure Services on matters as required in implementing Stage 1 of the Kwoorabup Community Park, as per the Concept Plan approved by Council; and
2. The Committee Members and Delegates list be updated to include the Head Gardener and People for Parklands representation as per the original Council resolution 362/07.

COUNCIL RESOLUTION	ITEM 9.5
MOVED: CR HINDS	SECONDED: CR BARNES
That Council approve the continuation of the Community Park Development Working Group with a new added Terms of Reference to read as follows;	
<ol style="list-style-type: none"> 1. The role of the Community Park Working Group is to provide guidance to the Director of Infrastructure Services on matters as required in implementing Stage 1 of the Kwoorabup Community Park, as per the Concept Plan approved by Council; and 2. The Committee Members and Delegates list be updated to include the Head Gardener and People for Parklands representation as per the original Council resolution 362/07. 	
AMENDMENT	
MOVED: CR RICHARDSON-NEWTON	SECONDED: CR WAKKA
That the word “added” be removed and the words “stage 1” be replaced with the words “the staged development”.	
CARRIED: 11/0	Res: 310810
AMENDED MOTION	
That Council approve the continuation of the Community Park Development Working Group with new Terms of Reference to read as follows;	
<ol style="list-style-type: none"> 1. The role of the Community Park Working Group is to provide guidance to the Director of Infrastructure Services on matters as required in implementing the staged development of the Kwoorabup Community Park, as per the Concept Plan approved by Council; and 2. The Committee Members and Delegates list be updated to include the Head Gardener and People for Parklands representation as per the original Council resolution 362/07. 	
THE AMENDED MOTION BECAME THE SUBSTANTIVE MOTION WHICH WAS PUT & CARRIED: 11/0	
	Res: 320810

REASONS FOR CHANGE

Council believed that the Working Group should oversee the whole staged development rather than just Stage 1.

10. MATTERS BEHIND CLOSED DOORS
Nil.

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

12. CLOSURE OF MEETING

8.15pm – 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: _____
Garry Bird – Acting Chief Executive Officer

Date: 26 August 2010

These minutes were confirmed at the meeting of the _____

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