

# Shire of Denmark Minutes



## ORDINARY (DISCUSSION ONLY) MEETING OF COUNCIL

HELD IN THE COUNCIL CHAMBERS,  
953 SOUTH COAST HIGHWAY, DENMARK  
ON TUESDAY, 26 JULY 2011.

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# Ordinary Council Meeting

26 July 2011

## DISCLAIMER

These minutes and resolutions are subject to confirmation by Council.

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

4.04pm - The Deputy Shire President, Cr Richardson-Newton, declared the meeting open.

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

MEMBERS PRESENT:

- Cr Ken Richardson-Newton (Deputy Shire President)
- Cr Phil Barnes
- Cr Kim Barrow
- Cr George Ebbett (from 4.21pm)
- Cr Adrian Hinds
- Cr Robert Laing
- Cr Dawn Pedro
- Cr Richard Phair
- Cr John Sampson
- Cr Alex Syme
- Cr John Wakka

STAFF:

- Mr Dale Stewart (Chief Executive Officer)
- Mr Garry Bird (Director of Finance & Administration)
- Mrs Annette Harbron (Director of Planning & Sustainability)
- Mr Gregg Harwood (Director of Community & Regulatory Services)
- Mr Rob Whooley (Director of Infrastructure Services)
- Ms Claire Thompson (Executive Assistant)

APOLOGIES:

Nil

ON LEAVE OF ABSENCE:

Cr Ross Thornton (Shire President)

ABSENT:

Nil

VISITORS:

Members of the public in attendance at the commencement of the meeting: 2  
 Members of the press in attendance at the commencement of the meeting: 0

DECLARATIONS OF INTEREST:

Name	Item No	Interest	Nature
Cr Phair	8.5.4	Proximity	Cr Phair owns property adjacent to the Irwin Inlet.
Cr Barrow	8.5.4	Proximity	Cr Barrow owns property which adjoins the Irwin Inlet.
Mr Bird	8.2.1	Financial / Impartiality	Mr Bird is an employee of Council.
Mr Bird	8.4.2	Impartiality	Mr Bird is a member of the Denmark Boating & Angling Club & the Denmark Sea Rescue Group.
Mr Bird	8.5.5	Financial / Impartiality	Mr Bird is an employee of Council.
Mr Harwood	8.2.1	Financial	Mr Harwood is an employee of Council who may benefit

			directly.
Mr Harwood	8.5.5	Financial	Mr Harwood is an employee of Council who may benefit directly.
Mrs Harbron	8.2.1	Financial / Impartiality	Mrs Harbron is an employee of Council that will benefit from the Policy, should Council adopt it.
Mrs Harbron	8.5.5	Financial / Impartiality	Mrs Harbron is an employee of Council who may benefit from the Policy.
Mr Whooley	8.5.5	Financial	Mr Whooley is an employee who may benefit from the Policy.
Mr Stewart	8.2.1	Financial	Mr Stewart is an employee of Council to whom the Policy may relate.
Mr Stewart	8.5.5	Financial / Impartiality	Mr Stewart is an employee of Council to whom the Policy may relate.

**3. ANNOUNCEMENTS BY THE PERSON PRESIDING**

**3.1 Information Request from Cr Hinds**

At the meeting held on the 19 July 2011, Cr Hinds stated that he had requested that documents relating to the rules of how recommendations are placed in the Agenda be tabled for Councillors however he did not believe that this had been done. Cr Syme stated that the documents had been emailed to Councillors following last month's Council (Decision Making) meeting.

Cr Hinds requested that the documents be tabled including comment from the Shire President.

The information has been tabled for Councillors and which will be recorded in the monthly Information Bulletin under the heading of 'Tabled Documents'.

*Cr Hinds advised that he did not believe that the documents that had been emailed and tabled specified the rules which were currently being used. Cr Hinds requested a copy of the specific information.*

*The Chief Executive Officer stated that he had provided the relevant information to Councillors.*

**3.2 Request for New Business of an Urgent Nature**

*The Deputy Shire President noted that there had been a request from Cr Hinds to introduce an item of new business under Item 11 on the Agenda, which was in relation to the public consultation period for the Local Planning Strategy.*

#### **4. PUBLIC QUESTION TIME**

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

Nil

##### **4.2 PUBLIC QUESTIONS**

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

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

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

##### Questions / Statements from the Public

##### **4.2.1 Mr Cyril Edwards – Age Friendly Community Study**

Mr Edwards spoke as the Vice President of the Denmark Aquatic Centre Committee (DACCI) and wished to publically declare DACCI's support for recommendation 23 within the Study.

Mr Edwards noted Cr Sampson's concerns in relation to the population figures within the document, stating they were taken from Department of Planning 2005 population projection figures and asked whether the figures would be amended.

*The Chief Executive Officer noted that the Officer Recommendation, before Council, requested him to review and amend the figures if necessary and if the population figures were amended he would advise DACCI accordingly.*

##### **4.2.2 Kees Koning – Wilson Inlet Bar Opening**

Mr Koning stated that he was the Secretary of the Wilson Inlet Restoration Group and a Community Member of the Wilson Inlet Management Advisory Group. Mr Koning advised that he was addressing Council as member of the community and that he believed that the recent Wilson Inlet Bar opening had been ineffective as the channel which had been dug was in the wrong direction. Mr Koning stated that water and marine exchange had been particularly slow and that he had requested at the next WIMAG meeting that the Opening Protocol be amended to reflect a more effective openings in the future. Mr Koning noted that he believed there ought to be some accountability for the ineffective opening.

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

Nil

##### **4.4 PRESENTATIONS, DEPUTATIONS & PETITIONS**

Nil

#### **5. APPLICATIONS FOR LEAVE OF ABSENCE**

Nil

**6. CONFIRMATION OF MINUTES**

**6.1 ORDINARY COUNCIL MEETING**

<b>COUNCIL RESOLUTION &amp; OFFICER RECOMMENDATION</b>	ITEM 6.1
MOVED: CR BARROW	SECONDED: CR SAMPSON

That the minutes of the Ordinary Meeting of Council held on the 19 July 2011 be confirmed as a true and correct record of the proceedings.

4.21pm – Cr Ebbett entered the meeting.

CARRIED: 11/0	Res: 030711
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**7. ELECTED MEMBERS MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN**

The following Notice of Motion was received by the Director of Finance & Administration (then Acting Chief Executive Officer) on Thursday, 14 July 2011 and therefore pursuant to clause 3.9 (2) of the Shire of Denmark Standing Orders Local Law, the motion can be dealt with at this meeting.

<b>7.1</b>	<b>SUPPORT FOR DEFENCE FORCES RESERVISTS</b>
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<b>File Ref:</b>	CR.3
<b>Applicant / Proponent:</b>	Cr Adrian Hinds
<b>Subject Land / Locality:</b>	Not applicable
<b>Disclosure of Councillor Interest:</b>	Nil
<b>Date:</b>	14 July 2011
<b>Author:</b>	Cr Adrian Hinds
<b>Attachments:</b>	Yes

**Summary:**

Major General Paul Brereton, Head of the Cadet, Reserve and Employer Support Division, via a press release from the Defence Media Centre, is asking for employers to sign up for the Supportive Employers Program. He makes the point that "(Reservists) are an essential element of Defence capability and the support of civilian employers is vital" .

Details are on the website [www.defence.gov.au/reserves](http://www.defence.gov.au/reserves) and a copy of the Media Release is attached.

**Background:**

An Army Reserve Unit is stationed in Albany.

**Comment:**

It is not necessary to have reservists on the civilian employers staff to join the program. This writer knows of a reservist officer, working in Denmark, who was in the Albany unit.

**Consultation:**

Nil

**Statutory Obligations:**

There are no statutory obligations.

**Policy Implications:**

There are no policy implications.

**Budget / Financial Implications:**

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

**Strategic Implications:**

There are no known significant strategic implications relating to the report or the Councillor Notice of Motion.

**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.

Director of Finance & Administration Comment

Council Staff are currently preparing a Policy that deals with all Council's emergency services volunteers (including Defence Reserves).

<b>COUNCIL RESOLUTION &amp; NOTICE OF MOTION</b>		ITEM 7.1
MOVED: CR HINDS		SECONDED: CR BARROW
That the Denmark Shire become a "Supportive Employer" of the Australian Defence Forces reserves program.		
CARRIED: 11/0		Res: 040711

**8. REPORTS OF OFFICERS**

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

ITEM NO	HEADING	Declarations of Interest Yes / No	Absolute Majority Yes / No
8.1.1	ABORIGINAL CULTURAL HERITAGE MANAGEMENT PLAN FOR SOUTHERN SECTION OF KWOORABUP BEELIA (DENMARK RIVER)	No	No
8.1.2	PROPOSED ADVERTISING SIGN (SWISS FLAG) AT NO. 2023 (LOT 585) SOUTH COAST HIGHWAY	No	No
8.2.1	DISCOUNTED EMPLOYEE RECREATION AND YOUTH CENTRE USAGE	Yes	No
8.3.1	SHADFORTH RISE WASTE COLLECTION SERVICE	No	No
8.4.1	FINANCIAL STATEMENT FOR THE MONTH ENDING 30 JUNE 2011	No	No
8.4.2	DENMARK BOATING AND ANGLING CLUB (INC) AND DENMARK SEA RESCUE GROUP (INC) – LEASE OF LOT 7625, RESERVE 24913	Yes	No
8.4.3	PEACEFUL BAY FISHING CAMP; LEASE OF LOCATION 2229, PORTION OF RESERVE 24510 – BEVANS PTY LTD	No	No
8.5.1	DENMARK AGE FRIENDLY COMMUNITY STUDY	No	Yes
8.5.2	REVIEW OF DELEGATIONS	No	Yes
8.5.3	DENMARK SAFE COMMUNITY COMMITTEE	No	Yes
8.5.4	SANDBAR OPENING PROTOCOL FOR IRWIN INLET	Yes	No
8.5.5	POLICY REVIEW – PRIVATE WORKS (P140101) AND COUNCIL TOOLS & EQUIPMENT (P140401)	Yes	No
9.1	SHIRE OF DENMARK ANNUAL FIRE REGULATION NOTICE 2011/2012	No	No
9.2	DISABILITY SERVICES ADVISORY COMMITTEE REPRESENTATION ON STRICKLAND STREET (CBD STREETSCAPE WORKING GROUP)	No	Yes

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

<b>COUNCIL RESOLUTION &amp; OFFICER RECOMMENDATION</b>	
MOVED: CR LAING	SECONDED: CR SAMPSON
That the Officer Recommendations with respect to items 8.5.3 & 9.2 be adopted en bloc.	
CARRIED BY AN ABSOLUTE MAJORITY: 11/0	Res: 050711



## 8.1 Director of Planning & Sustainability

### 8.1.1 ABORIGINAL CULTURAL HERITAGE MANAGEMENT PLAN FOR SOUTHERN SECTION OF KWOORABUP BEELIA (DENMARK RIVER)

<b>File Ref:</b>	PLN.62
<b>Applicant / Proponent:</b>	Shire of Denmark
<b>Subject Land / Locality:</b>	Southern Section of Kwoorabup Beelia (Denmark River)
<b>Disclosure of Officer Interest:</b>	Nil
<b>Date:</b>	5 July 2011
<b>Author:</b>	Cindy Simpson, Senior Planning Officer
<b>Authorising Officer:</b>	Annette Harbron, Director of Planning & Sustainability
<b>Attachments:</b>	8.1.1 a) Draft Aboriginal Heritage Management Plan for Southern Section of Kwoorabup Beelia (Denmark River) 8.1.1 b) Regulation 10 application under the Aboriginal Heritage Regulations 1974

#### Summary:

The Shire of Denmark in collaboration with the Department of Indigenous Affairs (DIA) commissioned consultants (Applied Archaeology) to undertake the preparation of the Aboriginal Cultural Heritage Management Plan for Southern Section of Kwoorabup Beelia (Denmark River) July 2011 (Management Plan). It is recommended that Council adopt the Management Plan as a guiding document to protect and manage the indigenous heritage values of the area.

A priority implementation which arises out of the Management Plan is the protection of the Ceremonial Site on Reserve 15022 (which is subject to a Management Order to the Shire of Denmark for the purpose of "Recreation"). In this regard a Regulation 10 application to protect the Ceremonial Site by installing permanent bollarding has been lodged with the Shire for approval (as the management body for the Reserve) prior to lodgement of the Regulation 10 application with the DIA. It is recommended that Council support the protection of the Ceremonial Site subject to the bollarding being of a temporary nature, in acknowledgement that an overall concept plan is required for the reserve precinct and consultation occurring with the Shire of Denmark and the Denmark Boating and Angling Club in relation to the actual placement of the temporary bollards on-site.

#### Background:

The entire Denmark river system is a registered Aboriginal heritage site, which includes a 30m buffer area from the high water mark along the banks of the River, and is part of an eco-cultural landscape that has deep cultural significance for Noongar people. Within this heritage site, land tenure is primarily vested in the Shire of Denmark, with a small percentage within private land holdings. The major uses of the area are largely public recreational activities associated with the river foreshore including boating, canoeing, walking, picnicking, playground areas, and the arts. The need for the management plan was identified to manage these activities within the registered Aboriginal heritage site and to act as an information resource to the Shire to streamline the preparation of Regulation 10, Section 16 and Section 18 permits under the *Aboriginal Heritage Act 1972* for a range of specific projects taking place within the heritage site corridor.

#### Comment:

The Shire of Denmark in collaboration with the DIA commissioned consultants (Applied Archaeology) to undertake the preparation of the Aboriginal Cultural Heritage Management Plan for Southern Section of Kwoorabup Beelia (Denmark River) July 2011 (refer Attachment 8.1.1 a).

As per the Project Brief, the aim of the Management Plan is to protect and manage the indigenous heritage values associated with the Denmark River between River Bend Lane and the rivermouth, with the key objectives being to:

1. Undertake an audit of Noongar cultural Heritage sites along the Denmark river foreshore by;
  - Desktop assessment of known/registered Noongar cultural Heritage sites and values in the study area;
  - Conducting archaeological and ethnographic field surveys (including mapping) with Noongar custodians from the area to identify non-registered significant Aboriginal sites and Heritage values; and An inventory audit to identify all Aboriginal heritage sites within the study area.
2. Provide relevant management recommendations with clear outlined appropriate processes and measures to ensure that these values are protected in regards future town planning and development proposals and potential disturbance from necessary operational activities.

Having regard to the key objectives, in summary the Management Plan sets out the following:

- Background Information
  - Description of the study area as it relates to the environment and land use;
  - Cultural heritage background which provides a description of the landscape, cultural, social and wild resource use of the river by the Noongar people;
  - List of registered sites within and in the vicinity of the project area;
  - Description of the condition of the heritage values; and
  - Legislation and policies to manage the heritage values.
- Vision
  - Recognising that the river foreshore is a much loved asset of our community in the heart of our town.
  - Protecting and enhancing the environmental and heritage values of the Denmark River foreshore reserve whilst balancing the recreational needs and aspirations of the community.
  - Developing the Denmark River foreshore to the north east of the town road bridge which protects the Traditional Meeting Place whilst considering other recreation uses of this area.
  - Management of this area being done in a culturally sensitive manner that meets the Shire's legal obligations under the *Aboriginal Heritage Act 1972*.
- Management Consideration Themes
  - Conservation and land/waterway management;
  - Communication and consultation;
  - Research, training and education;
  - Access to funding and support from relevant agencies;
  - The implementation of statutory planning mechanisms; and
  - Monitoring.
- Project Actions/Activities
 

Twelve projects have been identified (refer below), with the recommendations and actions associated with each of these identified management actions and development activities summarised on pages 54-56 of the Management Plan.

1. Protection of Traditional Ceremonial Ground and Meeting Place
2. Archaeological Investigations at the Shell Midden Site
3. Conservation and Land/Waterway Management

4. Wetland/Pond Restoration
5. Working with Private Landowners
6. Bridge Restoration
7. Community Park Developments
8. Berridge Park
9. Walk Trails/Crossings
10. Denmark Rivermouth Recreational and Boating Facilities and Environmental Protections
11. UCL land management
12. Fire Management

In summary, the main implications for Council arising from these recommendations are as follows:

- The preparation of a concept plan to show how foreshore reserves 15022 and 22944 can be developed for the benefit of the whole community – including but not limited to the protection of the Ceremonial Site and the accommodation of other activities/uses such as pedestrian walkways (Kwoorabup) and other trails, boat launching, car parking, picnicking and improving access to the site.
- Preparation of applications under Regulation 10 of the *Aboriginal Heritage Regulations 1974* and Section 18 of the *Aboriginal Heritage Act 1972* by Council where relevant.
- Provision of in-kind support for proposed projects.
- Undertaking ongoing consultation with relevant stakeholders in the implementation of the recommendations.
- The implementation of statutory planning mechanisms as provided for under the *Planning and Development Act 2005* where it relates to private land as follows:
  - Provide an advice note on all development approvals which advise landowners of the heritage site and their obligations under the Act.
  - Under referral of subdivision applications, recommend to the WAPC that the land be ceded as foreshore reserve.

#### Regulation 10 Application For the Protection of the Ceremonial Site

As a result of the preliminary work on the Management Plan, Applied Archaeology are seeking to lodge a Regulation 10 application with the DIA to protect the Ceremonial Site (refer Attachment 8.1.1 b). As the Shire of Denmark is the management body for Reserve 15022, approval from the Shire of Denmark is required.

The Ceremonial Site is a registered Aboriginal Heritage site (Site 27936 - Kwoorabup Corroborree Ground) under the *Aboriginal Heritage Act 1972*, and the current Regulation 10 application proposes to bollard the Ceremonial Site area to avoid vehicles parking on the site, whilst still allowing for pedestrian access.

The protection of the Ceremonial Site is a key recommendation of the Management Plan, however it was to form one component of an overall concept plan for Reserves 15022 and 22944 to ensure that the foreshore area is developed for the betterment/benefit of the whole community acknowledging the usage of the area from the broader community.

Given that the Shire has a legal obligation to protect the registered Aboriginal Heritage Site and the timeframes associated with the preparation of a concept plan and subsequent implementation/development, it is recommended that the Shire advise Applied Archaeology that the Shire is prepared to approve the Regulation 10 application subject to the following:

- The application being amended to acknowledge that the bollarding is to be of a temporary nature until such time as the overall concept plan for the development of Reserves 15022 and 22944 is finalised and implementation has progressed; and
- The traditional owners to acknowledge, and the application amended accordingly, that consultation needs to occur with the Shire of Denmark and the Denmark Boating and Angling Club in relation to the actual placement of the temporary bollards on-site.

**Consultation:**

The Management Plan was prepared in consultation with the community and stakeholders as follows:

- Public consultation meetings at the start and conclusion of the project at which all private land owners affected by the Heritage Site were invited;
- One on one interviews with traditional owners;
- Field trip with traditional owner groups;
- Meeting with relevant government departments such as Department of Indigenous Affairs and Department of Water; and
- Consultation which has occurred under the preparation of study to assess the Aboriginal heritage value of rivers commissioned by the Department of Water.

**Statutory Obligations:**

The Management Plan identifies specific projects and makes recommendations for the need, where relevant, to prepare applications to comply with Regulation 10 of the *Aboriginal Heritage Regulations 1974* and Section 18 of the *Aboriginal Heritage Act 1972*.

**Policy Implications:**

There are no policy implications.

**Budget / Financial Implications:**

The majority of the recommendations do not have any budgetary implications as they are factored into project development cost where relevant. In relation to the preparation of a concept plan for the Foreshore Reserve area 15022 and 22944, this may require some budget monies to be allocated when this project is prioritised.

**Strategic Implications:**

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

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

The Management Plan provides recommendations to improve the environmental qualities of the Denmark River through statutory planning measures, planning and management of recreational uses, revegetation, weed control and water quality improvement.

**➤ Economic:**

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

**➤ Social:**

The Management Plan was prepared in consultation with the Noongar community and makes recommendations to protect and manage the heritage value of the Denmark River Foreshore.

**Voting Requirements:**

Simple majority.

At the meeting held on the 19 July 2011, the following matters were raised by Councillors;

1. Cr Barrow referred to the adopted Plan for the Kwoorabup Community Park and in particular the reference, on page 45, to “natural site rehabilitation (planting of sedges, rushes)” at a degraded wetland. Cr Barrow asked whether there was any conflict between the adopted Plan and the Management Plan before Council.
2. Cr Laing expressed concern that the plan did not appear to have consulted the broader indigenous community of which there were around 50 families.
3. Cr Hinds noted that there was reference to Greenskills as being the organisation who would deliver the service and asked whether they had been appointed by Council.
4. Cr Phair asked why the names of the consulted landowners were not listed in the report as all of the other names of persons consulted had been.
5. Cr Richardson-Newton noted that the Plan referenced a bridge reconstruction and asked whether, once constructed, it would become a Council maintained bridge as he believed that if it did then Council needed to have some input into its structural standard.

In response to the questions raised by Councillors, the Director of Planning & Sustainability provides the following information:

1. After reviewing the Kwoorabup Community Park Concept Plan, the wetland rehabilitation project does not present any conflicts, noting the following comments that are referenced on the Kwoorabup Community Park Concept Plan:
  - *The vegetation in this stretch of the river to be managed to allow views through the fringing vegetation. Vegetation structure to be large and small trees, and rushes and sedges, without a shrubs layer.*
  - *Pond with either maintained permanent water pumped from river and recirculated to maintain satisfactory water quality or alternatively a seasonal wetland (NB: Concerns about water quality in a permanent pond and the environmental impacts of pumping from the river suggest that a seasonal wetland is the better option). Edges to be gently sloping with rushes and sedges planted in the margins.*
2. On several occasions the consultant attempted to address the South West Aboriginal Land and Sea Council (SWALSC) in relation to the Management Plan however due to Native Title meeting agendas a meeting never eventuated. Consequently, it was resolved that for the purpose of developing a heritage management plan the local representatives available would provide the appropriate level of guidance and input (noting that the Department of Indigenous Affairs determined the Traditional Owners consultation group was well-represented).

Applied Archaeology have submitted a copy of the Management Plan (being the same document that appears as Attachment 8.1.1) to SWALSC for their review and to date no comments have been provided. Notwithstanding, once Council have considered the Management Plan, the Shire will forward a copy of the Management Plan to SWALSC for their information.

3. The Director of Planning & Sustainability noted Cr Hinds' issue and subsequent concerns and has prepared a new Officer Recommendation that essentially incorporates a modification being done that excludes any specific reference to organisation names (i.e. Greenskills) being contained with actions/recommendations.
4. At the community meetings there was no requirement for landowners to formally register, thus there is no official record of the names of persons who attended, with details only being captured of numbers of people in attendance.

5. The bridge reconstruction project action/activity pertains to the reconstruction of a footbridge crossing point. Given the location of the bridge crossing is within the general vicinity of the proposed east-west road link alignment (as currently referenced in the Shire's draft Local Planning Strategy) and noting the concerns about the bridge then becoming Council infrastructure that would be required to be maintained by Council, it is recommended that the recommendations/actions associated with this proposal are amended accordingly to reflect acknowledgement that the traditional crossing point proposal has merit, however Council needs to consider the project in context with the proposed east-west road link alignment.

**FORMER OFFICER RECOMMENDATION**

ITEM 8.1.1 a)

That Council with respect to the Aboriginal Cultural Heritage Management Plan for the Southern Section of Kwoorabup Beelia (Denmark River) July 2011 adopt it as a guiding document to protect and manage the indigenous heritage values of the area.

**OFFICER RECOMMENDATION**

ITEM 8.1.1 a)

That Council with respect to the Aboriginal Cultural Heritage Management Plan for the Southern Section of Kwoorabup Beelia (Denmark River) July 2011 adopt it as a guiding document to protect and manage the indigenous heritage values of the area subject to the following modifications being undertaken to the satisfaction of the Director of Planning & Sustainability:

1. Project Action/Activity No. 4 references being amended as per the following:
  - a. Modify Recommendation 1 to read as follows: The Shire to develop the wetland area as per the Kwoorabup Community Park Concept Plan;
  - b. Modify the Action reference to read as follows: A landscaping/rehabilitation plan to be prepared in consultation with relevant stakeholders.
2. Project Action/Activity No. 6 references being amended as per the following:
  - a. Modify Processes/Consultations Required to read as follows:
    - to be considered further when the planning for the proposed east-west link road in this vicinity is progressed;
    - ongoing consultations and workshops as required;
    - funding applications.
  - b. Include the following Recommendation: Shire acknowledges the traditional crossing point proposal has merit however determines it needs to be considered in context with the proposed east-west link road in this vicinity.
  - c. Modify the Action reference to read as follows: The Shire to consider as part of the planning and approval processes for the proposed east-west link road.

**COUNCIL RESOLUTION**

ITEM 8.1.1 a)

MOVED: CR BARROW

SECONDED: CR WAKKA

That Council with respect to the Aboriginal Cultural Heritage Management Plan for the Southern Section of Kwoorabup Beelia (Denmark River) July 2011 receive it as a guiding document to protect and manage the indigenous heritage values of the area subject to the following modifications being undertaken to the satisfaction of the Director of Planning & Sustainability:

1. Project Action/Activity No. 4 references being amended as per the following:
  - a. Modify Recommendation 1 to read as follows: The Shire to develop the wetland area as per the Kwoorabup Community Park Concept Plan;
  - b. Modify the Action reference to read as follows: A landscaping/rehabilitation plan to be prepared in consultation with relevant stakeholders including the Kwoorabup Community Park Working Group;
2. Project Action/Activity No. 6 references being amended as per the following:
  - a. Modify Processes/Consultations Required to read as follows:
    - to be considered further when the planning for the potential east-west link road in this vicinity is progressed;
    - ongoing consultations and workshops as required;
    - funding applications.
  - b. Include the following Recommendation: Shire acknowledges the traditional crossing point proposal has merit however determines it needs to be considered in context with the potential east-west link road in this vicinity.
  - c. Modify the Action reference to read as follows: The Shire to consider the potential east-west link road as part of the planning and approval processes for the river crossing.

CARRIED: 9/2

Res: 060711

**REASONS FOR CHANGE**

Council wished to receive the document rather than adopting it and amended the word “proposed” with the word “potential” in parts 2 a, b & c.

**COUNCIL RESOLUTION & OFFICER RECOMMENDATION**

ITEM 8.1.1 b)

MOVED: CR BARROW

SECONDED: CR RICHARDSON-NEWTON

That with respect to the Regulation 10 application for the protection of the Ceremonial Site on Reserve 15022, Council authorises the Chief Executive Officer to approve the application subject to the following:

1. The application being amended to acknowledge that the bollarding is to be of a temporary nature until such time as the overall concept plan for the development of Reserves 15022 and 22944 is finalised and implementation has progressed; and
2. The traditional owners to acknowledge, and the application amended accordingly, that consultation needs to occur with Officers of the Shire of Denmark and the Denmark Boating and Angling Club in relation to the actual placement of the temporary bollards on-site.

CARRIED: 11/0

Res: 070711

**8.1.2 PROPOSED ADVERTISING SIGN (SWISS FLAG) AT 2023 (LOT 585) SOUTH COAST HIGHWAY, DENMARK**

<b>File Ref:</b>	A506
<b>Applicant / Proponent:</b>	Denmark Chocolate Company
<b>Subject Land / Locality:</b>	2023 (Lot 585) South Coast Highway, Denmark
<b>Disclosure of Officer Interest:</b>	Nil
<b>Date:</b>	7 July 2011
<b>Author:</b>	Duncan Ross, Senior Planning Officer
<b>Authorising Officer:</b>	Annette Harbron, Director of Planning & Sustainability
<b>Attachments:</b>	Proposed Sign Details

**Summary:**

Denmark Chocolate Company are seeking Planning Approval to erect an advertising sign in the form of a Swiss flag.

Notwithstanding that the proposal does not comply with Town Planning Scheme Policy No. 32 – Signs, Planning Services consider the proposal has merit thus is recommending that Planning Approval be granted subject to appropriate conditions.

**Background:**

Current Application

An application for Planning Approval was lodged with Planning Services in June 2011 for the erection of an advertising sign (Swiss flag) at No. 2023 (Lot 585) South Coast Highway, Denmark (refer Attachment 8.1.2).

The applicant's reasons and justification for the flag sign are as follows:

- The sign is representative of the 'Swiss Annie's' brand the company is pursuing, emphasising a point of difference;
- The flag, which was previously trialled (before being removed as the owners were advised a planning consent application was required), proved successful in terms of being highly visible and reduced the number of people 'overshooting' the access to the property;
- The brown and white tourism signs have proved to be ineffective;
- South Coast Highway is high speed and the flag sign would make it safer for people to see the property well in advance.

Existing Signage

The existing signage associated with the Denmark Chocolate Company business includes:

- A 2m<sup>2</sup> Rural Business Sign located on the road reserve (approved by Main Roads WA and the Shire – Planning Consent 2010/9)
- A brown on white tourism sign directly opposite the entrance to the site; and
- 2 x brown on white tourist approach signs 250 metres either side of the property entrance.

**Comment:**

As per Town Planning Scheme Policy No. 32 – Signs, a flag is considered to be a Tethered Sign, and tethered signs are not permitted in any zone. The policy provides further direction in terms of how to deal with such proposals and goes on to state:

**13.0 PROHIBITED SIGNS**

*The following are expressly prohibited by this Policy –*

- *A Flag other than an Australian National Flag, WA State Flag, and a flag or banner for a specific event, function/celebration, unless approved by Council.*



Notwithstanding the above, Council does have the ability to approve the flag sign if it is considered the proposal has merit having regard to the objectives of Town Planning Scheme No. 3 and/or any relevant Scheme policies.

From a Planning Services perspective it is considered that the flag sign is appropriate as it is directly associated with a specific tourist product available on site. The property, whilst not overly difficult to find or access, does lie on a high speed route and visitors to the Shire may not be familiar with the location and/or access arrangement. The flag sign is simple, does not require any words, is not considered to be offensive as is consistent with the Swiss national flag and will be easily sighted when travelling in either direction along South Coast Highway.

Should approval be given to the flag sign it is deemed that precedence will not be set as there is merit in approving this particular flag sign, particularly as it directly relates to the business operations on-site and the Shire should be seen to be proactively promoting such tourist destinations. The flag sign will contribute to increasing business exposure and viability whilst at the same time reducing potential vehicular conflicts at the vehicle access point with South Coast Highway.

The flag sign is proposed to be displayed permanently, however Planning Services consider it appropriate that the flag sign is only displayed at times when the Chocolate Factory is open, thus requiring the owners to put up and take down the flag each morning/night and remove the flag over any periods of prolonged closure. This requirement has been included as a condition of approval.

**Consultation:**

The application was referred to Main Roads WA for comment. No response was received and therefore it can be considered Main Roads WA had no objection to the proposal.

The applicant has also provided a letter of support from Denmark Tourism Incorporated stating the flag sign is supported as it is an effective marketing technique, location identifier which will be of assistance to visitors and improve safety along South Coast Highway.

**Statutory Obligations:**

Town Planning Scheme No. 3 and related policies specify the pertinent development requirements for the site. Clause 8.2.5 of the TPS states:

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

As per current Delegation D100601: Implementation of Town Planning Scheme, the Chief Executive Officer and Director of Planning & Sustainability only have delegation to approve applications for advertising signs where they comply with standards prescribed in Town Planning Scheme No. 3 and any adopted Town Planning Scheme Policy. In this instance the proposal does not comply with Town Planning Scheme Policy No. 32 – Signs, thus the Planning Application is being referred to Council for determination.

**Policy Implications:**

Town Planning Scheme Policy No. 32 – Signs is relevant to this application. It details the appropriate sign standards within the Shire. It is noted that flag signs are generally prohibited unless approved by Council.

**Budget / Financial Implications:**

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

**Strategic Implications:**

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

**Sustainability Implications:**

➤ **Environmental:**

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 8.1.2

That with respect to the development application for the Proposed Advertising Sign (Swiss Flag) at No. 2023 (Lot 585) South Coast Highway, Denmark, Council resolve to grant Planning Approval subject to the following conditions:

1. The development to be in accordance with the attached stamped approved plans and where marked in red dated 3 June 2011.
2. No part of the flag sign or supporting structure shall encroach beyond the property boundary.
3. That the flag is to only be displayed/erected when the Denmark Chocolate Company business is open.

**COUNCIL RESOLUTION**

ITEM 8.1.2

MOVED: CR LAING

SECONDED: CR BARROW

That with respect to the development application for the Proposed Advertising Sign (Swiss Flag) at No. 2023 (Lot 585) South Coast Highway, Denmark, Council resolve to grant Planning Approval subject to the following conditions:

1. The development to be in accordance with the attached stamped approved plans and where marked in red dated 3 June 2011.
2. No part of the flag sign or supporting structure shall encroach beyond the property boundary.
3. That the flag is to be removed on those days the Denmark Chocolate Company business is not open.

CARRIED: 11/0

Res: 080711

## 8.2 Director of Community & Regulatory Services

*Prior to consideration of Item 8.2.1 through Presiding Person the Chief Executive Officer brought to the attention of the meeting the following disclosure(s) of interest:*

*The Chief Executive Officer and the Director of Community & Regulatory Services declare a financial interest in that they are employees of Council.*

*The Director of Finance & Administration & the Director of Planning & Sustainability declare a financial and an impartiality interest in that they are employees of Council.*

*Mr Stewart, Mr Harwood, Mr Bird & Mrs Harbron have declared that they will consider the matter on its merits and advise Council accordingly.*

<b>8.2.1 DISCOUNTED EMPLOYEE RECREATION AND YOUTH CENTRE USAGE</b>
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<b>File Ref:</b>	ADMIN.2
<b>Applicant / Proponent:</b>	Shire of Denmark
<b>Subject Land / Locality:</b>	All Shire of Denmark Work Places
<b>Disclosure of Officer Interest:</b>	Mr Gregg Harwood declares a financial interest
<b>Date:</b>	9 July 2011
<b>Author:</b>	Gregg Harwood, Director of Community & Regulatory Services
<b>Authorising Officer:</b>	Gregg Harwood, Director of Community & Regulatory Services
<b>Attachments:</b>	Copy of Staff Survey & Results and extracts from previous Council Minutes.

**Summary:**

At its 25 January 2011 Ordinary meeting Council considered a proposal and subsequently requested further information in relation to anticipated usage and associated costs. This report provides the requested information and recommends that Council approve this initiative on the basis that it will improve the health and well being of staff, potentially assist in staff recruitment and retention and has the potential to increase the Recreation Centre's income.

**Background:**

At its 25 January 2011 Ordinary meeting Council resolved (Resolution No. 210111) as follows (a copy of the report is attached):

*“That Council defers this item to enable further and better particulars regarding usage and cost of the service if provided by Council including:*

1. *Establishing with Council employees;*
  - a) *The number and classification levels of employees who definitely intend using the service and facilities.*
  - b) *The number and classification levels of employees who may use the service and facilities.*
  - c) *The number and classification levels of employees who probably would not use the service and facilities.*
  - d) *The numbers and classification levels of employees who would definitely not use the service and facilities.*
2. *Establishing estimated usage and costs/profits based on the information established under point 1. and:*
3. *Establishing whether such usage limits the service/s to ratepayers and residents.*
4. *Establishing the likelihood of needing to appoint additional employees to operate any increased activities.”*

**Comment:**

A survey of staff was conducted which classified staff in terms of their work areas. A summary of this survey is attached and out of the 61 full time equivalent staff that Council employs a total of 32 responded, translating to a response rate of approximately 52%.

The specific response rates for each work area are as follows:

Administration building:	25 responses or 78% of respondents,
Depot workforce	1 response or 3.1% of respondents,
Library	3 responses or 9.4% of respondents,
Youth Centre	0 responses or 0% of respondents,
Recreation Centre	3 responses or 9.4% of respondents.

Given that administration building staff represent 78% of the respondents and therefore are the statistically dominate block (noting the Administration Building Staff have a clear interest in this issue particularly child care and physical exercise) further tabulating of the results was not undertaken as it would become confusing and not vary the results to any great degree.

Based on the results of the survey the Director of Community and Regulatory Service's responses to the questions in resolution 210111 are as follows:

- 1) *Establishing with Council employees the number and classification levels of employees who definitely intend using the service and facilities.*

When asked the questions, "Would a 50% discount on entry fees be sufficient incentive to encourage you to increase your usage of the Recreation Centre?" 22 out of the 31 staff (69%) that answered the question advised that a 50% discount on entry fees was a sufficient incentive to increase their usage of the Recreation Centre whilst 10 staff (31%) indicated that it was not.

In terms of the School Holiday Program out of the 14 staff who responded that have children 7 (50%) advised that they already use the program and 11 staff (78%) indicated that a 50% discount on entry fees would increase their usage of the Program.

- 2) *The number and classification levels of employees who may use the service and facilities.*

This question is largely answered by the response to the first question.

It is however possible to verify and find a basis for further comments by considering the responses to the questions relating to how staff currently see themselves and their long term fitness levels.

- 3) Depending on which question is considered between 67-83% of the respondents indicated that they were not satisfied with their current or future weight and fitness levels. From these responses it is reasonable to assume that the 22 staff or (69%) of the respondents identified, in the response to the first question would be the ones who would use the services and facilities.

In terms of the School Holiday Program 11 staff or (78%) of the respondents who have school aged children indicated that a 50% discount on entry fees would be a sufficient incentive to increase their usage of the Program. This represents an increase of 4 children over the current 7 staff member's children that periodically use the program.

- 4) *The number and classification levels of employees who probably would not use the service and facilities.*

5 (16%) and 10 (31%) of the staff that responded indicated that a 50% discount on entry fees was insufficient incentive to increase their usage of the Recreation Centre.

In terms of the School Holiday Program, 2 (22%) of the staff with children who responded indicated that a 50% discount on entry fees would not be sufficient incentive to increase their usage of the program.

- 5) *The numbers and classification levels of employees who would definitely not use the service and facilities.*

Depending on which question is considered it is estimated that between 5 (16%) and 10 or (31%) of the staff who responded would not use the Recreation Centre.

In terms of the School Holiday Program and 2 or (22%) of the staff with children who responded indicated that a 50% discount on entry fees would not be sufficient incentive to increase their usage of the program.

- 6) *Parts 2, 3 & 4 of the Council's resolution asked Officers to: establish estimated usage and costs/profits based on the information established; establish whether such usage limits the service/s to ratepayers and residents; and establish the likelihood of needing to appoint additional employees to operate any increased activities.*

The responses to the question titled "Which of the following Recreation Centre Programs do you currently utilise?" provides information that can be used to answer these questions.

The 32 staff who responded to this question advised that they collectively currently use the centre a total of 18 times per week. Assuming that the average cost of an entry is \$6.00, the cost of a 50% discount for the existing users & Council would be \$54.00 per week (18 x \$3.00). This cost however needs to be balanced against the potential income from the increased turnover that will occur from the 21 extra staff that indicated that they would participate if a 50% staff discount is put in place.

In terms of Councillor concerns that increased staff usage of the centre may lead to a reduced availability of places for full paying user or trigger calls for additional staff, the presence of an additional 21 persons participating twice a week spread over 18 Recreation Centre programs is a negligible impact and will not result in a shortage of places or the need for additional staff, whilst helping the Recreation Centre to build and maintain critical core numbers in order to ensure the running of the programs.

Similarly the presence of an additional 4 children should not adversely affect the School Holiday Program as there is ample space for additional children. These additional children will also help to provide a sufficient social mass for the children for the program to work and in turn attract other parents to book their children into.

Having said this however recent aggressive marketing of this program has resulted in a full bus (21 seater) on at least one occasion in the current school holiday program. If this trend continues it would be quite possible to hire a larger bus or to run a secondary program for the additional children.

The base cost of the School Holiday program is \$21.00 per day so the cost per child to Council of a 50% subsidy for 4 children would be \$42 per day or \$168 per week (Program operates for 4 days per week). This however needs to be considered against the fact that the program is already running and that the majority of the costs are relatively fixed for up to around 18 children. This means that if 4 extra children participate at a 50% discount they will in fact improve the viability of the program.

**Implications of Childcare Licensing Requirements on the School Holiday Program:**

At the 25 January 2011 Ordinary meeting Council raised questions as to the legality of the School Holiday Program in terms of Childcare licensing.

The short answer to this question is that the program and its workers do not need to be licensed as the program is sport and activity based. Councillors wishing to investigate this further can refer to the attached minutes of the 22 May 2007 and 27 March 2007 Council meetings which detail the origin of the School Holiday Program.

**The cost of a 50% reduction of School Holiday Program fees for all participants:**

At the meeting held on the 18 January 2011 Cr Hinds requested information relating to what the costings would be in reducing Recreation Centre & Youth Centre fees across the board (for community & staff) for holiday programs and/or throughout the year.

The annual income from the School Holiday Program fees is \$4,955.20 (averaged over past 2 financial years) and so the cost of an across the board 50% discount would be \$2,477.60. This said, the July 2011 School Holiday Program has seen a notable increase in attendances and therefore this figure is variable.

**Conclusion:**

In the author's opinion the potential benefits of allowing Council staff to access Recreation and Youth Centre programs at a 50% discount outweigh its potential cost.

Given that the survey has revealed that there is a potential for a increased participation rate of Council Staff and a 50% staff discount will most likely increase the Recreation Centre's income, it is recommended that Council support this proposal.

**Consultation:**

A survey of staff has been undertaken.

**Statutory Obligations:**

Nil

**Policy Implications:**

The Officer's Recommendation is proposing a new policy be incorporated into Council's Policy Manual.

**Budget / Financial Implications:**

The report and the officer recommendation should have a minimal impact on the Recreation Centres operating costs and may, through increased turnover, marginally increase its net operating income. The proposed Policy should more than pay for itself in terms of staff morale, prevention of lost productivity, higher participation rates (creating more certainty that the scheduled programs will actually run, which in turn potentially encourages more registrations) hence creating an increased income for the Recreation Centre.

**Strategic Implications:**

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

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

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

➤ **Economic:**

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

➤ **Social:**

There are significant social benefits associated with allowing Council staff to access Recreation and Youth Centre programs at a 50% discount.

**Voting Requirements:**

Simple majority.

5.01pm – Cr Wakka left the meeting.

*Cr Hinds moved the following recommendation;*

1. *That during school holidays, children under the age of 18 shall be able to access facilities, programs and services at the McLean Park Recreation and Youth Centres at a discount of 50% to the scheduled base cost of such facilities, programs and services; and*
2. *That planned and advertised school holiday programs and services, once commenced, shall be delivered, even if attendance would normally be considered to be inadequate.*

*The Deputy Shire President disallowed the proposed motion as he did not believe that it dealt with the matter before Council, being employee discounts.*

5.03pm – Cr Wakka returned to the meeting.

## OFFICER RECOMMENDATION

ITEM 8.2.1

That with respect to the proposed Employee Benefits - Health and Lifestyle Scheme Council adopt the following policy for inclusion into Council's Policy Manual:

Employee Benefits - Health and Lifestyle

In order to encourage active and healthy lifestyles and therefore an active and healthy workforce, permanent & part-time employees of Council and their immediate dependent children (under the age of 18) are able to access the following McLean Park & Recreation Centre services at a 50% discount;

1. The scheduled base cost of Recreation and Youth Centre school holiday programs for the children of employees.
2. The cost of accessing the gym and gym membership and scheduled fees for participation in fitness classes, toddler's gym, crèche and the like but excluding specialist services such as personal coaching and external instructors, the cost of bus hire, sports and activities organised by other groups, room hire, table and chair hire and the like.

*There were no Councillors prepared to move the above Officer Recommendation.*

*Cr Hinds requested that his proposed motion be accepted as a Notice of Motion for next month's meeting. The Deputy Shire President accepted.*

*Cr Laing requested that detailed costings be provided in relation to the item for next month.*

### 8.3 Director of Infrastructure Services

#### 8.3.1 SHADFORTH RISE WASTE COLLECTION SERVICE

<b>File Ref:</b>	Honeymoon Court, Cussons Road & Love Crescent Road Files
<b>Applicant / Proponent:</b>	Shire of Denmark
<b>Subject Land / Locality:</b>	Shadforth Rise Subdivision
<b>Disclosure of Officer Interest:</b>	Nil
<b>Date:</b>	15 June 2011
<b>Author:</b>	Rob Whooley, Director of Infrastructure Services
<b>Authorising Officer:</b>	Rob Whooley, Director of Infrastructure Services
<b>Attachments:</b>	Map of proposed gazetted area

#### Summary:

This item recommends that a compulsory waste collection service be introduced for all properties within the Shadforth Rise.

#### Background:

With a small number of houses being constructed at Shadforth Rise, there have been enquiries from residents about whether a waste collection service will be provided.

#### Comment:

There are 40 lots within Shadforth Rise (refer attachment) 34 of which are privately owned with the remainder still owned by the developer Bonthorpe Pty Ltd.

Whilst some residents may deal with their rubbish it is not foreseeable that the majority of residents, upon full development of this subdivision, will support a "rural" arrangement in dealing with domestic waste.

#### Consultation:

A period of notification for existing landowners is required. It is proposed that collection commence from 1<sup>st</sup> December 2011.

#### Statutory Obligations:

- The Local Government Act 1995.
- The Health Act (1911).
- Shire of Denmark Health Local Law.

In order to comply with the Health Act the area will need to be gazetted. The service will be compulsory for the whole area.

Residents will not have the option to avoid paying an annual fee by choosing to dispose of their waste at the Refuse Disposal Site.

#### Policy Implications:

There are no policy implications.

#### Budget / Financial Implications:

Fees and charges will apply to this service per Council's operative Fees & Charges Schedule.

Waste Collection and sanitation services are calculated to be cost neutral. Any current discrepancy in the cost recovery for waste services is being addressed with incremental increases over the next few budgets.

#### Strategic Implications:

There is a need to manage sanitation and waste collection in a manner that has the least significant impact on the environment.



**Sustainability Implications:**

Resources allocated to Councils waste services are being stretched to capacity. Rebalancing and adding additional collection days will need to be given due consideration very soon.

➤ **Environmental:**

There are obvious environmental considerations relating to somewhat uncontrolled waste disposal in a reasonably built-up area.

➤ **Economic:**

Any current discrepancy in the cost recovery for waste services is being addressed with incremental increases over the next few budgets.

➤ **Social:**

There are social considerations relating to potential vermin and smell affecting neighbours if a rural-style waste management system is adopted, as opposed to a compulsory urban-style waste collection system for this subdivision.

**Voting Requirements:**

Simple majority.

OFFICER RECOMMENDATION

ITEM 8.3.1

That Council endorse the introduction of a compulsory waste collection service for Shadforth Rise, as shown on the attached map, effective from 1 December 2011.

5.05pm - *The Director of Planning & Sustainability left the meeting.*

5.09pm - *The Director of Planning & Sustainability returned to the meeting.*

**COUNCIL RESOLUTION**

ITEM 8.3.1

MOVED: CR SYME

SECONDED: CR BARNES

That Council not endorse the introduction of a compulsory waste collection service for Shadforth Rise and not consider the provision of such a service until 50% of the subdivision has completed dwellings upon it.

**DEFERRAL MOTION**

MOVED: CR BARROW

SECONDED: CR WAKKA

That the motion be deferred until such time as Council Staff develop a Policy on the commencement of residential waste collection in new development areas for Council's consideration, with such policy to be presented to Council by no later than 30 September 2011.

CARRIED: 7/4

Res: 090711

## 8.4 Director of Finance & Administration

### 8.4.1 FINANCIAL STATEMENT FOR THE MONTH ENDING 30 JUNE 2011

<b>File Ref:</b>	FIN.1
<b>Applicant / Proponent:</b>	Not Applicable
<b>Subject Land / Locality:</b>	Denmark
<b>Disclosure of Officer Interest:</b>	Nil
<b>Date:</b>	9 June 2011
<b>Author:</b>	Garry Bird, Director of Finance and Administration
<b>Authorising Officer:</b>	Garry Bird, Director of Finance And Administration
<b>Attachments:</b>	Monthly Financial Report

#### Summary:

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

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

#### Background:

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

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

#### Comment:

Shire Trust Funds have been invested for thirty days with the National Bank, maturing 30 July 2011 at the quoted rate of 5.00%

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

There are no surplus municipal funds available for investment.

It should be noted that there will be several alterations, amendments and additions to the attached accounts, as end of year processes are completed.

#### Key Financial Indicators at a Glance

The following comments and/or statements are provided to provide a brief summary and/or assist in the interpretation and understanding of the attached Financial Statement.

- Based on financial commitments made since the adoption of the Budget, and amendments made to the original budget at the February 2011 Council Meeting, the 30 June 2011 end of year position is estimated to be a deficit of

\$15,492 (Note 5). This position will be reviewed as all end of year accounts are received and it is estimated that this deficit will increase to a surplus position, as a result of uncompleted works.

- Operating income is slightly higher than that predicted for 30 June 2011, and expenditure is less than estimated (Statement of Financial Activity).
- The 2010/11 Capital Works Program has now been completed with 87.54% of total expenditure completed. The acquisition of Reserve 27101 remains outstanding and totals \$420,000 of the outstanding expenditure of \$620,142 (Statement of Financial Activity). As part of 2011/12 Municipal Budget preparations a number of other smaller projects have been identified as requiring to be "carried over" from the 2010/11 Budget.
- Rates Collection percentage of 97.47% is in keeping with historical collection rates (Note 6). The small number of outstanding debtors remaining have been provided with a final warning and have been referred to Council's appointed debt collection agency, Austral Mercantile Collections Pty Ltd.
- All required transfers to and from Reserve Funds have been made (Note 9).
- All loan repayment obligations have been made for the 2011/12 year.
- Salaries and Wages expenditure was in keeping 2010/11 estimates. (not reported in Financial Statement)

**Consultation:**

Nil

**Statutory Obligations:**

Local Government Act 1995 Section 5.25 (1)

Local Government (Financial Management) Regulations 1996

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

**Policy Implications:**

Policy P040222 (Material Variances In Budget And Actual Expenditure) relates as follows;

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

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

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

**Budget / Financial Implications:**

Other than the matters identified in the Budget vs Actual Variance Report, income and expenditure is proceeding as per budget forecasts and the end of year position should be as per that projected in the revised 2010/11 Municipal Budget end of year position, although it is noted that some works remain outstanding at the end of the financial year, which will improve this estimated end of year position.

**Strategic Implications:**

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

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

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

➤ **Economic:**

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

➤ **Social:**

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

**Voting Requirements:**

Simple majority.

<b>COUNCIL RESOLUTION &amp; OFFICER RECOMMENDATION</b>	<b>ITEM 8.4.1</b>
<b>MOVED: CR WAKKA</b>	<b>SECONDED: CR BARROW</b>
That with respect to Financial Statements for the month ending 30 June 2011, Council;	
1. Receive the financial report, incorporating the Statement of Financial Activity, Adopted Budget Amendments and Variations Report and other supporting documentation.	
2. Endorse the Accounts for Payment as listed.	
<b>CARRIED: 11/0</b>	<b>Res: 100711</b>

Prior to consideration of Item 8.4.2 through Presiding Person the Chief Executive Officer brought to the attention of the meeting the following disclosure(s) of interest:

The Director of Finance & Administration is a member of the Denmark Boating and Angling Club and the Denmark Sea Rescue Group and as a consequence there may be a perception that his impartiality on this matter may be affected. Mr Bird declares that he will consider this matter on its merits and advise Council accordingly.

**8.4.2 DENMARK BOATING AND ANGLING CLUB (INC) AND DENMARK SEA RESCUE GROUP (INC) – LEASE OF PORTION OF LOT 7625 (RESERVE 24913)**

<b>File Ref:</b>	A3108
<b>Applicant / Proponent:</b>	Denmark Boating and Angling Club (Inc) & Denmark Sea Rescue Group (Inc)
<b>Subject Land / Locality:</b>	Portion of Lot 7625 (Reserve 24913) 898 Ocean Beach Rd, Denmark
<b>Disclosure of Officer Interest:</b>	The Author declares an impartiality interest as he is a member of the Denmark Boating and Angling Club and the Denmark Sea Rescue Group.
<b>Date:</b>	11 July 2011
<b>Author:</b>	Garry Bird, Director of Finance & Administration
<b>Authorising Officer:</b>	Dale Stewart, Chief Executive Officer
<b>Attachments:</b>	Draft Lease – Portion of Lot 7625, Reserve 24913

**Summary:**

The lease of portion of Lot 7625 (Reserve 24913) 898 Ocean Beach Rd Denmark, between the Shire of Denmark and the Denmark Boating and Angling Club (Inc) (DBAC) and the Denmark Sea Rescue Group (Inc) (DSRG) expired on 30 June 2010. This lease was for a ten year term provided at peppercorn (\$1 per annum) rental.

It is proposed that a further lease be entered into with the two groups, as joint tenants in common, for the maximum allowable term of 21 years, in accordance with the Management Order for the Reserve.

**Background:**

The DBAC and DSRG have occupied the site for at least the past ten years (including the term of the previous lease), with the facilities located onsite being developed over time by club members, with assistance from the Shire of Denmark.

The following buildings and facilities have been developed over the term of the previous lease by the lessee;

- DBAC Clubhouse.
- DSRG Caretakers accommodation.
- DSRG Sheds – marine rescue vessels.

All maintenance requirements of the site are undertaken by club members, in accordance with the terms of the lease and there have been no reported complaints regarding their occupation and use of the Reserve.

**Comment:**

The Draft Lease reflects the existing management and maintenance responsibilities of both parties that were contained in previous leased agreements.

The Draft has been based on the pro-forma lease document for community groups and modified where necessary to suit the specific requirements of this site. The main changes to the pro-forma lease are summarised as follows;

*(a) On the production of a receipt for payment of the Local Government rate assessment notice in the financial year such levies and payment is made the Lessor shall reimburse*

*the Lessee an amount equal to land rates with the Lessee to meet the cost of ESL refuse and interest (if any) charges showing on that notice.*

*(b) The Lessor's Principal Building Surveyor shall inspect the Leased Premises annually in conjunction with the Lessee.*

Given the two Clubs long standing association with the reserve and that there would appear to be no immediate alternative use for the site, a new lease arrangement is recommended.

**Consultation:**

Both the DBAC and DSRG were invited to comment on the proposed lease, who have confirmed that they are willing to accept the proposed lease details.

**Statutory Obligations:**

In accordance with the Management Order, Council can dispose of the property by lease for a term of up to 21 years.

Both the DBAC and DSRG are exempt from requirements of the Local Government Act 1995 in regards to the disposal of property.

**Policy Implications:**

Policy P110102 Leasing of Land and/or Buildings to Community Groups relates as follows;

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

- a. There be a signed lease based on Councils standard 'not for profit' lease prior to occupation or upon renewal;*
- b. Council desires lessees to be incorporated (with the exception of Volunteer Bush Fire brigades which are covered under the Bush Fires Act) (CEO addition September 2008);*
- c. Contribution by Council towards legal costs (if required) by Council 100%;*
- d. Have differing rentals discounted to market valuation depending upon the following factors;*
  - i. To what degree the property is utilised for charitable, not for profit or sporting purposes;*
  - ii. The ability of the lessee to derive income from use of the property including sub-leases, rental hire and the presence of a liquor license;*
  - iii. The strategic value of the land in the short term to Council;*
  - iv. To what degree if any that the use is competing with commercial enterprise;*
- e. Where the applied rental is lower than a valuation or real estate rental appraisal, Council indicate that contra difference in its annual budget, for that property;*
- f. Offer local authority rate exemption rebate donation (rather than exemption contra);*
- g. Offer Council insurance of the buildings and Council owned property / contents without recoup of the annual premium and to encourage repairs and reinstatement through insurance claims, Council will meet all bar the first \$500 of any insurance excess on claims;*
- h. All outgoings and consumable costs to be met by the lessee including but not limited to water, sewer, gas, telephone, ESL, refuse charges, etc;*
- i. Lessees to meet all ongoing internal and external building and grounds maintenance other than structural building repairs;*
- j. Leases require endorsement of Council prior to signing;*
- k. Have differing tenure and renewal rights and terms depending upon the strategic future requirements for that land and or building(s) but based on a maximum of 21 years including any right of renewal (subject to the prevailing management order if applicable);*

- l. The use of the property is consistent with the zoning and/or management order and power to lease exists (if required).*
- n. Councils Principal Building Surveyor at least on an annual basis inspect all leased buildings and land to ascertain their state of maintenance pursuant to the lease and priority for future and long term maintenance in conjunction with the lessee.*

**Budget / Financial Implications:**

There are no budget or financial implications arising from the proposed lease, with all maintenance requirements of the Reserve the responsibility of the lessee.

The Reserve is non-rateable and the proposed rental income is \$1.00 per annum, if demanded.

**Strategic Implications:**

There is no known alternative long term strategic use for the site.

**Sustainability Implications:**

➤ **Environmental:**

There are no environmental implications arising from the proposed Lease.

➤ **Economic:**

There are no economic implications arising from the proposed Lease.

➤ **Social:**

The DBAC and DSRG are both valuable community organisations that provide marine sea rescue services in addition to sporting and social opportunities for boating and angling enthusiasts.

**Voting Requirements:**

Simple majority

At the meeting held on the 19 July 2011, Cr Syme referred to the hatched area on the map verses the area marked in red on the aerial photo and queried whether the terms of lease mentioned whether the Lessee or the Lessor would be responsible for the car park including maintenance as the building was often used for commercial activity.

The Director of Finance & Administration advises that the aerial photograph has been amended to reflect approximately the surveyed boundary and the draft lease has been amended by the insertion of a special condition in the lease schedule clarifying that car park maintenance is the responsibility of the Lessee.

<b>COUNCIL RESOLUTION &amp; OFFICER RECOMMENDATION</b>	<b>ITEM 8.4.2</b>
MOVED: CR SYME	SECONDED: CR PEDRO
That Council agree to lease portion of Lot 7625 (Reserve 29413) to the Denmark Boating and Angling Club Inc and the Denmark Sea Rescue Group Inc for a term of 21 years at an annual rental of \$1.00 per annum, with all other terms and conditions to be as per the attached Draft Lease.	
CARRIED: 11/0	Res: 110711

<p><b>8.4.3 LEASE OF PEACEFUL BAY FISHING CAMP - PORTION OF LOCATION 2229 (RESERVE 24510) TO BEVANS (WA) PTY LTD</b></p>
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<b>File Ref:</b>	A2581
<b>Applicant / Proponent:</b>	Bevans (WA) Pty Ltd
<b>Subject Land / Locality:</b>	Portion of Location 2229 (Reserve 24510) 1 Peaceful Bay Road, Denmark
<b>Disclosure of Officer Interest:</b>	Nil
<b>Date:</b>	9 July 2011
<b>Author:</b>	Garry Bird, Director of Finance & Administration
<b>Authorising Officer:</b>	Dale Stewart, Chief Executive Officer
<b>Attachments:</b>	Draft Lease

**Summary:**

The lease of portion of Location 2229 (Reserve 24510) 1 Peaceful Bay Rd Denmark, between the Shire of Denmark and Bevans (WA) Pty Ltd for the site known as the "Peaceful Bay Fishing Camp", expired on 30 June 2011.

This lease was for a ten year term provided at commercial market rental.

It is proposed that further lease be entered into with the current lessee, for a term of 10 years, in accordance with the Management Order for the Reserve.

**Background:**

Bevans (WA) Pty Ltd have occupied the site for the past ten years (the term of the previous lease), with the facilities located onsite being constructed by the lessee.

All maintenance requirements of the site are undertaken by the lessee, in accordance with the terms of the lease and there have been no reported complaints regarding their occupation and use of the Reserve.

**Comment:**

The Draft Lease reflects the existing management and maintenance responsibilities of both parties that were contained in the previous lease agreements.

The Draft has been based on the pro-forma lease document for community groups and modified where necessary to suit the specific requirements of this commercial lease.

Given the lessee's current and historical occupation of the Reserve and that there would appear to be no immediate alternative use for the site, a new lease arrangement is recommended.

**Consultation:**

The Peaceful Bay Progress Association (PBPA) have been consulted on the proposal and advised that they have no objections to a new lease, as long as the site is maintained in a tidy and safe state. The lease contains sufficient provisions to ensure Council can remedy any litter, bushfire or other relevant issue that may be of concern.

Bevans (WA) Pty Ltd have also been consulted and advised they wish to enter into a new arrangement for a ten year term.

**Statutory Obligations:**

In accordance with the Management Order, Council can dispose of the property by lease for a term of up to 21 years.



The proposed lease with Bevans (WA) Pty Ltd will be subject to the requirements of the Local Government Act 1995 in regards to the disposal of property and an advertisement appearing in a local newspaper will need to be prepared and published to satisfy these provisions.

**Policy Implications:**

Policy P110102 Leasing of Land and/or Buildings to Community Groups relates as follows;

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

- a. *There be a signed lease based on Council's standard 'not for profit' lease prior to occupation or upon renewal;*
- b. *Council desires lessees to be incorporated (with the exception of Volunteer Bush Fire brigades which are covered under the Bush Fires Act);*
- c. *Contribution by Council towards legal costs (if required) by Council 100%;*
- d. *Have differing rentals discounted to market valuation depending upon the following factors;*
  - v. *To what degree the property is utilised for charitable, not for profit or sporting purposes;*
  - vi. *The ability of the lessee to derive income from use of the property including sub-leases, rental hire and the presence of a liquor license;*
  - vii. *The strategic value of the land in the short term to Council;*
  - viii. *To what degree if any that the use is competing with commercial enterprise;*
- e. *Where the applied rental is lower than a valuation or real estate rental appraisal, Council indicate that contra difference in its annual budget, for that property;*
- f. *Offer local authority rate exemption rebate donation (rather than exemption contra);*
- g. *Offer Council insurance of the buildings and Council owned property / contents without recoup of the annual premium and to encourage repairs and reinstatement through insurance claims, Council will meet all bar the first \$500 of any insurance excess on claims;*
- h. *All outgoings and consumable costs to be met by the lessee including but not limited to water, sewer, gas, telephone, ESL, refuse charges, etc;*
- i. *Lessees to meet all ongoing internal and external building and grounds maintenance other than structural building repairs;*
- j. *Leases require endorsement of Council prior to signing;*
- k. *Have differing tenure and renewal rights and terms depending upon the strategic future requirements for that land and or building(s) but based on a maximum of 21 years including any right of renewal (subject to the prevailing management order if applicable);*
- l. *The use of the property is consistent with the zoning and/or management order and power to lease exists (if required).*
- o. *Councils Principal Building Surveyor at least on an annual basis inspect all leased buildings and land to ascertain their state of maintenance pursuant to the lease and priority for future and long term maintenance in conjunction with the lessee.*

**Budget / Financial Implications:**

The Reserve is rateable and the proposed rental income is \$1200.00 per annum, based on a valuation received.

There are no other budget or financial implications arising from the proposed lease, with all maintenance requirements of the Reserve being the responsibility of the lessee.

**Strategic Implications:**

There is no known alternative long term strategic use for the site.

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

There are no environmental implications arising from the proposed Lease.

➤ **Economic:**

The operation of the Peaceful Bay Fishing Camp contributes to the economic diversity of the Shire.

➤ **Social:**

➤ There are no social implications arising from the proposed Lease.

**Voting Requirements:**

Simple majority.

At the meeting held on the 19 July 2011, Cr Phair queried the reference to Council being responsible for structural repairs on the buildings, indicated under Policy Implications within the report, given that the Lessor's activities were predominately commercial, unlike those of not-for-profit community groups.

The Director of Finance & Administration advises that in reviewing this matter it became evident an earlier draft version of the lease was supplied in error as an Agenda Attachment. The full and correct version of the draft has now been attached which clarifies the responsibility of the Lessor to maintain all structures.

**COUNCIL RESOLUTION & OFFICER RECOMMENDATION**

ITEM 8.4.3

MOVED: CR RICHARDSON-NEWTON

SECONDED: CR SYME

That Council agree to lease portion of Location 2229 (Reserve 24510) to Bevans (WA) Pty Ltd for a term of ten years, with all other terms and conditions to be as per the attached Draft Lease, subject to the advertising of the proposed disposition of land, in accordance with the provisions of the Local Government Act 1995.

CARRIED: 11/0

Res: 120711

## 8.5 Chief Executive Officer

### 8.5.1 DENMARK AGE FRIENDLY COMMUNITY STUDY

<b>File Ref:</b>	SER.3
<b>Applicant / Proponent:</b>	Denmark Seniors Advisory Committee
<b>Subject Land / Locality:</b>	Not Applicable
<b>Disclosure of Officer Interest:</b>	Nil
<b>Date:</b>	11 July 2011
<b>Author:</b>	Claire Thompson, Executive Assistant
<b>Authorising Officer:</b>	Garry Bird, Director of Finance & Administration
<b>Attachments:</b>	Denmark Age Friendly Community Study – Final Report

#### Summary:

This report recommends Council adopt the Denmark Age Friendly Community Study, dated June 2011, and the recommendations therein. It is also suggested that Council request the Seniors Advisory Committee to prepare an implementation plan for the 24 recommendations and to review Council's existing Seniors Policy (P080601).

#### Background:

At its Ordinary Council meeting held on the 25 May 2010, Council resolved as follows (Resolution No. 300510);

*“That Council endorse the application to the Age Friendly Communities Local Government Grants program and include the necessary matching sum of up \$7,000 in the 2010/11 Budget if the grant is successful.”*

#### Comment:

An Age Friendly Steering Committee, consisting of the Chief Executive Officer, Cr Barnes, Dr Gill Sellar, Kim Butfield from Great Southern Health and Jennifer Robinson, was formed to oversee the project. The attached final Denmark Age Friendly Community Study (June 2011) is now presented to Council for adoption.

The Study will greatly assist our local government in enabling 'best practice' solutions in addressing core issues including housing, transportation, civic participation, aged and disability access to public spaces and buildings, improved communication techniques, public health and safety.

#### Consultation:

Extensive public consultation, particularly from persons over the age of 50 and relevant service providers, was undertaken during the project.

#### Statutory Obligations:

There are no statutory obligations.

#### Policy Implications:

Should Council adopt the Study, it is recommended that Council request the Seniors Advisory Committee use the document as a basis to review the Seniors Policy (P080601) which guides the way seniors activities, interests and concerns are considered and implemented.

#### Budget / Financial Implications:

There are no known budget or financial implications relating to this report or the officer's recommendation.

**Strategic Implications:**

There are 764 people between the ages of 55 – 65 (16.9%), whilst 65 yrs plus constitutes 16.4% (741) of the local population; a total of 1,505 people over the age of 55 years (*source ABS – Denmark Census 2006*).

As the population of Denmark increases, which it is estimated to do by approximately 1,900 people by 2021, the number of seniors (aged) in our community will also exponentially increase to approximately 2,430 by then, placing more demands on services and particularly those provided by local government.

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

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

➤ **Economic:**

An ageing population provides many economic changes for all spheres of government, with these challenges relevant to the Shire of Denmark, discussed in the draft Study.

➤ **Social:**

The Shire of Denmark's population is aging fast and there are increasing numbers of self-funded retirees choosing to call Denmark home. The percentage of Population of the Shire of Pension age is 16% with a median age of resident of 44 (the second highest in the State at the 2006 census).

This creates a greater than average need to assess and plan for the future to ensure that adequate facilities and services are provided for residents and ratepayers.

**Voting Requirements:**

Absolute majority required to amend the membership of a Council Committee.

## FORMER OFFICER RECOMMENDATION

ITEM 8.5.1

That with respect to the Denmark Age Friendly Community Study, dated June 2011, Council;

1. Adopt the Study and the recommendations therein, including Recommendation No. 25 which delegates responsibility to the Seniors Advisory Committee to oversee the implementation of the actions and outcomes of the Age Friendly Community Study and to inform the community of progress on an annual basis, with the figures "71% to 29%" being corrected to "58% to 42%" on page 45;
2. Pursuant to Recommendation No. 10, amend the membership of the Roadwise Committee to include a Denmark Over 50's Association representative;
3. Request Council's Seniors Advisory Committee to review the document and develop an implementation plan for the recommendations;
4. Request Council's Seniors Advisory Committee to review the Seniors Policy (P080601) and refer its findings and recommendations to Council for consideration.

At the meeting held on the 19 July 2011, Cr Sampson noted that the population figures on page 11 of the Study were not consistent with the population projections provided for in the Shire's Local Planning Strategy.

Cr Barnes asked that the matter be referred to the Chief Executive Officer for possible correction. The following revised Officer Recommendation is provided to request that the Chief Executive Officer review the population figures and correct or amend the document prior to its release, as a Council adopted document.

5.32pm – The Director of Finance & Administration left the meeting.

**OFFICER RECOMMENDATION**

ITEM 8.5.1

That with respect to the Denmark Age Friendly Community Study, dated June 2011, Council;

1. Adopt the Study and the recommendations therein, including Recommendation No. 25 which delegates responsibility to the Seniors Advisory Committee to oversee the implementation of the actions and outcomes of the Age Friendly Community Study and to inform the community of progress on an annual basis, subject to;
  - a. On page 45, the figures “71% to 29%” being corrected to “58% to 42%”; and
  - b. Review / correction / amendment by the Chief Executive Officer to the population figures stated on page 11 (to retain consistency with population projections provided for in the Shire’s Local Planning Strategy).
2. Pursuant to Recommendation No. 10, amend the membership of the Roadwise Committee to include a Denmark Over 50’s Association representative;
3. Request Council’s Seniors Advisory Committee to review the document and develop an implementation plan for the recommendations;
4. Request Council’s Seniors Advisory Committee to review the Seniors Policy (P080601) and refer its findings and recommendations to Council for consideration.

**COUNCIL RESOLUTION**

ITEM 8.5.1

MOVED: CR RICHARDSON-NEWTON

SECONDED: CR BARNES

That with respect to the Denmark Age Friendly Community Study, dated June 2011, Council;

1. Receive the Study and the recommendations therein, including Recommendation No. 25 which delegates responsibility to the Seniors Advisory Committee to oversee the implementation of the actions and outcomes of the Age Friendly Community Study and to inform the community of progress on an annual basis, subject to;
  - a. On page 45, the figures “71% to 29%” being corrected to “58% to 42%”; and
  - b. Review / correction / amendment by the Chief Executive Officer to the population figures stated on page 11 (to retain consistency with population projections provided for in the Shire’s Local Planning Strategy).
2. Pursuant to Recommendation No. 10, amend the membership of the Roadwise Committee to include a Denmark Over 50’s Association representative;
3. Request Council’s Seniors Advisory Committee to review the document and develop an implementation plan for the recommendations;
4. Request Council’s Seniors Advisory Committee to review the Seniors Policy (P080601) and refer its findings and recommendations to Council for consideration.

**AMENDMENT**

MOVED: CR SYME

SECONDED: CR PEDRO

That the word “Receive” be replaced with the word “Adopt”.

LOST: 5/6

Res: 130711

THE ORIGINAL MOTION WAS THEN PUT & CARRIED BY AN ABSOLUTE MAJORITY:  
10/1

Res: 140711

**REASONS FOR CHANGE**

Council wished to receive the document rather than adopt it.

**8.5.2 REVIEW OF DELEGATIONS**

<b>File Ref:</b>	Delegations Register
<b>Applicant / Proponent:</b>	Not applicable
<b>Subject Land / Locality:</b>	Not Applicable
<b>Disclosure of Officer Interest:</b>	Nil
<b>Date:</b>	5 July 2011
<b>Author:</b>	Claire Thompson, Executive Assistant
<b>Authorising Officer:</b>	Garry Bird, Director of Finance & Administration
<b>Attachments:</b>	Yes – Delegations Register (marked up with proposed amendments)

**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 24 August 2010 (Resolution No. 220810).

**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.

Significant Amendments to the Delegations Register

(some minor corrections (eg. spelling, grammatical, titles etc..) have been made throughout the document which are not listed below but are shown in the attachment).

<b>Delegation</b>	<b>Amendment</b>
Delegations from Council Director to Officers	Removed reference to Senior Management Group
Delegations from Council to Committees	Added D100203 - Waste Management Advisory Committee
D040111 – Freedom of Information - Coordinator	Added the words “Active Freedom of Information Request File and following final decision, on ..”
D070404 – Grant or Removal of a Liquor Licence – Certificate of Local Government	Added reference to the Liquor Control Act 1988 under Legislative Power. Added preamble regarding purpose of delegation and added on-delegation to the Principal Environmental Health Officer.

D070405 – Grant or Removal of a Liquor Licence – Certificate of Local Planning Authority	Added reference to the Liquor Control Act 1988 under Legislative Power. Added preamble regarding purpose of delegation and added on-delegation to the Director of Planning & Sustainability.
D100203 – Waste Management Advisory Committee	Added new Delegation – pursuant to Council resolution (26 October 2010 / 221010).
D100601 – Implementation of Town Planning Scheme	Major re-write of whole Delegation – refer attached.
D100604 – Development Assessment Panel	Added new Delegation.
D130201 – Peaceful Bay Holiday Cottage Leases	Added the words “to identify any building maintenance, health, safety or other works required to be addressed prior to or as part of the assignment and a fee for this service will be charged based on an average assessment and as per adopted in the Council’s annual budget.”
D130311 – Building Structures on Council Land	Added new Delegation.

**Consultation:**

All Senior Council Employees.

**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:**

Council's Delegation Register will be updated accordingly following this review. There are no known implications or relevance to Council's Policy Manual.

**Budget / Financial Implications:**

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

**Strategic Implications:**

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

**Sustainability Implications:**

➤ **Environmental:**

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.

At the meeting held on the 19 July 2011, Cr Hinds referred to an addition to the document relating to an Organisation Wide Procedure. The Director of Community & Regulatory Services stated that it was an internal, guiding document used by staff

in relation to many different common practices. Cr Hinds requested a copy of the document.

Accordingly a copy of the document has been provided to Councillors with this Agenda.

ITEM 8.5.2

MOVED: CR HINDS

That the item be deferred to the August 2011 Council meeting.

LAPSED FOR WANT OF A SECONDER.

OFFICER RECOMMENDATION ITEM 8.5.2

That Council adopt the Delegations Register 2011/12 with additions, deletions and amendments as per the appendix.

**COUNCIL RESOLUTION** ITEM 8.5.2

MOVED: CR LAING SECONDED: CR SAMPSON

That Council adopt the Delegations Register 2011/12 with additions, deletions and amendments as per the appendix, subject to the deletion of Delegation D100203.

6.02pm – Cr Barrow left the meeting.

**AMENDMENT**

MOVED: CR HINDS

Add the words “and the deletion of Delegation D130311” after “D100203”.

LAPSED FOR WANT OF A SECONDER

THE ORIGINAL MOTION WAS THEN PUT & CARRIED BY AN ABSOLUTE MAJORITY:  
9/1 Res: 150711

REASONS FOR CHANGE

Council deleted Delegation D100203 which pertained to the Waste Management Advisory Committee.

**6.08pm - Public Question Time**

*The Deputy Shire President stated that the second public question time would begin however noted that there were no members of the public present at the meeting.*

6.08pm – The Director of Infrastructure Services left the meeting.

<b>8.5.3 DENMARK SAFE COMMUNITY COMMITTEE</b>
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<b>File Ref:</b>	ORG.15
<b>Applicant / Proponent:</b>	Denmark Safe Community Committee
<b>Subject Land / Locality:</b>	Not applicable
<b>Disclosure of Officer Interest:</b>	Nil
<b>Date:</b>	10 July 2011
<b>Author:</b>	Claire Thompson, Executive Assistant
<b>Authorising Officer:</b>	Garry Bird, Director of Finance & Administration
<b>Attachments:</b>	No

**Summary:**

This report recommends that Council support the Denmark Safe Community Committee, led by the Denmark Health Services, in its endeavours and in particular the re-designation of Denmark as a WHO (World Health Organisation) Safe Community in 2012. It is also recommended that Cr Barnes be confirmed as Council's Delegate on the Committee and that Council's Director of Community & Regulatory Services be nominated as a Council employee representative on the Committee.

**Background:**

The purpose of the Denmark Safe Community Committee is to "address local community safety, injury and crime prevention issues whilst continuing to work within the World Health Organisation (WHO) International Safe Community Guidelines."

The Acting Health Service Manager of the Denmark Health Service and Dr Gill Sellar, Health Promotions Officer, addressed Council in June 2011 to provide an update on the progress towards re-designation of Denmark as a WHO Safe Community in 2012 and, sought confirmation from Council that it intended to partner the Denmark Health Service (DHS) in this aim with the DHS being the project lead.

It was noted that Denmark was still the only community in WA to be entitled to be called a WHO Designated Community, originally designated in 2000 and re-designated in 2007.

Cr Barnes is currently Council's Delegate on the Committee.

**Comment:**

The outcome from the June 2011 presentation was that Council would consider supporting and contribute to the endeavours of the Denmark Safe Community Committee. Some examples of contribution(s) are as follows;

- Support the principle of Rededication of a WHO Safe Community in 2012, noting that Denmark is one of 247 International Safe Communities Network members and the only one designated in Western Australia;
- Continue the appointment of Cr Barnes as Council's Delegate to the Denmark Safe Community Committee;
- Nominate a Council employee delegate to the Committee;
- Continue with capital and operational improvements to public safety of public assets and services such as;
  - CBD works;
  - Footpath improvements;
  - 'Mapping' of the connections of the various agencies / interactions.
- Continue assessing and implementing improvements to public safety by taking advice and recommendations from the;
  - Seniors Advisory Committee;

- Disability Services Committee;
- Denmark Youth Centre Committee;
- Local Emergency Management Committee;
- Paths & Trails Advisory Committee;
- Governmental Interagency meetings;
- 'You're Welcome' initiative; and
- Age Friendly Community Planning.

The Committee's Action Plan is informed by community suggestions/issues and requests as well as injury data collected in the Denmark Hospital's Emergency Department (BRIS Code).

#### Safe Community Concerns

- Seniors and disabled safety – Stay on your Feet (SOYF) fall prevention programs, disability access issues
- Crime and personal safety – Domestic violence, drug and alcohol etc (*all ages, particularly youth and young adults*)
- Road and transport safety – Road Wise, accident prevention, Shire and Main roads programs, Parks and Trails, Gophers
- Child and infant safety – *Kid Safe, Playground safety (0 - 5 year olds); Water Safety;*
- Coastal, surf and water safety
- Farm safety – Farm Safe including vehicles and animal issues
- Occupational safety – Work Safe
- Cybersafety – online awareness

The Committee's initiatives for 2011 include;

- Youth Safety (Substances and Cyberspace) which includes social networking sessions where local Police Officers conduct a parent information night relating to internet networking tools such as Facebook which is aimed at raising awareness of party swarming, online bullying, misuse and abuse etc..
- Parent Mentoring Program aimed at giving parents assistance in managing their teenage children's behaviour around drugs, underage drinking, sexual health and bullying.
- Gopher training workshops focusing on safety issues surrounding an increase in local seniors acquiring and using motorised scooters and gophers.

A copy of the Committee's Terms of Reference is attached.

Frequency of meetings - Dr Sellar has advised that for the last couple of years the Committee has been meeting on the third Thursday of the month, usually at 4.00pm, as opposed to what is stated under the Terms of Reference.

#### **Consultation:**

Nil

#### **Statutory Obligations:**

There are no statutory obligations.

#### **Policy Implications:**

There are no policy implications.

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

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

**Strategic Implications:**

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

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

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 social benefits in assisting the Denmark Safe Communities Committee with their endeavours to address local community safety, injury and crime prevention. Residents and visitors will benefit from the initiatives driven by this Committee which provide education, awareness and evoke a sense of preparedness and security within the community.

**Voting Requirements:**

Absolute majority.

**COUNCIL RESOLUTION & OFFICER RECOMMENDATION**

ITEM 8.5.3

That with respect to the proposal of the Denmark Health Service for Denmark to be re-designated in 2012 as a continuing World Health Organisation 'Safe Community';

1. Advise the Denmark Safe Community Committee that Council supports the proposal, in principle;
2. Reaffirms the appointment of Cr Barnes to the Denmark Safe Community Committee; and
3. Nominates the Director of Community & Regulatory Services as a Council Officer to the Denmark Safe Community Committee.

CARRIED BY EN BLOC RESOLUTION No. 050711

*Prior to consideration of Item 8.5.4 through Presiding Person the Chief Executive Officer brought to the attention of the meeting the following disclosure(s) of interest:*

*Cr Barrow and Cr Phair declare a proximity interest on the basis that they own property which adjoins and is adjacent to the Irwin Inlet as as a consequence there may be a perception that their impartiality on this matter may be affected .*

*Cr Barrow had previously left the meeting and therefore did not participate in discussion or vote on the matter.*

*6.09pm - Cr Phair left the room and did not participate in discussion or vote on the matter.*

<b>8.5.4 SANDBAR OPENING PROTOCOL FOR IRWIN INLET</b>
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<b>File Ref:</b>	GOV.52
<b>Applicant / Proponent:</b>	Department of Water
<b>Subject Land / Locality:</b>	Irwin Inlet
<b>Disclosure of Officer Interest:</b>	None
<b>Date:</b>	6 July 2011
<b>Author:</b>	Helen Heydenrych, Natural Resource Management Officer
<b>Authorising Officer:</b>	Dale Stewart, Chief Executive Officer
<b>Attachments:</b>	Irwin Inlet Sandbar Opening Protocol (draft)

**Summary:**

The Department of Water has recently produced a draft Irwin Inlet Sandbar Opening Protocol, and requested comment on the draft from the Shire of Denmark.

Council is requested to:

- Receive the Draft Irwin Inlet Sandbar Opening Protocol (Attachment);
- Advertise the document for 30 days for public comment.

**Background:**

Both Irwin Inlet and Parry Inlet sandbars have been annually artificially breached during winter by Council staff as required, since the onset of farming practices in the region, in order to avoid flooding and inundation of low lying farmland and of access road infrastructure. The breaching of the Irwin and Parry Inlets sandbar is currently undertaken when water levels in the Inlets threaten to flood the adjacent access roads (Peaceful Bay Road and Parry Road), and after consultation with the Peaceful Bay Progress Association or the Parry Beach Voluntary Management Group, the South Coast Licensed Fisherman’s Association and local landowners.

The artificial opening of the Irwin Inlet sandbar is currently guided by the existing Delegation D100501, which states: *“The Chief Executive Officer is delegated authority to determine the location and level for the opening of the Irwin Inlet sandbar. The delegation is to be exercised in accordance with the adopted sandbar opening protocol”*. However, the existing protocol is very rudimentary and provides no specific guidance as to the timing, the optimal inlet water levels and additional environmental considerations required to maximise inlet outflows, and minimise environmental impacts to the Irwin Inlet estuarine system, following the sandbar breaching.

No formal Council delegation or adopted management protocol currently exists for Parry Inlet. The Department of Water, in partnership with Shire of Denmark staff and in consultation with key stakeholders, is currently developing a draft Parry Inlet Sandbar Opening Protocol (similar to the attached Draft Irwin Inlet Sandbar Opening Protocol).

Furthermore, the landholders and professional fishing members adjacent to Parry Inlet have requested in a recent letter to the CEO (11 June 2011) that Council install a water level gauge in the Parry Inlet, in order to facilitate the more rapid determination of the Parry Inlet water levels prior to opening of the Parry Inlet sandbar. The Parry Inlet currently does not have a water level gauge. Council staff are currently in discussion with the Department of Water regarding the imminent installation of a water level gauge in Parry Inlet, at an accessible location adjacent to Parry Road.

**Comment:**

Irwin Inlet and Parry Inlet are significant coastal estuarine systems, which have adjacent low lying Council road infrastructure, and experience widespread flooding of low-lying adjacent farmlands during winter's high water levels. It is therefore important that the breaching of the Irwin Inlet and Parry Inlet sandbars is not only undertaken during high water levels, but that the breaching is guided by detailed sandbar opening protocols, similar to the Wilson Inlet, and as agreed to by the Department of Water, the Shire of Denmark Council, in consultation with local community and key stakeholders.

To date, the time of breaching of the Irwin and Parry Inlets has been independently determined by the local farming and professional fishing members, in communication with the Shire of Denmark, but generally with little or no involvement of the Department of Water, or with defined environmental concerns. These inlets have been opened at different times to each other and at approximated water levels, generally judged by the relative flooding of low-lying farmland areas and threat to road infrastructure and human safety. The Irwin Inlet water level is measured at a water level gauge adjacent to Peaceful Bay Road. No similarly accessible water level gauge currently exists for the Parry Inlet.

The Irwin Inlet and Parry Inlet Sandbar Opening Protocols will provide for the formal guidance of bar opening procedures, with respect to preferred water level heights (as measured with established water level gauges) to ensure providing, as best as possible, for:

- the protection of human safety from hazards potentially resulting from roadway hazards and damage to road infrastructure caused by flooding;
- the protection of Council road infrastructure from damage caused by saturation and flooding of the road substructure;
- achieving adequate inlet water levels required for a strong initial scouring of the inlet mouth channel to assist with optimal marine exchange and a prolonged period of the inlet being open to the ocean;
- taking into account timing of inlet opening to coincide with weather and oceanic conditions that will optimise inlet water outflow relative to oceanic storm events, tides and sustained rainfall and run-off in the catchment, in the period immediately following opening of the sandbar.

**Consultation:**

The Department of Water has requested that the Shire of Denmark provide comment on the draft Irwin Inlet Sandbar Opening Policy (July 2011) as presented in the Attachment.

Community comment on this draft has been sought from the Peaceful Bay Progress Association, the South Coast Licensed Fisherman's Association, and the adjoining Landowner, by the CEO.

Professional advice with respect to preferred water levels required to protect Council road infrastructure (Peaceful Bay Road), has been provided by Shire of Denmark Engineering staff.

**Statutory Obligations:**

The Department of Water, in partnership with the community and other agencies, has responsibility to manage the State’s water resources, including the Irwin Inlet and the Parry Inlet.

**Policy Implications:**

The existing Irwin Inlet Sandbar Opening Protocol is included as Delegation D100501 as follows;

*“The Chief Executive Officer is delegated authority to determine the location and level for the opening of the Irwin Inlet sandbar. The delegation is to be exercised in accordance with the adopted sandbar opening protocol.*

*The Shire Chief Executive Officer advises stakeholders when water level reaches a level of 100mm below normal opening level (to be decided). Representing affected landholders will be the current owner of Location 1414. The President of the South Coast Licensed Fisherman’s Association shall be the contact person for commercial fishermen. Any relevant information from stakeholders shall be considered when deciding opening location and water level, with the final decision being delegated to the Shire Chief Executive Officer.”*

Relevant Agencies & Stakeholders

<b>Agency / Stakeholder</b>	<b>Email</b>	<b>Phone</b>	<b>Fax</b>
Department of Water	<a href="mailto:margi.bond@water.wa.gov.au">margi.bond@water.wa.gov.au</a>	9842 5760	9842 1204
Department of Environment & Conservation Track’s & Trails Unit	<a href="mailto:tracksandtrails@dec.wa.gov.au">tracksandtrails@dec.wa.gov.au</a>	9334 0265	9334 0100
Department of Environment & Conservation – Frankland District Office	<a href="mailto:Frankland.District@dec.wa.gov.au">Frankland.District@dec.wa.gov.au</a>	9840 0400	9840 1251
Department of Fisheries	<a href="mailto:Mark.kleeman@fish.wa.gov.au">Mark.kleeman@fish.wa.gov.au</a>	9841 7766	9842 1112
Commercial Fishermen – by contacting the President of the South Coast Licensed Fisherman’s Association Inc.	Greg Sharp, President	0428 448 159	
Affected Landholders (current owner of location 1414)	Refer A5164 in Council records for contact details.		
The Bibbulmun Track Foundation	<a href="mailto:linda@bibbulmuntrack.org.au">linda@bibbulmuntrack.org.au</a>	9481 0551	9481 0546
Denmark Visitors Centre	<a href="mailto:ceo@denmark.com.au">ceo@denmark.com.au</a>	9848 2055	9848 2271
Walpole Nornalup Visitors Centre	<a href="mailto:wnta@wn.com.au">wnta@wn.com.au</a>	9840 1111	9840 1355
Peaceful Bay Progress Association	<a href="mailto:bam.jones@bidgpond.com">bam.jones@bidgpond.com</a>	9841 4037	

The proposed new Irwin Inlet Sandbar Opening Protocol (Attachment) will provide guidance for Council’s and Department of Water’s joint roles and responsibilities, and the consideration of the full range of decision factors, with respect to the artificial breaching of this inlet from 2012 onwards. The existing policy Delegation D100501 will need to be revised with reference to the new protocol and the recommended opening levels as provided.

This protocol should be reviewed every five (5) years.



**Budget / Financial Implications:**

There are no known financial implications upon the Council’s current Budget or Plan for the Future as Council staff are already responsible for the physical breaching of the inlets and the management of human safety during the period of sandbar breaching.

**Strategic Implications:**

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

**Sustainability Implications:**

➤ **Environmental:**

A management protocol which provides for attention to the measurement of preferred water levels and environmental factors (weather, catchment runoff and oceanic conditions) for maximum inlet scouring and marine exchange for fish populations, could improve the long-term environmental management of these estuarine systems.

➤ **Economic:**

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

➤ **Social:**

It is important to continue to communicate closely with the local community and landholder and other stakeholders of these areas, who have historically had management input into inlet sandbar breaching. Environmental concerns and social values of these local communities are very closely interrelated, and can provide valuable insight into management decisions with respect to these systems.

Road infrastructure for access to Peaceful Bay and Parry Beach campsite are important social concerns, and flooding of these roads with high inlet water levels, could create dangerous road hazards.

**Voting Requirements:**

Simple majority.

<b>COUNCIL RESOLUTION &amp; OFFICER RECOMMENDATION</b>	<b>ITEM 8.5.4</b>
<b>MOVED: CR LAING</b>	<b>SECONDED: CR SAMPSON</b>
That Council, with respect to the Irwin Inlet Sandbar Opening Protocol:	
1. Receive the Draft Irwin Inlet Sandbar Opening Protocol (Attachment) and;	
2. Advertise the document for public comment, for a period of 30 days.	
<b>CARRIED: 9/0</b>	<b>Res: 160711</b>

*Prior to consideration of Item 8.5.5 through Presiding Person the Chief Executive Officer brought to the attention of the meeting the following disclosure(s) of interest:*

*The Director of Community & Regulator Services and the Director of Infrastructure Services declare a financial interest in that they are employees of Council.*

*The Chief Executive Officer, the Director of Finance & Administration and the Director of Planning & Sustainability declare a financial and an impartiality interest in that they are employees of Council.*

*Mr Stewart, Mr Harwood, Mr Whooley, Mr Bird and Mrs Harbron declared that they will consider the matter on its merits and advise Council accordingly.*

<b>8.5.5 POLICY REVIEW – PRIVATE WORKS (P140101) AND COUNCIL TOOLS &amp; EQUIPMENT (P140401)</b>
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<b>File Ref:</b>	ADMIN.2
<b>Applicant / Proponent:</b>	Not applicable
<b>Subject Land / Locality:</b>	Not applicable
<b>Disclosure of Officer Interest:</b>	Mr Stewart declares an impartiality and financial interest in that he is an employee of the Council to whom the Policies may relate.
<b>Date:</b>	5 July 2011
<b>Author:</b>	Dale Stewart, Chief Executive Officer
<b>Authorising Officer:</b>	Dale Stewart, Chief Executive Officer
<b>Attachments:</b>	Yes

**Summary:**

This report reviews Council's Private Works (P140101) and Council Tools & Equipment (P140401) Policies and recommends retention of the existing policies with minor clarification changes.

**Background:**

At the meeting held on the 27 April 2011, Council resolved as follows (Resolution No. 260411);

*“That with respect to Council's Policy Manual, Council;*

- 1. Endorse without change Policies P130301, 130302, 130601 & 140301.*
- 2. Request the Chief Executive Officer to review policies P140101, P140302 and P140401 in consultation with Council's employees in light of current legal standards and recommendations.”*

Policy P140302 is being reviewed via a separate process and is expected to be presented to Council in September 2011, following consideration by the Occupational Health & Safety Committee at their next meeting scheduled for mid August 2011.

Approximately 12 months ago, the Department of Local Government recommended that the Policy be reviewed and staff not be allowed to hire plant under this basis, following an investigation into a complaint about a member of staff by a ratepayer.

Councillors considered this request at its meeting held on the 24 August 2010 and the result was no change to the Policies.

There have been 5 different employees that have hired Council Plant since the inception of the new Policy.

**Comment:**

Council's current relevant Policies are 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.

**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.

To begin the review / consultation process, the CEO asked nine other Local Governments in the Great Southern region to provide copies of any private works policies that they had.

In addition a Memorandum was sent to all Council Staff requesting their comment in relation to the review.

**Consultation:****FEEDBACK FROM OTHER GREAT SOUTHERN LOCAL GOVERNMENT AUTHORITIES**

The Shire of Plantagenet have an existing Internal Private Works Policy which is copied below and it is noted that it also covers Councillors.

Objective:

- To give direction to Councillors and Shire employees in relation to accessing the Shire service of private works.
- To ensure there is a mechanism in place to adequately address and manage the issue of accountability where Councillors and Shire employees are engaging the Shire to perform works.
- To ensure the Council's adopted Code of Conduct is recognised as integral to the process of internal private works.

Policy:

1. Any Councillor or employee wishing to engage the Shire to perform private works (including occasional 'wet hire' of plant or equipment), shall in the first instance

*forward a written request to their supervisor who will then refer the matter with the relevant employees responsible for preparing the quote. The Chief Executive Officer and Councillors would refer their request to the Shire President.*

- 2. All private works jobs will be costed and quoted independently to the Councillor or employee.*
- 3. All private works will be costed and quoted in accordance with the Council's schedule of fees and charges approved annually.*
- 4. No work will be performed until and unless the quoted amount is paid and received by the Shire in advance of the works being commenced. Any variations will be authorised by the Councillor or employee in writing before they are performed.*
- 5. After payment of the quoted amount (where it is acknowledged that if made on estimates of time, further payment or reimbursements will be made once all costs have been finalised), the Councillor or employee will take no further action in any way other than from the perspective of the client and this shall be made known whenever dealings are being undertaken. All private works jobs will be performed, supervised and timesheets checked and the account issued independently of the Councillor or employee.*
- 6. Those Councillors or employees involved in the process coming into contact with the client will treat the Councillor or employee (who is the client) in the same manner as any other client in accordance with the Council's Customer Service Charter.*
- 7. This policy also applies to clients who are closely associated persons (as defined in the Local Government Act 1995) to Councillors or employees.*
- 8. No plant or equipment will be hired on a 'dry hire' basis.*
- 9. No private works shall take precedence over the completion of the Council's annual works program."*

The Shire of Kojonup advised that their employee use of Shire equipment is a policy that is currently being reviewed. Employees had free use of small plant for private purposes as a trade off in the Enterprise Bargaining Agreement (EBA) negotiations, however the CEO refused to put it in EBA, as a right, and instead the union had to settle with a Policy which could be revoked if it was abused.

The Shire of Katanning advised that they do not have a formal policy and are of the view that private works is insignificant for Katanning. The CEO advised that mostly private works are done outside of normal hours and therefore the operator receives overtime, which effectively provides them with a discount on the cost of the hire. The Engineer usually organises when the private works are done and who will be employed to do the work, in these cases he usually arranges that the employee works on his own job and authorises the overtime paid. In essence they get charged at the adopted hire rate for the equipment (eg. \$126.50 per hour) but get overtime to work on their private job at around \$33 - \$44 per hour (which creates a "discount").

#### STAFF COMMENTS / FEEDBACK

##### Employee 1

*"It would be good to put together a piece for "Council Conversations" to clarify some of the "misinformation" spread in "Letters to the Editor" which has caused some consternation amongst the crew.*

*To dispel some of the myths about private works*

- 1. The hire of Council equipment is available to the public "at large" by virtue of Council fees and charges.*
- 2. The equipment is as equally available to the public as it is to staff. Who promotes the position/"perception" that staff are getting something the public cannot? There are many rural properties that benefit from "Private works" – ie. the hire of Council equipment such as graders for driveways.*

3. *The equipment is not available – to either staff or the public - if it interferes or impacts with Councils works*
4. *The rates are set significantly higher than Contractor rates – so there is little impact to competing businesses. Most members of the public would probably defer to contractors because they can “get it now” and get a quote/certainty.*

*Perception being the crux of the problem. Bad perception probably is best countered by some education and information.*

*We are meant to be trying to be “honest open and accountable”. Isn’t it better that people “say it as it is”?*

*Lets imagine going back to the “good old days” where staff can’t hire machinery. Then their wives or relatives hire it. So begins “corruption” and “deception” – or some convoluted process that has all the hallmarks of very bad “perception”. Do we intend to equally ban all “family, friends and relatives” – or do we just ban staff members and any properties they own?*

*If it’s all perception then we need to address the “perception” with information - hence the proposed piece for Council Conversations.*

*There is of course the business case for obtaining the maximum use of the gear and all hire is good hire - no need to expand on this idea of “return for asset”.*

*If it were possible – the best outcome would be that it was MANDATORY for Council Staff use Council machinery for the following reasons:*

1. *No “perception”/rumours/innuendo that staff may be forming inappropriate relationships with Contractors to get private work done (This alone should outweigh any and all other negative perceptions).*
2. *Better accountability over staff than with private arrangements*
3. *Better value for ratepayers with higher return on asset.*

*For those who think that “in-house” use of equipment will result in sustained widespread internal “corruption” or abuse – they need to get with the real world. That sort of thing could not be sustained because of the number of people involved. A little bit of common sense and simple risk analysis should ensure that the system is not “fatally flawed or abused”. People and companies have been hiring out gear for just about ever. It’s not a big part of our business and yet it is being allowed to consume a disproportionate effort.*

*In summary, for at least the following, I strongly recommend that Council Staff be “encouraged” to use Council equipment to:*

- *help minimise exposure to any actual “inappropriate relationships”*
- *assist with and reflect support, loyalty, morale and team building*
- *help protect staff members from accusations/innuendo /rumours of “backhanders” etc – rather than let these things flourish*
- *provide a better return on asset.*

*I don’t really see any “down side” to this provided management (ie Senior Staff, Councillors and Ratepayers) is supportive and trusting- bearing in mind that it is not a “special” arrangement as the “world at large” can and has utilised “Private Works”.*

## Employee 2

*“Not many of the crew have used the policy, for it to be taken away is another thing.*

*If they do take it away - as long as we can still hire plant like any other resident or ratepayer would be important.”*

### Employee 3

*“Does this include Councillors use of private works, tools and equipment or just employees? If the Councillors think letting employees use plant and equipment stinks of elitism then they are totally out of touch. If the public has access to utilise private works at a cost then so should staff. We are ratepayers too and shouldn't be penalised just because we are staff. If you are going to stop employees utilising private works and equipment then Councillors should be excluded as well or it will be seen as exclusivity on their behalf.*

*Is there going to be any further consideration to other employee benefits taken away from staff?”*

### Employee 4

*“I have continuously been reminded of the issue of Employee use of Council Resources since working here.*

*There have been many instances where Councillors and members of the public seem to think that Employees have no right to use of Council Resources for private use, when this is quite often the norm in private enterprise. And, on the contrary, I am aware of recent comments, which have come from Councillors, which show some support for Employee use of Council Resources for private purposes.*

*I feel that the very low (and I don't understate this) level of salaries, currently paid to many Employees, leads to many of us feeling undervalued amongst our peers in more wealthier and larger Councils. On top of this, we are made to feel that any use of Council Resources for private use is corruption. This is a hard-hitting word with a lot of perceptions that we are criminals for just borrowing the work ute to help move house, or photocopy a few pages of a book for our own use, or borrowing a saw over the weekend to cut a few planks up at home.*

*Employees of Council are no different to Employees of Private Enterprise. In fact, the money that ratepayers pay to the Shire of Denmark is no different to the money that ratepayers pay to private enterprise for goods and services. In the end, ratepayers are paying money to both public and private enterprise for goods and services in the same manner. Employees of Council are therefore using goods and services paid for in the same manner that goods and services are paid for in private enterprise. Therefore, I can see no reason why Employees of Council should be treated any different to their private enterprise counterparts.*

*It would seem, to me, that a combination of the following factors have led to a general sense of discontent with Councillors, Ratepayers, and any Staff Member who restricts Employees conditions:*

- low wage rates;*
- relatively high cost of living in Denmark, coupled with the remoteness of living on the south coast;*
- the unreasonable and ignorant ire of public opinion on Council Employees rights;*
- unnecessary restrictions on Employees use of Council Resources; and*
- a general lack of interest in giving Employees discounts on goods and services, including Recreation Centre use and Planning/Building/Waste Collection Fees (examples in Private Enterprise include home loan application fee and interest discounts to Financial Services employees, and Retail Employees receiving discounts on their employers goods for sale).*

*I sort of get the sense that employees are not that well valued, and are rather seen as paid volunteers who work here for the sake of community good, and have no right to any further financial recognition, or material recognition.*

*This sort of lack of recognition of Public Sector Employees as being on equal par to Private Sector Employees is disappointing and unjust in my view. It does not do anything for my commitment to this Council, nor does it give me any heightened sense of team camaraderie. I am not closed to the option of rejoining the Private Sector due to this.*

*I have wanted to air my views on this topic for three years, and I thank you for finally allowing this to occur. I hope that some real decisions are made for the benefit of Employees, and not the benefit of ratepayers and Councillors, as always seems to be the case in country Local Government. It is about time that country Local Governments had the strength to go against public opinion and start recognising the people that actually do the work. Councillors and Ratepayers seem to have no idea what goes on behind the scenes, where the Employees are keeping the political boundaries of our Shire intact and organised.*

*We work hard, professionally and are not recognised fully.*

*In conclusion, I do recognise the following benefits, and applaud senior staff and Councillors for their continued support of Employees in this regard:*

- *Study and Education Assistance;*
- *Insitu and Exsitu workplace training;*
- *Assistance to Quit Smoking;*
- *Current Private Works policy in regard to employee use;*
- *Uniform Assistance;*
- *Salary Packaging Benefits;*
- *Rent Assistance;*
- *Fringe Benefits, including car use, laptop purchases, etc;*
- *Super co-contribution of 5%;*
- *Reasonable mobile phone use for private purposes;*
- *Current 4-weekly RDO for Administration staff (would be nice if this was extended to a 9-day fortnight);*
- *Flexibility of working hours for Depot staff allowing extended leave during certain times of the year;*
- *Above award wages, which are only due to the Award being completely unreasonable at its minimum levels; and*
- *Slightly flexible start and finish times (which could be extended further for finance staff to take into consideration the varying monthly, quarterly, yearly cyclical workloads).*

*I hope that a continued dialogue is maintained between Employees and Councillors, as has been shown through the various internal surveys and communications that have happened in recent times.*

*Thank you for reading Dale, and I hope that all staff make some comment, and Councillors are informed fully of the view of each employee without restriction.*

#### Employees 5 and 6 (verbal)

*The current situation whilst not well utilised by staff, does provide a discount and should be retained. If however the entitlement is removed then it is important that employees still have the right to continue to hire equipment as though they were a resident and or ratepayer, albeit at public prices (unlike the previous policy which meant employees couldn't hire equipment at all).*

**Statutory Obligations:**

There are no statutory obligations.

**Policy Implications:**

Should Council amend either or both Policies (P140101 & P140401), the change will be reflected in Council's Policy Manual.

It should also be noted that Council employees follow an administrative protocol regarding all private works (copy attached).

The view of the author is that Council's adopted policies and fees and charges should not place its employees in any position that would be seen as 'less' than favourable to that of any other resident or ratepayer. Most employees of most organisations or businesses, whether it is government or private enterprise, would have the fair and reasonable view that they might be entitled to greater privileges than the customer and or non employees. However, in government and particularly local government, perception is something that the Council, Councillors and employees have to deal with more often than not. That just means that there is a greater onus on communication and information (of the facts).

In the opinion of the author, transparency and accountability principles in local government in WA are far greater than that of any other government sector in Australia (certainly State Government). It is the view of the CEO that the existing policies are fair, workable and transparent and, with appropriate administrative procedures in place (which is the responsibility of the local government CEO under the Local Government Financial Management Regulations), can be accountable to the public.

**Budget / Financial Implications:**

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

**Strategic Implications:**

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

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

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

**➤ Economic:**

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

**➤ Social:**

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

**Voting Requirements:**

Simple majority.

*6.12pm – Cr Barrow returned to the meeting.*

*6.12pm – The Director of Infrastructure Services returned to the meeting.*

*6.16pm – The Director of Planning & Sustainability returned to the meeting.*



**COUNCIL RESOLUTION & OFFICER RECOMMENDATION**

ITEM 8.5.5

MOVED: CR LAING

SECONDED: CR WAKKA

That with respect to Council's Policy Manual, Council;

1. Amend Policy P140101 Private Works as follows;
  - a) Part 6 to read; "Council employees are permitted to hire Council's 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 standard hourly wage rate and overhead calculation of the normal operator's wage from which the charge out rate has been calculated.
  - b) Add Part 7 which reads as follows; "Plant that is licensed and which are assets falling into the class of 'Motor Vehicles' and / or 'Major Equipment' are covered by this policy."
2. Amend Policy P140401 Council Tools and Equipment such that part 5 read as follows; "Nothing in this policy prevents a Council employee hiring Motor Vehicles and Major Equipment under the Councils Private Works Policy."
3. Request the CEO to review the existing Private Works Administrative Procedure to ensure that he is satisfied that the principles of transparency and accountability with the provision of Private Works to both the public and Council employees is satisfactory and that following this review publish relevant information in the Denmark Bulletin.

LOST: 5/6

Res: 170711

## 9. COMMITTEE REPORTS & RECOMMENDATIONS

### 9.1 SHIRE OF DENMARK ANNUAL FIRE REGULATION NOTICE 2011/2012

<b>File Ref:</b>	FIRE.1
<b>Applicant / Proponent:</b>	Shire of Denmark
<b>Subject Land / Locality:</b>	All privately held land within the Shire of Denmark
<b>Disclosure of Officer Interest:</b>	Nil
<b>Date:</b>	11 July 2011
<b>Author:</b>	Nathan Hall, Community Emergency Services Manager
<b>Authorising Officer:</b>	Gregg Harwood, Director of Community & Regulatory Services
<b>Attachments:</b>	2011/2012 Annual Fire Regulation Notice (draft)

#### Summary:

This report considers the 2011/2012 Annual Fire Regulation Notice, which incorporates several changes that were endorsed by the Bush Fire Advisory Committee on the 2 June 2011, and recommends that Council adopts the Notice for distribution with Regulation 6C being changed to version that was used in the 2010/2011 Annual Fire Regulation Notice.

#### Background:

Council's practice is that the Bush Fire Advisory Committee (BFAC) is asked 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.

Councillors should note that the consideration of the Fire Regulation Notice has been brought forward from August to July so that property owners will have more time to strategise and complete their compliance.

#### Comment:

In addition to style and formatting changes the 2011/2012 Annual Fire Regulation Notice contains a number of common sense changes that will further reduce the fire hazard in Denmark and correct some previous anomalies and potential loop holes that existed in previous Notices.

The changes endorsed by the BFAC are as follows:

- i. The maximum allowable fuel loadings for Jarrah/Marri have been revised from 5 tonnes/ha to 8 tonnes/ha. The reason for this change is in practice 5 tonnes/ha fuel loadings are very difficult to achieve. This will possibly also allow for a lower frequency rate of burning.
- ii. Definition of a "Hazard Separation Zone" has been included.
- iii. Definition of a "Plantation" has been included.
- iv. Wording on page 6 under unrestricted burning period has been changed to state; *"During the rest of the year, you may light an open fire. Please take care at all times and avoid creating a smoke nuisance"*.
- v. The inclusion of; *"All grasses exceeding a height of 100mm"*, has been included under the definition of Fire Fuel in the Glossary.
- vi. All references within the Notice that requested that the requirements of the regulations be maintained throughout the entire fire season have been changed to *"maintain until the 26<sup>th</sup> April 2012"*.
- vii. Updating the Notice to include the revised version of Council's policy P050102 Camping and Cooking Fires. (August 2010)

- viii. Regulation 6(c) has been changed to state; “*Landowners of properties with uncleared areas less than 40 hectares are required to annually achieve a maximum fire fuel loading for the property of 8 tonnes/ha (in jarrah-marri) or 15 tonnes/ha (in karri)*”.

The reason for this change was to close a large loop hole in the previous Notice, where a property owner of rural land under 40 hectares did not have to carry out any fire mitigation work unless they were specifically approached by the Shire. This could potentially leave Council open to liability through not enforcing fire mitigation measures on these rural properties.

- ix. Removal of Ocean Beach Surf Club and Denmark Town Bridge as designated/advertised designated locations for camping and cooking fires.

The reason why these sites have been removed is that campfires are unnecessary in these locations and the ability to light fires in these locations makes them a magnet for anti social behaviour.

Mr George Munford, President of the Denmark Surf Life Saving has been consulted with and has given his support in relation to removing the surf club as a designated location.

Mr Harley Coyne, an officer for the Department of Indigenous Affairs has been consulted with and has given his support in relation to removing the Denmark Town Bridge as an advertised designated location on the basis that Council grant approval for fires that are associated with traditional activities.

Director of Community Services Recommended Changes to regulation 6C:

On reviewing the Fire Regulation Notice changes as endorsed by the BFAC from a compliance implementation perspective it was noted that the proposed changes to regulation 6(c) would place an unreasonable compliance obligation of the owners of wooded sub 40 hectare lots if they are required to reduce their fuel levels “*8 tonnes/ha (in jarrah-marri) or 15 tonnes/ha (in karri)*” over their entire property by the 1 December 2011.

The version of regulation 6(c) that was referred to BFAC reads as follows;

*“Landowners of properties with uncleared areas less than 40 hectares are required to annually achieve a maximum fire fuel loading for the property of 8 tonnes/ha (in jarrah-marri) or 15 tonnes/ha (in karri)”.*

The reason why this version of 6c was referred to BFAC is that a situation has existed with Council’s Fire Regulation Notice for some years where by the owners of rural lots with uncleared areas of less than 40 hectares in size are not required to perform any specific works in terms of the wooded areas of their lots.

While the absence of perimeter fire breaks which, in themselves, can cause erosion and weed invasion problems the measures in the version of regulation 6(c) that was referred to the BFAC are a valid approach to fire risk mitigation it would be administratively heavy handed to force this requirement onto property owners without;

- 1) Community consultation,
- 2) Consideration of potential natural resource and amenity factors,
- 3) Determination of realistic implementation timelines and necessary compliance regimes.
- 4) Council being given the specific opportunity to debate the proposal.

Pending this process the most appropriate course of action is for the regulation 6(c) that was used in the 2010/2011 to be inserted into the 2011/2012 Notice and for Community Emergency Services Manager to undertake community consultation

regarding the proposal to require fuel reduction on the uncleared areas less than 40 hectares in area on rural lots.

The 2010/2011 regulation 6(c) reads as follows;

*“Properties with uncleared areas less than 40 Hectares that are considered by the Shire to pose an extreme or very high risk to neighbouring Urban properties may be required to implement special fire risk mitigation measures to the satisfaction of the Shire’s Fire Services. Properties implicated by these risk mitigation measures will be contacted directly by the Shire”.*

In considering the 2010/2011 version of regulation 6(c) Councillors should note that it still allows Council’s compliance staff to require fire risk reduction on sub 40 hectare lots where conditions warrant This capacity still allows Council staff to achieve the intent of the BFAC recommendation where extreme cases are indentified.

**Consultation:**

All Shire of Denmark Fire Control Officers, the Director of Community and Regulatory Services, the Community Emergency Services Manager and feedback from landowners during compliance inspections.

Further community consultation required on the version of Regulation 6c that was approved by BFAC.

**Statutory Obligations:**

The Bush Fires Act 1954 gives Council the statutory power to issue the Fire Regulation Notice.

In accordance with the Bush Fires Act the Fire Regulation Notice is sent to all landowners as an alternative to gazettal of the Notice.

Further community consultation is proposed to be undertaken specifically in relation to Regulation 6c that was approved by the BFAC, with this matter to be considered by Council in the consideration of the 2012/2013 Fire Regulation 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 2011/2012 be professionally printed. It is estimated that this will cost \$2,700.

**Strategic Implications:**

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

**Sustainability Implications:**

➤ **Environmental:**

The adoption, distribution and enforcement of 2011/2012 Fire Regulation Notice will reduce the risk that bush fires pose to Denmark’s local environment.

➤ **Economic:**

The adoption, distribution and enforcement of 2011/2012 Fire Regulation Notice will reduce the risk that bush fires pose to Denmark’s economy.

➤ **Social:**

The adoption, distribution and enforcement of 2011/2012 Fire Regulation Notice will reduce the risk that bush fires pose on the social fabric and the amenity of Denmark’s neighbourhoods.

2011/2012 Fire Regulation Notice also makes reference to need to reduce the smoke nuisance from fires wherever practical.

**Voting Requirements:**

Simple majority

COMMITTEE RECOMMENDATION

ITEM 9.1

1. That Council adopt the 2011/2012 Fire Regulation Notice which has been approved at the Bush Fire Advisory Committee 2 June 2011 meeting.
2. That Council thank Brian Humphries (Nullaki Laser Art) for his assistance with graphic design and layout of the 2011/2012 Fire Regulation Notice.

Reason for Revised Recommendation:

The version of Regulation 6c that was approved by BFAC imposes an across the board fire fuel loading reduction on uncleared areas of rural of less than 40 hectares to 8 tonnes/ha (in jarrah-marri) or 15 tonnes/ha (in karri) on uncleared areas of less than 40 hectares by the 1 December 2011 that most property owners would not practically be able to meet.

This change should not be implemented without community consultation and consideration of natural resource factors, and necessary compliance regimes. Council should also have the opportunity to specifically debate this change.

At the meeting held on the 19 July 2011, Cr Syme asked what “the proposal” was referring to under part 2 of the recommendation.

The Acting Chief Executive Officer stated that it referred to a proposal from the Bush Fire Advisory Committee (BFAC) and has included the Minutes from the BFAC meeting held on the 2 June 2011.

FORMER OFFICER RECOMMENDATION

ITEM 9.1

That with respect to the 2011/2012 Fire Regulation Notice, Council;

1. Adopt the 2011/2012 Fire Regulation Notice as attached subject to Regulation 6(c) being amended to read, *“Properties with uncleared areas less than 40 Hectares that are considered by the Shire to pose an extreme or very high risk to neighbouring Urban properties may be required to implement special fire risk mitigation measures to the satisfaction of the Shire’s Fire Services. Properties implicated by these risk mitigation measures will be contacted directly by the Shire”*.
2. Request a consultation process be undertaken in relation to the proposal to require fuel reduction on the uncleared areas less than 40 hectares on rural lots and present this matter back to both the Bushfire Advisory Committee and Council for their consideration.

OFFICER RECOMMENDATION

ITEM 9.1

That with respect to the 2011/2012 Fire Regulation Notice, Council;

1. Adopt the 2011/2012 Fire Regulation Notice as attached subject to Regulation 6(c) being amended to read, *“Properties with uncleared areas less than 40 Hectares that are considered by the Shire to pose an extreme or very high risk to neighbouring Urban properties may be required to implement special fire risk mitigation measures to the satisfaction of the Shire’s Fire Services. Properties implicated by these risk mitigation measures will be contacted directly by the Shire”*.

2. That the version of Regulation 6(c) that was recommended by the 2 June 2011 Bush Fire Advisory Committee that reads; “*Landowners of properties with uncleared areas less than 40 hectares are required to annually achieve a maximum fire fuel loading for the property of 8 tonnes/ha (in jarrah-marri) or 15 tonnes/ha (in karri)*” be referred back to Bush Fire Advisory Committee for reconsideration due to the significant environmental, amenity, bushcare, weed mitigation, economic and compliance implications associated with it and that the Committee be asked to consider alternative methods of achieving a similar risk reduction outcome.

**Reason for Second Revised Officer Recommendation:**

From discussions with Councillors it is clear that the version of Regulation 6c that was approved by BFAC at its 2 June 2011 meeting is a concept that is not ready for public discussion without a fuller consideration of its implications and alternative methods of achieving the same risk reduction outcome.

<b>DEFERRAL</b>	ITEM 9.1
MOVED: CR SYME	SECONDED: CR PEDRO
That the item be deferred until the August 2011 Council meeting to allow for further consideration by Councillors.	
LOST: 2/9	Res: 180711

<b>COUNCIL RESOLUTION</b>	ITEM 9.1
MOVED: CR WAKKA	SECONDED: CR HINDS
That with respect to the 2011/2012 Fire Regulation Notice, Council;	
<ol style="list-style-type: none"> <li>1. Adopt the 2011/2012 Fire Regulation Notice as attached subject to Regulation 6(c) being amended to read, “<i>Properties with uncleared areas less than 40 Hectares that are considered by the Shire to pose an extreme or very high risk to neighbouring Urban properties may be required to implement special fire risk mitigation measures to the satisfaction of the Shire’s Fire Services. Properties implicated by these risk mitigation measures will be contacted directly by the Shire</i>”.</li> <li>2. That the version of Regulation 6(c) &amp; 6(d) that was recommended by the 2 June 2011 Bush Fire Advisory Committee that reads; “<i>Landowners of properties with uncleared areas less than 40 hectares are required to annually achieve a maximum fire fuel loading for the property of 8 tonnes/ha (in jarrah-marri) or 15 tonnes/ha (in karri)</i>” be referred back to Bush Fire Advisory Committee for reconsideration, for possible inclusion in 2012/13, due to the significant environmental, amenity, bushcare, weed mitigation, economic and compliance implications associated with it and that the Committee be asked to consider alternative methods of achieving a similar risk reduction outcome.</li> </ol>	
CARRIED: 9/2	Res: 190711

**REASONS FOR CHANGE**

Council amended part 2 to include Regulation 6 (d) and the words “for possible inclusion in 2012/13”.

<b>9.2</b>	<b>DISABILITY SERVICES ADVISORY COMMITTEE REPRESENTATION ON STRICKLAND STREET (CBD STREETScape WORKING GROUP)</b>
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<b>File Ref:</b>	DIS.1 & PBR.14A
<b>Applicant / Proponent:</b>	Not Applicable
<b>Subject Land / Locality:</b>	Shire of Denmark
<b>Disclosure of Officer Interest:</b>	Nil
<b>Date:</b>	8 July 2011
<b>Author:</b>	Gregg Harwood, Director of Community & Regulatory Services
<b>Authorising Officer:</b>	Gregg Harwood, Director of Community & Regulatory Services
<b>Attachments:</b>	No

**Summary:**

The Disability Services Advisory Committee has recommended that Council appoint Cr Adrian Hinds as the Disability Services Advisory Committee member on the CBD Streetscape Working Group.

This report recommends that Council appoint Cr Adrian Hinds to this position.

**Background:**

At the Ordinary Council meeting held on the 22 February 2011, Council considered changes to the CBD Streetscape Working Group's Terms of Reference and as a consequence the Working Group believed that community members and Committee representatives (such as from Council's Disability Services Committee) needed to be nominated. The Working Group requested the Disability Services Committee to recommend one of its members as their representative on the Working Group.

At its 15 June 2011 meeting the Disability Services Advisory Committee considered who they would recommend as a representative on the CBD Streetscape Working Group and nominated Councillor Adrian Hinds as their preferred choice.

**Comment:**

Ease of access to the Central Business District (CBD) area is a major determinant in social inclusion and quality of life for seniors and people with disabilities. The presence of a Disability Services Advisory Committee representative on the CBD Streetscape Working Group should help to identify opportunities for improvements that will ensure improved access during the CBD redevelopment process.

**Consultation:**

Consultation has occurred with the Council's Disability Services Advisory Committee and a representative of Disability Services Commission Great Southern.

**Statutory Obligations:**

Council approval is required to appoint members to Council Committees pursuant to section 5.10 of the Local Government Act 1995.

**Policy Implications:**

There are no policy implications.

**Budget / Financial Implications:**

There are no known significant budget / financial implications relating to the report or the officer recommendation.

**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.

COMMITTEE RECOMMENDATION

ITEM 9.2

That the Disability Services Committee makes the following recommendation to Council;  
That Cr Adrian Hinds be appointed as the Disability Services Advisory Committee member on the CBD Streetscape Working Group.

**COUNCIL RESOLUTION & OFFICER RECOMMENDATION**

ITEM 9.2

That Council appoint Cr Adrian Hinds as the Disability Services Advisory Committee representative on the CBD Streetscape Working Group.

CARRIED BY EN BLOC RESOLUTION No. 050711

*\*Absolute majority required.*

**10. MATTERS BEHIND CLOSED DOORS**

Nil

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

**COUNCIL RESOLUTION**

ITEM 11

MOVED: CR HINDS

SECONDED: CR BARNES

That an extension of the time for public consultation of the Local Planning Strategy be considered as a matter of urgent business.

CARRIED: 8/3

Res: 200711

**11.1 Local Planning Strategy – Extension of Time for Public Consultation**

Cr Hinds' Comment

It was very apparent at the Local Planning Strategy (L.P.S) Workshop on 21/7/2001 that the public considered that there had been insufficient consultation on the details of the L.P.S.

There are set down procedures for public consultation, which are useful in themselves, but I think that we (ie Government) should consult until the public decides it has had enough. This may not take as much extra time as those of the opposite persuasion may think, and of course there are those who will never be satisfied. More effort needs to be put into eliminating the fear bred of ignorance and a well placed mistrust of matters governmental.



Cr Barnes comment about consulting earlier, and I suspect on a broader scale, has merit. The present system of taking submissions "after the event" is fundamentally flawed and almost useless.

I was involved with 99 others in a week long consultation on a set of issues for the government of the day. Submissions were called for and 240 received. When I went to read the submissions, the very nice lady guardians were very surprised the anyone should do so, and every so often another head would pop around the door to examine such a strange person. They also told me that 100 of the submissions had been discarded, by officialdom, because they used an unacceptable politically incorrect term which, later, the discussion sessions were also told to not use. The term was "drug free society". Impossible, but a laudable goal which an individual is entitled to hold.

So much for the submissions system.

The 30 days may not be the best solution but I suggest it to begin the debate.

6.56pm – *The Director of Finance & Administration returned to the meeting.*

<b>COUNCIL RESOLUTION &amp; CR HINDS' MOTION</b>		ITEM 11.1
MOVED: CR HINDS		SECONDED: CR BARNES
That the public consultation time for consideration of the Shire's Local Planning Strategy be extended for a further 30 days.		
LOST: 5/6		Res: 210711

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

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

**AGAINST:** Cr Wakka, Cr Ebbett, Cr Phair, Cr Syme, Cr Laing & Cr Sampson.

**12. CLOSURE OF MEETING**

7.03pm - *There being no further business to discuss the Deputy Shire President, Cr Richardson-Newton, declared the meeting closed.*

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

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

Date: 27 July 2011

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

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