

Shire of Denmark Minutes



ORDINARY (DISCUSSION ONLY) MEETING OF COUNCIL

HELD IN THE COUNCIL CHAMBERS,
SOUTH COAST HIGHWAY, DENMARK,
ON TUESDAY, 15 JUNE 2010.

Contents	Page No.
DISCLAIMER	
1. DECLARATION OF OPENING/ANNOUNCEMENT OF VISITORS	4
1.1 RECORD OF ATTENDANCE/APOLOGIES/APPROVED LEAVE OF ABSENCE	4
2. ANNOUNCEMENTS BY THE PERSON PRESIDING	5
3. PUBLIC QUESTION TIME	5
3.1 RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE	5
3.2 PUBLIC QUESTIONS	5
3.3 QUESTIONS BY MEMBERS OF WHICH DUE NOTICE HAS BEEN GIVEN	6
3.4 PRESENTATION, DEPUTATIONS & PETITIONS	7
4. APPLICATIONS FOR LEAVE OF ABSENCE	7
5. CONFIRMATION OF MINUTES	7
5.1 ORDINARY COUNCIL MEETING – 25 MAY 2010	7
6. SUSPENSION OF STANDING ORDERS	7
7. ELECTED MEMBERS MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN	7
7.1 CR THORNTON'S NOTICE OF MOTION – UNAUTHORISED CLEARING AT LOT 2 SMITH STREET, DENMARK	7
8. REPORTS OF OFFICERS	9
8.1 Director of Planning & Sustainability	9
8.1.1 REVIEW OF COUNCIL'S STATUTORY AND POLICY ENVIRONMENT ON HOLIDAY HOMES: DRAFT TOWN PLANNING SCHEME POLICY – HOLIDAY HOMES INITIATION OF TOWN PLANNING SCHEME NO.3 AMENDMENT NO. 124	9
8.1.2 OVERSIZED OUTBUILDING AT NO. 209 MCLEOD ROAD	14
8.1.3 REQUEST TO INITIATE SCHEME AMENDMENT No. 123 – OMNIBUS AMENDMENT	19
8.1.4 REVIEW OF DELEGATED DECISION – REFUSAL OF OUTBUILDING	24
8.1.5 SHED & TOILET BLOCK APPLICATION ON RESERVE LAND – DENMARK MACHINERY RESTORATION GROUP INC	27
8.1.6 FINAL ADOPTION OF DRAFT TOWN PLANNING SCHEME POLICY – RAINWATER TANKS, RENEWABLE ENERGY AND GREYWATER RE-USE SYSTEMS	31
8.1.7 FINAL ADOPTION - TOWN PLANNING SCHEME POLICY – EVENTS, CONCERTS AND OTHER ORGANISED GATHERINGS	35
8.1.8 MUNDA BIDDI CYCLE TRAIL: NORNALUP TO DENMARK TRAIL ALIGNMENT	38
8.1.9 TOWN PLANNING SCHEME NO. 3 – AMENDMENT NO. 121	41
8.1.10 AIRPORT LAND USE STRATEGY	45
8.1.11 SCHEME AMENDMENT REQUEST – REZONING LOT 84 MOUNT SHADFORTH DRIVE FROM TOURIST TO DUAL ZONING TOURIST/ SPECIAL RESIDENTIAL	49
8.2 Director of Community & Regulatory Services	55
8.2.1 REQUEST FOR EXTENDED OCCUPANCY 150 FOURTH AVENUE, PEACEFUL BAY	55
8.3 Director of Infrastructure Services	57
8.3.1 TRANSWA BUS STOP	57
8.4 Director of Finance & Administration	59
8.4.1 FINANCIAL STATEMENT FOR THE MONTH ENDING 31 MAY 2010	59
8.5 Chief Executive Officer	61
8.5.1 POLICY MANUAL REVIEW – POLICIES P040201 TO P040215	61
9. COMMITTEE REPORTS & RECOMMENDATIONS	69
9.1 CENTENARY CELEBRATIONS WORKING GROUP	69
9.2 WALGA DECLARATION ON CLIMATE CHANGE	71
9.3 CLIMATE CHANGE ADVISORY COMMITTEE MEMBERSHIP	73
9.4 2009/2010 CULTURAL DEVELOPMENT GRANT FUND APPLICATIONS	75
9.5 AMENDMENT TO CULTURAL DEVELOPMENT FUND CHARTER	78
9.6 ALLOCATION OF SECOND HAND BRICK PAVERS – COMMUNITY FINANCIAL ASSISTANCE GRANTS COMMITTEE RECOMMENDATION	80

9.7	2010/2011 COMMUNITY FINANCIAL ASSISTANCE GRANT FUND APPLICATIONS	82
9.8	PATHS & TRAILS ADVISORY COMMITTEE MEETING – 3 MAY 2010	86
9.9	LOCAL EMERGENCY MANAGEMENT COMMITTEE – VOLUNTARY CONTRIBUTION (ROYAL FLYING DOCTORS SERVICE)	88
9.10	LOCAL EMERGENCY MANAGEMENT COMMITTEE – DENMARK SURF LIFESAVING CLUB (CLUB REPRESENTATIVE ON THE MEMBERSHIP OF LEMC)	92
10.	MATTERS BEHIND CLOSED DOORS	93
11.	NEW BUSINESS OF AN URGENT NATURE INTRODUCED BY DECISION OF MEETING	94
12.	CLOSURE	94

Ordinary Council Meeting

15 June 2010

DISCLAIMER

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1. DECLARATION OF OPENING/ANNOUNCEMENT OF VISITORS

4.05pm – The Shire President, Cr Thornton, declared the meeting open.

1.1 RECORD OF ATTENDANCE/APOLOGIES/APPROVED LEAVE OF ABSENCE

MEMBERS PRESENT:

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

STAFF:

- Mr Dale Stewart (Chief Executive Officer)
- Mr Gregg Harwood (Director of Community & Regulatory Services)
- Mr Rob Whooley (Director of Infrastructure Services)
- Mr Duncan Ross (Acting Director of Planning & Sustainability)
- Ms Claire Thompson (Executive Assistant)

APOLOGIES:

- Mr Sam Williams (Director of Planning & Sustainability)
- Mr Garry Bird (Director of Finance & Administration)

ON LEAVE OF ABSENCE:

- Cr George Ebbett
- Cr Richard Phair

ABSENT:

VISITORS:

- Members of the public in attendance at the commencement of the meeting: 9
- Members of the press in attendance at the commencement of the meeting: 0

DECLARATIONS OF INTEREST:

Name	Item No	Interest	Nature
Mr Rob Whooley	8.1.3	Proximity	Mr Whooley owns land within Lights Road relating to the Scheme Amendment.
Cr Sampson	8.1.3	Proximity	Cr Sampson is the owner of adjoining property
Cr Sampson	9.7	Impartiality	Cr Sampson is a member of the Denmark Environment Centre Inc.
Cr Syme	9.4	Financial	Cr Syme's spouse may be an exhibitor in Southern Arts & Craft Trail.
Cr Syme	9.7	Impartiality	Cr Syme is a member of the Denmark Environment Centre Inc.
Cr Barnes	8.1.5	Impartiality	Cr Barnes is a member of the Denmark Machinery Restoration Group.

Cr Barnes	9.7	Impartiality	Cr Barnes is a member of the Denmark Machinery Restoration Group.
Cr Barrow	8.1.8	Proximity	Cr Barrow owns adjoining property.
Cr Barrow	9.7	Impartiality	Cr Barrow is a member of the Denmark RSL.
Cr Laing	9.7	Impartiality	Cr Laing is a member of the Walpole & District Seniors Accommodation and his spouse is the President.
Cr Thornton	8.1.8	Proximity	Cr Thornton owns land within close proximity of the Trail.
Cr Richardson-Newton	8.1.1	Financial	Cr Richardson-Newton owns & operates a Bed & Breakfast.
Cr Richardson-Newton	9.4	Impartiality	Cr Richardson-Newton is a member of the Denmark Village Theatre Inc.
Cr Pedro	9.7	Impartiality	Cr Pedro is a member of the Denmark Environment Centre Inc.

2. ANNOUNCEMENTS BY THE PERSON PRESIDING

The Shire President announced that he had received a letter from Mr Troy Pickard, President of the Western Australian Local Government Association, informing him that Cr Alex Syme & Cr George Ebbett had been selected to receive Long & Loyal Service Awards.

The Shire President congratulated Cr Syme and Cr Ebbett (in his absence) on their well deserved recognition. The awards will be presented to the Councillors by WALGA at the AGM of Local Government Week 2010.

3. PUBLIC QUESTION TIME

3.1 RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE

Nil

3.2 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.

3.2.1 Mr Arley Egerton- Warburton – Item 8.1.5 (Shed & Toilet Block Allocation on Reserve Land – Denmark Machinery Restoration Group)

Mr Egerton-Warburton spoke on behalf of the Denmark Machinery Restoration Group and stated that the Group was concerned about Advice Note iv) in the Officer Recommendation because they believed a fence was required as security, safety and insurance purposes.

The Acting Director of Planning & Sustainability advised that the reference was made as to the height and type of fence because if allowed it could be perceived as privatisation of a portion of the reserve. Mr Ross stated that part 2 e) of the Officer Recommendation would allow negotiation as to type, height

and location of a fence to be erected to the satisfaction of Council's Director of Planning & Sustainability.

The Shire President suggested that Mr Egerton-Warburton arrange a meeting with Council's Planning Staff to discuss what height and types of fence would be allowed.

3.2.2 Mr Brian Humphries – Item 8.1.5 (Shed & Toilet Block Application on Reserve Land – Denmark Machinery Restoration Group)

Mr Humphries raised concern in relation to part 2 d) of the Officer Recommendation which referred to compliance with the Annual Fire Regulations Notice (AFRN) as there was no compliance requirement under the AFRN for Crown Land. Mr Humphries added further that he believed that the dual reference of compliance with the AFRN and the clearing condition was confusing.

The CEO concurred that the dual reference of a clearing condition together with compliance under the AFRN was confusing and that he would review whether the AFRN related to Crown Land and whether reference to a specific condition such as a 20m building protection zone would be good practice considering the fact that Council reviews conditions such as this every year when issuing the AFRN.

3.2.3 Mr Brian Humphries – Extraction of Sand out of the Inlet Delta.

Mr Humphries raised concerns about the way that the matter of the dredging of Wilson Inlet was handled at Council, specifically that there was no additional information provided in the Minutes on the presentation that Councillors had previously received on the matter which in turn led to their decision. Mr Humphries asked the following questions;

- “a) What were your expectations three months ago of the potential outcomes of that anticipated “beneficial effect” that justified you to give such urgent approval to expend \$10,000 of ratepayer money?*
- b) In definitive terms, how will you now measure the resultant marine exchange -- will it be a subjective “colour-of-the-water” type of test or will it be a substantial scientific measurement of the various parameters of the saline and fresh water stratifications at various places throughout the Inlet?*
- c) When (approximately) and how (methodology) will the testing be conducted?*
- d) Who (agency or scientist) will conduct the test?*
- e) And most importantly, if you had criteria to justify the urgent expenditure in the first place, what criteria and historical data will the results now be compared against that will enable you to determine if the expenditure of that \$10,000 will have justified your initial expectations?*
- f) Or is the public to conclude that you have just wasted \$10,000 of ratepayer money for no purpose other than to facilitate more bureaucratic spin, argument and procrastination?”*

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

Cr Syme added that Cr Ebbett had brought the recommendation from the Wilson Inlet Management Advisory Group which resulted in the Council resolution.

3.3 QUESTIONS BY MEMBERS OF WHICH DUE NOTICE HAS BEEN GIVEN

Nil

3.4 PRESENTATIONS, DEPUTATIONS & PETITIONS

Nil

4. APPLICATIONS FOR LEAVE OF ABSENCE

Nil

5. CONFIRMATION OF MINUTES

5.1 ORDINARY COUNCIL MEETING

COUNCIL RESOLUTION & OFFICER RECOMMENDATION	ITEM 5.1
MOVED: CR RICHARDSON-NEWTON	SECONDED: CR HINDS
That the minutes of the Ordinary Meeting of Council held on the 25 May 2010 be confirmed as a true and correct record of the proceedings.	
CARRIED: 10/0	Res: 010610

6. SUSPENSION OF STANDING ORDERS

COUNCIL RESOLUTION & OFFICER RECOMMENDATION	ITEM 6
MOVED: CR PEDRO	SECONDED: CR WAKKA
That all Standing Orders be suspended for the remainder of the agenda items to enable detailed discussion, Councillors' questions and briefing by staff on the agenda items in accordance with Council's policy that the meeting on the third Tuesday of each month is a briefing/discussion meeting only and no decisions will be made on agenda items at this meeting. Decisions on the agenda items listed will be made at the meeting on the fourth Tuesday of the month.	
CARRIED: 10/0	Res: 020610

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

7.1 CR THORNTON'S NOTICE OF MOTION – UNAUTHORISED CLEARING AT LOT 2 SMITH STREET, DENMARK

File Ref:	A1751 / WAPC 132077
Applicant / Proponent:	Cr Ross Thornton
Subject Land / Locality:	20 (Lot 2) Smith Street, Denmark
Disclosure of Officer Interest:	Nil
Date:	11 June 2010
Author:	Dale Stewart, Chief Executive Officer
Attachments:	Yes – page 1

Summary:

Council staff became aware of what it believes is illegal clearing of vegetation on Lot 2 Smith Street, Denmark in the past few weeks. The block is subject to an approved subdivision application with conditions relating to retention of the vegetation, with the clearance of this condition resting with the Council.

Background:

As indicated in the summary.

Comment:

Council staff have in the past week both written to the owner and also the Department of Environment & Conservation with respect to its concerns regarding the clearing activities.

Consultation:

Council staff are consulting with staff from the Department of Environment & Conservation.

Statutory Obligations:

Pursuant to clause 3.10 of the Council's Standing Orders Local Law a question on notice is to be given by a member in writing to the CEO at least seven (7) clear working days prior to the meeting at which it is raised. The Notice of Motion was received by the CEO at 11.00am on Friday, 11 June 2010 such that the first opportunity for Council to consider the Notice of Motion is not prior to 11.00am on Tuesday, 22 June 2010.

Clearing of Vegetation in this instance is governed by both the Planning & Development Act 2005 and the Environmental Protection Act 1986, and the Environmental Protection (Clearing of Native Vegetation) Regulations 1986.

Council's Town Planning Scheme No. 3 also currently prohibits the removal of vegetation without an application for planning consent where that clearing is greater than 5,000m² (noting that this particular provision of the Scheme is currently the subject of an omnibus amendment).

Policy Implications:

The following Council Local Planning Policies relate;

- No. 2.5 Residential Areas (policy makes specific reference to Lot 2 Smith Street); and
- No. 15 – Townscape.

Budget / Financial Implications:

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

Strategic Implications:

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

Sustainability Implications:**➤ Environmental:**

The clearing involves removal of a large area of vegetation much, if not all, of which was proposed to be retained for the proposed public open space to be ceded to Council.

➤ 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.

CR THORNTON'S NOTICE OF MOTION

ITEM 7.1

That Council advise the Department of Planning that as a result of the unauthorised clearing of vegetation on Lot 2 Smith Street, Denmark, which was the subject of a WA Planning Commission subdivisional approval (Ref WAPC – 132077) dated 17 December 2007, that it is now unable to clear condition 28 and therefore request the WA Planning Commission to withdraw the approval of the application in full.

Condition No. 28

“Arrangements being made to the satisfaction of the Western Australian Planning Commission, prior to the commencement of any site works, for the protection of all existing remnant vegetation within the designated Public Open Space area(s) and the identification and protection of other vegetation on site required to be retained by the local government in consultation with the Department of Environment and Conservation. (Local Government)”.

Discussion ensued.

8. REPORTS OF OFFICERS

8.1 Director of Planning & Sustainability

4.32pm - Cr Richardson-Newton declared a proximity interest in Item 8.1.1 in that he owns & operates a Bed & Breakfast. Cr Richardson-Newton left the room and did not participate in discussion or vote on the matter.

4.32pm – The Director of Infrastructure Services left the meeting.

**8.1.1 REVIEW OF COUNCIL'S STATUTORY AND POLICY ENVIRONMENT ON HOLIDAY HOMES:
DRAFT TOWN PLANNING SCHEME POLICY – HOLIDAY HOMES
INITIATION OF TOWN PLANNING SCHEME NO.3 AMENDMENT NO. 124**

File Ref:	PLN 64/TPS3AMD124
Applicant / Proponent:	Not applicable
Subject Land / Locality:	Not applicable
Disclosure of Officer Interest:	Nil
Date:	6 May 2010
Author:	Cindy Simpson, Senior Planning Officer
Authorising Officer:	Sam Williams, Director of Planning & Sustainability
Attachments:	Yes – page 5

Summary:

In accordance with Council's adopted Stage 1 Tourism Planning Strategy Council's staff have undertaken a review of its policy and statutory environment on holiday homes as follows:

- The preparation of Draft Town Planning Scheme Policy 19.3 – Holiday Homes, which is a detailed review of Policy 19.2 – Home Holiday Accommodation.
- The preparation of Amendment 124, which will change the provisions in TPS No. 3 (the Scheme) as it relates to holiday homes.

It is recommended that the draft policy be adopted to enable consultation to take place and that Amendment 124 be initiated for public advertising.

Background:

Council considered the review of Council's statutory and policy environment on holiday homes at their meeting of May 2010 and resolved:

"That Item 8.1.7 be deferred to a later date to enable further consideration by the Officers."

As instructed, Council's officers have reviewed the provisions of the *Residential Tenancy Act 1987* and its implication on the rights of tenants as it relates to the policy statement. The Department of Consumer and Employment Protection have confirmed the *Residential Tenancy Act 1987* does not cover short term accommodation under 3 months, hence will not impact on this policy.

To make Holiday Home operators aware of this, the draft Policy has been slightly altered to make reference to the *Residential Tenancy Act 1987*.

As a way of background with respect to the document, Holiday Homes are an important aspect of the tourism industry in the Shire of Denmark and have long been an important part of local and Western Australian lifestyle and culture. Over time, there has been increased commercialisation of holiday homes which has led to changes in character and amenity of neighbourhood. Community concerns about holiday home rentals often relate to the behaviour of some tenants, rather than being associated with the use *per se*. In addition to this, there has been concern that select holiday homes being leased are not maintained to a satisfactory standard, which in turn reflects negatively on Denmark's tourism industry. This has led to pressures for the regulation of holiday home rentals which to date have been largely unregulated.

The draft policy will provide clear guidance to Council on the appropriate locations of holiday homes, provide greater protection to the residential amenity of neighbourhoods, result in better management holiday homes and improve the quality of holiday home accommodation provided in the Shire.

The amendment will introduce a new definition on holiday homes and provide Council with the discretionary powers to regulate the location and land use permissibility of holiday homes in each zone.

Comment:Draft Policy 19.3 – Holiday Homes

The attached draft policy contains background, objectives, definitions and provisions to guide Council when considering planning applications for holiday homes.

The objectives of the policy are:

- To ensure that the predominant residential nature and character of neighbourhoods are retained.
- To minimise negative impacts of holiday homes on the amenity of adjoining residents.
- To encourage the provision of good quality, well managed holiday homes.
- To control the way in which holiday homes are marketed, managed and presented to enhance Denmark's image.
- To identify suitable areas where holiday homes are deemed to be most suitable and clarify the assessment process for each of these defined areas.

The policy provisions address matters such as:

- Locations for holiday homes;
- Residential density and holiday homes;
- Consultation with adjoining neighbours;
- Protecting the residential character of neighbourhoods;

- Property Management Plan;
- Fire and Emergency Plan;
- Display of information in holiday homes;
- Annual registration of holiday homes;
- Holiday homes register;
- Voluntary accreditation;
- Illegal holiday homes;
- Application requirements; and
- Conditions of approval.

Furthermore, this draft Policy has been prepared in accordance with the recommendations of Council's adopted Stage 1 Tourism Planning Strategy, which requires a review of the current policy 19.2 Home Holiday Accommodation. The strategy states as follows:

TPS Policy 19.2 Home Holiday Accommodation

Review this policy to address the matters raised in Planning Bulletin 99 – Holiday Homes Guidelines. The proposed policy should address the following matters, but not be limited to:

- *Impact on amenity of adjoining residents;*
- *Protecting the residential amenity of neighbourhoods;*
- *Absentee property owners;*
- *Management of holiday homes; and*
- *Voluntary accreditation of holiday homes.*

Amendment 124

The amendment proposes to:

- Insert a new use class 'Holiday Home' in Table 1 – Zoning Table and set permissibility for each zone;
- Insert a definition of Holiday Home in Appendix 1 – Interpretations; and
- Insert a new scheme provision on permissibility of holiday homes in the Special Residential, Special Rural and Landscape Protection zones.

The scheme amendment is explained within the attached draft amendment document.

Consultation:

Draft Policy 19.3 – Holiday Homes

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

In addition to this during the advertising period comments will be sought from the Denmark Visitor's Centre, Chamber of Commerce and tourist accommodation managers.

Amendment 124

The amendment will be referred to EPA for assessment under the Environmental Protection Act. Subject to a positive response the Amendment will be advertised for 42 days as follows: advertisement in local newspapers, referral to relevant Government agencies and a notice on Council's notice board.

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

Statutory Obligations:Draft Policy 19.3 – Holiday Homes

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

Amendment 124

- *Planning and Development Act 2005* – TPS No. 3 is an operative Local Planning Scheme under the Act.
- *Town Planning Regulations* – The Regulations set the procedure for amending a town planning scheme.
- *Town Planning (Local Government Planning Fees) Regulations* – sets out the amount of fees to be paid to Council for the assessment and administration of the amendment process.

Policy Implications:Draft Policy 19.3 – Holiday Homes

The policy is only a draft at this stage. If formally adopted by Council following the consultation phase it will become an adopted TPS policy under the provisions of Clause 8.2 of the Scheme and will apply as set out in the Policy. It will rescind Policy 19.2 – Home Holiday Accommodation.

Amendment 124

At Gazettal of the amendment, draft TPS Policy 19.3 – Holiday Homes will be updated to reflect the new Scheme provisions.

Budget / Financial Implications:

There are no known financial implications upon the Council's current budget or Plan for the Future. The cost of advertising and referral of the draft policy and Scheme Amendment are provided for within the existing 2009/10 Budget.

Strategic Implications:

Draft Policy 19.3 – Holiday Homes is a strategic document that the guide the location, management and standard of holiday homes in the Shire.

Sustainability Implications:➤ **Environmental:**

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

➤ **Economic:**

The outcomes of the review of Council's policy and statutory environment on holiday homes:

- Will improve the management and standards of holiday homes in the Shire and therefore making a positive contribution to Denmark's tourism industry.
- Will improve the fire risk management practices of holiday home owners therefore reducing the risk of damage or loss of houses.
- It is likely to contribute towards creating jobs in the Shire due to the requirements that a manager/caretaker or management company be appointed and to maintain the standard of holiday homes.

➤ **Social:**

The outcomes of the review of Council's policy and statutory environment on holiday homes:

- Will improve the amenity of residents that live in close proximity or next to holiday homes.
- Will maintain high level of owner occupancy and/or long term rentals within the Denmark townsite and allow local residents to live within a walkable catchment to shops, schools, business, recreational facilities and public open spaces. This will reduce the reliance on vehicle transport, increase the

proportion of cycling and walking trips and improve social cohesiveness in the community.

- Prevent co-location of incompatible land uses.
- Facilitate amenity and a 'sense of place'.

Voting Requirements:

Simple majority.

OFFICER RECOMMENDATION	ITEM 8.1.1
<p>That Council with respect to the review of the Policy 19.2 – Home Holiday Accommodation and statutory environment of holiday homes under TPS No. 3 undertake the following:</p>	
<p>1. In accordance with Clause 8.2.2 of TPS No. 3 prior to adopting the Town Planning Scheme Policy 19.3 - Holiday Homes:</p>	
<p>a. Advertise the draft Policy in the local newspaper(s) for two consecutive weeks for a period not less than 21 days for public inspection and comment; and</p>	
<p>b. Refer the draft policy to the relevant government agencies including Department of Planning.</p>	
<p>c. Invite specific comment from the following identified organisations;</p>	
<p>i. Denmark Tourism Inc; and</p>	
<p>ii. Denmark Chamber of Commerce.</p>	
<p>2. Pursuant to section 75 Planning and Development Act 2005 initiate Amendment 124 to Town Planning Scheme No. 3 by:</p>	
<p>a. Amending Table 1 – Zoning Table by inserting the use 'Holiday Home' and making it an SA use in all zones except for Tourist where it shall be an AA use and the Commercial, Professional Office and Industrial zones where it shall be an X use;</p>	
<p>b. Inserting the definition of 'Holiday Home' in Appendix 1 – Interpretations.</p>	
<p>c. Inserting a new scheme provision on permissibility of holiday homes in the Special Residential, Special Rural and Landscape Protection zones.</p>	
<p>3. The amendment being forwarded to the Environmental Protection Authority in accordance with sections 81 and 82 of the Planning and Development Act 2005.</p>	
<p>4. After compliance with sections 81 and 82 of the Planning and Development Act 2005 the amendment being advertised in accordance with sections 83 and 84 of the Planning and Development Act 2005.</p>	
<p>5. Advise the West Australian Planning Commission of Council's decision relating to the Amendment.</p>	

Discussion ensued.

Cr Barnes requested that Officers provide further clarification on how Officers would determine the definition of predominate in the Policy.

The Acting Director of Planning & Sustainability noted that he would look at ways of providing clarification as to how Officers will determine this.

Cr Syme's stated that the map was incorrect in a number of instances and that he was concerned about Council publishing incorrect maps which are produced by Landgate.

The Chief Executive Officer stating that once he is made aware of the types of errors he would endeavour to advise Landgate, relevant agencies and/or amend Council's records accordingly.

4.55pm – The Director of Infrastructure Services returned to the meeting.

5.06pm – Cr Richardson-Newton returned to the meeting.

8.1.2 OVERSIZED OUTBUILDING AT NO. 209 MCLEOD ROAD

File Ref:	A3908
Applicant / Proponent:	John Maxwell
Subject Land / Locality:	No. 209 (Lot 63) McLeod Road, Denmark
Disclosure of Officer Interest:	Nil
Date:	3 June 2010
Author:	Duncan Ross, Senior Planning Officer
Authorising Officer:	Sam Williams, Director of Planning & Sustainability
Attachments:	Yes – page 27

Summary:

Council has received a planning consent application (attachment 1) for a 108m² outbuilding addition to an existing 144m² outbuilding resulting in a total area of 252m². Policy No. 13.3 – Outbuildings stipulates that the maximum allowable area for any outbuilding in a Special Rural Zone is not to exceed 150m².

The application was subsequently advertised for public comment in accordance with the Shire's Town Planning Scheme No.3 (TPS3) requirements where three submissions were received.

It is recommended the application be refused planning consent approval.

Background:

The applicant first submitted a planning consent application for the said outbuilding addition on the 1 April 2010 which was refused under delegated authority. The applicant has subsequently resubmitted the application on the 4 May 2010 and has requested Council make a determination on the application. The initial refusal was based on the following officer assessment:

The proposal is to construct a 108m² outbuilding addition to an existing 144m² outbuilding (resulting in a total area of 252m²). Policy 13.3 – 'Outbuildings' stipulates that the maximum allowable area for any outbuilding in a Special Rural Zone is 150m². This proposal represents a major deviation away from that standard. The application provides various reasons for the dispensation sought, including:

- *The north face of the outbuilding is open walled;*
- *The outbuilding is 145m from the road;*
- *The outbuilding is screened from view by existing vegetation.*

Although these are agreed with, the relaxation in this instance is not supported as the size of the addition is excessive and contrary to the intent of the Special Rural Zone. The Director of Planning is able to defer the application to Council; however that is not recommended given the size of this proposal being excessive and the application fails to provide any justifiable reasons to support such a large addition. The application also has a potential to set a precedent for future application reducing Councils control over similar future applications. Refusal of the application is also consistent with similar decision made in Special Rural Zones.

It is still maintained that the proposal represents a major deviation away from the Special Rural provisions and relevant Policy standards.

Comment:

The property is located in the Limbourne Road Special Rural Zone (attachment 2) and has previously been granted planning approval for a single dwelling and an outbuilding. The total size of the site is 16.697ha.

Council's Policy No. 13.3 – Outbuildings (attachment 3) makes special reference to the Special Rural Zones in which it states:

- *Outbuildings proposed for Special Rural zones are limited to have a maximum wall height of 3.5m and a maximum cumulative total floor area of 150m² and the buildings external materials and finishes shall be in green and brown tonings.*

The existing outbuilding is generally consistent with these requirements however the proposed addition results in an outbuilding of a size and scale not envisaged or deemed appropriate for the site. The applicant has provided further justification for permitting the outbuilding addition as follows:

Applicant Justification	Officer Comments
<i>The property owner has a number of vehicles that are currently in the open and wishes to house them to protect them from the elements.</i>	<p>Outbuildings may be up to 150m² in the Special Rural Zone, and the proposed use, for the storage of vehicles is accepted, especially as the existing dwelling on site does not have dedicated internal car parking associated with it. Despite this, ownership of several vehicles does not warrant a relaxation in Policy standards, and although I can see the logic in housing vehicles indoors, the weighting associated with a policy standard should be maintained.</p> <p>It is unfortunate in this instance that the property owner requires cover for so many vehicles however it is deemed a 144m² outbuilding should be able to accommodate the majority of these vehicles without the need for such a large addition.</p>
<i>The lean to at the eastern end is for a horse stable.</i>	<p>It is preferred that the existing outbuilding is not increased as proposed, however if Council was inclined to approve any aspect of the proposal it would be the 36m² stable lean-to addition. This would result in the shed having a total area of 180m², and as this is relatively open, and does not result in the outbuilding being excessive (although anything beyond this addition is not supported). The stable addition would provide for a different use associated with the outbuilding.</p>
<i>The owners do not wish to attach such a large parking facility against the existing residence due to the location of existing services and the topography adjacent to the home.</i>	<p>This point is irrelevant as there is no limitation on the construction of a house addition which could be used to provide cover for vehicles. Council's position is to assess the outbuilding application as submitted, not consider a hypothetical 'permitted baseline' approach as suggested by this point.</p>

None of the above reasons are deemed to satisfactory justify a relaxation of the prescribed special provisions relating to the zone. The main issue from a planning perspective is the issue of precedence, whereby approving an application such as this erodes the future application of the policy and results in unintended outcomes, particularly in regards to areas where special requirements apply such as in the Special Rural and Special Residential Zones.

The three submissions (attachment 4) received are summarised and responded to in the following table:

Submission Comment	Support/ Oppose	Officer Comment
<p>SUBMISSION 1: <i>Another oversized shed was approved at a smaller property in the adjacent McLeod Road Special Rural Zone, and Council could consider a statutory declaration stating the outbuilding is not to be used for commercial purposes.</i></p> <hr/> <p><i>Storage of machinery and goods at these types of properties is required to ensure that items remains in a good condition.</i></p> <hr/> <p><i>Concern from Council that precedence could be set, however this has already occurred in various other areas in the past.</i></p> <hr/> <p><i>Council has discretion in terms of approving variations to the standards, particularly where no objections are received from adjoining properties.</i></p> <hr/> <p><i>The proposal will not offend the purpose of the zone nor does it affect the amenity of the area – however it will help with the management of the property.</i></p>	<p>Support</p>	<p>Council generally assesses application for larger than permitted outbuildings on a case by case basis and where suitable justification is provided may permit the relaxation of the stipulated standard. The property does not have any approved commercial uses associated with it, and this type of activity is limited by the Special Provisions relating to the zone where only Horticulture, Holiday Accommodation and Home Occupation uses are permitted. These require approval from Council and are required to remain consistent with TPS3 requirements.</p> <hr/> <p>Agreed that storage of machinery is an approved and accepted use for outbuildings within any zone.</p> <hr/> <p>Precedence is difficult to establish however generally Council only approves deviations to the standard where special circumstances apply. Council has however approved larger than permitted outbuildings where these are associated with an approved business use, are generally consistent with the intent of the policy and do not detrimentally affect the wider amenity of the zone. This proposal results in an outbuilding 60% larger than what is permissible.</p> <hr/> <p>All three submissions received do not object to the proposal.</p> <hr/> <p>It is acknowledged the outbuilding cannot be seen from the road, therefore it is not envisaged to reduce the amenity of the zone or wider public realm. The stable addition is consistent with an expected use of the property.</p>
<p>SUBMISSION 2: <i>Letter states “Please let it be noted we have no objection to the proposed outbuilding being erected”.</i></p>	<p>Support</p>	<p>Nil</p>

SUBMISSION 3: <i>Shire's referral letter returned with "No objection" stated.</i>	Support	Nil
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In summary, it is deemed the initial officer recommendation should apply, that the addition should be refused planning approval. However, an alternative officer recommendation has also been provided to give Council the option to support the construction of the 36m² stable lean to only. The reason for this is the lean to is not an enclosed building and such is an appropriate addition to the existing outbuilding.

Consultation:

The proposal was advertised for public comment in accordance with clause 6.4 of the TPS3 for a period of 21 days as follows:

1. An advertisement was placed in the Denmark Bulletin on the 7/05/10; and
2. The application was referred to neighbours for comment.

Three submissions were received as detailed above.

Statutory Obligations:

Town Planning Scheme No. 3 – Appendix VI – ‘Limbourne Road Special Rural Zone’ specifies the pertinent development requirements for the site; and

Policy Implications:

Policy 13.3 – ‘Outbuildings’ is relevant to this application. It specifies the development standards outbuildings should achieve in different zones.

Budget / Financial Implications:

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

Strategic Implications:

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

Sustainability Implications:

➤ **Environmental:**

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

➤ **Economic:**

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

➤ **Social:**

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

Voting Requirements:

Simple majority.

If Council wished to support the intent of the application then the following recommendation is offered.

ALTERNATIVE OFFICER RECOMMENDATION

That with respect to the outbuilding addition on No. 209 (Lot 63) McLeod Road, Denmark, that Council approve Planning Consent for the 4.5m x 8m (36m²) lean to on No. 209 (Lot 63) McLeod Road, Denmark in accordance with the following conditions:

1. The development to be in accordance with the attached stamped approved plans and where marked in red dated 04 May 2010.
2. The approved addition shall be limited to that associated with the stable as shown on the attached plans, accepted to be a lean to addition and shall not be fully enclosed.
3. Compliance with Annual Fire Regulation Notices and the establishment of a 20m Building Protection Zone to the satisfaction of the Shire's Community Fire Manager.

Advice Note

The balance 72m² enclosed outbuilding comprising the application is not supported by Council as it would total a 216m² outbuilding on the subject site.

OFFICER RECOMMENDATION

ITEM 8.1.2

That with respect to the outbuilding addition on No. 209 (Lot 63) McLeod Road, Denmark, that Council refuse Planning Consent for the 13.5m x 8m (108m²) outbuilding addition on No. 209 (Lot 63) McLeod Road, Denmark for the following reasons:

1. The development is inconsistent with the requirements of Policy No. 13.3 which limits the total area of outbuildings in the Special Rural Zone to 150m².
2. The outbuilding if approved has the potential to set a precedence which would legitimise major deviations away from the policy standard in the future.
3. The refusal is consistent with similar decisions for oversized outbuildings in the Special Rural Zone.
4. The applicant provides no reasons to justify such a large addition being considered.

Advice Notes

- i) Council will not consider relaxations of the maximum outbuilding size requirements in the Special Rural or Special Residential Zones.

Discussion ensued.

Cr Syme stated that there was a property within the Shire which had three property address signs next to it however there was no indication further along the road as to which property was which, Cr Syme suggested that the Director of Finance & Administrations may need to take these types of situation into account during the review of the Rural Roadside Numbering.

The Chief Executive Officer responded by saying that it was predominately the property owners concern and in their best interests to ensure that their properties were clearly identifiable.

Cr Hinds asked whether the Chief Executive Officer could highlight the matter with property owners.

The Chief Executive Officer advised that he would write a letter to the three identified property owners and inform them of the benefits and risks of not having an appropriately identified property entrance.

5.12pm - Cr Sampson declared a proximity interest in Item 8.1.3 in that he is an adjoining landowner. Cr Sampson left the room and did not participate in discussion or vote on the matter.

5.12pm – The Director of Infrastructure Services declared a proximity interest in Item 8.1.3 in that he is an adjoining landowner. The Director of Infrastructure Services left the room and did not participate in discussion on the matter.

8.1.3 REQUEST TO INITIATE SCHEME AMENDMENT No. 123 – OMNIBUS AMENDMENT

File Ref:	TPS3/A123
Applicant / Proponent:	Not applicable
Subject Land / Locality:	Various
Disclosure of Officer Interest:	Nil
Date:	8 April 2010
Author:	Phil Shephard, Planning Officer (Casual)
Authorising Officer:	Sam Williams, Director of Planning & Sustainability
Attachments:	Yes – page 45

Summary:

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

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

Background:

Council at its 27 April 2010 meeting (Resolution 170410) resolved to defer consideration of the omnibus amendment pending clarification of the matters relating to the Lights Road Landscape Protection Zone.

With respect to this, the Lights Road component of the omnibus amendment document has been reviewed by staff to reflect Council's decision at its 18 December 2007 meeting (Resolution: 436/07) as follows:

That with respect to Lights Road Landscape Protection Zone No. 4 Council pursuant to clause 6.2.2 of Councils Town Planning Scheme No. 3:

1. *Approve the request to modify the building envelope on Strata Lot 3 to protect the large tree within the existing development area subject to the development area being a maximum of 1600m² in area and positioned to the satisfaction of the Manager, Planning & Development.*
2. *Advise the landowners that the keeping of dogs is permitted within the zone subject to them being confined to the development area unless under the control of a responsible person.*
3. *Agree to amend the present scheme provisions 4, 6 and 7 through a future omnibus amendment to give effect to the above decision.*

In response to the questions raised by Mr McMasters at Council's meeting on the 27 April 2010 pertaining to planning matters, the following responses were provided and reported to Council's meeting on the 18 May 2010, which are as follows:

Question: *Do you realize that in ratifying the points on Lights Road Landscape Protection you will be customizing conditions which are the conditions the current owners accepted at the time of purchase?*

Response: *Changing the conditions for the Lights Road Landscape Protection will require an Amendment to Council's Town Planning Scheme No.3. As any Amendment to a Town Planning Scheme is a transparent process i.e. requires Council resolution to initiate, mandatory community consultation, Council adoption, Western Australian Planning Commission endorsement and Minister for Planning approval, the current landowners can be involved in any amendment decision and will be advised of any changes.*

Question: *Are you aware that while there are three subdivision lots there will be four dwellings each entitled to have two dogs: eight dogs in all legally on the subdivision?*

Response: *Noted, however, as per the wording of the Scheme Amendment each of these dogs will have to be contained to an agreed area.*

Question: *Are you prepared to be specific as to the areas in which each of these possible pairs of dogs will be contained and the nature of fencing: height, distance from the ground, gate arrangement and mesh size that will ensure the dogs do not run free in a pack? In the past neighbourhood dogs have killed sheep, chooks and guinea pigs on my property.*

Response: *No. The amendment to Town Planning Scheme No.3 before Council does not cover detailed requirements such as fencing material etc. Specifics such as fencing, location, etc are best dealt with as conditions on any development approval.*

Question: *Given that some breeds of dogs are more likely to attack (stock than others and even more so for males wanting to impress a female are you prepared to place restrictions in relation to size, breed and gender of dogs permitted on the subdivision?*

Response: *No. What Council is considering, is an Amendment to their Town Planning Scheme No.3, to allow the keeping of dogs, subject to consideration of a development application, and placement of conditions at that time. Should any dogs wander, either those that are approved now or subsequently following the finalisation of the proposed scheme amendment, then Council's Law Enforcement Officers are, and will be, aware of what conditions are imposed on the keeping of those dogs, and in the event of breach of those conditions (for example such as the attacking of stock and or wandering beyond their approved area) Council's Local Laws, Local Planning Scheme and the Dog Act, will all be enforced without fear nor favour.*

Question: *Are you aware that the section of the new conditions regarding setbacks seem to have already been infringed on Mr Whooley's lot by the positioning of a shed and going by the siteworks the house may well excessively infringe the stated setback from the Priority Conservation Area?*

Response: *The allegation that the siting of a person's shed and or current site works being performed contrary to Council approval is currently being investigated by Council's Planning Staff and should any buildings or works prove to be in breach of Council's Local Planning Scheme, the owner will be advised and Council's Local Planning Scheme enforced without fear nor favour.*

Question: *Considering that the set conditions have already been breached in different ways does Council intend to address future breaches of the set conditions and to impose appropriate penalties?*

Response: *Any breaches to Council's Town Planning Scheme No.3 are taken seriously and are investigated by Council's offices. The stance Council takes with enforcement of specific breaches is generally not disclosed to third parties.*

Question: *If Council does not have the will or the power to enforce the conditions which it has applied to this subdivision how then is my livelihood and my sheep flock to be protected?*

Response: *Council has the will and power to enforce conditions it has imposed by virtue of the existing conditions of approval and those intended pursuant to the Scheme Amendment proposed. In addition Council's Law Enforcement Officers and affected landowners / stock owners have enforcement means available within the existing Dog Act (with respect to protection of livestock).*

Question: *Are you in support of the existing loophole of merely have to write a letter to have subdivision conditions relaxed or changed? If so, what is the point of having set these conditions in the first instance?*

Response: *Under Council's Town Planning Scheme No.3, which is the legal document that has enforced the said development conditions, Council has the ability to modify development standards.*

The proposed amendments to the Lights Road Landscape Protection Zone does not threaten the present or future rural amenity of the area and there are scheme controls and improved enforcement options available to Council should any nuisance or hazard be created by any stock or pet/dog.

Comment:

Amendment No. 123 (copy attached) seeks to:

- 1) Modifying the present scheme provisions for the Lights Road Landscape Protection Zone to allow for modified building envelope areas and dogs to be kept within the zone subject to planning consent being granted for the keeping of dogs by the Council.
- 2) Including Lots 131 & 132 Glendale Close, Denmark within the Drainage and Waterbodies Reserve.
- 3) Including Lot 134 Glendale Close, Denmark within the Public Use Reserve.
- 4) Modifying the interpretation of 'Owner' to remove 'lessee' from the definition.
- 5) Removing the 'Tree Felling' interpretation from Appendix 1 – Interpretations and land use class from Table 1 – Zoning Table.
- 6) Modifying Clause 5.29 'Development of Other Structures' by including standards for the development of these minor structures.
- 7) Replacing the existing Appendix III 'Application for Planning Consent' form in the Scheme Text with the 'Form of Application for Planning Approval' form from the Model Scheme Text.
- 8) Removing all of the existing fire control provisions contained within the individual Special Rural, Special Residential, Tourist and Landscape protection zones and replacing them with a set of scheme objectives and provisions relating to bushfire protection.
- 9) Including an interpretation and land use class for 'Microbreweries' to control their development within the Shire.
- 10) Modify the reference to the Development Plan for Karma Chalets within Appendix XIII – Schedule of Tourist Zones.
- 11) Including additional interpretations and land use classes to ensure all land use classes are adequately defined and classified within the Table 1 – Zoning Table.

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

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

Consultation:

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

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

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

Statutory Obligations:

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

Policy Implications:

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

Budget / Financial Implications:

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

Strategic Implications:

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

Sustainability Implications:**➤ Environmental:**

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

➤ Economic:

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

➤ Social:

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

Voting Requirements:

Simple majority.

OFFICER RECOMMENDATION

ITEM 8.1.3

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

1. Modifying the present scheme provisions for the Lights Road Landscape protection Zone to allow for modified building envelope areas and dogs to be kept within the zone.
2. Including Lots 131 & 132 Glendale Close, Denmark within the Drainage and Waterbodies Reserve.
3. Including Lot 134 Glendale Close, Denmark within the Public Use Reserve.
4. Modifying the interpretation of 'Owner' to remove 'lessee' from the definition.
5. Removing the 'Tree Felling' interpretation from Appendix 1 – Interpretations and land use class from Table 1 – Zoning Table.
6. Modifying Clause 5.29 'Development of Other Structures' by including standards for the development of these minor structures.
7. Replacing the existing Appendix III 'Application for Planning Consent' form in the Scheme Text with the 'Form of Application for Planning Approval' form from the Model Scheme Text.
8. Removing all of the existing fire control provisions contained within the individual Special Rural, Special Residential, Tourist and Landscape protection zones and replacing them with a set of scheme objectives and provisions relating to bushfire protection.
9. Including an interpretation and land use class for 'Microbreweries' to control their development within the Shire.
10. Modify the reference to the Development Plan for Karma Chalets within Appendix XIII – Schedule of Tourist Zones.
11. Including additional interpretations and land use classes to ensure all land use classes are adequately defined and classified within the Table 1 – Zoning Table.
12. Amend the Table of Contents accordingly.
13. Amend the face of the Scheme map accordingly.
14. And forward it to the Environmental Protection Authority (EPA) for assessment and environmental clearance and once authorised by the EPA, it be advertised for public submissions for a period of 42 days.

Cr Syme & the Shire President expressed concerns at several apparent conflicts within the documentation and previous plans such as the Fire Management Plan and Vegetation Management Plan.

The Acting Director of Planning & Sustainability advised that he would investigate the concerns.

The Shire President suggested that the file be brought to the meeting next week.

Discussion ensued.

5.24pm – Cr Sampson & the Director of Infrastructure Services returned to the meeting.

8.1.4 REVIEW OF DELEGATED DECISION – REFUSAL OF OUTBUILDING

File Ref:	A431
Applicant / Proponent:	Anthony Rechichi trading as WCM Automotives
Subject Land / Locality:	No. 1 (Lot 983) Industrial Road
Disclosure of Officer Interest:	Nil
Date:	2 June 2010
Author:	Duncan Ross, Senior Planning Officer
Authorising Officer:	Sam Williams, Director of Planning & Sustainability
Attachments:	Yes – page 69

Summary:

The applicant has requested a review of the recent planning consent application (116/2010) which refused planning consent for a new outbuilding on the above industrial lot (refer attachment 1). Having assessed the request it is recommended Council be provided with a background for the decision and reaffirm the refusal decision.

Background:

On the 5th May 2010 the applicant submitted a planning consent application for a new outbuilding on the above industrial lot, situated on the corner of Industrial Road and Hodgson Street (refer attachment 2).

The 150m² outbuilding was proposed to be located in the north-eastern corner of the site, 1m from the northern and eastern boundaries. In accordance with the Shire’s Town Planning Scheme Policy No.5 – Minimum Setbacks, the outbuilding is required to be located 10m from the street boundary and 5m from any side boundary as follows:

MINIMUM SETBACKS

1. Council requires that developments conform to the following setbacks:

MINIMUM SETBACK			
	FRONT (m)	SIDE (m)	REAR (m)
INDUSTRIAL	10	5	5

The Policy goes on to state:

2. *The setbacks as shown are minimums only and Council may require a greater setback to be determined upon application.*
3. *Any proposed reduction to the above setbacks will be referred to the Planning, Environment and General Purpose Committee for consideration.*

Comment:

Comment in the initial planning report provided to the Director of Planning and Sustainability noted that:

The applicant seeks planning approval to construct a 150m² industrial building located approximately 1m from the north-eastern corner boundary. The outbuilding fails to comply with Policy No.5 – Minimum Setbacks. This policy requires a 10m front yard setback which is not achieved. It is considered in this instance that the deviation away from the intent of the policy is too great and that the application should be refused planning approval. Reasons for this decision are as follows:

- *The application is majorly inconsistent with the intent of Policy No.5 – Minimum Setbacks;*
- *Despite being in an industrial area, almost all existing building comply with the front yard requirements of the zone;*
- *No details of the proposed use of the building have been provided;*
- *As the building is proposed to be located on a corner truncation of the site, there are traffic effects such as reduced visibility which may be adversely affected.*

Whilst it is acknowledged the existing building and access arrangement on site limits future development opportunities, this is not deemed to be a sufficient reason to support deviations away from Council policy.

Having received the decision, the applicant provides various comments in relation to the reasons for refusal above, most notably that there are existing buildings that infringe front yard requirements. Whilst this is true, any degree of non-compliance associated with buildings on surrounding properties is small and does not detrimentally affect the wider development character of the area. If the relevant setback standard was applied to this proposal, approximately 30-35m² of the proposed building would be compliant with the required setback standards. As such, the deviation away from the policy is significantly beyond what could be considered a reasonable variation to the standard.

An assessment of adjacent sites reveals the following front setbacks for comparison:

Address.	Relationship.	Building 1.	Building 2.
Lot 982 Industrial Road	Adjacent to the west	7m increasing to 10m+	-
Lot 981 Industrial Road	Two sites to the west	11m	-
Lot 984 Hodgson Street	Directly opposite to the north	7m Industrial Road 17.5m Hodgson Street	-
Lot 985 Industrial Road	Two sites opposite to the north	10m	5.5m

Whilst it is generally acknowledged industrial areas such as do not generally provide high amenity and streetscape qualities, the implementation of Policy No.5 has resulted in a consistent development layout (refer attachment 3) associated with those existing industrial buildings located along Industrial Road, in terms of street setbacks, building form and location. Although the subject site is heavily restricted in a development sense given the location of the existing building, it is reiterated that this should not be reason itself to vary the policy as proposed.

The claim that the site previously housed several large silos has little relevance in terms of establishing precedence, as these did not have the necessary planning approval and cannot be considered a baseline in which to establish a permanent structure. In addition, silos are generally temporary and as stated have since been removed.

Consultation:

No consultation has occurred as a result of this application.

Statutory Obligations:

The Shire’s Town Planning Scheme No. 3 specifies the pertinent development considerations for the Council to consider.

Policy Implications:

Policy No. 5 – Minimum Setbacks stipulates the necessary standards relating to buildings within the Industrial Zone.

Policy No. 13.3 – Outbuildings provides no details on the size or form of outbuildings in the Industrial Zone, where they are deemed to be permitted subject to compliance with TPS3 and other relevant Policy requirements.

Budget / Financial Implications:

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

Strategic Implications:

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

Sustainability Implications:

➤ **Environmental:**

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

➤ **Economic:**

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

➤ **Social:**

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

Voting Requirements:

Simple majority.

OFFICER RECOMMENDATION	ITEM 8.1.4
<p>That with respect to the development application lodged, Council resolve to reiterate its earlier decision, being to refuse Planning Consent for the 150m² Outbuilding at No. 1 (Lot 983) Industrial Road, Denmark for the following reasons:</p> <ol style="list-style-type: none"> 1. The application is significantly inconsistent with the intent of Policy No.5 – Minimum Setbacks; 2. Despite being in an industrial area, almost all existing building comply with the front yard requirements of the zone; 3. No details of the proposed use of the building have been provided; 4. As the building is proposed to be located on a corner truncation of the site, there are traffic effects such as reduced visibility which may be adversely affected. 	

Cr Hinds referred to part 3 under the heading “minimum setbacks” heading and noted that the policy referred to the Planning, Environment and General Purpose Committee, which no longer existed.

Discussion ensued.

Prior to any consideration of Item 8.1.5 Cr Barnes made the following declaration:

"I am a member of the Denmark Machinery Restoration Group Inc. and as a consequence there may be a perception that my impartiality on this matter may be affected. I declare that I will consider this matter on its merits and vote accordingly."

8.1.5 SHED & TOILET BLOCK APPLICATION ON RESERVE LAND – DENMARK MACHINERY RESTORATION GROUP INC

File Ref:	A3140
Applicant / Proponent:	Denmark Machinery Restoration Group Inc.
Subject Land / Locality:	Reserve 30277 Crellin Street (Lot 952), Denmark
Disclosure of Officer Interest:	Nil
Date:	1 June 2010
Author:	Duncan Ross, Senior Planning Officer
Authorising Officer:	Sam Williams, Director of Planning & Sustainability
Attachments:	Yes – page 77

Summary:

Denmark Machinery Restoration Group Inc. (the group) proposes to construct a new 20m by 19.25m outbuilding and associated standalone 2.5m by 2.5m toilet facility in a leased area within the Shire's reserve (refer attachment 1).

The outbuilding incorporates a small veranda (extending 4.25m from the entrance of the shed) and both buildings are proposed to be clad with 'classic cream' coloured corrugated metal sheeting for the walls, with 'manor red' corrugated metal sheeting for the roof. Trim and gutters associated with the two buildings is stated as being 'cottage green'.

It is recommended Council support the construction of the outbuilding and associated toilet building subject to conditions.

Background:

On the 23rd June 2009 Council resolved the following:

That with respect to the request to lease a portion of Reserve 30277 to the Denmark Machinery Restoration Group, Council:

1. *Agrees to the leasing of an approximate area of 60 metres x 50 metres of Reserve 30277 to the Denmark Machinery Restoration Group for the purposes of repairing and/or displaying of historical machinery and furthering the aims of their Club, subject to:*
 - a) *The Group being incorporated;*
 - b) *The Minister for Lands approving the lease;*
 - c) *The submission of a concept plan that to the satisfaction of the CEO addresses noise, public safety, adjacent public walking trails, vehicle access, landscaping and amenity; and*
 - d) *Consultation with the Denmark Lions Club and the Spirit of Play.*
2. *Agrees to the Term of the Lease as being 5 years with a 5 year option.*
3. *Agrees to the Rent for the Term of the Lease being set at \$1 pa, when demanded and all other lease & rental conditions being in accordance with Councils model Lease and Policy P110102.*
4. *Advise the Group that Council will consider supporting the Groups proposed projects in principle but that Council's cash and/or in kind contribution will be subject to adequate prior notice, subject to budget constraints and limited to a maximum of one third of the total value.*
5. *Advise the Group that Council can not cover another Groups public liability.*

Attachment 2 details the subsequent lease arrangement between the Shire and the Denmark Machinery Restoration Group Inc. The Denmark Lions Club and the Spirit

of Play have provided support to the lease arrangement as required above in 1 (d) (refer attachment 3).

The group has submitted a planning application and requires the following resolutions from Council:

1. Firstly, to give permission as landowner for the planning application to be submitted for assessment; and
2. Secondly, to approve the planning application for the outbuilding and standalone toilet building in accordance with the attached development plans subject to relevant conditions of approval.

Note: In relation to 1 above, any application for development on Council land should be submitted with an endorsement from Council before an application is submitted regardless of whether a lease agreement has been entered into. Council has sole delegation in determining whether such applications can be accepted and assessed. In this instance it is recommended Council as landowner accept the planning application and consider the application on merit.

Whilst it could be argued Council has previously endorsed this application, due process in this instance necessitates the report being considered at a full Council meeting to determine the provision of the new buildings. This is primarily due to there being no reference to any future construction in the above Council resolution or subsequent lease agreement.

Comment:

Council Policy No. 13.3 – ‘Outbuildings’ does not specify any relevant development standards for outbuildings on reserve land. Despite this, given the comparative size of the lease area (3,600m²), the outbuilding (385m²) and toilet (6.25m²) are considered an appropriate scale for this particular leased portion of the reserve. The construction of this outbuilding and toilet building represents an area of approximately 11% of the total leased area.

The Shire’s Town Planning Scheme No. 3 (TPS3) stipulates the following in regards to planning applications on reserve land:

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

The reserve is stated as being a – “Historical Precinct, Recreation and Community Precinct” and the restoration of machinery is broadly ancillary to all three precinct functions. In addition the lease agreement clearly stipulates the purpose for which the leased portion of the reserve will be used for.

Whilst interpreting the architectural style of a proposal such as this requires some consideration, it is not recommended the design of the outbuilding be modified from that shown. Often, attempts to deliberately design a building with historic elements to reflect more accurately the context in which they sit adversely impact on the established heritage character of the area. As such, this is not recommended and the predominant material used, corrugated colorbond, is consistent with an approach that will generally maintain the amenity and character of the site.

It is recommended the colours associated with the outbuilding be subject to comment from the Denmark Historical Society prior to the release of the building licence, with the Director of Planning and Sustainability approving the final colour scheme upon comment being received.

The site plans provide for 11 car parks, which are deemed to be sufficient for the intent of the activity proposed. There is no direct standard applicable to such an activity as this, however the number of car parks provided is deemed sufficient. The group will be advised that any future events open days etc will need to be aware of the Shire's draft Events, Concerts and Other Organised Gatherings Policy, particularly when the policy is adopted by Council.

The planning approval should remain flexible and it is recommended that any approval issued be done so in accordance with the following TPS3 provisions:

6.7 Time Limited Conditions – The Council may, where it deems appropriate, grant planning approvals which:

(b) Permit the use and development of land to occur for limited periods of time after the expiration of which periods, as specified in each such approval, the use of the land shall cease and the site shall be restored to its former condition.

It is recommended (unless other arrangements are made) that the outbuilding be removed upon expiry of the lease held by the group at the cost of the lease-holder and the site restored to its former condition.

Consultation:

No consultation has occurred as a result of this application; however the group has contacted the Spirit of Play School and the Denmark Lions Club.

Statutory Obligations:

The Shire's TPS3 specifies the pertinent development considerations for the Council to consider for reserve land.

Policy Implications:

There are no policy implications relating to this application.

Budget / Financial Implications:

There are no known financial implications upon the Council's current Budget or Plan for the Future. Of note, the annual rent paid by the lease-holder is \$1 per annum.

Strategic Implications:

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

Sustainability Implications:

➤ **Environmental:**

There are several recorded Aboriginal and European heritage places in this area including:

- Aboriginal Places – Denmark River (Site 22081) and Denmark River Midden (Site 18947).
- European Places – The Shires Municipal Heritage Inventory contains the sites No. 11 – Denmark River Railway Bridge, No. 15 – Disused Railway Reserve and Bridges, No. 33 – Old Post Office (Management Category B) and No. 57 – Urban Bushland.
- Site adjoins the Denmark – Nornalup Rail Trail.

In addition to these sites, it is accepted based on the comments within the June 2009 Council report that:

“The majority of the machinery is historical to Denmark and with land being made available other historical items will return to the town. People from other groups in the Albany, Cranbrook, Mt Barker and Tenterden areas have indicated that they will donate back many items taken from Denmark in the past”.

This is seen to be a positive historical attribute for Denmark.

➤ **Economic:**

There are no known significant economic considerations relating to the report or officer recommendation, however the group intend that the display site would be open on weekends and during the week and would provide an additional tourist attraction for the town. The group anticipate having an annual open day with all engines in operation.

➤ **Social:**

The restoration and display of era machinery allows for people with a similar interest to interact, share knowledge and contribute to wider social and networking benefits for the wider Denmark community.

Voting Requirements:

Simple majority.

OFFICER RECOMMENDATION

ITEM 8.1.5

That with respect to the Development Application lodged for the outbuilding and toilet building on Reserve 30277 Crellin Street (Lot 952), Denmark, Council;

1. Give permission as landowner for the planning application to be submitted for assessment; and
2. Grant Planning Approval for the outbuilding and toilet building on Reserve 30277 Crellin Street (Lot 952), Denmark subject to the following conditions;
 - a) The development to be in accordance with the attached stamped approved plans and where marked in red dated 07 May 2010.
 - b) Comment being sought from the Denmark Historical Society about the appropriateness of the colour scheme proposed, the comments of which shall be provided to the Director of Planning and Sustainability for final approval.
 - c) FFL of all buildings to be above 2.5 AHD as required by clause 5.27 of the Town Planning Scheme No.3.
 - d) Compliance with Annual Fire Regulation Notices and the establishment of a 20m Building Protection Zone to the satisfaction of the Shire's Community Fire Manager.
 - e) Fencing around the perimeter of the site is to be undertaken to the satisfaction of the Director of Planning and Sustainability (refer advice note iv).
 - f) The removal of any trees (native or introduced) is not permitted without consent from the Director of Planning and Sustainability.
 - g) Note that no new vehicle ingress or egress to Crellin Street, Inlet Drive or Hollings Road will be permitted.

Advice Note:

- i) The Shire's Building Survey requests the following:
 - Full set of construction plans
 - Engineering certification
 - Registered Builder details.
- ii) The Shire's draft Events, Concerts and Other Organised Gatherings Policy (when adopted) will provide Council with controls for the conduct of events and open days and any future events are to be consistent with this policy and seek Council approval where required.
- iii) Consideration should be given to enclosing/fire-proofing all openings due to close proximity to an extreme fire hazard.
- iv) A 1.8m chainmesh fence is not supported in this location.

Cr Richardson-Newton sought advice as to whether the existing buildings on the reserve complied with clause 5.27 of the Town Planning Scheme No.3.

The Acting Director of Planning & Sustainability noted that as far as he was aware he believed they did.

Cr Syme stated that Crellin Street was misrepresented on the map, which he believed may impact on the Officers Recommendation. Cr Syme requested that Officers investigate whether Council needs to gazette the road reserves as constructed which, he believed, was different to the cadastre.

The Chief Executive Officer noted that he would investigate this matter.

Discussion ensued.

8.1.6 FINAL ADOPTION OF DRAFT TOWN PLANNING SCHEME POLICY – RAINWATER TANKS, RENEWABLE ENERGY AND GREYWATER RE-USE SYSTEMS

File Ref:	PLN56
Applicant / Proponent:	Not applicable
Subject Land / Locality:	Not applicable
Disclosure of Officer Interest:	Nil
Date:	25 May 2010
Author:	Phil Shephard, Planning Officer (Casual)
Authorising Officer:	Sam Williams, Director of Planning and Sustainability
Attachments:	Yes – page 93

Summary:

The draft Town Planning Scheme Policy for ‘Rainwater Tanks, Renewable Energy and Greywater Re-use Systems’ adopted by Council at its 23 February 2010 meeting has completed the 21-day public notice and referral period.

A total of 10 submissions were received during the advertising period which is discussed below in the Consultation section.

It is recommended Council modify the draft policy as a result of the submissions received and adopt it as a final scheme policy and include it within the scheme documents. In addition, Council shall give public notice of the adoption of the policy as required by the scheme and advise the submitters of the outcome of their submissions.

Background:

Council at its 23 February 2010 meeting (Resolution: 130210) adopted a draft of the above policy to enable consultation and referral to occur.

The draft policy was advertised in accordance with the Town Planning Scheme requirements for 21-days and referred to relevant government agencies including Department of Health, Water Corporation, Department of Environmental Protection and Department of Water seeking a submission.

Comment:

All of the submissions support the draft policy and many provided detailed comments on various aspects of the policy, with some issues being outside the scope of this particular policy.

As a result of the submissions received, it is recommended that modifications to the draft policy adopted by Council in February 2010 are undertaken. These are shown as tracked changes within the attached final policy document.

The policy is intended to assist Council increase the uptake and incorporation of energy efficiency measures including rainwater tanks, renewable energy and greywater re-use systems within the Shire.

The objectives of the draft policy are as follows:

- 1 *Improve the environmental sustainability of housing within the Shire.*
- 2 *Encourage the installation of rainwater tanks, renewable energy and greywater re-use systems within residential developments.*
- 3 *Ensure that the streetscape and amenity of local area is not adversely affected through unacceptable visual or acoustic impacts from the operation of any renewable energy systems.*
- 4 *Introduce standards for the siting and development of rainwater tanks, renewable energy and greywater re-use systems.*

The policy contains background information, definitions, objectives and policy statements to guide Council decision-making and sets out what types of development do and do not require approval by establishing acceptable development criteria for each type.

As with all policies, it is expected that the Policy will be adjusted over time as new technologies and systems are developed. Staff will prepare an Information Sheet on the policy for use by landowners etc.

To conclude, the general options available to Council in considering the draft policy include:

- Adopt without modification;
- Adopt with modification;
- Undertake additional consultation; or
- Not adopt.

Consultation:

The draft Policy was advertised in accordance with Clause 8.2.2 of the scheme being once a week for two consecutive weeks in a newspaper circulating in the area giving details of the draft and inviting submissions.

The draft policy was referred directly to the Department of Health, Water Corporation, Department of Environmental Protection and Department of Water with a request for a submission.

A total of 10 submissions were received at the conclusion of the consultation period which was extended. Submissions were received from Department of Health, Department of Water, Denmark Environment Centre, Great Southern Solar and local residents.

All of the submissions supported the policy. The main points raised in the submissions are summarised as follows:

- The draft needs modifications to clarify the thrust of the document, remove some ambiguity and tighten the language.
- The Shire's initiative is in accordance with the State Water Strategy by encouraging alternate supplies of water.
- Reticulated scheme water should always be used in preference to rainwater for drinking purposes. If reticulated water is not available, rainwater can be safe to drink if it is carefully collected and properly stored.
- Rainwater should be required to be plumbed to the house.
- Rainwater may be subject to a variety of environmental/human contaminants.

- The Department of Health has available fact sheets on rainwater use including collection, storage and disinfection.
- The policy should advise that rainwater collection and storage tanks are required to be regularly maintained.
- The policy should introduce strategies to ensure mosquito breeding is controlled.
- There are 3 greywater reuse options systems for sewerred areas each with a different approval requirement and permitted end-use.
- Greywater treatment systems require lifetime maintenance including servicing by accredited service agents and a minimum annual inspection.
- Greywater treatment systems must operate to the satisfaction of manufacturer, Department of Health and Shire requirements.
- Use of mandatory greywater systems may affect a localities water balance and absorptive capacity of the area should be determined prior to any installations.
- Consider deleting the building and streetscape requirements from the acceptable development criteria for solar panels to avoid having to adjudicate this matter in the future.
- Expand the policy to other zones including commercial and industrial.
- Allow larger 5kW turbines on rural land.
- Permit taller towers for small turbines in less sensitive zones.
- Permit installation of Energy Ball product 2.2kW in residential areas.
- Permit solar tracking in appropriate locations.
- Wind energy systems should have an acceptable noise level.
- Solar energy systems should be affixed to the roof (not freestanding).
- Suggests that air conditioners be approved subject to using an alternative energy source such as solar to reduce overall energy use from grid.
- Rainwater tanks should be permitted in front of dwellings if screened or landscaped from public view.

The positive response to the draft policy received is encouraging. Many of the points raised in the submissions have provided constructive input and the opportunity to refine the draft and proceed to final approval. Staff will advise all submitters of the outcomes of their submissions.

Some other points raised did not relate directly to the policy including dwelling solar orientation/overshadowing, building design, waste management, and rural landowners/tip passes, personal water use from tank/scheme and whilst valid, cannot be dealt with in this report.

Statutory Obligations:

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

Clause 8.2.1 states:

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

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

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

- (a) *the Council having resolved to adopt a draft Town Planning Scheme Policy, shall advertise a summary of the draft policy once a week for two consecutive weeks in a newspaper circulating in the area giving details of where the policy may be*

inspected and where, in what form, and during what period (being not less than 21 days) submissions may be made to the Council;

- (b) the Council shall review its draft Town Planning Scheme Policy in the light of any representations made and shall then decide to finally adopt the draft policy with or without amendment, or not proceed with the policy;*
- (c) following final adoption of a Town Planning Scheme Policy, details thereof shall be advertised publicly and a copy kept with the Scheme documents for inspection during normal office hours.”*

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

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

There are various other legislative controls exercised by other government agencies that may impact on a particular proposal also including Planning and Development Act 2005, Environmental Protection Act 1986 and Health Act 1911.

Policy Implications:

The final adoption of this draft policy will create a new town planning scheme policy under the provisions of the scheme (clause 8.2) and will apply as set out in the Policy.

Budget / Financial Implications:

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

Strategic Implications:

The adoption of this policy assists fulfil Council’s decision at its February 2010 meeting to develop policies to facilitate on-site potable water supplies and to reduce reliance on reticulated potable water services over the long-term.

Sustainability Implications:

➤ **Environmental:**

The adoption of a final policy on rainwater tanks, renewable energy and greywater re-use systems is a positive contribution to improving the sustainability of developments within the Shire.

➤ **Economic:**

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

➤ **Social:**

The policy is expected to provide a positive social contribution as it will affirm the Council’s and community’s commitment to improving the sustainability of Denmark over the long-term.

Voting Requirements:

Simple majority.

OFFICER RECOMMENDATION

ITEM 8.1.6

That Council with respect to the draft 'Rainwater Tanks, Renewable Energy and Greywater Re-use Systems' Town Planning Scheme Policy:

1. Note the submissions received and advise the submitters of the changes made to the draft Policy from their submissions.
2. Adopt the attached 'Rainwater Tanks, Renewable Energy and Greywater Re-use Systems' Town Planning Scheme Policy No. 38 as a final Town Planning Scheme Policy and include same with scheme documents.
3. In accordance with clause 8.2.2(c) of Town Planning Scheme No. 3 advertise the final Policy accordingly.

Cr Hinds requested that he would like to see the policies separated as he believed that greywater and rainwater matters were separate from renewable energy.

The Chief Executive Officer responded by saying that the policies could be separated however it would involve a large degree of change, with the policies essentially needing to be rewritten and possibly re-advertised.

Cr Hinds requested a meeting with the Chief Executive Officer prior to next meeting to discuss the matter.

Discussion ensued.

8.1.7 FINAL ADOPTION - TOWN PLANNING SCHEME POLICY – EVENTS, CONCERTS AND OTHER ORGANISED GATHERINGS

File Ref:	PLN17 & NEW PLN
Applicant / Proponent:	Not applicable
Subject Land / Locality:	Not applicable
Disclosure of Officer Interest:	Nil
Date:	24 May 2010
Author:	Phil Shephard, Planning Officer (Casual)
Authorising Officer:	Sam Williams, Director of Planning and Sustainability
Attachments:	Yes – page 99

Summary:

The draft Town Planning Scheme Policy for 'Events, Concerts and Other Organised Gatherings' adopted by Council at its 23 March 2010 meeting has completed the 21-day public notice and referral period.

No submissions were received for consideration.

It is recommended that Council adopt the policy as a final scheme policy and include it within the scheme documents and give notice of the approval as required by Section 8.22 (c) of the Scheme.

Background:

Council at its 23 March 2010 meeting (Resolution: 100310) adopted the draft policy to enable consultation to occur. The draft policy was advertised in accordance with the Town Planning Scheme requirements for 21-days and referred to relevant government agencies including Department of Health, Department of Racing, Gaming and Liquor, Denmark Police, Fire and Emergency Services Authority of WA and Environmental Protection Authority seeking submission.

Comment:

No submissions were received for consideration and subsequently no modifications have been undertaken to the draft policy adopted by Council in March 2010.

The objectives of the policy are as follows:

- 5 *To set standards for the conduct of events within the Shire of Denmark.*
- 6 *To require event organisers to submit details for events and demonstrate compliance with all relevant standards to ensure an enjoyable and safe environment is available for patrons.*
- 7 *To ensure events are sited and conducted to minimise any adverse impacts on adjoining and nearby land or roads.*

It is the responsibility of all proponents to ensure they have the appropriate approvals from all relevant authorities in place to conduct any event. The draft Policy contains background, definitions, objectives and policy statements to guide decision-making by the Council in considering applications within the Shire. It has been designed to create different categories of events from small low-key private events to large high-risk public events based on the likely risks derived from the projected size and nature of the event.

It is expected that the Policy will be refined over time as more data on events and their impacts becomes available. Staff will prepare an Information Sheet on the policy for use by operators and promoters in planning future events.

In summary, the options available to Council in considering the draft policy are as follows:

- Adopt without modification;
- Adopt with modification;
- Undertake additional consultation; or
- Not adopt.

Consultation:

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

The draft policy was referred to relevant government agencies including Department of Health, Department of Racing, Gaming and Liquor, Denmark Police, Fire and Emergency Services Authority of WA and Environmental Protection Authority seeking a submission.

At the conclusion of the submission period, no submissions were received.

Statutory Obligations:

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

Clause 8.2.1 states:

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

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

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

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

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

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

Policy Implications:

If formally adopted by Council, the policy will be an adopted Town Planning Scheme policy under the provisions of the scheme (clause 8.2) and will apply as set out in the Policy.

Budget / Financial Implications:

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

Strategic Implications:

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

Sustainability Implications:

➤ **Environmental:**

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

➤ **Economic:**

For business' that rely on hosting public events for their livelihood, this Policy will provide clear concise guidance of all planning and health requirements to ensure minimal delays in issuing approval.

➤ **Social:**

This policy will provide the community with all requirements that must be addressed in holding a public event, be it a person attending or a private organisation.

Voting Requirements:

Simple majority.

OFFICER RECOMMENDATION	ITEM 8.1.7
<p>That Council with respect to the draft 'Events, Concerts and Other Organised Gatherings' Town Planning Scheme Policy:</p> <ol style="list-style-type: none"> 1. Adopt the attached 'Events, Concerts and Other Organised Gatherings' Town Planning Scheme Policy as a final Town Planning Scheme Policy and include same with scheme documents. 2. In accordance with clause 8.2.2(c) of Town Planning Scheme No. 3 advertise the final Policy accordingly. 	

Discussion ensued.

5.48pm - Cr Thornton declared a proximity interest in Item 8.1.8 in that he own property which abuts the proposed Munda Bididi Trail. Cr Thornton left the room and did not participate in discussion or vote on the matter.

5.48pm - Cr Barrow declared a proximity interest in Item 8.1.8 in that he owns property which abuts the proposed Munda Bididi Trail. Cr Barrow left the room and did not participate in discussion or vote on the matter.

The Shire President asked the Deputy Shire President, Cr Richardson-Newton to assume the chair as the Presiding Person. Cr Richardson-Newton accepted and assumed the Chair.

8.1.8 MUNDA BIDDI CYCLE TRAIL: NORNALUP TO DENMARK TRAIL ALIGNMENT

File Ref:	GOV.4B
Applicant / Proponent:	Department of Environment and Conservation
Subject Land / Locality:	Shire of Denmark region
Disclosure of Officer Interest:	Nil
Date:	1 June 2010
Author:	Helen Heydenrych, Natural Resource Management Officer
Authorising Officer:	Sam Williams, Director of Planning and Sustainability
Attachments:	Yes - page 105

Summary:

The alignment of the Munda Bididi trail between Nornalup and Denmark is currently being considered by the Department of Environment and Conservation (DEC), in consultation with community and agencies of the region. At the Council meeting of 24 November 2009, Council resolved to undertake consultation with the Denmark community, specifically: Denmark Tourism Inc, the Denmark Chamber of Commerce and Green Skills Inc. (Res: 061109).

This consultation has now been undertaken and following the outcomes of this consultation, it is recommended that Council consider the attached Munda Bididi trail alignment that combines aspects of both a "southern" Heritage Rail Trail and a "northern loop" around Mt Lindesay, to ensure that all potential social and economic benefits of the Munda Bididi trail development to the Denmark region are maximised.

Background:

The community consultation requested by Council was undertaken by the Natural Resource Management (NRM) Officer, consisting of:

1. A call for written submissions regarding the Munda Bididi Trail alignment to the Shire of Denmark from the 3 groups, and

2. A meeting (1 June 2010) with representatives of the 3 groups including Cr Bob Laing (chair of the Shire of Denmark Paths and Trails Committee) to discuss the possible preferred alignment, as considered and agreed to by all parties.

There is general consensus by the three groups that there is strong community support for an overall trail alignment that combines the benefits of a “southern” coastal Heritage Rail Trail and a “northern loop” extension in the “wilderness areas” of Mt Lindesay, to ensure that all potential future social and economic benefits of the Munda Bididi trail development to the Denmark region are maximised.

This alignment includes two routes, being as follows:

- 1) A southern alignment that traverses the existing Heritage Rail Trail between Nornalup, Kenton and then through to the Denmark townsite; and
- 2) The development of a northern alignment which diverts from the Heritage Trail at Kenton and returns back to the Denmark townsite, whilst showcasing the bushland wilderness experience of the Mount Lindesay region.

Comment:

In the discussion with the 3 groups the following clear points of consensus regarding the trail alignment were reached:

- A northern loop provides the opportunity for an extended period of stay of visitors in the Denmark region and, as cyclists are higher spending on average than walkers, this would be of economic benefit to business of the region;
- The northern loop provides for the “1000kms” trail development goal, which increases marketability of the trail internationally.
- The use of the Heritage Rail Trail between Nornalup and Kenton provides for an alternative route to the currently proposed DEC route through the Bow River catchment and dieback-free Disease Risk Area (DRA) forest region, which is currently under consideration for a water storage facility.
- The use of the Heritage Rail Trail provides for an alternative southern route during winter periods of inundation and forest burning off. It also brings Munda Bididi cyclists into closer proximity with tourism businesses established along the Heritage rail trail, and therefore more likely to be of benefit to these services;
- The extended “northern loop” through DEC “wilderness” provides for a standalone marketable international tourism commodity within the Shire of Denmark, consistent with the National Landscapes program, and which is something “new” for the Shire of Denmark (the Heritage Rail Trail is an existing tourist attraction);
- The Munda Bididi Trail alignment must pass through the town of Denmark;
- The use of Shire and Main Roads road infrastructure such as the South Coast Hwy and Scotsdale Road is not preferred as this is unsafe for cyclists and problematic for the authorities responsible;
- The Mt Lindesay National Park region has other visitor interests such as Blue Lake, a new campground facility, and great view sites.
- The majority of the trail should be retained on DEC estate (as provided for in the northern loop) as this confers management, provision of emergency services and liability responsibility to DEC.
- Issues of conflict between cyclist and horse riders on the Heritage Rail Trail can be resolved with good signage and public education.

Consultation:

The Denmark Tourism Inc., the Denmark Chamber of Commerce, Green Skills Inc., Shire of Denmark Paths and Trails Committee.

Statutory Obligations:

There are no statutory obligations.

Policy Implications:

There are no policy implications.

Budget / Financial Implications:

There are no known financial implications upon the Councils current Budget or Plan for the Future. However, the use of Shire road infrastructure as per the current DEC proposed alignment (entering Denmark along Scotsdale Road) could have budget implications if widening, signage and maintenance of hardened road verges is required for safety considerations.

Strategic Implications:

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

Sustainability Implications:➤ **Environmental:**

The provision of the rail trail will provide environmental awareness by making areas of natural beauty accessible

➤ **Economic:**

There are no known significant economic considerations relating to the report or officer recommendation. However, the development of the Munda Bididi trail through the Shire of Denmark region will bring economic and tourism business benefits to the region.

➤ **Social:**

There are no known significant social considerations relating to the report or officer recommendation. However, there is demonstrated strong community support for an extended northern loop Munda Bididi trail development.

Voting Requirements:

Simple majority.

OFFICER RECOMMENDATION

ITEM 8.1.8

That with respect to the alignment of the Munda Bididi Trail through the municipality of the Shire of Denmark, Council adopt the attached Munda Bididi trail alignment that includes both a “southern” Heritage Rail Trail and a “northern loop” around Mt Lindesay and, through the Paths & Trails Advisory Committee representative on the Department of Environment & Conservation working group, advise the Department of Environment & Conservation accordingly.

Cr Laing showed Council a larger map of the area showing the original proposed trail so that Councillors could clearly see the different route proposed by Council Officers.

Cr Syme requested an enlarged map showing the Denmark-Mt Barker Road area of the trail.

Ms Heydenrych advised that she could provide a detailed map as requested for next week’s meeting.

5.55pm – Cr Barrow returned to the meeting.

5.55pm – Cr Thornton returned to the meeting and resumed the Chair as the Presiding Person.

5.56pm - Public Question Time

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

COUNCIL RESOLUTION	ITEM 8.1.8
MOVED: CR HINDS	SECONDED: CR RICHARDSON-NEWTON
That the meeting be adjourned for a short break.	
CARRIED BY THE CASTING VOTE OF THE SHIRE PRESIDENT: 6/5	Res:030610

6.07pm – The meeting resumed with all members & staff who were present prior to the adjournment.

8.1.9 TOWN PLANNING SCHEME NO. 3 – AMENDMENT NO. 121

File Ref:	TPS3A121
Applicant / Proponent:	Demark Survey and Mapping Pty Ltd
Subject Land / Locality:	Lot 16 and Lot 17 South Coast Highway (1 Tindale Road)
Disclosure of Officer Interest:	Nil
Date:	3 June 2010
Author:	Cindy Simpson, Senior Planning Officer
Authorising Officer:	Sam Williams, Director of Planning & Sustainability
Attachments:	Yes – page 107

Summary:

The amendment was initiated by Council at its meeting of October 2009 and referred to the Environmental Protection Authority (EPA), advertised for public comment and referred to relevant government agencies and service authorities. Comments have been received and assessed. It is recommended that Council adopt the Amendment subject to modifications being carried out prior to forwarding the amendment documentation to the WA Planning Commission (WAPC).

Background:

Amendment 91

On the 14 of July 2007 under Amendment 91 part of parent Lot 14 was zoned from ‘Rural’ to ‘Tourist’. As part of the gazettal of Amendment 91, Council’s Scheme was textually amended to include an additional Tourist zone (T10) within Appendix 13. An application for subdivision to facilitate the proposal of the amendment was approved by the WAPC (WAPC ref: 133210) on 1 February 2007 and created Lot 16 South Coast Highway (zoned Tourist) and Lot 17 Tindale Road (zoned Rural).

Comment:

Proposal

Under Appendix 13 (T10) of Council’s Town Planning Scheme No. 3 ‘chalet development’ is currently the only permitted use listed on Lot 16. The purpose of Amendment 121 (Amendment) is to widen the range of tourist related uses to allow for a Caravan Park and to modify the legal text under Appendix 13 (T10) to reflect the range of uses noted on the concept plan which accompanied Amendment 91, which are as follows:

- Private recreation (shown as swimming pool complex);
- Reception centre (shown as Craft Barn);
- Gallery/restaurant (kitchen and dining); and
- Office and shop (shown as manager’s residence).

The amendment further proposes to rezone a portion of Lot 17 from ‘Rural’ to ‘Tourist’ to accommodate future access to the tourist zone.

Modifications to Initial Proposal

Access arrangements

As illustrated by the Tourist Development Plan submitted with the Amendment documentation, on instruction from Main Roads WA (MRWA) the proponent provided a minimum 50m distance from the access of the property off Tindale Road to the intersection of Tindale Road with South Coast Highway to cater for caravan traffic.

However, during the advertising period, MRWA made submission with regard to the safe access and egress of traffic onto Tindale Road and requested a 200m setback from the Tindale/South Coast Highway intersection. In responding to this, the proponent submitted additional information (refer Attachment- Tourist Development Plan Ref 1513) in which future access to the property is relocated approximately 200m north of the intersection of Tindale Road and South Coast Highway to allow for adequate stacking distances from South Coast Highway for vehicles towing caravans.

Subject to gazettal of this Amendment, this road access construction will take place prior to the provision of caravan sites. However, until this time the existing access for the current level of development and seasonal 'campers' anticipated at the site will suffice.

Change in extent of Tourist zone

The proponent proposes to align the tourist zone with this new access road therefore moving the tourist zone further north. This is in accordance with MRWA and community concern raised with regard to traffic safety and is supported as a required modification to the amendment. The landowner is required to undertake boundary realignment along the zoning alignment between the two lots to avoid the split coding over one title of land.

Sealing of Access Roads

Whilst the Caravan Park and Camping Ground Regulations require sealed facility roads, the scale and intended usage of the proposed facilities and services are such that the current unsealed or gravel roads is more than appropriate. The proponents will need to obtain an approval from Minister of Local Government for a nature based caravan park in order to provide unsealed roads at the time of submitting and an application for a caravan and camping ground license for the facility.

Consultation:

The amendment was referred to EPA in accordance with sections 81 and 82 of the Planning and Development Act 2005 and advertised in accordance with sections 83 and 84 of the Act. The attached Schedule of Submissions provides a summary of the submissions received, an officer comment and recommendation for modifications to be undertaken to the amendment documentation.

The main concern raised by the submissions is that of traffic safety on the intersection of Tindale Road with South Coast Highway. This issue has been addressed in detail above.

Statutory Obligations:

- *Planning and Development Act 2005* – TPS No. 3 is an operative Local Planning Scheme under the Act.
- *Town Planning Regulations* – The Regulations set the procedure for amending a town planning scheme.
- *Town Planning (Local Government Planning Fees) Regulations* – sets out the amount of fees to be paid to Council for the assessment and administration of the amendment process.
- *Town Planning Scheme No. 3* – Zoned part Rural part Tourist.

Policy Implications:

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

Budget / Financial Implications:

The amendment fees are payable in accordance with *Town Planning (Local Government Planning Fees) Regulations*. The relevant fees have been paid.

Strategic Implications:

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

Sustainability Implications:➤ **Environmental:**

The amendment will facilitate the development which will have minimal impact on the environment for the following reasons:

- All development is proposed on existing cleared areas.
- The site is elevated, has good separation to water courses and plenty of options for onsite waste water disposal.

➤ **Economic:**

The amendment will facilitate:

- The growth of an existing tourist business;
- The creation of short term jobs during construction stage and long term jobs to allow for ongoing management and maintenance of the tourist facility;
- The provision of additional accommodation for tourist where the Shire of Denmark has a large shortfall of accommodation during the high tourist season.

➤ **Social:**

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

Voting Requirements:

Simple majority.

OFFICER RECOMMENDATION	ITEM 8.1.9
<p>That Council in respect of Amendment No. 121 in relation to Lot16 and Lot 17 (1) Tindale Road:</p> <ol style="list-style-type: none"> 1. Determine the submissions as contained in the attached Schedule of Submissions, and 2. Pursuant to section 87 of the Planning and Development Act 2005 adopt Amendment 121 to Town Planning Scheme No. 3 and seek final approval from the Minister for Planning subject to the following modifications outlined in the Schedule of Submissions being completed; <ol style="list-style-type: none"> i. Replace paragraph 2 with the following: To amend Appendix No. XIII – Schedule of Tourist Zones, area T10, Column 3: <ol style="list-style-type: none"> a. By replacing provisions (i) and (iv), (vii) and (xi) as follows: <ol style="list-style-type: none"> i. Development shall generally be in accordance with the Tourist Development Plan Ref 1513, or any minor variation to that plan approved by Council. ii. A person is not to occupy any chalet, camping or caravan site for longer than three (3) months in any twelve (12) month period. iii. Clearing of vegetation shall only be permitted (Department of Environment & Conservation/Environmental Protection Authority or similar responsible agency) for development in 	

- accordance with the concept plan, low fuel areas, access and to remove dead or dying trees.
- iv. Vehicular access to be restricted to the existing access track which joins Tindale Road with Lot 16 and Lot 17 in the South Coast Highway road reserve until such time as access is upgraded to permit the access of caravans and/or the development of the reception centre.
- b. By inserting the following new provisions:
 - xix) Provision of any caravan hardstands and camping sites will require compliance with the Caravan and Camping Act (1995) and the relevant provisions of the Caravan Parks & Camping Ground Regulations (1997) or as amended from time to time.
 - xx) The specific purpose of this development is for the accommodation and entertainment of tourists. There shall be no provision for Park Homes or permanent residency at this site regardless of any provisions of the Caravan & Camping Act or TPS definition of the land use 'Caravan Park'.
 - xxi) Prior to Caravans being permitted to utilise the site or the development of a reception centre, vehicular access to Tindale Road is to be upgraded in accordance with MRWA requirements and specifications.
 - xxii) Any development for a Reception Centre will require the upgrading of internal roads and the provision of appropriate number of car parking bays.
 - ii. Replace paragraph 3 with the following:
To rezone part Lot 17 Tindale Road to 'Tourist' zone.
 - iii. Amend the 'Tourist Development Plan' by:
 - Aligning the tourist zone with the MRWA preferred access road 200m north of the intersection of Tindale Road with South Coast Highway.
 - Deleting the reference to 'country kitchen' and replace with the wording 'camp kitchen'.
 - iv. Amend the Scheme Map to increase the extent of the Tourist zone to align with MRWA preferred access road 200m north of the intersection of Tindale Road with South Coast Highway.
 - v. Correct reference throughout the document to Lot 14 to the newly created subdivided lots being Lot 16 and Lot 17.
3. Refer to the Amendment to the WAPC to obtain final approval.

Cr Syme requested that reference to the "Department of Environment & Conservation / Environmental Protection Authority or similar responsible agency" should be replaced with reference to the relevant legislation.

Cr Hinds sought clarity on the term 'determine', used in the Officer Recommendation. Cr Barnes agreed that the word 'determine' was not clear and suggested that perhaps an alternative word could be used.

The Chief Executive Officer suggested that perhaps the word could be amended to read "Endorse the Officers comments on".

Discussion ensued.

8.1.10 AIRPORT LAND USE STRATEGY

File Ref:	A3209 and A3316
Applicant / Proponent:	Ayton Baesjou Planning/Shire of Denmark
Subject Land / Locality:	Lot 8027 (Reserve 41390) Wrightson Road and Loc 8154 Wrightson Road, Denmark
Disclosure of Officer Interest:	Nil
Date:	1 June 2010
Author:	Duncan Ross, Senior Planning Officer
Authorising Officer:	Sam Williams, Director of Planning & Sustainability
Attachments:	Yes – page 131

Summary:

Ayton Baesjou Planning on behalf of their client have prepared a draft 'Denmark Airfield Land Use Strategy' (the strategy) to enable various development options to be considered at the Denmark Airfield site, identified in the Town Planning Scheme No.3 (the scheme) as a reservation for a Public Use Reserve Aerial Landing Ground.

The strategy (attachment 1) has been developed under the guidance of the Director of Planning and Sustainability and as part of the development of this strategy an amendment to the Shire's Town Planning Policy No. 25 – Hangar Lots is also proposed (attachment 2). The revision to the policy seeks to ensure the strategy and policy are consistent.

It is recommended Council authorise the advertising of both the strategy and policy amendment for public comment.

Background:

Council has been in receipt of various planning consent applications to develop the freehold and leasehold lots on the reserve land into dedicated hangar/accommodation facilities and other associated aviation activities. Council has refused two of these planning applications on the following grounds:

1. An application on one of the freehold lots comprised a residential component, and in accordance with the existing airport policy, accommodation is not permitted.
2. An application on the reserve land for a hangar with a residential component did not have prior Council consent and the application could have jeopardised the future Light Industrial Area (LIA) south of the airport without an agreed land use strategy.

The two proposals were dealt with by Council at its January 2010 meeting as a single application and as part of the resolution Council (Council resolution 060110) resolved that:

2. Council pursue the preparation of an airport land strategy to include the general recommendations mentioned in the report.
3. Council's staff liaise with the State Government and the proponents for the financial contribution towards the preparation for the airport land strategy.
4. Council permit the proponents to develop options with Council staff to progress the required airport land strategy entirely at their cost, but for final approval of the strategy to be granted by Council and only after community consultation.

As this report has been prepared by the applicant at no expense to Council, resolution 2 and 3 above are not applicable. However, in accordance with Council's resolution 4, this has effectively resulted in two components requiring consideration as part of this report, firstly:

1. That the strategy is advertised and amended based on any comments received during consultation; and secondly
2. That Policy No.25 is amended accordingly to remain consistent with the strategy.

Comment:

The strategy sets out the potential land use options for the Denmark airfield and provides a framework for future development of the airfield and immediate surrounds. The purpose of the strategy is to provide clear guidance to both Council and the public as to long term development options associated with the airport without jeopardising the LIA south of the site. In considering the strategy on-going discussions to date have included:

- The protection of the LIA from inappropriately located residential development associated with hangar lots.
- Appropriate locations for future hangar lots on site, to maximise amenity and compatibility traits between uses.
- The provision of dedicated aviation allied activities, ancillary to the primary function of the airfield. These uses are to have a direct relationship with the LIA.
- Consideration of vehicle and aircraft parking facilities in appropriate locations.

The policy amendment results in the following notable changes:

- Extending the application of the policy to cover the entire airfield site (including leasehold lots) as currently it covers only freehold lots.
- The introduction of residential provisions associated with development of hangar buildings.
- Protection of the future LIA to the south by introducing the requirement for a statutory declaration to be provided with planning consent applications for all aircraft.
- The identification of a range of discretionary land uses subject to Council approval that may be appropriate for the airfield.
- More prescriptive controls in terms of building form and design, as well as increased emphasis placed on safety and Civil Aviation Safety Authority (CASA) requirements.
- Cumulative effects generated by the airport operations in relation to aircraft size, numbers and event frequency and process for obtaining Council approval.

It is still considered the primary purpose of the airfield is to promote airport related industries and activities, however it is accepted a residential component may and in general provide greater exposure for both the Denmark airfield make the airport more attractive to aviation enthusiasts, flying clubs and the Shire itself.

In regards to the future LIA to the south and the proposed residential accommodation within the hangars, it is considered the two uses may have the potential to cause conflict and compatibility issues. It is recognised that by supporting a residential use component this should not be grounds for limiting or restricting the extent of any future LIA uses on the adjoining site. Instead, any residential accommodation will need to demonstrate that it is located and provided in a manner that is complementary to surrounding uses. In addition the policy is being amended to require a Statutory Declaration accompany all future planning consent applications for development to state that the applicants/owners are aware of potential future noise, odour and operational effects generated by the LIA. Future expansion of, or any new residential areas shown on the airport site will require Environmental Protection Authority approval, primarily to ensure these are not located within the

required buffer area of the LIA. This also has a reverse function to ensure that any residential areas do not preclude development within the LIA.

Consultation:

The policy amendment is required to be advertised in accordance with Clause 8.2.2 of the scheme, being once a week for two consecutive weeks in a newspaper circulating in the area giving details of the policy amendment and inviting submissions for a period of not less than 21 days. It is recommended the Land Use Strategy is advertised following the same process.

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

Statutory Obligations:

Clause 8.2 'Town Planning Scheme Policies' sets out the requirements for the preparation and adoption of town planning scheme policies. Clause 8.2.1 states:

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

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

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

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

The status and powers of an adopted town planning scheme policy is set out in clause 8.2.4 of the scheme. It is recommended both same processes are followed for the adoption of the land use strategy and at the completion of the process the strategy be referred to the West Australian Planning Commission (WAPC) for endorsement. If endorsed, this will simplify any future subdivision proposals as shown on the map titled 'Conceptual Land Use Strategy' for future leasehold or freehold lots.

Policy Implications:

The Shire has an adopted town planning scheme policy No. 25 that covers the airport land and deals with the development of the existing freehold hangar area north of the landing ground. This policy is subject to an amendment as part of this process.

Subject to Council adoption following advertising, the amendment to the policy will replace the existing town planning scheme policy No.25.

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. However, it is stressed the securing/protection of the proposed additional light industrial area to the south of the airfield is a high priority and has been reflected through the various provisions detailed within the proposed land use strategy and amended policy document.

➤ **Social:**

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

Voting Requirements:

Simple majority.

OFFICER RECOMMENDATION	ITEM 8.1.10
<p>That with respect to the draft 'Denmark Airfield Land Use Strategy' and associated amendment to Town Planning Scheme Policy No. 25 'Denmark Airport Hangar Lots', Council:</p> <ol style="list-style-type: none"> 1. Concurrently advertise the two documents in a local newspaper(s) for two consecutive weeks for a total period of 21 days for public inspection and comment. 2. Obtain confirmation from the Environmental Protection Authority that the proposed residential hangar accommodation will not jeopardise the future Light Industrial Area resultant from the buffers shown in the Land Use Strategy. 3. Further consider the Land Use Strategy and Policy, taking into consideration any comments made pursuant to parts 1 and 2. 	

Cr Syme stated that, for Councillors information, at the Waste Management Advisory Committee meeting the priority location for a land fill site was within the Northern Area of the planned Light Industrial Area and as such the mapping which describes the buffers may not be displaying the buffers that will be needed.

It was noted that the Committee recommendation had not yet been received or considered by Council.

Cr Richardson-Newton asked whether consideration had been given to particular types of developments in the Light Industrial Area which may affect the airport and suggested that it could be considered within the Strategy.

Cr Syme requested that the current Officer Recommendation be relooked at with regards to what implications that a land fill site would have on the intended uses and/or buffers mentioned in the Airport Strategy.

The Shire President suggested that Cr Syme could speak with the Officer prior to next week's meeting to discuss his concerns.

Discussion ensued.

8.1.11 SCHEME AMENDMENT REQUEST – REZONING LOT 84 MOUNT SHADFORTH DRIVE FROM TOURIST TO DUAL ZONING TOURIST/ SPECIAL RESIDENTIAL

File Ref:	TPS3A120
Applicant / Proponent:	Ayton Baesjou Planning
Subject Land / Locality:	Lot 84 (421) Mount Shadforth Road
Disclosure of Officer Interest:	Nil
Date:	3 June 2010
Author:	Cindy Simpson, Senior Planning Officer
Authorising Officer:	Sam Williams, Director of Planning and Sustainability
Attachments:	Yes – page 171

Summary:

The Scheme Amendment Request (SAR) proposes to rezone Lot 84 Mount Shadforth Road (previously known as the Karri Mia Resort) from 'Tourist' under Town Planning Scheme No. 3 to a split zoning of 'Tourist' along Mount Shadforth Road and 'Special Residential' at the rear of the property.

It is recommended that Council support the SAR subject to various matters being addressed.

Background:

Planning and development matters relating to the Karri Mia resort have been considered previously by Council at various meeting as follows:

- At their meeting of April 2005, Council resolved to support a request to informally advertise a proposal to convert the resort to a Country Active Lifestyle Village for the over 55's. At their meeting of July 2005, Council resolved to not support the proposal due to the opposition raised during the informal advertising, concerns raised by government agencies and as it is contrary to the present Rural Settlement Strategy and draft Local Planning Strategy.
- At their meeting of July 2007, Council resolved to adopt the revised Karri Mia Development Plan as a variation to the original plan in accordance with Condition of Tourist Use ii) in Appendix 13 of Town Planning Scheme No. 3. This revised Development Plan allowed for the strata subdivision of the land and 14 permanent accommodation sites.
- At their meeting of July 2008, Council resolved to initiate Amendment 109 to make modifications to the development controls to allow permanent accommodation at the Karri Mia Resort comprising Lots 83, 84 and 85 Mt Shadforth Road. At their meeting of January 2009, Council resolved to seek final approval to the Amendment from the Minister for Planning.

The WAPC wrote to Council on 12 November 2009 requesting a modification to the amendment. This modification will result in the proportion of permanent residential units relative to the total number of established and operating accommodation units, excluding caravan and motel units on the site, to be equal or less than 20 percent. This in effect means that 18 permanent residential units can be established on the site.

- On 9 October 2008, the West Australian Planning Commission (WAPC) approved a subdivision application over the land to create 91 survey strata lots with 14 being allocated to for permanent residential use and the balance for short stay accommodation. An appeal against conditions of the subdivision was finalised under the State Administrative Tribunal DR223 of 2008 in September 2008.

- At their meeting of December 2009, Council resolved to defer the SAR pending consideration by Council of the draft Local Planning Strategy and an Officer Report by the Council's new Director of Planning & Sustainability by no later than March 2010. The proposal was to rezone the subject land to dual zoning 'Tourist/Special Residential' with a predominance of special residential sites.

Comment:

Proposal: (refer attachment)

A revision to the original SAR (considered by Council at their December 2009 meetings) was received from the proponent on the 3 of June 2010 and outlines the following:

- Eight tourist lots of approximately 3,000m² fronting Mount Shadforth Road with access provided by a service road. The lots will be orientated to the north.
- Special Residential lots are proposed to the rear of the proposed tourist lots, orientated towards the south to capitalise on views.
- It is proposed that holiday home and holiday accommodation be permitted at the discretion of Council within the Special Residential zone to maximise the tourist component on the site.
- It is proposed to retain the existing chalets and studio apartment which will be relocated as necessary within the proposed Special Residential lots.

The following justification for the Special Residential zone was provided under a previous version of the SAR document as follows:

- The Chimes Spa Resort, Motel, Restaurant and Function Centre will be retained. (Council should note that the Chimes Spa Resort [located on Lot 85] and Restaurant and Function Centre [located on Lot 83] is not part of this SAR proposal).
- The subject land is located in closer proximity to the Denmark town centre than some of the residential suburbs to the south.
- Detailed site testing has previously been undertaken by Wood & Grieve Engineers under winter conditions and the infiltration testing and Phosphorus Retention Index (PRI) of the soils states the site is suitable for on-site effluent disposal.
- Site suitability for Special Residential is considered appropriate given the soils and land capability, proximity to the Denmark town centre and associated services, the surrounding land use and amenity of the site in terms of views to inlet and ocean.

In addition, to justify the reasoning for rezoning from a pure tourist operation, the proponent submitted a statement by their Chartered Accountant in which the losses of the resort since 2003 (with the exception of 2008) are shown (refer attachment).

Matters to be Addressed

In preparing this officer's report and forming a recommendation, the following matters in relation to the proposal have been identified and are discussed in detail below:

- Recommendations of the Tourism Planning Taskforce Report.
- Need for Special Residential land.
- Proposed uses within the Special Residential zone.
- Extent of proposed Tourist zone.

Recommendations of the Tourism Planning Taskforce Report

The Tourism Planning Taskforce Report was endorsed by State Cabinet in January 2006. One of its key recommendations is the requirement for local governments,

particularly those with a significant tourism focus, to prepare tourism components of local planning strategies. The WAPC's Planning Bulletin 83 'Planning for Tourism' states "If tourism components of a local planning strategy or a local tourism planning strategy has not been prepared, any scheme amendment proposed affecting tourism zoned land should incorporate an assessment of the proposal against the relevant criteria specified in Recommendations 2 and 4 of the Tourism Planning Taskforce Report". As the Shire does not have a current suitable strategy, these recommendations are summarised as follows and are to be used to justify any future documentation for rezoning the site:

Recommendation 2: Provide a rationale for the rezoning of land by addressing the following issues:

- Role and importance of tourism within the local community;
- Focus of tourism including potential growth areas;
- Existing range of tourism accommodation;
- Emerging tourism development opportunities;
- Projected demand for and range of tourist accommodation;
- Application of sustainability principles;
- Existing and future infrastructure;
- Availability, retention and identification of Crown land for tourist accommodation;
- Identification of strategic tourism sites and/or strategic tourism locations or activity locations;
- Existing and potential level of tourism development that can be catered for on the land;
- Review of existing tourist zoned sites to determine those to be retained and those suitable in whole or part for zoning for alternative uses;

Recommendation 4: The use of the following criteria as a guide to the assessment of the strategic value of tourism sites or locations:

- General location criteria: accessibility, uniqueness, setting, tourism activities and amenities and alternative sites.
- Site-specific criteria: suitability, capability, size and function.

The SAR before Council document does not address the above matters and as such the following general assessment is made:

- Karri Mia resort ceased operation in May 2009 due to low occupancy rates. This was the only resort style accommodation offered in the Shire whereas a wide variety of accommodation types are otherwise available such hotels, motels, chalets on rural properties, boarding houses, caravan parks and camping grounds, bed and breakfast, holiday home accommodation and a few backpackers. The rezoning will result in the loss of the only resort style accommodation provided in the Shire.
- The site is located within an area of high tourist amenity due to ease of access to cafes, restaurants and shops; close proximity of other tourist activities and amenities; and its location on Mount Shadforth with views to Wilson Inlet. The site is also located within an easy driving distance to the Tree-Top Walk and Albany.
- The subject land is one of four tourist zoned sites located on Mt Shadforth with views to the Wilson inlet. One of the four lots, Lot 45 Mohr Drive, is the subject of Amendment 104 and is currently with the Minister for final approval to rezone it from Tourist to a Special Rural zone. The remainder of land on the Mt Shadforth ridge (along Mt Shadforth Rd) is zoned predominantly rural and areas contiguous to Denmark town zoned Special Residential (i.e. Highlands/Walnut Grove Special Residential zones SR 2, 3, 4 and 5).
- The subject land has good infrastructure with sealed road access and electricity provision. Infrastructure provision is not deemed to be an impediment to future development of the land.

In summary, the subject land has an element of scarcity as it is one of four (potentially only three) sites based on Mount Shadforth ridge (Mt Shadforth Road) with views to the Wilson Inlet and currently the only resort style accommodation offered in the Shire.

Need for Special Residential land

The Draft Local Planning Strategy (2005) does not earmark the land as a Special Residential zone. To justify the proposed Special Residential zone further by providing the following detailed evaluation is required, which is to include the following:

- The need for Special Residential lots by examining existing areas zoned for Special Residential within the Shire, the potential lot yield, the number of lots for sale and the number of undeveloped lots;
- Establish the need for additional Special Residential lots when compared to predicted population growth of the Shire and demand for Special Residential lots.

Proposed uses within the Special Residential Zone

The proponent propose that the uses of holiday home, holiday accommodation and chalet development be permitted within the Special Residential zone to maximise the tourist component on site. The following assessment on the proposed uses is made:

- Should Amendment 124 (Holiday Home) be approved by Council and the Minister for Planning, holiday homes will be an SA use within the Special Residential Zone (means that Council may, at its discretion, permit the use in the zone after giving notice of the application in accordance with Clause 6.4 of the scheme).
- Holiday Accommodation is supported as the definition allows the use of a dwelling for a bed and breakfast.
- Chalet development is not supported within a Special Residential zone as the objective of the zone is to provide for a range of residential opportunities and lot sizes within Denmark. Chalet development is not a residential form of development but that of short term tourist accommodation. The use is not considered compatible with the Special Residential zone. The matter of compatibility between land uses with residential also needs to be considered within the argument.

Extent of proposed Tourist Zone

The proposal provides a reduced englobo 'Tourist' zone landholding, which would make the acquisition and operation of a tourism venture more commercially viable. The following regarding the Tourist zone is however, not supported:

- The extent of the tourist zone: The tourist zone is shown along Mount Shadforth Road only. The viability of future tourist uses on such a small area of tourist zone land is questionable. It is considered the portion of the site north of the ungazetted central access road should form the boundary for any rezoning. This will also enable all but 6 of the existing chalets to remain in the tourist zone.
- Subdivision of the Tourist zoned land: Subdivision as shown on the SAR, in this instance, is not supported i.e. support is provided for a single 'Tourism' zoned super lot only.

In accordance with Clause 5.33 of the Scheme all development in tourist zone land shall require development to be in accordance with a Development Plan approved by Council. The proponent should therefore provide a Development Plan to show how the land is intended to be developed.

Consultation:

The SAR was referred to Department for Planning, Water, Environment and Conservation and Tourism WA. The dual rezoning is not supported by the Department for Planning and Tourism WA until:

- the completion of the Local Planning Strategy or a Tourism Planning Strategy that addresses the loss of the tourist zone;
- that clear evidence is provided that shows the site is no longer suitable for tourism purposes; and
- provides suitable justification and support for the use of the land for Special Residential purposes.

The Department of Water and Environment and Conservation raised matters with regard to the protection of waterways, Urban Water Management, effluent disposal and protection of remnant vegetation all of which they request are matters required to be addressed with any scheme amendment proposal.

Statutory Obligations:

There are no statutory obligations under the SAR process.

Policy Implications:

The SAR report has been prepared in accordance with Policy 100601 - which sets out requirements for SAR's.

Budget / Financial Implications:

The applicant has paid the relevant SAR fee in the adopted 2009/2010 budget.

Strategic Implications:

The land is not earmarked for Special Residential purposes under the draft Local Planning Strategy and the SAR has been requested in the absence of a Tourism Planning Strategy. Stage 1 of the strategy was adopted by Council at their May 2010 meeting. Stage 2 will proceed should funds be allocated under the 2010/2011 budget. Stage 2 of the strategy will evaluate the value of all tourist zoned land within the Shire and suitability for retention within the zone and/or rezoning.

Sustainability Implications:➤ **Environmental:**

Environmental matters are to be addressed under any amendment proposal and as follows:

- Urban Water Management Plan which address matters such as protection of waterways and stormwater management;
- Land capability;
- Retention of remnant vegetation.

➤ **Economic:**

There are both negative and positive economic implications relating to the SAR proposal:

Negative:

- The rezoning and redevelopment that will be facilitated as a result of the SAR will result in the loss of the only resort style accommodation within the Shire of Denmark and reduce the range of accommodation types available.

Positive:

- The SAR may facilitate the development of a tourist product that may promote tourism within the Shire.
- The SAR will result in the creation of a reduced englobo 'Tourist' zone landholding, which may make the operation of a tourism venture more economically viable i.e. a reduced acquisition.

➤ **Social:**

The proposal will result in the development of residential lots approximately 4km from the Denmark town site which will increase dependence on private car use to access services and facilities.

Voting Requirements:

Simple majority.

OFFICER RECOMMENDATION

ITEM 8.1.11

That Council with respect to the Scheme Amendment Request for Lot 84 Mount Shadforth Road:

1. Provide in-principle support to the Scheme Amendment Request subject to the following matters being addressed in any Scheme Amendment document:
 - a. In the absence of the Tourism Planning Strategy, address in detail the recommendation 2 and 4 of the Tourism Planning Taskforce Report.
 - b. Justify the proposed Special Residential zone by providing the following evaluation:
 - The need for Special Residential lots by examining existing areas zoned for Special Residential within the Shire, the potential lot yield, the number of lots for sale and the number of undeveloped lots;
 - Establish the need for additional Special Residential lots when compared to predicted population growth of the Shire and demand for Special Residential lots.
 - c. Demonstrate how the reduced Tourist zone will deliver a sustainable and viable tourist product.
 - d. In accordance with Clause 5.33 of Town Planning Scheme No. 3 provide a Development Plan which shows how the Tourist zoned portion of the land will be developed and illustrate the following:
 - The extent of the Tourist zone to be the northern part of the site to the central ungazetted road;
 - A single landholding (superlot);
 - Type of tourism development; and
 - Land use permissibility.
 - e. Amend the boundary proposed for the split zoning to run along the northern alignment of the central ungazetted road.
 - f. Show how land use conflict will be mitigated regarding the tourism and special residential uses.
 - g. Preparation of and Urban Water Management Plan in accordance with the requirements of Better Urban Water Management (October 2008) and to the satisfaction of Department of Water.
 - h. Undertake a land capability assessment which assesses site suitability for Special Residential development.
 - i. Protection of remnant vegetation.
 - j. Future subdivision of the land to align with the zoning boundary of the Tourist and Special Residential zone.
2. Inform the departments consulted on the SAR of Council's decision.

The Shire President noted that in December 2009 Council had deferred consideration of the Scheme Amendment Request, pending the completion and adoption of the Local Planning Strategy. Cr Thornton noted that Council still hadn't received the final draft Local Planning Strategy and that without the strategy, the Department of Planning would not consider it.

The Shire President asked whether the existing holiday units could be shown on a plan.

The Acting Director of Planning & Sustainability advised that he would request the proponent to have the plans amended accordingly.

The Shire President stated that the proposed layout including two cul-de-sacs, longer than 200m, with the likely grades indicated and servicing more than eight lots, was contrary to the Planning for Bushfire Guidelines.

The Acting Director of Planning & Sustainability advised that he would ask the proponents for comment on the matter and will advise Council accordingly for next week’s meeting.

Cr Hinds requested that part 1 a) of the Officer Recommendation be amended to show the tourism agencies responsible for the ‘Tourism Planning Strategy’ and the ‘Tourism Planning Taskforce Report’.

The Acting Director of Planning & Sustainability agreed and also noted that he had some indication from the proponents that the item may be withdrawn.

6.29pm – The Director of Infrastructure Services left the meeting.

Discussion ensued.

8.2 Director of Community & Regulatory Services

6.31pm – The Director of Infrastructure Services returned to the meeting.

8.2.1 REQUEST FOR EXTENDED OCCUPANY 150 FOURTH AVENUE, PEACEFUL BAY

File Ref:	A1957
Applicant / Proponent:	Not Applicable
Subject Land / Locality:	Peaceful Bay Lease Hold Area
Disclosure of Officer Interest:	Nil
Date:	8 June 2010
Author:	Gregg Harwood, Director of Community & Regulatory Services
Authorising Officer:	Gregg Harwood, Director of Community & Regulatory Services
Attachments:	No

Summary:

This item discusses and recommends approval of a request (letter attached) from the lessees of 150 Fourth Avenue for permission to occupy the Peaceful Bay Leasehold property for up to 12 months while they look for land and build another home in the Great Southern.

Background:

Council administers 203 lease hold lots in the Peaceful Bay lease hold area.

These lots have been leased to members of the public for holiday accommodation purposes and these leases stipulate that that specific Council approval is required for these properties to be occupied for an extended period of time.

Item 5 of the schedule that is part of the 2010 lease states:

Permitted Use

Holiday cottage which shall not be occupied for any single consecutive period of THREE (3) months or combined period or several short term periods which in total are greater than SIX (6) months in any one rental year, without the prior written consent of the lessor.

Comment:

The reason why the lessees of 150 Fourth Avenue have applied for permission to occupy their property for up to 12 months is that they have sold their residence in

Denham and would like to reside at 150 Fourth Avenue while they look for land and build another home in the Great Southern.

Given that Council has;

- 1) Previously acknowledged that having a small number of permanents within the Peaceful Bay lease hold area is constructive for the community.
- 2) Previously allowed other lease holders where they have shown reasonable grounds for wanting to do so to stay at their property for extended periods.

It is an entirely reasonable proposition that lessees of 150 Fourth Avenue, Peaceful Bay be granted permission to occupy for property for up to 12 month while they look to buy a property elsewhere.

Consultation:

Peaceful Bay Progress Association have been advised that this item is being referred to Council and the President of the Association has indicated that they have no objection to the proposal.

Statutory Obligations:

Council's statutory obligations are mentioned in detail in the item 9.5.1 of the 23 June 2009 minutes relating to Peaceful Bay leases. The sections of the Local Government Act 1995 and the Local Government (Functions and General) Regulations 1996 are as follows:

Local Government Act 1995
Section 3.58.

Local Government (Functions and General) Regulations 1996
Section 30.

Policy Implications:

There are no current policy implications associated with either the Committee or the officer recommendation.

It should be noted however that this approval will be considered as part of the proposed audit of full time occupancy numbers in Peaceful Bay that will take place later this year and this audit may lead to the creation of a policy regarding fulltime occupancies in the Peaceful Bay lease hold area.

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 implications relating to the report or the officer recommendation.

➤ **Economic:**

The permanent and extended stay residents of Peaceful Bay perform a number of low level but resource hungry functions on behalf of the community and or Council saving Council significant resources and vehicle mileage.

➤ **Social:**

The presence of permanent and extended stay residents of Peaceful Bay make a significant contribution to order and sense of community in the both within and outside of the peak season. This sense of community minimises the incidence of anti social and risk taking behaviour in the town site.

The granting approval to the lessees of 150 Fourth Avenue to reside at their leasehold property for up to 12 months will further enhance this sense of community.

Voting Requirements:

Simple majority.

OFFICER RECOMMENDATION	ITEM 8.2.1
<p>That Council grant permission to the lessees of 150 Fourth Avenue, Peaceful Bay to predominately occupy the property for a period of up to 12 months until the 30 June 2011.</p>	

Discussion ensued.

6.32pm – *The Acting Director of Planning & Sustainability left the meeting and did not return.*

8.3 Director of Infrastructure Services

8.3.1 TRANSWA BUS STOP

File Ref:	R30005/ A3186
Applicant / Proponent:	Shire of Denmark
Subject Land / Locality:	Strickland Street/ Visitors Centre
Disclosure of Officer Interest:	Nil
Date:	10 June 2010
Author:	Rob Whooley, Director of Infrastructure Services
Authorising Officer:	Rob Whooley, Director of Infrastructure Services
Attachments:	No

Summary:

An agreed location for the Transwa bus has been determined by Transwa staff in consultation with Councils Infrastructure Services. This item recommends Council endorse the new location.

Background:

A decision on the Transwa coach stop was deferred at the full Council meeting in May. Council requested the Director of Infrastructure investigate alternative locations for the bus stop.

Transwa agreed to provide a coach and driver to undertake the investigation.

Comment:

Hollings Road was determined to be a suitable location for the Transwa coach. Transwa were becoming increasingly concerned at the suitability of Strickland Street and indicated they would like to make the move as soon as possible.

After ensuring there were no obvious impediments it was agreed, effective from the 14th June 2010, the service would relocate to Hollings Road.

The specific Hollings Rd location is bounded by the verandah posts of the small art gallery and the nearest power pole in the direction of the hotel. There is a disabled bay at that location and it is proposed that the disabled bay remains along with the

bus bay. Significant conflict with this arrangement is not anticipated. Transwa are advised of the Market Day and no major conflict is envisaged.

Consultation:

Nil

Statutory Obligations:

There are no statutory obligations.

Policy Implications:

There are no policy implications.

Budget / Financial Implications:

There will be a need for a bus shelter and the associated costs. Council has been successful in obtaining funding for 2 new bus shelters thereby minimising the financial impost.

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:**

The new location is situated very close to the middle of town. There is ample parking, public conveniences and accommodation nearby.

It is expected that people will benefit from an increase in the available parking in Strickland Street.

Voting Requirements:

Simple majority.

OFFICER RECOMMENDATION	ITEM 8.3.1
That Council endorse the relocation of the bus stop from Strickland Street to Hollings Road.	

Discussion ensued.

8.4 Director of Finance & Administration

8.4.1 FINANCIAL STATEMENT FOR THE MONTH ENDING 31 MAY 2010

File Ref:	FIN 1
Applicant / Proponent:	Not Applicable
Subject Land / Locality:	Denmark
Disclosure of Officer Interest:	Nil
Date:	9 June 2010
Author:	Garry Bird, Director of Finance and Administration
Authorising Officer:	Garry Bird, Director of Finance And Administration
Attachments:	Yes – page 175

Summary:

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

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

Background:

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

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

Comment:

Councillors will note from Page 1 of the attached Financial statement (Statement of Financial Activity) that a large amount of capital works remains uncompleted as at 31 May 2010, with it unlikely that all these works will be completed by 30 June 2010.

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

Consultation:

Nil

Statutory Obligations:

Local Government Act 1995 Section 5.25 (1)

Local Government (Financial Management) Regulations 1996

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

Policy Implications:

Policy P040222 relates as follows;

P040222 MATERIAL VARIANCES IN BUDGET AND ACTUAL EXPENDITURE

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

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

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

ADDED by Res: 020808 / 19 August 2008

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

Budget / Financial Implications:

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

Strategic Implications:

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

Sustainability Implications:

➤ **Environmental:**

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

➤ **Economic:**

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

➤ **Social:**

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

Voting Requirements:

Simple Majority

OFFICER RECOMMENDATION	ITEM 8.4.1
That with respect to Financial Statements for the month ending 31 May 2010 Council;	
1. Receive the financial report, incorporating the Statement of Financial Activity and Budget vs Actual Variance Report.	
2. Endorse the Accounts for Payment as listed.	

No discussion.

8.5 Chief Executive Officer

8.5.1 POLICY MANUAL REVIEW – POLICIES P040201 TO P040215

File Ref:	ADMIN 2
Applicant / Proponent:	Not applicable
Subject Land / Locality:	Not applicable
Disclosure of Officer Interest:	Nil
Date:	10 June 2010
Author:	Dale Stewart, Chief Executive Officer
Authorising Officer:	Dale Stewart, Chief Executive Officer
Attachments:	No

Summary:

This report recommends amendments to Council's Policy Manual following discussion by Councillors at a briefing session held in May 2010.

Background:

In May 2010 the following policies were reviewed by Councillors during a briefing session;

P040201	Insurance
P040202	Shire Administration Office Opening Hours
P040203	Budget Preparation Programme (Repealed & Replaced by Res: 120908 / 23 September 2009 – Refer P040223)
P040204	Enrolment of Non-Resident Owners & Occupiers
P040205	Gratuitous Payments to Employees (Repealed & Replaced 23 September 2009 – refer P040225) Staff
P040206	Uniforms
P040207	Common Seal of the Shire of Denmark
P040208	Insurances - Professional Indemnity - Use of Disclaimers
P040209	Conferences - Study Tours Staff
P040210	Training
P040211	Staff - Medical Examination
P040212	Sexual Harassment Workplace Bullying
P040213	(Repealed & Replaced 27 October 2009 – refer to Human Resources Manual) Complaints Management
P040214	Policy
P040215	Complaints/Grievance Procedure

Comment:

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

P040201

INSURANCE

Council shall procure insurance contracts to provide:

- Adequate professional indemnity cover for elected and appointed personnel of the Shire of Denmark.
- Workers' Compensation cover in accordance with Workers' Compensation Legislation.
- Replacement value cover for all fixed assets.
- Protection against public liability.
- Protection to employees and volunteers undertaking duties in accordance with the Bush Fire Act.

- Adequate motor vehicle accident cover.
- Any other cover deemed necessary to protect elected members and employees from suffering personal loss whilst engaged on official business.

Such insurance contracts are to be reviewed by staff each year and a report on the review submitted to the Council in May via Council's Information Bulletin.

Refer also Policy P040208.

Staff Comment

Council currently acquires the following annual policies compared with the current policy;

- Professional Indemnity
- Property
- Motor Vehicle
- Public Liability
- Workers Compensation
- Bush Fire
- Councillors & Officers Liability Insurance
- Personal Accident
- Fidelity Guarantee

CEO Recommendation

That the policy be retained with the following alterations; addition of Personal Accident (for volunteers) and Fidelity Guarantee (theft) and changing the review to be submitted to a relevant Council Budget Workshop or to Councillors via the Monthly Information Bulletin.

CEO Decision based on Councillor input

That the policy be retained with the following alterations recommended to Council; addition of Personal Accident (for volunteers) and Fidelity Guarantee (theft) and changing the review to be submitted to a relevant Council Budget Workshop or to Councillors via the Monthly Information Bulletin.

P040202

SHIRE ADMINISTRATION OFFICE OPENING HOURS

The office of the Shire of Denmark is to be open to the public on normal working days as follows;

Monday to Friday 9.00am to 4.00pm

ADDED by Res: 220708 / 22 JULY 2008

Staff Comment

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

CEO Recommendation

That the policy be retained without alteration.

CEO Decision based on Cr input

That the policy be recommended to Council to be changed to include Library minimum opening hours.

P040204

ENROLMENT OF NON-RESIDENT OWNERS & OCCUPIERS

That occupiers currently enrolled on Council's electoral roll be given a reminder, at the expiry of their enrolment, of the need to re-apply to be included on the local government electoral roll in order to participate in the elections.

Staff Comment

This policy appears to be working well and providing the community, Councillors and staff with the appropriate guidance, but could be expanded to include a biennial invitation to all non resident ratepayers not registered.

CEO Recommendation

That the policy be retained with alteration to include reference to a biennial invitation to be forwarded to all non resident ratepayers.

CEO Decision based on Cr input

That the policy be retained with alteration to include reference to a biennial invitation to be forwarded to all non resident ratepayers who are not currently on the roll.

P040209**CONFERENCES - STUDY TOURS****1. ATTENDANCE AT STATE AND FEDERAL PROFESSIONAL CONFERENCES**

- a) *The Chief Executive Officer and Senior Employees are encouraged to attend the Annual State Conference relating to their professions.*
- b) *The Chief Executive Officer and Senior Employees are encouraged to attend bi-annually, the Federal Conference relating to their profession. (Note: where the officer's professional organisation does not convene a State Conference the officer is encouraged to attend the organisations Federal Conference, annually).*
- c) *Funds for attendance at State and Federal Professional Conferences are to be provided in each annual budget under the provision for staff training.*
- d) *The Chief Executive Officer is authorised to approve the attendance of staff at State and Federal Professional Conferences in accordance with the following guidelines:*
 - i. *Budget authority and funding arrangements are to be considered.*
 - ii. *The Chief Executive Officer is to ensure that attendance at the conference will be beneficial to the officer and/or the Council.*
 - iii. *The officer is to provide a report on the issues, outcomes, etc of the conference with recommendations as appropriate and the report is to be submitted to Council.*
 - iv. *Senior staff will not be precluded from attending a Federal Conference only because the conference happens to be held overseas.*
 - v. *If it is considered beneficial for a Councillor or Councillors to accompany the senior staff member to any State or Federal Conference, such attendance is to be at the discretion of the Chief Executive Officer in consultation with the Shire President, and will only occur **is** if funds are available for that purpose.*

2. ANNUAL STUDY TOURS

- a) **A study tour is designed to enable Councillors and staff to travel intrastate, interstate and/or overseas to research and study specific issues **fronting confronting** Council.**
- b) **Details of study tours are to be arranged in advance so that suitable provision can be made in each year's budget. When no details of study tours have been arranged or arrangements are incomplete, an appropriate amount is to be included in the budget to cover the cost of **an annual the** study tour.**
- c) **The Chief Executive Officer in consultation with the Shire President may approve attendance at study tours but shall apply the following guidelines:**
 - i. **The maximum attendance at any intrastate study tour is to be all Councillors and two Staff.**

- ii. The maximum attendance at any interstate or overseas study tour is to be two Councillors and two staff.
- iii. Attendance at a study tour shall only take place where there are appropriate funds provided for in the annual budget.
- iv. A detailed report including recommendations on each study tour is to be submitted to Council.
- v. Budget authority and funding arrangements are to be considered.

3. CONFERENCES

The Chief Executive Officer, Senior Employees and Councillors are encouraged to attend intra and interstate conferences in accordance with the following guidelines:

- a) Budget authority and funding arrangements are to be considered.
- b) The Chief Executive Officer is to approve attendance and ensure that attendance at the conference will be beneficial to Council and the community.
- c) The Shire President is to approve the Chief Executive Officer's attendance at conferences.
- d) Officers or Councillors attending are to provide a written report on the issues, outcomes of the conference to all Councillors.
- e) In the case of air travel Council will pay economy class. Councillors and Staff may upgrade at their own cost.

Staff Comment

This policy appears to be working well with the exception of clause 3d and 1d part 3, whereby Councillors and or Officers are required to provide report on their attendance. The recommended wording possibly should be "Officers or Councillors are to provide a written report on the issues, outcomes of any interstate conference to the CEO and Councillors with recommendations as appropriate."

CEO Recommendation

That the policy be retained with alteration as indicated.

CEO Decision based on Cr input

That the policy be retained with alteration as indicated and also highlighted and correcting grammatical errors.

P040214 COMPLAINTS MANAGEMENT POLICY

Objectives

The objectives of this policy are:

- 1. To develop a structured systematic approach to dealing with complaints received by the Shire of Denmark from external persons.
- 2. To assure the community that complaints may be made without fear of recrimination and that all complaints will be promptly dealt with and a (written if required) response will be given setting out the answer to the complaint providing reasons, where appropriate.

3. To have complaints dealt with efficiently by an appropriate employee with minimal referral.
4. To use complaints statistics to improve the effectiveness and efficiency of Council's operations.

Policy

1. The Shire of Denmark recognises the right of its customers to make complaints about services or service delivery, and will make it a priority to address those complaints and rectify unsatisfactory consequences.
2. The Council and its staff will be open and honest in its dealings with customers, and will explain in "plain English" why, for legislative/legal reasons, cost constraints or some other matter beyond its control, it is unable to act in accordance with a complainant's request.
3. The Council recognises that good complaints handling is an integral part of customer service and provides an effective way of reviewing performance and monitoring standards.

Guidelines

1. Any person or their representative can lodge a complaint.
2. Complaints will be accepted in writing, in person, by facsimile transmission, by email or by telephone. If a verbally received complaint alleges a criminal offence, corruption or other serious matter, the receiving officer is to advise the complainant that the matter must be submitted in writing.
3. Complainants are to be advised that anonymous complaints may not be processed as it is possible that they may be mischievous or vexatious. Depending on the nature of the complaint, it will be at the discretion of the receiving officer to act or refer the complaint or not to deal with the complaint.
4. Complaints that are to be dealt with under this policy include, but are not necessarily limited to, expressions of dissatisfaction regarding;
 - a) decisions made by Council or staff;
 - b) inappropriate behaviour of staff or members such as rudeness, discrimination or harassment;
 - c) the standard of works or services provided by Council.
 - d) the standard or condition of a facility provided by Council.
 - e) failure of Council to comply with the Local Government Act, Council policies, Council's local laws and other laws administered by Council.
5. The following issues shall not be regarded as complaints and shall not be dealt with under this policy:
 - a) requests for services;
 - b) requests for information or explanations of policies and/or procedures;
 - c) the lodging of a formal objection or appeal in accordance with the Local Government Act and other Acts or in accordance with Council policies or standard procedures;
 - d) the lodging of a submission in response to an invitation for comment.

6. Complaints regarding elected members are to be directed to the CEO. The CEO is responsible for the initial investigation and administrative responses. Matters that may require disciplinary action are to be referred to the Shire President and dealt with under the Council's Code of Conduct.
7. Complaints from Councillors, the Ombudsman, the Local Government Department or from Members of Parliament shall be referred to, and dealt with by, the CEO unless the complaints relates to the CEO whereupon the complaint will be dealt with by the Shire President.
8. When any complaint is made, other than a complaint referred to in clauses 6 and 7, the designated receiving officer shall, within the limit of their authority, attempt to satisfy the complainant as soon as possible. If a complainant cannot be satisfied immediately, or on the same day, the designated receiving officer shall immediately issue to the complainant a written acknowledgement of the complaint and if need be, refer to the complaint and a copy of the acknowledgement to a senior employee, or the CEO, as is appropriate, for investigation and determination of the complaint.
9. The following standard response times shall, ideally, be adhered to by all staff when dealing with complaints:
 - a) Dealing with complaints lodged verbally in person or over the telephone – immediately, or within one (1) working day or issue an acknowledgement and explanation for any delay.
 - b) Dealing with complaints lodged by letters, facsimile, email, etc – within five (5) working days or issue an acknowledgement and explanation for any delay.

Where a complainant is advised of a likely delay to the handling of the complaint and the complaint is not finalised within a reasonable period of time, the complainant is to be provided with status reports from time to time until the complaint is satisfied.

10. Where a complaint has been investigated and found to be justified, the relevant officer who dealt with the complaint will ensure that the remedy is carried out, will advise the complainant that the Shire does acknowledge substance in the complaint and the specific action that will be taken by the Shire to respond to the circumstances of the complaint. The officer will, if appropriate, make follow-up contact with the complainant to ensure that the complaint has been resolved satisfactorily.
11. Where a complaint may identify the need for a review of procedures to prevent re-occurrences, relevant staff are to implement any required changes which they feel appropriate. If the matter cannot be easily remedied by the officer, he or she must liaise with his/her Manager or the CEO to agree on a course of action.

Where the complaint identifies a need for a change of Council policy in a particular area or a need for additional resources, the matter shall be referred to Council as early as practicable.

12. The CEO shall establish and maintain an appropriate central record of all complaints. The record will provide the following:
 - a) nature of each complaint
 - b) services or facilities about which the complaints are made
 - c) time taken to conclude complaint investigations
 - d) outcomes

- e) trends
- f) other relevant information.

13. The designated receiving officer of any complaint shall be responsible for ensuring that all details pertaining to the complaint are recorded in the system established under clause 12.

14. The CEO shall submit half-yearly reports to Council on the recorded complaints received together with a report on the operations of this Complaints Handling Policy.

Staff Comment

This policy appears to be working well and providing staff with the appropriate guidance. It should be noted that the CEO provides monthly reports of the information in clause 14.

CEO Recommendation

That the policy be retained with administrative only inclusion to the title to explain that the policy relates to Customers.

CEO Decision based on Cr input

That the policy be recommended to Council for change with alterations as highlighted in the report.

Consultation:

Councillors and Directors.

Statutory Obligations:

There are no statutory obligations.

Policy Implications:

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

Budget / Financial Implications:

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

Strategic Implications:

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

Sustainability Implications:

➤ **Environmental:**

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

➤ **Economic:**

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

➤ **Social:**

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

Voting Requirements:

Simple majority.

OFFICER RECOMMENDATION

ITEM 8.5.1

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

1. P040201 INSURANCE
 - a) That Personal Accident (for volunteers) and Fidelity Guarantee (theft) be added; and
 - b) Replace the words “submitted to the Council in May via Council’s Information Bulletin” with the words “to be submitted to a relevant Council Budget Workshop or to Councillors via the Monthly Information Bulletin”.

2. P040202 SHIRE ADMINISTRATION OFFICE OPENING HOURS
 - a) Amend the Policy title to read “Shire Administration Office & Library Opening Hours”
 - b) Add the words “The Denmark Library is to be open to the public on normal working days as follows;

Monday, Tuesday, Thursday & Friday	10.00am to 4.30pm
Wednesday	1.00pm to 7.00pm
Saturday	9.00am to 12.00pm

The Shire Administration Office and Library are to be closed on Public Holidays that fall on normal working days. Nothing in this policy prevents the Chief Executive Officer to temporarily permit short term variations to hours on these normal working days should it be required for operational reasons, subject to prior and/or appropriate notice where practical.”

3. P040204 ENROLMENT OF NON-RESIDENT OWNERS & OCCUPIERS
 - a) Add an additional paragraph which states “That a biennial invitation be forwarded to all non resident ratepayers who are not currently on the roll.”
4. P040209 CONFERENCES - STUDY TOURS
 - a) Correct minor spelling and grammatical errors within the Policy as highlighted within the Officer’s Report.
5. P040214 COMPLAINTS MANAGEMENT POLICY
 - a) That part 7 be replaced with the following words “Complaints from Councillors, the Ombudsman, the Local Government Department or from Members of Parliament shall be referred to, and dealt with by, the CEO unless the complaints relates to the CEO whereupon the complaint will be dealt with by the Shire President.”; and
 - b) Correct minor spelling and grammatical errors within the Policy as highlighted within the Officer’s Report.

Discussion ensued.

9. COMMITTEE REPORTS & RECOMENDATIONS

9.1 CENTENARY CELEBRATIONS WORKING GROUP

File Ref:	ORG.64
Applicant / Proponent:	Centenary Celebrations Working Group
Subject Land / Locality:	Not Applicable
Disclosure of Officer Interest:	Nil
Date:	8 June 2010
Author:	Claire Thompson, Executive Assistant
Authorising Officer:	Dale Stewart, Chief Executive Officer
Attachments:	Yes – page 195

Summary:

The Centenary Celebrations Working Group is requesting that additional funds for the Centenary Celebrations in 2011 be included in the 2010/11 & the 2011/12 Budgets.

Background:

Council established the Centenary Celebrations Working Group at its meeting held on the 20 October 2010 “to plan, promote & implement suitable celebration/s to commemorate the centenary of the establishment of the Shire of Denmark in accordance with the allocating budget”.

The current membership is as follows;

- Cr Dawn Pedro
- Cr John Sampson
- Mrs Bev McGuinness, Denmark Historical Society
- Ms Liz Jack / Ms Christine Ritter or Ms Jo Smith, Denmark Arts Inc.
- Mr Peter Kyle, Denmark Chamber of Commerce
- Ms Marie Redman, Denmark Tourism Inc.
- Mr Wayne Webb, Indigenous Representative (Bibbulmun)
- Ms Lynette Knapp, Albany Heritage Reference Group (Menang)

Comment:

The Working Group has been meeting monthly since its inaugural meeting on the 5 March 2010 and project planning is well underway. A copy of the Working Groups draft Project List is attached which highlights each project together with estimated funding requirements.

As seen on the attached Project List, there is an assortment of activities planned to take place over the whole of 2011 with a grand finale dinner & ‘back to Denmark’ weekend scheduled for the 17 & 18 September 2011 (being the closest weekend to the actual Centenary date of 22 September 2011).

To allow the execution of the projects and activities proposed, at its meeting held on the 13 May 2010 the Working Group made the following recommendation;

“That the Working Group request Council to include additional final funding for the Centenary Celebrations as follows;

1. *An allocation of \$10,000 in the 2010/11 Budget; and*
2. *An allocation of \$10,000 in the 2011/12 Budget.”*

Consultation:

Initial letters have been sent to Community Groups, Sporting Groups and local Schools advising them of the Centenary year and encouraging them to plan events and/or incorporate a ‘centenary theme’ in any existing annual or proposed activities in 2011.

It is the intention of the Working Group to actively continue to promote awareness of the Centenary within our community.

Statutory Obligations:

There are no known statutory obligations.

Policy Implications:

There are no known Policy implications.

Budget / Financial Implications:

There are current estimated funds of \$42,847 available which have been accumulating since 2006.

Should Council agree to provide additional funds for the Centenary Celebrations in 2011 there would be implications on the 2010/11 & 2011/12 Budgets.

Strategic Implications:

There are no known strategic implications.

Sustainability Implications:

➤ **Environmental:**

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

➤ **Economic:**

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

➤ **Social:**

The occasion of the Centenary presents an opportunity for the Council and the Community to come together and celebrate our history, the journey along the way and where we are now.

Voting Requirements:

Simple majority.

OFFICER RECOMMENDATION	ITEM 9.1
<p>That with respect to the Shire of Denmark Centenary Celebrations in 2011, Council consider;</p> <ol style="list-style-type: none"> 1. An allocation of \$10,000 in the 2010/11 Budget; and 2. A final allocation of \$10,000 in the 2011/12 Budget. 	

Discussion ensued.

9.2	WALGA DECLARATION ON CLIMATE CHANGE
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File Ref:	ORG.54
Applicant / Proponent:	WALGA
Subject Land / Locality:	Not applicable
Disclosure of Officer Interest:	Nil
Date:	4 June 2010
Author:	Helen Heydenrych, Natural Resource Management Officer
Authorising Officer:	Sam Williams, Director of Planning & Sustainability
Attachments:	Yes – page 197

Summary:

Council's Climate Change Advisory Committee recommends the Shire of Denmark Council sign the Western Australian Local Government Association (WALGA) Declaration on Climate Change.

Background:

WALGA has developed a Declaration on Climate Change as part of a Climate Change Management Toolkit for adoption by local governments within Western Australia. By signing the WALGA declaration on Climate Change, Council commits to the acknowledgement that human induced climate change is occurring, and the staged process of implementation of climate change adaptive management strategies and reduction of greenhouse gas emissions are required to work towards meeting State and Federal emission targets.

The WALGA Climate Change Toolkit includes 7 stages of which stage 1 of the process involves:

- Enlist in-principle support from elected members for climate change adaptation action, including developing a policy position that is adopted by Council and signing the Western Australian Local Government Declaration on Climate Change.
- Liaise with Council and obtain sign-off at key milestone stages of adaption program developments.

In support of this, WALGA have prepared a reporting platform that enables participating councils to track and report their greenhouse gas emissions, energy consumption, and energy production. It is a complete greenhouse gas accounting system that follows the methods and factors of the National Greenhouse Accounts Factors and is suitable for reporting under the National Greenhouse and Energy Reporting Act (NGER), the National Carbon Offset Standard (NCOS) and the Greenhouse Gas Protocol (ISO14061.1).

By providing a sector-wide approach to reporting, WALGA has ensured councils have access to a cost-effective tool that is complete, consistent and accurate and will allow councils to compare their performance with each other, over time. The platform also provides a collaboration area for council staff to ask questions and share good practices.

Comment:

Council has committed to the WALGA reporting platform via the Green Sense service, at a cost of \$3,000 per annum. Under the Climate Change Advisory Committee, the Shire of Denmark has already initiated a number of actions as per the declaration and is in the process of developing a policy on climate change for adoption by Council.

The declaration required states as follows;

Local Governments of Western Australia acknowledge that:

- *Evidence shows that human induced climate change is occurring.*
- *Climate change will have significant effects on the Western Australian environment, society and economy.*

Local Governments of Western Australia support the:

- *Environmental, social and economic benefits of addressing climate change immediately.*
- *Opportunity for Local Government to demonstrate leadership in climate change management at a community level.*
- *Development of equitable and implementable State and Commonwealth strategies for climate change management, including but not solely comprised of, a well designed Emissions Trading Scheme.*

Local Governments of Western Australia commit from date of signing to:

- *Set an appropriate, individual Local Government emissions reduction target and work towards its achievement.*
- *Work with State and Federal Government to ensure achievement of greenhouse gas emission reduction targets as set out in international (Kyoto Protocol) agreements.*
- *Work with State and Federal Government to implement key actions and activities for climate change management at a local level.*
- *Assess the Local Government specific risks associated with climate change and implications for services and functions to community and identify areas where additional mitigation and/or adaptation strategies could be applied.*
- *Develop an internal Climate Change Action Plan (CCAP) for climate change adaptation across all Local Government functions, with a focus on the two, five and ten year future.*
- *Ensure that, at appropriate review intervals, the strategic plan and policies for the Local*
- *Government are reviewed and amended to reflect climate change management priorities and emissions reduction targets.*
- *Encourage and empower the local community and local businesses to adapt to the impacts of climate change and to reduce their individual greenhouse gas emissions.*
- *Monitor the progress of climate change initiatives and report to the Western Australia Local Government Association 'Climate Change and Sustainability Annual Report'.*

Consultation:

Melanie Bainbridge, WALGA

Statutory Obligations:

There are no statutory obligations.

Policy Implications:

There are no policy implications.

Budget / Financial Implications:

There are no known significant 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:**

In being a signatory to this, there will be environmental benefits through the accountability and awareness of carbon production

➤ **Economic:**

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

➤ **Social:**

In being a signatory to this, there will be increased social awareness of climate change pressures.

Voting Requirements:

Simple majority.

COMMITTEE & OFFICER RECOMMENDATION	ITEM 9.2
That as recommended by the Council's Climate Change Advisory Committee, Council sign the WALGA Declaration on Climate Change.	

Cr Hinds asked whether there were any documents in relation to Council committing to the WALGA reporting platform via the Green Sense service.

The Chief Executive Officer advised that he would endeavour to locate any documentation for Council next week and also investigate whether there were any changes proposed to the declaration by WALGA.

Discussion ensued.

9.3 CLIMATE CHANGE ADVISORY COMMITTEE MEMBERSHIP

File Ref:	ORG 54
Applicant / Proponent:	Kelli Gillies– applicant for Community Member representative on Shire of Denmark Climate Change Advisory Committee
Subject Land / Locality:	Not applicable
Disclosure of Officer Interest:	Nil
Date:	4 June 2010
Author:	Helen Heydenrych, Natural Resource Management Officer
Authorising Officer:	Sam Williams, Director of Planning & Sustainability
Attachments:	No

Summary:

The Climate Change Advisory Committee (CCAC) recommends that Council appoint Kelli Gillies as a Community Member representative on the Shire of Denmark CCAC.

Background:

The CCAC is comprised of a total of 10 persons, of which 8 are community members as per the stipulations under *Item 7.0 Membership* in the corresponding Charter. There has been a vacancy for a community committee member and as such this was advertised for applications, via placement in the local *Denmark Bulletin*, for a three week period closing 28 May 2010. Three written application were received from: Kelli Gillies, Wallace Greenham and William Lawrance.

The applications were considered by the CCAC at the recent meeting of 3 June 2010.

Kelli Gillies' expression of interest for the position demonstrated a wide ranging area of skills relevant to the interests of the committee, and also a strong commitment to

community involvement regarding behavioural change for sustainable water and energy use. Her current contract work with the Shire of Denmark for the greenhouse gas emissions data management inventory analysis program was noted as a potential declaration of interest. However, this was not considered to be in conflict with her appointment to the Committee in the capacity as a community representative, as it is short term contractual employment.

Comment:

Nil.

Consultation:

Nil.

Statutory Obligations:

There are no known statutory obligations.

Policy Implications:

There are no policy implications.

Budget / Financial Implications:

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

Strategic Implications:

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

Sustainability Implications:

➤ **Environmental:**

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

➤ **Economic:**

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

➤ **Social:**

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

Voting Requirements:

An absolute majority is required pursuant to section 5.10 of the Local Government Act 1995.

OFFICER RECOMMENDATION	ITEM 9.3
That Council appoint Kelli Gillies as a Community Member representative on the Shire of Denmark Climate Change Advisory Committee.	

** Absolute majority required.*

Discussion ensued.

6.57pm - Cr Syme declared a financial interest on the basis that his spouse may be an exhibitor in Southern Arts & Craft Trail. Cr Syme left the room and did not participate in discussion or vote on the matter.

Prior to any consideration of Item 9.4 Cr Richardson-Newton made the following declaration:
 "I am a member of the Denmark Village Theatre Inc. and as a consequence there may be a perception that my impartiality on this matter may be affected. I declare that I will consider this matter on its merits and vote accordingly."

9.4 2009/2010 CULTURAL DEVELOPMENT GRANT FUND APPLICATIONS

File Ref: PBR 12
Applicant / Proponent: Not Applicable
Subject Land / Locality: Not Applicable
Disclosure of Officer Interest: Nil
Date: 16 June 2008
Author: Garry Bird, Director of Finance & Administration
Authorising Officer: Garry Bird, Director of Finance & Administration
Attachments: Nil

Summary:

In April 2010 Council invited submissions for the Cultural Development Fund. Applications closed on the 14 May 2010 with ten applications having been received for the 2009/10 funding round.

The following table summarises the applications (individual applications have previously been circulated to Committee Members);

GROUP/ ORGANISATION	PROJECT	FUNDING REQUESTE D	PROJECT COST	MEETS FUNDING CRITERIA
Denmark Village Theatre	Summer Pantomime 2011	\$1,500.00	\$11,000.00	Yes
Art South WA	2010 Southern Art & Craft Trail	\$2,500.00	\$42,900.00	Yes
Denmark Arts	Bloody Hippies	\$2,000.00	\$20,000.00	Yes
Niah Kartijin Coolingars Inc	The Snake Story	\$2,000.00	\$3,030.00	Yes
Denmusic (Denmark Arts)	Denmusic Compilation Album 2010	\$1,700.00	\$7,450.00	Yes
Denmark Arts	Gondwana Youth Arts Forum	\$2,000.00	\$8,700.00	Yes
Spirit of Play Community School	Djilbra Festival	\$1,550.00	\$3,180.00	Yes
Rocksfarm Docrock Inc	Rocksfarm Docrock	\$2,000.00	\$16,500.00	Yes
Narayani Lees	Wild Conversations	\$2,000.00	\$52,516.00	Yes
V'vaci Early Music Ensemble Inc	Early Music Performance Workshops & Concert	\$2,000.00	\$8,975.00	Yes
TOTAL		\$19,250.00		

Background:

The guidelines that are distributed to potential applicants for funding from the Cultural Development Fund are reproduced below to assist Elected Members in assessing the applications received;

“AIMS OF THE CULTURAL DEVELOPMENT FUND

The aims of the Shire of Denmark Cultural Development Fund are:

- *To extend the range of cultural activities in the Shire*
- *To provide opportunities for community groups to interact with professional artists.*
- *To assist groups and individuals in the community to become involved in cultural activities.*

CONDITIONS AND REQUIREMENTS

- *The proposed project must take place within the period 1 October and 30 June.*
- *50% of the grant will be paid on approval of the project and the balance following successful acquittal of the project.*
- *Prior approval must be sought for any substantial change of proposal.*
- *Project and financial reports must be submitted to the Shire within one month from the completion of the project on the acquittal form provided.*
- *Acknowledgement that "This project is assisted by the Shire of Denmark" must be made in all publicity associated with the project. Use of the Shire of Denmark logo is encouraged.*

ASSESSMENT CRITERIA

- *Achievable objectives and outcomes.*
- *Project outcomes of artistic merit and cultural development.*
- *Applications will only be considered from groups and individuals from within the Shire of Denmark.*
- *Complete budgetary details of the project to be provided.*
- *Level of financial contribution by the applicant.*

WHAT IS NOT FUNDED

- *Ongoing expenditure in the form of operating or administrative costs.*
- *Applications that are insular or of self-interest.*
- *Applications that benefit personal business aspirations.*
- *Applications for projects outside the Shire of Denmark.”*

Comment:

Nil.

Consultation:

Nil.

Statutory Obligations:

There are statutory obligations as detailed in the Charter, regarding establishing a Council Committee.

Further the Local Government Act provides for a strict budget process in terms of committing future expenditure. The proposed method of allocating these funds satisfies these requirements.

Policy Implications:

Council Policy P110702 Cultural Development Fund states as follows;

1. *An annual allocation of funds be made towards community arts through the Cultural Development Fund.*
2. *The Cultural Development Fund Committee to recommend to Council on the allocation of funds.*

3. *Any money undistributed during the year from the Cultural Development Fund be automatically added to the principal annual funding allowance.*

Budget / Financial Implications:

The 2009/2010 Municipal Budget provides for an allocation of \$6,000.00 for the Cultural Development Fund.

It is noted that the Committee has previously requested an increase to \$10,000 effective from 2010/11 financial year, which is yet to be formally resolved by Council (awaiting adoption of the 2010/11 Municipal Budget).

The Committee has recommended projects to the value of \$10,000, however have prioritised them in the event this additional funding is not forthcoming.

Strategic Implications:

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

Sustainability Implications:

➤ **Environmental:**

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

➤ **Economic:**

The local tourism industry is a significant employer and events that are supported by the Cultural Development Fund are contributing to the strength of this industry and providing an economic return to the wider community.

➤ **Social:**

The Cultural Development Fund Committee contributes to the social fabric of the Denmark community by contributing financial support to events that enhances participation in cultural activities.

Voting Requirements:

Simple majority.

COMMITTEE & OFFICER RECOMMENDATION	ITEM 9.4
That Council allocate funding totalling \$10,700 from the 2010/11 Budget to the following applicants (in order of priority);	
1. Denmark Arts Council Inc Bloody Hippies DVD.	\$2,000
2. V'Vaci Early Music Ensemble Early Music Workshops	\$2,000
3. Southern Art and Craft Trail Funding for 2010 Art and Craft Trail.	\$2,000
4. Denmark Arts inc (Denmusic) Funding for local music DVD.	\$1,700
5. Denmark Arts Gondwana Youth Arts Forum.	\$2,000
6. Narayani Lees Wild Conversations project.	\$1,000

Discussion ensued.

9.5	AMENDMENT TO CULTURAL DEVELOPMENT FUND CHARTER
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File Ref:	PBR 12
Applicant / Proponent:	Not Applicable
Subject Land / Locality:	Not Applicable
Disclosure of Officer Interest:	Nil
Date:	9 June 2010
Author:	Garry Bird, Director of Finance & Administration
Authorising Officer:	Garry Bird, Director of Finance & Administration
Attachments:	No

Summary:

At the 23 February 2010 Cultural Development Fund Advisory Committee, it was decided a review of the Charter would take place at the next Meeting to specifically discuss the following;

“That the Cultural Development Fund Committee make the following draft amendments to the Cultural Development Fund Charter and refer to the next meeting of the Committee for further consideration and endorsement;

- *Develop criteria or guidelines for the experience, skills or qualifications needed by community representatives appointed to the Committee.*
- *Provide further clarification on Section 8.9 in regards to members interests for the benefit of community representatives.”*

Background:

Nil

Comment:

A charter helps guide staff, Council and indeed Committee members as to what is sought from them and how they can seek to influence the community and Council. It defines responsibilities, powers, delegated authority, membership and legislative parameters.

In accordance with the February 2010 Resolution, the following amendments are now recommended;

Criteria for Appointment of Community Representatives to the Committee

Community Representatives appointed by Council to the Cultural Development Fund Committee shall possess the following qualifications;

1. Established links to the local cultural community.
2. Demonstrated experience in cultural activities, including staging of cultural events or relevant private or public sector experience.
3. Reside within the Shire of Denmark.

Members interests to be disclosed

After discussing with other staff, it is recommended that the existing advice on the Committee Charter is sufficient to alert community based representatives to their obligations in this respect under the Local Government Act 1995.

What the issue does highlight is the need to train and educate these representatives as to their obligations. This training should occur prior to the first meeting they attend.

Consultation:

Nil.

Statutory Obligations:

There are statutory obligations as detailed in the Charter, regarding establishing a Council Committee.

The Local Government Act 1995 stipulates the requirements for members of Council Committee’s to declare interests, as prescribed.

Policy Implications:

Nil

Budget / Financial Implications:

Nil

Strategic Implications:

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

Sustainability Implications:

➤ **Environmental:**

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

➤ **Economic:**

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

➤ **Social:**

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

Voting Requirements:

Simple majority.

COMMITTEE & OFFICER RECOMMENDATION	ITEM 9.5
<p>That Council make the following amendments to the Cultural Development Fund Charter under the Membership section;</p> <p>1. Community Representatives appointed by Council to the Cultural Development Fund Committee shall possess the following qualifications;</p> <ul style="list-style-type: none"> a) Established links to the local cultural community. b) Demonstrated experience in cultural activities, including staging of cultural events or relevant private or public sector experience. c) Reside within the Shire of Denmark. 	

Discussion ensued.

Cr Hinds expressed concern that the amendment could limit the range of community members who could be appointed to the Committee.

Cr Laing suggested that the word “preferably” could be added after the word “shall” in the Officer Recommendation which could alleviate Cr Hinds’ concern.

The Chief Executive Officer agreed.

9.6 ALLOCATION OF SECOND HAND BRICK PAVERS – COMMUNITY FINANCIAL ASSISTANCE GRANTS COMMITTEE RECOMMENDATION

File Ref:	PBR 12
Applicant / Proponent:	Not Applicable
Subject Land / Locality:	Not Applicable
Disclosure of Officer Interest:	Nil
Date:	9 June 2010
Author:	Garry Bird, Director of Finance & Administration
Authorising Officer:	Garry Bird, Director of Finance & Administration
Attachments:	Summary of Submissions

Summary:

At a Meeting of the Community Financial Assistance Grants Committee on 8 June 2010, the matter of the allocation of approximately 15,000 second hand brick pavers from Strickland St was considered, following referral from the Chief Executive Officer.

Background:

The brick pavers have become available as a result of the upgrade works currently in progress on Strickland St.

Expressions of Interest were invited from community groups and the general public in an advertisement on the Denmark Bulletin.

Comment:

Thirteen submissions were received in total with four received from community groups and nine from private individuals, seeking a total of 32,480 pavers in total.

Prices received ranged from free to .30c per paver.

A summary of the submissions received is attached for the information of Elected Members.

The Committee has made the following recommendation;

“That the Community Financial Assistance Grant Advisory Committee recommend to Council the allocation of surplus pavers to the following community groups who submitted an Expression of Interest at the fixed price of 0.10c per paver;

- | | |
|--------------------------------|--------|
| 1. Denmark Cottage Crafts | 480 |
| 2. Somerset Hill VBFB | 8,000 |
| 3. Denmark Animal Carers Group | 4,000 |
| 4. Anglican Parish | 1,000” |

Consultation:

Advertisement – Denmark Bulletin

Statutory Obligations:

Nil

Policy Implications:

Nil

Budget / Financial Implications:

Assuming Council accepts the Committee’s recommendation, surplus income of \$1,348.00 will be received from the sale of the brick pavers.

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:**

Allocating the surplus pavers to local community groups will provide social benefits by assisting local organisations develop their facilities at a cheaper cost than what might otherwise be the case.

Voting Requirements:

Simple majority.

Following further consideration of the Committee’s recommendation, the Officer has made an addition to the recommendation to provide further clarification for staff.

<p>OFFICER RECOMMENDATION</p> <p>That with respect to the allocation of second hand brick pavers Council;</p> <p>1. Allocate surplus pavers to the following community groups who submitted an Expression of Interest at the fixed price of 0.10c per paver;</p> <table style="margin-left: 40px;"> <tr> <td>a) Denmark Cottage Crafts</td> <td style="text-align: right;">480;</td> </tr> <tr> <td>b) Somerset Hill VBFB</td> <td style="text-align: right;">8,000;</td> </tr> <tr> <td>c) Denmark Animal Carers Group</td> <td style="text-align: right;">4,000;</td> </tr> <tr> <td>d) Anglican Parish</td> <td style="text-align: right;">1,000;</td> </tr> </table> <p>2. Allocate Somerset Hill VBF Brigade’s allocation of brick pavers to the next highest bidders, based on the submissions received, should Somerset Hill VBF Brigade not wish to pay 0.10c per paver.</p>	a) Denmark Cottage Crafts	480;	b) Somerset Hill VBFB	8,000;	c) Denmark Animal Carers Group	4,000;	d) Anglican Parish	1,000;	<p>ITEM 9.6</p>
a) Denmark Cottage Crafts	480;								
b) Somerset Hill VBFB	8,000;								
c) Denmark Animal Carers Group	4,000;								
d) Anglican Parish	1,000;								

Discussion ensued.

Prior to any consideration of Item 9.7 Cr Sampson made the following declaration:

“I am a member of the Denmark Environment Centre and as a consequence there may be a perception that my impartiality on this matter may be affected. I declare that I will consider this matter on its merits and vote accordingly.”

Prior to any consideration of Item 9.7 Cr Syme made the following declaration:

“I am a member of the Denmark Environment Centre and as a consequence there may be a perception that my impartiality on this matter may be affected. I declare that I will consider this matter on its merits and vote accordingly.”

Prior to any consideration of Item 9.7 Cr Barnes made the following declaration:

“I am a member of the Denmark Machinery Restoration Group and as a consequence there may be a perception that my impartiality on this matter may be affected. I declare that I will consider this matter on its merits and vote accordingly.”

Prior to any consideration of Item 9.7 Cr Barrow made the following declaration:

“I am a member of the Denmark RSL and as a consequence there may be a perception that my impartiality on this matter may be affected. I declare that I will consider this matter on its merits and vote accordingly.”

Prior to any consideration of Item 9.7 Cr Laing made the following declaration:

“I am a member of the Walpole & Districts Seniors Accommodation and my spouse is the President and as a consequence there may be a perception that my impartiality on this matter may be affected. I declare that I will consider this matter on its merits and vote accordingly.”

Prior to any consideration of Item 9.7 Cr Pedro made the following declaration:

“I am a member of the Denmark Environment Centre and as a consequence there may be a perception that my impartiality on this matter may be affected. I declare that I will consider this matter on its merits and vote accordingly.”

9.7	2010/2011 COMMUNITY FINANCIAL ASSISTANCE GRANT FUND APPLICATIONS
File Ref:	PBR 12
Applicant / Proponent:	Not Applicable
Subject Land / Locality:	Not Applicable
Disclosure of Officer Interest:	Nil
Date:	10 June 2010
Author:	Garry Bird, Director of Finance & Administration
Authorising Officer:	Garry Bird, Director of Finance & Administration
Attachments:	Nil

Summary:

In April 2010 Council invited submissions for the Community Financial Assistance Grant. Applications closed on the 14 May 2010 with nineteen applications having been received for the 2010/11 funding round.

Policy Implications:

Council Policy P040125 Community Financial Assistance Grant states as follows;

1. To provide financial assistance for organisations and/or projects which benefit the community.
2. To assist community based (not for profit) organisations to develop and maintain facilities.
3. To provide community based (not for profit), organisations with relief from Council imposed fees and charges.
4. To provide urgent or emergency financial assistance where required.
5. To provide guidelines for the consideration and approval, or otherwise, of financial assistance applications.
6. To minimise out of budget, ad hock requests.

Background:

The guidelines that are distributed to potential applicants for funding from the Community Financial Assistance Grants Program are reproduced below to assist Committee Members in assessing the applications received;

“AIMS OF THE COMMUNITY FINANCIAL ASSISTANCE GRANT”

The aims of the Shire of Denmark Community Financial Assistance are:

1. To provide financial assistance for organisations and/or projects, which benefit the community.
2. To assist community based (not for profit) organisations to develop and maintain facilities.
3. To provide community based (not for profit) organisations with relief from Council imposed fees and charges.
4. To provide urgent or emergency financial assistance where required.
5. To provide guidelines for the consideration and approval, or otherwise, of financial assistance applications.

CONDITIONS AND REQUIREMENTS

- *The proposed project must take place within the period 1 October and 30 June.*
- *50% of the grant will be paid on approval of the project and the balance following successful acquittal of the project.*
- *Prior approval must be sought for any substantial change of proposal.*
- *Project and financial reports must be submitted to the Shire within one month from the completion of the project on the acquittal form provided.*
- *Acknowledgement that "This project is assisted by the Shire of Denmark" must be made in all publicity associated with the project. Use of the Shire of Denmark logo is encouraged.*

ASSESSMENT CRITERIA

- *Achievable objectives and outcomes.*
- *Project outcomes of artistic merit and cultural development.*
- *Applications will only be considered from groups and individuals from within the Shire of Denmark.*
- *Complete budgetary details of the project to be provided.*
- *Level of financial contribution by the applicant.*

WHAT IS NOT FUNDED

- *Ongoing expenditure in the form of operating or administrative costs.*
- *Applications that are insular or of self-interest.*
- *Applications that benefit personal business aspirations.*
- *Applications for projects outside the Shire of Denmark."*

Comment:

The following table summarises the applications (individual applications have previously been circulated to Committee Members);

Applicant	Project Description	Amount Requested	Total Amount of Project
Walpole & Districts Seniors Accommodation	Self contained seniors accommodation	\$2000.00	\$3550.00
Denmark Environment Centre in Partnership with Denmark High School	Monitoring Program of Marine Life at Mad Fish Bay	\$191.40	\$191.40
Walpole Family Centre	Built-in Toddler & Baby Change Table	\$1000.00	\$1000.00
Spirit of Play Community School	Additional Improvements to the School Facilities	\$4782.13	\$7416.43
Niah Kartijin Coolingars Inc	Cultural & Artistic Workshop, Events & General Activities	\$4999.00	\$121,501.00
Transition Denmark	Gardening Workshops	\$2000.00	\$3104.00
Kitchen Garden Project Denmark Primary School	Upkeep for Veggie Garden	\$200.00	\$200.00
Denmark Machinery Restoration Group	Construction of a shed to display machinery to the community	\$23,450.00	\$102,171.00
Denmark Surf Life	Repair & Replace the	\$4515.00	\$7515.00

Saving Club	Retaining Wall between the two Buildings		
The Denmark RSL Sub-Branch	To Build a Store Room	\$4800.00	\$10,300.00
The Denmark Darts Association	Six Free Standing Board Frames	\$2200.00	\$3093.20
Denmark Yacht Club	Upgrade the Motor & Steering System for the existing rescue boat	\$5000.00	\$12,000.00
Denmark Environment Centre	Surveying the Kwoorabup Community Park during winter months.	\$3768.75	\$6218.75
Denmark Telecentre/ Denmark Community Resource Centre	To Produce a Community Calendar	\$2000.00	\$5600.00
The Mill Art Group	Mobile Equipment for the holding of exhibitions in a variety of venues	\$2350.00	\$3050
Denmark Uniting Church	Storage Shed for Op Shop	\$4800.00	\$11,700.00
Valley of the Giants Heritage and Tourism Association Inc	Produce new brochure and update website	\$2,500	\$6,600
Denmark Cricket Club Inc	New synthetic practice nets	unspecified	\$12,160

In addition the Denmark Riding and Pony Club Inc have requested a carryover of funds from 2009/10 for facility improvements.

Consultation:

Nil.

Statutory Obligations:

There are statutory obligations as detailed in the Charter, regarding establishing a Council Committee.

Further the Local Government Act provides for a strict budget process in terms of committing future expenditure. The proposed method of allocating these funds satisfies these requirements.

Budget / Financial Implications:

The 2009/2010 Municipal Budget provides for an allocation of \$20,000.00 for the Community Financial Assistance Grants Program.

It is noted from the minutes of the May 2009 Meeting that the Committee has recommended this allocation be increased to \$22,500.00.

In order to assist the Committee determine the amount available to be allocated, it was recommended that the Committee assume that the \$22,500 is available and prioritise projects so that Council can select a project not be funded (if requested funds not forthcoming) based on the recommendations from the Committee.

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:**

The Community Financial Assistance Grant Committee contributes to the social fabric of the Denmark community by contributing financial support to events that enhance participation in community activities.

COMMITTEE & OFFICER RECOMMENDATION	ITEM 9.7
That with respect to the 2010/11 Community Financial Assistance Grants; Council	
1. Approve the following allocations, totalling \$20,600 for projects which requested funding from the 2010/11 Community Financial Assistance Grants as follows;	
a) Denmark Surf Life Saving Club Repair retaining wall at SLSC	\$4,500
b) Denmark Uniting Church Erect a storage shed for Op Shop – subject to approval by CEO of location and appearance of shed.	\$4,800
c) Denmark RSL Sub-Branch Construct store room	\$4,800
d) Denmark Yacht Club Inc New rescue boat motor	\$5,000
e) Walpole and District Seniors Accommodation Pamphlets for self contained seniors accommodation – subject to matching funds from Shire of Manjimup.	\$1,000
f) Walpole Family Centre Built in Toddler and Baby Change Table – subject to matching funds from Shire of Manjimup.	\$500
2. Consider the inclusion of an allocation of \$23,500 in the 2010/11 Municipal Budget for the Denmark Machinery Restoration Group as a contribution to the development of facilities at Reserve 30277.	
3. Consider the inclusion of an allocation of \$12,160 in the 2010/11 Municipal Budget for the replacement of the cricket practice facilities at McLean Park.	
4. Reject the request from the Denmark Riding and Pony Club to carryover \$2,400 in the 2010/11 Municipal Budget for the purchase of new showjumping equipment and that the funding previously approved for 2009/10 be withdrawn.”	

Discussion ensued.

9.8 PATHS & TRAILS ADVISORY COMMITTEE MEETING – 3 MAY 2010

File Ref:	ORG 29
Applicant / Proponent:	Not applicable
Subject Land / Locality:	Not applicable
Disclosure of Officer Interest:	Nil
Date:	8 June 2010
Author:	Rob Whooley, Director of Infrastructure Services
Authorising Officer:	Rob Whooley, Director of Infrastructure Services
Attachments:	Yes

Summary:

This item recommends Council consider increasing both capital and maintenance funding for Paths and Trails in the 2010/11 Budget.

Background:

The Paths and Trails Committee met on the 3rd of May 2010 and resolved the following:

“That the Committee request Council to consider the following in the 2010/11 Budget:

1. *\$150,000 for new paths and trails,*
2. *\$150,000 to maintain existing paths and trails with a view to allocating a portion of these funds to re-seal the section of path on Ocean Beach Road from South Coast Highway to Weedon Hill Road.*
3. *\$10,000 for directional/interpretive hubs.”*

Comment:

The Paths and Trail Committee have identified approximately \$2 million of new paths. These paths have been prioritised from “High” to “Low” in terms of need. The table is attached. It should be noted that some of the paths have been identified as being externally funded eg. Land Developments.

The current priority table endorsed by the Committee is based upon a ten year construction program ending 2020.

Whilst new footways are needed, maintenance to existing paths and trails must not be overlooked.

As an example the Ocean Beach Road footpath from South Coast Highway to Weedon Hill Road is very much in need of maintenance. The surface is degraded and the path shape needs correction. An asphalt surface treatment over this path, to extend its life and correct the paths shape, will cost between \$80-120,000. A concrete replacement path would cost \$200-250,000.

It is clear that timely expenditure on maintaining major assets is required to prevent escalating costs associated with reconstruction.

Consultation:

Paths and Trails Advisory Committee.

Statutory Obligations:

There are statutory and common law obligations to maintain footpaths in a reasonable condition.

Policy Implications:

The following policies are applicable:

P040223 TEN YEAR FINANCIAL PLAN & MUNICIPAL BUDGET POLICY

P080601 SENIORS POLICY

Subsection ‘SAFETY AND SECURITY’ identifies as the number one objective the desire to create and maintain a Shire that is safe, welcoming and friendly for Seniors. A strategy in achieving that objective is to

- a) Make upgrading of key walkways close to town facilities a major priority with secure road-crossings at key intersections, with special regard for the transport of handicapped and older persons.
- b) improve streets, footpaths and trails to address concerns such as slipping, trips and falls.

Subsection ‘TRANSPORT, ROADS AND INFRASTRUCTURE’ recognises the importance of safe, well-built walkways, especially around the township for access to shopping and services with this being the number one objective. The priority strategies to meet that objective are:

- a) Upgrade key walkways close to town facilities as a major priority.
- b) Educate public, but especially Seniors, to availability of such walkways.
- c) Include shelter and rest facilities on long stretches of walkways.

Budget / Financial Implications:

2010/11 Budget Consideration.

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 obvious significant social considerations relating to the condition and functioning of pathways – particularly where the elderly, the young and people with mobility difficulties (both temporary and permanent) are concerned.

Voting Requirements:

Simple majority.

COMMITTEE & OFFICER RECOMMENDATION	ITEM 9.8
<p>That with respect to the request from the Paths & Trails Advisory Committee, Council consider the following in the 2010/11 Budget:</p> <ol style="list-style-type: none"> 1. \$150,000 for new paths and trails; 2. \$150,000 to maintain existing paths and trails with a view to allocating a portion of these funds to re-seal the section of path on Ocean Beach Road from South Coast Highway to Weedon Hill Road; and 3. \$10,000 for directional/interpretive hubs. 	

Discussion ensued.

9.9	LOCAL EMERGENCY MANAGEMENT COMMITTEE – VOLUNTARY CONTRIBUTION (ROYAL FLYING DOCTORS SERVICE)
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File Ref:	ORG.20
Applicant / Proponent:	Local Emergency Management Committee
Subject Land / Locality:	All of the Shire of Denmark
Disclosure of Officer Interest:	Nil
Date:	10 June 2010.
Author:	Gregg Harwood
Authorising Officer:	Director of Community and Regulatory Services
Attachments:	Nil.

Summary:

This report considers a recommendation made by the Local Emergency Management Committee at its 2 June 2010 meeting that Council consider replacing the Voluntary Environmental Sustainability Levy that was listed on the 2008/2009 and the 2009/2010 rate notice with a \$20 voluntary contribution on the 2010/2011 rates notice towards the Royal Flying Doctors Service.

Background:

The original intent of the Voluntary Environmental Sustainability Levy was a measure that would be used for projects that would contribute towards for the long term sustainability of the environment and the Denmark Community.

A \$20.00 Voluntary Environmental Sustainability Levy was listed on the 2008/09 and the 2009/10 rate notice. The response in 2008/09 was \$1,990 and in 2009/10 approximately \$50,000. The initial return in 2009/10 was 80% of 3663 rate notices but with recent publicity and refunds requested this has been reduced to 66% of ratepayers paying the voluntary levy.

The positioning of the levy within the sub totals of 2009/10 rate notice initiated a significant debate in Council and highlighted several software issues in respect to the layout on the rates notice and in response to this debate Council made the following resolutions:

23 February 2010, Resolution No. 060210

“That Council resolve to not include in the 2010/11 budget the Voluntary Environmental Sustainability charges.”

23 February 2010, Resolution No. 070210

“That Council revoke part 1 of Resolution 240110 which stated as follows;
“Approve the necessary funds towards the cost of amending software to improve the transparency and administration of the Voluntary Environmental Sustainability Levy.””

In addition Council has previously, through the Great Southern Zone of WALGA submitted the following motion to WALGA;

“That the Great Southern Zone of WALGA submits the following notice of motion to the AGM of WALGA:

That we, the democratically elected Councils of WA comprising 141 Councils, and on behalf of the State’s entire population, petition the Premier of Western Australia, the Hon Alan Carpenter, through and represented collectively by the WA Local Government Association, to urgently provide additional much-needed funding to the Royal Flying Doctor Service to enable it to adequately service this vast State and its regions.”

Comment:

The Royal Flying Doctors although being partially funded by the Federal and State Government for particular programs, need to raise gross 7 – 8 million per year through public funding, just in Western Australia alone. This public funding is used for the purchasing of portable medical equipment (\$800 to \$45,000) for one ultra sound machine that is required on each individual aircraft of the RFDS and the running of services that are not covered by government funding.

There are 15 RFDS aircrafts based over Western Australia, Jandakot which covers the Great Southern, Kalgoorlie, Meekatharra, Port Hedland and Derby. Lesleigh Green the Director of Public Affairs, RFDS Western Operations has provided the following regarding their service and funding needs:

“The Royal Flying Doctor Service is a not-for-profit organisation that offers a range of aero-medical and essential health care services to everyone living, working or travelling throughout Australia.

Each year, across Australia, we touch the lives of some 396,000 patients – about one every two minutes.

In WA alone, we transfer around 7,000 patients to hospital and assist more than 70,000 patients through clinics, medical consultations by phone, medical chest programs, health and education services, disease screening programs and medical research.

Transfer for most patients is free of charge. Some who carry workers’ compensation or travel insurance are paid for under their insurance.

Each year in WA, we fly the equivalent of 7 times to the moon and back (5,718,530 kilometres), 24 hours a day, seven days a week.

We work from 5 bases at Jandakot (Perth), Kalgoorlie, Meekatharra, Pt Hedland and Derby.

Our annual operations budget in WA is around \$50 million for aircraft (15, including our new jet for long distance transfers), staff – including some 40 doctors and around the same number of nurses and pilots and aircraft engineers – and certain equipment, fuel etc.

The Federal Government meets the cost for a prescribed number of ‘primary evacuations’ each year, where we travel directly to the scene of an accident/illness and airlift them under medical supervision to a hospital capable of treating their illness/injury. If there are more evacs than has been estimated, we have to find the money to pay for them ourselves.

The State Government funds us for a prescribed number of transfers of patients from rural and regional hospitals that cannot treat those cases to other hospitals that can treat the patient. Most cardiology, neurology, obstetrics, mental health, paediatric and trauma cases can only be treated properly in Perth tertiary hospitals. If more patients are transferred than we are funded for, we have to find the money ourselves.

Some of our clinics are part funded by government, but many of our other services are not.

Some corporate sponsors fund programs, such as RFDS On The Road in the Pilbara and Goldfields. Various infrastructure projects and health programs are also supported by the likes of Lotterywest grants and funding from bodies like the Goldfields-Esperance Development Commission, Pilbara Development Commission and so on.

Each year we need to raise gross revenue of \$7-8 million in public funding to help close the gap between govt funding and the work we actually undertake each year and to

purchase suites of portable, battery-operated medical equipment, such as portable ultrasound machines (\$45,000 each); machines that start a heart when it fails (\$10-25,000 each); vacuum mats that support patients with spinal injuries (\$800 each). We need a set of equipment for each of our 15 aircraft (i.e. 15 ultrasound machines at \$45,000 each) and sometimes an additional set at each of our five bases.

We raise funds by a variety of means, such as community fundraising, events, appeals by mail and other methods, corporate donations and sponsorship, sale of RFDS merchandise, and when people leave us a bequest in their Will.

As the population of WA increases and people live longer, there is ever-increasing demand on our services. Buying just one aircraft and medically outfitting it costs around \$7 million – and that's not counting staff and the portable equipment and supplies required to help save our patients lives."

While the reintroduction of any form of voluntary levy is likely to reintroduce the debate as to its location on the rates notices and the cost of the software modification required to achieve it. There are two primary questions that Council needs to ask:

- 1) Whether it wants to have any form of voluntary contribution listed on its rates notice and;
- 2) If the contribution is towards an external organisation then a decision needs to be made as to what characteristics that organisation has to have to be considered for eligibility.

In considering questions 1, Council has already made a decision to list a voluntary levee on the rates notes notice, this decision was supported by the community during the 2008/09 and the 2009/10 rating season and the primary reason why Council in resolved February 2010 to cease the practice was due to the intensity of the debate regarding the location of the charge on the rate notice.

In terms of question 2 it is recommended that Council consider using that matrix that requires an organisation to be;

- a) Wide reaching in its impact so that there is a reasonable likelihood that the majority of its residents, and land holders whether absent or local will at some time in their life have need for that service.
- b) It is a response related service that is of benefit to health, safety and well being of the Community.
- c) The service is not under control or care of either Council or another government agency.
- d) The service itself is self sufficient and is not specifically dependent on the funding that would be raised through the levy but is able to provide an improved response as a result of the levy.

In considering this matrix it should be noted that both the Royal Flying Doctor and the St John's Ambulance Service meet this criterion and that if a levy was introduced it could be used to specific items of equipment such hand held WEARN (FESA & Police band) radios and a portable mobile repeater station.

On this basis it is recommended that Council give consideration to the implementation of a \$20 voluntary Royal Flying Doctor and the Saint John's Ambulance Service Equipment Levy on the 2010/011 rate notice that is listed separately from the various charges Council charges on that rate notice so it is clearly optional.

A comparison to the Committee's original recommendation is as follows:

Committee Recommendation:

"That the LEMC recommends to Council that;

A Voluntary Contribution of \$20 be included in the 2010/ 2011 rate notice towards the Royal Flying Doctors Service in lieu of the former environmental sustainability levy.”

Alternate possible recommendation:

- “1) A Voluntary towards Royal Flying Doctor and the Saint John’s Ambulance Service Equipment Contribution of \$20 be included in the 2010/2011 rate notice that is to be used for contributions towards Royal Flying Doctor and the St John’s Ambulance Service Equipment.*
- 2) That the Royal Flying Doctor and the Saint John’s Ambulance Service Equipment Contribution be listed in a manner on the rates notice that shows that it is clearly voluntary.”*

A third and possibly more strategic option would be for Council to resolve to lobby the State Government (FESA) to include the Royal Flying Doctor and the Volunteer St John’s Ambulance as organisations funded eligible for funding under the ESL levy which is paid by property owners in ESL category areas.

This would release Council from the administrative burden of collecting the levy and ensure that these organisations secure access to a long term reliable funding source.

Consultation:

This initiative has been discussed with both St John’s and Royal Flying Doctor representatives.

Statutory Obligations:

There are no statutory obligations.

Policy Implications:

There are no policy implications.

Budget / Financial Implications:

Both the officer report and the levee itself will have financial implications upon the Councils current Budget or Plan for the Future.

The most obvious of these implications is that is an estimated \$5000 may need to be spent on Council’s software to list the charge separately.

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:**

The response from the Royal Flying Doctors is an important part of the Denmark, Nornalup and Peaceful Bay communities’ emergency services and health care response teams.

It also great important to the families and individuals who find themselves in the position where they need to use this service.

Voting Requirements:
Simple majority.

OFFICER RECOMMENDATION	ITEM 9.9
<p>That Council lobby the State Government through the Great Southern Zone of WALGA to include the Royal Flying Doctor Service and the Country Volunteer St John's Ambulance Depots in the list of organisations that are eligible for funding under the Emergency Services Levy.</p>	

Discussion ensued.

9.10 LOCAL EMERGENCY MANAGEMENT COMMITTEE – DENMARK SURF LIFESAVING CLUB (CLUB REPRESENTATIVE ON THE MEMBERSHIP OF LEMC)

File Ref:	ORG.20
Applicant / Proponent:	Denmark Surf Lifesaving
Subject Land / Locality:	Ocean Beach and Surround Coastlines and Inland Water Bodies
Disclosure of Officer Interest:	Nil
Date:	2 June 2010
Author:	Gregg Harwood, Director of Community and Regulatory Services
Authorising Officer:	Gregg Harwood, Director of Community and Regulatory Services
Attachments:	No

Summary:

This report considers and recommends that Council adopt a recommendation from the Local Emergency Management Committee to amend their Charter to include a Denmark Surf Lifesaving Club representative on the membership of that Committee.

Background:

Council is required to have a Local Emergency Management Committee and exercise an emergency planning role under Emergency Management Act 2005.

As part of this role, Council needs to decide which organisations will have a role on that Committee.

Comment:

Australia wide there are 305 Surf Lifesaving Clubs with over 100,000 members, Denmark alone hold 231 members with 70 active members qualified in Rescue, Senior First Aid, Spinal Management, Advanced Rescue and Emergency Care.

The Denmark Surf Lifesaving believes they are qualified and equipped to assist the Local Emergency Management Committee, in response to an emergency situation, with the equipment and trained personnel that they have available.

In addition to this they will soon have a Wesfarmers funded Jet Ski Emergency Response Team in place by next summer 2010/11 and have communicated that they would welcome an opportunity to participate in the community and for their members to be able to assist other groups in the off season.

Surf Lifesaving is known as one of Australia's icons, it offers great social development and training for both children and parents. At an early age children are encouraged by participating and learning voluntary skills by means of protecting their Local Community and realising the significance and the importance of belonging to such an association as the Surf Lifesaving Club.

By welcoming the Denmark Surf Lifesaving Club into the wider strategic Emergency Management fold there is likelihood that there members will see it as their role to help other organisations in the off season.

Consultation:

Nil

Statutory Obligations:

Council is required to have a Local Emergency Management Committee and exercise an emergency planning role under Emergency Management Act 2005.

Policy Implications:

There are no policy implications.

Budget / Financial Implications:

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

Strategic Implications:

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

Sustainability Implications:

➤ **Environmental:**

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

➤ **Economic:**

The Shire of Denmark would greatly benefit from the Surf Lifesaving Club becoming part of the Local Emergency Management Committee, not only from their volunteers but also their skills and equipment which can be used to aid in an emergency situation.

➤ **Social:**

The Denmark Surf Lifesaving Club into the wider strategic Emergency Management fold benefit to the social fabric of Denmark as there is a likelihood that there members will see it as their role to help other organisations in the off season and most likely migrate to these organisations later in life.

Voting Requirements:

An absolute majority is required pursuant to section 5.10 of the Local Government Act 1995.

COMMITTEE & OFFICER RECOMMENDATION	ITEM 9.10
<p>That the Local Emergency Management Committee Charter be amended to include the Denmark Surf Lifesaving Club as a representative on the membership of Local Emergency Management Committee.</p>	

**Absolute majority.*

Discussion ensued.

10. MATTERS BEHIND CLOSED DOORS

Nil

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

Nil

12. CLOSURE OF MEETING

7.22pm – There being no further business to discuss the Shire President, Cr Ross Thornton, declared the meeting closed.

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

Signed: _____
Dale Stewart – Chief Executive Officer

Date: 16 June 2010

These minutes were confirmed at the meeting of the _____

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