

Shire of Denmark Minutes



ORDINARY (DECISION MAKING) MEETING OF COUNCIL

HELD IN THE COUNCIL CHAMBERS,
953 SOUTH COAST HIGHWAY, DENMARK,
ON TUESDAY, 23 MARCH 2010.

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Ordinary Council Meeting

23 March 2010

DISCLAIMER

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1. DECLARATION OF OPENING/ANNOUNCEMENT OF VISITORS

4.02pm - The Presiding Person, Shire President Cr Thornton, declared the meeting open.

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

PRESENT:

Cr Ross Thornton (Shire President)
 Cr Phil Barnes
 Cr Kim Barrow
 Cr George Ebbett
 Cr Adrian Hinds
 Cr Robert Laing
 Cr Dawn Pedro
 Cr Richard Phair
 Cr John Sampson
 Cr Alex Syme
 Cr John Wakka

STAFF:

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

APOLOGIES:

Nil

ON LEAVE OF ABSENCE:

Cr Ken Richardson-Newton (Deputy Shire President)

ABSENT:

Nil

VISITORS:

Present at the commencement of the meeting;

- Members of the public: 10
- Members of the Press: 1

DECLARATIONS OF INTEREST:

Name	Item No	Interest	Nature
Mr Dale Stewart	9.5.5	Financial	Mr Stewart is an employee of the Shire of Denmark.
Cr Ross Thornton	9.1.1	Impartiality	Cr Thornton has had a previous partnership with the applicant but not in relation to this item.
Cr Ross Thornton	9.3.2	Proximity	Cr Thornton owns property which abuts Strickland Street.
Cr Adrian Hinds	9.1.1	Proximity	Cr Hinds is an adjoining landowner.
Cr Dawn Pedro	9.2.1	Impartiality	Cr Pedro is a member of an affected Fire Brigade.
Cr Dawn Pedro	9.4.3	Impartiality	Cr Pedro is a member of the Denmark Environment Centre Inc.
Cr Alex Syme	9.2.1	Impartiality	Cr Syme is a member of an affected Fire Brigade.
Cr Alex Syme	9.4.3	Impartiality	Cr Syme is a member of the Denmark Environment Centre Inc.

Cr John Sampson	9.2.1	Impartiality	Cr Sampson is a member of an affected Fire Brigade.
Cr John Sampson	9.4.3	Impartiality	Cr Sampson is a member of the Denmark Environment Centre Inc.
Cr Kim Barrow	9.3.2	Financial / Proximity	Cr Barrow is a lessee of property in Strickland Street.
Cr Phil Barnes	9.4.3	Impartiality	Cr Barnes is a member of the Denmark Environment Centre Inc.

3. ANNOUNCEMENTS BY THE PERSON PRESIDING

3.1 WALGA Land Use Planning Training

The Shire President announced that Cr Phil Barnes; Cr Adrian Hinds; Cr Dawn Pedro; Cr John Sampson and Cr Alex Syme had recently completed training on Land Use Planning which was facilitated by the Western Australian Local Government Association. Cr Thornton stated that he would present Certificates of Participation to those Councillors following the meeting and detailed the course topics which were as follows;

- *The purpose of town planning;*
- *Local planning terms used in planning documents and approval procedures;*
- *Roles of government agencies implementing land use planning in WA;*
- *The principal Town Planning and related Acts, regulations and policies and a more Town planning instruments used by Local Government in strategic and statutory planning;*
- *The various planning assessment and approval procedures required for subdivision, land use and development in WA;*
- *The key factors that shape the pattern of land use and development in their local area;*
- *The purpose and limitations of local planning policies;*
- *The statutory process by which local planning policies are formulated;*
- *The statutory difference between scheme provisions and policy provisions; and*
- *Contemporary planning concepts.*

4. PUBLIC QUESTION TIME

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

4.1 RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE

4.1.1 Mr Cyril Edwards – Item 9.2.1 (Ocean Beach Bush Fire Brigade and the 2003 Emergency Services Levy (ESL) Category Boundary Review)

At the meeting held on the 16 March 2010, Mr Edwards spoke as the Secretary of the Ocean Beach Volunteer Bush Fire Brigade and asked the following question;

What happened to the motion from Ocean Beach Bush Fire Brigade, William Bay Bush Fire Brigade and the Town Brigade?

Mr Edwards provided background information to his question and congratulated the Director of Community & Regulatory Services, Mr Gregg Harwood, on progressing a number of matters that have been of concern to the brigade for some time.

The Shire President noted that the question would be taken on notice and the following response has been provided to Mr Edwards in writing;

“The fact that the Community Fire Manager had an initial meeting with the Ocean Beach and William Bay Bush Fire Brigades and the fact these brigades and the Town VRFS then had an extraordinary meeting is clearly covered in the bottom part of the second page (page 28) of the report. The section also includes the full wording of draft resolution that the extraordinary meeting asked BFAC to consider. The reason why this was done was to ensure that the Council were fully aware of both the extraordinary meeting’s draft resolution and BFAC’s alternative recommendation.

The referral of this matter to Council with a full officer report is contrary to the normal practice of referring committee decisions as minimal report items under section 10 of the agenda under committee recommendations and reflects the level of importance that Council Officers place on this issue and in fact all bushfire brigades and emergency services volunteers.

The reasons why the officer recommendation varies from the BFAC resolution is that the situation has progressed since the BFAC meeting. In noting these comments Councillors are at liberty to adopt the extraordinary meeting’s draft resolution if they choose to as the report gives them sufficient information to so.

In terms of claims that FESA made proposals regarding the future of the Ocean Beach and William Bay Bush Fire Brigades. Quite categorically FESA’s head or Great Southern Office have not made any proposal to Council regarding the future of these brigades and they would not, as they are not the hazard management authority for the area covered by these brigades. When the Community Fire Manager attended the meeting to discuss options, while he wore a FESA uniform, he was working for Council (the CFM is a joint Council/FESA funded position) as an officer of Council talking to bushfire brigades that operate within Council’s sphere of control as the hazard management authority for bushfire brigades. While it is entirely reasonable from an outsiders perspective that the brigade members who attended the extraordinary meeting assumed that they were directives from FESA and framed resolutions accordingly the simple fact is that they are not, they were discussion points initiated by a Council officer.”

4.2 PUBLIC QUESTIONS

4.2.1 Ms Janice Marshall – Kwoorabup Community Park

Ms Marshall raised concerns in relation to ground water at the Kwoorabup Community Park and suggested that Council conduct a survey to ensure that any works undertaken, on the site, take into consideration ground water levels at different times of the year. Ms Marshall suggested that perhaps in areas where the ground water would be relatively high, features could be built to accommodate it.

The Director of Infrastructure Services responded by saying that such a survey had not been done however they were mindful of the contours of the land and are taking that into consideration where any infrastructure is built.

4.2.2 Mr Graham Mason – Item 9.3.3 (Transwa Bus Stop)

Mr Mason spoke as the proprietor of the Denmark Backpackers expressing concerns with the relocation of the Transwa Bus Stop from the townsite to the Denmark Visitors Centre. Mr Mason stated that the Denmark Visitors Centre was closed at the times the bus stops and that visitors could be ‘lost’ without maps or a public telephone to guide them to accommodation. Mr Mason asked whether Council had considered these issues.

The Shire President, Cr Thornton, stated that Council had debated the relocation of the bus stop quite considerably and that the issue relating to the

lack of a public telephone at the Denmark Visitors Centre would be looked into.

The Shire President continued by saying that he was a member of the Denmark Visitors Centre Board and would raise the issues, including the lack of mapping at the site, at their next meeting. Cr Thornton stated that the Denmark Visitors Centre was currently looking into opening for longer hours during the summer months which would mean that they would be open when the Transwa buses stop. The Shire President also noted that Cr Barrow was the Chairman of the Denmark Tourism Inc and that he was sure Cr Barrow would have noted Mr Masons' concerns also.

Cr Syme added that the decision to move the Transwa bus stop was made by Council approximately two years.

4.2.3 Mr Brian Humphries – Item 9.2.1 (Ocean Beach Bush Fire Brigade And The 2003 Emergency Services Levy (ESL) Category Boundary Review)

Mr Humphries stated that he was pleased to hear that some Councillors had extended their knowledge by attending training on land use planning.

Mr Humphries expressed a number of concerns in relation to the linking of fire regulations to planning zones after asking the following question;

“Mr Chairman, I would like to pose a question of you that is opportunistic of the Officer’s recommendation - would you entertain review of a proposal that adopts the new ESL category 4 area (that establishes a new enlarged area for the Town brigade) as the basis for bringing about change in the current fire regulations with intent to make those new regulations more simple for the community to understand, more consistent for the Rangers when reviewing compliance and, most importantly, that would be far more effective in risk mitigation than our current fire regulations? “

“Mr Chairman, would you entertain review of a proposal along these lines for adoption as soon as due process could examine such a proposal and after appropriate consultation with the public and the Bush Fire Advisory Committee?”

The Shire President responded by saying that he was a member of both the Bush Fire Advisory Committee & the Local Emergency Management Committee and that he would, together with the Director of Community & Regulatory Services, consider the request, convey some information back to Mr Humphries and decide whether to take the matter forward to the Bush Fire Advisory Committee.

4.2.4 Mr John Schindler – Item 9.5.3 (Mayors for Peace)

Mr Schindler spoke as the proponent for Mayors for Peace and urged Council to adopt the Officer Recommendation.

4.2.5 Mr John Schindler - 9.3.3 (Transwa Bus Stop)

Mr Schindler stated that in previous years the Denmark Visitors Centre had conducted a survey of Transwa bus users which had concluded that passengers preferred the bus stop on Strickland Street.

Mr Schindler urged Council to undertake consultation with users of the bus service prior to making a decision to relocate the bus stop to the Denmark Visitors Centre.

4.3 QUESTIONS BY MEMBERS OF WHICH DUE NOTICE HAS BEEN GIVEN

Nil

4.4 PRESENTATIONS, DEPUTATIONS & PETITIONS

Nil

5. MEMBERS' REPORTS

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

6. APPLICATIONS FOR LEAVE OF ABSENCE

Nil

7. CONFIRMATION OF MINUTES

7.1 ORDINARY COUNCIL MEETING

COUNCIL RESOLUTION & OFFICER RECOMMENDATION	ITEM 7.1
MOVED: CR SAMPSON	SECONDED: CR WAKKA
That the minutes of the Ordinary Meeting of Council held on the 16 March 2010 be confirmed as a true and correct record of the proceedings.	
CARRIED: 11/0	Res: 030310

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

Nil

9. REPORTS OF OFFICERS

9.1 Director of Planning & Sustainability

4.32pm - Cr Hinds declared a proximity interest in Item 9.1.1 in that he is an adjoining landowner. Cr Hinds left the room and did not participate in discussion or vote on the matter.

4.32pm – Prior to any consideration of Item 9.1.1 Cr Thornton made the following declaration: "I have had previous partnerships with the proponent, not related to the item, and as a consequence there may be a perception that my impartiality on this matter may be affected.

Cr Thornton asked Cr Syme to chair the meeting as the Presiding Person. Cr Syme accepted.

Cr Thornton left the room and did not participate in discussion or vote on the matter.

Cr Syme assumed the chair as the Presiding Person.

9.1.1 TOWN PLANNING SCHEME NO. 3 AMENDMENT NO 119

File Ref:	TPS3A119
Applicant / Proponent:	Melvista Park
Subject Land / Locality:	92 (372) Horsley Road and 123 (51) Scotsdale Road
Disclosure of Officer Interest:	Nil
Date:	2 March 2010
Author:	Cindy Simpson, Senior Planning Officer
Authorising Officer:	Sam Williams, Director of Planning & Sustainability
Attachments:	Yes – page 1

Summary:

The amendment was initiated at Council meeting of July 2009 and referred to 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 WAPC.

Background:

Council initiated Amendment 119 at its meeting of 28 July 2009.

The subject land is part of 4 lots which constitutes the Horsley Road/Rockford Road Structure Plan. Of the 4 lots, one has already been rezoned to Residential R20 under Amendment 98 (gazetted 20 March 2009), being Lot 366 Rockford Road and subdivision approved under mediation by the State Administrative Tribunal (SAT) (WAPC 138001).

Council's previous resolutions with respect to the Horsley Road/Rockford Road Structure Plan have been follows:

- | | |
|-----------------|---|
| 27 May 2007 | At the Ordinary Council Meeting, Council adopted the Horsley Rockford Road Structure Plan subject to various amendments being undertaken. |
| 28 August 2007 | At its Ordinary Council Meeting, Council further considered the structure plan with respect to stormwater issues. |
| 22 January 2008 | Council resolved to support the Structure Plan and seek final approval from the Minister for Planning. |
| 28 October 2008 | <p>Council considered additional information and resolved to confirm its adoption of the Horsley/Rockford Road Structure Plan in 27 May 2007 and 28 August 2007 subject to review and amendments, if needed, being undertaken pertaining to the following issues:</p> <ul style="list-style-type: none"> a) <i>“Extension of McLean Road through to Scotsdale Road</i> b) <i>Investigation of additional road access point to Scotsdale Road</i> c) <i>Limited vehicular access to Rushton Road</i> d) <i>Internal road network</i> e) <i>Public open space on site</i> f) <i>Stormwater considerations over the total site to reflect staging of development over the study area</i> g) <i>Earthworks provisions</i> h) <i>Indicative subdivision layout over Lot 50 Scotsdale Road</i> i) <i>External road network impacts</i> j) <i>Review of vegetation screening along the Scotsdale Road frontage.”</i> |

Council's decision was a result of concerns identified with the subdivision application received for Lot 366 Horsley Road. The subdivision was not supported but approved by SAT under mediation.

Comment:Proposal

It is proposed to rezone Lot 372 Horsley Road and Lot 51 Scotsdale Road from Rural to Residential Zone. The base coding of the subject land is R20 with some R30 provision consistent with the adopted Local Structure Plan.

2005 Draft Local Planning Strategy

The 2005 Draft Local Planning Strategy (LPS) identifies eleven planning units within the town to accommodate future residential growth. The subject land is identified within Planning Unit A. The LPS provides background information, land capability, servicing constraints and opportunities and planning issues relative to the expansion of the Denmark townsite. These issues have all been addressed in the Horsley/Rockford Road Local Structure Plan.

Horsley/Rockford Road Structure Plan

The Structure Plan was adopted by Council on 22 January 2008 but has not as yet received final approval from the Minister.

The Structure Plan investigates matters such as vegetation and site development, soils and landform, landscape and amenity, land ownership, services, site drainage/stormwater management, road and access and surrounding development. Key elements of the Structure Plan are:

- Fully services residential development;
- Provision for a range of lot sizes from R20 to R30;
- Preservation of significant vegetation in public open space areas;
- Provision of significant road and pedestrian linkages in all directions to ensure connectivity to existing and proposed development;
- Orientation of residential lots to public open space to optimise local amenity and provide surveillance;
- Provision for solar design and solar access by maximising the number of lots orientated north/south and east/west;
- Creation of a legible and permeable design layout based on modified grid alignments.

Modifications to Horsley/Rockford Road Structure Plan

As part of the assessment of the subdivision application received for Lot 366 Horsley Road, Council held a workshop on 16 September 2008 on the Horsley/Rockford Road Structure Plan and discussed various issues and potential amendments. The review of the Structure Plan was affirmed through Council's decision in October 2008. These modifications are yet to be affected.

Notwithstanding the subdivision that has been approved by WAPC for Lot 366, the Structure Plan should be modified as per Council resolution of October 2008 and required as a modification to this Amendment.

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.

A number of comments received on the amendment require some further discussion:

Site contamination:

The EPA points out that there is a possibility of soil contamination due to previous agricultural practices and request that a preliminary site investigation be carried out and if found to be contaminated, a Site Remediation and Validation Report should be prepared.

A site contamination report should be undertaken where it is proposed to develop land previously used for agricultural purposes into a more sensitive land uses such as residential. It is therefore recommended that the necessary site investigation and Site Remediation and Validation Report be prepared to the satisfaction of the satisfaction of Department of Environment and Conservation, Contaminates Sites Branch.

Need for the preparation of a Local Water Management Strategy

The Department of Water does not support the Scheme Amendment until a Local Water Management Strategy is prepared in accordance with "Developing a Local Water Management Strategy" Dec 2008 and to the satisfaction of DoW in consultation with the Shire. The impact of storm water on adjoining properties has also been raised by adjoining land owners.

It is therefore recommended that A Local Water Management Strategy to be prepared to the satisfaction of Department of Water and in consultation with the Shire and its results considered as part of the amendment. The Strategy to consider the relevant water management issues on adjoining properties which lie downhill/downstream from the subject lot.

Water Corporation Water Main

The Water Corporation states that a major water transfer main currently traverses the north-west portion of Lot 372. Water mains must be adequately protected within road reserve or public open space and cannot be located within private residential properties for safety reasons.

It is recommended that modification to the Structure Plan be undertaken, as part of the modifications required by Council in October 2008, which shows the Water Corporation's water main within road reserve or public open space to provide adequate and ongoing protection of the water main.

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 Rural.

Policy Implications:

2005 Draft Local Planning Strategy: The Strategy identified the subject land as Planning Unit A. The Horsley/Rockford Road Structure Plan has been prepared in accordance with the Local Planning Strategy and must be updated to reflect Council's resolution of October 2008.

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:

The amendment will result in the subject land being developed in accordance with the 2005 Draft Local Planning Strategy and the Horsley/Rockford Road Structure Plan (subject to modification being undertaken).

Sustainability Implications:

➤ **Environmental:**

The environmental considerations have been addressed within the Structure Plan and include matters such as remnant vegetation, slope and design, deep sewer, drainage and public open space.

➤ **Economic:**

The subject land is considered ideal for residential development as it is located 1km from the Denmark town centre and has good access to services and facilities, including ready availability of engineering services including roads, sewer, water, power and telecommunication.

➤ **Social:**

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

Voting Requirements:

Simple majority.

COUNCIL RESOLUTION

ITEM 9.1.1

MOVED: CR PHAIR

SECONDED: CR BARNES

That Council in respect of Amendment No. 119 to rezone lots 372 Horsley Road and 51 Scotsdale Road, Denmark from Rural zone to Residential R20 zone:

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 119 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:
 - i. A preliminary site investigation to determine if the site is contaminated, and if so, a Site Remediation and Validation Report to be prepared to the satisfaction of Department of Environment and Conservation, Contaminates Sites Branch.
 - ii. A Local Water Management Strategy to be prepared to the satisfaction of Department of Water and in consultation with the Shire and its results considered as part of the amendment. The Strategy to consider the relevant water management issues on adjoining properties which lie downhill/downstream from the subject lot.
 - iii. Undertake modification to the Structure Plan which shows the water main within road reserve or public open space to provide adequate and ongoing protection of the water main.
 - iv. Undertake modifications to the Structure Plan in accordance to Council resolution of October 2008 as follows:
 - Extension of McLean Road through to Scotsdale Road;
 - Investigation of additional road access point to McLean Road;
 - Limit vehicular access to Rockford and Rushton Roads;
 - Stormwater considerations over the total site to reflect staging of development over the study area;
 - Earthworks provisions;
 - Indicative subdivision layout over Lot 50 Scotsdale Road;
 - External road network impacts; and
 - Review of vegetation screening along the Scotsdale Road frontage.
 - Remove R30 from the Structure Plan.

LOST: 4/5

Res: 040310

COUNCIL RESOLUTION & OFFICER RECOMMENDATION

ITEM 9.1.1

MOVED: CR EBBETT

SECONDED: CR BARROW

That Council in respect of Amendment No. 119 to rezone lots 372 Horsley Road and 51 Scotsdale Road, Denmark from Rural zone to Residential R20 zone:

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 119 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:
 - i. A preliminary site investigation to determine if the site is contaminated, and if so, a Site Remediation and Validation Report to be prepared to the satisfaction of Department of Environment and Conservation, Contaminates Sites Branch.
 - ii. A Local Water Management Strategy to be prepared to the satisfaction of Department of Water and in consultation with the Shire and its results considered as part of the amendment. The Strategy to consider the relevant water management issues on adjoining properties which lie downhill/downstream from the subject lot.
 - iii. Undertake modification to the Structure Plan which shows the water main within road reserve or public open space to provide adequate and ongoing protection of the water main.
 - iv. Undertake modifications to the Structure Plan in accordance to Council resolution of October 2008 as follows:
 - Extension of McLean Road through to Scotsdale Road;
 - Investigation of additional road access point to Scotsdale Road;
 - Limited vehicular access to Rushton Road;
 - Internal road network;
 - Public open space on site;
 - Stormwater considerations over the total site to reflect staging of development over the study area;
 - Earthworks provisions;
 - Indicative subdivision layout over Lot 50 Scotsdale Road;
 - External road network impacts; and
 - Review of vegetation screening along the Scotsdale Road frontage.

CARRIED: 7/2

Res: 050310

4.49pm – Cr Hinds & Cr Thornton returned to the meeting and Cr Thornton resumed the chair as the Presiding Person.

9.1.2 SCHEME AMENDMENT REQUEST – LOT 22 MOUNT SHADFORTH ROAD, DENMARK

File Ref:	TPS3A122
Applicant / Proponent:	Ayton Baesjou
Subject Land / Locality:	191 (22) Mount Shadforth Road
Disclosure of Officer Interest:	Nil
Date:	3 March 2010
Author:	Cindy Simpson, Senior Planning Officer
Authorising Officer:	Sam Williams, Director of Planning & Sustainability
Attachments:	Yes – page 59

Summary:

Council has received a Scheme Amendment Request (SAR) to rezone Lot 22 Mt Shadforth Road from Rural to Special Rural. It is recommended that Council support the request subject to the amendment comprising the area bounded by Mt Shadforth Rd and Warham Road and addressing matters such as land capability, fire management, screening from Mt Shadforth Drive and the preparation of a subdivision guide plan.

Background:

The subject land has been identified within Unit D of the 2005 Draft Local Planning Strategy (LPS). It is also identified within the West Denmark Structure Plan which forms part of Unit E of the LPS.

Draft Local Planning Strategy

The 2005 draft LPS identifies the subject land as a 'release area' under Planning Unit D suitable for future population growth. The strategy recommends that the area be developed for special residential, special rural and/or landscape protection subject to the preparation of a Structure Plan which address various matters such as land capability, visual impact, retention and protection of remnant vegetation, storm water management, fire protection, access and screening and restrict access along Mt Shadforth Road.

A structure plan has not been prepared for Planning Unit D.

West Denmark Structure Plan

The subject land also forms part of the West Denmark Structure Plan (Planning Unit E) which was adopted by Council 1996. The Structure Plan allows for low density residential development (R2 and R20 being 5,000 and 500m² respectively) in the east, through to 2,000m² and 7,000m² Special Residential lots. Since its adoption much of the land within the area covered by the Structure Plan has been rezoned and subdivided.

The Structure Plan shows the subject lot as 'Rural' and indicates a 50m wide 'Tourist Road Protection Zone' along Mt Shadforth Road which is simply a landscape buffer and represents a small portion of the site. The Structure Plan states that the purpose of the Protection Zone is to protect the landscape character from inappropriate clearing of vegetation or construction of buildings, signage or other structures which may have a detrimental effect upon the landscape.

Comment:

Proposal:

It is proposed to rezone the subject land from 'Rural' to 'Special Rural'. The SAR is for Lot 22 Mt Shadforth Road only but discusses the merits of rezoning the area bounded by Mount Shadforth Road and Warham Road which consist of four lots and have a total area of approximately 9.5ha. The average lot size of the new lots proposed by this rezoning/subdivision is greater than 1ha. Lots will be serviced by

mains power, telecommunications and sealed roads. Potable water provision to the lots will be addressed through 92,000 litre rainwater tanks.

The SAR argues that development of the land bounded by Mt Shadforth and Warham Roads can proceed in the absence of the Structure Plan for Unit D of 2005 draft LPS and provides the following supporting justification:

- The subject land was considered as part of the West Denmark Structure Plan being Planning Unit E.
- It is bounded by Mt Shadforth Road and Warham Road which forms a distinct unit for development.
- Mt Shadforth Road forms a significant physical barrier between the subject land and Planning Unit D. The land to the north of Mt Shadforth Road can therefore be developed in isolation of the subject land.

Special Rural Development:

The subject land is shown as rural under the West Denmark Structure Plan. The Structure Plan is however, silent on the reason for this designation. It is proposed to rezone the subject land for Special Rural for the following reasons:

- The rural zoning is not in keeping with the surrounding area given the existing lot sizes, land uses, site characteristics and attributes of this land.
- The rezoning represents a rationalisation and rounding of the zoning in the area.
- Site characteristics such as the shape of existing lots, the slope of the land variation in soil type and frontage to Mt Shadforth Road warrants special rural development.
- Rezoning will allow for the introduction of development controls to ensure protection of landscape and visual amenity.

This information has been noted, however, it will still be necessary for the subdivision Guide Plan to form part of any rezoning application.

Consultation:

The SAR was referred to all relevant government and servicing agencies. There is no objection to the rezoning subject to the following:

- The rezoning being undertaken for the land bounded by Mt Shadforth Drive and Warham Road. Spot rezoning will not be supported.
- A minimum area of 1ha would be required for all new lots.
- Land capability for rural residential development and suitability for on-site effluent disposal.
- Protection of remnant vegetation and where possible identification of building envelopes in already cleared areas.
- Protection of Millers creek and any riparian vegetation associated with it.
- Preparation of a fire management plan.
- The Water Corporation states that the subject land is located within the Water Corporation's Water Operating License Area and WAPC will require that reticulated water to be supplied to all lots that are 4ha or less in area.

Based on the above comments received the following matters require further discussion:

Lot sizes:

The SAR proposes that lots would range from approximately 5,000m² with an average lot size greater than 1ha.

State Planning Policy 2.5 – Agricultural and Rural Land Use Planning, states that areas zoned “Rural-Residential” (Special Rural under the Shire's TPS No.3) lot sizes should range from 1- 4ha.

In order to maintain the rural landscape and amenity of the locality, lots below 1ha will not be supported and the applicant should be required to provide a Subdivision Guide Plan within the amendment documentation which shows lots of a minimum of 1ha and also addresses the requirements of the 2005 Draft LPS.

Water Supply:

State Planning Policy 2.5 – Agricultural and Rural Land Use Planning, states that areas zoned “Rural-Residential” (Special Rural under the Shire’s TPS No.3) mandatory provision of a reticulated potable water supply will apply. Development Control Policy 3.4 (Subdivision of Rural Land) states that the WAPC will generally require connection to a reticulated water supply for Rural Residential development where it is practical and reasonable to do so. Where it is not practical and reasonable to do so, the WAPC may consider an alternative water supply, the reliability thereof and the cost differential between a reticulated and alternative water supply.

Notwithstanding Water Corporations requirement for reticulated water to be supplied, the use of rainwater harvesting and storage of potable supply is supported as a sustainable alternative to reticulated water supply where Special Rural lots are proposed. Given that the land is located within the Water Corporation’s Water Operating License Area, the applicant will be required to place a notification on the titles of all future lots which states that the lot is not connected to water reticulation.

Consultation:

The SAR was referred to all relevant government and servicing agencies as discuss under the Comment section above.

Statutory Obligations:

There are no statutory obligations under the Scheme Amendment Request 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 Scheme Amendment Request fee in the adopted 2009/2010 budget.

Strategic Implications:

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

Sustainability Implications:

➤ **Environmental:**

The SAR will address environmental impacts of the proposed development through the preparation of a land capability study and the requirements for the protection of remnant vegetation, Millers creek and any riparian vegetation associated with it.

The provision of rainwater tanks provides a sustainable alternative to Scheme Water given the cost of reticulation and the difficulty in identifying water source areas for Denmark’s future water supply.

➤ **Economic:**

The development of the land will provide for settlement within close proximity to the Denmark townsite and allow for the efficient use of land where infrastructure is available.

➤ **Social:**

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

Voting Requirements:

Simple majority.

OFFICER RECOMMENDATION

ITEM 9.1.2

That Council with respect to the Scheme Amendment Request for Lot 191 (22) Mount Shadforth Road, resolve as follows:

1. Not support the Scheme Amendment Request for the spot rezoning of 191 (22) Mount Shadforth Road;
2. Supports the rezoning of the land bounded by Mt Shadforth and Warham Road being lots 1, 22, portions of 355 & 632 subject to the following matters being addressed within the amendment documentation:
 - a. A land capability study to assess suitability for special rural development and onsite effluent disposal. The study to include assessment of maximum winter groundwater level to ensure there is adequate vertical separation to groundwater and distance to water courses and wetland margins.
 - b. Preparation of a Subdivision Guide Plan which address matters set out in the 2005 draft LPS and include the following:
 - The subdivision pattern to reflect the outcomes of the land capability study;
 - A minimum lot size of 1ha for all new lots created;
 - Coordination of vehicular access to lots and restricted access off Mount Shadforth Road;
 - Stormwater management;
 - Landscape protection measures along Mt Shadforth Rd;
 - Protection of remnant vegetation;
 - Identification of building envelopes;
 - Protection of Millers creek and any riparian vegetation associated with it; and
 - Preparation of a fire management plan.

At the meeting held on the 16 March 2010, Cr Barnes asked the question of the Director of Planning & Sustainability if smaller lot sizes, in keeping with Special Residential, could be supported on the subject land and, after discussion, Cr Syme suggested that perhaps the Director of Planning & Sustainability could provide an Alternate Officer Recommendation for next week in light of the discussions.

The Director of Planning & Sustainability provides the following Alternate Officer Recommendation to address the matters raised by Councillors.

ALTERNATE OFFICER RECOMMENDATION

ITEM 9.1.2

That Council with respect to the Scheme Amendment Request for Lot 191 (22) Mount Shadforth Road, resolve as follows:

1. Not support the Scheme Amendment Request for the spot rezoning of 191 (22) Mount Shadforth Road;
2. Supports the rezoning of the land bounded by Mt Shadforth and Warham Road being lots 1, 22, portions of 355 & 632 to Special Residential subject to the following matters being addressed within the amendment documentation:
 - a. A land capability study to assess suitability for Special Residential development and onsite effluent disposal. The study to include assessment of maximum winter groundwater level to ensure there is adequate vertical separation to groundwater and distance to water courses and wetland margins.
 - b. Preparation of a Subdivision Guide Plan which address matters set out in the 2005 draft LPS and include the following:

- i. The subdivision pattern to reflect the outcomes of the land capability study;
 - ii. A minimum lot size of 5000m² for all new lots created;
 - iii. Coordination of vehicular access to lots and restricted access off Mount Shadforth Road;
 - iv. Stormwater management;
 - v. Landscape protection measures along Mt Shadforth Rd;
 - vi. Protection of remnant vegetation;
 - vii. Identification of building envelopes;
 - viii. Protection of Millers creek and any riparian vegetation associated with it; and
 - ix. Preparation of a fire management plan.
- c. Suitable arrangements being made with WAPC and Water Corporation for the provision of potable water through reticulated water or alternative provision through rainwater tanks to new lots created.

COUNCIL RESOLUTION	ITEM 9.1.2
MOVED: CR THORNTON	SECONDED: CR SYME

That Council with respect to the Scheme Amendment Request for Lot 191 (22) Mount Shadforth Road, resolve as follows:

1. Not support the Scheme Amendment Request for the spot rezoning of 191 (22) Mount Shadforth Road;
2. Supports the rezoning of the land bounded by Mt Shadforth and Warham Road being lots 1, 22, portions of 355 & 632 to Special Residential subject to the following matters being addressed within the amendment documentation:
 - a. A land capability study to assess suitability for Special Residential development and onsite effluent disposal. The study to include assessment of maximum winter groundwater level to ensure there is adequate vertical separation to groundwater and distance to water courses and wetland margins.
 - b. Preparation of a Subdivision Guide Plan which address matters set out in the 2005 draft LPS and include the following:
 - i. The subdivision pattern to reflect the outcomes of the land capability study;
 - ii. A minimum lot size of 5000m² for all new lots created;
 - iii. Coordination of vehicular access to lots and restricted access off Mount Shadforth Road;
 - iv. Stormwater management;
 - v. Landscape protection measures along Mt Shadforth Rd;
 - vi. Protection of remnant vegetation;
 - vii. Identification of building envelopes;
 - viii. Protection of Millers creek and any riparian vegetation associated with it; and
 - ix. Preparation of a fire management plan.
 - x. Pedestrian footpaths being shown on the sub-division guideplan.
 - c. Suitable arrangements being made with WAPC and Water Corporation for the provision of potable water through reticulated water or alternative provision through rainwater tanks to new lots created.

CARRIED: 11/0	Res: 060310
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REASONS FOR CHANGE

Council wished to add reference to the requirement of a pedestrian footpath in the sub-division.

9.1.3 REQUEST FOR ROAD CLOSURE AND AMALGAMATION

File Ref:	A495
Applicant / Proponent:	Harley Global Pty Ltd
Subject Land / Locality:	654 (Lot 2080) Denmark-Mt Barker Road, Denmark
Disclosure of Officer Interest:	Nil
Date:	8 March 2010
Author:	Duncan Ross, Senior Planning Officer
Authorising Officer:	Sam Williams, Director of Planning & Sustainability
Attachments:	Yes

Summary:

The applicant requests the closure of an unmade road reserve, linking the eastern side of the Denmark-Mt Barker Road to a reserve access to the Quickup Dam. The proposal results in two amalgamations, being:

- 1.6129ha of the road reserve is proposed to be amalgamated with 654 (Lot 2080); and
- 352m² is proposed to be amalgamated with Lot F64 (at the eastern end).

The applicant states various reasons why the road reserve should be closed and amalgamated, and these reasons are agreed with.

The process for the road closure involves an item being presented to Council with a recommendation for the closure. Following Council's consent the Shire will advertise the closure and based on the outcome of submissions the item will be presented to Department of Regional Development and Lands with an endorsement for road closure. Following closure the land comprising the road reserve is acquired from the Crown by the adjoining owner, with an acquisition cost established by a licensed valuer.

Background:

Council supported a subdivision application (ref: WAPC-141363) to realign existing boundaries on several properties adjoining the Quickup Dam on the 11th February 2010 for the following reasons:

- *The proposal results in a reduction in the number of rural lots;*
- *The proposal will not jeopardise viable agricultural land;*
- *The proposal is seen as a measure to protect the water catchment of the Quickup Dam.*

These boundary realignments were at the request of the Water Corporation acting on behalf of several landowners bordering the dam. This road closure is required to complete the planning process for the reconfiguration of property boundaries to ensure the protection of the Quickup Dam water supply.

Comment:

The primary consideration relating to this request is the future use of any such road reserves. In this instance the road reserve serves no immediate purpose and will not be required in the future.

Restricted access to the reserve and the Quickup Dam will be retained, via Lot F64 to the north of Lot 2080 as shown on the application plans, and via the new access approved under the recently approved subdivision.

The Director of Infrastructure Services has confirmed the road reserve is not required and that amalgamation into the adjoining property is supported.

Consultation:

No consultation has been undertaken as a result of this application by Council. Harley Global Pty Ltd is acting on behalf of the Water Corporation and the property owner.

Statutory Obligations:

- Land Administration Act- Section 58 Closure of Roads
- Land Administration Regulation- Section 9

Policy Implications:

There are no policy implications.

Budget / Financial Implications:

There are no financial implications for the road closure. It is noted the payment of funds for the acquisition of the road reserve will be borne by the adjoining owner with payment being received by the Crown based on a valuation for the portion of the road reserve.

Strategic Implications:

There are no known significant strategic implications relating to the report or the officer recommendation. The road reserve serves no current or future purpose and terminates at a reserve vested in the Shire where public access is discouraged.

Sustainability Implications:➤ **Environmental:**

There are no known significant environmental considerations relating to the report or officer recommendation. However, the road closure will ensure the unconstructed road reserve is not cleared from native vegetation, which would otherwise have been cleared if the road was constructed.

➤ **Economic:**

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

➤ **Social:**

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

Voting Requirements:

Simple majority.

COUNCIL RESOLUTION & OFFICER RECOMMENDATION	ITEM 9.1.3
MOVED: CR EBBETT	SECONDED: CR WAKKA
That with respect to the closure and amalgamation of the unmade road at 654 (Lot 2080) Denmark-Mt Barker Road, Denmark, Council resolve to undertake the following:	
<ol style="list-style-type: none"> 1. Support the closure and amalgamation of the unmade road into 654 (Lot 2080) Denmark-Mt Barker Road; 2. Commence advertising of the closure in accordance with Sect. 58 of the Land Administration Act. 3. Following the advertising period, refer the Road Closure to the Department of Regional Development and Lands with a recommendation for support or refusal based on the outcome of submissions during advertising as determined by the Director of Planning and Sustainability. 	
CARRIED: 11/0	Res: 070310

<p>9.1.4 AMENDMENT TO LOCAL STRUCTURE PLAN AND INITIATION OF SCHEME AMENDMENT No. 106 FOR LOTS 348, 349 & 350 KEARSLEY ROAD</p>
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File Ref:	PLN43/ TPS3 A106
Applicant / Proponent:	Ayton Baesjou Planning on behalf of Sunland Pty Ltd & Neville Plowman
Subject Land / Locality:	Lots 348, 349 & 350 Kearsley Road
Disclosure of Officer Interest:	Nil
Date:	4 March 2010
Author:	Sam Williams, Director of Planning & Sustainability
Authorising Officer:	Sam Williams, Director of Planning & Sustainability
Attachments:	Yes – page 79

Summary:

Council is in receipt of correspondence from Ayton Baesjou Planning (the proponent) regarding the Local Structure Plan and Scheme Amendment for Lots 348, 349 & 350 Kearsley Road. The proponent has requested the following actions from Council with respect to this:

- Endorsement of the updated Structure Plan adopted by Council on the 22 September 2009, which now reflects Council's requirements from the September resolution.
- Initiation of the formal Scheme Amendment documents to rezone the subject site from Rural to Special Residential, Residential R10 and R5/10 and Public Use- Water Supply (Amendment 106).

In accordance with the request, it is recommended Council endorse the updated Structure Plan and Initiate Amendment 106 to Town Planning Scheme No.3 subject to modifications.

Background:

Updated Structure Plan

Council at its 26 May 2009 meeting (Item 9.1.3 / Res: 070509) resolved to adopt the draft local structure plan and advertise it for public comment for a period of 42-days. The preparation and adoption of a local structure plan for the land was required by Council to assist the scheme amendment process.

In accordance with necessary work taken to prepare the structure plan Council at its ordinary meeting on the 22 September 2009 resolved as follows:

That, with respect to the final approval of the Local Structure Plan for Lots 1 & 2 (previously 348), 349 & 350 Kearsley Road, Council, in accordance with clause 8.2 of the scheme:

- 1) *Note the submissions received and adopt for final approval the proposed Local Structure Plan (dated June 2009) to be used to guide the future scheme amendment.*
- 2) *Advise the proponents that whilst the scheme amendment documents can be prepared in accordance with this decision the plan be amended to reflect that remnant vegetation area is not sufficiently protected and a maximum of 30m from the edge of the remnant vegetation area (as determined by Council) may be used for any fire protection measures to achieve a low or medium fuel zone.*
- 3) *Advise the proponents that it should not be construed that the submitted Fire Management Plan in its current form is endorsed by Council as Council has some concerns that it does not comply with Council Policy P100601 in relation to purporting to assign responsibility for fuel reduction measures on Council land in order to achieve the required low classifications.*

- 4) *Advise the proponents that the southern section of Kearsley Road south of the Wishart Place intersection will need to be assessed for traffic management impacts and contributory arrangements to its development and future construction.*

Scheme Amendment

Council at its meeting in April 2007 resolved to support a Scheme Amendment Request for the subject land, as follows:

That Council support the SAR for Lots 348, 349 & 350 Kearsley Road subject to the amendment documents addressing the following:

- 1) *All of those matters listed in Planning Unit C of the Denmark Local Planning Strategy, and those matters contained within the Department of Water and Department of Environment and Conservation advice on the SAR.*
- 2) *The proponents are advised that whilst formal scheme amendment documentation can be prepared by the proponents for Council consideration, it is likely that until the present infrastructure constraints (electricity and water supplies) are resolved the proposal may not be able to proceed."*

Consistent with this the proponent lodged an Amendment Request (Amendment 106) to rezone the subject site from Rural to Special Residential. At its meeting on the 22 January 2008 Council resolved as follows:

- 1) *That Council defer consideration of proposed Scheme Amendment 106 until the Structure Plan for Lots 348, 349 and 350 Kearsley Road has been finalised and adopted by Council;*
- 2) *Council instruct the proponents to redevelop the draft Structure Plan to address the following requirements:*
 - a) *Evidence to prove the capacity of the sheet laterite area shown on the Soil Survey Report (Casuarina Forest Services, September 2005) to adequately treat domestic effluent on 2,000m lots;*
 - b) *The retention, free of disturbance and development, of the area of Tingle and Karri forest that adjoins Reserve A35621 and Lot 351;*
 - c) *Clearly describe and depict the widening of the Kearsley Road road reserve and detail the purpose;*
 - d) *Ensure clarity when referencing either the Shire's 'A Settlement Strategy for Denmark' (1998) or the 'Draft Local Planning Strategy' (2006);*
 - e) *Provide up to date and relevant references for remnant vegetation type;*
 - f) *Delete discussion and references relating to current shortfalls in the supply of water and power;*
 - g) *Delete references to the makeup of current ownership of the subject lots;*
 - h) *Make reference to the town water supply storage and treatment works to be located within the area;*
 - i) *Make reference to the town water supply infrastructure that the WA Water Corporation intends to locate within areas to be developed on Lots 348, 349 and 350 Kearsley Road*

These requests have been addressed through the preparation of the Council adopted Structure Plan.

Comment:**Updated Structure Plan**

Resultant from Council's resolution to adopt the Local Structure Plan subject to conditions and further correspondence from the Shire itemising specific requirements for the Structure Plan (refer attached); the proponent has been in detailed discussion with Planning Officers at the Shire to address items 2, 3 and 4 of Council's resolution.

This updated Structure Plan reflects the outcome of the preparation of the Subdivision Guide Plan forming part of the Scheme Amendment. In accordance with Council's resolution to adopt the Local Structure Plan, the following has been addressed within the Local Structure Plan:

- Item 2 has been addressed through clarification of the 'edge of the remnant vegetation'. In accordance with the Shire's Fire Regulation Notice a current 50m separation zone is provided via parkland clearing from the existing chalets, which will also be in alignment with future proposed dwellings. The 50m parkland clearing meets Council's fire safety requirements.
- Item 3 has been addressed by placing the onus of fire management on the future private land owners, i.e. as shown on the subdivision guide plan (refer attached Amendment documentation) there will be two (2) separate lots that comprise the remnant vegetation under private ownership. This with the provision of an additional Strategic Fire Access between the 2 proposed lots satisfactorily meets the Shire's Fire Regulations. However, it is noted that prior to Council's adoption of the Amendment a management plan will have to be prepared to the satisfaction of the Director of Planning and Sustainability confirming how fuel loads on the 2 proposed lots will be addressed.

With respect to the other proposed lots that will have remnant parkland cleared vegetation, the maintenance of vegetation to meet the Shire's regulations will be undertaken by the future private landowners.

- Item 4 has been addressed by the proponents being advised of Council's requirements for the intersection upgrade of Kearsley Road and Mt Shadforth Road and portion of Kearsley Road south of Wishart Place. In response to this, the proponents have provided an undertaking that the developer will contribute to the upgrading/widening of Kearsley Road to the satisfaction of Council at the first stage of subdivision. To ensure this, the Shire will request the developer enter into a legal agreement.

Based on the resolution of these items Council is requested to endorse the revised Local Structure Plan, which now meets Council's requirements.

Scheme Amendment

A copy of the amendment document, which includes the updated Local Structure Plan has been distributed to Councillors electronically.

The document contains the rationale for the amendment and includes a Subdivision Guide Plan and special provisions to be incorporated into the town planning scheme to guide the subdivision and development of the land.

The proposed subdivision resultant from the rezoning will create approximately 101 lots with 34 being Special Residential and 67 being Residential with a density coding ranging from R5 to R5/10. Of the lots zoned Residential R5 and R5/10, these will be required to provide Public Open Space in accordance with WAPC Policy, which will be resolved at the time of subdivision application.

As illustrated by the subdivision guide plan, the existing karri forest area will be zoned under the Town Planning Scheme as Special Residential and be incorporated into two separate Special Residential lots. These lots are to be managed by the future landowners to the satisfaction of the Shire of Denmark. To ensure no further subdivision of these lots a memorial is to be placed on the title advising that the lots have been created for conservation purposes and an application for further subdivision will not be supported.

The other area of existing Karri not included in the two Special Residential lots will be parkland cleared and contained in the private landholdings, which are to be maintained by the private landowners in accordance with the Shire's Fire Regulations.

With respect to Council's resolution on the previous Amendment Request and the Local Structure Plan, this Amendment Request (and modification to the Local Structure Plan) successfully addresses Council's requirements and it is recommended Council initiate the Amendment. During the advertising period and prior to the Amendment being presented to Council for final approval the applicant will be requested to address the listed requirements to the satisfaction of the Director of Planning and Sustainability.

Consultation:

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

Advertising will include: advertisement in local newspapers, a sign 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 adopt the Amendment and issue it for final approval to the WA Planning Commission. On the assumption the Amendment is adopted, the WA Planning Commission is required to recommend the document to the Minister for Planning for final approval.

Statutory Obligations:

- Planning & 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 Rural.
- Western Australian Planning Commission Development Control Policy 2.3- Provision of POS

Policy Implications:

The proposal complies with the findings of the Settlement Strategy and Shire's 2005 draft Denmark Local Planning Strategy.

Town Planning Scheme Policy No. 4 'Town Planning Scheme Amendment - Documentation' – A copy of the Amendment has been provided for each Councillor electronically.

Budget / Financial Implications:

The amendment fees are payable in accordance with Town Planning (Local Government Planning Fees) Regulations.

Strategic Implications:

Proposed rezoning is consistent with the Settlement Strategy and 2005 draft Denmark Local Planning Strategy. The subject lot will be zoned Special Residential and subject to special controls under the town planning scheme to control subdivision, development and land uses.

Sustainability Implications:➤ **Environmental:**

These are addressed within the amendment documentation and include land capability, fire management, effluent disposal, public open space, remnant vegetation protection, visual impact, storm water management and land use conflicts. The assessment by the EPA will identify any other environmental matters that are required to be addressed through the amendment process.

➤ **Economic:**

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

➤ **Social:**

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

Voting Requirements:

Simple majority.

At the meeting held on the 16 March 2010, Cr Syme requested that the plans associated with the amendment be dated.

The Director of Planning & Sustainability noted that whilst he was satisfied that the Scheme Amendment documentation if read in context, would not mislead the reader, he would speak with the consultant to have the plans dated. The plan has now been dated 'March 10' and electronically copied to Councillors.

COUNCIL RESOLUTION & OFFICER RECOMMENDATION

ITEM 9.1.4

MOVED: CR LAING

SECONDED: CR BARROW

That with respect to the request for adoption of the Local Structure Plan and initiation of the Scheme Amendment for Lots 348, 349 & 350 Kearsley Road, Council:

1. Endorse the updated Local Structure Plan
2. Pursuant to the Planning and Development Act 2005 initiate Amendment No. 106 to Town Planning Scheme No. 3 to rezone Lots 348, 349 & 350 Kearsley Road from Rural to Special Residential, Residential R10 and R5/10 and Public Use-Water Supply and incorporate scheme provisions to control subdivision, land use and development and once authorised by the EPA be advertised for a period of 42 days. During the advertising period of the Amendment the proponent is to prepare to the satisfaction of Council as follows:
 - a) A Fire Management Plan for the two proposed 3ha lots;
 - b) Entering into a legal agreement with Council (at the proponent's cost), confirming a caveat will be placed on the two Special Residential lots comprising the vegetation at the time of Creation of Titles confirming the lots cannot be further subdivided;
 - c) Entering into a legal agreement with Council (at the proponent's costs) confirming that the developer will contribute to the upgrading/widening of Kearsley Road and Mount Shadforth Road intersection and the portion of Kearsley Road and Wishart Place to the satisfaction of Council at the first stage of subdivision.

CARRIED: 11/0

Res: 080310

9.1.5 REPLACEMENT SUN SHADES ON CROWN LAND – DENMARK BOWLING CLUB
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File Ref:	A3069
Applicant / Proponent:	Bruce Smith – Club President – Denmark Bowling Club
Subject Land / Locality:	Reserve 20403, Morgan Road, Denmark
Disclosure of Officer Interest:	Nil
Date:	10 March 2010
Author:	Duncan Ross, Senior Planning Officer
Authorising Officer:	Sam Williams, Director of Planning & Sustainability
Attachments:	Yes – page 83

Summary:

The proposal is to replace existing sun shades (previously removed) at the northern and southern ends of the new synthetic greens as shown on the attached plans. The structures are proposed to be constructed of steel frames and clad in a pattern with different coloured colorbond metal sheeting (green and orange).

As the land subject to this application comprises a reserve, vested in the Shire, approval is sought for Council to authorise the development application and approve the application as a single item.

Background:

Previous sun shades were located in a similar position to those subject to this application; however they have been removed. The sun shades subject to this application are a permanent upgraded replacement.

Comment:

The form, location and intention of the sun shades are supported and consistent with the requirements of the Shire's Town Planning Scheme.

However, as the adjoining clubrooms are Heritage Listed the proposed colour of the sun shades should match the heritage facade. Given this, it is considered the use of green and orange colorbond is not suitable and only green colorbond should be used.

Consultation:

No consultation has occurred as a result of this application.

Statutory Obligations:

Town Planning Scheme No. 3 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 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:**

Denmark Bowling Club provides an important recreational facility to the residents of Denmark.

➤ **Heritage:**

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

- The clubrooms are contained on the adopted MHI and is Site No. 3 on the Schedule of Places of Heritage Value under the scheme. The clubrooms were originally the railway station building.
- Property is adjacent to other places including No. 27 John Clark Memorial Bandstand and No. 28 Karri trees within the highway road reserve. These are also included within the Schedule of Places of Heritage Value within the scheme.
- There are several recorded registered Aboriginal heritage places in this area including the Denmark River (Site 22081) and Denmark River Midden (Site 18947).

Voting Requirements:

Simple majority.

COUNCIL RESOLUTION & OFFICER RECOMMENDATION	ITEM 9.1.5
MOVED: CR BARNES	SECONDED: CR WAKKA
<p>That with respect to the development application lodged for the Denmark Bowling Club on Reserve 20403 Morgan Road, Denmark to erect shade shelter on their playing greens, Council resolve to;</p> <ol style="list-style-type: none"> 1. Give permission as landowner for the planning application to be submitted for assessment. 2. Grant Planning Approval for the replacement sun shades on Reserve 20403, Morgan Road, Denmark subject to the following conditions: <ol style="list-style-type: none"> a) The development to be in accordance with the attached stamped approved plans and where marked in red dated 22 February 2010. b) The colour of the sun shades being amended to green, to the satisfaction of the Director of Planning and Sustainability. 	
CARRIED: 11/0	Res: 090310

9.1.6 DRAFT TOWN PLANNING SCHEME POLICY – EVENTS, CONCERTS AND OTHER ORGANISED GATHERINGS
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File Ref:	PLN17 & NEW PLN
Applicant / Proponent:	Not applicable
Subject Land / Locality:	Not applicable
Disclosure of Officer Interest:	Nil
Date:	19 February 2010
Author:	Phil Shephard, Consulting Planning Officer
Authorising Officer:	Sam Williams, Director of Planning and Sustainability
Attachments:	Yes – page 91

Summary:

To consider a draft Town Planning Scheme policy covering the application and approval requirements for events, concerts and organised gatherings within the Shire.

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

Background:

Council at its meeting 9 February 2008 (Resolution: 170209) requested that staff investigate and prepare a draft town planning scheme policy on the type of public events that require planning approval- refer resolution below.

“That with respect to the withdrawn application to hold an outdoor party at 175 Harewood Road, Denmark, Council;

1. *Request the Chief Executive Officer to have planning staff prepare a draft planning policy on the size and type of events that Council requires planning approval to be obtained.”*

Comment:

The Shire has previously had no policy covering events or the need for approvals. The intention of the Policy is to ensure a consistent approach is applied to all event applications and that consideration and determination is completed in a coordinated manner. Council has the key role in approving events through the operation of the Building Code of Australia and Public Buildings legislation.

The objectives of the draft Policy are as follows:

1. *To set standards for the conduct of events within the Shire of Denmark.*
2. *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.*
3. *To ensure events are sited and conducted to minimise any adverse impacts on adjoining and nearby land or roads.*

In addition to Council powers, there are a number of other existing legislative controls administered by various State Government agencies that covers the conduct of events including Liquor Control/Liquor Licensing Act and Regulations, Local Government Act 1995, Local Laws, Security and Related Activities (Control) Act 1996, Health (Public Buildings) Regulations 1992, Environmental Protection (Noise) Regulations 1997, Health (Food Hygiene) Regulations 1993 and Caravan and Camping Act/Regulations (if applicable) etc. and it is important that all agencies play their role in assisting the Shire achieve the objectives of the policy.

It is the responsibility of all proponents to ensure that they have the appropriate approvals 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.

The timeframe for approval of events will vary greatly according to their nature. It is expected that simple medium-sized events will take between 30 – 50 days to be assessed. Applications for large events will be advertised for public comment as part of the assessment process and it is expected that they will take between 90 -120 days to be completed.

The standards contained within the Policy have been prepared following assessment of other similar policies and guidelines used by other local governments. It is expected that the Policy will be refined over time as more data on events and their impacts becomes available.

Should the Policy be finally adopted, staff would prepare an Information Sheet for use by operators and promoters in planning future events.

Consultation:

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

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."

As stated in the Comment Section above, there are various legislative controls exercised by other government agencies that may impact on a particular event proposal also.

Policy Implications:

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

Budget / Financial Implications:

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

Strategic Implications:

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

Sustainability Implications:

➤ **Environmental:**

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

➤ **Economic:**

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

➤ **Social:**

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

Voting Requirements:

Simple majority.

COUNCIL RESOLUTION & OFFICER RECOMMENDATION	ITEM 9.1.6
MOVED: CR WAKKA	SECONDED: CR EBBETT
That Council in accordance with clause 8.2.2 of Town Planning Scheme No.3 prior to adopting the draft Town Planning Scheme Policy 'Events, Concerts and Other Organised Gatherings';	
<ol style="list-style-type: none"> 1. Advertise the draft in the local newspaper(s) for a period of 21 days for public inspection and comment; and 2. Refer the draft policy directly to relevant government agencies including the Department of Health, Department of Racing, Gaming and Liquor, Denmark Police, Fire and Emergency Services Authority of WA and Environmental Protection Authority. 	
CARRIED: 11/0	Res: 100310

9.1.7 DRAFT TOWN PLANNING SCHEME POLICY - PUBLIC OPEN SPACE
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File Ref:	PLN59
Applicant / Proponent:	Not applicable
Subject Land / Locality:	Not applicable
Disclosure of Officer Interest:	Nil
Date:	10 March 2010
Author:	Cindy Simpson, Senior Planning Officer
Authorising Officer:	Sam Williams, Director of Planning & Sustainability
Attachments:	Yes – page 97

Summary:

A draft town planning scheme has been prepared to provide criteria against which Council will assess the quality, size, type, design and distribution of public open space (POS) set aside under the Planning and Development Act 2005 (Act) at subdivision stage. It is recommended the draft policy be adopted to enable consultation to take place prior to the policy being finalised.

Background:

Under the Planning and Development Act 2005 (Act), contributions for public open space (POS) are required where a subdivision seeks to create more than 2 lots. The West Australian Planning Commission (WAPC) Development Control Policy 2.3 requires 10% of the gross subdivisible area of a conditional subdivision be given up free of cost by the subdivider for public open space (POS) where a subdivision seeks to create more than five lots.

Council has to date assessed the provision of POS in structure plans and subdivision application based on policy direction provided for by the WAPC and based on a case by case basis or merits. Due the Shire containing large areas of remnant vegetation, this has resulted in POS being provided which has met the conservation objectives of the Shire but a lack of accessible and well designed POS to cater for the passive and active recreational needs of the community.

The need for a town planning scheme policy on POS was identified to provide criteria against which POS will be assessed when considering structure plans and subdivision applications.

Comment:Draft Policy

The draft policy contains background, definitions, objectives and policy provisions to guide Council in considering the provision of POS in Structure Plans and subdivision applications. The policy applies to POS contributed free of cost by the owner through the subdivision process within areas zoned Residential and applies to all green-title and survey strata applications where more than two lots are being created.

The objectives of the Policy are as follows:

- To ensure all residential development is complemented by good quality, well located areas of public open space that enhance the amenity of the development and provide for the recreational needs of the residents.
- To ensure public open space provided for under the Act contributes predominantly towards the active and passive recreational needs of the community.
- To ensure that the design, size and dimensions of POS results in practicable and useable spaces for passive and active recreational needs.
- To provide public opens space that is safe and overlooked by nearby buildings.
- Accommodate water-sensitive urban design in public parkland areas where usability for recreation purposes are not compromised or where conservation values are enhanced.

- Provide criteria under which cash-in-lieu of public open space will be accepted and required.

The policy provisions provide requirements for the identification of areas of conservation value, distribution of POS, open space design criteria, urban water management, minimum standards for development and cash-in-lieu provisions.

Public Open Space Strategy

There is a need to assess the rate of provision of district, neighbourhood and local parks in areas already developed to determine the level at which the community has access to well developed POS and allow for the efficient planning thereof through future development areas. Such a POS Strategy will assist Council in identifying POS requirements in future residential development areas which may assist in meeting the identified shortages and justify cash-in-lieu contributions where a shortfall in provision and development have been identified.

A preliminary assessment for the central Denmark townsite was undertaken to show areas of district, neighbourhood and local parks (refer attached maps). The level of POS was determined by the size and function thereof. The maps show the catchment area for each level of park in accordance with the definitions provided for in the policy. The following preliminary assessment of POS provision is made:

- The Denmark community is well serviced with district level passive and active recreational facilities with good access within the townsite and beyond. These include the recreation centre of Brazier Street and tennis and golf clubs on South Coast Highway, trotting track, Berridge Park and the future Kwoorabup Park. Within the
- There is a shortage of accessible and well developed neighbourhood parks in the central Denmark townsite. This is predominately due to the large areas of POS with remnant vegetation which are not accessible for active or passive recreational use. Neighbourhood parks within a 400m walking distance provide passive and/or active recreational opportunities for the community and should provide formal walking paths, picnic and barbeque areas, play equipment etc.
- There is a shortage of accessible and well developed local parks within the central Denmark Townsite. Local parks within 150-300m walking distance from residential houses provides important resting areas for children and the elderly and should provide playgrounds, seating etc.

The above shortcomings identified for neighbourhood and local parks, is most probably the result of ad hoc historical planning practices. WAPC policy and current standards of development should allow for a good distribution of all levels of POS requirements.

It will be beneficial for Council to undertake a detailed assessment at the following levels:

District Analysis

- Provide an overview of reserves/POS/trials etc. which provides access for all people of the Shire.
- Make an assessment on the level of provision, active/passive areas and make recommendations for expansion and/or development thereof.
- Present the above in map and table/description form.

Town of Denmark:

- Identify distinct geographic areas (developed and future urban areas) which functions as neighbourhoods.

- Provide an analysis of each neighbourhood in terms of areas of open space (district, neighbourhood and local parks) the function thereof (active/passive), level of provision and level of development.
- Provide recommendations on future POS requirements, improvements, development etc.
- Present the above in map and table/description form.

Rural Node: Nornalup

- Provide an analysis of each neighbourhood in terms of areas of open space, the function thereof (active/passive), level of provision and level of development.
- Provide recommendations on future POS requirements, improvements, development etc.
- Present the above in map and table/description form.

Rural Node: Peaceful Bay

- Provide an analysis of each neighbourhood in terms of areas of open space, the function thereof (active/passive), level of provision and level of development.
- Provide recommendations on future POS requirements, improvements, development etc.
- Present the above in map and table/description form.

Consultation:

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

In addition to this refer the draft policy directly to relevant government agencies including Department of Planning, Department of Environmental Protection, Department of Sport and Recreation and Department of Water.

Statutory Obligations:

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

Policy Implications:

The policy is only a draft at this stage. If formally adopted by Council following the consultation phase it will become and adopted TPS policy under the provisions of the Clause 8.2 of the Scheme 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 cost 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:**

The adoption of the policy will protect and enhance the environmental values of the residential area of the Shire of Denmark.

➤ **Economic:**

The adoption of the policy provides clear direction on the cash-in-lieu of providing POS requirements.

➤ **Social:**

The adoption of the policy will protect and enhance the cultural and heritage values of the residential areas of the Shire and provide for the passive and active recreational needs of existing and future populations.

Voting Requirements:

Simple majority.

COUNCIL RESOLUTION & OFFICER RECOMMENDATION	ITEM 9.1.7
MOVED: CR SAMPSON	SECONDED: CR PHAIR
That with respect to the proposal to implement a POS Policy and Strategy for the Shire of Denmark Council with undertake the following:	
1. In accordance with Clause 8.2.2 of TPS No. 3 prior to adopting the draft Town Planning Scheme Policy 'Public Open Space';	
a. Advertise the draft in the local newspaper(s) for a period of 21 days for public inspection and comment: and	
b. Refer the draft policy to the relevant government agencies including Department of Planning, Department of Environmental Protection, Department of Sport and Recreation and Department of Water.	
2. Prepare a POS Strategy to assess current level of POS provision and make recommendations for future planning, provisions and development of POS.	
CARRIED: 11/0	Res: 110310

Prior to any consideration of Item 9.2.1 Cr Pedro made the following declaration:

“I am a member of an affected Fire Brigade 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 9.2.1 Cr Syme made the following declaration:

“I am a member of an affected Fire Brigade 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 9.2.1 Cr Sampson made the following declaration:

“I am a member of an affected Fire Brigade 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.”

9.2 Director of Community & Regulatory Services

9.2.1 OCEAN BEACH BUSH FIRE BRIGADE AND THE 2003 EMERGENCY SERVICES LEVY (ESL) CATEGORY BOUNDARY REVIEW

File Ref:	Fire 1
Applicant / Proponent:	Not applicable
Subject Land / Locality:	Not applicable
Disclosure of Officer Interest:	Nil
Date:	7 March 2010
Author:	Gregg Harwood, Director of Community & Regulatory Services
Authorising Officer:	Gregg Harwood, Director of Community & Regulatory Services
Attachments:	Yes – page 111

Summary:

This report deals with a ‘suggested motion’, received from the Ocean Beach Bush Fire Brigade Secretary, representing the outcome of a Special Meeting of the Ocean Beach (BFS), William Bay (BFS) and Town (VFRS) brigades that was held on the 15 February 2010.

This ‘suggested motion’ was considered by the Bush Fire Advisory Committee (BFAC) at its 4 March 2010 meeting and this Committee adopted an alternative motion.

The officer recommendation considers the points raised in BFAC’s recommendations and recommends that Council adopt a modified version of them, endorse its current BFAC and brigade boundary structure and delegate authority to CEO to negotiate a MOU with FESA regarding volunteer bushfire brigade operations in the Town VFRS area.

Background:

On the 4 January 2003 Council received correspondence from the Fire and Emergency Services Authority (FESA) (copy attached) outlining their intention to define the Emergency Services Levy (ESL) category boundaries and at the same time take the opportunity to align the Fire District boundaries with the proposed ESL boundaries.

Council’s then Manager of Finance replied on the 16 February 2003 (copy attached) and agreed with the proposed ESL boundaries with a suggested minor change that added a section of the College of Agriculture to the ESL area. Further correspondence was received from FESA on the 16 March 2003 (copy attached) informing Council that due to time constraints the existing ESL boundary would remain in place for the 2003 rating season.

Some 15 months later on the 21 June 2004 FESA wrote to Council again (copy attached) outlining that the ESL boundary changes had been approved and provided a copy of the (new) Denmark Fire District on Deposited Plan 35796 Edition 1, Version 2.

This confirmation appears to have not been communicated to the Shire of Denmark staff, Bush Fire Brigades or the wider community and remained unnoticed until the Ocean Beach Bush Fire Brigade Secretary came across the anomaly by obtaining conflicting information (maps) in the latter part of 2009.

Then, following an initial meeting between the Community Fire Manager and the Ocean Beach and William Bay Bush Fire Brigades, a meeting was convened by the Ocean Beach Bush Fire Brigade that included members of the Ocean Beach Bush Fire Brigade (OBBFB), William Bay Bush Fire Brigade (WBBFB) and Denmark (Town) Volunteer Fire and Rescue Service (DVFRS) and the following motions were recorded by the Secretary of the Ocean Beach Bush Fire Brigade.

“At an Extraordinary Meeting of volunteers from William Bay Bush Fire Brigade [WBBFB], Denmark Town VFRS and Ocean Beach Bush Fire Brigade [OBBFB] held on 15 February, 2010, those present agreed unanimously to reject FESA’s proposal to disband OBBFB and redistribute its human and physical resources elsewhere.

The brigades seek BFAC’s endorsement of this position and offer the following draft motion for discussion.

Suggested motion

It is moved that:

- (a) the physical and human resources of WBBFB and OBBFB should not be exposed to risk of bureaucratic predation implicit in FESA’s proposal to merge OBBFB’s resources with those of WBBFB, thereby disbanding OBBFB;*
- (b) the Ocean Beach Bush Fire Brigade boundaries shown in the attached map should be confirmed by Council so that OBBFB may continue to provide bush fire assistance to residents living within the Category 4 ESL Town Boundary as agreed in the Memorandum of Understanding between Denmark Town VFRS and OBBFB;*
- (c) in the best interests of community safety, Council is advised to accept the coexistence of a Category 5 service (such as that provided by OBBFB) within a Category 4 area until the bush fire risk is considered negligible, charging the higher ESL rate to residents within that area.*
- (d) FESA should be advised that by failing to work constructively with those responsible volunteers for uncovering the bureaucratic failure at the root of this problem, it has tested their patience and goodwill.*

In response to this ‘suggested motion’ the BFAC adopted the following alternative recommendation to Council at its 4 March 2010 meeting.

That the Bush Fire Advisory Committee recommends to Council that:

- 1) That the Community Fire Manager be asked to investigate and report back to the BFAC on the following items regarding the Ocean Beach Bush Fire Brigade:*
 - a) The practicality of a memorandum of understanding between the Town Volunteer Fire Rescue Service and Ocean Beach Bush Fire Brigade and the Shire of Denmark allowing the Ocean Beach Brigade to still service its pre 2003 area in the capacity of a Bushfire Brigade with the Town Volunteer Fire Rescue Service handling all other factors.*
 - b) The opportunities for the Ocean Beach Bush Fire Brigade to sufficiently enlarge its district so that it does not lose resources in future risk to resource assessments.*

- 2) *That in future any ESL boundary changes affecting any Bush Fire Brigade and Volunteer Fire Rescue Service boundary changes be referred to BFAC for the discussion in the first instance.*

And later in the same meeting resolved;

"That the BFAC oppose any reduction in or amalgamation of existing Bush Fire Brigades and/or assets of these Brigades either now or in the future unless consultation occurs with the BFAC and any Brigades directly affected."

Comment:

Council staff are not aware of any proposal by the Fire and Emergency Services Authority to "disband Ocean Beach Bush Fire Brigade and redistribute its human and physical resources elsewhere" and provides the following comments on the various parts of the suggested motion.

- (a) *the physical and human resources of WBBFB and OBBFB should not be exposed to the risk of bureaucratic predation implicit in FESA's proposal to merge OBBFB's resources with those of WBBFB, thereby disbanding OBBFB;*

Similarly Council staff are not aware of any proposal by the Fire and Emergency Services Authority or Council to "merge OBBFB's resources with those of WBBFB, thereby disbanding OBBFB".

At a previous meeting of the Ocean Beach and William Bay Bush Fire Brigades held on Thursday, 10 December 2009 at 4.00pm to discuss the boundary changes, the Community Fire Manager did however suggest, as one of a number of options, that due to the Ocean Beach Bush Fire District having been significantly reduced (due to an increase in the ESL Category 4 boundary) and with such a strong membership base, whereas, on the other hand, William Bay Bush Fire Brigade had a particularly large bushfire district and had difficulty with membership ie. retention and recruitment of volunteers, that there may be an opportunity to give consideration to amalgamating the brigades for mutual benefit.

- (b) *the Ocean Beach Bush Fire Brigade boundaries shown in the attached map should be confirmed by Council so that OBBFB may continue to provide bush fire assistance to residents living within the Category 4 ESL Town Boundary as agreed in the Memorandum of Understanding between Denmark Town VFRS and OBBFB;*

Council staff have been unable to locate a copy of any Memorandum of Understanding or agreement between Town Volunteer Fire Rescue Service and Ocean Beach Bush Fire Brigade and no one from the community is actually able to provide a conclusive account of when it was signed and by whom.

Council staff have however been able to locate a similar document from the City of Cockburn and this is attached for Council's reference. Council also has an Operational Response agreement between the FESA and the Shire of Denmark for the transfer of control of bushfires within the Shire of Denmark a copy of this is also attached.

- (c) *in the best interests of community safety, Council is advised to accept the coexistence of a Category 5 service (such as that provided by OBBFB) within a Category 4 area until the bush fire risk is considered.*

Currently an unwritten arrangement of mutual aid exists between all Volunteer Fire and Rescue and Bush Fire Brigades within the Shire of Denmark.

Bush fire brigades have been regularly called upon to assist the Town Volunteer Fire and Rescue Service at structural, bushfire and road crash incidents, just as the Town

Volunteer Fire and Rescue Service has been called upon to assist various Bush Fire Brigades with bush and structural fires along with water bomber refilling.

The Community Fire Manager does not see this arrangement changing; therefore there is no reason to request Council to give consideration to an arrangement that already exists.

- (d) *FESA should be advised that by failing to work constructively with those volunteers responsible for uncovering the bureaucratic failure at the root of this problem, it has tested their patience and goodwill.*

FESA has not initiated any formal discussion regarding the changes to the Emergency Services Levy (ESL) boundaries since they were first created based on analysis of statistical factors in 2003 and in this instance FESA did consult with Council.

It appears that the problem occurred because Council dealt with the ESL boundary change as a rating, rather than a brigade issue and as a result brigade and community consultation did not take place. While it is difficult to determine, due to staff changes, which agency is at fault, it appears that the majority of the blame should rest with Council's administration as it chose to deal with the change as a rating issue.

While from the above responses both FESA's and Council's roles in the boundary change could be described benign rather than active the outcome still leaves both Council and the members of the Ocean Beach Bush Fire Brigade with the following three questions:

- 1) Is it possible for Ocean Beach Bush Fire Brigade's district to be restored back to its pre 2003 boundaries?

While it is technically possible to lobby FESA to roll back the boundary change this is unlikely due to the fact it was extended on the basis of the analysis of risk and statistical factors. In addition to this the enlarged area is part of the revenue base that FESA uses for funding brigades throughout the state so FESA will be reluctant to give up this funding base.

To argue that ESL boundary should be rolled back would involve arguing that the residential area of Ocean Beach was not a "high fire risk". The problem with this argument is that it may trigger an immediate assessment of the Ocean Beach Bush Fire Brigade's resources and has the potential to compromise Denmark in future risk to resource assessments.

- 2) Assuming that it is not practical to roll back the 2003 ESL boundary change what opportunities exist for the Ocean Beach Bush Fire Brigade to assist in servicing the Ocean Beach residential area where most of its members live?

The Ocean Beach Bush Fire Brigade has a strong leadership and an active member base and is ideally located to service both Ocean Beach and the high fire risk areas of Mount Hallowell and Weedon Hill as well as assisting other brigades such as William Bay.

Given that the brigade's leaders have invested considerable moral capital in building the brigade membership with the local community one option would be for Council to broker a memorandum of understanding between the Town Volunteer Fire Rescue Service and Ocean Beach Bush Fire Brigade and the Shire of Denmark allowing the Ocean Beach Brigade to still service its pre 2003 area in their capacity as a bushfire brigade with the Town VFRS handling all other factors.

The advantages of this memorandum would be threefold. The Town VFRS and Ocean Beach Bush Fire Brigade and the Shire of Denmark would know exactly where each brigade stood, Ocean Beach Bush Fire brigade members would continue to directly participate in protecting their homes and community and the memorandum would reinforce Ocean Beach's case for retaining resources in future risk to resource assessments.

- 3) *What opportunities are there for the Ocean Beach Bush Fire Brigade to sufficiently enlarge its district so that it does not lose resources in future risk to resource assessments?*

While boundary adjustments would be subject to consultation, negotiation and agreement with other brigades a case could be made for an enlarged Ocean Beach Fire District based on their location, local risk factors and their co operative relationship with the Town VFRS that the brigade requires the resources currently allocated to it in future risk to resource assessments.

While the size of the Ocean Beach Bushfire District required would need to be determined in formal discussions with the FESA and adjoining bushfire brigades this may be the best option for the brigade in the long term.

While concept of boundary changes may be an unpalatable concept to the affected brigades it is important given the public profile that this issue has now received it is important that Council the various options available to it to ensure that the Ocean Beach Bush Fire Brigade has a risk protection and boundary scenario that will withstand future risk to resource scrutiny.

Opportunities for a Strategic Review of Brigade Boundaries:

Given its role as strategic agency that leads the community it is important that Council periodically review its structures to see if there is a better model that fits the community's current and future needs.

The Current ESL boundary discussion and the periodic questioning of BFAC's effectiveness in public arena that has occurred over the last 2 years has given the opportunity Council to consider taking the initiative that has been handed to it and ask the BFAC to consider whether its membership and the current Bushfire Brigade boundaries are in fact what best suits the community's current and future needs.

While the obvious alternative structure is a zone based model in which several related Bushfire Brigades would amalgamate to form four or five zones with representatives from each zone then having a seat on BFAC it can be successfully argued that if the current BFAC and brigade boundaries model is not broken and therefore does not need fixing. This argument is borne out by the fact BFAC despite being a large committee that is difficult to chair has successfully dealt with a fair number of significant issues that have been referred to it by Council and its ability to fast track the preparation 2010 autumn and the five fuel reduction burn plan.

The primary advantage of a zone based model is that it would eliminate any risk of any individual brigade's resources being reduced under future resource to risk assessments. The second advantage is as that it would provide Council with a smaller, administratively simpler and in theory more efficient BFAC and the third is that larger brigade units would be easier to coordinate in terms of Council's fuel reduction burn programs and major incident responses. The disadvantage however is that it could lead to a long term decline in brigade memberships and reduced brigade turn outs because in a larger zone area there

is the potential for members to feel disconnected from a direct geographical response to the risk facing their homes that smaller brigades offer. This social factor known as the “bystander syndrome” and while normally being associated with large cities may cause potential members to hesitate in their decision to join a somewhat distant “zone” brigade as they think that in such a large area that “someone else” must already be doing it.

On the basis of the above discussion it is recommended that Council endorse the current BFAC and brigade district boundary structure while it continues to provide acceptable turnouts to fire incidents and the fuel reduction burn program prescribed burns that Council undertakes on behalf of the community.

Consultation:

While recommendations 1 and 2 have originated from referral to BFAC, items 3 and 4 have not been referred to BFAC.

Discussion are also taking place with the East Denmark & Mount Shadforth Brigades that are affected by the 2004 ESL CAT 4 FESA boundary changes and the proposed MOU.

Statutory Obligations:

Bush Fires Act 1954.

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:**

Volunteer Bushfire brigades play an important part in minimising the risk that bushfires pose to the natural environment.

➤ **Economic:**

Volunteer Bushfire brigades play an important part in minimising the risk that bushfires pose to economic infrastructure.

➤ **Social:**

Volunteer Bushfire brigades play an important part in minimising the risk that bushfires pose to the social network of the community and in themselves are important social networks.

Voting Requirements:

Simple majority.

At the meeting held on the 16 March 2010, Cr Laing asked whether the Officer had any observations in relation to the comments made by Mr Cyril Edwards during public question time.

The Director of Community & Regulatory Services stated that he wasn't aware that it would result in a transfer of land from Ocean Beach Volunteer Bush Fire Brigade to William Bay Volunteer Bush Fire Brigade and provides the following comments;

“I have spoken to Mr Cyril Edwards and gone through Council’s maps showing where the brigade boundary between Ocean Beach and William Bay Bush Fire Brigades runs. Mr Edwards has confirmed that Council’s maps correctly reflect the Ocean Beach Bush Fire Brigade’s understanding of where the boundary runs and communicated that to the best of his knowledge William Bay also accepts this boundary. These maps are the maps that have been widely used as the basis for discussions of Council’s fire hazard reduction inspection program and the BFAC working group that prepared 2010 hazard reduction burn program that was referred to Council.

In terms of the discrepancy between FESA’s maps and Council’s; the Shire of Denmark is the hazard management agency for the bushfire brigade areas whereas FESA is the hazard management agency for the ESL Cat 4 area. The Shire, as the hazard management agency for the bushfire brigade areas, determines where the brigade boundaries within its area of control will be located. The Ocean Beach/William Bay Bush Fire Brigade boundary is within the Shire’s area of control and so the Shire determines where the boundary runs and informs FESA accordingly. Mr John Tonkin of FESA’s Great Southern office has confirmed this and has advised that he will get their GIS mapping section to shift the line as soon as Council instructs him to do so.

To finalise this issue Mr Cyril Edwards, Mr Joe Baker and the Director of Community & Regulatory Services will arrange a meeting with the William Bay Bush Fire Brigade representatives to confirm that there is consensus and acceptance of the boundary and then FESA will be instructed to change the location of the boundary on their maps.

An Alternative Officer Recommendation has not been made as the Ocean Beach/William Bay Bush Fire Brigade boundary question raised by Mr Cyril Edwards has for all intensive purposes been resolved and the upcoming meeting with the two brigades to confirm consensus and acceptance of the boundary is an operational issue.”

At the meeting held on the 16 March 2010, Cr Syme noted that the report doesn’t recognise that the East Denmark & Shadforth brigades were also affected by the FESA boundary changes at the same time. Cr Syme asked whether the report could be amended to include reference to this fact.

The Director of Community & Regulatory Services has included a comment under the Consultation section of the report to address Cr Syme’s concerns.

OFFICER RECOMMENDATION

ITEM 9.2.1

That with respect to the Ocean Beach Bush Fire Brigade and the 2003 Emergency Services Levy (ESL) category boundary review;

1. In future any ESL boundary changes affecting any Bush Fire Brigade and Volunteer Fire Rescue Service boundary changes Bush Fire Brigades and/or changes to the assets of these Brigades be referred to Bush Fire Advisory Committee and the specific brigades affected for the discussion in the first instance.
2. The Chief Executive Officer be authorised to sign a memorandum of understanding between the Town Volunteer Fire Rescue Service, the Ocean Beach Bush Fire Brigade, FESA, the Shire of Denmark and any other relevant parties on behalf of Council.
3. Council endorse the current Volunteer Bush Fire Brigade district boundaries and Bushfire Advisory Committee Structure while it continues to provide acceptable turnouts to fire incidents and the fuel reduction burn program prescribed burns that Council undertakes on behalf of the community.

**COUNCIL RESOLUTION & ALTERNATIVE OFFICER ITEM 9.2.1
RECOMMENDATION**

MOVED: CR WAKKA

SECONDED: CR SAMPSON

That with respect to the Ocean Beach Bush Fire Brigade and the 2003 Emergency Services Levy (ESL) category boundary review;

1. In future any ESL boundary changes affecting any Bush Fire Brigade and Volunteer Fire Rescue Service boundary changes Bush Fire Brigades and/or changes to the assets of these Brigades be referred to Bush Fire Advisory Committee and the specific brigades affected for the discussion in the first instance.
2. The Chief Executive Officer be authorised to sign a memorandum of understanding between the Town Volunteer Fire Rescue Service, the Ocean Beach, Mount Shadforth and East Denmark Bush Fire Brigades, FESA, the Shire of Denmark and any other relevant parties on behalf of Council.
3. Council endorse the current Volunteer Bush Fire Brigade district and Bushfire Advisory Committee structure while it continues to provide acceptable turnouts to fire incidents and the fuel reduction burn program undertaken on behalf of the community.
4. Council delegate authority to the Chief Executive Officer for the next 12 months to make minor adjustments to bushfire brigade district boundaries where the affected brigades are in agreement and the Bushfire Advisory Committee has endorsed the proposed the changes.

CARRIED: 11/0

Res: 120310

9.2.2 CONFIRMATION OF THE OCEAN BEACH BUSH FIRE BRIGADE'S FCO'S ABILITY TO ISSUE FIRE PERMITS
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File Ref:	Fire 1
Applicant / Proponent:	Not applicable
Subject Land / Locality:	Not applicable
Disclosure of Officer Interest:	Nil
Date:	7 March 2010
Author:	Gregg Harwood, Director of Community & Regulatory Services
Authorising Officer:	Gregg Harwood, Director of Community & Regulatory Services
Attachments:	No

Summary:

This report discusses the Ocean Beach Bush Fire Brigade Fire Control Officer's ability to issue fire permits during the restricted fire season for the area in the light of the recently discovered 2004 ESL boundary change and recommends that Council endorse the decision that it made in Resolution number 130809 at its 25/8/2009 Council meeting to appoint Joe Baker in this capacity.

Background:

In the latter part of 2009 the Community Fire Manager researched and confirmed that in 2004 the ESL boundary change approved by FESA and gazetted on Denmark Fire District on Deposited Plan 35796 Edition 1, Version 2 had transferred the majority of the Ocean Beach Bush Fire Brigade's residential area to the Town VFRS.

This confirmation has left the Ocean Beach Bush Fire Brigade Fire Control Officer in position where he is questioning whether he has the authority to issue fire permits for what was up until recently accepted by both Council and the wider community as being the Ocean Beach Bush Fire Brigade's residential area.

Comment:

In considering this report it is important to note that both urban and rural fire management is made of four principal activities namely Planning, Preparedness, Response and Recovery and that these activities within a given geographical area can be the responsibility of different agencies and in some case two agencies can share responsibility for an activity.

In the case the enlarged Town VFRS area FESA is the hazard management agency (HMA) with the responsibility for response and recovery is the responsibility of the Shire. Both agencies handle preparedness and the Shire's primary responsibility in this regard is managing its own land, overall risk reduction and the issuing fire permits to private land holders.

Council has the legal ability to appoint persons to issue fire permits comes from section 18 of the Bushfires Act 1954 and this ability is displayed in Council resolution number 130809 which was adopted at its 25/8/2009 meeting. This resolution appointed Joe Baker with the authority to issue fire permits for what is shown on the 2009/2010 Fire Regulation Notice as the Ocean Beach Bushfire Brigade area and Don Atkinson and Garry Stanway with the authority to issue fire permits for what is shown as the Denmark Townsite areas. In considering this resolution it should be noted Garry Stanway as the officer in charge of the Town VFRS reports to FESA in terms of responses to fires but gets his authority to issue fire permits from Council.

Given that Council has the authority to appoint people to issue fire permits and to control where and when they issue these permits if Council nominates an area such as the Ocean Beach Bush Fire Brigade as described in the 2009/2010 Fire Regulation Notice and appoints an officer to issue permits in that area then that person is authorised to issue permits regardless of what another agency's map says.

Notwithstanding the above statement it is important that the Ocean Beach Bush Fire Brigade Fire Control Officer is confident in his authority to issue fire permits during the autumn restricted season, hence the reason for the officer recommendation.

Consultation:

The Ocean Beach Bush Fire Brigade Fire, Town and Town VFRS Control Officers have been consulted regarding this report.

Statutory Obligations:

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

Policy Implications:

There are no policy implications.

Budget / Financial Implications:

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

Strategic Implications:

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

Sustainability Implications:

➤ **Environmental:**

Volunteer Bushfire brigades and the issue of fire permits play an important part in minimising the risk that bushfires pose to the natural environment.

➤ **Economic:**

Volunteer Bushfire brigades play an important part in minimising the risk that bushfires pose to economic infrastructure.

➤ **Social:**

Volunteer Bushfire brigades play an important part in minimising the risk that bushfires pose to the social network of the community and the brigades in themselves are an important social network.

Voting Requirements:

Simple majority.

COUNCIL RESOLUTION & OFFICER RECOMMENDATION	ITEM 9.2.2
MOVED: CR WAKKA	SECONDED: CR SAMPSON
That Council reaffirm its decision (Res: 130809) at the 25/8/2009 Full Council meeting to appoint the Ocean Beach Bush Fire Brigade Fire Control Officer Joe Baker as Fire Control Officer for 2009/2010 fire season within the area that is identified as being the Ocean Beach Bush Fire Brigade area described in Council's 2009/2010 Fire Regulation notice.	
CARRIED: 11/0	Res: 130310

9.2.3 DENMARK MOTOCROSS CLUB, 506 (LOT 11) TINDALE RD, KENTDALE

File Ref:	A8
Applicant / Proponent:	Denmark Motocross Club
Subject Land / Locality:	Lot 11 Tindale Rd, Denmark
Disclosure of Officer Interest:	Nil
Date:	6 March 2010
Author:	Gregg Harwood, Director of Community & Regulatory Services
Authorising Officer:	Gregg Harwood, Director of Community & Regulatory Services
Attachments:	Yes – page 123

Summary:

This report considers a request from the Denmark Moto Cross Club Inc for permission to hold two inter club motocross events on the Sunday 16 May 2010 & Sunday 12 September 2010 from 8:00am to 4:30pm at the club's former Tindale Rd motocross track and recommends that Council grant an exemption for these two events under Regulation 18 the Environmental Protection (Noise) Regulations 1997.

Background:

In 2008 and 2009 Council has made the following resolutions that are relevant to this report:

At its meeting on the 23 September 2008 Council resolved the following:

“That Council;

1. *Advise the Denmark Motocross club that it will not be granting approval beyond December 2008 for the future usage of the motocross track at Lot 11 Tindale Rd due to the noise issues associated with the venue.*
2. *Assist the Denmark Motocross club with its efforts to find a suitable venue.”*

At its meeting on the 24 March 2009 Council resolved the following:

“That Council in respect to the appeal of the Denmark Moto Cross Club of Councils decision of 23 September 2008 to not approve usage of the motorcross track at 506 (Lot 11) Tindale Road, Kentdale;

1. *Reaffirm that decision in relation to intra club activities.*
2. *Notwithstanding part 1 above;*
 - a) *Subject to receiving within the next 7 days a completed application and associated fee, Council grant the Denmark Motocross Club an exemption under Regulation 18 of the Environmental Protection (Noise) Regulations 1997 for two inter club motocross events to be held at the motocross track at 506 (Lot 11) Tindale Rd, Kentdale between 9.00am & 4.00pm on the 24 June 2009 & 26 July 2009.*
 - b) *Authorise Council's Chief Executive Officer to issue an approval for a non complying event in respect of part 2a) relating to the PA System and Motorcross activities.”*

Comment:

As a result of the ongoing and substantive noise complaints during the Club's 2008 season the Council resolved at its 23 September 2008 meeting not to grant further approvals for usage of the Tindale Rd motorcycle track and committed to assisting the with its search for a new venue. Prior to this Council been granting the club permission to use the property for around six to eight events per year on an annual basis.

A suitable venue has not yet been found and the club has approached Council (letter attached) for approval for an Environmental Protection Regulations 1997, Regulation 18 noise exemption to use the Tindale Rd track for two inter club events on Sunday 16 May 2010 & Sunday 12 September 2010 that will be run between 8.00am & 4.00pm.

The club's primary reasons for requesting this exemption is that it needs to run at least two events per year for its riders to be able to compete in other club's interclub events. The club also needs to remain active in order to hold its membership together until such time as a permanent site for a new track can be found.

When Council considered this issue in September 2008 it refused to issue another annual six to eight event approval based on the advice:

- a) That the track was being used regularly (six to eight events).
- b) That the day time assigned noise level found in Regulation 9 of the Environmental Protection (Noise) Regulations 1997 applied for a house in a rural area is 45dBa.
- c) That large motor bikes using the track produced 52-57dBa at the nearest noise sensitive premises and this would clearly breach the 45dBa assigned noise level.
- d) That given the topography of the land the noise could not be practically reduced by engineering means to meet the 45dBa assigned noise level.

Now that the club are only proposing two events per year there is an entertainment event exemption found in regulation 18 that can be applied at Council's discretion. Regulation 18 (explanatory summary attached) allows Council to approve up to two public entertainment events per year that are likely to exceed the assigned noise levels stipulated in regulation 9 at a particular venue.

Given that both this regulation and its supporting notes stipulate that for twice yearly day time event a noise level of 65dBa at the nearest noise sensitive is acceptable, a public motocross interclub event with larger bikes that sporadically produce a noise level of 52-57 dBA is a reasonable proposal for Council to consider.

The nearest affected property owner has been advised of the clubs request for an exemption and he has not at the time of writing the report responded to this advice.

Consultation:

The proposal has been referred to the nearest affected property owner and he has not yet responded to the proposal.

Statutory Obligations:

Council has discretion as to whether it exercises the noise control powers that have been delegated to it under both the Environmental Protection Act 1986 and Environmental Protection (Noise) Regulations 1997.

Regulation 18 of these regulations (explanatory summary attached) allows Council to approve up to two public entertainment events per year at a particular venue that are likely to exceed the assigned noise levels stipulated in regulation 9.

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:**

Approving the inter club events on the Sunday 16 May 2010 & Sunday 12 September 2010 will keep the Denmark Moto Cross Club members in the inter club series and the club operating as a viable unit.

Maintaining the club, as a viable unit will assist in the establishment of an alternate, viable, long term motocross venue in Denmark. Such a venue will help reduce the incidence of unauthorised motorcycle usage in reserves and prevent the damage associated with this.

The club also has strong mentoring role for young riders in terms of responsible motor cycle usage.

➤ **Economic:**

The Denmark Motocross club’s events contribute to Denmark’s off season tourism income.

➤ **Social:**

The Denmark Motocross club is an active sport group that enjoys wide spread community support in Denmark.

Voting Requirements:

Simple majority.

COUNCIL RESOLUTION & OFFICER RECOMMENDATION	ITEM 9.2.3
MOVED: CR EBBETT	SECONDED: CR PEDRO
That with respect to a request from the Denmark Moto Cross Club Inc for permission to hold two inter club motocross events on Sunday, 16 May 2010 & Sunday, 12 September 2010 from 8:00am to 4:30pm at 506 (Lot 11) Tindale Rd Kentdale, Council;	
<ol style="list-style-type: none"> 1. Grant the Denmark Motocross Club an exemption under Regulation 18 of the Environmental Protection (Noise) Regulations 1997; 2. Authorise Council’s Chief Executive Officer to issue an approval for a non complying event in respect of part 1 relating to the PA System and Motocross activities; and 3. Authorise Council’s Chief Executive Officer to make a donation of \$500 towards the Denmark Motocross Club’s application for exemption pursuant to Regulation 18 of the Environmental Protection (Noise) Regulations 1997. 	
CARRIED: 11/0	Res: 140310

9.2.4 WRITE OFF – OUTSTANDING INFRINGEMENT

File Ref:	FIN 32; FIN 22
Applicant / Proponent:	Not Applicable
Subject Land / Locality:	Denmark
Disclosure of Officer Interest:	Nil
Date:	19 February 2009
Author:	Jason Young, Finance Officer Accounts
Authorising Officer:	Gregg Harwood, Director of Community & Regulatory Services
Attachments:	No

Summary:

This report reviews an unpaid infringement notice which is greater than 12 months old and recommends its cancellation and write-off.

Background:

Sundry Debtors records one unpaid infringement notice, totalling \$100.00, before December 2006. An infringement notice should for practical terms have a life of no more than 12 months, during which time appropriate collection action should be taken.

Comment:

Included in Council Resolution 160608, were 23 unpaid infringement notices, totalling \$2,025.00, all of which were written-off per that resolution. However, the following unpaid infringement notice was overlooked and not included in the officer’s report.

Debtor.	Inv No.	Amount \$	Date	Description
32523	10376	100.00	13/09/2006	33A (3) Dog in Place without consent 13.09.06

Section 6.12 of the Local Government Act 1995 provides that a Local Government may “write off any amount of money”. The outstanding amount, for this unpaid infringement notice, is not significant and therefore has not been reported through past audit reports. However, collection of the outstanding amount will not occur, due to the insignificance and age of the debt, and it is recommended that the debt be written off.

Consultation:

Nil

Statutory Obligations:

Local Government Act 1995

Section 6.12 of the Local Government Act 1995 provides that a Local Government may “write off any amount of money”.

Policy Implications:

Nil

Budget / Financial Implications:

The financial implication upon the Council’s current Budget is a net reduction of \$100.00 from the estimated Sundry Debtors payments for the year. Total income in General Ledger Account Number 1527113 – Fines and Penalties – Animal Control will be reduced to reflect the loss of income.

Strategic Implications:

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

Sustainability Implications:

➤ **Environmental:**

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

➤ **Economic:**

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

➤ **Social:**

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

Voting Requirements:

Absolute majority pursuant to section 6.12 of the Local Government Act 1995.

COUNCIL RESOLUTION & OFFICER RECOMMENDATION	ITEM 9.2.4
MOVED: CR SYME	SECONDED: CR HINDS
That Council write-off of the unpaid infringement notice Debtor 32523, Invoice No 10376, dated 13/09/2006, totalling \$100.00.	
CARRIED BY AN ABSOLUTE MAJORITY: 11/0	Res: 150310

9.3 Director of Infrastructure Services

9.3.1 KWOORABUP COMMUNITY PARK

File Ref:	A5366
Applicant / Proponent:	Shire of Denmark
Subject Land / Locality:	Kwoorabup Community Park
Disclosure of Officer Interest:	Nil
Date:	9 March 2010
Author:	Rob Whooley, Director of Infrastructure Services
Authorising Officer:	Rob Whooley, Director of Infrastructure Services
Attachments:	No

Summary:

This item recommends Council allocate \$300,000 out of the proposed year 2 allocation of the Country Local Government Royalties for Regions Fund to progress the construction of Kwoorabup Community Park.

Background:

The Community Park has been estimated as costing approximately \$2.1 million based on the concept plan adopted by Council in September 2009 (Res 110909).

Council has budgeted \$300,000 this financial year towards construction of the park. This amount includes income of \$250,000 from WA Country Health Services which has not yet been paid to Council.

An application for funding through the contestable grants program of Royalties for Regions was withdrawn (after being successful), as the application implied that the whole park valued at \$2 million would be constructed for a grant of \$149,000.

Another application was submitted showing the park being constructed in six stages over six years. The funds being requested annually are approximately \$145,000 to be matched by Council (or other) funds of \$155,000. Council will hear in July 2010 if the application has been approved.

Success in one stage is no guarantee of future funding and the Great Southern Development Commission has advised that the current round of funding is being hotly contested.

Details of the staging and stage costs have been provided to Councillors.

A firm quote has been requested from Western Power for the undergrounding of power to service the Park. It is anticipated that the quote will be between \$110 – 150,000. The money required for this has not been allowed for in the staging of the Park.

Comment:

Sections of the community have expressed frustration at the progress of the Community Park Site.

Applications for contributory or matching funds are often scrutinised on the basis of available committed funds.

The current total funds available are:

Council Contribution:	\$50,000.00
Department of Health:	\$250,000.00
POS Allocation:	\$152,659.63
TOTAL:	<u>\$452,659.63</u>

Removing the potentially committed \$300,000 (for undergrounding power and matching a successful Royalties for Regions application) leaves approximately \$150,000 in the fund. The outstanding requirement is approximately \$1.6 million.

Consultation:

Consultation has been ongoing with stakeholders for a number of years.

Statutory Obligations:

There are no statutory obligations.

Policy Implications:

There are no policy implications.

Budget / Financial Implications:

Council has allocated \$50,000 to the development of the Park.

A sum of \$250,000 has in theory been set aside for the project by the WA Country Health Services. Whilst acknowledging this payment was a condition of the rezoning application associated with the new health facility, they have stated that it is appropriate that those funds are acquitted in accordance with good corporate governance practice. In 2007 they requested details of how the funds would be expended. This information has been provided and an invoice dated 13/01/2010 was sent. To date no monies have been received.

Council has successfully applied to the relevant Minister to have \$152,659.63 from the P.O.S. reserve fund allocated to the Park. The P.O.S reserve fund holds money received from developers as "cash in-lieu of public open space".

The 2010/11 Royalties for Regions Council Local Government Fund as of right allocation for Council is estimated at \$696,000.

The competitive application proponent of this fund of approximately \$395,000 will be pooled with other shires competitive components, the detail of which we are yet to be advised of.

None of these funds have been committed at this stage, although Council has committed to a reallocation of \$65,000 relating to the Nornalup Boardwalk. Council has also resolved to contribute one third of the cost of the approved Denmark Country Club CSRFF grant application which requires a Council contribution of \$165,000 in year 1.

Strategic Implications:

In order to successfully leverage matching funds and accelerate progress, the Park reserve account should be enhanced.

Our recent application for Royalties for Regions was called into question because it was not possible to show enough committed funds other than those promised by a third party.

It is suggested that Council allocate \$300,000 to a reserve fund for this purpose.

Sustainability Implications:

➤ **Environmental:**

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

➤ **Economic:**

The park is an expensive project and there will be the ongoing annual maintenance requirements.

➤ **Social:**

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

Voting Requirements:

Simple majority.

COUNCIL RESOLUTION & OFFICER RECOMMENDATION	ITEM 9.3.1
MOVED: CR BARROW	SECONDED: CR WAKKA
That Council consider allocating up to \$300,000 from year 2 of the Country Local Government Royalties for Regions Fund during the 2010/11 budget deliberations for the construction of the Kwoorabup Community Park.	
CARRIED: 11/0	Res: 160310

5.36pm - Cr Barrow declared a financial & proximity interest on the basis that he is the lessee of property in Strickland Street. Cr Barrow left the room and did not participate in discussion or vote on the matter.

9.3.2 STRICKLAND STREET FUNDING

File Ref:	147/07
Applicant / Proponent:	Shire of Denmark
Subject Land / Locality:	Strickland Street
Disclosure of Officer Interest:	Nil
Date:	9 March 2010
Author:	Rob Whooley, Director of Infrastructure Services
Authorising Officer:	Rob Whooley, Director of Infrastructure Services
Attachments:	No

Summary:

This item recommends Council allocate \$445,000 from the proposed year 2 allocation of the Country Local Government Royalties for Regions Fund to continue the upgrade of Strickland Street.

Background:

Stage 1 of the Strickland Street upgrade has been progressing well. There has been minimal disruption to the functioning of the CBD area and few complaints have been received.

Council has budgeted \$500,093 this financial year towards the re-construction of Strickland Street.

Details of the staging and stage costs were provided to Councillors in September 2009. The total works are estimated at \$940,248.

The Council resolution resulting from that meeting was that:

“Council endorse Stage 1 of the upgrade as being the construction of the new shape and configuration for the full length of Strickland Street in accordance with the drawings supplied separately to the meeting on the 15 September 2009, subject to the works being limited to the Council’s budgeted allocation for this project (Res: 170909)”

Comment:

Stage 2 of the Strickland Street upgrade is estimated at \$440,155.

In order to progress these works and provide continuity of goods and services whilst contending with the logistics of co-ordinating these functions to minimise disruption it is recommended that Council provide funding certainty into the new financial year.

Consultation:

Nil

Statutory Obligations:

There are no statutory obligations.

Policy Implications:

There are no policy implications.

Budget / Financial Implications:

Budget / financial implications as detailed. The 2010/11 Royalties for Regions Country Local Government Fund as of right allocation for Council’s is estimated at \$696,000.

The competitive application proponent of this fund of approximately \$395,000 will be pooled with other shires competitive components, the detail of which we are yet to be advised of.

None of these funds have been committed at this stage, although Council has committed to a reallocation of \$65,000 relating to the Nornalup Boardwalk. Council has also resolved to contribute one third of the cost of the approved Denmark Country Club CSRFF grant application which requires a Council contribution of \$165,000 in year 1.

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:**

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

The improved streetscape will brighten Strickland Street up and present well to residents and visitors alike.

Voting Requirements:

Simple majority.

5.39pm - Following questions from Councillors, the Director of Infrastructure Services confirmed that the upgrade to be continued involved both sides of Strickland Street. Given this information the Shire President, Cr Thornton declared a proximity interest on the basis that he owns property on that section of Strickland Street.

Cr Thornton asked Cr Syme to chair the meeting as the Presiding Person. Cr Syme accepted.

Cr Thornton left the room and did not participate in discussion or vote on the matter.

Cr Syme assumed the chair as the Presiding Person.

COUNCIL RESOLUTION & OFFICER RECOMMENDATION	ITEM 9.3.2
MOVED: CR WAKKA	SECONDED: CR HINDS
That Council consider allocating up to \$445,000 from year 2 of the Country Local Government Royalties for Regions Fund during the 2010/11 budget deliberations for continuing the upgrade of Strickland Street, Denmark.	
CARRIED: 9/0	Res: 170310

5.42pm – Cr Barrow & Cr Thornton returned to the meeting.

Cr Thornton resumed the chair as Presiding Officer.

COUNCIL RESOLUTION	SECONDED: CR HINDS
MOVED: CR EBBETT	
That the meeting be adjourned for a short break.	
CARRIED: 6/5	Res: 180310

6.00pm - The meeting resumed with all members and staff who were present immediately prior to the adjournment.

6.00pm - Public Question Time

The Shire President stated that the second public question time would begin but noted that there were no members of the public present and therefore no questions were asked.

9.3.3 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 March 2010
Author:	Rob Whooley, Director of Infrastructure Services
Authorising Officer:	Rob Whooley, Director of Infrastructure Services
Attachments:	Yes

Summary:

Attempts to relocate TransWA coaches to the Visitors Centre have met with strong resistance, within the Public Transport Authority, from drivers through to the Acting General Manager TransWA.

Background:

In March 2008 Council resolved:

1. *That with respect to TransWa Coach Services in Denmark, Council;*
 - a) *Request TransWA Coach Services to begin using the new Denmark Visitor Centre, situated at the corner Ocean Beach Road and South Coast Highway, as the arrival and departure point for services to and from Denmark;*
 - b) *Request as an interim measure that TransWA coaches enter the Denmark Visitor Centre vehicle parking areas from Ocean Beach Road and exit onto South Coast Highway.*
2. *Denmark Tourism Inc. and Denmark Chamber of Commerce be thanked for their input."*

This resolution was contrary to the recommendation of the CEO who authored the 2008 report which is detailed below;

"That with respect to TransWA Coach Services in Denmark, Council not seek to relocate the stopping service location at this time and advise TransWa, the Denmark Tourism Inc. and Denmark Chamber of Commerce accordingly and thank them for their input."

Excerpts from that report relating to consultation are contained within this report.

The reasons recorded for altering the officer recommendation were at the time:

- *It was always intended that TransWa Services would be relocated to the new Visitor Centre;*
- *The continuing use of Strickland Street by TransWa buses conflicts with the Council adopted Strickland Street Townscape and Redevelopment Plan;*
- *There is sufficient dedicated bus parking available at the new Visitor Centre;*
- *Shelter is already available for passengers under the Visitor Centre verandahs;*
- *TransWa already instructs its passengers, on tickets it issues and the Denmark Visitor Centre issues, to meet the bus at the Denmark Visitor Centre (passengers not familiar with the current arrangements regularly arrive to catch the bus at the Visitor Centre only to be told to walk down to Strickland Street);*
- *There is sufficient support from the Denmark business community for the move to occur now.*

Following that resolution TransWA were contacted on several occasions about relocating to the Visitors Centre. A number of site visits and trials were also conducted. In May 2009 they were further advised by engineering as follows.

I refer you to previous correspondence with regard to the relocation of the existing bus stop located on Strickland Street, Denmark, Western Australia.

We are writing to request that Transwa relocate the existing drop off and pick up point from Strickland Street, Denmark to the Denmark Visitor's Centre located on the corner of Ocean Beach Road and South Coast Highway. The Shire together with the Townscape Committee is proposing a more pedestrian friendly Strickland Street by relocating heavy vehicle access out of that precinct. The Shire has been the recipient of a Grant through the Public Transport Authority for the installation of a bus shelter located at the Denmark Visitors Centre.

The Shire is aware that there are existing problems with regard to the entrance of the Denmark Visitor's Centre, confirmation of the relocation of the bus stop by Transwa within the next six months will enable us to carry out the required work. A work request has been placed with Western Power to move the Stay Pole that is currently located on the corner of Offer Street and Ocean Beach Road.

Transwa staff had confirmed their strong desire not to relocate, citing minor engineering works and a concern about safety for passengers and staff at what they deemed to be a remote location.

The commencement of the street works in Strickland Street caused Transwa to reassess their position and they investigated alternative locations such as Hollings Road.

Correspondence relating to their concerns is attached by way of 2 letters dated 17 November 2009 and 5 January 2010.

Comment:

The configuration of the western footpath along Strickland Street has changed. It is no longer 4m wide which presents similar issues to the Transwa rejection of the Hollings Road location (ie width of path for loading/unloading). Any bus shelter on Strickland Street now would also adversely affect pedestrians.

One possibility for keeping the bus stop in Strickland Street would be locating the bus stop at the corner of Mitchell and Strickland Street. This would involve excavating into the slope outside the Arts Centre to accommodate the shelter. The bus stop times could also be significantly reduced to 15 minutes either side of the scheduled stop times, making the space available to other traffic. A complication with this would occur if a vehicle overstayed the time limit and prevented the bus from properly accessing the stop.

TransWA staff have verbally asserted the future of stops in Denmark could be jeopardised by an insistence that the bus stop be relocated to the Visitors Centre. This would result in passengers having to catch the service from either Albany or Walpole.

The engineering concerns raised by TransWA are very minor and relate to the reluctance of drivers to cross the white line when making a left turn out of the Visitors Centre onto Ocean Beach Road. This can be addressed with some minor widening of the driveway.

Consultation:

Excerpts from the 2008 report:

Past consultation with the Denmark Chamber of Commerce concluded that they believe that there will be several **advantages** if the relocation takes place;

"1) Relocating the service to the new Visitor Centre would free up parking bays in Strickland Street which in turn helps the local businesses. The actual bus shelter

would need to remain in place as the stop is also used by the Agriculture College bus (a considerably small vehicle than the TransWA coach).

- 2) *At the times when the TransWA coach stops in Strickland Street, few shops are open that meet the immediate needs of travellers. Whereas very close to the Visitor Centre is the Caltex Service Station, open from 6.00am to 9.00pm, offering just the sort of products travellers want for a trip: soft drinks, fast food, sweets newspapers and magazines. On the down side for travellers it will mean a slightly longer walk from the new Visitor Centre to the backpacker/hotel accommodation.*
- 3) *In WA the vast majority of TransWA coach stops are either at a Roadhouse, in the absence of a Visitor Centre or at a Visitor Centre. We feel that consistency should be maintained.*
- 4) *We understand that the concerns TransWA have about stopping and turning in the Visitor Centre car park can be relatively easily overcome and will be a modest cost.*
- 5) *We understand that a Visitor Centre level 1 Status is required to have 24 hour information. This doesn't mean being open 24 hours but having access to up to date local information. To that end we would recommend that the information board(s) in the lay-by opposite the Visitor Centre be relocated to the proposed coach stop."*

Past consultation with Denmark Tourism Inc. (the Denmark Visitor Centre) concluded that they believe that there will be several **disadvantages** if the relocation takes place;

- 1) *TransWA arrivals and departures are outside Denmark Visitor Centre opening hours, so there will be limited to no benefit to passengers from the range of information services offered by the DVC;*
- 2) *DVC research indicates that coach passengers prefer the stop to be in Strickland Street because they can buy a snack, a coffee, and a magazine or book for their journey;*
- 3) *TransWA passengers who are visitors to Denmark typically use budget accommodation, which is located in and near Strickland Street and not close to the Visitor Centre. If these visitors alight at the Visitor Centre, they will face a half kilometre walk to their accommodation, with luggage, perhaps in inclement weather.*
- 4) *Currently, the DVC toilets are cleaned once daily. It may become necessary to have them cleaned twice daily and cleaning costs will increase accordingly. Also, currently the DVC toilets are shut at 5pm and it may become necessary to leave them open as a public service until the Coach has departed, requiring DVC staff to either stay or return in order to lock them overnight.*
- 5) *Mr Gregg Ellis of West Coast Rail and Coach predicts loss of package tour business because of the uncertainty of providing transfers from the Denmark Visitor Centre to the Denmark Hotel and has advised that he would therefore probably be forced to remove Denmark from his wildflower itineraries.*
- 6) *Local users of TransWA coaches are accustomed to the coach stop in Strickland Street and we have had no recorded instance of local users saying they would prefer the coach stop to move to the Visitor Centre. There would be no revenue difference to the Visitor Centre with the stop being in Strickland Street because our ticket sales would be unaffected.*
- 7) *Whilst the multi-nationally owned Caltex Servo will benefit from increased food and grocery sales, Strickland Street traders such as the Spot Newsagency, Cafe Lily Pilly and the Denmark Bakery will lose trade correspondingly."*

Statutory Obligations:

There are no statutory obligations.

Policy Implications:

There are no policy implications.

Budget / Financial Implications:

There are minor financial implications upon the Councils current Budget depending upon whether relocation (allow \$5,000) or construction of a new bus shelter is required (allow \$12,000 with accompanying grant). Similarly minor modifications to the Visitor Centre carpark (allow \$4,000) may be required to satisfy concerns of TransWA about safe departure from the Visitor Centre on to Ocean Beach Road.

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:**

It is expected that people will benefit from an increase in the available parking. The improved streetscape will brighten Strickland Street up and present well to residents and visitors alike.

Voting Requirements:

Simple majority.

At the meeting held on the 16 March 2010, the Shire President requested a comment from the present management of Denmark Visitors Centre be sourced and referenced within the report for next week’s Agenda due to new management of the Centre who may have a different opinion on the matter.

The Director of Infrastructure Services has sourced a comment from the Denmark Visitors Centre management which will be provided to Councillors at the meeting.

Cr Laing requested the Director of Infrastructure Services to advise Council of any comments provided by the Denmark Visitors Centre.

The Director of Infrastructure Services advised that he had been unable to obtain comment from the Denmark Visitors Centre.

OFFICER RECOMMENDATION

ITEM 9.3.3

That Council confirm the request for Transwa Coach Services to begin using the new Denmark Visitor Centre, situated at the corner Ocean Beach Road and South Coast Highway, as the arrival and departure point for services to and from Denmark.

COUNCIL RESOLUTION

9.3.3

MOVED: CR SYME

SECONDED: CR WAKKA

That item 9.3.3 be deferred for reconsideration in two months time.

CARRIED: 11/0

Res: 190310

REASONS FOR CHANGE

To allow Council to fully consider the positives and negatives of relocating the Transwa Bus Stop prior to making a decision on the matter.

9.4 Director of Finance & Administration

9.4.1 FINANCIAL STATEMENT FOR THE MONTH ENDING 28 FEBRUARY 2010

File Ref:	FIN 1
Applicant / Proponent:	Not Applicable
Subject Land / Locality:	Denmark
Disclosure of Officer Interest:	Nil
Date:	6 March 2010
Author:	Garry Bird, Director of Finance and administration
Authorising Officer:	Garry Bird, Director of Finance And Administration
Attachments:	Yes – page 127

Summary:

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

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

Background:

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

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

Comment:

Nil

Consultation:

Nil

Statutory Obligations:

Local Government Act 1995 Section 5.25 (1)

Local Government (Financial Management) Regulations 1996

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

Policy Implications:

Policy P040222 relates as follows;

P040222 MATERIAL VARIANCES IN BUDGET AND ACTUAL EXPENDITURE

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

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

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

ADDED by Res: 020808 / 19 August 2008

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

Budget / Financial Implications:

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

Strategic Implications:

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

Sustainability Implications:

➤ **Environmental:**

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

➤ **Economic:**

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

➤ **Social:**

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

Voting Requirements:

Simple Majority

COUNCIL RESOLUTION & OFFICER RECOMMENDATION		ITEM 9.4.1
MOVED: CR SAMPSON		SECONDED: CR WAKKA
That Council;		
1. Receive the financial report for the month ending 28 February 2010, incorporating the Statement of Financial Activity and Budget vs Actual Variance Report.		
2. Endorse the Accounts for Payment as listed.		
CARRIED: 11/0		Res: 200310

9.4.2 AMAROO VILLAGE INC – APPLICATION FOR RATING EXEMPTION
--

File Ref:	PBR10
Applicant / Proponent:	Amaroo Villages Inc
Subject Land / Locality:	Lot 51 Hardy St; Denmark
Disclosure of Officer Interest:	Nil
Date:	6 March 2010
Author:	Garry Bird, Director of Finance and Administration
Authorising Officer:	Dale Stewart, Chief Executive Officer
Attachments:	Yes – page 147

Summary:

An application has been received from Amaroo Villages Inc seeking a rating exemption for the property at Lot 51 Hardy St, in accordance with the provisions of the Local Government Act Section 6.26(g) which provides for such an exemption if the land is used exclusively for charitable purposes.

Background:

Amaroo Villages own and operate an aged care facility at Lot 51 Hardy St, and it is the provision of aged housing which forms the basis of their application for rating exemption, in that such a service should be considered charitable.

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

Amaroo Villages Inc operates a large aged housing facility in the City of Gosnells, for which they receive a rates exemption. Advice from Officers from the City of Gosnells indicates that this has been a long standing arrangement (dating at least as far back as 1932), with the exemption a policy decision of the Council and not under the provisions of the Local Government Act.

Comment:

In order to assess the application, certain information was requested from Amaroo Villages Inc, which has now been received. This information has now been received and assessed as follows;

1. A COPY OF THE CONSTITUTION OF AMAROO VILLAGE INC.

The objectives of the constitution of Amaroo Care services Inc are as follows;

- To provide independent living accommodation, residential care accommodation and other care services to persons who by reason of their age, ill health, accident or infirmity, require access to the range of services provided by the Organisation.
- To direct and provide advice on facilities provided by others for residential, residential care and domiciliary care purposes.

The objectives do not outline any charitable activity undertaken by Amaroo, only that they provide these services. Therefore the Constitution does not support the claim for charitable exemption from rates.

Other supporting information, namely the 2006 Code of Practice for Retirement Villages and the Retirement Villages Regulations, provides no evidence to support the case for charitable exemption.

2. A BUSINESS PLAN FOR THE PROVISION OF AGED ACCOMMODATION SERVICES AT LOT 51 HARDY ST.

No business plan has been received from the applicant.

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

The lease provides no evidence of charitable activity, although it is noted that lessee's annual operating cost contribution includes payment of all rates charges.

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

No Financial report has been received from the applicant.

5. BUDGET FOR THE 2009/10 FINANCIAL YEAR.

The budget received for the 2009/10 year does not demonstrate any charitable activity, although it is noted that a surplus of \$1,128,105 has been budgeted for in the current year. The budget makes no mention of opening funds and as such it is difficult to draw too many conclusions from the figures provided.

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

Documents provided that demonstrate any charitable activity are a Charitable Collections License from Dept of Commerce and the Australian Business Register Certificate which details Amaroo Villages Inc have tax concession and deductible gift recipient status from the Australian taxation office.

A Charitable Collections License is granted to aged housing providers in accordance with the provisions of the Charitable Collections Act.

It is the view of staff the Amaroo Villages Inc have failed to demonstrate any charitable activity (such as subsidised housing) in the provision of aged housing at lot 51 Hardy St and as such the application should be refused.

There is one other provider of aged persons housing in the Shire, which is not currently rated.

Consultation:

Amaroo Villages Inc
Department of Local Government
Western Australian Local Government Association
Staff from the City of Gosnells, Stirling, Wanneroo and Kwinana.

Statutory Obligations:

Local Government Act 1995 Section 6.26 (g)
Local Government (Financial Management) Regulations 1996

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

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

Policy Implications:

There are no policy implications.

Budget / Financial Implications:

In the 2009/10 financial year, Amaroo Villages Inc was levied \$5,045.10 in municipal rates. If the application was approved the rates base of the Shire would reduce by the same amount, requiring the funds to be replaced by additional revenue or savings in expenditure in the 2010/11 financial year.

It is noted that these rates have not been paid for the 2009/10 financial year, subject to the outcome of this application, with penalty interest of \$201.53 having accrued as at 6 March 2010.

Strategic Implications:

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

Sustainability Implications:

➤ **Environmental:**

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

➤ **Economic:**

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

➤ **Social:**

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

Voting Requirements:

Simple majority

COUNCIL RESOLUTION & OFFICER RECOMMENDATION	ITEM 9.4.2
MOVED: CR EBBETT	SECONDED: CR SAMPSON
That Council refuse the application from Amaroo Villages Inc for an exemption from rating under the provisions of section 6.26 (g) of the Local Government Act 1995 on the basis that charitable activity at Lot 51 Hardy Street has not been demonstrated.	
CARRIED: 11/0	Res: 210310

Prior to any consideration of Item 9.4.3 Cr Barnes, Cr Pedro, Cr Syme & Cr Sampson all made the following declaration:

“I am a member of the Denmark Environment Centre 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.”

9.4.3 SHIRE OF DENMARK POLICY ON PAYMENT OF PLANNING AND BUILDING FEES BY COMMUNITY ORGANISATIONS

File Ref:	FIN9 / ADMIN 2
Applicant / Proponent:	Not applicable
Subject Land / Locality:	Not applicable
Disclosure of Officer Interest:	Nil
Date:	6 March 2010
Author:	Garry Bird, Director of Finance and Administration
Authorising Officer:	Dale Stewart, Chief Executive Officer
Attachments:	No

Summary:

At the July 2009 Ordinary Meetings of Council, an application was considered from the Golden Hill Steiner School for the waiving of planning and building fees payable for the construction of a school hall and outdoor learning area.

Upon consideration of this item it was subsequently resolved (Res: 120709) by an absolute majority as follows;

“That Council with respect to the correspondence received from Golden Hill Steiner School regarding the development of a School Hall and Covered Learning Area for the School;

- 1. Agree to waive 50% of all fees payable to the Shire, excluding those collected on behalf of the State (total value of fees waived \$1,955.69), and*
- 2. Instruct the Director of Finance and Administration to prepare a draft policy that reflects an intent to waive all planning and building fees for not for profit organisations to a maximum value of 50% where such developments are considered to be in the wider public interest and excluding any statutory State or Federal Government fees and charges.”*

In accordance with Part 2 of the above Resolution the following Policy is presented for the consideration of Council.

Background:

Nil

Comment:

The following Draft Policy is presented for the consideration of Elected Members;

P100606 PAYMENT OF PLANNING AND BUILDING FEES BY NOT FOR PROFIT COMMUNITY ORGANISATIONS

When assessing planning and building applications received from not for profit community organisations on land not owned by or vested in Council, a reduction of 50% in the application fees payable shall be granted.

Where such an application relates to land owned by or vested in Council, a reduction of 100% shall apply.

Note

All statutory charges levied by the State Government are to be paid in full by the applicant and are not subject to the provisions of this Policy.

It is the view of staff that such a Policy warrants support, with the costs of planning and building approvals being a burden on the financial resources of community organisations when undertaking such developments.

Consultation:

Shire of Denmark planning and building staff.

Statutory Obligations:

Local Government Act 1995 Section 6.12

This issue is a purely discretionary matter for Council pursuant to section 6.12 of the Local Government Act 1995.

Policy Implications:

If adopted by Council the draft policy will become a formal policy and provide specific direction to staff when assessing planning and building application fees and save the need for each individual request to be referred to Council for consideration.

Budget / Financial Implications:

The following table provides a summary of the number of planning and building applications received from not for profit community organisations and the cost of fees payable for these developments.

	No of Applications	Total Fees Payable	Value of discount
2009/10	4	\$2063	\$965.50
2008/09	5	\$615	\$492
2007/08	5	\$585	\$585
Total	14	\$1,596	\$2042.50

Such a policy would result in reduced fees from planning and building applications; although given the relatively small number received this is not considered material in terms of the Municipal Budget.

Strategic Implications:

There are no strategic implications arising from the Officers Recommendation

Sustainability Implications:

➤ **Environmental:**

There are no known environmental implications arising from the adoption of the draft policy.

➤ **Economic:**

The adoption of the draft policy would assist the local building industry by encouraging planning and building applications from not for profit community organisations.

➤ **Social:**

The adoption of the draft policy would assist local not for profit community organisations develop community facilities within the Shire.

Voting Requirements:

Simple majority

COUNCIL RESOLUTION & OFFICER RECOMMENDATION

ITEM 9.4.3

MOVED: CR LAING

SECONDED: CR EBBETT

That Council adopt the following policy;

P100606 PAYMENT OF PLANNING AND BULDING FEES BY NOT FOR PROFIT COMMUNITY ORGANISATIONS

When assessing planning and building applications received from not for profit community organisations on land not owned by or vested in Council, a reduction of 50% in the application fees payable shall be granted.

Where such an application relates to owned by or vested in Council, a reduction of 100% shall apply.

Note

All statutory charges levied by the State Government are to be paid in full by the applicant and are not subject to the provisions of this Policy.

CARRIED: 11/0

Res: 220310

9.4.4 SIX MONTH BUDGET REVIEW

File Ref:	FIN 9
Applicant / Proponent:	Not Applicable
Subject Land / Locality:	Denmark
Disclosure of Officer Interest:	Nil
Date:	8 March 2010
Author:	Garry Bird, Director of Finance and Administration
Authorising Officer:	Dale Stewart, Chief Executive Officer
Attachments:	Yes – page 155

Summary:

It is a requirement of the Local Government Act 1995 that a local authority undertake a six month review of the Municipal Budget.

Background:

To undertake the review, staff have prepared a report which estimates the end of financial year position for all budget accounts and revised the end of year position in accordance with these amendments.

In addition, a summary of the recommended changes has been prepared.

These reports are attached for the information of Elected Members.

It should be noted that 2009/10 year to date figures have been provided for the period ending 31 January 2010, being the most up to date figures available.

Comment:**Consultation:**

All senior staff have contributed to the review.

Statutory Obligations:

Local Government Act 1995 section 6.2 Municipal Budget

Local Government (Financial Management) Regulations 1996 Regulation 33A

Regulation 33A. Review of budget

- (1) *Between 1 January and 31 March in each financial year a local government is to carry out a review of its annual budget for that year.*
- (2A) *The review of an annual budget for a financial year must —*
 - (a) *consider the local government's financial performance in the period beginning on 1 July and ending no earlier than 31 December in that financial year; and*
 - (b) *consider the local government's financial position as at the date of the review; and*
 - (c) *review the outcomes for the end of that financial year that are forecast in the budget.*
- (2) *Within 30 days after a review of the annual budget of a local government is carried out it is to be submitted to the council.*
- (3) *A council is to consider a review submitted to it and is to determine* whether or not to adopt the review, any parts of the review or any recommendations made in the review.*

**Absolute majority required.*

- (4) *Within 30 days after a council has made a determination, a copy of the review and determination is to be provided to the Department.*

Policy Implications:

There are no policy implications.

Budget / Financial Implications:

The 2009/10 adopted Municipal Budget provided for an estimated end of year surplus of \$42,818.

Assuming Council accepts the Officers recommendation to amend the budget as per the attached summary, the net impact on the end of year position would result in an increased budget surplus of \$59,983 (increased from \$11,202).

These funds are available for reallocation to projects and/or services, however it is recommended that they remain unallocated for the remainder of the financial year as a contingency for unforeseen expenditure. If not required they could be allocated to a Reserve Fund at 30 June or alternatively bought forward into the new financial year.

The increased surplus relates to a number of savings and/or increases in expenditure however it is worth noting that there has been a large increase in interim rates received which relates to new subdivisions and the conversion of 20hectare rural properties from an Unimproved Value to Gross Rental Value Rating basis.

Strategic Implications:

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

Sustainability Implications:

➤ **Environmental:**

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

➤ **Economic:**

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

➤ **Social:**

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

Voting Requirements:

Absolute majority.

COUNCIL RESOLUTION & OFFICER RECOMMENDATION	ITEM 9.4.4
MOVED: CR WAKKA	SECONDED: CR EBBETT
That Council receive the attached Report and endorse the recommended amendments to the 2009/10 Municipal Budget as presented and representing a revised surplus of \$59,983.	
CARRIED BY AN ABSOLUTE MAJORITY: 11/0	Res: 230310

9.4.5 SHIRE OF DENMARK 2009 COMPLIANCE RETURN
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File Ref:	FIN8
Applicant / Proponent:	Department of Local Government and Regional Development
Subject Land / Locality:	Not applicable
Disclosure of Officer Interest:	Nil
Date:	10 March 2009
Author:	Garry Bird, Director of Finance and Administration
Authorising Officer:	Dale Stewart, Chief Executive Officer
Attachments:	Yes – page 159

Summary:

The Department of Local Government and Regional Development (DLGRD) has forwarded the 2009 Compliance Audit Return for completion.

The Local Government Act 1995 Section 7.13 requires a Local Government to complete the Compliance Audit Return in the form specified by the DLGRD and return by 31 March 2010.

Background:

The Compliance Audit Return was an initiative introduced by DLGRD as a means for local authorities to check compliance with the various provisions of the Act. Previously it had been a voluntary exercise for local authorities but amendments to the Act have made it a legal requirement to complete.

The information derived from the Return is retained by the Department for future reference.

Comment:

Having completed the 2009 Compliance Audit Return, it is hereby attached for the consideration of Elected Members.

Matters identified as requiring Council attention during the completion of the Return are summarised as follows;

Executive Functions

Question 10 Has the Local Government kept plans for the levels and alignments of thoroughfares that are under its control or management, and made those plans available for public inspection.

Response No – Plans have been retained for all new roads constructed since 1995, when the “new” Local Government Act made this a requirement. The expense of keeping such plans for all roads constructed prior to 1995 prevents full compliance with this provision

Employees

Question 10 Was the performance of each employee, employed for a term of more than one year, (including the CEO and each senior employee) reviewed within the most recently completed 12 months of their term of employment.

Response No – Some employees, predominantly in the infrastructure services division were not reviewed as per this requirement, with procedures now implemented to ensure all Directors are alerted to the requirement to conduct a review.

Consultation:

A draft copy of the Audit was distributed to all senior staff for comment and completion of the sections relevant to their Department.

Statutory Obligations:

Local Government Act 1995

Local Government (Audit) Regulations 1996, Regulations 13,14 and 15.

14. Compliance audit return to be prepared

- (1) A local government is to carry out a compliance audit for the period 1 January to 31 December in each year.
- (2) After carrying out a compliance audit the local government is to prepare a compliance audit return in a form approved by the Minister.
- (3) A compliance audit return is to be —
 - (a) presented to the council at a meeting of the council;
 - (b) adopted by the council; and
 - (c) recorded in the minutes of the meeting at which it is adopted.

15. Completion of compliance audit

- (1) After the compliance audit return has been presented to the council in accordance with regulation 14(3) a certified copy of the return together with —
 - (a) a copy of the relevant section of the minutes referred to in regulation 14(3)(c); and
 - (b) any additional information explaining or qualifying the compliance audit, is to be submitted to the Executive Director by 31 March next following the period to which the return relates.
- (2) In this regulation —
 - “certified” in relation to a compliance audit return means signed by —
 - (a) the mayor or president; and
 - (b) the CEO.

Policy Implications:

There are no policy implications arising from this report or officers recommendation.

Budget / Financial Implications:

There are no known budget / financial implications arising from the report or officers recommendation.

Strategic Implications:

There are no known strategic implications arising from the report or officers recommendation.

Sustainability Implications:

➤ **Environmental:**

There are no known environmental implications arising from the report or officers recommendation.

➤ **Economic:**

There are no known economic implications arising from the report or officers recommendation.

➤ **Social:**

There are no known social implications arising from the report or officers recommendation.

Voting Requirements:

Simple majority

COUNCIL RESOLUTION & OFFICER RECOMMENDATION	ITEM 9.4.5
MOVED: CR WAKKA	SECONDED: CR EBBETT
That Council adopt the 2009 Compliance Audit Return, noting the two references out of a possible 357 of non compliance and the action taken by the Chief Executive Officer and other senior staff to address these issues.`	
CARRIED: 11/0	Res: 240310

9.5 Chief Executive Officer

9.5.1 LEGAL REPRESENTATION COSTS INDEMNIFICATION (POLICY P040124 REVIEW)

File Ref:	ADMIN 2
Applicant / Proponent:	Not applicable
Subject Land / Locality:	Not applicable
Disclosure of Officer Interest:	Nil
Date:	25 February 2010
Author:	Dale Stewart, Chief Executive Officer
Authorising Officer:	Dale Stewart, Chief Executive Officer
Attachments:	Yes – page 193

Summary:

This report recommends replacing Policy P040124 (Legal Representation Costs Indemnification) with the Department of Local Government's Model Policy titled Legal Representation for Council Members & Employees. It is also recommended that, should Council adopt the amended policy, Delegation D040203 (Legal Advice) also be amended as detailed in the report & recommendation.

Background:

At its February 2010 briefing session the consensus of Councillors was to request the Chief Executive Officer prepare a report regarding Council Policy P040124 and replacing it with the Department of Local Government's Model Policy on Legal Representation.

Comment:

Council's current policy on Legal Representation reads as follows;

P040124 LEGAL REPRESENTATION COSTS INDEMNIFICATION

Introduction

This policy is designed to protect the interests of council members and employees (including past members and former employees) where they become involved in civil legal proceedings because of their official functions. In most situations the local government may assist the individual in meeting reasonable expenses and any liabilities incurred in relation to those proceedings.

In each case it will be necessary to determine whether assistance with legal costs and other liabilities is justified for the good government of the district. This policy applies in that respect.

General Principles

- a) *The local government may provide financial assistance to members and employees in connection with the performance of their duties provided that the member or employee has acted reasonably and has not acted illegally, dishonestly, against the interest of the local government or otherwise in bad faith.*
- b) *The local government may provide such assistance in the following types of legal proceedings:*
 - i. *proceedings brought by members and employees to enable them to carry out their local government functions (e.g. where a member or employee seeks a restraining order against a person using threatening behaviour);*
 - ii. *proceedings brought against members or employees (this could be in relation to a decision of Council or an employee which aggrieves another person [e.g. refusing a development application] or where the conduct of a member or employee in carrying out his or her functions is considered detrimental to the person [e.g. defending defamation actions]); and*

- iii. *statutory or other inquiries where representation of members or employees is justified.*
- c) *The local government will not support any defamation actions seeking the payment of damages for individual members or employees in regard to comments or criticisms levelled at their conduct in their respective roles. Members or employees are not precluded, however, from taking their own private action. Further, the local government may seek its own advice on any aspect relating to such comments and criticisms of relevance to it.*
- d) *The legal services the subject of assistance under this policy will usually be provided by the local government's solicitors. Where this is not appropriate for practical reasons or because of a conflict of interest then the service may be provided by other solicitors approved by the local government.*

Applications for Financial Assistance

- a) *Subject to item (e), decisions as to financial assistance under this policy are to be made by the Council.*
- b) *A member or employee requesting financial support for legal services under this policy is to make an application in writing, where possible in advance, to the Council providing full details of the circumstances of the matter and the legal services required.*
- c) *An application to the Council is to be accompanied by an assessment of the request and with a recommendation which has been prepared by, or on behalf of, the Chief Executive Officer (CEO).*
- d) *A member or employee requesting financial support for legal services, or any other person who might have a financial interest in the matter, should take care to ensure compliance with the financial interest provisions of the Local Government Act 1995.*
- e) *Where there is a need for the provision of urgent legal services before an application can be considered by Council, the CEO may give an authorisation to the value of \$5000 provided that the power to make such an authorisation has been delegated to the CEO in writing under section 5.42 of the Local Government Act 1995.*
- f) *Where it is the CEO who is seeking urgent financial support for legal services the Council shall deal with the application.*

Repayment of Assistance

- a) *Any amount recovered by a member or employee in proceedings, whether for costs or damages, will be off set against any moneys paid or payable by the local government.*
- b) *Assistance will be withdrawn where the Council determines, upon legal advice, that a person has acted unreasonably, illegally, dishonestly, against the interest of the local government or otherwise in bad faith; or where information from the person is shown to have been false or misleading.*
- c) *Where assistance is so withdrawn, the person who obtained financial support is to repay any moneys already provided. The local government may take action to recover any such moneys in a court of competent jurisdiction.*

The current Policy has not had to be applied / tested in at least the past 2 years and as far as can be ascertained not at all. Since its adoption, believed to be in September 1997, the Department of Local Government has produced the Local Government Operational Guidelines - Number 14 "Legal Representation for Council Members and Employees" (in April 2006), which includes a model policy.

The model policy covers the main principles set out in the current policy but goes further to explain key terms, provide clarity and more detailed guidance for Council and staff.

In comparing the two policies the differences are minor and noted as follows;

- General Principles
 - Part b) iii. of the current policy is not covered in the model (this section could cover such things as representation required for coronial inquiries and other quasi judicial hearings and the like. This is already adequately covered by the definition of legal representation in the model).
- Applications for Financial Assistance
 - Part e) sets a limit of up to \$5,000 for the payment of urgent legal services under delegated authority to the CEO. The model states \$10,000.
 - Part f) states that where the CEO is seeking urgent financial support for legal services, the Council shall deal with the application. The model states that where the CEO is the applicant the accompanying report with the application shall be made by an “appropriate employee”. The model does not however provide for a circumstance where/if the legal representation is urgent and the applicant is the Chief Executive Officer. In these circumstances the matter will have to be referred to Council for determination unless the CEO has sub-delegated their delegation.
- Other anomalies
 - Council Committee Members - The current policy does not cover council committee members but the model does.

The recommended policy is the model policy without change.

Consultation:

Councillors & Directors.

Statutory Obligations:

As stated in the attached Guidelines from the Department of Local Government, section 9.56 of the Local Government Act 1995 (the Act) provides protection from actions of tort for anything a council member or employee has, in good faith, done in the performance or purported performance of a function under the Act or under any other written law. However, the legislation does not preclude people taking action against individual council members or employees if they believe that the council member or employee has not acted in good faith.

Section 3.1 of the Act states that; “*The general function of a local government is to provide for the good government of persons in its district*” and section 6.7(2) states that “*Money held in the municipal fund may be applied towards the performance of the functions and the exercise of the powers conferred on the local government by this Act or any other written law.*”

Under sections 3.1 and 6.7(2) of the Act Council can expend funds to provide legal representation for Council members and employees as long as it believes that the expenditure falls within the scope of the local government function.

Policy Implications:

Should Council decide to amend the current policy the changes will be reflected in Council’s Policy Manual & Delegations Register.

Council Delegation number D040203 will need to be amended pursuant to the delegation issued under clause 6.1 of the model policy.

Budget / Financial Implications:

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

Strategic Implications:

Any payments made under this policy should only be made if the Council sees it as being in the best interest of the community and falls within the scope of its general function of providing good government of persons within its district.

Sustainability Implications:

➤ **Environmental:**

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

➤ **Economic:**

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

➤ **Social:**

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

Voting Requirements:

Simple majority.

COUNCIL RESOLUTION & OFFICER RECOMMENDATION	ITEM 9.5.1
MOVED: CR EBBETT	SECONDED: CR SAMPSON
That with respect to Policy P040124 – Legal Representation Costs Indemnification, Council;	
<ol style="list-style-type: none"> 1. Replace the policy with the attached “Legal Representation for Council Members and Employees” policy which is based on the Department of Local Government’s Model Policy; and 2. Amend Delegation D040203 titled “Legal Advice” such that it reads; “Legal Advice & Representation” with the following addition of a part 2; <ul style="list-style-type: none"> “2. <i>In cases where a delay in the approval of an application will be detrimental to the legal rights of the applicant, the CEO may exercise, on behalf of the Council, any of the powers of the Council under clause 5.1 and 5.2 of Councils Policy P040124 Legal Representation for Council Members and Employees, to a maximum of \$10,000 in respect of each application.</i> 	
<i>Note: Part 2 cannot be onward delegated.”</i>	
CARRIED: 11/0	Res: 250310

9.5.2 ART COLLECTION MANAGEMENT POLICY

File Ref:	ADMIN 2
Applicant / Proponent:	Not applicable
Subject Land / Locality:	Not applicable
Disclosure of Officer Interest:	Nil
Date:	9 March 2010
Author:	Claire Thompson, Executive Assistant
Authorising Officer:	Dale Stewart, Chief Executive Officer
Attachments:	No

Summary:

This report recommends the adoption of an Art Collection Management Policy to ensure appropriate respect & management of art objects owned, acquired or on loan by Council.

Background:

The Shire of Denmark currently does not have a policy which goes to recording and managing the many art objects owned, acquired or on loan by Council nor in the past have such objects been documented in one register.

Comment:

The purpose of the policy is outlined under the objective.

A register has already been developed and all of Council's known art objects have been recorded in it. The register is already being maintained on an as required basis. A formal policy will ensure that Council officers now and in the future are given guidance as to the purpose of the register which should in turn ensure that the register is used and maintained by the whole organisation.

The draft Policy reads as follows;

P110705 ART COLLECTION MANAGEMENT**Objective**

To accurately document all art objects owned, acquired or on loan by or to Council in an appropriate register to ensure respectful and ongoing management of the objects.

Policy*Definition of art*

Art objects include paintings, works on paper, commercial prints and decorative art pieces (including sculptures) with relevant artistic and/or historical significance, generally small enough to easily move or relocate but not including street or garden furniture that is primarily fixed and functional in nature.

Council's administration will maintain an appropriate art collection register detailing the following minimum characteristics;

- Description of the art object;
- Artist;
- Art type (eg. Sculpture, photograph);
- Current location;
- Date of acquisition;
- Reason for acquisition;
- Estimated value (for insurance); and
- Ownership.

Responsible Officer

The Chief Executive Officer is the responsible officer for implementing this policy.

Consultation:

Councillors and Staff have previously been consulted with regards to origins and acquisition dates for the purposes of developing the register.

Statutory Obligations:

There are no statutory obligations.

Policy Implications:

Should Council decide to adopt this policy it will be included in Council's Policy Manual.

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:**

The policy could be seen as a good demonstration that Council identifies, acknowledges and protects the art objects it acquires, owns or loans; most of which are created by local artists.

Voting Requirements:

Simple majority.

COUNCIL RESOLUTION & OFFICER RECOMMENDATION		ITEM 9.5.2
MOVED: CR SYME		SECONDED: CR SAMPSON
That Council adopt the Art Collection Management Policy as detailed in the report and record the policy in Council's Policy Manual.		
CARRIED: 11/0		Res: 260310

9.5.3 MAYORS FOR PEACE

File Ref:	PBR8
Applicant / Proponent:	John Schindler
Subject Land / Locality:	Not applicable
Disclosure of Officer Interest:	Nil
Date:	17 February 2010
Author:	Dale Stewart, Chief Executive Officer
Authorising Officer:	Dale Stewart, Chief Executive Officer
Attachments:	No

Summary:

Mr John Schindler, a resident / ratepayer has written in requesting that Council sign the Mayors for Peace protocol whose aim is to promote the elimination of nuclear weapons around the world.

Background:

The following information is extracted from the Mayors for Peace website at www.2020visioncampaign.org.

How did the World Conference of Mayors for Peace get started?

In the 2nd Special Session of UN General Assembly on Disarmament held at UN Headquarters in New York on June 24, 1982, the mayors of Hiroshima and Nagasaki appealed to city mayors of all nations to find a path to solidarity between the world's cities that reached beyond national borders and worked to abolish nuclear weapons. With this appeal, he set up the Conference of Mayors for Peace.

World Conferences of the organization are held every four years with the first being held in 1985. In 2001, the World Conference decided to make the organization a membership one and officially shortened its name to Mayors for Peace. The most recent World Conference was held in Hiroshima in 2005 on the 60th anniversary of the atomic bombing. The next will be in Nagasaki in 2009.

What kind of organisation is the Conference of Mayors for Peace?

The Conference of Mayors for Peace connects cities all over the world that approve of the Program to Promote the Solidarity of Cities towards the Total Abolition of Nuclear Weapons. In March 1990, the Conference registered with the NGO Section of the UN Department of Public Information and in May 1991, with the UN Economic and Social Council (as a Category 1 NGO).

What is the relationship between Mayors for Peace and the 2020 Vision Campaign?

The 2020 Vision Campaign is the main vehicle for advancing the agenda of Mayors for Peace. It was initiated on a provisional basis by the Executive Cities at their meeting in Manchester, UK, in October 2003. It was launched under the name 'Emergency Campaign to Ban Nuclear Weapons' in November of that year at the 2nd Citizens Assembly for the Elimination of Nuclear Weapons held in Nagasaki, Japan. In August 2005, the World Conference endorsed continuation of the Campaign under the title of the '2020 Vision Campaign'.

At that same World Conference, support was expressed for the establishment of an International Secretariat for the Campaign in Europe and the City of Ypres (Ieper) in Belgium offered to host the Secretariat. Campaign work began in May, 2006, and the Secretariat was officially inaugurated by the President of Mayors for Peace in July 2006.

As of June 2007 the office is staffed full-time and the basic operation of the Secretariat is now supported by funds solicited from the member cities.

The Campaign Secretariat is responsible for implementation of the 2020 Vision Campaign and, within this ambit, the management of the website. To this end, it works in close cooperation with the Hiroshima Secretariat and the Executive Cities.

The International Campaign Manager answers directly to the President of Mayors for Peace.

How many cities are affiliated?

As of March 2nd, 2009 we have welcomed 2,777 cities in 134 countries into our network. This is a sharp increase when you consider that on June 15, 2007 the network consisted of only 1,651 cities in 120 countries.

Almost every day new members register with the Mayors for Peace and updating the website with new affiliated cities can take a few weeks. Thank you for your patience.

As of 1 February 2010 the Conference of Mayors for Peace consists of 3,562 **cities** in **134 countries and regions** around the world. Australia now has 56 local authorities registered which are listed below;

AUSTRALIA (56 cities)		
Adelaide Hills	Gosford	Newcastle
Albany	Greater Bendigo	Norwood Payneham & St Peters
Ashfield	Hobart	Parramatta
Ballarat	Hume	Port Phillip
Bankstown	Lane Cove	Randwick
Blacktown	Launceston	Rockhampton
Baw Baw Shire	Leichhardt	Salisbury
Bridgetown-Greenbushes	Lismore	Shellharbour
Brisbane	Lithgow	Subiaco
Bowen Shire	Macedon Ranges Shire	Sunshine
Byron Shire	Manly	Sydney
Campbelltown	Marion	Unley
Canada Bay	Marrickville	Warrondilly Shire
Caterbury	Melbourne	Warringah
Darebin	Moonee Valley	West Torrens
Derwent Valley	Moreland	Wollongong
Devonport	Mount Barker	Wyong Shire
Fremantle	Mount Remarkable	Yarra
Gold Coast	Narrabri	

Previous Council resolutions relevant in the general matter of ‘nuclear’ are as follows;

Council Meeting 28 Sept 1999

“That Council in the 1980’s declared Denmark a nuclear free zone and while fully supporting the principles expressed by the Shire of Chapman Valley, does not consider it appropriate to amend its Town Planning Scheme, the Shire of Denmark’s Extractive Industries Local Law being currently considered adequate.”

Council Meeting 22 May 2001

Within the report it states;

“In the 1980’s, Council passed a resolution declaring the Shire of Denmark to be a ‘nuclear free zone’ and this has been reiterated at various times since then. The last such time being in September 1999 when Council considered a matter relating to another local government’s attempt to amend its Town Planning Scheme to include a mechanism to prohibit nuclear activity.”

“At that time, Council resolved as follows:

That Council in the 1980’s declared Denmark a nuclear free zone and while fully supporting the principles expressed by the Shire of Chapman Valley, does not consider it appropriate to amend its Town Planning Scheme, the Shire of Denmark’s Extractive Industries Local Law being currently considered adequate.”

“While Council has in the past supported the position of Denmark being a nuclear free zone, it is considered that there is little to be gained by accepting the invitation to join the NFZ Secretariat.”

Council subsequently resolved to decline the offer to join the Australian Local Government Nuclear Free Zones & Toxic Industries Secretariat (Res: 106/01).

Comment:

Mr Schindler notes that “Denmark cannot by itself do anything to achieve these aims, but by joining the Mayors for Peace it can help to focus the attention of national governments on the widespread support for the aims of the movement.”

The website provides the following sample resolutions;

“Sample Resolution to authorize signing of the Cities Appeal in the name of the City

Whereas the universal prohibition of nuclear weapons is an urgent priority;

Whereas the States Parties to the Treaty on the Non-Proliferation of Nuclear Weapons (NPT) are currently reviewing the Treaty and should take action to fulfill its promise of nuclear disarmament;

Whereas Mayors for Peace has advanced the Hiroshima-Nagasaki Protocol as a means of achieving a nuclear-weapon-free world by the year 2020 within the framework of the NPT ;

Whereas local government representatives in [\[find current number\]](#) cities from [\[find current number\]](#) countries and regions have used the Cities Appeal to express their united support for the Hiroshima-Nagasaki Protocol;

Be it resolved that Mayor [Name] is thereby authorized to sign the Cities Appeal in the name of [City].”

“Sample Resolution to endorse the Hiroshima-Nagasaki Protocol (modeled on the [Cities Appeal](#))

Mindful that according to the United Nations Fund for Population, “In 2008, for the first time in history, more than half of the world’s population will be living in towns and cities”; and that United Cities and Local Governments is recognized by UN agencies as the voice of cities worldwide;

Taking, in this regard, special note of the support expressed in the 2007 Jeju Declaration of the Second World Congress of United Cities and Local Governments for “the Mayors for Peace campaign, which lobbies the international community to renounce weapons of mass destruction;”

Noting that while in the Biological Weapons Convention and the Chemical Weapons

Convention the prohibition on the acquisition of such weapons of mass destruction applies to all states without exception, in the Treaty of the Non-Proliferation of Nuclear Weapons (NPT) the prohibition on the acquisition of nuclear weapons exempts the five “nuclear-weapons States;”

Underscoring that the aforementioned ‘exemption’ was never meant to be permanent as all States were obligated to “pursue negotiations in good faith on effective measures relating to ... nuclear disarmament;”

Recalling that, in 2005, a Mayors for Peace statement based on a resolution of the U.S. Conference of Mayors and signed by 575 mayors worldwide called upon State Parties to the NPT to take a decision to commence negotiation on the elimination of nuclear weapons and weapon-usable fissile material, and that this resolution was presented in the Great Hall of the General Assembly to the NPT Review Conference President;

Alarmed that not only did the 2005 NPT Review Conference fail to reach agreement on any decisions whatsoever and but also that no negotiations whatsoever have occurred in the years since to advance the objective of nuclear disarmament;

Mindful that the elimination of all nuclear weapons by the year 2020 has become more difficult because of this lack of progress and other adverse developments, but convinced that with a rededication to good faith efforts the objective is still achievable;

Welcoming wholeheartedly the 62nd UN General Assembly decision to begin preparations for a UN Decade for Disarmament, 2010-2020;”

Be it, therefore, resolved to:

- Call upon all citizens to contribute to the preparations for the UN Decade for Disarmament;*
- Pledge to do our utmost to ensure that it will be a decisive decade for nuclear disarmament;*
- Call upon the State Parties to the NPT to ensure that the current NPT review process lays the foundation for actual nuclear disarmament during the UN Disarmament Decade and, to that end, urge [Title and Name of your Head of Government] to lead the government delegation to the 2010 Review Conference and to include in the delegation at least one representative of this nation’s cities;*
- Recommend for the immediate consideration of all States, not least each of our own, the [Hiroshima-Nagasaki Protocol](#) as a direct means of fulfilling the promise of the NPT by the year 2020, thereby meeting the obligation found by the International Court of Justice “to conclude negotiations leading to nuclear disarmament in all its aspect under strict and effective international control;”*
- Challenge all States to adopt the Hiroshima-Nagasaki Protocol without delay and to undertake in good faith to present to the 65th General Assembly in September 2010 the envisioned Nuclear Weapons Convention or Framework Agreement.*

Be it further resolved to inform Mayors for Peace of this resolution at an early date.

The officer concurs with Mr Schindler's general observation that Denmark itself can do little to achieve the aims of the declaration. It is also the officers' view that such a declaration will have little to no effect however it could be argued that even though there is no foreseeable negative impacts on the community there are perhaps positive promotional benefits in declaring the Shire of Denmark's support for the universal prohibition of nuclear weapons.

Consultation:

The officer is not aware of any previous consultation on the matter having been undertaken within the Shire. The officer's view is that it is not considered necessary to consult on the principle at this time given that a decision to support the request has little to no impact locally.

Statutory Obligations:

There are no statutory obligations.

Policy Implications:

Signing the declaration effectively creates a policy that the Council on behalf of the Community supports the principle of nuclear disarmament. Council has not considered such a policy in the past.

Budget / Financial Implications:

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

Strategic Implications:

Whilst the Council and community takes pride in a general ethos and badge of being 'clean and green', the relevance of nuclear disarmament and a resolution to support worldwide disarmament would, in the opinion of the officer, have no real impact or effect.

Does the Council in agreeing to support a declaration of seeking worldwide nuclear disarmament help create the right image of the principles that the Council and its community desire for it to be seen as?

There is little argument about whether any community wishes for there to be a nuclear war or deal with impacts of the use of such weapons. On balance, there are certainly no negative connotations or concerns from a triple bottom line perspective in agreeing to the declaration and it is hard to argue against the principle of such a declaration.

The officer's view is that the real question for Council is whether agreeing to such a declaration helps define the desired positive image of the Shire and its inhabitants; Its "brand".

Sustainability Implications:**➤ Environmental:**

The officer is of the view that the resolution of itself will have no short, medium or long term environmental impacts.

➤ Economic:

The officer is of the view that the resolution of itself will have little short, medium or long term economic impacts other than perhaps from a tourism marketing aspect; enhancing the 'clean & green' philosophy.

➤ Social:

The officer is of the view that the resolution of itself will have no short, medium or long term social impacts.

Voting Requirements:

Simple majority.

6.25pm – The Director of Finance & Administration left the meeting.

COUNCIL RESOLUTION & OFFICER RECOMMENDATION

ITEM 9.5.3

MOVED: CR SYME

SECONDED: CR PEDRO

That with respect to the request for Council to register to join the Mayors for Peace, Council;

1. Makes the following declaration & includes it as a policy in Council's Policy Manual;

"Whereas the universal prohibition of nuclear weapons is an urgent priority;

Whereas the States Parties to the Treaty on the Non-Proliferation of Nuclear Weapons (NPT) are currently reviewing the Treaty and should take action to fulfill its promise of nuclear disarmament;

Whereas Mayors for Peace has advanced the Hiroshima-Nagasaki Protocol as a means of achieving a nuclear-weapon-free world by the year 2020 within the framework of the NPT ;

Whereas local government representatives in [\[INSERT CURRENT NUMBER AT SIGNING\]](#) cities from [\[INSERT CURRENT NUMBER AT SIGNING\]](#) countries and regions have used the Cities Appeal to express their united support for the Hiroshima-Nagasaki Protocol;

Be it resolved that the Shire President is thereby authorised to sign the Cities Appeal in the name of the Shire of Denmark."

2. Sends the completed registration form to the President of the Mayors for Peace.

CARRIED: 7/4

Res: 270310

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

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

AGAINST: *Cr Barrow, Cr Wakka, Cr Hinds & Cr Phair.*

9.5.4 DENMARK SAFE COMMUNITY COMMITTEE

File Ref:	PBR 20
Applicant / Proponent:	Denmark Safe Community Committee
Subject Land / Locality:	Not applicable
Disclosure of Officer Interest:	Nil
Date:	12 February 2010
Author:	Dale Stewart, Chief Executive Officer
Authorising Officer:	Dale Stewart, Chief Executive Officer
Attachments:	Yes – page 197

Summary:

The Denmark Safe Community Committee, via the Denmark Department of Health, the authority that auspices it, have written to Council requesting that Council appoint a Council representative be delegated to that Committee.

Background:

The Denmark Safe Community Committee is an interagency based committee based on partnerships and collaborations and includes the following community representatives;

- Denmark Health Service - OT
- Denmark Health Service Health Promotion Officer
- Denmark Shire - Community Fire Manager
- Denmark Police
- Road Wise – Regional Coordinator
- Cancer Council Great Southern
- KIDSAFE WA Regional Coordinator
- Denmark Agricultural College
- Council Delegate - Cr(formerly Cr Hinds).
- At least two community members such as from;
 - Local Drug and Alcohol group and "Tha House" representative
 - Coast and Surf Safety - local surf business owner and volunteers
 - Community members - ie. Parents
 - Denmark Seniors Association

In 2007, Denmark was awarded a World Health Organisation (WHO) Safe Community Accreditation (one of only two in Australia). The application for this was submitted by Dr Gillian Sellar in her role at the Denmark Health Service and the Denmark Health Service has verbally advised that they will pursue the rededication when it is due in 2012.

The Denmark Safe Community Committee also administers Councils Community Safety & Crime Prevention Plan and explores and executes crime prevention initiatives on behalf of Council. This role also fulfils Councils obligations under the Office of Crime Prevention's Local Government Partnership Fund.

A copy of the committee charter is attached as an appendix.

Comment:

Council at its Meeting of 20 October 2009 failed to nominate a Councillor delegate to the Committee because at the time the committee wasn't actively meeting.

Consultation:

Cr Barnes has indicated that he would be willing to be the nominee for this Committee now "In view of my involvement with DHAG and interest in such matters, would it be appropriate for me to put my hand up for this position?"

Statutory Obligations:

There are no statutory obligations.

Policy Implications:

There are no policy implications.

Budget / Financial Implications:

The role of the Committee also used to fulfill an obligation Council acquired through accepting the sum of \$12,000 from the Office of Crime Prevention. In essence Council banked \$1,200 and remitted that same sum to the Committee for Crime Prevention type initiatives and or secretarial support.

Strategic Implications:

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

Sustainability Implications:

➤ **Environmental:**

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

➤ **Economic:**

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

➤ **Social:**

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

Voting Requirements:

Absolute majority.

COUNCIL RESOLUTION & OFFICER RECOMMENDATION	ITEM 9.5.4
MOVED: CR WAKKA	SECONDED: CR PEDRO
<p>That Council write to the Denmark Safe Community Committee and Denmark Health Service advising it appoints Cr Barnes as the Councils representative and request that Council wishes to continue the previous agreed agreement such that in exchange for including a discussion heading about reducing crime and increasing community safety on every ordinary agenda, Council will make available to the Committee a sum of \$1,200 per annum which equates to the grant Council receives from the Office of Crime Prevention (OCP).</p>	
CARRIED BY AN ABSOLUTE MAJORITY: 11/0	Res: 280310

The Chief Executive Officer declared a financial interest in item 9.5.5 on the basis that he is employed by the Shire of Denmark.

9.5.5 STRUCTURAL REFORM – REGIONAL TRANSITION GROUP

File Ref:	GOV 20
Applicant / Proponent:	Department of Local Government & Regional Development
Subject Land / Locality:	Not applicable
Disclosure of Officer Interest:	The CEO declares an interest as an employee of the Shire
Date:	22 February 2010
Author:	Dale Stewart, Chief Executive Officer
Authorising Officer:	Dale Stewart, Chief Executive Officer
Attachments:	Yes – page 203

Summary:

The Minister for Local Government has requested Council consider its willingness to participate in a Regional Transition Group and has requested a response by the 26 March 2010.

Background:

In February 2009, the Minister for Local Government, Hon John Castrilli MLA, announced his wide-ranging Local Government Reform Strategies. As part of this, he has encouraged each local government within Western Australia to embrace the opportunity for voluntary amalgamations to achieve structural reform in this State, as well as reduction of Councillor numbers.

On the 4 March 2009, the Department of Local Government & Regional Development (DLGRD) released the Structural Reform Guidelines - these guidelines detailed the principle strategies and information being sought by the Minister.

In August 2009, Council conducted a community engagement survey on a number of related issues. Council considered the results and the final response to the Minister at its September 2009 round of meetings and resolved on the 22 September 2009 as follows;

- “That the Shire of Denmark, in relation to local government structural reform;*
- 1. Receive the Community Survey, noting that the response to the primary question of whether the electors of the Shire believe the Council should amalgamate with another Council was 88.3% against any form of amalgamation and;*
 - 2. Adopt the Council’s ‘Reform Submission’ and the recommendations and policies contained therein, and forward it the Minister for Local Government for response and the Member for Blackwood Stirling for information and;*
 - 3. Copy this report, Council’s Reform Submission and the results of the community Survey onto Council’s website.”*

Comment:

The Minister is providing the options of Regional Transition Group (RTG) models and the Regional Collaborative Group (RCG) as a way of providing “like minded local governments with a clear staged path to voluntary reform through a series of defined milestones.” The Shire of Denmark has been asked to consider participating in a Regional Transitional Group.

In his letter the Minister defines key aspects of the RTG & RCG proposals as follows;

- The process remains voluntary. The decision to participate is a matter for each local government.
- The ultimate membership of each group is also up to local governments to determine.

- Due to factors of remoteness and distance the Minister has invited local governments in the Kimberley, the Pilbara, the northern Goldfields and the Murchison to consider in an RCG.
- All other local governments are invited to consider participating in an RTG.
- The core elements of the model agreement to establish an RTG are:
 - The State will provide funding to assist each group develop a regional business plan. The amount to be provided will be advised following Cabinet consideration of the Minister’s funding proposal.
 - The content of the regional business plan is outlined in the schedule to the agreement. A detailed template will be developed by the Department of Local Government to assist you in the preparation of your plan.
 - Any participant can withdraw from the group once the business plan is finalised. I believe this is reasonable as development of the plan requires input from all participants in each group. I anticipate up to nine months would be required to prepare the plan.
 - Even after local governments have resolved to participate, the RTG can be terminated if the majority of the group decides that this is the best course of action. I anticipate efforts will be made to resolve concerns before such a decision is made.
 - The Local Government Advisory Board statutory processes, including the poll provision, apply once the RTG proposal to amalgamate is received by the Board.

The Minister also advises in his letter that he has lodged his funding request to assist local government reform for inclusion in the 2010/11 State Budget.

A copy of the model RTG agreement and RTG Process for Amalgamation flowchart is attached.

Consultation:

A Community Survey on Structural Reform was undertaken in August 2009 (460 responses were received with 88.3% of respondents stating that they believe that Council should remain independent).

The WALGA State Council met on Friday 5 February 2010 and considered the continuing issue of Local Government Reform and passed the following resolution;

That:

1. the Association continue to seek clarification on the State Government’s position and process;
2. the written input of Local Governments be collated and provided to the Minister for Local Government for a response at the Local Government Reform forum to be held on 9 February 2010;
3. the Association express no confidence in the current reform process;
4. those Local Governments, wishing to amalgamate, be allowed to proceed with their process;
5. those Local Governments, not wishing to amalgamate, be allowed to pursue their own direction without the threat of forced amalgamation or referral to the Local Government Advisory Board (LGAB).

The CEO, Director of Community & Regulatory Services together with Cr Hinds attended a forum of Local Governments at Ascot Racecourse on 9 February 2010 where over 400 delegates in attendance listened to members of parliament from all sides of West Australian politics. The forum resolved as follows;

“In the pursuit of Better Local Government and after considering the information provided by the Minister for Local Government, the Hon. John Castrilli in response to our questions regarding the State Government’s Local Government Reform process, we

the Local Government representatives in attendance at this meeting have determined that we:

1. *Support the State Council resolution of February 5 which asserts that:*
 - *the Association continue to seek clarification on the State Government's position and process;*
 - *the Association express no confidence in the current reform process;*
 - *those Local Governments, wishing to amalgamate, be allowed to proceed with their process;*
 - *those Local Governments, not wishing to amalgamate, be allowed to pursue their own direction without the threat of forced amalgamation or referral to the Local Government Advisory Board (LGAB).*
2. *Reject a Local Government Reform Process that focuses only on amalgamations.*
3. *Require a voluntary approach to any amalgamations and reinforce the rights of each Local Government to determine their own destiny.*
4. *Reaffirm the research and recommendations of the Systemic Sustainability Study.*
5. *Require guidelines outlining the State Government's Local Government reform goals and objectives prior to the pursuit of any further reform process.*
6. *Require the delivery of a complete legislative and regulatory reform package as detailed in the Systemic Sustainability Study, as a priority and prior to the pursuit of any structural change.*
7. *Require the Minister to give a commitment to include WALGA (representing all of Western Australia's Local Governments) at the most senior levels on all relevant reform committees in a genuine partnership approach.*
8. *Reject the financial emasculation of Local Governments which do not engage in amalgamations.*
9. *Require the State Government to fully fund any reforms it applies to the sector."*

Statutory Obligations:

Local Government Act 1995 - Section 3.1 (2) of the Local Government Act 1995 (the Act), states;

"3.1. General function

- (1) The general function of a local government is to provide for the good government of persons in its district.*
- (2) The scope of the general function of a local government is to be construed in the context of its other functions under this Act or any other written law and any constraints imposed by this Act or any other written law on the performance of its functions.*
- (3) A liberal approach is to be taken to the construction of the scope of the general function of a local government."*

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 significant strategic implications relating to the report and the officer recommendation.

Sustainability Implications:

As quoted above, section 3.1 of the Local Government Act 1995 (the Act), states that the general function of a local government is to provide for the good government of persons in a district.

In undertaking these functions, local governments are to use their best endeavours to meet the needs of current and future generations through the integration of environmental protection, social advancement and economic prosperity.

➤ **Environmental:**

See above.

➤ **Economic:**

See above.

➤ **Social:**

See above.

Voting Requirements:

Simple majority.

OFFICER RECOMMENDATION

ITEM 9.5.5

That Council reaffirm its resolution of 22 September 2009 and specifically advise the Minister that it has considered amalgamation and boundary adjustments options with neighbours and local authorities in the Great Southern Land Division and resolves not to seek either active amalgamation or entering into an agreement to form a Regional Transition Group (to Amalgamation) with another local authority as it believes it can continue to be an effective, sustainable, responsive and representative advocate for the community of Denmark into the 21st Century.

The Western Australian Local Government Association (WALGA) have requested that they be advised of Council's position in relation to Regional Transition Groups. The Chief Executive Officer provides the following Alternate Officer Recommendation to include reference to advising WALGA.

COUNCIL	RESOLUTION	&	ALTERNATE	OFFICER	ITEM 9.5.5
RECOMMENDATION					
MOVED: CR BARROW			SECONDED: CR LAING		
That with respect to the Minister's request that Council consider participating in a Regional Transition Group, Council;					
1. Reaffirm its resolution of 22 September 2009 and specifically advise the Minister that it has considered amalgamation and boundary adjustments options with neighbours and local authorities in the Great Southern Land Division and resolves not to seek either active amalgamation or entering into an agreement to form a Regional Transition Group (to Amalgamation) with another local authority as it believes it can continue to be an effective, sustainable, responsive and representative advocate for the community of Denmark into the 21 st Century.					
2. Write to the Western Australian Local Government Association advising them of Council's decision.					
CARRIED: 11/0			Res: 290310		

9.5.6 POLICY MANUAL REVIEW – POLICIES P040124 TO P040134

File Ref:	ADMIN 2
Applicant / Proponent:	Not applicable
Subject Land / Locality:	Not applicable
Disclosure of Officer Interest:	Nil
Date:	3 March 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 February 2010.

Background:

In February 2010 the following policies were reviewed by Council during a briefing session.

This month's policies under review include;

P040124	Legal Representation Costs Indemnification
P040125	Community Financial Assistance Program
P040126	Honorary Freeman of the Municipality
P040127	Councillor Communication / Information Distribution
P040128	Officers & Elected Members Code of Conduct
P040129	Human Resource Management Policies
P040130	Reimbursement of Elected members Travel Expenses
P040131	Biennial Community Needs & Customer Satisfaction Survey
P040132	Councillor Service & Farewell Policy
P040133	Privacy Policy
P040134	Sustainability Checklist

Comment:

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

Policy P040124 has also been reviewed and has been dealt with via a separate report – refer Item 9.5.1).

P040125 COMMUNITY FINANCIAL ASSISTANCE PROGRAMObjectives

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.

Definitions

'Community Organisation' means any organisation which has as its members, members of the Denmark Community and which operates on a 'not for profit' basis.

'Not for Profit' means that the proceeds of the organisation are used for the benefit of the organisation and are not available for disbursement to the members of the organisation.

'Major Community Grant' means any financial assistance grant over \$5,000. Usually provided for the development of a capital works project eg. Building construction, major purchase of equipment, ground-works etc.

'Minor Community Grant' means any financial assistance up to \$5,000. Usually provided for building construction, maintenance or repair, minor projects, equipment purchase, operating expenses, relief from Council fees and charges etc. A minimum grant of \$200 applies.

'Community Donation' means a donation up to \$200 provided to any community organisation or person, for any purpose. Approved by the CEO under delegated authority of Council.

'GST' means the Federal Government's Goods and Services Tax. Provision of grant funds will be exclusive of GST unless the recipient organisation is registered for GST, in which case the grant amount will be grossed up by 10%.

'Community Financial Assistance Committee' means the Committee appointed by the Council to administer the provisions of the Community Financial Assistance Program.

'CEO' means the Chief Executive Officer of the Shire of Denmark.

Detail

Funding Rounds

The Community Financial Assistance Program will be allocated from within Council's general revenue budget each year with applications being called at the beginning of April and closing early May for funding after adoption of the budget (generally September).

Generally Council is more likely to favourably consider applications for minor grants and typically grants of between \$1,000 and \$2,500 have been supported in the past. Council will also budget an additional amount per year as contingency funding for Community Donations (max. \$200 per donation).

Advertising

Each year, at the beginning of April, Council shall advertise its intention to consider applications for financial assistance under the Community Financial Assistance Program.

Applications

All applications shall be made on the form available from the Council and shall close early May. Applicants must address the selection criteria provided within the application guidelines. Late applications will not be accepted for consideration. Unsuccessful applicants will be advised and will need to reapply in the next or a future year if the funding assistance is still required at that time.

Minor Community Grants (Up to \$5,000)

Minor Community Grants may be used for any purpose, including building construction, maintenance or repair, equipment purchase or hire, events or functions, operating expenses, relief from Council fees and charges etc. A minimum grant of \$200 applies. Applications should address the following criteria:

- Type of organisation (eg sport and recreation, community based, general interest, health and welfare, artistic, religious etc);
- Organisation membership;
- Nature of service/facility provided;
- Demonstrated need or community benefit;
- Applicant's financial position;
- Purpose of the grant; and
- Provision of a detailed project budget including GST breakdown.
- Details of applications to other possible funding sources. (eg Dept of Sport and Recreation, Healthways, Lotteries, etc.)

Major Community Grants (Over \$5,000)

Funding for approved grants will be allocated from within Council's general revenue budget.

Major Community Grants may be used for any purpose, but are generally provided for purposes such as building purchase or construction, purchase of equipment, ground-works etc. Applications should address the following criteria:

Type or organisation (eg sport, community, hobby, health and welfare, artistic, religious etc);

- Organisation membership;
- Nature of service/facility provided;
- Project details/planning/design/timing;
- Demonstrated need or community benefit;
- Financial position of the applicant;
- Financial viability of project;
- Other financial/in kind contributions;
- On-going management;
- Existing services and facilities of a like nature, within Denmark;
- Provision of quotes (2) for all items greater than \$500 in value; and
- Provision of a detailed project budget including GST breakdown.
- Details of applications to other possible funding sources. (eg Dept of Sport and Recreation, Healthways, Lotteries, etc.)

Community Donations

Applications for Community Donations, to a maximum of \$200, may be submitted at any time throughout the year for any purpose. Applications will be received from community-based organisations, or individuals, where an individual can demonstrate sufficient justification for the provision of financial assistance. Such justification may include selection as a representative on a state or national team, with associated costs.

Community Donations shall be referred to the Chief Executive Officer for consideration under delegated authority of Council.

Administration of Financial Assistance:

Financial assistance approvals shall be administered in accordance with the following:

1. Where financial assistance is approved by Council for projects that are dependent upon funding from an outside source, eg: Sport and Recreation WA; Lotteries Commission etc, and that funding application is unsuccessful, the approved Council financial assistance shall be withdrawn also.
2. Where funding from an outside source is approved, Council financial assistance (as approved) shall be paid to the applicant, on receipt of and up to the value of copy invoices, statements or receipts or the provision of in-kind support.
3. All approved financial assistance must be claimed and acquitted by 30 June of the year in which the grant was approved. Acquittal of grants shall be to the satisfaction of the manager Finance and generally require the production of documentation or receipts sufficient to substantiate that the project monies have

been spent in accordance with the grant application. Should the project not be completed by the 30 June the organisation should then re-apply for the funding in the following year.

4. Where the level of financial assistance from an outside source has been reduced below that requested by an organisation, the organisation shall be required to demonstrate its ability to meet the funding shortfall. In such circumstances the Community Financial Assistance Committee will reassess the viability of the project and may, if project viability is not substantiated, revoke the grant approval.
5. Where requests for financial assistance are received outside the deadline for receipt of applications they shall be referred to the next funding round and the applicants advised accordingly.
6. No applications for community financial assistance shall be considered by Council, the Community Financial Assistance Committee or the CEO other than in accordance with these guidelines.
7. Proponents requesting financial assistance from Council that cannot be accommodated under staff delegations or which are not included in the Councils budget, will be advised of Councils funding procedures and be requested to apply for the next round of the appropriate funding. Any such advice will be included in Council's monthly Information Bulletin.

Nothing in this policy prevents the CEO where that officer deems appropriate, the referral of a request for financial assistance to Council for determination.

AMENDED JUN07

Ad Hoc Out of Budget Expenditure added as a result of Res: 160108 / 22JAN08

Staff Comment

The Policy appears to be working well and giving staff the appropriate guidance, noting that the Director Finance & Administration will be suggesting slightly different dates for advertising and consideration of the grants to better tie in with the Council's current Budget preparation timeline to the Committee meeting scheduled to be held in the next month or two.

CEO Recommendation Based on Councillor Input

That the policy be retained without alteration at this time but be reviewed by the Committee when it next meets.

Subsequent to the above the CEO in consultation with the Director of Finance & Administration provides the following additional observation;

The objectives of this policy are really all that is required as the guidelines are developed pursuant to those objectives. By retaining the guidelines within the policy any minor amendment to advertising dates etc requires a report and subsequent resolution of Council to take effect whereas it could be handled on an administrative level.

It is recommended that the guidelines be removed and the objectives be retained only such that the policy reads;

Objectives

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.

Policy

That the Council at least annually advertise its intention to consider applications for financial assistance from community groups within the shire based on application forms and guidelines endorsed the Council’s Community Financial Assistance Grants Committee.

Recommendations arising from such applications are to be made by this Committee to Council no later than May of each year for consideration by Council in the following financial year budget.

Proponents requesting financial assistance from Council that cannot be accommodated under staff delegations or which are not included in the Council’s budget or assessed under an advertised round, will be advised of Council’s funding procedures and be requested to apply for the next round of the appropriate funding. Any such advice will be included in Council’s monthly Information Bulletin.

Nothing in this policy prevents the CEO where that officer deems appropriate to refer a request for financial assistance to Council for determination.

“Responsible Officer

The Director of Finance & Administration is the responsible officer for implementing this policy.

P040127 COUNCILLOR COMMUNICATION / INFORMATION DISTRIBUTION

Objective

1. To define a communication of information process for Councillors and Staff.
2. To define a reciprocal communication process between local groups / organisations, general community and Council.

Policy

1. An item “Announcement by the Person Presiding” be included on the Council meeting agenda to enable the Shire President to advise/report to Councillors matters of Civic interest.

The Councillors have a period of 10 minutes to discuss matters raised by the Presiding Person.

2. The Shire President and Councillors are to provide, in writing, a list of meetings/functions attended during the month on behalf of Council. Councillors wishing to report on meetings/functions attended must do so in writing. Written reports are to be given to the Chief Executive Officer for inclusion on the next Councillors Information Bulletin.
3. When a Councillor as a Councillor or a Council delegate to an organisation requires a decision from Council, a request should be put to the Chief Executive Officer for an appropriate officer to prepare a written report, on behalf of the Councillor, to have it included on the Council agenda. The views of the Councillor must be expressed in the report, however the officer should reflect his or her professional opinion on the subject.
4. When a Councillor raises matters as a delegate on an external Committee, or matters are raised with the Councillor, which require action by a Councillor acting on behalf of Council, such action must be authorised by a resolution of Council or the Chief Executive Officer, as appropriate.

5. Local groups and organisations, to which Council provides a delegate, shall submit a copy of all their meeting minutes to the Chief Executive Officer unless commercially sensitive material is contained in the meeting minutes.
6. The Chief Executive Officer include matters of interest to Councillors on the monthly Councillor Information Bulletin. The Chief Executive Officer is to determine matters of interest.
7. A copy of the Councillors Information Bulletin be placed in the public library and on Council's website.

Staff Comment

The Policy appears to be working generally as intended and giving Councillors and staff the appropriate guidance.

CEO Recommendation Based on Councillor Input

That the Policy be amended as follows;

- *Part 2 has the words 'are encouraged where relevant' or similar added in place of 'are' and;*
- *Part 5 has the words 'are encouraged where relevant' or similar added in place of the word 'shall' and;*
- *Concepts be incorporated by adding parts 8 and 9 as follows;*
 - *Part 8. The Administration recognises the voluntary and part-time nature of Councillors involvement and the need to provide Councillors with documents well in advance of decision making where practical and able.*
 - *Part 9. The Administration supports Councillors in being as informed as possible about the nature and functions of Council.*

P040128 OFFICERS & ELECTED MEMBERS CODE OF CONDUCT

Preamble

The Model Code of Conduct provides Council Members, Committee Members and staff in Local Government with consistent guidelines for an acceptable standard of professional conduct. The Code addresses in a concise manner the broader issue of ethical responsibility and encourages greater transparency and accountability in individual Local Governments.

The Model Code is complementary to the principles adopted in the Local Government Act and regulations which incorporates four fundamental aims to result in :-

- a) better decision-making by local governments;
- b) greater community participation in the decisions and affairs of local governments;
- c) greater accountability of local governments to their communities; and
- d) more efficient and effective local government.

The Code provides a guide and a basis of expectations for Council Members, Committee Members and staff. It encourages a commitment to ethical and professional behaviour and outlines principles in which individual and collective Local Government responsibilities may be based.

Statutory environment

The Model Code of Conduct observes statutory requirements of the Local Government Act 1995 (S 5.103 – Codes of Conduct) and Local Government (Administration) Regulations 1996 (Regs 34B and 34C).

Rules of conduct

Council Members acknowledge their activities, behaviour and statutory compliance obligations may be scrutinised in accordance with prescribed rules of conduct as described in the Local Government Act 1995 and Local Government (Rules of Conduct) Regulations 2007.

1. ROLES

1.1 Role of Council Member

The primary role of a Council Member is to represent the community, and the effective translation of the community's needs and aspirations into a direction and future for the Local Government will be the focus of the Council Member's public life.

The Role of Council Members as set out in S 2.10 of the Local Government Act 1995 follows :

"A Councillor —

- a) Represents the interests of electors, ratepayers and residents of the district;*
- b) provides leadership and guidance to the community in the district;*
- c) facilitates communication between the community and the council;*
- d) participates in the local government's decision-making processes at council and committee meetings; and*
- e) performs such other functions as are given to a Councillor by this Act or any other written law."*

A Council Member is part of the team in which the community has placed its trust to make decisions on its behalf and the community is therefore entitled to expect high standards of conduct from its elected representatives. In fulfilling the various roles, Council Members activities will focus on:

- achieving a balance in the diversity of community views to develop an overall strategy for the future of the community;
- achieving sound financial management and accountability in relation to the Local Government's finances;
- ensuring that appropriate mechanisms are in place to deal with the prompt handling of residents' concerns;
- working with other governments and organisations to achieve benefits for the community at both a local and regional level;
- having an awareness of the statutory obligations imposed on Council Members and on Local Governments.

In carrying out its functions a local government is to use its best endeavours to meet the needs of current and future generations through an integration of environmental protection, social advancement and economic prosperity.

1.2 Role of Staff

The role of staff is determined by the functions of the CEO as set out in S 5.41 of the Local Government Act 1995 : -

"The CEO's functions are to —

- a) advise the council in relation to the functions of a local government under this Act and other written laws;*
- b) ensure that advice and information is available to the council so that informed decisions can be made;*
- c) cause council decisions to be implemented;*
- d) manage the day to day operations of the local government;*
- e) liaise with the mayor or president on the local government's affairs and the performance of the local government's functions;*
- f) speak on behalf of the local government if the mayor or president agrees;*
- g) be responsible for the employment, management supervision, direction and dismissal of other employees (subject to S 5.37(2) in relation to senior employees);*
- h) ensure that records and documents of the local government are properly kept for the purposes of this Act and any other written law; and*

- i) *perform any other function specified or delegated by the local government or imposed under this Act or any other written law as a function to be performed by the CEO.*"

1.3 Role of Council

The Role of the Council is in accordance with S 2.7 of the Local Government Act 1995 :

"(1) The council —

- a) *directs and controls the local government's affairs; and*
- b) *is responsible for the performance of the local government's functions.*

(2) Without limiting subsection (1), the council is to —

- a) *oversee the allocation of the local government's finances and resources; and*
- b) *determine the local government's policies."*

1.4 Relationships between Council Members and Staff

An effective Councillor will work as part of the Council team with the Chief Executive Officer and other members of staff. That teamwork will only occur if Council Members and staff have a mutual respect and co-operate with each other to achieve the Council's corporate goals and implement the Council's strategies. To achieve that position, Council Members need to observe their statutory obligations which include, but are not limited to, the following :

- accept that their role is a leadership, not a management or administrative one;
- acknowledge that they have no capacity to individually direct members of staff to carry out particular functions;
- refrain from publicly criticising staff in a way that casts aspersions on their professional competence and credibility

2. CONFLICT AND DISCLOSURE OF INTEREST

2.1 Conflict of Interest

- (a) Council Members, Committee Members and staff will ensure that there is no actual (or perceived) conflict of interest between their personal interests and the impartial fulfilment of their professional duties.
- (b) Staff will not engage in private work with or for any person or body with an interest in a proposed or current contract with the Local Government, without first making disclosure to the Chief Executive Officer. In this respect, it does not matter whether advantage is in fact obtained, as any appearance that private dealings could conflict with performance of duties must be scrupulously avoided.
- (c) Council Members, Committee Members and staff will lodge written notice with the Chief Executive Officer describing an intention to undertake a dealing in land within the local government area or which may otherwise be in conflict with the Council's functions (other than purchasing the principal place of residence).
- (d) Council Members, Committee Members and staff who exercise a recruitment or other discretionary function will make disclosure before dealing with relatives or close friends and will disqualify themselves from dealing with those persons.
- (e) Staff will refrain from partisan political activities which could cast doubt on their neutrality and impartiality in acting in their professional capacity. An individual's rights to maintain their own political convictions are not impinged upon by this clause. It is recognised that such convictions cannot be a basis for discrimination and this is supported by anti- discriminatory legislation.

2.2 Financial Interest

Council Members, Committee Members and staff will adopt the principles of disclosure of financial interest as contained within the Local Government Act.

2.3 Disclosure of Interest

Definition :

In this clause, and in accordance with Regulation 34C of the Local Government (Administration) Regulations 1996 -

“interest” means an interest that could, or could reasonably be perceived to, adversely affect the impartiality of the person having the interest and includes an interest arising from kinship, friendship or membership of an association.

- a) A person who is an employee and who has an interest in any matter to be discussed at a council or committee meeting attended by the person is required to disclose the nature of the interest -
 - i. in a written notice given to the CEO before the meeting; or
 - ii. at the meeting immediately before the matter is discussed.
- b) A person who is an employee and who has given, or will give, advice in respect of any matter to be discussed at a council or committee meeting not attended by the person is required to disclose the nature of any interest the person has in the matter -
 - i. in a written notice given to the CEO before the meeting; or
 - ii. at the time the advice is given.
- c) A requirement described under items (a) and (b) exclude an interest referred to in S 5.60 of the Local Government Act 1995.
- d) A person is excused from a requirement made under items (a) or (b) to disclose the nature of an interest if -
 - i. the person's failure to disclose occurs because the person did not know he or she had an interest in the matter; or
 - ii. the person's failure to disclose occurs because the person did not know the matter in which he or she had an interest would be discussed at the meeting and the person discloses the nature of the interest as soon as possible after becoming aware of the discussion of a matter of that kind.
- e) If a person who is an employee makes a disclosure in a written notice given to the CEO before a meeting to comply with requirements of items (a) or (b), then -
 - i. before the meeting the CEO is to cause the notice to be given to the person who is to preside at the meeting; and
 - ii. immediately before a matter to which the disclosure relates is discussed at the meeting the person presiding is to bring the notice and its contents to the attention of the persons present.
- (f) If -
 - i. to comply with a requirement made under item (a), the nature of a person's interest in a matter is disclosed at a meeting; or
 - ii. a disclosure is made as described in item (d)(ii) at a meeting; or
 - iii. to comply with a requirement made under item (e)(ii), a notice disclosing the nature of a person's interest in a matter is brought to the attention of the persons present at a meeting, the nature of the interest is to be recorded in the minutes of the meeting.

3. PERSONAL BENEFIT

3.1 Use of Confidential Information

Council Members, Committee Members and staff will not use confidential information to gain improper advantage for themselves or for any other person or body, in ways which are inconsistent with their obligation to act impartially

and in good faith, or to improperly cause harm or detriment to any person or organisation.

3.2 Intellectual Property

The title to Intellectual Property in all duties relating to contracts of employment will be assigned to the Local Government upon its creation unless otherwise agreed by separate contract.

3.3 Improper or Undue Influence

Council Members and staff will not take advantage of their position to improperly influence other Council Members or staff in the performance of their duties or functions, in order to gain undue or improper (direct or indirect) advantage or gain for themselves or for any other person or body.

3.4 Gifts

Definitions :

In this clause, and in accordance with Regulation 34B of the Local Government (Administration) Regulations 1996 -

“activity involving a local government discretion” means an activity -

- a. that cannot be undertaken without an authorisation from the local government; or*
- b. by way of a commercial dealing with the local government;*

“gift” has the meaning given to that term in S 5.82(4) except that it does not include -

- a. a gift from a relative as defined in S 5.74(1); or*
- b. a gift that must be disclosed under Regulation 30B of the Local Government (Elections) Regulations 1997; or*
- c. a gift from a statutory authority, government instrumentality or non-profit association for professional training;*

“notifiable gift”, in relation to a person who is an employee, means -

- a. a gift worth between \$50 and \$300; or*
- b. a gift that is one of 2 or more gifts given to the employee by the same person within a period of 6 months that are in total worth between \$50 and \$300;*

“prohibited gift”, in relation to a person who is an employee, means -

- a. a gift worth \$300 or more; or*
- b. a gift that is one of 2 or more gifts given to the employee by the same person within a period of 6 months that are in total worth \$300 or more.*

- a) A person who is an employee is to refrain from accepting a prohibited gift from a person who -
 - i. is undertaking or seeking to undertake an activity involving a local government discretion; or
 - ii. it is reasonable to believe is intending to undertake an activity involving a local government discretion.
- b) A person who is an employee and who accepts a notifiable gift from a person who -
 - i. is undertaking or seeking to undertake an activity involving a local government discretion; or
 - ii. it is reasonable to believe is intending to undertake an activity involving a local government discretion, notify the CEO, in accordance with item (c) and within 10 days of accepting the gift, of the acceptance.

- c) The notification of the acceptance of a notifiable gift must be in writing and include -
- i. the name of the person who gave the gift; and
 - ii. the date on which the gift was accepted; and
 - iii. a description, and the estimated value, of the gift; and
 - iv. the nature of the relationship between the person who is an employee and the person who gave the gift; and
 - v. if the gift is a notifiable gift under paragraph (b) of the definition of "notifiable gift" (whether or not it is also a notifiable gift under paragraph (a) of that definition) -
 - a description; and
 - the estimated value; and
 - the date of acceptance,
 of each other gift accepted within the 6 month period.
- d) The CEO is to maintain a register of notifiable gifts and record in it details of notifications given to comply with a requirement made under item (c).
- e) This clause does not apply to gifts received from a relative (as defined in S 5.74(1) of the Local Government Act) or an electoral gift (to which other disclosure provisions apply).
- f) This clause does not prevent the acceptance of a gift on behalf of the local government in the course of performing professional or ceremonial duties in circumstances where the gift is presented in whole to the CEO, entered into the Register of Notifiable Gifts and used or retained exclusively for the benefit of the local government.

4. CONDUCT OF COUNCIL MEMBERS, COMMITTEE MEMBERS AND STAFF

4.1 Personal Behaviour

- a) Council Members, Committee Members and staff will:
- i. act, and be seen to act, properly and in accordance with the requirements of the law and the terms of this Code;
 - ii. perform their duties impartially and in the best interests of the Local Government uninfluenced by fear or favour;
 - iii. act in good faith (i.e. honestly, for the proper purpose, and without exceeding their powers) in the interests of the Local Government and the community;
 - iv. make no allegations which are improper or derogatory (unless true and in the public interest) and refrain from any form of conduct, in the performance of their official or professional duties, which may cause any reasonable person unwarranted offence or embarrassment; and
 - v. always act in accordance with their obligation of fidelity to the Local Government.
- b) Council Members will represent and promote the interests of the Local Government, while recognising their special duty to their own constituents.

4.2 Honesty and Integrity

Council Members, Committee Members and staff will:

- a) observe the highest standards of honesty and integrity, and avoid conduct which might suggest any departure from these standards;
- b) bring to the notice of the Mayor/President any dishonesty or possible dishonesty on the part of any other member, and in the case of an employee to the Chief Executive Officer.
- c) be frank and honest in their official dealing with each other.

4.3 Performance of Duties

- a) While on duty, staff will give their whole time and attention to the Local Government's business and ensure that their work is carried out efficiently, economically and effectively, and that their standard of work reflects favourably both on them and on the Local Government.
- b) Council Members and Committee Members will at all times exercise reasonable care and diligence in the performance of their duties, being consistent in their decision making but treating all matters on individual merits. Council Members and Committee Members will be as informed as possible about the functions of the Council, and treat all members of the community honestly and fairly.

4.4 Compliance with Lawful Orders

- a) Council Members, Committee Members and staff will comply with any lawful order given by any person having authority to make or give such an order, with any doubts as to the propriety of any such order being taken up with the superior of the person who gave the order and, if resolution cannot be achieved, with the Chief Executive Officer.
- b) Council Members, Committee Members and staff will give effect to the lawful policies of the Local Government, whether or not they agree with or approve of them.

4.5 Administrative and Management Practices

Council Members, Committee Members and staff will ensure compliance with proper and reasonable administrative practices and conduct, and professional and responsible management practices.

4.6 Corporate Obligations

- a) **Standard of Dress**
Council Members, Committee Members and staff are expected to comply with neat and responsible dress standards at all times. Accordingly :
 - i. Council Members and Committee Members will dress in a manner appropriate to their position, in particular when attending meetings or representing the Local Government in an official capacity.
 - ii. Management reserves the right to adopt policies relating to corporate dress and to raise the issue of dress with individual staff.
- b) **Communication and Public Relations**
 - i. All aspects of communication by staff (including verbal, written or personal), involving Local Government's activities should reflect the status and objectives of that Local Government. Communications should be accurate, polite and professional.
 - ii. As a representative of the community, Council Members need to be not only responsive to community views, but to adequately communicate the attitudes and decisions of the Council. In doing so Council Members should acknowledge that:
 - as a member of the Council there is respect for the decision making processes of the Council which are based on a decision of the majority of the Council;
 - information of a confidential nature ought not be communicated until it is no longer treated as confidential;
 - information relating to decisions of the Council on approvals, permits and so on ought only be communicated in an official capacity by a designated officer of the Council;
 - information concerning adopted policies, procedures and decisions of the Council is conveyed accurately.

- iii. Committee Members accept and acknowledge it is their responsibility to observe any direction the Local Government may adopt in terms of advancing and promoting the objectives of the Committee to which they have been appointed.

4.7 Appointments to Committees

As part of their representative role Council Members are often asked to represent the Council on external organisations. It is important that Council Members:

- clearly understand the basis of their appointment; and
- provide regular reports on the activities of the organisation.

5. DEALING WITH COUNCIL PROPERTY

5.1 Use of Local Government Resources

Council Members and staff will:

- a) be scrupulously honest in their use of the Local Government's resources and shall not misuse them or permit their misuse (or the appearance of misuse) by any other person or body;
- b) use the Local Government resources entrusted to them effectively and economically in the course of their duties; and
- c) not use the Local Government's resources (including the services of Council staff) for private purposes (other than when supplied as part of a contract of employment), unless properly authorised to do so, and appropriate payments are made (as determined by the Chief Executive Officer).

5.2 Travelling and Sustenance Expenses

Council Members, Committee Members and staff will only claim or accept travelling and sustenance expenses arising out of travel-related matters which have a direct bearing on the services, policies or business of the Local Government in accordance with Local Government policy and the provisions of the Local Government Act.

5.3 Access to Information

- a) Staff will ensure that Council Members are given access to all information necessary for them to properly perform their functions and comply with their responsibilities.
- b) Council Members will ensure that information provided will be used properly and to assist in the process of making reasonable and informed decisions on matters before the Council.

Staff Comment

The Policy was last reviewed / amended by Council in 2008 and appears to be working well and giving staff, Committee members and Councillors the appropriate guidance.

CEO Recommendation Based on Councillor Input

That the policy be presented to the March round of meetings reviewing the reference to 'Committee Members' within the code, particularly with respect to item 4 relating to non Councillor Committee Members.

P040130 REIMBURSEMENT OF ELECTED MEMBERS TRAVEL EXPENSES POLICY

Council shall pay to the Shire President, Deputy Shire President and Councillors travelling expenses for attending Ordinary and Special Meetings of Council and for

attending meetings of Committees when acting in the capacity of a member of that Committee.

In addition, travel expense will be reimbursed for attendance at the following:

- Annual Meetings of Electors.
- Special Meeting of Electors.
- Civic receptions hosted by the Shire.
- Visits by a Minister of the Crown.
- Council inspection tours.
- Council workshops.
- Attendance at training and conferences authorised in advance by Council or the CEO.
- Other meetings and events authorised in advance by Council, the Shire President or the CEO.
- Attendance at meetings of community organisations where the elected member is Councils appointed delegate.
- Attendance at onsite inspections in their capacity as a Council member with such claims to be cross referenced in the Members Reports submitted for inclusion in the Information Bulletin on a monthly basis.

Expenses shall be paid on a recoup basis, with a formal claim required to be submitted that details the number of kilometres travelled from the Elected Members place of residence to the end destination and return.

The rate per kilometre that is to be reimbursed is to be as per the Local Government Officers (WA) Award 1999.

Where practical, Elected Members are encouraged to use the existing administration vehicles for attendance at a meeting etc that is located outside of the Shire of Denmark boundary.

A Claim Form is to be prepared by the Director of Finance and Administration that contains a declaration to the effect that the expenses being claimed were in fact incurred by the Elected Member.

Council recognises Elected Members personal circumstances and will pay additional mileage where additional travel time is required to arrange for the care of children and other dependants.

ADDED by Res: 420808 / 26 August 2008

Staff Comment

The Policy was only added in 2008 and appears to be working well and giving Councillors and staff the appropriate guidance but requires alteration to reflect the new Federal Award.

CEO Recommendation based on Councillor input

That a change is required to reference the new Local Government Federal Award rate for mileage.

P040131 BIENNIAL COMMUNITY NEEDS & CUSTOMER SATISFACTION SURVEY

1. In November of every even numbered year, Council is to conduct an in house prepared Community Needs & Customer Satisfaction survey.
2. The Survey is to be sent to 1000 randomly selected electors of the Shire, drawn from the most recent Shire of Denmark consolidated Electoral Roll.

ADDED by Res: 530808 / 26 August 2008

Staff Comment

The Policy was amended in 2009, following the 2008 Survey, to include reference to 1000 randomly selected electors (as opposed to ratepayers). The survey is due for preparation again late this calendar year.

CEO Recommendation based on Councillor input

By consensus Councillors requested that the policy be presented to the March round of meetings with comment on the options and statistics relating to different combination of roll options (WAEC 'residents' roll vs. Council registered 'owners' roll vs. Councils 'consolidated' roll vs. Council 'rate' roll).

The following statistics have been derived;

Denmark Residents Roll 28 August 2009	3599
Owners and Occupiers Roll 28 August 2009	<u>607</u>
Total (on Council's Consolidated Roll)	4207

Estimated Population of the Shire as at 28 August 2009 (based on estimated 2.8% population growth from estimated population of ABS at 30 June 2009 of 5167 and 5311 at 30 June 2009 is 5355.

In the 2006 census, Denmark had 24% of its population under the age of 18 (non voting age). Therefore via extrapolation of this figure, the total Shire population as at 28 August 2009, over the age of 18 is estimated at 4070 persons.

It is impossible to accurately estimate the number of those eligible to register to vote given the time lag between changing address and changing electoral addresses and, or registering to vote when a person changes to the age of 18, combined with the fact that many non Australian citizens are often ineligible to register to vote.

At 8 March 2010

Resident Owned rateable properties	2097
Non resident owned rateable properties	<u>1748</u>
Total rateable properties	3845
Percentage of non resident owner rateable properties is 45%.	

With an average, say, of 1.6 registered owners per non resident rateable property, (reducing for company owners with multiple properties in the same ward such as the Department of Housing and LWP say) there could be as much as 2,189 extra persons over the age of 18 that could be eligible to vote that are not registered (1,748 by 1.6 less 607 already registered).

Council has 607 persons on its Owners Roll which might equate to an estimated 21% of those that could be registered, but have chosen not to.

Bearing in mind that many properties have multiple owners as well as many people, organisations and or businesses own multiple properties, the figure will be difficult to correlate between owners, versus residents, versus eligible voters etc etc.

Administratively the task of cross referencing non registered, non resident owners with Council's owners roll is a very difficult and complex task. In theory these owners will be aware that they can vote, but have chosen not to. Similarly in this context whilst meritorious that Council may like to investigate including them on a survey 'roll' the task of maintaining or managing this roll for a survey every two years is questionable. It is the view of the author that the better investment in time would be to write to these persons and encourage them to register to vote, if eligible (over 18 and Australian Citizens) and that the current survey sample of a random selection of 1000 persons over the age of 18, registered to vote, comprising residents, resident

owners and registered non resident owners is an acceptable sample for a Shire survey on quality of service and future directions.

P040133 PRIVACY POLICY

Objective

To provide Shire of Denmark employees guidance as to the provision of information for public, private or business use that clearly identifying property owners and their postal addresses.

Policy

Council produce and make available a Privacy Statement pamphlet to ensure people are advised of how the Council holds and handles personal information about individuals.

The Privacy Statement can be downloaded internally by going to <G:\Administration\Forms and Templates\Brochures & Pamphlets\Privacy Statement Pamphlet - Shire of Denmark.pdf>. For external download go to <http://www.denmark.wa.gov.au/documentsforms/governance>.

(see also Policy P130302 - BUILDING STATISTICS which relates)

Responsibility for Implementation

The Chief Executive Officer is responsible for ensuring that the necessary arrangements are made to ensure that this policy is enacted.

Staff Comment

The Policy appears to be working well and giving staff the appropriate guidance. A copy of the attachment / full privacy statement can be viewed by following the link <http://www.denmark.wa.gov.au/documentsforms/governance>

CEO Recommendation based on Councillor input

That the text from the Privacy Statement be added to the Policy in full and reference to Policy P100602 CONSULTATION PRIVACY POLICY be included as a complementary policy.

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 9.5.6

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

1. P040125 COMMUNITY FINANCIAL ASSISTANCE PROGRAM

That the Policy be amended such that it reads as follows;

Objectives

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.

Policy

That the Council at least annually advertise its intention to consider applications for financial assistance from community groups within the shire based on application forms and guidelines endorsed the Council's Community Financial Assistance Grants Committee.

Recommendations arising from such applications are to be made by this Committee to Council no later than May of each year for consideration by Council in the following financial year budget.

Proponents requesting financial assistance from Council that cannot be accommodated under staff delegations or which are not included in the Council's budget or assessed under an advertised round, will be advised of Council's funding procedures and be requested to apply for the next round of the appropriate funding. Any such advice will be included in Council's monthly Information Bulletin.

Nothing in this policy prevents the CEO where that officer deems appropriate to refer a request for financial assistance to Council for determination.

"Responsible Officer

The Director of Finance & Administration is the responsible officer for implementing this policy.

2. P040127 COUNCILLOR COMMUNICATION / INFORMATION DISTRIBUTION

That the Policy be amended as follows;

- Part 2 has the words 'are encouraged where relevant' or similar added in place of 'are' and;
- Part 5 has the words 'are encouraged where relevant' or similar added in place of the word 'shall' and;

- *Concepts be incorporated by adding parts 8 and 9 as follows;*
 - *Part 8. The Administration recognises the voluntary and part-time nature of Councillors involvement and the need to provide Councillors with documents well in advance of decision making where practical and able.*
 - *Part 9. The Administration support Councillors in being as informed as possible about the nature and functions of Council.*

3. P040128 OFFICERS & ELECTED MEMBERS CODE OF CONDUCT

That a definition be added in the preamble as follows;

“‘Committee members means’; The term Committee members in the Code of Conduct refers to Councillors elected to represent the community and not community members appointed as a member of a Council Committee.”

4. P040130 REIMBURSEMENT OF ELECTED MEMBERS TRAVEL EXPENSES POLICY

That the policy be amended to refer to paying mileage pursuant to the relevant employment award applying to local government officers, as amended from time to time.

5. P040131 BIENNIAL COMMUNITY NEEDS & CUSTOMER SATISFACTION SURVEY

That the Policy be endorsed without change and that the CEO ensure that all non resident owners of rateable property within the Shire not currently on the ‘Owners Roll’ be written to and encouraged to register to vote in Local Government Elections and that the administration use an updated ‘Consolidated’ Roll for use in generating the sample for the 2010 Biennial Community Needs and Satisfaction Survey.

6. P040133 PRIVACY POLICY

That the text from the Privacy Statement be added to the Policy in full and a cross reference be made to Policy P100602 CONSULTATION PRIVACY POLICY.

6.36pm – The Director of Finance & Administration returned to the meeting.

COUNCIL RESOLUTION	ITEM 9.5.6
MOVED: CR HINDS	SECONDED: CR WAKKA
That Policy P040127 be amended as follows;	
P040127 <u>COUNCILLOR COMMUNICATION / INFORMATION DISTRIBUTION</u>	
<i>That the Policy be amended as follows;</i>	
<ul style="list-style-type: none"> • <i>Part 2 has the words ‘are encouraged where relevant’ or similar added in place of ‘are’ and;</i> • <i>Part 5 has the words ‘are encouraged where relevant’ or similar added in place of the word ‘shall’ and;</i> • <i>Concepts be incorporated by adding parts 8 and 9 as follows;</i> <ul style="list-style-type: none"> ▪ <i>Part 8. The Administration recognises the voluntary and part-time nature of Councillors involvement and the need to provide Councillors with documents well in advance of decision making.</i> ▪ <i>Part 9. The Administration support Councillors in being as informed as possible about the nature and functions of Council.</i> 	
CARRIED: 6/5	Res: 300310

REASONS FOR CHANGE

To consider amendments to the Policy separately from any other policies and remove the words “where practical and able” under Part 8.

COUNCIL RESOLUTION

ITEM 9.5.6

MOVED: CR HINDS

SECONDED: CR EBBETT

That Policy P040131 'Biennial Community Needs & Customer Satisfaction Survey' be endorsed without change and that the CEO ensure that all non resident owners of rateable property within the Shire not currently on the 'Owners Roll' be written to and encouraged to register to vote in Local Government Elections and that the administration use an updated 'Consolidated' Roll of registered voters for use in generating the sample for the 2010 Biennial Community Needs and Satisfaction Survey.

CARRIED: 8/3

Res: 310310

REASONS FOR CHANGE

To consider amendments to the Policy separately from any other policies and include the words "of registered voters".

COUNCIL RESOLUTION

ITEM 9.5.6

MOVED: CR SAMPSON

SECONDED: CR LAING

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

1. P040125 COMMUNITY FINANCIAL ASSISTANCE PROGRAM

That the Policy be amended such that it reads as follows;

Objectives

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.

Policy

That the Council at least annually advertise its intention to consider applications for financial assistance from community groups within the shire based on application forms and guidelines endorsed the Council's Community Financial Assistance Grants Committee.

Recommendations arising from such applications are to be made by this Committee to Council no later than May of each year for consideration by Council in the following financial year budget.

Proponents requesting financial assistance from Council that cannot be accommodated under staff delegations or which are not included in the Council's budget or assessed under an advertised round, will be advised of Council's funding procedures and be requested to apply for the next round of the appropriate funding. Any such advice will be included in Council's monthly Information Bulletin.

Nothing in this policy prevents the CEO where that officer deems appropriate to refer a request for financial assistance to Council for determination.

<p>“Responsible Officer The Director of Finance & Administration is the responsible officer for implementing this policy.</p> <p>2. P040128 OFFICERS & ELECTED MEMBERS CODE OF CONDUCT That a definition be added in the preamble as follows; “‘Committee members means’; The term Committee members in the Code of Conduct refers to Councillors elected to represent the community and not community members appointed as a member of a Council Committee.”</p> <p>3. P040130 REIMBURSEMENT OF ELECTED MEMBERS TRAVEL EXPENSES POLICY That the policy be amended to refer to paying mileage pursuant to the relevant employment award applying to local government officers, as amended from time to time.</p> <p>4. P040133 PRIVACY POLICY That the text from the Privacy Statement be added to the Policy in full and a cross reference be made to Policy P100602 CONSULTATION PRIVACY POLICY.</p> <p>CARRIED: 11/0 Res: 320310</p>
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10. COMMITTEE REPORTS & RECOMENDATIONS

10.1 PATHS AND TRAILS ADVISORY COMMITTEE MEMBERSHIP
--

File Ref:	ORG 29
Applicant / Proponent:	Mark James Boynton and Wendy Schwab – applicants for Community Member representative on Shire of Denmark Paths and Trails Advisory Committee
Subject Land / Locality:	NA
Disclosure of Officer Interest:	Nil
Date:	8 March 2010
Author:	Helen Heydenrych, Natural Resource Management Officer
Authorising Officer:	Sam Williams, Director of Planning & Sustainability
Attachments:	No

Summary:

The Paths and Trails Advisory committee recommends that Council appoint Mark Boynton as a Community Member representative on the Shire of Denmark Paths and Trails Advisory Committee, and that Wendy Schwab is invited to attend meetings as required, as Proxy for the Denmark Environment Centre committee representative.

Background:

The Paths and Trails Advisory Committee is comprised of a total of 9 persons, of which 2 are community members as per the stipulations under *Item 7.0 Membership* in the corresponding Charter. With the resignation of community member Jenni Harrison on the 5th November 2009, a community committee member position requires to be filled. The vacancy was advertised for applications, via placement in the local *Denmark Bulletin* for a two week period closing 21 December 2009. Two written applications were received from Mark Boynton and Wendy Schwab. The applications were considered by the Paths and Trails Advisory Committee at the recent meeting of 19 February 2010.

Comment:

The committee recommends Mark Boynton to Council for appointment to the current PATAC community membership vacancy. The committee further recommends that Wendy Schwab is appointed as proxy for the Denmark Environment Centre, and is invited to attend meetings as required by the Denmark Environment Centre.

Consultation:

Nil

Statutory Obligations:

There are no statutory obligations.

Policy Implications:

There are no policy implications.

Budget / Financial Implications:

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

Strategic Implications:

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

Sustainability Implications:

➤ **Environmental:**

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

➤ **Economic:**

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

➤ **Social:**

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

Voting Requirements:

Absolute majority.

COUNCIL RESOLUTION & OFFICER RECOMMENDATION	ITEM 10.1
MOVED: CR LAING	SECONDED: CR SAMPSON
That Council appoint Mark Boynton as a Community Member representative on the Shire of Denmark Paths and Trails Advisory Committee, and that Wendy Schwab is invited to attend meetings as required, as Proxy for the Denmark Environment Centre committee representative.	
CARRIED BY AN ABSOLUTE MAJORITY: 11/0	Res: 330310

10.2 CLIMATE CHANGE ADVISORY COMMITTEE MEMBERSHIP
--

File Ref:	ORG 54
Applicant / Proponent:	Cyril Edwards– applicant for Community Member representative on Shire of Denmark Climate Change Advisory Committee
Subject Land / Locality:	NA
Disclosure of Officer Interest:	Nil
Date:	8 March 2010
Author:	Helen Heydenrych, Natural Resource Management Officer
Authorising Officer:	Sam Williams, Director of Planning & Sustainability
Attachments:	No

Summary:

The Climate Change Advisory Committee recommends that Council appoint Cyril Edwards as a Community Member representative on the Shire of Denmark Climate Change Advisory Committee.

Background:

The Climate Change Advisory Committee 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. With the resignation of community members Phil Barnes and David Coleman, during November 2009, two community committee member positions require to be filled. The vacancy was advertised for applications, via placement in the local *Denmark Bulletin* for a two week period closing 21 December 2009. One written application was received from Cyril Edwards. The application was considered by the Climate Change Advisory Committee at the recent meeting of 4 March 2010.

Comment:

The committee recommends Cyril Edwards to Council for appointment to the current CCAC community membership vacancy. The remaining vacant position will need to be re-advertised.

Consultation:

None.

Statutory Obligations:

There are no statutory obligations.

Policy Implications:

There are no policy implications.

Budget / Financial Implications:

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

Strategic Implications:

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

Sustainability Implications:➤ **Environmental:**

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

➤ **Economic:**

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

➤ **Social:**

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

Voting Requirements:

Absolute majority.

COUNCIL RESOLUTION & OFFICER RECOMMENDATION	ITEM 10.2
MOVED: CR SYME	SECONDED: CR SAMPSON
That Council appoint Cyril Edwards as a Community Member representative on the Shire of Denmark Climate Change Advisory Committee.	
CARRIED BY AN ABSOLUTE MAJORITY: 11/0	Res: 340310

10.3 DISABILITY SERVICES COMMITTEE – ALLOCATION OF ACROD PARKING BAYS
--

File Ref:	ORG25
Applicant / Proponent:	Not applicable
Subject Land / Locality:	Not applicable
Disclosure of Officer Interest:	Nil
Date:	7 March 2010
Author:	Gregg Harwood, Director of Community & Regulatory Services
Authorising Officer:	Gregg Harwood, Director of Community & Regulatory Services
Attachments:	No

Summary:

This report discusses recommendations made by the Disability Services Committee at its 3 February 2010 Committee meeting requesting the provision of a disabled parking bay in the vicinity of Dr James' surgery in Strickland St and a replacement bay for the disabled parking bay that was removed from in front of the Old Pharmacy be provided within the vicinity of South Coast Highway between Strickland St and Hollings Rd.

The report recommends that Council adopt these recommendations.

Background:

At its 27 October 2009 meeting Council adopted the following resolution:

“That Council consult with adjoining business operators and the Denmark Chamber of Commerce regarding alternative uses for the disabled parking bay that is situated outside of Lot 19 (20) South Coast Highway and delegate to the Director of Infrastructure Services authority to change the bay if appropriate thereafter.”

The bay has since been remarked as a series of motorcycle bays and the Disability Services Committee has considered this issue and recommended that a replacement bay for the disabled parking that was removed from in front of the Old Pharmacy be provided within the vicinity of South Coast Highway between Strickland St and Hollings Rd with a preference for it being north of South Coast Highway on either public or private land.

Comment:

The reason why the Committee has recommended the provision of a disabled parking bay the vicinity of Dr James' surgery in Strickland St is that this is a service that people with disabilities will regularly use.

The reason why the Committee has recommended the provision of a replacement bay for the disabled parking that was removed from in front of the Old Pharmacy be provided within the vicinity of South Coast Highway between Strickland St and Hollings Rd with a preference for it being north of South Coast Highway is that there is shortage of disabled bays on this side of town.

The option of leasing bay on a portion of private land has been suggested as it opens up a host of new options to council in finding a site that is well located and flat and easy to use.

Consultation:

Nil.

Statutory Obligations:

There are no known statutory obligations relating to the report or the officer recommendation.

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 environmental obligations relating to the report or the officer recommendation.

➤ **Economic:**

There are no known statutory obligations relating to the report or the officer recommendation.

➤ **Social:**

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

Voting Requirements:

Simple majority.

COMMITTEE AND OFFICER RECOMMENDATION

ITEM 10.3

That with respect to the request of the Disability Services Committee for additional disabled parking bays in the Denmark townsite, Council provide;

1. A replacement bay for the disabled parking that was removed from in front of the Old Pharmacy within the vicinity of South Coast Highway between Strickland St and Hollings Rd with a preference for it being north of South Coast Highway on either public or private land; and
2. A disabled parking bay in vicinity of Dr James' surgery in Strickland St.

COUNCIL RESOLUTION & CR HINDS' RECOMMENDATION	ITEM 10.3
MOVED: CR HINDS	SECONDED: CR LAING
That with respect to the request of the Disability Services Committee for additional disabled parking bays in the Denmark townsite, Council provide;	
<ol style="list-style-type: none"> 1. A disabled parking bay in the area of Strickland St between South Coast Hwy and North Rd on either public or private land; and 2. A disabled bay in the vicinity of Dr James' surgery in Strickland St. 	
CARRIED: 11/0	Res: 350310

REASONS FOR CHANGE

To alter the location of the proposed bay.

10.4 CEMETERY ADVISORY COMMITTEE - NATURAL EARTH BURIALS

File Ref:	A3212
Applicant / Proponent:	Natural Burial Society (Albany & Great Southern)
Subject Land / Locality:	Reserve 11655
Disclosure of Officer Interest:	Nil
Date:	11 March 2010
Author:	Claire Thompson, Executive Assistant
Authorising Officer:	Dale Stewart, Chief Executive Officer
Attachments:	No

Summary:

The Cemetery Advisory Committee has made a recommendation to Council regarding Natural Earth Burials following a community forum on the matter.

Background:

The Natural Earth Burial Society (Albany and Great Southern) wrote to Council in May 2009 requesting that consideration be given to the concept & provision of a natural earth burials ground within the Shire of Denmark.

The Cemetery Advisory Committee considered the request at their meeting held on the 23 July 2009. The Committee recommended as follows;

“That the Committee recommend to Council that they write back to the Natural Earth Burial Society advising that as there has only been one request for this type of burial received in the last 30 years, at this point in time it does not consider that there is a need for the provision of a natural earth burial site neither within the current Cemetery or at an alternative site within the Shire of Denmark.”

Council considered the Committee’s recommendation at their meeting held on the 25 August 2009 and resolved (res. 120809) as follows;

“That the Cemetery Advisory Committee & Officer Recommendation relating to Natural Earth Burials, not be dealt with at this time and the matter be deferred pending a community forum where interested and expert parties would be invited to present their views on the subject with the following guiding invitation list;

1. Cemetery Advisory Committee Members;
2. Councillors;
3. Interested Staff;
4. Members of the public (via a general advertisement in the Denmark Bulletin);
5. Natural Earth Burial Society; and
6. Local Licensed Funeral Directors.”

A copy of the report presented to Council at its August 2009 meeting is attached which provides further details on the natural burial concept.

Comment:

A forum was held on the 7 December 2009 and was attended by 27 people. Three other people, who couldn’t attend the forum, registered their support via email and telephone.

The matter was discussed and reconsidered by the Committee at its meeting held on the 3 February 2010 & the author supports the Committee’s recommendation on the matter.

There was concern expressed by members as to the amount of land that would be needed to accommodate a dedicated burial ground and how long it could potentially take before that land was utilised. The size of plots varies and some places are

offering plots which are the same size as existing grave sites (1.3 metres x 2.5 metres) while others provide a much wider (circled) area (up to 3 metres in diameter).

The Albany Cemeteries Board have advised that they are still considering the concept but they have land available should they decide to accommodate it.

Consultation:

The forum was attended by two local Funeral Directors, a representative of the Natural Earth Burial Society (Albany & Great Southern) & community members.

Statutory Obligations:

- Cemeteries Act 1986.
In particular;
 - Division 1 – sections 11 & 12;
 - Division 2 – sections 23 & 25;
 - Division 3 – sections 29;
 - Division 5 – section 40; and
 - Part VIII - section 55.

The Cemeteries Act 1986 would allow Council to provide and manage a natural earth burial ground, in the current Cemetery. Provision of a designated burial ground (reserve) would require Ministerial approval – for ‘cemetery’ vesting and possibly management order transfer to Council.

- Shire of Denmark Cemetery Local Law.
In particular;
 - Sections 5.1, 6.1, 7.10 & 7.14.

Sections 5.1 and 7.10 of the Cemetery Local Law would require amendment to allow for natural burials within the existing cemetery.

Extracts of the above sections are included in the attached report.

Policy Implications:

There are no policy implications.

Budget / Financial Implications:

There are no budget or financial implications associated with this report, however should a natural earth burial area be provided within the Shire then there would be financial implications associated with the initial set up costs involved and costs involved in amending the Shire of Denmark Cemetery Local Law.

Strategic Implications:

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

Sustainability Implications:

➤ **Environmental:**

The concept of natural earth burials is based around environmental issues as detailed in the attached report.

➤ **Economic:**

The cost to set up a new section or a new site would most likely need to be recovered (or at least in part) from users which would (at least initially) make it a more expensive option.

Funeral Directors advised that natural earth burials are not necessarily cheaper as the area generally should be free of weeds, which means extracting weeds by hand so that no chemicals are used. The area would also require a certain level of general maintenance especially if it is 'a natural setting which remains suitable for use as open public space' (as advocated by the society).

It is a given that fire breaks and other fire related hazards associated with the site would still need to be addressed.

This notwithstanding, families would not be paying for headstones, plaques and the like (however, some natural burial grounds are providing families with the option of installing a plaque or 'marker' near the grave site – which also assists with locating grave). Funeral Directors also noted that the biodegradable pods can cost as much as a basic coffin.

➤ **Social:**

Council needs to consider whether or not the creation of a natural earth burial area would be something that the Denmark community would utilise as an alternative resting place.

The interest shown for the community forum on the matter could be an indication of the current level of support for concept.

Voting Requirements:

Simple majority.

COMMITTEE & OFFICER RECOMMENDATION

ITEM 10.4

That with respect to Natural Earth Burials within the Shire of Denmark Council;

1. Defer consideration of the matter as there is not enough current demand to require a dedicated site;
2. Request the Cemetery Advisory Committee to undertake a review in 2012 to determine whether the matter needs to be reconsidered;
3. Request Council Officer's to record any requests for Natural Earth Burials and those statistics be presented & considered during the 2012 review process;
4. Request Council Officer's to refer any requests for Natural Earth Burials to appropriate known Natural Earth Burial grounds within Western Australia; and
5. Note that Council and the Community may need to consider the possibility that a suitable site for Natural Earth Burials could be required in the future following the review.

COUNCIL RESOLUTION

ITEM 10.4

MOVED: CR BARNES

SECONDED: CR SYME

That with respect to Natural Earth Burials within the Shire of Denmark Council;

1. Defer consideration of the matter as there is not enough current demand to require a dedicated site;
2. Include a suitable question in the 2010 Community Needs & Customer Satisfaction Survey.
3. Subject to the consideration of the outcome of part 2;
 - a) Request the Cemetery Advisory Committee to undertake a review in 2012 to determine whether the matter needs to be reconsidered;
 - b) Request Council Officer's to record any requests for Natural Earth Burials and those statistics be presented & considered during the 2012 review process;
 - c) Request Council Officer's to refer any requests for Natural Earth Burials to appropriate known Natural Earth Burial grounds within Western Australia; and
 - d) Note that Council and the Community may need to consider the possibility that a suitable site for Natural Earth Burials could be required in the future following the review.

CARRIED: 11/0

Res: 360310

REASONS FOR CHANGE

Council wished to include reference to the inclusion of a question in the 2010 Community Needs & Customer Satisfaction Survey relating to Natural Earth Burials and defer part 3 until the results of the analysis of that survey question is known.

11. MATTERS BEHIND CLOSED DOORS

Nil

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

Nil

13. CLOSURE OF MEETING

7.05pm – There being no further business to discuss the Presiding Person, Shire President, Cr Thornton, declared the meeting closed.

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

Signed: _____
Dale Stewart – Chief Executive Officer

Date: 24 March 2010

These minutes were confirmed at the meeting of the _____

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