

Minutes



ORDINARY MEETING OF COUNCIL

HELD IN THE COUNCIL CHAMBERS,
953 SOUTH COAST HIGHWAY, DENMARK
ON TUESDAY, 8 NOVEMBER 2016.

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Ordinary Council Meeting

8 November 2016

DISCLAIMER

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1. DECLARATION OF OPENING/ANNOUNCEMENT OF VISITORS

4.00pm – The Shire President, Cr Morrell, declared the meeting open.

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

MEMBERS:

Cr David Morrell (Shire President)
 Cr Ceinwen Gearon (Deputy Shire President)
 Cr Mark Allen
 Cr Yasmin Bartlett
 Cr Peter Caron
 Cr Jan Lewis
 Vacant
 Vacant

STAFF:

Mr Bill Parker (Chief Executive Officer)
 Mr Gilbert Arlandoo (Director of Infrastructure Services)
 Mrs Annette Harbron (Director of Planning & Sustainability)
 Mr Gregg Harwood (Director of Community & Regulatory Services)
 Ms Claire Thompson (Executive Assistant)

APOLOGIES:

Nil

ON APPROVED LEAVE(S) OF ABSENCE:

Cr Rob Whooley (pursuant to Council Resolution No. 040916)

ABSENT:

Nil

VISITORS:

Members of the public in attendance at the commencement of the meeting: 19
 Members of the press in attendance at the commencement of the meeting: 1

DECLARATIONS OF INTEREST:

Name	Item No	Interest	Nature
Cr Lewis	8.1.3	Financial	Cr Lewis' husband does electrical contracting work at Rockcliffe Winery.
Cr Allen	8.1.3	Financial	Cr Allen is an employee at Rockcliffe Winery.

The Chief Executive Officer advised that as two Councillors had declared a financial interest in item 8.1.3 and would be required to leave the room, the Council would be left with no quorum to make a decision on the matter. Mr Parker advised that Item 8.1.3 would need to be deferred to a future meeting after the Extraordinary Election when the Council would have a further two Councillors.

3. ANNOUNCEMENTS BY THE PERSON PRESIDING

Nil

4. PUBLIC QUESTION TIME

4.1 RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE

4.1.1 Letter Regarding Denmark East Development Project

At the meeting held on 18 October 2016 The Chief Executive Officer stated that he had received a letter which had been signed by a number of residents who had requested that it be read out during public question time. Mr Parker provided a summary of the letter which highlighted concerns in relation to references to the Golden Hill Steiner School (GHSS) in the Business Case. On the 25 October 2016 the Chief Executive Officer provided the following written response;

“Thank you for your email and letter received 17 October 2016 with regard to the Golden Hill Steiner School (GHSS). As per your request, a summary of the letter and the questions contained therein were read out at the Council meeting held on Tuesday, 18 October 2016. A copy of my response will be included in the next Council Agenda for the meeting to be held on Tuesday, 6 November 2016.

1. Publicly acknowledge that GHSS was not officially consulted in the preparation of the Denmark East Development Precinct Project (DEDPP) Business Case.

GHSS were consulted informally by the previous administration. This informal consultation was confirmed in old versions of the business case and a conversation that I have had with the previous CEO. Subsequently, no documentation exists in relation to the discussions with the Shire and GHSS.

2. Request at a state level that the DEDPP be split into two individual projects. Therefore, allowing work to begin on the non-contentious aspect of the project, the light Industrial Area (LIA).

The Shire has executed a funding agreement with the State Government that requires the Shire to achieve milestones by certain dates. The project is viewed as one project under the funding agreement and therefore can't be split into separate projects.

3. Inform the State funding bodies that as a matter of integrity, the Denmark Shire would like to initiate a pause to the East River Road Bridge (ERRB) aspect of the project, while necessary time is taken for proper community and stakeholders consultation to occur.

As per the information above, the Shire has executed a funding agreement with the State Government. Pausing the project will impact on the set milestones that could have a detrimental impact on the delivery of the overall project. The Shire is confident that the consultation process applied by Landcorp is appropriate given the project timelines and parameters set within the funding agreement.”

4.2 PUBLIC QUESTIONS

In accordance with Section 5.24 of the Local Government Act 1995, Council conducts a public question time to enable members of the public to address Council or ask questions of Council. The procedure for public question time can be found on the wall near the entrance to the Council Chambers or can be downloaded from our website at <http://www.denmark.wa.gov.au/council-meetings>.

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

In accordance with clause 3.2 (2) & (3) of the Shire of Denmark Standing Orders Local Law, a second Public Question Time will be held, if required and the meeting is not concluded prior, at approximately 6.00pm.

Questions from the Public

4.2.1 Ms Donna Carman – Denmark East Development Project

The Shire President advised that Ms Carman had requested to show a You Tube video which related to the Denmark East Development Project. Cr Morrell stated that whilst he did not believe that this was the intention of Public Question Time he would allow the video, in this instance, given that it went for under the allocated time of five minutes. Cr Morrell stated that should he get similar requests in the future that he would consider each request on its merits.

Ms Carman showed a video which related to protecting the forest on East River Road.

Cr Morrell responded to the video saying that there would likely be sections of the alignment that would run through the forest however he and the other Councillors cared for the forest and would endeavour to see as much of it protected as possible.

4.2.2 Mr Tony Pedro – Prescribed Burning at Valley of the Giants

Mr Pedro stated that he had heard that a prescribed burn would be happening to some areas near the Valley of the Giants and said that he did not believe the area had been burnt since 1937. Mr Pedro stated that he did not see any reason to burn the area and in fact predicted that it would be detrimental to the area and create more understorey in the long run.

4.2.3 Ms Miranda Clohessy – Denmark East Development Project

Ms Clohessy asked what the Council will do if they have an overwhelming negative response from the submission period.

The Shire President responded that the Council would consider all submissions and that the Council will endeavour to make a decision based on the best interests for the community as a whole.

Ms Clohessy referred to the fact that advocacy for the bridge had sited safety concerns as a reason for the project. Ms Clohessy stated that she did not believe that the safety of the children at the Golden Hill Steiner School had been properly considered. Ms Clohessy referred to large vehicles using the road.

The Shire President advised that the vehicles going over the bridge would not be heavy haulage and the Chief Executive Officer confirmed that vehicles up

to 19m in length would be permitted which was same as the current maximum length permitted in any residential area.

4.2.4 Mrs Jill Smith – Denmark East Development Project

Mrs Smith, owners of property on Riverbend Lane, expressed great disappointment that they had only just found out the extent of the proposal and they believed that it would affect their property profoundly. Mrs Smith raised particularly concern in relation to the proposed embankment and retaining wall and stated that not one person had been to see them about the proposal. Mrs Smith also stated that she believed the development would have a negative impact on the Riverbend Caravan Park because it would change the serenity of the Park which is why she believed a number of people stayed there.

Mrs Smith thanked Cr Lewis and Cr Bartlett for agreeing to meet her at her property tomorrow to discuss and show them her concerns.

The Shire President advised that they were still liaising with the consultant regarding the alignment.

The Chief Executive Officer added that he had been in touch with Landcorp and their response was that there had been no geotechnical work done at this stage however they would be making every effort to keep the alignment away from residents. Mr Parker said that he would be happy to meet with Mr & Mrs Smith with Councillors Lewis and Bartlett.

4.2.5 Mr Ken Smith – Denmark East Development Project

Mr Smith asked if there were changes made to the advertised proposed alignments would they have an opportunity to see the new proposal.

The Shire President advised that once an in principle alignment decision had been made then LandCorp could then concentrate on that area and commence further soil and profile studies.

Mr Smith expressed his disappointment that they had not seen the consultant throughout the initial project phase.

4.2.6 Mr Mike Travers – Denmark East Development Project

Mr Travers, a resident of Riverbend Lane, stated that he had followed the project since the adoption of the Local Planning Strategy in 2011 however he questioned the purpose. Mr Travers stated that he had attended the information evening and was surprised that details such as concrete walls and high embankments had not been forthcoming and he had only found out by asking specific questions. Mr Travers asked a number of questions about the proposal including using Lot 1 in a land swap with the Agricultural College.

The Chief Executive Officer advised that he would be preparing a report for Council to consider at a Special Meeting of Council scheduled for mid December 2016. In addition to making a recommendation on a preferred option the report would also explore the additional funding required should Council decide to pursue the more expensive option being Option 3E.

Cr Lewis stated that she believed that there was some concern in the community that materials had already been purchased and were being stockpiled at the McIntosh Road Refuse Site.

The Chief Executive Officer advised that no materials had been procured and that the materials belonged to another government department and were simply being stored on the McIntosh Road site.

4.2.7 Mr Roger Seeney – Denmark East Development Project

Mr Seeney stated that the bridge had been discussed over a number of years by the Bush Fire Advisory Committee and the Local Emergency Management Committee and it had been supported by both. Mr Seeney stated that he believed that there was a need for an additional bridge to enable the safe and timely evacuation of residents should there be a catastrophic fire in the future, particularly if it was during a peak tourist period. Mr Seeney noted that there would be some people who would be affected however he implored Council to consider the bigger picture and the best interests for the whole community.

4.2.8 Mrs Lydia Kenyon – Denmark East Development Project

Mrs Kenyon spoke as the administrator for the Save East River Forest (SERF) organisation and stated that she did not believe that local indigenous Elder Wayne Webb had been consulted about the project.

The Shire President advised that as the area was on the border of the Minang and Bibbulmun people, LandCorp had sought advice through the South West Aboriginal Land and Sea Council (SWALSC) to ensure that both groups were consulted.

Mrs Kenyon asked whether the Shire would be consulting with Wayne Webb.

The Shire President advised that LandCorp would be undertaking the consultation and the Chief Executive Officer added that LandCorp would be going direct through the SWALSC to ensure appropriate consultation.

The Director of Planning & Sustainability advised that Wayne Webb had been taken on site with one of the consultants and that this was mentioned in the report.

Mrs Kenyon made comments and asked questions as to whether the road was to link future subdivision residents with services and whether the road was a bypass.

The Shire President responded stating that it was not a bypass road.

4.2.9 Ms Wendy Edgeley – Denmark East Development Project

Ms Edgeley asked whether the proposed road was being designed as a safe and efficient fire exit.

The Chief Executive Officer advised that the main purpose of the road was as a local connector road however if there was an emergency then the road would provide an alternative option across the Denmark River.

4.2.10 Dr Cyril Edwards – Denmark East Development Project

Dr Edwards stated that he did not believe that the bridge needed to be located to the north and that he would suggest that the bridge be located further to the south. Dr Edwards asked why a southern option was not considered.

The Shire President stated that it was an historical decision and he was unaware of why it wasn't considered.

4.2.11 Mr Doug Head – Denmark East Development Project

Mr Head referred to the video which had been shown by Ms Carman and asked how many trees would be removed.

The Shire President advised that there would be a number of significant trees that would have to go however he was unsure of the exact number. Cr Morrell stated that whilst this was the case he wished to state that he and other Councillors recognised the value and significance of the old growth trees.

4.2.12 Mr Doug Head – Item 8.1.4 (Denmark-Nornalup Heritage Rail Trail Tenure Review)

Mr Head stated that he supported the closure of unmade sections of Limbourne Road and asked what the Shire could do about motorbikes using the Rail Trail.

The Director of Planning & Sustainability responded by stating that Council was advertising its intention to close the road reserve to address the issue of vehicles (inclusive of motorbikes) using the Rail Trail where not considered appropriate. Once the road reserve was closed then the Shire could issue infringements in accordance with the Shire of Denmark Property Local Law.

4.2.13 Mr John Sampson – Council Finances and Use of Ratepayers Money

Mr Sampson highlighted a number of concerns with the Council's adopted Budget and stated that he believed that the Council needed to do something now as it was heading for financial trouble. Mr Sampson stated that he believed that Councillors need to treat Ratepayers money with care and respect and that returning their 30% sitting fee increase and 40% telecommunications allowance increase would show leadership and result in a real saving.

Mr Sampson also queried the reason why Councillors were using their own vehicles for Council related business. He also queried the \$0.78 per kilometre allowance where the Australian Tax Office allowance was \$0.66 per kilometre. Mr Sampson also asked whether Council would consider publishing the number of Committee and Council meetings they have each attended and the amount of travel claims submitted in the Annual Report.

Mr Sampson asked how the biennial Community Needs and Customer Satisfaction Survey was coming along as he believed it was supposed to be done this month pursuant to Policy.

The Shire President advised that the Councillors vehicle had been on loan to the interim Chief Executive Officer for an extended period and during this time Councillors had needed to use their own vehicles.

The Chief Executive Officer stated that he would take the mileage question on notice and respond to it in writing. Mr Parker added that with respect to the biennial survey, he was focussing on the Strategic Community Plan review and as a result the Strategic Community Plan survey and the biennial survey would be combined for efficiency.

4.3 QUESTIONS BY MEMBERS OF WHICH DUE NOTICE HAS BEEN GIVEN

Nil

4.4 PRESENTATIONS, DEPUTATIONS & PETITIONS

In accordance with Section 5.24 of the Local Government Act 1995, Sections 5, 6 and 7 of the Local Government (Administration) Regulations and section 3.3 and 3.13 of the Shire of Denmark Standing Orders Local Law, the procedure for persons seeking a deputation and for the Presiding Officer of a Council Meeting dealing with Presentations, Deputations and Petitions shall be as per Council Policy P040118 which can be downloaded from Council’s website at <http://www.denmark.wa.gov.au/council-meetings>.

In summary however, prior approval of the Presiding Person is required and deputations should be for no longer than 15 minutes and by a maximum of two persons addressing the Council.

Nil.

5. APPLICATIONS FOR FUTURE LEAVE OF ABSENCE

A Council may, by resolution, grant leave of absence, to a member, for future meetings.

6. CONFIRMATION OF MINUTES

6.1 ORDINARY COUNCIL MEETING

COUNCIL RESOLUTION & OFFICER RECOMMENDATION	ITEM 6.1
MOVED: CR CARON	SECONDED: CR ALLEN
That the minutes of the Ordinary Meeting of Council held on the 18 October 2016 be confirmed as a true and correct record of the proceedings.	
CARRIED UNANIMOUSLY: 6/0	Res: 011116

6.2 STRATEGIC BRIEFING NOTES

COUNCIL RESOLUTION & OFFICER RECOMMENDATION	ITEM 6.2
MOVED: CR GEARON	SECONDED: CR BARTLETT
That the minutes of the Notes from the Strategic Briefing held on 18 October 2016 be received.	
CARRIED UNANIMOUSLY: 6/0	Res: 021116

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

Nil

8. REPORTS OF OFFICERS

8.1 Director of Planning & Sustainability

8.1.1 PROPOSED TEMPORARY CLASSROOM FOR SPIRIT OF PLAY COMMUNITY SCHOOL – PTN OF NO. 2 (LOT 952) INLET DRIVE, DENMARK

File Ref:	A5598 (2016/176)
Applicant / Proponent:	Spirit of Play Community School Council
Subject Land / Locality:	No. 2 (Lot 952) Inlet Drive, (Reserve 30277)
Disclosure of Officer Interest:	Nil
Date:	25 October 2016
Author:	Annette Harbron, Director of Planning & Sustainability
Authorising Officer:	Annette Harbron, Director of Planning & Sustainability
Attachments:	8.1.1a – Development Application Documentation 8.1.1b – Adopted Concept Plan for Denmark Historical Railway Station Precinct

Summary:

The lessee (Spirit of Play Community School Inc.) is seeking to formally lodge for development approval for an additional temporary classroom for the Spirit of Play Community School which is located on portion of No. 2 (Lot 952) Inlet Drive, Denmark (being Reserve 30277).

As per the provisions of the lease and the Shire of Denmark’s Procedure *OP040239: Construction of New or Significant Alternations to Building Structures on Council Land*, owner approval of the proposed development is required to be obtained prior to formal assessment of a Development Application. In this regard, as per Delegation 130311: *Building Structures on Council Land*, the Chief Executive Officer only has delegation to sign on behalf of Council as the landowner for minor developments (defined as gazebos, verandahs, sheds and fences), with all major development applications to be referred to Council for Council consideration.

Having regard to the proposal for the temporary classroom and the relevant provisions of the lease, the adopted Concept Plan for the Denmark Historical Railway Station Precinct and Town Planning Scheme No. 3, it is appropriate that Council consent to the application in its capacity as landowner. This then provides the ability for the lessee to formally lodge the development application and provide for formal assessment in due course.

Background:

Current Development Application

An application for Development Approval was lodged with Planning Services in October 2016 for a temporary classroom for the Spirit of Play Community School on portion of No. 2 (Lot 952) Inlet Drive, Denmark (being Reserve 30277). Attached as Attachment 8.1.1a is the development application documentation submitted to date.

Upon receipt of the Development Application, Planning Services advised the applicant that the Development Application was deemed incomplete until such time as the landowner (being the Shire of Denmark) has signed the development application form, and that as per the provisions of the lease (being Clause 3.5(a) Alterations and Improvements) pertaining to the site and the Shire of Denmark’s Procedure *OP040239: Construction of New or Significant Alternations to Building Structures on Council Land*, owner approval of the proposed development is required to be obtained prior to formal assessment of a Development Application. In this regard, as per Delegation 130311: *Building Structures on Council Land*, the Chief Executive Officer only has delegation to sign on behalf of Council as the landowner for minor developments (defined as gazebos, verandahs, sheds and fences), with all major development applications to be referred to Council for Council consideration.

Previous Council Resolutions Regarding Lease and Use of Land

At its meeting held on 25 September 2012, Council considered a request to extend the Lessee's leased area and resolved as follows (Resolution No. 160912):

"That with respect to Wilgie View Learning Centre Inc.'s (Spirit of Play Community School) request to extend their lease area of a portion of Reserve 30277, 952 Crellin Street, Denmark, Council advise the applicant that;

- 1. Approval is granted to amend the lease area to include the existing storage shed (erected pursuant to Council Resolution No. 110210) and the septic tanks (approximately 170sqm), which will allow them to provide sufficient soft fall area around the existing playground equipment; and*
- 2. Council accepts the offer for the applicant to relocate the boundary fence at their expense, at no cost to Council, however advises that prior to the applicant undertaking these works, the applicant must obtain agreement from the Council's Chief Executive Officer as to the type of fence and its final position so as to coincide with their extended new lease area."*

At its meeting held on 27 May 2014 Council resolved as follows (Resolution No. 240514):

"That with respect to the draft Denmark Historical Railway Station Precinct at the Denmark No. 3 Railway Station Reserve, Council;

- 1. Adopt the Concept Plan with amendments as shown in Attachment 8.5.1d;*
- 2. Initiate the public advertising process regarding closure of the three (3) unmade road reserves being at the west and south side of Lot 1083 and at the south, western side of Reserve 30277;*
- 3. Request the Minister for Lands to excise Lot 1083 from Reserve 14376 and amalgamate it into Reserve 30277;*
- 4. Request the Minister for Lands to excise a portion of Lot 1086 from Reserve 15513 and amalgamate it into Reserve 30277 and adjust the road reserve to match the existing built road alignment;*
- 5. Provide a copy of the final Concept Plan to all current Lessees and known Stakeholders;*
- 6. Advise the Spirit of Play that it has amended the plan such that the label of the building that they currently lease is titled "Old Post Office Building" so as to provide clarity that it is Council's view that an expanded community school at the site is not a long term complementary use at the Heritage Precinct."*

At its meeting held on 22 March 2016 Council resolved as follows (Resolution No: 160316):

"That with respect to the temporary classroom for the Spirit of Play Community School on portion of No. 2 (Lot 952) Inlet Drive, Denmark, Council:

- 1. Consents to the proposal as required under Clause 3.5(a) of the lease between the Shire of Denmark and Spirit of Play Community School Inc.;*
- 2. Consents to the proposal as the landowner as required for the Application for Development Approval and the subsequent Building Permit (as required should Development Approval be forthcoming);*
- 3. Authorise the Chief Executive officer to issue the Development Approval with appropriate conditions should there be no objections to the Development Application;*
- 4. Consent to Variation of Lease pursuant to Attachment 8.1.1c.*
- 5. Amend Council's 2015/16 Budget to include an increase of annual rental income from \$10,500 (ex GST) to \$13,679.44."*

Development Approval 2016/38 was granted on 26 May 2016, with the Building Permit issued on 4 July 2016 – noting the building has recently been completed.

Consultation:

The Officer has considered the requirement for consultation and/or engagement with persons or organisations that may be unduly affected by the proposal and considered Council's Community Engagement Policy P040123 and the associated Framework and believes that no additional external/internal engagement or consultation is required on this specific matter; noting that if Council consent to the development application being lodged then the development application will be referred to the Denmark Historical Society for comment as per Town Planning Scheme Policy No. 45: Planning Application Process for Heritage Places.

Statutory Obligations:

Clause 3.5a of the lease between Spirit of Play Community School Inc. and the Shire of Denmark (which expires on 30 November 2018) states:

Alterations and Improvements

Not to erect and build or permit or cause to be erected or built on the Leased Premises any buildings or improvements or to make any alterations or additions to the buildings or other improvements without the prior written approval of the Lessor and then only in strict accordance with plans and specifications first approved of in writing by the Lessor.

Consequently, and moreso having due regard to the Shire's Procedure *OP040239: Construction of New or Significant Alternations to Building Structures on Council Land* and related Delegation 130311: *Building Structures on Council Land*, this matter is being referred to Council for consideration accordingly.

Should Council consent to the proposal as the landowner, it should be noted that Council as the decision making authority could still refuse the Development Application - noting however that the applicant then has the ability to lodge a Right of Review with the State Administrative Tribunal as per the *Planning and Development Act 2005*.

Policy Implications:

Town Planning Scheme Policy No. 45: Planning Application Process for Heritage Places relates to the development application given that the Shire of Denmark's Municipal Heritage Inventory (2011) contains Place Record Forms for the 'Railway Precinct' (which encompasses the entire of Reserve 30277) and the 'Old Post Office' (being the main building within the Spirit of Play Community School Inc. lease area.

In considering the request for owner support to the additional temporary classroom, due regard has been given to the Denmark Historical Railway Station Precinct Concept Plan that was adopted at the Ordinary Meeting of Council held on 27 May 2014 (Res No: 240514) – refer Attachment 8.1.1b.

Budget / Financial Implications:

In relation to the proposed development application for the temporary classroom building, there are no known financial implications upon either the Council's current Budget or Long Term Financial Plan.

Strategic & Corporate Plan Implications:

The report and officer recommendation is consistent with Council's adopted Strategic Plan Objectives and Goals and the Corporate Business Plan Actions and Projects in the following specific ways:

Strategic Community Plan

Social Objective – Denmark's communities, people and places are connected and creative, vibrant and dynamic, healthy and safe.

Social Goal: Education – work with relevant authorities and organisations that encourage the growth and diversity of educational opportunities and facilities for all age groups both in the town of Denmark and in its outlying communities.

Governance Objective – the Shire of Denmark provides renowned leadership in sustainability, is effective with both its consultation with its people and its management of its assets, and provides transparent fiscally responsible decision making.

Governance Goal: Planning – work with other relevant authorities and agencies to develop and implement planning policies and decisions that not only reflect the wishes of the community, but also provide the region with appropriate development options.

Corporate Business Plan

- 1.3.1 *Develop partnerships with educational institutions to create an ‘environment of learning’.*
- 4.1.1 *Ensure quality, consistent and responsive development and building assessment approval processes and enforcement.*

Sustainability Implications:

➤ **Governance:**

Due regard has been given to the relevant Council Policy, Organisational Procedure Manual and Delegation Register provisions relating to the report and officer recommendation.

➤ **Environmental:**

Environmental considerations relating to the development proposal will be considered as part of the development application process.

➤ **Economic:**

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

➤ **Social:**

The Spirit of Play Community School provides alternative schooling options to the public education system.

➤ **Risk:**

Risk	Risk Likelihood (based on history and with existing controls)	Risk Impact / Consequence	Risk Rating (Prior to Treatment or Control)	Principal Risk Theme	Risk Action Plan (Controls or Treatment proposed)
That Council does not support the proposal for a temporary classroom, thus not supporting the development application as the landowner or the lease area extension.	Unlikely (2)	Insignificant (1)	Low (1-4)	Inadequate Engagement - Community / Stakeholders / Crs	Accept Officer Recommendation

Comment/Conclusion:

Having regard to the adopted Denmark Historical Railway Station Precinct Concept Plan and the current lease, it is considered that the proposal for an additional temporary classroom on-site is appropriate for consideration as it will provide much needed short-term school accommodation

on-site whilst the Spirit of Play Community School are progressing with finding and developing a site for the school beyond the current terms of their lease.

Voting Requirements:

Simple majority.

COUNCIL RESOLUTION & OFFICER RECOMMENDATION	ITEM 8.1.1
MOVED: CR GEARON	SECONDED: CR LEWIS
That with respect to the temporary classroom for the Spirit of Play Community School on portion of No. 2 (Lot 952) Inlet Drive, Denmark, Council:	
<ol style="list-style-type: none"> 1. Consents to the proposal as required under Clause 3.5(a) of the lease between the Shire of Denmark and Spirit of Play Community School Inc.; 2. Consents to the proposal as the landowner as required for the Application for Development Approval and the subsequent Building Permit (as required should Development Approval be forthcoming); and 3. Authorise the Chief Executive officer to issue the Development Approval with appropriate conditions should there be no objections to the Development Application. 	
CARRIED UNANIMOUSLY: 6/0	Res: 031116

8.1.2	PROPOSED AMENDMENT TO TRADING HOURS CONDITION ASSOCIATED WITH AMENDED DEVELOPMENT APPROVAL 2010/153A: TAVERN WITH RESTRICTIONS – NO. 678 (LOT 42) SOUTH COAST HIGHWAY, HAY
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File Ref:	A3285 (2010/153B)
Applicant / Proponent:	Summer Honey Pty Ltd (trading as Boston Brewery) on behalf of Timiama Nominees Pty Ltd
Subject Land / Locality:	No. 678 (Lot 42) South Coast Highway, Hay
Disclosure of Officer Interest:	Nil
Date:	24 October 2016
Author:	Jon Creedon, Senior Town Planner
Authorising Officer:	Annette Harbron, Director of Planning & Sustainability
Attachments:	8.1.2 – Development Application Documentation

Summary:

The proponent is seeking Amended Development Approval to facilitate additional trading hours associated with the Willoughby Park/Boston Brewery development at No. 678 (Lot 42) South Coast Highway, Hay.

Having regard to the original approval conditions and the potential impacts of the proposed amendment, it is recommended that Amended Development Approval be granted subject to appropriate conditions.

Background:

Current Application

An application for Development Approval was lodged with Planning Services in August 2016 to amend Condition 2 of Development Approval 2010/153A for a Tavern with Restrictions at No. 678 (Lot 42) South Coast Highway, Hay – refer Attachment 8.1.2.

In summary the application seeks to amend Condition 2 to extend Monday to Sunday trading to 10pm year round, noting that Condition 2 currently allows for trading as per the following:

- 10am to 9pm Monday to Thursday (1 November – 30 April);
- 10am to 7pm Monday to Thursday (1 May – 31 October);
- 10am to 10pm Friday and Saturday; and
- 10am to 9pm Sunday.

History of Relevant Development Proposals

Below is a history of relevant development proposals for the site since 2010:

- Development Approval 2010/47 for a Microbrewery was issued on 24 February 2010 by Planning Services. Two conditions of this planning approval related to limiting the approval to the brewing and sale of hand-made beers on-site only, with all sales to be undertaken in conjunction with the existing Winery cellar sales in terms of hours of operation, liquor type restrictions, sales areas etc.
- In June 2010 a Development Application (Reference: 2010/153) was lodged with Planning Services for approval of a Tavern Licence to facilitate the proposed Microbrewery operations as the Liquor Licensing Act provisions would not facilitate the proposal under the Producer's Licence that related to the Willoughby Park Winery operations on-site. The Development Application also sought approval for kitchen, bar and toilet facility additions/alterations to the existing development on-site.

The proposal was advertised for public comment, with six (6) submissions received – two (2) from the public and four (4) from government agencies.

Council considered the development application at the Ordinary Meeting held on 24 August 2010 wherein Council resolved as follows (Res No: 150810):

That with respect to the development application lodged for a tavern, Council resolve to grant planning approval for a tavern with restrictions at No. 678 (Lot 42) South Coast Highway, Denmark subject to the following conditions:

1. *The activity being undertaken and developed in accordance with the attached stamped approved plans and where marked in red dated 14 June 2010.*
2. *The hours of operation shall be that the permanent hours of trading be extended to 7.00pm Monday to Thursday, 10.00pm Friday and Saturday and 9.00pm Sunday.*
3. *A minimum of 22 car parking bays (including 1 disabled to be a minimum of 5.4m x 2.7m); bitumised, drained, line-marked and signed to the satisfaction of the Director of Infrastructure Services. (see advice note ii)*
4. *No more than 70 patrons to be on site (including both the Tavern and Cellar Door) at any one time, and any temporary variations shall be approved in writing by the Director of Planning & Sustainability.*
5. *No liquor products other than those produced on site, which are limited to beer and wine, are to be sold from the premises.*
6. *The applicant entering a formal understanding to the Shire's satisfaction acknowledging a light industrial area and land fill site may be constructed within proximity of their site and there may be noise and other impacts on their business.*

Advice Note

- i) *The applicant is advised all trees located on the property between South Coast Highway and the existing vehicle accessway are protected via a condition of a historic subdivision approval for screening purposes. Any modifications to the parking within the vicinity of these trees should be undertaken in a manner that retains all vegetation.*
- ii) *Future events which require modifications to any approved liquor licence or condition above will be dealt with on a case-by-case basis in accordance with relevant Shire policies.*
- iii) *No signs have been approved as part of this application.*
- iv) *The applicant is advised at Building Licence stage the on-site wastewater treatment and disposal system will require approval from the Department of Health.*
- v) *A copy of the approved liquor licence shall be provided to Council.*
- vi) *The Shire's Building Surveyor requests the following:*

- Where the floor area exceeds 500m² of any building fire hydrants and water supply to be provided to BCA requirements.
 - Energy efficiency details needs to be provided.
 - Disabled facility requirements needs to be provided including details on circulation areas.
 - Full plans and specifications required.
- Please contact the Shire's Building Surveyor on (08) 9848 0300 to discuss any of these matters.
- vii) Any extra car parking required for special events shall be required to be provided at a location satisfactory to the Director of Planning and Sustainability.
 - viii) Any changes to the entry/exit to the property shall require approval from Main Roads WA.
- In February 2013 a Development Application (Reference: 2010/153A) was lodged with Planning Services for approval of amendments to Conditions 2 and 4 of the Tavern with Restrictions approval to increase the number of patrons permitted on the premises from 70 to 500, and extend Monday to Thursday trading hours by two hours to 9pm from 1 November – 30 April.

The proposal was advertised for public comment, with four (4) submissions received – two (2) from adjoining landowners and two (2) from government agencies.

Council considered the development application at the Ordinary Meeting held on 18 June 2013 wherein Council resolved as follows (Res No: 060613):

That Council with respect to the planning application to amend trading hours and patron numbers associated with Planning Approval 2010/53: Tavern with Restrictions at No. 678 (Lot 42) South Coast Highway, Denmark:

1. Notes the submissions received;
2. Grants amended planning approval with the following amendments:
 - a) Condition 2 being amended to read:

"The permitted trading hours being as follows:

 - 10am to 9pm Monday to Thursday (1 November – 30 April);
 - 10am to 7pm Monday to Thursday (1 May – 31 October);
 - 10am to 10pm Friday and Saturday
 - 10am to 9pm Sunday"
 - b) Condition 3 being amended to read:

"A minimum of 125 car parking bays being provided on-site as per the following:

 - i. Minimum 75 car parking bays being provided on-site, with such car parking bays, manoeuvring and circulation areas being suitably constructed to a minimum all-weather standard (e.g. gravel, crushed rock), drained and thereafter maintained to facilitate access to the development by 2 wheel drive vehicles.

Prior to the issuance of a Section 40 for this proposal, the applicant/owner shall submit a plan to the Shire of Denmark (Planning Services) detailing the location of the 75 car parking bays and appropriate access arrangements to the car parking area(s) – noting that car parking on the western side of the north-south driveway will not be supported unless there is a legal agreement registered on the Certificates of Title for the subject property and the adjoining No. 680 (Lot 1) South Coast Highway to allow for such usage.

- ii. Minimum 50 car parking bays being provided on-site, with such car parking bays able to be informally constructed (i.e. grassed) however the accessway(s) to these car parking areas(s) shall be suitably constructed to facilitate two-way vehicle movements

and to a minimum all-weather standard (e.g gravel, crushed rock), drained and thereafter maintained.

Within 120 days of the issuance of approval by the Department of Racing, Gaming & Liquor to the proposal, the car parking areas and associated accessway(s) shall be suitably constructed to the satisfaction of the Shire of Denmark (Planning Services/Infrastructure Services)."

c) Condition 4 being amended to read:

"No more than 500 patrons to be on-site (i.e. pertaining to both the tavern/microbrewery and cellar door operations) at any one time unless specific approval for occasional events has been granted by the Shire of Denmark."

d) New Condition 7 to read:

"Within 120 days of the issuance of approval by the Department of Racing, Gaming & Liquor to the proposal, access/egress to the property being upgraded to comply with Main Roads WA requirements (refer Advice Note viii)".

e) Advice Note viii) being amended to read:

"Main Roads WA have advised the following upgrade works are required:

- the crossover to be sealed;
- A right turn sealed passing bulge (BAR) be provided in accordance with Main Roads Design Standards;
- A sealed left turning pocket (AUL) in accordance with Main Roads Design Standards; and
- Clearing of some vegetation to improve the Safe Intersection Sight Distance.

The applicant/owner is advised that consultation should be undertaken with Main Roads WA (Great Southern Region) regarding the above requirements, relevant approvals required to be obtained prior to works commencing etc.

3. Advise the submitters of Council's decision."

Consultation:

The Officer has considered the requirement for consultation and/or engagement with persons or organisations that may be unduly affected by the proposal and considered Council's Community Engagement Policy P040123 and the associated Framework, Town Planning Scheme No. 3 (noting Tavern is a "SA" use in the 'Rural' zone and submissions had been received in relation to the previous Development Applications relating to trading hours) and Schedule 2, Part 8, Clause 64 of the *Planning and Development (Local Planning Schemes) Regulations 2015* and undertook the following level of consultation:

External Consultation:

- An advertisement was placed in the Denmark Bulletin newspaper on 22 September 2016 inviting public comment;
- Referral to three (3) adjoining landowners inviting comment; and
- Referral to Main Roads Western Australia and Denmark Police.

Internal Consultation

- Development Co-ordination Unit

At the end of the advertising period, two (2) submissions were received as per the following:

- Main Roads WA: Main Roads WA has no objections to the Amendment as presented by the Shire of Denmark's letter of 22 September 2016. The increased hours of operation will not impose negativity on traffic at this location.
- Denmark Police: Denmark Police have no objections to the proposed changes. Anti-social behaviour has not been an issue for us at this venue.

Statutory Obligations:

Town Planning Scheme No. 3 sets out the relevant statutory obligations relating to this proposal.

Should Council refuse this Development Application or impose conditions on a Development Approval that the applicant is aggrieved by, as per Part 14 of the *Planning and Development Act 2005*, the applicant can apply to the State Administrative Tribunal for a Right of Review.

Policy Implications:

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

Budget / Financial Implications:

There are no known financial implications upon either the Council's current Budget or Long Term Financial Plan.

Strategic & Corporate Plan Implications:

The report and officer recommendation is consistent with Council's adopted Strategic Plan Objectives and Goals and the Corporate Business Plan Actions and Projects in the following specific ways:

Strategic Community Plan

Governance Objective: The Shire of Denmark provides renowned leadership in sustainability, is effective with both its consultation with its people and its management of its assets, and provides transparent and fiscally responsible decision making.

Governance Goal: Planning - That the Shire of Denmark work with other relevant authorities and agencies to develop and implement planning policies and decisions that not only reflect the wishes of the community, but also provide the region with appropriate development options.

Corporate Business Plan

4.1.1 Ensure quality, consistent and responsive development and building assessment approval processes and enforcement.

Sustainability Implications:

➤ **Governance:**

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

➤ **Environmental:**

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

➤ **Economic:**

The existing winery & brewery operations on-site contribute to the local Denmark economy in terms of local employment opportunities and in contributing to the Denmark tourism sector.

➤ **Social:**

There are no known significant social considerations relating to the report or officer recommendation, noting that the Denmark Police have advised that anti-social behaviour is not an issue at the venue.

➤ **Risk:**

Risk	Risk Likelihood (based on history and with existing controls)	Risk Impact / Consequence	Risk Rating (Prior to Treatment or Control)	Principal Risk Theme	Risk Action Plan (Controls or Treatment proposed)
The proponent may lodge an application for review to the State Administrative Tribunal if the Council's decision was to refuse the proposal.	Possible (3)	Minor (2)	Moderate (5-9)	Failure to meet Statutory, Regulatory or Compliance Requirements	Accept Officer Recommendation as the decision is based on sound planning grounds. If a decision is made to refuse the application, Council is to provide sound reasoning to support solid defence at the State Administrative Tribunal should the applicant wish to pursue a Right of Review.

Comment/Conclusion:

Public advertising of the proposal was undertaken in accordance with Clause 6.4 of TPS No. 3 and Schedule 2, Part 8, Clause 64 of the *Planning & Development (Local Planning Schemes) Regulations 2015* (refer 'Consultation' section of the report) with two (2) statements of non-objection received from Main Roads Western Australia and the Denmark Police.

From a Planning Services perspective, the proposal to extend Monday to Sunday trading until 10pm year round is considered appropriate as there will be minimal additional impact on the amenity of the areas as a result. Extending the trading hours so they are uniform enables the facility to operate throughout the year without the need to seek extended trading permits for individual events. Overall, it is considered that the proposal would have a positive impact on the local economy and Denmark tourist sector on weekdays and throughout the low tourist season.

Voting Requirements:

Simple majority.

COUNCIL RESOLUTION & OFFICER RECOMMENDATION	ITEM 8.1.2
MOVED: CR ALLEN	SECONDED: CR GEARON
That with respect to the development application to amend trading hours associated with Development Approval 2010/153A for a Tavern with Restrictions at No. 678 (Lot 42) South Coast Highway, Hay, Council:	
<ol style="list-style-type: none"> 1. Notes the submissions received; 2. Grants amended development approval by amending Condition 2 to read "Permitted trading hours being 10am to 10pm 7 days a week"; and 3. Advises the submitters of Council's decision. 	
CARRIED UNANIMOUSLY: 6/0	Res: 041116

The Shire President announced that as per the advice provided by the Chief Executive Officer, Item 8.1.3 was unable to be dealt with given that two Councillors had declared financial interests and would need to leave the room, resulting in a loss of quorum.

8.1.3 PROPOSED USE NOT LISTED (MICROBREWERY) – NO. 18 (LOT 2) HAMILTON ROAD, SCOTSDALE

File Ref:	A348 (2016/124)
Applicant / Proponent:	S. Hall
Subject Land / Locality:	No. 18 (Lot 2) Hamilton Road, Scotsdale
Disclosure of Officer Interest:	Nil
Date:	21 October 2016
Author:	Jon Creedon, Senior Town Planner
Authorising Officer:	Annette Harbron, Director of Planning & Sustainability
Attachments:	8.1.3a – Development Application Documentation 8.1.3b – Schedule of Submissions

Summary:

The proponent is seeking Development Approval to operate a Microbrewery (for production purposes) within an existing Cellar Sales and Restaurant building associated with Rockcliffe Winery at No. 18 (Lot 2) Hamilton Road, Scotsdale.

Having regard to the proposal, the relevant provisions of *Town Planning Scheme No. 3* (TPS No.3), associated planning policies and the submissions received on the application, it is recommended that Development Approval be granted subject to appropriate conditions.

Background:

Current Application

An application for Development Approval was lodged with Planning Services in July 2016 to operate a Microbrewery from an area within the existing Rockcliffe Winery Cellar Sales and Restaurant building at No. 18 (Lot 2) Hamilton Road, Scotsdale – refer Attachment 8.1.3a.

In summary, the applicant seeks to take advantage of recent changes to the Department of Racing, Gaming & Liquor's rules on Producer's Licences (of which Rockcliffe Winery currently holds) which now permit licence holders to supply:

- Wine or spirits made from grapes for consumption on the premises, and in sealed containers for consumption off the premises;
- Spirits not made from grapes, in sealed containers for consumption off the premises; and
- Beer for consumption on the premises, and in sealed containers for consumption off the premises.

The proposed microbrewery will result in small quantities of beer (up to 1200 litres per week in peak season) being produced to complement the existing winemaking production at Rockcliffe Winery.

Consultation:

The Officer has considered the requirement for consultation and/or engagement with persons or organisations that may be unduly affected by the proposal and considered Council's Community Engagement Policy P040123 and the associated Framework; as well as the requirements of TPS No. 3 and undertook the following level of consultation:

External Consultation:

'Microbrewery' is a 'Use Class Not Listed' in TPS No. 3, thus as per Clause 3.2.5(b) and Schedule 2, Part 8, Clause 64 of the *Planning & Development (Local Planning Schemes) Regulations 2015*, the proposal was advertised for public comment as per the following:

- An advertisement was placed in the Denmark Bulletin newspaper on 8 September 2016 inviting public comment;
- Referral to five (5) adjoining landowners inviting comment; and
- Referral to the Department of Agriculture and Food Western Australia, Department of Environment Regulation, Department of Water and Department of Racing, Gaming & Liquor.

Internal Consultation

- Development Co-ordination Unit

At the close of the advertising period, four (4) submissions were received – one (1) from the public and three (3) from government agencies. Attached as Attachment 8.1.3b is the Schedule of Submissions – with the submissions received being entered into the schedule as verbatim. Column 4 of the Schedule of Submissions represents Planning Services comments/response to the submissions.

Statutory Obligations:

Town Planning Scheme No. 3 sets out the relevant statutory obligations relating to this proposal.

Should Council refuse this Development Application or impose conditions on a Development Approval that the applicant is aggrieved by, as per Part 14 of the *Planning and Development Act 2005*, the applicant can apply to the State Administrative Tribunal for a Right of Review.

Policy Implications:

As per *Delegation D100601: Implementation of Town Planning Scheme*, the Chief Executive Officer and the Director of Planning & Sustainability have the delegation to initiate public advertisement of 'Use Not Listed' development applications only, thus the development application is being referred to Council for determination.

Town Planning Scheme Policy No. 29: *Rural Settlement Strategy* (Policy 29) sets out the relevant policy implications relating to this proposal. The subject property is within the Scotsdale Brook Catchment, which has the following objectives:

- 6.3.1 *To conserve the potential of the area to support horticulture on capable land and in such a manner that it will not further exacerbate problems identified in the above management issues.*
- 6.3.2 *To encourage horticultural activities on appropriate land.*
- 6.3.3 *To improve water quality and prevent further eutrophication of Wilson Inlet through inappropriate land use and development.*
- 6.3.4 *To encourage the development of small scale tourist orientated developments such as holiday accommodation providing they will not compromise the primary objective 6.3.1 above.*
- 6.3.5 *To not support proposals for special rural.*
- 6.3.6 *To encourage the preparation of an integrated catchment management plan in order to address existing and potential management issues and land use conflicts.*

Budget / Financial Implications:

There are no known financial implications upon either the Council's current Budget or Long Term Financial Plan.

Strategic & Corporate Plan Implications:

The report and officer recommendation is consistent with Council's adopted Strategic Plan Objectives and Goals and the Corporate Business Plan Actions and Projects in the following specific ways:

Strategic Community Plan

Governance Objective: The Shire of Denmark provides renowned leadership in sustainability, is effective with both its consultation with its people and its management of its assets, and provides transparent and fiscally responsible decision making.

Governance Goal: Planning - That the Shire of Denmark work with other relevant authorities and agencies to develop and implement planning policies and decisions that not only reflect the wishes of the community, but also provide the region with appropriate development options.

Corporate Business Plan

4.1.1 Ensure quality, consistent and responsive development and building assessment approval processes and enforcement.

Sustainability Implications:

➤ **Governance:**

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

➤ **Environmental:**

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

➤ **Economic:**

The existing winery & restaurant operations on-site contribute to the local Denmark economy in terms of local employment opportunities and in contributing to the Denmark tourism sector; the addition of the microbrewery will only further enhance such contributions.

➤ **Social:**

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

➤ **Risk:**

Risk	Risk Likelihood (based on history and with existing controls)	Risk Impact / Consequence	Risk Rating (Prior to Treatment or Control)	Principal Risk Theme	Risk Action Plan (Controls or Treatment proposed)
The proponent may lodge an application for review to the State Administrative Tribunal if the Council's decision was to refuse the proposal.	Possible (3)	Minor (2)	Moderate (5-9)	Failure to meet Statutory, Regulatory or Compliance Requirements	Accept Officer Recommendation as the decision is based on sound planning grounds. If a decision is made to refuse the application, Council is to provide sound reasoning to support solid defence at the State Administrative Tribunal should the applicant wish to pursue a Right of Review.

Comment/Conclusion:

In accordance with TPS No.3, the subject site is zoned Rural. 'Microbrewery' is a defined use under TPS No. 3 (being "premises used for the purposes of brewing and sale of boutique hand crafted beers with a limited capacity (as determined by Council) in conjunction with an existing tourist operation"), however is not listed in Table 1 – Zoning Table of TPS No. 3. As a result, Microbrewery is classified as a "Use Not Listed".

In this regard Clause 3.2.5 of TPS No. 3 applies, and states:

If the use of land for a particular purpose is not specifically mentioned in the Zoning Table and cannot reasonably be determined as falling within the interpretation of one of the use categories the Council may:

- a) Determine that the use is not consistent with the purpose and intent of the particular zone and is therefore not permitted; or*
- b) Determine by absolute majority that the proposed use may be consistent with the purpose and intent of the zone and thereafter follow the procedure set out in Clause 6.4 in considering an application for planning consent.*

Noting that there are two existing microbrewery operations that operate in conjunction with a winery from 'Rural' zoned lots in the Shire of Denmark and having regard to Clause 3 of *Delegation D100601: Implementation of Planning Scheme*, the development application was advertised for public comment in accordance with Clause 6.4 of TPS No. 3 and Schedule 2, Part 8, Clause 64 of the *Planning & Development (Local Planning Schemes) Regulations 2015* – refer 'Consultation' section of the report for details of extent of advertising and the submissions received.

From a Planning Services perspective, the proposal as presented is appropriate and will have minimal impact on the amenity of the locality having regard to the small scale of the proposal, the fact that Rockcliffe Winery is an operational winery and that the proposed Microbrewery would be located inside the existing Cellar Sales and Restaurant building. The Microbrewery is proposed to be located within floor space presently utilised as a servery area associated with the approved Restaurant's kitchen, and does not require the provision of additional car parking spaces or ablution facilities – noting that the previous approvals for the site limit the number of patrons to no more than 120 persons at any one time unless a variation has been approved in writing by Council (i.e for special events, functions).

Having regard to the nature of the proposal, the existing development on-site, the relevant provisions of TPS No. 3 and Policy 29 and the submissions received, it is recommended that Development Approval be granted subject to appropriate conditions.

Voting Requirements:

Simple majority.

CORRECTION TO MINUTES.
Pursuant to Council Resolution No. 091116

Item 8.1.3 was unable to be dealt with given that two Councillors had declared financial interests and would need to leave the room, resulting in a loss of quorum.

OFFICER RECOMMENDATION

ITEM 8.1.3

That with respect to the development application for the Proposed Use Not Listed (Microbrewery) at No. 18 (Lot 2) Hamilton Road, Scotsdale, Council resolves to grant Development Approval subject to the following:

Conditions

1. The development shall be carried out and fully implemented in accordance with the stamped approved plan(s) dated 12 July 2016.
2. No more than 120 patrons (pertaining to the cellar door/restaurant & microbrewery licensed areas) at any one time unless specific approval for occasional events has been granted by the Shire of Denmark.
3. Wastewater from the microbrewery operations is to be disposed of in an approved manner to the satisfaction of the Shire of Denmark (Environmental Health Services), having due regard to the Department of Water's Water Quality Protection Note #73 Wineries and Distilleries.

Advice Notes

1. The applicant/landowner is advised that an application to amend the current Producer's Licence may be required to be obtained from the Department of Racing, Gaming and Liquor. It is the applicant/landowner's responsibility to ascertain the necessary approvals required to be obtained prior to works commencing on-site.
2. It is the responsibility of the developer to search the title of the property to ascertain the presence of any easements and/or restrictive covenants that may apply.

8.1.4 DENMARK-NORNALUP HERITAGE RAIL TRAIL TENURE REVIEW	
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File Ref:	A3300, R30033, R30277, R30059
Applicant / Proponent:	Shire of Denmark
Subject Land / Locality:	Denmark-Nornalup Heritage Rail Trail
Disclosure of Officer Interest:	Nil
Date:	24 October 2016
Author:	Donna Sampey, Sustainability Officer
Authorising Officer:	Annette Harbron, Director of Planning & Sustainability
Attachments:	8.1.4a – Current tenure of the Denmark-Nornalup Heritage Rail Trail map 8.1.4b – Portions of unmade road reserve for closure to vehicles: Rudgyard Place and Station Road 8.1.4c – Schedule of Submissions 8.1.4d – Portions of unmade Limbourne Road reserve proposed for closure to vehicles

Summary:

The tenure of the Denmark-Nornalup Heritage Rail Trail (Rail Trail) was reviewed. Three unmade portions of road reserve are recommended for indefinite closure in order to legally prohibit vehicle access to these sections of the Rail Trail.

Background:

At the Ordinary Meeting of Council held on 2 December 2014, Council adopted the Denmark-Nornalup Heritage Rail Trail (Rail Trail) Policy (P110310). When adopting this Policy, Council also resolved to (Resolution No. 101214):

4. *Require the tenure of the Rail Trail be reviewed to determine which areas to retain as road reserve and those which should be changed to reserve with purpose of "Heritage Trail".*
5. *Advertise its intent as per Section 3.50(4) of the Local Government Act 1995 to permanently close unmade sections of road reserve on Rudgyard Place and Station Road which are part of the Rail Trail to motorised vehicles, machinery and equipment, including motorbikes and all-terrain vehicles.*

These recommendations were related to legally prohibiting access of unauthorised motorised vehicles, machinery and equipment to the Rail Trail.

Tenure review

The current tenures over the Rail Trail are (see Attachment 8.1.4a):

- Active road reserve – South Coast Highway, Limbourne Road, Benson Road, Station Road and Rudgyard Place;
- Unmade road reserve – Rudgyard Place, Limbourne Road and Station Road;
- Reserve number 41815 (Heritage Trail) – purpose is 'Heritage Trail';
- Reserve number 30277 (Denmark No. 3 Railway Station) – purpose is 'Historical Precinct, Recreation and Community Purpose';
- Easement to Shire for access purposes (created in 2008) on No. 4312 (Lot 605) South Coast Highway Kentdale; and,
- Reserve number 42507 (Denmark Nornalup Rail Trail) – purpose is 'Heritage Trail'.

The Shire is responsible for management of the entire length of the Rail Trail and the reserves in which it is located, except for the South Coast Highway road reserve, where the Shire manages the Rail Trail and Main Roads WA holds responsibility for the remainder of the road reserve.

The review of Rail Trail tenure seeks to determine which areas should be retained as road reserve and those that should be changed to reserve for the purposes of 'Heritage Trail'. The tenures along the Rail Trail were also reviewed during this process to investigate the potential for reducing the number of tenures across the Rail Trail.

Closure of unmade road reserves

The Rail Trail is public land designated for the enjoyment of recreational users for the purposes of horse riding, bicycling and walking. In many areas, the Rail Trail shares an alignment with the internationally-renowned Munda Biddi Trail and Bibbulmun Track. Unauthorised vehicles on the Rail Trail create conflict and a safety hazard for recreational users and a liability issue for Council.

Vehicles, machinery and equipment, including motorbikes and all-terrain vehicles, are legally prohibited from using the Rail Trail where the tenure is reserve or easement (except where permitted under the Rail Trail Policy). However, there is no legal way of preventing vehicle access to portions of the Rail Trail which are active or unmade road reserves – noting that unmade road reserves make up approximately 22km of the 57km long Rail Trail.

While active road reserves need to be retained as thoroughfares and for property access, closure of unmade road reserves would enable Council to legally prohibit vehicle access to these portions of the Rail Trail, except where approved under the provisions of the Rail Trail Policy.

Consultation:

The Officer has considered the requirement for consultation and/or engagement with persons or organisations that may be unduly affected by the proposal and considered Council's Community Engagement Policy P040123 and the associated Framework.

In accordance with Council Resolution No. 101214, the intent to close unmade sections of Rudgyard Place and Station Road reserves which form part of the Rail Trail has been advertised. Portions of these road reserves proposed for closure are:

- Rudgyard Place – from the South Coast Highway road reserve to Crusoe Beach Road and then from the western boundary of Lot 4 (No. 97) Rudgyard Place to Reserve number 41815; and,
- Station Road – from South Coast Highway west to Conspicuous Beach Road (see attachment 8.1.4b).

Public advertising commenced on 21 October 2015 and closed on 23 November 2015, with the following consultation undertaken:

- Advertising notice in the Walpole Weekly on 21 October 2015 inviting public comment;
- Referral to the 11 landowners directly adjoining the affected portions of Rudgyard Place and Station Road, inviting comment; and,
- Advertising notice inviting public comment on the proposed closure displayed at the Shire Administration Office, the Shire Library and the Shire's website for the duration of the public advertising period.

In accordance with Section 3.50(5) of the *Local Government Act 1995*, the Commissioner of Main Roads was also sent advice and a copy of the publicly advertised notice of the Shire's intent to close portions of Rudgyard Place and Station Road to vehicles for an indefinite period.

At the close of the advertising period, one submission was received. Refer to Attachment 8.1.4c for the Schedule of Submissions, with the submissions received being entered into the schedule as verbatim. Column 4 of the Schedule of the Submissions represents Sustainability Service's comments/response to the submission.

Statutory Obligations:

Motorised vehicles, machinery and equipment, including motorbikes and all-terrain vehicles are prohibited from using the Rail Trail only under certain tenures.

- The *Shire of Denmark Local Government Property Local Law* relates to the Rail Trail only where its tenure is 'reserve' for the purposes related to a trail, not 'road reserve'. It allows the prohibition of certain activities on local government property:

Clause 2.8 (1). *A determination may provide that a person is prohibited from pursuing all or any of the following activities on specified local government property – (c) taking, riding or driving a vehicle on the property or a particular class of vehicle.*

- Section 3.50 of the *Local Government Act 1995* permits the Shire to close a thoroughfare to vehicles and sets conditions for notifying the public of the intended closure. This would apply to those areas of the Rail Trail whose current tenure is 'road reserve'. Under this Act, the closure can be for a specified period and the thoroughfare can be reopened.
- Section 58 of the *Land Administration Act 1997* allows a local government to request the Minister to permanently close a road. When a road is closed under this section, the Shire can request that the former road become part of a reserve (in this case, the Rail Trail reserve which is Crown land under management to the Shire). The road reserve is then generally disposed of to an adjoining landowner and/or vested with a management body, thus closure of a road reserve needs strategic consideration to ensure the road is not required into the future.
- An Easement was created to the Shire through No. 4312 (Lot 605) South Coast Highway Kentdale for the purposes of joining the Rail Trail to Parker Road. Under the conditions of the easement deed, vehicles are largely excluded from this portion of the Rail Trail:

2.1 *“Users to use the Easement for the purposes of gaining access to and from the Denmark to Nornalup Heritage Trail by foot or on horseback for leisure purposes, or by use of vehicles of any kind for emergency access or maintenance purposes, with the exception of any vehicle which will or may cause unreasonable damage to the Easement or the Land.”*

2.2(c) *“May not be exercised by more persons or vehicles than may be reasonably expected to use the Easement having regard to the present use of the Land and the purpose of the Denmark to Nornalup Heritage Trail”.*

Policy Implications:

Council Policy P110310 Denmark-Nornalup Heritage Rail Trail Access prohibits the use of any motor vehicle, including motorbikes and all-terrain vehicles, on the Rail Trail where tenure is 'reserve'. However, certain exclusions apply, including but not limited to:

- where the vehicle user owns land either side of the Rail Trail and access is required to facilitate the landuse eg. farming;
- a vehicle access permit has been issued; or,
- access is required by emergency services or for maintenance purposes.

This policy would also apply on closed portions of unmade road reserve or where the tenure of the Rail Trail is changed from road reserve to reserve.

It should be noted that the *Springdale Beach Estate Denmark Foreshore Management Plan (2014)* includes a recommendation relating to the tenure of the foreshore (which includes the Rail Trail) adjoining the Springdale Beach Estate:

Management Action 20. *Shire to update the tenure for the current section of the foreshore to the south of Springdale Beach Estate from a road reserve (Rudgyard Place) to Crown Reserve.*

Planning Services will be advertising the proposed permanent closure of this portion of the Rudgyard Place road reserve as per the relevant provisions of the *Land Administration Act 1997* in due course; noting that following advertising the matter will be referred back to Council for a formal resolution as required in accordance with the *Land Administration Act 1997*.

Budget / Financial Implications:

There are no long term budget or financial implications associated with closure of unmade portions of road reserve or change of tenure of sections of the Rail Trail. Regardless of the tenure, maintenance standards will remain the same as currently exists.

Advertising costs associated with the closures are provided for in the Shire's 2016/2017 Municipal Budget (Account 1040302).

Strategic & Corporate Plan Implications:

The report and officer recommendation is consistent with Council's adopted Strategic Plan Objectives and Goals and the Corporate Business Plan Actions and Projects in the following specific ways:

Strategic Community Plan

Social Objective – Denmark's communities, people and places are connected and creative, vibrant and dynamic, healthy and safe.

Social Goal: Recreation - Monitor all forms of recreational and cultural facilities and services, and take careful account of the level of community support for those in determining the improvements or new facilities to be supported together with their relative contribution to personal and community wellbeing.

Economic Objective - Denmark's economy is diverse and vibrant - its primary industries of tourism and agriculture rely on and enjoy natural and other assets that are sensibly managed and promoted.

Economic Goal: Transport - Acknowledge the importance of transport through and within its area, and, with the help of other relevant authorities and agencies, develops, implements and advocates for policies that provide quality, efficient and effective transport infrastructure and options amenity.

Corporate Business Plan

1.10.6 Investigate improvements to parks and reserves and implement improvements where appropriate.

3.4.3 Undertake upgrades to the Nornalup Denmark Heritage Rail Trail.

Sustainability Implications:

➤ **Governance:**

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

➤ **Environmental:**

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

➤ **Economic:**

Authorised persons will be able to infringe any vehicle using the Rail Trail where the tenure is reserve or closed road reserve (where access is not otherwise permitted under the Rail Trail Policy). The penalty under the *Local Government Property Local Law* is \$100.

Adjacent landowners that currently utilise vehicles on portions of the Rail Trail which are unmade road reserve may no longer be permitted access once the road reserve is formally closed and where not exempt under the Rail Trail Policy. In this case, adjacent landowners may be required to apply for a Rail Trail vehicle access permit (\$31 inc. GST according to the Shire’s 2016/17 Schedule of Fees and Charges).

➤ **Social:**

The Rail Trail is public land designated for the enjoyment of recreational users for the purposes of horse riding, bicycling and walking. In many areas, the Rail Trail shares an alignment with the internationally-renowned Munda Biddi Trail and Bibbulmun Track. Unauthorised vehicles on the Rail Trail create conflict and a safety hazard for recreational users and a liability issue for Council. By amending the Rail Trail’s tenure and/or closing unmade portions of road reserve, the permitted usage of vehicles on the Rail Trail is further diminished.

➤ **Risk:**

Risk	Risk Likelihood (based on history and with existing controls)	Risk Impact / Consequence	Risk Rating (Prior to Treatment or Control)	Principal Risk Theme	Risk Action Plan (Controls or Treatment proposed)
Council are liable for death or injury to a trail user as a result of an altercation with a vehicle on the trail	Rare (1)	Catastrophic (5)	Moderate (5-9)	Inadequate Employee or Visitor Safety & Security	Council modify Rail Trail tenure and close unmade road reserves. Otherwise continue with existing controls ie. Rail Trail Policy and signage along Rail Trail warning recreational users of vehicles on Trail

Comment/Conclusion:

From a review of the current land tenure along the Rail Trail, the following is recommended:

- Active road reserves – South Coast Highway, Limbourne Road, Benson Road, Station Road and Rudyard Place.
 - *Recommendation: Retain as is given the road reserve is still required as a public thoroughfare and for property access.*
- Unmade road reserves – Rudyard Place, Limbourne Road and Station Road.
 - *Recommendation: Close under the Local Government Act for an indefinite period (noting could close under the Land Administration Act however it is considered there is no additional benefit in going through this lengthy process and ensures could be utilised as road reserve into the future should the need arise).*
- Reserve number 41815 (Heritage Trail) – purpose is ‘Heritage Trail’.
 - *Recommendation: As only a small area of this reserve exists and it shares dual tenure with Reserve number 42507 in some areas, amalgamate Reserve 41815 into Reserve 42507.*
- Reserve number 30277 (Denmark No. 3 Railway Station) – purpose is ‘Historical Precinct, Recreation and Community Purpose’.
 - *Recommendation: As the Rail Trail traverses this reserve, which has additional uses and its own concept plan, no changes.*
- Easement to Shire for access purposes (2008) on No. 4312 (Lot 605) South Coast Highway Kentdale.

- No change possible given this portion of the Rail Trail is currently under an easement lease. Potential for the future purchase of the land if it becomes available and/or ceding of the land to the Shire via a subdivision approval process.
- Reserve number 42507 (Denmark Nornalup Rail Trail) – purpose is ‘Heritage Trail’.
 - Retain as this is the primary reserve associated with the Rail Trail.

Closure of Unmade Road Reserves

The aim of closing unmade road reserves is to prohibit the use of unauthorised vehicles, machinery and equipment on the Rail Trail. There are two methods of closing unmade road reserves: temporary closure under the *Local Government Act 1995* and permanent closure under the *Land Administration Act 1997*.

In accordance with Council resolution no. 101214, the closure of the unmade portions of Rudgyard Place and Station Road road reserves (refer Attachment 8.1.4b) to vehicles has already been publicly advertised, with only one submission (not objecting) received.

However, closure of the unmade portion of Limbourne Road road reserve has not yet been advertised as tenure was still being confirmed with Landgate at the time of referral of the Rudgyard Place and Station Road road closures report to Council. Sustainability Services recommends this portion of Limbourne Road (from Happy Valley Road west to the north-west boundary of No. 431 (Lot 37) Board Road, Kentdale) be closed to vehicles – refer Attachment 8.1.4d.

Conclusion

Overall Sustainability Services recommends closure of the road reserves under the *Local Government Act*, rather than proceeding with permanent closure under the *Land Administration Act*, given:

- less administrative burden;
- the closure can be reversed;
- much reduced decision timeframe; and,
- it achieves the same outcome as closure under the *Land Administration Act* ie. vehicles can still be legally be restricted from the Rail Trail.

Voting Requirements:

Simple majority.

COUNCIL RESOLUTION & OFFICER RECOMMENDATION	ITEM 8.1.4
MOVED: CR LEWIS	SECONDED: CR CARON
That with respect to the review of the Denmark-Nornalup Heritage Rail Trail Tenure, Council:	
1. Note the submission received in relation to the Rudgyard Place and Station Road road reserve closure;	
2. In accordance with Section 3.50(4) of the Local Government Act 1995 orders the closure of the unmade portions of Rudgyard Place and Station Road road reserves (as per Attachment 8.1.4b) to vehicles, machinery and equipment, including motorbikes and all-terrain vehicles for an indefinite period;	
3. Advise the submitter accordingly of Council’s resolution;	
4. Advertise its intent as per Section 3.50(4) of the Local Government Act 1995 to permanently close unmade sections of road reserve on Limbourne Road (as per Attachment 8.1.4d) which are part of the Denmark-Nornalup Heritage Rail Trail to motorised vehicles, machinery and equipment, including motorbikes and all-terrain vehicles; and	
5. Request the Minister for Lands to amalgamate Reserve 41815 into Reserve 42507.	
CARRIED UNANIMOUSLY: 6/0	Res: 051116

8.2 Director of Community & Regulatory Services

8.2.1 REFUND OF MCLEAN PARK ANNUAL HIRE FEES FOR WINTER SPORTING GROUPS

File Ref:	A3035
Applicant / Proponent:	McLean Park Winter Sporting Groups
Subject Land / Locality:	McLean Park Precinct / Reserve 15513
Disclosure of Officer Interest:	The Author declares an impartiality interest as he has children who are members of the winter sporting groups
Date:	19 October 2016
Author:	Damian Schwarzbach, Manager of Recreation & Youth Services
Authorising Officer:	Gregg Harwood, Director of Community & Regulatory Services
Attachments:	8.2.1 – Letters from the Denmark Walpole Football Club & the Denmark Walpole Junior Football Club

Summary:

Council has received letters from the Denmark Walpole Football Club (DWFC) and Denmark Walpole Junior Football Club (DWJFC) requesting Council waive the annual hire charges for the use of McLean Park due to the surface condition of the oval.

The author recommends that Council refund two thirds of the hire charges which represents the time span that the oval surface was below standard.

Background:

The McLean Park precinct is part of Reserve 15513 which is an “A” class reserve that is the subject of a management order to the Shire of Denmark (with power to lease provisions for maximum 21 years) for purpose of “Recreation & Showground”.

The Shire of Denmark’s sporting participation rate has increased over the past 5 years. This is due to a number of factors including Council’s Club Development Officer and the introduction of the State Government’s Kidsport program (families with a health care card eligible to receive up to \$200 per annum towards their sporting club costs). This increase in participation causes an increase in usage of the Shire’s principal sporting facility, McLean Park.

The oval surface has not been able to deal with the increase in rainfall this winter coupled with increased early winter season fixturing including a run of 4 home games in successive weekends for the senior football club, additional women’s senior soccer teams, junior & senior football training. The oval did not have an opportunity to recover either from the weather or the load of participation.

The DWFC Head Coach, Matt Candy, made a presentation to Council, during Public Question Time, at the 5 July 2016 meeting, summarised as follows;

4.2.4 Mr Matt Candy – Condition of McLean Park Oval

Mr Candy asked the Deputy Shire President if she could read out a letter which had been sent in from the Denmark Walpole Football Club which outlined a number of issues they had with the condition of the McLean Park Oval. Cr Gillies read out the letter.

Mr Candy, Head Coach of the Denmark Walpole Football Club, reiterated concerns contained in the letter over the current condition of the McLean Park Oval stating that drainage was inadequate making the oval unusable. Mr Candy stated that his main concern was the players’ safety and he had made a decision to discontinue use of the oval due to injury concerns. Mr Candy stated that he would like to see Council set in place a plan which could take into consideration the long term and regular use of the facility by the football club, soccer club and other users and suggested

that perhaps with a growing population Council may need to consider an additional oval in the future to provide sufficient playing surfaces for sporting clubs. Mr Candy asked whether Council could consider reducing the season fees that they pay for using the oval, given that they can't use it, and waiving or reducing the hire fees for the Recreation Centre where they now had to train.

Council at their meeting held on 16 August 2016 recognised the need to act and resolved as follows (Resolution No. 080816);

1. *That Council rank the submitted Department of Sport and Recreation (DSR), Community Sport and Recreation Facilities Fund (CSRFF) small grants application for the 2016/17 grant funding round applications in the following order;*
 - a) *Rank a small grant application for the Shire Recreation Strategic Plan and specific Master Plans for McLean Oval Precinct and the High School Oval as Council's only CSRFF small option providing sufficient quotes can be obtained in time to satisfy DSR funding requirements; and*
 - b) *Advise the Denmark Gymnastics Club that its CSRFF Small Grants Round will not be supported in this grant round as it is 1 - 2 years premature in terms of both DGC's own finances and Council's recreation planning process.*
 - c) *Advise the Denmark Gymnastics Club that it supports its endeavours to build a dedicated gymnastic facility at McLean Oval and that the matter will be a matter for consideration in the 2017/18 Budget process.*
2. *That Council make application for a Department of Sport and Recreation Annual Forward Planning Grant for Option 1 to improve the drainage at McLean Oval by installing additional drainage and replacing the surface of the western side of the oval as per Wood & Grieve Engineers/ Sports Technology Pty Ltd August 2016 report which will involve an anticipated project cost of \$366,850 and a Council contribution of vicinity of \$220,000 in the 2017/2018 budget.*
3. *That the western side of McLean Oval be top dressed with at least 15mm of sand but the area be checked for positive flow prior to implementation as per option 2C of Wood & Grieve Engineers/ Sports Technology Pty Ltd August 2016 report during the summer of 2015/2016.*
4. *That the western drain be surveyed and positive overland flow path be established.*

Council allocated \$80,000 in the 2016/17 Budget (Job Number 51676) which includes \$26,666 from a CSRFF Small Grant and \$53,334 Council funds.

Consultation:

The Officer has considered the requirement for consultation and/or engagement with persons or organisations that may be unduly affected by the proposal and considered Council's Community Engagement Policy P040123 and the associated Framework and believes that no additional external/internal engagement or consultation is required as the matter has been discussed at the McLean Oval User Group which is attended by representatives of each sporting code.

Statutory Obligations:

Section 6.12 of the Act refers to granting discounts, waiving or writing off debts. An absolute majority decision of Council is required.

Policy Implications:

Policy P110307 FEE SETTING POLICY FOR MCLEAN PARK & HIGH SCHOOL OVAL & RECREATION FACILITY USAGE lays the process for annual CPI increases and triannual reviews of McLean Park user fees.

The Manager of Recreation & Youth Services actually undertakes this process on an annual basis.

Budget / Financial Implications:

2016/17 current annual charges excluding GST with two thirds refund/fee waiver in brackets.

Denmark Soccer Club	\$576.36 (\$383.86)	New Fee \$192.50
Denmark Walpole Football Club	\$655.45 (\$436.53)	New Fee \$218.92
Denmark Walpole Junior Football Club	\$268.18 (\$178.61)	New Fee \$89.57
Denmark Junior Soccer Club	\$103.64 (\$ 69.00)	New Fee \$34.62

Cost to Council being \$1068.00 in refunded/waived fees.

Strategic & Corporate Plan Implications:

The report and officer recommendation is consistent with Council’s adopted Strategic Plan Objectives and Goals and the Corporate Business Plan Actions and Projects in the following specific ways:

Strategic Community Plan

Recreation: ...monitor all forms of recreational and cultural facilities and services, and take careful account of the level of community support for those in determining the improvements or new facilities to be supported together with their relative contribution to personal and community wellbeing.

SOCIAL OBJECTIVE - Denmark’s communities, people and places are connected and creative, vibrant and dynamic, healthy and safe.

Funding: ...be fiscally responsible and seek to develop both safe income generating assets and the maximisation of external funding, that will benefit the community and assist in meeting its aims and obligations.

Governance Objective: The Shire of Denmark provides renowned leadership in sustainability, is effective with both its consultation with its people and its management of its assets, and provides transparent and fiscally responsible decision making.

Corporate Business Plan

1.10.9 Implement the McLean Park Precinct improvements

Sustainability Implications:

➤ **Governance:**

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

➤ **Environmental:**

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

➤ **Economic:**

There are no known significant economic implications relating to the report or officer recommendation other than mentioned in under Budget implications.

➤ **Social:**

Council has recognised the significant community value of organised competitive sport.

➤ **Risk:**

Risk	Risk Likelihood (based on history and with existing controls)	Risk Impact / Consequence	Risk Rating (Prior to Treatment or Control)	Principal Risk Theme	Risk Action Plan (Controls or Treatment proposed)
That Council not support the waiver/refund of two thirds of the annual charge to the winter sporting groups	Unlikely (2)	Moderate (3)	Moderate (5-9)	Not Meeting Community expectations	Accept Officer Recommendation
That Council resolve to refund the full amount of the annual charge	Possible (3)	Minor (2)	Moderate (5-9)	Ineffective Management of Facilities and Events	Accept Officer Recommendation

Comment/Conclusion:

The 2016 winter sporting season has tested the community sporting groups and Council staff. The most important pre-requisite for the Shire’s sporting groups to participate, compete, train and socialise is the playing field surface.

For a portion of the season the oval was below an acceptable level to train and play on.

The DWJFC reported due to the declining condition of the oval they have had to relocate or reschedule many of their home games this season, resulting in only 3 junior rounds being played at McLean Park in 2016. Their Auskick teams who would usually utilise the oval most Saturdays have been unable to use the oval at all this season, and have had to switch between use of the high school and primary school ovals, depending on availability. This has significantly impacted on their Canteen cash flow which is a major source of revenue for the club.

The Author was instructed by the Director of Community & Regulatory Services to determine the percentage of time the ground was in a suitable condition for the winter sporting groups to utilise. This period was from February to April 2016 representing 2 months of “normal” use. The winter groups utilised the oval from February until September a period of 7 months. The recommendation of waiving or refunding two thirds of the annual charge is based on the fact that 2 out of 7 months was considered normal use.

5.32pm – Cr Bartlett left the room.

5.33pm – Cr Bartlett returned to the room.

Voting Requirements:

Absolute majority.

COUNCIL RESOLUTION & OFFICER RECOMMENDATION		ITEM 8.2.1
MOVED: CR LEWIS		SECONDED: CR CARON
<p>In recognition of the deterioration of the McLean Park oval playing surface due to an unseasonably wet winter that Council:</p>		
<p>1. Waive/refund the annual 2016/17 ground hire fees that have been charged for winter sporting groups who use McLean Park to two thirds of that shown in the 2016/17 schedule of fees and charges.</p>		
<p>The new fee for each club being;</p>		
Denmark Soccer Club	New Fee	\$192.50
Denmark Walpole Football Club	New Fee	\$218.92
Denmark Walpole Junior Football Club	New Fee	\$89.57
Denmark Junior Soccer Club	New Fee	\$34.62
<p>Cost to Council being \$1,068.00 in refunded/waived fees.</p>		
<p>2. Amend the 2016/17 Budget by decreasing Account 1137703 - Income from Reserves General from \$5,000 to \$3,932, noting a decrease in the Budget surplus of \$1068, resulting in a net Budget surplus of \$778.</p>		
CARRIED UNANIMOUSLY AND BY AN ABSOLUTE MAJORITY: 6/0		Res: 061116

8.3 Director of Infrastructure Services
Nil

8.4 Director of Finance & Administration

8.4.1 FINANCIAL STATEMENT FOR THE MONTH ENDING 30 SEPTEMBER 2016	
File Ref:	FIN.1
Applicant / Proponent:	Not applicable
Subject Land / Locality:	Denmark
Disclosure of Officer Interest:	Nil
Date:	25 October 2016
Author:	Steve Broad, Acting Director of Finance & Administration
Authorising Officer:	Steve Broad, Acting Director of Finance & Administration
Attachments:	8.4.1 – September Monthly Financial Report

Summary:

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

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

Background:

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

- Reconciliation of all bank accounts.

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

Consultation:

Nil

Statutory Obligations:

Local Government Act 1995 Section 5.25 (1)

Local Government (Financial Management) Regulations 1996

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

Policy Implications:

Policy P040222 - Material Variances in Budget and Actual Expenditure, relates;

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 \$10,000.

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.

A second tier reporting approach shall be a variance of 10% or greater of the annual budget estimates to the end of the month to which the report refers for each General Ledger/Job Account in the budget, as a level that requires an explanation, with a minimum dollar variance of \$10,000.

Budget / Financial Implications:

There are no significant trends or issues to be reported.

Strategic & Corporate Plan Implications:

The report and officer recommendation is consistent with Council's adopted Strategic Plan Objectives and Goals and the Corporate Business Plan Actions and Projects in the following specific ways:

Governance Objective: The Shire of Denmark provides renowned leadership in sustainability, is effective with both its consultation with its people and its management of its assets, and provides transparent and fiscally responsible decision making.

Sustainability Implications:**➤ Governance:**

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

➤ **Environmental:**

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

➤ **Economic:**

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

➤ **Social:**

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

➤ **Risk:**

Risk	Risk Likelihood (based on history and with existing controls)	Risk Impact / Consequence	Risk Rating (Prior to Treatment or Control)	Principal Risk Theme	Risk Action Plan (Controls or Treatment proposed)
Not meeting Statutory Compliance	Rare (1)	Moderate (3)	Low (1-4)	Failure to meet Statutory, Regulatory or Compliance Requirements	Accept Officer Recommendation
Financial mismanagement and/or Budget overruns.	Rare (1)	Moderate (3)	Low (1-4)	Inadequate Financial, Accounting or Business Acumen	Control through robust systems with internal controls and appropriate reporting mechanisms

Comment/Conclusion:

As at 30 September 2016 total cash funds held total \$16,173,796 (Note 4).

Shire Trust Funds total \$185,449 with the amount of \$174,287 invested for 180 days with the National Bank, maturing 18 December 2016 at the quoted rate of 2.80%.

Reserve Funds total \$10,912,263 and \$6,972,288 has been placed on investment for 30 days with the Western Australian Treasury Corporation at the quoted rate of 1.45% and \$3,560,922 has been invested with the National Bank, maturing 25 February 2017 at the quoted rate of 2.55%.

Municipal Funds total \$5,076,083 with the amount of \$3,057,006 invested with the National Bank, maturing on various dates up to the 8 November 2016 at an average rate of 2.28% (refer note 4 for detail).

Key Financial Indicators at a Glance

The following comments and/or statements provide a brief summary of major financial/budget indicators and are included to assist in the interpretation and understanding of the attached Financial Statements.

- Taking into consideration the adopted Municipal Budget and subsequent amendments identified, the estimated 30 June 2017 end of year position is estimated to be \$2,452 as per budget projections (Note 5).
- Operating revenue and expenditure is slightly lower than that predicted for 30 September 2016 (Statement of Financial Activity).
- Rates Collection percentage of 70.20% is in keeping with historical collection rates (Note 6).

- The 2016/17 Capital Works Program is 11.10% complete utilising actual year to date figures and total committed cost is 20.33% at 30 September 2016 (Note 12).
- Various transfers to and from Reserve Funds have not yet been made for 2016/17 and are generally undertaken in the latter half of the financial year, depending on specific projects to which these transfers relate.
- Salaries and Wages expenditure is in keeping with budget estimates (not reported specifically in Financial Statement).

Budget Amendments and Variances (Note 5 and 5a)

As detailed in Note 5a.

Voting Requirements:

Simple majority.

COUNCIL RESOLUTION & OFFICER RECOMMENDATION		ITEM 8.4.1
MOVED: CR CARON		SECONDED: CR BARTLETT
That with respect to Financial Statements for the month ending September 2016, Council;		
1. Receive the Financial Reports, incorporating the Statement of Financial Activity and other supporting documentation.		
2. Endorse the Accounts for Payment for September 2016 as listed.		
CARRIED UNANIMOUSLY: 6/0		Res: 071116

8.5 Chief Executive Officer

Nil

9. COMMITTEE REPORTS & RECOMMENDATIONS

Nil

10. MATTERS BEHIND CLOSED DOORS

Nil

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

Nil

12. CLOSURE OF MEETING

5.42pm – *There being no further business to discuss the Shire President, Cr Morrell, declared the meeting closed.*

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

Signed: _____
Bill Parker – Chief Executive Officer

Date: _____

These minutes were confirmed at a meeting on the _____.

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