

# Shire of Denmark Minutes

## ORDINARY MEETING OF COUNCIL

HELD IN THE COUNCIL CHAMBERS, SOUTH COAST HIGHWAY, DENMARK,  
ON TUESDAY, 15 JANUARY 2008, COMMENCING 5.05PM

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# Ordinary Council Meeting

15 January 2008

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Signed: Dale Stewart  
Chief Executive Officer

Dated: 16 January 2008

## PLEASE NOTE:

Council's policy is that the meeting on the third Tuesday of each month is a briefing/discussion meeting only and no decisions will be made on agenda items at this meeting. Decisions on the agenda items listed will be made at the meeting on the fourth Tuesday of the month.



### 3. PUBLIC QUESTION TIME

#### 3.1 RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE

##### 3.1.1 Ms Janice Marshall – Officers Report Order

At the Council meeting on the 18 December 2007, Ms Marshall raised the following question:

“Is there any chance of the order of Officer's reports being rotated?”

The question was discussed with the Shire President, Cr Kim Barrow, and the CEO provided the following response:

- I believe that the current order is well known by the public and to change them and or mix them up would not be beneficial to keeping an informed public;
- That Planning matters, arguably, are the most important element of our decision making that occurs at Council Meetings and the fresher and earlier in the meeting that the Councillors can deal with these reports the better;
- That typically ratepayers and residents in the public gallery come to listen to the debate and decision regarding Planning matters and by having these items first ensures that they are dealt with at a consistent time slot (at the start). People that have attended for a particular planning matter of interest can leave earlier rather than ‘guessing’ when the matter might be dealt with during the meeting;
- That the current system works and therefore change is not required;
- The current system suits officers travelling requirements.

#### 3.2 PUBLIC QUESTIONS

##### **Brian Humphries - Item 9.1.2 (Attachment B - Bushfire Management Plan)**

Do the Shire's Fire Regulations that are issued under the Bush Fire Act take legal precedence, or are they ancillary and secondary to any other fire management regime that might be approved under the Planning and Development Act?

This latter situation arises when proposals for fire management are submitted by a developer, as in this instance, when seeking amendment of the Town Planning Scheme.

Amongst other matters, the scheme amendment proposal is making a covert claim that the enforcement of the provisions of the Bush Fire Act (which by default means the Shire's Fire Regulations Notice) will be optional and discretionary (to whom and under what conditions is not mentioned) to the Fire Management Plan contained in the scheme amendment. By inference, this is asserting that the Fire Management Plan will be legally dominant over the Shire's fire regulations. This is preposterous.

It is also proposing specifications for Building Protection Zones that are significantly at odds with Council policy, a policy that is mandatory and relates, without exception, to every building in the Shire.

I ask you to think for a moment what this might mean. Consider the Community Fire Manager, the Shire Rangers and all the Shire Fire Control Officers who are required to inspect properties, or along with Shire office staff, to give advice to the public, each year on compliance to the fire regulations. When you have a regime of parallel fire regulations in place, which is the existing situation that I will justify

in a moment and which will be accentuated further if you approve of the Fire Management Plan in this proposed scheme amendment, you are condemning the Shire staff and all Shire FCO's to each have a portable laptop computer in their fire trucks. They will need this laptop computer in the field to enable them to inquire of each block of land before they can inspect that property for compliance, or give advice to the public, as to what might be the unique fire management specifications of that property. These specifications will most likely be quite different to those for adjoining properties.

Councillors, that is the practical on-the-ground implications of what you are being asked to approve in the scheme amendment proposal now before Council.

The proposal before Council will create a potential legal nightmare that will ultimately only benefit lawyers for an insurance company when involved in a disputed assessment of a claim for damages to property caused by a fire. Administratively and operationally, it will create a situation that is nigh impossible for the Shire to manage. It also does not provide the essential accountability on the Shire staff nor on any of the Shire FCO's; and it is not transparent to the rest of community.

It is incredulous that the Shire has not given proper professional advice in the first instance to the developers, let alone to Council at this late stage of the planning process, about all these matters. Further, the Officer's recommendation to Council for approval of the scheme amendment is silent on all these matters. This is but the tip of a very big iceberg because there have been 12 previous scheme amendments for Special Residential land approved by Council, as well as Landscape Protection Zones and the like, and they each have differing fire management regimes.

Mr Chairman, in summary, because of its variance technically to the Shire's fire regulations as well as the legal, administrative and operational confusion that it will inevitably create, the fire management proposal in this scheme amendment is not only compromising fire safety in our community but the developers are, in a consequential way, usurping Council's authority established through the Shire's Fire Regulations Notice to be the sole authority for such matters. As elected public officials, it is your duty of care to the community on fire safety to not approve of this proposal in its current form.

Councillors, you can safely ignore the technical details; you can safely ignore any operational considerations because my question is focused at the strategic policy level.

Council needs to consider the following new policies:

- (a) That any fire management plans already approved by Council in scheme amendments under the Planning and Development Act are subservient to the Shire's Fire Regulations Notice issued under the Bush Fire Act.
- (b) That Council, by asserting that it implements fire management policy through the Shire's Fire Regulations Notice, will not approve of any fire management plans put forward by developers in proposals for scheme amendments that do not acknowledge the dominance of the Shire's Fire Regulations Notice and its universal application across the Shire.

Finally Councillors, your decision should be simple and straightforward but be aware there are some compounding ramifications. The real crux of the problem behind all of the foregoing is that the Shire's Fire Regulations were developed in

the horse-and-buggy era in 1954 when the Bush Fire Act itself was first promulgated. The Shire's fire regulations have not kept pace with the progressive urbanisation of the Shire which is creating new and challenging demands on fire management. Changes in the regulations are necessary to respond to the changing lifestyle trends in our community.

Council needs to further consider instructing the Shire to formulate amendments to the Shire's fire regulations with a sense of urgency and with objective to introduce those amended regulations before the start of the next fire season.

Mr Chairman, the bottom line is that, in the interim until the Shire's fire regulations are modernised, developers have little option but to submit separate proposals for fire management. The Shire could be proactive and encourage developers to make recommendations to the Shire for any amendments to the Shire's Fire Regulations Notice where such amendments, if adopted, could progressively help to make the regulations universally more relevant to the changing landscape.

*The Shire President advised that the question will be taken on notice and responded to in writing.*

**Karen Anderson**

Why did the Shire Council approve a car wash recently given water concerns in Denmark?

*Cr Barrow responded - The Council did approve the car wash and the proponent was investigating a recycling unit and he understands that it is still being investigated.*

*The Manager, Planning & Development said that Council were not required to investigate water usage as part of the planning consent. The water is not being recycled at present and the proponent has an objective to reduce water consumption by 50%. Council were not in a position to refuse the development because it did not have a recycling process. Council encouraged the recycling of the water but did not require it.*

Ms Anderson also sought advice regarding the 24 hour operation, detergent spray and noise coming from the car wash.

*The Manager, Planning & Development noted that he had recently written to the owner with respect to noise and spray and whilst he had not specified a time to comply had brought the concerns to his attention. In relation to the hours of operation Council had given approval for a 24 hour operation and this could not be withdrawn.*

**Nick Ayton - Item 9.3.2**

Mr Ayton on behalf of the proponents provided clarification on a number of issues relating to vegetation, effluent disposal and the fire management plan.

**Janice Marshall**

Thanked the Shire Council for its Council Conversations page in the Denmark Bulletin.

Thanked Cr Sampson for keeping the community informed about what was going on through his blog.

**4. MEMBERS' REPORTS**

In accordance with policy A83 Councillor reports are included in the Councils Information Bulletin.

**5. APPLICATIONS FOR LEAVE OF ABSENCE**

Nil

**6. CONFIRMATION OF MINUTES**

**6.1 ORDINARY COUNCIL MEETING 18/12/07**

<b>COUNCIL DECISION</b>	<b>ITEM 6.1</b>
<b>MOVED: CR LAING</b>	<b>SECONDED: CR WAKKA</b>
That the minutes of the Ordinary Meeting of Council held on the 18 December 2007, be confirmed as a true and correct record of proceedings, subject to the following corrections:	
<ol style="list-style-type: none"> <li>1. That Page 10, Item 9.1.2 be amended to include the original part 4 of Cr Laings Notice of Motion prior to the unsupported amendment by Cr Syme which led to the Mover and Seconder agreeing to part 4 reflecting the removal of the words "a portion of the ex-industrial land at Kernutts Road as".</li> <li>2. That on Page 31, Cr Laings Impartiality Declaration be inserted in front of Item 9.4.1.</li> <li>3. Page 17, Item 9.1.5, Council Decision - the words 'Officer Recommendation' be replaced by 'Council Decision'.</li> <li>4. Page 17, Item 9.1.5, Council Decision - the word 'CARRIED' by Cr Syme be corrected to 'MOVED'.</li> </ol>	
<b>CARRIED: 11/0</b>	<b>Res: 010108</b>

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

Nil

**8. SUSPENSION OF STANDING ORDERS**

<b>COUNCIL DECISION</b>	<b>ITEM 8</b>
<b>MOVED: CR WAKKA</b>	<b>SECONDED: CR GRANT</b>
That all Standing Orders be suspended for the remainder of the agenda items to enable detailed discussion, Councillors' questions and briefing by staff on the agenda items in accordance with Council's policy that the meeting on the third Tuesday of each month is a briefing/discussion meeting only and no decisions will be made on agenda items at this meeting. Decisions on the agenda items listed will be made at the meeting on the fourth Tuesday of the month.	
<b>CARRIED: 11/0</b>	<b>Res: 020108</b>

## 9. REPORTS OF OFFICERS

### 9.1 Manager, Planning & Development

#### 9.1.1 DEVELOPMENT OF 68 GROUPED DWELLINGS – LOT 358 SMITH STREET

<b>File Ref:</b>	A1750
<b>Applicant / Proponent:</b>	Yaran Property Group
<b>Subject Land / Locality:</b>	Lot 358Smith Street, Denmark
<b>Disclosure of Officer Interest:</b>	None
<b>Date:</b>	17 January 2008
<b>Author:</b>	Phil Shephard
<b>Authorising Officer:</b>	Phil Shephard – Manager, Planning and Development
<b>Attachments:</b>	Yes

#### Summary:

Councillors undertook a site inspection of the land as requested at the December 2007 meeting.

#### Background:

Council has been requested by the proponents of the above development to reconsider certain aspects of the development (see attached correspondence) as follows:

- The upgrading of Smith Street
- The requirement for the lots to be a maximum of 1 in 10 slope.

Council at its September 2006 meeting resolved as follows:

*“That Council:*

- (1) *Note the revised site and dwelling designs submitted for the 68 grouped dwellings on Lot 358 Smith Street.*
- (2) *Accept the proposed Public Open Space area shown on the hill slope area with the area to be revegetated with local native species to create a green spine/vegetated corridor.*
- (3) *Accept the use of a temporary access route through the proposed public open space area until such time as Lots 60-68 can be serviced with vehicle access from abutting Lot 2. When this is achieved, the temporary access is to be removed and the area rehabilitated and ceded as public open space by the proponents/strata company free of cost and unencumbered under section 152 of the Planning and Development Act for open space purposes.*
- (4) *Approve the proposed development subject to the following conditions:*
  - a) Drainage  
*Sufficient information being provided to detail the pre- and post collection, storage and disposal methods of stormwater from the development. The information is required from a consulting civil engineer and as a minimum needs to include how the interface between the development and existing drainage easement on the adjoining lot will be treated. Council advises that any necessary upgrading of the existing stormwater drainage system outside of the site will be required to be designed, constructed and funded by the proponents, including organising any easements necessary for this purpose.*
  - b) House Design  
*The proponent seek the input of an urban designer to provide alternatives to the present design so that the density can be achieved whilst also providing a good quality urban design outcomes and interesting streetscape, such design to be to the satisfaction of the*

- Manager, Planning & Development.*
- c) Subdivision Design  
*A less formal road pattern and variety of lots be provided for throughout the site.*
- d) Building Sites and Retaining Walls  
*The lots being benched in sections of two or three lots (preferably three lots) to reduce the length of retaining walls.*
- e) Traffic Management  
*Alternative access routes, such as the opening of Smith Street, be used.”*

**Comment:**

Negotiations between the developers and staff have occurred since the meeting to achieve these requirements, however as outlined in the proponent's submission, they are requesting Council vary this decision.

Staff recommend that the Smith Street be constructed through to Mt Shadforth Road. Whilst there are some sight line issues and the intersection would require some tree removal and possibly truncations to be negotiated, it is considered to be a far superior outcome over the long-term than the use of Cherax Lane as proposed. The WA Planning Commission in conditionally approving the strata subdivision have placed road upgrading conditions including a condition that requires the proponents to fully construct Smith Street (along the property frontage of Lot 358) and in addition the proponents provide a financial contribution for the construction of the rest of Smith Street to Council's satisfaction.

Whilst staff acknowledges that this will add to the development costs the *Planning and Development Act* allows for the original subdivider to recover some of these costs from subsequent subdividers. As an option, Council may also decide to require the proponents construct only the section of Smith Street that fronts their property and pay a financial contribution (to be determined) to the construction of Smith Street from the western boundary of their land through to Mt Shadforth Road.

The proponents have requested that Council not insist on the 1 in 10 slope being achieved in the steeper areas of the development and now propose pole homes coupled with a 30m<sup>2</sup> deck area as an alternative to provide for outdoor entertainment uses. Staff still maintains that given the small lot sizes; concerns about erosion on steep sites; and enabling a purchaser to use the majority of the purchased lot, that the 1 in 10 slope requirement should be maintained. This requirement can be varied by Council and this has occurred in other developments around Denmark.

**Consultation:**

No consultation required.

**Statutory Obligations:**

- Planning & Development Act 2005 – TPS No. 3 is an operative Local Planning Scheme under the Act
- TPS No. 3 – zoned Residential R10/20

**Policy Implications:**

Town Planning Scheme No. 3 Policy 2.4 'Residential Areas' - This policy restricts finishes, height, fencing and future subdivision potential of certain areas within Denmark including this area with the goal of maintaining and building upon the existing residential character of Denmark.

**Budget / Financial Implications:**

There are no known financial implications upon the Councils current Budget or Plan for the Future. Dependent of the outcome of this item, Council may need to provide for a budget contribution towards the construction of Smith Street and relocation of the drainage sump and fence in Smith Street.

The required planning application fee has been paid.

**Strategic Implications:**

The subject land is identified for residential uses in Town Planning Scheme No. 3 Policy 28 'Settlement Strategy for Denmark' and Draft Denmark Local Planning Strategy.

**Sustainability Implications:**

➤ **Environmental:**

The development of deep sewerred housing in this area, retention of the hill slope area as public open space area with additional planting of native species is considered to produce a positive environmental benefit. The development/subdivision is required to include water sensitive urban design principles such nutrient stripping/sediment retention.

➤ **Economic:**

The proposed development will increase the rate income for the Shire.

➤ **Social:**

The development will create a choice in housing within the town.

**Voting Requirements:**

Simple majority.

<p><b>OFFICER RECOMMENDATION</b></p> <p>That Council advise the proponents that:</p> <ol style="list-style-type: none"> <li>1) Smith Street shall be constructed through to Mt Shadforth Road at the proponents cost (with them recouping some of those costs through the Planning and Development Act provisions from subsequent subdividers), and</li> <li>2) Council not insist on the 1 in 10 slope being achieved in the steeper areas (proposed lots 51 – 66) of the development subject to:             <ol style="list-style-type: none"> <li>a) these lots being developed with pole-style homes coupled with a minimum 30m<sup>2</sup>deck area to provide for outdoor entertainment uses,</li> <li>b) prospective purchasers of these lots being advised in writing by the proponents that any filling of these lots in the future will require the construction of suitable retaining walls, and</li> <li>c) any erosion of these lots will be the responsibility of the proponents to rectify to the satisfaction of Council.</li> </ol> </li> <li>3) All other requirements of the previous Council decisions in November 2005 and September 2006 being met.</li> </ol>	<p><b>ITEM 9.1.1</b></p>
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*Cr Syme commented that there may be a problem with pole homes being recommended by Council, in relation to energy efficiency and the Building Code of Australia.*

*The Manager, Planning & Development advised that he will investigate and provide further information for the next Council meeting.*

*Cr Syme requested in Part 3 that the previous conditions be re-listed.*

*Cr Thornton suggested that the Smith Street construction should be a contribution only pursuant to WAPC policy.*

*5.57pm - Cr Ebbett declared a financial interest on the basis that his wife is employed by the proponent. Cr Ebbett left the room and did not participate in discussion or vote on the matter.*

<p><b>9.1.2 DRAFT LOCAL STRUCTURE PLAN AND INITIATE SCHEME AMENDMENT NO. 106 FOR LOTS 348, 349 &amp; 350 KEARSLEY ROAD</b></p>
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<b>Location:</b>	Lots 348, 349 & 350 Kearsley Road
<b>File Ref:</b>	TPS3/A106
<b>Disclosure of Officer Interest:</b>	Nil
<b>Date:</b>	3 December 2007
<b>Author:</b>	Phil Shephard - Manager Planning & Development
<b>Attachments:</b>	Yes

**Summary:**

The amendment document has been modified as requested by Council at its December 2007 meeting.

Council has received the above formal scheme amendment documents and a request to initiate the rezoning of the above land from Rural to Special Residential and concurrently adopt for advertising the draft Local Structure Plan (LSP) for the area.

It is recommended the scheme amendment be initiated and the draft LSP be adopted for advertising.

**Background:**

Council at its April 2007 meeting considered a scheme amendment request (SAR) for the property and resolved as follows:

- “1) That Council support the SAR for Lots 348, 349 & 350 Kearsley Road subject to the amendment documents addressing the following:  
All of those matters listed in Planning Unit C of the Denmark Local Planning Strategy, and  
Those matters contained within the Department of Water and Department of Environment and Conservation advice on the SAR.
- 2) The proponents are advised that whilst formal scheme amendment documentation can be prepared by the proponents for Council consideration, it is likely that until the present infrastructure constraints (electricity and water supplies) are resolved the proposal may not be able to proceed.”

**Comment:**

A copy of the amendment document which includes the draft LSP also will be distributed to Councillors.

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

The proposed subdivision will create approximately 87 lots ranging from 2,000 – 5,000m<sup>2</sup>. The proponents seek to reserve the existing karri forest area under the

town planning scheme to be managed by a future incorporated landowners association (copy of request attached). Should Council choose to accept this request for private rather than public control of a future scheme reserve, it is recommended that additional scheme provisions be included to identify management requirements and responsibilities.

There is an area of the lots that the proponents recommend should be subject to additional site testing to determine the most appropriate effluent disposal system to be incorporated into the house. This is due largely to sheet laterite which would require ripping to improve drainage. Staff recommends that the use of surface irrigation systems rather than leach drains would greatly assist this outcome.

The amendment documents and LSP satisfy Council's April 2007 decision.

**Consultation:**

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

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

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

The LSP only requires the approval of Council and will then be forwarded to the Department for Planning and Infrastructure for endorsement.

**Statutory Obligations:**

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

Town Planning Regulations - The Regulations set the procedure for amending a town planning scheme.

Town Planning (Local Government Planning Fees) Regulations – sets out the amount of fees to be paid to Council for the assessment and administration of the amendment process.

Town Planning Scheme No. 3 – Zoned Rural.

**Policy Implications:**

Proposal complies with the findings of the Settlement Strategy and draft Local Planning Strategy.

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

**Financial Implications:**

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

**Strategic Implications:**

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

**Environmental Considerations:**

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

**Voting Requirements:**

Simple majority.

OFFICER RECOMMENDATION	ITEM 9.1.2
<p>That Council pursuant to the Planning and Development Act 2005 initiate Amendment No. 106 to Town Planning Scheme No. 3 to rezone Lots 348, 349 &amp; 350 Kearsley Road, Denmark from Rural to Special Residential and incorporate scheme provisions to control subdivision, land use and development and once authorised by the EPA, it be advertised for a period of 42 days.</p>	

6.11pm - Cr Burke left the meeting.

Cr Syme suggested that an alternate officer recommendation should be provided with respect to demonstrating adequate on site effluent.

6.34pm - Cr Ebbett returned to the meeting.

6.34pm - Cr Hinds declared a proximity interest on the basis that he is an adjoining landowner to this property. Cr Hinds left the room and did not participate in discussion or vote on the matter.

<p><b>9.1.3 FINAL APPROVAL FOR SCHEME AMENDMENT No. 98 TO REZONE LOT 366 cnr. HORSLEY/ROCKFORD ROADS TO RESIDENTIAL</b></p>
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<b>File Ref:</b>	TPS3/A98
<b>Applicant / Proponent:</b>	Ayton Taylor Burrell
<b>Subject Land / Locality:</b>	Lot 366 cnr. Rockford/Horsley Roads, Denmark
<b>Disclosure of Officer Interest:</b>	None
<b>Date:</b>	17 January 2008
<b>Author:</b>	Phil Shephard
<b>Authorising Officer:</b>	Phil Shephard – Manager, Planning and Development
<b>Attachments:</b>	Yes

**Summary:**

The statutory public notice period for the above scheme amendment has now been completed. A total of 16 submissions were received for consideration.

It is recommended that Council determine the submissions in accordance with the attached Schedule of Submissions and refer the amendment to the WA Planning Commission and Minister for final approval.

**Background:**

The scheme amendment was initiated by Council at its 25 September 2007 meeting (Item 9.1.7). The scheme amendment follows from the adoption of the Horsley/Rockford Roads Local Structure Plan by Council, which requires the land be rezoned to facilitate the subdivision and development of the land for residential purposes.

Amendment No. 98 seeks to:

- a) Rezone the above lot from the Rural to the Residential (R20) zone, and
- b) Include a general provision within the scheme to require the use of Detailed Area Plans (DAP's) for development of areas identified as being suitable for higher densities within adopted Local Structure Plans.

In accordance with the requirements of the *Planning and Development Act*, the amendment was firstly referred to the EPA for their assessment. They advised that the amendment was acceptable in correspondence dated 29 October 2007.

The amendment was then advertised for a period of 42 days to allow for public input and comment from Government Agencies.

**Comment:**

The submission from the Department of Health was received after the closing date for submissions; nevertheless staff has assessed their comments.

The rezoning was supported by Government Agencies. The submissions from surrounding landowners are mixed with some favouring and others objecting to the proposed rezoning for a variety of reasons as outlined. Whilst it is agreed that this proposal will create additional residential development, it has been planned in accordance with the Settlement Strategy, draft Denmark Local Planning Strategy and adopted Local Structure Plan and will assist in forming the boundary to urban residential development at McLean Road in this area of town.

The submissions do not require any modifications to the amendment document as advertised.

**Consultation:**

The amendment was advertised for a period of 42 days for submissions to be received.

The notice given included:

- Notice of amendment advertised in newspaper.
- Notice of amendment sign erected on-site.
- Notice of amendment placed on Council Notice Board.
- Letter to adjoining/nearby landowners requesting their comment.
- Referral of amendment document to Government Agencies requesting their comment (Department of Health, Department of Education and Training, Department of Indigenous Affairs, Water Corporation, Western Power, Telstra, Department of Environment and Conservation, Department of Water and Fire and Emergency Services Authority).

A total of 16 submissions were received for consideration (see attached Schedule of Submissions).

**Statutory Obligations:**

- Planning & Development Act 2005 and Town Planning Regulations sets out the procedures to undertake an amendment to a Town Planning Scheme including referral to EPA, public notice period, referral to WAPC and Minister's decision-making powers.
- Town Planning Scheme No. 3 – land is presently zoned Rural.

**Policy Implications:**

There are no policy implications.

**Budget / Financial Implications:**

To be recouped from the application as prescribed under the Planning and Development (Local Government Planning Fees) Regulations 2000.

**Strategic Implications:**

Proposed rezoning is consistent with draft Denmark Local Planning Strategy (DLPS) and Settlement Strategy. The rezoning will assist Council meet the outcomes of those strategies.

**Sustainability Implications:**

➤ **Environmental:**

As outlined in the amendment document.

➤ **Economic:**

The proposed development will increase the rate income for the Shire.

➤ **Social:**

The development will potentially create a choice in housing within the town.

**Voting Requirements:**

Simple majority.

OFFICER RECOMMENDATION	ITEM 9.1.3
That Council:	
1) determine the submissions as contained in the attached Schedule of Submissions, and	
2) pursuant to section 87 of the Planning and Development Act 2005 seek final approval to Town Planning Scheme No. 3 - Amendment No. 98 from the Minister for Planning and Infrastructure without modification.	

*Discussion ensued.*

*6.36pm - Cr Hinds returned to the meeting.*

**9.1.4 SCHEME AMENDMENT REQUEST – LOTS 92, 93 & 94 LIGHTS ROAD/BIMBIMBI WAY**

<b>File Ref:</b>	A2392, A2393 & A2394
<b>Applicant / Proponent:</b>	Thompson McRobert & Edgeloe
<b>Subject Land / Locality:</b>	Lots 92, 93 & 94 Lights Road/Bimbimbi Way, Denmark
<b>Disclosure of Officer Interest:</b>	None
<b>Date:</b>	17 January 2008
<b>Author:</b>	Phil Shephard
<b>Authorising Officer:</b>	Phil Shephard – Manager, Planning and Development
<b>Attachments:</b>	Yes

**Summary:**

Council has received the above scheme amendment request (SAR) to consider rezoning the above land from Special Rural to Special Residential.

It is recommended the amendment request be denied.

**Background:**

A SAR for this land was received and in accordance with Council Policy A.80

'Scheme Amendment Requests' was initially referred to the Department of Environment and Conservation (DEC), Department for Planning and Infrastructure (DPI) and Department of Water (DoW) for comment.

All agencies have responded and their comments are discussed below.

**Comment:**

A copy of the SAR document submitted by the proponents is attached which includes the rationale and justification for the proposed rezoning to special residential. The proposal is to rezone the 3 lots and allow for their resubdivision as shown in the plan of subdivision.

The government agencies comments on the SAR are summarised as follows:

*Department for Planning and Infrastructure (DPI)*

The DPI does not support the proposed rezoning for a variety of reasons including:

- Existing lots are part of a larger special rural zone and the proposed subdivision would be an intrusion
- Represents an unplanned spread and undesirable precedent for smaller lots westwards of the existing residential area and would also increase the number of unsewered lots in the vicinity of the inlet
- Subsequent development on the lots would substantially increase the area of remnant vegetation required to be cleared for housing.

*Department of Environment and Conservation (DEC)*

The DEC do not object to the proposal and provide advice on matters including fire protection, clearing controls and permits, protection of flora/fauna, stormwater management to reduce any adverse impacts on local hydrology, acid sulphate soils, effluent disposal and building envelopes/setbacks to creekline.

*Department of Water (DoW)*

The DoW does not support the proposal as they are principally against any subdivisions that create additional boundaries across a waterway such as the case here.

The rezoning of this land to allow for the resubdivision of the subject lots is not dealt with specifically within the adopted TPS Policy No 28 'Settlement Strategy' or draft Denmark Local Planning Strategy (DLPS).

The proponents conclude that:

- The proposed special residential zoning creates an intermediate zoning in the area and utilises the existing water and power services available to these lots.
- Maintain and improve scheme controls over development on the lots.
- The additional density promoted is logical due to the services available to these lots and mimics similar developments such as Harington Break (north of Mt Hallowell).

Whilst these points are noted, they do not represent sufficient justification for the proposal to proceed. The matters raised within the government agencies comments would require significant changes to the proposed development if it were to proceed. The clearing and additional lots across the creekline that would result from the proposal is not considered to be consistent with the original intention of the special rural zone (created in 1989) to limit clearing and protect the creekline area.

Whilst the present strategies do not deal with the proposal specifically, the proposal does not enjoy the support of government agencies such as the DPI and DoW and it is unlikely that any subsequent scheme amendment would be supported.

Should Council wish to support the proposal, it is recommended that the views of all landowners within the existing special rural zone be sought and the proposal be modified in accordance with government agency advice, before proceeding to the amendment stage.

**Consultation:**

The SAR has been referred to the DPI, DEC and DoW for comment as indicated above.

**Statutory Obligations:**

- Planning & Development Act 2005 - TPS No. 3 is an operative Local Planning Scheme under the Act.
- Town Planning Scheme No. 3 – Lights Road Special Rural Zone (Area No. 6).

**Policy Implications:**

- Council Policy A.80 ‘Scheme Amendment Requests’ – The SAR has been submitted and processed in accordance with the Policy.
- Town Planning Scheme Policy No 28 ‘Settlement Strategy’ – Not specifically dealt with.
- Draft Denmark Local Planning Strategy – Not specifically dealt with.

**Budget / Financial Implications:**

The SAR fee has been paid by the proponents.

**Strategic Implications:**

The subject lot is within an area identified for Urban/Non Rural/Rural Residential and Existing Residential/Special Residential/Special Rural and Tourist Zoned Land under the draft Denmark Local Planning Strategy.

**Sustainability Implications:**

➤ **Environmental:**

There are no known significant environmental considerations relating to this report. The environmental issues that relate to this proposal include land capability assessment, remnant vegetation protection, servicing infrastructure, flora/fauna impacts, creekline/foreshore management, fire protection, drainage/nutrient management etc.

➤ **Economic:**

There are no known significant economic considerations relating to the report. The proposed development will increase the rate income for the Shire.

➤ **Social:**

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

**Voting Requirements:**

Simple majority.

<b>OFFICER RECOMMENDATION</b>	<b>ITEM 9.1.4</b>
<p>That Council not support the SAR for Lots 92, 93 &amp; 94 Lights Road, Denmark on the basis that:</p> <ol style="list-style-type: none"> <li>1) Insufficient justification and/or planning merit for the proposed rezoning to special residential has been provided;</li> <li>2) The subsequent development of the land for the new housing would require the removal of substantial additional areas of remnant vegetation which is not considerable desirable; and</li> <li>3) The proposed subdivision design would create additional pressure on the existing creekline area.</li> </ol>	

Discussion ensued.

<b>9.1.5 SCHEME AMENDMENT REQUEST – LOT 2 EAST RIVER ROAD</b>
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<b>File Ref:</b>	A319
<b>Applicant / Proponent:</b>	Ayton Taylor & Burrell
<b>Subject Land / Locality:</b>	Lot 2 East River Road, Denmark
<b>Disclosure of Officer Interest:</b>	None
<b>Date:</b>	17 January 2008
<b>Author:</b>	Phil Shephard
<b>Authorising Officer:</b>	Phil Shephard – Manager, Planning and Development
<b>Attachments:</b>	Yes

**Summary:**

Council has received the above scheme amendment request (SAR) to consider rezoning the above land from Rural to Special Rural.

It is recommended the amendment request be supported.

**Background:**

A SAR for this land was received and in accordance with Council Policy A.80 ‘Scheme Amendment Requests’ was initially referred to the Department of Environment and Conservation (DEC), Department for Planning and Infrastructure (DPI) and Department of Water (DoW) for comment.

All agencies have responded and their comments are discussed below.

**Comment:**

A copy of the SAR document submitted by the proponents is attached which includes the rationale and justification for the proposed rezoning to special rural. The proposal is to rezone the subject land to allow for subdivision into 2ha lots.

The government agencies comments on the SAR are summarised as follows:

*Department for Planning and Infrastructure (DPI)*

The DPI supports the amendment subject to various requirements including:

- Land capability assessment
- Subdivision design to incorporate recommendations of land capability assessment and be sensitive to remnant vegetation and creekline
- Improved connectivity being provided through to existing special rural developments to the east
- Incorporating land within existing special rural area controls and updating

scheme provisions regarding bushfire control and restricting fencing in remnant vegetation areas.

*Department of Environment and Conservation (DEC)*

The DEC do not object to the proposal and provide advice on matters including fire protection, clearing controls and permits, protection of flora/fauna habitat, stormwater management/protection corridor to reduce any adverse impacts on Denmark River and creekline.

*Department of Water (DoW)*

The DoW does not object to the proposal and recommends fencing and a 25m setback to the creekline be established through the amendment/subdivision process.

The rezoning of this land to special rural is supported by the adopted draft Denmark Local Planning Strategy (DLPS).

The matters raised within the government agencies comments require that any subsequent scheme amendment incorporate the adjoining rural land and existing special rural zone to the east and incorporate modifications to improve existing scheme controls over the whole area to provide a consistent approach to future subdivision/development. This includes the protection of the creekline and remnant vegetation in the area.

Given the DPI support to include the rezoning within the existing special rural zone, staff expects that they have also agreed to relax the reticulated water requirement for lots under 4ha's in this case, which is the approach supported by Council and the draft Denmark Local Planning Strategy. Staff is following this matter up with the DPI Regional Office.

Staff supports the amendment request and recommends that the comments from the government agencies be incorporated into the scheme amendment stage, particularly in regard to integrating with the land and special rural zone to the east.

Council has been made aware of the need for serving infrastructure (water and electricity) upgrades by the Water Corporation and Western Power. Some of these solutions require the provision of major upgrades to the existing services and advice from these agencies is that the upgrades are expected to be undertaken over the next 1-3 years. This situation may affect the timing of some of these types of developments and Council urges the proponents to discuss their particular requirements directly with the relevant agency.

**Consultation:**

The SAR has been referred to the DPI, DEC and DoW for comment as indicated above.

**Statutory Obligations:**

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

**Policy Implications:**

- Council Policy A.80 'Scheme Amendment Requests' – The SAR has been submitted and processed in accordance with the Policy.
- TPS Policy No 28 'Settlement Strategy' and TPS Policy No 29 'Rural Settlement Strategy' – Land is identified for Water/Landscape Protection/Horticulture.

- Draft Denmark Local Planning Strategy – land included for Urban/Non Rural/Rural residential purposes.

**Budget / Financial Implications:**

The SAR fee has been paid by the proponents.

**Strategic Implications:**

The subject lot is within an area identified for Urban/Non Rural/Rural Residential under the draft Denmark Local Planning Strategy.

**Sustainability Implications:**

➤ **Environmental:**

There are no known significant environmental considerations relating to this report. The environmental issues that relate to this proposal include land capability assessment, remnant vegetation protection, road upgrading, servicing infrastructure, flora/fauna impacts, creekline/foreshore management, fire protection, drainage/nutrient management etc.

➤ **Economic:**

There are no known significant economic considerations relating to the report. The proposed development will increase the rate income for the Shire.

➤ **Social:**

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

**Voting Requirements:**

Simple majority.

OFFICER RECOMMENDATION	ITEM 9.1.5
<p>That Council support the Scheme Amendment Request for Lot 2 East River Road, Denmark on the basis that it is consistent with the outcomes of the Rural Settlement Strategy and draft Denmark Local Planning Strategy and</p>	
<ol style="list-style-type: none"> <li>1) Require the scheme amendment to include the following:             <ol style="list-style-type: none"> <li>a) Inclusion of the adjoining rural land and special rural zone to the east into one combined special rural area including a road connection;</li> <li>b) The lots to be based upon satisfactory results from a land capability assessment;</li> <li>c) The subdivision design to incorporate the recommendations of land capability assessment and be sensitive to remnant vegetation and creekline areas;</li> <li>d) Protection of the creekline and remnant vegetation areas through scheme controls to reflect the Department of Water advice; and</li> <li>e) Modifications to the existing special rural scheme controls regarding bushfire control and fencing within remnant vegetation areas as recommended in the Department for Planning and Infrastructure advice, and</li> </ol> </li> <li>2) Advise the proponents to submit formal scheme amendment documentation to the satisfaction of the Manager, Planning and Development for Council consideration.</li> </ol>	

*Cr Syme stated that there is no mention in the recommendation about a contribution by the Proponent for the upgrade of East River Road.*

*The Manager, Planning & Development advised that he would amend the recommendation.*

*Prior to any consideration of Item 9.1.6 Cr Syme made the following declaration:*

*“I am a member of the Williams Bay Volunteer Bush Fire Brigade and as a consequence there may be a perception that my impartiality on this matter may be affected. I declare that I will consider this matter on its merits and vote accordingly.”*

*Prior to any consideration of Item 9.1.6 Cr Sampson made the following declaration:*

*“I am the secretary of the Williams Bay Volunteer Bush Fire Brigade and as a consequence there may be a perception that my impartiality on this matter may be affected. I declare that I will consider this matter on its merits and vote accordingly.”*

<b>9.1.6 RESERVES 18716 &amp; 19543 SOUTH COAST HIGHWAY</b>
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<b>File Ref:</b>	A3049 & A3060
<b>Applicant / Proponent:</b>	Department for Planning and Infrastructure
<b>Subject Land / Locality:</b>	Reserves 18716 & 19543 South Coast Highway, Denmark
<b>Disclosure of Officer Interest:</b>	None
<b>Date:</b>	17 January 2008
<b>Author:</b>	Phil Shephard
<b>Authorising Officer:</b>	Phil Shephard – Manager, Planning and Development
<b>Attachments:</b>	Yes

**Summary:**

Council received a request from the Department for Planning and Infrastructure to consider accepting the management of the above reserves (plan attached).

It is recommended the proposal be supported.

**Background:**

At present the 2 reserves are unmanaged by any particular government agency. Reserve 18716 is set aside for ‘Water and Camping’ and Reserve 19543 is set aside for ‘Public Utility’ under the Land Administration Act.

The William Bay Bushfire Brigade headquarters have been constructed on Reserve 19543.

**Comment:**

Given that the fire shed has been constructed upon Reserve 19543, it is recommended that Council accept the Management Order. The adjoining Reserve 18716 is heavily vegetated and contains a tributary of the Little River Catchment and adjoins the heritage trail. Staff also supports the accepting of the Management Order for this land.

Both of the reserves are reserved under the town planning scheme for Parks and Recreation purposes and the acceptance of the Management Orders would assist Council achieve this aim.

The present Management Order for Reserve 18716 should be amended to include the additional use of ‘Bushfire Brigade Headquarters’ to reflect its present use.

**Consultation:**

The proposal has not been subject to public consultation.

**Statutory Obligations:**

- Planning & Development Act 2005 – TPS No. 3 is an operative Local Planning Scheme under the Act and the reserves are shown as Parks and Recreation Reserves within the scheme.
- Land Administration Act – The Shire of Denmark would become the controlling authority of the Reserves under the Management Order.

**Policy Implications:**

There are no policy implications.

**Budget / Financial Implications:**

The cost of managing the reserves would be required to be met by Council. No estimates of these annual costs have been made.

**Strategic Implications:**

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

**Sustainability Implications:**

➤ **Environmental:**

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

➤ **Economic:**

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

➤ **Social:**

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

**Voting Requirements:**

Simple majority.

OFFICER RECOMMENDATION	ITEM 9.1.6
<p>That Council advise the Department for Planning and Infrastructure that it accepts the Management Order for Reserves 18716 and 19543 South Coast Highway, Denmark subject to the purpose for Reserve 19543 being amended to include the use 'Bushfire Brigade Headquarters'.</p>	

*The Manager, Planning & Development noted that he would have a look at whether reference to the historic school site on Council's MHI and potential for closing the disused road reserve could be included in the recommendation.*

*6.47pm - Cr Barrow declared a proximity interest in relation Items 9.1.7 & 9.1.8 on the basis that he is an Agent for Sale of adjoining land. Cr Barrow left the room and did not participate in discussion or vote on the matter.*

*6.47pm - Cr Ebbett assumed the chair.*

<b>9.1.7 VESTING OF LOTS 131 &amp; 132 GLENDALE CLOSE</b>
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<b>File Ref:</b>	A3018
<b>Applicant / Proponent:</b>	Department for Planning and Infrastructure
<b>Subject Land / Locality:</b>	Lots 131 & 132 (ex-Lot 650) Glendale Close, Denmark
<b>Disclosure of Officer Interest:</b>	None
<b>Date:</b>	17 January 2008
<b>Author:</b>	Phil Shephard
<b>Authorising Officer:</b>	Phil Shephard – Manager, Planning and Development
<b>Attachments:</b>	Yes

**Summary:**

Council received a request from the Department for Planning and Infrastructure to consider accepting the management of the above lots (plan attached) and their inclusion within adjoining Reserve 13039 'Park'.

It is recommended the proposal be supported, in part.

**Background:**

The 2 lots were created out of the subdivision of Lot 650 Scotsdale Road and were set aside under the Planning and Development Act as 'Reserves for Recreation'.

**Comment:**

Given that the lots form part of the Denmark River foreshore and environs, it is recommended that the Management Order be amended to alter the purpose to 'Foreshore Protection' to better reflect the potential future use of the land. These areas are also shown as being subject to flooding during a 1 in 100 year flood event.

Both of the lots are still zoned Residential under the town planning scheme and staff recommend that Council commit to including the lots within a future omnibus amendment to convert the land to Drainage and Waterbodies reserves within the scheme.

The matter of combining the lots with the adjoining Reserve 13093 'Park' and accepting the Management Order for the whole area is not supported by staff unless there is some financial contribution from the Department to Council for the management costs of the entire reserve. These requests have not been supported by the Department in the past. Alternatively they could be vested in agencies such as the Department of Water or Department of Environment and Conservation for this purpose.

**Consultation:**

The proposal has not been subject to public consultation.

**Statutory Obligations:**

- Planning & Development Act 2005 – TPS No. 3 is an operative Local Planning Scheme under the Act and the lots are zoned residential within the scheme. Upon the lots becoming scheme reserves, land use and development will still be controlled by the scheme.
- Land Administration Act – The Shire of Denmark would become the controlling authority of the Reserves under the Management Order.

**Policy Implications:**

There are no policy implications.

**Budget / Financial Implications:**

The cost of managing the reserves would be required to be met by Council. No estimates of these annual costs have been made.

**Strategic Implications:**

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

**Sustainability Implications:**

➤ **Environmental:**

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

➤ **Economic:**

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

➤ **Social:**

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

**Voting Requirements:**

Simple majority.

OFFICER RECOMMENDATION	ITEM 9.1.7
That Council;	
1) Advise the Department for Planning and Infrastructure that it:	
a) Accepts the Management Orders for Lots 131 & 132 Glendale Close, Denmark subject to the purpose being amended to 'Foreshore Protection'.	
b) Does not support the inclusion of Lots 131 & 132 Glendale Close, Denmark into adjoining Reserve 13039 'Park' or the Management Order for the whole reserve.	
2) Agree to include Lots 131 & 132 Glendale Close within the Drainage and Waterbodies reserve through a future omnibus amendment.	

*Discussion ensued.*

**9.1.8 VESTING OF LOT 134 GLENDALE CLOSE**

<b>File Ref:</b>	A1230
<b>Applicant / Proponent:</b>	Department for Planning and Infrastructure
<b>Subject Land / Locality:</b>	Lot 134 (ex-Lot 650) Glendale Close
<b>Disclosure of Officer Interest:</b>	None
<b>Date:</b>	17 January 2008
<b>Author:</b>	Phil Shephard
<b>Authorising Officer:</b>	Phil Shephard – Manager, Planning and Development
<b>Attachments:</b>	Yes

**Summary:**

Council received a request from the Department for Planning and Infrastructure to

consider accepting the management of the above lot (plan attached).

It is recommended the proposal be supported.

**Background:**

The lot was created out of the subdivision of Lot 650 Scotsdale Road and were set aside under the Planning and Development Act as 'Reserves for Drainage'.

**Comment:**

Given that the lot forms now forms part of the stormwater drainage system controlled by Council, it is recommended that the Management Order be accepted.

The lot is still zoned Residential under the town planning scheme and staff recommend that Council commit to including the lot within a future omnibus amendment to convert the land to a Public Use reserve within the scheme.

**Consultation:**

The proposal has not been subject to public consultation.

**Statutory Obligations:**

- Planning & Development Act 2005 – TPS No. 3 is an operative Local Planning Scheme under the Act and the lot is zoned residential within the scheme. Upon the lot becoming a scheme reserve, land use and development will still be controlled by the scheme.
- Land Administration Act – The Shire of Denmark would become the controlling authority of the Reserves under the Management Order.

**Policy Implications:**

There are no policy implications.

**Budget / Financial Implications:**

The cost of managing the reserve would be required to be met by Council. No estimates of these annual costs have been made.

**Strategic Implications:**

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

**Sustainability Implications:**

➤ **Environmental:**

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

➤ **Economic:**

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

➤ **Social:**

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

**Voting Requirements:**

Simple majority.

<b>OFFICER RECOMMENDATION</b>	<b>ITEM 9.1.8</b>
That Council;	
1) Advise the Department for Planning and Infrastructure that it accepts the Management Order for Lots 134 Glendale Close, Denmark for the purpose of 'Drainage'.	
2) Agree to include Lot 134 Glendale Close within the Public Use reserve through a future omnibus amendment.	

*Discussion ensued.*

*6.50pm - Cr Barrow returned to the meeting & resumed the chair.*

*6.51pm - Cr Thornton left the meeting.*

**9.2 Manager, Finance**

*6.51pm - Manager, Planning & Development left the meeting.*

<b>9.2.1 MONTHLY FINANCIAL REPORT TO 30 NOVEMBER 2007 &amp; ABBREVIATED FINANCIAL POSITION STATEMENT TO 31 DECEMBER 2007</b>
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As attached.

OFFICER RECOMMENDATION	ITEM 9.2.1 (1)
That the Monthly Financial Report to 30 November 2007 be received.	

*Noted.*

OFFICER RECOMMENDATION	ITEM 9.2.1 (2)
That the Abbreviated Financial Position Statement to 31 December 2007 be received.	

*Noted.*

<b>9.2.2 ACCOUNTS PAID DURING THE MONTH</b>
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As per the attached Schedule for information.

*Noted.*

**9.2.3 REQUEST FOR FINANCIAL ASSISTANCE**

<b>File Ref:</b>	#3035
<b>Applicant / Proponent:</b>	1 <sup>st</sup> Denmark Scouts
<b>Subject Land / Locality:</b>	Mc Lean Park Reserve
<b>Disclosure of Officer Interest:</b>	Nil
<b>Date:</b>	17 January 2008
<b>Author:</b>	Dean Taylor - Deputy CEO/Manager, Finance
<b>Authorising Officer:</b>	Dean Taylor - Deputy CEO/Manager, Finance
<b>Attachments:</b>	No

**Summary:**

Council has received a request from the 1<sup>st</sup> Denmark Scouts requesting further financial assistance for the renovation of the Scout Hall at McLean Park.

**Background:**

Council has included in its 2007/2008 budget \$10,000 for renovations – specifically for the lining of the internal walls of the hall. To date \$8,300 has been spent or committed.

The Scouts have identified that the gables at the ends of the hall are lined with asbestos and would like the material removed. They have obtained a quote for the removal of \$1,800, the cost of disposal/ licenses etc will be additional. Replacement of the gable ends with polycarbonate will cost a further \$3,047.

In addition to the gable ends the cladding on both sides of the building are also asbestos. It is estimated that the removal and replacement of the side cladding would cost an additional \$10,000 to \$12,000

Councils Principal Building Officer has inspected the building and advised “at present there is no broken or flaky material that would constitute a health risk and as such there is no need to replace the asbestos. The walls and gables do contain intermittent "skylight" sheets which have weathered and possibly need to be replaced; these sheets can be replaced without the need to replace the asbestos”

The Scouts have requested additional financial assistance towards removing and replacing the asbestos ends but have not specified an amount.

**Comment:**

The Scout Association holds a 21 year lease over the premises which will terminate in 2023. The lease requires the lessee to maintain and repair the premises.

The shire has no responsibility and is under no obligation to maintain or improve the building in any way during the term. Nevertheless council included in the 2007-2008 - \$10,000 towards the lining of the hall.

The Community Financial Assistance Grant Program provides an opportunity for community groups to apply to council for funding for projects. It is recommended that council advise the 1<sup>st</sup> Denmark Scouts that they should consider applying for assistance in next years round of funding

**Consultation:**

1<sup>st</sup> Denmark Scouts.

**Statutory Obligations:**

There are no statutory obligations.

**Policy Implications:**

Council has a number of processes for considering financial requests including the Denmark Community Financial Assistance Grant (policy A73), Shire of Denmark Cultural Development Fund (policy A17) and the CEO's donations (delegation 04). Council is also requested to provide commitments to funding for the Community Sport and Recreation Facilities Fund and occasionally other sources of grant funds.

These processes provide adequate opportunity for community groups to request financial assistance and when followed, enable council to responsibly budget for the requests.

Council regularly receives requests for financial assistance from community groups outside of councils adopted processes. Ad Hoc requests result in council having to consider unbudgeted expenditure and to a large extent reflect a lack of planning by the requesting group.

In the past, procedurally any requests outside of the above processes have been referred to council for consideration for unbudgeted expenditure. In view of councils decision concerning Delegation 04 in December 2007 it is proposed to adopt a similar administrative approach to "Ad Hoc out of budget requests"

That is, proponents will be advised of councils funding procedures and be requested to apply for the next round of the appropriate funding. Any such advice will be included in council's monthly *Information Bulletin*.

**Budget / Financial Implications:**

The 2007/2008 budget includes \$20,000 for applications under the Community Financial Assistance Grant, these funds are currently under allocated by \$8,590.

**Strategic Implications:**

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

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

Councils Principal Building Officer has inspected the building and advised "at present there is no broken or flaky material that would constitute a health risk and as such there is no need to replace the asbestos"

**➤ Economic:**

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

**➤ Social:**

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

**Voting Requirements:**

Simple majority.

<b>OFFICER RECOMMENDATION</b>	<b>ITEM 9.2.3</b>
<p>That Council;</p> <ol style="list-style-type: none"> <li>1) Advise the 1<sup>st</sup> Denmark Scouts that applications for financial assistance should be made under the Denmark Community Financial Assistance Grant program. The next round of funding will be advertised in May 2008 and they are invited to apply.</li> <li>2) Approve as a policy of Council the administration response to Ad Hoc out of budget expenditure requests as detailed in the Officer Recommendation.</li> </ol>	

*Discussion ensued.*

<b>9.2.4 CONTRACT FOR THE PROVISION OF LICENSING SERVICES</b>
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<b>File Ref:</b>	GOV 31
<b>Applicant / Proponent:</b>	Department of Planning and Infrastructure – Licensing Division
<b>Subject Land / Locality:</b>	N/A
<b>Disclosure of Officer Interest:</b>	Nil
<b>Date:</b>	17 January 2008
<b>Author:</b>	Dean Taylor - Deputy CEO/Manager, Finance
<b>Authorising Officer:</b>	Dean Taylor - Deputy CEO/Manager, Finance
<b>Attachments:</b>	No

**Summary:**

Council has received a new contract for the Provision of Licensing Services. Council is required to decide whether it wishes to commit to the new contract.

**Background:**

In June 2007 Council was advised of a review of the contract conditions by the Department of Planning and Infrastructure regarding the provision of Licensing Services at the Shire of Denmark. At that time council was advised that commissions were expected to increase by approximately 27% and that council would be required to provide credit card facilities and pay the appropriate bank/merchant fees.

Since that time the Western Australian Local Government Association (WALGA) has been involved in negotiating a contract on behalf of Local Government, the new contract has resulted from these negotiations.

The contract is similar in many aspects to the current contract the main differences being an automatic adjustment of commissions based upon movements in CPI, the requirement for the Local Government to provide credit card facilities and a term of 10 years. The contract does not include a financial review clause nor an ability for council to withdraw from the contract. The contract does allow for the contract to be terminated “by mutual agreement”

**Comment:**

*Council has over the past 8 years renewed the Licensing Contract on an annual basis despite being offered longer contracts by the department. The reluctance in agreeing to an extended contract has been primarily financial but to a certain extent; a question of whether Council should be involved in providing this type of service.*

*For a number of years Council ran the service as a loss but considered the service was worthy of Councils financial subsidy. For the last 2 years the service has been running at a small profit. The increase in commission offered in the new contract is expected to be largely offset by the increases in credit card merchant fees.*

*The new contract provides for an automatic increase in commission equivalent to CPI however the costs of operating the service, principally labour and bank fees, have historically increased at a greater rate than CPI. It can therefore be anticipated that over a ten year term the contract will become increasingly less financially viable.*

*The term of ten years is considered to be an extremely long commitment for this type of service and as such Council needs to be absolutely sure that it wishes to make that commitment.*

*The term of ten years and CPI adjustment is fixed under the WALGA negotiated contract. It is unclear why WALGA has agreed to such a long term and merely CPI increases without a review clause or the ability to withdraw from the contract. These issues make it difficult to recommend the acceptance of this particular contract for the Denmark community.*

*In discussions with the Department of Planning and Infrastructure they have advised that the WALGA contract is the only one they are willing to discuss. They did however indicate that should the Shire of Denmark refuse the WALGA contract then the department may be willing to negotiate a separate contract for Denmark.*

*WALGA has been unable to provide any further advise other than a general statement that the Shire of Denmark should undertake its own negotiations if it is dissatisfied with the proposed contract.*

*In the June 2007 Council received a report that indicated that "If the Council decided not to continue as a licensing agency; Australia Post will provide this service in Denmark.*

*On average the Shire of Denmark processes around 10,000 transactions per year; of those approximately 81.6% of transactions relate to renewals of drivers licenses, motor vehicle licenses or firearms licenses etc, 9.1% relate to the updating of existing information such as change of address – these transactions (90.7%) would be able to be undertaken by Australia Post."*

The difficulties of staffing the service were also identified as a problem for the Shire of Denmark.

The Council at the time decided to continue with the service even though the provision of licensing services is not core Local Government business. Unless Council wishes to review this position it may be necessary to accept the contract.

**Consultation:**

Nil

**Statutory Obligations:**

There are no statutory obligations.

**Policy Implications:**

There are no policy implications.

**Budget / Financial Implications:**

The current budget incorporates the current contract arrangements. If Council decided not to continue with the service it would be necessary to assess the effect

on Councils budget and staffing levels.

**Strategic Implications:**

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

**Sustainability Implications:**

➤ **Environmental:**

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

➤ **Economic:**

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

➤ **Social:**

If Council decided to no longer undertake the re-licensing of vehicle these activities would need to be undertaken at another agency.

**Voting Requirements:**

Simple majority.

OFFICER RECOMMENDATION	ITEM 9.2.4
That Council;	
<ol style="list-style-type: none"> <li>1) Advise the Department of Planning and Infrastructure – Licensing Business Unit that it is unwilling to commit to the proposed 10 year contract but is willing to negotiate an amended contract which addresses the following;                     <ol style="list-style-type: none"> <li>a) Commission payment increases linked to increases in wages and bank fees.</li> <li>b) Periodical review of the contract terms and conditions including payments and costs.</li> <li>c) Ability for either party to terminate the contract by giving 6 months notice in writing.</li> </ol> </li> <li>2) Advise the Western Australian Local Government Association that it is disappointed with the negotiated contract, particularly with regard to the above points.</li> </ol>	

*Discussion ensued.*

### 9.3 Manager, Engineering Services

**9.3.1 REQUEST TO WAIVE LANDFILL FEES FOR TYRES**

<b>File Ref:</b>	WST 1
<b>Applicant / Proponent:</b>	Denmark TAFE College
<b>Subject Land / Locality:</b>	McIntosh Road Landfill Sites
<b>Disclosure of Officer Interest:</b>	Nil
<b>Date:</b>	17 January 2008
<b>Author:</b>	Rob Whooley - Manager, Engineering Services
<b>Authorising Officer:</b>	Not Applicable
<b>Attachments:</b>	No

**Summary:**

A request to collect tyres and waive Landfill Fees has been made by the TAFE College. This item recommends Council advise that tip fees will not be waived.

**Background:**

The TAFE College has up to 220 used tyres stored surplus to a project. The majority are car tyres. The tyres were primarily sourced from Tyrepower and the Pony Club. The college has asked that the tyres be removed and taken to Landfill.

**Comment:**

It was indicated to the TAFE by the former CEO that the tyres would be removed but no action was taken to formalise that undertaking.

**Consultation:**

Nil

**Statutory Obligations:**

Local Government Act 1995  
Environmental Protection Act 1986

**Policy Implications:**

There are no policy implications.

**Budget / Financial Implications:**

Councils fees are \$4/ car tyre and \$7/truck tyre. The tip fees would amount to approximately \$1000 and the handling, load and haul costs would be around \$650. Total cost of \$1,650.

**Strategic Implications:**

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

**Sustainability Implications:**

➤ **Environmental:**

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

➤ **Economic:**

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

➤ **Social:**

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

**Voting Requirements:**

Absolute majority required to waive tip fees.

Simple majority required to decline request.

**OFFICER RECOMMENDATION**

**ITEM 9.3.1**

That Council advise the TAFE College that it will only undertake the works to remove tyres from their land in accordance with the Council adopted fees and charges & private works rates.

*Discussion ensued.*

*7.06pm - The Deputy CEO/Manager, Finance left the meeting.*

*7.07pm - Cr Barrow declared a proximity interest on the basis that he is an Agent for the developer. Cr Barrow left the room and did not participate in discussion or vote on the matter.*

*7.07pm - Cr Ebbett assumed the chair.*

**9.3.2 REQUEST FOR EASEMENT BY LWP PROPERTY GROUP**

<b>File Ref:</b>	WAPC 132310
<b>Applicant / Proponent:</b>	LWP Property Group
<b>Subject Land / Locality:</b>	Council Administration Building and Golf Course
<b>Disclosure of Officer Interest:</b>	Nil
<b>Date:</b>	17 January 2008
<b>Author:</b>	Rob Whooley – Manager of Engineering Services
<b>Authorising Officer:</b>	Rob Whooley – Manager of Engineering Services
<b>Attachments:</b>	Yes

**Summary:**

A request to provide an easement in favour of the Water Corporation has been received from Opus International acting on behalf of LWP Property Group.

**Background:**

LWP Property Group are exploring avenues to provide water to the “Springdale Beach” subdivision.

Main Roads WA have indicated that the section of South Coast Highway road reserve, fronting the Council administration building and the golf course, is too narrow to accommodate the water main. MRWA would prefer an alternative location if at all possible.

Concept drawings of the proposed alignment have also been submitted.

**Comment:**

The details of the requested easement are as follows:

Easement 1 (Shire of Denmark Offices Lot 151 Chainage 985 to 1195)

- The easement width required is 4m and approximately 210m in length. As can be seen from Drawings JI34-2-2 and JI34-2-3 (enclosed) the 4m width extends south from the cadastral boundary and covers the entire length of lot 151.

- An asphalt footpath shall be constructed to replace the existing footpath for the length of Easement 1. Any existing footpath damaged as a result of construction work will be replaced like for like.
- All efforts will be made to preserve vegetation on shire land, and elsewhere along the alignment for that matter, with thrust boring to be employed under trees with a diameter greater than 100mm.
- A revegetation program will be developed to ensure that the loss of habitat is minimised and that existing aesthetics are not diminished.

**Easement 2 (Golf Course JI34-2-4 and JI34-2-5 Chainage 2020 to 2320)**

- The easement width required varies from 4 to 8m extending south from the cadastral boundary. The length is approximately 300m.
- The first 100m is located in the golf course and will require a 4m wide easement. Over this 100m the alignment coincides with a fairway tee-off area which will be rehabilitated following the installation of the water main or thrust bored.
- The remaining 200m section follows existing cleared areas following the Western Power line as mentioned above. The width of the existing clearing is 3m therefore minimal clearing will be required.
- Any revegetation required along this section will be covered in the revegetation program as mentioned in Easement 1.

No apparent easement exists for the Western Power line.  
Council has no obligation to provide an easement.

**Consultation:**

Nil

**Statutory Obligations:**

Local Government Act 1995  
Environmental Protection Act 1986

**Policy Implications:**

There are no policy implications.

**Budget / Financial Implications:**

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

**Strategic Implications:**

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

**Sustainability Implications:**

➤ **Environmental:**

Clearing along the route would be required. The most affected areas would be near Flay Street, in front of the tennis courts and along the golf course.

➤ **Economic:**

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

➤ **Social:**

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

**Voting Requirements:**

Simple majority.

OFFICER RECOMMENDATION	ITEM 9.3.2
<p>That Council decline the request to provide an easement:</p> <p>OR</p> <p>That Council agree in principle to provide an easement subject to:</p> <ol style="list-style-type: none"> <li>1. Any conditions imposed by Council officers;</li> <li>2. A 3m wide concrete recreational path capping the water main;</li> <li>3. The footprint of the water main being pegged on site and the final alignment being subject to Council inspection and approval by the CEO;</li> <li>4. Approval and implementation of a re-vegetation plan;</li> <li>5. Any temporary protection or facilities required for pedestrians be implemented.</li> </ol>	

*Discussion ensued.*

*7.27pm - Cr Barrow returned to the meeting & resumed the chair.*

**9.4 Chief Executive Officer**

**9.4.1 WILSON INLET SANDBAR OPENING**

<b>File Ref:</b>	ORG 41
<b>Applicant / Proponent:</b>	Not Applicable
<b>Subject Land / Locality:</b>	Wilson Inlet
<b>Disclosure of Officer Interest:</b>	Nil
<b>Date:</b>	17 January 2008
<b>Author:</b>	Dale Stewart, Chief Executive Officer
<b>Authorising Officer:</b>	Dale Stewart, Chief Executive Officer
<b>Attachments:</b>	Yes

**Summary:**

The report seeks to endorse the recent decision of the EPA in relation to the Wilson Inlet Opening and put in place a delegation to the CEO to implement Councils obligations under the Opening Protocol.

**Background:**

Council decision of 27 February 2007 was;

*MOVED: CR SYME*

*SECONDED: CR DONNELLY*

*That Council adopt 1.1m AHD as the minimum level for the opening of the Wilson Inlet Sandbar and the Wilson Inlet Sandbar Opening Protocol (June 2006) be amended accordingly.*

*CARRIED: 11/0*

*Res: 55/07*

Technically Council had no authority to amend the protocol as it is a tripartite agreement between three authorities (it is not Councils document). Since that time however the EPA has stepped in with a new decision that effectively means that the bar will not be artificially breached below 1.05m.

Council has a similar protocol for the opening of the Irwin Inlet and has delegated this authority to the CEO. No such similar delegation or policy exists with respect to the Wilson Inlet given it is principally managed by other authorities.

**Comment:**

Whilst Council sought for the minimum height to be 1.1m AHD, the EPA has determined that it will be a minimum of 1.05m unless the Water Corporation can successfully appeal this decision with supporting evidence resulting in a lower breaching height.

**Consultation:**

The Council has previously consulted and relies on the WIMAG as its 'eyes and ears' to the community through two Council representatives and six community representatives.

**Statutory Obligations:**

There are no statutory obligations relevant to the Council (there may be with respect to the Water Corporation) and certainly are on the Water Corporation and Department of Water in relation to the EPA ruling (no person shall cause the bar to be breached below 1.05m less they be liable for prosecution and a significant financial penalty).

**Policy Implications:**

There are no policy implications other than Council previously supporting the 2000 and 2006 versions of the protocol. There are no existing delegations or policies of Council in Councils policy manual or delegation register relating. This new delegation gives authority to the CEO to implement the as amended protocol (refer attached) with respect to the Councils obligations under the agreement.

**Financial Implications:**

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

**Strategic Implications:**

There are significant strategic implications relating to the report and the officer recommendation with respect to the health and wellbeing of the inlet, its marine life and the environment, which in turn have huge impact on the inlet for its social and recreational values to our community.

**Environmental Considerations:**

There are known significant environmental considerations relating to the report and officer recommendation which are supported through continued endorsement of the WIMAG's Opening Protocol.

**Voting Requirements:**

Absolute majority required due to it being a delegation request.

**OFFICER RECOMMENDATION** **ITEM 9.4.1**

That with respect to the tripartite Wilson Inlet Sandbar Opening Protocol (revised version 2007) Council;

1. Suggest that the Wilson Inlet Management Group recommend to the Department of Water and Water Corporation (the two other co-signatories to it) that it be amended to reflect a minimum bar opening at AHD 1.05m pursuant to the Environmental Protection Authority decision of October 2007 and that all these parties be required to sign the agreement;
2. Delegate authority to the Chief Executive Officer to implement the actions required in it of the Shire of Denmark, subject to a minimum AHD of the inlet of 1.05mm being reached.

*\* Note: Absolute majority required*

*Discussion ensued.*

**10. COMMITTEE REPORTS & RECOMMENDATIONS**

Nil

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


Nil

*7.28pm - The Manager, Engineering left the meeting.*

**12. CLOSURE OF MEETING**

*7.29pm - There being no further business to discuss the Presiding Person, Cr Kim Barrow declared the meeting closed.*

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

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

Date: 16 January 2008

These minutes were confirmed at a meeting on the 22 January 2008.

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

Date: \_\_\_\_\_