



Minutes

ORDINARY MEETING OF COUNCIL

HELD IN THE COUNCIL CHAMBERS,
953 SOUTH COAST HIGHWAY, DENMARK ON
TUESDAY, 10 NOVEMBER 2015.

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Ordinary Council Meeting

10 November 2015

DISCLAIMER

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1. DECLARATION OF OPENING/ANNOUNCEMENT OF VISITORS

5.03pm - 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 Kelli Gillies (Deputy Shire President)
- Cr Yasmin Bartlett
- Cr Ceinwen Gearon
- Cr Jan Lewis
- Cr Dawn Pedro
- Cr John Sampson
- Cr Roger Seeney
- Cr Rob Whooley

STAFF:

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

APOLOGIES:

- Mr Martin Buczak (Acting Director of Infrastructure Services)

ON APPROVED LEAVE(S) OF ABSENCE:

Nil

ABSENT:

Nil

VISITORS:

- Members of the public in attendance at the commencement of the meeting: 18
- Members of the press in attendance at the commencement of the meeting: 1

DECLARATIONS OF INTEREST:

Name	Item No	Interest	Nature
Mrs Annette Harbron	8.1.2	Impartiality	Mrs Harbron owns property in Wishart Place.
Cr Kelli Gillies	10.1	Financial and Proximity	Cr Gillies' daughter is one of the applicants.

3. ANNOUNCEMENTS BY THE PERSON PRESIDING

Nil

4. PUBLIC QUESTION TIME

4.1 RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE

Nil

4.2 PUBLIC QUESTIONS

In accordance with Section 5.24 of the Local Government Act 1995, Council conducts a public question time to enable members of the public to address Council or ask questions of Council. The procedure for public question time can be found on the 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 7.00pm.

Questions from the Public

4.2.1 Mr David Keel – Item 8.1.1 (Retrospective Kennel Establishment – No. 194 (Lot 2) Board Road, Parryville)

Mr Keel spoke in support of the application.

Councillors asked some questions about the proposed development which were answered by Mr Keel.

4.2.2 Ms Sam Blythe – Item 8.1.1 (Retrospective Kennel Establishment – No. 194 (Lot 2) Board Road, Parryville)

Ms Blythe spoke in support of the application.

Councillors asked some questions about the proposed development which were answered by Ms Blythe.

4.2.3 Mr Jesz Fleming – Proposed Boat Ramp Study

Mr Fleming requested an update on the status of the proposed boat ramp study.

The Chief Executive Officer advised that there had been a pending Notice of Motion involving the Council's Resolution about the matter however it had not eventuated. Mr Stewart advised that he intended to put it out to quote in coming weeks.

Mr Fleming asked what the likely turnaround time would be.

The Chief Executive Officer responded two to three months to appoint.

4.2.4 Mr Craig Chappelle – Item 7.3 (Cr Whooley – Notice of Motion)

Mr Chappelle stated that he believed that there was information contained within the Notice of Motion which contradicted information that was published by the local paper. Mr Chappelle said that the local paper had reported that Mr Whooley had been dismissed in June 2015 but the Notice of Motion referred to Mr Whooley's resignation. Mr Chappelle asked for some clarification on the disjunction.

The Chief Executive Officer advised that the Notice of Motion had been withdrawn by the Councillor and therefore it would not be considered or debated by the Council.

4.2.5 Mr Graham Hawkins – Item 8.1.2 (Proposed Single House and Outbuilding – No. 18 (Lot 31) Wishart Place, Denmark

Mr Hawkins stated as the applicant he was available to answer any questions that Councillors may have had about the proposed development.

Councillors asked some questions of the proponent which were answered by Mr Hawkins.

4.2.6 Ms Karen Cussons – Item 8.1.1 (Retrospective Kennel Establishment – No. 194 (Lot 2) Board Road, Parryville)

Ms Cussons spoke in support of the application.

4.2.7 Ms Jenny Newman – Item 8.1.1 (Retrospective Kennel Establishment – No. 194 (Lot 2) Board Road, Parryville)

Ms Newman spoke in support of the application.

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 SPECIAL COUNCIL MEETING

COUNCIL RESOLUTION & OFFICER RECOMMENDATION	ITEM 6.1
MOVED: CR SAMPSONS	SECONDED: CR SEENEY
That the minutes of the Special Meeting of Council held on the 20 October 2015 be confirmed as a true and correct record of the proceedings, subject to the following amendment;	
1. Page 45 – Under Item 11, correct the word “Ross” to “Rowland”.	
CARRIED UNANIMOUSLY: 9/0	Res: 011115

6.2 ORDINARY COUNCIL MEETING

OFFICER RECOMMENDATION	ITEM 6.2
MOVED: CR SAMPSON	SECONDED: CR GILLIES
That the minutes of the Ordinary Meeting of Council held on the 20 October 2015 be confirmed as a true and correct record of the proceedings, subject to the following amendment;	
1. Page 10 – Correct “Cr Yasmin” to “Cr Bartlett” under Item 4.2.1 in the two places where the error occurs.	
CARRIED UNANIMOUSLY: 9/0	Res: 021115

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

The following Notices of Motion were received on the 30 October 2015 and therefore comply with the Shire of Denmark Standing Orders Local Law clause 3.10, however were received following the publication of the Agenda and distribution to Councillors and the public.

7.1 Cr Whooley – Recording of Elected Members Voting

Cr Whooley comment: It is considered the community is interested in how Councillors vote on matters where the vote is not unanimous. Such recording will assist in preventing speculative comments in terms of how Councillors may, or may not, have voted on a particular issue.

CEO comment: The Local Government Act 1995 section 5.21 (4) states;

*“If a member of a Council or a Committee specifically requests that there be recorded –
 (a) his or her vote; or
 (b) the vote of all members present,*

on a matter voted on at a meeting of the Council or the Committee, the person presiding is to cause the vote or votes, as the case may be, to be recorded in the Minutes.”

Thus, legislation already provides protection to Elected Members in the event that they wish to be recorded as not voting for or against a particular matter, for whatever reason, often to do with fear of subsequent litigation. Should the Council support the intent of the Notice of Motion, and it is carried, the administrative practice would be added to Council Policy P040134 – Standing Orders Procedures. The Officer is of the view that the principle is already provided for in legislation and the Councillor’s motion is unnecessary and administratively cumbersome, adding to both the length of meeting time and the Minutes themselves and also potentially, increasing the exposure to additional personal liability of individual Councillors.

COUNCIL RESOLUTION	ITEM 7.1
MOVED: CR WHOOLEY	SECONDED: CR LEWIS
That Council request the names of elected members voting for and against all motions be recorded in the published minutes.	
CARRIED: 5/4	Res:031115

Pursuant to Resolution No.031115 all Councillors’ votes on the above resolution are recorded as follows;

FOR: Cr Gearon, Cr Gillies, Cr Whooley, Cr Bartlett and Cr Lewis.

AGAINST: Cr Sampson, Cr Pedro, Cr Seeney and Cr Morrell.

7.2 Cr Whooley – Construction of the WOW Walk

Cr Whooley comment: The ideal time for constructing this walk is March and April. Deferring the construction pending a review of the budget should have no negative impact.

CEO comment: The WOW Walk and Ride project is currently included in the Great Southern Development Commission (GSDC) Blueprint and incorporated into a Business Case as part of a broader strategic trail network. Council Officers are currently awaiting assessment of four concurrent grant applications that may fund 50% of the estimated construction cost of the trail, with the Council currently budgeting for its 50% contribution over the financial years of 2015/16 and 2016/17. It is not intended to commence construction until or if the Council or the GSDC is successful with one or more of its grant applications. If the Council is successful with any grant the matter would be referred to Council for acceptance or rejection of the grant. Construction would thereafter be scheduled, however would indicatively not commence until approximately March 2016.

If, with this information the Notice of Motion is still desired to be put, it may be prudent for the Council to defer consideration of the Notice of Motion until all Councillors have been able to be briefed on the strategic importance of the trail.

COUNCIL RESOLUTION	ITEM 7.2
MOVED: CR WHOOLEY	SECONDED: CR GEARON
That Council defer work on the construction of the WOW walk pending the mid-year financial review.	
ADJOURNMENT MOTION	
MOVED: CR GILLIES	SECONDED: CR SEENEY
That the motion be adjourned until the January 2016 meeting.	
CARRIED UNANIMOUSLY: 9/0	Res: 041115

7.3 Cr Whooley – Former Employment of the Director of Infrastructure Services

Cr Whooley comment: Nil

CEO comment: The former Director of Infrastructure Services commenced employment with the Shire of Denmark on the 17 October 2005 and whose employment was terminated by the Shire of Denmark, by the CEO as his employer, effective the 5 June 2015.

Prior to consideration of the Notice of Motion, the CEO is of the opinion that Elected Members require consideration of relevant and material facts and circumstances pertaining to such matters as policy, insurance, risk, budget and the law. In addition, it may be prudent to defer the matter to the last item of the meeting to discuss this matter behind closed doors, pursuant to clause 3.7 of the Shire of Denmark Standing Orders Local Law and section 5.23 (2) (b) (d) and (e) of the Local Government Act 1995.

To do so would require a motion to that effect.

ITEM 7.3

MOVED: CR WHOOLEY

That Council, following the Local Government election result, acknowledge the resignation of the Director of Infrastructure Mr Rob Whooley and thank him for his significant commitment to the community and Council over the last 10 years.

Post Script: Cr Whooley forwarded advice via email to the Chief Executive Officer and Councillors on Monday, 9 November 2015 advising that he wished to withdraw the above Notice of Motion.

8. REPORTS OF OFFICERS

8.1 Director of Planning & Sustainability

8.1.1 RETROSPECTIVE KENNEL ESTABLISHMENT – NO. 194 (LOT 2) BOARD ROAD, PARRYVILLE

File Ref:	A9 (2015/131)
Applicant / Proponent:	S Blythe and D Keel
Subject Land / Locality:	No. 194 (Lot 2) Board Road, Parryville
Disclosure of Officer Interest:	Nil
Date:	22 October 2015
Author:	Marieke de Vries, Senior Town Planner
Authorising Officer:	Annette Harbron, Director of Planning & Sustainability
Attachments:	8.1.1a – Development Approval Application Documentation 8.1.1b – Schedule of Submissions 8.1.1c – Proponents Response to Submissions Received 8.1.1d – Part 4: Approved Kennel Establishments from the Dogs Local Law 2001 (as amended) 8.1.1e – Site Photos

Summary:

The applicant is seeking Retrospective Development Approval to operate a Kennel Establishment for the boarding, keeping and/or breeding of dogs at No. 194 (Lot 2) Board Road, Parryville.

Having regard to the submissions received from the public advertising period, the relevant provisions of Town Planning Scheme No. 3 (TPS No. 3), the Shire of Denmark’s Dogs Local Law 2001 (as amended) and the Shire of Denmark’s Health Local Laws 1998 (as amended), it is recommended that:

- a) Development Approval be granted subject to appropriate conditions; and
- b) A Licence for an Approved Kennel Establishment be granted subject to appropriate conditions.

Background:

Current Application

An application for Retrospective Development Approval was lodged with Planning Services in July 2015 seeking retrospective approval for a Kennel Establishment for the boarding, keeping and/or breeding of up to 25 adult dogs – refer Attachment 8.1.1a for the development approval application documentation.

In summary, the numbers are broken down as follows:

- 6 dogs are the proponent’s own dogs;

- Maximum of 19 dogs boarding at the premises when there are no puppies over 3 months old; and
- Number of boarding dogs reduced depending on number of puppies over 3 months of age, to a maximum of 25.

It should be noted that an application to keep 6 dogs at the premises was lodged with the Shire in November 2014 - noting that as per the Shire of Denmark Dogs Local Law and Dog Act 1976 the keeping of more than 2 dogs required approval by the Chief Executive Officer. The proponents were advised in March 2015 by the Director of Community & Regulatory Services that an application for a Kennel Licence (which can encompass the keeping and breeding of dogs) would be more appropriate given that boarding/day care of dogs was also occurring.

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 has undertaken the following level of consultation:

External Consultation:

The proposal was advertised for public comment in accordance with Clause 6.4 of TPS No.3 and Clause 4.3 of the Shire of Denmark's Dogs Local Law 2001 from 10 September 2015 to 2 October 2015 as follows:

1. An advertisement was placed in the Denmark Bulletin on the 10 September 2015 inviting public comment;
2. Advertising notice inviting public comment on the proposal being displayed at the Shire Administration Office and on the Shire's website;
3. Referral to all adjoining landowners within a 500 metre radius of site inviting comment; and
4. Referral to the RSPCA.

From the public advertising period, five (5) submissions were received (noting that as part of the application documentation there were nine (9) letters of support from people who have an association with the applicant's business to the proposal; these have not been included into the submission numbers but have been included in Attachment 8.1.1a for reference).

Attached at Attachment 8.1.1b 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. The applicant has also provided a response to the submissions received – refer Attachment 8.1.1c is the applicant's responses to the submissions received.

Internal Consultation:

- Development Co-ordination Unit

Statutory Obligations:

Town Planning Scheme No. 3 (TPS No. 3) specifies the pertinent development requirements for the site, along with the relevant provisions of the Shire of Denmark's Dogs Local Law 2001 (as amended) and the Shire of Denmark's Health Local Laws 1998 (as amended).

Should Council refuse this Development Application, as per the provisions 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 D050202: Dogs – Local Law & Dog Act 1976, the Chief Executive Officer does not have delegated authority to determine an application for the issue of a licence for an approved kennel establishment, thus this aspect of the application requires Council determination.

Budget / Financial Implications:

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

If a licence is issued for an approved kennel establishment, an annual fee is required to be paid as per Council’s operative Fees & Charges Schedule – noting the fee in the 2015/16 Fees & Charges Schedule is \$100.00 (GST exempt).

Strategic Implications:

The report and officer recommendation is consistent with Council’s adopted Mission and Vision and assists achieve the following specific adopted Strategic Objectives and Goals.

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.

Sustainability Implications:

➤ **Governance:**

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

➤ **Environmental:**

The kennel establishment is able to be managed from an environmental perspective via the imposition of conditions on the Development Approval and/or Licence for an Approved Kennel Establishment.

➤ **Economic:**

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

➤ **Social:**

Whilst there are currently two (2) registered kennel establishments in the Shire of Denmark, this proposal is unique in that dogs are kept in a home like environment, thus will be of benefit to pet owners that may wish to utilise this service.

➤ **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	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 in the opinion of the officer. If a decision is made to refuse the

was to refuse the proposal.					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.
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Comment/Conclusion:

Assessment of the proposal has had regard to the relevant provisions of TPS No.3, the Shire of Denmark’s Dogs Local Law 2001 (as amended), the Shire of Denmark’s Health Local Laws 1998 (as amended) and the issues raised from submissions received on the proposal.

➤ *Town Planning Scheme No.3* (TPS No. 3)

In accordance with TPS No. 3 the subject site is zoned “Rural” and as per Table 1 – Zoning Table of TPS No. 3 the use class of ‘Kennel Establishment’ is an “SA” use in the “Rural” zone – that is Council may, at its discretion, permit the use in the zone after giving public notice of the application in accordance with Clause 6.4 of the TPS No. 3.

There are no specific requirements within TPS No. 3 that pertain to a kennel establishment, thus general issues of appropriateness within the ‘Rural’ zone and the subject locality, traffic impacts, development standards (car parking, building setbacks etc) are relevant when considering this proposal – in addition to the matters referenced in the Dogs Local Law 2001 (as amended).

In relation to appropriateness within the ‘Rural’ zone and the subject locality, the subject site is zoned “Rural” in accordance with TPS No. 3, with the purpose/intent of this zoning being for the range of normal rural activities conducted in the Shire and to protect such land from inappropriate uses – with the “Rural” zone being the only zone in which a kennel is able to be considered. Rural activities are occurring on-site and the kennel establishment is an additional rural related activity that is being sought to be undertaken from the subject property – noting that such an activity is complementary to the current rural activities on-site and will not compromise future rural development occurring on the subject property and/or neighbouring properties.

In terms of appropriateness within the locality, the kennel establishment on-site is located approximately 250 metres from the nearest residence – being located to the north. As per the Environmental Protection Authority’s Guidance Statement No. 3: Separation Distances Between Industrial and Sensitive Land Uses (June 2005), the generic buffer distance for dog kennels in a “Rural” zone is 500 metres, with the impacts being referenced as noise and odour. It should be noted that the generic distances provided in Guidance Statement No. 3 are not intended to be absolute separation distances, rather they are a default distance for the purposes of:

- identifying the need for specific separation distance or buffer definition studies (where relevant); and
- providing general guidance on separation distances in the absence of site-specific technical studies.

In this instance, given the nature of the development (being a ‘home style’ kennel establishment rather than a traditional kennel establishment), the area that it is operating from and the fact that no complaints have been officially lodged since the boarding operations have been operating, it is considered that the location of the kennel establishment on-site relative to the nearest residence is appropriate.

Given that the nature of the development is a ‘home style’ kennel rather than a traditional kennel establish, and the applicant/owners are crucial to the operating regime, it is recommended that the development approval should contain a condition that the approval relates to the specific

proposal details only and is not transferable to a new landowner and/or kennel establishment operator – that is a new development approval would need to be lodged for consideration accordingly should the landowner and/or kennel operator details change.

In relation to traffic impacts, the business proposal as presented is not based on clients dropping off dogs to the property – noting that from time to time clients (including prospective clients) may wish to view the establishment and such arrangements would be by appointment only. On this basis it is considered that traffic impacts are minimal and there is no requirement for road upgrading contributions and the like to be imposed at this point in time. Should arrangements change whereby traffic impacts are increased, then an amended Development Approval will be required to be obtained whereby further consideration to traffic impact and/or road upgrading conditions can be considered accordingly.

In relation to the development standards, the following comments are provided:

- Car parking – on the basis that clientele visits to the property will be minimal, it is considered that there is no need for customer parking to be provided; noting that there is ample room on-site to accommodate the car parking requirements for the dwelling and any visitors to the site.
- Building setbacks – there are no new buildings proposed as part of the development; that said there is a fenced yard area associated with the kennel establishments (noting would not be classified as a building) and this is located approximately 25 metres from the northern boundary – noting that as per Local Planning Policy 5: Minimum Setbacks, development in the “Rural” zone should have a minimum setback of 15 metres.

➤ *Dogs Local Law 2001 (as amended) and Health Local Laws 1998 (as amended)*

Part 4 – Approved Kennel Establishments from the Dogs Local Law 2001 (as amended) provides details on matters including but not limited to licence application requirements, application determination considerations, where applications cannot be approved, licence conditions and kennel inspections – attached as Attachment 8.1.1e is Part 4 and the relevant Schedules from the Dogs Local Law 2001 (as amended).

In considering this proposal, Health & Ranger Services have had regard to the matters that local government is to have regard to (as per Clause 4.6) and consider that the proposal as presented, albeit not a traditional form of kennel establishment, is appropriate and can be satisfactorily managed via appropriate conditions on a kennel licence.

In terms of the conditions that are recommended to be imposed on a kennel licence, in the first instance due regard has been given to Schedule 2 of the Dogs Local Law 2001 (as amended) and from this it has been determined that the following conditions are not relevant to this proposal due to the nature of the ‘home boarding’ style of kennel establishment that is being offered by the applicants:

- b) *Each kennel and each yard must be at a distance of not less than-*
 - i) *25m from the front boundary of the premises and 5m from any other boundary of the premises;*
 - ii) *10m from any dwelling;*
- d) *The minimum floor area for each kennel must be calculated at 2.5 times the length of the breed of dog (when it is fully grown), squared, times the number of dogs to be housed in the kennel and the length of the dog is to be determined by measuring the base of the tail to the front of its shoulder;*
- f) *(x) Finished to a surface having a fall of not less than 1 in 100 to a spoon drain which in turn must lead to a suitably sized diameter sewerage pipe which must be properly laid, ventilated and trapped in accordance with the health requirements of the local government;*

- g) All kennel floor washings must pass through the drain in item 3 and must be piped to approved apparatus for the treatment of sewage in accordance with the health requirements of the local government; and
- h) The kennel floor must have a durable upstand rising 75mm above the floor level from the junction of the floor and external and internal walls, or internal walls must be so constructed as to have a minimum clearance of 50mm from the underside of the bottom plate of the floor.

Specifically in relation to the nature of the operations, Health and Ranger Services consider that the existing set up is satisfactory as sleeping areas are washed regularly, with faeces being removed on an ongoing basis and then composted, the dogs have an adequate yard area, and whilst the sleeping area does not meet the dimensions provided for in Schedule 2 of the Dogs Local Law 2001 (as amended), the dogs do have access to larger areas at all times; noting overall that the dogs are staying in a similar setup to what they would likely experience at their normal place of residence. Attached as Attachment 8.1.1e are site photos that were taken during a site inspection of the property by the Shire's Senior Town Planner, Principal Environmental Health Officer and Senior Ranger (coupled with additional photos supplied by the applicant) – noting that as the kennel establishment has been operational it provided the opportunity to observe how the setup works and is managed.

In relation to the number of dogs to be accommodated, the application includes the breeding of the proponents bloodhound dogs which are trained in search and rescue - noting that whilst puppies are normally homed before 3 months of age (and are as such not required to be registered with the Shire as per the Dog Act 1976), in this instance puppies are generally kept at the property up to 9 months in age as the puppies are trained prior to being sold. The proposed 25 dog maximum allows for a large litter of puppies over 3 months at any one time (noting that two of the owners dogs are used for breeding), with the number of boarding dogs to be reduced at such time to ensure that no more than 25 dogs are kept on the property at any one time. It is therefore recommended that this condition is imposed on the kennel licence accordingly.

➤ *Noise Issues Raised from Submissions*

Noise was a key concern raised by submitters. In this regard it is noted that the proponent is a skilled dog trainer, who commits to training dogs in her care from exhibiting bad behavioural traits, such as excessive barking. As the owners reside in immediate proximity to the dogs, noise nuisance can be attended to immediately. It is noted that should barking not be appropriately managed and becomes a nuisance that the Shire's Rangers can attend to complaints in the first instance, with the mechanism available to cancel the Kennel Licence should issues not be resolved satisfactorily.

➤ *Conclusion*

Having regard to the issues raised from the submissions received and assessment of the proposal having regard to the relevant legislation, it is considered that, subject to proper management by the applicants, the development is unlikely to negatively impact the amenity of adjoining residences, or can be managed should issues arise (such as excessive noise or dogs escaping the property).

Voting Requirements:

Simple majority.

OFFICER RECOMMENDATION

ITEM 8.1.1

That Council with respect to the development application for the Proposed Kennel Establishment at No. 194 (Lot 2) Board Road, Parryville:

1. Note the submissions received.
2. Grant Development Approval subject to the following:
Conditions

- a) Development to be in accordance with the attached stamped approved plans and the accompanying proposal documentation dated 23 July 2015.
- b) This development approval relates to the land the subject of the applicant and the applicant/operator only – that it cannot be assigned to any other person or transferred to any other property or premises.

Advice Notes:

- i. Please note that this Development Approval is not a Licence for an Approved Kennel Establishment – noting such licence is required to be issued prior to the development commencing as per the Shire of Denmark's Dogs Local Law 2001 (as amended).
 - ii. The applicant is advised that noise generation is controlled by the Department of Environment Regulation using the Environmental Protection (Noise) Regulations 1997 and you should ensure that all activities comply with these controls.
3. Grant a Licence for an Approved Kennel Establishment to Ms S Blythe and Mr D Keel subject to the following conditions:
- a) Development to be in accordance with the attached stamped approved plans dated 23 July 2015 and accompanying proposal documentation.
 - b) A maximum of twenty five (25) dogs (inclusive of own dogs) being accommodated on-site at any one time.
 - c) Each yard for a kennel must be kept securely fenced with a fence constructed of link mesh or netting or other materials approved by the local government;
 - d) The upper surface of the veranda/kennel floor must be:
 - i) At least 100mm above the surface of the surrounding ground;
 - ii) Smooth so as to facilitate cleaning;
 - iii) rigid;
 - iv) durable;
 - v) slip resistant;
 - vi) resistant to corrosion;
 - vii) non-toxic;
 - viii) impervious;
 - ix) free from cracks, crevices and other defects;
 - e) The walls of each kennel must be constructed of concrete, brick, stone or framing sheathed internally and externally with good quality new zincalume or new pre-finished colour coated steel sheeting or new fibrous cement sheeting or other durable material approved by the local government;
 - f) All external surfaces of each veranda/kennel must be kept in good condition;
 - g) The veranda and yards and drinking water vessels must be maintained in a clean condition and must be cleaned and disinfected when so ordered by an authorized person;
 - h) All refuse, faeces and food waste must be disposed of daily to the satisfaction of the Shire's Principal Environmental Health Officer;
 - i) Noise, odours, fleas, flies and other vectors of disease must be effectively controlled;
 - j) Suitable water must be available at the kennel via a properly supported standpipe and tap;
 - k) The licensee or the person nominated in the application for a licence must be at the premises at all times so as to control the dogs, and to ensure their health and welfare.
 - l) This licence is valid for twelve (12) months from the date of issue, with the licensee required to apply for a licence renewal in accordance with the Shire of Denmark's Dogs Local Laws 2001 (as amended).
 - m) Should a breach of the conditions of Development Approval 2015/131, this Licence for an Approved Kennel Establishment, the Dog Act 1976 (as amended), the Dog Regulations 1976, the Dog (Restricted Breeds) Regulations (No. 2) 2002 and/or the Shire of Denmark's Dogs Local Laws 2001 (as amended) occur (further to that approved by way of this Licence), the Shire of Denmark may cancel this licence at any time.

- n) Should the Shire of Denmark consider that the Kennel Establishment is not being managed appropriately and/or valid complaints from neighbours are received, this licence may be cancelled.
- 4. Advise the submitters of Councils decision.

COUNCIL RESOLUTION

ITEM 8.1.1

MOVED: CR SEENEY

SECONDED: CR BARTLETT

That Council with respect to the development application for the Proposed Kennel Establishment at No. 194 (Lot 2) Board Road, Parryville:

- 1. Note the submissions received.
- 2. Grant Development Approval subject to the following:
 - Conditions
 - a) Development to be in accordance with the attached stamped approved plans and the accompanying proposal documentation dated 23 July 2015.
 - b) This development approval relates to the land the subject of the applicant and the applicant/operator only – that it is cannot be assigned to any other person or transferred to any other property or premises.
 - Advice Notes:
 - i. Please note that this Development Approval is not a Licence for an Approved Kennel Establishment – noting such licence is required to be issued prior to the development commencing as per the Shire of Denmark’s Dogs Local Law 2001 (as amended).
 - ii. The applicant is advised that noise generation is controlled by the Department of Environment Regulation using the Environmental Protection (Noise) Regulations 1997 and you should ensure that all activities comply with these controls.
- 3. Grant a Licence for an Approved Kennel Establishment to Ms S Blythe and Mr D Keel subject to the following conditions:
 - a) Development to be in accordance with the attached stamped approved plans dated 23 July 2015 and accompanying proposal documentation.
 - b) A maximum of twenty five (25) dogs (inclusive of own dogs) being accommodated on-site at any one time.
 - c) Each yard for a kennel must be kept securely fenced with a fence constructed of link mesh or netting or other materials approved by the local government;
 - d) The upper surface of the veranda/kennel floor must be-
 - i) At least 100mm above the surface of the surrounding ground;
 - ii) Smooth so as to facilitate cleaning;
 - iii) rigid;
 - iv) durable;
 - v) slip resistant;
 - vi) resistant to corrosion;
 - vii) non-toxic;
 - viii) impervious;
 - ix) free from cracks, crevices and other defects;
 - e) The walls of each kennel must be constructed of concrete, brick, stone or framing sheeted internally and externally with good quality new zincalume or new pre-finished colour coated steel sheeting or new fibrous cement sheeting or other durable material approved by the local government;
 - f) All external surfaces of each veranda/kennel must be kept in good condition;
 - g) The veranda and yards and drinking water vessels must be maintained in a clean condition and must be cleaned and disinfected when so ordered by an authorized person;
 - h) All refuse, faeces and food waste must be disposed of daily to the satisfaction of the Shire’s Principal Environmental Health Officer;
 - i) Noise, odours, fleas, flies and other vectors of disease must be effectively controlled;

- j) Suitable water must be available at the kennel via a properly supported standpipe and tap;
- k) This licence is valid for twelve (12) months from the date of issue, with the licensee required to apply for a licence renewal in accordance with the Shire of Denmark's Dogs Local Laws 2001 (as amended).
- l) Should a breach of the conditions of Development Approval 2015/131, this Licence for an Approved Kennel Establishment, the Dog Act 1976 (as amended), the Dog Regulations 1976, the Dog (Restricted Breeds) Regulations (No. 2) 2002 and/or the Shire of Denmark's Dogs Local Laws 2001 (as amended) occur (further to that approved by way of this Licence), the Shire of Denmark may cancel this licence at any time.
- m) Should the Shire of Denmark consider that the Kennel Establishment is not being managed appropriately and/or valid complaints from neighbours are received, this licence may be cancelled.
4. Advise the submitters of Councils decision.

CARRIED UNANIMOUSLY: 9/0

Res: 051115

REASONS FOR CHANGE

Council removed part 3 k) due to concerns raised by the applicant during public question time about someone having to be at the premises at all times.

Prior to consideration of Item 8.1.2 the Chief Executive Officer, through the Presiding Person, brought to the attention of the meeting the following disclosure(s) of interest:

The Director of Planning & Sustainability owns a property in Wishart Place and as a consequence there may be a perception that her impartiality on this matter may be affected. Mrs Harbron declares that she will consider this matter on its merits and advise Council accordingly.

8.1.2 PROPOSED SINGLE HOUSE AND OUTBUILDING – NO. 18 (LOT 31) WISHART PLACE, DENMARK

File Ref:	A5240 (2015/158)
Applicant / Proponent:	G Hawkins & M Burke
Subject Land / Locality:	No. 18 (Lot 31) Wishart Place, Denmark
Disclosure of Officer Interest:	The Director of Planning & Sustainability declares an impartiality interest as she owns property in Wishart Place.
Date:	27 October 2015
Author:	Marieke de Vries, Senior Town Planner
Authorising Officer:	Annette Harbron, Director of Planning & Sustainability
Attachments:	8.1.2a – Development Approval Application Documentation 8.1.2b – Schedule of Submissions 8.1.2c – Proponent’s Response to Submission Received 8.1.2d – Site Photos 8.1.2e – Photo of 135m ² Outbuilding in Peace Street

Summary:

The proponent is seeking Development Approval for a Single House and Outbuilding at No. 18 (Lot 31) Wishart Place, Denmark.

The proposal has been assessed having regard to the relevant Town Planning Scheme No. 3 (TPS No. 3) provisions of the “Special Residential (S Res 9)” zone and Local Planning Policy 13.4: Outbuildings (Policy 13.4) and the proposal is compliant with all provisions with the exception of the side and rear boundary setbacks and the size of the outbuilding.

Having regard to the issues raised from the submissions received, the applicant’s justification and assessment of the proposal, it is recommended that the Single House be granted Development Approval subject to appropriate conditions and the Outbuilding be refused.

Background:

Current Application

An application for Development Approval was lodged with Planning Services in August 2015 for a Single House and Outbuilding – refer Attachment 8.1.2a. It should be noted that as a result of consideration of submissions received, the applicant has amended the northern and eastern setbacks for the outbuilding from 5.0 metres to 6.0 metres – this has been drawn onto the plans provided in Attachment 8.1.2a by Planning Services at the request of the applicant.

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 has undertaken the following level of consultation:

External Consultation:

- Three (3) adjoining landowners inviting comment on the proposal.
- Proponent

Internal Consultation:

- Development Co-ordination Unit

From the advertising period, three (3) submissions were received. Attached as Attachment 8.1.2b 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 submission. The proponent has also provided a response to the submissions received – refer Attachment 8.1.2c.

Statutory Obligations:

Town Planning Scheme No. 3 (TPS No. 3) specifies the pertinent planning provisions for the proposed use.

As per current Delegation D100601: Implementation of Town Planning Scheme, the Chief Executive Officer, Director of Planning & Sustainability and/or the Senior Town Planner only have the delegation to approve proposals for outbuildings where such outbuildings exceed a maximum floor area or height limit specified by a TPS No.3 or Town Planning Scheme Policy provision on the basis that the proposed outbuilding will not impact adversely on the locality and/or amenity of adjoining properties.

As per the provisions of the *Planning and Development Act 2005* the applicant can apply to the State Administrative Tribunal for a Right of Review of the determination.

Policy Implications:

Local Planning Policy No. 13.4: Outbuildings (Policy 13.4) is relevant to the outbuilding component of this application.

Schedule 2, Part 2, Clause 1(5) of the *Planning and Development (Local Planning Schemes) Regulations 2015* states:

In making a determination under this Scheme the local government must have due regard to each relevant local planning policy to the extent that the policy is consistent with this Scheme.

Budget / Financial Implications:

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

Strategic Implications:

The report and officer recommendation is consistent with Council's adopted Mission and Vision and assists achieve the following specific adopted Strategic Objectives and Goals.

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.

Sustainability Implications:**➤ Governance:**

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

➤ **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.

➤ **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 is to refuse all or part of 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 in the opinion of the officer.

Comment/Conclusion:

In accordance with (TPS No. 3) the subject site, with an overall lot area of 2440m², is zoned "Special Residential (S Res 9)" and a 'Single House' and ancillary outbuildings are a "P" use – that is the use is permitted provided the relevant standards and requirements are complied with.

The proposal has been assessed having regard to the relevant provisions of the "S Res 9" zone and Policy 13.4 (noting that Policy 13.4 relates to the outbuilding component of this application only) and the proposal is compliant with all provisions with the exception of the side and rear boundary setbacks and the size of the outbuilding.

➤ *Side and Rear Boundary Setbacks*

As per the "S Res 9" zone provision of TPS No. 3, Special Provisions (ii) a) and b) are as follows:

a) *All buildings shall be setback a minimum of:*

- 10m from the front boundary
- 10m from the rear boundary
- 8m from all other boundaries

b) *Council may approve a reduction to the nominated 'rear boundary' and 'all other boundaries' setback, to a minimum of 5m each, where it is of the opinion that the topography or shape of the lot, or remnant vegetation on it, makes it desirable to alter the setback and that the location of the building will not detract from the visual amenity of the area of existing or future dwellings on surrounding lots.*

In this instance, the proposal is for a reduced side boundary (northern boundary) setback of 6.0 metres for the house and outbuilding, as well as a reduced rear boundary (eastern boundary) setback of 6.0 metres for the outbuilding.

Specifically in relation to the side boundary (northern boundary) setback variation associated with the house, it is noted that the encroachment is for only portion of the building and not the entire length of the building, with the overall area encroaching in the setback being 12m² and is the “true” single storey component of the house (noting the proposal is for a split level house and Council has previously determined that split level houses that utilise the slope of the land rather than extensive filling and are built at or below street level are not deemed ‘two storey’). This portion of the building with the 6.0 metre setback does contain a habitable room window, however with a setback of 6.0 metres this would comply with the Deemed-to Comply “visual privacy” provisions for a bedroom window as per the Residential Design Codes – noting that technically the Residential Design Codes do not apply to this property given a zoning of “Special Residential” but the principles of reducing the setback and associated impacts of such on an adjoining property are appropriate for consideration thus the Residential Design Codes are a good guideline to assess such impact.

The applicant’s justification for the reduced setback is that once the setbacks as per the Scheme provisions are applied that there is a substantially reduced building footprint area – particularly noting the narrow width of the property (being 37.37 metres at the front boundary and 35.3 metres at the rear boundary). From a Planning Services perspective it is considered that a 19.3 metre building footprint area is not considered narrow by any means and given that it is a custom designed house there is the opportunity to design a single house that would achieve compliance with the setback provisions. That said, it is considered that the 2.0 metre reduction in the boundary setback on the northern boundary will not negatively impact on the visual amenity of the area; therefore it is recommended that the side setback variation be supported.

In regards to the outbuilding setbacks, the applicant’s justification, in addition to the above information, also cites that they wish to create a more useable yard area as possible and that they are amenable to planting native vegetation between the outbuilding and the northern and eastern boundaries to reduce visual impact on the adjoining properties.

From a Planning Services perspective it is considered that the proposed setbacks of 6.0 metres to the northern and eastern boundaries is acceptable subject to screen landscaping being implemented on the subject property between the outbuilding and the respective boundaries – refer Attachment 8.1.2d for photos of the outbuilding location on the subject property.

➤ *Size of the Outbuilding*

As per Policy 13.4, the maximum cumulative area of outbuildings for a “Special Residential” zoned lot is 100m²; the proposal is for a 135m² outbuilding.

In accordance with Policy 13.4, applications for outbuildings that do not comply with the relevant criteria will be assessed on a case-by-case basis and may be granted Development Approval subject to the following matters being taken into consideration as part of the assessment process:

- *Demonstration that the larger size is required to satisfy specific domestic needs.*

In this regard the applicants have advised that the increase in floor area is required to store two trailers, two cars, a boat, ride on mower and various large equipment and tools (noting that Planning Services is aware the applicant is a builder and has confirmed with the applicant that the equipment being stored is not of a commercial nature).

- *The outbuilding not being located within the primary street setback area;*

The proposed outbuilding will not be located in the primary street setback area, being located to the rear of the house, downslope to the street, thus reducing the overall visual impact of the outbuilding.

- *Comments received from the affected adjoining landowner's (if applicable).*

As part of the consideration of this proposal, it was referred to three (3) adjoining landowners, with two objections received, and one letter of support subject to the outbuilding being green in colour.

Overall from a Planning Services perspective, in considering this proposal the following is relevant for consideration:

- a) There does appear to be a need (of sorts) for the larger size, however it should be noted that the proposed house is substantial in size, has a double garage and an area underneath the house that could easily be utilised for storage purposes as well.
- b) A smaller sized outbuilding may result in the applicant storing vehicles and other equipment out in the open, and or associated with an open sided lean-to attached to the outbuilding, and this has the potential to have a greater visual impact than a 135m² outbuilding.
- c) With an overall lot size of 2440m², a 135m² outbuilding represents 5.5% of the site area.
- d) At 135m², this represents a variance of 35% over and above the maximum size of 100m² as provided for in Local Planning Policy 13.4: Outbuildings.
- e) From a review of the Wishart Place properties, the maximum size of an outbuilding that has been built is 98m² (noting that approval has recently been granted for two outbuildings with a cumulative area of 108m² (78m² and 30m² respectively) – this approval was granted following supportive consultation with the adjoining landowners, minor extent over and above 100m², minimal visual impact and additional cladding proposals to address visual amenity). Approval to this proposed outbuilding at 135m² has the potential to set a precedent for the neighbourhood – noting however that each application is required to be considered on its merits.
- f) The key visual impact of the outbuilding is to the north of the subject property noting that the eastern and southern boundary properties have existing mature vegetation screening (albeit there is nothing to prevent the vegetation being retained).
- g) In response to the submissions received, the applicant has advised that they are prepared to implement landscaping on the northern and eastern boundaries of the outbuilding and clad the rear elevation (eastern boundary) of the outbuilding green – noting the remainder of the outbuilding is proposed to be a grey colour similar to the house. From a Planning Services perspective it is considered that modifying one elevation of the outbuilding only to be a green colour will more likely detract from the appearance of the outbuilding particularly when viewed from the north-east where the two different colours will be visible.
- h) For visual consideration purposes, attached at Attachment 8.1.2e is a photo of a 135m² outbuilding that has recently been erected in Peace Street; noting the dimensions of the outbuilding in the photograph are the same as this proposal – the only difference is the location of the roller doors, PA door and windows.
- i) There are additional special residential and/or residential lots to be created in the surrounding vicinity (including to the east of the subject property) and due consideration to related impacts on the character and visual amenity is required.

On balance it is considered that the outbuilding with an overall size of 135m² will detract from the established character and visual amenity of the area – as such refusal for the proposed outbuilding is recommended. That said, Planning Services are recommending that Council advise the applicant that if an amended proposal for an outbuilding was submitted that had a floor area no greater than 110m² (noting this provides for the current outbuilding footprint to be 9m x 12m (i.e. reducing the length of the outbuilding by 3 metres)) and with setbacks of 6.0 metres to the

northern and eastern boundaries as originally proposed, then this could be granted Development Approval (with appropriate conditions) by Planning Services, under delegated authority.

Should Council consider that the proposed outbuilding with an overall size of 135m² is acceptable and are considering approving it, Points 3 and 4 of the officer recommendation can be deleted and the following conditions should be amended and/or added to the recommendation conditions in Point 2 of the officer recommendation:

Conditions

- a) *Development shall be in accordance with the attached stamped approved plans dated 31 August 2015*
- i) *The approved outbuilding shall be used as incidental and ancillary to the enjoyment of the dwelling on the land only, and shall not be used for human habitation, commercial or industrial uses.*
- j) *Within sixty (60) days of the outbuilding being erected, screen landscaping being planted on the northern and eastern elevations of the outbuilding (refer areas highlighted in green), with such landscaping to be retained and maintained as landscaped areas at all times.*
- k) *Prior to the issuance of a Building Permit for the outbuilding, a Building Permit is to be obtained for the Single House – either separately or concurrently.*

Voting Requirements:

Simple majority.

OFFICER RECOMMENDATION

ITEM 8.1.2

That Council with respect to the development application for the Proposed Single House and Outbuilding at No. 18 (Lot 31) Wishart Place, Denmark:

1. Note the submissions received.
2. Grant Development Approval for the Single House subject to the following:

Conditions

- a) Development shall be in accordance with the attached stamped approved plans dated 31 August 2015 (Single House only).
- b) The Single House to be constructed to *Australian Standard 3959 – Construction of Buildings in Bushfire Prone Areas*.
- c) All buildings and development such as the approved effluent disposal system, retaining walls, or any other form of revetment to contain building structures on the lot shall be contained within the approved Building Envelope.
- d) The vehicle crossover shall be constructed, drained and sealed (concrete, asphalt or brick pavers) to the satisfaction and specifications of the Shire of Denmark (Infrastructure Services) and thereafter maintained – refer attached vehicle crossover application form.
- e) The driveway/accessway/manoeuvring area shall be constructed, sealed (concrete, asphalt or brick pavers) and maintained to facilitate access to the satisfaction of the Shire of Denmark (Infrastructure Services).
- f) The approved development is to be connected to a reticulated water supply provided by a licensed water provider.
- g) The approved development shall be connected to an effluent disposal system to the satisfaction of the Shire of Denmark (Environmental Health Services).
- h) Stormwater and drainage runoff from all roofed and impervious areas is to be retained on-site or connected to a legal point of discharge to the satisfaction of the Shire of Denmark (Infrastructure Services).
- i) The sea container currently on-site has not been approved and should be removed from site within 30 days of this development approval being granted or alternatively an application for Retrospective Development Approval should be lodged with Planning Services.

Advice Notes

- a) From a preliminary review of the information provided, the Shire’s Principal Building Surveyor advises that in addition to the standard Building Permit application documentation, engineering certification for the single house and the associated retaining walls will be required.
 - b) It is the responsibility of the applicant/owner to ensure that building setbacks correspond with the legal description of the land. This may necessitate re-surveying and re-pegging the site. The Shire of Denmark will take no responsibility for incorrectly located buildings.
 - c) It is the responsibility of the applicant/owner to search the title of the property to ascertain the presence of any easements and/or restrictive covenants that may apply.
3. Refuse Development Approval for the Outbuilding for the following reasons:
 - a) The proposed outbuilding with an overall floor area of 135m² is considered excessive in size and exceeds the maximum size provided for in Local Planning Policy 13.4: Outbuildings.
 - b) The proposed outbuilding with an overall floor area of 135m² will detract from the established character and visual amenity of the area.
 - c) The proposed outbuilding is inconsistent with the principles of orderly and proper planning.
 4. Advise the applicant that if an amended proposal for an outbuilding was submitted that had a floor area no greater than 110m² and with setbacks of 6.0 metres to the northern and eastern boundaries, a Development Approval (with appropriate conditions) would be granted by Planning Services under delegated authority.
 5. Advise the submitters of Council’s decision.

COUNCIL RESOLUTION

MOVED: CR WHOOLEY

ITEM 8.1.2

SECONDED: CR GILLIES

6.17pm – Cr Gearon left the room.

6.18pm – Cr Gearon returned to the room.

CORRECTION TO MINUTES.
Pursuant to Council Resolution No. 021215

That Council with respect to the development application for the Proposed Single House and Outbuilding at No. 18 (Lot 31) Wishart Place, Denmark:

1. Note the submissions received.
2. Grant Development Approval for the Single House subject to the following:

Conditions

- a) Development shall be in accordance with the attached stamped approved plans dated 31 August 2015.
- b) The Single House and Outbuilding to be constructed to *Australian Standard 3959 – Construction of Buildings in Bushfire Prone Areas*.
- c) All buildings and development such as the approved effluent disposal system, retaining walls, or any other form of revetment to contain building structures on the lot shall be contained within the approved Building Envelope.
- d) The vehicle crossover shall be constructed, drained and sealed (concrete, asphalt or brick pavers) to the satisfaction and specifications of the Shire of Denmark (Infrastructure Services) and thereafter maintained – refer attached vehicle crossover application form.
- e) The driveway/accessway/manoeuvring area shall be constructed, sealed (concrete, asphalt or brick pavers) and maintained to facilitate access to the satisfaction of the Shire of Denmark (Infrastructure Services).
- f) The approved development is to be connected to a reticulated water supply provided by a licensed water provider.
- g) The approved development shall be connected to an effluent disposal system to the satisfaction of the Shire of Denmark (Environmental Health Services).
- h) Stormwater and drainage runoff from all roofed and impervious areas is to be retained on-site or connected to a legal point of discharge to the satisfaction of the Shire of Denmark (Infrastructure Services).

- i) The sea container currently on-site has not been approved and should be removed from site within 30 days of this development approval being granted or alternatively an application for Retrospective Development Approval should be lodged with Planning Services.
- j) The approved outbuilding shall be used as incidental and ancillary to the enjoyment of the dwelling on the land only, and shall not be used for human habitation, commercial or industrial uses.
- k) Within sixty (60) days of the outbuilding being erected, screen landscaping being planted on the northern and eastern elevations of the outbuilding (refer areas highlighted in green), with such landscaping to be retained and maintained as landscaped areas at all times.
- l) Prior to the issuance of a Building Permit for the outbuilding, a Building Permit is to be obtained for the Single House – either separately or concurrently.

Advice Notes

- a) From a preliminary review of the information provided, the Shire's Principal Building Surveyor advises that in addition to the standard Building Permit application documentation, engineering certification for the single house and the associated retaining walls will be required.
 - b) It is the responsibility of the applicant/owner to ensure that building setbacks correspond with the legal description of the land. This may necessitate re-surveying and re-pegging the site. The Shire of Denmark will take no responsibility for incorrectly located buildings.
 - c) It is the responsibility of the applicant/owner to search the title of the property to ascertain the presence of any easements and/or restrictive covenants that may apply.
3. Advise the submitters of Council's decision.

CARRIED UNANIMOUSLY: 9/0

Res: 061115

REASONS FOR CHANGE

Council considered that the proposed outbuilding with an overall size of 135m² was acceptable for the location and in consideration of its position in the landscape.

8.2 Director of Community & Regulatory Services

8.2.1 RECFISHWEST ANGEL RING PROGRAM

File Ref:	REM.16
Applicant / Proponent:	Recfishwest
Subject Land / Locality:	Shire of Denmark
Disclosure of Officer Interest:	Nil
Date:	25 October 2015
Author:	Gregg Harwood, Director of Community & Regulatory Services
Authorising Officer:	Gregg Harwood, Director of Community & Regulatory Services
Attachments:	8.2.1 – Recfishwest Angel Ring Correspondence and Draft Signage

Summary:

The officer report discusses and recommends that Council accept the offer from Recfishwest to supply Angel Rings and authorise the CEO to install Angel Rings at the following locations:

- McGeary’s Rock
- Ocean Beach
- Sinker Bay
- Black Hole
- Boat Harbour
- Other high risk fishing spots that are nominated by local progress associations and fishing groups and are supported by Recfishwest

Background:

Angel Rings are life preservers that are hung on posts near high risk high fishing areas that can be thrown to people who have been washed off to keep them afloat and give them some protection from impacts until help arrives.

The program has its origin in NSW where a grieving parent whose son had been lost while rock fishing erected the first ring. The program caught on in NSW and to date 136 rings in that state have been installed and as a result there have been 57 confirmed rescues.

In the opinion of the officer, there is no doubt that the project is worthwhile and saves lives.



Source: <https://youtu.be/kP0tt3jMawE>

The success of this has resulted in the both a national and state rock fishing safety strategies being prepared which can be found at the following links:

http://angelrings.com.au/wp-content/uploads/2012/07/national_angel_ring_project_strategy_final_june_2012.pdf

http://recfishwest.org.au/wp-content/uploads/2014/10/Rock-Fishing-Safety-Strategy-in-Western-Australia_Updated_April-2015.pdf

Page 3 of Recfishwest’s “Rock Fishing Safety Strategy for Western Australia” reads as follows:

“Every year an estimated 700,000 Western Australians take part in recreational fishing. Of these, many are casual, infrequent fishers who are unaware of the dangers associated with particular types of fishing. Other, experienced fishers are indifferent to the apparent risks.

Of all the regions in Western Australia in which rock fishing occurs, the South Coast has claimed more lives than any other region. This area is considered a black spot; “locations of increased risk, increased mortality or increased morbidity” (Bradstreet, 2012, pp25) for rock fishing. Table 1 refers to all rock fishing deaths and their locations that have occurred in WA since 2007. Henceforth any injury or fatality resulting from rock fishing will be referred to as a rock fishing-related incident.

Rock fishing is among the most dangerous of fishing activities. Since 2002 there have been 30 recreational rock fishing related drowning deaths recorded in Western Australia (RLSWA, 2014), of these, 16 have occurred since 2007. In addition to fatalities, anecdotal evidence from local fishers has also pointed to very high rates of rock fishing injuries and incidents. Despite these risks, rock fishing is a popular activity in Western Australia, with many fishers willing to face these risks for the opportunity to fish from rocks which allow access to deep water and the possibility of avoiding unfavourable wind conditions and beach currents.

Of all the regions in Western Australia in which rock fishing occurs, the South Coast has claimed more lives than any other region. This area is considered a black spot; “locations of increased risk, increased mortality or increased morbidity” (Bradstreet, 2012, pp25) for rock fishing. Table 1 refers to all rock fishing deaths and their locations that have occurred in WA since 2007. Henceforth any injury or fatality resulting from rock fishing will be referred to as a rock fishing-related incident.

Table 1: Rock fishing deaths in Western Australia since 2007

#	Location	Date	Local Land Manager	Sex
1.	Garth’s Rock, Carnarvon	16/07/2007	Shire of Carnarvon	Male
2.	Contos Beach, Margaret River	30/08/2007	Shire of Augusta-Margaret River	Male
3.	Contos Beach, Margaret River	30/08/2007	Shire of Augusta-Margaret River	Male
4.	Caves Point, Albany	22/03/2008	City of Albany	Male
5.	Salmon Holes, Albany	08/05/2010	Department of Parks and Wildlife	Male
6.	Salmon Holes, Albany	02/04/2011	Department of Parks and Wildlife	Male
7.	Elephant Rock, Hamelin Bay	19/07/2011	Shire of Augusta-Margaret River	Male
8.	Cape Clairault, Yallingup	31/12/2011	Shire of Busselton	Male
9.	Twilight Beach, Esperance	07/01/2012	Shire of Esperance	Male
10.	Quagi Beach, Esperance	12/05/2012	Shire of Esperance	Male
11.	Thistle Cove, Esperance	02/09/2012	Shire of Esperance	Male
12.	Steep Point, Shark Bay	27/09/2012	Shire of Shark Bay	Male
13.	Twilight Beach, Esperance	06/01/2012	Shire of Esperance	Male
14.	Salmon Holes Albany	06/05/2013	Department of Parks and Wildlife	Male
15.	Twilight Beach, Esperance	27/05/2013	Shire of Esperance	Female
16.	Nanarup Beach, Albany	23/12/2013	City of Albany	Male

Accident data show that many of the incidents involve local residents who often have considerable prior experience of the coastline. Department of Parks and Wildlife (DPaW) staff have previously witnessed a trend towards a greater proportion of rock fishers being of Asian background and visitors to the region, unaware of the risks or unable to read the signage (Phillips, 2011). Recfishwest has also obtained anecdotal evidence from local fishers in rock fishing high-risk

areas, suggesting that many of the individuals involved in rock fishing incidents along the South coast during the salmon season are visitors from the mid-West, of varying ethnic backgrounds.”

These statistics have resulted in Recfishwest preparing the attached “Rock Fishing Safety Strategy for Western Australia” which identifies the installation of Angel Rings as one of the fatality prevention strategies in pages 8 & 9 of that report.

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 for the following reasons:

- 1) Recfishwest represent the interests of amateur fishers and have already conducted consultation with local fishing groups.
- 2) Council staff have also spoken with the President of the Denmark Boating & Angling Club regarding the proposal and they are aware of the program and supportive of the locations.
- 3) The rings are unlikely to interfere with the amenity of the proposed locations as they are scarcely larger than a sign post and the community expects Council to be taking coastal safety initiatives.
- 4) If Council chooses to proceed Council Officers will further consult with the Denmark Boating & Angling Club as to the exact location of each ring.

Statutory Obligations:

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

Policy Implications:

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

Budget / Financial Implications:

There are financial costs associated with the officer report and recommendation in that each Angel Ring will cost Council between \$400 -700 to install.

The proposed source of funds is Council’s Coastal Infrastructure maintenance Budget, Job Number 52106, which has a Budget allocation of \$3,000 and should be able to accommodate the expected expenditure.

Strategic Implications:

The report and officer recommendation is consistent with Council’s adopted Mission and Vision and assists achieve the following specific adopted Strategic Objectives and Goals.

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

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 governance considerations relating to the report or officer recommendation.

➤ **Environmental:**

There are no known significant environmental implications relating to the report or officer recommendation providing appropriate sites are selected.

➤ **Economic:**

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

➤ **Social:**

There are known significant social considerations relating to the report or officer recommendation in that the presence of Angel Rings warns community members that they are about to fish in a high risk area and increased likelihood that a person who is swept into the ocean will actually survive.

➤ **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 an Angel Ring can only be thrown 5 - 10m and a drowning person may not be able to get to it or have to go into danger to get to it.	Possible (3)	Catastrophic (5)	High (10-16)	Inadequate Employee, Visitor or Public Safety & Security	Accept Risk as person's odds of survival are significantly increased by the presence of an Angel Ring.
That Angel Rings will give fisherman a false sense of security.	Unlikely (2)	Catastrophic (5)	High (10-16)	Inadequate Employee, Visitor or Public Safety & Security	Accept Risk as person's odds of survival are significantly increased by the presence of an Angel Ring.
That the Angel Rings will be vandalised or stolen.	Unlikely (2)	Minor (2)	Low (1-4)	Damage to Physical Assets	Accept Risk as Recfishwest report low/ vandalism rates will replace rings free of charge

Comment/Conclusion:

In considering approving the installation of Angel Rings in high risk locations, the following factors that should be considered a part of making that decision:

- 1) Who will buy the rings initially and who will replace them if they are damaged or lost or get to the end of their service?

Recfishwest have offered to supply the rings initially and to replace them if they are lost stolen or damaged.

- 2) Who will install the rings and maintain their mountings and signage?

Council will be responsible for installing the rings and maintaining their mountings and Recfishwest will supply the signage.

- 3) Who will check that they are intact?

Recfishwest reports that in Western Australia Angel Rings rarely get vandalised or go missing.

Whilst Council Staff will rely on local fisherman and fishing groups to advise of missing angel rings, there will inevitably be occasions when Council staff will need to perform these checks.

A contact number for missing Angel Rings will also be placed on the signage.

Recfishwest reports that in Western Australia Angel Rings rarely get vandalised or go missing and that if a problem location does develop GPS tracked rings can be installed in that location.

4) What is the likely life of the infrastructure?

The life of infrastructure a in breaking surf location is typically reduced to a 1/3 of its normal service life meaning that the posts at best last 10-15 years and the signs and rings themselves will require replacing every 5 – 10 years.

5) Who ensures signage and information is consistent with others areas?

Recfishwest have a standardised signage style cross the state (refer Attachment 8.2.1).

6) Is there community support and buy-in to the project?

Yes there is; Recfishwest have been actively promoting Angel Rings for some time and they have been embraced by the Denmark Boating and Angling Club.

Given the above discussion it is recommended that Council resolve to accept the offer from Recfishwest to supply Angel Rings and authorise the CEO to install Angel Rings at the following locations:

- McGeary’s Rock
- Ocean Beach
- Sinker Bay
- Black Hole
- Boat Harbour
- Other high risk fishing spots that are nominated by local progress associations and fishing groups and are supported by Recfishwest

Voting Requirements:

Simple majority.

COUNCIL RESOLUTION & OFFICER RECOMMENDATION	ITEM 8.2.1
MOVED: CR GILLIES	SECONDED: CR WHOOLEY
<p>That Council accept the offer from Recfishwest to supply Lifesaving Angel Rings and authorise the Chief Executive Officer to have the Angel Rings installed at the following locations:</p> <ul style="list-style-type: none"> ● McGeary’s Rock; ● Ocean Beach; ● Sinker Bay; ● Black Hole; ● Boat Harbour; and ● Other high risk fishing spots that are nominated by local progress associations and fishing groups and are supported by Recfishwest. 	
CARRIED UNANIMOUSLY: 9/0	Res: 071115

8.2.2 AMENDMENTS TO DELEGATION D050105 BUSH FIRES ACT 1954 – PROSECUTION OF OFFENCES

File Ref:	FIRE.1 & ADMIN.9
Applicant / Proponent:	Not applicable
Subject Land / Locality:	Shire of Denmark
Disclosure of Officer Interest:	Nil
Date:	26 October 2015
Author:	Gregg Harwood, Director of Community & Regulatory Services
Authorising Officer:	Gregg Harwood, Director of Community & Regulatory Services
Attachments:	Nil

Summary:

The officer report recommends amending Delegation D050105 titled “Bush Fires Act 1954 – Prosecution of Offences” to include the Community Emergency Services Manager (CESM), Senior Ranger, Ranger, Chief Fire Control Officer and Deputy Chief Fire Control Officer to provide clarity that they are authorised to issue Bush Fire Act infringement notices (modified penalties) that are collectable through the fines enforcement registry.

Background:

In an effort to facilitate the collection of unpaid fines Council staff have been aligning Council’s compliance system with the Department of Justice’s Fines Enforcement Register so that unpaid fines can be forwarded to them for payment once a reminder notice and final demand have been sent.

In order for this to occur the number of persons authorised under delegation D050105 titled “Bush Fires Act 1954 – Prosecution of Offences” needs to be broadened to at least include the Community Emergency Services Manager (CESM), Senior Ranger, Ranger and following consultation with the Chief Fire Control Officer and Deputy Chief Fire Control Officer it is recommended that they be included as well.

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 for the following reasons;

- 1) Council have historically issued Bush Fire Act infringements across Western Australia and the community expects them to perform that function.
- 2) The matter of granting infringement powers to Brigade FCOs has recently been discussed and rejected by BFAC as they did not want to be in the position of potentially fining their own community members.
- 3) Consultation has taken place with Council’s Chief and Deputy Chief Fire Control Officers and they have advised that they will accept delegation as volunteer leaders so that they can act on behalf of brigades if the need arises.

Statutory Obligations:

Delegated authority from Council is required under Section 59(3) of the Bush Fires Act, titled “Prosecution of offences” and Regulation 4 of the Bush Fires (Infringements) Regulations 1978 for an officer (paid or volunteer) to be able to initiate prosecutions and to issue infringements under the Bush Fires Act and its associated Regulations.

Section 59 of the Bush Fires Act, titled "Prosecution of offences" and Regulation 4 of the Bush Fires (Infringements) Regulations 1978 reads as follows:

59. *Prosecution of offences*

- (1) *A person authorised by the Minister, a person employed in the Department for the purposes of this Act, an authorised CALM Act officer, a member of the Police Force, or a local government, may institute and carry on proceedings against a person for an offence alleged to be committed against this Act.*
- (2) *The person instituting and carrying on the proceedings shall be reimbursed out of the funds of the local government within whose district the alleged offence is committed, all costs and expenses which he may incur or be put to in or about the proceedings.*
- (3) *A local government may, by written instrument of delegation, delegate authority generally, or in any class of case, or in any particular case, to its bush fire control officer, or other officer, to consider allegations of offences alleged to have been committed against this Act in the district of the local government and, if the delegate thinks fit, to institute and carry on proceedings in the name of the local government against any person alleged to have committed any of those offences in the district, and may pay out of its funds any costs and expenses incurred in or about the proceedings.*
- (4) *A local government may by written instrument cancel, or from time to time vary, any instrument of delegation conferred under subsection (3).*
- (5) *Notwithstanding that a local government has under subsection (3) conferred authority on a delegate, the local government is not precluded from exercising but may itself exercise the authority.*

59A. *Alternative procedure — infringement notices*

- (1) *In this section prosecutor means a person or local government authorised by or under section 59 to institute and carry on proceedings against a person for an offence alleged to be committed against this Act.*
- (2) *Where a prosecutor has reason to believe that a person has committed any such offence against this Act as is prescribed for the purposes of this section, the prosecutor may serve on that person a notice, in the prescribed form (in this section called an infringement notice), informing the person that, if he does not wish to be prosecuted for the alleged offence in a court, he may pay to an officer specified in the notice, within the time therein specified, the amount of the penalty prescribed for the offence, if dealt with under this section.*
- (3) *An infringement notice may be served on an alleged offender personally or by posting it to his address as ascertained from him, at the time of, or immediately following, the occurrence giving rise to the allegation of an offence, or as shown (in the case of an owner of land) in a rate record, kept pursuant to the Local Government Act 1995, as his address for the service of rate notices.*
- (4) *A person who receives an infringement notice may decline to be dealt with under the provisions of this section and, where he fails to pay the prescribed penalty within the time specified in the notice or within such further time as may, in any particular case, be allowed, he is deemed to have declined to be dealt with under those provisions.*

- (5) *An infringement notice may, whether or not the prescribed penalty has been paid, be withdrawn, at any time within 60 days after the service of the notice, by the sending of a notice, in the prescribed form, signed by a prescribed officer, to the alleged offender at his last known place of residence or business, advising the alleged offender that the infringement notice has been withdrawn, and, in that event, the amount of any prescribed penalty that has been paid shall be refunded.*
- (6) *Where a prescribed penalty has been paid pursuant to an infringement notice and the notice has not been withdrawn as provided by subsection (5), proceedings shall not be brought against any person with respect to the offence alleged in the notice.*
- (7) *The payment of a penalty pursuant to an infringement notice shall, for the purposes of this Act, constitute a conviction of an offence, but shall not be regarded as an admission of liability for the purpose of, nor in any way affect or prejudice, any civil claim, action or proceeding arising out of the occurrence by reason of which the infringement notice was given.*
- (8) *The Governor may make regulations for any purpose for which regulations are contemplated or required by this section and, in particular, may make regulations —*
 - (a) *prescribing offences for the purposes of this section by setting out the offences or by reference to the provisions creating the offences; and*
 - (b) *prescribing a penalty for the purposes of this section in respect of any prescribed offence, which penalty shall be a fine of not more than \$1 000.*

Regulation 4 of the Bush Fires (Infringements) Regulations 1978 reads as follows:

4. *Prescribed officers*

For the purposes of section 59A(5) of the Act a prescribed officer is —

- (a) *in the case of an infringement notice issued by a local government, or at the request of a local government, or by a person acting pursuant to a delegation made by a local government pursuant to section 59(3) of the Act — the chief executive officer, mayor or president of the local government;*
- (b) *in the case of an infringement notice issued by a person authorised by the Minister or the chief executive officer or board of management of the Authority — the chief executive officer of the Authority or an officer of the Authority authorised by the chief executive officer of the Authority;*

Policy Implications:

Council's current Delegation D050105 reads as follows:

"D050105 Bush Fires Act 1954 – Prosecution of Offences"

LEGISLATIVE POWERS	-	Bush Fires Act 1954 (Section 59 (3))
DELEGATES	-	Chief Executive Officer
	-	Director of Community & Regulatory Services
ACTIVITY	-	Fire Prevention

The Chief Executive Officer and the Director of Community & Regulatory Services are delegated authority by Council to consider allegations of offences alleged to have been committed against the Bush Fires Act 1954 in the district of the local government and, if the delegate thinks fit, to

institute and carry on proceedings in the name of the local government against any person alleged to have committed any of those offences in the district, any may pay out of its funds any costs and expenses incurred in or about the proceedings.

NOTE: This delegation does not preclude the Council from exercising the authority itself, pursuant to Section 59 (5)."

Council’s Delegation Register will be updated accordingly following this review (if accepted) to include the additional officers mentioned.

Budget / Financial Implications:

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

Strategic Implications:

The report and officer recommendation is consistent with Council’s adopted Mission and Vision and assists achieve the following specific adopted Strategic Objectives and Goals.

GOVERNANCE GOAL

Structure: ...ensures that it has a structure that is transparent, trustworthy, flexible, consultative and collaborative, and is able to attract and retain a high standard of Councillors and Senior Management.

GOVERNANCE OBJECTIVE

Public Safety: ...work with relevant authorities and organisations to maintain a safe and secure environment for its residents and visitors.

Sustainability Implications:

➤ **Governance:**

There are no known 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)
That Council choose not to approve to delegate, authorise or appoint others and choose to determine Bush Fire Act offences and infringements via formal Council decision making processes.	Rare (1)	Moderate (3)	Low (1-4)	Business Disruption	Accept Officer Recommendation

Comment/Conclusion:

Given the benefits of aligning Council’s compliance system with the Department of Justice’s Fines Enforcement Register and the importance of ensuring that Council’s staff are correctly authorised to perform their role, it is recommended that Council resolve to add the Community Emergency Services Manager (CESM), Senior Ranger, Ranger, Chief Fire Control Officer and Deputy Chief Fire Control Officer to Delegation D050105.

Voting Requirements:

Absolute majority.

COUNCIL RESOLUTION & OFFICER RECOMMENDATION	ITEM 8.2.2
MOVED: CR SEENEY	SECONDED: CR GILLIES
That with regard to initiating prosecutions and issuing infringements under the Bush Fires Act and its associated Regulations, Council amend Delegation D050105 titled “Bush Fires Act 1954 – Prosecution of Offences” to include delegated authority to the Chief Executive Officer, Director of Community & Regulatory Services, Community Emergency Services Manager (CESM), Senior Ranger, Ranger, Chief Fire Control Officer and Deputy Chief Fire Control Officer to initiate prosecutions and to issue infringements under the Bush Fires Act and its associated Regulations.	
CARRIED UNANIMOUSLY AND BY AN ABSOLUTE MAJORITY: 9/0	Res: 081115

8.3 Director of Infrastructure Services

Nil

8.4 Director of Finance & Administration

Nil

8.5 Chief Executive Officer

Nil

9. COMMITTEE REPORTS & RECOMMENDATIONS

Nil

6.28pm – Cr Gillies left the room.

COUNCIL RESOLUTION	
MOVED: CR LEWIS	SECONDED: CR PEDRO
That the meeting be adjourned for a short recess the time being 6.28pm.	
CARRIED UNANIMOUSLY: 8/0	Res: 091115

COUNCIL RESOLUTION	
MOVED: CR PEDRO	SECONDED: CR LEWIS
That the meeting be resumed the time being 6.45pm with all Councillors and the Chief Executive Officer and the Executive Assistant, but with the exception of Cr Gillies.	
CARRIED UNANIMOUSLY: 8/0	Res: 101115

10. MATTERS BEHIND CLOSED DOORS

Prior to consideration of Item 10.1 the Chief Executive Officer, through the Presiding Person, brought to the attention of the meeting the following disclosure(s) of interest:

Cr Gillies declares a financial and proximity interest on the basis that her daughter is one of the applicants.

Cr Gillies had previously left the room and did not participate in discussion or vote on the matter.

COUNCIL RESOLUTION & OFFICER RECOMMENDATION	ITEM 10
MOVED: CR PEDRO	SECONDED: CR SAMPSON
That pursuant to Section 5.23 (2) (b) of the Local Government Act 1995 and Clause 3.7 of the Shire of Denmark Standing Orders Local Law, Council move behind closed doors for the consideration of Item 10.1 & Item 10.2 to allow the successful applicants names to remain confidential to Council until the official announcement at the winners' current School's 2015 Graduation Ceremony.	
CARRIED UNANIMOUSLY: 8/0	Res: 111115

10.1	2015 AGRICULTURAL SCHOLARSHIP
File Ref:	PBR.10
Applicant / Proponent:	Various
Subject Land / Locality:	Not applicable
Disclosure of Officer Interest:	Nil
Date:	28 October 2015
Author:	Claire Thompson, Executive Assistant
Authorising Officer:	Annette Harbron, Acting Chief Executive Officer
Attachments:	10.1a – Previous Recipients List 10.1b – Applications (Confidential to Councillors)

Summary:

Council is requested to peruse the attached applications for the Shire of Denmark Agricultural Scholarship and determine the successful applicant.

Background:

The Denmark Agricultural College Scholarship has been a Policy of Council's for over 10 years.

A list of previous recipients is attached as Attachment 10.1a.

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.

This Award was marketed and promoted as follows;

- General Advertisement in the Denmark Bulletin & the Walpole Weekly;
- General Advertisement on Council's Notice Boards;
- General Advertisement on Council's website;
- General Advertisement on Council's Facebook page;

- Email to Councillors & Employees advising that applications were being called and request for assistance with promoting the Scholarship;
- Specific Email to Council's Youth Centre Co-ordinator, Manager of Recreation & Youth Services and the Senior Librarian requesting their assistance in promoting the Scholarship through their networks and patronage;
- Email to Denmark High School & Denmark Agricultural College Principals with link to application forms on Council's website.
- The Chief Executive Officer met with students from the Denmark Agricultural College to promote the Scholarship on 10 September 2015.

Statutory Obligations:

There are no statutory obligations.

Policy Implications:

Council Policy P080201 relates as reads and follows;

DENMARK AGRICULTURAL COLLEGE SCHOLARSHIP

Council shall make available an annual Denmark Agricultural College Scholarship.

Objective

To encourage and assist Year 10 students attending the Denmark District High School or Year 10 students residing in the Denmark Shire to pursue higher education.

Guidelines

- a) *The applicant must be a student who intends to complete Years 11 & 12 at the WA College of Agriculture – Denmark and is either;*
 - *Completing Year 10 at the Denmark High School; or*
 - *Completing Year 10 at the WA College of Agriculture – Denmark; or*
 - *A Year 10 student residing in the Denmark Shire.*
- b) *The Scholarship will not be based wholly on academic record. Interest in agriculture and family need is a consideration.*
- c) *Preference will be given to those students who are likely to continue agricultural pursuits within the Shire boundaries.*
- d) *The Scholarship amount will be determined by Council and 50% will be paid at the start of the first year and upon successful completion and continuation, 50% will be paid at the start of the second year.*
- e) *The CEO and/or the Shire President address the Seniors School students at the commencement of the advertising of the program (generally in September) to promote the Scholarship;*
- f) *The Sponsorship be widely promoted in local papers, notice boards and Council's website to both potential nominees and their parents or guardians;*
- g) *A Scholarship will not be awarded if no applicants are suitable.*
- h) *The decision of Council and/or the delegated Committee shall be final.*
- i) *The closing date for applications will be determined each year by the CEO to allow sufficient time for determination of the winner by Council and presentation at the relevant school's graduation ceremony.*

Budget / Financial Implications:

Council's 2015/16 Budget includes an amount of \$1,000 for the Agricultural Scholarship (GL1610832).

Strategic Implications:

The report and officer recommendation is consistent with Council's adopted Mission and Vision and assists achieve the following specific adopted Strategic Objectives and Goals.

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.

Youth: ...encourage opportunities, employment and facilities for young people, and aims to involve them in decisions made within the community.

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:**

Council's Agricultural Scholarship provides financial assistance to a local student who intends to complete Years 11 and 12 at the Denmark Agricultural Collage.

➤ **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 no application is suitable and therefore the 2015 Agricultural Scholarship is not awarded.	Rare (1)	Insignificant (1)	Low (1-4)	Not Meeting Community expectations	Accept Risk

Comment/Conclusion:

Thirteen (13) applications have been received and have been provided to Councillors as a confidential attachment. Applications closed on Friday, 23 October 2015 and all applications were received by this date.

Part g) of Council Policy states, "A Scholarship will not be awarded if no applicants are suitable."

Voting Requirements:

Simple majority.

COUNCIL RESOLUTION & OFFICER RECOMMENDATION	ITEM 10.1
MOVED: CR BARTLETT	SECONDED: CR SEENEY
That with respect to the 2015 Denmark Agricultural College Scholarship, Council;	
1. Announce Samuel Marsh as the successful applicant at their current School's Graduation Ceremony in 2015 and present them with the first year's scholarship payment of \$500; and	
2. Keep the name of the recipient of this scholarship and the decision of this meeting confidential to Councillors, Senior Officers and the Executive Assistant and embargoed until the announcement.	
CARRIED UNANIMOUSLY: 8/0	Res: 121115

6.53pm – Cr Gillies returned to the room.

10.2	2015 LEADERSHIP AWARD
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File Ref:	PBR.10
Applicant / Proponent:	Various
Subject Land / Locality:	Not applicable
Disclosure of Officer Interest:	Nil
Date:	28 October 2015
Author:	Claire Thompson, Executive Assistant
Authorising Officer:	Annette Harbron, Acting Chief Executive Officer
Attachments:	10.2a – Previous Recipients List 10.2b – Applications (Confidential for Councillors)

Summary:

Council is requested to peruse the attached applications for the Shire of Denmark’s Leadership Award and determine the successful applicant.

Background:

The Shire of Denmark Leadership Award was established in March 2011.

A list of previous recipients is attached as Attachment 10.2a.

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.

This Award was marketed and promoted as follows;

- General Advertisement in the Denmark Bulletin & the Walpole Weekly;
- General Advertisement on Council’s Notice Boards;
- General Advertisement on Council’s website;
- General Advertisement on Council’s Facebook page;
- Email to Councillors & Employees advising that applications were being called and request for assistance with promoting the Award;
- Specific Email to Council’s Youth Centre Co-ordinator, Manager of Recreation & Youth Services and the Senior Librarian requesting their assistance in promoting the Award through their networks and patronage;
- Email to Denmark High School Principal with link to application form on Council’s website.
- The Chief Executive Officer met with students from the Denmark High School to promote the Award on 3 September 2015.

Statutory Obligations:

There are no statutory obligations.

Policy Implications:

Council Policy P080202 relates and reads as follows;

SHIRE OF DENMARK LEADERSHIP AWARD

Objective

To provide an annual sponsorship for a Year 12 student, currently attending the Denmark High School, to assist with the cost of participating in an activity or program which focuses on;

- Skill development;
- Leadership;
- Self growth and development (self discovery);
- Problem solving;
- Confidence building;
- Strengthening personal motivation;
- Initiative; and/or
- Team work & communication.

The selected activity or program could include;

- A registered leadership program;
- A personal endeavour.

Guidelines

- a) The applicant must be a Year 12 student currently attending the Denmark High School;
- b) The Sponsorship will be awarded based on citizenship, community involvement and leadership;
- c) The successful applicant will be required to complete the selected program or activity within 12 months of being awarded this Sponsorship.
- d) The Sponsorship amount will be \$1,000 (2015/16) and will be paid to the successful applicant;
- e) The CEO and/or the Shire President address the Seniors School students at the commencement of the advertising of the program (generally in September) to promote the award and the principles of leadership;
- f) The Sponsorship be widely promoted in local papers, notice boards and Council's website to both potential nominees and their parents or guardians;
- g) The successful applicant will be required to acquit the Sponsorship, within a reasonable timeframe of completion, by providing a written report to Council on their activity or program and presenting that report to Council;
- h) A Sponsorship will not be awarded if there are no suitable applicants;
- i) The decision of Council and/or the delegated Committee shall be final.
- j) The closing date for applications will be determined each year by the CEO to allow sufficient time for determination of the winner by Council at presentation at the relevant school's graduation ceremony.

Budget / Financial Implications:

Council's 2015/16 Budget includes an amount of \$1,000 for the Leadership Award (GL1610822).

Strategic Implications:

The report and officer recommendation is consistent with Council's adopted Mission and Vision and assists achieve the following specific adopted Strategic Objectives and Goals.

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.

Youth: ...encourage opportunities, employment and facilities for young people, and aims to involve them in decisions made within the community.

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:**

Council's Leadership Award is an important method for Council to encourage and assist a local young person to participate in a program or activity relating to the development of leadership qualities & skills and/or their own personal and professional growth.

➤ **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 no application is suitable and therefore the 2015 Leadership Award is not awarded.	Rare (1)	Insignificant (1)	Low (1-4)	Not Meeting Community expectations	Accept Risk

Comment/Conclusion:

Five (5) applications have been received and have been provided to Councillors as a confidential attachment. Applications closed on Friday, 23 October 2015 and all applications were received by this date.

Part i) of Council's Policy states that "A sponsorship will not be awarded if there are no suitable applicants" and therefore if Council does not deem the applicant suitable, they are under no policy obligation to award it.

Voting Requirements:

Simple majority.

COUNCIL RESOLUTION & OFFICER RECOMMENDATION	ITEM 10.2
MOVED: CR GILLIES	SECONDED: CR SAMPSON
That with respect to the 2015 Shire of Denmark Leadership Award, Council;	
1. Announce Alannah Kenny as the successful applicant at the Denmark High School's graduation ceremony in 2015;	
2. Authorise the Chief Executive Officer to schedule a meeting with the successful applicant to discuss their selected program or activity and make the necessary arrangements with respect to the payment of the award; and	
3. Keep the name of the recipient of this scholarship and the decision of this meeting confidential to Councillors, Senior Officers and the Executive Assistant and embargoed until the announcement.	
CARRIED UNANIMOUSLY: 9/0	Res: 131115

COUNCIL RESOLUTION	
MOVED: CR PEDRO	SECONDED: CR SAMPSON
That Council come out from behind closed doors.	
CARRIED UNANIMOUSLY: 9/0	Res: 141115

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

12. CLOSURE OF MEETING

7.03pm – *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: _____
Dale Stewart – 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.)