



# Minutes

## ORDINARY MEETING OF COUNCIL

HELD IN THE COUNCIL CHAMBERS,  
953 SOUTH COAST HIGHWAY, DENMARK ON  
TUESDAY, 30 JULY 2013.

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# Ordinary Council Meeting

30 July 2013

## DISCLAIMER

These minutes and resolutions are subject to confirmation by Council and therefore prior to relying on them, one should refer to the subsequent meeting of Council with respect to their accuracy.

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**1. DECLARATION OF OPENING/ANNOUNCEMENT OF VISITORS**

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

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

MEMBERS:

- Cr Ross Thornton (Shire President)
- Cr John Sampson (Deputy Shire President)
- Cr Kelli Gillies
- Cr Jan Lewis
- Cr Barbara Marshall (from 4.08pm)
- Cr David Morrell
- Cr Ian Osborne
- Cr Dawn Pedro
- Cr Belinda Rowland
- Cr Roger Seeney
- Cr Alex Syme
- Cr Adrian Hinds

STAFF:

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

APOLOGIES:

Mr Rob Whooley (Director of Infrastructure Services)

ON LEAVE OF ABSENCE:

Nil

ABSENT:

Nil

VISITORS:

Members of the public in attendance at the commencement of the meeting: 6

Members of the press in attendance at the commencement of the meeting: Nil

DECLARATIONS OF INTEREST:

Name	Item No	Interest	Nature
Mr Dale Stewart	8.4.2	Impartiality	Mr Stewart is an employee of the Shire to whom the decision may benefit.
Mrs Annette Harbron	8.4.2	Impartiality	Mrs Harbron is an employee of the Shire to whom the decision may benefit.
Mr Gregg Harwood	8.4.2	Impartiality	Mr Harwood is an employee of the Shire to whom the decision may benefit.

**3. ANNOUNCEMENTS BY THE PERSON PRESIDING**

*The Shire President acknowledged and welcomed Donna Sampey, Council's new Sustainability Officer.*

*Cr Thornton announced that he had had an emailed request from Mr Graham Thallon, the Chief Bush Fire Control Officer, to make a presentation at today's meeting in relation to Item 9.1 and that he had approved the presentation to be made at Item 4.4.4 of the Agenda.*

**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 back of the front cover of this Agenda.

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

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

Questions from the Public

There were no questions.

**4.3 QUESTIONS BY MEMBERS OF WHICH DUE NOTICE HAS BEEN GIVEN**

Nil

**4.4 PRESENTATIONS, DEPUTATIONS & PETITIONS**

*4.08pm – Cr Marshall entered the room.*

**4.4.1 Mr Graham Thallon, Chief Bush Fire Control Officer – Item 9.1**

Mr Thallon expressed that the majority view of both the Bush Fire Advisory Committee and local bushfire volunteers was that they would prefer to remain under Council's control rather than a State Government Department based in Perth. Mr Thallon urged Council to maintain control of the brigades which he believed would be better for the community and the volunteers.

**5. APPLICATIONS FOR LEAVE OF ABSENCE**

Nil

**6. CONFIRMATION OF MINUTES****6.1 ORDINARY COUNCIL MEETING**

OFFICER RECOMMENDATION

ITEM 6.1

That the minutes of the Ordinary Meeting of Council held on the 9 July 2013 be confirmed as a true and correct record of the proceedings.

*4.23pm – The Director of Community & Regulatory Services left the room.*

<b>COUNCIL RESOLUTION</b>	ITEM 6.1
MOVED: CR SEENEY	SECONDED: CR MARSHALL
That the minutes of the Ordinary Meeting of Council held on the 9 July 2013 be confirmed as a true and correct record of the proceedings, subject to the following amendments;	
1. Page 26 - That Cr Morrell be added as returning to the meeting following the taking of the vote at the Resolution numbered 050713.	
CARRIED: 12/0	Res: 200713

REASONS FOR CHANGE

Council wished to make a correction to page 26 of the Minutes.

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

**8. REPORTS OF OFFICERS**

**8.1 Director of Planning & Sustainability**

**8.1.1 PROPOSED AMENDMENT TO RAINWATER TANKS LOCATION CONDITION ASSOCIATED WITH PLANNING APPROVAL 2012/132: SINGLE HOUSE AND OUTBUILDING - NO. 6 (LOT 52) KEMSLEY PLACE, DENMARK**

<b>File Ref:</b>	A3738 (2013/132A)
<b>Applicant / Proponent:</b>	Brendan and Lynette Parker
<b>Subject Land / Locality:</b>	No. 6 (Lot 52) Kemsley Place, Denmark
<b>Disclosure of Officer Interest:</b>	Nil
<b>Date:</b>	12 July 2013
<b>Author:</b>	Doug Fotheringham, Senior Town Planner
<b>Authorising Officer:</b>	Annette Harbron, Director of Planning & Sustainability
<b>Attachments:</b>	8.1.1a – Planning Application Documentation 8.1.1b – Planning Approval 2012/132: Site Plan 8.1.1c – Schedule of Submissions 8.1.1d – Site Photos

**Summary:**

The proponent is seeking an amended planning approval to facilitate locating two (2) rainwater tanks in the front setback adjacent to the recently constructed outbuilding at No. 6 (Lot 52) Kemsley Place, Denmark.

Having regard to the issues raised from the public submission received and the objectives & provisions of Town Planning Scheme Policy No. 40: *Rainwater Tanks and Greywater Re-use Systems* (Policy 40), it is recommended that an amended planning approval be granted subject to appropriate conditions.

**Background:**

Current Application

A planning application to amend the existing Planning Approval 2012/132 to facilitate locating two (2) x 3.8 metre diameter rainwater tanks (combined capacity of approximately 51,000 litres and 2.4 metres high) in the front setback adjacent to the recently constructed outbuilding was lodged with Council in May 2013 – refer Attachment 8.1.1a.

The proponent’s justification for the location is as follows:

- Higher on block for gravity fed irrigation;
- Provide self-sufficient water supply;

- Hidden from street view with already planted native shrubs;
- Colours to blend in with natural surrounds; and
- Tanks will be shaded by existing shed.

Approved Development

Planning Approval 2012/132 for a single house and outbuilding was issued on 10 October 2012 by Council. Condition 8 of this Planning Approval states:

*The rainwater tanks are to have a setback of 7.5 metres to the property boundary or alternatively be relocated to the northern elevation (rear) of the outbuilding.*

Attached at Attachment 8.1.1b is the approved site plan associated with Planning Approval 2012/132 referencing the rainwater tank setback requirements.

To date the outbuilding has been constructed (noting that approval has been given for temporary accommodation of portion of the outbuilding whilst the single house is under construction), the house slab works have commenced and landscaping has been planted along the front boundary of the property.

**Comment:**

As per the provisions of Policy 40, proposals that do not meet all the acceptable development criteria provisions require planning approval to be obtained, with the proposal to be referred to adjoining landowners for comment as part of the assessment of the application.

In this regard the proposal does not meet the following acceptable development criteria:

- Is not located between the front of a building and the street – the proposal is for the two (2) rainwater tanks to be located on the street side of the outbuilding with a front setback of 11 metres; and
- In the Residential Zone have a capacity of less than 45,000L – the proposal is for two (2) rainwater tanks with a combined capacity of approximately 51,000L.

Public advertising of the proposal was undertaken in accordance with Clause 6.4 of TPS No. 3 (refer ‘Consultation’ section of the report), with one (1) submission received.

Attachment 8.1.1c is the Schedule of Submissions – with the submission received being entered into the schedule verbatim. Column 4 of the Schedule of Submissions represents Planning Services comments/response to the submission.

In considering the proposal, due regard is to be given to the objectives and provisions of Policy 40 – refer Table below.

Objectives	Planning Services Comments
Improve the environmental sustainability of housing and other developments within the Shire by lowering consumers’ individual ‘carbon footprints’.	The rainwater tanks are to provide a permanent water supply and irrigation, which would lower the consumers’ individual ‘carbon footprint’ by mitigating demands on water service providers.
Encourage installation of rainwater tanks and greywater re-use systems for residential developments.	Achieved
Ensure that streetscape and local amenity values of the local area are not adversely affected through unacceptable visual impacts from the placement of rainwater tanks.	When viewed from the street and neighbouring properties the tanks would be reasonably well-contained within the form of the Outbuilding and can be coloured to match/complement the development on-site thereby mitigating visual impacts.

	<p>The tanks would also add a subtle and interesting articulation to the southern elevation of the outbuilding.</p> <p>Furthermore, additional landscaping conditions can ensure that the visual impact is mitigated through the provision of adequate vegetation screening.</p> <p>Attached at Attachment 8.1.1d are photos of the proposed location of the rainwater tank as viewed from the street.</p>
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Having regard to the issues raised from the submission and assessment of the proposal and the objectives and provisions of Policy 40, it is recommended that planning approval be granted subject to appropriate conditions being imposed.

**Consultation:**

External Consultation

- Applicant
- Seven (7) adjoining/nearby landowners inviting comment on the proposal

Internal Consultation

- Development Co-ordination Unit

**Statutory Obligations:**

TPS No. 3 specifies the pertinent planning provisions for the proposal.

Should Council refuse this planning 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:**

Policy No. 40: *Rainwater Tanks and Greywater Re-use Systems* provides objectives, provisions and acceptable development criteria with regard to the appearance and location of rainwater tanks – noting that only proposals that do not achieve the acceptable development criteria required planning approval to be obtained.

Clause 8.2.5 of TPS No. 3 states:

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

**Budget / Financial Implications:**

There are no known financial implications upon the Council's current Budget or Plan for the Future.

**Strategic Implications:**

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

**Sustainability Implications:**

➤ **Environmental:**

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

➤ **Economic:**

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

➤ **Social:**

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

**Voting Requirements:**

Simple majority.

4.26pm – The Director of Community & Regulatory Services returned to the room.

<b>COUNCIL RESOLUTION &amp; OFFICER RECOMMENDATION</b>	ITEM 8.1.1
MOVED: CR MORRELL	SECONDED: CR SAMPSON
<p>That Council with respect to the planning application to amend the location of the rainwater tanks associated with Planning Approval 2012/132: Single House and Outbuilding for No. 6 (Lot 52) Kemsley Place, Denmark:</p>	
<ol style="list-style-type: none"> <li>1. Note the submission received;</li> <li>2. Grant amended planning approval with the following amendments to the existing conditions;                     <ol style="list-style-type: none"> <li>a) Condition 1 being amended to read: <i>Development to be in accordance with the attached stamped approved plans dated 22 August 2012, 2 October 2012 and 31 May 2013.</i></li> <li>b) Condition 8 being amended to read: <i>Additional landscaping being planted in the vicinity of the rainwater tanks (refer areas highlighted in green) to assist with visual screening of the rainwater tanks from the street, with such landscaping to be planted no later than 30 June 2014 and thereafter maintained as landscaped areas at all times.</i></li> </ol> </li> <li>3. Advise the submitter of Council's decision.</li> </ol>	
CARRIED: 11/1	Res: 210713



**8.1.2 PROJECT DIEBACK REFERENCE GROUP WEST – REQUEST FOR SHIRE REPRESENTATIVE**

<b>File Ref:</b>	REM.7A
<b>Applicant / Proponent:</b>	South Coast Natural Resource Management Inc.
<b>Subject Land / Locality:</b>	Shire of Denmark
<b>Disclosure of Officer Interest:</b>	Nil
<b>Date:</b>	17 July 2013
<b>Author:</b>	Annette Harbron, Director of Planning & Sustainability
<b>Authorising Officer:</b>	Annette Harbron, Director of Planning & Sustainability
<b>Attachments:</b>	8.1.2 – Project Dieback Information Sheet

**Summary:**

South Coast Natural Resource Management Inc. (SCNRM) have requested representatives from the Shire of Denmark on the Project Dieback Reference Group West.

**Background:**

Project Dieback – ‘Action and Opportunities for Protecting Biodiversity Assets’ is a State Natural Resource Management Office funded project which focuses on reducing the risk of the human vectoring of *Phytophthora cinnamomi* within priority areas of Western Australia. Attached at Attachment 8.1.2 is an information sheet in relation to the project.

The Project Dieback Reference Group West was established earlier this year and covers the area west of Walpole to east of Albany and includes areas north within the Shires of Plantagenet and Cranbrook – with Elissa Stewart engaged as the Project Dieback Implementation Officer West for SCNRM.

The current Reference Group members are as follows:

<b>Agency</b>	<b>Representative</b>
Department of Parks & Wildlife (Franklin)	Janine Liddelow
Department of Parks & Wildlife (Manjimup)	Brad Barton
Department of Parks & Wildlife (Albany)	Deon Utber
Department of Parks & Wildlife (Albany)	Sarah Barrett
Shire of Plantagenet	Eric Howard
Shire of Manjimup	Mark Sewell
City of Albany	Sandra Maciejewski
South Coast Natural Resource Management	Alison Lullfitz
Wilson Inlet Catchment Committee	Lyn Heppell
Main Roads WA	Gemma Maling
Gillamii	Genieve Harvey
South West Aboriginal Land & Sea Council	Steve Woods
Walpole Nornalup National Parks Association	Colin Steele
Community	Elizabeth Edmonds
Community	Joanna Young

**Comment:**

It is appropriate that the Shire of Denmark be represented on the Project Dieback Reference Group West. Having regard to the current membership, it is recommended that the Shire’s representative be the Sustainability Officer.

**Consultation:**

- SCNRM – Elissa Stewart

**Statutory Obligations:**

There are no statutory obligations relating to this project and/or officer recommendation.

**Policy Implications:**

The Shire of Denmark currently has two policies pertaining to dieback, being:

- Council Policy P100507: *A Study into the Risk of Phytophthora Dieback in Ten Peri-Urban Reserves within the Shire of Denmark*; and
- Town Planning Scheme Policy No. 1: *Dieback Disease Policy*.

**Budget / Financial Implications:**

There are no known new significant budget and/or financial considerations relating to this project and/or officer recommendation.

**Strategic Implications:**

The invasion of *Phytophthora cinnamomi* throughout the South West (including the Shire of Denmark) has reached the stage that a well-coordinated response on a landscape scale is required.

**Sustainability Implications:**

➤ **Environmental:**

Project Dieback will set a Dieback Management and Investment Framework that has a goal ‘to protect and conserve the most significant examples of the biodiverse ecosystems and communities of the South West of Australia that are vulnerable to, or threatened by *Phytophthora cinnamomi*, by the identification of at least 100 Priority Protection Areas for targeted ongoing investment and management over the next 50 years.

➤ **Economic:**

The sustainable management of the Shire of Denmark’s natural environment has implications for generating increased revenue for associated businesses and for the overall profile of Denmark as a natural area tourism destination.

➤ **Social:**

The natural beauty, assets and associated lifestyle that Denmark offers is a key draw card for local residents and visitors alike.

**Voting Requirements:**

Simple majority.

<b>COUNCIL RESOLUTION &amp; OFFICER RECOMMENDATION</b>	ITEM 8.1.2
MOVED: CR PEDRO	SECONDED: CR SEENEY
That with respect to the request by South Coast Natural Resource Management Inc. for Shire of Denmark representation on the Project Dieback Reference Group West, Council appoint the Shire’s Sustainability Officer as the Shire’s representative.	
CARRIED UNANIMOUSLY: 12/0	Res: 220713

## 8.2 Director of Community & Regulatory Services

### 8.2.1 REMOVAL OF FOUR PINE TREES AT THE MCLEAN PARK COMPLEX

<b>File Ref:</b>	3035
<b>Applicant / Proponent:</b>	Shire of Denmark
<b>Subject Land / Locality:</b>	McLean Oval
<b>Disclosure of Officer Interest:</b>	Author is a member of the Denmark Cricket Club
<b>Date:</b>	18 July 2013
<b>Author:</b>	Damian Schwarzbach – Manager of Recreation Services
<b>Authorising Officer:</b>	Gregg Harwood – Director of Community & Regulatory Services
<b>Attachments:</b>	8.2.1 - Photos of Trees

#### Summary:

The report discusses the removal of five Pine Trees bordering Brazier Street behind the Club rooms at McLean Park.

The report recommends that Council support the removal of the five Pine Trees (4 live, 1 dead) and replace them with Peppermint trees to continue the ambience and to fill the gap left by their removal.

#### Background:

The McLean Park precinct is the major sporting and recreational facility in the Shire of Denmark. The facility is the main attraction to the community participating in both social and competitive physical activities.

The Shire has been progressively developing the McLean Park complex since 2002 when a concept plan was commissioned to look at the future uses for this precinct.

In 2008, the McLean Park User Group committee was formed, consisting of representatives from all the user groups at the facility and the Shire's Manager of Recreation Services.

#### Comment:

In September 2012 Council received a letter from the Denmark Walpole Football Club requesting the removal of the Pine trees behind the club rooms.

Their letter stated "The leaves and branches continually drop onto the roof and into the gutters of the club rooms, blocking the gutters not allowing them to be used in the correct way. There is also the possibility that their roots could be interfering with the plumbing/septics behind the new toilets".

During the Football club's home final in September 2012 the septic to the toilets overflowed requiring a plumber to be called out at a cost to Council. His feedback indicated a problem with the root system from the Pine Trees had contributed to this. The letter was passed to the McLean Park User Group who at their February 2013 meeting voted to support the removal of the pine trees.

The Shire's Manager Recreation Services (MRS) then consulted with Shire's Principal Building Surveyor who provided the following comment;

*"Yes I can confirm that the trees (the pines not the peppermints) have been a problem for many years. We are using gutter guards but the type of tree and proximity to the buildings still cause blockage of the gutters and down pipes causing damage to the buildings".*

The MRS then investigated the origin of the Pine Trees and discovered that they had been planted by the Mumford family. He contacted a relative of the family, George Mumford, and he approved of the removal of the pine trees.

The other significant user group of the facility is the 1<sup>st</sup> Denmark Scouts. The MRS contacted Beth Franz, Scout leader, who also gave her approval for the removal.

Once these approvals were all obtained the MRS then wrote a letter to property owners bordering the Brazier Street vicinity adjacent to the Pine trees and club rooms. Seven property owners were written to with 4 written approvals returned, two verbal approvals via phone call and one owner who has not replied and has no contact phone number.

Prior to this Director of Community & Regulatory Services (DCRS) also personally door knocked the five houses that will directly overlook the pine trees and 4 out of the 5 households indicated that they fully supported the removal of the trees and fifth who is to the town side of the trees has verbally indicated that they do not support the removal of the trees because they are concerned that they are currently blocking out light spillage from the Mclean oval lights. They have however declined to put this concern in writing despite having acknowledged receiving the MRS letter. Their comments have however been considered and it is the Director's opinion that the lights will not cause unreasonable spillage as they have been designed and manually adjusted to focus on the pitch and not excessive in their outputs. In addition to this they are only turned on when the oval is being used for training sessions and games and are invariably turned off by 9.00pm meaning that they would not impact on a reasonable person's lifestyle and sleeping habits.

This process has now led to seeking Council approval for the removal of Pine Trees and to replace them with Peppermint trees to continue the ambience and to fill the gap left by their removal.

A quote was obtained from Roderick's Tree Lopping Service in 2012 and that came to \$5,428.00. There may be a small increase to this quote due to the time elapsed.

**Consultation:**

McLean Park Users Group, Shire staff, a letter to seven property owners and Director of Community & Regulatory Services also personally door knocked the five houses that will directly overlook the pine trees.

Director of Community & Regulatory Services recognise the importance of trees in an urban landscape hence the exhaustive consultation process.

**Statutory Obligations:**

Nil

**Policy Implications:**

Council's policy for the removal of trees is as follows;

*P100505 TREE REMOVAL/LOPPING*

*Council may issue a work order against the owner of private land containing a tree which threatens life or property on adjoining private land, if the tree is determined to be dead, diseased or dangerous.*

*This policy recognises that karri (Eucalyptus diversicolor) and certain other native eucalypts are naturally self-pruning, and can, even under optimum conditions shed branches.*

*When considering a request to remove or prune a tree Council will take into account a number of factors, including age, species and the position of adjacent buildings.*

*A tree's viability and structural stability in respect of a request to remove or prune will be determined on the basis of an inspection by the Shire Engineer or Head Gardener, Ward Councillors and a representative of the Denmark Conservation Society.*

*Excessive leaf-fall, gumnuts, blossom, bark litter, or increased bird activity as a cause or result of these, are not considered grounds for a request for Council to issue a work order.*

*For the purposes of this policy the following definitions apply:*

*'Dead' means a tree displaying no obvious signs of life, or less than 10 per cent viability, and may be subject to an inspection of the bark and sampling of the cambium layer.*

*'Diseased' means a tree displaying chronic ill-health, as a result of attack by insects or other factors, but not necessarily from water stress or the presence of termites or fungi.*

*'Dangerous' means a tree which poses a clear and immediate threat to life or property, whether or not it displays one or more of the above conditions; or a clear potential threat, and may include a tree –*

- 1. Growing on an acute angle;*
- 2. Whose roots or trunk have been cut or damaged so as to affect the tree's stability or structural integrity;*
- 3. Whose trunk could grow to damage fencing or buildings on an adjoining property;*
- 4. Displaying uneven coppice growth from a stump;*
- 5. with multiple stems where there are obvious signs of rot or disease in the cleft between stems or limbs;*
- 6. Standing on its own in an exposed position subject to high winds.*

*Refer also Delegation D12010*

#### **TREES - REMOVAL**

**DELEGATION NUMBER** - D120104  
**LEGISLATIVE POWERS** - Local Government Act 1995 (Section 5.42)  
**DELEGATE** - Chief Executive Officer  
**ACTIVITY** - Streets, Roads, Bridges, Depots

*The Chief Executive Officer is delegated authority to authorise the removal of any tree on any townsite or rural street or road reserve where the street or road is under the care, control and maintenance of the Council. This delegated authority shall only be exercised when the Chief Executive Officer, after obtaining technical advice when appropriate, is of the opinion that the tree is dead, diseased, structurally dangerous or is creating a traffic hazard by restricting the vision of motorists. This delegation to remove trees may also be exercised when removal of the tree/s is needed due to pending roadworks however in these instances the Chief Executive Officer need not obtain technical advice regarding the condition of the tree/s.*

*The Chief Executive Officer, prior to exercising this delegation shall consult with interest groups active in or associated with the area and any two Ward Councillors and comply with the Environmental Protection (Clearing of Native Vegetation) Regulations 2004.*

*The Chief Executive Officer in exercising authority under Section 5.44 of the Local Government Act 1995 has delegated this power/duty to the Director of Infrastructure Services.*

The reason why the removal of these trees is being referred to Council is that this policy does not address the removal of otherwise healthy trees.

#### **Budget / Financial Implications:**

The cost has been included in the Draft 2013/14 Council Budget, with respect to McLean Park.

**Strategic Implications:**

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

**Sustainability Implications:**

➤ **Environmental:**

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

➤ **Economic:**

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

➤ **Social:**

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

**Voting Requirements:**

Simple majority.

<b>COUNCIL RESOLUTION &amp; OFFICER RECOMMENDATION</b>	ITEM 8.2.1
MOVED: CR HINDS	SECONDED: CR LEWIS
That Council support the removal of five Pine Trees bordering Brazier Street behind the Club rooms at McLean Park Denmark and replace them with Peppermint trees to continue the ambience and to fill the gap left by their removal.	
CARRIED UNANIMOUSLY: 12/0	Res: 230713

**8.3 Director of Infrastructure Services**  
Nil

## 8.4 Director of Finance & Administration

### 8.4.1 FINANCIAL STATEMENT FOR THE MONTH ENDING 30 JUNE 2013

<b>File Ref:</b>	FIN.1
<b>Applicant / Proponent:</b>	Not applicable
<b>Subject Land / Locality:</b>	Denmark
<b>Disclosure of Officer Interest:</b>	Nil
<b>Date:</b>	16 July 2013
<b>Author:</b>	Steve Broad, Accountant
<b>Authorising Officer:</b>	Dale Stewart, Chief Executive Officer
<b>Attachments:</b>	8.4.1 - Monthly Financial Report

#### Summary:

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

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

#### Background:

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

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

#### Comment:

Shire Trust Funds have been invested for 30 days with the National Bank, maturing 24 July 2013 at the quoted rate of 3.19%.

Reserve Funds have been transferred to the Cash Management account with the National Bank, to manage the cash flow at this time of year at the quoted rate of 2.6%.

No municipal funds have been placed on investment, being required for short term cash flow requirements until 2013/14 rating income is received.

#### Key Financial Indicators at a Glance

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

- Operating revenue is lower than that predicted for 30 June 2013, largely due to the unclaimed grants budgeted for and not expended during 2012/13 (Statement of Financial Activity).

- Operating expenditure is lower than that predicted for 30 June 2013, although it is noted accounts are still being received for this period (Statement of Financial Activity).
- The 2012/13 Capital Works Program was 52.49% complete as at 30 June 2013 (Note 10). As previously reported, some major projects remain outstanding and will need to be carried forward into the 2013/14 year. These projects include:
  - Morgan Richards Community Centre.
  - Waste Plant purchase.
  - Kwoorabup Community Park.
  - Industrial Land purchase.
- Rates Collection percentage of 96.12% is in keeping with historical collection rates (Note 6). Debt recovery processes have commenced against those ratepayers who have not yet paid or made alternative arrangements with Council.
- Various transfers to and from Reserve Funds have been made as per the 2012/13 Municipal Budget.

**Consultation:**

Nil

**Statutory Obligations:**

Local Government Act 1995 Section 5.25 (1)

Local Government (Financial Management) Regulations 1996

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

**Policy Implications:**

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

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

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

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

**Budget / Financial Implications:**

There are no significant trends or issues to be reported.

**Strategic Implications:**

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

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

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

**➤ Economic:**

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



➤ **Social:**

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

**Voting Requirements:**

Simple majority.

<b>COUNCIL RESOLUTION &amp; OFFICER RECOMMENDATION</b>	ITEM 8.4.1
MOVED: CR ROWLAND	SECONDED: CR MORRELL
That with respect to Financial Statements for the month ending 30 June 2013, Council;	
1. Receive the Financial Report, incorporating the Statement of Financial Activity and other supporting documentation.	
2. Endorse the Accounts for Payment as listed.	
CARRIED UNANIMOUSLY: 12/0	Res: 240713

*Prior to consideration of Item 8.4.2 the Chief Executive Officer, through the Presiding Person, brought to the attention of the meeting the following disclosure(s) of interest:*

*Mr Stewart, Mrs Harbron & Mr Harwood are employees of the Shire to whom the decision may benefit and as a consequence there may be a perception that their impartiality on this matter may be affected. Mr Stewart, Mrs Harbron & Mr Harwood declared that they will consider this matter on its merits and advise Council accordingly.*

**8.4.2 SHIRE OF DENMARK CHRISTMAS SHUTDOWN**

<b>File Ref:</b>	A3032
<b>Applicant / Proponent:</b>	Shire of Denmark
<b>Subject Land / Locality:</b>	Nil
<b>Disclosure of Officer Interest:</b>	Dale Stewart, the CEO declares an Impartiality Interest in the matter as potentially benefitting from the proposal together with other employees.
<b>Date:</b>	18 <sup>th</sup> July 2013
<b>Author:</b>	Marcia Chamberlain, HR/Risk Management Officer
<b>Authorising Officer:</b>	Peta Leiper, Acting Director of Finance and Administration
<b>Attachments:</b>	Nil

**Summary:**

All Shire of Denmark employees are entitled to two extra public holidays per year over the New Year and Easter periods which were a condition of previous industrial awards and have been adopted by the Council as a continuing condition of employment at the Shire. Traditionally this leave has been taken by office staff on different days so as not to unduly affect customer service at the front counter by closing the office for that day, with other operations such as the depot, generally taking the extra days on the day they fall due or over the Christmas/Easter period.

This year, office staff will be required to have Wednesday 25<sup>th</sup> and Thursday 26<sup>th</sup> of December as public holidays, work for one day on Friday 27<sup>th</sup> December, have the weekend and work Monday 30<sup>th</sup> and Tuesday the 31<sup>st</sup> of December, then take Wednesday the 1<sup>st</sup> of January off as a public holiday. It has always been the practice at the Denmark Shire that the Depot, Recreation Centre and Youth Centre close over the Christmas/New Year break and the Administration and Library employees continue working, albeit with a skeleton staff.

Last year the Council Administration offices closed during this period for the first time in many years with no reported complaints from the public. The following Councils close for the Christmas period, following the same Christmas/New Year closure as has previously been adopted by their Council. Many other Councils also close during this period.

City of Albany	Closed 25 <sup>th</sup> December to 1 <sup>st</sup> January.
Shire of Plantagenet	Closed 25 <sup>th</sup> December to 1 <sup>st</sup> January.

Given the Shire of Denmark is a substantial distance from most other towns and cities and many employees usually travel to visit families at Christmas time, it is proposed that the office and other operations of the Shire close from Wednesday 25<sup>th</sup> of December 2013 until Wednesday 1<sup>st</sup> of January 2014 (inclusive). All employees will be required to take one or two days as a public holiday day of in lieu (DOIL) entitlement and the balance as annual leave, time in lieu, or rdo's.

**Background:**

This public holiday entitlement is not specified for any day and is able to be taken at the discretion of the employer and employee.

<b>Days to be taken as follows:</b>	
Wednesday 25 <sup>th</sup> & Thursday the 26 <sup>th</sup> December	Public Holidays
Friday 27 <sup>th</sup> December	DOIL day
Monday 30 <sup>th</sup> & Tuesday 31 <sup>st</sup> December	DOIL, Annual/Leave, RDO, Time in Lieu
Wednesday 1 <sup>st</sup> January	Public Holiday

*Council resolved pursuant to resolution number 150912 at its meeting of the 25 September 2012 as follows:*

*“That Council, in addition to the traditional closure of the Recreation Centre, Youth Centre and Depot operations (excluding waste management) authorise the closure of the Shire Office (excluding Law Enforcement Officers) & Library from Monday, 24 December 2012 until Tuesday, 1 January 2013 (inclusive) with staff on leave required to use their leave entitlements and that this closure be publicised well prior to this date.”*

**Comment:**

The closure of the office for three extra days is not considered to be significant in terms of the services provided by the Shire, given that many members of the public will also be on leave at this time and there is sufficient time to warn residents of the proposed closure.

**Consultation:**

All shire staff.

**Statutory Obligations:**

Local Government Act 1995.

Various awards relevant to Local Government employees.

**Policy Implications:**

Nil.

**Budget / Financial Implications:**

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

**Strategic Implications:**

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

**Sustainability Implications:**

➤ **Environmental:**

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

➤ **Economic:**

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

➤ **Social:**

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

**Voting Requirements:**

Simple majority.

**COUNCIL RESOLUTION & OFFICER RECOMMENDATION**

ITEM 8.4.2

MOVED: CR MORRELL

SECONDED: CR SEENEY

That Council, in addition to the traditional closure of the Recreation Centre, Youth Centre and Depot operations (excluding waste management) authorise the closure of the Shire Office (excluding Law Enforcement Officers) & Library from Wednesday 25<sup>th</sup> December 2013 until Wednesday 1<sup>st</sup> January 2014 (inclusive) with employees on leave required to use their leave entitlements and that this closure be publicised well prior to this date.

CARRIED UNANIMOUSLY: 12/0

Res: 250713

## 8.5 Chief Executive Officer

### 8.5.1 LEASE OF PART LOT 300, CORNER OF SOUTH COAST HIGHWAY AND DENMARK - MOUNT BARKER ROAD

<b>File Ref:</b>	Tender 4 of 2012/2013
<b>Applicant / Proponent:</b>	Not applicable
<b>Subject Land / Locality:</b>	Lot 300 (Pig Pen area)
<b>Disclosure of Officer Interest:</b>	Nil
<b>Date:</b>	23 July 2013
<b>Author:</b>	Dale Stewart, Chief Executive Officer
<b>Authorising Officer:</b>	Dale Stewart, Chief Executive Officer
	8.5.1a –Tender application
	8.5.1b –Tender document
<b>Attachments:</b>	8.5.1c - Lease
	8.5.1d –Soil Solutions Tender
	8.5.1e –Shire of Denmark Tender

#### Summary:

This report considers the tenders received for the lease of portion of Lot 300 (Pig Pen area), corner of South Coast Highway and Denmark – Mount Barker, Denmark and the officer recommends selecting one of the tenderers. Nothing precludes Council from not accepting any tender.

#### Background:

Council advertised for lease portion of Lot 300 (up to 7,640 square metres) in accordance with the attachments 8.5.1 a-c (advertisement, tender documentation and draft lease).

The valuation received for the property from Opteon, dated 25 June 2013 was \$27,000 per annum plus GST.

#### Comment:

At the close of the tender period, two tenders were received, one from Denmark Earthmoving of Denmark, for the sum of \$11,000 plus GST per annum and one from Vancouver Waste Services, trading as Soil Solutions, for the sum of \$30,000 plus GST per annum.

Denmark Earthmoving Contractors has been in business since 1988 and operating successfully from the old saleyards site (reserve 27101) on the corner of South Coast Highway and the Denmark – Mt Barker Road on taking over the lease from North East Equity.

The company's current lease expires in December 2015 when Councils intent for the whole of the Lot 300 is to convert the usage(s) to activities more in keeping with that of a Business Park.

At that point in time it is hopeful that larger earthmoving and landscape type businesses would relocate to land more suitably zoned such as the Council's proposed Light Industrial Area, on McIntosh Road, Hay.

Both tenderers are aware of this intent and the short term nature of the current proposed lease.

The Council's tender specification for the lease noted that tenders would be selected based on the following criteria:

- Use/activity proposed for the site                      50%
- Lease period    10%
- Rent consideration    30%
- Conditions of tender (if any)                                      10%

Based on the above the successful tenderer would be that from Soil Solutions.

**Consultation:**

Nil

**Statutory Obligations:**

All the statutory obligations, pursuant to the Local Government Act 1995 (Section 3.58) for inviting and considering tenders, have been met.

**Policy Implications:**

There are no policy implications.

**Budget / Financial Implications:**

The rental valuation provided by Albany Valuation Services for the "pig pen" area of \$27,000 will not be realised should the lower tender received be accepted.

The Council's draft budget for the 2013/2014 year included the sum of \$29,740, which represents predicted income from the current two leases on the balance of Lot 300.

Should Council accept the higher tender Council will have a further income to be realised above budget of approximately \$22,500 (estimated based on 9 months lease).

**Strategic Implications:**

Following the demise of the previous lessee of the site, Denmark Civil Works, Soil Solutions have, it would appear, received greater requests for servicing Denmark from Albany, to which they have concluded that a Denmark based operation would suit their business operations. The question of whether Council leasing a portion of its freehold land to a business that may be in competition with an existing business within the Shire is one that Council may give some consideration to, but only in accordance with the conditions of the advertised tender.

If Council was inclined to support the concerns that by providing the land for lease to a new business entity, that it would increase competition to an existing business activity within the Shire, then Council would need to reject all tenders and retender on the basis that it only offered the land for usage(s) that were currently not available in the Shire.

The proposed lease provides for retention of the communities unrestricted access to the saleyards.

**Sustainability Implications:**

➤ **Environmental:**

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

➤ **Economic:**

Councillors should be aware that Council offices have received a telephone call from a local landscape business operating within the Shire, which it should be noted did not tender for the proposed leased area, stating that if Soil Solutions are approved as the successful tenderer that it may have significant implications on their commercial operations.

Soil Solutions, intend to operate a landscaping supplies service selling products from building sands through to manures, mulches and decorative rock. They also intend using the site to potentially receive green waste for processing. Any of the relevant uses would be subject to receiving planning approval from the Council.

The previous lessee of the site operated an earth moving business and landscape suppliers business and has since gone into receivership.

➤ **Social:**

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

**Voting Requirements:**

Simple majority.

**OFFICER RECOMMENDATION**

**ITEM 8.5.1**

That Council accepts the tender received from Vancouver Waste Services for the lease of portion of Lot 300, corner of South Coast Highway and the Denmark - Mount Barker Road, Denmark a lease of \$30,000 pa plus GST, with the lease to expire no later than 31 December 2015, subject to the lessee obtaining planning approval for the intended usage at the site.

The Officer noted that in light of the consideration of matters relating to the Local Planning Strategy and achieving its long term objectives, he provided the following Alternative Officer Recommendation.

<p><b>COUNCIL RESOLUTION &amp; RECOMMENDATION</b></p>	<p><b>ALTERNATE OFFICER</b></p>	<p><b>ITEM 8.5.1</b></p>
<p>MOVED: CR SYME</p>	<p>SECONDED: CR <del>PEDERO</del> PEDRO</p>	
<p>That with respect to the tendering of portion of Lot 300, corner of South Coast Highway and the Denmark – Mt Barker Road, Denmark, Council reject all tenders for the short term use of the site and convene a workshop comprising of Elected Members and Senior Staff on the long term Local Planning Strategy objectives proposed for the site, prior to considering re-tendering or an Expression of Interest process that could facilitate these long term objectives not least of which includes funding towards the proposed Denmark Light Industrial Area and/or relocation of the Shire Depot.</p>		
<p>CARRIED UNANIMOUSLY: 12/0</p>	<p>Res: 260713</p>	

## 9. COMMITTEE REPORTS & RECOMMENDATIONS

### 9.1 THE DEPARTMENT OF FIRE AND EMERGENCY SERVICES IMPACT ASSESSMENT ON THE TRANSFER OF LOCAL GOVERNMENT BUSH FIRE BRIGADES

<b>File Ref:</b>	Fire.3
<b>Applicant / Proponent:</b>	Shire of Denmark
<b>Subject Land / Locality:</b>	Shire of Denmark
<b>Disclosure of Officer Interest:</b>	Nil
<b>Date:</b>	8/07/2013
<b>Author:</b>	Gregg Harwood, Director of Community & Regulatory Services
<b>Authorising Officer:</b>	Gregg Harwood, Director of Community & Regulatory Services
<b>Attachments:</b>	9.1 – ICR13519304 - Important Update - Emergency Services Legislation Review - Email Update #1

#### Summary:

This report has been written for Council to consider its position on a letter sent from the Department of Fire and Emergency Services (DFES), in relation to its current legislation review project.

The letter has been sent to all local governments to identify the impact on the State should local governments, through a change of legislation, be given the ability to transfer the responsibility for bush fire brigade operations and administration to DFES.

#### Background:

Council has received a letter from DFES dated the 23<sup>rd</sup> May 2013 and titled Emergency Services Review – Option to Transfer Local Bush Fire Brigades Impact Assessment which asks the following question, *“If future legislation provided the option for local governments to transfer the responsibility for bush fire brigade operations and administration to DFES, would your local government be likely to retain or transfer the responsibility?”*

On the 19<sup>th</sup> December 2012 DFES commenced a project aimed at reviewing the Emergency Services Legislation, including the Bushfires Act 1954, Fire Brigades Act 1942 and the Fire and Emergency Services Act 1998, to create a single comprehensive Emergency Services Act, which will improve community safety and better support for emergency services workers into the future.

Stage 1 of this project involved an extensive consultation process which sort feedback from internal and external stakeholders, including bush fire brigade volunteers and local governments, to provide information on what currently works, what does not work and what is missing in the above identified Acts, especially since two of the acts are well over 50 years old.

From the collected feedback the issue of local governments being able to transfer the responsibilities of volunteer bush fire brigades to the DFES was raised by a significant number of Councils. Currently under section 41(1) of the Bushfires Act 1954 only a local government can establish and equip Bush Fire Brigades and DFES are proposing that the new Act allow them to be able to establish and equip volunteer bush fire brigades where local governments want to relinquish that role.

As part of the review of the transfer of the Bush Fire Brigades to DFES, they need to consider the potential budgetary implications to the State if a significant number of Councils did decide to transfer their brigades across to them. To achieve this it is essential that the Department understands the location and quantity of brigades that may come under this arrangement and as a result the 23<sup>rd</sup> May 2013 letter was sent to the Shire of Denmark.



The 10<sup>th</sup> June 2013 response time indicated is too narrow and indicates that the Emergency Services Legislation Review Project Team either does not appreciate the complexities and extended time frames that are involved with consulting with local brigades via BFAC's and Council, or that alternately they are expecting the staff of those Councils to make a decision without going through a referral process.

To this end the Shire's Community Emergency Services Manager (CESM) wrote to the Emergency Services Legislation Review Project Team advising them of this in the first instance of BFAC's previous decision (refer below) and has sought an extension of time on the basis that matter is being referred to Council for consideration.

Councillors should note that BFAC has considered this matter on two occasions and has made the following decisions:

*Item 5.2.9 of March 2013*

*"That the CBFCO be requested to, if the opportunity arises, express to the travelling Bushfire Act Review team that responsibility for Volunteer Bushfire Brigades with the Shire Denmark should remain with the Shire of Denmark."*

*Item 8.4 of 6 June 2013*

*"That the Committee recommends to Council that;*

- 1. A letter is drafted to the Emergency Services Legislation Review Project Team stating that more time is required, before a well-considered response can be submitted from the Shire.*
- 2. It strongly objects to the transferring of responsibility for Bushfire Brigades operations and administration to DFES."*

**Comment:**

One of the outcomes of the Emergency Services Legislation Review road show that toured many parts of the State is that some Councils have indicated that they are supportive of fully handing the administration and control of their district's Brigades back to DFES.

This concept is not new as the Community Development and Justice Standing Committee (CDJSC) proposed in 2006 that Local Governments should have the option, by mutual agreement, to transfer the control and administration of local bush fire Brigades.

The proposal was also mentioned in the Keelty Report and apparently was discussed by attendees of the various road shows and identified in numerous submissions. As a result of these inputs the Emergency Services Legislation Review Project Team determined that there was enough interest in the proposal to warrant further research and to seek specific response from individual Councils.

While it is noted that BFAC has made the previously mentioned motions Council staff are seeking a definitive stance from Council for the following reasons:

- 1) The administration of volunteer bush fire brigades and responsibility as the local hazard management authority for fire represents a significant corporate and financial risk to Council and Councillors should have the final say as to whether Council wants to retain that risk.
- 2) From a finance perspective the cost of controlling and administering Council's bush fire Brigades typically ranges between 1.5 – 4% of its rates income depending on what contributions are being made to Brigade infrastructure, what issues are

emergent in the Brigade community and whether or not particular issues or relationships with particular Brigades are problematic.

Examples of issues that have increased Council's costs in administrating Brigades are the legal opinions and extensive reports that have been associated with the burning on private land policy, additions to Brigade sheds that are not covered by the Emergency Services Levy (ESL), maintaining a large number of local Brigades, maintaining large members lists for in the opinion of the author, want of not offending members, the recent Brigade insurance enquiries, the Ocean Beach ESL cat 4 boundary discussions and the resultant MOU and Council as a result of brigade pressure committing to leasing a redundant water tank on Weedon Hill from the Water Corporation when they already had a community service obligation to provide water for fire fighting purposes free of charge.

From a community dividend perspective this however is counter balanced by the fact that Brigades provide Council with a means of controlling fires and fire risks on the land that it manages on behalf of the community, the important social function that many Brigades perform in pulling rural communities together and the role that FCOs and senior Brigade members perform as recognised community leaders. In addition to this the administration of Brigades by local governments means that they are able to blend Brigade management into wider community development endeavours.

If there is an opportunity to achieve a 1.5 – 4% rate saving by handing a responsibility to State government it should at least be referred to Council for consideration.

- 3) The retention of volunteer bush fire brigades and responsibility as the local hazard management authority for fire is an important issue for some brigade members and should be considered by Council for that reason alone.

From a Council perspective while it is a given that Council values and supports its volunteers it is also a given that Council as good business managers should, whenever it has the opportunity to do so, consider whether it would prefer that another level of government provide that service.

While from a business perspective the obvious business decision is to support the handing over of the brigades to DEFS, thereby dramatically reducing Council's corporate risk while releasing between 1.5 – 4% of its rates income that could then be directed towards better managing the fire risks on its reserves thereby further reducing its risk exposure. The debate is not however that simple, because the brigade members are our community members and in most cases are ratepayers and community leaders and the brigades themselves are the social hubs in many rural areas.

In order to simplify the consideration and debate of this matter the salient points have been broken down into the following headings.

- 1) Council's priorities as an organization.

Council's priorities as an organization should be the first tier of any decision regarding a significant ongoing activity and they are in order of priority as follows:

- a) What are Council's legal obligations?
- b) What impact will it have on Council's long term viability as a local government corporation?
- c) What rate increase/ debt burdens will it force onto our rate base who are in effect our principal shareholders?
- d) What is in the best interests of the entire community of the Shire of Denmark?
- e) What is in the best interests of specific communities within the Shire of Denmark?
- f) What is in the best interests of specific community groups?

g) What is in the best interests of individual volunteers?

2) What risk is Council taking on?

By retaining the administration of bush fire brigades together with the role as the hazard management agency for local bush fire responses, Council is voluntarily taking on considerable occupational health and common law risks that it could otherwise avoid.

As hazard management agency Council has a responsibility to ensure that its fire fighting volunteers are properly trained, equipped, coordinated and resourced on the fire ground. In addition to this it can be potentially sued under common law by both injured fire fighters or the owners of properties that have been damaged by wildfires if it can be found that it has acted in a negligent manner in that role.

This role also contains a significant administrative risk for Council in dealing with the post event administrative consequences of an Augusta – Margaret River type fire or the death or serious injury of a fire fighter scenario as it would tie up Council's CEO and senior staff resources for an extended period.

The likelihood of such occurrences should not be underestimated. Within the reporting officers immediate local government experience the following fatalities and near misses have occurred:

- 2012 the death of a DPAW (Department of Parks and Wildlife) fire fighter and serious injury, several others caught in "dead man" zone at Black Cat Creek.
- 2012 injury of a DPAW fire fighter who could not move as quickly through the bush as the others when setting a back burn fire line and caught behind that fire line and had to run through it to avoid being seriously burnt or killed by the back burn.
- 2013 the death of a volunteer fire fighter at Williams who was killed when a tree fell on him.
- The total loss of one Shire of Denmark's own heavy duty fire units in 2006. The crew escaped unharmed.
- The loss of a fire fighter at Gingin who was crushed to death when the mountings of fire unit's water tank failed.
- The death of a fire fighter at Wellstead in the 1990s who fell off the back of a fire unit that was escaping a fire and was burnt to death.

3) Who will pick up the role if Council gives it up?

If Council resolves at some point in the future to hand its brigades and the responsibility as the hazard management agency for fires within its district over to DFES, then that agency will take all of the bushfire brigade appliances and fire sheds that are currently on Council's books and assume responsibility for Council's cohort of volunteer bush fire brigade members and all of the risks involved with managing bushfires within the Shire of Denmark.

Council however will still have responsibility managing the fire fuel risk and the spread of fire on its reserve and freehold land that it controls in the same way that other private landholders do and while the DFES controlled bush fire brigades would assist it with controlled burns and bringing wild fires under control, the relationship would not be the same as is currently the case.

The other roles that DFES would not pick up are determining what is required under the annual Fire Regulation Notice, the issuing of fire permits and the enforcement of the permits conditions and the Fire Regulation Notice. This work would be left to Council and its rangers.

- 4) What are the core functions of a bush fire brigade? And will this be affected by who runs it?

The primary functions of volunteer bushfire brigades are to:

- a) Respond to and contain bushfires.
- b) Assist with fire fuel reduction burning on both public and privately held land.
- c) To ensure that their equipment is adequately maintained and is suitable for usage at the next fire.
- d) To ensure that their members are correctly trained and are able to communicate and be directed on the fire ground.
- e) To ensure that their brigade members are properly equipped with PPE and wear it on the fire ground.

These functions are identical to those of the DFES dual registered "hobby" bush fire/town VFRS brigades that exist in most on the fringes of most major cities in Western Australia. These brigades as a rule are very well equipped in terms of PPE and maintain very high levels of skill and readiness and are able to work comfortably with volunteer bushfire brigades and DPAW fire crews.

The one non-essential but important brigade role that may progressively be lost if our brigades are transferred to DFES is their role of being social hubs in isolated rural areas as DFES is an emergency response driven agency where as local governments are far more community focused.

- 5) To what extent can Council's risk exposure be ameliorated through controls such as training, procedures etc?

Any situation involving the usage of heavy, fully loaded vehicles in unfamiliar off road situations, high pressure water cannons, variable weather conditions, a rapidly changing fire environment with head and ground fires and rapid turnouts on the basis of incomplete fire ground information is inherently dangerous and no amount of training can completely ameliorate that risk.

This said it is a given that Council's risk exposure would be dramatically reduced if a full set of SOPs (standard operating procedures) that reflected the DFES model SOPs for volunteer bush fire brigades were adopted and implemented by the brigades and they committed to an ongoing program of regular training so that they are used to operating as a team and they are fully familiar with their fire units and communication techniques.

While it is noted that many of our brigades and FCO's are heading down this commitment, it is not universal across our brigade community.

- 6) Are our brigades meeting these standards or likely to? If not, why not? Is it just us or across the State?

While the Shire of Denmark's fire crews could train more regularly they have a well founded reputation for rapidly turning out and working well with DPAW crews and DFES staff to quickly bring fires under control.

One of the problems of local government bush fire brigade culture is that it is to an extent a hierarchical and lead from the rear in terms of change in that it is heavily influenced by members that have either retired or are nearing retirement and do not

see the need for ongoing training because they feel confident on the fire ground and feel that any inference that they need to train undermines the value of their experience.

These cultural factors have lead to a scenario where in terms of training our brigades are largely split down generational lines with newer FCO's and members embracing ongoing training and experienced members that are approaching retirement giving clear ultimatum that they will not take senior brigade roles if they are required to undertake further training.

From these responses it reasonable to draw the conclusion that the brigades would not be prepared to step up to a culture of ongoing training if they remained under Council's control. Nor, DFES's for that matter the author would suggest.

In considering these comments Councilors should note that they are being made in the context of assessing Council's potential risk exposure rather than as a critic of the on ground performance of Council's brigades or its senior brigade members.

The on ground reality is that during fires our brigades in terms of fire unit and heavy plant are well coordinated, have communications well supported by Council logistics and staff, work well with other agencies and get fires out which is what they have volunteered to do.

In many regards the Shire of Denmark's brigades equal or better their counter parts in most other Council areas and at this point in time our model when compared to many other Council's is not substantially broken and does not need "fixing".

This means that discussion in reality centres around Council's appetite for risk, the brigades' future preparedness to train as opposed to the cost saving opportunities for Council.

7) What do our brigades and our Chief Fire Control Officer think?

As has been previously mentioned in the background BFAC has very clearly communicated that it strongly objects to the transferring of responsibility for Bushfire Brigades operations and administration to DFES.

What BFAC however has not advised is why they strongly object and whether it is based on the fact that they prefer to deal with local government staff who live in their own community, a general dislike of large and potentially impersonal organisations or a reluctance to embrace change and DFES SOPs and training requirements; but it is assumed that it is because they prefer to deal with local government staff that live in their own community.

8) What has happened in other jurisdictions i.e.: NSW CFA, SA, WA dual brigades? Was their response capacity better or worse afterwards?

While detailed research has not been undertaken preliminary observations are that a number of volunteers did leave when they were handed over to the CFA/DFES but after a while they were better trained and coordinated, numbers grew back and they tended to attract a younger demographic.

In addition to this under a CFA scenario there are no issues associated with handing over fires, no question over whether a fire is level 1 or 2 and no arguments over who pays the costs associated with the brigade turn outs and extinguishing the fires.

While the transition from local government control to DFES administered CFA style brigade structure will create some difficulties and lead to volunteer loses in the short term, in the long term DFES controlled brigades would be better equipped and

coordinated and would, provide their membership levels can be maintained or built back up to pre transfer active fire fighters levels, have a greater fire combat capacity.

In summary it appears that transfer of responsibility for the bush fire brigades to DFES in the long term would provide the best outcome for the safety of both the Denmark community and its volunteer fire fighters.

- 9) Will our need as a major land owner to control fires and reduce fire fuel on our land remain or will DFES bushfire brigades just do it anyway?

As has been previously mentioned Council will still have responsibility for managing the fire fuel risk and the spread of fire on both the reserves and freehold land that it controls in the same way that any private landholder does.

While it is anticipated that DFES controlled bush fire brigades would readily assist Council with both control burns and bringing wild fires under control as it is managing the community's land, there may come a point where Council, like the tree companies and many large land holders, acquires a few older fire units and puts on some casual staff to assist with its fire fuel reduction program.

If Council finds that in future that it needs to go down this path then it will reduce 1 - 4% saving that it would achieve by relinquishing its brigades to .05 – 2%.

- 10) How would it actually change if DFES ran it? What is the experience of local volunteers already within the DFES system?

At an operational level while it is acknowledged that the SES and Town VRFS, which report directly to DFES, are well run and are particularly well resourced they have a culture that is very much command and control focused and while they do have a greater emphasis on training and while they provide a safe and rewarding volunteer experience, the standardisation of their approach to volunteers, roles and their chain of command mean that it is very much that this is our culture, fit in with it or do not join.

As a comparison local government brigades are far more flexible in terms of procedures, levels of participation, training standards, conduct of members and what does and does not constitute as Brigade activities and Council through the endeavours of its current and previous CFCOs, FCOs and CESMs have developed a brigade operational culture and emergency management arrangements that are generally to be considered best of breed in terms of local government bushfire Brigades given the geographic and demographic limitations of its district.

In addition to this as a local body Council and its officers are more dextrous in terms of perceiving and responding to community needs and unwritten ground rules of each individual locality and brigade. Further to this from a local FCO's and Brigade member's perspective, Council is the local bureaucracy that can be seen, easily contacted and asked to intervene in local issues that are too close to home for the brigade. While under a DFES administration, field staff would be available to support brigades but they would tend to stay away from local issues.

- 11) Which brigade administration system will deliver the best bushfire response outcomes for the wider community?

It is the officer's opinion that while the transition from local government control to DFES administered CFA style brigade structure will create short term difficulties and lead to some volunteer losses DFES control in the long term would mean that Denmark's brigades would be better equipped and coordinated and providing their membership levels can be built up again have greater fire fighting capacity.

## 12) Community development perspective.

One important factor in brigade culture that is often missed is their role as a community hub that ties many isolated rural communities together. Many brigades are as old as the communities that they serve and their FCO's are often recognised and respected as wider leaders in that community. In addition to this the brigade itself is often the medium through which grass roots community help passes and there is real concern that if Council relinquishes its brigades to DFES that this important facet of brigade life will over time cease.

### Closing Comments:

Having weighed up the performance of the brigades, Council's risk exposure, the treatment opportunities for those risks and community contribution that many brigades make it is recommended that Council retain its brigades advises DFES that it supports the retention of Local Government Brigade but management but that the legislature should allow for DFES managed volunteer bush fire brigades where Local Governments are unable or unwilling to accept the responsibility.

### Consultation:

The Director of Community and Regulatory Services then consulted with the Community Emergency Services Manager and the Chief Fire Control Officer in the development of this report.

BFAC are also aware of the review and have made resolutions on two occasions regarding the matter.

### Statutory Obligations:

There are statutory obligations in relation to this report in the fact that the Department of Fire and Emergency Services is currently reviewing 3 pieces of legislation being the Bushfires Act 1954, Fire Brigades Act 1942 and the Fire and Emergency Services Act 1998. More specifically this report focuses around the current limitation of section 41(1) of the Bushfires Act 1954, where only a local government can establish and equip volunteer bush fire brigades.

Council also has stringent responsibilities to ensure that its fire fighting volunteers are properly trained, equipped, coordinated and resourced on the fire ground as is evidenced by the extensive Worksafe notices that were served on the City of Albany following the fire fighter deaths that occurred at the Black Cat Creek fire even though that agency was not in control of that fire and the fact that the person killed was a DPAW fire fighter.

The Shire of Williams is also currently undergoing a similar scenario following the recent death of a fire fighter due to a falling tree and Council's own brigade training and adopted SOP levels would also be found wanting if a death or serious injury occurred within the Shire of Denmark.

### Policy Implications:

There could be policy implications under the Fire Prevention section of the Shire Policy manual depending on Council's decision relating to this report.

### Budget / Financial Implications:

There are significant financial savings upon the Council's current Budget should Council decide to transfer the operations and administration of volunteer bush fire brigades to the Department of Fire and Emergency Services. This has been estimated at a saving of 1-4% of the Shire's rate base providing nothing goes wrong.

If however there is death or a serious injury of a fire ground or some significant structures, some homes are lost during a bushfire or some major political issues develop with our brigades then these costs will be considerably higher.

**Strategic Implications:**

There are strategic implications in that the DFES has a significantly larger resource and corporate structure to run and manage the operations and administration of volunteer bush fire brigades.

**Sustainability Implications:**

➤ **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 social considerations relating to the report as many of the volunteer bush fire brigades formed from within the local community and the members see that transferring the brigades to DFES would have a significant impact on the local community.

**Voting Requirements:**

Simple majority.

COMMITTEE RECOMMENDATION

ITEM 9.1

That the Committee recommends to Council that;

1. A letter is drafted to the Emergency Services Legislation Review Project Team stating that more time is required, before a well-considered response can be submitted from the Shire.
2. It strongly objects to the transferring of responsibility for Bushfire Brigades operations and administration to DFES.

OFFICER RECOMMENDATION

ITEM 9.1

That Council advise the Department of Fire and Emergency Services (DFES) that the new Emergency Services Act should allow local governments the ability to transfer their volunteer bush fire brigades and responsibilities as the local hazard management authority for fire over to DFES so that local governments have choice in the matter, however the Shire of Denmark would currently seek to retain responsibility, notwithstanding that the option was provided for in any amended legislation.

**COUNCIL RESOLUTION**

ITEM 9.1

MOVED: CR SEENEY

SECONDED: CR MARSHALL

That in response to the question in Department of Fire and Emergency's (DFES) 23rd May 2013 letter asking whether Council would retain its brigades if the proposed Emergency Management Act gave them option of transferring them to DFES that Council;

1. Reaffirm its ongoing commitment to its volunteer bushfire fighters and advise DFES that it wishes to retain its responsibility for management of its Volunteer Bush Fire Brigades because it is of the opinion that emergency management responses are most effective when undertaken at a community level.
2. Advise the Department of Fire and Emergency Services that the New Emergency Services Act should provide a choice to Local Government of either retaining management of Volunteer Bush Fire Brigades by local Government or management of Volunteer Bush Fire Brigades by DFES.

CARRIED: 12/0

Res: 270713

REASONS FOR CHANGE

The Council wished to express its ongoing commitment to the Volunteer Bush Fire Fighters in a clearer manner.



<b>9.2 LOCAL EMERGENCY MANAGEMENT COMMITTEE – EMERGENCY MANAGEMENT AND RECOVERY EXERCISE</b>
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<b>File Ref:</b>	ORG.20
<b>Applicant / Proponent:</b>	Local Emergency Management Committee
<b>Subject Land / Locality:</b>	Shire of Denmark
<b>Disclosure of Officer Interest:</b>	Nil
<b>Date:</b>	5/07/2013
<b>Author:</b>	Nathan Hall, Community Emergency Services Manager
<b>Authorising Officer:</b>	Gregg Harwood, Director of Community & Regulatory Services
<b>Attachments:</b>	Nil

**Summary:**

This report seeks Council's support for the principle of a Local Emergency Management Committee (LEMC) recommendation in regards to the training of relevant Shire Staff, Councillors and local members of the emergency services units in emergency and recovery management and conducting an exercise that will allow the application of the skills gained in that training.

**Background:**

At the June 2013 LEMC meeting Committee members discussed the considerable amount of work and effort that was undertaken by the Augusta – Margaret River Shire in undertaking the recovery process following the devastating fires in 2011, which resulted in the destruction of 32 homes, 9 chalets and 4 sheds.

Denmark has been very fortunate in that there have not recently been any major fires or other disasters, so there has not been the need to implement any large scale recovery operations. The downside of this however; is that there are few people that have had recovery management experience at a local government level meaning that the Denmark community's recovery capacity is at risk should there be a major incident within the Shire.

To further assist Council members and local emergency service groups in obtaining an understanding of how the emergency and recovery management process operates, LEMC decided that it would be extremely beneficial if relevant training and an exercise was conducted and made the following recommendation to Council and resolved as follows:

*"That;*

- 1. Support is given to the DFES Great Southern Community Emergency Management Officer and Shire CESM to facilitate a combined introduction to emergency management and recovery management course, which is to be conducted in Denmark.*
- 2. That the course is offered to Council staff, Councillors and local emergency services personnel.*
- 3. Council encourages Council Staff and Councillors in being involved in the development and undertaking of a recovery exercise in 2013."*

**Comment:**

Section 36(b) of the Emergency Management Act 2005 stipulates Local Governments have the responsibility for managing the community recovery phase that follows emergency responses.

The Margaret River Community Bush Fire Recovery report clearly identifies that as a recovery coordinator Council needs to have clear lines of communication with its community and an understanding of the recovery process so that it can successfully assist the community to recover and move forwards. In practice this can only be achieved if Councillors, staff, and emergency service personnel have been trained and are experienced in both the emergency and recovery management processes.

While there are support agencies such as the Department of Child Protection and Family Support, Red Cross and the Department of Fire and Emergency Services that would be readily available to assist Council during the recovery phase, it will still be a very demanding process that is normally under stressful circumstances. It is well documented that community members look in particular to Shire Presidents and Councillors for leadership and inspiration during and following major incidents and their capacity to perform in this role will be increased if Councillors, staff and emergency services personnel are trained, and through exercises have become experienced in the emergency and recovery management process.

In undertaking the recommended training and exercises, it is very important to ensure that there are strong levels of local government “buy in” to enable staff and funding to be available to make the process successful. Failure to have a sufficient level of “buy in” could result in key staff members being unavailable and the exercises and training concluding in poor results with significant time invested by officers being wasted and the Local Government being no better prepared to undertake a recovery process.

The benefits that the Shire of Denmark could achieve by supporting this training and exercise in emergency and recovery management are;

- Confidence and understanding of the recovery process
- Awareness of relevant issues that may be faced during the recovery process
- Team work and network building between Local Government and relevant State Departments
- Meeting identified objectives under the State Emergency Management Framework and
- Improving the Shire’s ability to cope and assist the local community in recovery following a major disaster.

**Consultation:**

The matter of undertaking relevant emergency and recovery management training and exercises was discussed at the June 2013 LEMC meeting. Furthermore the State Emergency Management Committee Secretariat and the Great Southern District DFES Community Emergency Management Officer Adam Smith has offered his support in the running of both the course and exercise.

**Statutory Obligations:**

There are statutory obligations relating to this report. Under section 36(b) of the Emergency Management Act 2005, Local government is “*to manage recovery following an emergency affecting the community in its district*”. This is further reinforced in the State Emergency Management Policy 4.4 State Emergency Recovery.

**Policy Implications:**

There are no policy implications.

**Budget / Financial Implications:**

Any financial costs associated with the training and exercising related to this report will be able to be covered by the Shire’s 2013/14 budget allocation in 1510352 “LEMC Management and Consultancies”.

**Strategic Implications:**

The Shire has a substantial responsibility for the recovery of the local community following an incident and its ability to undertake this role, including a working knowledge of the recovery process will dramatically affect the strategic decisions that will be made in returning the community to a functional state.

**Sustainability Implications:**

➤ **Environmental:**

There are environmental implications relating to the report as having staff, Councillors and emergency service members trained in emergency and recovery management will result in a more effective and efficient effort, in the rehabilitation of important environmental values within the Shire.

➤ **Economic:**

There are economic implications relating to the report as having staff, Councillors and emergency service members trained in emergency and recovery management will result in a more effective and efficient effort, in assisting the local community returning to a stable economical state. Good recovery management will also ensure that local businesses are retained and are not forced to close down as a result of either short term relocation of the population or floods of donated or government supplied goods by passing them and eliminating future demand for their goods and services.

➤ **Social:**

There are significant social considerations relating to the report as the Shire’s ability to undertake recovery management will have a tremendous impact on the social wellbeing of the local community. Poor understanding of the recovery management process could lead to severe community displeasure and social problems within the local community.

**Voting Requirements:**

Simple majority.

COMMITTEE RECOMMENDATION

ITEM 9.2

That the Committee recommends to Council that;

1. Support is given to the DFES Great Southern Community Emergency Management Officer and Shire CESH to facilitate a combined introduction to emergency management and recovery management course, which is to be conducted in Denmark.
2. That the course is offered to Council staff, Councillors and local emergency services personnel.
3. Council encourages Council Staff and Councillors in being involved in the development and undertaking of a recovery exercise in 2013.

**COUNCIL RESOLUTION & OFFICER RECOMMENDATION**

ITEM 9.2

MOVED: CR MORRELL

SECONDED: CR LEWIS

That Council request the Chief Executive Officer to achieve the following outcomes, noting it is to be achieved within the constraints of the 2013/14 Municipal Budget;

1. To support the Department of Fire and Emergency Services Great Southern Community Emergency Management Officer and Shire Community Emergency Services Manager to facilitate a combined introduction to emergency management and recovery management course to be conducted in Denmark and that the course is offered to relevant Council staff, interested Councillors and local emergency services personnel.
2. The development and implementation of an emergency management and recovery exercise in the 2013 - 2014 financial year.

CARRIED: 12/0

Res: 280713

**10. MATTERS BEHIND CLOSED DOORS**

Nil

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

Nil

**5.29pm - Public Question Time**

*The Shire President stated that whilst it was not yet six o'clock, given that the meeting was about to finish and he was aware of members of the public who had arrived after the first Public Question Time, a second public question time would begin. Cr Thornton asked if there were any members of the public wishing to speak.*

Ms Liz Jack, Denmark Chamber of Commerce – Item 8.5.1 ( Lease of Part Lot 300, Corner of South Coast Highway and Denmark-Mt Barker Road

Ms Jack spoke as the manager of the Denmark Chamber of Commerce and stated that she would be interested to know what criteria Council has on these types of issues which have social and economic impacts. Ms Jack noted that the report stated that there were no significant social impacts however she believed that there would have been significant social and economic impacts if Council had leased the land to a non-local competitor.

The Chief Executive Officer advised that the social, economic and environment headings of the reports were predominately related to sustainability implications of the economy and community as a whole however he would be happy to have a conversation with the Chamber to clarify the matter.

**12. CLOSURE OF MEETING**

*5.36pm - There being no further business to discuss the Presiding Person, Cr Thornton, declared the meeting closed.*

<p>The Chief Executive Officer recommends the endorsement of these minutes at the next meeting.</p> <p>Signed: _____  <i>Dale Stewart – Chief Executive Officer</i></p> <p>Date: _____</p> <p>These minutes were confirmed at the meeting of the _____</p> <p>Signed: _____  <i>(Presiding Person at the meeting at which the minutes were confirmed.)</i></p>
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