

*2012 International Year of Co-operatives*



# Shire of Denmark

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## Ordinary Meeting of Council **MINUTES**



**Held on the 4 September 2012**



# Minutes

## ORDINARY MEETING OF COUNCIL

HELD IN THE COUNCIL CHAMBERS,  
953 SOUTH COAST HIGHWAY, DENMARK ON  
TUESDAY, 4 SEPTEMBER 2012.

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# Ordinary Council Meeting

4 September 2012

## DISCLAIMER

These minutes and resolutions are subject to confirmation by Council.

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In particular and without derogating in any way from the broad disclaimer above, in any discussion regarding any planning application or application for a license, any statement or limitation or approval made by a member or officer of the Shire of Denmark during the course of any meeting is not intended to be and is not taken as notice of approval from the Shire of Denmark. The Shire of Denmark warns that anyone who has an application lodged with the Shire of Denmark must obtain and should only rely on WRITTEN CONFIRMATION of the outcome of the application, and any conditions attaching to the decision made by the Shire of Denmark in respect of the application.

**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 Adrian Hinds
- Cr Jan Lewis
- Cr Barbara Marshall
- Cr David Morrell
- Cr Ian Osborne
- Cr Dawn Pedro
- Cr Roger Seeney
- Cr Belinda Rowland
- Cr Alex Syme

STAFF:

- Mr Dale Stewart (Chief Executive Officer)
- Mrs Annette Harbron (Director of Planning & Sustainability)
- Mr Gregg Harwood (Director of Community & Regulatory Services)
- Mrs Kevina Richardson (Customer Service Officer)

APOLOGIES:

- Mr Garry Bird (Director of Finance & Administration)
- 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: 0
- Members of the press in attendance at the commencement of the meeting: 0

DECLARATIONS OF INTEREST:

Name	Item No	Interest	Nature
Cr Pedro	8.4.1	Financial	Cr Pedro's spouse has submitted a Tender for the Kwoorabup Adventure Park.

**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 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

Nil

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

Nil

**4.4 PRESENTATIONS, DEPUTATIONS & PETITIONS**

Nil

**5. APPLICATIONS FOR LEAVE OF ABSENCE**

**5.1 CR HINDS, CR MORRELL AND CR LEWIS**

<b>COUNCIL RESOLUTION</b>	ITEM 5.1
MOVED: CR SAMPSON	SECONDED: CR SEENEY
That Council grant Leave of Absence as follows;	
1. Councillor Hinds from the 7 <sup>th</sup> of September 2012 to the 6 <sup>th</sup> of October 2012 inclusive.	
2. Councillor Morrell from the 14 <sup>th</sup> September 2012 to the 16 <sup>th</sup> of October 2012 inclusive.	
3. Councillor Lewis from the 19 <sup>th</sup> of October 2012 to the 13 <sup>th</sup> of November 2012 inclusive.	
CARRIED:12/0	RES:010912

**6. CONFIRMATION OF MINUTES**

**6.1 ORDINARY COUNCIL MEETING**

<b>COUNCIL RESOLUTION &amp; OFFICER RECOMMENDATION</b>	ITEM 6.1
MOVED: CR SAMPSON	SECONDED: CR MARSHALL
That the minutes of the Ordinary Meeting of Council held on the 14 August 2012 be confirmed as a true and correct record of the proceedings.	
CARRIED: 12/0	RES:020912

**6.2 SPECIAL COUNCIL MEETING**

<b>COUNCIL RESOLUTION &amp; OFFICER RECOMMENDATION</b>	ITEM 6.1
MOVED: CR MORRELL	SECONDED: CR PEDRO
That the minutes of the Special Meeting of Council held on the 16 August 2012 be confirmed as a true and correct record of the proceedings.	
CARRIED: 12/0	RES:030912

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

Nil

**8. REPORTS OF OFFICERS**

**8.1 Director of Planning & Sustainability**

Nil

**8.2 Director of Community & Regulatory Services**

**8.2.1 CAT POLICY & CAT ACT 2011 IMPLEMENTATION**

<b>File Ref:</b>	REM.2
<b>Applicant / Proponent:</b>	Not applicable
<b>Subject Land / Locality:</b>	Shire of Denmark
<b>Disclosure of Officer Interest:</b>	Nil
<b>Date:</b>	23 August 2012
<b>Author:</b>	Gregg Harwood, Director of Community & Regulatory Services
<b>Authorising Officer:</b>	Gregg Harwood, Director of Community & Regulatory Services
<b>Attachments:</b>	8.2.1 a) – Minister for Local Government’s Media Release - \$3m to Support Cat Act in WA 8.2.1 b) – Cat Implementation Grant Program 2012-2013 - Guidelines

**Summary:**

The officer report discusses Council’s current Cat Control Policy P100502 and Council’s 2012/2013 adopted Budget which removed the Cat Sterilisation Subsidy. As a result this report recommends that Council remove the current one third cat desexing and micro chipping subsidy because as of 1 November 2013, all cat owners have a legal obligation to desex (other than registered breeders) and micro chip their cat(s) under 9, 18 and 23 the Cat Act 2011.

The officer report also recommends that the policy be repealed and to allow Council Staff to apply for Cat Act Implementation Grants which may fund or subsidise desexing and micro chipping and to make these funds available to Denmark residents if they become available.

**Background:**

In August 2008 Council implemented its current Cat Control Policy which provided a subsidy (for up to two cats) to all residents of the Shire of Denmark, that normally domiciled in the Shire of Denmark, desexed and micro chipped at the following rates;

- Desexing one third of cost to a maximum of \$105
- Micro chipping one third of cost to a maximum of \$15

The annual cost of this subsidy during 2011/2012 was \$1,184.11 and \$1,518.36 during 2010/2011. There was no legal requirement to have cats desexed and micro chipped until the recently introduced Cat Act 2011.

The Budget decision is at variance with Council current policy P100502 and the officer recommendation seeks to amend P100502 to reflect Council’s recent budgetary decision.

**Comment:**

The Cat Act 2011’s implementation is detailed in the attached Minister for Local Government; Heritage; Citizenship and Multicultural Interests circular No 28:2011.

Broadly speaking the Act gives Council Officers the ability to impound cats and after 7 days re-house, offer for sale or humanely destroy cats if their owner can’t be found. The Act also requires cat owners to prevent their cats from wandering at large and to have their cats micro chipped and registered with Council. Cats are also required to be desexed unless they had been registered as a licensed breeder.

The Act also regulates the sale of cats and kittens and contains a five year sunset clause which is an indication that it may be difficult to implement and will be subject to review.

The Cat Act also has two critical implementation dates. The 1 November 2012 is set as the commencement date for the powers that allow Councils to start implementing its administrative provisions and the 1 November 2013 is set as the commencement date for the provisions that will impact on cats and cat owners.

Given that the Cat Act will address the desexing, micro chipping and cat containment aspirations of the 2008 policy, it is recommended that Council repeal its Policy. The objectives of the new Cat Act are;

*“The overarching objective of the cat legislation is to reduce the number of unowned cats in Western Australia. This will be achieved through:*

- *Encouraging responsible pet ownership by members of the community that own or look after a cat in some way (semi-own); and*
- *The implementation of the cat control legislation across the State.*

*The anticipated outcome from a reduction in the number of cats is a reduction in:*

- *The number of cats being euthanized;*
- *The impact of stray cats on the natural environment and wildlife;*
- *The occurrence of nuisance caused by cats, such as noise, unwanted entering and damage to properties; and*
- *The number of cats living in poor conditions and in poor health.”*

#### **Consultation:**

Consultation has not taken place with Denmark Animal Carers of local Veterinary Surgeons as Council has already determined to cease subsidising cat desexing at its 16 August 2012 Special Meeting of Council where the 2012/2103 budget was set.

#### **Statutory Obligations:**

Shire of Denmark and individual cat owners have responsibilities under the Cat Act 2011 with, generally, all cats needing registration, sterilisation or micro-chipping by 1 November 2013.

#### **Policy Implications:**

*In reviewing the Cat Policy, section 3.58 of the Local Government Act 1995 gives guidance in that it states;*

#### **“3.18. Performing executive functions**

- (1) *A local government is to administer its local laws and may do all other things that are necessary or convenient to be done for, or in connection with, performing its functions under this Act.*
- (2) *In performing its executive functions, a local government may provide services and facilities.*
- (3) *A local government is to satisfy itself that services and facilities that it provides —*
  - (a) *integrate and coordinate, so far as practicable, with any provided by the Commonwealth, the State or any public body; and*
  - (b) *do not duplicate, to an extent that the local government considers inappropriate, services or facilities provided by the Commonwealth, the State or any other body or person, whether public or private; and*
  - (c) *are managed efficiently and effectively.”*

Thus with the introduction of the Cat Act 2011, the only remaining references in Council’s Policy that could possibly remain relate to advocacy and education about the

legislation. On balance it is suggested that these matters do not warrant a separate policy when the State legalisation gives adequate guidance and the role of Local Government within its jurisdiction and subject to its capacity, priorities and resources, is to enforce that legislation.

**Budget / Financial Implications:**

The repeal of the Policy reflects Council's recent budgetary decision to remove the current one third cat desexing and micro chipping subsidy because cat owners have a legal obligation to desex (other than registered breeders) and micro chip their cat(s) under 9, 18 and 23 the Cat Act 2011.

**Strategic Implications:**

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

**Sustainability Implications:**

➤ **Environmental:**

There are no known negative 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 MORRELL		SECONDED: CR ROWLAND
That with respect to the Cat Act 2011, Council;		
1. Repeal Council Policy P100502 CAT CONTROL;		
2. Authorise Staff to apply for Cat Act implementation grants which;		
a) May fund or subsidise desexing and micro chipping and to make these funds available to Denmark Residents if they become available; and		
b) Assist with the provision or facilitation of a Cat Holding Facility.		
CARRIED: 12/0		RES:040912

**8.3 Director of Infrastructure Services**

Nil



**8.4 Director of Finance & Administration**

*Prior to consideration of Item 8.4.1 the Chief Executive Officer, through the Presiding Person, brought to the attention of the meeting the following disclosure(s) of interest:*

*Cr Pedro declares a financial interest on the basis that her spouse has submitted a tender for the Kwoorabup Adventure Playground.*

*4.18pm - Cr Pedro left the room and did not participate in discussion or vote on the matter.*

**8.4.1 TENDER 1 2012/2013 – EARTHWORKS – KWOORABUP ADVENTURE PLAYGROUND**

<b>File Ref:</b>	TEN.1-12/13.SUB/A5366
<b>Applicant / Proponent:</b>	Shire of Denmark
<b>Subject Land / Locality:</b>	40 Scotsdale Rd
<b>Disclosure of Officer Interest:</b>	Nil
<b>Date:</b>	21 August 2012
<b>Author:</b>	Peta Leiper, Office Supervisor/Records Manager
<b>Authorising Officer:</b>	Garry Bird, Director of Finance & Administration
<b>Attachments:</b>	8.4.1 a) Tender Design Specifications

**Summary:**

The 2012/13 Municipal Budget contains an allocation of \$28,500 for Earthworks for the construction of the Kwoorabup Community Park Adventure Playground.

In accordance with this budget provision, tenders for a suitably qualified and experienced earthmoving company were advertised in accordance with the Local Government Act 1995 and closed on Monday, 20 August 2012.

Council is now requested to award the tender to allow construction to commence as soon as possible.

**Background:**

Tender design specifications were prepared by Canopy Designs, a landscape architect firm appointed to design the playground, with Council staff preparing the accompanying tender documentation.

Tenders were advertised in the Denmark Bulletin and The West Australian newspaper, with earthmoving companies (located in Denmark and as known to the Shire) receiving the tender documentation direct.

**Comment:**

Upon closure of the advertised period, tenders were opened in accordance with the Act. Three tenders were received, which are summarised as follows;

- |   |              |
|---|--------------|
| 1. Lakeside Earthmoving (Denmark Civil)     | \$134,118.00 |
| 2. Meridian South PL (Denmark Mini Diggers) | \$110,802.00 |
| 3. Environmentally Sound Earthworks         | \$134,545.00 |

All prices are exclusive of GST.

Upon assessment by Council staff, all tenders were found to be compliant with tender specifications and to have satisfactorily addressed the tender specifications.

The criteria for the awarding of the tender were prescribed as follows;

Criteria No	Criteria	Weighting %
1	The lump sum construction cost (adjusted for Regional Price Preference Policy).	80%
2	Demonstrated experience, reputation, capacity and resources of the tenderer in the construction and completion of similar projects.	10%
3	Demonstrated commitment to completing the described works using in-kind labour from community groups.	5%
4	Demonstrated ability to commence and complete construction within nominated timeframe (1 January 2013 to 30 April 2013).	5%
		100%

All tenderers were found to satisfy tender Criteria 2, 3 and 4 equally, and as such Criteria 1 (price) became the determining factor in the recommended choice of tender.

Accordingly, the submission received from Meridian South Pty Ltd is recommended as the preferred tender.

**Consultation:**

Terry Farrell, Canopy Designs.

**Statutory Obligations:**

Local Government Act 1995.

**Policy Implications:**

Council Policies P040216 Regional Price Preference Policy and Delegation D040211 Tenders are applicable.

The Regional Price Preference Policy has been taken into consideration when assessing the tenders.

As the Tender was estimated to exceed \$100,000 the delegation to the Chief Executive Officer is not applicable.

**Budget / Financial Implications:**

The 2012/13 Municipal Budget contains an allocation of \$28,500 to complete the construction of the Adventure Playground, although the Working Group were well aware of the shortfall of funds to complete the project.

That said, there is sufficient flexibility in the Kwoorabup Community Park 2012/13 budget allocations to allow for reallocation of funds and deferral of some works to future stages to allow for the construction of the Adventure Playground.

The 2012/13 Municipal Budget contains the following allocations for Kwoorabup Community Park;

**Stage 2 Works**

- BBQ's \$2,000
- Shelter \$3,260
- Adventure Playground \$28,500
- Utilities \$78,137
- Public Art \$3,000
- Ablution Facility \$120,000
- Landscaping \$7,176
- Contingency \$17,000
- Total \$257,073**

**Stage 3 Works**

• Landscaping/planting	\$100,000
• Gazebo	\$50,000
• Paths	\$158,487
• Public art	\$25,000
<b>Total</b>	<b>\$333,487</b>

**Total 2012/13 Works Budgeted \$590,560**

It is suggested that Council accept the Officer Recommendation and amend the 2012/13 Municipal Budget to reflect this additional expenditure on the Adventure Playground. It is proposed that an amendment to the adopted Budget be considered upon receipt of a recommended revised project budget for both Stages 2 and 3 of the Kwoorabup Community Park. The total cost for the Adventure Playground will be approximately \$200,000, including contract supervision, design and materials.

2011/12 Royalties for Regions funds have been used to finance Stage 2 works and it is a condition of funding that works are completed by 31 December 2012, which requires urgent consideration of this Tender by Council.

**Strategic Implications:**

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

**Sustainability Implications:**

➤ **Environmental:**

Whilst there are no direct environmental implications arising from the Officer Recommendation, the scope of works to be undertaken will need to be varied to reflect an Arborist report received regarding work in and around the oak trees on site, to prevent permanent damage to these significant features of the Park.

➤ **Economic:**

The ongoing development of the Kwoorabup Community Park will provide an additional tourist attraction for visitors to the Shire and support the local tourist industry.

➤ **Social:**

The Kwoorabup Community Park is a valuable community asset and has the potential to be used by both local residents and visitors to the Shire all year round. An improved facility will add to user's enjoyment of the facility and provide a more exciting and diverse experience for the users of the Park.

**Voting Requirements:**

Absolute majority.

<b>COUNCIL RESOLUTION &amp; OFFICER RECOMMENDATION</b>	<b>ITEM 8.4.1</b>
MOVED: CR MARSHALL	SECONDED: CR ROWLAND
That Council award the tender for the supply of earthworks for the construction of the Adventure Playground at Kwoorabup Community Park to Meridian South Pty Ltd, for the fixed tender price of \$110,802 (ex GST), subject to this amount being considered to be part of the overall approved budget for the park development in 2012/13 of \$590,560.	
CARRIED BY AN ABSOLUTE MAJORITY: 11/0	RES:050912

4.37pm – Cr Pedro returned to the meeting.

**8.5 Chief Executive Officer**

**8.5.1 MEMORIAL TO ANIMALS THAT HAVE DIED IN WAR**

<b>File Ref:</b>	PBR.1 / ORG.35 / A3056
<b>Applicant / Proponent:</b>	Joss Harman
<b>Subject Land / Locality:</b>	Denmark War Memorial Reserve 19050, 18 South Coast Highway, Denmark
<b>Disclosure of Officer Interest:</b>	Nil
<b>Date:</b>	24 August 2012
<b>Author:</b>	Dale Stewart, Chief Executive Officer
<b>Authorising Officer:</b>	Dale Stewart, Chief Executive Officer
<b>Attachments:</b>	8.5.1 - Correspondence

**Summary:**

Council is asked to consider its support for a proposed Memorial in recognition of animals that have died in war to be placed on Reserve No. 19050, being the Denmark War Memorial site, on the corner of South Coast Hwy and Hollings Rd.

**Background:**

In early 2010, Mr Harman wrote to the Council stating that he would like to offer a cash prize for the creation of a sculpture by a local artist to commemorate the horses and other animals which have lost their lives in war and requested that Council suggest and approve a location for such a memorial.

The Denmark RSL & Denmark Arts indicated their support for the concept and indeed at their memorial.

**Comment:**

In 2012, Mr Harman wrote stating that the offer of a prize had “failed to ignite the creativity of any local artist” and, following a discussion with the Hon. Terry Redman MLA (after his speech on animals of war at the 2012 ANZAC Day), asked whether Council would consider applying for funding the project through Royalties for Regions.

A copy of the CEO’s response to that letter is attached together with Mr Harman’s latest letter dated 5 July 2012. The author provides comment on each bullet point as follows;

1. *“I have recently received support from the Denmark RSL but will approach them for a renewal of that support.”*

Comment: Recommend that the support of the Denmark RSL, Denmark Arts and the Denmark Historical Society be obtained in writing.

2. *“Previously the RSL had suggested that adjacent to the existing War Memorial would be appropriate. Once again, I will seek reiteration of this.”*

Comment: Recommend that the suggested location, and the RSL’s support of such, be obtained in writing.

3. *“As you will recall, I offered \$2,000 for a memorial which was apparently insufficient to engender interest. Unfortunately, the estimated cost of a memorial is something of a “how bit is a stone” question because until we have approval to create and site a memorial, we have no way of knowing what one would cost. It was for this reason that I originally suggested a figure. I will attempt to obtain an indication of cost and report back to you.”*

Comment: Unless Council chooses to contribute financially to this project there are no financial implications noting that Mr Harman has stated (in part 5) that he

would prefer that the idea not be directly funded by Government and in part 6 that no financial commitment is asked or expected of Council.

4. *"I think I have demonstrated my willingness to sponsor my idea by offering \$2,000 towards it so I feel it reasonable to be counted as a sponsor. I will speak to some business and gauge their willingness to participate. As to the formation of a committee: I must admit to some trepidation in this regard as, in my experience, committees are generally the kiss of death to any idea outside bureaucratic guidelines and rules."*

Comment: Noted however it is recommended that the final design concept, materials to be used and proposed location be approved by the CEO if it is to be placed on Council land.

5. *"I would personally prefer that the idea not be directly funded by government. It is a private concept without any form of government sensibility or stated policy."*

Comment: Noted however Council could offer letters of support if Mr Harman chose to apply for grant funding for the project.

6. *"No financial or other commitment whatsoever is either asked or expected of Council – apart from planning approval for installation of the memorial."*

Comment: Noted.

#### **Consultation:**

Initial letters sent (in 2010) to Denmark RSL & Denmark Arts seeking their support for the project.

#### **Statutory Obligations:**

Council approval is required to alter land which is vested in or managed by Council. A building application would be required by the proponent and Council would need to provide approval (as the landowner) for use of the land and planning approval.

#### **Policy Implications:**

Policy P100606 - Payment of Planning & Building Fees by Not for Profit Community Organisations relates and reads as follows;

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

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

#### **Notes:**

1. *All statutory charges levied by the State Government are to be paid in full by the applicant and are not subject to the provisions of this Policy.*
2. *Organisation Wide Procedure Manual topic titled "Council Approved Discounts, Donations, Waivers or Reduced Fees" is to be implemented when applying this policy."*

The property is listed on Council's Municipal Heritage Inventory as a site of Considerable Significance and would be assessed by Planning Services in that regard and referred to the Denmark Historical Society and RSL for comment as part of the assessment process.

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

Given the request does not seek Council's or ratepayers funds, the only small known financial implication upon the Council's current Budget or Plan for the Future is some

minor costs associated with donating the fees associated with Council’s in-house Planning and Building Approval (estimated at no more than \$500 total).

**Strategic Implications:**

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

**Sustainability Implications:**

➤ **Environmental:**

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

➤ **Economic:**

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

➤ **Social:**

The only real significant social considerations relating to the issue relate to consultation with the Historical Society and RSL.

The provision of well designed and thoughtful monuments contribute to our social fabric and cultural and heritage awareness.

**Voting Requirements:**

An absolute majority is required in respect to the recommended delegation.

<b>COUNCIL RESOLUTION &amp; OFFICER RECOMMENDATION</b>	<b>ITEM 8.5.1</b>
<b>MOVED: CR ROWLAND</b>	<b>SECONDED: CR GILLIES</b>
<p>That with respect to Mr Harman’s proposal to have designed a memorial for animals that have died in war and that memorial being installed on a portion of Reserve 19050, 18 South Coast Highway, Denmark (the RSL memorial Reserve) or other agreed Reserve, Council;</p> <ol style="list-style-type: none"> <li>1. Support the concept, in principle, noting that no ratepayer funds are expected for the project;</li> <li>2. Provide letters of support for grant applications made by the proponent to external funding bodies;</li> <li>3. Advise the proponent that written support from the Denmark RSL, Denmark Arts &amp; the Denmark Historical Society is required to be provided to the CEO with the final concept design;</li> <li>4. Delegate to its Chief Executive Officer authority to approve the final concept design and location of the memorial, in liaison with the Denmark RSL; and</li> <li>5. Agree to donate the cost of any planning and or buildings fees associated excluding those payable to third parties.</li> </ol>	
<b>CARRIED BY AN ABSOLUTE MAJORITY: 10/2</b>	<b>RES:060912</b>

Cr Morrell and Cr Marshall voted against Item 8.5.1.

5.00pm – The Director of Community and Regulatory Services left the meeting.

<b>8.5.2 NEW BUILDING ACT 2011 &amp; BUILDING REGULATIONS 2012 – POLICY AMENDMENT</b>
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<b>File Ref:</b>	BLD.6
<b>Applicant / Proponent:</b>	Not applicable
<b>Subject Land / Locality:</b>	Not applicable
<b>Disclosure of Officer Interest:</b>	Nil
<b>Date:</b>	29 March 2012
<b>Author:</b>	Dale Stewart, Chief Executive Officer
<b>Authorising Officer:</b>	Dale Stewart, Chief Executive Officer
<b>Attachments:</b>	No

5.04pm - The Director of Community and Regulatory Services returned to the meeting.

**Summary:**

With the introduction of the new Building Act 2011 (the Act) as of 2 April 2012 the Council's Policy with respect to donating Building Permit fees needs to be slightly amended together with the fact that Council employed Building Surveyors can no longer certify buildings works on Council land due to the Act requiring that there be an independent certification process to the Permit Issuing Authority (Council).

**Background:**

The new Building Act and associated Regulations came into effect from the 2 April 2012.

**Comment:**

A minor adjustment to the operation of Council Policy P100606 is required. This policy has only been in effect since its adoption in March 2010.

**Consultation:**

Nil

**Statutory Obligations:**

Council has statutory responsibility to implement Building Act 2011 and Building Regulations 2012 within its district and the implementation the Fees contained within the Building Regulations 2012 is part of that function.

Sections 4 and 10 of the Building Act 2011 state;

4. *Meaning of independent building surveyor*

(1) *In this section —*

*application means an application for a building permit or a demolition permit, or an application under Part 4 Division 2.*

(2) *A building surveyor is an independent building surveyor in relation to an application if —*

a) *the building surveyor is neither an owner of the land on which the building or incidental structure that is the subject of the application is, or is proposed to be, located, nor an employee of an owner of the land; and*

b) *the building surveyor is neither the person who proposes to be named as the builder or demolition contractor on the permit, nor an employee of that person.*

20. *Grant of building permit*

(1) *A permit authority to which a certified application or an uncertified application is made must grant the building permit if it is satisfied —*

d) *that the building surveyor who signed the certificate of design compliance —*

- (i) *is entitled under the Registration Act to sign certificates of design compliance for buildings or incidental structures of the kind that is the subject of the application; and*
- (ii) *is an independent building surveyor in relation to the application;*

**Policy Implications:**

Council's Policy No P100606 relates as follows;

**PAYMENT OF PLANNING & BUILDING FEES BY NOT FOR PROFIT COMMUNITY ORGANISATIONS**

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

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

**Notes:**

1. *All statutory charges levied by the State Government are to be paid in full by the applicant and are not subject to the provisions of this Policy.*
2. *Organisation Wide Procedure Manual topic titled "Council Approved Discounts, Donations, Waivers or Reduced Fees" is to be implemented when applying this policy.*

Note: The Organisation Wide Procedure Manual has been similarly amended to reflect the intent of the recommend policy change.

**Budget / Financial Implications:**

Council will now have to outsource Certificates of Design Compliance for all submitted building works on Council land including those submitted by Community Groups (on Council land). This cost – generally about \$75 per application, will now need to be worn by the Community Group and or applicant (Council with respect to its application). Council generally receives about 5 applications for Building Works on its land per annum of which three (3) of those would typically be from Community Groups.

**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 8.5.2

MOVED: CR MARSHALL

SECONDED: CR SEENEY

That Council Policy No. P100606 with respect to PAYMENT OF PLANNING & BUILDING FEES BY NOT FOR PROFIT COMMUNITY ORGANISATIONS be amended such that it reads as follows;

PAYMENT OF PLANNING & BUILDING FEES BY NOT FOR PROFIT COMMUNITY ORGANISATIONS

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

*Where such an application relates to land owned by or vested in Council, a reduction of 100% fees payable to the Shire of Denmark shall apply.*

**Notes:**

1. *All statutory charges levied by the State Government are to be paid in full by the applicant and are not subject to the provisions of this Policy.*
2. *The Shire of Denmark is unable to issue certificates of design compliance on land it owns and those fees will need to be payable by the applicant to a suitably registered Building Surveyor.*
3. *Organisation Wide Procedure Manual topic titled "Council Approved Discounts, Donations, Waivers or Reduced Fees" is to be implemented when applying this policy.*

CARRIED: 12/0

RES:070912

**9. COMMITTEE REPORTS & RECOMMENDATIONS**

**9.1 GIFTING OF RED LID RECYCLING BINS TO PROPERTY OWNERS**

<b>File Ref:</b>	WST.1
<b>Applicant / Proponent:</b>	Director of Finance & Administration
<b>Subject Land / Locality:</b>	The whole Shire
<b>Disclosure of Officer Interest:</b>	Nil
<b>Date:</b>	23 August 2012
<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 – Correspondence from Cleanaway

**Summary:**

This report considers a recommendation from the Council’s Waste Management Advisory Committee that Council gift the 240 litre red lidded recycling bins (that have been purchased by Council since 2006) to the owners of the respective properties that they serve. The officer recommends that Council adopt this recommendation as it will provide savings in both the current and future budget years.

**Background:**

In June 2005 Council borrowed \$68,000 over a five year period with an interest rate of 5.60% for the purpose of purchasing 1,300 red lidded 240 litre recycling bins from Cleanaway. This was at the instigation of a recycling pickup service for the gazetted town site of Denmark where a compulsory waste collection service was operating. The loan undertaken to finance the purchase of the bins was paid in full in June 2010.

Upon purchase of the receptacles, they became the property of the Shire of Denmark and were supplied free of charge to the households involved. Any subsequent new services that were supplied with a bin in the last seven years were done so at the Shire of Denmark’s expense and the bins remained the property of the Shire. The owner of the property is not charged for this bin and Council is obliged to maintain its fleet of bins under the current arrangements. The cost of the bins currently from Cleanaway is \$89.30 + GST (delivered). To date the Shire owns 1,997 receptacles.

**Comment:**

The issue of ownership is being tested by requests from property owners for the Shire to replace lost, stolen or damaged bins. If alternatively Council requires the property owners to purchase the bins, they would then be the owner of the receptacles. At present they are replacing the Shire property that was lost, stolen or damaged on their property. The other argument put forward by property owners is that replacement bins should be supplied by the Shire at no cost to the property owner as the bin is the property of and supplied by the Shire.

It is the Waste Management Advisory Committee’s recommendation to Council that the ownership of its current fleet of the 1,997 red lidded 240 litre recycling bins be gifted to the current property owners that they serve and that future supply of these receptacles be at the expense of the property owner at commencement of their recycling service. Any repairs or replacement will also become the responsibility of the property owner.

During the 2011/2012 financial year Council issued 68 new recycling services and have, recently by Council decision, extended the opt in areas of the kerbside collection borders. Council can expect further increases in numbers of services applied for due to this extension and future development within existing subdivisions and the continuing growth of Denmark.

It is on this basis that it is recommended that the 240 litre red lidded recycling bins be gifted to the current property owners of the respective properties that they serve.

**Consultation:**

The gifting of the 240 litre red lidded recycling bins has been referred to the Council's Waste Management Advisory Committee.

**Statutory Obligations:**

The recycling bins are fully depreciated in Councils Asset register with an accumulated (gross) asset valuation of Nil. Therefore the disposition, or gifting or sale at Nil value, to a specific person not by auction or tender, is exempted pursuant to the Local Government Act 1995, Section 3.58 and Local Government (Functions and General) Regulations 1996, Clause 30.

The Waste Avoidance & Resource Recovery Act 2007 relates and is the guiding legislation.

**Policy Implications:**

There are no policy implications relating to the report or the officer recommendation but the outsourcing of bin repairs to property owners may result in periodic requests for bin repairs from recipients of Council Policy P100103 PROVISION OF RUBBISH SERVICE FOR THE DISABLED/INFIRMED on the basis that they are incapable of repairing their bins.

If this develops into a significant issue it will be addressed by referring Council Policy P100103 back to the Waste Management Advisory Committee for consideration.

Council's long held and current practice regarding green lidded refuse bins is that property owners must purchase the bin at in-going and are responsible for its ongoing maintenance. The recommended new approach will also ensure that the provision of green lidded bins is consistent with the approach that Council takes with red lidded bins and minimize the existing confusion and frustration of property owners. By way of example, if a property owner currently rings up and says "I've just moved into my property, can I have a red lidded recycling bin and a green lidded rubbish bin delivered please?", our response is, "That will be \$98 for the rubbish bin and we will buy the recycling bin for you." When it comes to repairs or replacement, the response is similar. "What lidded bin are we talking about, because our response is different".

**Budget / Financial Implications:**

The gifting of the 240 litre red lidded recycling bins that have been purchased by Council to the owners of the respective properties that they serve will reduce Council's ongoing administrative and operational costs and will result in budget minor savings in the 2012-2013 financial year.

The cost of replacing stolen or damaged bins will now be imparted onto the user of the service in accordance with 'user pays' principles. The cost of providing new bins for properties will be borne by the property owner.

**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.

COMMITTEE RECOMMENDATION ITEM 9.1

The Waste Management Advisory Committee recommends to Council that the 240 litre red lidded recycling bins that were purchased in 2006 be gifted to the owners of the respective properties that they serve.

Reason for revised officer recommendation is to include bins that have been purchased by Council since 2006.

**COUNCIL RESOLUTION & OFFICER RECOMMENDATION** ITEM 9.1

MOVED: CR MORRELL SECONDED: CR ROWLAND

That with respect to the existing 240 litre red lidded recycling bins that have been purchased by Council since 2006, Council;

1. Gift those bins to the owners of the respective properties that they serve which is consistent with the way that Council manages green lidded refuse service bins;
2. Request Council Staff to review the current recycling contract in order to achieve consistency of how Cleanaway manages repairs of Council's recycling bins compared to Council managing repairs of privately owned refuse bins and make recommendation to Council via the Waste Management Advisory Committee.

CARRIED: 12/0 RES:080912

**10. MATTERS BEHIND CLOSED DOORS**

Nil

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

Nil

**12. CLOSURE OF MEETING**

5.31pm – *The Shire President, Cr Thornton, declared the meeting closed.*

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

Signed: \_\_\_\_\_

*Dale Stewart – Chief Executive Officer*

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

These minutes were confirmed at the meeting of the \_\_\_\_\_

Signed: \_\_\_\_\_

*(Presiding Person at the meeting at which the minutes were confirmed.)*