

Shire of Denmark Minutes



ORDINARY (DECISION MAKING) MEETING OF COUNCIL

HELD IN THE COUNCIL CHAMBERS,
953 SOUTH COAST HIGHWAY, DENMARK,
ON TUESDAY, 26 OCTOBER 2010.

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Ordinary Council Meeting

26 October 2010

DISCLAIMER

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4 DECLARATION OF OPENING/ANNOUNCEMENT OF VISITORS

4.04pm – The Shire President, Cr Thornton, declared the meeting open.

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

MEMBERS PRESENT:

- Cr Ross Thornton (Shire President)
- Cr Ken Richardson-Newton (Deputy Shire President)
- Cr Phil Barnes
- Cr Kim Barrow
- Cr George Ebbett
- Cr Adrian Hinds
- Cr Robert Laing
- Cr Dawn Pedro
- Cr Richard Phair
- Cr John Sampson
- Cr Alex Syme
- Cr John Wakka

STAFF:

- Mr Dale Stewart (Chief Executive Officer)
- Mr Garry Bird (Director of Finance & Administration)
- Mr Gregg Harwood (Director of Community & Regulatory Services)
- Mr Duncan Ross (Acting Director of Planning & Sustainability)
- Mr Rob Whooley (Director of Infrastructure Services)
- Ms Claire Thompson (Executive Assistant)

APOLOGIES:

Nil

ON LEAVE OF ABSENCE:

Nil

ABSENT:

Nil

VISITORS:

Members of the public in attendance at the commencement of the meeting: 5
 Members of the press in attendance at the commencement of the meeting: 1

DECLARATIONS OF INTEREST:

Name	Item No	Interest	Nature
Cr Thornton	8.4.2	Impartiality	Cr Thornton is a member of the Denmark-Walpole Football Club.
Cr Barrow	8.4.2	Impartiality	Cr Barrow is a member of the Denmark-Walpole Football Club.
Mr Bird	8.4.2	Impartiality	Mr Bird is a member of the Denmark-Walpole Football Club.

3. ANNOUNCEMENTS BY THE PERSON PRESIDING

3.1 Road Safety Winner

The Shire President announced that the Shire of Denmark recently won a Local Government Road Safety Award & Cr Richardson-Newton, as Chairman of the Roadwise Committee, exhibited the award which had been won.

Below is a copy of the Media Release issued by WALGA on the 15 October 2010;

“Simply asking heavy vehicle operators to slow down in town has reduced the risk to the Denmark community and won the Shire a Local Government Road Safety Award.

The awards, announced yesterday recognised five Councils for their efforts in road safety through engineering innovation and community participation.

They are a joint initiative by the WA Local Government Association’s Roadwise Program and the Institute of Public Works (WA Division) and identify Councils that have made a significant contribution to road safety.

WALGA President, Mayor Troy Pickard said that the dedication to road safety shown by the winning Councils set an example of how communities can work together to make our roads safer.

“With so many fatalities on our roads every year it is great to see Councils stepping up and implementing road safety plans and being recognised for these achievements”, said Mayor Pickard.

“The awards highlight and recognise projects that contribute to the objectives of the ‘Towards Zero’ WA Road Safety Strategy 2008-2020.”

The 2010 Local Government Road Safety Award Winners are:

Safe Roads and Roadsides Category

- Winner (Rural) Shire of Dardanup for an upgrade to Waterloo Road.*
- Winner (Metro) City of Joondalup for an upgrade of Connolly Drive, Kinross.*

Safe Travel Speeds Category

- Winner (Rural) Shire of Denmark for the Safer Industry Speeds for the Community Project.*
- Winner (Metro) Town of Victoria Park for a speed zone change on Albany Highway.*

Safe Road Use Category

- Winner (Rural) Shire of Dardanup for the Ferguson Valley Shared Road Use Project.*
- Winner (Metro) City of Joondalup and the City of Stirling for the Community Safe Speed Promise.*

To find out how you can get involved in road safety in your community, please visit www.roadwise.asn.au.

4. PUBLIC QUESTION TIME

4.1 RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE

4.1.1 Mr Brian Humphries – Insurance for Volunteer Firefighters

At the meeting held on the 19 October 2010, Mr Humphries advised that he had been recently advised by FESA that insurance cover for volunteers was the responsibility of local government authorities and that generally it was

only for medical expenses and did not cover for disability, loss of income or death.

Mr Humphries asked, "Could you please provide full details (if necessary, copy of the insurance policy documentation) of the benefits / entitlements / limitations / conditions of what the Shire of Denmark's insurance policy covers as equally for what it does not cover?"

The Shire President advised that the question would be taken on notice and responded to in writing and copied below is the written response provided to Mr Humphries on the 20 October 2010.

"Thank you for the question raised at the Ordinary Council Meeting of 19th October 2010 in regards to the level of insurance protection provided by the Shire of Denmark for registered Bush Fire Brigade members.

Council undertakes comprehensive insurance for its highly valued Fire Brigade members in recognition of the outstanding service they provide on behalf of our community and the severe risks they expose themselves to the conduct of their duties. It should also be noted that this is a statutory requirement of Council under the provisions of the Bush Fire Act 1954 (Section 37).

In summary the insurance protection that these members receive are as follows;

- *Personal injury*
- *Personal equipment/ machinery damaged whilst fighting fire*
- *Death*

There is a strong link between Section 37 of the Bush Fire Act and the Workers Compensation and Injury Management Act 1981 and in many respects volunteer fire fighters are insured as though they were an employee of the Council."

The Director of Finance & Administration provided a copy of the Council's Insurance Policy detailing the benefits and limitations/exclusions together with an extract from the Bush Fires Act.

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, no later than 6.00pm.

Questions from the Public

4.2.1 Mr Brian Humphries – Item 8.1.3 (Fencing Relocation of Heritage Trail – Wentworth Road)

Mr Humphries referred to the Red Earth Engineering Report and Officer's comments in the Agenda which recorded that the Consultant had advised that the dam was structurally sound. Mr Humphries asked where in the Consultant's report was that written?

The Acting Director of Planning & Sustainability noted that upon re-reading the Engineers Report, the Officer's statement would be corrected so that it does not make a statement to that effect.

Mr Humphries asked whether Council considered the Red Earth Engineering Report to be the structural certification as required by Council pursuant to its resolution of April 2010?

The Shire President advised that the resolution of April 2010 was included as a request of Council, however the requirement of the Proponent to provide such a report relied on the Proponent's goodwill and could not be enforced by Council, other than attempting to impose such conditions on subsequent planning applications, where relevant and able.

The Shire President noted that the Officer, in his report, had noted that the Engineers Report did not provide a 'structural certificate' but that this would be 'near on impossible' after the event.

4.2.2 Mr David Rule – Item 8.1.3 (Fencing Relocation of Heritage Trail – Wentworth Road)

Mr Rule spoke as a landowner who occupied land which was downstream from the dam and expressed concern as to the structural integrity of the dam. Mr Rule added that he had only just found out the item was on the Agenda despite being told that he would be kept informed. Mr Rule supported Mr Humphries comments and asked Council to consider requesting the owner to lower the water level or obtaining an independent engineering report.

The Shire President responded that the approval for the dam was given by a previous employee and at the time there was no policy in place with respect to Council requiring planning consent for construction of a dam. The Shire President noted that there was a Policy in place now and that Council had been endeavouring, through other means, to get an engineering report to prove that this dam was built to a particular standard by imposing conditions on every subsequent relevant application from the owner. Cr Thornton added that the proponent had since withdrawn the application however Council would consider exploring any other avenues available.

The Chief Executive Officer noted that whilst Town Planning Scheme No. 3 says that all development requires consent of Council, as with cubby house, entrance statements etc.. Council practice has been that planning approval was never demanded on farms for any dams and hence advised the Proponent that no planning approval was required.

The Chief Executive Officer added that Council has been aware of the issues associated with the dam for three years and in that time had been endeavouring to find a solution. Mr Stewart stated that as far as he knows, because the construction had been approved without a planning application, there was little recourse for Council to now retrospectively require approval and that any actions / solutions recommended or requested by Council could only be implemented by the Proponent, as a matter of good will and were unable to be enforced by Council if the Proponent disagreed.

4.2.3 Ms Jill Rule – Item 8.1.3 (Fencing Relocation of Heritage Trail – Wentworth Road)

Ms Rule spoke as an owner of land on Wentworth Road and expressed concerns in relation to the size and structural integrity of the dam. Ms Rule stated that it wasn't about who was right or wrong it was about the need to solve the problem and that if there was a problem with the dam's integrity in the future it could result in loss of property and/or life.

4.2.4 Mr Chris Grain – Item 8.1.3 (Fencing Relocation of Heritage Trail – Wentworth Road)

Mr Grain spoke as the owner of land approximately one kilometre downstream from the dam and stated that whilst he had no objections to the project in principle, he objected to living downstream from a dam which had not been proven to be structural sound. Mr Grain added that should the integrity of the dam fail, most insurance companies would not cover the surrounding landowners for damage and that it was Council's responsibility to require approval for the dam as stated in the Town Planning Scheme No. 3 and the Planning & Development Act 2005.

Mr Grain noted that the dam could not be considered as a normal rural activity and asked why Council, at the various stages of the development of the dam, did not write to the owner stating that Council had made a mistake and that formal approval was required?

The Shire President agreed with Mr Grain's comments in relation to the Town Planning Scheme No. 3 and the Planning & Development Act 2005, however noted that letterboxes & cubby houses could also come under that required to seek approval of Council. Cr Thornton stated that at the time Council practice was that rural dams did not require approval and this notwithstanding agreed that in this instance mistakes had been made and that Council was trying to rectify the matter. The Shire President added that Council realises that the dam is not a normal farm dam and through resolutions of Council they have been trying to get certification of the Structural integrity of the dam.

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

Nil

6. CONFIRMATION OF MINUTES

6.1 ORDINARY COUNCIL MEETING

COUNCIL RESOLUTION & OFFICER RECOMMENDATION

ITEM 6.1

MOVED: CR WAKKA

SECONDED: CR HINDS

That the minutes of the Ordinary Meeting of Council held on the 19 October 2010 be confirmed as a true and correct record of the proceedings,

CARRIED:11/1

Res: 031010

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 SHIRE OF DENMARK COASTAL RESERVES MANAGEMENT STRATEGY AND ACTION PLAN 2010-2020

File Ref:	GRT 91 Shire of Denmark
Applicant / Proponent:	Consultant: Land Insights Funded: Shire of Denmark and Western Australian Planning Commission (Department of Planning)
Subject Land / Locality:	Coastal Reserves 24913,24596,20578,20928,7723,24510
Disclosure of Officer Interest:	None
Date:	8 October 2010
Author:	Helen Heydenrych, Natural Resource Management Officer
Authorising Officer:	Duncan Ross, Acting Director of Planning and Sustainability
Attachments:	Yes – page 1

Summary:

Council is requested to receive the Draft *Shire of Denmark Coastal Reserves Management Strategy and Action Plan 2010-2020*, and it is recommended that the draft be advertised for public comment for a minimum period of 4 weeks.

Public consultation of the draft will include a public meeting, which will co-ordinated by the consultant team and enable public concerns to be discussed directly with the consultant team.

Once community comment has been received in writing, and the draft has been revised to incorporate public concern where required, the revised final document will be presented to Council for adoption.

Background:

The Shire of Denmark coastal reserves require ongoing, best-practice management to ensure the quality of experience and safety for users of these environs. The coastal reserves vested with Shire of Denmark are Ocean Beach Reserve (including Back Beach and Lights Beach), Parry Beach Reserve (includes Hillier Beach), Boat Harbour Reserve and Peaceful Bay Reserve. These coastal reserves are nodes of activities for both residential and visitor populations. The use of these coastal reserves is varied, and management actions required to maintain services are complex.

Management strategies and actions need to ensure visitor recreational safety and maintenance of coastal access, provide for recreational amenities and facilities (including disabled), maintain access for ongoing professional concerns, and promote the conservation and enhancement of natural resource values. This needs to be considered in the long-term (inter-generational) and strategically to allow for increased peak visitor demands, steadily growing residential populations, and an ageing population.

In April 2010, the consultant team, Land Insights, was appointed to undertake a review of the 2003 – 2008 Coastal Management Plan, and to produce a new document, the *Shire of Denmark Coastal Reserves Management Strategy and Action Plan 2010-2020*. The aim of this document is to guide management of these coastal reserves for the next 10 years, and outline recommended management actions to be implemented by Council during the next 10 years, according to priority ratings assigned to actions.

Comment:

The production of the draft document has been overseen by the project steering committee, comprised of Shire of Denmark NRM staff (Helen Heydenrych),

Councillors (Dawn Pedro/Alex Syme), State Agency representatives (Department of Planning – Christopher Lukes, and Department of Environment and Conservation – Chris Stewart), and the South Coast Management Group (Tony Duckett).

Consultation:

The draft document has been developed over a period of 6 months, and has included a review of the existing outdated Shire of Denmark Coastal Management Plan (2003), field work and a public consultation process. The public consultation process included a public meeting (2 June 2010), an online forum for public comment throughout the period of document development, and a community survey for written submissions. Additionally the consultant team were available by phone or email for direct conversation with the Denmark public.

The Draft document, once received by Council, will be further advertised for public scrutiny and comment for a period as determined by Council, including a call for formal written submissions. A community meeting will be held during this public comment period, for discussion of any concerns public may have with the content of the document, to be had directly with the consultant team.

Statutory Obligations:

There are no statutory obligations.

Policy Implications:

There are no policy implications.

Budget / Financial Implications:

At this stage of the process, there are no known financial implications upon the Councils current Budget or Plan for the Future.

Strategic Implications:

The intent of the Management Strategy is to guide coastal management actions for the next 10 years.

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:**

It is important to advertise the draft document for public comment for a minimum period of 4 weeks to allow members of the public to have sufficient access to the document and provide their comment if required.

Voting Requirements:

Simple majority.

COUNCIL RESOLUTION	ITEM 6
MOVED: CR SYME	SECONDED: CR HINDS
That all Standing Orders be suspended for this agenda item to enable detailed discussion on the item.	
CARRIED: 12/0	Res: 041010

4.46pm – The Chief Executive Officer left the meeting.

4.47pm – The Chief Executive Officer returned to the meeting.

4.50pm – The Director of Infrastructure Services left the meeting.

4.55pm – The Director of Infrastructure Services returned to the meeting.

COUNCIL RESOLUTION	ITEM 6
MOVED: CR HINDS	SECONDED: CR PHAIR
That all Standing Orders be resumed.	
CARRIED: 12/0	Res: 051010

OFFICER RECOMMENDATION ITEM 8.1.1

That Council receives the Draft Shire of Denmark Coastal Reserves Management Strategy and Action Plan 2010-2020 and that the draft document be advertised for public comment for a minimum period of 4 weeks.

COUNCIL RESOLUTION	ITEM 8.1.1
MOVED: CR SYME	SECONDED: CR PEDRO
That Council;	
<ol style="list-style-type: none"> 1. Receives the Draft Shire of Denmark Coastal Reserves Management Strategy and Action Plan 2010-2020 and that the draft document be advertised for public comment for a minimum period of 8 weeks. 2. Ensures that Staff and/or the Consultants approach and meet directly with key stakeholders groups within the Shire during that period in addition to the scheduled public meeting. 	
CARRIED: 12/0	Res: 061010

REASONS FOR CHANGE

Council amended the advertising period from four to eight weeks and added part 2 to endeavour to ensure that all relevant key stakeholder groups were involved in the consultation process.

8.1.2 NEW INDUSTRIAL AREA – MCINTOSH ROAD

File Ref:	PLN9/A2503/A3121
Applicant / Proponent:	Not applicable
Subject Land / Locality:	Lot 2 (652) South Coast Highway, Reserve 26565 (872) South Coast Highway
Disclosure of Officer Interest:	Nil
Date:	12 October 2010
Author:	Cindy Simpson, Senior Planning Officer
Authorising Officer:	Duncan Ross, Acting Director of Planning & Sustainability
Attachments:	Yes – page 161

Summary:

Council has undertaken negotiations with relevant parties to obtain land for an industrial area on the corner of South Coast Highway and McIntosh Road (*Attachment 1*). The land needs to be rezoned for this purpose and it is recommended that Council grant the CEO delegated authority to proceed with this amendment to initiate the scheme amendment process.

Background:

Council has unsuccessfully tried to establish an additional industrial area in the Shire for the last 15 years. The result is that we now have a shortage of industrial land and the need to secure suitable land for current and future demand. Continuing without a suitable area may result in Denmark becoming a dormitory suburb of Albany and our shortage of industrial zoned land will mean that economic development, employment opportunities and industrial diversity will be compromised.

Council has now identified suitable land for industrial purposes on the corner of South Coast Highway and McIntosh Road which comprise part of Reserve 26565 (Denmark Agricultural College) and Lot 2 (652) South Coast Highway. Negotiations with relevant parties to obtain and/or rezone the identified land have been ongoing. All costs associated with the amendment will be borne by Council. Total area available for rezoning will comprise approximately 12 ha of Reserve 26565 and the whole of Lot 2 (30.11 ha) making for a viable Industrial Precinct. Landcorp previously has indicated that a new Industrial Precinct less than 12 ha would be unviable and ideally at least 20 ha would be desirable for a long term site.

This land is also shown in the current draft Local Planning Strategy as Future Industrial. The exact nature of the activities to be permitted will be subject to the Scheme Amendment, receipt of public consultation and final Council (and Minister) approval. It is intended that the usage will be in keeping with what might be a graduation of classes of uses including home based businesses / workshops and cottage industry to the south of the Precinct (visible from the South Coast Hwy), graduating to 'light industry' to the north (abutting the Airport). It is not intended that the precinct include 'heavy industry'.

Comment:

Council now needs to prepare a scheme amendment document which will include a conceptual Subdivision Development Plan, a Geotechnical Report and Water Management Plan over the subject land. Following the necessary State Government and Minister for Planning approvals, the site will be rezoned to Industrial, which will enable the preparation and lodgement of a subdivision application by the relevant landowner(s).

Consultation:

Council has had ongoing consultation with Denmark Agricultural College and the owners of Lot 2 (652) South Coast Highway. All parties have provided support for their respective landholdings to be rezoned.

Statutory Obligations:

There statutory obligations and procedures laid out in the *Planning & Development Act 2005* relating to Scheme Amendments will apply. Following preparation of the Scheme Amendment documentation and initiation thereof by the CEO, it will be advertised for a 42 day public inspection period seeking comment prior to forwarding it to the Minister for Planning for final determination. The amendment will be made available for inspection at the Shire office, advertised in the Denmark Bulletin and all relevant government departments and adjoining landowners notified.

Policy Implications:

There are no policy implications.

Budget / Financial Implications:

The cost of the preparation of the amendment will be allocated from the 2010/2011 budget, account number 1041002.

Strategic Implications:

There are significant strategic implications associated with the provision of additional industrial land for the community.

Sustainability Implications:

➤ **Environmental:**

There are no known significant environmental considerations relating to the report or officer recommendation. Detailed environmental studies will be required as part of progressing the scheme amendment documentation however and any concerns, if any, will be highlighted at that time and can be considered by the community, Council various government agencies and finally the State Government in agreeing to endorse the final scheme amendment (or not).

➤ **Economic:**

As mentioned in the background, there are significant economic implications associated with the failure to provide adequate land suitably zoned for industrial purposes.

➤ **Social:**

There are no known social considerations relating to the report or officer recommendation however opportunity for comment from potential affected or adjoining landowners will be afforded during the minimum 3 month advertising process.

Voting Requirements:

An absolute majority is required.

At the meeting held on the 19 October 2010, Cr Syme requested that the map included in the attachments be removed as it was part of a draft Local Planning Strategy which Council had yet to agree on and/or adopt.

The Acting Director of Planning & Sustainability agreed and has replaced the map with one that was more relative to the proposed Light Industrial Area only.

5.06pm – The Director of Finance & Administration left the meeting.

5.07pm – The Director of Finance & Administration returned the meeting.

OFFICER RECOMMENDATION

ITEM 8.1.2

That Council in relation to part Reserve 26565 and Lot 2 (652) South Coast Highway resolve to grant the CEO delegated authority to initiate a scheme amendment to Town Planning Scheme No. 3 to rezone the subject land to “Industrial” noting there will be a 42 day public inspection period and for the Council to review the documentation.

COUNCIL RESOLUTION

ITEM 8.1.2

MOVED: CR SAMPSON

SECONDED: CR SYME

That Council in relation to part Reserve 26565 and Lot 2 (652) South Coast Highway (as shown on the map attached) resolve to grant the CEO delegated authority to initiate a scheme amendment to Town Planning Scheme No. 3 to rezone the subject land to “Industrial” noting there will be a 42 day public inspection period and for the Council to review the documentation.

CARRIED BY AN ABSOLUTE MAJORITY: 12/0

Res: 071010

REASON FOR CHANGE

Council wanted the resolution to refer to the map attached to this item for clarity.

8.1.3 FENCING RELOCATION OF HERITAGE TRAIL – WENTWORTH ROAD

File Ref:	A3905
Applicant / Proponent:	Ayton Baesjou Planning on behalf of Mr Steve Birkbeck
Subject Land / Locality:	Location 7664, Reserve 42507, Wentworth Road, Denmark
Disclosure of Officer Interest:	Nil
Date:	11 October 2010
Author:	Duncan Ross, Senior Planning Officer
Authorising Officer:	Dale Stewart, Chief Executive Officer
Attachments:	Yes – page 163

Summary:

Council at its meeting on the 27 April 2010 resolved to defer an application for the realignment of fencing within the Denmark – Nornalup Heritage Rail Trail (hereby referred to as the *heritage trail*) adjacent to the proponent’s landholding pending a

number of items being addressed. The proponent has addressed these items and as such it is recommended Council approve the application for the fencing realignment subject to conditions.

The alignment of the northern section of fencing has been modified, as the applicant now seeks to fence along the existing heritage trail northern alignment with the exception of a 25m length fronting Wentworth Road (Refer to *Attachment 1*). This allows the proponent to take advantage of the existing vehicular crossover. This change is due to the proponents desire to construct a higher 1.8m netting fence to keep animals (kangaroos mainly...) from being able to access the crops, plants etc being invested. The southern fencing alignment (not on the boundary) is intended to remain other than requesting the proponent to remove any barb wire.

During the process of undertaking the necessary investigations to address this fencing realignment, it has become evident to Council's staff that Council requires a policy to address interface issues and management of the heritage trail with respect to adjoining landowners. It is not envisaged that this policy be a Local Planning Policy developed under Town Planning Scheme No. 3 (TPS3), rather an internal policy added to the Shire's Policy Manual. This report addresses this requirement with a draft policy being included in the officer recommendation.

Background:

Given the points listed in the summary above, this section of the officer's report has been divided into two sections, being the item of Fencing Relocation and the other being the draft Heritage Trail Policy.

Fencing Relocation

In response to a planning consent application by the proponent to realign the existing fencing within the heritage trail, Council at its meeting on the 27 April 2010 resolved as follows:

"That with respect to the application to realign the existing fence line at Location 7664 and Reserve 42507 Wentworth Road, Denmark, defer consideration pending the following:

1. *The provision of a structural certification for the large dam constructed on Lot 303 South Coast Highway (corner of South Coast Highway and Wentworth Road). Should the structural certification require further works to the dam to ensure its safety, these works are to be undertaken to the satisfaction of the Director of Planning and Sustainability.*
2. *The submission of a development application for all infrastructure (pipes, conduits etc) currently being installed within the Heritage Rail Trail subject to this application (Location 7664 and Reserve 42507 Wentworth Road, Denmark).*
3. *The provision of a conceptual plan identifying the ultimate development of Lot 303 South Coast Highway to the satisfaction of the Director of Planning and Sustainability.*
4. *Being referred to the Paths & Trails Advisory Committee for comment."*

Draft Heritage Trail Policy

In reviewing items 1 to 4 of Council's previous resolution Council's staff have established the requirement for the provision of a Council Policy for the heritage trail. This policy has been necessitated given the following:

1. Access

Currently there are access problems experienced by users of the heritage trail due to adjoining farmer's gates being closed across the heritage trail. These result in people using the heritage trail having to constantly open and close gates on Council's land, which provide no benefit to the Council or most importantly the person using the heritage trail. Furthermore, with the Munda Biddi alignment proposed to traverse sections of the heritage trail and the existing Bibbulmun Track, it will be important that this internationally marketed trail does not continue to be restricted in the Denmark Shire by farm gates that require opening and shutting.

2. Adverse Possession

Currently areas of the heritage trail are not fenced in their correct alignment, which if challenged could result in a claim of adverse possession from the adjoining landowner. The policy is intended to allow existing fence alignments to remain, however when the fence is required to be replaced it is relocated in accordance with the correct heritage trail alignment.

Comment:

The below comments provide clarification of the two pertinent issues relating to this application, as shown underlined below:

Fencing Relocation

In accordance with Council's resolution on the 27 April 2010 the proponent has undertaken the following:

1. Provided a safety inspection for the dam constructed on the corner of South Coast Highway and Wentworth Road (Refer to *Attachment 2*). The engineering report, whilst not able to prove that the dam has been constructed either in accordance with best practice or in a manner which renders it structurally sound, makes the following comments; "A visual inspection, limited survey and review of available data suggests that the Wentworth Road dam on Plantagenet Location 303 has been constructed to a standard that exceeds the requirements for small farm dams. The design on the spillway structures is such that they can discharge a 1:100 design storm event without danger of embankment overtopping. So long as the embankment and spillway structures are maintained to a high standard the dam should meet the required safety standards for water retaining structures. To ensure the structural standard of the dam the safety inspection has recommended the following maintenance and management measures being undertaken:
 - a. The provision of capstone rubble and rock being placed on strategic locations around the dam to minimise erosion that may result from wave action.
 - b. The provision of additional compacted gravel and rubble fill at the top section of the eastern abutment of the emergency spillway.
 - c. Restricting the further use of grey/white silty material on the inside slopes of the dam
 - d. Inspections being undertaken annually for the next two years and for any required maintenance work to be undertaken.

The proponent has given an undertaking to address these management measures, which are included as part of the officer's recommendation.

In summary, it is the officer's opinion that whilst the proponent has not provided a structural certification as requested by Council, through discussions with the Director of Infrastructure and other Civil Engineering companies, it would be near on impossible for any engineering company to provide the required certification. For any company to provide a structural certification there would be significant legal ramifications should certification be provided and the dam breaches. The only way a company would provide certification is if they designed the dam and oversaw the construction.

Therefore, given the attached safety inspection, the proponent's willingness to meet the safety requirements and the ability for Council to condition these requirements, the officer believes Council's resolution regarding Item 1 has been addressed.

2. The proponent has confirmed the infrastructure within the heritage trail comprises water pipes for transferring water between the dams and a conduit for the provision of future electrical cables.

Given the existing infrastructure is in keeping with that typical of a rural pursuit it is the officer's opinion that Item 2 does not require the lodgement of a further development application. However, once it is necessary for any electrical cables to be placed in the electrical conduit development approval will be required to be sought.

3. At the proponents briefing to Council on the 27 July 2010 the vision for the landholding on each side of the heritage trail was presented (Refer to *Attachment 3*). It is the officer's opinion that the information provided at this briefing is satisfactory to address Item 3.
4. Council's Paths and Trails Advisory Committee (PATAC) have discussed the proposal with it being resolved as follows:

"That the Committee recommend that Council:

 1. *Recognise and highlight the importance of the Rail Trail to the Shire for Recreation and Conservation purposes.*
 2. *Protect and enhance the asset of the Rail Trail whilst recognising the existence of the small private dam and accepting the continued use while the dam is in existence.*

Take appropriate steps to ensure that fencing is erected to the correct alignment of the reserve."

The officer's believe the proposal provides a solution to ensure the best outcome for the heritage trail in this location and in a manner that is beneficial to the Shire. The fencing alignment as shown in Attachment 1 follows the existing boundary of the heritage trail with the exception of a small 25m by 12m (approximately 150m²) triangle area fronting Wentworth Road. This area is proposed to be used for access purposes and prevents the applicant needing to construct an additional crossover (resulting in the removal of roadside vegetation) as the proponent will be able to continue to use the existing constructed crossover.

Draft Heritage Trail Policy

In addressing the issues raised in the background it is intended the below Policy is advertised for public comment and referred to all landowners abutting the Heritage Rail Trail.

1. *The following policy applies to **gates** erected and or to be erected within (not on the cadastre boundary of) Council's Denmark – Nornalup Heritage Rail Trail:*
 - a. *They are to be licenced on an annual basis and registered in Council's Register of Public Gates.*
 - b. *The licence is renewable annually upon payment of the Council's adopted fee (\$30 in the 2010/2011 Budget).*
 - c. *The ownership of and responsibility for maintenance of any licenced gate lies with the licence holder.*
 - d. *In order to assist the efficient and safe movement of pedestrians, cyclists and horse riders, gates must be kept in the 'open' position to allow uninterrupted thoroughfare of the trail unless required by the adjoining landowner and licence holder for temporary stock movement or management purposes. The maximum time a gate can be closed is 2 hours within any given day unless otherwise agreed by the CEO.*
 - e. *This Policy and the effect of permitting gates within the Rail Trail may be reviewed by Council from time to time.*
2. *The following policy applies to existing **fences** erected within (not on the cadastre boundary of) Council's Denmark – Nornalup Heritage Rail Trail:*
 - a. *Council land excluded from general access to the public will be subject to a standard management agreement between the Shire and the State Land Services with the following non exhaustive list of inclusions:*

- i. Term not to exceed 5 years with a further right of review not to exceed 5 years.
- ii. The responsibility for maintenance of the fencing lies 100% with the lessee.
- iii. Any replacement fences shall be positioned on the correct alignment of the Denmark – Nornalup Heritage Rail Trail.
- b. The management agreement acknowledges the rights of the adjacent landowner and/or occupier to utilise the Denmark – Nornalup Heritage Rail Trail land the subject of the agreement in accordance with the following:
 - i. For property access;
 - ii. For grazing purposes;
 - iii. For replanting native or endemic vegetation; and
 - iv. Apart from water pipes and infrastructure constructed prior to 2000, no permanent infrastructure or development is permitted without the express written permission of the Council.

Having spoken directly with the State Lands Service on this particular item, it has been recommended that the Shire is not in the position to formally lease a portion of the reserve to the proponent for the following reason:

“The subject land is portion of Reserve 42507 “Heritage Trail”, which is managed by the Shire. The first issue would be to ensure the purpose of the proposed Lease over portion of the Reserve is consistent with the Reserve purpose. If for arguments sake the proposed Lease for access provided for exclusive use of the owner of Lot 303, then it would not be acceptable”.

Given this, it is recommended the Shire developed a Management Order where necessary in accordance with the information given below:

“I cannot see any problems in adding a condition to the Management Order to lease Reserve 42507 or portions thereof for periods of up to say ten (10) years upon receipt of a written request from the Shire”.

This approach has been undertaken elsewhere in the Shire previously (refer Attachment 4). State Lands have also indicated in regards to existing landowners who currently graze the reserve that this is likely to continue into the future as is, however the policy should incorporate a clause that states when the fence is required to be replaced, it is relocated onto the actual heritage trail boundary. This has been reflected in the above policy.

In the rare event that infrastructure has been established within the heritage trail, State Lands have advised they will look into this and provide recommendations on a case by case basis.

Consultation:

As per Council’s previous resolution the application for the fencing reconfiguration has been referred to PATAC, with the recommendation being addressed in this report.

The draft Policy will be advertised in a newspaper circulating in the area giving details of the draft and inviting submissions for a period of not less than 21 days. The Policy will also be referred to all impacted landowners.

Statutory Obligations:

There are no statutory obligations.

Policy Implications:

The introduction of a Heritage Trail Policy will have policy implications, as this will establish a new policy that will impact on landowners adjacent to the heritage trail and persons who utilise the heritage trail.

Budget / Financial Implications:

There are no financial implications relating to the report or the officer recommendation as the works are required to be undertaken by the proponent at no cost to Council.

Strategic Implications:

There are no strategic implications relating to the report or the officer recommendation associated with the fencing realignment.

The Heritage Trail Policy will provide a strategic benefit to the users of the heritage trail to enable the uninterrupted traverse of the heritage trail.

Sustainability Implications:**➤ Environmental:**

There are no significant environmental considerations relating to the report or officer recommendation. However, the re-vegetation of the heritage trail as recommended below will have added environmental benefit through provision of endemic species.

➤ Economic:

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

➤ Social:

The planting of vegetation on the proponent's property will provide an added social benefit to users of the heritage trail through improved amenity.

Voting Requirements:

Simple majority.

At the meeting held on the 19 October 2010, Cr Syme suggested alterations to the map to reflect the current and proposed fencing.

The Director of Planning & Sustainability has altered the map accordingly and included it in the Attachments.

Pursuant to discussion during Public Question Time Item 4.2.1 of the meeting, the Acting Director of Planning & Sustainability has removed the following sentence, "In undertaking this inspection, the engineering consultancy has determined that the dam has been constructed to a standard that renders it structurally sound." and replaced it with "The engineering report, whilst not able to prove that the dam has been constructed either in accordance with best practice or in a manner which renders it structurally sound, makes the following comments; "A visual inspection, limited survey and review of available data suggests that the Wentworth Road dam on Plantagenet Location 303 has been constructed to a standard that exceeds the requirements for small farm dams. The design on the spillway structures is such that they can discharge a 1:100 design storm event without danger of embankment overtopping. So long as the embankment and spillway structures are maintained to a high standard the dam should meet the required safety standards for water retaining structures."

OFFICER RECOMMENDATION

ITEM 8.1.3 (a)

That with respect to the application for the Fencing Relocation on Location 7664, Reserve 42507, Wentworth Road, Denmark, the proponent be advised that the relocation of the fencing alignment is supported subject to the following conditions:

1. The existing northern fence line being removed by the proponent from its current alignment and replaced with a fence not more than 1.8m high, with no barbed wire and predominately on the northern trail boundary pursuant to the area shown on Attachment 1.

2. The area of the Heritage Trail between the existing northern barbed wire fence and the new northern fence being revegetated by the proponent with endemic species to the satisfaction of the Director of Planning and Sustainability.
3. All barbed wire fencing to the south of the heritage trail being removed by the proponent and replaced with 'ring lock' style fencing not more than 1.4m high.
4. The existing single farm gate on Wentworth Road currently restricting access to the Heritage Trail being removed and replaced with bollards at the proponents cost.
5. The landowner entering into a management agreement with the Shire of Denmark to allow access to the Shire's land (both sections) comprising the rail alignment not fenced to the cadastral boundary in accordance with the Draft Heritage Rail Trail Policy.
6. The proponent undertaking the following with respect to the dam on Lot 303:
 - i) A 300mm capstone rubble and rock layer being placed on the upstream face of the dam and the northern return embankment between RL75 and RL77 by June 2012.
 - ii) Reinforce the secondary spillways on the eastern wall by May 2011.
 - iii) Replace the sandy/clay mix with top soil and vegetate.
 - iv) Undertake an annual review of the dam of the summer period for the next two summers.

The Council's Director of Infrastructure Services suggested an advice note be added to inform the landowner that the Engineering Statement commissioned does not provide assurance that the dam wall has been constructed in accordance with recommended standards.

ALTERNATE OFFICER RECOMMENDATION

ITEM 8.1.3 (a)

That with respect to the application for the Fencing Relocation on Location 7664, Reserve 42507, Wentworth Road, Denmark, the proponent be advised that the relocation of the fencing alignment is supported subject to the following conditions:

1. The existing northern fence line being removed by the proponent from its current alignment and replaced with a fence not more than 1.8m high, with no barbed wire and predominately on the northern trail boundary pursuant to the area shown on Attachment 1.
2. The area of the Heritage Trail between the existing northern barbed wire fence and the new northern fence being revegetated by the proponent with endemic species to the satisfaction of the Director of Planning and Sustainability.
3. All barbed wire fencing to the south of the heritage trail being removed by the proponent and replaced with 'ring lock' style fencing not more than 1.4m high.
4. The existing single farm gate on Wentworth Road currently restricting access to the Heritage Trail being removed and replaced with bollards at the proponents cost.
5. The landowner entering into a management agreement with the Shire of Denmark to allow access to the Shire's land (both sections) comprising the rail alignment not fenced to the cadastral boundary in accordance with the Draft Heritage Rail Trail Policy.
6. The proponent undertaking the following with respect to the dam on Lot 303:
 - i) A 300mm capstone rubble and rock layer being placed on the upstream face of the dam and the northern return embankment between RL75 and RL77 by June 2012.
 - ii) Reinforce the secondary spillways on the eastern wall by May 2011.
 - iii) Replace the sandy/clay mix with top soil and vegetate.
 - iv) Undertake an annual review of the dam of the summer period for the next two summers.

Advice Note:

Council advises that whilst Council cannot retrospectively require the proponent to undertake it, the following additional actions in relation to the landowner being satisfied as to the current and future structural integrity of the dam wall are recommended. That several core samples be undertaken at regular intervals along the dam wall in order that compaction tests and soil analysis can be performed to satisfy the owner than the dam wall has been constructed in accordance with recommendation construction standards.

The Shire President tabled a letter from the Proponent which advised that the Proponent had withdrawn the request for relocation of the fencing.

COUNCIL RESOLUTION	ITEM 8.1.3
MOVED: CR LAING	SECONDED: CR PEDRO
That Council with respect to the dam structure on Lot 303 Wentworth Road, Denmark;	
<ol style="list-style-type: none"> 1. Note the withdrawal of the application for fence relocation by the Proponent and notwithstanding this advises the Proponent of the concerns raised by Council Officers as to the need to undertake core samples, compaction tests and soil analysis of the dam wall together with suggested actions contained within the Red Earth Engineering Report as to the potential structural integrity of the dam and other improvements recommended and request that they be implemented by the Proponent. 2. Request the Chief Executive Officer to seek legal advice on Council's legal position in relation to Legal Liability and whether Council or other relevant authorities' have the ability to enforce remediation of any perceived or identified structural defects. 	
CARRIED: 12/0	Res: 081010

Cr Laing requested that the CEO include in discussions with Council's legal advisers in relation to public safety.

REASONS FOR CHANGE

1. To reiterate to the proponent that there were still concerns in relation to the structural integrity of the dam and recommend (and requested) the Proponent to undertake various actions; and
2. Added part 2.

Cr Syme noted that he believed Council also needed advice on the ability and implications of Council requiring the owner to construct stock proof fencing to ensure that stock don't wander onto the trail.

COUNCIL RESOLUTION	ITEM 8.1.3
MOVED: CR SYME	SECONDED: CR LAING
That staff investigate the implications of requiring the landowner/landowners adjoining Reserve 42507 to construct stock proof fencing along their boundaries and to report to Council with recommendations.	
CARRIED: 10/2	Res: 091010

COUNCIL RESOLUTION & OFFICER RECOMMENDATION	ITEM 8.1.3 (b)
MOVED: CR SAMPSON	SECONDED: CR HINDS
That Council advertise the draft Heritage Rail Trail Policy in a local newspaper(s) for a period of 21 days and refer it to all relevant landowners who adjoin the Denmark – Nornalup Heritage Rail Trail for public inspection and comment prior to further considering the Policy.	
CARRIED: 12/0	Res: 101010

8.1.4 TOWN PLANNING SCHEME NO. 3 – AMENDMENT NO. 125

File Ref:	TPS3A125
Applicant / Proponent:	Not applicable
Subject Land / Locality:	Various
Disclosure of Officer Interest:	Nil
Date:	11 October 2010
Author:	Duncan Ross, Acting Director of Planning & Sustainability
Authorising Officer:	Duncan Ross, Acting Director of Planning & Sustainability
Attachments:	Yes

Summary:

Town Planning Scheme No. 3 Amendment No. 125 'Fire Protection Measures' was initiated by Council at its meeting of 25 May 2010 (Resolution 170510).

The subsequent amendment document (*Attachment 1*) was referred to the EPA, advertised for public comment and referred to relevant government agencies and service authorities. Nine submissions were received (*Attachment 2*) and have been assessed in accordance with the attached Schedule of Submissions (*Attachment 3*).

It is recommended that Council adopt the amendment subject to modifications being carried out and forward the amendment documentation to the WAPC for final approval.

Background:

Council at its July 2009 meeting (Resolution 190709) resolved (in part):

Council, as part of a proposed omnibus amendment of Town Planning Scheme No. 3, incorporate Bush Fire Objectives and a new clause addressing Bush Fire Management and criteria and at the same time reviewing all Fire Management/Bush Fire Protection provisions relating to Special Residential, Special Rural, Tourism and Landscape Protection Zones to achieve a more consistent application across these zones.

Comment:

The amendment has been modified to take into account relevant comments raised in the submissions as follows.

- *Establishment of low fuel zones.*

In response to submission No. 5 it is recommended to reword proposed Clause 5.37.2 (fourth bullet point) to read:

'Fire prevention and suppressions measures to be implemented by all landowners on land to which the development relates, including the implementation of building protection zones and hazard separation zones, collectively forming the low fuel zone'.

The above clause provides clarity in terms of the location of low fuel zones, in particular that buildings should be positioned in such a manner that prevents the need for clearing on adjoining properties.

- *Clarification of terms used.*

In response to submission No. 9 the above modified clause also seeks to clarify the low fuel zone referred to in the Shire's AFRN and the Planning for Bushfire Protection Guidelines. Effectively the low fuel zone is the building protection zone (BPZ) and the hazard separation zone (HSZ) combined. Historically there has been confusion as to what each protection measure relates to and how this should be applied, however the two documents referred to above provide the necessary clarity. Given this the submitter's comments have been incorporated in the modified clause as detailed.

- Typographical Error.

There is a typographical error on page 1 of the scheme amendment document which should replace the word 'about' with the word 'which'. This sentence has been removed from the scheme amendment document as it is adequately stipulated in the officer's report seeking to initiate the amendment.

Consultation:

The amendment was referred to EPA in accordance with sections 81 and 82 of the Planning and Development Act 2005 and advertised in accordance with sections 83 and 84 of the Act. The Schedule of Submissions provides a summary of the submissions received, an officer comment and recommendation for modifications to be undertaken to the amendment documentation.

The main concern raised by the submissions relates to the establishment of low fuel zones and the clarification over terms used within the amendment.

Statutory Obligations:

- *Planning and Development Act 2005* – TPS No. 3 is an operative Local Planning Scheme under the Act.
- *Town Planning Regulations* – The Regulations set the procedure for amending a town planning scheme.
- *Town Planning (Local Government Planning Fees) Regulations* – sets out the amount of fees to be paid to Council for the assessment and administration of the amendment process.

Policy Implications:

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

Budget / Financial Implications:

There are no budget / financial implications relating to the report or the officer recommendation.

Strategic Implications:

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

Sustainability Implications:

➤ **Environmental:**

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

➤ **Economic:**

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

➤ **Social:**

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

Voting Requirements:

Simple majority.

COUNCIL RESOLUTION & OFFICER RECOMMENDATION

ITEM 8.1.4

MOVED: CR EBBETT

SECONDED: CR WAKKA

That Council in respect of Amendment No. 125:

1. Determine the submissions as contained in the attached Schedule of Submissions;
2. Pursuant to section 87 of the Planning and Development Act 2005 adopt Amendment 125 to Town Planning Scheme No. 3 by inserting a new scheme provision for Fire Protection and Bush Fire Control as follows:

5.37 Fire Protection and Bush Fire Control

Council's objectives in implementing fire protection and bush fire control measures are to:

- *Identify areas within the Shire where bush fires pose a threat to life and property;*
 - *Require all land use and development implements appropriate fire protection requirements;*
 - *Implement the WA Planning Commission 'Planning for Bush Fire Protection' guidelines and DC Policy 3.7 'Fire Planning'.*
- 5.37.1 Council shall require all planning proposals (relating to scheme amendments, structure plans and subdivisions) to include a fire hazard assessment and report prepared in accordance with the methodology and classifications (as determined by Council) contained in the WAPC 'Planning for Bush Fire Protection' guidelines at the time of application.*
- 5.37.2 Council shall require all planning proposals incorporate appropriate fire protection measures which may include:*
- *The requirements of the Shire's Annual Fire Regulation Notice;*
 - *The provision of an adequate fire fighting water supply and fire hydrants/standpipes/hose connections etc;*
 - *The provision of fire access tracks and access for emergency service vehicles;*
 - *Fire prevention and suppressions measures to be implemented by all landowners on land to which the development relates, including the implementation of building protection zones and hazard separation zones, collectively forming the low fuel zone';*
 - *Incorporation of construction standards for buildings including those in AS3959 Construction of Buildings in Bushfire Prone Areas (as updated from time to time); and*
 - *If deemed necessary, allocation of land for a fire fighting building or payment of a financial contribution to the implementation of additional fire protection measures within the local area.*
- 5.37.3 Council may request the WA Planning Commission impose conditions on subdivision proposals requiring the implementation of appropriate fire protection measures.*
- 5.37.4 Notwithstanding any other fire protection provisions contained within Appendix VI – Special Rural Zone, Appendix XIII – Schedule of Tourist Zones, Appendix XIV – Special Residential Zones and/or Appendix XVI – Landscape Protection Zone of the scheme, all development shall comply with the requirements of the Shire's Annual Fire Regulation Notice.*
- 5.37.5 In the event of any inconsistency between an existing scheme provision and/or approved Fire Management Plan or similar and the Shire's Annual Fire Regulation Notice, the protection measures that, in the opinion of the Council, provides the greater fire risk protection and mitigation measures shall be implemented by the developer and/or landowner to the satisfaction of the Shire of Denmark.*
3. Alter the Table of Contents accordingly.
 4. Seek final approval from the Minister for Planning.

CARRIED: 12/0

Res: 111010

8.2 Director of Community & Regulatory Services

8.2.1 DINGHY HIRE FROM THE RIVERMOUTH CARAVAN PARK

File Ref:	Health 4
Applicant / Proponent:	Noel Phillips, River Mouth Caravan Park
Subject Land / Locality:	Shire of Denmark
Disclosure of Officer Interest:	Nil
Date:	10 October 2010
Author:	Gregg Harwood, Director of Community & Regulatory Services
Authorising Officer:	Gregg Harwood, Director of Community & Regulatory Services
Attachments:	Yes

Summary:

This report considers a proposal to add up to six, 6hp outboard powered dinghies to the existing kayak and bicycle hire business that operates from the River Mouth Caravan Park and recommends approval.

Background:

On the 29 October 2009 the River Mouth Caravan Park submitted an application and was granted permission to operate a kayak and bicycle hire business from the shop at the caravan park. They have now submitted a request to expand this business by hiring out six, 6hp outboard powered dinghies in addition to kayaks and bicycles.

Comment:



The availability of small power boats in addition to kayaks and bicycles at the Rivermouth Caravan Park will add to Denmark's profile as a tourist town and increase level of facilities available to the users of the Rivermouth area.

The Rivermouth Caravan Park has operated a kayak and bicycle hire business from the caravan park shop for several years and in November 2009 sought formal approval from Council to operate their business in order to more fully comply with Department of Planning and Infrastructure licensing requirements. They are now

seeking permission to add six, 6hp outboard powered dinghies to expand that operation.

The current business involves hiring out of kayaks that are stored in racks which are fixed to the walls of the office and bicycles that are parked in front of the office. The storage areas used for these items are neat and tidy and do not detract from the amenity of the caravan park or the foreshore strip. The dinghies each have their own trailer and will be stored within the caravan park and they will only be made available with their trailer on dry hire only basis. People hiring them will have the choice of either launching them from the Rivermouth boat ramp or towing them to another location and will not need to have a recreational skipper's ticket under law as they are under 6hp.

Given the business is being conducted on land that the applicant already leases from Council an annual trader's permit is not required and the objective of this report is to provide Council with sufficient information to make a decision regarding whether or not the use should be permitted within the caravan park leasehold area. The reason why an annual trader's permit is not required is that the kayaks and bicycles and if approved by the Council the dinghies are hired out within the park's leasehold area and the people who hire them then take them to the boat ramp, foreshore or cycle paths to use them. Council's approval as a land holder is however required as the activity represents a variation, albeit minor, of the original purpose of the lease hold land.

In considering this proposal it should be noted that many water front caravan parks hire out small boats, kayaks and bicycles themselves or have businesses near them that do so and the public has come to expect that services will be available for hire in water front tourist areas.

Given that public normally expects that power boats, kayaks and bicycles will be available at water front tourist locations it is reasonable for Council to consider issuing approval for the hire of up to six, 6hp outboard powered dinghies at the River Mouth Caravan Park.

Response to Councillor's Questions at 19 October 2010 Discussion meeting:

Cr Bob Laing regarding the horse power rating at which a recreational skipper's ticket was required and the liability implication for Council of approving a proposal that hires boats to unlicensed skippers.

Officer response:

The Dept of Transport's website has been checked and a recreational skipper's ticket is only required if a boat is over 6hp and not 5hp as originally described and the officer report has been amended to reflect this.

The question of any liability that the hire of boats under 6hp to people without recreational skipper's tickets might cause has also been considered. Given Council is consenting to a scenario where the boats are being hired out within the law it would be the hirer's responsibility to that the users ensure are adequately inducted as they are the ones providing the service. In addition this Council's role in this approval is as a landowner giving permission for the activity to take place on its land where as the Dept of Transport are the licensing authority giving permission for the hire business to take place and so are the agency with primary responsibility. Notwithstanding these comments a condition will be placed on the approval notifying the proprietor of their responsibilities in this regard.

Cr Alex Syme's regarding the need for parking created by the hire of six boats.

Officer response:

Appendix XI 'Parking Standards' of the Shire's Town Planning Scheme does not list parking requirements for boat hire. Parking requirements, if any, are subjective and open to debate. In this instance it is expected that parking requirements for the boat hire will be limited to a single vehicle and trailer, any more than this will be limited due to the small size of the boat being hired (6hp) effectively limiting the amount of people who can safely board the vessel. While it is possible that all six boats may be launched and their trailers parked at the River Mouth car parking area at the same time, any adverse parking or access effects arising from this are deemed to be minimal for the following reasons.

- As there is sufficient space to store the trailers when the boats are not being hired there is also sufficient space to park at least an additional six vehicles and trailers when the boats have been launched. The existing boat ramp area has sufficient parking available to accommodate an additional six vehicles and trailers in the event that they are not taken back to their storage spots with the caravan park;
- People hiring the boats have the right to launch them elsewhere and will do so reducing the impact of the hire boats on the River Mouth boat launching infrastructure.
- It is expected that the majority of the boats will be hired by people residing in the caravan park, who may either park their vehicle at their hired site, or not have the means to launch a boat themselves thereby requiring assistance from the proprietor.

In considering these comments it is the officer's opinion that the provision of additional parking is not needed as the primary attractions to the area that generate parking area are the toilets, boat ramp, walk trails, foreshore strip, the bush land vista and the back drop of well developed, modern caravan park. Compared to these attractants any additional parking needs that will be created by the hire of six boats is relatively minor and can be accommodated within the existing caravan park grounds where the boats would be stored when they are not in use.

Consultation:

Aboriginal heritage issues have been considered in the preparation of this report.

When Council considered the kayak and bicycle hire proposal in November 2009 as a matter of courtesy the matter was discussed with an Aboriginal Elder even though the actual hire was taking place more 30m from the river and therefore specific heritage requirements did not apply.

The response at the time from the elder was that that he had no objection to power boat hire kayak and bicycle hire taking place at the caravan park providing soil is not being disturbed on the foreshore strip. Given these past comments and the fact that the boats are relatively small and will be launched using trailers from constructed boat ramps approval on this occasion has not been sought as there should be no impact on Aboriginal Heritage sites.

Statutory Obligations:

Council has power to control and issue trader's permits to use it land under the Local Government Act 1995 and the Shire of Denmark Activities on Thoroughfares and Trading in Thoroughfares and Public Places Local Law 2001.

Policy Implications:

Council's recreational boating plan which was written in 2007 indicates that the Rivermouth boat ramp is a preferred site for launching power boats so the hire of small power boats from the Rivermouth Caravan Park is considered to be compatible with this plan.

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:**

Several boat launching of ramps are available in the Denmark area so the proposed boat hire should not lead to damage of the foreshore.

➤ Economic:

Tourism is an important local industry that provides door trade for many local businesses. The presence of power boat, kayak and bicycle hire at the River Mouth Caravan Park will contribute to the facilities in Denmark that are available for tourists.

➤ Social:

The presence of power boat, kayak and bicycle hire at the River Mouth Caravan Park will contribute to the recreational opportunities that are available in Denmark which in turns will improve the health and well being of its residents.

Voting Requirements:

Simple majority.

At the meeting held on the 19 October 2010;

- Cr Syme asked whether the Director of Community & Regulatory Services could investigate the current parking needs at the Rivermouth Boat & Trailer area, with respect to other recreational users of the area and Caravan Park Visitors.
- Cr Laing queried what the horse power rating was at which a recreational skipper's ticket was required and the liability implication for Council approving a proposal that hires boats where there is potential for the hirer to be an unlicensed skipper.

The Director of Community & Regulatory Services has provided additional comments within the report to address Councillors queries.

5.53pm – Cr Wakka left the meeting.

5.54pm – Cr Wakka returned to the meeting.

COUNCIL RESOLUTION & OFFICER RECOMMENDATION ITEM 8.2.1
 MOVED: CR EBBETT SECONDED: CR BARROW

That Council authorise the Chief Executive Officer to issue permission to the River Mouth Caravan Park to hire out up to six, 6 horse power outboard powered dinghies in addition to the existing kayaks and similar non motorised water craft and bicycles hire from the office area of the River Mouth Caravan Park, subject to;

1. Ensuring that the hire equipment is not ordinarily stored or displayed on Councils foreshore land adjoining; and
2. The applicant obtaining the necessary approvals for hire craft from the Department of Transport.

5.55pm – Cr Laing left the meeting.

5.56pm – Cr Laing returned to the meeting.

AMENDMENT SECONDED: CR HINDS
 MOVE: CR SYME

That part 3 be added to read, “The empty trailers, assuming the boats are launched at the Denmark Rivermouth, be returned and parked within the Rivermouth Caravan Park.”.

CARRIED: 8/4 Res: 121010

AMENDED MOTION

That Council authorise the Chief Executive Officer to issue permission to the River Mouth Caravan Park to hire out up to six, 6 horse power outboard powered dinghies in addition to the existing kayaks and similar non motorised water craft and bicycles hire from the office area of the River Mouth Caravan Park, subject to;

3. Ensuring that the hire equipment is not ordinarily stored or displayed on Councils foreshore land adjoining; and
4. The applicant obtaining the necessary approvals for hire craft from the Department of Transport.
5. The empty trailers, assuming the boats are launched at the Denmark Rivermouth, be returned and parked within the Rivermouth Caravan Park.

THE AMENDED MOTION BECAME THE SUBSTANTIVE MOTION WHICH WAS PUT & CARRIED: 12/0 Res: 131010

6.05pm - Public Question Time

The Shire President stated that the second public question time would begin & called for questions from members of the public. There were no questions.

COUNCIL RESOLUTION SECONDED: CR WAKKA
 MOVED: CR HINDS
 That the meeting be adjourned for a short break, the time being 6.05pm.
 CARRIED: 8/4 Res:141010

6.20pm - The meeting resumed with all members & staff present who were present at the meeting prior to the adjournment with the exception of Cr Sampson.

8.3 Director of Infrastructure Services

8.3.1 REQUEST FOR ROAD CLOSURE AND AMALGAMATION

File Ref:	R30132
Applicant / Proponent:	Mr G Townley
Subject Land / Locality:	Settlers Boundary Road, Denmark
Disclosure of Officer Interest:	Nil
Date:	14 September 2010
Author:	Rob Whooley, Director of Infrastructure Services
Authorising Officer:	Rob Whooley, Director of Infrastructure Services
Attachments:	Yes – page 217

Summary:

The Applicant requests the closure of a portion of Settlers Boundary Road abutting Lot 1716. This item recommends Council support the application subject to community comment and certain conditions.

Background:

The Applicant states various reasons why they feel road reserve should be closed.

The Applicant has indicated in a letter from a planning consultant that he intends to negotiate the purchase of the land if the closure is supported.

The process for the road closure involves an item being presented to Council with a recommendation for the closure. Following Council's consent the proposed closure will be advertised and based on the outcome of submissions the item will be presented to Department of Regional Development and Lands with an endorsement for road closure. Following closure the land comprising the road reserve is acquired from the Crown by the adjoining owner, with an acquisition cost established by a licensed valuer.

Council has previously supported closure of the adjoining road reserve which used to abut Lot 1717 (see attached map).

This matter was deferred by Council at its meeting held on the 28 September 2010 by the following resolution;

"That the item be deferred subject to confirmation of the status of the road reserve or former road reserve adjacent to Lot 1717."

Officer's have provided further comment in relation to Councillors concerns.

Comment:

The primary consideration relating to this request is the future use of the road reserve and any current use by the wider community.

In this instance the road reserve serves no immediate Council purpose and it will not be required in the future.

Advertising the closure will assist in determining any community interest in that portion of the road.

A copy of the title confirming the road closure for Lot 1717 is attached.

Council's Community Emergency Services Manager provides the following comments;

Having examined the road and the adjacent property Lot 1716 and its location to surrounding bush land, especially the large DEC Reserve A2587 to the north, I would

recommend that the Road not be closed due to its use for vehicular access for fire appliances. This is supported by the Planning for Bush Fire Protection Guidelines that state cul-de-sacs are generally not encouraged in bush fire prone areas. However should one be formed that it does not exceed a maximum length of 200m (unless emergency access is provided between cul-de-sacs, in which case the length can be increased). Bush Road appears to be the next closest east west running access from the DEC Reserve, with the next road through road actually running through the Reserve A2587.

CEO Comment:

It is noted however that the road already terminates with a cul-de-sac by virtue of a Council decision to previously support closure of the unmade road abutting Lot 1717.

Consultation:

A period of advertising will be required.

No wider consultation by Council has been undertaken to date as a result of this application. Ferraro Planning and Development Consultancy is acting on behalf of the Applicant.

Statutory Obligations:

- Local Government Act 1995 – Section 3.5 Road Closures
- Land Administration Act 1995 – Section 58 (2) & (3)
- Land Administration Act 1995 - Section 129BA

Policy Implications:

There are no policy implications.

Budget / Financial Implications:

There are no financial implications for the road closure.

It is noted that all costs associated with the acquisition of the road reserve will be expected to be borne by the applicant.

Strategic Implications:

There are no known significant strategic implications relating to the report or the officer recommendation. The road reserve serves no current or future Council purpose and terminates at the Applicants northern boundary.

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:**

At this stage, pending the result of advertising, there are no known significant social considerations relating to the report or officer recommendation.

Voting Requirements:

Simple majority.

6.21pm – Cr Sampson returned to the meeting.

COUNCIL RESOLUTION & OFFICER RECOMMENDATION ITEM 8.3.1

MOVED: CR EBBETT

SECONDED: CR RICHARDSON-NEWTON

That Council support the closure and subsequent amalgamation of the road reserve of Settlers Boundary Road to one or both adjoining landowners in accordance with State Land Services requirements subject to:

1. It being that portion of the road which abuts Lot 1716;
2. All costs associated with the closure including advertising being met by the Applicant;
3. Advertising and notifying the closure in accordance with relevant statutory requirements;
4. At the conclusion of advertising there being no objections, the Director of Infrastructure Services be authorised to write to the Department of Regional Development and Lands based upon the outcome of any submissions received during the advertising period;
5. Appropriate infrastructure such as gates, cul-de-sac turning area, road signage etc being installed to the satisfaction of the Director of Infrastructure;
6. Lots 1716 & 1717 retaining legal road access;
7. Comment from the Community Emergency Services Manager on the options to achieve strategic fire access between and linking Lots 1712 through to 1722; and;
8. There being no objections from the current landowners of Lot 1716 or Lot 34.

ADJOURNMENT MOTION

MOVED: CR WAKKA

SECONDED: CR SAMPSON

That the item be deferred subject to clarification from the current landowner that they support the proposed road closure.

CARRIED: 12/0

Res: 151010

8.3.2 MCINTOSH ROAD REFUSE SITE RECYCLING AND TIP SHOP

File Ref:	A3092
Applicant / Proponent:	Shire of Denmark
Subject Land / Locality:	Reserve 23067/ McIntosh Road
Disclosure of Officer Interest:	Nil
Date:	28 October 2010
Author:	Rob Whooley, Director of Infrastructure Services
Authorising Officer:	Rob Whooley, Director of Infrastructure Services
Attachments:	Yes – page 225

Summary:

This item recommends Council approve additional funds to increase the recycling area for the purpose of accommodating a new 16m x 12m shed.

Background:

Greenskills Pty Ltd have been successful in securing funding on Council's behalf for a new shed at the McIntosh Road Landfill site.

A larger shed was also successful but in order to build it Council would have needed to double its contribution from \$20,000 to \$40,000 excluding siteworks. The proposed shed was also open sided and Council opted not to support it in the 2010/2011 budget process.

The \$20,000 intended for that project was put into Council's Waste Reserve Fund.

Greenskills approached the Great Southern Development Commission (GSDC) with a revised plan for the shed.

On 11th August Greenskills were advised that the board of the GSDC had met and considered a reduced scope of works for the shed. Greenskills were informed:

“That the Board gives in principle support to providing \$20,000 from GSRGS (Great Southern Regional Grants Scheme) for a smaller sized shed that includes a concrete floor, subject to Denmark Shire making a cash contribution of at least equal size. Therefore, the following information would be appreciated prior to drafting the grant agreement:

- 1. Written confirmation of the Shire’s \$20k contribution*
- 2. Written confirmation of ‘building license’ approval (your letter of 13 July indicated only Shire ‘planning consent’)*
- 3. Written confirmation of funding amounts from the other funding sources towards the project (ie Lotterywest and Community Waste Grant)*
- 4. Re-submission of your project budget using GSDC’s budget template (see attached example for your modification). To avoid delays, please ensure expenditure items are attributed to their appropriate funding sources, and that the columns and rows add up correctly. “*

Comment:

Council had endorsed a concept layout plan for the recycling area at McIntosh Road and the shed was intended to be placed in accordance with that plan.

Subsequently it has been discovered that the area proposed for the shed was over the top of old landfill- making it unsuitable for structures.

The layout of the recycling area needed to be reconsidered. This has resulted in more substantial earthworks being required to site a recycling shed.

A copy of the proposed layout is attached. An estimate of the earthworks is around \$20,000.

Greenskills have advised that *“the actual cost of the shed including installation is \$42,772 including GST or \$38,883.63 + \$3,888.37 GST (does not include site works or sand pad but does include concrete floor slab and installation)”* and *“There is one other cost which is the cost of supplying electricity to the new shed. We have received on estimate for this (depending on which site is decided on) of \$875.00 for supply and installation of mixed circuit to new open sided shed, including 2 x double GPO’s, excavation and backfill.”*

Consultation:

No presentation has been made to the Waste Management Advisory Committee due to timing of this item and the need to advise GSDC if the funding is required.

Statutory Obligations:

Local Government Act 1995.
The Health Act 1904.

Policy Implications:

Nil

Budget / Financial Implications:

The sum of \$40,000 will need to be drawn from the Waste Reserve to match funding from the Great Southern Regional Grants Scheme. The shed is quoted at \$43,000.00.

Additionally it is estimated that \$20,000 will be needed for site preparation. The exact amount will not be known until a new layout plan is designed with external authority consultation in terms of available, useable and clearable land.

The new layout plan will need to be supported before a building licence can be issued.

The total Council contribution is estimated at \$40,000 for a project cost of \$60,000 plus GST.

Strategic Implications:

A number of issues will become increasingly important in terms of managing waste into the future. The more efficient, community driven and source separated waste can become the greater the overall benefits.

More resources will be required at the site in future as community expectations and regulatory controls increase to achieve the objectives of the programs like Zero Waste. Having the physical area to successfully handle the recycling opportunities is fundamental.

The proposed shed will be the property of the Shire of Denmark.

Sustainability Implications:

➤ **Environmental:**

The benefits to recycling are widely recognised from an environmental point of view.

➤ **Economic:**

Better recycling will reduce the material being transported and buried.

➤ **Social:**

Improvements to the recycling functions of the site will help to encourage and promote responsible waste management within the community leading to improved chances of meeting strategic, environmental and economic goals.

Voting Requirements:

Absolute majority.

COUNCIL RESOLUTION & OFFICER RECOMMENDATION	ITEM 8.3.2
MOVED: CR SYME	SECONDED: CR EBBETT
That with respect to Greenskills request for additional funding towards the cost of a new shed, earthworks, sand pad and power connection at the McIntosh Road Refuse Site, Council approve:	
<ol style="list-style-type: none"> 1. The layout of the proposed recycling area. 2. Net Council expenditure of up to \$40,000.00 to be funded from a transfer from the Waste Reserve Fund subject to a \$20,000.00 contribution from the Great Southern Regional Grants Scheme for a total project cost of \$60,000 plus GST. 	
CARRIED BY AN ABSOLUTE MAJORITY: 8/4	Res:161010

8.4 Director of Finance & Administration

8.4.1 FINANCIAL STATEMENT FOR THE MONTH ENDING 30 SEPTEMBER 2010

File Ref:	FIN 1
Applicant / Proponent:	Not Applicable
Subject Land / Locality:	Denmark
Disclosure of Officer Interest:	Nil
Date:	12 September 2010
Author:	Garry Bird, Director of Finance and Administration
Authorising Officer:	Garry Bird, Director of Finance And Administration
Attachments:	Yes – page 231

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 and Council staff welcome enquiries in regards 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 Ledger.
- Reconciliation of the Sundry 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:

Trust and Restricted Funds have been invested for thirty days with the National Bank, maturing 28 October 2010 at the quoted rate of 4.90%

Reserve Funds have been invested with Members Equity Bank, with \$1,000,000 placed in a 90 day term deposit at the rate of 5.90% and the balance of funds (\$1,293,745) placed in a on call cash account at the rate of 5.60%.

Surplus municipal funds have similarly been invested in the Members Equity on call cash account, to take advantage of the excellent rate on offer and the high liquidity aspect to this transaction i.e. funds are available immediately if so required).

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 relates as follows;

P040222 MATERIAL VARIANCES IN BUDGET AND ACTUAL EXPENDITURE

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.

ADDED by Res: 020808 / 19 August 2008

Upon completion of the above reconciliations and procedures, various matters have been identified as requiring the attention of Council, in accordance with the following Resolution of Council, adopted at the Special Meeting held 28 July 2009. These matters are addressed in the Budget vs Actual Variance Report included within the Statement of Financial Activity.

Budget / Financial Implications:

Other than the matters identified in the Budget vs Actual Variance Report, income and expenditure is proceeding as per budget forecasts and the end of year position should be as per that projected in the Municipal Budget, assuming all projects proceed and are completed in this timeframe.

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 8.4.1
MOVED: CR WAKKA	SECONDED: CR SAMPSON
That with respect to Financial Statements for the month ending 30 September 2010, Council;	
<ol style="list-style-type: none"> 1. Receive the financial report, incorporating the Statement of Financial Activity and Budget verses Actual Variance Report. 2. Endorse the Accounts for Payment as listed. 	
CARRIED: 12/0	Res: 171010

Prior to any consideration of Item 8.4.2 Cr Thornton made the following declaration:

“I am a member of the Denmark-Walpole Football Club and as a consequence there may be a perception that my impartiality on this matter may be affected. I declare that I will consider this matter on its merits and vote accordingly.”

Prior to any consideration of Item 8.4.2 Cr Barrow made the following declaration:

“I am a member of the Denmark-Walpole Football Club and as a consequence there may be a perception that my impartiality on this matter may be affected. I declare that I will consider this matter on its merits and vote accordingly.”

Prior to any consideration of Item 8.4.2 The Director of Finance & Administration made the following declaration:

“I am a member of the Denmark-Walpole Football Club and as a consequence there may be a perception that my impartiality on this matter may be affected. I declare that I will consider this matter on its merits and vote accordingly.”

8.4.2 COMMUNITY SPORT & RECREATION FACILITIES FUND (CSRFF)

File Ref:	A3035
Applicant / Proponent:	Shire of Denmark
Subject Land / Locality:	McLean Park
Disclosure of Officer Interest:	Nil
Date:	6 October 2010
Author:	Damian Schwarzbach, Manager of Recreation Services
Authorising Officer:	Garry Bird, Director of Finance & Administration
Attachments:	CSRFF Application

Summary:

The Shire of Denmark has completed a Community Sport & Recreation Facilities Fund (CSRFF) application for the Department of Sport and Recreation (DSR) 2011/12 grant funding round to upgrade various assets at McLean Park.

Project Description:

1. Reticulation and drainage of McLean Park
2. Essential retaining wall to western area of Mclean Park
3. Renovation of existing change rooms
4. Fencing
5. Car park redevelopment
6. Upgrade of Lighting

This is the only application received for consideration by Council from the 2011/12 round of funding.

Items 4 & 5 are to be funded by Council and don't form part of the CSRFF application but are considered essential components to the upgrade of McLean Park.

Background:

Prior to consideration of applications for funding assistance, the Department of Sport and Recreation (DSR) require Local Governments to be aware of funding applications from community groups and to place a funding priority on each application. The Local Government support and its priorities are to be determined with applications received then being forwarded to DSR by the 29th October 2010.

CSRFF grants are made on the basis of one third grant and two thirds group/local government/other funding sources and local applications compete with others from, not just the Great Southern region, but the whole of the state of Western Australia.

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 assessing and 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.

This committee highlighted the safety concerns of the current steep banking on the western side of the oval, poor drainage resulting in sitting water on the perimeter of the oval for days and even weeks at a time and the high labour costs and waste of water associated with the manual reticulation system used.

The Football, Cricket and Little Athletics Clubs all reported incidents of children slipping and falling down the banking especially the football club which stated that in winter with the slippery surface added to the steep slope made it a highly dangerous area. The issue of water sitting on the western boundary of the oval due to inadequate drainage which players would sometimes have to run through to access the oval. At some stages this water can get as high as the electrical box on the south western light tower, which presents a hazardous environment and restricts user groups from using that tower during the evening.

The current reticulation of the oval is managed by the Shire's Parks and Gardens staff. It is highly labour intensive requiring constant attendance by staff.

The user groups also identified the potential dangers of the car park. These exist at the entrance, which is currently enter and exit, leading to potential accidents with a narrow opening for two cars to pass plus parking in a close proximity to the area. There are currently no parking bays marked, apart from disabled parking, and this may lead to confusion when large events are held at the recreation centre or the oval e.g. Great Southern Football League grand final.

The lighting at McLean Park at present does not provide even lighting coverage of the playing field. Particular attention needs to be focused on the middle of the ground and at either end near the goal squares, where darker pockets of light exist. By upgrading the lighting, a safer oval will result for training purposes and allow the Shire of Denmark and Denmark-Walpole Football Club to compete for Western Australian Football league night games.

It should be noted that the McLean Oval Clubroom Facility (Joe Burton Pavilion) received CSRFF funding of \$119,000 in 2009/10 financial year with Council contributing \$225,000 to the project.

Comment:

The project and estimated costs include:

1). Reticulation and drainage of McLean Park	\$44,250
2). Essential retaining wall to western area of McLean Park	\$33,700
3). Renovation of existing change rooms	\$200,000
4). Fencing	\$35,000
5). Car park redevelopment	\$25,000
6). Upgrade of Lighting	\$100,000
TOTAL	\$437,950

This project will provide a better surface on the oval for participation through an efficient reticulation system and improved drainage, a safer environment for families and children with the retaining of the western side incorporating better viewing areas and a renovated change room facility that will provide a safe environment that is far more functional from a warmup perspective and will increase the enjoyment and comfort of the participants.

The actual sprinkler is a Southern Cross Irrigator, similar in type to the old Californian Orange grove irrigators, and is guessed to be from the 1960's. Apart from time spent watering the oval the costs each year in maintaining the sprinkler are increasing.

The installation of a reticulation system will reduce man hours resulting in better utilisation of the Shire's parks and gardens staff, minimise water wastage through a planned and researched configuration of sprinklers, ensure better usage of watering times by being programmed to be in use during early morning or evening and not during the day when staff are on as is current practice resulting in a more cost efficient and environmentally sustainable application.

There will be the potential to attract major events due to a high quality facility such as, WAFL game, AFL preseason game, WACA preseason training, athletics carnivals, which will draw large interest from the great southern community and have flow on benefits for the Shire's sporting community. These events provide inspiration for children and youth to pursue their dreams as well as have the potential to inspire children and people who are currently not involved in physical activity or community clubs.

The improvement of the lighting will aid in attracting these types of events. Currently the level of lighting can vary from 186 lux to 50 lux in some areas, resulting in the inconsistent coverage of lighting, which does not meet the minimum standard required for night games.

The installation of fencing around the perimeter of McLean Oval will provide the user groups with an increased avenue to attract sponsors and display their signs around the ground, provide an aesthetically pleasing view of the oval adding to the atmosphere of regional sport and recreation and increase safety of users by separating the service road and carpark from the playing area.

The Shire has identified a supplier of PVC picket fencing, Polvin Fencing Systems. The supplier offers a 50 year warranty, stating that the product, "will not rust, rot, peel, is non toxic, impervious to termites, environmentally friendly and never needs painting".

This has the potential to save Council ongoing maintenance costs that can occur with wood and other conventional fencing materials. The PVC will also have no splinters or sharp edges which will be safer for the community and council.

Denmark attracts many visitors per year. The quality of the facilities at McLean Park – the ground surface, seating/viewing facilities and the Club house - may encourage these visitors to stay longer or potentially consider relocating particularly if they assess the facilities here to be of a high standard. Other visitors, who are currently not attracted to come to Denmark because they are aware facilities here are not up to expectations, might also, be attracted to come here if they were to assess the facilities to be quality.

These extra visitors to Denmark, if attracted by the “appropriateness” of the facilities here, bring economic benefit in three ways:

- a) Increased revenue (playing fees/food/drink) for the recipient club. This extra revenue helps to justify the investment in the physical facilities, its maintenance and improvement.
- b) Derivative opportunity for the clubs to gain extra sponsorship. The increased fencing proposed for McLean Park will assist with this.
- c) Growth in the local economy.

This is Council’s first attempt at CSRFF funding for this project and the application meets the criteria of DSR.

After consultation with DSR, Council has been advised that the fencing and car park redevelopment is NOT eligible for funding under the CSRFF guidelines. These elements of the upgrade will require Council to fund.

The application is a worthy project, providing long term benefits and access to improved facilities for the Denmark community.

Consultation:

Users of the McLean Oval precinct have been consulted in regards to the proposed application, with various modifications made to the final design to reflect this valuable input.

Representatives of DSR have also been consulted in the preparation of the application.

Statutory Obligations:

Local Government Act 1995.

Policy Implications:

There are no policy implications.

Budget / Financial Implications:

Assuming that Council approves the application for submission and funds are subsequently provided for the project, the 2011/12 Municipal Budget will need to contain provision for Council’s two thirds contribution, being \$252,000.

Councils contribution is two thirds of \$377,950 being the total project cost of \$437,950 less the fencing and carpark works (total cost \$60,000) which are not eligible works under CSRFF guidelines.

Total grant funding to be received is \$125,950.

These amounts are significant in the context of the Municipal Budget and would need to be funded from Reserve or Loan Funds or from the State Government Royalties for Regions allocation to Council.

In addition the project could well qualify for the “regional component” of the Royalties for Regions Fund, which will be allocated on a competitive basis once the

regional groupings have been finalised by the Minister and potential regional partners.

Strategic Implications:

All projects fit within Councils stated strategic objective of providing sound facilities to the whole community.

Sustainability Implications:

➤ **Environmental:**

It is acknowledged that the current fertilising and watering programs leach into onsite drainage and eventually end up in nearby waterways such as the Denmark River. The proposed reticulation and liquid fertiliser injection system will minimise the amount of fertiliser/water that is wasted and reduce run off into the waterways.

➤ **Economic:**

The improvement of these facilities will result in Mclean Oval being of a standard that can host regional and State events that will attract visitors to the Shire and thus provide benefits to the local economy.

➤ **Social:**

Council has recognised the significant community value of organised competitive sport and less formal passive and active recreational activities.

The McLean Park precinct provides services for children, youth, adults and seniors members of the community.

The positive social interaction between members, as well as the health benefits derived from the physical exercise of active participation in sport result in a sense of personal wellbeing / good health in each member and, collectively, within the community.

Voting Requirements:

Simple majority.

At the meeting held on the 19 October 2010;

- Cr Richardson-Newton requested that details of the Denmark-Walpole Football Club's successful 2009/10 Community Sport Recreation Facilities Fund (CSRFF) application be reference in the next Agenda.
- Cr Syme referred to the 'environmental considerations' heading in the report and made reference to drainage planning for the oval. Cr Syme stated that he believed it should be noted that nutrients are exported from the oval into nearby water courses.
- Cr Thornton & Cr Barrow raised the matter of perimeter fencing and suggested that it was something worth looking into.

The Director of Finance & Administration has included an additional comment in the Background section of the report in relation to Cr Richardson-Newton's observations and has also amended the Environmental Considerations section of the report.

The Director of Finance & Administration advises that a verbal quote of \$25,000 has been received to install 500m of 1.8m security perimeter fencing to the site. Mr Chris Thompson, Regional Manager of the Department of Sport & Recreation, has advised that such fencing would be considered a low priority and would most likely not be funded.

Given the above comments from Mr Thompson it is recommended that the security fencing not be included in the CSRFF application and be considered additional works to be funded separately by Council.

OFFICER RECOMMENDATION

ITEM 8.4.2

That with respect to the Shire of Denmark McLean Oval Upgrade application for funding from the 2011/12 Community Sporting and Recreation Fund;

1. The Department of Sport and Recreation be advised that the application is supported by Council.
2. That the financial contributions of Council with respect to the grant project be considered further in the adoption of the 2011/12 Municipal Budget should the application be successful in approximately March 2011.

COUNCIL RECOMMENDATION	RESOLUTION	&	ALTERNATE OFFICER	ITEM 8.4.2
MOVED: CR BARROW			SECONDED: CR EBBETT	
That with respect to the Shire of Denmark McLean Oval Upgrade application for funding from the 2011/12 Community Sporting and Recreation Fund;				
1. The Department of Sport and Recreation be advised that the application is supported by Council.				
2. That the financial contributions of Council with respect to the grant project be considered further in the adoption of the 2011/12 Municipal Budget should the application be successful in approximately March 2011.				
3. That the funding contribution of Council with respect to the carpark, oval fencing and perimeter fencing be further considered in the adoption of the 2011/12 Budget.				
CARRIED: 12/0				Res: 181010

8.5 Chief Executive Officer

8.5.1 COLLOCATED COMMUNITY / DENMARK HIGH SCHOOL LIBRARY AND PERFORMING ARTS FACILITY

File Ref:	A3121 & A3116
Applicant / Proponent:	Denmark High School
Subject Land / Locality:	Reserve 26565 South Coast Hwy
Disclosure of Officer Interest:	Nil
Date:	12 October 2010
Author:	Dale Stewart, Chief Executive Officer
Authorising Officer:	Dale Stewart, Chief Executive Officer
Attachments:	No

Summary:

The Denmark High School seeks an indication from Council as to whether it would participate in a joint feasibility study to determine the viability of a joint collocated Library and Performing Arts Facility on Education Department land at the High School. The request is initially for a \$10,000 contribution to match similar contributions that would be requested from the Education Department and Great Southern Development Commission (GSDC).

Background:

The School advises that it is expanding in terms of numbers from what was originally intended to be only a junior high school (to year 10) to now over 100 students in years 11 and 12 and an intake of 110 students in year 8 expected in 2011 with a larger intake expected in 2012.

The Principal of the School, Ms Diane Cole, notes "I would very much like to maximise our expansion of facilities to be inclusive of the needs of the community. By

working together I believe we can enhance facilities not only for the school and future generations but also the community at large.”

Council's previous resolution that gives some guidance on the subject from 28 July 2009 (240709) states;

“That with respect to the Denmark Civic Centre and the Denmark Library, Council;

- 1. Endorse the Chief Executive Officer's actions in utilising the office vacated (due to the conclusion of funding of the Denmark Safe Community Project) as additional storage and office facilities for the Denmark Public Library, and to accommodate additional space required for the 'Toy Library', 'Smart Start' and 'Better Beginnings' services provided by the Library.*
- 2. Advise the Telecentre and Community Resource Network that their requests for competing use of premises at the Civic Centre could not be accommodated but their needs may be able to be accommodated in the 'Old Hospital Buildings'.*
- 3. Note the continued occupation of two rooms of the Library section of the Civic Centre by the Denmark Village Theatre for storage of 'props'.*
- 4. Consider in the Councils 2010/11 Budget the funding of development of a concept plan, developed through community consultation, for redevelopment of the Denmark Civic Centre into a Cultural Centre, incorporating an entrance foyer off of Strickland St, expanded Library facilities and Lesser Hall.*
- 5. Authorise the CEO to develop a brief for quotation from Architects to undertake part 4, noting previous designs and work of the Council former Civic Centre Working Group.”*

Comment:

The proposal is for the Shire, together with the Education Department (High School) and GSDC to jointly investigate the feasibility of a common, state of the art, Performing Arts / Joint Library Facility based at the School.

Ms Cole states “Denmark High School is situated on a prime piece of real estate close to town, the Community Park and extending along the Denmark River. I see considerable advantage for the Shire of Denmark in terms of being provided at no cost with a very desirable location as well as obvious cost savings in terms of operational costs.”

At a briefing session in September on the initial concept the following comments were mentioned by some Councillors;

- Potential location and alienation from town.
- Potential for use of the agriculture college gym for performing arts rather than a new facility.
- Current library and civic centre locations were convenient and central.
- Accessibility for the public at the school could be problematic in terms of day time use.
- Civic centre could cater for performing arts better with its refurbishment proposed.
- Primary school children utilise the existing library perhaps more than high school aged children.
- Cost of construction and operations could be excessive with Education Department involvement / requirements.
- Council controlled its operation at the Civic Centre and Library and would have to have an agreement with the Education Department regarding shared use (not the master of its own destiny).



Consultation:

At the request of the High School, the CEO has had two or three meetings with the Principal with respect to the concept over the past 18 months. More recently the CEO met with the CEO of the GSDC and Principal, together with Education Department Senior staff, via teleconference to determine whether there was support for the project, culminating in this request.

No consultation has occurred with either Denmark Arts or Library staff regarding the concept at this stage. This would obviously occur if Council determined that it wished to participate in the feasibility study.

Statutory Obligations:

There are no statutory obligations.

Policy Implications:

Council has an existing MOU with the Education Department and High School regarding maintenance and access of the High School Oval and this works well. There are examples of similar shared Education / Council library facilities in Western Australia but the author is not aware of any shared Performing Arts facilities. WALGA has an adopted policy position on shared used agreements between Councils and Schools which would be utilised if the Council intend to proceed to assist with the feasibility and thereafter commit to jointly build the facility.

Budget / Financial Implications:

Council has included the sum of \$5,000 in the 2010/11 Budget towards architectural concepts for the existing Civic Centre and Library facility taking into consideration the intent to relocate the Denmark Telecentre (now called the Denmark Community Resource Centre) and Denmark Arts to the vacated former Hospital and Aged Lodge Buildings. This project has since been let to Hugh Wilson, a local Architect, member of Denmark Arts and the Council's Streetscape Committee and also the original Architect that prepared iterations of concepts for redesigning the Civic Centre in 1992 and 2002. This is following Council's previous resolutions supporting this path on 28 July 2009 (resolution 240709) and 28 April 2009 (resolution 340409).

The request of Council is of \$10,000 to contribute to a \$30,000 study. If Council was inclined to support the project it would need to identify savings or make an out of budget expenditure (by absolute majority decision).

Strategic Implications:

The Council is currently in the final stages of a Council Working Group recommending the adaptive reuse of the Old Hospital which will enable and

recommend the relocation of Denmark Arts and the Denmark Community Resource Centre. The result will be that the existing Civic Centre will be freed up to better cater for Library functions and to better address Strickland St and become more functional as a cultural and performing arts facility.

At the same time in forecasting this eventuality, Council included funding in the current budget for preparation of a concept plan for redesign of the Civic Centre in order to address Councils and the Communities long held views of identified shortcomings in the functionality of the Civic Centre and to address the long term development needs of the Library at that site.

Other strategic observations include;

- The library in the next 3 to 5 years will probably need to expand;
- The Civic Centre doesn't have a lesser hall (small meeting room) and needs more storage space and could benefit from reverting to a 'foyer' entrance (previous design by Architect Hugh Wilson and the Council's former Civic Centre Project Committee (disbanded many years ago));
- The Councils reception room is under increasing pressure for community usage for meetings; and
- The current design of the library buildings are an ad-hoc addition to the Civic Centre that detract from the Strickland streetscape by virtue of its design / facade and inward entrance and don't take into account the proposed new Strickland St forecourt.
- A decision to support the feasibility could have implications for the existing facility (Civic Centre) and either result in a redefined role at that location or indeed options including demolition and reuse of the site for other purposes.
- An additional facility is intended to be constructed on Education Department land, which would necessitate additional Council commitment to capital and maintenance (subject to the detail of the MOU that would need to be put in place) over and above the existing facility which would in all probability be retained for Civic Centre and some other 'to be identified use'.
- There is no scope to suggest a joint facility on Council land due to concerns of the Education Department regarding transport, supervision and safety of children under their care and control.
- Whilst there may well be some operational savings demonstrable as a result of the feasibility it is not predicted that these would be significant. The existing Library service costs Council 3.73% draw on annual rates or \$149,020 pa inclusive of building depreciation and maintenance.

Options for the Council include;

1. Continue with the current path – that is declining the opportunity to participate at this stage as Council has an already determined path in ensuring the viability of the Old Hospital Buildings and revitalising the Civic Centre with an expanded Library at the same location;
2. Continue with the current path and also participating in the feasibility to determine whether there is a beneficial community outcome. Council would need to identify savings of \$10,000 or delay payment until the 2011/12 financial year and could decide to not proceed any further for any reason, but particularly if the feasibility demonstrated that the project was 'not feasible' for economic, social or other reasons;
3. Defer the joint facility feasibility possibility until the 2011/12 Budget year where upon the Adaptive Reuse Plan for the Old Hospital would be finalised and accepted (with or without amendment) by Council (expected by the end of November 2010) and Council would have indicative costings and a concept for the community for redevelopment of the Civic Centre and Library at the current site (expected by the end of November 2010).

There is upside recreational and social opportunity for the school and community with a new facility, but downside financial risk with potentially needing to contribute capital and ongoing to a large additional facility. Without the benefit of a feasibility and knowing the costs of the alternative it is difficult to quality the relative economic and social benefits and cost associated with either option.

On balance whilst the investment of \$10,000 now or in the next say 12 months is a small amount to invest in a feasibility for a facility that would in all probability cost between \$2m and \$4m, the author is concerned at the likely ongoing capital and operational costs and community perception of accessing a library at a different location, compared to the cost of revitalising an existing facility that requires its 20 year make over, which will better cater for performing arts and library functions for the Council particularly with the CBD streetscape design and relocation of the Community Resource Centre imminent.

Council has a facility that it needs to maximise its usage of now, without necessarily looking to engage in assisting the construction of another, to some extent, competing one. That is not to say that Council questions the merits of the High School needing or requiring a better library and or accessing a modern Performing Arts Facility for their use. Only that perhaps Council has existing infrastructure it needs to optimise the usage of before it considers investing or financially assisting others with.

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 significant social considerations relating to a decision to relocate the Library and or to support for the construction of a new Performing Arts Facility for the Community. The Library is a core service of Council, which is well received by our community (refer to the overwhelming support and comments for this service in the 2008 recent community survey) and to collocate the library at another location away from the CBD present location would involve a great deal of community consultation to determine the positives and negatives from such a move. Similarly the decision to support a feasibility into a new (shared) Performing Arts Facility would be generally supported by the community based on the suggestion that an additional facility might eventuate for use by the community. The ultimate decision would still rest with Council as to capital contributions, ongoing operating costs, revenue sharing and what impact it would have to existing / remaining Council facilities and services.

Voting Requirements:

Simple majority.

OFFICER RECOMMENDATION

ITEM 8.5.1

That Council defer the opportunity to participate in a joint Library / Performing Arts Facility with the Denmark High School at present due to Council's existing desires and commitments to upgrade existing similar infrastructure in the Old Hospital Buildings and existing Civic Centre and Library and revisit the request following consideration of;

1. The final adaptive reuse plans for the old hospital; and
2. The concept plans for the revitalisation and refurbishment of the Civic Centre and Library Project.

Cr Syme's Comment:

The Old Hospital Buildings Working Group was established by Council Resolution 250709 and appointed following the October 2009 Council elections. The Terms of Reference for the working group are:

- To oversee the development and management of a brief to appoint a local Architect;
- To work with the Architect to recommend to Council the potential complimentary and optimum strategic use of the buildings;
- To consider recommendation to Council of the proposed name of the facility.

The working Group is yet to report to Council.

7.00pm – The Director of Finance & Administration left the meeting.

COUNCIL RESOLUTION & CR SYME’S RECOMMENDATION	ITEM 8.5.1
MOVED: CR SYME	SECONDED: CR PEDRO
<p>That Council defer the opportunity to participate in a joint Library / Performing Arts Facility with the Denmark High School at present as Council is still to consider investing in similar infrastructure in the Old Hospital Buildings and also Council has desires and commitments to upgrade the existing Civic Centre and Library. Council will revisit the request following consideration of:</p> <ol style="list-style-type: none"> 1. The proposed reuse plans for the old hospital; and 2. The concept plans for the revitalisation and refurbishment of the Civic Centre and Library. 	
AMENDMENT	
MOVED: CR RICHARDSON	SECONDED: CR HINDS
<p>That the words “as Council is still to consider investing in similar infrastructure in the Old Hospital Buildings and also Council has desires and commitments to upgrade the existing Civic Centre and Library. Council will revisit the request following consideration of” be replaced with the words “until Council has given consideration of”.</p>	
CARRIED: 11/1	Res: 191010
AMENDED MOTION	
<p>That Council defer the opportunity to participate in a joint Library / Performing Arts Facility with the Denmark High School at present until Council has given consideration of:</p> <ol style="list-style-type: none"> 1. The proposed reuse plans for the old hospital; and 2. The concept plans for the revitalisation and refurbishment of the Civic Centre and Library. 	
CARRIED: 12/0	Res: 201010

REASON FOR CHANGE

The wording of the Officer Recommendation pre-empted the outcome of Council’s consideration of recommendations for the Old Hospital by the Working Group. The Alternative Motion retains the key elements of the Officer Recommendation without compromising Council’s ability to consider all options regarding the future use of the Old Hospital buildings.

8.5.2 ROYALTIES FOR REGIONS COUNTRY LOCAL GOVERNMENT FUND

File Ref:	GRT.76
Applicant / Proponent:	Not applicable
Subject Land / Locality:	Not applicable
Disclosure of Officer Interest:	Nil
Date:	12 October 2010
Author:	Dale Stewart, Chief Executive Officer
Authorising Officer:	Dale Stewart, Chief Executive Officer
Attachments:	Yes – Under separate cover

Summary:

A draft Memorandum of Understanding with respect to funds available under the regional component of the Royalties for Regions (R4R) Country Local Government Fund (CLGF) is provided to Council (under separate cover so as to not compromise negotiations with the various parties) with the recommendation that the Shire President, Deputy Shire President, CEO and Director of Finance & Administration continue negotiations with the City of Albany with a view to finalising an agreement between the two parties.

Background:

Negotiations have continued between the Shire President, Deputy Shire President, CEO and Director of Finance with adjoining local authorities including; Manjimup, Nannup, Boyup Brook and Bridgetown-Greenbushes (the current Warren-Blackwood Alliance) to the west and with Albany to the East (noting that Plantagenet and formed a VROC with three Councils to the north).

Council's resolution of 28 September 2010 (number 050910) was as follows;

“That, as a consequence of reviewing the Shire of Denmark's proposed allocation of Royalties for Regions funding, Council authorise a team consisting of the Shire President, Shire Deputy President, Chief Executive Officer and Director of Finance & Administration, to investigate regional projects and agreements with adjoining local government authorities to the Shire of Denmark and provide monthly reports of progress to each Council monthly briefing session until such time as a Council decision on projects, timing, allocations and regional partners is required and made.”

Comment:

The draft MOU with the City of Albany is a fair departure from discussions with Councils currently forming the Blackwood alliance and reverts back to what it is probably fair to say is this Councils more natural alliance and regional grouping, particularly given the decision by the Shires comprising of the Southern Link VROC including the adjoining Shire of Plantagenet.

Advantages & Disadvantages from entering into a regional grouping with the City of Albany include;

- The existing strong community interest between our two municipalities;
- The fact that regional projects in Albany will be of direct advantage to residents of Denmark;
- Logistical ease, in terms of meetings between Councils, Councillors and Staff; and
- The fact that the grouping crosses over two State Electoral boundaries.

Advantages & Disadvantages from a perspective of not entering into a regional grouping with the Councils comprising the Blackwood Alliance include;

- The logistical problems associated with travelling to Manjimup or the other Shires Administrative Centres which are further afield;
- The current lack of community of interest with the Shires other than Manjimup;

- The fact that the grouping involves five members with diverse projects and needs;
- The lack of existence of existing regular forums where the Councils, Councillors and Staff interact;
- The agreement would cross over two Development Commission boundaries; and
- The fact that the grouping is totally contained within a single State Electoral boundary.

Consultation:

Consultation has occurred with all adjoining Councils bar the Shire of Plantagenet which has an agreement with three other Councils to the North not contiguous with Denmark.

Statutory Obligations:

There are no statutory obligations.

Policy Implications:

There are no policy implications.

Budget / Financial Implications:

There are no financial implications upon the Council's current Budget but significant implications for subsequent Budgets and the Plan for the Future.

Having an agreement that essentially seeks to underwrite (as best it can) access to 'competitive' funds of between \$2.5m to \$6.2m between the two parties under the R4R CLGF regional component is the subject of the memorandum.

Strategic Implications:

There are significant strategic implications relating to the success of the memorandum. Access to funding of the amounts involved over the next 4 years can provide much needed additional 'untied' State revenue to undertake strategic projects for the benefit of the region both for Denmark and Albany.

Denmark has submitted a range of projects that could be funded and would be eligible under the Memorandum but that it not to say that these are the only projects or the project agreed to be funded. That task is one that is submitted annually to the Department of Regional Development and Lands via the Great Sothern Development Commission, and as a result of the proposed MOU, via the "regional grouping". It is also not to say that the projects supported by Denmark in any one year have to be within the Shire boundaries. It could be for example that the projects submitted in a given year support infrastructure development in Plantagenet (e.g. regional waste), Albany (Peace Park) or Walpole (Aged Housing).

Sustainability Implications:**➤ Environmental:**

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

➤ Economic:

There are significant local and regional economic opportunities and advantages emanating from successful implementation of an agreement that seeks to ensure that Denmark and Albany have every opportunity from benefitting from a large and ongoing investment of State Government royalty revenue

➤ **Social:**

There are potentially significant social considerations relating to the opportunity of forming a positive regional relationship with Denmark’s natural partner and the community’s regional City.

This also has the potential to have positive flow on opportunities for staff development and exchange of ideas.

Voting Requirements:

Simple majority.

OFFICER RECOMMENDATION

ITEM 8.5.2

That with respect to the Royalties for Regions Country Local Government Fund, Council authorise;

1. The Shire President, Deputy Shire President, CEO and Director of Finance & Administration to continue negotiations with the City of Albany with a view to the formation of a “regional group” with the City for the purpose of delivering regionally significant infrastructure projects across both municipalities which are to be agreed to from year to year based on financial allocations determined in accordance with draft Memorandum of Understanding provided under separate cover; and
2. If acceptable to those persons, the affixing of Council’s seal to the agreed Memorandum of Understanding between the parties.

Cr Hinds at the meeting held on the 19 October 2010 requested that the Officer consider removing the delegation such that Council consider and approve the final Memorandum.

The Officer, in considering this request, believes that the additional one month to 23 November 2010 may compromise negotiations with the GSDC and/or Department of Regional Development & Lands. The Officer also notes that the Officer Recommendation to the City of Albany also gives authority to the Executive of that Authority without the need to refer the negotiated Memorandum back to Council.

The Officer however has amended the Officer Recommendation in part 2 to better define the persons authorised.

<p>COUNCIL RESOLUTION & ALTERNATE RECOMMENDATION MOVED: CR RICHARDSON-NEWTON</p> <p>That with respect to the Royalties for Regions Country Local Government Fund;</p> <ol style="list-style-type: none"> 1. The Shire President, Deputy Shire President, CEO and Director of Finance & Administration to continue negotiations with the City of Albany with a view to the formation of a “regional group” with the City for the purpose of delivering regionally significant infrastructure projects across both municipalities which are to be agreed to from year to year based on financial allocations determined in accordance with draft Memorandum of Understanding provided under separate cover; and 2. If acceptable to the authorised persons referred to in part 1, the affixing of Council’s seal to the agreed Memorandum of Understanding between the parties and copying of the Memorandum to Councillors for information. 3. It is noted that the Memorandum of Understanding in part 1 is not to include decisions on particular projects relating to the Shire of Denmark or the timing of such projects. <p>CARRIED: 12/0</p>	<p>OFFICER ITEM 8.5.2 SECONDED: CR SYME</p> <p style="text-align: right;">Res: 211010</p>
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9. COMMITTEE REPORTS & RECOMMENDATIONS

9.1 WASTE MANAGEMENT ADVISORY COMMITTEE – TERMS OF REFERENCE

File Ref:	WST.10
Applicant / Proponent:	Not applicable
Subject Land / Locality:	Not applicable
Disclosure of Officer Interest:	Nil
Date:	8 October 2010
Author:	Rob Whooley, Director of Infrastructure Services
Authorising Officer:	Rob Whooley, Director of Infrastructure Services
Attachments:	No

Summary:

At the last meeting of the Waste Management Advisory Committee, held on the 28 September 2010 the Committee reviewed the terms of reference and some changes were made. This item recommends that these changes be adopted and the Charter for the Waste Management Advisory Committee be updated accordingly.

Background:

The existing terms of reference are as follows.

6.0 TERMS OF REFERENCE

- 6.1 *Finalising the Shire of Denmark Towards Zero Waste Plan.*
- 6.2 *Establishing our communities Landfill Waste options now and into the future with the specific recommendations by 31 March 2009.*
- 6.3 *Investigating the future waste needs of Denmark, Nornalup, Bow Bridge and Peaceful Bay villages and associated communities and whether this can be accommodated through the regional participation with the Shires of Cranbrook, Plantagenet, Manjimup and/or the City of Albany or with its own locally based suitable site.*
- 6.4 *Employing consultant(s) if the Committee so requires subject to the constraints of Councils budget allocation GL1028152.*

The Waste Management Advisory Committee made the following recommendation; *“That the Terms of Reference for the Waste Management Advisory Committee as adopted by Council 20 October 2009 / Resolution No. 021009, should be amended to read as follows:*

- 6.1 *Implementing the Strategic Waste Minimisation Plan 2008-2013.*
- 6.2 *Establishing our communities Landfill Waste options now and into the future with specific recommendations.*
- 6.3 *Investigating the future waste needs of Denmark, Nornalup, Bow Bridge and Peaceful Bay villages and associated communities and whether this can be accommodated through the regional participation with the Shires of Cranbrook, Plantagenet, Manjimup and/or the City of Albany or with its own locally based suitable site.*
- 6.4 *Employing consultant(s) if the Committee so requires subject to the constraints of Councils budget allocation.”*

Comment:

In reference to item 6.1 the correct name for the Waste Plan is the ‘Strategic Waste Minimisation Plan 2008-2013’. The plan has been finalised and remains now to be implemented.

The Committee has removed the date of 31 March 2009 from item 6.2. This date is obviously no longer relevant and future landfill options are still being investigated. No changes were required to be made to item 6.3.

Item 6.4 was changed to remove the GL number.

Consultation:

Waste Management Advisory Committee.

Statutory Obligations:

There are no statutory obligations.

Policy Implications:

There are no policy implications.

Budget / Financial Implications:

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

Strategic Implications:

There are significant strategic implications relating to the establishment of a Landfill. The committee will look at the differences between establishing a landfill within the Shire or transporting waste for the long term to a site outside the Shire.

Sustainability Implications:

➤ **Environmental:**

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

➤ **Economic:**

There is the potential for significant economic impact depending upon the choices the Council makes in terms of its waste management.

For example:

1. A well run regional landfill could be a substantial net contributor to Council finances for many years into the future.
2. Poor waste decisions will result in a financial burden to Council for many years.

➤ **Social:**

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

Voting Requirements:

Absolute majority.

COMMITTEE & OFFICER RECOMMENDATION

ITEM 9.1

That Council adopt the new Waste Management Advisory Committee Terms of Reference as follows,

6.0 TERMS OF REFERENCE

- 6.1 *Implementing the Strategic Waste Minimisation Plan 2008-2013.*
- 6.2 *Establishing our communities Landfill Waste options now and into the future with specific recommendations.*
- 6.3 *Investigating the future waste needs of Denmark, Nornalup, Bow Bridge and Peaceful Bay villages and associated communities and whether this can be accommodated through the regional participation with the Shires of Cranbrook, Plantagenet, Manjimup and/or the City of Albany or with its own locally based suitable site.*
- 6.4 *Employing consultant(s) if the Committee so requires subject to the constraints of Councils budget allocation.*

COUNCIL RESOLUTION & CEO ALTERNATE OFFICER	ITEM 9.1
RECOMMENDATION	
MOVED: CR SYME	SECONDED: CR PHAIR
That Council adopt the new Waste Management Advisory Committee Terms of Reference as follows,	
6.0 TERMS OF REFERENCE	
<i>Subject to the constraints of Council's Budget, Policies and Procedures and compliance with the Local Government Act 1995 and associated Regulations;</i>	
<i>6.1. Implementing the Strategic Waste Minimisation Plan 2008-2013.</i>	
<i>6.2. Establishing our communities Landfill Waste options now and into the future with specific recommendations.</i>	
<i>6.3. Investigating the future waste needs of Denmark, Nornalup, Bow Bridge and Peaceful Bay villages and associated communities and whether this can be accommodated through the regional participation with the Shires of Cranbrook, Plantagenet, Manjimup and/or the City of Albany or with its own locally based suitable site.</i>	
<i>6.4. Engaging consultant(s) if the Committee so requires.</i>	
CARRIED BY AN ABSOLUTE MAJORITY: 12/0	Res: 221010

9.2	WASTE ADVISORY MANAGEMENT COMMITTEE – NEW LANDFILL SITE OPTIONS
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File Ref:	WST.10
Applicant / Proponent:	Not applicable
Subject Land / Locality:	Pt of 872 and 652 South Coast Highway
Disclosure of Officer Interest:	Nil
Date:	11 October 2010
Author:	Rob Whooley, Director of Infrastructure Services
Authorising Officer:	Rob Whooley, Director of Infrastructure Services
Attachments:	Yes

Summary:

A meeting of the Waste Management Advisory Committee was held on Tuesday 28 September 2010. The committee resolved that the site at Pt of 872 and 652 South Coast Highway no longer be pursued as a potential landfill site. This report recommends that Council support this motion.

Background:

Investigations for potential landfill sites have been ongoing for many years. A Special Meeting of the Waste Management Advisory Committee was held on the 9 June 2010 to which all Councillors and Directors were invited to attend. Seven options for potential landfill sites were discussed, five of which were not supported, with the recommendation that further investigations be made regarding the subject land.

The Director of Infrastructure Services was asked to write to the relevant government departments seeking current requirements for a Class II Landfill Site at this location. Letters were sent to the following departments on the 10 August 2010:

- Department of Environment and Conservation
- Environmental Protection Authority
- Civil Aviation Safety Authority
- Department of Water
- Department of Indigenous Affairs
- Department of Regional Development and Lands

Department of Mines and Petroleum

Responses (see attached) have been received from the Department of Water and the Civil Aviation Safety Authority.

At its meeting on the 20 September 2010 the Western Australian College of Agriculture – Denmark Agricultural Advisory Committee moved a motion that it did not support the inclusion of a landfill site in the Light Industrial Area.

A letter was received from the Denmark Airport Association on the 18th August 2010 expressing concerns about a landfill site being located in the vicinity of the Airport.

Comment:

A Regional Waste Site Investigation is being funded by \$20,000 from the Country Local Government Infrastructure Fund, through the GSDC (Shire of Denmark \$10,000 and City of Albany \$10,000) and a further budget allocation from the City of Albany of \$30,000. Consultant's Coffey Environmental have won the contract which is being administered by the City of Albany. The results of the investigation should be known in early December.

The project brief identifies the following scope

- Attend start-up meeting with project manager and regional subcommittee;
- Define scope parameters and prepare reverse brief for approval;
- Gather existing management plans and anecdotal information about existing landfill sites and operations including local and regional strategic plans;
- Provide commentary on the capacity, catchment, environmental issues and operations of existing landfill sites in the region;
- Review documentation and report on issues and constraints associated with current operations;
- Investigate potential regional site(s) in consultation with respective municipalities and the DEC and provide preliminary information on fundamental requirements such as soil types, water table, buffer zones; neighbour issues and logistical outcomes.
- Establish a preferred site option(s), review existing investigative information and undertake liaison with affected parties;
- Based on the preferred site option(s), undertake a logistical, environmental and cost analysis of the proposed site's operation including recommendations on disposal fees across the waste stream, and
- Submit report outlining findings and recommendations.

It is envisaged that at the end of the process the Regional Committee will be in an informed position to further pursue regional site option(s) that will involve best practice waste management at a regional level.

Consultation:

Department of Environment and Conservation
Environmental Protection Authority
Civil Aviation Safety Authority
Department of Water
Department of Indigenous Affairs
Department of Regional Development and Lands
Department of Mines and Petroleum

Statutory Obligations:

There are no statutory obligations.

Policy Implications:

There are no policy implications.

Budget / Financial Implications:

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

Strategic Implications:

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

Sustainability Implications:

➤ **Environmental:**

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 9.2

That the proposed landfill site in the Light Industrial Area on McIntosh Road, on what is still Education Department owned land, no longer be considered.

COUNCIL RESOLUTION & OFFICER RECOMMENDATION

ITEM 9.2

MOVED: CR PHAIR

SECONDED: CR WAKKA

That Council advise the various government departments and stakeholders that it no longer considers any site within the proposed Light Industrial Area on McIntosh Road viable as a future putrescible landfill.

CARRIED: 12/0

Res: 231010

9.3 DISABILITY SERVICES COMMITTEE – TRANSWA BUS STOP

File Ref:	ORG 25
Applicant / Proponent:	Not applicable
Subject Land / Locality:	Not applicable
Disclosure of Officer Interest:	Nil
Date:	10 October 2010
Author:	Gregg Harwood - Director of Community & Regulatory Services
Authorising Officer:	Gregg Harwood, Director of Community & Regulatory Services
Attachments:	No

Summary:

At the meeting held on the 8 September 2010 the Disability Services Committee made the following recommendation to Council regarding the need for a bus shelter at the Transwa Bus Bay that has been recently relocated to Hollings Rd.

Comment:

The recommendation of the Committee is as follows;

“That the Disability Services Committee recommends to Council that; Seating and a bus shelter be provided at the new Transwa Bus Bay in Hollings Rd.”

The officer report supports the Committee’s recommendation.



Transwa Bus Bay – Hollings Road

The Transwa Bus Service is often the only viable means of transport for seniors and people with disabilities to Perth and other country towns.

These people need seating as they find it difficult to stand for extended periods while they wait for the bus itself, taxis or lifts to and from their home or the accommodation they are staying in. They also need shelter as they are more likely to be affected by the consequences of becoming cold and wet.

Consultation:

Disability Services Committee.

Statutory Obligations:

There are no statutory obligations.

Policy Implications:

There are no policy implications.

Budget / Financial Implications:

The existing Bus Shelter previously utilised for the purpose and currently located in the Council's Works Depot could be utilised for this purpose.

This will necessitate either one of two flat packed new Shelters that Council has acquired if they suit the site or having a purpose built structure placed at an approximate cost of \$5,000. It should be noted that this money is not included in the 2010/2011 Budget.

Strategic Implications:

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

➤ **Social:**

