



Minutes

ORDINARY MEETING OF COUNCIL

HELD IN THE COUNCIL CHAMBERS,
953 SOUTH COAST HIGHWAY, DENMARK ON
TUESDAY, 14 AUGUST 2012.

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Ordinary Council Meeting

14 August 2012

DISCLAIMER

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1. DECLARATION OF OPENING/ANNOUNCEMENT OF VISITORS

4.10pm - The Shire President, Cr Thornton, declared the meeting open.

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

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

STAFF:

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

APOLOGIES:

Cr Barbara Marshall
Mr Garry Bird (Director of Finance & Administration)
Mr Rob Whooley (Director of Infrastructure Services)

ON LEAVE OF ABSENCE:

Nil

ABSENT:

Nil

VISITORS:

Members of the public in attendance at the commencement of the meeting: 2
Members of the press in attendance at the commencement of the meeting: 1

DECLARATIONS OF INTEREST:

Nil

3. ANNOUNCEMENTS BY THE PERSON PRESIDING**3.1 Mr Phil Barnes**

The Shire President announced that former Councillor Phil Barnes had passed away on Sunday after a long battle with illness. Cr Thornton expressed condolences to Mrs Barnes and family stating that Mr Barnes had been a very active Councillor and a strong community advocate. Cr Thornton advised that a Memorial Service for Mr Barnes would be held on Thursday, 16 August 2012 at 2.30pm at the Denmark Boating and Angling Club.

3.2 Mr Duncan Ross – Senior Planning Officer

The Shire President announced that it was with regret that Council's Senior Planning Officer, Duncan Ross had resigned as he would be moving to Perth to take on a new role in the private sector.

4. PUBLIC QUESTION TIME

4.1 RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE

Nil

4.2 PUBLIC QUESTIONS

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

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

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

Questions from the Public

4.2.2 Dr Cyril Edwards

Dr Edwards expressed his regret at the passing of former Councillor Barnes and took the opportunity to acknowledge his involvement in the Denmark Aquatic Centre Committee Inc.

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

Dr Gearon sent an email on the 31 July 2012 requesting that the Minutes of the Council meeting held on the 24 July 2012 accurately reflect her statements made during public question time which were as follows;

"Council will be aware that the DACCI has been facilitating and supporting the Denmark Community to communicate to Council not only their desire to have a heated indoor aquatic facility in Denmark but their willingness to pay for a pool via their rates and admission or membership charges.

I have here approx. 280 written submissions to Councillors stating just that. Two weeks ago I lodged 20 of these submissions with the Council Administrative Officers. It has recently come to my attention that Councillors have yet to receive them and I would like to ask the CEO what has happened to them, as it was the clear intention of the community members who completed them that they be forwarded to the Councillors. In addition I would like these 260 odd submissions tabled here and made available to all Councillors. Here is a list of the names of the people who completed these submissions and I ask that this list be incorporated into the minutes of this meeting.

To summarise this informal community consultation:

- *DACA now has approx. 857 supporters*

- *Councillors have received at least 110 emails indicating the sender's willingness to pay for a pool*
- *Denmark HS Students have written 84 letters in support of a pool*
- *I have here 20 similar letters from Denmark PS Students*
- *And 280 community members have completed submissions.*

And this response to this issue is from a community suffering fatigue over the question of a pool in Denmark. You will see this fatigue reflected in many of the exasperated comments on the submissions.

How does this compare to other issues faced by the Shire of Denmark? Well I have searched your website to try and put this into perspective for you. Not an easy task I can assure you as your search tool alternatively doesn't work or returns all the documents on your website regardless of the search term used. However, I have gleaned the following information:

- *In 2011 the response rate to the Community Needs and Customer Satisfaction survey was 47.9% or 479 responses from 1000 randomly picked rate payers.*
- *Council received a petition regarding the retention of the Cottage Craft Shop at its current location containing 735 signatures*
- *I understand you also received a number of submissions from the parents of Denmark PS Students regarding rezoning of the precinct in the vicinity of the PS (unfortunately, I could not get numbers from your website).*

I think it is apparent that the informal community consultation undertaken by the DACCI is probably the largest such consultation seen in Denmark's recent history.

There is another theme running through many of these submissions and verbalized by many people in our Community in discussions with them. Denmark prides itself on its "Green" Image. We value environmental responsibility and one of the issues with having to travel to Albany to use the ALAC is the unnecessary impact it has on our individual carbon footprints. I am sure you are all aware that Australia has the highest carbon footprint per head of population of any country in the world. We Denmarkians care about this stuff.

*Here is an **opportunity** for Denmark Shire Council to build and operate Australia's first public swimming pool with advanced solar heating year round from an Evacuated Tube Solar hot water system, a Solar PV Array that actually produces more electricity than the facility consumes, a Rain Water Harvest System providing **all** the water requirements for the Aquatic Centre and the Rec. Centre without drawing on the town's supply (and sanitized using ozone generated by solar electricity rather than chlorine), all housed in an insulated Solar Passive/Active(ly) designed building. The running costs would be minimal, and the entire community knows and appreciates that it is the ongoing running costs that concerns Council most. What an opportunity for you: to show other Communities in Australia that it is possible to have an indoor heated aquatic facility with a small carbon footprint that it is not a financial drain on the community. People would come from far and wide to learn from your experience. Come on, let's do something entirely novel in Australia and let's not wait for some other Community to get there before us."*

The CEO does not disagree that these were in fact the statements made by Dr Gearon and therefore recommends that Council include them in the Minutes.

COUNCIL RESOLUTION & OFFICER RECOMMENDATION ITEM 6.1

MOVED: CR SEENEY

SECONDED: CR PEDRO

That the minutes of the Ordinary Meeting of Council held on the 24 July 2012 be confirmed as a true and correct record of the proceedings, subject to the following amendment;

1. Page 5 – Item 4.2.4, correct the title from “Ms” to “Dr”; and
2. Replace the words “*Ms Gearon spoke as a member of the Denmark Aquatic Centre Committee Inc. and a ratepayer and referred to a number of submissions which had previously been hand delivered to Council’s Administration Office and asked the CEO why Councillors had not yet seen them. Ms Gearon handed Council approximately 280 additional submissions with a list of submitters names, which she requested be recorded in the Minutes. Ms Gearon questioned Council’s priorities stating that there was large community support for a pool, which was designed to be environmentally sustainable, together with reducing residents need to drive to the Albany pool, and urged Council to support to project, one which would be the first of its design in the State*” with the words contained within Dr Gearon’s email (copied above).

CARRIED: 11/0

Res: 010812

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 ADOPTION OF DRAFT POLICY NO. 44: AS-OF-RIGHT DEVELOPMENT

File Ref:	PLN.70.J
Applicant / Proponent:	Not applicable
Subject Land / Locality:	Not applicable
Disclosure of Officer Interest:	Nil
Date:	6 August 2012
Author:	Annette Harbron, Director of Planning & Sustainability
Authorising Officer:	Annette Harbron, Director of Planning & Sustainability
Attachments:	8.1.1 – Town Planning Scheme Policy No.44: As-Of-Right Development

Summary:

Draft Town Planning Scheme Policy No. 44: As-of-Right Development (Policy 44) provides direction on those development proposals that do not require Planning Approval to be obtained from the Shire of Denmark subject to compliance with the applicable development criteria.

Draft Policy 44 was advertised for public comment, with no submissions received at the close of the advertising period.

It is recommended that Council adopt draft Policy 44 as a final Town Planning Scheme Policy.

Background:

At the Ordinary Meeting of Council held on 22 May 2012, Council considered draft Policy 44 and resolved the following (Res No. 300512):

“That Council with respect to draft Town Planning Scheme Policy No. 44: As-Of-Right Development adopt it for public comment for a minimum period of 21 days in accordance with Clause 8.2.2 of Town Planning Scheme No. 3.”

Comment:

Draft Policy 44 was advertised for public comment from 7 June 2012 until 3 August 2012 as per the following:

- Advertising notices in the Denmark Bulletin on 7 June 2012 and 19 July 2012 inviting public comment; and
- Advertising notice inviting public comment on the proposal being displayed at the Shire Administration Office, the Shire Library and on the Shire's website for the duration of the advertising period.

At the close of the advertising period no submissions had been received.

It is considered that adoption of draft Policy 44 will provide clarity to applicants, the community and Planning Services staff as to what development proposals are considered to be appropriate without the need for Planning Approval to be obtained.

Consultation:

As per Clause 8.2.2 of TPS No. 3, draft Policy 44 was advertised for public comment, with no submissions received.

Statutory Obligations:

Clause 8.2 of TPS No. 3 sets out the requirements for the preparation and adoption of TPS No. 3 policies, noting a Scheme policy shall only become operative once the procedures contained within Clause 8.2 have been complied with.

Policy Implications:

If adopted by Council, Policy 44 will be included in the Shire's Planning Policy Manual.

Budget / Financial Implications:

The advertising costs associated with the final adoption of Policy 44 will be provided for within the 2012/13 Budget (Account No. 1040302).

Some of the development proposals referenced in Policy 44 currently require Planning Approval to be obtained, thus with the final adoption of Policy 44 there will be a minor drop in Planning Application income. This however is considered to be negligible in the scheme of things, ensuring that Planning Services staff can allocate their time to assessment of those Planning Applications that require Planning Approvals to be obtained in a timely manner.

Strategic Implications:

The approach taken by Policy 44 to provide for a range of developments that do not require Planning Approval subject to acceptable development criteria being met is consistent with the approach of the Model Scheme Text provisions and a range of other existing Town Planning Scheme Policies (e.g. Town Planning Scheme Policy 37: Dams and Water Features, Town Planning Scheme Policy 38: Events, Concerts and Other Organised Gatherings, Town Planning Scheme Policy 40: Rainwater Tanks and Greywater Re-Use Systems and Town Planning Scheme Policy 41: Renewable Energy Systems).

Sustainability Implications:**➤ Environmental:**

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

➤ Economic:

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

➤ **Social:**

The key objective of Policy 44 is to provide for various legitimate developments that are considered to be incidental and/or essential development that would not affect the amenity nor have impacts on neighbours, a street, a neighbourhood, locality or the Shire as a whole.

Voting Requirements:

Simple majority.

COUNCIL RESOLUTION & OFFICER RECOMMENDATION	ITEM 8.1.1
MOVED: CR ROWLAND	SECONDED: CR HINDS
That Council with respect to draft Town Planning Scheme Policy No. 44: As-Of-Right Development adopt Attachment 8.1.1 as final Town Planning Scheme Policy No. 44: As-Of-Right Development.	
CARRIED: 11/0	Res: 020812

8.2 Director of Community & Regulatory Services

Nil

8.3 Director of Infrastructure Services

Nil

8.4 Director of Finance & Administration

8.4.1 WRITE OFF – OUTSTANDING SUNDRY DEBTORS

File Ref: FIN.32
Applicant / Proponent: Not applicable
Subject Land / Locality: Denmark
Disclosure of Officer Interest: Nil
Date: 30 June 2012
Author: Sharon Bracknell, Senior Finance Officer
Authorising Officer: Garry Bird, Director of Finance and Administration
Attachments: No

Summary:

This report recommends cancellation and write-off of unpaid sundry debtor invoices as listed below.

Background:

Sundry Debtors records unpaid invoices, totalling \$3,213.48 (GST inclusive), which are considered unrecoverable.

Comment:

The unpaid invoices that are requested to be cancelled and written-off are as follows (GST inclusive, where applicable):

Debtor	Inv No	Amount (\$)	Date	Description
32275	14064	47.30	26/10/10	Charges for lost library books
39012	13805	120.00	25/1/10	Charges for dog impoundment
32313	15573	50.00	2/3/12	Annual Registration, Food Premises, Cellar Door
30005	15568 14741	200.00 200.00	2/3/12 28/4/11	Annual Registration, Food Premises, Cellar Door x 2.
34568	14092	20.00	23/6/10	Standpipe Sale of Water
35169	14810	163.90	27/5/11	Vehicle Impoundment Fees
32857	14637	11.00	13/4/11	Charges for lost library books
33556	15024 14866	97.13 77.75	29/6/11 21/6/11	McLean Park Oval Hire McLean Park Lighting Towers Hire
31117	15128, 15166	1,840.10 150.00	25/7/11 10/10/11	Private Works Annual Permit for Alfresco Trading Annual Food Premises Registration
	15588	200.00	2/3/12	
32858	14638	36.30	13/4/11	Charges for lost library books

Following is an explanation of why each invoice is recommended to be cancelled and written-off:

Debtor 32275 – Invoice 14064

- Invoice 14064 was issued on 26th October 2010, for two lost library books, 'Excel 2002 – All in one desk reference' and 'Excel formulas and functions'. Mail to the borrower's listed address was returned and attempts by Library Staff to contact the borrower were unsuccessful. In September 2010, the Debtor was subsequently blacklisted from borrowing Library items.
- In January 2012, the debt collection agency recommended that the invoice be written off after three demands and numerous attempts at contact.

Debtor 39012 – Invoice 13805

- Invoice 13805 was issued in January 2010 for dog impoundment charges. The original invoice was for an amount of \$200. The debtor made two payments, one of \$30 on the 3/11/10, and one for \$50 on the 1/12/10. No further payments were received and the matter was subsequently referred to debt collection.
- The debt collection agency advised in February 2012 that they have had no response to their demands and have been unable to find any contact details for this debtor.

Debtor 32313 – Invoice 15573

- The invoice recipient contacted the Senior Finance Officer on the 15th June 2012 to advise that the cellar door (Tinglewood Wines) had not been operating for up to 12 months and no food was being sold from the premises.
- Environmental Health Officer, Mr Robert Ohle has confirmed that on several occasions he has attended the property and found it to be locked up and the business closed and unattended.

Debtor 30005 – Invoices 15568 & 14741

- On sending a final notice to the premises, a note was received from an L Egan of Karriview Wines who advised that the business is no longer in operation as of 13th January 2011.

Debtor 34568 – Invoice 14092

- Numerous attempts have been made to contact the Debtor at various different addresses without success. It is recommended due to the minimal amount owed (\$20.00) that the debt be written off.

Debtor 35169 – Invoice 14810

- Debtor has been pursued for some time regarding the debt for an impounded vehicle but whereabouts are unknown. The Debtors mother has made two payments, one of \$85 on the 30/9/11, and one of \$100 on the 7/11/11. No further payments have been forthcoming and advice has been provided that the Debtor is likely imprisoned. The debt can be recouped through the sale of the impounded vehicle.

Debtor 32857 – Invoice 14637

- Invoice 14637 was issued on 13th April 2011, for lost library books. The original invoice was for an amount of \$85.80. Four books were returned to the Library and the value of these books was credited to the Debtor account leaving a balance of \$11.00. Mail to the borrower's listed address has since been returned and attempts by Library Staff to contact the borrower have been unsuccessful. The Debtor has subsequently been blacklisted from borrowing Library items and is believed to have left town.

Debtor 33556 – Invoices 15024 & 14866

- Invoices were issued to the Debtor for Lighting Tower Hire and McLean Park Oval Hire for May & June 2011. The Debtor has since advised that the Club was no longer operating as of May 2011 and thus has requested that the debt be written off.

Debtor 31117 – Invoices 15128, 15166 & 15588

- Council was advised in writing on 29 May 2012 that the Debtor is in liquidation. Further to this advice, a second letter dated 14th June 2012 was received advising that it was very unlikely that there would be any dividends payable and creditors should consider their debts as irrecoverable and write off accordingly.

Debtor 32585 – Invoice 14638

- Invoice 14638 was issued on 13 April 2011, for three lost library books. Mail to the borrower's listed address was returned and attempts by Library Staff to contact the

borrower have been unsuccessful. The Debtor has subsequently been blacklisted from borrowing Library items.

- It is recommended due to the minimal amount owed (\$36.30) that the debt be written off.

Consultation:

Library Staff
Austral Mercantile

Statutory Obligations:

Section 6.12 of the Local Government Act 1995 provides that a Local Government may by way of an absolute majority resolution, “write off any amount of money”.

Policy Implications:

There are no policy implications.

Budget / Financial Implications:

The financial implication upon the Council’s current Budget is a net reduction of \$3,213.48 from the estimated Sundry Debtors payments for the year. Total income in the following General Ledger Account Numbers will be reduced to reflect the loss of income.

GL Account	Income Reduced by (\$)
1527113 Fines Penalties – Animal Control	283.90
1147113 Fines Penalties & Charges	58.30
1737223 Health Licences Other	800.00
1317543 Water – Income Standpipes	20.00
1137713 McLean Park Lighting Charges	174.88
1147593 Private Works	1840.10

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:

Absolute majority pursuant to section 6.12 of the Local Government Act 1995.

COUNCIL RESOLUTION & OFFICER RECOMMENDATION	ITEM 8.4.1
MOVED: CR MORRELL	SECONDED: CR HINDS
That Council authorise the write-off of fourteen unpaid Sundry Debtors Invoices as tabled in the officer's report, totalling \$3,213.48 (inc GST).	
CARRIED BY AN ABSOLUTE MAJORITY: 10/1	Res: 030812

8.5 Chief Executive Officer

8.5.1 DEMOLITION REQUESTS FOR LEASEHOLD COTTAGES AT PEACEFUL BAY

File Ref:	A3104
Applicant / Proponent:	Shire of Denmark
Subject Land / Locality:	Peaceful Bay Leasehold
Disclosure of Officer Interest:	Nil
Date:	2 July 2012
Author:	Dale Stewart, Chief Executive Officer
Authorising Officer:	Dale Stewart, Chief Executive Officer
Attachments:	8.5.1 a) - Extract Report from Council Minutes – June 2011 8.5.1 b) - Copy of letter to McLeods Barristers & Solicitors 8.5.1 c) - Copy of 'blank' standard Peaceful Bay Lease 8.5.1 d) - Copy of response from McLeods Barristers & Solicitors

Summary:

This report considers legal advice received following consideration of a request by one of the lessees to demolish one of the dwellings on a leasehold at Peaceful Bay in June 2011. Council at the time agreed to support the request for demolition subject to certain provisions being met but noted that such approvals may cause a precedent and also call into question Council's practice with respect to inspection of the buildings from time to time. This report recommends policies for the consideration of Council as a result of that legal advice obtained.

Background:

In June 2011 Council considered a request from the lessees of Site 72 Third Avenue, Peaceful Bay to support the demolition of the existing 'holiday cottage' to facilitate the building of a new 'holiday cottage'. A copy of the report is attached at Attachment 8.5.1 a).

In summary, Council supported the applicant's request, subject to certain provisions, as per Resolution No. 120611 which reads as follows;

"That Council advise the lessee of site 72 Third Avenue Peaceful Bay that it is prepared to consider providing approval as the lessor/landowner in accordance with Clause 6.01 of the lease such that an Application for Planning Approval for demolition of the existing 'holiday cottage' to facilitate building a new 'holiday cottage' subject to the following provisions;

1. *That the applicant demonstrate to Council's satisfaction that the building is in such a state that it is beyond its useful life and generally unfit for habitation and/or economical repair and;*
2. *That the applicant demonstrate to Council's satisfaction concept building plans and elevations of the proposed replacement building that are sympathetic to and conform to the principles of the Peaceful Bay Heritage Precinct Conservation Plan and Town Planning Scheme Policy No. 35 - Peaceful Bay Conservation Plan Development Guidelines (noting that the current submitted plans in the opinion of Council do not)."*

In addition, Council resolved the following (Resolution No. 130611);

"That with respect to the Peaceful Bay Leasehold Cottages, Council request the Chief Executive Officer to have prepared a report on the potential for conflicts or policy direction relating to the lease obligations of the lessor and / or lessee with respect to maintenance, criteria for supporting demolition, removal of improvements at the end of term (of the lease) and the Council's existing inspection regime, Peaceful Bay Conservation Plan and Town Planning Scheme Policy No. 35."

Comment:

Council's correspondence to its solicitors of 7 July 2011 (refer Attachment 8.5.1 b)) details the various implications on how Council deals with subsequent requests for

demolition and/or inspection requirements of the 203 holiday cottages it has under lease at Peaceful Bay.

In summary the issues related to;

1. Whether Council needs to grant owner approval for an application for planning consent prior to considering planning authority approval?
2. Whether an application for planning consent requires owner approval (lessor) or lessee approval?
3. Whether Council could validly refuse approval for demolition either as the owner and or planning authority?
4. Maintenance obligations of the lessee, particularly given the lessors irregular inspection regime, and the resultant liability, if any, of the Council (lessor)?
5. The apparent contradiction of the lease compared to the Conservation Plan, requiring removal of the heritage buildings at the end of term?
6. Seeking guidance on policies that might assist Council in assessing an application for demolition.

Consultation:

A letter was sent to McLeods Barristers & Solicitors on the 7 July 2011 seeking legal advice on the matter of demolition of one of the cottages at Peaceful Bay. A copy of their response, dated 30 May 2012, is attached at Attachment 8.5.1 d).

Aspects of the proposed new Council policies are recommended to be forwarded to the Peaceful Bay Progress Association (PBPA) and lessees together with a copy of the legal advice.

Statutory Obligations:

Any statutory obligations are detailed within the legal advice obtained (refer Attachment 8.5.1 d)).

Policy Implications:

Council recently (in May 2012) created a new Policy with respect to Peaceful Bay Holiday Cottage request for permanency which somewhat answers some of the concerns raised in the legal advice.

Council Policy P100609 - Peaceful Bay Holiday Cottage Full Time Occupancy Approvals, created at the same time, states:

“Objective

To ensure that full time occupancy of Peaceful Bay Leasehold Holiday Lots does not:

- a) *Detract from the areas amenity or function as a family holiday home area.*
- b) *Place the full time occupants at risk through the usage of substandard dwellings.*
- c) *Lead to environmental or public health risks through overuse of the non potable scheme water and or septic tank systems.*
- d) *Jeopardise the long term renewal of Peaceful Bay Leasehold Holiday Lot Leases.*

Policy

The Chief Executive Officer is delegated authority to approve full time occupancy on a case by case basis subject to the following conditions being imposed on each approval:

- i. *Advice to the applicant that Peaceful Bay leasehold area is first and foremost a holiday community and that the collective amenity expectations of the holiday leaseholders should take precedence over those of full time occupancy approval holders.*
- ii. *Advice to the applicant that full time occupancy recipients have an obligation to make a positive contribution to the Peaceful Bay Community.*
- iii. *That Peaceful Bay leasehold area fulltime occupancy approvals are to:*
 - *Be limited to a 5 year period and considered on a case by case basis taking into account the suitability of the property for fulltime occupancy and the social, environmental and public health factors that will be associated with that*

approval when considered in context with the other approvals that have already been issued;

- *All have a common expiry date of the 30 June 2017 so that they can be renewed as a block which will allow consideration of their social, environmental and public health impacts on the Peaceful Bay community.*
 - *Be issued to the parties that apply rather than to a premises;*
 - *Be made by the lessee(s) or endorsed in writing by them:*
 - *Be non transferable and expire on the cessation of the lease or the sale of the property and;*
 - *Be able to be renewed for a further term at Council's discretion.*
- iv. *Payment of the scheduled fee that applies from time to time.*

All proposed premises be inspected, prior to approval, to ensure that they are in a fit state of repair and suitable for full time habitation for the number of persons proposed and are fitted with complaint hard wired smoke alarms, dual earth leakage circuit breakers (RCDs) and their septic tanks systems are functional."

Delegation D100605 – Peaceful Bay Holiday Cottage Full Time Occupancy Approvals was created at the same time and states;

"The Chief Executive Officer is delegated authority to approve full time occupancy on a case by case basis subject to the following conditions being imposed on each approval;

1. *Advice to the applicant that Peaceful Bay leasehold area is first and foremost a holiday community and that the collective amenity expectations of the holiday leaseholders should take precedence over those of full time occupancy approval holders.*
2. *Advice to the applicant that full time occupancy recipients have an obligation to make a positive contribution to the Peaceful Bay Community.*
3. *That Peaceful Bay leasehold area fulltime occupancy approvals are to:*
 - a) *Be limited to a maximum 5 year period (noting the common expiry in part 3b) and considered on a case by case basis taking into account the suitability of the property for fulltime occupancy and the social, environmental and public health factors that will be associated with that approval when considered in context with the other approvals that have already been issued;*
 - b) *All have a common expiry date of the 30 June 2017 so that they can be renewed as a block which will allow consideration of their social, environmental and public health impacts on the Peaceful Bay community.*
 - c) *Be issued to the parties that apply rather than to a premises;*
 - d) *Be made by the lessee(s) or endorsed in writing by them:*
 - e) *Be non transferable and expire on the cessation of the lease or the sale of the property and;*
 - f) *Be able to be renewed for a further term at Council's discretion.*
4. *Payment of the scheduled fee that applies from time to time."*

New Delegation No. D130201 – Peaceful Bay Holiday Cottage Leases, also states;

"The Chief Executive Officer is delegated authority to approve the assignment and/or mortgage of Peaceful Bay Holiday Cottage Leases.

The delegation is granted on the basis that if the Chief Executive Officer is not prepared to support an assignment the matter is referred to Council for determination.

The application for lease assignment should include a site plan indicating all buildings and the type, size and location of all existing effluent disposal systems.

An inspection will be carried out to confirm the above information and to identify any building maintenance, health, safety or other works required to be addressed prior to or as part of the assignment and a fee for this service will be charged based on an average assessment and at a fee as per adopted in the Council's annual budget. Officers will

endeavour to combine inspections with other routine duties to reduce inspection fees whenever possible.

Any substandard or failing effluent disposal systems must be upgraded to the satisfaction of Council's Environmental Health section and in compliance with State legislation before the lease will be assigned."

Budget / Financial Implications:

In the 2012/13 Budget Council proposes the adoption of a fee for inspection of cottages as a result of a request for permanency and/or transfer or assignment of \$165.00.

The suggestion in the legal advice that Council undertake regular (suggested as annually) inspections of all leasehold property would involve an additional staff resource not currently able to be accommodated without significant additional expense or reallocation of duties. Undertaking 203 inspections per year would involve a minimum of 2 hours per property with contact, inspection, scheduling and adequate documentation.

Based on an hourly rate of say \$45, this would equate to approximately \$18,000 pa.

Given the liability of maintenance rests with the occupier (lessee), combined with the fact that the buildings are almost all single storey, and Council has inspection processes in place for assignments, applications for full-time occupancy and final inspections relating to building permits now, it is the view of the officer that Council cannot afford this task, when assessing the relative risk.

Strategic Implications:

The Peaceful Bay Heritage Precinct Conservation Plan states the entire Peaceful Bay Heritage Precinct is considered to be a zone of considerable significance, with the intention being to protect and enhance the unique special character of the Peaceful Bay original leasehold settlement as a relaxed, informal low key holiday location.

Sustainability Implications:

➤ **Environmental:**

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

➤ **Economic:**

The heritage values of the Peaceful Bay Heritage Precinct contribute to the reasons why residents and holiday makers live or visit the seaside community.

➤ **Social:**

The heritage values of the Peaceful Bay Heritage Precinct are recognised by the community of the precinct and by the wider community.

Voting Requirements:

Simple majority.

OFFICER RECOMMENDATION

ITEM 8.5.1

That Council with respect to the leasehold properties at Peaceful Bay;

1. Provide a copy of the legal advice to all leaseholders and the Peaceful Bay Progress Association Inc. for information as to the responsibilities of lessees to ensure that properties are maintained in reasonable condition noting that lessees are liable for any injury or damage caused by any failure of the lessee to maintain the premises in a reasonable and safe condition.
2. Create the following new Council Policy that states that "That as well as considering the intent of the Peaceful Bay Heritage Precinct Conservation Planning Policy, it considers the advice of its solicitors dated 30 May 2012 regarding;

- Criteria that might guide Council in supporting or refusing applications for demolition of a Peaceful Bay leasehold property; and
 - The requirement to inspect all properties for maintenance in preserving the integrity and safety of the properties prior to consideration of a renewal of lease or request for consideration of full-time occupancy, together with the introduction of an inspection fee”.
3. Advise the Peaceful Bay Progress Association Inc. and lessees that it intends to create a new Council Policy that states that “Prior to obtaining the approval of the owner (the Council as lessor), to proposed significant improvements to a Peaceful Bay Holiday Cottage leasehold property and/or the construction of a new dwelling on that leasehold property, the lessee must provide written confirmation that they agree that the improvements / new building proposed to be the subject of a planning consent application, remains the property of the Shire at the end of the lease.” and seek comment from interested persons to the proposed policy, closing on the 30 September 2012.
 4. Council not undertake annual inspections of leasehold properties at this time due to financial constraints and rely on inspection of such properties on assignment or request for consideration of full-time occupancy pursuant to existing Council Policy or when undertaking other required inspections (eg. final inspections in relation to building permits).

Cr Hinds asked whether the Shire President would allow for the points in the Officer’s Recommendation be considered separately. The Shire President agreed.

COUNCIL RESOLUTION	ITEM 8.5.1 a)
MOVED: CR HINDS	SECONDED: CR MORRELL
<p>That Council with respect to the leasehold properties at Peaceful Bay provide a copy of the legal advice to all leaseholders and the Peaceful Bay Progress Association Inc. for information as to the responsibilities of lessees to ensure that properties are maintained in reasonable condition noting that lessees are liable for any injury or damage caused by any failure of the lessee to maintain the premises in a reasonable and safe condition.</p>	
CARRIED: 11/0	Res: 040812

COUNCIL RESOLUTION	ITEM 8.5.1 b)
MOVED: CR MORRELL	SECONDED: CR SYME
<p>That Council with respect to the leasehold properties at Peaceful Bay create the following new Council Policy that states that “That as well as considering the intent of the Peaceful Bay Heritage Precinct Conservation Planning Policy, it considers the advice of its solicitors dated 30 May 2012 regarding;</p> <ul style="list-style-type: none"> • Criteria that might guide Council in supporting or refusing applications for demolition of a Peaceful Bay leasehold property; and • The requirement to inspect all properties for maintenance in preserving the integrity and safety of the properties prior to consideration of a renewal of lease or request for consideration of full-time occupancy, together with the introduction of an inspection fee”. 	
CARRIED: 11/0	Res: 050812

ADJOURNMENT MOTION	
MOVED: CR HINDS	SECONDED: CR GILLIES
<p>That part 4 of the Officers Recommendation be deferred to the first meeting of October 2012 to allow for comment to be sought from interested persons prior to the consideration of the adoption of a Policy.</p>	
LOST: 2/9	Res: 060812

COUNCIL RESOLUTION

ITEM 8.5.1 c)

MOVED: CR MORRELL

SECONDED: CR SAMPSON

That Council with respect to the leasehold properties at Peaceful Bay advise the Peaceful Bay Progress Association Inc. and lessees that it intends to create a new Council Policy that states that "Prior to obtaining the approval of the owner (the Council as lessor), to proposed significant improvements to a Peaceful Bay Holiday Cottage leasehold property and/or the construction of a new dwelling on that leasehold property, the lessee must provide written confirmation that they agree that the improvements / new building proposed to be the subject of a planning consent application, remains the property of the Shire at the end of the lease." and seek comment from interested persons to the proposed policy, closing on the 30 September 2012.

CARRIED: 10/1

Res: 070812

COUNCIL RESOLUTION

ITEM 8.5.1 d)

MOVED: CR SAMPSON

SECONDED: CR MORRELL

That Council with respect to the leasehold properties at Peaceful Bay Council not undertake annual inspections of leasehold properties at this time due to financial constraints and rely on inspection of such properties on assignment or request for consideration of full-time occupancy pursuant to existing Council Policy or when undertaking other required inspections (eg. final inspections in relation to building permits).

CARRIED: 11/0

Res: 080812

9. COMMITTEE REPORTS & RECOMMENDATIONS

9.1 SENIORS ADVISORY COMMITTEE – AMENDMENT TO MEMBERSHIP

File Ref:	SER.3
Applicant / Proponent:	Seniors Advisory Committee
Subject Land / Locality:	Not applicable
Disclosure of Officer Interest:	Nil
Date:	3 August 2012
Author:	Claire Thompson, Executive Assistant
Authorising Officer:	Dale Stewart, Chief Executive Officer
Attachments:	No

Summary:

The Seniors Advisory Committee is asking Council to amend the Committee's Charter to include

Background:

Current Membership of the Committee comprises a total of 8 members consisting of;

- 1 x Councillor
- 1 x Denmark Over 50s Association Representative (President)
- 1 x Denmark Over 50s Association Representative (Member)
- 1 x Denmark Lions Club Representative
- 1 x Denmark Health Service Representative
- 1 x Peaceful Bay Progress Association
- 1 x Nornalup Residents & Ratepayers Association Representative
- 1 x Community Representative

Comment:

At the last meeting of the Seniors Advisory Committee held on the 26 July 2012 members discussed their membership. It was noted that the Denmark Lions Club did not wish to have a representative at this time, and that given the size and scale of Amaroo (now having also taken over Lionsville), it seemed appropriate to seek to have a representative of Amaroo Care Services Inc. on the Committee.

The Committee made the following recommendation to Council;

“That the Council’s Seniors Advisory Committee be authorised to write to Amaroo Care Services Inc. inviting them to nominate a person to represent their organisation and the residents of Amaroo Village and Lionsville on their Committee and that should they accept the invitation the Charter for the Committee be amended accordingly.”

The Lions Club of Denmark wrote to the CEO on the 5 December 2011 advising that whilst they thanked Council for inviting them to have a representative on the Committee “there were no volunteers for the vacancy” and that they could not take up the offer at this point in time.

At the same meeting the Committee made the following resolution;

“That the Council’s Seniors Advisory Committee write to the Lions Club of Denmark Inc. seeking advice as to whether they wish to continue to have a representative on this Committee.”

A letter has been sent to the Lions Club of Denmark seeking their advice and a response was received from them on 3 August 2012 stating;

“The Lions Club of Denmark Inc does not wish to continue having a member on the Seniors Advisory Committee. We support Amaroo being on the committee as they are now managing Lionsville.”

In light of this advice, an alternate recommendation has been provided to replace the Lions Club of Denmark representative in the Charter with an Amaroo Care Services representative.

Consultation:

Seniors Advisory Committee

Statutory Obligations:

Division 2, Subdivision 2, section 5.10 (1) of the Local Government Act 1995 relates and reads as follows;

“5.10. Appointment of committee members

(1) A committee is to have as its members —

- (a) persons appointed* by the local government to be members of the committee (other than those referred to in paragraph (b)); and
- (b) persons who are appointed to be members of the committee under subsection (4) or (5).”

Policy Implications:

There are no direct policy implications however Council's Seniors Policy (P080601) relates in its objectives of maintaining continued liaison with seniors in relation to specific matters relating to seniors.

Budget / Financial Implications:

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

Strategic Implications:

The Shire of Denmark has the highest median age in WA of 47.1 years (ABS 3 August 2011) and the Seniors Advisory Committee provides Council with information, advice and recommendations which can assist with informing Council's strategic direction for planning, community services and facilities.

Sustainability Implications:

➤ **Environmental:**

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

➤ **Economic:**

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

➤ **Social:**

The Seniors Advisory Committee provides an integral connection between Council and the needs and desires of the senior population of Denmark.

Voting Requirements:

Absolute majority.

COMMITTEE RECOMMENDATION

ITEM 9.1

That the Council's Seniors Advisory Committee be authorised to write to Amaroo Care Services Inc. inviting them to nominate a person to represent their organisation and the residents of Amaroo Village and Lionsville on their Committee and that should they accept the invitation the Charter for the Committee be amended accordingly.

COUNCIL RESOLUTION & OFFICER RECOMMENDATION ITEM 9.1
 MOVED: CR MORRELL SECONDED: CR SEENEY

That with respect to the membership of the Seniors Advisory Committee, Council note that the Lions Club of Denmark no longer seek to have a representative on the Committee and Council write to Amaroo Care Services inviting them to nominate a representative for the Seniors Advisory Committee and amend the Charter accordingly.

CARRIED BY AN ABSOLUTE MAJORITY: 11/0 Res: 090812

10. MATTERS BEHIND CLOSED DOORS
 Nil

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

12. CLOSURE OF MEETING

4.50pm – There being no further business to discuss the Shire President, Cr Thornton, declared the meeting closed.

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

Signed: _____
Dale Stewart – Chief Executive Officer

Date: _____

These minutes were confirmed at the meeting of the _____

Signed: _____
(Presiding Person at the meeting at which the minutes were confirmed.)