



Minutes

ORDINARY MEETING OF COUNCIL

HELD IN THE COUNCIL CHAMBERS,
953 SOUTH COAST HIGHWAY, DENMARK ON
TUESDAY, 3 DECEMBER 2013.

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Ordinary Council Meeting

3 December 2013

DISCLAIMER

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1. DECLARATION OF OPENING/ANNOUNCEMENT OF VISITORS

4.05pm – *The Presiding Person, Cr Ross Thornton, declared the meeting open.*

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

MEMBERS:

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

STAFF:

- Mr Dale Stewart (Chief Executive Officer)
- Mr Kim Dolzadelli (Director of Finance & Administration)
- Mrs Annette Harbron (Director of Planning & Sustainability)
- Mr Gregg Harwood (Director of Community & Regulatory Services)
- 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: 15
 Members of the press in attendance at the commencement of the meeting: Nil

DECLARATIONS OF INTEREST:

Name	Item No	Interest	Nature
Cr David Morrell	8.5.1	Impartiality	Cr Morrell owns property near the laneway from Bent Street to Barnett Street.
Mr Dale Stewart	8.4.2	Impartiality	Mr Stewart is a member of the Denmark Country Club.
Cr Ross Thornton	8.3.1	Proximity	Cr Thornton owns property near Churchill Road.
Cr Ross Thornton	8.5.1	Impartiality	Cr Thornton owns property adjoining three of the laneways.
Cr Roger Seeney	8.3.1	Proximity	Cr Seeney owns property at the end of the section to be resealed on Scotsdale Road.

3. ANNOUNCEMENTS BY THE PERSON PRESIDING

The Shire President announced that the Shire of Denmark's team in the annual Hollow Log Golf Tournament had won the trophy. Cr Thornton requested Cr Osborne to say a few words about the event given that he was one of the participants. Cr Osborne noted that they had had an enjoyable time and that the Shire of Denmark was now obligated to host the tournament next year. Cr Osborne noted that the outside staff who had attended had mentioned that they were grateful that Chief Executive Officer extends the offer for them to attend such activities on behalf of the Shire.

The Shire President referred to the Blue Wren Tankard and asked the Chief Executive Officer to say a few words about it. Mr Stewart stated that every year the Shire of Denmark Staff versed the Denmark Muckrakers in a cricket match and that this year the Shire of Denmark had taken out the Tankard.

4. PUBLIC QUESTION TIME

4.1 RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE

Nil

4.2 PUBLIC QUESTIONS

In accordance with Section 5.24 of the Local Government Act 1995, Council conducts a public question time to enable members of the public to address Council or ask questions of Council. The procedure for public question time can be found on the wall near the entrance to the Council Chambers or can be downloaded from our website at http://www.denmark.wa.gov.au/ourcouncil/council_meetings.

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

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

Questions from the Public

4.2.1 Mr A Rule – Irwin Inlet Sandbar Opening Protocol

A letter is attached (Attachment 4.2.1) which has been received on 5 November 2013 from Mr A Rule, Secretary of the South Coast Licensed Fishermen's Association Inc.

CEO Comment

The Irwin Inlet Sandbar Opening Protocol was adopted by Council on the 28 February 2012 following consultation and agreement with the Department of Water and the Peaceful Bay Progress Association and general advertisement in the local newspapers.

The Irwin Inlet Sandbar was breached by Council Officers in accordance with the Protocol on 26 June 2013 of this year noting that, regrettably, due to large swell conditions, the Bar had to be re-breached approximately one week later. This was the first year that the Inlet was proposed to be breached below the height of the Peaceful Bay Road, which was the intent of the new Protocol.

The Secretary of the South Coast Licensed Fishermen's Association Inc. seeks Council's consideration to raising the height of the Peaceful Bay Road in its lowest areas and/or to improve its drainage with additional culverts creating a balancing effect to the land on the road's immediate west.

Council's Director of Infrastructure Services confirms that the road, in its current state, is not showing evidence of the need for major reconstruction

within the next 15 – 20 years and that it would ordinarily only be at that point in time that consideration of the road surface height, above sea level, would be appropriate to be considered. The Director also confirms that a complete survey of the overall drainage and height of the road has not been undertaken.

Suffice to say, it is estimated that there would be several hundred metres of road level that would need to be substantially raised in order to avoid inundation of the road to achieve the Fishermen’s Association’s desired opening height of the Inlet (indicatively 200mm higher).

This year the Inlet was breached at an approximate level of 0.78m AHD compared to the absolute maximum allowed of 0.77m AHD (road surface level) (the level rose very quickly in a short period of time this year).

The Irwin Inlet is an inlet that can experience rapid increases in height in a matter of a few days with appropriate heavy rainfall in its catchment. In the CEO’s opinion were the Inlet not breached the week that it was, early in the winter, with predicted high rainfall events in the catchment, the allowable height of the inlet would have been 200mm above the centre of the road at its lower points within the following week and this would have had the impact of ensuring that the road infrastructure was inundated together with the associated risks to road users. Conversely, the additional week (or two) would have had negligible impact on the health of the ecosystem.

The Irwin Inlet indeed has been known to naturally breach over the years and the merits of increasing the height of the adjoining road infrastructure by, say, 200 – 300mm for several hundred metres, for one to two weeks, would be questionable.

Unless there was some scientific evidence pointing to the merits of a prolonged, increased water height, it is the Officer’s view that the current Protocol should be continued.

COUNCIL	RESOLUTION	&	OFFICER	ITEM 4.2.1
RECOMMENDATION				
MOVED: CR MORRELL			SECONDED: CR SEENEY	
That the Council respond to the letter of the South Coast Licensed Fishermen’s Association Inc. in accordance with the comments of the Chief Executive Officer.				
CARRIED UNANIMOUSLY: 9/0				Res: 011213

4.2.2 Mr Mike Neunuebel – Item 8.1.2 (Unauthorised Vegetation Clearing and Placement of Infrastructure on Portion of Reserve 24913 Ocean Beach)

Mr Neunuebel referred to the reference to vandalism in the Officer’s Report and stated that he had not meant to cause any harm to the area and certainly not vandalise anything. Mr Neunuebel stated that he had been running his business from Ocean Beach for the last 17 years and had always made every effort to protect the area. Mr Neunuebel advised that he had had some discussions with Council Staff and he had been under the impression that it was work that needed to be done and he had thought that he had been helping, particularly after the recent erosion of the beach area. Mr Neunuebel asked Council to consider his intentions and his duty of care to his customers, including some school students.

4.2.3 Mr Craig Chappelle – Item 8.2.2 (Green Room Sink – Denmark Civic Centre)

Mr Chappelle asked whether Council could consider doing the work required at the Civic Centre as soon as possible, preferably prior to the Christmas Pantomime, instead of waiting for the 2014/15 Budget adoption. Mr Chappelle stated that the Denmark Village Theatre had already started rehearsing and that the sink got considerable use during this time of year.

4.2.4 Ms Nicola Shaw – Item 8.2.1 (Joint Lease Gumnut Children’s Daycare & Playgroup Building (Gumnut Corner))

Ms Shaw spoke on behalf of the Denmark Playgroup and thanked the Shire for their support over the years. Ms Shaw stated that they were pleased with the joint lease proposal because it would give both groups a little bit more security, however they would prefer a longer term of lease. Ms Shaw also referred to a special condition about an annual meeting between the two groups and a, where necessary, Council representative. Ms Shaw requested that this be amended to twice annually instead.

4.2.5 Ms Bridget Eckersley – Item 8.2.1 (Joint Lease Gumnut Children’s Daycare & Playgroup Building (Gumnut Corner))

Ms Eckersley spoke on behalf of the Gumnut Corner Denmark Occasional Daycare Committee requesting that the item be deferred until such time as their organisation had confirmed its new funding arrangements, which would likely be in February 2014. Ms Eckersley gave an overview of their use of and contribution to the facility over the years and stated that they would prefer a different lease option.

The Chief Executive Officer asked Ms Eckersley what their Committee’s preferred lease option would be.

Ms Eckersley stated that they would prefer to be the primary leaseholder as this could affect their funding arrangements with the Department of Local Government and Communities.

4.2.6 Mr George Ebbett – Item 4.2.1 (Irwin Inlet Sandbar Opening Protocol)

Mr Ebbett confirmed that the Protocol had been reviewed over the past 12 months and that the Chief Executive Officer made most of the decisions relating to any actual opening. Mr Ebbett questioned whether the Protocol included sufficient guidelines to assist the CEO in making those decisions. Mr Ebbett stated that there were plenty of people around who could assist to provide guidance and that perhaps they could provide some assistance in tidying up the Protocol.

4.47pm – The Director of Planning & Sustainability left the room.

The Shire President advised that he believed that the Chief Executive Officer had taken Mr Ebbett’s comments on board.

4.2.7 Mr Jeff Atkinson – Item 8.5.2 (Wilgie View Learning Centre (Spirit of Play) Request for Extension of Leased Area)

Mr Atkinson spoke on behalf of the Spirit of Play Community School confirming that the School had received the Education Minister’s approval to offer places up to year 6 and that this would happen over a number of years with their projection being approximately 92 students by 2019. Mr Atkinson gave an overview of the School stating that whilst it complied with the Australian Curriculum it unique in that it focussed on the bush and nature. Mr Atkinson outlined the purpose of their requests, stating that they were happy to work together with Council to enable them to remain at the site. Mr Atkinson stated that they were very conscious of and sensitive to other users and leaseholders of the Reserve.

4.49pm – The Director of Planning & Sustainability returned to the room.

5.00pm – The Presiding Person, Cr Thornton left the room.

5.00pm – The Presiding Person, Cr Thornton returned to the room.

4.2.8 Mrs Bev McGuinness – Item 8.5.2 (Wilgie View Learning Centre (Spirit of Play) Request for Extension of Leased Area)

Mrs McGuinness, Chair of the Denmark Historical Society, advised that the request of the Spirit of Play Community School had been discussed at their last Committee meeting and it was agreed that if the site was a gazetted heritage precinct then a school would not be a compatible use for the site. Mrs McGuinness stated that initially use of the building as a school had been a temporary measure and provided a brief history of the reserve. Mrs McGuinness stated that she was aware that the Denmark Machinery Restoration Group were ready to begin restoring the former Turntable and that likely that, if the School was granted the requested extended leased area, it could inhibit this project.

Mrs McGuinness stated that whilst there was no real concern with shared use of the area, particularly members of the public viewing the photos at the Old Post Office, there was no guarantee that over the years this wouldn't become an issue with new parents or teachers at the School.

Mrs McGuinness noted that the Denmark Historical Society believed that Cr Seeney would be putting forward a Motion on the matter and that it was one that was supported by their organisation.

4.2.9 Mr Alex Syme – Item 8.5.2 (Wilgie View Learning Centre (Spirit of Play) Request for Extension of Leased Area)

Mr Syme stated that he supported the comments made by the Denmark Historical Society and that he did not believe that the site would be compatible with an expanded school. Mr Syme noted that he did not support the Officer Recommendation and that Council required a clear indication of what would likely be happening with the School in the future.

4.2.10 Mr Alex Syme – Item 8.1.2 (Unauthorised Vegetation Clearing and Placement of Infrastructure on Portion of Reserve 24913 Ocean Beach)

Mr Syme stated that he had been surprised to see Item 8.1.2 on the Agenda given that he believed there to be a number of instances of vegetation being cleared and tree lopping going on around Wilson Inlet however Council Officers had not made any comments about it. Mr Syme referred to the Officers Recommendation regarding engaging a consultant and suggested that perhaps Council Officers could undertake the task instead. Mr Syme reminded Council of Council's Policy on clearing of vegetation near Wilson Inlet and stated that he was disappointed that nothing had been brought to the Council's attention by Administration on the matter.

4.2.11 Mr Alex Syme – Item 8.1.1 (Private Jetties in the Wilson Inlet and Denmark River)

Mr Syme stated that he strongly supported the Officer's Recommendation and acknowledged that lots of damage had been done around Wilson Inlet.

5.21pm – The Director of Community & Regulatory Services left the room.

4.1.12 Dr Ceinwen Gearon – Item 8.1.2 (Unauthorised Vegetation Clearing and Placement of Infrastructure on Portion of Reserve 24913 Ocean Beach)

Dr Gearon stated that she did not believe Mr Neunuebel was a vandal and that he actually takes care of the area. Dr Gearon noted that she was aware

of other cases of illegal clearing within the Shire where there had been no repercussions by Council. Dr Gearon stated that Mr Neunuebel's shelter actually provided shade for other beach goers as well and suggested that this matter was an overreaction. Dr Gearon requested that Council consider Mr Neunuebel's contribution to the area over many years and accept that he did the work in good faith thinking that he had the Shire's blessing to do so.

5.23pm – *The Director of Community & Regulatory Services returned to the room.*

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

4.4 PRESENTATIONS, DEPUTATIONS & PETITIONS

4.4.1 Ms Lily Winer – Leadership Award Recipient 2012

Ms Winer made a presentation on the activity that she undertook as result of winning the 2012 Shire of Denmark Leadership Award.

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 LEWIS	SECONDED: CR GILLIES
That the minutes of the Ordinary Meeting of Council held on the 12 November 2013 be confirmed as a true and correct record of the proceedings.	
CARRIED UNANIMOUSLY: 9/0	Res: 021213

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

The following Notice of Motion was received on the 19 November 2013 and therefore complies with the Shire of Denmark Standing Orders Local Law clause 3.10.

7.1	ADDITION OF MEETING DATE TO 2014 ORDINARY COUNCIL MEETING SCHEDULE
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File Ref:	CR.1
Applicant / Proponent:	Cr John Sampson
Subject Land / Locality:	Not applicable
Disclosure of Officer Interest:	Nil
Date:	19 November 2013
Author:	Cr John Sampson
Attachments:	No

Summary:

This item seeks to add Tuesday December 23 2014 to the ordinary council meeting schedule for 2014.

Background:

At the 2013 November 12 Item 8.5.1 Council set meeting dates for 2014.

Comment:

The current 2014 schedule has the last meeting of the year on December 2, resulting in a 7 week gap to the probable first meeting of January 2015 and possible 7 week delay for applicants seeking Council decisions. Cr Sampson believes that this is undesirable as in principle Council seeks to meet on a 3 weekly cycle where possible – to give applicants, ratepayers and the community timely access to Council for decisions and consultation.

Consultation:

Nil

Statutory Obligations:

There are no statutory obligations.

Policy Implications:

There are no policy implications.

Budget / Financial Implications:

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

Strategic Implications:

There are no known significant strategic implications relating to the report or the Councillor Notice of Motion.

Sustainability Implications:

➤ Environmental:

There are no known significant environmental implications relating to the report or Councillor Notice of Motion.

➤ Economic:

There are no known significant economic considerations relating to the report or Councillor Notice of Motion.

➤ **Social:**

There are no known significant social considerations relating to the report or Councillor Notice of Motion.

Voting Requirements:

Simple majority.

COUNCIL RESOLUTION & NOTICE OF MOTION		ITEM 7.1
MOVED: CR SAMPSON		SECONDED: CR PEDRO
That Council amend the ordinary Council meeting schedule of 2014 to include Tuesday 23 December 2014.		
5.46pm – The Chief Executive Officer left the room.		
5.49pm – The Chief Executive Officer returned to the room.		
CARRIED: 6/3		Res: 031213

Cr Lewis requested that all Councillors' votes on the above resolution be recorded.

FOR: Cr Seeney, Cr Pedro, Cr Thornton, Cr Morrell, Cr Sampson & Cr Osborne

AGAINST: Cr Lewis, Cr Rowland & Cr Gillies.

8. REPORTS OF OFFICERS

8.1 Director of Planning & Sustainability

8.1.1 PRIVATE JETTIES IN THE WILSON INLET AND DENMARK RIVER

File Ref:	REM.10; A3018
Applicant / Proponent:	Shire of Denmark
Subject Land / Locality:	Wilson Inlet and Denmark River Foreshores
Disclosure of Officer Interest:	Nil
Date:	18 November 2013
Author:	Annette Harbron, Director of Planning & Sustainability
Authorising Officer:	Annette Harbron, Director of Planning & Sustainability
Attachments:	8.1.1a - Jetty Register (March 2008) 8.1.1b - Jetty Licence Information 8.1.1c - Department of Water's Position Paper on Jetties in Waterways Conservation Act Management Areas (July 2013) 8.1.1d - Swan River Trust's Policy SRT/D21: Jetty Structures 8.1.1e - Peel Inlet Advisory Council's Position Statement: Boating Facilities, Jetties and Structures 8.1.1f - Peel Region Scheme Draft Boating Facilities Policy 8.1.1g - SAT Determination [2011] WASAT 186: Blissett & WAPC

Summary:

The Wilson Inlet and Denmark River both have foreshore reserves and/or road reserves that separate private properties and the waterbodies respectively, thus a private jetty is located on public land – noting that in the majority of instances the management body for the foreshore reserve and/or road reserve is the Shire of Denmark via a Management Order from the Crown.

From a review of numerous Council documents, it is considered that there is no clear Council direction on whether Council, as the management body, supports applications for new private jetties in the Wilson Inlet and Denmark River where they abut public land. Given that enquiries from ratepayers are being received and the DoT is keen to address the issue of current unlicensed jetties, it is appropriate that the Shire of Denmark has a clear policy position in relation to whether new private jetties applications should be supported by Council in its capacity as the landowner in the first instance.

Background:

Over the last two (2) years, Planning Services has had a number of enquiries regarding the building of private jetties (defined as a jetty that is for domestic and recreational use by the applicant to whom the jetty licence is issued and their family) in the Wilson Inlet and also undertaken discussions with the Department of Transport (DoT) regarding the issue of unlicensed jetties (both public and private) throughout Wilson Inlet. As a result of the discussions with DoT, all of the public jetties (defined as a jetty that is for use by the general public) that are maintained by the Shire have now been licensed with DoT.

Comment:

To assist with Council's consideration of this matter, Planning Services has undertaken a review of relevant Council documents, liaised with relevant stakeholders and researched other local government authorities and waterways management authorities policies regarding private jetties – with the information ascertained from such processes discussed in detail below.

Wilson Inlet Foreshore Reserves Management Plan 2008

The Wilson Inlet Foreshore Reserves Management Plan 2008 (WIFRMP) was adopted by Council at the Ordinary Meeting held on 25 November 2008 (Res No: 111108), with amendments relating to Poison Point actions and recommendations adopted at the Ordinary Meeting of Council held on 24 May 2011 (Res No: 110511).

Council Policy P100509: *Wilson Inlet Foreshore Reserves Management Plan 2008* (formulated as a result of Council's adoption of the WIFRMP) references that Council

adopted the WIFRMP with a view for the Shire to work towards implementing the recommendations stipulated within the Plan.

The relevant references in the WIFRMP relating to private jetties are as follows:

There are around 15 private jetties, both registered and unregistered, mostly on the western foreshore.

Under the Jetties Act 1926, all private jetties in Western Australia require a licence issued by the Chief Executive Officer in DPI. This is to ensure that the location of the jetty does not interfere with navigation and that the design, construction and maintenance of the jetty are such that is safe to use. DPI will consult with other relevant authorities such as the Shire and DEC, and will generally issue a licence only with the agreement of these authorities. All licensed jetties are allocated a number. This jetty licence number must be displayed on the structure above winter high-water level, so that it is visible from the shore or water. It should be of a contrasting colour to the jetty and have figures at least 75mm high.

The majority of the licensed jetties on the Inlet foreshore do not have the jetty licence number displayed as specified.

There are about 6 unlicensed jetties on the Inlet Foreshore. Some of these jetties are in an unsafe condition and some have associated clearing or other damage to the adjoining foreshore and its vegetation.

There is damage to the foreshore associated with some private jetties caused by launching boats in locations not designed for such activities. A licensed jetty does not entitle the licensee to launch a boat; it is a tethering place. The practice of launching boats from the foreshore could result in the adverse impacts of acid sulphate soils in addition to the damage to the vegetation. The risk to public safety and foreshore integrity will continue unless action is taken to enforce the regulations.

Recommendation	Action Required	Responsibility	Priority	When
2.5.1 b)	Undertake a campaign to inform owners of unlicensed jetties that licenses are required for all jetties, specifying a date for compliance.	Shire, DPI	M	2009
2.5.1 b)	Make all jetties still unlicensed after the designated date unusable and safe (NB: jetties should be made unusable rather than removed in order to minimise disturbance. Disturbance could lead to the adverse impacts associated with ASS).	Shire, DPI	M	2009
2.5.1 c)	Remind all licensees of the requirement to display the jetty licence number.	Shire, DPI	M	2009
2.5.1 b) 2.5.1 a)	Inform residents and owners of property adjacent to the foreshore of the regulations and procedures governing the installation of a private jetty.	Shire, DPI	M	Ongoing
2.5.1 b) 2.5.1 c)	Monitor adherence to jetty licensing regulations	DPI	M	Ongoing

2.5.1 b) 2.5.1 c)	Inform all licensees of the designated public boat launching sites at the Denmark Rivermouth and Poddy Shot Bay.	Shire	M	2010
2.5.1 b) 2.5.1 c) 2.5.1 d)	Monitor the condition of jetties and the adjoining foreshore.	DPI, Shire	M	Ongoing
2.5.1 d)	Repair and revegetate unauthorised clearing and damage to the foreshore associated with jetty use.	Shire, Property Owners	H	ASAP and Ongoing

In March 2008 the then DPI (now DoT) provided the Shire of Denmark with a Jetty Register which identified those jetties that the DoT had licensed in the Wilson Inlet and Denmark River – refer Attachment 8.1.1a. No further actions appear to have been undertaken in relation to addressing the issues of unlicensed jetties apart from the more recent liaisons with the DoT which identified from a 2011 inspection that there were some 32 structures (jetties, piles etc) in the Wilson Inlet, with only 12 of them being licensed with DoT.

As per the provisions of the WIFRMP, there was recognition that current unlicensed structures should be given a timeframe to comply with licensing requirements otherwise they should be made unusable. There is however no clear direction on new private jetty applications, although it is evident from the WIFRMP that the focus was on providing adequate public infrastructure around the Wilson Inlet to “*manage the foreshore so that it remains a beautiful natural surround to the Inlet, while continuing to provide for a range of compatible recreational activities*”.

Denmark Strategic Boating Plan

The Denmark Strategic Boating Plan (DSBP) was received at the Ordinary Meeting of Council held on 16 October 2007 (Res No: 361/07), with implementation of the strategy document to be through the annual budget process and Plan for the Future.

The relevant references in relation to private jetties in the Wilson Inlet are as follows:

2.1 *Current finger jetties need to be registered and an annual licence fee established for them which would cover the cost of inspections (Implementation Timeframe: Year 1-5).*

It is understood that the Shire has a policy of no new finger jetties however this recommendation refers to existing jetties only.

2.2 *Current jetties would need to be restored to a standard established by the DPI and those residents who chose not to restore their jetties would be required to remove them using an approved contractor and within a certain timeframe (Implementation Timeframe: Year 1-5; Year 6-10).*

Noting the reference in the DSBP about a Shire policy of no new finger jetties, to date Planning Services have been unable to locate the actual policy document where this is specifically referenced.

Council Policy P120601: Multi-Owned Private Jetties

Council Policy P120601: *Multi-Owned Private Jetties* states:

Council supports the concept of multi-owned private jetties and sees such as a means of reducing the proliferation of exclusive jetties. Furthermore Council would wish to see the jetties maintained to a high standard by the owns with the forfeiture of the license as the penalty for jetties falling into a state of disrepair.

To date Planning Services has not been able to ascertain when this policy was initially adopted by Council – although it is known that the policy has been in the Shire's Policy Manual since at least 2002.

On face value and reading in isolation of other Council documents, given that the Wilson Inlet and Denmark River foreshore reserves and/or road reserves have been in existence for some time, one could presume that Council was aware that such private jetties would be located on public land and consequently supported such proposals.

Aboriginal Cultural Heritage Management Plan Kwoorabup Beelia (Denmark River)

The Aboriginal Cultural Heritage Management Plan Kwoorabup Beelia (Denmark River) was considered at the Ordinary Meeting of Council held on 26 July 2011 (Res No: 060711) where it was received as a guiding document to protect and manage the indigenous heritage values of the southern section of Kwoorabup Beelia (Denmark River).

Although the Plan does not specifically address the issue of private jetties, there is reference in the document that the proposal for a jetty/moorings at the Denmark Rivermouth would require Regulation 10 approvals as per the *Aboriginal Heritage Act 1972*.

Given this, it is considered that any proposals for private jetties in the Denmark River would require approval from the Department of Aboriginal Affairs – noting that Planning Services have attempted to seek comment from the Department of Aboriginal Affairs, however at the time of writing this report no comments had been provided.

Town Planning Scheme Policy No. 43: *Nornalup Development Guidelines*

Town Planning Scheme Policy No. 43: *Nornalup Development Guidelines* (Policy 43) was adopted at the Ordinary Meeting of Council held on 22 March 2011 (Res No: 140311 En Bloc) with the key objective being to provide guidance to Council and the community as to appropriate forms of development to ensure the character of the Nornalup settlement is maintained.

Clause 6.1.2 of Policy 43 states that no new boat sheds along the Frankland River shall be permitted however; maintenance of existing boatsheds is encouraged.

This provision in Policy 43 is consistent with Council's position in 2007 on a private jetty application (jetty/boatshed) in the Frankland River associated with No. 90 (Lot 54) Riverside Drive, Nornalup, wherein Council resolved the following at the Ordinary Meeting of Council held on 16 October 2007 (Res No: 349/07):

- 1) That Council advise the Department for Planning and Infrastructure that it does not support the granting of a new private jetty licence at Nornalup as it is considered incompatible with the objective of public use of the river and foreshore areas.
- 2) That Council commence a process to determine a position on the question of private jetties on the Frankland River and undertake consultation with the Nornalup Residents and Ratepayers Association to gauge community attitudes.

It should be noted that Planning Services issued planning approval for a refurbishment of an existing jetty/boat shed associated with No. 106 (Lot 202) Riverside Drive, Nornalup in April 2012 after referral of the proposal to the then Department of Environment and Conservation (given the Frankland River is located within the Walpole and Nornalup Inlets Marine Park) and the then Department of Indigenous Affairs.

In considering the planning application, the Department of Environment and Conservation supported the proposal on the basis that the structure legally existed prior to the gazettal of the *Walpole and Nornalup Inlets Marine Park Management Plan 2009-2019* – noting that the document has the following Strategy:

12. *Prohibit the construction of new jetties where it is assessed that there is an unacceptable risk to or impact upon shoreline vegetation and/or constrains public access to the shoreline.*

Department of Transport's Requirements for Private Jetties

As per the *Jetties Act 1926*, a jetty is defined as any structure connected to a body of waters that, wholly or in part, may be used for the purpose of launching or landing a vessel. This includes:

- Wharves;
- Piers;
- Grids;
- Slips;
- Landing Places;
- Stages;
- Platforms;
- Ramps;
- Fixed or floating structures; and
- Erected or placed structures.

Attached at Attachment 8.1.1b is information obtained from the DoT's website in relation to jetty licence requirements.

From discussions with the Manager Property Services of the Coastal Infrastructure Branch of DoT, they have advised that the following policy provisions relate to jetty licence applications:

- The location of the jetty is to be within 300 metres of the property where the owner resides.
- The jetty and mooring of a vessel is not to interfere with navigation or recreational use of the adjacent waters.
- A jetty licence does not restrict public access; if the licensee requires exclusivity, there must be a seabed or riverbed lease in place.

Department of Water's Position Paper on Jetties in Waterways Conservation Act Management Areas (July 2013)

Given that Wilson Inlet is managed by the Department of Water (DoW) under the *Waterways Conservation Act 1976*, Planning Services undertook liaison with the DoW to ascertain their position on private jetties in the Wilson Inlet. As a result of such liaisons, the DoW have recently prepared a position paper on jetties to provide guidance to the Shire, other regulatory authorities and the community – refer Attachment 8.1.1c.

In summary, the main points from the position paper relevant for Council's consideration of private jetties are as follows:

- In general private jetties should not be located on public land.
- Applications to construct private jetties on public reserves or road reserves will generally not be supported due to the presence of private jetties and boat sheds potentially alienating public use and enjoyment of the waterways and foreshore.
- Each jetty licence application should be assessed on an individual basis taking into account purpose of use, land tenure, access, riparian vegetation, seagrass and any other relevant matters.
- The existing rights of owners of licensed jetties should be recognised.
- Unlicensed jetties should not be encouraged, and where necessary action taken to dismantle unlicensed jetties and to recover the costs of doing so.

In discussions with the DoT as to what consultation they undertake with the DoW regarding private jetty applications in the Wilson Inlet, the advice provided has been that they advise the applicant that they are required to obtain the relevant approvals from other relevant authorities – noting that the DoT will issue a jetty licence with this

requirement imposed as a condition. This advice is contrary to the information provided on the DoT's website which states that applicants need to consult with other relevant authorities such as local government, the Department of Environment and Conservation, WA Planning Commission, Swan River Trust etc. and that DoT will only issue a licence with the agreement of the relevant authorities.

In light of the above and noting that DoW is the management body for the Wilson Inlet, it is recommended that should Council wish to support consideration of private jetty applications in the Wilson Inlet that any policy needs to make reference to the need for Department of Water approval to be obtained in addition to Department of Transport approval.

Department of Land's Position on Private Jetties Abutting Public Land

The Wilson Inlet and Denmark River both have foreshore reserves and/or road reserves that separate private properties and the waterbodies respectively, thus a private jetty is located on public land – noting that in the majority of instances the management body for the foreshore reserve and/or road reserve is the Shire of Denmark via a Management Order from the Crown, although there are a few foreshore reserves that are currently Unallocated Crown Land (UCL) still.

Given that reserves are Crown Land and UCL is managed by the Crown, Planning Services undertook liaison with the Department of Lands (South West and Great Southern Team - Regional and Metropolitan Services) regarding their position on private jetty applications and their advice follows:

In general terms the Department would not support any application for a jetty structure connecting to Crown land without there being appropriate access arrangements in place and conditions on the jetty license or by other means that the holder of the jetty license has no rights to clear, construct on or in any other way use the adjoining Crown land. In particular the existence of a jetty license should not hinder public access and use of the adjoining Crown land.

It is understood that there are existing jetty structures in the Wilson Inlet where holders have also constructed paths and other infrastructure within the adjacent Crown land. In these cases the Department would be prepared to support applications for licenses, provided management plans or other Government policies supported their retention. Of particular concern would be to ensure jetty structures were improved, if necessary, to meet required standards and issues such as liability and future maintenance of infrastructure on the Crown land are appropriately addressed.

Any support would be on the basis that no further infrastructure associated with the use of the private jetty would be permitted on the Crown land and where appropriate existing infrastructure be removed (subject to other management arrangements)

The Department will not support any new jetty application where the structure is intended to connect to unallocated Crown land. Where the jetty application is intended to connect to a managed reserve the Department would only support an application if the reserve management body supported the application and the construction of a new jetty was consistent with other Government policy in relation to the waterway.

Other Approval Authorities Position on Private Jetties

➤ *Swan River Trust*

The Swan River Trust is the management authority for the Swan and Canning Rivers in Perth and as per Policy SRT/D21: *Jetty Structures*, private jetty structures associated with residential property ownership are not supported as such structures can affect the amenity of the river environment, inhibit and make public access unsafe, and cause a perception that the river foreshore is not public land. The policy does acknowledge that there are existing jetty structures on the rivers owned by individuals with current development approvals and valid jetty licences, and that such structures can continue to

be used by the owners and the general public in accordance with the applicable development approvals and jetty licence conditions.

Attached at Attachment 8.1.1d is the Swan River Trust's Policy SRT/D21: *Jetty Structures*.

➤ *Peel Inlet Advisory Council*

The Peel Inlet Advisory Council has a position statement on Boating Facilities, Jetties & Structures which references that:

- applications for new private jetties, boat ramps, slipways or structures abutting or fronting public land associated with the riverine and estuarine environments will not be recommended for approval;
- applications to rebuild unlicensed old jetties adjacent to public land associated with the riverine environment that may have fallen into disrepair will not be recommended for approval;
- applications for transfers of jetties abutting public land associated with the riverine and estuarine environments will not be recommended for approval unless the applicant owns the property adjacent to that structure.

Attached at Attachment 8.1.1e is the Peel Inlet Advisory Council's Position Statement: *Boating Facilities, Jetties and Structures*.

➤ *Peel Region Scheme Draft Boating Facilities Policy*

In November 2011, the Western Australian Planning Commission (WAPC) released the Peel Region Scheme Draft Boating Facilities Policy for public comment – refer Attachment 8.1.1 f.

In summary, the general policy position is on public foreshores and waterways the WAPC favours activities and development which benefit public access and use in preference to the private use of public land and waterways, thus the following development is not permitted under the policy:

- i) The construction of new jetties for private use; or
- ii) The reconstruction or refurbishment of jetties and/or related structures which may have fallen into disrepair.

In discussions with the Department of Planning's Peel Office, the draft policy is to be considered by the WAPC in the near future, noting that due to numerous submissions received the draft policy is proposed to have substantial modifications however details of the nature of the modifications were not able to be provided.

➤ *Other Local Authorities*

Planning Services have consulted with several other local authorities regarding their position on private jetty applications abutting public land and ascertained the following:

- The City of Albany indicated that they have approved commercial jetty applications (associated with commercial fishing licence operators) abutting public land but they are certain what their position is, as the landowner, on private jetty applications abutting public land – noting that if supported in the capacity as the landowner then planning approval would be required to be obtained;
- The Shire of Murray essentially take the position that private jetties abutting public lands are not supported – noting that this position is via a planning refusal. With regards to such applications, there are three (3) known SAT determinations against the Shire of Murray and WAPC's refusals of private jetties abutting public lands, and in each case SAT dismissed the applications for review (i.e. supported the refusal reasons of the Shire of Murray and the WAPC). For information, attached at Attachment 8.1.1g is the SAT Determination [2011] WASAT 186: Blissett & WAPC.

Conclusion

Having regard to the above, from a Planning Services perspective it is considered that private jetty applications abutting public land along the Wilson Inlet and Denmark River should not be supported by Council, as the management body, for the following reasons:

- The potential alienation of public use and enjoyment of the waterways and foreshore environments; and
- The potential for clearing, walk trails and associated developments to occur on the public land as a result.

Consultation:

Refer 'Comment' section regarding consultation that has occurred on this matter to date.

Council may wish to advertise the policy as proposed in the officer's recommendation for public comment – noting that current structures (whether licensed or unlicensed) are not immediately affected by the introduction of the proposed Council policy.

Statutory Obligations:

As per the *Jetties Act 1926*, all private jetties are required to be licensed by the Department of Transport.

In terms of relevant Shire development approvals, planning approval and a building permit is required to be obtained as well.

Policy Implications:

The officer's recommendation is proposing to revoke current Council Policy P120601: *Multi-Owned Private Jetties* and create a new Council Policy. If Council adopts the new policy, it will be included in the Council's Policy Manual.

Budget / Financial Implications:

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

Strategic Implications:

Due regard has been given to the Shire of Denmark's Strategic Community Plan "Denmark 2031", namely:

Environment Objective: Denmark's natural environment is regionally significant, wild and beautiful, yet so inviting and fragile that its protection and enhancement is carefully balanced in meeting the needs of current and future generations' lifestyle, development and tourism needs.

Environment Goal: Natural Environment – that the Shire of Denmark will acknowledge the importance of the natural environment to the residents of Denmark and the region, and works with residents and all relevant agencies to maintain a high standard of environmental protection and its integration with community life.

Environment Goal: Waterways - that the Shire of Denmark acknowledge the importance of rivers, inlets and coastline to residents, visitors and the local economy, and implements and advocates for policies with other relevant authorities and organisations to maintain these to a high standard of health and amenity.

Sustainability Implications:

➤ **Environmental:**

The foreshore reserves abutting Wilson Inlet and Denmark River provide beautiful surroundings, support natural vegetation and fauna and provide for a range of recreational facilities. The management of such foreshore areas in support of appropriate environmental outcomes is required.

➤ **Economic:**

It is acknowledged that some landowners that own land in the vicinity of the Denmark River and Wilson Inlet may be of the understanding that they can apply for a private jetty – particularly given that there are existing private jetties. These properties do not directly abut the waterbody thus it is considered that an automatic right to make application for a private jetty should not be inferred just because they own land in the vicinity of Denmark River and Wilson Inlet.

➤ **Social:**

The foreshore reserves abutting Wilson Inlet and Denmark River provide beautiful surroundings, support natural vegetation and fauna and provide for a range of recreational facilities. The proposed Council Policy is seeking to restrict new private jetties abutting public land in order to protect the public nature of such foreshores and waterways.

Voting Requirements:

Simple majority.

5.57pm – *The Director of Infrastructure Services left the room.*

6.01pm – *The Director of Infrastructure Services returned to the room.*

6.03pm – *The Director of Finance & Administration left the room.*

COUNCIL RESOLUTION & OFFICER RECOMMENDATION	ITEM 8.1.1
MOVED: CR SAMPSON	SECONDED: CR OSBORNE
That Council, with respect to private jetties in the Wilson Inlet and Denmark River resolve to:	
<ol style="list-style-type: none"> 1. Revoke Council Policy P120601: Multi-Owned Jetties; 2. Adopt the following as a new Council Policy: 	
<p><i>PRIVATE JETTIES IN WILSON INLET AND DENMARK RIVER</i></p> <p><i>With regards to private jetties in Wilson Inlet and Denmark River, Council, where it relates in its capacity as the managing body for the adjoining foreshore reserve and/or road reserve:</i></p> <ol style="list-style-type: none"> a) <i>Recognises the existing rights of owners of jetties that are licensed by the Department of Transport.</i> b) <i>Will not support any new private jetty applications that abut public land as they alienate public use and enjoyment of the waterways and foreshore environments and there is concern with the potential for clearing, boat launching and retrieval walk trails to obtain access and other associated unauthorised developments to take place in the public realm as a result.</i> c) <i>Will allow owners of existing unlicensed jetties a period of twelve (12) months from the adoption of this policy to seek a jetty licence from the Department of Transport; and where such approval is not obtained, advise the Department of Transport that such jetty should be dismantled and/or removed, with such costs associated with dismantling and/or removal to be met by the Jetty owner, if known, or the Department of Transport, if required, having regard to Section 8A of the Jetties Act 1926.</i> 	
6.04pm – <i>The Director of Finance & Administration returned to the room.</i>	
CARRIED: 7/2	Res: 041213

Cr Morrell requested that his vote against be recorded.

6.17pm - Second 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.

8.1.2 UNAUTHORISED VEGETATION CLEARING AND PLACEMENT OF INFRASTRUCTURE ON PORTION OF RESERVE 24913 OCEAN BEACH

File Ref:	A5551
Applicant / Proponent:	Shire of Denmark
Subject Land / Locality:	Reserve 24913, 908 Ocean Beach Road, Ocean Beach
Disclosure of Officer Interest:	Nil
Date:	22 November 2013
Author:	Donna Sampey, Sustainability Officer
Authorising Officer:	Annette Harbron, Director of Planning & Sustainability
Attachments:	8.1.2 a – Photographs 8.1.2 b – Ocean Beach Precinct (Action Plan)

Summary:

Clearing of a small area of native vegetation (approximately 4m x 5m) and installation of infrastructure has occurred without Shire approval within the coastal foredunes adjacent to the boat launching ramp at Ocean Beach (Reserve 24913). The works were undertaken by Mr Mike Neunuebel, to facilitate operation of his business, South Coast Surfing Lessons.

Mr Neunuebel currently has Council approval to operate South Coast Surfing Lessons at Ocean Beach for a period of five years, expiring December 2014. Shire staff were in the process of costing a request from Mr Neunuebel to construct a parking bay for his business' trailer in the same location in which the clearing occurred. Council may consider this an opportune time to review the recommendation from the *Shire of Denmark Coastal Reserves Management Strategy and Action Plan 2010 – 2020* to “consider the implementation of a small parking area at the end of the vehicle access on the foredunes for specified use by the South Coast Surfing School trailer throughout the year”.

This report considers the following matters;

- Issuing Mr Neunuebel an Infringement Notice under Shire of Denmark Property Local Law Section 4.2 (1);
- Prohibit all further use of the cleared area by Mr Neunuebel of South Coast Surfing Lessons and any other person until Council decides the fate of that area;
- Whether, until such time as the trailer parking bay is constructed in the boat launching area car park, Mr Neunuebel is to continue parking his trailer and vehicle on the beach in accordance with his activity licence conditions;
- Consider construction of a trailer parking bay for use by South Coast Surfing Lessons as an item for the 2014/2015 Financial Year Shire Budget. Council to also request contribution to the construction costs from Mr Neunuebel;
- Council consider a new permanent parking facility for Mr Neunuebel in the Ocean Beach car park if that car park is ever extended.
- Consider withdrawing the licence condition which allows Mr Neunuebel to park his business' trailer and vehicle on the beach once the trailer parking bay is constructed; and,
- Consider an additional condition to the South Coast Surfing Lessons' licence to specify the request to remove all fixtures from Ocean Beach at the completion of each day's operation.

Background:

Mr Mike Neunuebel's South Coast Surfing Lessons business has been operating at Ocean Beach for over 16 years. In 2002 and 2003, approval for the operation of the Surfing Lessons business at Ocean Beach was referred to Council and an annual permit was granted. In 2004 and 2009, Mr Neunuebel was granted successive five-year licences by Council to operate. The current licence expires on 30 December 2014. Mr Neunuebel pays an Annual Activity Permit fee under the conditions of the licence, which is currently \$360 (inc. GST).

As part of Mr Neunuebel's 2009 request to Council, he asked for provision of a new parking bay for the Surfing Lessons business' trailer at the base of the track that leads down to the beach near the boat launching area. While the licence conditions allow parking of the Surfing Lessons' car and trailer on the beach adjacent to the bollards, Mr Neunuebel requested a parking bay to allow operation during times of high water and/or beach erosion, which would otherwise prevent vehicle access and/or parking on the beach. Council considered this matter at the Ordinary Meeting of Council held on 22 December 2009 and resolved the following (Resolution No. 161209);

"That Council, with respect to the application by Mike Neunuebel of South Coast Surfing School:

1. *Grant a five year approval expiring on the 30 December 2014 to continue to operate a surfing school at Ocean Beach subject to the payment of an Annual Activity Permit fee (currently \$330 per year) as per Council's scheduled fees and charges subject to the following conditions being met.*
 - a. *The school vehicle being parked in such a manner that it minimises the potential for conflict with the school, recreational boat and other beach users.*
 - b. *The school vehicle being parked in a location adjacent to the beach bollards as determined from time to time by the Senior Ranger in accordance with the beach conditions and in consultation with the Denmark Surf Life Saving Club.*
 - c. *The school is not to operate during the times that Surf Life Saving Carnivals are held at Ocean Beach unless permitted to do so by the Senior Ranger in consultation with the Denmark Surf Life Saving Club.*
 - d. *The school's operation being reviewed on an annual basis by the Director of Community and Regulatory Services to determine if the school is conflicting with the enjoyment of the beach by other users.*
 - e. *The applicants being advised that a buffer of between 10 – 15 m between the surf flags and any surf craft is to be strictly adhered to at all times.*
 - f. *No advertising signage is permitted to be placed on the ground or on any fixtures at the car park and adjacent beach areas.*
 - g. *Once vehicle being permitted to be parked in the boat trailer parking area only when the lessons are being conducted.*
 - h. *The business ensuring its public liability insurance is current for the full period of this approval and that it will indemnify Council from any claims.*
 - i. *The operator having all the necessary qualifications and accreditations and copies of the necessary certificates being provided to Council.*
 - j. *If any justifiable complaints are received or any disruption that can be attributed to the business then the license will be reviewed.*
2. *Advise that signage will be supplied for the Surfing School at the applicants cost and will be located and styled in accordance with Shire of Denmark's Town Planning Scheme Policy No. 32 – Signs.*
3. *Advise the applicant that his request for a dedicated parking bay be deferred and considered as part of the upcoming review of the Coastal Management Plan."*

The Shire of Denmark Coastal Reserves Management Strategy and Action Plan 2010 – 2020 included a recommendation (OB24) to "consider the implementation of a small parking area at the end of the vehicle access on the foredunes for specified use by the South Coast Surfing School trailer throughout the year". The recommendation was rated 'Immediate' priority. While Mr Neunuebel has been in contact with Shire staff requesting construction of the parking bay since release of this document, the recommendation has not yet been completed by the Shire.

Comment:

The most recent correspondence regarding the parking bay request was with the Shire's Sustainability Officer (SO) in August 2013. In accordance with recommendations of the *Coastal Reserves Management Strategy and Action Plan*, the SO met Mr Neunuebel on-site and pegged a 10 x 6 m area for the proposed trailer parking bay. It was the SO's advice that the environmental impacts could largely be managed through engineering controls and the proposal was referred to the Director of Infrastructure Services for

costing and identification of funds for construction. It was the Officer's opinion that construction would have to be submitted as an item to Council for consideration in the 2014/15 Budget given there were no current budget funds allocated for this project and noting that Mr Neunuebel indicated verbally he was only prepared to contribute a minor amount to any costs associated with works required. This information was provided to Mr Neunuebel by the SO in conversation and email.

Before costing of the parking bay could be completed, the Shire received two complaints from community members on 22 and 24 October 2013 regarding the clearing of native vegetation in the area pegged by the SO and Mr Neunuebel for the parking bay. One complainant identified having seen Mr Neunuebel undertake the clearing. The SO conducted an inspection, where it was found an area of approximately 4 x 5 m had been cleared of all native vegetation, levelled and infilled, a marquee with cement footings installed, bollards erected, steps to the beach installed and timber revetments created, presumably to aid in erosion control. The marquee has "South Coast Surfing Lessons" stickers attached and is left permanently erected. No Shire approval had been granted for the works.

A letter was sent to Mr Neunuebel on 7 November 2013 requesting information on the works he allegedly undertook. Mr Neunuebel replied on 13 November 2013 with the understanding that there were no impediments to commencing works and did not deny undertaking the works. Mr Neunuebel cited problems with beach access for his vehicle and trailer, with the temporary measures taken until beach access is restored by the Shire. In conversation with the SO, Mr Neunuebel explained that he is currently using the area cleared for lessons, given access difficulties to the beach for his vehicle and trailer. Once beach access is restored, the lesson area and marquee will be relocated to the beach. The area cleared is not being used for the intended purpose, as recommended in the *Coastal Reserves Management Strategy and Action Plan*, and the issue of lack of an area to park the Surf Lessons' trailer still remains.

Use of the cleared area is encroaching into surrounding native vegetation, creating additional disturbance and vegetation damage, and the steps do not meet any Australian Safety Standards. Wind erosion is also likely, given removal of vegetation in the exposed foredune environment.

Further construction work will be required to extend (area needs to be roughly doubled in length) and improve the area cleared by Mr Neunuebel for the intended use as a trailer parking bay for the Surfing Lessons business. Costs for this work are estimated by Infrastructure Services at \$7,500 inc. GST and includes steps construction, surfacing, cut and fill, levelling, vegetation clearing and retaining walls. The Shire will also be required to submit a Clearing Permit Application to the Department of Environment Regulation (DER). DER may require an offset for the clearing and/or flora survey.

Given works undertaken by Mr Neunuebel were unauthorised, not covered in his licence conditions and potentially unsafe, presenting a potential liability for the Shire, the Shire requested Mr Neunuebel on 22 November 2013 to immediately remove his infrastructure from the cleared area and cease all further use until otherwise determined by Council. These actions were taken following an on-site visit during a Council Strategic Briefing Session on 12 November 2013.

The Shire has also referred the unlawful clearing of vegetation to the Department of Environment Regulation, under the *Environmental Protection (Clearing of Native Vegetation) Regulations 2004*, for possible investigation.

Given the works potentially set a precedent for the Shire, it is the Officer's recommendation that Mr Neunuebel is issued an Infringement Notice under the *Property Local Law* Section 4.2 (1) (Behaviour detrimental to property - removal or damage of vegetation on local government property). Maximum penalty prescribed under the *Property Local Law* is \$100. While in this case an infringement notice is prescribed

under the Shire's local laws, it also demonstrates to the community the importance the Shire places on its native vegetation and intolerance to its vandalism.

Council may also consider whether it is prudent to review Mr Neunuebel's licence for operating at Ocean Beach, given his intentional damage to Council property. The suggestion by the Officer is in accordance with the South Coast Surfing School's licence condition (j): "If any justifiable complaints are received or any disruption that can be attributed to the business then the licence will be reviewed". The current licence may be revoked, amended or not renewed at its expiry in December 2014. There may be other businesses that could be given the opportunity to operate in this privileged location.

Council now needs to resolve whether to formally construct the trailer parking bay for exclusive use by South Coast Surfing Lessons in the area which has been cleared by Mr Neunuebel, noting this was the same general area suggested for the bay in the *Coastal Reserves Management Strategy and Action Plan 2010 - 2020*. Council need to also note that the *Coastal Reserves Management Strategy and Action Plan 2010 - 2020* recommends "consider the implementation of a small parking area"; it was not a definitive recommendation to construct, but 'consider' construction. If Council decides not to construct the parking bay in the area which has been cleared of native vegetation by Mr Neunuebel, then it is the Officer's recommendation that the area is rehabilitated through planting, direct seeding and installation of erosion control matting, in order to mitigate expected erosion with all costs to be met by Mr Neunuebel.

Infrastructure Services has estimated construction of the parking bay at a cost of \$7,500 inc. GST. If Council supports the construction, it needs to consider whether the funds should be found within this financial year's Budget, or if considered as part of the 2014/15 Budget deliberations. Council should also consider whether it should request Mr Neunuebel to contribute financially to the cost of the construction, and the proportion of any contribution, noting that the works are to predominantly benefit his business.

If Council does not resolve to support construction of the parking bay, it needs to consider whether to continue to allow Mr Neunuebel to park his vehicle and trailer on the beach, or look at alternative parking arrangements within existing car parks at Ocean Beach. Following winter storms, the beach recedes, leaving little area on the beach for parking and this year's erosion of the boat launching ramp has meant Mr Neunuebel cannot gain access to the beach until repairs occur or sand accretes through natural processes. While there may be room available to erect Mr Neunuebel's marquee on the beach, which is used for shelter while giving lessons, it still means he has to park his vehicle and trailer in the boat launching area carpark.

While previous consultation with the Surf Life Saving Club and Shire Rangers in 2009 by the Director of Community and Regulatory Services did not cite conflict with beach users in parking on the beach, the issues of congestion on the beach and in the small boat launching carpark remains, given the combined length of Mr Neunuebel's car and trailer (approximately 10 m). There are also safety risks associated with mixing pedestrians and vehicles on the beach.

The area cleared by Mr Neunuebel was in the general vicinity recommended by the *Coastal Reserves Management Strategy and Action Plan 2010 - 2020* for the Surfing Lessons trailer parking bay. Council needs to consider whether it retains this parking bay, which will require improvements before it is fit-for-purpose. Provided pedestrian access to the beach is safe, the area offers a suitable parking area still close to the beach. Note that the boat launching car parking area is small and liable to still become congested at certain times of the year, with potential access issues to the parking bay for Mr Neunuebel's car and trailer. This option still requires further vegetation removal to construct the parking bay and is located in the fragile foredune environment, which is at high risk of wind erosion and wave damage. Hence, the long term life of the parking bay is not guaranteed.

Council may also consider moving Mr Neunuebel's car and trailer parking to the designated Ocean Beach car park. This car park is relatively small still and congestion is frequent over summer. Parking for the Surfing Lessons' car and trailer will require year-round reallocation of approximately eight to ten public car parking bays (depending on location) to Mr Neunuebel, adding to the congestion. Access to the beach for students, although longer, will be available all year round from the Ocean Beach car park via the footpaths and ramps near the Surf Life Saving Club area. The *Coastal Reserves Management Strategy and Action Plan 2010 – 2020* recommends consideration of expansion of the Ocean Beach car park. Council may decide to retain the current parking arrangements for Mr Neunuebel's car and trailer on the beach until extension of the parking area is decided and make the required parking allocation then.

Council may still permit Mr Neunuebel to erect his marquee on the beach for lessons, removing at the end of each day. Note though that Mr Neunuebel has stated to the SO that he currently leaves his marquee permanently erected on the beach over the summer months. There is nothing in his current licence conditions which mentions leaving of permanent fixtures on the beach and this may need to be amended at Council's discretion.

Council also has the option of retaining the area cleared of vegetation by Mr Neunuebel for uses other than a designated parking area for the Surfing Lessons' business. The area could be used by the general public to sit, or Council may decide to use the area to build a future shelter and seating. The Officer does not recommend utilisation by the general public without erosion control measures being undertaken and barriers installed to prevent further encroachment and use of surrounding vegetation. The area does offer vistas of the beach below from the boat launching car park, but will require funds to harden the surface, bollarding, erosion control matting and control of pedestrian traffic to the beach below, whether via new stairs or fencing. Until this hardening work occurs, it is the Officer's recommendation the area is not used and erosion monitored.

Consultation:

Directors of Planning and Sustainability, Infrastructure Services and Community and Regulatory Services.

Statutory Obligations:

Unlawful clearing of native vegetation and placement of infrastructure on Shire-owned or managed land is addressed in:

- *Environmental Protection (Clearing of Native Vegetation) Regulations 2004*; and,
- *Shire of Denmark Property Local Law Section 4.2 (1)* (removal or damage to vegetation on local government property).

Policy Implications:

The *Shire of Denmark Coastal Reserves Management Strategy and Action Plan 2010 – 2020* included a recommendation (OB24) to "consider the implementation of a small parking area at the end of the vehicle access on the foredunes for specified use by the South Coast Surfing School trailer throughout the year".

Budget / Financial Implications:

Works to construct the trailer parking bay are estimated at \$7,500 (inc. GST) and it is the Officer's recommendation that this amount be considered as a 2014/15 Budget item, with contribution from Mr Neunuebel. If Council resolve not to fund construction of the trailer parking bay, there will be a small cost in rehabilitating the area, which the Officer recommends should be paid in full by Mr Neunuebel.

Strategic Implications:

It would appear that Mr Neunuebel has decided to not wait for Council Officers or the Council to finalise their deliberations with respect to this important community recreation precinct. This notwithstanding his actions should not be rewarded nor ignored and Council must now deal immediately with actions arising.

Such actions include;

1. Providing a warning to other person(s) that may seek to replicate Mr Neunuebel's actions.
2. Ensure that the degradation of the site is not exacerbated.
3. Determining the Council's preferred long term solution(s) consistent with the adopted Coastal Reserves Management Strategy and Action Plan.

As can be seen from Attachment 8.1.2 b, there are a number of outstanding matters to be determined in relation to the precinct. Those include;

1. Consider a small parking area for use by the South Coast Surfing School (OB24);
2. Consider expansion of the existing carpark (OB15); and
3. Consideration of the redevelopment of the Denmark Surf Lifesaving Club Rooms.

Council will be receiving the Surf Club Concept Plans in approximately March 2014 and whilst these plans will probably not impact on the adjoining grassed / ablution area, there may be an opportunity to consult with the public about these plans and the adjoining general usage of the precinct concurrently.

The below photograph shows an area that might be suitable with minimal clearing that would accommodate a "trailer bay" dedicated to "surf school" activities.



There are a number of key questions for Council's consideration.

- Are there current or predicted impacts of the business's activities on the beach and if the answer is yes, where would the Council reasonably see the business relocating to that does not compromise the community's enjoyment and values of the precinct, an element of which in could be said, is derived from the very presence of an active surf school.
- Does a surf school require prime, prominent and direct beach access and views?
- Can it be located in the carpark above?
- Could it be located in a sheltered area with a purpose built trailer parking area near the current ablution block with minor expansion of this grassed area?
- Does the school require immediate or near access to the beach for its equipment?
- Should the Council or community be subsidising the activity in any way?

In conclusion, in the Officer's opinion, Council should;

- be clear in its communication that Council values the amenity of Ocean Beach and the natural environment and that breaches of its Local Laws or degradation of its property will not be tolerated;
- determine a process that will confirm how Council wishes to conclude the outstanding recommendations from the adopted Coastal Management Plan, Numbered OB24 and OB15.

The latter may be achieved by requesting Staff to engage a consultant to assist with landscape and carpark design options for the purposes of initial referral to Council and key stakeholders, then subsequent wider community consultation. Indeed, opportunity exists to potentially work with the Architect / Landscape Architect currently engaged by the Denmark Surf Life Saving Club with their building concepts and this could be achieved with an estimated \$4,000 - \$5,000 contribution funded from Budget Line 1041002 (Other Planning Studies) which has a budget provision of \$8,500, to which \$2,000 has been committed.

Sustainability Implications:

➤ **Environmental:**

Mr Neunuebel has cleared native vegetation in excellent condition on the fragile foredune environment, which is highly susceptible to wind erosion. It is unknown whether the area cleared contained threatened flora species because the area had not been surveyed. Engineering works and/or rehabilitation are recommended to mitigate against erosion and control of pedestrians is needed to prevent further vegetation damage and erosion of the surrounding areas.

➤ **Economic:**

If Council resolves to construct the parking bay, costs are estimated at \$7,500 inc. GST. Rehabilitation of the cleared area may cost approximately \$500. The Officer recommends some, if not all of these costs be recompensed from Mr Neunuebel. No costs to Council would be incurred if the parking area is retained on the beach, apart from repair of the boat ramp, which is also needed by other beach users.

➤ **Social:**

Mr Neunuebel's South Coast Surfing Lessons business is a tourist attraction for Denmark and also provides a service to the local community. Council has already acknowledged his business' importance to the Shire in issue of an Annual Activity Permit on the popular Ocean Beach since 2003. However, there may also be impacts on other users of the beach, including swimmers and boat users, who's enjoyment of the area may be somewhat constrained during operation of the Surfing Lessons and parking of Mr Neunuebel's vehicle and trailer on the beach or in the boat launching ramp car park. Allowing parking of the Surfing Lessons' vehicle and trailer may also set a precedent for other businesses or 4WD's wanting to access the beach.

Voting Requirements:

Simple majority.

OFFICER RECOMMENDATION

ITEM 8.1.2

That with respect to the unauthorised vegetation clearing and placement of infrastructure on a portion of Reserve 24913, Ocean Beach Road, Ocean Beach by Mr Mike Neunuebel of South Coast Surfing Lessons, Council:

1. Issue an Infringement Notice under Shire of Denmark Property Local Law Sections 4.2 (1) (Behaviour detrimental to property) with a modified penalty of \$100.
2. Prohibit all further use of the cleared area by Mr Neunuebel of South Coast Surfing Lessons and any other person until Council decides the fate of that area.
3. Add an additional condition, with respect to the South Coast Surfing Lessons licence for operating at Ocean Beach, which specifies removal of all fixtures from Ocean Beach at the completion of each day's operation.
4. Authorise the Chief Executive Officer to engage a consultant;
 - a) with a maximum budget of \$4,000, funded from Budget Line 1041002 (Other Planning Studies);
 - b) to work with Staff and key stakeholders to progress the outstanding recommendations from the adopted Coastal Management Plan, numbered OB24 and OB15, with a view to referral of a draft to Council prior to 31 March 2014 before subsequent formal engagement with the community in general and 2014/2015 Budget consideration.

COUNCIL RESOLUTION

ITEM 8.1.2

MOVED: CR MORRELL

SECONDED: CR OSBORNE

That with respect to the actions on a portion of Reserve 24913, Ocean Beach Road, Ocean Beach by Mr Mike Neunuebel of South Coast Surfing Lessons, Council:

1. Take no further action; and
2. Authorise the Chief Executive Officer to engage a consultant;
 - a) with a maximum budget of \$4,000, funded from Budget Line 1041002 (Other Planning Studies);
 - b) to work with Staff and key stakeholders to progress the outstanding recommendations from the adopted Coastal Management Plan, numbered OB24 and OB15, with a view to referral of a draft to Council prior to 31 March 2014 before subsequent formal engagement with the community in general and 2014/2015 Budget consideration.

AMENDMENT

MOVED: CR SEENEY

SECONDED: CR GILLIES

That part 1 be amended to read "Take no further action other than requiring Mr Neunuebel to remove within 14 days the fixed gazebo structure."

7.00pm – Cr Gillies left the room.

7.00pm – Cr Gillies returned to the room.

CARRIED: 6/3

Res: 051213

SUBSTANTIVE MOTION

That with respect to the actions on a portion of Reserve 24913, Ocean Beach Road, Ocean Beach by Mr Mike Neunuebel of South Coast Surfing Lessons, Council:

1. Take no further action other than requiring Mr Neunuebel to remove within 14 days the fixed gazebo structure; and
2. Authorise the Chief Executive Officer to engage a consultant;
 - a) with a maximum budget of \$4,000, funded from Budget Line 1041002 (Other Planning Studies);
 - b) to work with Staff and key stakeholders to progress the outstanding recommendations from the adopted Coastal Management Plan, numbered OB24 and OB15, with a view to referral of a draft to Council prior to 31 March 2014 before subsequent formal engagement with the community in general and 2014/2015 Budget consideration.

CARRIED: 9/0

Res: 061213

REASONS FOR CHANGE

Council believed Mr Neunuebel genuinely misunderstood communications with Council Officers and that his actions were not authorised and accordingly Council was prepared to afford him the benefit of the doubt that he believed that they were.

7.05pm – Cr Morrell left the room.

7.06pm – Cr Morrell returned to the room.

COUNCIL RESOLUTION

ITEM 8.1.2

MOVED: CR LEWIS

SECONDED: CR GILLIES

That the meeting be adjourned for a short break, the time being 7.08pm.

CARRIED: 9/0

Res: 071213

7.21pm – The meeting resumed with all Councillors and Staff that were present prior to the adjournment, with the exception of Cr Seeney.

7.22pm – Cr Seeney entered the room.

8.1.3 PROPOSED SINGLE HOUSE - NO. 40 (LOT 180) MINSTERLY ROAD, OCEAN BEACH

File Ref:	A667 (2013/189)
Applicant / Proponent:	G Holmes & E McKay
Subject Land / Locality:	No. 40 (Lot 180) Minsterly Road, Ocean Beach
Disclosure of Officer Interest:	Nil
Date:	22 November 2013
Author:	Annette Harbron, Director of Planning & Sustainability
Authorising Officer:	Annette Harbron, Director of Planning & Sustainability
Attachments:	8.1.3 a – Planning Application Documentation 8.1.3 b – Schedule of Submissions 8.1.3 c – Applicant's Responses to Submissions Received

Summary:

The proponent is seeking Planning Approval for a Single House at No. 40 (Lot 180) Minsterly Road, Ocean Beach. As per the Residential Design Codes (R-Codes) Deemed-to-Comply criteria, the minimum setback from the side and rear boundaries is 7.5 metres, and in this instance the proposal is for setbacks of 3.0 metres and 6.8 metres to the side boundary and rear boundary respectively.

Having regard to the issues raised from the two (2) submissions received and the relevant Design Principle criteria in the R-Codes relating to lot boundary setbacks, it is considered that the setbacks as proposed are appropriate and it is recommended that Planning Approval be granted subject to appropriate conditions.

Background:

Current Application

An application for Planning Approval was lodged with Planning Services in September 2013 for a Single House – refer Attachment 8.1.3a.

Comment:

In accordance with Town Planning Scheme No. 3 (TPS No. 3) the subject site is zoned "Residential (R2.5)" and a 'Single House' is a "P" use – that is the use is permitted provided the relevant standards and requirements are complied with.

Planning Services have assessed the proposal having regard to the R-Codes and the proposal is generally compliant (or can be conditioned to comply) with the Deemed-to-Comply criteria with the exception of the following:

- Side boundary (southern) setback – proposal is for a 3.0 metre setback; Deemed-to-Comply minimum setback is 7.5 metres; and
- Rear boundary (western) setback – proposal is for a 6.8 metre setback; Deemed-to-Comply minimum setback is 7.5 metres.

As per the R-Codes, where proposals do not meet the Deemed-to-Comply criteria, the proposal is assessed having regard to the relevant Design Principles criteria – which in this instance are:

P3.1 Buildings set back from lot boundaries so as to:

- *reduce impacts of building bulk on adjoining properties;*
- *provide adequate direct sun and ventilation to the building and open spaces on the site and adjoining properties; and*
- *minimise the extent of overlooking and resultant loss of privacy on adjoining properties.*

The proposal was referred to the two (2) adjoining landowners, with two (2) submissions received. Attached at Attachment 8.1.3b is the Schedule of Submissions – with the submissions received being entered into the schedule as verbatim. Column 4 of the

Schedule of Submissions represents Planning Services comments/response to the submissions.

Attached at Attachment 8.1.3c is the applicant's responses to the submissions received.

Having regard to the issues raised from the submissions and assessment of the proposal having regard to the R-Codes, it is considered that the setbacks as proposed are appropriate thus it is recommended that Planning Approval be granted subject to appropriate conditions being imposed.

Consultation:

External Consultation

- Applicant
- Two (2) adjoining landowners inviting comment on the proposal

For Council's information, as part of the assessment of a planning application that is to be assessed against the Design Principles of the R-Codes, proposals are referred to adjoining landowners for comment by Planning Services. In this regard the following information is relevant as to the role of submissions in the decision-making process:

- Whilst all comments relating to a proposal are considered in the final determination of an application, and a submission objecting to a proposal may be lodged, there is no obligation from the Shire of Denmark to refuse such a proposal based on this alone.
- Similarly just because the neighbour supports a proposal, there is no obligation from the Shire of Denmark to approve such a proposal – each application will be considered on its planning merits and determined accordingly.
- The aim of public consultation is not to shift the responsibility or power away from the decision-maker.
- Quantity of submissions is not a consideration – the key is what the issues/concerns are arising from the submission(s) received.

Internal Consultation

- Development Co-ordination Unit

Statutory Obligations:

TPS No. 3 and the R-Codes specify the pertinent planning provisions for the proposal.

Should Council refuse this Planning Application, as per the provisions of the *Planning and Development Act 2005* the applicant can apply to the State Administrative Tribunal for a Right of Review.

Policy Implications:

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

Budget / Financial Implications:

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

Strategic Implications:

Due regard has been given to the Shire of Denmark's Strategic Community Plan "Denmark 2031", namely:

Governance Objective: The Shire of Denmark provides renowned leadership in sustainability, is effective with both its consultation with its people and its management of its assets, and provides transparent and fiscally responsible decision making.

Governance Goal: Planning – that the Shire of Denmark work with other relevant authorities and agencies to develop and implement planning policies and decisions that not only reflect the wishes of the community, but also provide the region with appropriate development options.

Sustainability Implications:

➤ **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.

7.23pm – Cr Osborne left the room.

7.23pm – Cr Osborne returned to the room.

COUNCIL RESOLUTION & OFFICER RECOMMENDATION ITEM 8.1.3

MOVED: CR MORRELL

SECONDED: CR SEENEY

That Council with respect to the planning application for the Proposed Single House on No. 40 (Lot 180) Minsterly Road, Ocean Beach:

1. Note the submissions received;
2. Grant Planning Approval subject to the following:

Conditions

- a) Development shall be in accordance with the attached stamped approved plans dated 27 September 2013.
- b) The vehicle crossover shall be suitably constructed, drained and sealed (concrete, asphalt or brick pavers) to the satisfaction and specifications of the Shire of Denmark (Infrastructure Services) and thereafter maintained.
- c) The driveway/access shall be constructed, sealed (concrete, asphalt or brick pavers) and thereafter maintained.
- d) Stormwater and drainage runoff from all roofed and impervious areas is to be retained on-site or connected to a legal point of discharge to the satisfaction of the Shire of Denmark (Infrastructure Services).
- e) The dwelling being connected to an approved effluent disposal system to the satisfaction of the Shire of Denmark (Health Services).
- f) The rainwater tanks, and any associated equipment or structure, shall be coloured, toned or painted to complement the colours of the approved development.
- g) Any runoff from the rainwater tank must not flow onto adjoining properties.

Advice Notes

- a) The proposed outbuilding does not form part of this planning approval – noting that Planning Approval will be required to be obtained should the owner wish to develop an outbuilding on-site.
 - b) It is the responsibility of the applicant/owner to ensure that building setbacks correspond with the legal description of the land. This may necessitate re-surveying and re-pegging the site. The Shire of Denmark will take no responsibility for incorrectly located buildings.
 - c) It is the responsibility of the applicant/owner to search the title of the property to ascertain the presence of any easements and/or restrictive covenants that may apply.
3. Advise the submitters of Council’s decision.

CARRIED UNANIMOUSLY: 9/0

Res: 081213

8.2 Director of Community & Regulatory Services

The Council had received a letter of request from the Gumnut Corner Denmark Occasional Daycare Committee requesting that the Item be deferred as they felt that they had had little time to consider the proposal and they were unsure, at this stage, of their future funding arrangements with the State Government.

COUNCIL RESOLUTION

MOVED: CR MORRELL

SECONDED: CR LEWIS

That Item 8.2.1 be adjourned to the February 2014 meeting.

CARRIED UNANIMOUSLY: 9/0

Res: 091213

8.2.1 JOINT LEASE GUMNUT CHILDREN'S DAYCARE & DENMARK PLAYGROUP BUILDING (GUMNUT CORNER)

File Ref:	A3179
Applicant / Proponent:	Director of Community & Regulatory Services
Subject Land / Locality:	No.81 (Lot 500), South Coast Highway, Denmark (Reserve 37516)
Disclosure of Officer Interest:	Nil
Date:	1 November 2013
Author:	Gregg Harwood, Director of Community & Regulatory Services
Authorising Officer:	Gregg Harwood, Director of Community & Regulatory Services
Attachments:	8.2.1 a – Denmark Play Group Correspondence 8.2.1 b – Denmark Occasional Day Care Centre Management Committee 8.2.1 c – Proposed Joint Lease 8.2.1 d – Letter of Support from Early Years Network

Summary:

The officer report discusses competing requests from the Denmark Play Group and the Denmark Occasional Day Care Centre Management Committee to be the primary lessee of the Gumnut Daycare Centre and recommends that a joint lease be offered providing both groups with tenure with a management group being formed to formalise the existing joint management arrangements and the applicant to seek grants for upgrading the current centre and future facilities.

Background:

The Denmark Playgroup commenced operation in 1984 and was incorporated in 1985. Later that year they commenced the process of building the rammed earth facility that would become known as the Gumnut Child Centre which was completed in 1987.

The presence of the facility and the established playgroup structure enabled the Denmark Occasional Daycare Centre to commence operations in 1996 and this group expanded until the current point where they occupy it four days per week and could easily run on a fifth day.

During this same period the Playgroup also expanded and between 2007 and 2009 secured the services of a federally funded "Great Foundations" coordinator which enable the group to flourish and to establish several sub groups but in mid 2009 this funding dried up and the group lost one of its key volunteer leaders for a period due to ill health which caused it to go into recession and management of the facility was left to the Denmark Occasional Daycare Centre for around 12 - 18 months.

The Playgroup however was not wound up as an incorporated body and in early 2011 they approached Council regarding the renewal of the lease in their name with the Denmark Occasional Daycare Centre managing it on their behalf and the Denmark

Occasional Daycare Centre Management Committee made a request to acquire the lease outright as they were now the main user.

At the time the building was not being adequately maintained and the Denmark Occasional Daycare Centre Coordinator was lobbying Council staff to use unbudgeted funds to maintain and upgrade the centre. At this point the Director of Community & Regulatory Services stopped this practice and advised both groups that the lease would not be renewed or granted to either group until such as time as they provided evidence that they were clearly able to strategise to maintain the facility in the medium term.

Locality Map:



Comment:

The Playgroup have taken this advice on board and have communicated with Council’s Principal Building Surveyor and the Denmark Occasional Daycare Centre Management Committee and submitted a written maintenance plan on the 17 January 2013 with a further update being submitted on the 8 March 2013.

This plan appears to be have been effective and it appears that the building is now being maintained by parent volunteers from both groups with the usage of the \$2,000 Council budget allocation being held in reserve for tasks that they do not feel comfortable doing.

Notwithstanding the competing lease requests between the two groups, their relationship which each other is positive with many of the parents utilising both services and the Playgroup have quite clearly indicated that as parents they value the Occasional Daycare service and do not want to see its existence jeopardised.

Both groups have made submissions and their salient points are follows:

Denmark Playgroup:

- That they are the current lease holder and would like to see the lease renewed under its current terms.
- That they have displayed their ability to plan for and undertake the maintenance of the facility and are able to work with the Denmark Occasional Daycare Centre Management Committee.
- That as the incorporated body that built the facility and have allowed another group to use that facility they should be rewarded by being able to retain the lease.
- That if Council is not prepared to grant them the lease then they would be happy to sign joint lease with the Occasional Daycare Centre Management Committee.
- That they are concerned at what will happen to their group if either the Occasional Daycare Centre Management Committee or the agencies funding decide that they need to open five days a week.
- That they are very interested in working with Council to review the “Denmark Occasional Day-care Centre and Denmark Play Group Review of Infrastructure and Need – July 2007” report together with identifying suitable locations and funding sources for an eventual new child care/ parenting facility as a long term option together with working on accessing grant funding to extend and modernise the current centre so that it allows both groups to expand in the long term.

Denmark Occasional Daycare Centre Management Committee:

- That they are the best choice to manage the centre as they are fully licenced have been effectively running since they commenced in 1996 as they co-ordinate the cleaning and day to day operation of the facility.
- That they use the centre 4 out 5 days of the week and should be preference.
- That they are an essential respite service that employs 3 – 4 staff and are of greater net value to the community and should be given preference.
- That they have a greater fund raising capacity and have initiated many improvements to centre and have further improvements that they intend making.
- They have a need to prove tenure and control of the facility in order to satisfy their licensing and funding requirements.
- That the Denmark Playgroup that developed the facility and held the previous lease disbanded in 2009 and that this evidenced by the fact that they have been paying the utility bills since then and the fact that new Denmark Playgroup actually rents space in the facility from them at \$10 per hour to cover utilities and consumables.

In dealing with this matter Council effectively has three options:

- 1) Allocate the lease to the Denmark Play Group Committee with a community service obligation.
- 2) Allocate the lease to the Denmark Occasional Daycare Centre Management Committee with a community service obligation.
- 3) Allocate a joint lease to both the Denmark Play Group Committee and the Denmark Occasional Daycare Centre Management Committee with a community service obligation. With the centre’s main decision being made by a joint management group that meets at least twice a year that does not have direct Council officer involvement with disputed matters being referred to Council for determination.

While from a usage perspective the obvious decision is to allocate the lease to the Denmark Occasional Daycare Centre Management Committee because they use it the most but there are a number of community development questions that need to be considered before Council goes down that path. They are as follows:

- a) Is it right for a “not for profit organisation” that is partially grant funded with paid staff and charges fees and has developed its business model on the basis of using a

facility essentially free of charge when it could have easily have commercially leased a premises by charging higher fees to then seek to acquire that same facility at no cost by competing with the original group for the lease of that facility when that group does not have access to the same financial resources?

- b) If Council does assign the lease to the Denmark Occasional Daycare Centre Management Committee what message is it sending to groups like the Golf Club and Pony Club that already have joint leases and other groups such as the Bowling Club and the Denmark/ Walpole football and possibly the Machinery Restoration Group, the Surf Club and the Peaceful and Nornalup Progress Assoc / Residents and Ratepayers that either already share their facilities or who may be asked to consider doing so in the future.
- c) Which group in the long term is most likely to be able to find funding for its own purpose built facility?
- d) The building's suitability for its current purpose and its future need in terms of maintenance, building life and the need to have sufficient space to grow?
- e) Whether the building is up to an acceptable standard for a modern day care centre?

Having considered these questions it is the officer's recommendation that Council should grant a joint lease to the Denmark Play Group Committee and the Denmark Occasional Daycare Centre Management Committee for the following reasons:

- i) The Denmark Playgroup developed the facility and it would be inappropriate to assign the lease for that facility to another while they are still operating viably as a group.
- ii) Assigning the lease to Denmark Occasional Daycare Centre Management Committee while the Denmark Playgroup is still operating would be seen as by other groups as a disincentive to share their facilities.
- iii) Of the two groups the Occasional Day Care Committee is the one that has the greatest likelihood of being able to access grant funds to build a new facility or to successfully fit out an alternate facility. In addition to this the typical and arguably the most sustainable Occasional Day Care business model is one that relies on purchasing or leasing buildings at commercial rates rather than acquiring buildings at virtually no cost from other groups. This philosophy is consistent with small government and low rating/ tax models.

Given these factors it would be inappropriate for Council to assign possession of the facility to the Occasional Day Care Committee when that group can readily access grant funding for a new facility only to find itself in a place in the future where it must foot the majority of the bill for a replacement Playgroup facility without the assistance of major grant funding.

- iv) It is officer's opinion that while the existing site does offer space for minor expansion the building itself is not suitable for long term usage as an occasional daycare facility without major additions and renovations due to the following deficiencies:
 - a) The building does not have Building Code of Australia compliant access ways for people with disabilities.
 - b) The building does not have disabled toilets or facilities for disabled children.
 - c) The building is of single leaf rammed earth construction without full surrounding verandas. In addition to this the sealing of these walls has not been adequately maintained and the building will eventually need to be inside out veneered in order to prevent further deterioration and to mitigate the need

- for emergency work on the building. The most practical way of achieving this would be to put framed extensions on each end of the building.
- d) The building's laundry is located in a garden shed. While this facility is quite well laid out it does not meet the standards that are expected of modern child care centres and will certainly not meet community expectations in 10-15 years' time.
 - e) The kitchen does not meet current food premises standards.

While these deficiencies could be seen as a compelling case to grant the lease solely to Occasional Day Care Committee in order to get the building improved given their grant raising potential the counter arguments to this are as follows:

- 1) If the building was built as a play group facility and without major improvements it will only ever really be suited for that purpose then it should stay in the name of the Denmark Play Group at least until such time as a definite decision has been made to upgrade it to meet the current and likely future expectations for child care centre and long term alternate home for the play group identified.
- 2) Granting the lease solely to Occasional Day Care Committee in effect anchors that group to the facility in its "as is" condition.
- 3) A joint lease will give the Occasional Day Care Committee the security of tenure that they require to satisfy their grant funder's requirements while still ensuring that the Denmark Play Group retains a significant interest in the centre.

The Draft Lease reflects the existing management and maintenance responsibilities that were contained in previous lease agreements and has been based on the pro-forma lease document for community groups and modified where necessary to suit the specific requirements of this site.

A three lease has been recommended as it will give sufficient time for the Groups to:

- a) Investigate the viability of obtaining a grant to review the "Denmark Occasional Day-care Centre and Denmark Play Group Review of Infrastructure and Need – July 2007" report together with identifying suitable locations and funding sources for a new child care/ parenting facility with a report going back to Council by June 2014.
- b) Undertake a review of the long term viability of child centre at this location in terms of long term capacity, maintenance and fit out needs while also considering the impacts of the encroachment of large scale commercial developments into the locality.

Consultation:

The Director of Community Regulatory Services has consulted with both groups over an extended period and the attached submissions are the result of that consultation.

Statutory Obligations:

In accordance with the Management Order, Council enter into a lease for a term of up to 21 years.

Both groups are exempt from requirements of the Local Government Act 1995 in regards to the disposal of property.

Policy Implications:

Council Policy P110102 (Leasing of Land and/or Buildings To Community Groups) reads as follows:

With respect to community groups exclusively occupying, or seeking to exclusively occupy, Council property or buildings;

- a. *There be a signed lease based on Councils standard 'not for profit' lease prior to occupation or upon renewal;*

- b. Council desires lessees to be incorporated (with the exception of Volunteer Bush Fire brigades which are covered under the Bush Fires Act) (CEO addition September 2008);
- c. Contribution by Council towards legal costs (if required) by Council 100%;
- d. Have differing rentals discounted to market valuation depending upon the following factors;
 - i. To what degree the property is utilised for charitable, not for profit or sporting purposes;
 - ii. The ability of the lessee to derive income from use of the property including sub-leases, rental hire and the presence of a liquor license;
 - iii. The strategic value of the land in the short term to Council;
 - iv. To what degree if any that the use is competing with commercial enterprise;
- e. Where the applied rental is lower than a valuation or real estate rental appraisal, Council indicate that contra difference in its annual budget, for that property;
- f. Offer local authority rate exemption rebate donation (rather than exemption contra);
- g. Offer Council insurance of the buildings and Council owned property / contents without recoup of the annual premium and to encourage repairs and reinstatement through insurance claims, Council will meet all bar the first \$500 of any insurance excess on claims;
- h. All outgoings and consumable costs to be met by the lessee including but not limited to water, sewer, gas, telephone, ESL, refuse charges, etc;
- i. Lessees to meet all ongoing internal and external building and grounds maintenance other than structural building repairs;
- j. Leases require endorsement of Council prior to signing;
- k. Have differing tenure and renewal rights and terms depending upon the strategic future requirements for that land and or building(s) but based on a maximum of 21 years including any right of renewal (subject to the prevailing management order if applicable);
- l. The use of the property is consistent with the zoning and/or management order and power to lease exists (if required).
- m. Reflecting the non 'exclusive club' usage and fact that they perform a valuable Council service for wide community benefit Council annually (subject to annual budget deliberation) contributes to the maintenance of the following leased Halls;
 - i. Parryville Hall \$2,000;
 - ii. Tingle Dale Hall \$2,000;
 - iii. Scotsdale Hall \$2,000 (nb: Hall is owned by Scotsdale Progress Association on Association vested land);
 - iv. Kentdale Hall \$2,000;
 - v. RSL Hall \$3,000;
 - vi. Museum Building maintenance is 100% Council responsibility;
 - vii. Nornalup Hall \$2,000;
 - viii. Peaceful Bay Hall (& Les Carpenter Shed) \$2,000; and
 - ix. Denmark Occasional Day Care Centre \$2,000.
- n. Councils Principal Building Surveyor at least on an annual basis inspect all leased buildings and land to ascertain their state of maintenance pursuant to the lease and priority for future and long term maintenance in conjunction with the lessee.
- o. The definition of 'exclusive occupation' does not include reference to yearly licenses to occupy storage space within a building such as at the Denmark Recreation Centre.

Budget / Financial Implications:

Currently \$2,000 per year is allocated as a contribution towards the maintenance of the building which is occupied by the Denmark Occasional Daycare Gumnut Corner and Denmark Playgroup.

The land is not rateable and the proposed rental income is \$1.00 per annum, if demanded.

Strategic Implications:

Currently there is no known alternative long term strategic use for the site but it should be noted that the possible construction of major supermarkets in this area may lead to alternative road layouts and future competition for this site.

The building and associated carpark layout may eventually prove to be extremely exposed and/or potentially, to some extent compromised, given what the Council now knows may be required in relation to future intersection treatments required of Main Roads WA associated with the potential development of a major supermarket on the land opposite, owned by Metcash.

Further developments and/or opportunities associated with completion of the Morgan Richards Community Centre may also present themselves, in time, regarding complementary spaces for families and children. Similar re-use opportunities may present depending upon what transpires with the ultimate use of heritage buildings present or into the future at the Denmark Railway Station No. 3 Reserve Heritage Precinct.

Indeed, opportunities also exist for co-location of elements of what occurs at the current Gumnut Corner depending upon Council's deliberations with respect to the Denmark Library and also the Denmark Recreation Centre. Both of these Council facilities currently provide for children's activities including the community's only official "Toy Library" at the Library and also a crèche at the Recreation Centre.

The Author is of the view that in 12 – 18 months' time with the conclusion of the Morgan Richards Community Centre and the state of desires of the Board of the Spirit of Play School looking to either expand at their current site or locate to a more long term location, that, in conclusion, a three year lease is currently appropriate.

Sustainability Implications:**➤ Environmental:**

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

➤ Economic:

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

➤ Social:

The provision of adequate childcare facilities are an important social service are an important social indicator and the facilitation and retention of the Denmark Playgroup and the Denmark Occasional Daycare Centre should be a priority.

Voting Requirements:

Simpler Majority.

OFFICER RECOMMENDATION**ITEM 8.2.1**

That with respect to the lease of Lot 500, Reserve 37516, Council;

1. Offer a joint three year lease to both the Denmark Play Group and the Denmark Occasional Day Care Centre Management Committee as tenants in common with a management group being formed to formalise the existing joint management arrangements.
2. Amend Council Policy P110102 (Leasing of Land and/or Buildings To Community Groups) by removing the words "Denmark Occasional Daycare Centre" and replacing them with the words "joint Gumnut Daycare Centre" to reflect the nature of the dual use of the building.

8.2.2 GREEN ROOM SINK – DENMARK CIVIC CENTRE

File Ref:	HLTH.7 & A3116
Applicant / Proponent:	Not applicable
Subject Land / Locality:	Denmark Civic Centre, 1 Strickland Street, Denmark
Disclosure of Officer Interest:	Nil
Date:	24 November 2013
Author:	Gregg Harwood, Director of Community & Regulatory Services
Authorising Officer:	Gregg Harwood, Director of Community & Regulatory Services
	8.2.1 a – Letter Denmark Village Theatre
	8.2.1 b – Sanivite Installation Manual
Attachments:	8.2.1 c – Department of Health Domestic Waste Water Overflow Fact Sheet
	8.2.1 d – Plumbers Licencing Board Technical advice note

Summary:

The officer report discusses a request from Denmark Village Theatre for the installation of a “Saniflow/ Sanivite” compact sewerage cutter pump in the Civic Centre basement “Green Room” sink prior to the 2013/2014 school holiday pantomime however the Author recommends that Council list the item for consideration in its 2014/2015 budget deliberations for the following reasons:

- 1) There is no specific allocation for it in the current Budget.
- 2) Even if Council resolved to make an out of Budget allocation for the installation of the unit it is unlikely that its installation could be arranged prior to the pantomime commencing.

The estimated cost of the pump and its installation is \$2,500.

Background:

The “Green Room” is room below the kitchen of the Civic Centre that is used by the Denmark Village Theatre for the storage of costumes and props and as a preparation area during productions.

There has been problem with sewerage periodically back flowing through the room’s sink and flooding the basement area on for many years and eventually the 2008/2009 the sink was disconnected and its waste pipe capped it to stop future occurrences.

The reason why the flooding occurs is that the sink being in the basement is below the relief level of the centre’s overflow relief gulley (see attached guide sheet).

At the time the sink was disconnected the only solution that could be identified was fitting a reflux or non-return valve to the sewer line. The reason why this was not undertaken is that the reflux valve would need to be fitted to the 100mm external sewer lines and not the sinks internal 50mm waste pipe that connects the sink to those lines. This meant excavations that would have made the installation disruptive and expensive and when the added to the fact that the reflux valves are unreliable in that they do not always work when the sewer main backs up and that they often increase the likelihood of blockages due the presence of the valve mechanism made the project unviable.

In addition to this even when the reflux valve is working properly it would still not have been a guaranteed fix for the problem because it will only protect the sink from being flooded by sewerage coming back up the Water Corporation’s main and not sewerage being flushed down the sewer line from centre’s own upstairs public toilets.

Comment:

Following a request from the Denmark Village Theatre (DVT) a review of the situation indicated that the situation could be addressed installing a Saniflow/ Sanivite compact

cutter pump tank and a local plumber has indicated that it could be done for around \$2500 and that the installation would be practical.

There is possibility that there may be sufficient funds to include the installation within the 2013/2014 town hall maintenance budget allocation, however this is largely dependent on the amount of usage and any vandalism that the Civic Centre's public toilets receive over summer and Council's own agenda in terms of the review of any deficits/surpluses and therefore can only be determined towards the end of the February 2014 when the peak season subsides and a Budget Review is completed.

Having the sink connected to a saniflow/sanivite will mean that it can be used without the need to place a bucket under it and which will be of convenience when performers are putting on or removing makeup and props are being painted ect.

In an effort to bring the installation of the forward Council's Principal Building Surveyor contacted DVT and tentatively asked if they would be prepared to make a financial contribution towards the unit's installation. The group have rejected these overtures with the attached correspondence indicating that they would like the unit in the near future at Council's expense.

The installation of the unit is supported but given that it cannot be practically installed before the pantomime takes place it is recommended that it be delayed for 5 – 9 months until either the likely 2013/2014 year Civic Centre maintenance spend can be projected or a specific allocation can be made in the 2014/2015 Budget.

Consultation:

The Director of Community & Regulatory Services and Council's Principal Building Surveyor have consulted with DVT in the preparation of this report.

Statutory Obligations:

In addition to its Local Government Act 1995 Budgeting obligations Council has a statutory responsibility to ensure the plumbing on its buildings is performed by licenced plumbers and complies with Plumbing and Drainage Standard AS/NZS 3500:2003.

Policy Implications:

Council Policy P040222 (Material Variances in Budget and Actual Expenditure) and Council Policy P040223 (Ten Year Financial Plan & Municipal Budget) apply to this matter.

Budget / Financial Implications:

There is possibility that there may be sufficient funds to include the installation within the 2013/2014 town hall maintenance Budget allocation, This is largely dependent on the amount of damage that the Civic Centre's public toilets receive over summer and Council's review of the Budget and therefore can only be determined until at least February 2014.

Strategic Implications:

There are no known strategic implications associated with either the officer report or the recommendations.

Sustainability Implications:

➤ **Environmental:**

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

➤ **Economic:**

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

➤ **Social:**

There are no known significant social implications relating to the report or the officer recommendation other than the fact that the connection of the sink will enhance the operation of the DVT.

Voting Requirements:

Simple Majority.

OFFICER RECOMMENDATION

ITEM 8.2.2

That Council advise the Denmark Village Theatre that it will consider the installation of a “Saniflow/Sanivite” compact sewerage cutter pump in Civic Centre basement in its 2014/2015 budget deliberations for the following reasons:

1. There is no specific allocation for it in the current budget.
2. It is unlikely that installation of a unit can be arranged prior to the pantomime commencing.

COUNCIL RESOLUTION

ITEM 8.2.2

MOVED: CR MORRELL

SECONDED: CR ROWLAND

That Council advise the Denmark Village Theatre that it will proceed with the installation of a “Saniflow/Sanivite” compact sewerage cutter pump in the Civic Centre basement as soon as possible.

CARRIED BY AN ABSOLUTE MAJORITY: 9/0

Res: 101213

REASONS FOR CHANGE

Council believed that the request was essential maintenance and wished to fund the work required as soon as possible and preferably prior to the start of the showing of the Denmark Village Theatre’s annual Pantomime.

8.2.3 SHARK HAZARD & BEACHED WHALE POLICY

File Ref: HLTH.7
Applicant / Proponent: Director of Community & Regulatory Services
Subject Land / Locality: Coastline Shire of Denmark
Disclosure of Officer Interest: Nil
Date: 24 November 2013
Author: Gregg Harwood, Director of Community & Regulatory Services
Authorising Officer: Gregg Harwood, Director of Community & Regulatory Services
Attachments: 8.2.3 a – Shire of Denmark Shark Procedure
 8.2.3 b – Dept. of Fisheries Information
 8.2.3 c – Surf Life Saving Australia – Shark Safety Policy
 8.2.3 d – Regional Shark Hazard Response Plan

Summary:

The officer report discusses the attached Shire of Denmark Shark Procedure that closely mirrors that of the WA Water Police (and by default the Police), the Department of Fisheries and Surf Life Saving Australia policies with the exception that beached whale flow chart has been included due to the fact these events are often linked.

Notwithstanding the fact that responsibility for the recording of reported shark sightings and the subsequent responses to them are the role of the WA Water Police (and by default the Police), the Department of Fisheries and on patrolled beaches Surf Life Saving Australia. The report recommends that Council adopt the policy so that staff have a documented procedure to guide them in forwarding on sightings and when requested to do so assist those agencies in responding to reports of shark sightings.

Background:

The incidence of White Shark attacks (while still very low) has slowly increased over the past two decades at a rate faster than human population growth. This trend has been exceeded recently with an unprecedented number of attacks (5) occurring between September 2011 and September 2012. The Department of Fisheries has reviewed all the attacks recorded in Western Australia for the past 20 years and compared these with conditions at the time to identify any common patterns and has produced the following table.

Higher Risk	Neutral	Lower Risk
Offshore (> 30 m from coastal shore)	Time of Day	Near Shore (< 30m from coastal shore)
Winter/Spring	Air Temperature	Summer/Autumn
Cooler Water (< 20° C)	Weather – light, rain and wind conditions	Warmer Water (> 22° C)
Deeper Water (> 5 m depth)		Shallow Water (< 5m depth)
Near whale carcasses and other potential attractants including seal/sea lion colonies		

The study (attached) concluded that relative risk of White Shark attack appears to be higher for activities undertaken further offshore from the coast, particularly when these are undertaken in cooler waters (< 20°C).

Activities undertaken in shallow water close to the mainland, and especially when the water is relatively warm (> 22°C), appear to have the lowest relative risk. There will, however, always be some risk of shark attack when undertaking activities in any marine waters.

What this study is effectively saying is that activities such as swimming in the shallower water at Ocean Beach, William Bay, Parry Beach and Peaceful Bay should be quite safe

providing fish offal is not being dumped in the water in these locations. In comparison however the report considers activities such as surfing and spear fishing that involve being in deeper water and proximity to reefs, trenches and deep water ledges to carry a higher risk of shark attack.

Comment:

Of the 160-plus known species of Australian sharks, only three are regarded as posing a significant risk to human safety:

- the white shark or white pointer/great white (*Carcharodon carcharias*),
- tiger shark (*Galeocerdo cuvier*) and
- bull shark (*Carcharhinus leucas*).

In WA, the majority of fatalities are attributed to white sharks.

Wobbegong, hammerhead and whaler sharks, while usually harmless, have also bitten humans, but the bites are rarely fatal. As is the case with other wild animals, sharks may bite when they feel threatened meaning that contact with them should be avoided regardless of size.

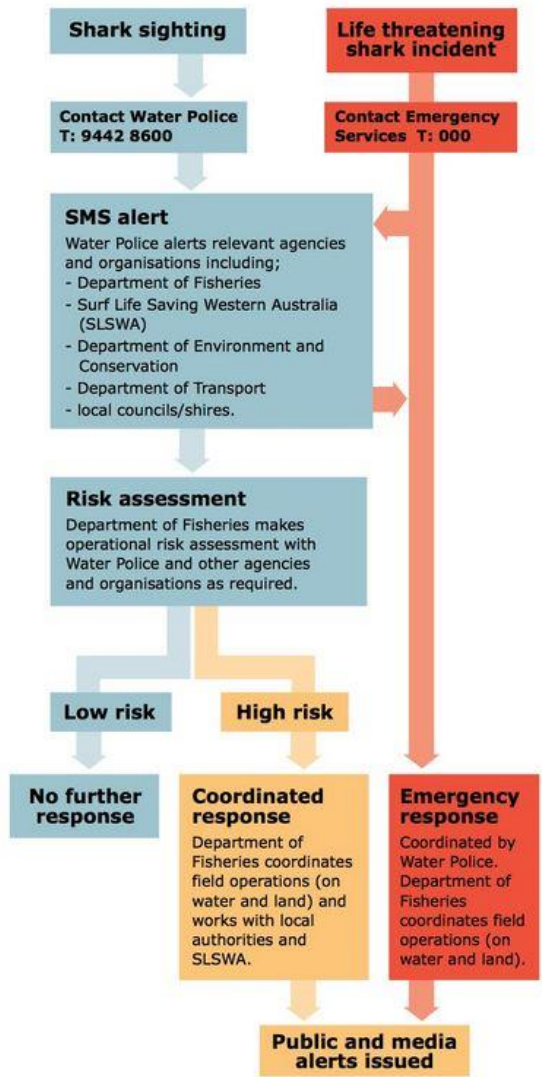
The rarity of shark attacks does not take away from the serious nature of a fatal attack when it does occur. Nor does the seemingly random nature of shark attacks help to allay fears about being bitten. The wide range of shark behaviours, injuries to victims and circumstances involved with shark attacks, suggest that there is no easy single explanation for why sharks very occasionally bite people.

While shark attacks are rare, the following common sense tips reduce the risk of encountering sharks and hence the likelihood of being attacked:

- Swim between the flags at patrolled beaches.
- Swim close to shore
- Swim, dive or surf with other people.
- Avoid areas where there are large schools of fish, dolphins, seals or sea lions and close to birdrookeries.
- Avoid areas where animal, human or fish waste enter the water.
- Avoid deep channels or areas with deep drop-offs nearby.
- Do not remain in the water with bleeding wounds.
- Look carefully before jumping into the water from a boat or jetty.
- If spearing fish, don't carry dead or bleeding fish attached to you and remove all speared fish from the water as quickly as possible.
- If schooling fish or other wildlife start to behave erratically or congregate in large numbers, leave the water.
- If you see a shark, leave the water as quickly and calmly as possible – avoid excessive splashing or noise.

In terms of shark sightings and responses the Western Australian Water Police are the lead agency in terms of accepting reports of sightings and co-ordinating responses with the Department of Fisheries providing shark behaviour analysis, welfare and where necessary making the decision to destroy problem sharks. The role of Surf Life Saving Australia is to watch for sharks and to coordinate responses on beaches that they patrol and local government's role is to assist with responses such as signage and preventing the dumping of fish offal on beaches that they control.

Department of Fisheries as the hazard management authority has written a state wide regional shark response policy which is attached and is summarised in the following flow chart.



As a support agency the Shire of Denmark procedure closely mirrors that of the Department of Fisheries’ policy while focusing on local capacities and roles. It also includes a beached whale flow chart which has been incorporated because whale beachings often result in shark sightings and many of the response and public safety considerations are the same. The local surf club were consulted in the preparation of the draft policy and its intent is to give preliminary advice to Council in responding to reports of shark sightings, making decisions as to when and when not to erect shark warning signs and assisting with the logistics of shark attacks and interagency responses.

The policy also gives staff tools that can be used to provide measured and appropriate warnings and educational statements to the public about levels of risks and shark sightings so residents and tourist are made aware of sightings and factors that increase the likelihood of shark attacks or interactions without causing undue alarm, desensitising the community by “crying wolf” every time a shark is sighted in its native environment or causing shark phobia and triggering unreliable reporting.

Consultation:

The Denmark Surf Life Saving Club has been consulted with in the preparation of this policy and this report.

Statutory Obligations:

Most sharks are protected species and can only be destroyed with specific approval of the Department of Fisheries.

Policy Implications:

The proposed will give staff a set of tools that will enable them to effectively respond to shark sightings, interactions and attacks.

Budget / Financial Implications:

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

Strategic Implications:

There are no known strategic implications associated with either the officer report or the recommendations.

Sustainability Implications:

➤ **Environmental:**

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

➤ **Economic:**

There are known significant economic implications relating to the report or the officer recommendation in that poorly managed shark sightings, interactions and attacks can depress a community and deter tourism.

➤ **Social:**

There are known significant social implications relating to the report or the officer recommendation in that poorly managed shark sightings, interactions and attacks can frighten a community and increase the likelihood of its members being harmed.

Voting Requirements:

Simpler Majority.

COUNCIL RESOLUTION & OFFICER RECOMMENDATION	ITEM 8.2.3
MOVED: CR MORRELL	SECONDED: CR PEDRO
That Council adopt the attached Shire of Denmark Shark Hazard & Beached Whale Policy and authorise the Chief Executive Officer to ensure that contact information is kept relevant and current.	
CARRIED UNANIMOUSLY: 9/0	Res: 111213

8.3 Director of Infrastructure Services

At its meeting held on 12 November 2013, Council adjourned Item 8.3.1 with the following Resolution (Resolution No. 061113);

“That Item 8.3.1 be adjourned to the Ordinary Council Meeting scheduled for Tuesday, 3 December 2013.”

Prior to consideration of Item 8.3.1 the Chief Executive Officer, through the Presiding Person, brought to the attention of the meeting the following disclosure(s) of interest:

Cr Seeney declares a proximity interest on the basis that he owns property at the end of the section to be resealed on Scotsdale Road.

7.45pm – Cr Seeney left the room and did not participate in discussion or vote on the matter.

Cr Thornton declares a proximity interest on the basis that he owns property near Churchill Road.

7.45pm – Cr Thornton requested that the Deputy Shire President, Cr Sampson, assume the Chair. Cr Sampson agreed and Cr Thornton left the room and did not participate in discussion or vote on the matter. Cr Sampson assumed the Chair as the Presiding Person.

7.46pm – The Director of Community & Regulatory Services and the Director of Planning & Sustainability left the room.

8.3.1 PROPOSED 2014-15 STATE ROAD FUNDS TO LOCAL GOVERNMENT PROGRAM

File Ref:	GOV.21A
Applicant / Proponent:	Shire of Denmark
Subject Land / Locality:	Roads of Regional Significance
Disclosure of Officer Interest:	Nil
Date:	5 November 2013
Author:	Rob Whooley, Director of Infrastructure Services
Authorising Officer:	Rob Whooley, Director of Infrastructure Services
Attachments:	8.3.1 – Regional Road Group Program

Summary:

The Great Southern Regional Road Group endorsed the draft 2014-15 program at its Katanning meeting on the 4 November 2013.

The successful road projects submitted by the Shire of Denmark were:

- Scotsdale Road..... resealing 20.16-21.06 km \$35,640
- Hollings Road..... reconstruct and seal 0.49-1.8 km \$229,250
- Scotsdale Road..... widen 0-0.4 km \$400,000
- Mt Lindesay Rd seal 0.18-3.44 km \$273,840
- Churchill Rd..... seal 0-5.3 km \$445,200
- Churchill Rd Bridge part funded \$101,876

This item recommends Council accept program as endorsed by the Regional Road Group for inclusion in the 2014-15 budget considerations.

Background:

Through Regional Road Groups the State Government provides Local Government with a voice in how the State’s contribution to local roads is spent. This organisational structure and regional framework is in recognition of the greater understanding of the local community’s road needs that Local Government elected representatives have.

The delegation of responsibility provided to Regional Road Groups is through the statutory powers of the Commissioner of Main Roads to provide local road funding from a statewide perspective.

Through the various Regional Road Groups (ours being the Great Southern – or GSRRG) Elected Members are able to influence road funding decisions and make recommendations that are of direct benefit to local communities and the general Western Australian road user.

The Regional Road Groups make recommendations to the State Advisory Committee which oversees the program and reports to the Minister through the Commissioner of Main Roads.

There are 10 Regional Road Groups in WA.

At the Regional level RRGs are responsible for:

- Assessing Local Government road funding needs;
- Prioritising Road Projects and Black Spot Projects;
- Development of a long term plan (5 years) to distribute Road Projects and Black Spot Grants;
- Developing and improving methodology for the prioritisation of projects and the distribution of State funds;
- Monitoring and reporting on program effectiveness;
- Implementing Performance Indicators and open and accountable processes;
- Ensuring grants are expended in the year of allocation;
- Monitoring Local Government expenditure on approved local roads projects;
- Recommending improved procedures to the Advisory Committee;
- Raising relevant issues on the Local Roads Program and the overall road needs of the Region with the Advisory Committee; and
- Providing advice to member Local Governments.

The share of State Road Funds to Local Government allocated to local government roads is 27% of the estimated vehicle licence fees for that year. Funding is distributed under three categories:

1. Category One (60%) this includes:
 - a) Direct Grant based on an asset preservation model determined by the type of road, its length, traffic volumes, etc.
 - b) Project Grants based upon competitive local prioritisation.
 - c) Supplementary Fund for flood damage etc.
 - d) Technical Support to the ROMAN and reporting systems.
2. Category Two (25%) based on traffic management needs under the Blackspot Program, Remote community roads, Bridge maintenance needs and National Park and State Forest
3. Category Three (15%) comprises of State initiatives on local roads which is reserved for more complex projects.

The relationship between the State funding body and the various Regional Road Groups is governed by an Agreement which specifies the allocation of funding from the Regional Road Group to the member Councils.

The guidelines show that funds are to be allocated using the following criteria, weightings and formulae:

		Raw Score	Factor Weight	Net Score
Transport	Traffic	0	2.376	0.00
	Tourism	0	0.648	0.00

	All Weather	0	0.648	0.00
	Travel Time	0	0.648	0.00
	Economic Activity	0	1.08	0.00
Safety	Accident History	0	0.96	0.00
	Accident Geometry	0	0.64	0.00
Environment	Surface Water	0	0.24	0.00
	Ground Water	0	0.14	0.00
	Air & Dust Pollution	0	0.18	0.00
	Noise	0	0.14	0.00
	Flora & Fauna	0	0.3	0.00
Social	Emergency Access Route	0	0.54	0.00
	Inter Community Access Route	0	0.46	0.00
	School/Pedestrian/Cyclist	0	0.50	0.00
	Facilities	0	0.50	0.00
	Community Expectations			
			Total Project Score	0.00

The highest scoring projects within a region are then prioritised by the Technical Working Group (TWG) with a recommendation being made to the Regional Road Group for endorsement (Note: TWG comprises of members of the regions sub-groups and is made up of non-technical as well as technical members - ie where Shires do not have engineers the CEO may represent a sub-group).

The Shire of Denmark has been annually re-elected on the TWG for the last 7 years.

The State allocates funds to the various Regional Road Groups based on their current total expenditure on roads (asset preservation model = APM) and the local authority population on a 75% (APM) / 25% (pop) basis. In terms of this formula, the GSRRG was allocated a total of \$6,801,910 for the 14/15 financial year.

If distribution of the funds available locally was based upon the way the State allocated funding, the amount available to each Shire would be as follows:

	APM % contribution	Population % contribution	Net Contribution % (APM x 0.75 + Population x 0.25)
City of Albany	21.4	58.0	30.6
Broomehill / Tambellup	7.1	2.0	5.8
Cranbrook	7.7	1.9	6.3
Denmark	5.5	8.6	6.3
Gnowangerup	7.2	2.4	6.0
Jerramungup	7.0	1.9	5.7
Katanning	5.9	7.4	6.3
Kent	7.7	1.0	6.0
Kojonup	8.1	3.8	7.0
Plantagenet	10.2	8.2	9.7
Ravensthorpe	8.6	4.1	7.5
Woodanilling	3.5	0.7	2.8

On the above basis Denmark would receive approximately \$430,000.

Our indicative funding for 14/15 is \$1,024,496 which is 15% of the total pool.

The pool is “capped” at 20% for any one Council.

Comment:

Mt Lindesay Road and Churchill Road are both deemed "Roads of Regional significance". The basis of this assessment rests predominately upon the fact that these roads form an alternative east/west road across the Denmark River. Mt Lindesay also allows access to a regional tourist attraction.

Mt Lindesay (148 vehicles) ranks amongst Council's highest traffic volume gravel roads with the likes of Lights Road (290), Lights Beach Road (220), Station Road (120) and Harewood Road (180).

Churchill Road carries approximately 49 vehicles per day.

The application to widen the Churchill Road Bridge was the lowest ranked project to receive funding. As a result the bridge is only partially funded.

The author recommends Council accept the reduced bridge funding in the short term, while Council officers examine both the viability of the project and alternative complying projects which may be easily funded.

Consultation:

Council expressed a desire to see how certain roads would score in a regional context. Mt Lindesay and Churchill Road were included in the draft 2014-15 program on this basis.

Statutory Obligations:

Nil

Policy Implications:

There are no policy implications.

Budget / Financial Implications:

There are no known financial implications upon the Council's current Budget.

The indicative funding of \$1,024,496 must be matched with an additional 50% contribution by Council being \$512,248.

The total project costs for the proposed works is \$1,536,744 which is two-thirds funded through Main Roads WA (MRWA) and one-third funded by Council.

Council may accept and commit to fund or reject any of the proposed works. Should Council decline any of the proposed works it is preferred that the decision be made as soon as possible so funds can be reallocated through the Regional Road Group.

Strategic Implications:

There are obvious significant strategic implications associated with road maintenance and improvement or the lack thereof.

All the proposed work is to be performed on local roads deemed to be of regional significance.

Sustainability Implications:**➤ Environmental:**

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

➤ Economic:

There are obvious significant economic implications relating to both road assets and whether Council accepts or declines external funding opportunities.

With over \$100 million of road asset, Council’s funding decisions with respect to timeliness, quantum and scope can have a dramatic effect on the communities future economic discretionary spending ability.

➤ **Social:**

There are obvious significant social considerations relating to both maintaining and upgrading elements of the road network.

Voting Requirements:

Simple majority.

OFFICER RECOMMENDATION ITEM 8.3.1
 That Council accept the \$1,024,496 funding provided under the 2014/15 State Road Funds to Local Government arrangement and as endorsed by the Great Southern Regional Road Group and consider the additional one third financial contribution required of Council in the 2014/15 Budget.

COUNCIL RESOLUTION ITEM 8.3.1
 MOVED: CR MORRELL SECONDED: CR OSBORNE
 That the Officer Recommendation be split into two such that Scotsdale Road resealing request is dealt with as the first item.
 CARRIED: 7/0 Res: 121213

COUNCIL RESOLUTION ITEM 8.3.1
 MOVED: CR MORRELL SECONDED: CR OSBORNE
 That Council accept the sum of \$35,640 funding, with respect to Scotsdale Road resealing, provided under the 2014/15 State Road Funds to Local Government arrangement and as endorsed by the Great Southern Regional Road Group and consider the additional one third financial contribution required of Council in the 2014/15 Budget.
 CARRIED UNANIMOUSLY: 7/0 Res: 131213

7.53pm – Cr Seeney returned to the room.

COUNCIL RESOLUTION ITEM 8.3.1
 MOVED: CR SEENEY SECONDED: CR ROWLAND
 That Council accept the sum of \$988,856 funding, with respect to the remaining successful road fund programs submitted, provided under the 2014/15 State Road Funds to Local Government arrangement and as endorsed by the Great Southern Regional Road Group and consider the additional one third financial contribution required of Council in the 2014/15 Budget.
 CARRIED UNANIMOUSLY: 8/0 Res: 141213

Councillors thanked the Director of Infrastructure Services for securing the funding.

7.58pm – Cr Thornton returned the room and resumed the Chair as the Presiding Person.

7.58pm – The Director of Planning & Sustainability returned to the room.

8.3.2 TENDER 3 - 2013/2014 – QUARRY AND CRUSHING OF AGLIME

File Ref:	TEN.2 - 13/14.SUB/A3770
Applicant / Proponent:	Shire of Denmark
Subject Land / Locality:	Ocean Beach Lime Pit/ Ocean Beach
Disclosure of Officer Interest:	Nil
Date:	21 November 2013
Author:	Rob Whooley, Director of Infrastructure Services
Authorising Officer:	Rob Whooley, Director of Infrastructure Services
Attachments:	8.3.2 – Environmental Management Plan

Summary:

The 2013/14 Municipal Budget contains an allocation of \$180,000 for the Push-up and Screening of Lime Sand.

In accordance with this budget provision, tenders for a suitably qualified and experienced earthmoving company were advertised in accordance with the Local Government Act and closed Friday, 8 November 2013.

This item recommends Council award the contract for lime production to Denmark Earthmoving at a cost of extraction effective at the rate of \$12 per tonne plus GST.

Background:

The extraction of limestone from the Ocean Beach Quarry (Reserve 46273) is approved by the Minister for Lands for a period of 21 years until 2022.

The approval to mine is conditional upon the land being “utilised in accordance with the Environmental Management Plan approved by the Minister for Lands”.

The Environmental Management Plan essentially deals with the general operation of the quarry, the management, the method of extraction, the permissible annual quantity, the rehabilitation and protection of affected areas.

Council is permitted to mine up to 15,000 tonne per annum as Agricultural quality Lime.

Tenders were advertised in the Denmark Bulletin and The West Australian newspaper.

Comment:

Upon closing of the advertised period, tenders were opened in accordance with the Local Government Act 1995. Three tenders were received, nominating a royalty payment to Council, which are summarised as follows;

- | | |
|-----------------------------------|------------------|
| 1. Great Southern Sands | \$2.50 per tonne |
| 2. Peel Resource Recovery Pty Ltd | \$3.50 per tonne |
| 3. Denmark Earthmoving | \$4.36 per tonne |

All prices are exclusive of GST.

Upon assessment by Council staff, all tenders were found to be compliant with tender specifications and to have satisfactorily addressed the tender specifications, noting however that the Tender submitted by Great Southern Sands was not received until 12 November 2013, after the closing date. Accordingly this Tender has had to be rejected pursuant to the Local Government Act 1995.

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

Criteria No	Criteria	Weighting %
1	Price	60%
2	Environmental System	15%
3	Safety Record	10%
4	Local Content as per Council Policy	10%
5	Conformity with Tender Documents	5%
		100%

Tender numbers 1 & 3 were found to satisfy all criteria equally therefore Criteria 1 (Price) and Criteria 4 (Local Content) became the determining factors in the recommended choice of tender.

Accordingly, the conforming submission received from Denmark Earthmoving is recommended.

Consultation:

Nil

Statutory Obligations:

The Local Government (Functions & General) Regulations 1996 with respect to Tenders relates pursuant to the guiding legislation, the Local Government Act 1995, Section 3.57.

The quarry is to be operated in accordance with the requirements of the:

- Department of Mines and Petroleum
- Department of Lands
- Department of Environment Regulation
- Department of Parks and Wildlife
- Environmental Management Plan
- Occupational Health and Safety Act 1984
- Mines Safety and Inspection Act 1994 and Regulations 1995
- Mining Act 1978 and 1986
- Land Administration Act 1997
 - Section 41 (Care, Control and Management of Land)
 - Section 18 (Power to sub-lease subject to Ministerial approval)

Policy Implications:

There are no known policy implications.

Budget / Financial Implications:

The 2013/14 Municipal Budget contains an expenditure allocation of \$180,000 for Push up and Screening of Agricultural Lime (Lime Sand).

This equates to production of 15,000 tonnes. The income from that quantity equates to a total income to Council of \$245,400 plus GST (based on sale price of \$16.36 plus GST per tonne). The income retained by Council from that quantity would be \$65,400 and is accounted for within the current Budget, taking into account the estimated royalty required to be emitted to the State Government (\$0.62 per tonne).

The budgeted sale price is \$18.00 per tonne including GST.

Strategic Implications:

Lime production is a service provided to regionally local farmers. The lime has a high neutralising effect which makes it very popular. Council should consider raising the price for this lime to, say, \$26 per tonne in the 2014/15 budget so as to minimise closure and rehabilitation costs associated with the quarry in future.

Sustainability Implications:

➤ **Environmental:**

The requirements of the Environmental Management Plan and the statutory requirements contained within various applicable Acts listed above will continue to need to be satisfied.

In 1999 a small grouping of a plant species called *Thomasia quercifolia* was identified within the then proposed mining lease. As a part of the Environmental Management Plan, a buffer area was nominated to protect those plants- see attached plan of the mining lease area and buffer zone.

Since then the *Thomasia quercifolia* species has been downgraded from its initial importance and rarity.

Flora surveys undertaken as part of other developments in the area (Windfarm, Munda Biddi Trail) show the range and population numbers of this species is quite extensive across Wilson Head and in other protected reserve areas adjacent to the Lime Quarry.

It is felt that the very small population (with a large buffer) within the quarry lease is of less significance than originally thought.

The operational implications of leaving the plants and buffer zone in place, is that the lime quarry mining will not proceed in an orderly eastward fashion.

Leaving the buffer zone in place will effectively create two pits.

In the interests of expediency, an application has been made to the Department of Mines and Petroleum to review the buffer zone within the mining lease. That request will be passed to the Department of Lands and the Department of Parks and Wildlife for their input.

Notwithstanding any positions those authorities take, Council will still have to agree to the removal of the buffer zone.

➤ **Economic:**

There are no known significant economic considerations.

➤ **Social:**

There are no known significant economic considerations.

Voting Requirements:

Simple majority.

8.01pm – *The Director of Community & Regulatory Services returned to the room.*

COUNCIL RESOLUTION & OFFICER RECOMMENDATION	ITEM 8.3.2
MOVED: CR MORRELL	SECONDED: CR GILLIES
That with respect to the Lime Quarry Operations, Council:	
<ol style="list-style-type: none"> 1. Award Tender 2-2013/14 for the production of 15,000 tonnes of Agricultural Lime to Denmark Earthmoving at a cost of \$12 per tonne (plus GST) in accordance with the tender documents; and 2. Endorse the correspondence to the Department of Lands, Department of Parks and Wildlife and the Department of Mines and Petroleum, seeking the removal of the buffer zone, protecting a small population of the plant species <i>Thomasia quercifolia</i>, within the existing quarry mining lease, given the proliferation of the plant on the balance of the adjoining Reserve. 	
CARRIED UNANIMOUSLY: 9/0	Res: 151213

8.3.3 RUBBISH TRUCK ACQUISITION

File Ref:	TEN 3 13/14
Applicant / Proponent:	Shire of Denmark
Subject Land / Locality:	Not applicable
Disclosure of Officer Interest:	Nil
Date:	5 November 2013
Author:	Rob Whooley, Director of Infrastructure Services
Authorising Officer:	Rob Whooley, Director of Infrastructure Services
Attachments:	8.3.3 – Comparison and Weighting Spreadsheets

Summary:

This item recommends Council purchase a new Dennis Eagle side loading rubbish truck from AV Trucks for \$376,964.

Background:

In accordance with the Local Government Act (1995) Purchasing Regulations, quotes were called, through WALGA'S Request for Quotation using the Preferred Supplier quote system under the National Purchasing Network, for the Supply & Delivery of a new rubbish truck.

The quote period closed on the 15 November 2013 at 3:00pm.

Three different machines with differing body combinations are offered for Councils consideration.

The offers, as presented, are reflected in Attachment 8.3.3.

Council currently owns a Hino rubbish truck with a Macdonald Johnston body which, will be relocated to Peaceful Bay and used to transfer waste to Albany.

Comment:

Evaluation Criteria:

Quotes were also called on the basis that an evaluation criterion would apply. Evaluation of these quotes was carried out in accordance with Section 7.3 (Selection Criteria of Tenders), General Conditions of Tendering. As stated in the quote documents, the evaluation criteria can be found in Attachment 8.3.3.

Example of derivation of weighted Evaluation Criteria Score
Criteria D: Local Content (Score 10%)

Quoter	1	2	3	4	5	6
Score max 10%	10	6	4	3.5	2	0

Score:

- 10 – Meets / exceeds requirement (Locally made, Supplied and Serviced)
- 8 – Meets requirement (Locally Supplied and Serviced)
- 6 – Meets some but not all requirements (Significant Branch Regionally located)
- 3 – Meets some but not most requirements (Field servicing within local region)
- 2 – Below minimum requirements (Minimal technical and parts support in WA)
- 0 – Does not meet requirements (No technical or servicing support within the State)

Quoters:

- Quoter 1: Bunbury Trucks
- Quoter 2: AV Trucks
- Quoter 3: Bunbury Trucks

Attachment 8.3.3 weighted assessment interprets the following:

- Bunbury Trucks submitted the lowest conforming quote.
- Supply and delivery dates are approximately 12-35 weeks.
- The best warranty is provided by AV Trucks.
- AV Trucks have a regional and sales branch and service workshop in Albany.
- Both Superior Pak and MacDonald Johnston compactor bodies are used widely by the Local Governments and contractors throughout WA.
- Superior Pak utilises a pendulum system while MacDonald Johnston uses a paddle arrangement.
- The combination of Dennis Eagle/ Superior Pak is more readily available.
- Superior Pak body is 24m³ compared to 22m³ MacDonald Johnston.
- Discount price and early supply is offered by AV Trucks.
- Dennis Eagle trucks are purpose-built with walk through cabs and factory dual steer.

Table 2- Comparison of vehicle price vs weighted price:

Machine	Vehicle Price ex GST	Vehicle Price incl GST	Weighted Price
HINO FM2628 6x4 Superior Pak body	\$369,500	\$406,450	\$474,277.96
HINO FM2628 6x4 Macdonald body	\$395,074	\$434,581	\$524,474.57
IVECO F2350 Superior Pak body	\$364,000	\$400,400	\$426,472.56
IVECO F2350 Macdonald body	\$387,620	\$426,382	\$467,184.11
Dennis Eagle Superior Pak	\$389,464	\$428,410	\$434,096.86
Dennis Eagle Superior Pak	\$376,964 (early purchase price)	\$414,660	\$414,660.00

NOTE: The assessments and consequent weightings are subjective and relative observations based upon documents submitted and experience with machines, service. All quotes have been treated fairly, impartially and with due diligence.

Consultation:

Nil

Statutory Obligations:

Quotes were received under the National Purchasing Network using WALGA Preferred Supplier Arrangements. For purchases over \$100,000 the Local Government Act (1995) generally requires public tendering. Exceptions are;

- a) an emergency situation as defined by the Local Government Act 1995;
- b) the purchase is under a contract of WALGA (Preferred Supplier Arrangements), Department of Treasury and Finance (permitted Common Use Arrangements), Regional Council, or another Local Government;
- c) the purchase is under auction which has been authorised by the Council;
- d) the contract is for petrol, oil, or other liquid or gas used for internal combustion engines; and
- e) any of the other exclusions under Regulation 11 of the Local Government (Functions and General) Regulations 1996 apply.

Policy Implications:

Local procurement preference applies and adhered to.

Budget / Financial Implications:

Council has budgeted \$345,000 for the purchase of a new rubbish truck. The lowest weighted priced and recommended truck costs \$376,964.

This leaves a Budget shortfall of \$31,964.

Savings within the current Budget have been identified with respect to the MRWA Black Spot funding project for Mt Shadforth Rd 2012/13.

Final expenditure for this project for the 2012/13 financial year was \$107,155 and expenditure in 2013/14 is \$1,585; the 2013/14 carryover budget for this item was \$53,883 and given this stage of the project has been completed there is a saving to required expenditure of \$52,298.

MRWA Blackspot funding is tied to the above project and due to an overall shortfall to the overall project budget, \$125,000, a reduction of \$10,867 in grant funding will result.

The result of the offset of these two (2) items is a saving to the adopted Budget of \$41,431.

It is being proposed that of this amount \$31,964 be reallocated to the purchase of the recommended truck and that \$9,467 be offset with Council's current amended projected budget deficit position.

Council's current waste collection vehicle is 7 years old and entering a higher maintenance category. If retained as a full-time collection vehicle, more frequent breakdowns can be expected as the complicated systems required to control the rubbish truck become less reliable.

Sustainability Implications:**➤ Environmental:**

The environmental benefits of both solid waste collection and recycling always have been a little hard to quantify- particularly in the usual measure of "dollar value". Recycling benefits the environment more in terms of reducing the quantities of raw materials needing to be continuously mined.

The flow-on benefits of the discipline required for successful recycling, is the partial removal of those elements from solid waste that are harmful to the environment eg hydrocarbons, heavy metals etc.

➤ Economic:

Quantifying the economic benefits often reflects the generally perceived health and cleanliness quotients delivered indirectly through the waste collection system.

It is difficult to assess ratepayer benefit by comparing only costs over time, because the waste collections do alter and often become more sophisticated (ie multiple bins).

➤ Social:

The beneficial social considerations surrounding formal waste collection and disposal relate to the "cleanliness" of the town, health of the people and the convenience of the service.

Voting Requirements:

Absolute majority.

COUNCIL RESOLUTION & OFFICER RECOMMENDATION

ITEM 8.3.3

MOVED: CR SEENEY

SECONDED: CR MORRELL

That with respect to proposed acquisition of a new side loading Rubbish Truck, Council:

1. Accept the offer from AV Trucks for the purchase of a new Dennis Eagle side loading rubbish truck for \$376,964 plus GST in accordance with the received quotes.
2. Amend the 2013/14 Budget as follows;
 - a) Decrease expenditure (GL1220194 / Job No. 50622 Mt Shadforth Road carry over 12/13) by \$52,298 from \$53,883 to \$1,585;
 - b) Decrease income (GL 1228703 Blackspot Funding) by \$10,687 from \$58,523 to \$47,836;
 - c) Increase expenditure (GL 1021054 Purchase of Plant & Equipment Sanitation) by \$31,964 from \$345,000 to \$376,964, and
 - d) Noting that the above amendments will result in a decrease in Council's current proposed Budget deficit from \$110,125 to \$100,658 (a saving of \$9,467).

CARRIED UNANIMOUSLY BY AN ABSOLUTE MAJORITY: 9/0

Res: 161213

8.4 Director of Finance & Administration

8.4.1 FINANCIAL STATEMENT FOR THE MONTH ENDING 31 OCTOBER 2013

File Ref:	FIN.1
Applicant / Proponent:	Not applicable
Subject Land / Locality:	Denmark
Disclosure of Officer Interest:	Nil
Date:	20 November 2013
Author:	Steve Broad, Accountant
Authorising Officer:	Kim Dolzadelli, Director of Finance And Administration
Attachments:	8.4.1 - Monthly Financial Report

Summary:

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

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

Background:

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

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

Comment:

Shire Trust Funds have been invested for 90 days with the National Bank, maturing 20 January 2014 at the quoted rate of 3.75%.

Reserve Funds have been invested for 90 days with the National Bank, maturing 12 December 2013 at the quoted rate of 3.80%.

Surplus Municipal Funds of \$2,000,000 have been invested for 90 days with the National Bank, maturing 12 December 2013 at the quoted rate of 3.80%.

Key Financial Indicators at a Glance

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

- Taking into consideration the adopted Municipal Budget and subsequent amendments identified, the estimated 30 June 2014 end of year position is currently estimated to be \$110,125 deficit, as per budget projections (Note 5).
- Operating revenue and expenditure is slightly higher than that predicted for 31 October 2013 (Statement of Financial Activity).

- The 2013/14 Capital Works Program is 7.58% complete as at 31 October 2013 (Note 10).
- Rates Collection percentage of 73.12% is in keeping with historical collection rates (Note 6).
- Various transfers to and from Reserve Funds have not yet been made for 2013/14 and are generally undertaken in the second half of the financial year, depending on specific projects to which these transfers relate.
- Salaries and Wages expenditure is in keeping with budget estimates (not reported specifically in Financial Statement).

Budget Amendments and Variances (Note 5 and 5a)

Nil

Consultation:

Nil

Statutory Obligations:

Local Government Act 1995 Section 5.25 (1)

Local Government (Financial Management) Regulations 1996

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

Policy Implications:

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

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

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

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

Budget / Financial Implications:

There are no significant trends or issues to be reported.

Strategic Implications:

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

Sustainability Implications:**➤ Environmental:**

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

➤ Economic:

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

➤ Social:

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

Voting Requirements:

Simple majority.

8.32pm – Cr Gillies left the room.

8.35pm – Cr Gillies returned to the room.

COUNCIL RESOLUTION & OFFICER RECOMMENDATION	ITEM 8.4.1
MOVED: CR SAMPSON	SECONDED: CR PEDRO
That with respect to Financial Statements for the month ending 31 October 2013, Council;	
1. Receive the Financial Report, incorporating the Statement of Financial Activity and other supporting documentation; and	
2. Endorse the Accounts for Payment as listed.	
CARRIED UNANIMOUSLY: 9/0	Res: 171213

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

The Chief Executive Officer is a member of the Denmark Country Club and as a consequence there may be a perception that their impartiality on this matter may be affected. The Chief Executive Officer declares that they will consider this matter on its merits and advise Council accordingly.

8.4.2 SPONSORSHIP REQUEST – DENMARK COUNTRY CLUB

File Ref:	A3088
Applicant/Proponent:	Denmark Country Club
Subject Land / Locality:	Not applicable
Disclosure of Officer Interest:	The Chief Executive Officer declares an impartiality interest as he is a member of the Denmark Country Club.
Date:	18 November 2013
Author:	Kim Dolzadelli, Director of Finance & Administration
Authorising Officer:	Dale Stewart, Chief Executive Officer
Attachments:	8.4.2 a – Letter from Denmark Country Club 8.4.2 b – Further information from Denmark Country Club

Summary:

To consider a request from the Denmark Country Club (DCC) (Event Organisation Committee – Denmark Golf Club) – for the waiver of hire fees for tables, chairs, crockery, cutlery and glasses to the total value of \$3,503.18 (ex GST) and a cash contribution of up to \$1,500 to be utilised to secure “Hole in One Insurance” for the inaugural “Denmark Summer Golf Classic”.

Background:

Over the past four (4) years the DCC has been transformed with Council’s Asset Register showing improvements costing in excess of \$1.5m with reticulated fairways, grass greens, eight all weather tennis courts, renewal and major upgrade to the clubhouse.

The DCC is planning the inaugural “Denmark Summer Golf Classic” which is scheduled to be held in February 2014.

Comment:

It is expected that the event will bring many visitors into to Denmark, with a target field of 240 players from far and wide. The event will show case the new facilities and celebrate the transformation of the DCC over the past four (4) years.

The DCC believes that this annual golf event forms an important part of securing the financial viability of the DCC long into the future.

Their request is in two parts, consisting of an in-kind donation/waiver of hire of equipment to the value of \$3,503.18 and a cash contribution of up to \$1,500 to be utilised to obtain Hole in One insurance to secure a major prize (Car to the value of \$30,000) for a Hole in One competition.

In-kind Request

Item	# Items	Per Item	# Days	Total (inc GST)	GST	Total (ex GST)
Cutlery	450	\$0.75	3	\$1,012.50	\$92.05	\$920.45
<i>Forks</i>	150					
<i>Knives</i>	150					
<i>Spoons</i>	150					
Crockery	450	\$0.85	3	\$1,147.50	\$104.32	\$1,043.18

Plate	150					
Small Plate	150					
Cup/Saucer	150					
Glasses	450	\$1.05	3	1\$,417.50	\$128.86	\$1,288.64
<i>Red Wine</i>	150					
<i>White Wine</i>	150					
<i>Beer</i>	150					
Chairs (Plastic)	60	\$1.20	3	\$216.00	\$19.64	\$196.36
Tables	10	\$2.00	3	\$60.00	\$5.45	\$54.55
			Totals	\$3,853.50	\$350.32	\$3,503.18

The author notes that income account number 1422233 “Hire of Cutlery & Crockery” contains no budgeted income for 2013/14 and therefore a waiver of the above charges would have no impact on current Budget.

Cash Contribution

The DCC are requesting a cash contribution/donation from Council of up to \$1,500 in order to secure Hole in One Insurance to provide a major prize being a Car to the value of \$30,000 for a Hole in One competition.

Officers have obtained indicative quotations for such an insurance policy; the policy would cover the payment of the prize amount should a competitor get a “Hole in One”. The insurance policy comes with various conditions and it is recommended that Council contribute/donate up to \$1,500 to DCC and that DCC would be responsible for obtaining the policy and administering the Hole in One competition.

Hole in One Insurance provides an opportunity for event organizers to add that extra "buzz" to their tournament and attract the maximum number of entrants by staging a Hole in One competition.

Such a completion is a fantastic way to elevate the profile of the event and increase promotional opportunity that the event will bring. It is believed that it will grab golfers attention and potentially the attention of local radio stations, newspapers and/or television stations. Staging a Hole in One competition will also increase the prospects of securing further sponsorships as it will offer sponsors greater visibility and more value for their sponsorship investment.

DCC has already secured donated monies and goods for the “Denmark Summer Golf Classic” to the value of \$25,000 and also support from ten (10) local accommodation houses offering up to 20% discounts as accommodation specials.

In the opinion of the author this inaugural event will not only bring many benefits to the DCC but will put a spotlight on the Shire of Denmark as a whole, with many economic and promotional benefits to the local community.

The success of this inaugural event is paramount to it becoming an annual iconic event on the golfing calendar, resulting in long term/on going benefits to the wider community.

It is also important to acknowledge the importance of the facilities located at the Denmark Country Club to the broader community and that the financial strength of the DCC is crucial to the continued success of the precinct.

The “Denmark Summer Golf Classic” organising committee has advised that the level of contribution being requested is ‘Gold Sponsorship’ level which entitles sponsors at this level to the following:

1. Two full Annual Golf Memberships to the Denmark Country Club,
2. Free once a month club house hire for corporate functions for a calendar year,(conditions apply)
3. Registrations for two players including all light meals and Saturday night dinner for the Denmark Summer Golf Classic,
4. In-House Hospitality package of \$100 during the Event,
5. Your signage (as supplied) on display at the Event in a prominent location,
6. One full page spread advertisement in the Denmark Country Club annual Golf Fixtures Book,
7. One 12 month advertisement sign at Denmark Golf Course and Sponsors' Board in the Club House as Gold Sponsor,
8. Company name and logo on the Event flyer and entry form,
9. Gold Sponsor recognition on the Denmark Country Club website with a link to your company's website,
10. Acknowledgement during formalities,
11. Opportunity to place a promotional item or flyer in the player kits,
12. Opportunity to present awards during formalities, and
13. Official Certificate of Appreciation from the Event.

Council may wish to consider accepting or declining some or all of these entitlements. The author is recommending that Council accepts items 5 – 13.

The Officers recommendation supports the request made by DCC.

Consultation:

Officers have been consulted in relation to this request and quotations for Hole in One Insurance have also been obtained by Council Officers.

Nick Dwyer, Chairman of Event Organisation Committee – Denmark Golf Club has been consulted with respect to this request.

Statutory Obligations:

Local Government Act 1995 Section 6.12 Power to defer, grant discounts, waive or write off debts

- (1) *Subject to subsection (2) and any other written law, a local government may —*
- (a) *when adopting the annual budget, grant* a discount or other incentive for the early payment of any amount of money; or*
 - (b) ***waive or grant concessions in relation to any amount of money; or***
 - (c) *write off any amount of money,*
- which is owed to the local government.*

** Absolute majority required.*

(2) *Subsection (1)(a) and (b) do not apply to an amount of money owing in respect of rates and service charges.*

(3) *The grant of a concession under subsection (1)(b) may be subject to any conditions determined by the local government.*

(4) *Regulations may prescribe circumstances in which a local government is not to exercise a power under subsection (1) or regulate the exercise of that power.*

Policy Implications:

There are no policy implications.

Budget / Financial Implications:

Account number 1422233 “Hire of Cutlery & Crockery” contains no budgeted income for 2013/14 therefore the waiver of fees for hire of equipment has no impact on the Council’s current Budget. Council Members Donation Account Number 1410082 has a total remaining budget amount of \$5,700 therefore the cash donation of up to \$1,500 can be accommodated.

Strategic Implications:

The long term viability of the Denmark Country Club is of significant strategic importance, as is the promotion and economic growth associated with events such as the “Denmark Summer Golf Classic”.

Sustainability Implications:

➤ **Environmental:**

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

➤ **Economic:**

There are significant economic benefits associated with the success of the “Denmark Summer Golf Classic” both to the DCC and local economy as noted within this report.

➤ **Social:**

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

Voting Requirements:

Simple majority.

OFFICER RECOMMENDATION

ITEM 8.4.2

That with respect to the request received from the Denmark Country Club (Event Organisation Committee – Denmark Golf Club), Council;

1. Approves a cash donation of up to \$1,500 (plus GST), for use for the provision of a Hole in One \$30,000 Car Incentive Prize Insurance, from its Members Donation Account Number 1410082;
2. Approves the waiver of equipment hire fees to the value of \$3,853.50 (inclusive of GST) in accordance with Section 6.12 (1)(b) of the Local Government Act 1995; and
3. Decline the offer of partaking of any of the financial incentives associated with being a Gold Card Sponsor (numbers 1 – 4 in the Officer’s Report).

COUNCIL RESOLUTION & OFFICER RECOMMENDATION

ITEM 8.4.2

MOVED: CR LEWIS

SECONDED: CR OSBORNE

That with respect to the request received from the Denmark Country Club (Event Organisation Committee – Denmark Golf Club), Council;

1. Approves a cash donation of up to \$1,500 (plus GST), for use for the provision of a Hole in One \$30,000 Car Incentive Prize Insurance, from its Members Donation Account Number 1410082;
2. Approves the waiver of equipment hire fees to the value of \$3,853.50 (inclusive of GST) in accordance with Section 6.12 (1)(b) of the Local Government Act 1995; and
3. Decline the offer of partaking of any of the financial incentives associated with being a Gold Card Sponsor (numbers 1, 3 & 4 in the Officer’s Report).

CARRIED UNANIMOUSLY: 9/0

Res: 181213

REASONS FOR CHANGE

Council wished to accept the provision in the Gold Sponsorship for free once a month club house hire for corporate functions for a calendar year.

8.5 Chief Executive Officer

Prior to consideration of Item 8.5.1 the Chief Executive Officer, through the Presiding Person, brought to the attention of the meeting the following disclosure(s) of interest:

Cr Thornton owns properties which adjoin three of the laneways and as a consequence there may be a perception that his impartiality on this matter may be affected. Cr Thornton declares that he will consider this matter on its merits and vote accordingly.

Cr Morrell owns property near the laneway from Bent Street to Barnett Street and as a consequence there may be a perception that his impartiality on this matter may be affected. Cr Morrell declares that he will consider this matter on its merits and vote accordingly.

8.48pm – The Director of Community & Regulatory Services left the room.

8.48pm – The Director of Community & Regulatory Services returned to the room.

8.51pm – The Director of Finance & Administration left the room.

8.5.1 NAMING OF LANEWAYS WITHIN THE DENMARK CBD	
File Ref:	GOV.49
Applicant / Proponent:	Not applicable
Subject Land / Locality:	Shire of Denmark Townsite CBD
Disclosure of Officer Interest:	Nil
Date:	19 November 2013
Author:	Claire Thompson, Executive Assistant
Authorising Officer:	Dale Stewart, Chief Executive Officer
Attachments:	8.5.1 a – Submissions 8.5.1 b – Map of Laneways within the Denmark Townsite CBD depicting the proposed names

Summary:

This report recommends that Council consider the submissions received for the proposed naming of laneways within the Denmark CBD, endorse the naming of 10 laneways and submit the names to Geographical Names Committee for final approval.

Background:

At the meeting held on 9 July 2013 Council resolved as follows;

Resolution No. 050713

- “That with respect to naming of lanes and roads within the Denmark Townsite, Council;*
- 1. Refer the proposed name of the laneway between Barnett St and Bent St as Praed Lane to the Geographical Names Committee (GNC) for preliminary approval;*
 - 2. Should the GNC have no objections, the proposed names be advertised for public and Denmark Historical Society comment, for a period of 28 days;*
 - 3. Should there be no objections received from the advertising process, the names be referred to the GNC for formal consideration.”*

Resolution No. 060713

- “That with respect to naming of lanes and roads within the Denmark Townsite, Council;*
- 1. Refer the proposed names of the eight identified laneways contained under the comment section of this report (Table 1), excluding Praed Lane between Barnett St and Bent St, and substituting Gros Lane for Morchella Lane for the laneway between Millar St and Reserve 46256 to the Geographical Names Committee (GNC) for preliminary approval;*
 - 2. Should the GNC have no objections, the proposed names be advertised for public and Denmark Historical Society comment, for a period of 28 days;*

3. *Should there be no objections received from the advertising process, the names be referred to the GNC for formal consideration.”*

Resolution No. 070713

“That with respect to the Road Reserve (laneway) between Brazier Street and Mitchell Street, Council not agree to its proposed closure as recommended by the officer, as Council wishes to retain future options for the land.”

Comment:

The proposed names for the 10 identified laneways within the Denmark CBD were advertised in September 2013 with the period for public comment concluding on the 25 October 2013. Letters were also sent to adjacent landowners, with a copy of the advertisement, advising them of Council’s intention and seeking their feedback on the proposal. Information was also sent to the Denmark Primary School, the Denmark Historical Society and the Denmark Chamber of Commerce on 19 September 2013 with a copy of the advertisement.

With respect to part 3 of Resolutions 050713 & 060713, objections / recommendations were received from the advertising process and therefore the matter is being referred back to Council for consideration and determination.

The following names for 10 laneways within the Denmark Townsite were advertised for public comment.

Laneway	Proposed Name
North Street to Strickland Street	Mackay Lane
South Coast Highway to Barnett Street	Laverack Lane
Strickland St to the rear of the former Chicken Treat	Monk Lane
Bent Street to Barnett Street	Praed Lane
Mitchell Street to Barnett Street	Tucker Lane
South Coast Highway to Short Street (abutting Tyrepower)	Murphy Lane
Millar Street to Reserve 46256 (Hamilton Reserve)	Morchella Lane
Millar Street to South Coast Highway	Pomery Lane
Thornton Street to Haire Street	Buckingham Lane
Mitchell Street to Brazier Street (near the Denmark Primary School Staff carpark)	Crowther Lane

Seven submissions were received and are attached. The Officers comments on each submission are below.

- Submission 1 – Cagnana
Suggests that the name “Pember” after Stanley Pember, be considered.

The Officer notes that “Pember Road” was allocated to a road which has been constructed in the Ocean Beach locality, dedicated in 1997 after Stanley Pember, as Pember Road East & Pember Road West.
- Submission 2 – Denmark Historical Society
The Officer notes that the Historical Society questions the name “Crowther” on the basis that Denmark already has a number of streets named for surveyors and “surely does not need another one” and that “It is far more important to acknowledge families that have been here in the past than to call a lane after someone who did not live here and he has a street named for him in Bayswater, in the metro area.” As alternate names the Denmark Historical Society suggests “Todd” or “Wise” after James Todd and William Herbert Wise, who were both casualties of World War I (as detailed in their submission).

The name "Todd" is already listed in Council Policy P100603 (Road & Reserve Naming within the Shire) however it states that the suggested locality for the use of the name be Shadforth.

The suggested name "Wise" is not listed in Council Policy P100603.

For the reasons given in this submission, the Officer suggests that perhaps the name Crowther not be allocated to a laneway within the CBD and alternatively, the name "Wise" be used.

Submission 7 from Mrs Norman provides substantial reasons as to why the laneway between Thornton Street and Haire Street be named "Pomery". This suggestion is supported by the Officer.

For this reason, the it is suggested that the laneway between Millar Street and South Coast Highway, which was initially proposed to be "Pomery", be named "Wise".

- Submission 3 – Mrs Wilkie

Approves of the proposed naming of the laneways however notes that the laneways could be tidied up, particularly the one between Thornton Street and Haire Street.

The Chief Executive Officer has referred this matter to the Director of Infrastructure Services for review and consideration.

- Submission 4 – Mr & Mrs Muggeridge

Suggests that the laneway between Millar Street and Reserve 46256 (Hamilton Reserve) be named "Falun Dafa Lane" after the "slow moving calming exercises and tranquil meditation" which aligns with the principles of a practice called "Falun Gong".

Section 3.15 of the Geographic Names Committee's (GNC) Policies and Standards for Geographical Naming in Western Australia states;

"Approval shall not be given to the naming of roads, administrative boundaries or topographic features after commercial businesses, trade names and non-profit organisations. This policy is to ensure that no commercial advantage or disadvantage arises from such naming proposals.

Exceptions may apply where the business or organisation has had an association with the area over a substantial period of time and is held in strong regard by the community. In such instances, all applications must outline the reasons for proposing the name and provide evidence of the business or organisation's association with the area.

The formal approval of such names will be at the GNC's discretion."

The Officer has sought initial, informal, comment from an Officer at GNC who advised that it would be unlikely that such a name would be supported for the following reasons;

- Double barrelled names are generally not supported;
- It is the name of particular practice and there is likely to be no historical significance to the area;
- There are businesses that operate using the name; and
- It is already well represented via naming throughout the world.

The GNC Officer noted however that there is nothing preventing Council from seeking their formal comment on the proposed name should Council wish to use it.

- Submission 5 – Mrs Ravenhill

Suggests that the laneway located from Mitchell Street to Brazier Street (near the Denmark Primary School Staff carpark), be named “Buckingham Lane” because “the original principal of the school was Mr Buckingham who lived in the house on the corner of Brazier and Mitchell Street” (currently occupied by the Healthy Buddha).

The Officer strongly supports this recommendation on the basis of the historical significance of the name to that area.

- Submission 6 – Landcorp

No objections to the proposed names for the laneways.

- Submission 7 – Mrs Norman

Suggests that the laneway between Thornton Street & Haire Street be named “Pomery Lane” for a number of reasons including;

- Four of Morris Pomery’s children have lived on Patterson Street;
- Fourteen of his grandchildren were raised on Patterson Street;
- His eldest son still lives on Patterson Street; and
- Morris’s niece lived on Brazier Street.

The Officer strongly supports this recommendation on the basis of the historical significance of the name to that area.

Following consideration of the submissions received, the Officer makes the following recommendation (refer also to Attachment 8.5.1 b);

	Laneway	Proposed Name	
1	North Street to Strickland Street	Mackay Lane	Named in honour of Sutherland George Mackay born 1 August 1892 in Edinburgh, Scotland. He arrived in Denmark in 1925 with his wife Constance. He had a family of three, two daughters and a son. He worked at clearing for a while before starting his own business as a bootmaker, next to the Butcher (opposite Albany Road Bridge). He closed the business in 1940 and enlisted in the Army. Upon returning from the War in 1943 the family left Denmark. He died in Perth 22 August 1953.
2	South Coast Highway to Barnett Street	Laverack Lane	T.S. Laverack – a casualty of World War I.
3	Strickland St to the rear of the former Chicken Treat	Monk Lane	George William Monk. Councillors of the Shire of Denmark from 1963 to 1965.
4	Bent Street to Barnett Street	Praed Lane	First female Councillor of the Shire of Denmark from 1963 to 1965.
5	Mitchell Street to Barnett Street	Tucker Lane	Geoffrey Tucker arrived in Denmark in 1913 from England with his Mother, Eva, brother, sister and Step Father W J Manning. In

			September 1915, Geoffrey married Ivy Hope who was a teacher at the Denmark School. They farmed on Scotsdale Road and had 5 children in total. One son, Doug, did his apprenticeship as a blacksmith in Denmark and married Margaret Vigies in Denmark in 1939, they farmed on Mt Shadforth and planted the walnut grove which is still there today. In 1951 they bought land on Pit Road, Parryville and joined the Parryville Social Club. Doug was considered the next best thing to a vet and everyone came to him for help. He taught many people how to ride horses. In 1957 Doug built the shop and caretakers cottage at Parry Beach, which he and Margaret ran for about 20 years. It is now heritage listed. They helped the Denmark community flourish. The Pit Road farm is still in the family.
6	South Coast Highway to Short Street (abutting Tyrepower)	Murphy Lane	William Joseph Murphy – Councillor of the Shire of Denmark 1955 - 1961 & 1962 – 1963. Died 27 January 1986. William and Joan Murphy owned and resided at 1 Short Street for over 60 years. The property is still in the family.
7	Millar Street to Reserve 46256 (Hamilton Reserve)	Morchella Lane	Genus of fungi found in Denmark Shire.
8	Millar Street to South Coast Highway	Wise Lane	William Herbert Wise was a casualty of World War I, in the AIF 44 th Battalion, who died on 4 July 1918, aged 24. William was the son of Stephen and Mary Louise Wise. He was a labourer and had a sister Mrs Eliza Andrews of 'Kiaora', Kent Road, Denmark.
9	Thornton Street to Haire Street	Pomery Lane	Morris Hamilton Pomery, a local identity who lived and worked most of his life in Denmark. Morris or Morrie as he was more commonly known was born in 1917 and married his wife Elizabeth at the Carmarthen School Hall on 18 June 1940. They worked his brother Roy's farm for many years until his retirement when they moved to Bavin Street in Denmark, where Elizabeth still lives today. Morrie died on 18 April 2004.
10	Mitchell Street to Brazier Street (near the Denmark Primary School Staff carpark)	Buckingham Lane	In 1942 Charles Buckingham went from Narrogin to Denmark to help establish the Denmark Agricultural College and was its first principal. Due to much of his work the school was successful as he interacted with the community to give the students as much practical experience as possible. Source: Denmark Historical Society.

Consultation:

Geographical Names Committee (GNC) has been consulted initially and has advised that none of the laneways are currently named and to name each of them as a 'Lane' is

appropriate. GNC were also consulted via a telephone conversation for informal comment on the suggested name of “Falun Dafa”.

The proposed names for the laneways was advertised in the Denmark Bulletin, the Albany Advertiser, on Council’s Notice Boards and Website for a period of 29 days.

Letters (with a copy of the advertisement) were sent to all adjacent landowners, the Denmark Primary School and the Denmark Historical Society.

Statutory Obligations:

There are statutory obligations with respect to naming of roads.

Policy Implications:

Policy P100603 – Road & Reserve Naming within the Shire relates

Budget / Financial Implications:

There will be 18 x approximately \$50 for the purchase of signs as a result of the implementation of the naming. The cost associated with this could be covered under Council’s existing Roadworks Maintenance Account (GL 1228002).

Strategic Implications:

All bar one of the laneways are formed, used by the public and maintained by Council.

The road reserve between Brazier Street & Mitchell Street is currently not physically able to be used in its current state. With respect to this matter in July 2013 Council resolved as follows (Resolution No. 070713);

“That with respect to the Road Reserve (laneway) between Brazier Street and Mitchell Street, Council not agree to its proposed closure as recommended by the officer, as Council wishes to retain future options for the land.”

Sustainability Implications:

➤ **Environmental:**

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

➤ **Economic:**

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

➤ **Social:**

Road names are often the first point of reference used when referring to locations and are a fundamental component of the culture and history of a community. They are generally selected in recognition of a person or family who was synonymous with the area, and perhaps whose descendants still are.

Voting Requirements:

Simple majority.

COUNCIL RESOLUTION & OFFICER RECOMMENDATION	ITEM 8.5.1
MOVED: CR SAMPSON	SECONDED: CR MORRELL
That with respect to naming of lanes and roads within the Denmark Townsite, Council;	
1. Note the submissions received;	
2. Endorse the names for the 10 laneways as detailed in the table within the Report and refer the names to Geographical Names Committee for approval;	
3. If approved, request the Chief Executive Officer to arrange for appropriate signage to be erected depicting the names of the laneways.	
CARRIED UNANIMOUSLY: 9/0	Res: 191213

8.5.2 WILGIE VIEW LEARNING CENTRE (SPIRIT OF PLAY) REQUEST FOR EXTENSION OF LEASED AREA

File Ref:	A3140
Applicant / Proponent:	Not applicable
Subject Land / Locality:	Reserve No. 30277 & portion of Lot 1083 of Reserve 14376, 952 Crellin Street, Denmark Denmark Railway Station No. 3 Reserve
Disclosure of Officer Interest:	Nil
Date:	25 November 2013
Author:	Dale Stewart, Chief Executive Officer
Authorising Officer:	Dale Stewart, Chief Executive Officer
Attachments:	8.5.2 a – Letter from Spirit of Play Community School (4 November 2013) including Maps 1 & 2 8.5.2 b – Report from Minutes 25 September 2012 8.5.2 c – Report from Minutes 16 April 2013 8.5.2 d – MHI Place Records

Summary:

The Wilgie View Learning Centre (Spirit of Play Community School) are requesting Council approval to expand the area which they lease from Council on Reserve 30277, Denmark Railway Station No. 3 Reserve, by 310m² which would include the removal of some trees. The request also details a number of other items for Council's determination such as placing a removable bollard on the road near the eastern corner of the property, moving the fence to incorporate the additional leased area, moving some stepping logs, moving the storage nearer to and in front of the existing Old Post Office building and adding a door to the eastern side of that building.

Background:

On the 25 September 2012 Council approved an extension to the lease area following a request from the Spirit of Play to incorporate their existing storage building, septic tanks and allow adequate area for sufficient soft fall sand areas under their existing play equipment. The Resolution (No. 1619012) was as follows (a copy of the Report is attached as Attachment 8.5.2 b);

“That with respect to Wilgie View Learning Centre Inc.’s (Spirit of Play Community School) request to extend their lease area of a portion of Reserve 30277, 952 Crellin Street, Denmark, Council advise the applicant that;

1. *Approval is granted to amend the lease area to include the existing storage shed (erected pursuant to Council Resolution No. 110210) and the septic tanks (approximately 170sqm), which will allow them to provide sufficient soft fall area around the existing playground equipment; and*
2. *Council accepts the offer for the applicant to relocate the boundary fence at their expense, at no cost to Council, however advises that prior to the applicant undertaking these works, the applicant must obtain agreement from the Council’s Chief Executive Officer as to the type of fence and its final position so as to coincide with their extended new lease area.”*

The Denmark Railway Station No. 3 Reserve (No. 30277) is the subject of a draft Concept Plan which was presented to Council on the 16 April 2013. The draft Concept Plan sought to determine a number of elements including the following;

- A draft ‘Vision’ for the reserve to guide Shire of Denmark and Community usage of the reserve in keeping with Heritage Railway precinct (its railway and timber heritage).
- Acknowledgement of the existing uses (and leased areas) including the Lions Lair, Denmark Yacht Club Shed, Denmark Machinery & Restoration Group, Spirit of Play School (Old Post Office) and heritage artefacts.

- Exploring additional, indicative only, long term / future complementary uses and potential building sites and uses such as a 'Men's Shed', possibly in the relocated former Railway Station.
- Plotting (not surveying) existing assets on the reserve including, for context and connectivity, the adjoining footpath on Inlet Drive and reference to Inlet Drive, Hollings Rd and Crellin St.
- Commentary on the 'borders' of the plan exploring opportunities to create design guides, planting, landscaping, features and parameters to include future constructions in keeping with the theme and vision of the reserve (railway and timber heritage).
- Conceptual usage of different aspects of the reserve, both now and into the future, and how they interconnect with roads, car parking, seating, trails and paths.
- The potential for a Trails Hub facility exciting users to explore the various trails of the Shire including specifically the trails that are immediately accessible adjacent or within the reserve, those being;
 - Munda Bididi Trail
 - Bibbulmun Track
 - Denmark-Nornalup Heritage Rail Trail
 - Karri Walk Trail
 - Heritage Walk Trail
 - Mokare Walk Trail.

Following deliberation Council resolved as follows in relation to the draft Concept Plan (a copy of the Report is attached as Attachment 8.5.2 c);

"That with respect to the draft Concept Plan, comprising Reserve 30277 (Lot 952), portion of Reserve 14376 (Lot 1083) and the unconstructed portion of the adjoining Hollings Road Reserve, for the Denmark No. 3 Railway Station Reserve Heritage Precinct, Council;

1. *Thank the submitters for their contributions;*
2. *Request the Denmark Weed Action Group to develop a plan to eradicate or at least control the invasive tree & weed species identified in their submission as part of their annual program of works on Council's reserves depending upon relative priorities;*
3. *Agree to extend the Denmark Machinery Restoration Groups request to extend their lease area (as shown on the attached drawing) by approximately 3,600sqm;*
4. *Consider in the 2013/14 Budget the inclusion of a budget line dedicated to the maintenance of the public (non-leased areas) of the Denmark No. 3 Railway Station Reserve;*
5. *Request a quote from the Architect, Howard and Heaver, to provide a modified version of the Concept Plan with amendments as highlighted within the Officer's Report including;*
 - a. *The inclusion of the former Ash Pit;*
 - b. *Adjustment to the proposed location of the former Railway Station – to be as close as possible to its original location;*
 - c. *Adjustment to the Denmark Machinery Restoration Group's leased area to reflect the 3,600 sqm extension to the south of their existing building;*
 - d. *Inclusion of the whole area (shown on Figure 2 in red in the Officer Report) of the Concept Plan being;*
 - i. *Whole of the Reserve 30277;*
 - ii. *portion of Reserve 14376 (being Lot 1083);*
 - iii. *two (2) unconstructed road reserves on the western & southern boundary of Reserve 30277; and*
 - iv. *portion of Reserve 15513 as separated by the incorrectly constructed portion of Crellin Street.*
6. *Forward the modified final Concept Plan to all of the existing Lessees and submitters for final comment prior to resubmitting to Council for recommended adoption.*
7. *Request the Chief Executive Officer to;*

- a. *liaise with Council's Parks & Gardens Supervisor with respect to 'treating' the Karri trees which are beginning to re-sprout from their base;*
- b. *liaise with the Denmark Historical Society and the Denmark Machinery Restoration Group (DMRG) as to the historical significance of the metal items, hidden within the undergrowth, to the west of the DMRG shed with a view to eventually either restoring or removing the items;*
- c. *refer to Council's Community Emergency Services Manager the matter of a potential prescribed burn of a portion of the reserve for the consideration of the Bush Fire Advisory Committee and in their current schedule of prescribed burns of Council Reserves.*
- d. *arrange for the following items to be addressed within the next 12 months, particularly if they can be achieved within existing budget lines;*
 - i. *remove the broken, wooden picnic tables;*
 - ii. *repair the Horse Hitching Rail;*
 - iii. *fence off the Ash Pit; and*
 - iv. *removal of the existing stone BBQ in the north / east corner of the reserve."*

The Wilgie View Learning Centre (Spirit of Play) have a current lease with the Council which expires on 30 June 2018.

Comment:

The request (Attachment 8.5.2 a) includes the following elements, to which the Officer has made comments below each request;

1. *Moving the storage room (Depicted on Map 1) from its current location outside the existing fenced area to the location on the north side of the main building (the Old Post Office) as marked on Map 2. This proposed change will ensure that public access to the historical photos on the veranda is maintained.*

Officer Comment

The proposed location for the storage shed as shown on Map 1 is of concern and it is recommended that further investigation be undertaken prior to making any decision on the matter, particularly given that the main building is listed on Council's Municipal Heritage Inventory.

It appears as though the storage shed may actually impede on the accessibility to the veranda of the Old Post Office where the historical photographs are displayed.

It is the Officer's view that it will also significantly detract from the aesthetics of the overall site and particularly the front façade of the heritage building and should not be supported.

2. *Placing a removable bollard on the road near the eastern corner of the property as shown on Map 2 to enable the road to be closed. This will increase safety on the road outside the school for students and families. Horses, cyclists and walkers will still be able to use the road and the heritage trail.*

Officer Comment

The act of bollarding the trails at the location requested has a major impact on the available carparking presently utilised by the School and, indeed, may have two unintended consequences including;

- congestion and conflict points being caused by utilising the entrance road as a carpark (with inadequate width and demonstrated carparking bays delineated from the road surface); and
- the potential of the second proposed carpark (on the north side of the central drain line) to be quite waterlogged during wetter months.

The request however is inconsistent with the principles espoused with respect to carparking in the draft Concept Plan for the precinct.

3. *Moving the fence to include the space marked on Map 2 between the school building and Inlet Drive to accommodate a temporary outdoor activity space. This will be a light-weight, movable structure without services connected. Its main purpose will be to provide shelter from inclement weather for outdoor activities.*

Officer Comment

Should Council agree to extend the area leased to the Spirit of Play then the Officer believes that the relocation of the fence, at the Lessees expense, would be appropriate subject to reviewing the rent taking into account the greater leased area.

The request however is not inconsistent with the principles espoused from the draft Concept Plan for the precinct.

There is insufficient detail provided to make comment on the proposed light weight, movable structure and the Officer has concerns that this may still need to comply with the Building Code of Australia other planning requirements.

4. *Removing some of the trees in or too close to the newly enclosed area to ensure safety.*

Officer Comment

At present there is insufficient information provided as to which trees are intended to be removed, how many and for what reasons, to make an informed comment.

5. *Removing multi-stemmed Karri trees to the north of the building that are too close to the existing buildings and pose a danger to structures and occupants and are a fire risk.*

Officer Comment

The Officer believes that the “multi-stemmed Karri Trees” were observed as the “shooting Karri Trees” during the consultation phase of the draft Concept Plan. In its resolution of 16 April 2013, Council requested the Chief Executive Officer to “liaise with Council’s Parks & Gardens Supervisor with respect to ‘treating’ the Karri trees which are beginning to re-sprout from their base”.

A Memorandum was sent to the Council’s Parks & Gardens Supervisor on 7 May 2013 requesting that this matter, among others relating to the site, be investigated and dealt with within the next 12 months.

6. *Removing the large exotic melaleuca marked on Map 2 in front of bridge to allow better access to the bridge and parking over the creek.*

Officer Comment

The Officer is of the view that removal of the melaleuca is not required, per se, but desired from an aesthetics, ‘entrance view’ perspective only and therefore not supportable, particularly given the condition of the pedestrian bridge which does not lend itself to being a primary, regularly used access.

7. *Moving the stepping logs on the north side of the building to a site within the playground area. Remove those logs that have already rotted away.*

Officer Comment

At this stage, the Officer does not have any objections to this request, noting that if Council refuses permission to relocate the existing storage shed to the front

façade of the heritage building then the purpose of removing the stepping logs may be redundant.

8. *Adding a door to the eastern side of building to allow access from the new fenced area into storage area between kitchen and laundry/toilet. This entry will require renovation of a previously extended part of the building which is not part of the original heritage building. This has been discussed with the Shire's building inspector Iain Dines on site.*

Officer Comment

Consideration of the entry door may be redundant if Council refuses permission to relocation of the storage shed to the front of the heritage building and/or if Council refuses permission to extend the lease area to the east. There is also the question whether this is supportable from a heritage perspective which would be referred to the Denmark Historical Society and Council's Planning Officers for comment should the principle be supported.

Consultation:

The applicants state in their letter that they have consulted with Denmark Weed Action Group's, Di Harwood in relation to proposed changes to the vegetation and the Denmark Historical Society (DHS) have provided the following comments;

"DHS has been approached on several occasions by representatives from Spirit of Play regarding possible extensions to the building. At our meeting concerns were raised as this is a Heritage Site and there have been cases where the school has restricted access to interested visitors wishing to explore the area. Since the meeting Roger [Cr Seeney] has raised the matter with Annette [Council's, Director of Planning & Sustainability] and no formal requests have been presented as yet. I raise this because of the issue of access to a Heritage Site and to alert you of our concerns at this early stage."

It should be noted however that the Denmark Historical Society have yet to be formally consulted on the proposal nor have the other lessees of the site.

Statutory Obligations:

Nil

Policy Implications:

The former Post Office (the main building of the Spirit of Play Community School) is listed on Council's Municipal Heritage Inventory (MHI) and is listed as being of considerable significance (refer to Attachment 8.5.2 d for a copy of the Place Record).

Council's recently adopted Planning Policy No. 45 with respect to Heritage Places also relates.

Budget / Financial Implications:

Should Council agree to extend the area leased by the Spirit of Play Community School then the addition would be included via an Amendment to their existing Lease including adjustment to their annual rent to be determined by a new valuation.

The lease for this facility to the Shire of Denmark derives the only income to Council from the Reserve being \$8,200 (plus GST) per annum.

Strategic Implications:

The Denmark Railway Station No. 3 Reserve is listed in the Heritage Schedule of the Council's Town Planning Scheme and Council should consider all proposals for development in accordance with any Heritage Policies that it has in place from time to time.

The purpose of the Reserve is 'Historical Precinct, Recreation and Community Purposes'. The Railway Precinct is listed on Council's Municipal Heritage Inventory (MHI) as being of Exceptional Significance which states it is "*Essential to the heritage of the locality. Rare or outstanding example. The place should be retained and conserved unless there is no feasible and prudent alternative to doing otherwise. Any alterations or extensions should reinforce the significance of the place and be in accordance with a Conservation Plan (if one exists for the place).*" (A copy of the MHI Place Record is attached at Attachment 8.5.2 d).

As stated in the Officer's Report of April 2013, the confluence of important resident and visitor servicing; trails, combined with the heritage elements of the precinct and its location, at the Rivermouth, makes the Reserve an extremely important long term asset that deserves appropriate planning and 'guidance' which helps achieve the overall 'vision' for the reserve and avoid ad-hoc decision making.

The Council's Chief Executive Officer has previously apprised Councillors of meetings that he has had with the Board of the Spirit of Play Community School indicating that they were seriously entertaining the prospect of becoming a private school catering for children from Kindergarten through to Year 7 and that advice from the Board was that, indicatively, this was achievable but would require land area in the order of 1.5ha. The current land area of the lease is approximately 1,246sqm with a requested addition to the lease area of approximately 352sqm, well short of the indicative land area required for a small, independent primary school of 15,000sqm (approximately 10% of the land area).

Herein lies the core strategic question. If the School intends to achieve its ultimate ambitions then is this practically and realistically achievable in complementary fashion at this site, utilising the Old Post Office building and remaining consistent with the principles of the draft Concept Plan for the Heritage Precinct?

Council may well be able to support some of the current requests of the School that may enable it to achieve its desires and plans for 2014, however it is difficult to see how the longer term plans of the School can be achieved at this site.

The initial problem is that of time. The School seeks immediate responses to enable it to commence planning for school intake in early February 2014 however the requests do have implications for other users of the site which requires consultation and there are planning and building requirements to be addressed in relation to the proposed building alterations and car parking. These elements will not easily be addressed between now and February 2014 and a formal development application has yet to be lodged to demonstrate the detail necessary to provide informed comment.

Sustainability Implications:

➤ Environmental:

There are no known environmental implications associated with the officer recommendation however should Council decide to grant the requests of the Spirit of Play Community, there would be environmental considerations relating to the removal of some vegetation.

➤ Economic:

There are no known economic considerations in relation to the report or the officer recommendation.

➤ Social:

The Spirit of Play Community School is an independent community Primary School with an emphasis on learning through play. Presently the School offers a Playgroup and schooling from Kindergarten to Year 1 however from 2015 they are expecting to become a full Primary School offering schooling for all primary school years from Pre-Kindergarten to Year 6, which has been approved by the Minister for Education.

Voting Requirements:

Simple majority.

OFFICER RECOMMENDATION

ITEM 8.5.2

That with respect to the request from the Wilgie View Learning Centre's (Spirit of Play Community School) to extend their lease area, Council respond as follows;

1. The provision of an overall Long Term Concept Plan for the developed site would enable Council to make a more informed response to the School as to whether the site is suitable to meet the needs of the School in the long term, in keeping with the Community's aspirations detailed in the draft Concept Plan for the Heritage Precinct. That a minor alteration to the lease boundary to the north east as requested is supported in principle, noting that any formal requested area shall not encroach upon the Railway Turntable or the Ash Pit;
2. That the request to modify the current parking arrangements, including the proposed bollard installation, is not supported due to the reasons outlined within the report;
3. That the requested removal of the melaleuca is not supported;
4. That the concept of relocating the storage shed to the front façade of the Old Post Office is not supported;
5. That any proposed alterations to the Old Post Office building will need to be submitted as an Application for Planning Consent and Building Permit for referral to the Denmark Historical Society and consideration by Council;
6. Any consideration towards the removal and/or pruning of any trees needs to be assessed by Officers through the provision of a plan detailing the trees;
7. Removal of stepping logs adjoining the site is supported.

9.01pm – The Director of Finance & Administration returned to the room.

COUNCIL RESOLUTION

ITEM 8.5.2

MOVED: CR SEENEY

SECONDED: CR PEDRO

That with respect to the request from the Wilgie View Learning Centre's (Spirit of Play Community School) to extend their lease area, Council advise that Council is not satisfied that continued expansion of the site with the aim of catering for schooling from Kindergarten, through Pre-Primary and Primary to Year 7 is a use complementary and or capable of being supported at the site without compromising the heritage and community uses envisaged in the sites Concept Plan and that accordingly;

1. The requested approvals are not supported;
2. Council staff may be able to assist the Centre in identifying suitable alternate land within the Denmark townsite area that may be more suitable to cater for the long term growth needs of the School.

CARRIED: 8/1

Res: 201213

9. COMMITTEE REPORTS & RECOMMENDATIONS

Nil

10. MATTERS BEHIND CLOSED DOORS

COUNCIL RESOLUTION & OFFICER RECOMMENDATION

ITEM 10

MOVED: CR PEDRO

SECONDED: CR LEWIS

That pursuant to Section 5.23 (2) (b) of the Local Government Act 1995 and Clause 3.7 of the Shire of Denmark Standing Orders Local Law, Council move behind closed doors for the consideration of Items 10.1, Item 10.2 & Item 10.3 to allow the Award Winners names to remain confidential to Council until the official announcement at the winners' at the Council's Australia Day Breakfast in 2014 and to consider a matter relating to the remuneration of an employee.

CARRIED UNANIMOUSLY: 9/0

Res: 211213

9.14pm – The Director of Finance & Administration, the Director of Planning & Sustainability and the Director of Community & Regulatory Services left the room and did not return.

10.1 CITIZEN & COMMUNITY GROUP OF THE YEAR AWARDS

File Ref:	PBR.1
Applicant / Proponent:	Various
Subject Land / Locality:	Not applicable
Disclosure of Officer Interest:	Nil
Date:	22 November 2013
Author:	Claire Thompson, Executive Assistant
Authorising Officer:	Dale Stewart, Chief Executive Officer
Attachments:	10.1 – Nominations 10.2 – List of Previous Winners

Summary:

Council is asked to consider the Nominations received for the Shire of Denmark’s annual Citizen & Community Group Awards and select winners for each category.

Background:

The Citizen & Community Group of the Year Awards are annual Council awards which are provided pursuant to Policy P040113 and are presented at the Council’s Australia Day Function on the 26 January of each year.

Comment:

The closing date for nominations is Friday, 29 November 2013 and as such the nominations will be copied to Councillors after 4.00pm Friday and prior to the Council meeting.

Eight nominations were received and were for the following;

Community Group or Event

Southern Ocean Classic Mile swim
Denmark Gymnastics

Citizen of the Year – Over 25

Alex Syme
Ian Conochie
John Watson
John Whitlock
Ian Conochie (2nd, separate nomination)
Christine Randall & Cyril Edwads (joint nomination)

Citizen of the Year – Under 25

No nominations received.

A table of previous recipients is attached.

Consultation:

Marketing & promotion for these awards commenced on 10 October 2013 and included the following;

- Letters to every known local Community Group;
- Council’s website;
- Council’s Notice Board;
- Denmark Recreation Centre;
- Denmark Library;
- Denmark Youth Centre;
- Denmark Bulletin – October 2013 & November 2013; and
- Emails to Councillors & Staff.

In addition to the following marketing & promotion was undertaken in an effort to obtain some nominations for Young Citizen of the Year;

- Memo to the Manager of Recreation & Youth Services;
- Memo to the Librarian of the Denmark Library.

Statutory Obligations:

There are no statutory obligations.

Policy Implications:

Council Policy P040113 – CITIZEN & SPORTSPERSONS OF THE YEAR relates and reads as follows;

A. PREMIER'S AUSTRALIA DAY ACTIVE CITIZENSHIP AWARDS

The Citizenship Awards be advertised in September, inviting community groups and private citizens to submit nominations for awards in the following categories:

- a person of 25 years or older;
- a person under 25 years;
- a community group or event.

Nominations to close the last week in November.

A person may only be nominated for one category on a Nomination Form. A person may be nominated more than once on separate Nomination Forms.

Winners to be chosen at a meeting of the Council, and the results kept strictly confidential until presentation.

Presentation to be at a local function celebrating Australia Day (January 26th).

Eligibility

For person(s) of 25 years or older and person(s) under 25 years, the nomination:

- must be made of person(s) who ordinarily reside in the Shire of Denmark; and
- must demonstrate that person(s) citizenship activities which occur within the Shire of Denmark however, external additional citizenship activities may be taken into consideration during the selection process.

For a Community Group or Event, the nomination can only be made for a Group or Event which is based, operated and held within the Shire of Denmark however, additional activities or events operated or based outside of the Shire may be taken into consideration during the selection process.

B. SPORTSPERSONS OF THE YEAR

The Sportspersons of the Year Awards are to be advertised commencing in September, inviting sporting organisations, community groups & organisations, schools and individuals to submit nominations for awards for the year ending 30 September, in the following categories;

- Junior Sportsperson of the Year (under 18 years of age)
- Senior Sportsperson of the Year
- Service to Sport Award

Nominations to close the last week in November.

A person may only be nominated for one category on a Nomination Form. A person may be nominated more than once on separate Nomination Forms.

Winners are to be chosen at a meeting of the Council and be kept strictly confidential until the presentation.

Winners are to receive a suitable gift at a value determined annually by Council during the budget process (GL1160752) and a grant of \$100.00 will be awarded for the winner's club or a local club nominated by the winner (should the winner not be a member of a club).

Presentation of the Awards to be at a function held no later than February. Sporting organisations are to be given the opportunity to facilitate the function with the assistance of Council or in the absence of interest from sporting organisations to do so, Council will organise the function which will include a small attendance fee to cover costs.

Eligibility

Nominations for a person who resides out of the Shire but participates in sport in the Shire of Denmark will be accepted however the nominee will only be judged on their achievements within the Shire of Denmark.

Budget / Financial Implications:

Council has included provision in the 2013/2014 Budget for these Awards which will fund certificates, plaques for each winner and updating of the Honour Board.

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:**

These Awards provide a way for Council & the Community to recognise and acknowledge local individuals and community groups (or events) who have contributed positively to the Denmark Community.

Voting Requirements:

Simple majority.

COUNCIL RESOLUTION & OFFICER RECOMMENDATION	ITEM 10.1
MOVED: CR LEWIS	SECONDED: CR SAMPSON
With respect to the Shire of Denmark Citizen & Community Group or Event of the Year Awards for 2014;	
1. The following recipients be awarded in the respective categories and those names remain confidential to Councillors, Senior Officers of Council and the Council's Executive Assistant and those names also remain embargoed until the Awards Ceremony on 26 January 2014;	
a) 2014 Citizen of the Year to Mr Alex Syme;	
b) 2014 Young Citizen of the Year not be awarded due to no nominations being received; and	
c) 2014 Community or Event of the Year to Southern Ocean Classic Mile.	
CARRIED UNANIMOUSLY: 9/0	Res: 221213

10.2 SPORTSPERSON OF THE YEAR AWARDS 2013

File Ref:	PBR.1
Applicant / Proponent:	Various
Subject Land / Locality:	Not applicable
Disclosure of Officer Interest:	Nil
Date:	22 November 2013
Author:	Damian Schwarzbach, Manager Recreation & Youth Services
Authorising Officer:	Dale Stewart, Chief Executive Officer
Attachments:	10.1 – Nominations 10.1 – List of Previous Winners

Summary:

Council is asked to consider the Nominations received for the Shire of Denmark’s annual Sportsperson of the Year Awards for 2013 and select winners for each category (where there are nominations for such).

Background:

The Sportsperson of the Year Awards are annual Council awards which are provided pursuant to Policy P040113 and are normally presented at the Shire of Denmark’s Australia Day Function on the 26 January of each year, pursuant to Council Policy.

Comment:

Nominations close on the 29 November 2013. As this report is required to be written before the closing date, nominations will be forwarded to Councillors before the Council meeting.

Fourteen nominations were received and were for the following;

Senior Sports Award

- Erica Mercer
- Dave McDonald
- Kelly Judd
- Peter Ross
- Bodhi Holmes

Junior Sports Award

- Betty Parker
- Jacob Dodd
- Liah Cassidy-Smith
- Kyle Chamberlain
- Zen Shepherd
- Summer Stirling
- Toby Burton

Service to Sport

- Geoff Bowley
- Neil Veitch
- Steve Lott
- Dexter Warne
- Paula Finigan
- Lindsay Stirling

A table of previous recipients is attached.

Consultation:

Marketing & promotion for these awards commenced on 9 September 2013 and included the following;

- Letters to every known local Community Group;
- Council’s website;

- Council's Notice Board;
- Denmark Recreation Centre;
- Denmark Library;
- Denmark Youth Centre;
- Denmark Bulletin – September 2013 & October 2013; and
- Emails to Councillors & Staff.

Statutory Obligations:

There are no statutory obligations.

Policy Implications:

Council Policy P040113 – CITIZEN & SPORTSPERSONS OF THE YEAR relates and reads as follows;

C. PREMIER'S AUSTRALIA DAY ACTIVE CITIZENSHIP AWARDS

The Citizenship Awards be advertised in September, inviting community groups and private citizens to submit nominations for awards in the following categories:

- a person of 25 years or older;
- a person under 25 years;
- a community group or event.

Nominations to close the last week in November.

A person may only be nominated for one category on a Nomination Form. A person may be nominated more than once on separate Nomination Forms.

Winners to be chosen at a meeting of the Council, and the results kept strictly confidential until presentation.

Presentation to be at a local function celebrating Australia Day (January 26th).

Eligibility

For person(s) of 25 years or older and person(s) under 25 years, the nomination:

- must be made of person(s) who ordinarily reside in the Shire of Denmark; and
- must demonstrate that person(s) citizenship activities which occur within the Shire of Denmark however, external additional citizenship activities may be taken into consideration during the selection process.

For a Community Group or Event, the nomination can only be made for a Group or Event which is based, operated and held within the Shire of Denmark however, additional activities or events operated or based outside of the Shire may be taken into consideration during the selection process.

D. SPORTSPERSONS OF THE YEAR

The Sportspersons of the Year Awards are to be advertised commencing in September, inviting sporting organisations, community groups & organisations, schools and individuals to submit nominations for awards for the year ending 30 September, in the following categories;

- Junior Sportsperson of the Year (under 18 years of age)
- Senior Sportsperson of the Year
- Service to Sport Award

Nominations to close the last week in November.

A person may only be nominated for one category on a Nomination Form. A person may be nominated more than once on separate Nomination Forms.

Winners are to be chosen at a meeting of the Council and be kept strictly confidential until the presentation.

Winners are to receive a suitable gift at a value determined annually by Council during the budget process (GL1160752) and a grant of \$100.00 will be awarded for the winner's club or a local club nominated by the winner (should the winner not be a member of a club).

Presentation of the Awards to be at a function held no later than February. Sporting organisations are to be given the opportunity to facilitate the function with the assistance of Council or in the absence of interest from sporting organisations to do so, Council will organise the function which will include a small attendance fee to cover costs.

Eligibility

Nominations for a person who resides out of the Shire but participates in sport in the Shire of Denmark will be accepted however the nominee will only be judged on their achievements within the Shire of Denmark.

Budget / Financial Implications:

Council has included provision in the 2013/14 Budget for these Awards which will fund certificates, plaques for each winner and updating of the Honour Board.

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:**

These Awards provide a way for Council & the Community to recognise and acknowledge local individuals and community groups (or events) who have contributed positively to the Denmark Community.

Voting Requirements:

Simple majority.

COUNCIL RESOLUTION & OFFICER RECOMMENDATION	ITEM 10.2
MOVED: CR PEDRO	SECONDED: CR SEENEY
<p>With respect to the Shire of Denmark 2013 Sportsperson Awards the following recipients be awarded in the respective categories and those names remain confidential to Councillors, Senior Officers of Council, Council's Executive Assistant and Council's Manager of Recreation & Youth Services and in addition those names also be embargoed until the Awards Ceremony on 26 January 2014;</p> <ol style="list-style-type: none"> 1. 2013 Senior Sportsperson of the Year to Erica Mercer; 2. 2013 Junior Sportsperson of the Year to Kyle Chamberlain; and 3. 2013 Service to Sport Award to Dexter Warne. 	
CARRIED UNANIMOUSLY: 9/0	Res: 231213

10.3 DIRECTOR OF PLANNING & SUSTAINABILITY – REMUNERATION REVIEW

File Ref:	Personnel Files
Applicant / Proponent:	Not applicable
Subject Land / Locality:	Not applicable
Disclosure of Officer Interest:	Nil
Date:	25 November 2013
Author:	Dale Stewart, Chief Executive Officer
Authorising Officer:	Dale Stewart, Chief Executive Officer
Attachments:	10.3 – Confidential Attachment

Summary:

Provision has been made in the 2013/14 Budget for senior staff salary increases.

The Director of Planning & Sustainability has recently undergone her 12 month appraisal (having commenced employment with Council on 31 January 2011) and this report recommends an adjustment to the Director Planning & Sustainability Salary in accordance with that review undertaken by the CEO.

Background:

The senior officers contracts are the same with respect to provision in the contract that;

“The remuneration package shall be reviewed annually by the Chief Executive Officer.”

This notwithstanding, Council Delegation D040225 states;

“The Chief Executive Officer is delegated authority to alter salaries payable to all staff who are not employed on performance based term contracts. The alteration may be within the employee’s assigned band/classification, may involve a change of salary band/classification or may involve an appropriate over award payment.

In exercising this delegated authority the Chief Executive Officer shall ensure that the variation is the result of a satisfactory performance appraisal and appropriate funding is available in Council’s budget. If any salary change is likely to involve over budget expenditure, the change will require endorsement of Council.”

Current relativities with senior staff salaries are as detailed as Item 10.3 (Confidential Attachment).

The Performance Assessment for the Director is attached as Item 10.3 (Confidential Attachment – provided under separate cover).

Comment:

Funds have been included in the 2013/14 Budget for an increase as proposed.

The CEO authorises the adjustments to all staff salaries apart from those applicable to Senior Officers. All Senior Staff, including the CEO, are on employment contracts. The increase proposed takes into account the assessment criteria and performance matters associated with the contracts.

Consultation:

Not applicable.

Statutory Obligations:

There are no relevant legal obligations on Council to grant any salary increase to Senior Officers. The process relates to employee retention and recognition of service / performance and achievement of objectives.

Policy Implications:

The CEO in reviewing the delegation suggests that the process of appraisal and remuneration review can be more streamlined with deletion of the delegation and retention of the current Policy.

It is intended that Senior Staff Reviews be presented to Council as per current policy and when completed and the CEO seeks discussion on the below restriction on his general powers and duties under the Local Government Act 1995 in order that the officer may recommend a different delegation requiring reporting of the result of the reviews to Councillors for information only.

LGA 5.41. Functions of CEO

The CEO's functions are to —

- a) advise the council in relation to the functions of a local government under this Act and other written laws; and*
- b) ensure that advice and information is available to the council so that informed decisions can be made; and*
- c) cause council decisions to be implemented; and*
- d) manage the day to day operations of the local government; and*
- e) liaise with the mayor or president on the local government's affairs and the performance of the local government's functions; and*
- f) speak on behalf of the local government if the mayor or president agrees; and*
- g) be responsible for the employment, management supervision, direction and dismissal of other employees (subject to section 5.37(2) in relation to senior employees); and***
- h) ensure that records and documents of the local government are properly kept for the purposes of this Act and any other written law; and*
- i) perform any other function specified or delegated by the local government or imposed under this Act or any other written law as a function to be performed by the CEO.*

Delegation D040225 however limits that ability and arguably is ultra vires.

The current Council Policy, in the opinion of the CEO should suffice. If the officer recommendation is supported to remove the current delegation, the Officer intends to adjust the remuneration of the Senior Employee in accordance with the attachment and still within the parameters of the Budget.

P040233 (Designated Senior Staff Appraisals) - The CEO is to table for Councillors information on the annual performance appraisals of all designated Senior Staff following each of their individual annual reviews.

Budget / Financial Implications:

The 2013/14 Budget allows for the increase recommended.

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.

9.32pm – *The Executive Assistant left the room and did not return.*

COUNCIL RESOLUTION & OFFICER RECOMMENDATION	ITEM 10.3
MOVED: CR SAMPSON	SECONDED: CR MORRELL
That Council withdraw delegation number D040225, noting the responsibility of management, supervision, and direction of all employees, including those that are designated (senior) employees, is a function expressly authorised to the Chief Executive Officer under the Local Government Act 1995.	
CARRIED BY AN ABSOLUTE MAJORITY: 9/0	Res: 241213

COUNCIL RESOLUTION	
MOVED: CR PEDRO	SECONDED: CR GILLIES
That Council proceed in public.	
CARRIED: 9/0	Res: 251213

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

COUNCIL RESOLUTION	ITEM 11
MOVED: CR ROWLAND	SECONDED: CR SEENEY
That Council accept an Item of New Business relating to setting the date for a meeting of Council.	
CARRIED UNANIMOUSLY: 9/0	Res: 261213

11.1 ADDITIONAL COUNCIL MEETING DATE

The Shire President advised that the Chief Executive Officer had advised that there was a need to hold either a Special Meeting, for the purposes of considering the 2012/2013 Annual Report and considering any Tenders received for Lot 300, cnr South Coast Highway and Denmark-Mt Barker Road, Denmark, or an Ordinary Meeting where both of the matters could be placed on the Agenda.

It was agreed that an Ordinary Meeting would be preferred to enable any other matters to be placed on the Agenda which required the consideration of Council, particularly given that the next scheduled Ordinary Meeting was 21 January 2014.

COUNCIL RESOLUTION	ITEM 11
MOVED: CR ROWLAND	SECONDED: CR SEENEY
That Council set an additional Ordinary Meeting of Council for Thursday, 19 December 2013 at 11.00am in the Council Chambers, 953 South Coast Highway, Denmark.	
CARRIED UNANIMOUSLY: 9/0	Res: 271213

12. CLOSURE OF MEETING

9.57pm - There being no further business to discuss the Presiding Person, Cr Thornton, declared the meeting closed.

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