

# Shire of Denmark Minutes



## ORDINARY (DISCUSSION ONLY) MEETING OF COUNCIL

HELD IN THE COUNCIL CHAMBERS,  
953 SOUTH COAST HIGHWAY, DENMARK ON TUESDAY,  
23 AUGUST 2011.

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# Ordinary Council Meeting

23 August 2011

## DISCLAIMER

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

4.02pm – The Shire President, Cr Thornton, declared the meeting open.

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

MEMBERS PRESENT:

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

STAFF:

- Mr Dale Stewart (Chief Executive Officer)
- Mr Garry Bird (Director of Finance & Administration) (from 4.07pm)
- 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:

Cr Richard Phair

ABSENT:

Nil

VISITORS:

Members of the public in attendance at the commencement of the meeting: 39  
 Members of the press in attendance at the commencement of the meeting: 1

DECLARATIONS OF INTEREST:

Nil

**3. ANNOUNCEMENTS BY THE PERSON PRESIDING**

Nil

**4. PUBLIC QUESTION TIME**

**4.1 RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE**

Nil

**4.2 PUBLIC QUESTIONS**

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

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

In accordance with clause 3.2 (2) & (3) of the Shire of Denmark Standing Orders Local Law, a second Public Question Time will be held, if required and the meeting is not concluded prior, no later than 6.00pm.

#### Questions from the Public

##### **4.2.1 Ms Julie Marsh – Item 8.2.2 (Indoor Heated Aquatic Facility Feasibility Study)**

Ms Marsh stated her support for an indoor heated Aquatic Facility and asked for other supporters within the public to raise their hands. Ms Marsh outlined the community benefits of having such a facility including the existing travelling and costs associated with local residents utilising the Albany Swimming Pool. Ms Marsh stated that she would like to see the community vote on the matter and asked what happens if Council vote against the Officer Recommendation.

*4.07pm – The Director of Finance & Administration entered the meeting*

*The Chief Executive Officer responded stating that if the Officer's Recommendation is lost then in theory the existing position of Council would remain, that is the last resolution of Council on the matter which was that Council supports the principle of the project.*

##### **4.2.2 Mr Scott Smith – Item 8.2.2 (Indoor Heated Aquatic Facility Feasibility Study)**

Mr Smith spoke as the Physical Education Teach at the Denmark Primary School, offering his support to the Officer's Recommendation and highlighted the benefits for a local swimming pool would have for all local students. Mr Smith stated that currently around 500 Denmark Primary School Students travelled to Albany for Swimming Lessons which was costly and meant that 1 – 2 hours of essentially lesson time was taken up with travelling.

##### **4.2.3 Mr Jeff Atkinson – Item 8.2.1 (Spirit of Play – Rent Deferment Request)**

Mr Atkinson spoke as a parent of a student at the Spirit of Play stating that the report inferred that the school had been subsidised by Council for quite some time however the school had always paid a market rent. Mr Atkinson outlined the benefits of the school for the community and said that as tenants they had looked after the building and even added some improvements, which could be seen as a benefit to Council. Mr Atkinson requested Council to waive the fees for two terms as it could mean the difference between the school closing or continuing to operate.

##### **4.2.4 Ms Judy Jagger – Item 8.2.2 (Indoor Heated Aquatic Facility Feasibility Study)**

Ms Jagger stated that she supported all of the comments regarding an Aquatic Facility which had been previously made by other members of the public and noted the benefits of a local swimming pool for the young and elderly residents. Ms Jagger stated that she would like more information on the financial impact, should the project go ahead, especially in relation to what the community would forgo to accommodate the facility.

**4.2.4 Mr Cyril Edwards – Item 8.2.2 (Indoor Heated Aquatic Facility Feasibility Study)**

Mr Edwards spoke as the Vice President of the Denmark Aquatic Centre Community and a member of the Project Team and gave an overview of the project to date. Mr Edwards referred to the Department of Sport & Recreation's comment that the report was of high quality noting that it was not the view of the Project Team. The Project Team would rate the document as having achieved 'industry standard'. Mr Edwards stated that he believed Council and the Project Team had undertaken sufficient research to proceed to the next stage being the financial analysis. Mr Edwards urged Council to support the Officer's Recommendation.

**4.2.5 Ms Janice Marshall – Local Vegetation**

Ms Marshall stated that she had noticed that there were some ribbons around some trees at the top of Rockford Road and asked whether they were flagged to be removed or retained.

Ms Marshall said that she had noticed a number of plants which had been planted on Smith Street and asked whether it had been done as a requirement of the owners to revegetate the area that they cleared. Ms Marshall also asked whether the owners had prepared a weed management plan and whether it would be possible to get a copy of a list of species which are being planted.

*The Director of Planning & Sustainability responded stating that the trees that had been flag were identified as ones that require removal because of their alignment, dead branches etc...and that Council Officers were liaising with the owners as to where services were to be located, with the view of retaining as many trees as possible.*

*The Shire President stated that with respect to Smith Street, he believed the revegetation that had been done was on a part of Council's reserve and had been done by Council's Revegetation Officer. Cr Thornton added that the West Australian Planning Commission (WAPC) were taking the applicant to court, in conjunction with the Council, regarding the previous unauthorised clearing on their land. Cr Thornton noted that this was the first action of its kind by the WAPC.*

*The Director of Planning & Sustainability that Council was yet to receive a landscaping plan from the owner however it was a condition that this be done in liaison with Council, which would include a plant species list.*

*Cr Syme noted that a member of the public had raised concerns in relation to tree removal at Rockford Road at the Annual Electors Meeting held in January 2011. Cr Syme stated that he believed that Council Officers had agreed to follow up the matter and asked for this to be looked into.*

*The Chief Executive Officer agreed that he would investigate the matter.*

**4.2.6 Ms Janice Marshall – Item 8.2.2 (Indoor Heated Aquatic Facility Feasibility Study)**

Ms Marshall expressed her support for a local swimming as there were many residents travelling backwards and forwards from Albany to utilise their facility and by having a Aquatic Facility in Denmark this would in turn reduce carbon emissions.

**4.2.7 Ms Christine Randall – Item 8.2.2 (Indoor Heated Aquatic Facility Feasibility Study)**

Ms Randall spoke as the President of the Denmark Aquatic Centre Committee stating that Council was being asked to approve the Officer Recommendation which would enable the completion of the process. Ms Randall added that by completing the process it would provide Council and the Community the information to make an informed decision. Ms Randall urged Council to support the Officer’s Recommendation if only as a matter of showing respect for the work that had already been done.

**4.2.8 Mr Bart Lebbing – Draft Local Planning Strategy**

The Chief Executive Officer read out a letter which had been received from Mr Lebbing given that he was unable to attend the meeting.

Mr Lebbing raised concerns as to the community consultation process stating that he believed there were a number of people within the community who were unhappy with the way that the document appeared to be a final Strategy with no intention to review it even if there was public suggestions or concerns.

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

Nil

**4.4 PRESENTATIONS, DEPUTATIONS & PETITIONS**

Nil

**5. APPLICATIONS FOR LEAVE OF ABSENCE**

**5.1 Cr Laing**

<b>COUNCIL RESOLUTION &amp; OFFICER RECOMMENDATION</b>	<b>ITEM 5.1</b>
MOVED: CR HINDS	SECONDED: CR BARROW
<p>That Cr Laing be granted Leave of Absence for the Special Meeting of Council to be held on the 30 August 2011, the Ordinary Council Meetings to be held on the 20 &amp; 27 September 2011 and the Special Meeting of Council to be held on the 22 September 2011.</p>	
CARRIED: 11/0	Res: 060811

**6. CONFIRMATION OF MINUTES**

**6.1 ORDINARY COUNCIL MEETING**

<b>COUNCIL RESOLUTION &amp; OFFICER RECOMMENDATION</b>	<b>ITEM 6.1</b>
MOVED: CR WAKKA	SECONDED: CR PEDRO
<p>That the minutes of the Ordinary Meeting of Council held on the 16 August 2011 be confirmed as a true and correct record of the proceedings.</p>	
CARRIED: 11/0	Res: 070811

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

Nil

**8. REPORTS OF OFFICERS**

Councillors are encouraged to identify those Agenda Items from Item 8 (Officer Reports) through to and inclusive of Item 9 (Committee Recommendations) that they would like to discuss, debate, amend, ask questions in relation to or make comment on during that meeting.

ITEM NO.	HEADING	Declarations of Interest Yes / No	Absolute Majority Yes / No
8.1.1	PROPOSED AMENDMENT TO PLANNING APPROVAL – NO. 770 (PT LOT 2238) OCEAN BEACH ROAD, DENMARK	No	No
8.1.2	PROPOSED ADVERTISING SIGNS - NO. 66 (LOT 127) SOUTH COAST HIGHWAY, DENMARK	No	No
8.1.3	PROPOSED OUTBUILDING - NO. 3 (LOT 26) MALONEY CLOSE, DENMARK	No	No
8.1.4	REQUEST TO CONSTRUCT AN OUTBUILDING – SITE 135 FOURTH AVENUE, PEACEFUL BAY	No	No
8.1.5	MEMORANDUM OF UNDERSTANDING – RESERVE 23579 HAY RIVER	No	No
8.2.1	SPIRIT OF PLAY – RENT DEFERMENT REQUEST	No	No
8.2.2	INDOOR HEATED AQUATIC FACILITY FEASIBILITY STUDY	No	No
8.3.1	BLACKSPOT FUNDING 2011/2012	No	No
8.3.2	MEMORANDUM OF UNDERSTANDING – BIBBULMUN TRACK ON SHIRE TENURE	No	No
8.4.1	FINANCIAL STATEMENT FOR THE MONTH ENDING 31 JULY 2011	No	No
8.4.2	POLICY REVIEW – OCCUPATIONAL SAFETY & HEALTH POLICY (P140302)	No	No
8.5.1	POLICY REVIEW – ABORIGINAL RECONCILIATION (P110706)	No	No
8.5.2	DELEGATION D040114 – CITIZENSHIP CEREMONIES	No	No
9.1	SENIORS ADVISORY COMMITTEE – ANNUAL SENIORS LUNCHEON	No	No
9.2	DENMARK YOUTH ADVISORY COMMITTEE – 2011/2012 BUDGET REQUEST	No	No

If any of the above items are identified by Council they will be excluded from the following En-bloc recommendation.

<b>COUNCIL RESOLUTION &amp; OFFICER RECOMMENDATION</b>	<b>ITEM 8</b>
MOVED: CR SAMPSON	SECONDED: CR SYME
That the Officer Recommendations with respect to items 8.1.2, 8.1.3, 8.1.4, 8.3.1, 8.4.2, 8.5.2 & 9.1 be adopted en bloc.	
CARRIED BY AN ABSOLUTE MAJORITY BY EN BLOC RESOLUTION: 10/1	Res: 080811

**8.1 Director of Planning & Sustainability**

**8.1.1 PROPOSED AMENDMENT TO PLANNING APPROVAL – NO. 770 (PT LOT 2238) OCEAN BEACH ROAD, DENMARK**

<b>File Ref:</b>	A865
<b>Applicant / Proponent:</b>	Phobos Nominees Pty Ltd
<b>Subject Land / Locality:</b>	No. 770 (Pt Lot 2238) Ocean Beach Road, Denmark
<b>Disclosure of Officer Interest:</b>	Nil
<b>Date:</b>	1 August 2011
<b>Author:</b>	Duncan Ross, Senior Planning Officer
<b>Authorising Officer:</b>	Annette Harbron, Director of Planning & Sustainability
<b>Attachments:</b>	8.1.1 a) – Plans of Proposed Development 8.1.1 b) – Updated Fire Management Plan 8.1.1 c) – Current Planning Approval Conditions & Site Plan 8.1.1 d) – Cadastre Plan of Portion of Road Reserve & Associated Aerial Photo

**Summary:**

Phobos Nominees Pty Ltd are seeking an Amendment to the Planning Approval issued via the State Administrative Tribunal (SAT) process (as a result of mediation) for the Ocean Beach Caravan Park. The amendment relates to the location of the 40 permanent residential park homes – with the applicant’s now seeking Council’s consideration of the park homes to be located on the southern boundary of the park as opposed to the approved location being located between the existing short-stay development and the overflow area.

As a result of the amended location, the proponent is also seeking Council’s consideration to utilise the adjoining unmade gazetted road reserve to facilitate the Building Protection Zone (BPZ) and subsequently for emergency access purposes (including formalising an access from Ocean Beach Road via Reserve 20578).

The proposed location of the park homes on the southern boundary as opposed to being located between short-stay areas within the caravan park is a better outcome than what has been approved, therefore it is recommended that an Amended Planning Approval be granted subject to appropriate conditions, including the need to purchase portion of the adjoining unmade gazetted road reserve such that the required Building Protection Zone is located on-site.

**Background:**

Current Application

An application to Amend the Planning Approval dated 14 August 2009 was lodged with Planning Services in October 2010 (refer Attachment 8.1.1 a). It should be noted that the reason for the delay in progressing the application to date has been due to the requirement for the applicant to provide an updated site plan and Fire Management Plan associated with the proposal (refer Attachment 8.1.1 b) and having regard to the latest Planning for Bushfire Protection Guidelines (Edition 2).





It should be noted that the amendment proposal has come about as a result of a discussion between the proponents and Shire staff (Chief Executive Officer and Director of Planning & Sustainability) in 2010 raising concerns about the potential issues that may arise from the permanent residential park home development being located between short-stay development sites. From this discussion the proponents were encouraged to consider an alternative location for Council's consideration.

#### Current Planning Approval

Planning Approval for the 40 park homes was issued via the State Administrative Tribunal (SAT) process as a result of mediation (refer Attachment 8.1.1 c). It should be noted that Planning Services recently granted an extension of time, thus the Planning Approval is now valid until 14 August 2012.

#### **Comment:**

The proposal has been assessed having regard to the provisions of Town Planning Scheme No. 3 (TPS No. 3), Town Planning Scheme Policy No 3 – Minimum Setbacks (Policy 3), the *Caravan Parks & Camping Grounds Regulations 1997*, Planning for Bushfire Protection Guidelines (Edition 2), the Shire's Annual Fire Regulation Notice (AFRN) requirements and the current Planning Approval, and is generally compliant with the relevant requirements with the exception that the proposal would require the BPZ associated with the park homes to be located off-site owing to the fact that the park homes are proposed to be located only 12 metres from the side boundary (noting Policy 3 references a minimum 20 metre side setback) – which is not a position that Council has supported in the past for any development in the Shire (i.e. all BPZ's should be located on-site).

From a Planning Services perspective it is considered that the proposed amendment has merit, particularly from the perspective of re-locating the park homes for permanent residents to a more appropriate location on-site having regard to the location of short-stay sites.

Having a setback of 12 metres to the side property boundary however relies on part of the 20 metre BPZ being accommodated within the adjoining gazetted road reserve (i.e. off-site), which as referenced above is not a position that Council has supported in the past for any development in the Shire and it is considered appropriate not to allow this to occur in relation to this development.

Notwithstanding, the adjoining gazetted road reserve does not serve a great deal of purpose thus it is considered that consideration could be given to closing the portion of road reserve adjacent to No. 770 (Pt Lot 2238) Ocean Beach Road for purchase by the owners of the Caravan Park (refer Attachment 8.1.1 d), such that they can utilise the portion of land for the purposes of achieving the BPZ on-site and the provision of and subsequently for emergency access purposes back to Ocean Beach Road. As is evident from the aerial photo, the main access track through Reserve 20578 to Back Beach currently traverses portion of the road reserve, thus this would need to be realigned to the south slightly, at the applicant's expense, should Council support the proposed road closure and subsequent purchase by the owners of the Caravan Park. It should be noted that the prospect of using the gazetted road reserve associated with development on the Caravan Park site was first proposed some years ago however has not yet been formally considered by Council.

Given that a road closure process is lengthy and is essentially a process that is out of the control of the applicant –thereby restricting the ability for Council to require this as a condition of Planning Approval as such. Therefore it is recommended that should Council wish to support the proposed road closure in order to provide the opportunity for the BPZ to be established within the road reserve land, a legal agreement should be entered into with the owners of the No. 770 (Pt Lot 2238), at no

cost to the Shire, agreeing to the use of the subject land by the Caravan Park operators for the purposes of providing the BPZ associated with the park home development on-site and the subsequent provision of an emergency access through to Ocean Beach Road, with all costs associated with the construction/development and subsequent maintenance being met by the owners. Such a condition will allow the development proposal to proceed whilst the road closure process is progressing, and ensures that Council is not compromising its stated position that BPZ's associated with developments should be provided for on-site.

It should be noted that supporting the relocation of the park homes but not allowing utilisation of the adjoining gazetted road reserve will result in the fire hazard classification for the park home development being either BAL-40 or BAL-FZ (flame zone) – which are levels that are unlikely to be supported by the Shire's Building Surveyor or Planning Services. Therefore the consideration of the BPZ being contained within the adjoining gazetted road reserve needs to be considered in context with the proposed park home location, albeit Council could support the principle of relocating the park homes to the general vicinity proposed by the applicant, with modifications needing to be done to the final location to ensure the BPZ is wholly contained within the current confines of the property boundary.

### **Consultation:**

#### External Consultation

The proposal was referred to the Department of Regional Development and Lands who have advised that:

*"The affected Reserve 20578 is located within a public road corridor under the care, control and management of the Shire of Denmark. Accordingly the Department of Regional Development and Lands has no objections in principle as this matter is consistent with a public road corridor"*.

As such Council is authorised and has within its control the ability to determine any proposal that affects the adjoining reserve and unmade road reserve.

#### Internal Consultation

- Director of Infrastructure Services
- Community Emergency Services Manager
- Chief Executive Officer
- Planning Services

### **Statutory Obligations:**

Town Planning Scheme No. 3 and the *Caravan Parks & Camping Grounds Regulations 1997* specify the pertinent development requirements for the site.

Should the Council support the closure of portion of the gazetted road reserve, Section 58 of the *Land Administration Act 1997* is relevant.

### **Policy Implications:**

Town Planning Scheme Policy No 5 – Minimum Setbacks is relevant to this application. As per the policy provisions, a minimum side setback of 20 metres is required for 'Tourist' zoned properties. As per Clause 8.2.5 of TPS No. 3, a town planning scheme policy shall not bind the Council in respect of any application for planning consent but the Council shall take into account the provisions of the policy and the objectives which the policy was designed to achieve before making its decision.

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

There are no known financial implications upon the Council's current Budget or Plan for the Future, noting that all costs associated with the road closure process are to be borne by the proponent.

**Strategic Implications:**

The gazetted road reserve to the south of the Ocean Beach Caravan Park is unlikely to ever be constructed (both at the expense of the applicant) by the Shire in the future and has been determined to be of little strategic relevance to the local road & fire network.

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

Fuel reduction measures will need to be carried out and an emergency access road constructed within the road reserve which will result in minor impacts on the existing vegetation.

Given the location of the Caravan Park is approximately 1.2km from the proposed Denmark Wind Energy Facility (WEF) site the residents may be affected by turbine noise or other operational impacts generated by the WEF, thus it is appropriate a condition be imposed on the Planning Approval requiring advice of such accordingly.

**➤ Economic:**

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

**➤ Social:**

The proposed location of the park homes will provide a better amenity for the permanent residents as opposed to being located between the existing short-stay development on-site and the associated overflow area.

**Voting Requirements:**

Simple majority.

At the meeting held on the 16 August 2011:

- Cr Syme referred to the term “permanent park home” and requested clarification of the term for next week’s meeting;
- Cr Syme asked for clarification on the extent of remnant vegetation that would be retained with the proposed amended location and also clarity as to which portion of the road reserve was proposed to be closed; and
- Cr Richardson-Newton asked whether that Condition 20 could be amended to state that the Wind Energy Facility would be 1.2km away rather than stating ‘in the vicinity’.

The Director of Planning & Sustainability provides the following information in response to the above;

- The report has been amended to, where required, reflect permanent residential;
- Following review of the extent of vegetation to be removed with the proposed location it is evident that the vegetation loss is generally on par thus the sentence relating to this issue has been removed from the Report; and
- An amended Officer Recommendation has been provided to reflect Cr Richardson-Newton’s request.

4.51pm – Cr Laing left the meeting.

4.53pm – Cr Laing returned to the meeting.

**OFFICER RECOMMENDATION**

ITEM 8.1.1 a)

That with respect to the request to utilise the gazetted road reserve to accommodate the Building Protection Zone and subsequently for emergency access purposes associated with the Ocean Beach Caravan Park at No. 770 (pt Lot 2238) Ocean Beach Road, Denmark, Council resolve to:

1. Support the closure and amalgamation of portion of the unmade road reserve south of No. 770 (Pt Lot 2238) Ocean Beach Road; and
2. Commence advertising of the proposed road closure in accordance with Section 58 of the Land Administration Act 1997.

<b>COUNCIL RESOLUTION</b>	ITEM 8.1.1 a)
MOVED: CR SYME	SECONDED: CR SAMPSON
<p>That with respect to the request to utilise the gazetted road reserve to accommodate the Building Protection Zone and subsequently for emergency access purposes associated with the Ocean Beach Caravan Park at No. 770 (pt Lot 2238) Ocean Beach Road, Denmark, Council resolve to not support the closure and amalgamation of portion of the unmade road reserve south of No. 770 (Pt Lot 2238) Ocean Beach Road.</p>	
CARRIED: 9/2	Res: 090811

**FORMER OFFICER RECOMMENDATION** ITEM 8.1.1 b)

That with respect to the development application for Proposed Amendments to the Planning Approval for 40 Park Homes at No. 770 (Pt Lot 2238) Ocean Beach Road, Denmark (SAT Ref: DR 430/2008), Council resolve to grant Amended Planning Approval subject to the following modifications to the current conditions and/or new conditions:

1. Modify Condition 1 to now read: The development being in accordance with the attached stamped approved Proposed Development Plan (Amended Drawing dated 21-03-11) and associated Park Home plans.
2. Modify Condition 4 to now read: The park homes to be located a minimum of 12m from the side lot boundary (being the boundary in place prior to any purchase/usage of the adjoining gazetted road reserve).
3. Modify Condition 13 to now read: The roads accessing the park home sites to be designed, located and constructed to a sealed standard to the specifications of the Shire of Denmark.
4. Modify Condition 15 to now read: The following Fire Protection Measures being undertaken to the satisfaction of the Community Fire Manager:
  - a. Implementation of the recommendations contained in the Fire Protection Plan (July 2011) pertaining to the proposal;
  - b. Park homes being constructed to achieve a rating of BAL-19 as required by AS-3959 'Construction of Buildings in Bushfire Prone Areas' (NB: this requires a 29m building protection zone);
  - c. Provision of fire hydrants and hose reels in accordance with Fire and Emergency Services Authority of WA standards;
  - d. Provision of adequate access/egress to the site and buildings suitable for use by a heavy duty fire appliance.
5. Modify Condition 18 to read: This approval expires on the 14 August 2012.
6. A new Condition 19 to read: Prior to the issuance of a Park Homes approval under the Caravan Parks and Camping Grounds Regulations 1997, the landowner of No. 770 (Pt Lot 2238) Ocean Beach Road, Denmark shall enter into a Legal Agreement (prepared and executed at the cost of the applicant/landowner) with the Shire of Denmark, which allows for the development, usage and subsequent maintenance of the associated road reserve by the Caravan Park operators for the purpose of providing the required Building Protection Zone and emergency access through to Ocean Beach Road (with all construction, usage and maintenance costs being at the landowner's expense). Such legal agreement is to be registered on the relevant Certificate of Title as an encumbrance and shall remain in place until such time as the subject road reserve is able to be purchased by the landowners of No. 770 (Pt Lot 2238) Ocean Beach Road, Denmark.

The applicant/landowner is advised that the Shire of Denmark's solicitors may

be required to check any legal agreement prepared, at the applicant/landowner's cost. Alternatively the application may authorise the Shire of Denmark to instruct its solicitors (at the applicant/landowner's cost) to prepare the required legal agreement.

7. A new Condition 20 to read: The developer making arrangements to the satisfaction of the Shire of Denmark ensuring prospective leaseholders/purchasers of the proposed Park Homes are advised in writing of the existence of the proposed location and operational effects of the proposed Denmark Wind Energy Facility. The advice is to state:  
"This lot is situated in the vicinity of the proposed Denmark Wind Energy Facility (WEF), and may be affected in the future by turbine noise or other operational impacts generated by the WEF".
8. A new Condition 21 to read: The proponent constructing a re-aligned access track (around the portion of the road reserve proposed to be closed), to the satisfaction of the Director of Infrastructure Services, within Reserve 20578 to ensure on-going and unimpeded access to Back Beach.

#### OFFICER RECOMMENDATION

#### ITEM 8.1.1 b)

That with respect to the development application for Proposed Amendments to the Planning Approval for 40 Permanent Residential Park Homes at No. 770 (Pt Lot 2238) Ocean Beach Road, Denmark (SAT Ref: DR 430/2008), Council resolve to grant amended Planning Approval subject to the following modifications to the current conditions and/or new conditions:

1. Modify Condition 1 to now read: The development being in accordance with the attached stamped approved Proposed Development Plan (Amended Drawing dated 21-03-11) and associated Park Home plans.
2. Modify Condition 4 to now read: The park homes to be located a minimum of 12m from the side lot boundary (being the boundary in place prior to any purchase/usage of the adjoining gazetted road reserve).
3. Modify Condition 13 to now read: The roads accessing the park home sites to be designed, located and constructed to a sealed standard to the specifications of the Shire of Denmark.
4. Modify Condition 15 to now read: The following Fire Protection Measures being undertaken to the satisfaction of the Community Fire Manager:
  - a. Implementation of the recommendations contained in the Fire Protection Plan (July 2011) pertaining to the proposal;
  - b. Park homes being constructed to achieve a rating of BAL-19 as required by AS-3959 'Construction of Buildings in Bushfire Prone Areas' (NB: this requires a 29m building protection zone);
  - c. Provision of fire hydrants and hose reels in accordance with Fire and Emergency Services Authority of WA standards;
  - d. Provision of adequate access/egress to the site and buildings suitable for use by a heavy duty fire appliance.
5. Modify Condition 18 to read: This approval expires on the 14 August 2012.
6. A new Condition 19 to read: Prior to the issuance of a Park Homes approval under the Caravan Parks and Camping Grounds Regulations 1997, the landowner of No. 770 (Pt Lot 2238) Ocean Beach Road, Denmark shall enter into a Legal Agreement (prepared and executed at the cost of the applicant/landowner) with the Shire of Denmark, which allows for the development, usage and subsequent maintenance of the associated road reserve by the Caravan Park operators for the purpose of providing the required Building Protection Zone and emergency access through to Ocean Beach Road (with all construction, usage and maintenance costs being at the landowner's expense). Such legal agreement is to be registered on the relevant Certificate of Title as an encumbrance and shall remain in place until such time as the subject road reserve is able to be purchased by the landowners of No. 770 (Pt Lot 2238) Ocean Beach Road, Denmark.

The applicant/landowner is advised that the Shire of Denmark's solicitors may be required to check any legal agreement prepared, at the applicant/landowner's cost. Alternatively the application may authorise the Shire of Denmark to instruct its solicitors (at the applicant/landowner's cost) to prepare the required legal agreement.

7. A new Condition 20 to read: The developer making arrangements to the satisfaction of the Shire of Denmark ensuring prospective leaseholders/purchasers of the proposed Park Homes are advised in writing of the existence of the proposed location and operational effects of the proposed Denmark Wind Energy Facility. The advice is to state:  
"This site is located approximately 1.2 kilometres from the proposed Denmark Wind Energy Facility (WEF), and may be affected in the future by turbine noise or other operational impacts generated by the WEF".
8. A new Condition 21 to read: The proponent constructing a re-aligned access track (around the portion of the road reserve proposed to be closed), to the satisfaction of the Director of Infrastructure Services, within Reserve 20578 to ensure on-going and unimpeded access to Back Beach.

**COUNCIL RESOLUTION**

ITEM 8.1.1 b)

MOVED: CR BARNES

SECONDED: CR RICHARDSON-NEWTON

That with respect to the development application for Proposed Amendments to the Planning Approval for 40 Permanent Residential Park Homes at No. 770 (Pt Lot 2238) Ocean Beach Road, Denmark (SAT Ref: DR 430/2008), Council resolve to grant amended Planning Approval subject to the following modifications to the current conditions and/or new conditions:

1. Modify Condition 1 to now read: The development being in accordance with the attached stamped approved Proposed Development Plan (Amended Drawing reference T & P 107-07 Revision 6) and associated Park Home plans.
2. Modify Condition 4 to now read: The park homes to be located a minimum of 12m from the side lot boundary.
3. Modify Condition 13 to now read: The roads accessing the park home sites to be designed, located and constructed to a sealed standard to the specifications of the Shire of Denmark.
4. Modify Condition 15 to now read: The following Fire Protection Measures being undertaken to the satisfaction of the Community Fire Manager:
  - a. Implementation of the recommendations contained in the Fire Protection Plan (July 2011) pertaining to the proposal;
  - b. Park homes being constructed to achieve a rating of BAL-19 as required by AS-3959 'Construction of Buildings in Bushfire Prone Areas' (NB: this requires a 29m building protection zone);
  - c. Provision of fire hydrants and hose reels in accordance with Fire and Emergency Services Authority of WA standards;
  - d. Provision of adequate access/egress to the site and buildings suitable for use by a heavy duty fire appliance.
5. Modify Condition 18 to read: This approval expires on the 14 August 2012.
6. A new Condition 19 to read: The proponent constructing the strategic fire break access road within the road reserve adjoining the southern boundary of the site to the satisfaction of the Council's Community Emergency Fire Manager.
7. A new Condition 20 to read: The developer making arrangements to the satisfaction of the Shire of Denmark ensuring prospective leaseholders/purchasers of the proposed Park Homes are advised in writing of the existence of the proposed location and operational effects of the proposed Denmark Wind Energy Facility. The advice is to state:  
 "This site is located approximately 1.2 kilometres from the proposed Denmark Wind Energy Facility (WEF), and may be affected in the future by turbine noise or other operational impacts generated by the WEF".

**AMENDMENT**

MOVED: CR SYME

SECONDED: CR LAING

That the words "and connecting to Ocean Beach Road wholly contained within the existing Road Reserve" be added after the word "site" in Part 6.

LOST: 3/8

Res: 100811

THE ORIGINAL MOTION WAS THEN PUT & CARRIED: 11/0

Res: 110811

**REASONS FOR CHANGE**

Given the outcome of Resolution 090811, Council removed references to the road closure and amalgamation of portion of the unmade road reserve.

### 8.1.2 PROPOSED ADVERTISING SIGNS - NO. 66 (LOT 127) SOUTH COAST HIGHWAY, DENMARK

<b>File Ref:</b>	A2025 (2011/104)
<b>Applicant / Proponent:</b>	J Glynn
<b>Subject Land / Locality:</b>	No. 66 (Lot 127) South Coast Highway, Denmark
<b>Disclosure of Officer Interest:</b>	Nil
<b>Date:</b>	1 August 2011
<b>Author:</b>	Duncan Ross, Senior Planning Officer
<b>Authorising Officer:</b>	Annette Harbron, Director of Planning & Sustainability
<b>Attachments:</b>	8.1.2 – Planning Consent Application incorporating a Total Site Signage Plan.

#### Summary:

J Glynn is seeking Planning Approval to a Total Site Signage Plan (TSSP) associated with the approved commercial development on No. 66 (Lot 127) South Coast Highway, Denmark.

The TSSP has been lodged as per the provisions of Town Planning Scheme Policy No 32 – Signs (Policy 32) on the basis that the signage proposed for the site incorporates a proposed pylon sign that does not comply with the standards referenced in Policy 32.

Notwithstanding that the proposal does not comply with the provisions of Policy 32, the TSSP for the site is considered appropriate thus 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 June 2011 for the erection of four (4) advertising signs at No. 66 (Lot 127) South Coast Highway, Denmark (refer Attachment 8.1.2).

##### Approved Development

Planning Approval 2010/33 was granted on 21 April 2010 for Consulting Rooms/Office & Dwelling on the subject site, noting that signage was not approved as part of the application. This approval provided for two offices and a clinic room.

#### Comment:

The proposal has been assessed having regard to the provisions of Town Planning Scheme No. 3 (TPS No. 3) and Policy 32 and complies with the exception of the following provisions:

- Pylon sign does not have a 2.4m minimum clearance from ground level – proposal is for 500mm clearance;
- Pylon sign is greater than 2m<sup>2</sup> in area – proposal is for 3.75m<sup>2</sup>.

From a Planning Services perspective it is considered that the proposal has some merit having regard to the nature of the businesses on-site and the proposed location of the sign being located over 8.0 metres from the edge of seal of South Coast Highway (noting Main Roads WA have previously provided comments that signs should be at least 4.5 metres from the edge of seal). Notwithstanding, it is considered that on the basis the pylon sign is proposed in addition to the three (3) wall signs on the building, it is appropriate that the actual size of the pylon sign be decreased in size such that it complies with the requirement of 2m<sup>2</sup>.

#### Consultation:

The application was referred to Main Roads WA for comment. No comment was received therefore it can be considered they had no objection to the proposal.



**Statutory Obligations:**

Town Planning Scheme No. 3 and related policies specify the pertinent development requirements for the site. Clause 8.2.5 of the TPS No. 3 states:

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

**Policy Implications:**

Town Planning Scheme Policy No. 32 – Signs is relevant to this application, noting that the policy references:

*“The Council may vary a standard or provision subject to conditions it thinks fit. However, all applications for variations must include justification for the variation and in most cases that will involve the submission of a Total Site Signage Plan”.*

**Budget / Financial Implications:**

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

**Strategic Implications:**

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

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

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

➤ **Economic:**

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

➤ **Social:**

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

**Voting Requirements:**

Simple majority.

<b>COUNCIL RESOLUTION &amp; OFFICER RECOMMENDATION</b>	<b>ITEM 8.1.2</b>
<p>That with respect to the development application for the Proposed Advertising Signs at No. 66 (Lot 127) South Coast Highway, Denmark, Council resolve to grant Planning Approval subject to the following conditions:</p> <ol style="list-style-type: none"> <li>1. The signs being erected and displayed as shown on the attached stamped approved plans dated 13 June 2011, subject to the following modification:               <ol style="list-style-type: none"> <li>a) The area of the pylon sign being reduced in size to 2m<sup>2</sup>. Details of the modified sign dimensions as a result should be submitted for the written approval of the Director of Planning &amp; Sustainability prior to the issuance of a Building Licence for the pylon sign (refer Advice Note i).</li> </ol> </li> <li>2. The pylon sign shall only be used to display the business name(s) of the commercial tenancies on-site at any one time (i.e. cannot be used for advertising of specials, promotions, offers etc).</li> <li>3. Signs shall be kept clean and maintained free of dilapidation at all times to the satisfaction of the Shire of Denmark (Planning Services).</li> <li>4. No additional signage will be approved on-site.</li> </ol> <p>Advice Notes:</p> <ol style="list-style-type: none"> <li>i) A building licence is required to be obtained from the Shire of Denmark (Building Services) for the pylon sign.</li> </ol> <p>CARRIED BY EN BLOC RESOLUTION No. 080811</p>	

**8.1.3 PROPOSED OUTBUILDING - NO. 3 (LOT 26) MALONEY CLOSE, DENMARK**

<b>File Ref:</b>	A3273 (2011/115)
<b>Applicant / Proponent:</b>	J Underwood
<b>Subject Land / Locality:</b>	No. 3 (Lot 26) Maloney Close, Denmark
<b>Disclosure of Officer Interest:</b>	Nil
<b>Date:</b>	19 July 2011
<b>Author:</b>	Duncan Ross, Senior Planning Officer
<b>Authorising Officer:</b>	Annette Harbron, Director of Planning & Sustainability
<b>Attachments:</b>	8.1.3 – Plans of Proposed Development

**Summary:**

J Underwood is seeking Planning Approval to construct an outbuilding (58.6m<sup>2</sup>) on No. 3 (Lot 26) Maloney Close, Denmark.

The subject site is currently vacant and no house plans have been submitted to date for planning assessment, thus as per the provisions of Town Planning Scheme Policy No 13.3 – Outbuildings (Policy 13.3) and Shire of Denmark's Delegation D100601: *Implementation of Town Planning Scheme*, outbuildings on vacant Residential zoned lots require Council approval.

Having regard to the objectives, intent and provisions of Policy 13.3, it is recommended that the Planning Application be refused.

**Background:**

An application for Planning Approval was lodged with Planning Services in July 2011 for an outbuilding on No. 3 (Lot 26) Maloney Close, Denmark (refer Attachment 8.1.3).

Accompanying the application was the following written statement:

*"We the undersigned state that we intend to submit plans for the main dwelling (house) within 12 months of this submission.*

*We state that is shed (outbuilding) is required for the sole purpose of storing tools and materials required for the building of the house, and we do not intend to live in it during the construction of the house".*

**Comment:**

The proposal has been assessed having regard to the provisions of the Residential Design Codes of Western Australia (R-Codes) and Policy 13.3, and generally complies with the exception of the following provisions:

- Element 6.10 of the R-Codes: an outbuilding is considered to be incidental development to the domestic enjoyment of a dwelling on-site; and
- Clauses 8 and 9 of Policy 13.3, being:
  8. *No outbuildings are permitted to be constructed upon vacant Residential, Special Residential, Landscape Protection or Special Rural zoned lots without Council approval.*
  9. *Outbuildings proposed for vacant Residential, Special Residential, Landscape Protection or Special Rural lots in accordance with (8) require Council approval and proposals will generally not be supported unless all relevant approvals for a Single House (Class 1A dwelling) have been obtained. Council in its consideration may seek the views of adjoining property owners.*

It should be noted that Planning Services have been in recent discussions with the applicant/owners, providing information on house building requirements to assist with house design and construction, however the applicant/owners have not provided an indication of a timeframe to lodge a Planning Application for the dwelling.

In considering this proposal, Planning Services undertook to review a number of other local government authorities policies in relation to this issue, particularly to determine at what approval process they allow such proposals as there is no clear direction in Policy 13.3. That is does the reference to relevant approvals mean Planning Approval and Building Licence or just Planning Approval (noting Planning Services has interpreted the policy provision as being Planning Approval only)? From such review the following provisions are relevant for Council's information at this stage and for future consideration when reviewing Policy 13.3 (NB: the Policy is currently being reviewed by Planning Services for referral to Council in due course):

- *The residence has been completed up to, and including, the pouring of a concrete house slab (although variation to this is permitted where the slabs for the residence and outbuilding are poured concurrently); or*
- *The applicant has a building licence for a residence issued by the local government and provided written evidence of a signed building contract with a registered builder for the construction of that residence upon that lot and a commitment date that is within 6 months by that builder for the commencement of construction of the residence; or*
- *In the case of an owner builder, a building licence for a residence has been issued by the local government and the applicant shall lodge with the local government a Stat Dec providing a commitment to construct a residence and an accompanying commencement date that is within 6 months. The applicant will also be required to lodge a bond amount equivalent to 10% of the estimated value of the outbuilding (min amount of \$1000) that will be repaid to the applicant upon completion of the final inspection of the residence.*

Overall from a Planning Services perspective it is considered that notwithstanding the applicant's desire to store furniture, tools and building materials whilst the dwelling is being constructed and their written statement that they intend to submit plans for the dwelling within 12 months, granting approval to this proposal for an outbuilding on a vacant Residential lot is not a desirable outcome for the following reasons:

- The outbuilding may be the only form of development on-site for a considerable period of time, noting the property is in an established residential area;
- The precedent that approval to this proposal may set; and
- The compliance/follow-up processes required to ensure that house plans are submitted within the intended timeframe.

Although Planning Services acknowledge the reasons for the outbuilding as provided by the applicant are acknowledged, the following is relevant:

- A temporary builder's storage shed is able to be provided on-site during the construction of a dwelling as per the Building Regulations; and there are several storage options for the non-building material available within Denmark that can be utilised by the applicant/owners if required;

Therefore it is recommended that the Planning Application is refused and the applicant advised that until such time as a Planning Approval for a dwelling has been obtained, approval to the outbuilding will not be granted.

Should Council consider this proposal is acceptable and are considering granting Planning Approval, it is recommended the following conditions are imposed:

1. This approval is for the outbuilding as shown on the attached stamped plans and where marked in red dated 4 July 2011.
2. The building to be clad with 'dark grey' colorbond metal sheeting for the walls and roof.
3. The outbuilding shall be not be used for human habitation, commercial or industrial uses.
4. The vehicle crossover and driveway onto Maloney Close to be designed, drained and constructed to a sealed standard to the satisfaction of the Director of Infrastructure Services.
5. The land being filled and/or drained at the proponents cost to the specification and satisfaction of the Shire's Director of Infrastructure Services and all runoff from impervious surfaces are to be contained on site in soak wells (or similar) to the satisfaction of the Shire's Director of Infrastructure Services.
6. Written confirmation by completion of a statutory declaration that the landowners will submit plans for a Class 1A dwelling within 12 months of the date of this approval, with a commitment for construction of the dwelling to commence within 24 months of the completion of the outbuilding.

**Consultation:**

Discussions have been undertaken with the applicant regarding the proposal.

Planning Services have also reviewed a number of other local government's planning policies on outbuildings on vacant residential lots.

**Statutory Obligations:**

Town Planning Scheme No. 3 (TPS No. 3) and related policies specify the pertinent development requirements for the site. Clause 8.2.5 of the TPS No. 3 states:

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

As per current Delegation D100601: Implementation of Town Planning Scheme, the Chief Executive Officer and/or Director of Planning & Sustainability have the delegation to determine proposals for outbuildings on vacant Residential, Special Residential, Landscape Protection and Special Rural zoned lots where in accordance with the requirements of Town Planning Scheme Policy No. 13.3: Outbuildings.

Therefore this application could have been refused under delegated authority (but not approved) as it does not comply with all Policy 13.3 provisions however it was considered appropriate to refer the proposal to Council for consideration given that Planning Services are currently undertaking a review of Policy 13.3, along with a number of other Town Planning Scheme Policies.

It should be noted that from a review of records it is apparent that Planning Services has previously approved outbuildings on vacant lots (mainly Special Residential or Special Rural lots) where Planning Services are satisfied that the applicants are committed to building a dwelling on site in the near future, with conditions being imposed on the approval that applications need to be lodged within 12 months of the outbuilding approval and construction commences on the dwelling within 24 months of the outbuilding approval. These approvals have been issued under incorrect application of the delegation.

**Policy Implications:**

Town Planning Scheme Policy No. 13.3 – Outbuildings is relevant to this application. As per the policy provisions, outbuildings on vacant residential lots are generally not supported as this may lead to unintended outcomes, notably that the lot remains vacant for a prolonged period of time.

Town Planning Scheme Policy No. 2.5 – Residential Areas is also relevant to the application and the proposal is generally consistent with this policy.

**Budget / Financial Implications:**

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

**Strategic Implications:**

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

**Sustainability Implications:**

➤ **Environmental:**

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

➤ **Economic:**

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

➤ **Social:**

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

**Voting Requirements:**

Simple majority.

<b>COUNCIL RESOLUTION &amp; OFFICER RECOMMENDATION</b>	<b>ITEM 8.1.3</b>
<p>That with respect to the development application for the proposed Outbuilding at No. 3 (Lot 26) Maloney Close, Denmark, Council resolve to refuse Planning Approval for the following reasons:</p> <ol style="list-style-type: none"> <li>1. As per the Residential Design Codes of Western Australia (November 2010), an outbuilding is considered to be an incidental form of development to the domestic enjoyment of a dwelling on-site, and in this instance there is no dwelling on-site nor has the Shire of Denmark issued Planning Approval for a dwelling on the subject site;</li> <li>2. Approval to the proposed outbuilding without any form of residential development existing on-site or having been approved for the site will adversely impact on the amenity of the surrounding established residential area; and</li> <li>3. The proposed outbuilding is inconsistent with the principles of orderly and proper planning.</li> </ol> <p>CARRIED BY EN BLOC RESOLUTION No. 080811</p>	

<b>8.1.4 REQUEST TO CONSTRUCT AN OUTBUILDING – SITE 135 FOURTH AVENUE, PEACEFUL BAY</b>
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<b>File Ref:</b>	A1942
<b>Applicant / Proponent:</b>	MC & BL Mauger
<b>Subject Land / Locality:</b>	Site 135 Fourth Ave, Peaceful Bay
<b>Disclosure of Officer Interest:</b>	Nil
<b>Date:</b>	2 August 2011
<b>Author:</b>	Duncan Ross, Senior Planning Officer
<b>Authorising Officer:</b>	Annette Harbron, Director of Planning & Sustainability
<b>Attachments:</b>	8.1.4 a) – Plans of Proposed Development 8.1.4 b) – Photos of the Site

**Summary:**

The lessees of Site 135 Fourth Avenue, Peaceful Bay are seeking Council support to construct an outbuilding (boat and tractor shed) measuring 3.6m in width by 14.8m in length (53.28m<sup>2</sup>) with a height of 4.0m adjacent to the existing 'holiday cottage' on-site. As per the provisions of the lease and Shire of Denmark's Delegation *D130311: Building Structures on Council Land*, owner approval of the proposed development is required to be obtained prior to formal assessment of a Planning Application.

Having regard to the lease provisions, the Peaceful Bay Heritage Precinct Conservation Plan and Town Planning Scheme Policy No. 35 – Peaceful Bay Conservation Plan Development Guidelines it is recommended that Council not support the proposal.

**Background:**

The proponents have submitted a written request to Council as per Clause 6.01 of the Lease for the site seeking approval to construct a 53.28m<sup>2</sup> outbuilding (boat and tractor shed) measuring 3.6m wide, 14.8m long and 4.0m high, with a setback of 4.5 metres from the front boundary – refer Attachment 8.1.x a).

Lessee's Request & Justification

The lessee's reasons and justification for the shed generally relate to the existing boat and tractor currently parked on the lot weathering in the elements. A site inspection confirms the boat is currently covered by a large tarpaulin. The shed will allow both the tractor and the boat to be covered and secured, as the leaseholders also verbally indicated that they have had instances where children have been climbing/playing on the tractor.

**Comment:**

As per the provisions of the lease pertaining to the site and the Shire of Denmark's Procedure Delegation *D130311: Building Structures on Council Land*, owner approval of the proposed development is required to be obtained prior to formal assessment of a Planning Application. As per Delegation 130311, the Chief Executive Officer has the delegation to give owner approval to the proposal as a shed is considered a 'minor development application', however given the nature of this proposal it was determined that the proposal should be referred to Council for their due consideration in its capacity/role as the landowner in the first instance.

Should Council give owner approval to the proposal, the lessee is able to lodge a planning application and the formal planning assessment process can commence (i.e. full assessment against the relevant Town Planning Scheme and policy provisions that pertain to the proposal, including advertising and internal/external referrals) such that a determination on the planning application can be made (which the applicant will then have appeal rights). Should Council not consent to giving owner approval to the proposal, the applicant does not have any appeal rights to the

process from a planning perspective. It should be noted however that there are arbitration provisions contained within the release relating to any disputes arising out of or in connection with the Lease.

### Heritage Considerations

The Peaceful Bay Heritage Precinct pertains to the original leasehold subdivision of the settlement in Peaceful Bay – comprised of 163 houses constructed along First, Second, Third and Fourth Avenues. The Peaceful Bay Heritage Precinct is classified in Town Planning Scheme No. 3 (TPS No. 3) as a “Place of Heritage Value”. Strategic and policy documents that relate to the Peaceful Bay Heritage Precinct are the:

- Peaceful Bay Heritage Precinct Conservation Plan (PBHPCP); and
- 2011 Municipal Heritage Inventory
- Town Planning Scheme Policy No. 35 – Peaceful Bay Conservation Plan and Development Guidelines (Policy 35).

Site 135 Fourth Avenue is located within the Peaceful Bay Heritage Precinct, thus the following provisions are relevant for consideration of this proposal:

- The PBHPCP states that within a state context the entire Peaceful Bay Heritage Precinct is considered to be a zone of considerable significance. This category warrants inclusion on any register of heritage places with conservation highly recommended. As a result, the Peaceful Bay Heritage Precinct has been the subject of the Heritage Council of Western Australia’s consideration for State listing since 2004.
- In the 2011 Municipal Heritage Inventory, the Peaceful Bay Heritage Precinct level of significance has been recommended as ‘Exceptional’ – that is:
  - Essential to the heritage of the locality.
  - Rare or outstanding example.
  - The place should be retained and conserved unless there is not 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.
- Clause 5.1 *Garages and Sheds* of Policy 35 states “There should be no large garages and sheds at the front of the lots. Any existing garages and sheds at the front of the lots should be relocated when the opportunity arises”.

This proposal is for an outbuilding (boat and tractor shed) to be located on the same front boundary alignment as the existing ‘holiday cottage’ on-site – being 4.5 metres from the front boundary. Although the outbuilding does not obscure the front facade of the existing ‘holiday cottage’, the bulk and scale of the proposed outbuildings impacts on the heritage value of the house and the associated streetscape, particularly having regard to:

- The width of the existing ‘holiday cottage’ currently accounts for 51% of the frontage of the property; the proposed outbuilding and existing ‘holiday cottage’ accounts for 80% of the frontage – noting that Clause 7.1 of Policy 35 references that an important element in the streetscape is the small plot ratio of most of the buildings which leaves plenty of space between buildings;
- The adjoining ‘holiday cottage’ is setback further than the proposed outbuilding and that the proposed outbuilding will affect the street outlook from the adjoining ‘holiday cottage’ (refer Attachment 8.1.4 b);

- Clause 4.5.10 *Size of Buildings* of Policy 35 states “Limit the sizes of the outbuildings to 0.2 of the lots.

The proposed outbuilding has a floor area of 53.28m<sup>2</sup>, thus combined with the existing outbuildings on-site (excluding the woodshed & toilet) the total outbuilding floor area on-site is approximately 98.3m<sup>2</sup> – noting that the policy provision allows for 91.2m<sup>2</sup> of outbuildings.

Although the non-compliance in size of outbuildings is relatively minor, it should be noted that there is no record of approval for one of the existing outbuildings on-site. From discussions with the existing lessees, they advised the outbuilding was constructed by the previous lessees.

- Clause 4.5.4 *Intrusive Elements* of Policy 35 states “Elements that are considered intrusive should be removed or replaced when the opportunity arises. These include cement board cladding e.g. hardiplank, colorbonded corrugated steel wall cladding and colorbonded roof sheeting”.

The proposal is for a ‘painted tin’ to be used as the wall and roof cladding for the outbuilding. This does not comply with policy provisions, and should Council wish to support the proposed outbuilding it would be strongly recommended that the wall cladding material on the front elevation at least be modified.

### Conclusion

Having regard to the issues referenced above and the precedence that this type of proposal could set for the Peaceful Bay settlement, it is recommended that Council not support the proposal to construct an outbuilding (boat and tractor shed) measuring 3.6m in width by 14.8m in length (53.28m<sup>2</sup>) with a height of 4.0m adjacent to the existing ‘holiday cottage’ on-site.

Acknowledging the lessee’s desire for an outbuilding to accommodate the boat and tractor that is on-site, it is recommended that Council advise the lessee that consideration should be given to re-locating the proposed outbuilding to the rear of the property such that it is more consistent with the aims and objectives of Policy 35. In this regard it is acknowledged that this will result in the need to demolish the existing outbuildings on-site and may require modifications to the existing effluent disposal system on-site to accommodate the necessary setbacks to buildings, however it is considered this is a better development outcome than what is currently proposed.

### **Consultation:**

#### External Consultation

No external consultation has occurred at this point. Should Council give owner approval to the proposal to enable a formal planning application to be lodged with Planning Services, a formal assessment of the proposal having regard to the relevant provisions of TPS No. 3 and Town Planning Scheme Policy No. 35 – Peaceful Bay Conservation Plan Development Guidelines will need to be undertaken, including public advertising as per Clause 7.3 of TPS No. 3.

#### Internal Consultation

- Chief Executive Officer
- Planning Services
- Building Services



**Statutory Obligations:**

The lease between the Shire of Denmark (lessor) and MC, BL, SB, NM, CJ & SM Mauger (lessee) commenced on 1 July 2010 for a period of 21 years. Clause 6.01 of the Lease for the site states:

*“the Lessee shall not make or cause to be made any structural or other alteration or addition to the Demised Premises without first submitting to the Lessor full detailed drawings and specifications of the proposed works and first obtaining the Lessor’s consent in writing”.*

Council is considering this proposal in its capacity/role as the landowner initially and this will determine whether a Planning Application can be lodged for formal consideration. Should Council consent to the proposal as the landowner, it should be noted that Council as the decision making authority could still refuse the Planning Application noting however that the applicant then has appeal rights as per the provisions of the *Planning and Development Act 2005*.

**Policy Implications:**

Town Planning Scheme Policy No. 35 – Peaceful Bay Conservation Plan Development Guidelines applies to the development proposal for Site 135 Fourth Avenue. A Town Planning Scheme Policy does not bind the Council in respect of any application, but the Council shall take into account the provisions of the policy and the objectives which the policy was designed to achieve before making its decision.

Should Council resolve to consent to the lodgement of the Planning Application as the landowner, a formal assessment of the proposal having regard to the relevant provisions of TPS No. 3 and Town Planning Scheme Policy No. 35 – Peaceful Bay Conservation Plan Development Guidelines will need to be undertaken, including public advertising as per Clause 7.3 of TPS No. 3.

**Budget / Financial Implications:**

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

**Strategic Implications:**

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

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

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

**➤ Economic:**

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

**➤ Social:**

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

**Voting Requirements:**

Simple majority.

**COUNCIL RESOLUTION & OFFICER RECOMMENDATION**

ITEM 8.1.4

That Council with respect to the proposal for an Outbuilding (Boat & Tractor Shed) on Site 135 Fourth Avenue, Peaceful Bay advise MC & BL Mauger that:

1. Consent in line with Clause 6.01 of the Lease between the Shire of Denmark and MC, BL, SB, NM, CJ & SM Mauger to the proposal is not forthcoming on the basis that it does not comply with the provisions of Town Planning Scheme No. 35 – Peaceful Bay Conservation Plan Development Guidelines; and
2. Consideration should be given to an amended proposal to locate the outbuilding (boat & tractor shed) at the rear of the property, and that should such an application be lodged that Council would grant consent to the proposal in line with Clause 6.01 of the Lease between the Shire of Denmark and MC, BL, SB, NM, CJ & SM Mauger.

**CARRIED BY EN BLOC RESOLUTION No. 080811**

<b>8.1.5 MEMORANDUM OF UNDERSTANDING – RESERVE 23579 HAY RIVER</b>
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<b>File Ref:</b>	A3096
<b>Applicant / Proponent:</b>	Department of Environment & Conservation
<b>Subject Land / Locality:</b>	Reserve 23579 Hay River
<b>Disclosure of Officer Interest:</b>	Nil
<b>Date:</b>	13 July 2011
<b>Author:</b>	Yvette Caruso, Natural Resource Management Officer
<b>Authorising Officer:</b>	Annette Harbron, Director of Planning & Sustainability
<b>Attachments:</b>	8.1.5 – Draft Memorandum of Understanding

**Summary:**

The Department of Environment and Conservation (DEC) is seeking Council's endorsement of the draft Memorandum of Understanding (MOU) for Reserve 23579 Hay River between the DEC, the Shire of Denmark and the City of Albany. The purpose of the MOU is to set out the terms of a cooperative and complementary management framework for the future management of Reserve 23579, which straddles the border between the Shire of Denmark and the City of Albany, recognising that the DEC is seeking to obtain the Management Order for Reserve 23579 Hay River for the purpose of 'Conservation Park'.

It is recommended that Council endorse the draft MOU.

**Background:**

At the Ordinary Meeting of Council on 22 September 2009, Council considered a request from the DEC to support the vesting of Reserve 23579 in the Conservation Commission of WA for the purpose of a 'Conservation Park', wherein Council resolved as follows (Resolution No: 140909):

*“That Council advise the Department of Environment and Conservation that it supports the vesting of A23579 in the Conservation Commission of WA for the purpose of a Conservation Park and subject to the department entering into a Memorandum of Understanding with the Shire of Denmark addressing but not limited to the following:*

1. *Development of a public consultation process to refine usage of the reserve for recreational use.*
2. *In consultation with the Shire of Denmark develop a management plan which incorporates*
  - a) *Appropriate public recreational use which recognises current and future usage and provides facilities for such uses as vehicle access, bank fishing, boat launching, wildlife and fauna observation;*
  - b) *A reserve access plan that upgrades and consolidates current access to the foreshore and river bank and includes fire access routes;*
  - c) *Rehabilitate and protect important biodiversity assets of the reserve including rare and endangered flora, migratory shorebird bird habitat and endemic shorebird nesting site and maintain current corridor linkages;*
  - d) *Provides for adequate educational signage in relation to reserve recreational usage as well as biodiversity assets and threats such as Phytophthora Dieback; and*
  - e) *Prioritised recommendations to enable urgent on-ground works to be implemented in the short term.*
3. *That the draft memorandum of understanding be reported back to Council for its adoption.*
4. *The Shire of Denmark to participate in an advisory capacity in relation to ongoing management of the reserve.”*

The City of Albany considered the draft MOU at its Ordinary Council Meeting on 17<sup>th</sup> May 2011 wherein they resolved the following:

- i) Council ADVISE the Department of Environment and Conservation that it is prepared to sign the Memorandum of Understanding between the Department of Environment and Conservation, the City of Albany and the Shire of Denmark in relation to the management of Crown Reserve 23579, Hay River.
- ii) The draft Memorandum of Understanding is AMENDED to state that Keith Road is to be gazetted a public road, for management by the City of Albany.

**Comment:**

The draft MOU (refer Attachment 8.1.5) between the DEC, the Shire of Denmark and the City of Albany sets out the terms of a cooperative and complementary management framework for the future management of Reserve 23579 Hay River.

In summary, the framework for the future management of the Reserve includes the following:

- The Shire of Denmark and the City of Albany will assist the DEC to secure the Management Order of Reserve 23579 Hay River in the Conservation Commission of WA for the purpose of 'Conservation Park', including identifying outstanding tenure and management issues that may hinder the future Management Order allocation;
- Once the Reserve has been placed in the Management Order of the Conservation Commission, DEC will undertake to prepare a management plan for the Reserve under the *Conservation and Land Management Act 1984*, to be released for public comment within two years of the land being the subject of the Management Order to the Conservation Commission;
- DEC will consult with the Shire of Denmark, the City of Albany and the community to canvas the views of the community with respect to the management of the Reserve and the development of the management plan;
- Appropriate recreational uses will be permitted subject to the management plan. Permission will take in account customary recreational uses of the serves. Camping will not be permitted in the Reserve;
- Both the Shire of Denmark and the City of Albany will endorse the management plan for the Reserve, prior to its authorisation for implementation by the DEC;
- DEC will be responsible for the on-ground management of the Reserve, in line with its powers under the *Conservation and Land Management Act 1984*, and all reasonable expenses of that management subject to budgetary constraints;
- The Shire of Denmark and City of Albany's roles are to provide input into the planning for the management of the Reserve.

It is considered that the draft MOU provides clear guidance as to the roles and responsibilities of the DEC, the Shire of Denmark and the City of Albany in relation to the management of Reserve 23579 Hay River, with the only modifications considered necessary being the MOU should be amended to state that Pratt Road is to be gazetted as a public road (at the Department of Environment & Conservation's expense), for management by the Shire of Denmark.

**Consultation:**

The draft MOU has been prepared by the Department of Environment and Conservation with input and consultation with both the Shire of Denmark and the City of Albany.

**Statutory Obligations:**

The MOU is not binding on any parties but provides a cooperative and complementary framework for the management of Reserve 23579.

**Policy Implications:**

There are no policy implications.

**Budget / Financial Implications:**

There are no known financial implications upon the Council's current Budget or Plan for the Future associated with endorsement of the MOU, although it is recognised that Shire staff (mainly Sustainability Services) will be inputting into the planning for the management of the Reserve, including the development of the associated management plan for the Reserve.

**Strategic Implications:**

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

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

The environmental implications associated with endorsing the MOU for Reserve 23579 Hay River would be beneficial by ensuring DEC as an appropriate land management authority with adequate resources is afforded the management order. The Reserve purpose of 'Conservation Park' will enable accommodation of recreational activities commensurate with biodiversity values of the Reserve. Endorsement of the MOU between all parties will also enable progression towards the collaborative development of a management plan for the Reserve.

➤ **Economic:**

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

➤ **Social:**

Endorsement of the MOU will facilitate a management framework that allows for the use and enjoyment of Reserve 23579 accommodating appropriate recreational opportunities, taking into account customary recreational uses of the reserve.

**Voting Requirements:**

Simple Majority.

At the meeting held on the 16 August 2011, Cr Laing suggested that the Memorandum of Understanding contain a clause noting that the Shire of Denmark would endorse the Management Plan for the reserve subject to it being satisfied about the contents of that Management Plan.

The Director of Planning & Sustainability agreed and has provided an amended Officer Recommendation to address this issue.

**FORMER OFFICER RECOMMENDATION**

ITEM 8.1.5

That Council endorse the Memorandum of Understanding (MOU) between the Department of Environment and Conservation, the Shire of Denmark and the City of Albany as the cooperative and complementary management framework for Reserve 23579 Hay River, subject to the MOU being amended to state that Pratt Road is to be gazetted as a public road, at the Department of Environment and Conservation's expense, for management by the Shire of Denmark.

**OFFICER RECOMMENDATION**

ITEM 8.1.5

That Council endorse the Memorandum of Understanding (MOU) between the Department of Environment and Conservation, the Shire of Denmark and the City of Albany as the cooperative and complementary management framework for Reserve 23579 Hay River, subject to the following modifications being undertaken:

- a) Pratt Road to be gazetted as a public road, at the Department of Environment and Conservation's expense, for management by the Shire of Denmark; and
- b) Subject to being to Council's satisfaction, the Shire of Denmark will endorse the management plan for the Reserve.

5.43pm – The Director of Finance & Administration left the meeting.

5.43pm – Cr Richardson-Newton left the meeting.

5.44pm – Cr Richardson-Newton returned to the meeting.

**COUNCIL RESOLUTION** ITEM 8.1.5  
 MOVED: CR PEDRO SECONDED: CR EBBETT

That Council endorse the Memorandum of Understanding (MOU) between the Department of Environment and Conservation , the Shire of Denmark and the City of Albany as the cooperative and complementary management framework for Reserve 23579 Hay River, subject to the following modifications being undertaken:

- a) Pratt Road to be gazetted as a public road, at the Department of Environment and Conservation’s expense, for management by the Shire of Denmark; and
- b) Subject to being to Council’s satisfaction, the Shire of Denmark will endorse the management plan for the Reserve.
- c) The Department of Environment & Conservation to consult with the South West Aboriginal Land & Sea Council.

5.47pm – The Director of Finance & Administration returned to the meeting.

5.47pm – Cr Barrow left the meeting.

**AMENDMENT**  
 MOVED: CR SYME SECONDED: CR LAING

Delete Part a) and rename parts b) & c) respectively.

5.50pm – Cr Barrow returned to the meeting.

LOST: 2/9 Res: 120811

*Cr Syme requested that his vote for the amendment be recorded.*

**AMENDMENT**  
 MOVED: CR EBBETT SECONDED: CR THORNTON

That Part a) be replaced with the words “Relevant Council Officers enter into discussions with the Department of Environment & Conservation with the objective of maintaining access to Location 3358 on the current, un-gazetted road alignment, currently referred to as Pratt Road.”

CARRIED: 8/3 Res: 130811

**AMENDED MOTION**

That Council endorse the Memorandum of Understanding (MOU) between the Department of Environment and Conservation , the Shire of Denmark and the City of Albany as the cooperative and complementary management framework for Reserve 23579 Hay River, subject to the following modifications being undertaken:

- a) Relevant Council Officers enter into discussions with the Department of Environment & Conservation with the objective of maintaining access to Location 3358 on the current, un-gazetted road alignment, currently referred to as Pratt road; and
- b) Subject to being to Council’s satisfaction, the Shire of Denmark will endorse the management plan for the Reserve.
- c) The Department of Environment & Conservation to consult with the South West Aboriginal Land & Sea Council.

CARRIED: 11/0 Res: 140811

**REASONS FOR CHANGE**

Council added part c) to ensure that there would be consultation with the South West Aboriginal Land & Sea Council.

**6.13pm - 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.

**8.2 Director of Community & Regulatory Services**

**8.2.1 SPIRIT OF PLAY – RENT DEFERMENT REQUEST**

<b>File Ref:</b>	A3140
<b>Applicant / Proponent:</b>	Spirit of Play School
<b>Subject Land / Locality:</b>	952 Crellin St, Denmark
<b>Disclosure of Officer Interest:</b>	Nil
<b>Date:</b>	6 August 2011
<b>Author:</b>	Gregg Harwood, Director of Community & Regulatory Services
<b>Authorising Officer:</b>	Gregg Harwood, Director of Community & Regulatory Services
<b>Attachments:</b>	Yes, Submission from Spirit of Play School

**Summary:**

The Spirit of Play early childhood community school are seeking rental payment deferral (freeze) until the end of 2011 which will enable them to complete the school year and make a decision as to whether or not the school will have sufficient enrolments to continue viably in 2012.

The officer report and recommendation supports the rent freeze on the basis that it will enable the school to complete its current year obligation to its students and enable the school to make a decision about its future within the normal education year cycle.

**Background:**

At Council’s 19 July 2011 briefing session, representatives from the Spirit of Play School presented a report (refer Attachment 8.2.1) which outlines the school’s vision and purpose, current attendances and financial position.

The Spirit of Play is a privately run community school that provides a holistic education experience for preprimary and year one students using a play based curriculum while still complying with the Western Australian curriculum framework. The school is funded by community donations, State and Federal grant and per capita contributions and the tuition fees paid by parents. The school currently has an enrolment of 10 students which down from 16 in 2010, 18 in 2009 and 14 in 2008. Its budgeted income is projected to be \$99,533 and its typical funding source scenario is as follows:

Source	Proportion
Commonwealth funding	41%
State funding	28%
Fees & parent contribution	19%
Fundraising and donations	4%
Grants	8%

The school’s financial concerns relate to the fact that it is experiencing reduced attendances particularly in the year one category where the per capita funding is significantly higher than for preschool students. The main reason for this is that with natural turnover of people in country towns some families have left the area and they are experiencing strong completion for new students from the Steiner School which is very effective at attracting students from new families coming into the area. This loss of students is magnified in its impact by the school’s small numbers. When a school only has 10 - 15 students the loss of one student equates to a 7.5 - 10% reduction in student numbers.

The school currently pays Council \$8,200 pa ex GST (\$9,020 in GST) to lease the old post office building in Crellin St and their outstanding rent bill as at the 9/8/2011 is \$2,255 or one quarters rent (including GST).

The school is currently fundraising and actively seeking to recruit more students. They are asking Council to grant them a rent deferment (of the payment) until the end of 2011 so that they have enough time to determine the effectiveness of these measures and to make a final decision as to if it can continue to operate. The deferment will also allow the current students to complete their school year.

**Comment:**

The Spirit of Play Community School is part of the diversity that makes Denmark attractive and represents a unique early child hood learning experience for parents who feel that they would like to participate in something that is outside of the main education stream.

The other side of the coin is that despite its noble objective the school is from a business perspective a boutique private school providing unique education experience with small class sizes and low teacher/ student ratios that is;

- 1) Already subsidised by Council in that it provides the school with a building at a lease rate does not fully cover the capital acquisition and long term maintenance costs of that building.
- 2) Seeking a further albeit minor subsidy from Council in the form of a rent deferment (freeze) until the end of 2011.
- 3) Occupying a facility that other groups in the community may like to have the opportunity to utilise.

Having said this however Council has a role as a supporter and facilitator of community groups and there are strong grounds for Councillors to consider supporting the rent deferment (freeze) for the following reasons:

- 1) School's representatives have been open and upfront about their enrolments cash follows and critical decision dates.
- 2) A rent deferment (freeze) would avoid the needless disruption that closing the school at the end of term three will cause for both the students and families themselves and the schools that they will be relocating to.
- 3) If the school's fund raising and recruitment activities are successful it may allow the school sufficient breathing space to re-establish its viability.
- 4) Small schools such as the Spirit of Play that have low staffing ratios are of particular benefit to students to have learning or social difficulties and are very successful in equipping them with skills and experiences that equip them to subsequently integrate into larger schools.

Given the angst that these students can potentially cause if they fall through the cracks of the early years of the state school system, alternate learning opportunities such as the Spirit of Play represent a benefit to the wider education community that far outweighs their operating costs.

Comments in Response to Spirit of Play email dated 16 August 2011.

On the 16 of August 2011 Kathy Rainbird of the Spirit of Play sent the following email: "Thanks for your email regarding the Agenda for the Council meeting and discussion of our request.

Sorry for the confusion around the terminology, however we are in fact requesting that our rent be waived for six months as opposed to deferred. A rent waiver would enable our school to remain open until the end of the current school year (and hopefully beyond).



I will endeavour to attend the meeting this afternoon and talk to this issue. However it would also be appreciated if you could clarify the nature of our request as a "Rent Waiver Request" when this item comes up for discussion.

Kathy Rainbird  
Office Administration  
Spirit of Play Community School"

This email changes the group's request to being a request to Council waive \$6,765 in rent being the \$2,255 currently outstanding as at 9/8/2011 and a further 6 month's rent (\$4,510). When this figure is divided by the total enrolment 10 students it equates to a Council subsidy of \$676.50 per student for a 9 month period.

While from a community development perspective it is important that Council assist community groups through difficult periods there is point where this assistance crosses over to subsidising an unsustainable operation that should be wound up. Given the school's small enrolments it is the officer's opinion that the 9/8/2011 request that Council waive of 9 month's amounts to a request that Council step into the role of subsidising an unsustainable school.

In determining this request councillors should consider whether:

- 1) They are setting a precedent for other schools to lobby Council for assistance based on its \$676.50 per student contribution to the Sport of Play School.
- 2) Is it appropriate for the school to be requesting a \$676.50 per student contribution from Council without first having sought the same amount in fee increases from parents thereby forcing a business decision regarding the school's future.
- 3) Would a \$676.50 per student contribution merely be delaying the inevitable to close an operation that has become unsustainable and potentially obligating Council to further subsidies.
- 4) Whether the school's attendances are dropping because the Denmark community has moved on and the niche that the school once filled is being covered by other schools and if this is the case why Council should then be subsidising the school to keep it open.

On considering these factors from an officer perspective there is no need to change the officer recommendation for the following reasons:

- 1) The contribution of large subsidies \$676.50 per student to private schools is not a traditional local government particularly when well run a state and private school also exist in Denmark.
- 2) A rent deferent up until the 30 December 2011 will enable the school to have sufficient time for discussions with parents regarding either raising tuition fees or increasing enrolments while sending a clear message that Council is not prepared to subsidise an unsustainable school where as a \$6,765 rent subsidy will only delay this process.

If however Council were to resolve to subsidise the school and waive rent a typical resolution would read as follows:

That Council waive the \$2,255 (inc GST) in outstanding rent that the Spirit of Play Community School current owes for the rent of the Old Post Office Building in Crellin and that the school be granted a rent free period up until the 30 December 2011(value \$6,765 inc GST) and that Council's 2011/2012 budget be amended to reflect this loss of income.

Voting requirement: Absolute majority

**Consultation:**

The officer report and the officer recommendation are the result of extensive consultation with the representatives from the Spirit of Play Community School.

**Statutory Obligations:**

Local Government Act 1995.

**Policy Implications:**

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

**Budget / Financial Implications:**

The officer report and the officer recommendation will have a slight impact on the 2011/2012 budget in that it will cause a delay in Council receiving the rent that it is owed. There is also a risk that the school may not be able to fully pay its outstanding rent if it is wound up at the end of the year.

The current lease expires on the 30 November 2013 and, at that time, an option to renew the lease for a further term of five (5) years. At the time of expiry (2013) the rent payable will be reviewed following a revaluation by a licensed Valuer.

**Strategic Implications:**

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

**Sustainability Implications:**

➤ **Environmental:**

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

➤ **Economic:**

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

➤ **Social:**

Small schools such as the Spirit of Play that have low staffing ratios are of particular benefit to students to have learning or social difficulties and are very successful in equipping them with skills and experiences that them to subsequently integrate into larger schools.

**Voting Requirements:**

Simple majority.

At the meeting held on the 16 August 2011, the Shire President advised that although the Officer’s Recommendation referred to deferment that the actual request was for waiving of the rent for six months. Cr Barnes asked whether it was the Officer’s intention to amend or provide an alternative recommendation for next week’s meeting.

The Director of Community & Regulatory Services advised that his recommendation would remain unchanged and options for Council’s consideration have been included within the Comment section of the report.

<b>COUNCIL RESOLUTION</b>	ITEM 8.2.1
MOVED: CR BARROW	SECONDED: CR HINDS
<p>That Council waive the \$2,255 (inc GST) in outstanding rent (being for the third quarter) that the Spirit of Play Community School currently owes for the rent of the Old Post Office Building in Crellin Street and that the school be granted a rent free period up until the 30 December 2011 (\$2,255 including GST, total value of rent subsidy \$4,510 including GST) and that Council’s 2011/2012 budget be amended to reflect this loss of income.</p>	
CARRIED: 6/5	Res: 150811

*The above resolution required an Absolute majority which it failed to achieved and therefore the motion was not passed. Three Councillors indicated support for an alternative motion negating the carried motion.*

<p><b>COUNCIL RESOLUTION &amp; OFFICER RECOMMENDATION</b></p> <p>MOVED: CR SAMPSON</p> <p>That the Spirit of Play Community School be granted a deferment on payment of all currently outstanding and future rent for the Old Post Office Building in Crellin St up until the 30 December 2011 on the basis that any deferred or outstanding rent must be paid in full by the 31 January 2012.</p> <p><b>AMENDMENT</b></p> <p>MOVED: CR SYME</p>	<p>ITEM 8.2.1</p> <p>SECONDED: CR RICHARDSON-NEWTON</p> <p>SECONDED: CR PEDRO</p>
<p><i>6.37pm – Cr Barrow left the meeting</i></p> <p>That after the words “paid in full” the words “to the best of their ability” be added.</p> <p>LOST: 2/8</p> <p><i>Cr Syme requested that his vote in favour of the amendment be recorded.</i></p>	<p>Res: 160811</p>
<p><i>6.41pm – Cr Barrow returned to the meeting.</i></p> <p><b>AMENDMENT</b></p> <p>MOVED: CR HINDS</p> <p>That all of the words after the words “December 2011” be deleted.</p> <p>LOST: 0/11</p> <p>THE ORIGINAL MOTION WAS THEN PUT &amp; CARRIED: 9/2</p>	<p>SECONDED: CR WAKKA</p> <p>Res: 170811</p> <p>Res: 180811</p>

<b>8.2.2 INDOOR HEATED AQUATIC FACILITY FEASIBILITY STUDY</b>
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<b>File Ref:</b>	A3035
<b>Applicant / Proponent:</b>	Shire of Denmark
<b>Subject Land / Locality:</b>	Recreation Centre/ Mclean Oval Complex
<b>Disclosure of Officer Interest:</b>	Nil
<b>Date:</b>	7 August 2011
<b>Author:</b>	Gregg Harwood, Director of Community & Regulatory Services
<b>Authorising Officer:</b>	Gregg Harwood, Director of Community & Regulatory Services
<b>Attachments:</b>	Yes

**Summary:**

This report receives the Coffey Commercial Advisory and the Interim Report of the Denmark Aquatic Centre Project Team and considers their request to engage Council staff to prepare further reports and make recommendations regarding future directions that the Team considers necessary, concerning the feasibility of an indoor heated aquatic facility in Denmark.

Both of the reports have been previously provided to Councillors and therefore have not been re-copied with this Agenda. An electronic version of the documents can be downloaded from Council's website at [www.denmark.wa.gov.au/ourcouncil/council\\_minutes/currentcouncilagenda](http://www.denmark.wa.gov.au/ourcouncil/council_minutes/currentcouncilagenda) under Attachment 8.2.2.

**Background:**

The report titled "Feasibility Study for a Sustainable Indoor Heated Aquatic Facility" which has been prepared by David Lanfear of Coffey Commercial Advisory in consultation with the Shire of Denmark Aquatic Centre Project Team. The second tabled report is titled "Denmark Aquatic Centre, Interim Report of the Project Team, 12 April 2011" (this report is a heavily marked up version of the first report with a comprehensive addendum).

This report also concludes with a number of recommended future actions for the Project Team and recommends that the Director of Finance & Administration prepare a report on the estimated costs and annual deficits for the three aquatic facilities identified in the Coffey report using the Shire of Denmark's normal business practices taking into account comments identified in the Project Team's Interim Report.

The need for an indoor aquatic facility has been raised on a number of occasions and addressing it has become the prime objective of the Denmark Aquatic Centre Association Inc. (DACA) which currently has over 450 financial family memberships. DACA's interests are represented by the Denmark Aquatic Centre Committee Inc. (DACCI).

The issue of an aquatic facility has been discussed by Council on numerous occasions (reports from 2006 - 2009 are attached) and two previous feasibility studies and a needs analysis have been undertaken.

On the 19 June 2007 Council made the following resolution;

*"That while Council will not, at this point, offer any financial support for the building or operating costs of an indoor heated aquatic centre in Denmark, it recognises the many benefits that such a facility would offer to the Denmark community and therefore gives its strong in principle support to DACCI in its quest to raise funds for the project from a range of other sources. Further, Council –*

- 1) will nominate appropriate Officers to assist DACCI to identify possible sources of funding / grants;
- 2) Undertakes that when DACCI can demonstrate to Council's satisfaction that sufficient funds have been raised to make the project viable, it will:
  - i) make available an appropriate site for the building of the facility; and
  - ii) assume full responsibility for the building and operation of the facility.
- 3) DACCI can advise potential donors of the Council's in principle support for the project and of the undertakings Council has given; and
- 4) will append a statement of its in principle support for an aquatic centre to any formal applications for grants." Res: 193/07

In response to this decision, Council further resolved (Res: 490808) in October 2008 to form a Project Team consisting of Shire staff and DACCI members to appoint and oversee a Project Officer/Consultant to complete a Needs Assessment into a Sustainable Indoor Heated Aquatic Facility. Jill Powell & Associates performed this study and reported to the Project Team in May 2009.

Council on 26<sup>th</sup> May 2009, resolution 110509 decided;

*That with respect to a sustainable indoor heated aquatic facility, Council:*

- 1) Receive the report of the joint Council / DACCI Project team, dated 8 May 2009, titled "Needs Assessment for a Sustainable Indoor Heated Aquatic Facility in Denmark";
- 2) Receive the Jill Powell & Associates report titled, "Needs Assessment into a Sustainable Indoor heated Aquatic Facility";
- 3) Acknowledge that there is a need for an indoor heated aquatic facility in the Denmark locality; and
- 4) Make application for a Community Sporting and Recreation Facilities Fund (CSRFF) Grant to undertake a Feasibility Study for a proposed indoor heated aquatic facility in Denmark and a net cost of \$20,000 be included in Council's draft budget considerations for 2009/2010.

In response to this resolution, Council staff successfully obtained a Department of Sport Recreation CSRFF grant of \$10,000 towards the study during the 2009/10 financial year and a Project Team was formed to oversee the Feasibility Study.

The team consisted of two Councillors, two members from DACCI, the Director of Community and Regulatory Services; Chris Thompson (Regional Manager of the Department of Sport and Recreation) and Damian Schwarzbach, Council's Manager of Recreation Services who has acted as the Project Manager. The attached Feasibility Study is the outcome of their deliberations with the consultant.

**Comment:**

The Consultant's report has identified three development options which can be found in section 9.3 of the report being;

- 6 lane, 25m pool with a toddler's area and a hydro therapy pool.
- 8 lane, 25m pool with a toddler's area and a hydro therapy pool.
- 3 lane, 25m pool with a toddlers area and a hydro therapy pool and further 96m<sup>2</sup> of programmable space.

While the concept of a three (3) lane option being in the study has drawn sustained criticism from both DACCI, and most pro pool advocates, it has been retained to provide Councillors with a cost comparison of a smaller pool. The 3 lane pool remains Coffey Consulting preferred option and they have reiterated this in their most recent email dated the 5/8/2011 which is attached.

Out of the three options, the 6 lane pool was selected for a more detailed assessment as the Project Team believed that from the community’s perspective it was the most widely accepted option. The estimated construction costs of all options can be found on page 66 of the report and are as follows:

- Option 1 - 6 lane pool with hydrotherapy: \$8.17M.
- Option 2 - 8 lane pool with hydrotherapy: \$8.95M.
- Option 3 - 3 lane pool with additional water space and hydrotherapy. \$7.97M.

Using the conservative scenarios found on page 68 of the report the projected annual deficits excluding depreciation and financing costs are as follows:

Option 1 - 6 lane pool	\$240-357,000 per annum
Option 2 - 8 lane pool	\$280-412,000 per annum
Option 3 - 3 lane pool	\$214-326,000 per annum

While these deficits may seem high at first glance they are not unreasonable when compared to the 2010-2011 budgeted operating deficits of the following local government aquatic facilities.

Manjimup	Indoor Aquatic Facility	\$425,957 (\$311,459 in 2009-10)
Busselton	Indoor Aquatic Facility	\$811,000 (\$562,000 in 2009-10)
Bunbury	Indoor Aquatic Facility	\$430,000
Margret River	Indoor Aquatic Facility	\$450,000
Albany	Indoor Aquatic Facility	\$900,000 (\$1,251,461 in 2009-10)

Note: These figures have been sourced by telephoning officers and detailed analysis of the respective Council’s costings and figures has not been undertaken.

The Department of Sport and Recreation (letter attached dated the 14 June 2011) have advised that in their opinion the report is of a high quality and covers the areas that would be expected in a feasibility report.

They have also recommended that Council should prior to proceeding towards construction of a facility, verify the staffing costs (as they appear to be to light) and resolve the question of whether the community’s preference is in fact for a six lane pool. They also advised that if Council intends to proceed with the project that it should perform its own due diligence on the projected operating costs and staffing structure including “what if” financial stress testing on the outcomes of the Study.

The Chief Executive Officer and the Director of Finance & Administration, who both have extensive experience in the management of municipal swimming pools, have also assessed the consultant’s report and are also of the opinion that the staffing costs appear to be to light.

While the Project Team see the Coffey report as a structurally sound document that is a useful basis for further research the DACCI, members on the Project Team question some of the methodology and a number of parameters on which the calculations in the report are based. These concerns and comments are clearly marked up in the Team’s revision of the report titled “Denmark Aquatic Centre, Interim Report of the Project Team, 12 April 2011” and its associated addendum.

The Project Team are also of the opinion that the report should be subject to the business costing and consideration of Council’s senior staff prior to its final presentation to Council for an in principle decision regarding the projects future.

With this objective in mind, the Project Team have made the following recommendations to Council.

Project Team Recommendations:

The project team effectively has two sets of recommendations regarding the report.

The first set of recommendations is a list of six further items that they would like to see further researched which are numbered G3-01 - G3-06 which and be found on the final page (p136) of the report that is titled "Denmark Aquatic Centre, Interim Report of the Project Team, 12 April 2011".

Items G3-01 - G3-06 read as follows:

**G3-01** There is a need to improve the statistical reliability of the benchmarks.

This will involve:

- preparing a sample of facilities that are more representative of the Denmark case;
- differentiating between wet and dry usage in each member of the sample;
- liaising closely with key DAC and DRC user groups – schools, Sporting clubs etc;
- finding the most representative user profile for Denmark.

**G3-02** There is a need to take a closer look at the DAC/DRC staffing structure.

This will involve:

- preparing some specific operational scenarios;
- defining additional staff required;
- costing the scenarios and examining options for varying levels of service provision.

**G3-03** There is a need to review the hydrotherapy component of the facility.

This will involve:

- indentifying user groups;
- preparing some specific operational scenarios;
- defining additional staff required;
- costing the scenarios and examining options for varying levels of service provision.

**G3-04** There is a need to reconsider the proposed floor plan.

This will involve:

- engaging architectural input to review the draft;
- determining the layout that ensures optimal functionality for wet and dry operations;
- examining the options for reducing the capital cost;
- defining the key factors fundamental to an environmentally sensitive design.

**G3-05** There is a need to develop a comprehensive Environmentally Sustainable Design (ESD) strategy.

This will involve:

- engaging with architects, engineers, and air-conditioning professionals etc as required;

- preparing a concept plan having pre-determined environmental sustainability credentials;
- submitting the revised concept plan to a quantity surveyor for analysis.

**G3-06** The revised concept plan needs to be subjected to rigorous risk analysis.

Officer Comment on the Working Group's first set of recommendations:

The Working Group's first set of recommendations can be split into two categories. The first (G3-01) relates to a desire to see statistical reliability of the Benchmarks that Coffey Consulting have used in their report verified and the second relate (G3-02 - G3-06) to a desire of the Project Team to present both Council and the Denmark community with a complete project model and have sufficiently detailed data to be able to fine tune the operation facility so that its operation is as efficient as possible.

The Project Team's comments in its "Interim Report" which includes G3-01 - G3-06 have been referred to Coffey Consulting who have advised (email attached) that they stand by their work and have put considerably more work into the report than is the norm in the industry. They have also advised that they have responded to requests from the Project Team for further information and verification of details in the report on two previous occasions and commented that further accurate costing of the project is not practical until such time as the project has progressed to the next stage which is the preparation of architects plans.

In considering the Working Groups comments and their recommendations numbered G3-01 - G3-06 Councillors should also note that the DACCI representatives on the group who themselves have considerable expertise, have offered to perform much of the research work that they seeking using the professional contacts that they have and the numerous retired professionals in Denmark. While this offer is welcome and has the potential the save Council significant amount of funds when compared to using private consultants it is unfortunately not independent and has the potential to undermine the transparency of Council's decision making process when it comes to making an in principle decision regarding the future of the project.

Coffey Consulting however are correct in pointing out that researching items G3-01 - G3-06 are activities that are normally undertaken prior to going to tender once an in principle decision has been made to proceed towards the construction of a facility.

A typical community infrastructure process proceeds as follows:

- Stage 1: Expression of the need for a facility  
Community members, lobbyists or Council's own town planning or corporate strategic planning process identifies a need.
- Stage 2: Community Consultation regarding the need for the facility.  
This process involves a decision to put the issue out into the community to raise awareness and to seek feedback. If there is sufficient interest then the project then proceeds to a Needs Analysis.
- Stage 3: Conducting Needs Analysis  
This process involves defining the level of need in the community for the facility and projecting its likely usage and likely demand on this basis.  
  
The Needs Analysis generates the first two "critical decision points" in that there must be sufficient community interest for it to be warranted



and if it fails to identify a widespread need then the consideration of the proposed project proceeds no further.

**Stage 4: Preliminary Costing and Decision to Proceed to a Feasibility Study**

This step is also known as a prefeasibility study and can be either conducted externally using consultants or internally using local government staff. The process involves researching the construction cost and operating costs of similar facilities and then comparing it to Council's financial capacities under its 10 year financial plans to produce a likely cost per ratepayer of the proposed facility.

The prefeasibility study stage is an important critical decision point in any community infrastructure decision as it determines whether the Council and/or the community is prepared to pay for the costs associated with building and operating the facility.

If a project fails at this stage there is no benefit in the community spending further resources to research it further as it draws away funds (and time and energy) that could be spent on other projects.

**Stage 5: Independent Feasibility Study**

Once a local government has satisfied itself that a project is within its projected financial capacity and is needed by the community and needs to be provided within the next 10 years in the next stage in the process is to perform an independent feasibility study.

The purpose of an independent feasibility study is four fold.

- 1) It assists decision makers in performing due diligence regarding the project and deciding whether a project proceeds to construction.
- 2) It is an independent set of eyes with industry knowledge that identifies will factors, risks and opportunities that may have been missed in the prefeasibility study.
- 3) It further defines the project.
- 4) It satisfies the requirements of funding agencies such as the Department of Sport and Recreation.

The feasibility study stage is an important critical decision point where once a local government has applied its business costs it makes an in principle decision to either; initiate, postpone, schedule into the future or not proceed with a project.

**Stage 6: Further due diligence, stress testing and further design and research of factors, plant and equipment associated with the project.**

The purpose of this stage is to assemble all of the information that will be required to design a successful project that is efficient and meets the needs of end users.

**Stage 7: Decision to engage a project architect and to design the facility**

This step is another critical decision point as it is where form, size layout and facades of the project and the costs of bringing services to it are determined.

**Stage 8: Decision to direct the architect to prepare the full working drawings.**

This is the final stage in designing and costing the project before it goes to tender.

Stage 9: Decision to call tenders based on the full working drawings.

This process involves a transparent and accountable process to determine whether the costs expected and budgeted meet the 'market'.

Stage 10: Decision to accept a tender and proceed with the project

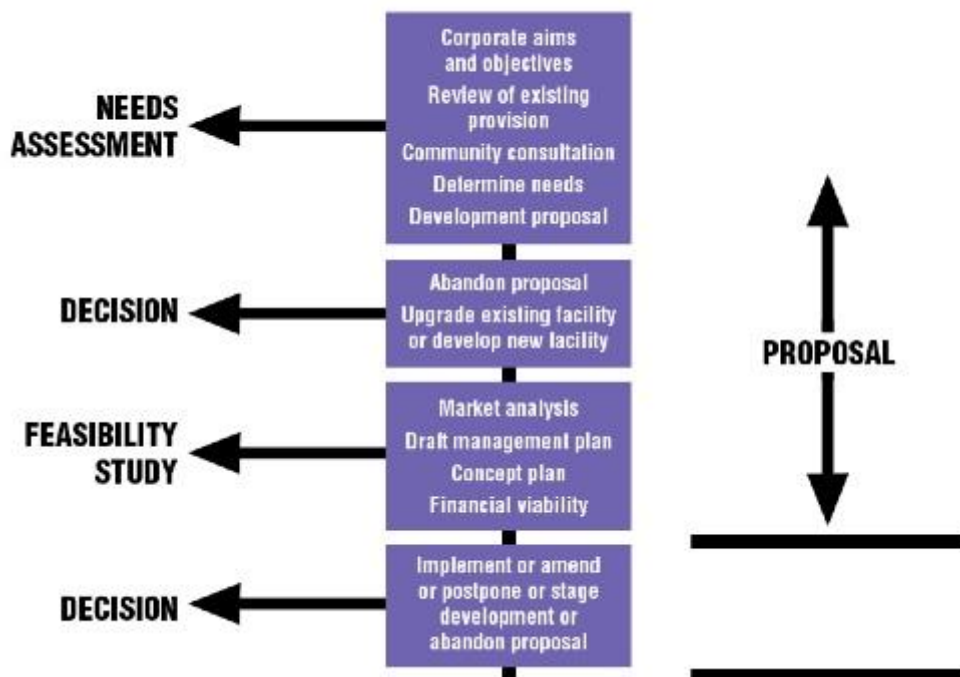
The decision to accept a tender and commence the project is the final critical decision point in constructing a facility.

Stage 11: Successful commissioning of the project and pursuit of any warrantee work.

The successful commissioning of a facility and the pursuit of any warrantee work associated with it is a major part of successful project management.

Stage 12: A year 4 minor refit to correct any minor problems that have occurred through poor design or construction.

This need to program for a year 4 minor refit seeks to reviews the facility's operation and correct any minor problems that have occurred through poor design or construction is generally a reality with large and complex projects of this nature.



In terms of the Denmark Aquatic Facility's project status, when compared to a typical community infrastructure project process, is that while Council (in resolution 193/07) has subject to a number of conditions given the concept in principle support to enable DACCI to fundraise it, in effect, skipped the prefeasibility study critical decision point in August 2008 when it chose to initiate its third feasibility study in lieu of making an in principle decision regarding the project's future.

In addition to this the Working Group are proposing to perform a significant amount of further work on the project with the goal of presenting a fully considered project to Council before for an in principle decision regarding the project's future.

While presenting a fully considered project to Council from a decision making perspective at first glance seems desirable it has some of the following potential problems associated with it.

The first risk is that it is a process that, if conducted independently, will come at a significant cost to Council in terms of consultancy fees and staff resources and that these resources (and time) could be better spent elsewhere, if Council subsequently resolves not to proceed with the project if the community considers the project to be unaffordable.

The second risk is that the more time and resources Council invests or allows the community to invest in the project the more obligated it will feel to proceed with project and the less able it will be to make an objective decision regarding it.

The other important key aspect of the recommendations G3-01 - G3-06 is that there are no financial implications detailed, no responsibilities assigned and no dates of achievements / completion indicated (the normal who, how, when, and how much). At present it simply summarises and states the 'what' and the 'why'.

The primary concern of the CEO, with the recommendations, is that the Project Team has not indicated how they or Council can achieve these recommendations (for example, utilising in-house versus external consultants). It simply requests more time to achieve these tasks stating that they believe the final report of the Project Team must await completion of this work. It is the Officer's view that the Council and Project Team have sufficient research to make an informed decision on whether to proceed on the principle (of asking the community whether it wishes to invest in a facility), prior to investing more time, and potentially dollars, on more analysis, design and research.

Project Team's Second Set of Recommendations:

The Working Group's second set of recommendations relate to the referral to Council of the Working Group's report titled "Denmark Aquatic Centre, Interim Report of the Project Team, 12 April 2011" and are as follows:

- 1) That Council Administration Staff be requested to prepare three indicative Local Government funding scenarios for an Aquatic Centre in Denmark based on recent funding models as supplied by the Great Southern Regional Manager for the Department of Sport and Recreation.
- 2) The Interim Report of the Project Team (which includes the CCA Final Report in its entirety), subject to responses from David Lanfear and any other relevant factors identified by Senior Council Officers, be utilised in these calculations.
- 3) That the results and an explanation of this modelling be presented back to the Project Team in a meeting with the Director of Finance.
- 4) That the funding scenarios will be presented by the Project Team to Council for an "In Principle" decision regarding the project.

Officer Comment on the Working Group's second set of recommendations:

The funding models referred to in this recommendation are tabled in the attachment titled "Possible Project Funding Contribution Percentages" and range between 33.33% up to 83.33% of the project cost.

In considering these funding scenarios Councillors should note that they are competitive and not guaranteed. Councillors should note the higher funding models may require Council to forgo funding in other areas.

The alternate recommendation provide by Staff provides for greater scope than that suggested by the Project Team.

**Conclusion:**

Council pursuant to resolution 193/07 has, subject to a number of conditions, given the concept of an aquatic facility in principle support. Given this, it is now entirely appropriate that the CEO be authorised to request the Director of Finance & Administration to assess the financial analysis, assumptions and modelling of both the Consultant's report and the also the Project Team's Interim Report and its addendum.

Thereafter it would be appropriate to ask the Project team to update the Council on its ability or likely timing to make a recommendation to Council on '**a decision to implement, amend, postpone, stage development or abandon the proposal**' for the Aquatic Centre.

**Consultation:**

The preparation of the Consultant's report has involved a public meeting, a survey and dialogue with key stake holders and community groups.

**Statutory Obligations:**

Nil

**Policy Implications:**

Council has previously given conditional in principle support to the concept of an indoor aquatic facility in Denmark in Res: 193/07.

**Budget / Financial Implications:**

Aquatic facilities have significant construction capital, ongoing operating deficits, maintenance and mid life refurbishment costs associated with them. Any facility constructed in Denmark will have a significant impact on Council's financial capacity for the life of the facility.

It is a Local Government industry reality that community aquatic facilities run at significant annual deficits. This is best evidenced by the fact that the Department of Sport and Recreation's interpretation of a "sustainable facility" is not one that breaks even or runs at a profit but rather one which runs within loss parameters that the community is prepared to pay for during the life of the facility.

In considering the concept of what constitutes a "sustainable deficit", Councillors should note that the debate should include not just the cost of meeting the deficit but also a consideration of what projects will have to be delayed or abandoned as a result of Council's commitment to the project.

**Strategic Implications:**

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

**Sustainability Implications:**

➤ **Environmental:**

The consideration of an indoor heated aquatic facility in Denmark will have environmental implications. The industry norm is that heating represents around 10-15% of the cost of running a commercial swimming pool meaning that there are

significant carbon footprint concerns associated with the construction of a heated indoor aquatic facility in Denmark.

While the Consultant's report mentions green energy options it does not discuss them in detail. Further work will be required in this area if the proposal to construct a facility proceeds further.

The DACCI representatives on the Working Group have expressed a strong interest in further exploring technologies such as heat pumps that extract heat from the ground and the usage of solar energy and power to reduce the operating costs of the facility. While the exploration of these technologies is consistent with Council's corporate philosophies and should be undertaken it should also be noted that they will come at an additional capital and ongoing maintenance and reliability cost and as a result of this not may not make an appreciable improvement to the operating deficit of the centre and may actually increase annual operating costs.

It should also be noted that if a hydrotherapy facility is to be maintained at higher temperatures the usage of fossil fuel energy sources such as gas or electricity will most likely be required as the heat pumps that are commonly available are not able to achieve such temperatures reliably.

➤ **Economic:**

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

➤ **Social:**

There are significant health and well being benefits for the Denmark Community associated with the construction of an aquatic facility.

**Voting Requirements:**

Simple majority.

**PROJECT TEAM RECOMMENDATION**

**ITEM 8.2.2**

1. That Council Administration Staff be requested to prepare three indicative Local government funding scenarios for an Aquatic Centre in Denmark based on recent funding models supplied by the Great Southern Regional Manager for the Department of Sport and Recreation.
2. The Interim Report of the Project Team (which includes the CCA Final Report in its entirety), subject to responses from David Lanfear and any other relevant factors identified by Senior Council Officers, be utilised in these calculations.
3. That the results and an explanation of this modelling be presented back to the Project Team in a meeting with the Director of Finance.
4. That the funding scenarios will be presented by the Project Team to Council for an "In Principle" decision regarding the project.

At the meeting held on the 16 August 2011, Cr Syme noted that the Project Team had identified energy efficiency options and requested that mention be made under the Environmental Implications section of the report, which only refers to 'green energy options' mentioned in the Consultants report.

The Director of Community & Regulatory Services has included comments under the Environmental Implications section of the report.

<b>COUNCIL RESOLUTION &amp; OFFICER RECOMMENDATION</b>	ITEM 8.2.2
MOVED: CR EBBETT	SECONDED: CR SYME
That with respect to the Interim Report of the Denmark Aquatic Centre Project Team, Council;	
<ol style="list-style-type: none"> <li>1. Receive the Coffey Commercial Advisory report titled "Feasibility Study for a Sustainable Indoor Heated Aquatic Facility in Denmark".</li> <li>2. Receive the Interim Report of the Project Team.</li> <li>3. Authorise the CEO to request the Director of Finance &amp; Administration to;                     <ol style="list-style-type: none"> <li>a) Comment on and assess the financial models, scenarios, assumptions and projections of the Coffey Report and Project Team Interim Report with respect to the proposed Aquatic Centre and its implications on Council's future Budgets and Long Term Financial Planning, with this assessment to be provided back to the Project Team by no later than 30 November 2011 and;</li> <li>b) Convene no later than 31 October 2011, a risk analysis seminar for the Project Team, Councillors and the Senior Staff of Council relating to the Aquatic Centre decision making framework through the Local Government Insurance Service (Council's Insurer) noting this is at no cost to Council.</li> </ol> </li> <li>4. Request the Project Team to report to Council by no later than 28 February 2012 on;                     <ol style="list-style-type: none"> <li>a) Its assessment of the Financial Analysis prepared by the Council's Director of Finance &amp; Administration and;</li> <li>b) The risk analysis prepared pursuant to part 3 and;</li> <li>c) Its ability or likely timing to make recommendation(s) to Council on how to proceed with the outstanding issues they note as requiring further study denoted as "G3-01" to "G3-06" and;</li> <li>d) Comment on its progress towards recommending 'a decision to implement, amend, postpone, stage development or abandon the proposal' for the Aquatic Centre.</li> </ol> </li> <li>5. That Council consider including in the 2011/12 Budget the sum of \$3,000 to fund an intrastate study tour of relevant aquatic facilities in Western Australia for interested and available members of the Project Team and the Director of Finance &amp; Administration, and open to others Councillors, with this tour scheduled to be undertaken in approximately October 2011 to assist inform the attendees in their findings and financial analysis.</li> </ol>	
CARRIED: 8/3	Res: 190811

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

**FOR:** Cr Wakka, Cr Ebbett, Cr Hinds, Cr Pedro, Cr Syme, Cr Thornton, Cr Barnes & Cr Sampson.

**AGAINST:** Cr Barrow, Cr Laing & Cr Richardson-Newton.

<b>COUNCIL RESOLUTION</b>	
MOVED: CR HINDS	SECONDED: CR RICHARDSON-NEWTON
That the meeting be adjourned for a short break, the time being 7.04pm.	
CARRIED: 7/4	Res: 200811

*7.15pm – The meeting resumed with all Councillors and Staff who were present prior to the adjournment with the exception of Cr Sampson who did not return.*

### 8.3 Director of Infrastructure Services

#### 8.3.1 BLACKSPOT FUNDING 2011/2012

<b>File Ref:</b>	GOV.21A
<b>Applicant / Proponent:</b>	Shire of Denmark
<b>Subject Land / Locality:</b>	Intersection Millar St, Short St and Sth Coast Hwy
<b>Disclosure of Officer Interest:</b>	Nil
<b>Date:</b>	7 July 2011
<b>Author:</b>	Rob Whooley, Director of Infrastructure Services
<b>Authorising Officer:</b>	Rob Whooley, Director of Infrastructure Services
<b>Attachments:</b>	Yes

#### **Summary:**

This item recommends that Council accept State Blackspot funding for intersection improvements to the intersection of Millar Street, Short Street and South Coast Highway.

#### **Background:**

In 2000 Halpern Glick Maunsell produced a concept plan for the South Coast Highway.

In 2003 Main Roads funded a reconstruction plan by R.R. Unger to redevelop South Coast Highway between the Ocean Beach Road intersection and Hollings Road intersection.

The aim of the redevelopment plan was to improve highway and intersection safety for all users.

#### **Comment:**

For the last 20 years Council has tried to get the highway upgraded through town. In the scheme of State Highway projects, South Coast Highway as it passes through Denmark is a low priority.

In recent years the project has been tackled intersection by intersection.

The proposed works at this intersection – see attached concept plan - is a continuation of the highway upgrade.

The intersection causes difficulties for both pedestrians and motorists.

#### **Consultation:**

Main Roads WA  
Regional Road Group Technical Committee  
Regional Road Group

#### **Statutory Obligations:**

There are no statutory obligations.

#### **Policy Implications:**

There are no policy implications.

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

Blackspot funding is provided on a two thirds contribution from the State Government to be matched by one third from Local Government.

Should Council accept this project and grant- the proposed budgeted cost for these works is \$60,600 with the net cost to Council being \$20,200, or one third of the project cost.

**Strategic Implications:**

The objective of State Blackspot funding is to reduce the social and economic cost of road trauma by identifying and effectively treating locations with either a foreseeable potential for, or a high incidence of crashes.

**Sustainability Implications:**

➤ **Environmental:**

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

➤ **Economic:**

External funding helps Council carry the burden of general wages and operational costs required to improve and maintain its major assets.

➤ **Social:**

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

**Voting Requirements:**

Simple majority.

**COUNCIL RESOLUTION & OFFICER RECOMMENDATION**

ITEM 8.3.1

That Council consider including in the 2011/12 Budget the acceptance of the \$40,400 State Blackspot funding for the upgrade of the intersection of South Coast Highway with Short and Millar Streets at a total project cost of \$60,600.

CARRIED BY EN BLOC RESOLUTION No. 080811



### 8.3.2 MEMORANDUM OF UNDERSTANDING – BIBBULMUN TRACK ON SHIRE TENURE

<b>File Ref:</b>	REM.1
<b>Applicant / Proponent:</b>	Department of Environment & Conservation
<b>Subject Land / Locality:</b>	Bibbulmun Track on Shire of Denmark Tenure
<b>Disclosure of Officer Interest:</b>	Nil
<b>Date:</b>	13 July 2011
<b>Author:</b>	Sharon Bracknell, Engineering Administrative Officer Yvette Caruso, Natural Resource Management Officer
<b>Authorising Officer:</b>	Rob Whooley, Director of Infrastructure Services
<b>Attachments:</b>	Yes – Bibbulmun Track MOU and Maps 1-7

#### Summary:

Council is requested to endorse the *Memorandum of Understanding (MOU) for Access to Lands Vested in or Managed by the Shire of Denmark for the Bibbulmun Track* between the Department of Environment and Conservation (DEC) and the Shire of Denmark.

#### Background:

The Bibbulmun Track stretches nearly 1,000km from Perth to Albany through a wide variety of vegetation communities and is considered a world-class iconic walk trail attracting local, national and international visitors, including to the south coast region and the Denmark area.

The Bibbulmun Track MOU is intended to formalise an agreement between DEC and the Shire outlining management responsibilities for the maintenance of the Bibbulmun Track where it exists on Shire of Denmark tenure. The intent is for the Shire to grant permission to DEC to access land vested in the Shire for the purposes of inspections and maintenance works conducted by DEC on the Bibbulmun Track.

There is currently no written document outlining management responsibility for maintenance duties and associated protocols in regards to the Bibbulmun Track where it traverses Shire of Denmark tenure. The MOU does not commit to any additional maintenance duties in excess of what is already being undertaken by the Shire.

#### Comment:

The purpose of the MOU is to seek a mutually beneficial and efficient working arrangement between DEC and the Shire, and which clarifies the roles of the respective agencies in regards functions and responsibilities pertaining to the Bibbulmun Track where it exists on Shire of Denmark tenure.

The Shire is currently responsible for those tracks and trails on Shire tenure that were in existence prior to the establishment of the Bibbulmun Track in 1996 and trails that have since been constructed over the Bibbulmun Track (ie Little River Walk Trail). Under the MOU the Shire would continue to be responsible for those assets and maintenance of, including all tracks, paths, roads, and other assets that were constructed by or on behalf of the Shire. DEC would retain responsibility for the planning, development and management of the Bibbulmun Track as a whole, including marking and signage, visitor risk mitigation etc.

There are seven primary areas across the Shire municipality where the Bibbulmun Track traverses Shire of Denmark tenure which are depicted in the MOU Appendices as Maps 1-7. The MOU Appendix II (Maps 1-3) indicates three areas in close proximity to the Denmark township where the Shire is identified as being responsible for maintenance of the Bibbulmun Track.

**Consultation:**

The draft MOU has been prepared by the Department of Environment and Conservation with input and consultation with Shire of Denmark Infrastructure Services Staff and Planning and Sustainability Natural Resource Management Staff.

The Bibbulmun Track MOU has also been put to the Shire of Denmark Paths and Trails Advisory Committee (PATAC) for comment. PATAC resolved at its meeting held 1<sup>st</sup> August 2011 that:

1. *The Bibbulmun Track Memorandum of Understanding be received by the Paths and Trails Advisory Committee and,*
2. *The Committee support the endorsement of this document by Council.*

**Statutory Obligations:**

If Council were to adopt the MOU, although not legally binding, it would enter into a voluntary working agreement with the Department of Environment and Conservation in regards maintenance duties and protocols where the Bibbulmun Track exists on Shire tenure.

**Policy Implications:**

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

**Budget / Financial Implications:**

There are no known significant budget implications relating to the report or the officer recommendation. Adoption of the MOU does not commit any additional funds towards maintenance duties or responsibilities on the Bibbulmun Track outside those currently being undertaken by the Shire.

**Strategic Implications:**

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

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

The environmental implications for adopting the MOU for the Bibbulmun Track where it exists on Shire tenure are advantageous through ensuring there is a clear delineation of maintenance roles and functions of the respective agencies ensuring more efficient land management where the Bibbulmun Track traverses Shire bushland, coastal and foreshore reserve areas.

**➤ Economic:**

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

**➤ Social:**

Adoption of the MOU will ensure more efficient management of the Bibbulmun Track where it lies on Shire tenure ensuring a continued high standard walk trail enabling for recreational opportunities to local residents, visitors, and tourists to the Shire region.

**Voting Requirements:**

Simple Majority.

At the meeting held on the 16 August 2011, Cr Syme advised that there had been an official handover in 1997 and that he requested that investigation be made as to what, if any, agreements/commitments were made at that time. Cr Syme also requested

advice as to whether the agreement includes, or should include, the Monkey Rock Road Reserve.

The Director of Infrastructure Services advised that he been in touch with the Department of Environment & Conservation and searched Council records however he not found any agreements or commitments.

<b>COUNCIL RESOLUTION &amp; OFFICER RECOMMENDATION</b>	ITEM 8.3.2
MOVED: CR BARROW	SECONDED: CR LAING
<p>That Council endorse the signing of the <i>Memorandum of Understanding (MOU) for Access to Lands Vested in or Managed by the Shire of Denmark for the Bibbulmun Track</i> between the Department of Environment and Conservation (DEC) and the Shire of Denmark.</p>	
CARRIED: 10/0	Res: 200811

## 8.4 Director of Finance & Administration

### 8.4.1 FINANCIAL STATEMENT FOR THE MONTH ENDING 31 JULY 2011

<b>File Ref:</b>	FIN 1
<b>Applicant / Proponent:</b>	Not applicable
<b>Subject Land / Locality:</b>	Denmark
<b>Disclosure of Officer Interest:</b>	Nil
<b>Date:</b>	9 August 2011
<b>Author:</b>	Garry Bird, Director of Finance and Administration
<b>Authorising Officer:</b>	Garry Bird, Director of Finance And Administration
<b>Attachments:</b>	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 thirty days with the National Bank, maturing 30 August 2011 at the quoted rate of 5.00%

Reserve Funds have been invested with Members Equity Bank, placed in an on call cash account at the rate of 5.60%.

There are no surplus municipal funds available for investment.

It should be noted that as the 2011/12 Municipal Budget has not yet been adopted, no budget comparisons are possible and these columns have been left blank intentionally in the Financial Report for this reason.

#### Key Financial Indicators at a Glance

The following comments and/or statements are provided to provide a brief summary and/or assist in the interpretation and understanding of the attached Financial Statement.

- Municipal cash funds reserves have been fully depleted and Council is relying on other funds to manage cashflow requirements. This situation will continue until the budget is adopted and rates revenue is received.

**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 and reads as follows;

*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:**

As the Financial Report is for the first month of the new financial year, there are no significant trends or issues to be reported.

**Strategic Implications:**

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

**Sustainability Implications:**

➤ **Environmental:**

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

➤ **Economic:**

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

➤ **Social:**

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

**Voting Requirements:**

Simple Majority.

<b>COUNCIL RESOLUTION &amp; OFFICER RECOMMENDATION</b>	<b>ITEM 8.4.1</b>
<b>MOVED: CR WAKKA</b>	<b>SECONDED: RICHARDSON-NEWTON</b>
That with respect to Financial Statements for the month ending 31 July 2011, Council;	
1. Receive the financial report, incorporating the Statement of Financial Activity, Adopted Budget Amendments and Variations Report and other supporting documentation.	
2. Endorse the Accounts for Payment as listed.	
<b>CARRIED: 10/0</b>	<b>Res: 210811</b>

**8.4.2 POLICY REVIEW – OCCUPATIONAL SAFETY & HEALTH POLICY (P140302)**

<b>File Ref:</b>	ADMIN.2
<b>Applicant / Proponent:</b>	Shire of Denmark
<b>Subject Land / Locality:</b>	Not applicable
<b>Disclosure of Officer Interest:</b>	Nil
<b>Date:</b>	27 July 2011
<b>Author:</b>	Marcia Chamberlain, HR Risk Management Officer
<b>Authorising Officer:</b>	Garry Bird, Director of Finance & Administration
<b>Attachments:</b>	Yes – copy of existing Policy and proposed amended Policy

**Summary:**

This report reviews Council's Occupational Safety & Health (P140302) Policy and recommends retention of the existing policy with additional changes.

A revised Policy based on submissions received during the review, is now presented for the consideration of Council.

**Background:**

At the meeting held on the 27 April 2011, Council resolved as follows (Resolution No. 260411);

*“That with respect to Council’s Policy Manual, Council;*

- 1. Endorse without change Policies P130301, 130302, 130601 & 140301.*
- 2. Request the Chief Executive Officer to review policies P140101, P140302 and P140401 in consultation with Council’s employees in light of current legal standards and recommendations.”*

Policy P140302 – Occupational Safety & Health has been reviewed following consultation with all Council employees, Council Occupational Safety and Health Representatives and advice from Council’s Regional Risk Management Advisor, Mr John Appleyard.

**Comment:**

Council’s current Policy is as follows;

*“P140302 OCCUPATIONAL SAFETY & HEALTH POLICY*

Objective

*To ensure that so far as is practicable, a working environment is maintained in which employees are not exposed to hazards.*

Policy

*This policy recognizes that the safety and health of all employees within the Shire of Denmark is the responsibility of Council management and employees.*

*All accidents or hazards that occur within the workplace, or identified hazards, that result or may result in personal injury shall immediately be reported, through the employee’s supervisor using the OS&H Incident Report.*

*Where the situation requires immediate action it is the relevant Manager’s responsibility to progress resolution as well as ensure the matter is referred to the Occupational Safety and Health Committee, if in operation.*

*As per the Occupation Safety and Health Act 1984, the objective of this policy is to:*

- Promote and secure the safety and health of people working for the Organisation;*
- Protect people at work from hazards;*

- *Assist in securing a safe and hygienic working environment;*
- *Eliminate, reduce and control hazards;*
- *Encourage co-operation and consultation between the Organisation and employees; and*
- *Promote education and awareness of occupational safety and health.*

## **PROCEDURES**

### Management

*In fulfilling the responsibility, management has a duty to provide and maintain, so far as is practicable, a working environment in which employees are not exposed to hazards. This will be achieved by:*

- *providing and maintaining safe plant and systems of work;*
- *making and monitoring arrangements for the safe use, handling, storage, disposal and transport of plant and substances;*
- *maintaining the workplace in a safe and healthy condition;*
- *providing information, training and supervision for all employees thereby enabling them to work in a safe and healthy manner.*

*The Chief Executive Officer is responsible for the implementation and monitoring of this policy.*

*The safety and health duties of Management at all levels will be detailed and Council procedures for training and back-up support shall be followed. In fulfilling the objectives of this policy, management is committed to regular consultation with employees to ensure that the policy operates effectively and that safety and health issues are regularly reviewed.*

*Recognising the potential risks associated with hazards that may be present, this Council will take practicable steps to provide and maintain a safe and healthy work environment for all employees.*

*In fulfilling its obligations pursuant to this policy management:*

- *Is responsible for the effective implementation of the Council's safety and health policy;*
- *Must observe, implement and fulfil its responsibilities under Acts and Regulations which apply to Local Government;*
- *Must ensure that the agreed procedures for regular consultation between management and those with designated and elected safety and health responsibilities are followed;*
- *Must make regular assessments of safety and health performance and resources in co-operation with those persons having designated and elected safety and health functions;*
- *Must ensure that all specific policies operating within the Council eg fire and evacuation, purchasing, training, first aid and safe systems of work, are periodically revised and are consistent with Council's safety and health objectives;*
- *Must provide information, training and supervision for all employees in the correct use of plant, equipment and substances used throughout the Council;*
- *Must be informed of incidents and accidents occurring on Council premises or to Council employees so that safety and health performance can be accurately gauged.*

### Employees

*In fulfilling their obligations pursuant to this policy employees:*

- *Have a duty to take the care of which they are capable for their own safety and health and the safety and health of others affected by their actions at work;*
- *Must comply with the safety procedures and directions agreed between management and employees with nominated or elected safety and health functions;*

- *Must not wilfully interfere with or misuse items or facilities provided in the interests of safety and health of Council employees;*
- *Must, in accordance with Council procedures for accident and incident reporting, report potential and actual hazards and accidents/incidents to their supervisor and/or safety and health representatives."*

To begin the review / consultation process, a Memorandum was sent to all Council Staff including OSH Representatives, requesting their comment/ changes/questions in regards to the Policy.

#### STAFF COMMENTS / CHANGES

##### Employee 1

*Establish and maintain a visible culture safety within the organisation that drives organisational decision making.*

*Continually improving processes in response to changing safety trends, newly recognised hazards, near misses and injuries and including and providing feedback to affected employees on these processes.*

*Measure occupational health and safety performance regarding newly recognised hazards, near misses and injuries and then to use these decisions and to use these statistics as a consideration factor purchasing new equipment and designing work practices.*

##### Employee 2

*Minor wording changes, omit the word Organisation and replace with Shire of Denmark.*

*Council to promote a culture of occupational health and safety.*

##### Employee 3

*Minor wording changes, replace reference to the OS&H Incident Report with Accident/Incident/Hazard Report Form.*

##### Employee 4

*Add O H & S Hierarchy to the Policy.*

*Include Volunteers which are to be covered under the new OSH Act.*

##### LGIS

*OSH Responsibilities of CEO, Executive Management, Line Manager/Supervisor, Employees, Safety Committee and Committee Members defined in detail.*

##### Author Comment

The Occupational Safety and Health Policy has been revised based on input from both employees and in consultation with the Regional Risk Management Advisor from Local Government Insurance Services. A copy of the amended Policy is attached for Council review.

##### **Consultation:**

- Shire of Denmark employees
- Shire of Denmark Occupational Safety & Health Representatives
- Local Government Insurance Services

##### **Statutory Obligations:**

Occupational Safety and Health Act 1984 (Work Health & Safety Act, from January 2012).



Occupational Safety and Health Regulations 1996.

**Policy Implications:**

Should Council amend Policy (P140302), the change will be reflected in Council's Policy Manual.

**Budget / Financial Implications:**

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

**Strategic Implications:**

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

**Sustainability Implications:**

➤ **Environmental:**

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

➤ **Economic:**

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

➤ **Social:**

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

**Voting Requirements:**

Simple majority.

OFFICER RECOMMENDATION	ITEM 8.4.2
That with respect to the review of Council Policy (P140302, Occupational Safety & Health Policy), Council;	
1. Note the submissions received in regard to the review of the existing Policy; and	
2. Adopt the attached revised Policy.	
CARRIED BY EN BLOC RESOLUTION No. 080811	

## 8.5 Chief Executive Officer

### 8.5.1 POLICY REVIEW – ABORIGINAL RECONCILIATION (P110706)

<b>File Ref:</b>	ADMIN.2
<b>Applicant / Proponent:</b>	Shire of Denmark
<b>Subject Land / Locality:</b>	Not applicable
<b>Disclosure of Officer Interest:</b>	Nil
<b>Date:</b>	11 July 2011
<b>Author:</b>	Claire Thompson, Executive Assistant
<b>Authorising Officer:</b>	Dale Stewart, Chief Executive Officer
<b>Attachments:</b>	Yes

#### Summary:

This report reviews Council's Aboriginal Reconciliation Policy (P110706) and recommends that Council retain the Policy with amendment/additions. Council is also asked to consider purchasing additional flag poles to allow for the Australian Aboriginal Flag, to be flown on occasions such as NAIDOC (National Aborigines and Islanders Day Observance Committee) Week supported by the Western Australian and Federal Governments, and the Western Australian State Flag to be flown.

#### Background:

At its meeting held on the 22 March 2011, Council resolved as follows (Resolution No. 190311);

“That with respect to the Policy Manual, Council request the Chief Executive Officer to seek the assistance of the Department of Indigenous Affairs in ascertaining the relevant local history of the treatment and activities of indigenous people in the Shire of Denmark, with a view to referring such research to Council by the June 2011 meetings of Council for potential review of the Policy P110706 and if relevant, making it more applicable to the history of Denmark.”

The report has been delayed beyond the date requested by Council to allow for feedback from the Department of Indigenous Affairs (DIA), who were requested to provide information to inform the Officer report. Unfortunately no written information has been received from this Department to date with verbal advice being that there is very little detailed research on the issue relevant specifically to the Shire of Denmark. This is further complicated by advice from DIA officers and Indigenous Elders that traditional aboriginal names of areas and the nature of nomadic tribal life further make it difficult without further research to absolutely verify that incidents or occurrences occurred within the Shire of Denmark, as opposed to in the general area of the peoples of the Bibbulmun and Minang (generally from Nannup to east of Albany).

The current Policy was endorsed by Council at its meeting held on the 26 May 1998 (Resolution No. 121/98) and reads as follows;

*“P110706 ABORIGINAL RECONCILIATION*

*That the Shire of Denmark make the following statement in support of reconciliation with the indigenous people of this country, especially those from the south coast of Western Australia–*

- *Aboriginal Reconciliation is an issue in which each and every Australian has a choice: to silently ignore injustice and inequality, or lend their voice to the growing call to face the truth of the past treatment of indigenous people.*
- *What was done to Aboriginal people in the past was unjust and regrettable – particularly the taking of Aboriginal children from their families.*

- *The Noongar people's historical presence in and special attachment to this district is acknowledged, as is their right to continue living according to their own values and customs, within the law.*
- *The special places, culture and history of the Noongar people are respectfully recognised.*
- *Changes brought to this district by Wadjelas (white people) were dramatic, imposed without regard for the indigenous people and frequently damaging to them, through the taking of their land, their children, their health and sometimes their lives.*
- *This Council expresses sorrow at these injustices, and commits itself to participating in a future in which all people enjoy mutual respect, full recognition and equal rights."*

The Policy was adopted on the 26 May 1998, which is also the recognised annual date for "National Sorry Day".

**Comment:**

Council have the option to re-endorse the Policy with no change, repeal the Policy or amend the Policy.

The current Policy was developed 13 years ago for the main purpose of expressing Council's commitment to the reconciliation process which stemmed from the national enquiry, headed by Sir Roland Wilson, into the Stolen Generation.

Whilst there is no written evidence of any Aboriginal or Torres Strait Islander children being forcibly removed from their families in Denmark, advice on the 'ReconciliACTION' website states that "*no one knows how many children were taken, as most records have been lost or destroyed*". This indicates that one cannot presume that Denmark has no 'stolen generation' just because there are no records of such events.

There is archaeological evidence of Noongar occupation in Denmark as well as written and oral history.

Attached is information which relates to Denmark's indigenous history which includes;

- An extract from Council's recently adopted Municipal Heritage Inventory (MHI);
- A Denmark Historical Society Pamphlet "Notes on the Aborigines of Denmark"; and
- An extract from the Cultural Heritage Assessment of Nornalup Townsite.

In July 2011 Council received a document titled 'Aboriginal Cultural Heritage Management Plan for the Southern Section of Kwoorabup Beelia (Denmark River) July 2011' which also relates.

On the 5 July 2011 the Shire of Denmark received advice from the Department of Local Government of NAIDOC Week, being celebrated from 3 to 10 July 2011.

NAIDOC week is held every year as a way of promoting a greater understanding of Aboriginal and Torres Strait Islander peoples and culture, celebrating the survival of Indigenous culture and the Indigenous contribution to modern Australia.

The Department of Local Government advises that throughout NAIDOC week, in national recognition of our Indigenous peoples, the Australian Aboriginal Flag and/or the Torres Strait Islander Flag should be flown on additional flagpoles, where available, next to or near the Australian National Flag. The Aboriginal Flag can also be flown during National Reconciliation Week in May and the anniversary of the High Court decision in the Eddie Mabo land rights case of 1992 on the 3 June.

Council would need to purchase an additional flag pole for an Aboriginal Flag and given the site works which would be required for installation, the Author suggests that should Council wish to proceed along this path then it would be worth purchasing two additional flag poles, one for the Aboriginal Flag and one for the Western Australian Flag. Being a regularly occupied government (local) administration building, Council is already required by adopted government protocols to display the Australian Flag during opening hours.

The following is a suggested amended policy to be adopted during our Centenary of Local Government.

P110706 ABORIGINAL HERITAGE

Aboriginal Reconciliation

That the Shire of Denmark make the following statement in support of reconciliation with the indigenous people of this country, especially those from the south coast of Western Australia–

- Aboriginal Reconciliation is an issue in which each and every Australian has a choice: to silently ignore injustice and inequality, or lend their voice to the growing call to face the truth of the past treatment of indigenous people.
- What was done to Aboriginal people in the past was unjust and regrettable – particularly the taking of Aboriginal children from their families.
- The Noongar people's historical presence in and special attachment to this district is acknowledged, as is their right to continue living according to their own values and customs, within the law.
- The special places, culture and history of the Noongar people are respectfully recognised.
- Changes brought to this district by Wadjelas (Early White European Settlers) were dramatic, imposed without regard for the indigenous people and frequently damaging to them, through the taking of their land, their children, their health and sometimes their lives.
- This Council expresses sorrow at these injustices, and commits itself to participating in a future in which all people enjoy mutual respect, full recognition and equal rights.

Acknowledgement of Traditional Owners

The Shire of Denmark acknowledges Indigenous Australians (Aboriginal and Torres Strait Islanders) as the first inhabitants and traditional owners of Australia, their presence and contributions to the history of Denmark, both in the past and into the future.

In this regard, the Shire of Denmark will;

1. Through the flying of the Aboriginal Flag at its administration building, recognise and observe;
  - a) National Aboriginal and Islanders' Day Observance Committee (NAIDOC) Week; and
  - b) The anniversary of the High Court decision in the Eddi Mabo land rights case of 1992; and.
2. Incorporate and co-ordinate at appropriate Council coordinated functions and events that bring people together to that event from outside of our District, either;
  - a) An indigenous 'Welcome to Country' Ceremony or
  - b) An Acknowledgement of Country – in accordance with the South West Aboriginal Land & Sea Council's Welcome to Country (Noongar Protocols) publication.

It is noted that a Welcome to Country Ceremony will be subject to the consideration of the Budget of the particular event, the cost of performing the Ceremony, (should the ceremony attract a fee for service) and the availability of local recognised Elders,

with the Ceremony based on the South West Aboriginal Land & Sea Council's Welcome to Country (Noongar Protocols) publication.

**Consultation:**

- Information was requested from the Department of Indigenous Affairs on the 8 March 2011 however there has been no written responses at the time of writing this report, only some verbal advice.
- Denmark Historical Society – Pamphlet No. 1 “Aborigines of Denmark” (attached).
- Extract from the Shire of Denmark’s Municipal Heritage Inventory.
- Cultural Heritage Assessment of Nornalup Townsite, Applied Archaeology Australia (extract attached).
- Aboriginal Cultural Heritage Management Plan Kwoorabup Beelia (Denmark River), Applied Archaeology Australia.
- Hands on the Fringe by Tiffany Shellam.

**Statutory Obligations:**

There are no statutory obligations in relation to this report or the officer’s recommendation.

Permission is not required to fly the Australian Aboriginal Flag or the Flag of Western Australia.

**Policy Implications:**

Should Council choose to amend the Aboriginal Reconciliation Policy, the change will be reflected in Council’s Policy Manual.

**Budget / Financial Implications:**

There are no major budget or financial implications relating to the review of Council’s Aboriginal Reconciliation Policy or the changes proposed.

The cost of two (2) flag poles would be approximately \$3,000 (plus GST) which includes freight and installation. The Flag of Western Australian is provided free to Local Government Authorities through the Department of Premier and Cabinet, and the Australian Aboriginal Flag is available to purchase for approximately \$100 (including GST). The cost of Welcome to Country Ceremonies conducted by Indigenous persons can vary but generally, where a charge is requested, the cost is in the order of \$300 to \$750 per occasion.

Acknowledgement of Country statements cost nothing to perform as they are performed by the organisation/ Master of Ceremonies.

**Strategic Implications:**

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

**Sustainability Implications:**

➤ **Environmental:**

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

➤ **Economic:**

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

➤ **Social:**

The timing of the review of this policy coincides with the centenary year of this local government and given the Council is conducting numerous functions and activities during the centenary year the officer considers it appropriate to also ensure that the

traditional inhabitants of the area (prior to European settlement and the creation of local government administration) are recognised at important functions and events.

**Voting Requirements:**

Simple majority.

**COUNCIL RESOLUTION & OFFICER RECOMMENDATION** ITEM 8.5.1  
 MOVED: CR SYME SECONDED: CR PEDRO

That with respect to Council’s Aboriginal Reconciliation Policy (P110706), Council;

1. Amend the title to “*Aboriginal Heritage*”;
2. Add the heading “*Aboriginal Reconciliation*” and retain the existing wording;
3. Add the following words under a separate heading of “*Acknowledgement of Traditional Owners*”,

“The Shire of Denmark acknowledges Indigenous Australians (Aboriginal and Torres Strait Islanders) as the first inhabitants and traditional owners of Australia, their presence and contributions to the history of Denmark, both in the past and into the future.

In this regard, the Shire of Denmark will;

1. Through the flying of the Aboriginal Flag at its administration building, recognise and observe;
  - a) National Aboriginal and Islanders’ Day Observance Committee (NAIDOC) Week; and
  - b) The anniversary of the High Court decision in the Eddi Mabo land rights case of 1992; and.
3. Incorporate and co-ordinate at appropriate Council coordinated functions and events that bring people together to that event from outside of our District, either;
  - a) An indigenous ‘Welcome to Country’ Ceremony (it is noted that a Welcome to Country Ceremony will be subject to the consideration of the Budget of the particular event, the cost of performing the Ceremony (should the ceremony attract a fee for service) and the availability of local recognised Elders, with the Ceremony based on the South West Aboriginal Land & Sea Council’s Welcome to Country (Noongar Protocols) publication); or
  - b) An Acknowledgement of Country – in accordance with the South West Aboriginal Land & Sea Council’s Welcome to Country (Noongar Protocols) publication.
4. Consider the inclusion of \$3,000 in the 2011/12 Budget for the purchase and installation of two additional flag poles to be sited, near the existing flag pole, outside of the Shire’s Administration building.

**AMENDMENT**

MOVED: CR HINDS SECONDED: CR RICHARDSON-NEWTON

That an additional part 5 be added such that the words “their children” be removed from dot point five of the existing Policy.

CARRIED: 7/3 Res: 220811

*Cr Hinds requested that all Councillors’ votes on the above resolution be recorded.*

*FOR: Cr Hinds, Cr Wakka, Cr Ebbett, Cr Thornton, Cr Richardson-Newton, Cr Laing & Cr Barrow.*

*AGAINST: Cr Barnes, Cr Pedro & Cr Syme.*

**AMENDMENT**

MOVED: CR HINDS SECONDED: CR HIINDS

That an additional part 6 be added such that the words “their health” be removed from dot point five of the existing Policy.

LAPSED FOR WANT OF A SECONDER

**AMENDMENT**

MOVED: CR HINDS

That an additional part 6 be added such that the words “& sometimes their lives” be removed from dot point five of the existing Policy.

LAPSED FOR WANT OF A SECONDER

**AMENDMENT**

MOVED: CR LAING

SECONDED: CR BARNES

That an additional part 6 be added such that the words “Wadjela” be removed from dot point five of the existing Policy and that the brackets around the words “Early White European Settlers” be removed.

CARRIED: 10/0

Res: 230811

**AMENDMENT**

MOVED: CR HINDS

SECONDED: CR RICHARDSON-NEWTON

That part 3, 2 a) be removed.

LOST: 3/7

Res: 240811

**AMENDMENT**

MOVED: CR HINDS

SECONDED: CR LAING

That an additional part 7 be added that states that Council shall each year report its progress on reconciliation in the Annual Report and at its Annual Electors Meeting.

**MACHINERY MOTION**

MOVED: CR EBBETT

SECONDED: CR WAKKA

That the amendment now be put.

CARRIED: 7/3

Res: 250811

THE AMENDMENT WAS THEN PUT & LOST: 2/8

Res: 260811

*Cr Hinds requested that all Councillors’ votes on the above resolution be recorded.*

*FOR: Cr Hinds & Cr Richardson-Newton.*

*AGAINST: Cr Barrow, Cr Laing, Cr Barnes, Cr Thornton, Cr Syme, Cr Pedro, Cr Ebbett & Cr Wakka.*

**AMENDED MOTION**

That with respect to Council’s Aboriginal Reconciliation Policy (P110706), Council;

1. Amend the title to “*Aboriginal Heritage*”;
2. Add the heading “*Aboriginal Reconciliation*” and retain the existing wording;
3. Add the following words under a separate heading of “*Acknowledgement of Traditional Owners*”,

“The Shire of Denmark acknowledges Indigenous Australians (Aboriginal and Torres Strait Islanders) as the first inhabitants and traditional owners of Australia, their presence and contributions to the history of Denmark, both in the past and into the future.

In this regard, the Shire of Denmark will;

1. Through the flying of the Aboriginal Flag at its administration building, recognise and observe;
  - a) National Aboriginal and Islanders’ Day Observance Committee (NAIDOC) Week; and
  - b) The anniversary of the High Court decision in the Eddi Mabo land rights case of 1992; and.
2. Incorporate and co-ordinate at appropriate Council coordinated functions and events that bring people together to that event from outside of our District, either;

- a) An indigenous 'Welcome to Country' Ceremony (it is noted that a Welcome to Country Ceremony will be subject to the consideration of the Budget of the particular event, the cost of performing the Ceremony (should the ceremony attract a fee for service) and the availability of local recognised Elders, with the Ceremony based on the South West Aboriginal Land & Sea Council's Welcome to Country (Noongar Protocols) publication); or
  - b) An Acknowledgement of Country – in accordance with the South West Aboriginal Land & Sea Council's Welcome to Country (Noongar Protocols) publication.
4. Consider the inclusion of \$3,000 in the 2011/12 Budget for the purchase and installation of two additional flag poles to be sited, near the existing flag pole, outside of the Shire's Administration building.
  5. Remove the words "their children" from dot point five of the Aboriginal Reconciliation section of the Policy.
  6. Remove the word "Wadjela" from dot point five of the Aboriginal Reconciliation section of the Policy and remove the brackets around the words "Early White European Settlers".

THE AMENDED MOTION THEN BECAME THE SUBSTANTIVE MOTION WAS WHICH  
PUT & CARRIED: 9/1 Res: 270811



<b>8.5.2 DELEGATION D040114 – CITIZENSHIP CEREMONIES</b>
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<b>File Ref:</b>	ADMIN.9
<b>Applicant / Proponent:</b>	Not applicable
<b>Subject Land / Locality:</b>	Not applicable
<b>Disclosure of Officer Interest:</b>	Nil
<b>Date:</b>	10 August 2011
<b>Author:</b>	Claire Thompson, Executive Assistant
<b>Authorising Officer:</b>	Dale Stewart, Chief Executive Officer
<b>Attachments:</b>	No

**Summary:**

Advice has been received from the Department of Immigration and Citizenship that Deputy Shire Presidents and Chief Executive Officers of Shires are not able to perform Citizenship Ceremonies. This report recommends that Delegation D040114 be amended accordingly.

**Background:**

Under subsection 27(5) of the Australian Citizenship Act 2007 the Minister for Immigration and Citizenship provides an Instrument of Authorisation which enables the Shire President to conduct Citizenship Ceremonies. It also authorises the Deputy Mayor or Deputy President of a city, municipality or town and the Chief Executive Officer of a city, municipality or town.

**Comment:**

Following a Naturalisation (Citizenship) Ceremony held in July 2011 and conducted by the Deputy Shire President, the Department of Immigration & Citizenship have advised that the only person authorised to conduct these ceremonies under the Instrument of Authorisation is the Shire President.

A number of other Western Australian Shire Councils had interpreted that the term 'municipality' included 'shires' however, after seeking legal advice on the matter it has been determined that a 'shire' cannot be designated a municipality.

Council's current Delegation reads as follows;

*Powers and duties delegated*

*The Minister for Immigration and Citizenship, acting under subsection 27(5) of the Australian Citizenship Act 2007 ('the Act') authorises the classes of persons, and the persons from time to time holding, occupying or performing the duties of a position, mentioned in the Schedule to this Instrument, to receive a pledge of commitment.*

*Persons to whom the delegation applies*

*The following officers of the Shire of Denmark are authorised to receive a pledge of commitment;*

- 1. President of a Shire Council;*
- 2. Deputy President of a Shire Council; and*
- 3. Chief Executive Officers of a city, municipality or town.*

It is noted that part 2 of the Instrument of Authorisation (IOA) should read "Deputy President of a city, municipality or town", pursuant to the Minister's current IOA.

A copy of the legal advice is below (noting that the legal advice given specifically related to whether a CEO could conduct a ceremony, however the clarification of the term 'municipality' also applies to the position of Deputy President;

*"The position CEO of the Shire of xxxx does not fall into any of the positions listed immediately above. Therefore, unless a person holding such a position could be said to*

*be performing the duties of the President of the Shire of xxxx (which would not be the case on a one off occasion such as at a citizenship ceremony receiving a pledge of commitment), the CEO of the Shire of xxxx cannot receive a pledge of commitment.*

*I have considered whether it is possible that the CEO of the Shire of xxxx could be regarded as a CEO of a municipality and therefore fall within category (iv) of the above offices. If there were such an office, ordinarily it would be so designated under the Local Government Act 1995 (WA) ("the 1995 Act"). This Act replaced the Local Government Act 1960, and uses some new terms and creates greater uniformity across local governments of Western Australia.*

*On my reading, one of the purposes of the 1995 Act is to allow areas of the State of Western Australian to be declared by order as districts (see section 2.1), which can then be divided into wards (see section 2.2). I note that, under section 2.4, an order under section 2.1 declaring an area of the State to be a district is to include an order designating the district a city, town or shire. There is no scope for the area to be designated a municipality under the 1995 Act. As such, there is no longer any such office as a CEO of a municipality in Western Australia if there ever was one.*

*Moreover, I note that there are only few references to the term 'municipality' in the substantive part of the 1995 Act. That term only appears to be used in Schedule 9.3 to the 1995 Act (which sets out the transitional provisions between the Local Government Act 1960 and the 1995 Act) ostensibly as a collective noun. For instance, in clause 1 of Schedule 9.3, the term 'continuing authority' is defined to mean 'a former municipality that, on the commencement day, continues in existence as a local government'. The term 'former municipality' is defined to mean a 'municipality that, under the former provisions [those under the Local Government Act 1960], was constituted by the inhabitants of a former district immediately before the commencement day'. Based on this and consistent with the above, it appears that even if there formerly were CEOs of municipalities in Western Australia under the old Act, they do not continue to be in existence under the 1995 Act.*

*I note that the relevant instrument would need to be amended for the CEO of the Shire of xxxx to be authorised for the purposes of section 27 of the Citizenship Act. "*

**Consultation:**

Department of Immigration & Citizenship.

**Statutory Obligations:**

Australian Citizenship Act 2007.

**Policy Implications:**

The change will be reflected in Council's Delegations Register.

**Budget / Financial Implications:**

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

**Strategic Implications:**

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

**Sustainability Implications:**

➤ **Environmental:**

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

➤ **Economic:**

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

➤ **Social:**

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

**Voting Requirements:**

Simple majority.

<b>COUNCIL RESOLUTION &amp; OFFICER RECOMMENDATION</b>	<b>ITEM 8.5.2</b>
That Council amend its Delegation D040114, Citizenship Ceremonies, by deleting the words “Deputy President of a Shire Council; and Chief Executive Officer of a city, municipality or town.”	
CARRIED BY EN BLOC RESOLUTION No. 080811	

**9. COMMITTEE REPORTS & RECOMMENDATIONS**

**9.1 SENIORS ADVISORY COMMITTEE – ANNUAL SENIORS LUNCHEON**

<b>File Ref:</b>	SER.3
<b>Applicant / Proponent:</b>	Seniors Advisory Committee
<b>Subject Land / Locality:</b>	Not applicable
<b>Disclosure of Officer Interest:</b>	Nil
<b>Date:</b>	10 August 2011
<b>Author:</b>	Claire Thompson, Executive Assistant
<b>Authorising Officer:</b>	Dale Stewart, Chief Executive Officer
<b>Attachments:</b>	No

**Summary:**

The Seniors Advisory Committee recently discussed Council’s Seniors Luncheon to determine some guidelines, including cost, for the annual event. The Committee recommends that Council allocate \$6,500 in the 2011/12 Budget for the 2011 Luncheon and are in the process of developing a Policy for Council’s consideration for subsequent events (2012 on).

**Background:**

The Seniors Luncheon has been an annual event of Council’s for over 20 years and typically involves a ‘theme’, a pre dinner drink, a 3 course meal (entre, main and dessert), tea & coffee, a quiz and entertainment.

The cost of the Seniors Lunch has been steadily increasing due to inflation and as well as the number of attendees and the Chief Executive Officer asked the Seniors Advisory Committee to review the current ‘practice’ to define and determine the overall objective(s), principle(s) and purpose(s) for the luncheon.

**Comment:**

At their meeting held on the 14 June 2011, the Seniors Advisory Committee resolved to recommend that the Chief Executive Officer draft a Seniors Luncheon Policy, to define the objectives and beneficiaries of the luncheon, for further consideration of the Committee.

Further, part 1 of the resolution also stated:

*“That, in relation to the 2011 Seniors Luncheon, the Seniors Advisory Committee recommend that Council consider an allocation of \$6,500.00 (excluding GST) in the 2011/2012 Municipal Budget for a Senior Citizens Luncheon for the purpose of acknowledging the important contributions that Seniors make to the Denmark community.”*

The tables below show a cost comparison of the three annual community events which are facilitated and funded by Council. The Seniors Luncheon has always been catered for by the 1<sup>st</sup> Denmark Scouts and it should be noted that the cost includes a three course meal (entre, main and dessert), refreshments (including a Sherry), service, set up and clean up. In 2010/11 financial year the seniors event exceeded budget by \$1,114.00.

<b>Cost Comparison of Council Facilitated Community Events</b> (the number in brackets represents the approx. Number of attendees)				
Year	Seniors Lunch	Thank A Volunteer Function	Australia Day	Feast not Fire
2011	-	-	\$4,797.00 (750)	\$4,640.00 (122)
2010	\$7,276.00 (173)	\$2,688.00 (60)	\$3,775.00 (550)	\$5,415.06 (140)
2009	\$5,920.00 (140)	No function	\$2,698.00 (450)	No function
2008	\$5,920.00 (148)	\$2,261.00 (187)	\$2,500.00 (350)	No function

*\* Note: the 2010 Feast not Fire Night received income of \$1,119.05 as attendees made a contribution to the cost of their meal. The net cost to Council was \$4,296.01.*

*\*Note: the 2011 Feast not Fire Night received income of \$500 from the Mt Shadforth Bush Fire Brigade and income of \$2,340.00 from attendees contributions. The net cost to Council was \$2,300.00.*

<b>Approximate cost per head</b>				
Year	Seniors Lunch	Thank A Volunteer Function	Australia Day	Feast not Fire
2011	-	-	\$6.39	\$38.03
2010	\$42.05	\$44.80 (included alcohol)	\$6.86	\$38.68
2009	\$37.78	-	\$6.00	No function
2008	\$40.00	\$12.09	\$7.14	No function

Members of the Seniors Advisory Committee agreed that the cost per head for 2011 should be limited to \$35.00, if at all possible, whilst keeping with the three course meal.

**Consultation:**

Seniors Advisory Committee.

**Statutory Obligations:**

There are no statutory obligations.

**Policy Implications:**

There are no policy implications.

**Budget / Financial Implications:**

This report requests that Council consider allocating \$6,500 in the 2011/12 Budget for the 2011 Seniors Luncheon, which based on an estimated 180 attendees, should cost in the vicinity of \$36 per head (plus GST).

**Strategic Implications:**

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

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

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

**➤ Economic:**

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

**➤ Social:**

The Seniors Luncheon provides an excellent opportunity for Council to formally recognise and thank Denmark's senior citizens for the valuable contribution to our community in the past, the present and the future.

Each year the event is widely advertised in an attempt to capture as many eligible seniors and enable them to attend the lunch especially those seniors who wouldn't or couldn't ordinarily participate and those who could be at risk of becoming socially isolated.

The luncheon has proven to be extremely popular and is generally a very enjoyable, social activity for those who attend.

**Voting Requirements:**

Simple majority.

**COUNCIL RESOLUTION & COMMITTEE AND OFFICER ITEM 9.1  
RECOMMENDATION**

That, in relation to the 2011 Seniors Luncheon, Council consider an allocation of \$6,500.00 (excluding GST) in the 2011/2012 Municipal Budget for a Senior Citizens Luncheon for the purpose of acknowledging the important contributions that Seniors make to the Denmark community.

CARRIED BY EN BLOC RESOLUTION No. 080811

**9.2 DENMARK YOUTH ADVISORY COMMITTEE – 2011/2012 BUDGET REQUEST**

<b>File Ref:</b>	SER.4
<b>Applicant / Proponent:</b>	Denmark Youth Advisory Committee
<b>Subject Land / Locality:</b>	Not applicable
<b>Disclosure of Officer Interest:</b>	Nil
<b>Date:</b>	6 August 2011
<b>Author:</b>	Gregg Harwood, Director of Community & Regulatory Services
<b>Authorising Officer:</b>	Gregg Harwood, Director of Community & Regulatory Services
<b>Attachments:</b>	No

**Summary:**

The Denmark Youth Advisory Committee recommends that Council relocate the existing “Mr Pushit” sculpture together with its built drink fountain from the Berridge Park “old Skate Park” to the new Skate Park, within McLean Park before the commencement of the October 2011 school holidays (1<sup>st</sup> October).

**Background:**

At its 4 August 2011 meeting the Denmark Youth Advisory Committee made the following recommendation to Council:

“The Denmark Youth Advisory Committee recommends to Council that;

The Denmark Shire Council relocate the existing “Mr Pushit” sculpture with its built in drink fountain from the Berridge Park “old Skate Park” to the new Skate Park, within McLean Park before the commencement of the October 2011 school holidays (1<sup>st</sup> October).”

A picture of the “Mr Pushit” sculpture is below.

**Comment:**

The “Mr Pushit” sculpture and drink fountain was a joint project of Shire of Denmark, the Denmark Arts Council and the then Denmark Skate Park Committee that was originally installed at the Berridge Park “old Skate Park” for use by skate boarders and other people using that part of the park.

Now that the skate park has been moved to the Youth Centre at the Mclean Oval complex the sculpture is largely redundant and an out of place piece of urban art work. The Committee is proposing that the sculpture and its associated water fountain be located to the new skate park where a fountain is needed and the sculpture will be in context and relevant to its immediate surroundings.

While the relocation of the sculpture makes operational and aesthetic sense it is important that the Denmark Arts Council be formally consulted as part of the relocation process and the officer recommendation reflects this.

In terms of the old skate park area the Denmark Dog Club currently uses the area for dog obedience training and there are two basket ball rings that are periodically used by members of the public. The area is also frequented by motor homes that use the adjacent parking area for day parking and the adjacent parks for exercising any pets that have with them.

**Consultation:**

The “Mr Pushit” sculpture and drink fountain was originally installed at the Berridge Park “old Skate Park” for use by skate boarders and other people using that part of the park as was a joint project of Shire of Denmark, the Denmark Arts Council and the then Denmark Skate Park Committee.

It is reasonable that the Denmark Arts Council be formally consulted as part of the relocation process and the officer recommendation reflects this.

**Statutory Obligations:**

There are no statutory obligations relating to the report, the Committee recommendation or the officer recommendation.

**Policy Implications:**

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

**Budget / Financial Implications:**

It is estimated that the cost of relocating the sculpture and replacing it with a conventional water fountain, a tap and a small drinking trough for dogs would be in the region of \$2,500. If Council adopts this recommendation a budget allocation would need to be made for this amount.

**Strategic Implications:**

There only known strategic implications relating to the report, the Committee recommendation or the officer recommendation is the opportunity to explore the long term future use of the end of Berridge Park. At present the general site is effectively used as overflow parking.

**Sustainability Implications:**

➤ **Environmental:**

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

➤ **Economic:**

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

➤ **Social:**

There are social benefits that will arise from placing the sculpture in its correct cultural location.

**Voting Requirements:**

Simple majority.

COMMITTEE RECOMMENDATION ITEM 9.2

The Denmark Youth Advisory Committee recommends to Council that the Denmark Shire Council relocate the existing “Mr Pushit” sculpture with its built in drink fountain from the Berridge Park “old Skate Park” to the new Skate Park, within McLean Park before the commencement of the October 2011 school holidays (1<sup>st</sup> October).

**COUNCIL RESOLUTION & OFFICER RECOMMENDATION** ITEM 9.2  
 MOVED: CR RICHARDSON-NEWTON SECONDED: CR BARROW

That Council approve the relocation of the existing “Mr Pushit” sculpture and drink fountain from the Berridge Park “old Skate Park” to the new McLean Park Skate Park, ideally before the commencement of the October 2011 school holidays (1<sup>st</sup> October 2011) subject to;

1. Liaison and agreement from the Denmark Arts Council, and
2. Consideration of and its subsequent inclusion in the 2011/2012 budget of the estimated \$2,500 costs associated with the relocation.

CARRIED: 10/0 Res: 280811

7.51pm – The Director of Finance & Administration left the meeting.

**10. MATTERS BEHIND CLOSED DOORS**

Nil

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

**11.1 Convening of a Special Meeting of Council**

Following the briefing session discussion meeting of the 16 August 2011 the following Officer Recommendation regarding the convening of a Special Council Meeting to deal with the Draft Local Planning Strategy is provided.

**COUNCIL RESOLUTION & OFFICER RECOMMENDATION** ITEM 11.1 a)  
 MOVED: CR RICHARDSON-NEWTON SECONDED: CR WAKKA

That Council approve an item of Urgent Business relating to the Draft Local Planning Strategy.

CARRIED: 10/0 Res: 290811

**OFFICER RECOMMENDATION** ITEM 11.1 b)

That Council convene a Special Meeting of Council dealing with the Draft Local Planning Strategy on 11 October 2011, commencing at 4.00pm.



**COUNCIL RESOLUTION**

ITEM 11.1 b)

MOVED: CR SYME

SECONDED: CR LAING

That Council convene a Special Meeting of Council dealing with the Draft Local Planning Strategy on 4 October 2011, commencing at 4.00pm.

CARRIED: 10/0

Res: 290811

**12. CLOSURE OF MEETING**

7.55pm – *There being no further business to discuss the Shire President, Cr Thornton, declared the meeting closed.*

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

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

*Dale Stewart – Chief Executive Officer*

Date: 26 August 2011

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

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

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