

Shire of Denmark

Ordinary Council Meeting MINUTES

16 April 2019

HELD IN THE COUNCIL CHAMBERS, 953 SOUTH COAST HIGHWAY, DENMARK
ON TUESDAY, 16 APRIL 2019.



Contact Us

953 South Coast Highway, Denmark WA 6333

Correspondence to:

Post Office Box 183, DENMARK WA 6333

Phone: (08) 9848 0300

Email: enquiries@denmark.wa.gov.au

Website: www.denmark.wa.gov.au

Facebook: shireofdenmark

Strategic Community Plan (snapshot)

E1.0

Our Economy

We are an attractive location to live, invest, study, visit and work

- E1.1 To have a locally supported resilient, stable and innovative business community that embraces creativity, resourcefulness and originality
- E1.2 To be a vibrant and unique tourist destination, that celebrates our natural and historical assets
- E1.3 To have diverse education and employment opportunities
- E1.4 To recognise the importance of agriculture in our local economy and protect prime agricultural land

N2.0

Our Natural Environment

Our natural environment is highly valued and carefully managed to meet the needs of our community, now and in the future

- N2.1 To preserve and protect the natural environment
- N2.2 To promote and encourage responsible development
- N2.3 To reduce human impact on natural resources, reduce waste and utilise renewable energy
- N2.4 To acknowledge and adapt to climate change

B3.0

Our Built Environment

We have a functional built environment that reflects our rural and village character and supports a connected, creative and active community

- B3.1 To have public spaces and infrastructure that are accessible and appropriate for our community
- B3.2 To have community assets that are flexible, adaptable and of high quality to meet the purpose and needs of multiple users
- B3.3 To have a planning framework that is visionary, supports connectivity and enables participation
- B3.4 To manage assets in a consistent and sustainable manner
- B3.5 To have diverse and affordable housing, building and accommodation options

C4.0

Our Community

We live in a happy, healthy, diverse and safe community with services that support a vibrant lifestyle and foster community spirit

- C4.1 To have services that foster a happy, healthy, vibrant and safe community
- C4.2 To have services that are inclusive, promote cohesiveness and reflect our creative nature
- C4.3 To create a community that nurtures and integrates natural, cultural and historical values
- C4.4 To recognise and respect our local heritage and Aboriginal history

L5.0

Our Local Government

The Shire of Denmark is recognised as a transparent, well governed and effectively managed Local Government

- L5.1 To be high functioning, open, transparent, ethical and responsive
- L5.2 To have meaningful, respectful and proactive collaboration with the community
- L5.3 To be decisive and to make consistent and well considered decisions
- L5.4 To be fiscally responsible
- L5.5 To embrace change, apply technological advancement and pursue regional partnerships that drive business efficiency

Table of Contents

| | |
|---|----|
| DISCLAIMER..... | 4 |
| 1. DECLARATION OF OPENING/ANNOUNCEMENT OF VISITORS..... | 5 |
| 2. RECORD OF ATTENDANCE/APOLOGIES/APPROVED LEAVE OF ABSENCE | 5 |
| 3. ANNOUNCEMENTS BY THE PERSON PRESIDING | 5 |
| 4. PUBLIC QUESTION TIME | 6 |
| 4.1 RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE | 6 |
| 4.1.1 MR MURRAY THORNTON – DEVELOPER CONTRIBUTIONS | 6 |
| 4.2 PUBLIC QUESTIONS | 6 |
| 4.3 QUESTIONS BY MEMBERS OF WHICH DUE NOTICE HAS BEEN GIVEN | 8 |
| 4.4 PRESENTATIONS, DEPUTATIONS & PETITIONS..... | 8 |
| 5. APPLICATIONS FOR FUTURE LEAVE OF ABSENCE | 8 |
| 5.1 CR ALLEN..... | 8 |
| 6. CONFIRMATION OF MINUTES..... | 9 |
| 6.1 ORDINARY COUNCIL MEETING – 19 MARCH 2019 | 9 |
| 6.2 STRATEGIC BRIEFING NOTES – 19 MARCH 2019 | 9 |
| 6.3 SPECIAL COUNCIL MEETING – 26 MARCH 2019 | 9 |
| 6.4 STRATEGIC BRIEFING NOTES – 26 MARCH 2019 | 10 |
| 7. ELECTED MEMBERS MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN..... | 10 |
| 8. REPORTS OF OFFICERS..... | 10 |
| 8.1 DIRECTOR ASSETS AND SUSTAINABLE DEVELOPMENT | 10 |
| 8.1.1 PROPOSED CLASSROOM, VEHICLE ACCESS & CARPARKING – NO.2 (Lot 952) INLET DRIVE, DENMARK | 10 |
| 8.2 DIRECTOR CORPORATE AND COMMUNITY SERVICES..... | 15 |
| 8.2.1 FINANCIAL STATEMENTS FOR THE PERIOD ENDING 28 FEBRUARY 2019 | 15 |
| 8.2.2 COMMUNITY FINANCIAL ASSISTANCE PROGRAM (PO40125) & CULTURAL DEVELOPMENT FUND (P110702) | 18 |
| 8.3 CHIEF EXECUTIVE OFFICER | 22 |
| 8.3.1 ESTABLISHMENT OF THE LAING PARK DOG EXERCISE DEVELOPMENT CONCEPT PLAN WORKING GROUP..... | 22 |
| 9. COMMITTEE REPORTS & RECOMMENDATIONS..... | 24 |
| 10. MATTERS BEHIND CLOSED DOORS..... | 24 |
| 11. NEW BUSINESS OF AN URGENT NATURE..... | 25 |
| 12. CLOSURE OF MEETING..... | 27 |

DISCLAIMER

These minutes and resolutions are subject to confirmation by Council and therefore prior to relying on them, one should refer to the subsequent meeting of Council with respect to their accuracy.

No responsibility whatsoever is implied or accepted by the Shire of Denmark for any act, omission or statement or intimation occurring during Council/Committee meetings or during formal/informal conversations with staff.

The Shire of Denmark disclaims any liability for any loss whatsoever and howsoever caused arising out of reliance by any person or legal entity on any such act, omission or statement or intimation occurring during Council/Committee meetings or discussions. Any person or legal entity who acts or fails to act in reliance upon any statement does so at that person's or legal entity's own risk.

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

1. DECLARATION OF OPENING/ANNOUNCEMENT OF VISITORS

4.01pm – The Shire President, Cr Gearon, declared the meeting open.

Cr Gearon acknowledged the land on which the meeting was being held and the traditional custodians of the land, the Bibbulman and Minang people.

Cr Gearon stated that she would also like to show her respect for elders past, present and emerging. acknowledgement

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

MEMBERS:

- Cr Ceinwen Gearon (Shire President)
- Cr Peter Caron (Deputy Shire President)
- Cr Mark Allen
- Cr Kingsley Gibson
- Cr Jan Lewis
- Cr Ian Osborne
- Cr Janine Phillips
- Cr Roger Seeney
- Cr Rob Whooley

STAFF:

- Mr Cary Green (A/CEO & Director Corporate and Community Services)
- Mr David King (Director Assets and Sustainable Development)
- Ms Claire Thompson (Executive Assistant & Governance Coordinator)
- Mrs Lindsey Heymans (Administration Officer- Engineering)

APOLOGIES:

- Mr Bill Parker (Chief Executive Officer)

ON APPROVED LEAVE(S) OF ABSENCE:

Nil

ABSENT:

Nil

VISITORS:

Members of the public in attendance at the commencement of the meeting: 14

Members of the press in attendance at the commencement of the meeting: Nil

DECLARATIONS OF INTEREST:

| Name | Item No | Interest | Nature |
|-----------------|---------|--------------|--|
| Cr Roger Seeney | 8.1.1 | Impartiality | Cr Seeney is a member of the Denmark Lions Club. |
| | | | |

3. ANNOUNCEMENTS BY THE PERSON PRESIDING

Nil

4. PUBLIC QUESTION TIME

4.1 RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE

Nil

4.1.1 MR MURRAY THORNTON – DEVELOPER CONTRIBUTIONS

At the meeting held 19th March 2019, Mr Thornton stated that he did not believe the Shire had any authority to request developer contributions. Mr Thornton asked the following questions which were taken on notice.

1. What rationale and authority does the Shire of Denmark have to impose a developer contribution fee on a simple subdivision?
2. Given that SPP3.6 [*State Planning Policy 3.6*] is the enabling document to set up developer contribution schemes, through designating development contribution areas in the town planning scheme, and establishing a need and nexus relationship, why does Shire of Denmark levy this developer contribution with no such amendment and incorporation of 3.6 into the town planning scheme? The Shire of Denmark does not have a legislated heads of agreement to levy a contribution scheme. The Shire of Denmark is operating Ultra Vires in requesting these payments.
3. Why does Shire of Denmark levy a developer contribution in direct contravention of Section 73(1) of Planning and Development Regulations 2015? This makes the collection of these fees without an approved developer contribution scheme illicit and unlawful.
4. Given that the annual report presented tonight shows a closing balance of \$288,384-00 for developer contributions, and this being a transactional account with outgoings so the total collected will be more, what actions will the Shire of Denmark take to refund this illicitly gained money?
5. Given that the Shire quotes resolution 180410 as the rational for imposing this levy, why did the officer with carriage of this issue not set out a scheme amendment to incorporate SPP3.6 into TPS3 [*Town Planning Scheme No. 3*], and set up an approved WAPC developer contribution scheme. Why did engineering simply start levying a contribution around 2012, which, as noted in the Planning and Development regulations Section 73(1), is illicit?
6. Why does the Shire of Denmark use coercion by refusing to give clearance of conditions of subdivision, to enable issue of title, if the illicit developer contribution payment is not made? In the case of a simple DA [*Development Application*], the refusal to issue the DA if the illicit payment is not made?

The following initial response has been provided to Mr Thornton.

“In response to your questions taken on notice at the Ordinary Council Meeting held on Tuesday, 19 March 2019 regarding developer contributions, I advise that the matter is more complex than can be responded to by the April 2019 Ordinary Council Meeting.

We will respond formally once we have more information.”

The substantive response to Mr Thornton’s questions will be published in a future Agenda once they have been provided to Mr Thornton.

4.2 PUBLIC QUESTIONS

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

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

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

Questions from the Public

4.2.1 Ms Annie Nutter – Weed Control

Ms Nutter presented a petition which contained 600 signatures and had the following preamble;

“We, undersigned electors of the Shire of Denmark, strongly urge the Denmark Shire Council to adopt an opt-in policy for all road verge spraying.

[An opt-in policy would require the consent of adjoining landowners for spraying of road verges]

We also urge the Council to change to a steam-based method of weed control, including and especially for public areas such as parks, playgrounds and lands adjacent to wetlands or pathways.”

Ms Nutter referred to some studies which linked glyphosate with negative health impacts.

The Shire President accepted the petition.

The Director Assets and Sustainable Development responded stating that the Shire was already looking into alternative weed control methods and that Officers had been talking with steam weeding operators. Mr King said there was still a lot of work to do before a report would be presented to Council for consideration and noted that the Shire was currently trialling an organic weed control method in parks and gardens within the Central Business District.

Councillors asked some questions which were answered by Ms Nutter.

4.2.2 Mr John Xanthis – Wilson Inlet

Mr Xanthis stated that the water in the Wilson Inlet was at record low levels and that they had recently met with stakeholders and arranged with the Shire for some dredging to be done. Mr Xanthis said that overall the Inlet was in good shape and highlighted the importance of it being properly managed.

4.2.3 Mr Jesz Fleming – Wilson Inlet & Litter near Hay River

Mr Fleming noted Mr Xanthis' statements and also highlighted the importance that the Inlet be properly managed. Mr Fleming suggested that given the low water level at the moment perhaps it should be opened to the sea now. Mr Fleming asked if the dredging work had been completed because he had noticed the area was quite untidy and required general cleanup.

The Director Assets and Sustainable Development said that the work had been completed but there was still some tidying up to do.

Mr Fleming said that he didn't think the consultation with the community regarding the dredging had been satisfactory and asked how the Shire would be monitoring whether or not the dredging was beneficial.

The Shire President advised that the Department of Water were responsible for monitoring the overall health of the water.

The Director of Assets and Sustainable Development said that there were many variables at play which would have an impact on the success of the dredging, including rainfall.

Mr Fleming expressed concern with the amount of litter on the Denmark side of the Hay River.

The Shire President advised that Councillors had previously been discussing the amount of litter in the Shire generally and they would be discussing it further.

4.2.4 Mr Kees Koning – Wilson Inlet

Mr Kees said that the amount of rainfall in the next few months would have a significant impact on whether or not the dredging was successful.

4.3 QUESTIONS BY MEMBERS OF WHICH DUE NOTICE HAS BEEN GIVEN

Nil

4.4 PRESENTATIONS, DEPUTATIONS & PETITIONS

In accordance with Section 5.24 of the Local Government Act 1995, Sections 5, 6 and 7 of the Local Government (Administration) Regulations and section 3.3 and 3.13 of the Shire of Denmark Standing Orders Local Law, the procedure for persons seeking a deputation and for the Presiding Officer of a Council Meeting dealing with Presentations, Deputations and Petitions shall be as per Council Policy P040118 which can be downloaded from Council’s website at <http://www.denmark.wa.gov.au/council-meetings>.

In summary however, prior approval of the Presiding Person is required and deputations should be for no longer than 15 minutes and by a maximum of two persons addressing the Council.

Nil.

5. APPLICATIONS FOR FUTURE LEAVE OF ABSENCE

A Council may, by resolution, grant leave of absence, to a member, for future meetings.

5.1 CR ALLEN

| | |
|--|--------------------|
| COUNCIL RESOLUTION | ITEM 5.1 |
| MOVED: CR GIBSON | SECONDED: CR LEWIS |
| That Cr Allen be granted leave of absence from 24 th May to 23 rd June 2019. | |
| CARRIED UNANIMOUSLY: 9/0 | Res: 010419 |

6. CONFIRMATION OF MINUTES

6.1 ORDINARY COUNCIL MEETING – 19 MARCH 2019

| | |
|--|-----------------------|
| COUNCIL RESOLUTION & OFFICER RECOMMENDATION | ITEM 6.1 |
| MOVED: CR SEENEY | SECONDED: CR PHILLIPS |
| That the minutes of the Ordinary Meeting of Council held on the 19 March 2019 be confirmed as a true and correct record of the proceedings. | |
| AMENDMENT | |
| MOVED: CR WHOOLEY | SECONDED: CR PHILLIPS |
| Subject to the following words being added under Item 4.3 <i>“Cr Whooley submitted questions in relation to the appointment of a Director and status of WANDRRA Flood Damage Works. The Administration deemed the questions out of order because Cr Whooley asked them and it was perceived he may have a conflict of interest in doing so.”</i> | |
| LOST: 2/7 | Res: 020419 |
| <i>Pursuant to Council Policy P040134 all Councillors’ votes on the above resolution are recorded as follows;</i> | |
| <i>FOR: Cr Whooley and Cr Phillips.</i> | |
| <i>AGAINST: Cr Allen, Cr Caron, Cr Gibson, Cr Seeney, Cr Gearon, Cr Lewis and Cr Osborne.</i> | |
| THE ORIGINAL MOTION WAS THEN PUT AND CARRIED: 8/1 | |
| | Res: 030419 |
| <i>Pursuant to Council Policy P040134 all Councillors’ votes on the above resolution are recorded as follows;</i> | |
| <i>FOR: Cr Whooley.</i> | |
| <i>AGAINST: Cr Phillips, Cr Allen, Cr Caron, Cr Gibson, Cr Seeney, Cr Gearon, Cr Lewis and Cr Osborne.</i> | |

6.2 STRATEGIC BRIEFING NOTES – 19 MARCH 2019

| | |
|---|--------------------|
| COUNCIL RESOLUTION & OFFICER RECOMMENDATION | ITEM 6.2 |
| MOVED: CR LEWIS | SECONDED: CR ALLEN |
| That the Notes from the Strategic Briefing held on 19 March 2019 be received. | |
| CARRIED UNANIMOUSLY: 9/0 | Res: 040419 |

6.3 SPECIAL COUNCIL MEETING – 26 MARCH 2019

| | |
|---|----------------------|
| COUNCIL RESOLUTION & OFFICER RECOMMENDATION | ITEM 6.3 |
| MOVED: CR GIBSON | SECONDED: CR OSBORNE |
| That the minutes of the Ordinary Meeting of Council held on the 26 March 2019 be confirmed as a true and correct record of the proceedings. | |
| CARRIED UNANIMOUSLY: 9/0 | Res: 050419 |

6.4 STRATEGIC BRIEFING NOTES – 26 MARCH 2019

| | |
|---|---------------------|
| COUNCIL RESOLUTION & OFFICER RECOMMENDATION | ITEM 6.4 |
| MOVED: CR PHILLIPS | SECONDED: CR SEENEY |
| That the Notes from the Strategic Briefing held on 26 March 2019 be received. | |
| CARRIED UNANIMOUSLY: 9/0 | Res: 060419 |

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

Nil

8. REPORTS OF OFFICERS**8.1 DIRECTOR ASSETS AND SUSTAINABLE DEVELOPMENT**

Prior to consideration of Item 8.1.1, Cr Seeneey declared that he is a member of the Denmark Lions Club and as a consequence there may be a perception that his impartiality on this matter may be affected. Cr Seeneey declared that he would consider this matter on its merits and vote accordingly.

8.1.1 PROPOSED CLASSROOM, VEHICLE ACCESS & CARPARKING – NO.2 (Lot 952) INLET DRIVE, DENMARK

| | |
|--|---|
| File Ref: | A5598 |
| Applicant / Proponent: | Spirit of Play Community School Inc. |
| Subject Land / Locality: | No.2 (Lot 952) Inlet Drive, Denmark (Reserve 30277) |
| Disclosure of Officer Interest: | Nil. |
| Date: | 5 April 2019 |
| Author: | Jasmine Tohill, Senior Town Planner |
| Authorising Officer: | David King, Director Assets & Sustainable Development |
| Attachments: | 8.1.1a – Development Application Documentation 8.1.1b – Denmark Historical Railway Station Precinct Concept Plan 8.1.1c – Works Program – Tree removal 8.1.1d – Draft Bushfire Management Plan |

Summary:

The applicant (Spirit of Play Community School Inc.) as lessee of a portion of Reserve 30277, No.2 (Lot 952) Inlet Drive, Denmark is seeking Council consent to lodge an application for development approval to construct a new classroom, vehicle access and carparking (Attachment 8.1.1a).

Background:

At the Ordinary Meeting of Council held on 19 February 2019, Council resolved to adopt the amended Denmark Heritage Railway Station Precinct Concept Plan (Attachment 8.1.1b) (Resolution 230219) and to approve an extension of the lessees lease term and their lease area (Resolution 260219).

Pursuant to Clause 10.2 of the Lease, the applicant is required to undertake Common Area Works, at their cost, which includes;

- . Relocation of access road from Inlet Drive;
- . Construction of carparking surrounding the Lions Lair (Denmark Lions Club Lease Area);
- . Construction of carparking adjacent to Crellin Street and a culvert to allow vehicle access; and
- . Any servicing requirements as a result of school activities.

The Common Area Works have been incorporated into the Development Application for the new classroom and the Lessee has provided a development application including the necessary documentation to officers. The draft documentation is attached for reference (refer Attachment 8.1.1a).

Council has management over the Reserve and is therefore required to consent to the submission of a Development Application for formal assessment.

Consultation:

The Officer has considered the requirement for consultation and engagement with persons or organisations that may be unduly affected by the proposal and considered Council's Community Engagement Policy P040123 and the associated Framework.

In addition, the requirements of Town Planning Scheme No.3, Schedule 2, Part 8, Clause 64 of the *Planning and Development (Local Planning Schemes) Regulations 2015 (the 'Regulations')*, State Planning Policy 3.7 (Planning in Bushfire Prone Areas) and Policy No.45: Planning Application Process for Heritage Places has been considered.

In consideration, it is recommended that Council impose a 21 day public consultation period be undertaken including:

- Publishing of a notice of the proposal in a newspaper circulating in the Scheme area;
- Erection of a sign on the land the subject of the application;
- Letters to:
 - Denmark Lions Club;
 - Denmark Machinery Restoration Group;
 - Denmark Men's Shed;
 - Denmark Woodturners;
 - Denmark Historical Society;
 - Denmark Weed Action Group (DWAG);
- Referral to the Department of Fire and Emergency Services (*noting minimum 42 days required under cl. 66(3) of the Regulations*);
- Referral to the Department of Planning Lands and Heritage (Heritage) (*noting minimum 42 days required under cl.66(3) of the Regulations*);
- Referral to the Department of Water and Environmental Regulation (Clearing) (*noting minimum 42 days required under cl.66(3) of the Regulations*).

Statutory Obligations:

The Town Planning Scheme No.3 (TPS No. 3) and the *Planning and Development (Local Planning Schemes) Regulations 2015* outlines application advertising requirements and pertinent planning matters relevant to Council's future assessment of the proposed development in the event that landowner consent is granted to progress the application.

Should Council consent to the proposal as landowner, it will retain an ability to impose conditions or to refuse the Development Application as the decision making authority. Should Council refuse the application or impose conditions that the applicant is aggrieved by the applicant would retain an ability to apply to the State Administrative Tribunal for a Right of Review.

Policy Implications:

Pursuant to Delegation D130311, the CEO has delegated authority to approve, as the landowner, minor developments on Council land such as, gazebos, verandahs, sheds and fences etc. This development is considered major and is therefore being referred to Council.

Town Planning Scheme Policy No.45: Planning Application Process for Heritage Places relates to the development application given that the Shire of Denmark's Municipal Heritage Inventory

(MHI) contains Place Record Forms for the 'Railway Precinct' (which encompasses the full extent of Reserve 30277) within which development is proposed.

In considering the request for landowner consent to lodge an application, due regard has been given to the Denmark Historical Railway Station Precinct Concept Plan and the Place Records within the MHI associated with the Reserve.

State Planning Policy 3.7 – *Planning in Bushfire Prone Areas* and the associated Guidelines apply to the proposal noting that the site is mapped as a Bushfire Prone Area under the Department of Fire and Emergency Services (DFES) state wide mapping. The school is considered as a vulnerable land use for the purpose of the Policy, whereby additional assessment requirements will apply.

Having regard to the above Policy requirements, the application will be referred to the Denmark Historical Society and DFES.

Budget / Financial Implications:

There are no known financial implications upon either the Council's current Budget or Long Term Financial Plan.

Strategic & Corporate Plan Implications:

The report and officer recommendation is consistent with Council's adopted Strategic Plan Aspirations and Objectives and the Corporate Business Plan Actions and Projects in the following specific ways:

Denmark 2027

E1.0 Our Economy

We are an attractive location to live, invest, study, visit and work

E1.3 To have diverse education and employment opportunities.

B3.0 Our Built Environment:

We have a functional built environment that reflects our rural and village character and supports a connected, creative and active community.

B3.3 To have a planning framework that is visionary, supports connectivity and enables participation.

B3.5 To have diverse and affordable housing, building and accommodation options.

C4.0 Our Community

We live in a happy, healthy, diverse and safe community with services that support a vibrant lifestyle and foster community spirit.

C4.3 To create a community that nurtures and integrates natural, cultural and historical values.

C4.4 To recognise and respect our local heritage and Aboriginal history.

L5.0 Our Local Government:

The Shire of Denmark is recognised as a transparent, well governed and effectively managed Local Government

L5.3 To be decisive and to make consistent and well considered decisions.

Sustainability Implications:

➤ **Governance:**

Pursuant to Clause 10.2 c) of the Lease, the Spirit of Play are required to submit plans and specifications for the Common Area Works by 30 April 2019.

➤ **Environmental:**

Tree removal is required to accommodate siting of the new classroom and clearing of understorey for nine (9) carparking bays within the Spirit of Play carpark area, adjacent to Crellin Street. The extent of clearing is identified in the attached documentation.

The removal of five (5) smaller trees and five (5) significant trees (being three (3) swamp mahogany, one (1) Blue Gum and one (1) Marri) are required to accommodate siting of the proposed classroom, in accordance with recommendations contained within the Bushfire Management Plan for the Heritage Precinct. The design of the Lions Carpark has been modified to allow retention of two marri trees (previously nominated for removal) at the request of Shire officers.

A separate clearing permit may be required for such works under the *Environmental Protection (Clearing of Native Vegetation) Regulations 2004*. Shire Officers will liaise further with the Department of Water and Environmental Regulation to ascertain what, if any clearing permits will be required, noting that exemptions may apply for approved buildings and works required under the Shire’s Fire Management Notice.

There will be additional clearing works required for the existing buildings in line with the Bushfire Management Plan. A draft version of the Plan is attached which will form part of the submission and subject to full consultation. Following the consultation process, a Final version of the report will be brought back to Council for Approval at the same time as the Approval for Development.

➤ **Economic:**

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

➤ **Social:**

The Spirit of Play Community School provides alternative schooling options to the public education system.

➤ **Risk:**

| Risk | Risk Likelihood (based on history and with existing controls) | Risk Impact / Consequence | Risk Rating (Prior to Treatment or Control) | Principal Risk Theme | Risk Action Plan (Controls or Treatment proposed) |
|---|---|---------------------------|---|---|---|
| Reputation: That there is community concern around the necessary tree removal for the development. | Likely (4) | Minor (2) | Moderate (5-9) | Inadequate Engagement – Community/ Stakeholders/ Councillors. | Undertake the engagement process outlined in the consultation section of this report and require that the Final Development Application requires Council Approval |
| Reputation: That adjacent lease holders do not support the development | Likely (4) | Minor (2) | Moderate (5-9) | Inadequate Engagement – Community/ Stakeholders/ Councillors. | Ensure that the development is consistent with the Council Endorsed Concept Plan |

Comment/Conclusion:

The proposal is consistent with the adopted Denmark Historical Railway Station Precinct Plan, noting that the building footprints and carpark design shown on the adopted Precinct Plan are conceptual.

Whilst formal lodgement of the application has not occurred, a preliminary review of the application has been undertaken to assess the carpark design, access and scope of tree removal all of which are deemed acceptable. However, the following comments on the attached draft documentation have been made to the Lessee:

- (i) remove the works associated with the proposed 'Hard Court', adjacent realignment of the Heritage Rail Trail and associated tree removal;
- (ii) Clearly notate trees to be removed as part of the Stage 1 Classroom Building works and Lions Club carpark works; and
- (iii) Clearly notate the area subject to clearing of understorey within the proposed Spirit of Play carpark.

The proposal has not been subject to detailed planning assessment in term of the siting and design of the new building, noting that this will need to be informed by submissions received during the public consultation period.

It is recommended that Council support the lodgement of an application to enable a detailed assessment and consultation to occur. It is proposed that the approval or refusal of the final application is brought back to Council for consideration following the formal assessment and consultation.

Voting Requirements:

Simple majority.

| | |
|--|--------------------|
| COUNCIL RESOLUTION & OFFICER RECOMMENDATION | ITEM 8.1.1 |
| MOVED: CR GIBSON | SECONDED: CR ALLEN |
| <p>That with respect to the development application for the proposed classroom for the Spirit of Play Community School, vehicle access and carparking on portion of No.2 (Lot 952) Inlet Drive, Denmark, Council:</p> <p>1. Consents to the proposal as landowner for the Application for Development Approval and the subsequent Building Permit subject to the following amendment of the draft documentation:</p> <ul style="list-style-type: none"> (i) Remove those works associated with the proposed 'Hard Court', adjacent realignment of the Heritage Rail Trail and associated tree removal. (ii) Clearly notate trees to be removed as part of the Stage 1 Classroom Building works and Lions Club carpark works. (iii) Clearly notate the area subject to clearing of understorey within the proposed Spirit of Play carpark. <p>2. Impose the following conditions for advertising of the Development Application:</p> <p>Advertise for a minimum period of 21 days including:</p> <ul style="list-style-type: none"> (i) Publishing of a notice of the proposal in a newspaper circulating in the Scheme area; (ii) Placement of a sign on the land the subject of the application; (iii) Letters to: <ul style="list-style-type: none"> o Denmark Lions Club; o Denmark Machinery Restoration Group; o Denmark Men's Shed; o Denmark Woodturners; o Denmark Historical Society; | |

○ Denmark Weed Action Group (DWAG);

- (iv) Referral of the application to the Department of Fire and Emergency Services (noting minimum 42 day referral required under cl. 66(3) of the Regulations);
- (v) Referral of the application to the Department of Planning Lands and Heritage (Heritage) (noting minimum 42 day referral required under cl.66(3) of the Regulations)
- (vi) Referral of the application to the Department of Water and Environmental Regulation (Clearing) (noting minimum 42 day referral required under cl.66(3) of the Regulations).

3. Requires that following formal assessment and consultation of the Development Application be brought back to Council for consideration.

AMENDMENT
 MOVED: CR SEENEY SECONDED: CR CARON

Add part 1 (iv) which states, “the proponent to engage a level 3 assessor to carry out a peer review of the submitted bushfire management plan and BAL contour plan”.

LOST: 1/8 Res: 070419

Pursuant to Council Policy P040134 all Councillors’ votes on the above resolution are recorded as follows;

FOR: Cr Seeney.

AGAINST: Cr Whooley, Cr Phillips, Cr Allen, Cr Caron, Cr Gibson, Cr Gearon, Cr Lewis and Cr Osborne.

THE ORIGINAL MOTION WAS THEN PUT AND CARRIED UNANIMOUSLY: 9/0
Res: 080419

8.2 DIRECTOR CORPORATE AND COMMUNITY SERVICES

8.2.1 FINANCIAL STATEMENTS FOR THE PERIOD ENDING 28 FEBRUARY 2019

| | |
|--|--|
| File Ref: | FIN.1 |
| Applicant / Proponent: | Not applicable |
| Subject Land / Locality: | Not applicable |
| Disclosure of Officer Interest: | Nil |
| Date: | 2 April 2019 |
| Author: | Lee Sounness, Corporate Services Manager |
| Authorising Officer: | Cary Green, Director Corporate & Community |
| Attachments: | 8.3.1 – February 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 by legislation to undertake a mid-year review of the Municipal Budget to ensure that income and expenditure is in keeping with budget forecasts. It should be noted that the budget is monitored by management on a monthly basis in addition to the requirement for a mid-year review.

The attached financial statements and supporting information are presented for the consideration of Elected Members.

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.

Consultation:

Nil

Statutory Obligations:

Local Government Act 1995 Section 5.25 (1)

Local Government (Financial Management) Regulations 1996

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

Policy Implications:

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

For the purposes of Local Government (Financial Management) Regulation 34 regarding levels of variances for financial reporting, Council adopted 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 \$10,000.

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.

A second tier reporting approach shall be a variance of 10% or greater of the annual budget estimates to the end of the month to which the report refers for each General Ledger/Job Account in the budget, as a level that requires an explanation, with a minimum dollar variance of \$10,000.

Budget / Financial Implications:

There are no significant trends or issues to be reported.

Strategic & Corporate Plan Implications:

The report and officer recommendation are consistent with Council's adopted Strategic Plan Objectives and Goals and the Corporate Business Plan Actions and Projects in the following specific ways:

Denmark 2027

L5.4 To be fiscally responsible.

Corporate Business Plan

Nil

Sustainability Implications:

➤ **Governance:**

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

➤ **Environmental:**

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

➤ **Economic:**

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

➤ **Social:**

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

➤ **Risk:**

| Risk | Risk Likelihood (based on history and with existing controls) | Risk Impact / Consequence | Risk Rating (Prior to Treatment or Control) | Principal Risk Theme | Risk Action Plan (Controls or Treatment proposed) |
|---|---|---------------------------|---|--|--|
| Not meeting Statutory Compliance | Rare (1) | Moderate (3) | Low (1-4) | Failure to meet Statutory, Regulatory or Compliance Requirements | Accept Officer Recommendation |
| Financial mismanagement and/or Budget overruns. | Rare (1) | Moderate (3) | Low (1-4) | Inadequate Financial, Accounting or Business Acumen | Control through robust systems with internal controls and appropriate reporting mechanisms |

Comment/Conclusion:

As at 28 February 2019 total cash funds held total \$12,545,361 (Note 4).

Shire Trust Funds total \$188,282

- \$185,618 of this is invested for 6 months with the National Aust. Bank, maturing 18 March 2019 at the quoted rate of 2.47%.

Reserve Funds (restricted) total \$10,005,896

- \$5,406,899 of this has been placed on investment for 31 days with the Western Australian Treasury Corporation at the quoted rate of 1.45%.
- \$4,598,977 has been invested with the National Aust. Bank in 3 term deposits, maturing at various dates at an average rate of 2.50%.

Municipal Funds (unrestricted) total \$2,351,183

- \$2,006,170 is invested with NAB and Westpac in 3 Term Deposits, maturing at various dates at an average rate of 2.15%.

Key Financial Indicators at a Glance

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

- Taking into consideration the adopted Municipal Budget and any subsequent year to date budget amendments identified including the mid-year budget review (refer Note 5), the 30 June 2019 end of year position is estimated to be \$0 which is in line with budget projections (Statement of Financial Activity).
- Operating revenue and expenditure is generally in line with year to date budget predictions for 28 February 2019 (Statement of Financial Activity) except for building depreciation expense, which is yet to be applied this financial year.
- The Rates Collection percentage currently sits at 84.66%, is in keeping with historical collection rates (see Note 6)
- The 2018/2019 Capital Works Program is 47.89% complete utilising actual year to date figures and the total committed cost is 78.26% as at 28 February 2019 (see Note 12& 12a)
- Various transfers to and from Reserve Funds have not been made for 2018/2019 as they are generally undertaken in the latter half of the financial year, depending on the specific projects to which the transfers relate.
- Salaries and Wages expenditure is generally in line with year to date budget estimates (not reported specifically in Financial Statement).

Other Information

Depreciation of building assets has not been calculated for the reporting period as the revaluation of the building asset class has yet to be adopted.

Voting Requirements:

Simple majority.

| | |
|---|---------------------|
| COUNCIL RESOLUTION & OFFICER RECOMMENDATION | ITEM 8.2.1 |
| MOVED: CR CARON | SECONDED: CR GIBSON |
| That with respect to Financial Statements for the period ending 28 February 2019, Council; | |
| 1. Receive the Financial Reports, incorporating the Statement of Financial Activity and other supporting documentation. | |
| 2. Endorse the Accounts for Payment for the month of March 2019 as listed. | |
| CARRIED UNANIMOUSLY: 9/0 | Res: 090419 |

8.2.2 COMMUNITY FINANCIAL ASSISTANCE PROGRAM (PO40125) & CULTURAL DEVELOPMENT FUND (P110702)

| | |
|--|--|
| File Ref: | ADMIN.2 |
| Applicant / Proponent: | Not Applicable |
| Subject Land / Locality: | Not Applicable |
| Disclosure of Officer Interest: | Nil |
| Date: | 02 April 2019 |
| Author: | Lee Sounness, Manager Corporate Services |
| Authorising Officer: | Cary Green, Director Corporate and Community Services |
| Attachments: | 8.2.2a - Community Financial Assistance Program Policy P040125 (revised) 8.2.2b - Community Financial Assistance Program Guidelines 8.2.2c – Amended Guidelines (with tracked changes) 8.2.2d – Final Guidelines for adoption |

Summary:

The purpose of this report is to request that Council adopt a new Community Financial Assistance Program (CFAP) Policy P040125 including the amalgamation of Policy P110702 Cultural Development Fund.

Background:

Council requested Officers to review of the current Community Financial Assistance Program (CFAP) with a view to improving the effectiveness of the administration and processing of the fund for both the Council and community. In doing so, Officers also reviewed the Cultural Development Fund (CDF) to ensure there was no duplication or double handling of the two policies.

Resolution 190219 for a deferral motion at Ordinary Council Meeting on 19th February 2019 was carried unanimously in respect to the officer’s recommendations to allow Council to discuss the matter further.

Resolution 110319 for a deferral motion at Ordinary Council Meeting on 19th of March 2019 was carried unanimously in respect to the officer recommendations and amended officer recommendations in order to allow time to correct errors, anomalies and make necessary changes in the policy document and the guidelines. These requested changes to the CFAP Policy and Guidelines were discussed at a Concept Briefing Forum on 26th March 2019 and are contained within the attachments.

The overall purpose of the Community Financial Assistance Program (CFAP) and the Cultural Development Fund (CDF) was to provide financial assistance for community groups and organisations (or individuals) for projects and initiatives which benefited the community.

The CFAP and the CDF funds are advertised annually and applications are assessed as part of Council’s annual budget process, in accordance with the policy guidelines. The current application process involves community not for profit organisations to submit an application form with attached supporting information under 2 classifications:

- Minor Grants - \$201 to \$5,000
- Major Grants - over \$5,000

The review of the two current funding programs identified the following issues:

1. There was no predetermined amount allocated in the Annual Budget for the programs;
2. The current guidelines and policy were outdated and didn’t align to the Strategic Community Plan;
3. The CFAP and CDF objectives overlapped, creating confusion for the community;
4. Advertising for the programs were too late, which created pressure during budget preparation;
5. The administration and assessment of the programs was conducted by Shire Officers without Elected Member involvement until the budget workshops; and
6. The assessment criteria were not well defined in the guidelines, which created inconsistencies.

An overview of the applications received and various amounts of money previously granted under the programs is outlined below:

CFAP

| Year | 2014-15 | 2015-16 | 2016-17 | 2017-18 | 2018-19 |
|-------------------------|----------------|----------------|----------------|----------------|----------------|
| Applications Received | 18 | 14 | 18 | 13 | 17 |
| Applications Successful | 11 | 12 | 12 | 5 | 6 |
| Approved Budget | \$27,580 | \$31,817 | \$47,106 | \$10,000 | \$16,370 |
| \$ granted | \$14,161 | \$23,015 | \$45,837 | \$8,886 | \$16,370 |

CDF

| Year | 2014-15 | 2015-16 | 2016-17 | 2017-18 | 2018-19 |
|-------------------------|----------|----------|----------|---------|---------|
| Applications Received | 10 | 5 | 12 | 6 | 7 |
| Applications Successful | 7 | 5 | 9 | 4 | 3 |
| Approved Budget | \$10,000 | \$11,000 | \$16,315 | \$9,458 | \$6,000 |
| \$ granted | \$8,000 | \$6,500 | \$11,135 | \$9,848 | \$6,000 |

Consultation:

The Officer has considered the requirement for consultation and/or engagement with persons or organisations that may be unduly affected by the proposal and considered Council’s Community Engagement Policy P040123 and the associated Framework.

Consultation was conducted with the staff and a workshop was conducted with the Elected Group.

Statutory Obligations:

There are no statutory obligations with respect to adopting or reviewing the Community Financial Assistance Program Policy and Cultural Development Policy.

Policy Implications:

P110702 – Cultural Development Fund Policy would be repealed upon adoption of the amended P040125 – Community Financial Assistance Program Policy.

Budget / Financial Implications:

The Officer has recommended that Council consider an annual amount of \$35,000 in the Annual Budget. The amount of \$35,000 would be included in each year of the Long Term Financial Plan.

Strategic & Corporate Plan Implications:

The report and officer recommendation is consistent with Council’s adopted Strategic Community Plan Aspirations and Objectives and the Corporate Business Plan Actions and Projects in the following specific ways:

Denmark 2027

C4.1 – To have services that foster a happy, healthy, vibrant and safe community.

C4.2 - To have services that are inclusive, promote cohesiveness and reflect our creative nature

Corporate Business Plan

C4.2.1 - Review the administration of the Community Financial Assistance Grants to improve the selection criteria and process and make it user friendly to apply.

Sustainability Implications:

➤ **Governance:**

Having an updated Policy and guidelines that are clear and concise is considered essential to promote transparency and provide guidance to Shire Officers and the Community.

➤ **Environmental:**

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

➤ **Economic:**

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

➤ **Social:**

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

➤ **Risk:**

| Risk | Risk Likelihood (based on history and with existing controls) | Risk Impact / Consequence | Risk Rating (Prior to Treatment or Control) | Principal Risk Theme | Risk Action Plan (Controls or Treatment proposed) |
|---|---|---------------------------|---|------------------------------------|---|
| That without clear Policy and guidelines, community expectations may exceed Council's ability to meet them. | Possible (3) | Minor (2) | Moderate (5-9) | Not Meeting Community expectations | Accept Officer Recommendation |

Comment/Conclusion:

The purpose of reviewing the current CFAP and CDF policies was to come up with a policy that was easy to administer whilst still capturing the original intent, which was to provide financial assistance to community groups or individuals to facilitate projects that benefit the community.

Officers have drafted an amended policy to address each of the issues that were identified throughout the review. The proposed changes to the policy have been made with the purpose to make it easier to understand, apply for, access and administer.

Conclusion

Based on the outcome of the review and in consultation with Council at briefing sessions, it is recommended that Council adopt the new policy with the following changes:

1. Amalgamate the CFAP and CDF into one consolidated CFAP policy P040125 to reduce duplication and double handling.
2. Update the policy and guidelines to assist with the assessment process and align with the Strategic Community Plan. To provide consistency through the assessment & administration process.
3. Advertise the CFAP annually prior to June and promote through Shire media communications;
4. Consider a total annual contribution of \$35,000 for the CFAP.

Voting Requirements:

Simple majority.

OFFICER RECOMMENDATION

ITEM 8.2.2

That with respect to the Community Financial Assistance and Cultural Development Grants Programs, Council:

1. Repeal P110702 Cultural Development Fund Policy;
2. Amend the Community Financial Assistance Program Policy P040125 as per Attachment 8.2.5a) and endorse the Guidelines as per Attachment 8.2.5b);
3. Consider including a total amount of \$35,000 in the 2019/20 Annual Budget.

Amended Officer Recommendation

Prior to Council meeting the Director of Corporate & Community noted the incorrect version of the guidelines for the Community Financial Assistance Program had been attached to the Agenda. The corrected version, with tracked changes, has been provided to the Councillors and is attached as Attachment 8.2.2c). The final version for adoption is attached as Attachment 8.2.2d).

| | |
|--|---------------------------|
| COUNCIL RESOLUTION & AMENDED OFFICER RECOMMENDATION | ITEM 8.2.2 |
| MOVED: CR GIBSON | SECONDED: CR LEWIS |
| That with respect to the Community Financial Assistance and Cultural Development Grants Programs, Council: | |
| <ol style="list-style-type: none"> 1. Repeal P110702 Cultural Development Fund Policy; 2. Amend the Community Financial Assistance Program Policy P040125 as per Attachment 8.2.5a); 3. Endorse the amended Guidelines as per Attachment 8.2.2c) and adopt the final version of the Guidelines as per Attachment 8.2.2d); and 4. Consider including a total amount of \$35,000 in the 2019/20 Annual Budget. | |
| CARRIED UNANIMOUSLY: 9/0 | Res: 100419 |

8.3 CHIEF EXECUTIVE OFFICER

8.3.1 ESTABLISHMENT OF THE LAING PARK DOG EXERCISE DEVELOPMENT CONCEPT PLAN WORKING GROUP

| | |
|--|---|
| File Ref: | A1409 |
| Applicant / Proponent: | Not applicable |
| Subject Land / Locality: | Laing Park, Reserve No. 45377. No. 104 (Lot 1001) Ocean Beach Road, Ocean Beach |
| Disclosure of Officer Interest: | Nil |
| Date: | 5 April 2019 |
| Author: | Claire Thompson, Executive Assistant & Governance Coordinator |
| Authorising Officer: | Cary Green, Acting Chief Executive Officer |
| Attachments: | 8.3.1 – Draft Terms of Reference |

Summary:

Council are requested to establish a Working Group to develop a draft Development Concept Plan for a Dog Exercise Area.

Background:

In March 2014, Council resolved to develop Laing Park into the Shire’s primary off-lead dog park, resolving as following (Resolution No. 140314);

“That with respect to the proposed Dog Park Strategy, Council;

- 1. Develop Laing Park, Lot 101 Ocean Beach Road as the primary developed dog park for the Shire.*
- 2. Develop the unnamed cleared portion of Reserve 32279, Lot 1001 that is adjacent to Walters Park that is on Campbell Rd near the corner of Inlet Drive as a low key “off lead” exercise area.*
- 3. Amend its Dog Local Laws in accordance with parts 1 and 2.*
- 4. Ban dogs from the playing surfaces of the Mclean Park Oval complex.*
- 5. Consider the allocation of \$3,000 in its 2014/2015 budget to engage an architect to prepare a development plan for the Laing Park site to ensure that it is developed in a way that best utilises the site from a dog owners perspective while taking into account parking and access factors as well as the needs of adjoining property owners and Trail users.*
- 6. Plan for an allocation of \$20,000 per year in years 2-10 of the Forward Financial Plan to implement the Strategy.*
- 7. Engage further with the community regarding dog access to the sandbar at Prawn Rock Channel, to further protect the habitat of migratory birds.”*

The Officer is not aware of any further work that was undertaken towards the development of a development plan, pursuant to part 5 above.

The Corporate Business Plan includes a project to development a Dog Park Concept Plan.

Consultation:

The Officer has considered the requirement for consultation and/or engagement with persons or organisations that may be affected by the proposal and considered Council's Community Engagement Policy P040123 and the associated Framework. The development of a Working Group will see the representation of some community members and other key stakeholders have input into the initial plan. It is envisaged that the draft Concept Plan would then be advertised for broader community consultation prior to adoption.

Statutory Obligations:

There are no known statutory obligations related to the establishment of a project working group.

Policy Implications:

Policy P040235 relates to an Elected Member being appointed the Presiding Person for Council Committees and Working Groups.

Budget / Financial Implications:

\$1,500 has been included in the 2018/2019 Budget for the development of a concept plan.

Strategic & Corporate Plan Implications:

The report and officer recommendation is consistent with Council's adopted Strategic Community Plan Aspirations and Objectives and the Corporate Business Plan Actions and Projects in the following specific ways, specifically in relation to the development of a comprehensive plan.

Denmark 2027

N2.0 Our Natural Environment

Our natural environment is highly valued and carefully managed to meet the needs of our community, now and in the future.

N2.1 To preserve and protect the natural environment.

B3.0 Our Built Environment

We have a functional built environment that reflects our rural and village character and supports a connected, creative and active community.

B3.1 To have public spaces and infrastructure that are accessible and appropriate for our community.

Corporate Business Plan

B3.1 To have public spaces and infrastructure that are accessible and appropriate for our community.

B3.1.12 Develop a Dog Park Concept Plan \$1,500.

Sustainability Implications:

➤ **Governance:**

A working group with broad membership from community and stakeholders assists with good governance by promoting proactive collaboration which contributes to well considered decision making.

➤ **Environmental:**

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

➤ **Economic:**

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

➤ **Social:**

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

➤ **Risk:**

| Risk | Risk Likelihood (based on history and with existing controls) | Risk Impact / Consequence | Risk Rating (Prior to Treatment or Control) | Principal Risk Theme | Risk Action Plan (Controls or Treatment proposed) |
|---|--|---------------------------|--|------------------------------------|--|
| That Council not establish a working group. | Rare (1) | Minor (2) | Low (1-4) | Not Meeting Community expectations | Accept Risk |

Comment/Conclusion:

In 2013 and 2014 when a dedicated off-lead dog exercise area was first proposed, the Shire received over 60 submissions. The establishment of a working group allows for a proactive, collaborative approach to develop a draft plan. It also allows for a transparent process to appoint Council Delegates and members to the group.

A draft Terms of Reference is attached which includes proposed membership, objectives and a sunset clause.

Voting Requirements:

Simple majority.

| | |
|--|---------------------|
| COUNCIL RESOLUTION | |
| MOVED: CR LEWIS | SECONDED: CR SEENEY |
| That Standing Orders be suspended to allow Councillors to discuss delegates. | |
| CARRIED UNANIMOUSLY: 9/0 | Res: 110419 |

| | |
|---------------------------------|---------------------|
| COUNCIL RESOLUTION | |
| MOVED: CR SEENEY | SECONDED: CR GIBSON |
| That Standing Orders be resumed | |
| CARRIED UNANIMOUSLY: 9/0 | Res: 120419 |

| | | |
|--|---------------------|------------|
| COUNCIL RESOLUTION & OFFICER RECOMMENDATION | | ITEM 8.3.1 |
| MOVED: CR PHILLIPS | SECONDED: CR SEENEY | |
| With respect to the development of a Dog Exercise Area Development Concept Plan, Council; | | |
| 1. Establish the Laing Park Dog Exercise Area Development Concept Plan Working Group with the Terms of Reference including Membership as per Attachment 8.3.1; | | |
| 2. Appoint Cr Osborne and Cr Lewis as the Council Delegates; and | | |
| 3. Advertise for community members for a period of 14 days. | | |
| CARRIED UNANIMOUSLY: 9/0 | Res: 130419 | |

9. COMMITTEE REPORTS & RECOMMENDATIONS

Nil

10. MATTERS BEHIND CLOSED DOORS

Nil

11. NEW BUSINESS OF AN URGENT NATURE

| | |
|---|--------------------|
| COUNCIL RESOLUTION & OFFICER RECOMMENDATION | ITEM 11 |
| MOVED: CR LEWIS | SECONDED: CR CARON |
| That Council accept an item of New Business to consider the appointment of a new Chief Bush Fire Control Officer given the recent resignation of Mr Ross McDougall from the position. | |
| CARRIED UNANIMOUSLY: 9/0 | Res: 140419 |

11.1 APPOINTMENT OF CHIEF BUSH FIRE CONTROL OFFICER AND DEPUTY CHIEF BUSH FIRE CONTROL OFFICER

| | |
|--|---|
| File Ref: | FIRE.1 |
| Applicant / Proponent: | Not applicable |
| Subject Land / Locality: | Shire of Denmark |
| Disclosure of Officer Interest: | Nil |
| Date: | 10 April 2019 |
| Author: | Claire Thompson, Executive Assistant & Governance Coordinator |
| Authorising Officer: | Cary Green, Acting Chief Executive Officer |
| Attachments: | No |

Summary:

Council are asked to appoint a new Chief Bush Fire Control Officer and a new Deputy Chief Bush Fire Control Officer for the Shire of Denmark.

Background:

Mr Ross McDougall was appointed by Council as the Chief Bush Fire Control Officer and Mr Lez Baines was appointed as the Deputy Chief Bush Fire Control Officer in July 2018. Mr McDougall resigned from the position on 31 March 2019 for personal reasons.

Consultation:

The Officer has considered the requirement for consultation and/or engagement with persons or organisations that may be unduly affected by the proposal and considered Council's Community Engagement Policy P040123 and the associated Framework and believes that no additional external/internal engagement or consultation is required.

Whilst the matter has not formally been considered at a Bush Fire Advisory Committee meeting, Fire Control Officers have been informed of Mr McDougall's resignation and the proposed new appointments. There have been no objections received.

Statutory Obligations:

Section 38 of the Bush Fires Act 1954 relates to the appointment of Fire Control Officers, Chief Bush Fire Control Officer and Deputy Bush Fire Control Officers.

Section 38(2C) states that *a local government shall fill any vacancy occurring in the office of Chief Bush Fire Control Officer or Deputy Chief Bush Fire Control Officer within one month after the vacancy occurs*. Should this not occur the Fire and Emergency Services (FES) Commissioner may by notice in writing require the local government to do so. Alternatively, under Section 38A of the Act, a local government may request the FES Commission to designate a person employed by the Department as the Chief Bush Fire Control Officer.

There is no provision under the Act for an Acting Chief Bush Fire Control Officer.

Part 3 of the Shire of Denmark Bush Fire Brigades Local Law relates to the role of the Chief Bush Fire Control Officer, specifically that they have the *primary managerial responsibility for the*

organisation and maintenance of bush fire brigades. The Chief also has a role to liaise with the Shire regarding fire prevention / suppression, training, resourcing and general matters relating to fire mitigation and management.

Policy Implications:

Delegation D050103 – Burning, Prohibited & Restricted Times (Variations) relates to this report in that, pursuant to section 17 (10) of the Bush Fires Act 1954 *a local government may delegate to its president and Chief Bush Fire Control Officer jointly its powers* to vary burning times. If the Council does not have a Chief, then any variation will need to be made by formal Council Resolution. This could have timing implications particularly given that any variation is also required to be advertised.

Council Delegation D050109 records the Shire of Denmark's authorised Officers under the Bush Fires Act 1954 and will be amended accordingly should Council agree to make the appointments.

Budget / Financial Implications:

The new appointments will need to be advertised and identity cards issued which will have some financial implication. This can be covered under the Council's current advertising and emergency management budget.

Strategic & Corporate Plan Implications:

The report and officer recommendation is consistent with Council's adopted Strategic Community Plan Aspirations and Objectives and the Corporate Business Plan Actions and Projects in the following specific ways:

Denmark 2027

C4.0 Our Community

We live in a happy, healthy, diverse and safe community with services that support a vibrant lifestyle and foster community spirit.

N2.0 Our Natural Environment

Our natural environment is highly valued and carefully managed to meet the needs of our community, now and in the future.

N2.1 To preserve and protect the natural environment

Corporate Business Plan

Nil

Sustainability Implications:

➤ **Governance:**

Council has the authority, under the Bush Fires Act 1954, to appoint as many Fire Control Officers as it deems necessary and of those officers shall appoint one as Chief and one as Deputy. The Chief has specific responsibilities under the Act and the Local Law.

➤ **Environmental:**

Fire Control Officers play an important role in protecting and preserving the natural environment when faced with out of control bush fires.

➤ **Economic:**

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

➤ **Social:**

Fire Control Officers play an important role in public safety by assisting the Shire with fire mitigation and control and assisting local volunteer brigades to carry out their activities.

➤ **Risk:**

| Risk | Risk Likelihood (based on history and with existing controls) | Risk Impact / Consequence | Risk Rating (Prior to Treatment or Control) | Principal Risk Theme | Risk Action Plan (Controls or Treatment proposed) |
|--|---|---------------------------|---|--|---|
| That Council not fill the Chief Bush Fire Control Officer vacancy. | Rare (1) | Moderate (3) | Low (1-4) | Failure to meet Statutory, Regulatory or Compliance Requirements | Accept Officer Recommendation |

Comment/Conclusion:

Notwithstanding requirements under the Bush Fires Act 1954 to appoint a Chief and Deputy Chief, the roles played by both of these positions in the event of a fire emergency are particularly important.

It is recommended that Council appoint the current Deputy, Mr Leslie Baines, to the position of Chief Bush Fire Control Officer and appoint current Fire Control Officer for Owingup Brigade, Bryce Edwards as the Deputy Chief Bush Fire Control Officer.

Voting Requirements:

Simple majority.

| | |
|--|--------------------|
| COUNCIL RESOLUTION & OFFICER RECOMMENDATION | ITEM 11.1 |
| MOVED: CR SEENEY | SECONDED: CR ALLEN |
| That with respect to the Chief Bush Fire Control Officer and Deputy Chief Bush Fire Control Officer, Council; | |
| 1. Formally thank Mr Ross McDougall for fulfilling the role as the Chief Bush Fire Control Officer for the Shire of Denmark for the last four years; | |
| 2. Appoint Mr Leslie Baines as the Chief Bush Fire Control Officer; and | |
| 3. Appoint Mr Bryce Edwards as the Deputy Chief Bush Fire Control Officer; and | |
| 4. Advertise the new appointments in a newspaper circulating within the district. | |
| CARRIED UNANIMOUSLY: 9/0 | Res: 150419 |

12. CLOSURE OF MEETING

5.09pm – *There being no further business to discuss the Shire President, Cr Gearon, declared the meeting closed.*

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

Signed: _____
Cary Green – Acting Chief Executive Officer

Date: _____

These minutes were confirmed at a meeting on the _____.

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