

# Shire of Denmark

## Ordinary Council Meeting **AGENDA**

**15 AUGUST 2023**



TO BE HELD IN COUNCIL CHAMBERS, 953 SOUTH COAST HIGHWAY, DENMARK, ON TUESDAY, 15 AUGUST 2023, COMMENCING AT 4.00PM.



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<b>1. DECLARATION OF OPENING/ANNOUNCEMENT OF VISITORS</b> .....	<b>3</b>
<b>2. RECORD OF ATTENDANCE/APOLOGIES/APPROVED LEAVE OF ABSENCE</b> .....	<b>3</b>
<b>3. DECLARATIONS OF INTEREST</b> .....	<b>3</b>
<b>4. ANNOUNCEMENTS BY THE PERSON PRESIDING</b> .....	<b>3</b>
<b>5. PUBLIC QUESTION TIME</b> .....	<b>4</b>
5.1 RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE.....	4
5.1.2 PETER KERR.....	4
5.2 PUBLIC QUESTIONS.....	4
5.3 QUESTIONS BY MEMBERS OF WHICH DUE NOTICE HAS BEEN GIVEN .....	5
5.4 PRESENTATIONS, DEPUTATIONS & PETITIONS.....	5
<b>6. APPLICATIONS FOR FUTURE LEAVE OF ABSENCE</b> .....	<b>5</b>
<b>7. CONFIRMATION OF MINUTES</b> .....	<b>5</b>
7.1 ORDINARY COUNCIL MEETING – 18 JULY 2023.....	5
7.2 SPECIAL COUNCIL MEETING – 1 AUGUST 2023.....	5
<b>8. ELECTED MEMBERS MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN</b> .....	<b>5</b>
<b>9. REPORTS OF OFFICERS</b> .....	<b>6</b>
<b>9.1 DEVELOPMENT SERVICES</b> .....	<b>6</b>
9.1.1 DRAFT LOCAL PLANNING STRATEGY – WAPC SCHEDULE OF MODIFICATIONS.....	6
9.1.2 PROPOSED DENMARK SURF LIFE SAVING CLUB REDEVELOPMENT .....	10
9.1.3 DRAFT REVISED LOCAL PLANNING POLICY NO. 18: TOURISM & COMMERCIAL LAND USES IN THE RESIDENTIAL, SPECIAL RESIDENTIAL & SPECIAL RURAL ZONES .....	20
9.1.4 DRAFT REVISED LOCAL PLANNING POLICY NO. 44: EXEMPTIONS FROM DEVELOPMENT APPROVAL .....	25
<b>9.2 CORPORATE SERVICES</b> .....	<b>30</b>
9.2.1 FINANCIAL STATEMENTS FOR THE PERIOD ENDED 30 JUNE 2023.....	30
9.2.2 LIST OF PAYMENTS FOR THE PERIOD ENDING 30 JUNE 2023 .....	34
<b>9.3 INFRASTRUCTURE AND ASSETS</b> .....	<b>36</b>
<b>9.4 GOVERNANCE</b> .....	<b>36</b>
9.4.1 SPECIAL ELECTORS MEETING DECISIONS.....	36
9.4.2 PROPOSED NEW ROAD OR RESERVE NAME - PHOEBE.....	47
<b>9.5 COMMUNITY SERVICES</b> .....	<b>49</b>
<b>10. COMMITTEE REPORTS AND RECOMMENDATIONS</b> .....	<b>49</b>
10.1 BUSH FIRE ADVISORY COMMITTEE – MINUTES AND RECOMMENDATIONS .....	49
<b>11. MATTERS BEHIND CLOSED DOORS</b> .....	<b>55</b>
<b>12. NEW BUSINESS OF AN URGENT NATURE</b> .....	<b>55</b>
<b>13. CLOSURE OF MEETING</b> .....	<b>55</b>

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

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

MEMBERS:

- Cr Kingsley Gibson (Deputy Shire President)
- Cr Clare Campbell
- Cr Donna Carman
- Cr Donald Clarke
- Cr Nathan Devenport
- Cr Jan Lewis
- Cr Jackie Ormsby
- Cr Janine Phillips

STAFF:

- David King (Chief Executive Officer)
- Claire Thompson (Governance Coordinator)

APOLOGIES

ON APPROVED LEAVE(S) OF ABSENCE

- Cr Ceinwen Gearon (Shire President) (Resolution No. 010723)

ABSENT

VISITORS

**3. DECLARATIONS OF INTEREST**

Name	Item No	Interest	Nature

**4. ANNOUNCEMENTS BY THE PERSON PRESIDING**

## **5. PUBLIC QUESTION TIME**

### **5.1 RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE**

#### **5.1.2 PETER KERR**

At the meeting held on 18 July 2023 Roger asked the following question which was taken on notice.

1. You referred to sub-standard drainage at the corner of Little River Road and Marveen Place and asked when the existing drain would be cleared, and when the grate, sump and connecting pipework would be upgraded?

The Chief Executive Officer has provided the following response to Peter in writing.

“Drainage upgrades across the Shire are prioritised on their risk profile. As this issue does not result in overland flow through private property, it is not considered high risk and therefore upgrading the drainage system is not scheduled in the near future.

However, it is noted that the grates have reach the end of life and therefore will be replaced. In addition, the sumps are scheduled to the cleared, and depending on plant availability, is likely to occur late August 2023.”

### **5.2 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 clauses 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

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

Nil

**5.4 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 the Shire'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.

**6. APPLICATIONS FOR FUTURE LEAVE OF ABSENCE**

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

**7. CONFIRMATION OF MINUTES**

**7.1 ORDINARY COUNCIL MEETING – 18 JULY 2023**

OFFICER RECOMMENDATION	ITEM 7.1
That the minutes of the Ordinary Meeting of Council held on the 18 July 2023 be CONFIRMED as a true and correct record of the proceedings.	

**7.2 SPECIAL COUNCIL MEETING – 1 AUGUST 2023**

OFFICER RECOMMENDATION	ITEM 7.2
That the minutes of the Special Meeting of Council held on the 1 August 2023 be CONFIRMED as a true and correct record of the proceedings.	

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

Nil

## 9. REPORTS OF OFFICERS

### 9.1 DEVELOPMENT SERVICES

#### 9.1.1 DRAFT LOCAL PLANNING STRATEGY – WAPC SCHEDULE OF MODIFICATIONS

<b>File Ref:</b>	PLN.46.20/21
<b>Applicant / Proponent:</b>	Not applicable
<b>Subject Land / Locality:</b>	Shire wide
<b>Disclosure of Officer Interest:</b>	Nil
<b>Date:</b>	26 July 2023
<b>Author:</b>	Emmet Blackwell, Strategic Town Planner
<b>Authorising Officer:</b>	David King, Chief Executive Officer
	9.1.1a - WAPC Statutory Planning Committee Agenda 18 July 2023
<b>Attachments:</b>	9.1.1b - WAPC Statutory Planning Committee Minutes (extract) 18 July 2023
	9.1.1c - Schedule of Modifications to Draft Local Planning Strategy with Shire Officer Responses

#### IN BRIEF

This report provides Council with an update in relation to the schedule of changes to the Draft Local Planning Strategy (2022) required by the Western Australian Planning Commission's (WAPC) Statutory Planning Committee (SPC) meeting on 18 July 2023.

#### RECOMMENDATION

That Council NOTE the schedule of modifications and resolution within the WAPC Statutory Planning Committee agenda, minutes and Shire officer responses at attachments 9.1.1a, 9.1.1b and 9.1.1c.

#### LOCATION

1. Shire Wide

#### BACKGROUND

2. At the September 2022 Ordinary Council Meeting, Council unanimously passed Resolution 060922:

"That Council:

1. ENDORSE the Draft Local Planning Strategy (Attachment 9.1.4a) for referral to the Western Australian Planning Commission, requesting the Commission's assessment and consent to commence public advertising for a period of 42 days.
2. NOTES that the WAPC may require changes to the document before providing its consent, and that officers, in consultation with the Local Planning Strategy Working Group, will make any necessary changes required.
3. REQUESTS that the Chief Executive Officer provide a report back to Council informing of any changes required in (2), prior to public advertising."

3. The Draft Strategy was then referred to the Western Australian Planning Commission (WAPC) for its certification to proceed with the formal public advertising period, as required under the Planning and Development Regulations (2015).
4. A report prepared by DPLH officers was presented to the WAPC's Statutory Planning Committee (SPC) meeting on 18 July 2023 recommending that the Shire's Draft Strategy be certified for advertising, subject to a schedule of modifications. The SPC supported the recommendation of the report and schedule of modifications subject to the inclusion of a small number of additional modifications. The report by DPLH officers and schedule of modifications are contained in attachment 9.1.1a, and the SPC resolution is contained within the SPC meeting minutes in attachment 9.1.1b.
5. Following the implementation of the required modifications to the Draft Local Planning Strategy (2022), the document will be returned to Department of Planning, Lands and Heritage (DPLH) staff to receive certification (under delegation from the WAPC) to proceed with formal advertising for public comment, in accordance with the Planning and Development Regulations (2015).

#### **DISCUSSION / OFFICER COMMENTS**

6. Shire officers have been working closely with the DPLH officers since September 2022 to discuss, negotiate and address the schedule of requested modifications in order to proceed to the next stage of the process – formal public advertising of the Draft Local Planning Strategy (2022).
7. It is considered that the modifications required to the Draft Strategy by the WAPC do not jeopardise the intent or strategic direction established by the Shire's LPS Working Group and planning staff and adopted by Council in September 2022. The modifications required to the document generally relate to:
  - Formatting and structure of the document;
  - Grammatical errors;
  - Updates to provide greater detailed analysis and recommendations;
  - Ensuring the document is up to date with current local, regional, and State planning frameworks and approvals and/or statistical information;
  - Various changes to provide greater clarity for Strategies & Actions; and
  - Updates to mapping.
8. Additionally, one substantial modification contained within the schedule is the required changes to the Draft Strategy in relation to how the Shire proposes to assess biodiversity conservation subdivision applications submitted under provisions of WAPC Development Control Policy DC3.4 'Subdivision of Rural Land'. Shire planning staff worked through this issue in detail with DPLH staff and are of the opinion that the proposed modified provisions still encapsulate the Shire and LPS Working Group's intent regarding the assessment of conservation lot subdivision proposals. These specific modifications can be viewed on pages 21 and 22 of attachment 9.1.1a and are summarised as follows:
  - Remove the mandatory locational criteria related to identified conservation corridors, as this requirement in the Strategy may result in positive environmental benefits being lost in other areas outside of the nominated conservation corridors, where suitable land for conservation subdivision exists.
  - Increase the minimum vegetation size from 10Ha to 20Ha, based on advice from DBCA's covenanting team that this is a more reasonable size for conservation based subdivision lots.

- Remove the proposed requirement for a minimum 20Ha balance rural lot - noting that DC3.4 has a more flexible and performance-based approach, in seeking to retain the capacity for the continuation of existing rural land uses on the balance rural lot.
  - Include a provision relating to supporting proposals that include contiguous remnant vegetation directly adjoining reserves, such as National Parks, Conservation Reserves, etc.
9. It has also been noted by DPLH and Shire planning staff that the Strategy's proposal to prepare a separate Biodiversity Strategy is an ideal opportunity to undertake in-depth environmental mapping and analysis to re-consider the potential identification of any specific locations deemed as being suitable for conservation based subdivision.

#### **CONSULTATION AND EXTERNAL ADVICE**

10. The Planning and Development Regulations (2015) prescribe that once the required modifications have been made, the updated Draft Local Planning Strategy shall be checked and certified by DPLH officers (under delegation from the WAPC) to be formally advertised for public comment for a minimum period of 21 days, or as otherwise directed by the WAPC. The Shire proposed to double the minimum consultation period to 42 days to maximise levels of community engagement and participation. The WAPC instead resolved to extend the consultation period to a greater period of 60 days.
11. Once updated and certified for advertising, the Draft Strategy will be publicly advertised in accordance with regulations 13 and 76A of the Planning and Development Regulations (2015), which require the following actions as a minimum:
- Publish the Draft Strategy on Shire website;
  - Hard copy available for public inspection;
  - Notice in the local newspaper (optional); and
  - Notices to affected public authorities.
12. The LPS Working Group has assisted Shire officers by providing input and feedback to help guide the preparation of a community consultation plan for the formal public advertising period, going well above the regulation's minimum requirements, comprising the elements detailed below.
13. Information will be provided to the community through the following communication channels and platforms:
- Your Denmark Local Planning Strategy website  
<https://www.yourdenmark.wa.gov.au/denmark-in-your-hands>;
  - Newspaper advertisements in both the Denmark Bulletin and Walpole Weekly;
  - Shire of Denmark media release;
  - Shire social media posts (Facebook); and
  - Shire 'Denmark Direct' monthly e-newsletter.
14. The documents listed below shall be available on Your Denmark Local Planning Strategy website and in hard copy at the front counter of the Shire's administration office:
- Copy of the Draft Local Planning Strategy;
  - Technical Reports (BHL Assessment and Visual Landscape Evaluation);
  - Local Planning Strategy Overview;
  - Summary pages of each of the key Draft Local Planning Strategy themes (Community, Urban Growth & Settlement, Economy and Employment, Environment, Infrastructure);

- Frequently Asked Questions (FAQ); and
  - Submission Form (submit online or hard copy).
15. Targeted letters will be sent out to the stakeholders listed below, inviting consideration of the Draft Strategy and encouraging submissions to be lodged within the formal public advertising period:
- Public Authorities (surrounding Local Governments and service authorities);
  - Local community organisations;
  - LPS website subscribers;
  - Previous submitters during the preliminary consultation phase;
  - Local developers and builders; and
  - Affected landowners of properties likely to be directly impacted by changes proposed under the Draft Strategy.
16. The Your Denmark LPS website will also provide contact details (phone and email) of the Shire's Strategic Planning Staff, enabling community members and stakeholders to contact the Shire's Strategic Planners directly in order to ask specific questions about the Draft Strategy, or to make an appointment to come into the Shire offices to sit down with a Strategic Planner in person, providing the opportunity to ask questions and discuss details of the Draft Strategy in depth.

#### **STATUTORY / LEGAL IMPLICATIONS**

17. The need for a local planning strategy and the process for preparing and advertising a strategy is outlined in the:
- Planning and Development Act 2005
  - Planning and Development (Local Planning Schemes) Regulations 2015
  - WAPC Local Planning Strategy Guidelines 2021.

#### **STRATEGIC / POLICY IMPLICATIONS**

18. Our Future 2033
19. The Draft Local Planning Strategy is consistent with the following objectives of the Strategic Community Plan 'Our Future 2033':
20. Environmental conservation and protection
- We want protection of wild, untouched places that set Denmark apart.
21. The Draft Local Planning Strategy has been prepared to be consistent with both the Shire's Sustainability Strategy and Action Plan. It also contains a range of actions intended to strengthen environmental standards and protections across the Shire and manage the environmental impact of all new development.
22. Economic Development
- We want a more vibrant CBD and to attract new industry to Denmark.
23. The Draft Local Planning Strategy aims to provide adequate Commercial and Industrial zones and land area to meet projected future demand, and proposes a range of actions and initiatives to strategically enhance and activate Denmark's Town Centre.
24. Housing availability and affordability
- We want more low-cost residential housing for rent and purchase.

- 25. The Draft Local Planning Strategy contains a wide range of actions that seek to increase flexibility for those seeking to subdivide smaller residential lots and build smaller format dwellings, to encourage a more affordable and diverse housing stock.
- 26. Engagement and decision-making
  - We want decisions that reflect majority community sentiment.
- 27. Preparation of the Draft Local Planning Strategy was informed by community feedback received as part of the preliminary consultation phase which took place prior to the document being drafted. All community members and stakeholders will be encouraged to review the Draft Strategy and provide feedback on the document as part of the formal 60 day public advertising process.

**FINANCIAL IMPLICATIONS**

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

**OTHER IMPLICATIONS**

**Environmental**

- 29. The Draft Strategy promotes the adoption of increased environmental safeguards in the local planning framework.

**Economic**

- 30. The Draft Strategy has been supported by an assessment of potential commercial land use needs over the next 10-15 years. It provides direction aimed at resolving a number of existing constraints to developing commercial services.

**Social**

- 31. The Draft Strategy aims to address (within the limits of its scope) relevant social issues such as housing affordability, promote improved accessibility, and provide for the delivery of community services and infrastructure.

**RISK MANAGEMENT**

- 32. An assessment of evident risks has been undertaken in accordance with the Shire’s Risk Management Governance Framework and no risks have been identified in relation to the officer recommendation or the report.

**VOTING REQUIREMENTS**

- 33. Simple majority.

OFFICER RECOMMENDATION	ITEM 9.1.1
<p>That Council NOTE the schedule of modifications and resolution within the WAPC Statutory Planning Committee agenda, minutes and Shire officer responses at attachments 9.1.1a, 9.1.1b and 9.1.1c.</p>	

**9.1.2 PROPOSED DENMARK SURF LIFE SAVING CLUB REDEVELOPMENT**

**File Ref:** PROJ.ENG.54.2021/A5551  
**Applicant / Proponent:** Shire of Denmark

<b>Subject Land / Locality:</b>	Reserve 24913, Lot 556 Ocean Beach Road, Ocean Beach
<b>Disclosure of Officer Interest:</b>	Several of the Shire staff are members of the Denmark Surf Lifesaving Club
<b>Date:</b>	28 July 2023
<b>Author:</b>	Craig Pursey, Manager Development Services
<b>Authorising Officer:</b>	David King, Chief Executive Officer
<b>Attachments:</b>	9.1.1a – Development Application

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**IN BRIEF**

- The application seeks to redevelop the Denmark Surf Life Saving Club and associated amenities in accordance with an adopted precinct plan.
- Conditional approval is recommended.

**RECOMMENDATION**

That Council APPROVE the redevelopment of the Denmark Surf Life Saving facility and public amenities including:

- Demolition of the front patrol and kiosk building
- Demolition of the public amenity building
- Refurbishment of the current Surf Life Saving Club building
- New public amenity building, kiosk and undercover alfresco area
- New storage building, and
- Public realm enhancements including landscaping, retaining walls, bicycle parking, stairs, viewing areas and a new sea wall with handrail.

at Reserve 24913, Lot 556 (#908) Ocean Beach Road, Ocean Beach subject to the conditions listed in the Officer Recommendation at the end of this report.

**LOCATION**

1. The Denmark Surf Life Saving Club is in a portion of Reserve 24913, Lot 556 (#908) Ocean Beach Road, Ocean Beach (Lot 556).

**BACKGROUND**

2. The redevelopment of the Surf Life Saving Club has been actively pursued by the Denmark Surf Lifesaving Club (DSLSC) with the support of the Shire of Denmark since at least 2017 with the more recent stages of the project summarised as follows:
  - 2017 Denmark Surf Lifesaving Club (DSLSC) developed concept plans for a new clubhouse facility, engaging PTX Architects for the drawings and Keston Technologies for the Business case. Surf Club membership consultation undertaken.
  - 2017 DSLSC awarded \$1.5 million from Lotterywest for the new clubhouse.
  - 2018 Council successful with the Department of Local Government, Sport & Cultural Industries (DLGSC) Community Sport & Recreation Facilities Fund (CSRFF) application for \$625,000 towards the clubhouse.

- 2020 Community consultation undertaken by Council to understand the communities loves, wants, and needs for the precinct.
  - In 2020 the Building Better Regions Fund (BBRF) Round 5 was announced and in response the Shire developed a whole precinct approach. This was the catalyst for the Ocean to Channel Recreational Precinct Plan project.
  - In May 2021 Council endorsed a revised concept plan for the Ocean to Channel Recreational Precinct Plan and lodged an application for funding under the BBRF which was ultimately refused in October.
3. The scope of the project was revised to align with available funding from LotteryWest, CSRFF and the Surf Club and considered by Council at their November 2022 meeting where it was resolved:

“That Council ADOPT the revised Ocean Beach concept plan, as per Attachment 9.1.1b, including the following key elements;

1. Demolition of the front patrol and kiosk building
2. Demolition of the public amenity building
3. Refurbishment of the current Surf Life Saving Club building
4. New public amenity building, including a minimum of 2 indoor showers in each section
5. New storage building, and
6. Public realm enhancements.

*REASONS FOR CHANGE*

*Council referred to the attachment number to provide clarity as to which concept plan they were adopting and wanted to ensure that the amenities included showers.”*

## **DISCUSSION / OFFICER COMMENTS**

### Proposal

4. Council has received a development application to redevelop the Denmark Surf Life Saving Club, including the following elements:
- Demolition of the front patrol and kiosk building
  - Demolition of the public amenity building
  - Refurbishment of the current Surf Life Saving Club building
  - New public amenity building, kiosk and undercover alfresco area
  - New storage building, and
  - Public realm enhancements including landscaping, retaining walls, bicycle parking, stairs, viewing areas and a new sea wall with handrail.

The development proposes some clearing of vegetation for the new amenities building but utilises the existing effluent disposal infrastructure.

A copy of the development plans are at Attachment 9.1.1 of this report.

## Assessment

### Precinct Concept Plan

5. Council adopted a revised concept plan for the Ocean Beach precinct of the Ocean to Channel Recreational Precinct Plan at their meeting in November 2022.
6. The development proposal appears to be largely consistent with the recommendations and details in this adopted plan.

### Town Planning Scheme No.3

7. The Shire of Denmark has a Management Order for Reserve No.24913 and power to lease for up to 21 years. The designated purpose of the reserve is "Parklands and Recreation".
8. In accordance with Town Planning Scheme No.3 (TPS No. 3) the subject land is reserved for the purpose of Parks and Recreation. Clause 2.2 of TPS No.3 provides that:

"Where an application for planning consent is made with respect to reserved land, the Council shall have regard to the ultimate purpose intended for the reserve and the Council shall, in the case of land reserved for the purposes of a public authority, confer with that authority before granting its consent."

9. In addition, Clause 67(j) of the deemed provisions in Schedule 2 of the Planning and Development (Local Planning Schemes) Regulations 2015 (Deemed Provisions) requires that the local government is to have due regard to:

"(j) in the case of land reserved under this Scheme, the objectives for the reserve and the additional and permitted uses identified in this Scheme for the reserve."

10. The redevelopment of the surf life saving club buildings and surrounds is consistent with the reserve purpose of Parks and Recreation.
11. The demolition of the Surf Club patrol and kiosk building and existing public amenities are exempt from requiring development approval under cl.61 of the 'Deemed Provisions'.
12. The proposed refurbishment of the function and amenities building is largely within the existing building footprint, except for some minor works to the north side of the building. The functionality of this space is improved with little difference in the impact upon the surrounds.

### Vegetation

13. The new public amenities and kiosk require some earthworks and clearing, whilst continuing to use the existing effluent disposal system. A flora and fauna assessment of the wider precinct identifies the affected vegetation as 'coastal limestone Peppermint' in 'very good' condition. No declared rare or endangered species were identified, however a priority 4 species 'Banksia sessilis', was identified nearby. Clearing works should be limited to the area required to facilitate the earthworks and buildings and not impact the priority 4 species identified.

### Coastal Hazards

14. The proposed sea wall and associated public infrastructure appears to respond to the Coastal Hazard Risk Management and Adaptation Plan (CHRMAP) 2018 undertaken for the area whilst combining necessary infrastructure with landscaping to ensure the functionality of the space for recreation.

### Bushfire

15. The development proposal is in a bushfire prone area which can trigger the requirement for a BAL Assessment and Bushfire Management Plan. However, in this case, the Guidelines for Planning in Bushfire Prone Areas state:  
“Decision-makers can apply exemptions from the requirements of SPP3.7 and these Guidelines where there is no intensification of land use, and/or the proposal is not increasing the bushfire threat.”
16. The application is not intensifying the use of the land as it proposes to demolish and consolidate development on this site with little effective change to the status quo.
17. Although the building is located within a bushfire prone area it does not constitute a class of building to which AS3959 construction standards apply. The developer is encouraged to use construction methodology to make the building as safe as possible.
18. As a public building, it is recommended that a Bushfire Emergency Evacuation Plan be prepared to inform the users and public of what to do in an emergency.

#### Heritage

19. The site has no heritage listings, either European or Aboriginal. As part of the preparation of the Ocean to Channel Recreational Precinct Plan the Shire of Denmark engaged Deep Woods Surveys to undertake an Aboriginal Heritage Survey (AHS).
20. Mr Paul Greenfeld carried out the archaeological survey on the 21st-22nd, and the ethnographic survey on 25th January 2021. A Menang People Working Group (MPWG) assisted in the archaeological (Mr Larry Blight, Mr Roy Minitier) and ethnographic (Mr Dallas Coyne, Mr Stan Loo, Mr Shawn Colbung, Mr Aden Eades, Mr Roy Minitier, Ms Treasy Woods, Ms Lynette Knapp & Ms Elizabeth Woods) surveys.
21. The MPWG support the proposed precinct planning and wish to be continued to be engaged by Shire of Denmark during the life of the project.

#### Conclusion

22. Overall, the proposal is consistent with an adopted concept plan for the area, has little impact upon the environment and improves the useability of the space.
23. Conditional development approval is recommended.

#### **CONSULTATION AND EXTERNAL ADVICE**

24. 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, Town Planning Scheme No.3 and the associated Framework and believes that no additional external/internal engagement or consultation is required.
25. The Ocean to Channel Recreational Precinct Plan consultation process has been extensive, and the current proposal appears to be consistent with the recommendations of this precinct plan.
26. The application was referred to the Department for Water and Environmental Regulation (DWER) who limited their comments to:
  - Whether the proposed clearing is exempt under the Clearing Regulations. Officers believe that there is an exemption to the Clearing Regulations that applies once a development approval is issued (as per *Environmental Protection Clearing of Native Vegetation Regulations (2004) (EPA Part V Schedule 2 Regulation 5 Item 1)*).

- Requesting Council to consider upgrading the existing effluent systems given the existing ones have minimal setbacks from the coastal foreshore. No change is proposed to the effluent disposal systems at this stage because:
  - The existing effluent disposal systems have been approved in the past and it is not technically possible to rescind approval for a well-functioning system.
  - The secondary treatment effluent disposal systems, used in more environmentally sensitive areas, do not cope well with major fluctuations in numbers of users that the amenity block surf life saving club get.

### **STATUTORY / LEGAL IMPLICATIONS**

27. Town Planning Scheme No.3 (TPS No. 3), including the Deemed Provisions (Schedule 2) of *Planning and Development (Local Planning Schemes) Regulations 2015*, specifies those matters pertinent to the application.
28. The subject land is reserved for Parks and Recreation wherein Council is required to have regard to the ultimate purpose of the reserve in considering any application for planning consent. The proposed buildings, demolition and public works are consistent with the purpose of the reserve.
29. Clause 6.1.2 (a) of TPS No.3 states that planning consent of Council is not required for “the use of reserved land for the purpose for which it is reserved under the Scheme where the land is owned by or vested in the Council or a Public Authority...” Therefore, there is an argument that the proposal does not require planning approval. However, issuing planning approval provides exemptions under the Clearing Regulations and meets community expectations around transparent governance.
30. The applicant can apply to the State Administrative Tribunal for a Right of Review on any decision of Council.
31. Structural and demolition works will need a building permit externally certified as the Shire’s Principal Building Surveyor cannot certify development proposed by the Shire of Denmark.

### **STRATEGIC / POLICY IMPLICATIONS**

32. The proposed policy proposed is consistent with the following objectives of the Strategic Community Plan ‘Denmark 2033’:

#### Engagement and decision making

- We want the reasons for decisions to be explained and transparent.

Whilst officers have delegation to determine this application, the principles of transparent governance dictate that this be brought before Council for formal consideration.

#### Services and facilities for youth

- We want places where youth can hang out, socialise, and be active.

The redevelopment of the surf life saving club ay encourage increased participation in the club and at the beach.

### **FINANCIAL IMPLICATIONS**

#### Current Budget

33. Council had allocated in the 2022/23 Budget for this project. The funding allocations are provided below in Table 1.

<b>Table 1 – Funding Source</b>	<b>Amount</b>
LotteryWest	\$1,500,000
CSRFF	\$625,000
Denmark Surf Lifesaving Club	\$50,000
Shire of Denmark	\$1,449,874
<b>TOTAL</b>	<b>\$3,624,874</b>

34. The Project Control Group will include the Manager of Corporate Services to ensure that cash flow requirements are met.

### **OTHER IMPLICATIONS**

#### **Environmental**

35. A Coastal Hazard Risk Management and Adaptation Plan (CHRMAP) was completed in 2018 for the Shire of Denmark. This is a coastal planning framework outlined in the WA State Coastal Planning Policy and CHRMAP guidelines. The CHRMAP included the identification and assessment of coastal hazards at Ocean Beach and Peaceful Bay, a risk assessment of the potential impact of coastal hazards upon coastal assets, and coastal adaptation planning for different planning horizons.
36. Severe erosion occurred at Ocean Beach during the 2021 winter which has accelerated the forecast erosion at Ocean Beach.
37. The development proposal includes a separately funded sea wall that is incorporated into the landscaping and addresses the issues raised in the CHRMAP.

#### **Economic**

38. Economic benefits would be derived from an increase in visitation and length of stay, improved event capacity, membership and volunteering and improved physical activity and health outcomes.

#### **Social**

39. The proposed improved facilities and public realm will improve the opportunities and experiences for the community at Ocean Beach. This could lead to an increase in sports/club participation, physical activity levels, wellbeing, community interaction and involvement. This proposal provides spaces for unstructured recreation in a natural setting strengthening our communities bond with the environment.

### **RISK MANAGEMENT**

40. A risk assessment has been undertaken per the Shire's Risk Management Governance Framework, and no risks have been identified in relation to the officer recommendation or the report.

**VOTING REQUIREMENTS**

41. Simple majority.

<p>OFFICER RECOMMENDATION</p> <p>That Council APPROVE the redevelopment of the Denmark Surf Life Saving facility and public amenities including:</p> <ul style="list-style-type: none"> <li>• Demolition of the front patrol and kiosk building</li> <li>• Demolition of the public amenity building</li> <li>• Refurbishment of the current Surf Life Saving Club building</li> <li>• New public amenity building, kiosk and undercover alfresco area</li> <li>• New storage building, and</li> <li>• Public realm enhancements including landscaping, retaining walls, bicycle parking, stairs, viewing areas and a new sea wall with handrail.</li> </ul> <p>at Reserve 24913, Lot 556 (#908) Ocean Beach Road, Ocean Beach subject to the following conditions:</p> <p><u>Approval Terms</u></p> <ol style="list-style-type: none"> <li>1. The development shall be carried out and fully implemented in accordance with the stamped approved plans and details dated 19 July 2023.</li> </ol> <p><u>Prior to Commencement of Works</u></p> <ol style="list-style-type: none"> <li>2. Prior to commencement of demolition works a waste management, soil stabilisation/ erosion and sediment control plan shall be prepared to the satisfaction of the Shire of Denmark (Development Services) to prevent dispersal of sedimentation or demolition material beyond the approved works area. The plan shall be implemented for the duration of works.</li> <li>3. Prior to construction of the carparking areas, a detailed Access and Car parking Layout Plan shall be submitted and approved by the Shire of Denmark (Infrastructure Services) including the following:             <ul style="list-style-type: none"> <li>• Full dimensions &amp; construction standards</li> <li>• Landscaping</li> <li>• Directional Signage</li> <li>• Line marking</li> <li>• Drainage collection points and stormwater conveyance and treatment</li> <li>• Disabled parking.</li> <li>• Bollard location and design</li> </ul> </li> <li>4. Prior to commencement of landscaping works, a detailed landscaping plan shall be approved by the Shire of Denmark (Sustainable Development). The landscaping plan shall be submitted at a scale of 1:200 or 1:100 and shall detail the following:             <ul style="list-style-type: none"> <li>• Site layout and context including property boundaries, building/s parking areas, paved areas, existing trees and vegetation;</li> <li>• Proposed species, number, density and size of plants to be planted;</li> <li>• Maintenance arrangements and reticulation methods;</li> </ul> </li> </ol>	<p>ITEM 9.1.2</p>
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- Details of any hard landscaping, paving materials, bollards, bins etc.
5. Clearing of native vegetation is limited to the minimum required for the approved buildings and associated site works. All remaining native vegetation is to be identified and measures put in place on-site prior to commencement of works to ensure such vegetation is protected for the duration of construction.

#### Prior to Occupation

6. All vehicle parking is to be constructed on-site in accordance with the approved Access and Carparking Layout Plan and requirements of Australian Standard AS2890.1.2004 Parking Facilities – Off-Street Car Parking and the Building Code of Australia.
7. Prior to the occupancy of the development, all landscaping shall be carried out in accordance with the approved landscaping plan and thereafter maintained as landscaping at all times.
8. The approved development shall be connected to a reticulated water supply provided by a licensed water provider.
9. The approved development shall be connected to the existing approved effluent disposal system to the satisfaction of the Shire of Denmark (Development Services).
10. The installation of any outdoor lighting on or in association with the buildings and carparking areas shall be in accordance with the requirements of Australian Standard AS4282-1997: *Control of the Obtrusive Effects of Outdoor Lighting* and incorporate Dark Sky principles as referenced in the WAPC's Position Statement "Dark Sky and Astrotourism" and the National Light Pollution Guidelines for Wildlife" (as amended).
11. External fixtures and utilities are to be permanently screened from public view to the satisfaction of the Shire of Denmark (Development Services).
12. Prior to occupation all bin storage/ rubbish enclosure areas are to be constructed on-site in accordance with the Shire of Denmark Health Local Laws 2002 and screened from public view to the satisfaction of the Shire of Denmark (Development Services).
13. All stormwater and drainage runoff from all roofed and impervious areas is to be retained on-site or connected to a legal point of discharge to the satisfaction of the Shire of Denmark (Infrastructure Services).

#### Ongoing

14. An approved Bushfire Emergency Evacuation Plan is to be clearly displayed within the premises in a highly visible and easily accessible location to the satisfaction of the Shire of Denmark (Community Emergency Services Manager).

#### Advice Notes

1. From a preliminary review of the information provided, the Shire's Principal Building Surveyor advises:

- private certification is required for the Building Permit and including any retaining over 500mm as the Shire is unable to certify a building permit where land is under management of the Shire.
  - It is recommended that all stainless-steel posts, fixings and hardware be used in the construction.
  - Although the building is not required to comply with Australian Standard 3959, it is recommended that increased construction standards be implemented by incorporating individual elements of AS3959 to strengthen the building's resistance to bushfire attack.
2. This is not a Demolition Licence. In accordance with the provisions of the *Building Act 2011*, an application for a Demolition Licence is required to be submitted and approved prior to the demolition of any existing building(s) on-site.
  3. With regard to Condition 4, it is recommended that emphasis be placed on the use of local native species because of their environmental suitability, general hardiness, low water requirements and benefits for local native fauna.
  4. With regard to condition 5, identification and protection of priority 4 species 'Banksia sessilis' is to be protected.
  5. The Shire's Principal Environmental Health Officer advises that any food preparation areas will need to comply with the Australia New Zealand Food Standard Codes.
  6. It is the responsibility of the applicant to ensure that building setbacks correspond with the legal description of the land. This may necessitate re-surveying and re-pegging the site. The Shire of Denmark will take no responsibility for incorrectly located buildings.
  7. It is the responsibility of the applicant/owner to search the title of the property to ascertain the presence of any easements and/or restrictive covenants that may apply.
  8. No signage has been approved as part of this application. Signage proposed to be installed on-site may require the separate approval of the Shire of Denmark. Please liaise with Planning Services regarding any approvals that may be required.

### 9.1.3 DRAFT REVISED LOCAL PLANNING POLICY NO. 18: TOURISM & COMMERCIAL LAND USES IN THE RESIDENTIAL, SPECIAL RESIDENTIAL & SPECIAL RURAL ZONES

<b>File Ref:</b>	PLN.70.Q
<b>Applicant / Proponent:</b>	Not applicable
<b>Subject Land / Locality:</b>	All land within the Residential, Special Residential and Special Rural zones
<b>Disclosure of Officer Interest:</b>	Nil
<b>Date:</b>	27 July 2023
<b>Author:</b>	Will Hosken, Planning Officer
<b>Authorising Officer:</b>	David King, Chief Executive Officer
<b>Attachments:</b>	9.1.3a – Existing Local Planning Policy No. 18: Tourism Development other than ‘Bed & Breakfast’ uses within the Residential Zone 9.1.3b – Draft Revised Local Planning Policy No. 18: Tourism & Commercial Land Uses in the Residential, Special Residential & Special Rural Zones 9.1.3c – Extract of definitions for land uses classes relevant to Draft Revised Local Planning Policy No. 18

#### IN BRIEF

- This report discusses review of existing *Local Planning Policy No. 18* (LPP 18) and proposes the adoption of a draft revised version of the Policy for the purpose of public consultation.
- Officers suggest that revisions to LPP 18 could assist in providing clearer direction for landowners wanting to establish small-scale home-based businesses, as well as making the provisions of the Policy more effective at safeguarding neighbours from potential impacts.

#### RECOMMENDATION

That Council, pursuant to Schedule 2, Part 2 of the *Planning and Development (Local Planning Schemes) Regulations 2015*, resolves to:

1. ADOPT Draft *Local Planning Policy No. 18: Tourism & Commercial Land Uses in the Residential, Special Residential & Special Rural Zones* (as shown at Attachment 9.1.3b) for the purpose of public consultation.
2. Publish notice of the Council’s decision to advertise Draft *Local Planning Policy No. 18: Tourism & Commercial Land Uses in the Residential, Special Residential & Special Rural Zones* for a period of 30 days on the Shire’s website, in the Shire’s offices and in a local newspaper.

#### LOCATION

1. Existing LPP 18 applies to land in the Residential Zone only.
2. Draft revised LPP 18 is proposed to apply in the Residential, Special Residential and Special Rural zones. Draft revised LPP 18 will apply only to the extent that the Scheme (including the deemed provisions of the Regulations) allows for each relevant land use in the applicable zones. This potentially includes the Home Business, Cottage Industry, Consulting Rooms,

Child Minding Centre, Educational Establishment and Restaurant land use classes (Attachment 9.1.3c provides the definition of each use class).

### **BACKGROUND**

3. Existing LPP 18 was first adopted in June 1998 and provides guidance for tourism-related developments within the Residential Zone. 'Tourist development' is not a land use class or term defined in the Scheme and has been used historically to include small-scale studios, galleries, workshops and similar businesses.
4. The policy does not apply to 'bed and breakfast' businesses (assessed under the 'Holiday Accommodation' use class) and a separate policy applies to the development of holiday homes (assessed under the 'Holiday Home – Standard' or 'Holiday Home – Large' use classes). The policy is not applied to any form of short-stay accommodation.
5. The policy is not used regularly, relating to a limited range of land uses that are more commonly established on larger properties in other zones.
6. The policy contains a clear intent to enable the establishment of small-scale businesses while minimising any potential impacts on the surrounding residential environment.
7. The policy contains a number of provisions (Parts 1, 2, 7, 8 and 10) of a procedural nature which require review relative to the current Scheme and Regulations.
8. Part 6 of the policy refers to provisions that are contained within *Local Planning Policy No. 32: Signs*.
9. Part 9 of the policy refers to the Council rescinding approval due to a business causing a nuisance or annoyance to neighbours or traffic. Under the current planning framework the Council or Shire does not have the ability to rescind a previously granted planning approval and can only act to discontinue an approved land use in limited circumstances, including where:
  - A time limited planning approval is granted and expires at the end of the defined term.
  - The Shire has pursued compliance action against a land use that is operating outside of the terms of approval (for example, varying from the defined land use or approval conditions).
  - The Shire actively seeks to discontinue a non-conforming land use via land purchase or compensation after a change of zoning has occurred.

### **DISCUSSION / OFFICER COMMENTS**

10. As a result of review, officers have identified several opportunities to improve the clarity and functionality of LPP 18. A draft revised LPP 18 has been prepared that incorporates these recommendations, as presented at Attachment 9.1.3b.
11. Draft revised LPP 18 retains the intent of the existing policy in aiming to enable the development of small-scale home-based tourism and commercial businesses. This provides for self-employment, small businesses and new start-ups to develop, particularly where the cost and availability of smaller commercial tenancies may be a barrier to business development. Similarly, draft revised LPP 18 also aims to maintain any such businesses at an appropriate scale and minimise potential impacts on neighbouring residents.
12. Existing LPP 18 does not clearly define which land use classes the policy relates to. This creates a confusing and potentially inequitable situation, particularly in situations where it is

unclear whether a business relies more heavily on tourism or on local trade. To resolve this the draft revised LPP 18 identifies the land use classes in the Scheme that the policy will relate to.

13. Existing LPP 18 relates to a relatively small range of land uses. Draft revised LPP 18 proposes to extend the application of the policy to a range of other commercial land uses that could potentially be established in the Residential Zone. This aims to provide a consistent approach to businesses in residential areas, whether these are directly tourism-related or otherwise.
14. Draft revised LPP 18 distinguishes the identified land use classes from a 'Home Office' or 'Home Occupation', as defined in the Regulations, which are exempt from the need for planning approval.
15. Draft revised LPP 18 references to the Restaurant, Educational Establishment and Child Minding Centre land use classes, each of which is currently a discretionary use class (subject to advertising) in the Residential Zone (none are currently permitted in any of the Special Residential or Special Rural zones). The policy indicates a preference for tourism and commercial land uses to be incidental to the predominant use of the land for residential purposes, with the aim of ensuring that commercial development is appropriate within a residential environment and that more substantial businesses are established within the Denmark Town Centre (consistent with the intent of the Draft Local Planning Strategy).

For example, the establishment of a family daycare centre would clearly be an appropriate scale for a 'Child Minding Centre' within an established residential area, while a more substantial, stand-alone, commercially operated childcare centre would be (in the majority of cases) more appropriate within another zone (eg. Commercial, Professional Office). Proposals that fall somewhere between these examples would require case by case assessment, and the Council may exercise discretion in appropriate circumstances, such as on a greenfield residential development site (where issues may be less acute than in an existing established residential area) or on a Residential zoned property that adjoins a school or the Town Centre.

16. Draft revised LPP 18 also proposes to incorporate the Special Residential and Special Rural zones where home-based businesses may also be established subject to the specific provisions of each 'special' zone. The larger lots available in these zones provide greater opportunity for the establishment of home-based businesses but are similarly sensitive to concerns from neighbouring residents. The proposed policy will provide additional guidance for any such land use proposals, although it is noted that permitted land uses are currently limited in extent.
17. Draft revised LPP 18 also includes greater consideration of traffic and car parking issues, which can be perceived acutely within residential areas. The policy proposes broad guidance, identifying a preference for higher-order roads and allowing for a site by site assessment to be made according to the nature of the land use proposed, including whether the business supports employees and the extent of client/ customer visitation.
18. As part of the preparation of a new local planning scheme officers will consider ways to better align the land use classes in the Scheme with the Regulations and improve clarity for small-scale home based businesses.
19. The proposed draft revised LPP 18 extends the scope of the policy to make it more functional, removes unnecessary procedural details, and includes refined assessment criteria. It is expected that this will improve clarity and consistency of development assessment for

commercial land uses within residential areas. Adoption for public consultation will allow for feedback from business operators and community alike.

### **CONSULTATION AND EXTERNAL ADVICE**

20. No external consultation has taken place prior to the preparation of this report.
21. In accordance with the requirements of the *Planning and Development (Local Planning Schemes) Regulations 2015* (the Regulations) public notices are required to advertise a proposed or amended local planning policy, should the Council adopt the officer recommendation of this report. This will include notices at the Shire offices and on the Shire website, and it is considered appropriate to exercise the option to publish a notice in the local newspaper for this proposed policy.
22. Public comment will be invited for a period of 30 days, after which time submissions will be reviewed and a subsequent report prepared for the Council.

### **STATUTORY / LEGAL IMPLICATIONS**

23. The preparation, amending or rescinding of a local planning policy must occur in accordance with the *Planning and Development (Local Planning Schemes) Regulations 2015*, including public consultation. The Shire is required to publish notice of a proposed local planning policy in accordance with Schedule 2, Part 12, Clause 87. This includes a minimum public comment period of 21 days.
24. Local planning policies provide direction on how the Shire implements the statutory requirements of the Scheme and the Regulations. Permissible land uses remain in accordance with the Scheme. The proposed revised policy will supersede the existing policy if adopted by the Council, following public consultation.

### **STRATEGIC / POLICY IMPLICATIONS**

25. The proposed policy is consistent with the following objectives of the Strategic Community Plan 'Denmark 2033':

#### Economic development

- We want less bureaucracy, red tape and restrictions.  
Engagement and decision making
- We want the reasons for decisions to be explained and transparent.

The draft revised policy proposed improves the clarity and consistency of development standards while enabling the development of small-scale home-based businesses.

26. The Shire's Draft Local Planning Strategy (LPS) notes the above average proportion and wide diversity of small businesses and sole traders in the district. The LPS identifies a need to support local employment, entrepreneurship and innovation and includes the following actions relevant to the proposed revised policy:

#### Economy and Employment

1d. Support home-based offices and businesses in residential and rural residential areas of a scale and in a manner that minimises negative amenity impacts on residential development.

1e. Review the Scheme to reduce regulatory barriers to investment for businesses that fit with the community's vision for the future, including for small and micro businesses.

The proposed policy revisions are considered consistent with the intent of the LPS.

Further review of permitted land uses will occur as part of the preparation of a new Local Planning Scheme.

**FINANCIAL IMPLICATIONS**

- 27. The revocation of this local planning policy will occur within existing resources and will not require any changes to the adopted budget or long-term financial plan.

**OTHER IMPLICATIONS**

**Environmental**

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

**Economic**

- 29. There are no known significant economic implications relating to the report or officer recommendation. The proposed revised policy aims to improve clarity and thereby enable the establishment of small-scale home-based business, which is an important component of business development.

**Social**

- 30. There are no known significant social considerations relating to the report or officer recommendation. The proposed revised policy provides for the assessment of potential impacts on adjoining landowners where a business has been proposed in a residential area.

**RISK MANAGEMENT**

- 31. A risk assessment has been undertaken per the Shire's Risk Management Governance Framework, and no risks have been identified in relation to the officer recommendation or the report.

**VOTING REQUIREMENTS**

- 32. Simple majority.

<p>OFFICER RECOMMENDATION</p> <p>That Council, pursuant to Schedule 2, Part 2 of the <i>Planning and Development (Local Planning Schemes) Regulations 2015</i>, resolves to:</p> <ol style="list-style-type: none"> <li>1. ADOPT Draft <i>Local Planning Policy No. 18: Tourism &amp; Commercial Land Uses in the Residential, Special Residential &amp; Special Rural Zones</i> (as shown at Attachment 9.1.3b) for the purpose of public consultation.</li> <li>2. Publish notice of the Council’s decision to advertise Draft <i>Local Planning Policy No. 18: Tourism &amp; Commercial Land Uses in the Residential, Special Residential &amp; Special Rural Zones</i> for a period of 30 days on the Shire’s website, in the Shire’s offices and in a local newspaper.</li> </ol>	<p>ITEM 9.1.3</p>
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### 9.1.4 DRAFT REVISED LOCAL PLANNING POLICY NO. 44: EXEMPTIONS FROM DEVELOPMENT APPROVAL

<b>File Ref:</b>	PLN.70.J
<b>Applicant / Proponent:</b>	Not applicable
<b>Subject Land / Locality:</b>	All land within the Shire
<b>Disclosure of Officer Interest:</b>	Nil
<b>Date:</b>	27 July 2023
<b>Author:</b>	Will Hosken, Planning Officer
<b>Authorising Officer:</b>	David King, Chief Executive Officer
<b>Attachments:</b>	9.1.4a – Current Local Planning Policy No. 44: As-of-Right Development 9.1.4b – Extract from <i>Planning and Development (Local Planning Schemes) Regulations 2015 – Exemptions from Development Approval</i> 9.1.4c – Draft Local Planning Policy No. 44: Exemptions from Development Approval

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#### IN BRIEF

- This report discusses review of *Local Planning Policy No. 44* and proposes the adoption of a draft revised version of the Policy for the purpose of public consultation.
- Officers recommend that the Council consider revisions to LPP 44 to extend the range of developments and land uses that can be undertaken without the need for development (planning) approval.
- Removing the need for applications for minor and incidental works that are consistent with acceptable development standards will reduce ‘red tape’ for landowners and businesses, as well as enabling Shire officers to focus on more complex and strategic planning matters.

#### RECOMMENDATION

That Council, pursuant to Schedule 2, Part 2 of the *Planning and Development (Local Planning Schemes) Regulations 2015*, resolves to:

1. ADOPT Draft *Local Planning Policy No. 44: Exemptions from Development Approval* (as shown at Attachment 9.1.4c) for the purpose of public consultation.
2. Publish notice of the Council’s decision to advertise Draft *Local Planning Policy No. 44: Exemptions from Development Approval* for a period of 30 days on the Shire’s website, in the Shire’s offices and in a local newspaper.

#### LOCATION

1. The current and draft revised versions of *Local Planning Policy No. 44* (LPP 44) will apply to land in all zones. The draft also proposes additional exemptions that will apply in the Special Residential, Special Rural, Landscape Protection, Professional Office, Rural and Rural Multiple Occupancy zones.

## BACKGROUND

2. LPP 44 (Attachment 9.1.4a) was first adopted in August 2012 and identifies a range of development that is exempt from the requirement for development (planning) approval. As the policy states, this was intended to address minor and incidental development at a scale that is not expected to have any significant impacts, and where there is little benefit to be gained from planning assessment.
3. At the time of adoption LPP 44 was largely aligned to works which also did not require the issue of a building permit due to the introduction of the *Building Regulations 2012*. In some cases, other approvals (eg. building permits for swimming pools) or limitations (eg. for the keeping of animals under the Shire's local laws) may apply to works or activities that are exempt from development (planning) approval.
4. LPP 44 is used daily and is effective at enabling small-scale development without the need for a development (planning) application. The policy serves its intended purpose and is relatively clear in communicating its provisions.
5. In 2015 the State Government implemented the *Planning and Development (Local Planning Schemes) Regulations 2015* (the Regulations). The Regulations introduced a range of exemptions from development approval as 'deemed provisions' (see Attachment 9.1.4b), which are automatically incorporated into the Shire's Town Planning Scheme No. 3 (the Scheme). This includes both development works and specified land uses. Many of the provisions of LPP 44 have been superseded by the exemptions introduced by the Regulations.
6. In addition to exempting minor and incidental development from approval, the Regulations also adopt a codified approach to approval requirements. Under the exemptions detailed in the Regulations, the construction or alteration of a single house in the Residential Zone does not require approval if it meets the 'deemed to comply' standards established in the Residential Design Codes. In practice this has provided a clear pathway for development that meets accepted standards, and provides for planning assessment only where development is proposed that does not meet these standards. This approach has been applied for residential development since the Regulations were introduced, while other forms of development can be addressed in the same manner as some of the Shire's other policies provide for.
7. The Regulations provide for local governments to specify additional exemptions from development (planning) approval within an adopted local planning policy. While local planning policies cannot remove the exemptions provided for by the Regulations, they can widen the range of exemptions that are provided for.
8. In addition to LPP 44, several other local planning policies provide for exemptions from approval for the type of development they address, including:
  - Local Planning Policy No. 13 – Outbuildings & Water Tanks
  - Local Planning Policy No. 32 – Signs
  - Local Planning Policy No. 37 – Dams
  - Local Planning Policy No. 41 – Renewable Energy Systems

## DISCUSSION / OFFICER COMMENTS

9. As a result of review, officers have identified a number of opportunities to revise LPP 44 to remove duplication with the Planning Regulations, improve clarity, and extend the range of

development works and land uses that are exempt from development (planning) approval. A draft revised LPP 44 is presented at Attachment 9.1.4c for the Council's consideration.

10. Draft revised LPP 44 proposes to extend the range of minor and incidental development and land uses that are exempt from approval, acknowledging that these are acceptable and do not require detailed assessment if within certain parameters. This extends the codified approach taken in the Regulations. The intent of this is to avoid the Shire receiving applications for developments that are fully compliant when proposed, noting that there is little benefit to be gained from the process of administration and assessment in these cases. From the perspective of a landowner, this removes the need to allow for time and costs for a development application where a proposal is fully compliant with relevant standards.
11. For example, the development, alteration or addition to a single house on a property in the Special Residential zone currently requires approval even if it is fully compliant with all relevant standards and is a permitted (P) use within that zone. Draft revised LPP 44 proposes to remove this requirement, avoiding unnecessary 'red tape' and providing an incentive for development proponents to voluntarily comply with the community's adopted standards.
12. Proposed revisions to LPP 44 will not change the need for development (planning) approval for a development proposal that includes variations from adopted standards. In these circumstances the need for approval is warranted, with the application process providing for case specific assessment, referral to neighbours and/or State agencies as appropriate, site inspection, and detailed reporting on the proposed variations and relating issues.
13. Draft revised LPP 44 introduces exemptions from development (planning) approval for the following significant forms of residential development, subject to specified conditions:
  - Building, extending or altering a Single House or Ancillary Dwelling in the Special Residential or Professional Office zones.
  - Extending or altering a Single House or Ancillary Dwelling in the Special Rural, Landscape Protection or Rural zones.
14. In the Special Rural, Landscape Protection and Rural zones initial development typically requires assessment to confirm and condition compliance with State Planning Policy 3.7 – Planning in Bushfire Prone Areas and the accompanying Guidelines for Planning in Bushfire Prone Areas. In the Special Rural and Landscape Protection zones initial development also typically requires the delineation and approval of a building envelope. For these reasons the initial development of a single house still requires approval; however, subsequent additions and alterations are proposed to be exempt as the more substantial of these requirements will have already been addressed.
15. Draft revised LPP 44 also introduces exemptions from development (planning) approval for the following minor and incidental forms of residential development, subject to specified conditions:
  - Construction of roofed or unroofed decking.
  - Landscaping, tree planting, retaining walls and site works.
  - Non-habitable structures such as carports, gazebos, shade houses and animal shelters (extended from current LPP 44).
  - Construction of a property entry statement.
16. Draft revised LPP 44 also introduces exemptions from development (planning) approval for rural produce stalls. Stalls are currently allowed in any zone where a 'Rural Pursuit' is a

permitted land use, but associated development may require approval unless consistent with another type of exemption. The aim of this provision is to allow for rural produce stalls and to clearly articulate an acceptable development standard, enabling this activity to occur without development (planning) approval or a building permit.

17. Draft revised LPP 44 does not exempt the need for approval for any works that require the clearing of remnant vegetation, including for the establishment of an Asset Protection Zone and Bushfire Attack Level rating. While this acts as an environmental safeguard, it is also noted that development approval is required to enable clearing to occur unless another exemption applies or a permit has been granted under the State's environmental legislation.
18. The acceptable development standards that are proposed in draft revised LPP 44 have been drafted by officers to take into account consistency with other legislative requirements, including Shire policies. For example, the standards for non-habitable structures are aligned to Local Planning Policy No. 13 – Outbuildings & Water Tanks to ensure consistency and clarity. Drafting of these standards has also taken account of some of the common issues with development proposals, such as building heights, privacy for neighbours and visual landscape values. This takes a risk-based approach, allowing for the majority of development proposals that are low risk to avoid the need for approval, while aiming to ensure that higher risk proposals are assessed as appropriate.
19. In summary, draft revised LPP 44 proposes to extend the use of the existing policy by identifying additional development that can be made exempt from the requirement for development (planning) approval. This aims to streamline development by removing the need for approval where a proposal is within acceptable limits, and where neighbours and the broader community can be assured that impacts will be minimal. Adoption of the draft revised policy for public consultation will allow for residents and landowners to provide feedback.

#### **CONSULTATION AND EXTERNAL ADVICE**

20. No external consultation has taken place prior to the preparation of this report.
21. In accordance with the requirements of the Planning and Development (Local Planning Schemes) Regulations 2015 (the Regulations) public notices are required to advertise a proposed or amended local planning policy, should the Council adopt the officer recommendation of this report. This will include notices at the Shire offices and on the Shire website, and it is considered appropriate to exercise the option to publish a notice in the local newspaper for this proposed policy.
22. Public comment will be invited for a period of 30 days, after which time submissions will be reviewed and a subsequent report prepared for the Council.

#### **STATUTORY / LEGAL IMPLICATIONS**

23. The preparation, amending or rescinding of a local planning policy must occur in accordance with the Planning and Development (Local Planning Schemes) Regulations 2015, including public consultation. The Shire is required to publish notice of a proposed local planning policy in accordance with Schedule 2, Part 12, Clause 87. This includes a minimum public comment period of 21 days.
24. Local planning policies provide direction on how the Shire implements the statutory requirements of the Scheme and the Regulations. Permissible land uses remain in accordance with the Scheme.

25. The proposed revised Local Planning Policy No. 44 will supersede the existing policy if adopted by the Council following public consultation.

### **STRATEGIC / POLICY IMPLICATIONS**

26. The proposed policy is consistent with the following objectives of the Strategic Community Plan 'Denmark 2033':

#### Economic development

- We want less bureaucracy, red tape and restrictions.

#### Engagement and decision making

- We want the reasons for decisions to be explained and transparent.

The draft revised policy aims to remove administrative processes for proposed development and land uses that are consistent with the community's adopted standards.

27. The Shire's Draft Local Planning Strategy includes the following relevant objectives:

#### Our Local Government

- Consult and collaborate with our local community to develop a simplified local planning framework that is more easily understandable and reduces unnecessary approval requirements.
- Provide a framework that supports consistent and considered decision-making for land use planning and development.

28. Streamlining the approvals process is also expected to assist with reducing constraints to the development of housing, which is a key community issue addressed in the Strategic Community Plan and Draft Local Planning Strategy.

### **FINANCIAL IMPLICATIONS**

29. Proposed revisions to this local planning policy will occur within existing resources and will not require any changes to the adopted budget or long-term financial plan.
30. If implemented, income from development applications may be affected.

### **OTHER IMPLICATIONS**

#### **Environmental**

31. There are no known significant environmental implications relating to the report or officer recommendation. The draft revised policy includes safeguards to ensure that assessment occurs if development requires clearing of remnant vegetation or is within close proximity to a natural waterway or wetland.

#### **Economic**

32. The proposed revised policy will provide improved conditions for development by reducing approval requirements in specified circumstances.

#### **Social**

33. There are no known significant social considerations relating to the report or officer recommendation. The proposed revised policy exempts development from approval where adopted standards are met, providing for variations and higher-risk proposals to be assessed so that potential impacts on adjoining landowners can be considered.

**RISK MANAGEMENT**

- 34. A risk assessment has been undertaken per the Shire's Risk Management Governance Framework, and no risks have been identified in relation to the officer recommendation or the report.

**VOTING REQUIREMENTS**

- 35. Simple majority.

OFFICER RECOMMENDATION	ITEM 9.1.4
<p>That Council, pursuant to Schedule 2, Part 2 of the <i>Planning and Development (Local Planning Schemes) Regulations 2015</i>, resolves to:</p> <ol style="list-style-type: none"> <li>1. ADOPT Draft <i>Local Planning Policy No. 44: Exemptions from Development Approval</i> (as shown at Attachment 9.1.4c) for the purpose of public consultation.</li> <li>2. Publish notice of the Council's decision to advertise Draft <i>Local Planning Policy No. 44: Exemptions from Development Approval</i> for a period of 30 days on the Shire's website, in the Shire's offices and in a local newspaper.</li> </ol>	

**9.2 CORPORATE SERVICES**

**9.2.1 FINANCIAL STATEMENTS FOR THE PERIOD ENDED 30 JUNE 2023**

<b>File Ref:</b>	FIN.1
<b>Applicant / Proponent:</b>	Not applicable
<b>Subject Land / Locality:</b>	Not applicable
<b>Disclosure of Officer Interest:</b>	Nil
<b>Date:</b>	26 July 2023
<b>Author:</b>	Scott Sewell, Financial Accountant
<b>Authorising Officer:</b>	Jodi Masson, Acting Manager Corporate Services
<b>Attachments:</b>	9.2.1 – June 2023 Monthly Financial Report

**IN BRIEF**

- Under the Local Government Financial Management Regulations, a local government is to prepare, on a monthly basis, a statement of financial activity that reports on the Shire's financial performance in relation to its adopted budget.
- The Shire of Denmark's Statement of Financial Activity for the period ending 30 June 2023 has been prepared and is attached.
- In addition, the Shire provides Council with a monthly investment register to ensure the investment portfolio complies with the Shire's Investment Policy.

**RECOMMENDATION**

That with respect to the Financial Statements for the period ending 30 June 2023, Council RECEIVE the Financial Reports, incorporating the Statement of Financial Activity and other supporting documentation, as per Attachment 9.2.1.

**LOCATION**

Nil

**BACKGROUND**

1. In order to fill statutory reporting obligations, the Monthly Financial Report prepared provides a snapshot of the Shire's year-to-date financial performance. The report provides:
  1. Statement of Financial Activity by Nature or Type;
  2. Statement of Financial Activity by Program;
  3. Explanation of Material Variances;
  4. Net Current Funding Position;
  5. Receivables;
  6. Capital Acquisitions;
  7. Cash Backed Reserve Balances;
  8. Loan Schedule;
  9. Investment Register;
  10. Cash and Investments Summary.
2. Each year a local government is required to adopt a percentage or value to be used in the Statement of Financial Activity for reporting material variances. Under Resolution 030822, Council adopted the monthly reporting variance for the 2022/2023 financial year of 10% or greater for each program area in the budget as a level that requires an explanation or report, with a minimum dollar variance of \$10,000.
3. Pursuant to the Shire's Investment Policy, an investment report and investment register are to be provided to Council on a monthly basis, detailing the investment portfolio in terms of performance and counterparty percentage exposure of total portfolio.

**DISCUSSION / OFFICER COMMENTS**

4. The Statement of Financial Activity for June 2023 shows a closing funding surplus of \$1,882,014. The adopted and amended budget for the year ended 30 June 2023 were premised on a zero year end closing funding position, A significant portion of the closing funding surplus position is represented by the pre-release of the 2023-24 year general purpose grant funding allocation from the WA Local Government Grants Commission at almost \$1.2 million with other variances relating to savings in expenditure on operational and capital investment costs and revenue gains above budget estimates in some areas of Council's operations. The financial statements as presented are the final draft reports (pre-audit) for the 2022-23 financial year and have been used to determine the opening net current funding position as at 1 July 2023 included in the preparation of the 2023-24 draft budget. A small number of capital expenditure projects were not completed in the 2022-23 financial year and this has resulted in unspent funds as at 30 June. These funds will also need to be considered as part of the adoption of the 2023-24 budget.
5. A summary of the financial position for June 2023 is detailed in the table below:

	Amended Annual Budget	YTD Budget (a)	YTD Actual (b)	Var. \$ (b)-(a)	Var. % (b)-(a)/(a)
	\$	\$	\$	\$	%
<b>Opening Funding Surplus / (Deficit)</b>	<b>1,493,572</b>	<b>1,493,572</b>	<b>1,493,572</b>	<b>0</b>	<b>0%</b>
<b>Revenue</b>					
Operating revenue	13,641,755	13,641,755	14,733,314	1,091,559	8%
Capital revenue, grants and contributions	5,215,106	5,215,106	5,308,764	93,658	2%
	<b>18,856,861</b>	<b>16,369,734</b>	<b>20,042,078</b>	<b>1,185,217</b>	
<b>Expenditure</b>					
Operating Expenditure	-17,732,285	-	-	601,300	3%
Capital Expenditure	-7,169,837	-7,169,837	-6,593,014	576,823	-15%
	<b>-24,902,122</b>	<b>24,902,122</b>	<b>23,723,999</b>	<b>1,178,123</b>	
Funding balance adjustments	4,551,690	4,551,690	4,070,363	-481,327	-11%
<b>Closing Funding Surplus / (Deficit)</b>	<b>0</b>	<b>0</b>	<b>1,882,015</b>	<b>1,882,015</b>	

**INVESTMENT REPORT**

6. Pursuant to the Shire’s Investment Policy, an investment report and investment register are to be provided to Council on a monthly basis, detailing the investment portfolio in terms of performance and counterparty percentage exposure of total portfolio. The Investment Register is also to provide details of investment income earned against budget, whilst confirming compliance of the portfolio with legislative and policy limits.
7. As at 30 June 2023, total cash funds held (including trust funds) totals \$6,669,364 (Summary – Investment Register).
  - Municipal Funds total \$2,074,004
  - Shire Trust Funds total \$850
  - Reserve Funds (restricted) invested, total \$4,594,509
  - Municipal Funds (unrestricted) invested, total \$Nil
8. The official Reserve Bank of Australia’s (RBA) cash rate was lifted by 0.25% from 3.85% to 4.10% at the Reserve Bank Board meeting held on 7 June 2023. No further adjustments to the official cash rate have occurred at the time of writing this report.

**CONSULTATION AND EXTERNAL ADVICE**

9. 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.

**STATUTORY / LEGAL IMPLICATIONS**

- 10. Regulation 34 (1-5) of the Local Government (Financial Management) Regulations 1996, details the form and manner in which a local government is to prepare financial activity statements.
- 11. The Local Government Act 1995 – Section 6.14;
- 12. The Trustees Act 1962 – Part III Investments;
- 13. The Local Government (Financial Management) Regulations 1996 - Reg. 19, 28 and 49; and The Australian Accounting Standards, sets out the statutory conditions under which Council funds may be invested.

**STRATEGIC / POLICY IMPLICATIONS**

- 14. Nil

**FINANCIAL IMPLICATIONS**

- 15. The Shire’s 2022/2023 Annual Budget provides a set of parameters that guides the Shire’s financial practices.
- 16. Any financial implications or trends are detailed within the context of this report.

**OTHER IMPLICATIONS**

**Environmental**

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

**Economic**

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

**Social**

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

**RISK MANAGEMENT**

- 20. An assessment of evident risks has been undertaken in accordance with the Shire’s Risk Management Governance Framework and no risks have been identified in relation to the officer recommendation or the report.

**VOTING REQUIREMENTS**

- 21. Simple majority.

OFFICER RECOMMENDATION	ITEM 9.2.1
<p>That with respect to the Financial Statements for the period ending 30 June 2023, Council RECEIVE the Financial Reports, incorporating the Statement of Financial Activity and other supporting documentation, as per Attachment 9.2.1.</p>	

**9.2.2 LIST OF PAYMENTS FOR THE PERIOD ENDING 30 JUNE 2023**

<b>File Ref:</b>	FIN.1
<b>Applicant / Proponent:</b>	Not applicable
<b>Subject Land / Locality:</b>	Not applicable
<b>Disclosure of Officer Interest:</b>	Nil
<b>Date:</b>	26 July 2023
<b>Author:</b>	Kelly Schroeter, Assistant Accountant (Acting)
<b>Authorising Officer:</b>	Jodi Masson, Manager Corporate Services (Acting)
<b>Attachments:</b>	9.2.2 – June 2023 Monthly List of Payments Summary

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**IN BRIEF**

The purpose of this report is to advise the Council of payments made during the period 1 June 2023 to 30 June 2023.

**RECOMMENDATION**

That with respect to the attached Schedule of Payments, totalling \$3,226,238.43 for the month of June 2023, Council RECEIVE the following summary of accounts:

- Electronic Funds Transfers EFT 35684 to EFT 35945 - \$2,563,524.97
- Municipal Fund Cheque No’s 60538 - 60541 - \$17,662.25
- Internal Account Transfers (Payroll) - \$462,788.86
- Direct Debit - \$7,346.51
- Corporate Credit Card - \$6,097.63
- Department of Transport Remittances - \$122,469.05
- Loan Payments – \$46,349.16

**LOCATION**

1. Nil

**BACKGROUND**

2. Nil

**DISCUSSION / OFFICER COMMENTS**

3. Nil

**CONSULTATION AND EXTERNAL ADVICE**

4. 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.

**STATUTORY / LEGAL IMPLICATIONS**

5. Local Government (Financial Management) Regulation 13 relates:

**STRATEGIC / POLICY IMPLICATIONS**

6. 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:

**FINANCIAL IMPLICATIONS**

7. There are no known significant trends or issues to be reported.

**OTHER IMPLICATIONS**

**Environmental**

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

**Economic**

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

**Social**

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

**RISK MANAGEMENT**

11. An assessment of evident risks has been undertaken in accordance with the Shire’s Risk Management Governance Framework and no risks have been identified in relation to the officer recommendation or the report.

**VOTING REQUIREMENTS**

12. Simple majority.

<b>OFFICER RECOMMENDATION</b>	<b>ITEM 9.2.2</b>
<p>That with respect to the attached Schedule of Payments, totalling \$3,226,238.43 for the month of June 2023, Council RECEIVE the following summary of accounts:</p> <ul style="list-style-type: none"> <li>• Electronic Funds Transfers EFT 35684 to EFT 35945 - \$2,563,524.97</li> <li>• Municipal Fund Cheque No’s 60538 - 60541 - \$17,662.25</li> <li>• Internal Account Transfers (Payroll) - \$462,788.86</li> <li>• Direct Debit - \$7,346.51</li> <li>• Corporate Credit Card - \$6,097.63</li> <li>• Department of Transport Remittances - \$122,469.05</li> <li>• Loan Payments – \$46,349.16</li> </ul>	

**9.3 INFRASTRUCTURE AND ASSETS**

Nil

**9.4 GOVERNANCE****9.4.1 SPECIAL ELECTORS MEETING DECISIONS**

<b>File Ref:</b>	LEA.41
<b>Applicant / Proponent:</b>	Kwoorabup Nature School
<b>Subject Land / Locality:</b>	No.2 (Lot 952) Inlet Drive. Reserve 30277
<b>Disclosure of Officer Interest:</b>	Nil
<b>Date:</b>	07 August 2023
<b>Author:</b>	David King, Chief Executive Officer
<b>Authorising Officer:</b>	David King, Chief Executive Officer
	9.4.1a – Special Electors Meeting Minutes from 1 August 2023
<b>Attachments:</b>	9.4.1b – Item 9.3.1 from the Ordinary Council Meeting from 18 April 2023.

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**IN BRIEF**

- A Special Electors Meeting was held on 1 August 2023 to discuss the resolution of Council at the April Ordinary Council meeting regarding the Kwoorabup Nature School (KNS) lease.
- 437 Electors attended the meeting and four (4) motions were passed.
- The purpose of this item is to consider these motions.

**RECOMMENDATION****OFFICER RECOMMENDATION – 9.4.1a**

That with respect to Motion 1 carried during the Special Electors Meeting on August 1, 2023, the Council acknowledges the motion and acknowledges the concerns raised by the Electors. However, after considering the technical advice provided in this report by the officers, it is concluded that no additional steps or actions are deemed necessary.

**OFFICER RECOMMENDATION – 9.4.1b**

That with respect to Motion 3 carried during the Special Electors Meeting on August 1, 2023, the Council acknowledges the motion and acknowledges the concerns raised by the Electors. However, after considering the technical advice provided in this report by the officers, it is concluded that no additional steps or actions are deemed necessary.

**OFFICER RECOMMENDATION – 9.4.1c**

That with respect to Motion 4 carried during the Special Electors Meeting on 1 August 2023, Council request that the Chief Executive Officer include additional provisions in the lease to:

1. Ensure that the Lions Club have first right of refusal to use the Station Masters House outside of school hours.
2. Ensure that an area within the Station Masters House is provided, to the satisfaction of the Shire of Denmark, for them to display their memorabilia.

#### OFFICER RECOMMENDATION – 9.4.1d

That with respect to Motion 5 carried during the Special Electors Meeting on August 1, 2023, the Council acknowledges the motion and acknowledges the concerns raised by the Electors. However, after considering the technical advice provided in this report by the officers, it is concluded that no additional steps or actions are deemed necessary.

#### LOCATION

13. The KNS occupy a portion of Lot 952 on Deposited Plan 39348, located at 2 Inlet Drive, Denmark.
14. The Denmark Machinery Restoration Group (DMRG), Mens Shed, and the Lions currently occupy leased areas on the reserve, as delineated in Figure 1.
15. The Bibbulmun Track and the Heritage Rail Trail also pass through the reserve and are popular with local bushwalkers and the like.



#### BACKGROUND

16. The KNS has leased a portion of Reserve 30277 since 2003. The initial lease was for five (5) years.
17. At its meeting held on 24 June 2008, Council approved a new lease for a period of five (5) years (Resolution No. 130608), which resulted in a new expiration date of 2013.

18. At its meeting held on 25 September 2012, Council approved an extension to the lease area to incorporate an approved additional storage building, existing septic tanks and adequate area for sufficient soft fall sand under the swing set (Resolution No. 160912).
19. In 2013, under clause 4.6 (Further Term) of the Lease, the Lessee exercised their option for a further five (5) year term by written request to the Chief Executive Officer. A new valuation was undertaken in October 2013, which formed the basis of their annual lease fee from 1 December 2013 to 30 November 2018.
20. At its meeting held on 27 May 2014, Council adopted the Denmark Historic Railway Precinct Concept Plan with respect to Reserve No. 30277 (Resolution No. 240514).
21. At its meeting held on 22 March 2016, Council approved the addition of a temporary classroom which involved an extension of the lease area (Resolution No. 160316). This resulted in a relative increase in the annual lease fee, based on the 2013 valuation.
22. In 2017, the KNS approached Council advising that whilst they had identified an appropriate alternative site for the school, they would require a 12-month extension to give them sufficient time to relocate to the new site. At its meeting on 18 July 2017, Council granted permission for the KNS to continue occupying the Leased Premises as a monthly tenant until 21 December 2019 (Resolution No. 120717).
23. In February 2019, the Council agreed to allow the KNS to extend their lease area, grant the school a new 15 year lease and amend the Denmark Historical Railway Station Precinct Concept Plan ('Concept Plan') to include reference to the school's lease area on the reserve. Due to concerns raised by the other lessees of the portions of the reserve and the Denmark Historical Society, the KNS provided a compromise to the other lessees by agreeing to do some 'Common Area Works'.
24. 'Common Area Works' is defined in the lease as:
  - a) Relocation of access road from Inlet Drive;
  - b) Construction of car parking surrounding Lions Lair;
  - c) Construction of car parking adjacent to Crellin Street and a culvert to allow vehicle access;
  - d) Any servicing requirements as a result of school activities; and
  - e) Including any ancillary works required to undertake or complete such works.
25. It was also agreed at the time to include a 'Public Shared Use Area' that incorporated the historical turntable and ash pit. Item 9 of the Schedule states that 'any works undertaken on Reserve 30277 must be consistent with the adopted [Concept Plan] and be sympathetic to the heritage of the precinct. Any works or modifications to the historical relics at the site must be undertaken in liaison with the Denmark Historical Society'.
26. Item 10.2 of the Lease Schedule requires the lessee to 'fund the agreed costs of construction / installation of nature play areas and refurbishment of the Historical Turntable and the Ash Pit in the Public Shared Use Area'. The common area works were completed relatively quickly after the new lease commenced; however, the historical relics are yet to be refurbished or interpretative signage installed.
27. At the April 2023 Ordinary Council meeting Council resolved the following:

*"That Council:*

  1. *ENDORSE the expanded lease areas for the Kwoorabup Nature School such that:*

- a) *The lease areas and shared areas are in accordance with Attachment 9.3.1a, subject to the existing shed being relocated at the School's cost.*
  - b) *Development of the lease area shall be in accordance with a revised concept plan to be adopted by Council, following actions in part 3 and 4 of this resolution.*
2. *REQUEST the Chief Executive Officer to:*
- a) *Obtain, at the Kwoorabup Natures School's cost, a commercial valuation for the proposed lease.*
  - b) *Draft a lease in accordance with (1) above and advertise for public comment for no less than 14 days.*
  - c) *Provide a report back to council to consider submissions and a draft lease.*
  - d) *Advise the Lions club of the implications to their existing lease.*
3. *REQUEST the Chief Executive Officer to engage key stakeholders in developing a revised concept plan that considers the following:*
- a) *Enhancement of the key railway reserve aspects including, but not limited to, the restoration of the Ash Pit (including carriage) and the Turntable.*
  - b) *Minimisation of any fencing, especially around heritage features such as the Old Post Office building and the Stationmasters House.*
  - c) *Appropriate locations of the new infrastructure and buildings.*
  - d) *Installation of appropriate interpretative signage of heritage assets.*
4. *ADVERTISE a revised concept plan for public consultation and present back to Council, with any submissions received.*
5. *REQUEST the Chief Executive Officer to work with the Lions Club to facilitate solutions to replace their current lease."*
28. The intent of the resolution was to facilitate the lease for the school in a timely manner to meet funding deadlines and Officer proceeded to action the resolution.
29. A draft lease was advertised on 9 June 2023 with submissions closing on Friday, 23 June 2023.
30. The Denmark Lions Club were formally advised that should the new lease be endorsed by the Council, they will need to vacate their current premises, being the former Station Masters House. Officers informed the club that they will work with their members to facilitate an alternate location for the activities.
31. In order to progress the lease in time for the KNS to apply for federal funding for additional infrastructure a Special Council Meeting was held on 27 June 2023 to consider the draft lease. The following was resolved:
- "That with respect to a new lease and lease area for the Kwoorabup Nature School, for a portion of Lot 952 on Deposited Plan 39348, Council:*
1. *NOTE the submissions received.*
  2. *APPROVE the draft Lease in Attachment 5.1b subject to the following amendments:*
    - a. *Clause 8.3 – include reference to the Station Masters House.*
    - b. *Item 11.2(1)(b) of the Schedule, replace the words "[Insert Date]" with "1 July 2025".*
    - c. *Item 11.2(1)(e) of the Schedule, replace the word "two" with the word "five".*
    - d. *Replace Appendix 1 with the survey as per Attachment 5.1c.*

- e. *Item 1 of the Schedule, replace the entire wording under the sub-heading "Premises" to read,*  
*"The portion of the Land (comprising an area of 6,520sqm) and 'Public Shared Use Area' (comprising an area of 1,150sqm), as shown in Appendix 1 and referred to as Current School Lease, Proposed School Lease and Current Shared Use Area, including all buildings, structures, alterations, additions and improvements on that part of the Land, or erected on that part of the Land during the term, excluding the School Buildings."*
- f. *Item 5 of the schedule , replace the words "[Insert rent]" with "\$29,000 (ex GST)"*
- g. *Add to the Schedule:*

#### ***'11.4 Station Masters House***

- (1) *The Lessee agrees with the Lessor:*
- (a) *that the Station Masters House be made available to community groups at times outside school hours.*
  - (b) *terms and conditions relating to the community group use shall be negotiated in good faith by both parties and approved by the Lessor.*
  - (c) *Add to the end of Clause 23.1(2), 'unless otherwise approved by the Lessor'.*
3. *ADVISE the applicant that any development of the new lease area, shall be in accordance with a new adopted Concept Plan, which will be the subject of further consultation prior to it being considered by the Council.*
4. *REQUEST the Chief Executive Officer to seek Ministerial Consent, and if received, AUTHORISE the Chief Executive Officer and the Shire President to execute the final lease documentation subject to written agreement from the Kwoorabup Nature School that the Station Masters House, and/or the Old Post Office Building be offered for full time community use once additional buildings are constructed and they are no longer required as classrooms."*

32. Officers received a request for Special Electors Meeting on 11 July 2023.
33. The details of the matter to be discussed at the meeting was the decision of Council at the April OCM endorsing the granting of the lease to the KNS.
34. On verification of its compliance with section 5.28 of the Local Government Act 1995 a meeting was scheduled and held on 1 August 2023. The minutes can be found as Attachment as 9.4.1a.
35. 436 Electors attended the meeting and 4 motions were passed that are discussed in this report.
36. The current draft lease is with the Minister for signing. Officers have not received a response from the Ministers Office at the time of publication of this report.

**DISCUSSION / OFFICER COMMENTS**

**Motion 1**

1. *That the Shire of Denmark Council publish on the Shire's website a copy of all planning approvals that have been issued in respect of the Kwoorabup Nature School's current and proposed future operations as required by the Shire of Denmark Local Planning Scheme No.3 and the Planning and Development Act 2005.*
  
2. *If there is planning approval(s) in place in respect of the Kwoorabup Nature School's current operation, that the Shire of the Denmark Council:*
  - a) *Instruct the CEO to investigate and publish on the Shire's website why and how an approval was issued to the Kwoorabup Nature School given:*
    - (i) *The School is located within a designated bushfire prone area;*
    - (ii) *The School is located within a BAL-40 and BAL-Flame Zone category of risk;*
    - (iii) *State Planning Policy 3.7 provides that vulnerable or high-risk land uses must not be approved in such areas unless the development is "unavoidable"; and*
    - (iv) *The Kwoorabup Nature School's current operation is avoidable in this location.*
  
  - b) *Instruct the CEO to defer implementation of the Council of the Shire of Denmark's resolution in respect of Item 9.3.1 of the 18 April 2023 Ordinary Council Meeting until such time as a planning application has been submitted and approved for any expanded operation.*
  
  - c) *Instruct the CEO to seek advice from Department of Fire & Emergency Services as to the suitability of the Kwoorabup Nature School remaining in its current location and employ a Level 3 Bushfire Practitioner to undertake the Risk Assessment. Until such time these reports have been obtained and should they determine the site is unsuitable, the Shire of Denmark refuse any proposed works and the Kwoorabup Nature School be advised to find an alternative location which meets planning requirements.*

37. Leasing and development applications have been lodged for a nature-based community school on this site from July 2003 when a lease and planning approval were granted to occupy an existing building. Since this time seven (7) development applications have been granted by Council, 6 of which were taken to Council. These are as follows:

<b>Approval Date</b>	<b>Proposal</b>
23/2/2010	Relocate a 2.7m wide by 4.45m long outbuilding to the site for storage purposes. (Res: 110210)
25/9/2012	Extend lease and construct a fence (Res: 160912)
27/5/2014	Denmark Historical Railway Station Precinct Concept Plan adopted. (Res: 240514)
22/03/2016	Temporary Classroom, Council approves and delegates staff to issue development approval.

	(Res: 160316)
01/12/2016	Temporary Classroom (Res: 031116)
17/09/2019	Classroom, Vehicular Access & Carparking (Res: 120919)
19/11/2019	Multipurpose Classroom, Store, Kitchen and Meeting Space (Res: 131119)
07/03/2023	Signage – Kwoorabup Nature School (delegated authority)

38. The associated planning approvals and reports can be found on the Shires website and are available to the public with the exception of the signage application (07/03/2023) that was dealt with under delegation.
39. Current approvals comply with Bushfire Planning Framework and consist of an adopted Bushfire Management Plan (BMP), informed by a BAL Assessment for all development in this Reserve, and a Bushfire Emergency Evacuation Plan (BEEP) on display in the School.
40. The BEEP has been signed off by a level 3 bushfire practitioner.
41. The BMP was prepared by a level 2 accredited bushfire practitioner with documentation referred to DFES who supported the BMP subject to minor modifications that were subsequently made.
42. The BMP is used to inform assessment of all development in Reserve 30277 including the Men’s Shed development and recent extensions to the Machinery Restoration Group buildings.
43. Future planning applications are assessed for bushfire risk at the time of application and measured against the standards in place at the time of application. Where revised BMP or BEEP documentation is required, this will be requested through this process.
44. It is reasonable to assume that the KNS would require a level of security over ongoing tenure prior to investing in the necessary planning and building approvals.
45. Whilst the concerns of the electors are noted, after consideration of the above, officers do not recommend any action as a result of this motion.

**Motion 2**

46. Motion 2 was not passed and therefore does not require consideration by Council.

**Motion 3**

1. *As the site was a previous railway terminal and siding and given that all railway sites are considered to be contaminated sites, we request that the Shire of Denmark publish the environmental clearance of the site showing no contamination including an audit of the Old Post Office for asbestos sheeting.*
2. *Given that schools are considered as ‘a sensitive use’, has the school been made aware that environmental clearances will be necessary.*

47. As outlined in the 2021 Guidelines for Assessment and Management of Contaminated Sites, activities such as railway yards/marshalling yards and transport corridors are identified as potential sources of contamination. However, it's important to note that the historical presence of such activities on a site doesn't automatically indicate contamination.
48. Before concluding whether an activity holds the potential for contamination, a comprehensive weight-of-evidence approach must be adopted. This involves analysing all available information sources. Additionally, sites with a history of potentially contaminating activities or land use aren't required to be reported to the Department of Water and Environmental Regulation (DWER) if no signs of potential contamination are present. As there is no known contamination at this site there is no justification for any action. There are limited mechanisms available to trigger the need for the assessment and investigation of potentially contaminated sites. These assessments may be required under the Contamination Sites Act or the Planning and Development Act 2005.

Regulatory triggers:

- Classification under the Contaminated Sites Act. Action is required to assess contamination at sites classified as possibly contaminated – investigation required. The site under consideration is not classified as per the contaminated site act.
- Regulatory notice (investigation, clean-up or hazard abatement notice). This is not applicable to the site.

Planning and development conditions:

- Action is required to assess potential contamination at sites where a condition has been applied by a planning authority for approval of rezoning, subdivision or development to ensure that the site is suitable for the proposed land use. This planning condition applies for rezoning land to a more sensitive land use which is not the case in this instance.
- Ministerial conditions applied under Part IV of the Environmental Protection Act. These are not applicable to the site.

Other triggers:

- Action may be taken voluntarily by site owners, occupiers or other interested persons as part of a due diligence process; for example, establishing the contamination status of land prior to purchase or lease, or for insurance or financial purposes. This has the potential to apply to the site. However, due to the low risk of contamination to be present at the site (based upon a review of historical activities) and the existing current land use, officers do not believe this would be warranted.
49. Officers can confirm that the Old Post Office building is on the Shires asbestos register as it does contain asbestos material. However, the report considers the remaining asbestos to be safe due to its type and nature.
  50. Whilst the concerns of the electors are noted, after consideration of the above, officers do not recommend any action as a result of this motion.

**Motion 4**

2. *For the Shire of Denmark Council to rescind its resolution in respect of Item 9.3.1 of the 18 April 2023 Ordinary Council Meeting which endorsed (among other things) the termination of the Lions Club lease of Pt Crown Reserve 30277 and the granting of an expanded lease over this reserve to the Kwoorabup Nature School; and*
3. *Instruct the CEO to negotiate an extension/new lease to the Lions Club over its headquarters on Pt Crown Reserve 30277.*

51. Regulations require that a Notice of Motion (NoM) is required to revoke the April 2023 resolution.
52. In addition, a revocation motion needs to be put forward by a councillor and supported (in writing) by at least 3 councillors (including the mover).
53. At the publication of this report (para 40 and 41) above has not occurred.
54. In order to address concerns over the ability for the Lions to continue use of the Station Master House, officers recommend that minor amendments to the lease are incorporated to ensure that the Lions can continue to use the Station Masters House and display their memorabilia.

**Motion 5**

*Should the expanded lease be finally agreed that the Shire of Denmark apply a six metre set back of all buildings proposed from the Inlet Drive boundary and the boundary facing the Denmark Machinery Restoration Group and the Denmark Mens Shed.*

55. Setbacks in a Local Planning Scheme reserve are at the discretion of Council, and in Reserve 30277, Council would be guided in that decision making by the adopted Denmark Historical Railway Station Precinct Concept Plan.
56. Setbacks to boundaries are usually assessed at the time of development application. Considerations given when assessing setbacks include impact upon the streetscape, retention of vegetation, privacy, access to sunlight, bushfire considerations, Building Code requirements, ventilation, and perception of building bulk.
57. It is recommended that if minimum setbacks are to be contemplated that they are done so through the review of the Precinct Concept Plan to ensure a coordinated development across the entire Reserve.
58. Whilst the concerns of the electors are noted, after consideration of the above, officers do not recommend any action as a result of this motion.

**CONSULTATION AND EXTERNAL ADVICE**

59. 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.

60. For information relating to the decision at the April OCM that report should be referred to and is attached for reference as Attachment 9.4.1b.

### **STATUTORY / LEGAL IMPLICATIONS**

#### **Local Government Act 1995**

S.5.33. Decisions made at electors' meetings

- (1) All decisions made at an electors' meeting are to be considered at the next ordinary council meeting or, if that is not practicable —
  - (a) at the first ordinary council meeting after that meeting; or
  - (b) at a special meeting called for that purpose,whichever happens first.
- (2) If at a meeting of the council a local government makes a decision in response to a decision made at an electors' meeting, the reasons for the decision are to be recorded in the minutes of the council meeting.

### **STRATEGIC / POLICY IMPLICATIONS**

61. There are no Strategic or Policy implication resulting from the Special Electors Meeting. For information relating to the decision at the April OCM that report should be referred to and is attached for reference as Attachment 9.4.1b

### **FINANCIAL IMPLICATIONS**

62. There are no financial implications resulting from the Special Electors Meeting. For information relating to the decision at the April OCM that report should be referred to and is attached for reference as Attachment 9.4.1b

### **OTHER IMPLICATIONS**

#### **Environmental**

63. Environmental consideration relating to Motion 3 are provided in the discussion section of this report.
64. For information relating to the decision at the April OCM that report should be referred to and is attached for reference as Attachment 9.4.1b

#### **Economic**

65. There are no economic implications resulting from the Special Electors Meeting. For information relating to the decision at the April OCM that report should be referred to and is attached for reference as Attachment 9.4.1b

#### **Social**

66. There are no social implications resulting from the Special Electors Meeting. For information relating to the decision at the April OCM that report should be referred to and is attached for reference as Attachment 9.4.1b

**RISK MANAGEMENT**

67. Risk Table

Risk	Risk based on history and with existing controls			Proposed Treatment/Control
	Likelihood	Consequence	Risk Rating	
<b>Reputational:</b> There is a risk of a high impact news profile and potential third party actions	Likely (4)	Major (4)	High (16)	This risk should be monitored and managed by clear communication and messaging through the Media.

**VOTING REQUIREMENTS**

68. Simple majority.

OFFICER RECOMMENDATION	ITEM 9.4.1a
<p>That with respect to Motion 1 carried during the Special Electors Meeting on August 1, 2023, the Council acknowledges the motion and acknowledges the concerns raised by the Electors. However, after considering the technical advice provided in this report by the officers, it is concluded that no additional steps or actions are deemed necessary.</p>	

OFFICER RECOMMENDATION	ITEM 9.4.1b
<p>That with respect to Motion 3 carried during the Special Electors Meeting on August 1, 2023, the Council acknowledges the motion and acknowledges the concerns raised by the Electors. However, after considering the technical advice provided in this report by the officers, it is concluded that no additional steps or actions are deemed necessary.</p>	

OFFICER RECOMMENDATION	ITEM 9.4.1c
<p>That with respect to Motion 4 carried during the Special Electors Meeting on 1 August 2023, Council request that the Chief Executive Officer include additional provisions in the lease to:</p> <ol style="list-style-type: none"> <li>1. Ensure that the Lions Club have first right of refusal to use the Station Masters House outside of school hours.</li> <li>2. Ensure that an area within the Station Masters House is provided, to the satisfaction of the Shire of Denmark, for them to display their memorabilia.</li> </ol>	

<b>OFFICER RECOMMENDATION</b>	<b>ITEM 9.4.1d</b>
<p>That with respect to Motion 5 carried during the Special Electors Meeting on August 1, 2023, the Council acknowledges the motion and acknowledges the concerns raised by the Electors. However, after considering the technical advice provided in this report by the officers, it is concluded that no additional steps or actions are deemed necessary.</p>	

**9.4.2 PROPOSED NEW ROAD OR RESERVE NAME - PHOEBE**

<b>File Ref:</b>	GOV.43
<b>Applicant / Proponent:</b>	C Phoebe
<b>Subject Land / Locality:</b>	Not applicable
<b>Disclosure of Officer Interest:</b>	Nil
<b>Date:</b>	7 August 2023
<b>Author:</b>	Claire Thompson, Governance Coordinator
<b>Authorising Officer:</b>	David King, Chief Executive Officer
<b>Attachments:</b>	9.4.2 - Road Naming Policy

**IN BRIEF**

Request to endorse adding a new name to the Council’s Road Naming Policy.

**RECOMMENDATION**

That Council:

1. ENDORSE the name “Phoebe” as a future road name in recognition of David and Norma Phoebe’s contributions to the Denmark community; and
2. REQUEST the Chief Executive Officer to add the name “Phoebe” to the Council’s Road Naming Policy in the category of “local identity”.

**LOCATION**

1. Not applicable.

**BACKGROUND**

2. Nil.

**DISCUSSION / OFFICER COMMENTS**

3. The Shire has received a request from the son of David and Norma Phoebe, to endorse the name “phoebe” for potential, future use within the Shire of Denmark.
4. Council’s Road Naming Policy provides a mechanism where the names of local identities can be recorded for future use. The actual use of any name would still require the approval of the State’s Geographic Naming Committee (Landgate), who would also consider whether the contributions of the person(s) to be recognised were significant enough to the broader community.

5. Landgate's *Policies and Standards for Geographical Naming in WA* will only accept names of people posthumously. David Phoebe passed away in 2014 and Norma Phoebe passed away in 2022.
6. David and Norma moved to Denmark in the early 1960s to commence farming and remained in the community until their passing.
7. David made many years of contributions to the Denmark community as a football coach, and office bearer for the tennis club and golf club. David also mentored young children and was a life member of the Apex Club.
8. Norma was the St John Ambulance coordinator and volunteer for many years, winning several awards including the Shire of Denmark's Citizen of the Year Award in 1993. As an ambulance officer, Norma saved many lives and delivered first aid training for many years.
9. Norma and David farmed in the Mount Shadforth area. Whilst their son does not have a preference for a particular area, he has suggested that if there were to be a new subdivision in that area, then it may be an appropriate place for the name to be used.

#### **CONSULTATION AND EXTERNAL ADVICE**

10. 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.

#### **STATUTORY / LEGAL IMPLICATIONS**

11. Should Council endorse the name in principle for future use, it will be added to the Council's Road Naming Policy.

#### **STRATEGIC / POLICY IMPLICATIONS**

12. Nil

#### **FINANCIAL IMPLICATIONS**

13. Nil

#### **OTHER IMPLICATIONS**

##### **Environmental**

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

##### **Economic**

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

**Social**

- 16. Naming roads, and the like, after prominent local identities provides a mechanism for the community to acknowledge a person’s significant contribution(s) to the Denmark community.

**RISK MANAGEMENT**

- 17. A risk assessment has been undertaken per the Shire's Risk Management Governance Framework, and no risks have been identified in relation to the officer recommendation or the report.

**VOTING REQUIREMENTS**

- 18. Simple majority.

OFFICER RECOMMENDATION	ITEM 9.4.2
That Council:	
1. ENDORSE the name “Phoebe” as a future road name in recognition of David and Norma Phoebe’s contributions to the Denmark community; and	
2. REQUEST the Chief Executive Officer to add the name “Phoebe” to the Council’s Road Naming Policy in the category of “local identity”.	

**9.5 COMMUNITY SERVICES**

Nil

**10. COMMITTEE REPORTS AND RECOMMENDATIONS**

**10.1 BUSH FIRE ADVISORY COMMITTEE – MINUTES AND RECOMMENDATIONS**

<b>File Ref:</b>	COMM.BFAC
<b>Applicant / Proponent:</b>	Bush Fire Advisory Committee
<b>Subject Land / Locality:</b>	Not applicable
<b>Disclosure of Officer Interest:</b>	Nil
<b>Date:</b>	3 August 2023
<b>Author:</b>	Renee Wiggins, Manager Community Services Claire Thompson, Governance Coordinator
<b>Authorising Officer:</b>	David King, Chief Executive Officer
<b>Attachments:</b>	10.1a – Bush Fire Advisory Committee Minutes 10.1b – Fire Management Notice

**IN BRIEF**

- Receive the Minutes from the Bush Fire Advisory Committee (BFAC)
- Consider the Committee’s recommendations.

**RECOMMENDATION**

See various recommendations at the end of this report.

**LOCATION**

1. Not applicable.

**BACKGROUND**

2. The BFAC met on 3 August 2023 and made a number of recommendations that are copied below. Officer's have made comments under each recommendation.

3. RECOMMENDATION 1

*That Lez Baines be elected as Chief Bushfire Control Officer for the 2023/24 financial year.*

Officer comment: Agree.

4. RECOMMENDATION 2

*That Nigel Marsh be elected as Deputy Chief Bushfire Control Officer for the 2023/24 financial year.*

Officer comment: Agree.

5. RECOMMENDATION 3

*That Shane Howlett be elected as Deputy Chief Bushfire Control Officer for the 2023/24 financial year.*

Officer comment: Not recommended. The Bush Fires Act 1954 only allows one Deputy however, it also allows for the local government to determine seniority of fire control officers, following the Chief (first in seniority) and the Deputy (second in seniority).

Officers are recommending that Council request the Chief Executive Officer to investigate the establishment of Bush Fire Operating Procedure for chain of command, in accordance with clause 3.1 of the Shire of Denmark Bush Fire Brigades Local Law.

6. RECOMMENDATION 4

*That, pursuant to Section 38 (1) of the Bush Fires Act 1954, Council appoints the following persons for the financial year 2023/2024 and that the appointments be advertised in the Denmark Bulletin.*

*Bush Fire Control Officers authorised within the entire Shire of Denmark local government area*

*Charmaine Shelley*

*David Lonie*

*Mark Guerin*

*Les Baines*

*Shane Howlett*

*Nigel Marsh*

*Craig Hughes*

*Chris Hoare*

*Chris Hudson*

*Alex Williams*

*Brian Vigus*

*Craig Lilley*

*Paul Moncrieff*

*Murray Brooker*

*Ian Coulson  
Graham Dixon  
Geoff Bowley  
Gavin Butler  
Blair Darvill  
Darin Hockley  
Grant Wilson*

Officer comment: Agree however, fire control officers need to be appointed by the Council prior to appointing two of them Chief and Deputy. This recommendation has been put first in this report for Council's consideration.

7. RECOMMENDATION 5

That, pursuant to Section 38 (8) of the Bush Fires Act 1954, Council appoint Adrian Kranendonk for the financial year 2023/24 as a Fire Control Officer and Fire Weather Officer to be authorised within the entire Shire of Denmark

Officer comment: Agree.

8. RECOMMENDATION 6

That the Bush Fire Advisory Committee meet four (4) times a year, commencing on the last Thursday in October and then at an equal time across that period plus one annual general meeting aligned to the meeting closest to the financial year start/end.

Officer comment: Agree.

9. RECOMMENDATION 7

That the attached version of the Firebreak and Fuel Management Notice 2023/2024 (Notice) be endorsed by Council.

Changes to the Notice include-

- a) No permits will be issued for properties under 2,000sqm.
- b) No exemption for previously approved locations to light outdoor fires for the purpose of camping or cooking.

Officer Comment: With respect to part a, Fire Control Officers are receiving high numbers of calls from residents requesting a permit to burn during the restricted periods. Restricted Periods are from 1 October to 15 December and 1 March to 30 April.

BFAC are recommending that smaller properties, under 2,000sqm, not be allowed to obtain a permit during the Restricted Periods. Officers support this recommendation and will work on helping educate residents to find alternate methods to dispose of green waste, or suggest waiting until the Unrestricted Periods, being 1 May to 30 September and 1 May to 1 October.

With respect to part b, previous Firebreak and Fuel Management Notices have included exemptions for approved locations to light outdoor fires for the purpose of camping and cooking. These locations include.

- Riverbend Caravan Park
- Denmark Boating and Angling Club Facilities
- Parry Beach Caravan Park
- Boat Harbour Caravan Park

- Peaceful Bay Caravan Park

The Shire of Denmark is the only Shire in the region that allows caravan parks or camping facilities to light a fire in the open air for the purpose of camping or cooking during Prohibited Periods.

The Shire of Denmark Bushfire Risk Mitigation Plan (BRMP) lists 'tourists' as 'High Vulnerability'. Due to this, extra precautions to mitigate the risk need to be made. This may include reducing the fire risk in tourist areas.

Providing exemptions for some tourist accommodation areas potentially sends a message to tourists that fires are allowed in all locations around the Shire.

Climate change continues to play a role in the prevalence of bushfires and local authorities need to adapt to the increased risk. Our Prohibited Period continues to be extended each year due to increasing temperatures.

BFAC's *Vision* is to make the Shire of Denmark a safe community by managing the risk of fire through the delivery and implementation of fire prevention, preparedness, response and recovery strategies.

BFAC's *Terms of Reference* include recommending and regularly review Council Policies relating to the delivery of fire prevention, preparedness, response and recovery.

Officers recommend that Council endorses the Fire Management Notice (FMN) (Attachment 10.1b) and request the Chief Executive Officer to facilitate meetings between officers and the owners and operators of the previously exempt locations, for an explanation of the changes, prior to the FMN being mailed to residents and ratepayers.

10. RECOMMENDATION 8

BFAC requests that the Shire of Denmark formally seek the following from DFES:

The timetable for the delivery of overdue fire appliances scheduled for replacement in accordance with the DFES replacement criteria and detailed in LGGs Form 3A

Officer comment: Agree.

**CONSULTATION AND EXTERNAL ADVICE**

11. 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.

**STATUTORY / LEGAL IMPLICATIONS**

12. Bush Fires Act 1954
13. Section 38. (1) states - A local government may from time to time appoint such persons as it thinks necessary to be its bush fire control officers under and for the purposes of this Act, and of those officers shall subject to section 38A(2) appoint 2 as the Chief Bush Fire Control Officer and the Deputy Chief Bush Fire Control Officer who shall be first and second in seniority of those officers, and subject thereto may determine the respective seniority of the other bush fire control officers appointed by it.
14. Clause 3.1 of the Shire of Denmark Bush Fire Brigades Local Law.

**STRATEGIC / POLICY IMPLICATIONS**

- 15. The recommendation to remove the exempted areas from the 2023/24 FMN is consistent with the objectives of the Shire of Denmark’s Bushfire Risk Mitigation Plan.

**FINANCIAL IMPLICATIONS**

- 16. The cost of publishing and distributing the FMN is allocated in the 2023/24 Budget (GL1510522).

**OTHER IMPLICATIONS**

**Environmental**

- 17. Fire mitigation activities, such as creating defensible spaces around communities and clearing dead vegetation can help prevent uncontrolled wildfires from spreading rapidly and causing extensive damage to natural landscapes.

**Economic**

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

**Social**

- 19. Fire mitigation has several benefits for the protection of people and communities, particularly in areas prone to wildfires, such as Denmark. The FMN requires the installation of firebreaks and asset protection zones, reducing the potential for wildfires to spread and maintaining access routes for rapid suppression.

**RISK MANAGEMENT**

- 20. A risk assessment has been undertaken per the Shire's Risk Management Governance Framework, and no risks have been identified in relation to the officer recommendation or the report.

**VOTING REQUIREMENTS**

- 21. Simple majority.

COMMITTEE & OFFICER RECOMMENDATION	ITEM 10.1a
<p>That Council APPOINTS the following persons as Fire Control Officers for the financial year 2023/2024 and advertises the appointments in the Denmark Bulletin.</p> <p style="text-align: center;"><u><i>Bush Fire Control Officers authorised within the entire Shire of Denmark local government area</i></u></p> <p>Charmaine Shelley                  David Lonie                  Mark Guerin                  Les Baines                  Shane Howlett                  Nigel Marsh                  Craig Hughes                  Chris Hoare                  Chris Hudson                  Alex Williams                  Brian Vigus</p>	

Craig Lilley  
 Paul Moncrieff  
 Murray Brooker  
 Ian Coulson  
 Graham Dixon  
 Geoff Bowley  
 Gavin Butler  
 Blair Darvill  
 Darin Hockley  
 Grant Wilson

COMMITTEE & OFFICER RECOMMENDATION ITEM 10.1b

That Council APPOINT Lez Baines as the Shire of Denmark’s Chief Bushfire Control Officer for the 2023/24 financial year.

COMMITTEE & OFFICER RECOMMENDATION ITEM 10.1c

That Council APPOINT Nigel Marsh as the Shire of Denmark’s Deputy Chief Bushfire Control Officer for the 2023/24 financial year.

OFFICER RECOMMENDATION ITEM 10.1d

That Council:

1. REJECT the Committee Recommendation to appoint Shane Howlett as a second Deputy Chief Bushfire Control Officer, due to the Bush Fires Act 1954 only permitting one Deputy; and
2. In acknowledging the Committee’s attempt to establish additional seniority to the Chief and Deputy, REQUEST the Chief Executive Officer to investigate the establishment of Bush Fire Operating Procedure for chain of command, in accordance with clause 3.1 of the Shire of Denmark Bush Fire Brigades Local Law.

COMMITTEE & OFFICER RECOMMENDATION ITEM 10.1e

That Council APPOINT Adrian Kranendonk for the financial year 2023/24 as a Fire Control Officer and Fire Weather Officer to be authorised within the entire Shire of Denmark.

COMMITTEE & OFFICER RECOMMENDATION ITEM 10.1f

That Bush Fire Advisory Committee meet four (4) times a year, commencing on the last Thursday in October and then at an equal time across that period plus one annual general meeting aligned to the meeting closest to the financial year start/end.

## COMMITTEE RECOMMENDATION

ITEM 10.1g

That the attached version of the Firebreak and Fuel Management Notice 2023/2024 (Notice) be endorsed by Council, subject to the following changes:

- a) No permits will be issued for properties under 2,000sqm.
- b) No exemption for previously approved locations to light outdoor fires for the purpose of camping or cooking.

## OFFICER RECOMMENDATION

ITEM 10.1h

That Council:

1. ENDORSE the *Firebreak and Fuel Management Notice 2023/2024*, as per Attachment 10.1, subject to the following changes:
  - a) No permits will be issued for properties under 2,000sqm.
  - b) No exemption for previously approved locations to light outdoor fires for the purpose of camping or cooking.
2. REQUEST the Chief Executive Officer to facilitate meetings between officers and the owners and operators of the previously exempt locations, for an explanation of the changes, prior to the FMN being mailed to residents and ratepayers.

## COMMITTEE &amp; OFFICER RECOMMENDATION

ITEM 10.1i

That Council REQUEST the Chief Executive Officer to formally seek the timetable for the delivery of overdue fire appliances scheduled for replacement in accordance with the Department of Fire & Emergency Services replacement criteria, and detailed in Local Government Grant Scheme Application.

## OFFICER RECOMMENDATION

ITEM 10.1j

That Council RECEIVE the Minutes of the Bush Fire Advisory Committee meeting held on 3 August 2023.

**11. MATTERS BEHIND CLOSED DOORS**

Nil

**12. NEW BUSINESS OF AN URGENT NATURE**

Nil

**13. CLOSURE OF MEETING**