



ORDINARY MEETING OF COUNCIL

HELD IN THE COUNCIL CHAMBERS,
953 SOUTH COAST HIGHWAY, DENMARK
ON TUESDAY, 6 SEPTEMBER 2016.

Contents	Page No.
4.00pm Commencement	
DISCLAIMER	2
1. DECLARATION OF OPENING/ANNOUNCEMENT OF VISITORS	3
2. RECORD OF ATTENDANCE/APOLOGIES/APPROVED LEAVE OF ABSENCE	3
2.1 ELECTION OF DEPUTY SHIRE PRESIDENT	4
3. ANNOUNCEMENTS BY THE PERSON PRESIDING	4
4. PUBLIC QUESTION TIME	4
4.1 RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE	4
4.1.1 MR BRIAN HUMPHRIES – ITEM 7.1 (CR WHOOLEY – LEAVE OF ABSENCE)	4
4.2 PUBLIC QUESTIONS	5
4.3 QUESTIONS BY MEMBERS OF WHICH DUE NOTICE HAS BEEN GIVEN	10
4.4 PRESENTATION, DEPUTATIONS & PETITIONS	10
5. APPLICATIONS FOR LEAVE OF ABSENCE	10
6. CONFIRMATION OF MINUTES & NOTES	11
6.1 ORDINARY COUNCIL MEETING – 16 AUGUST 2016	11
6.2 STRATEGIC BRIEFING NOTES – 16 AUGUST 2016	11
7. ELECTED MEMBERS MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN	11
8. REPORTS OF OFFICERS	11
8.1 DIRECTOR OF PLANNING & SUSTAINABILITY	11
8.1.1 PROPOSED PYLON SIGN – NO. 57 (LOT 103) SOUTH COAST HIGHWAY, DENMARK	11
8.1.2 APPOINTMENT OF COMMUNITY MEMBERS TO THE SUSTAINABILITY ADVISORY COMMITTEE	15
8.2 DIRECTOR OF COMMUNITY & REGULATORY SERVICES	19
8.2.1 DENMARK RIVERSIDE CLUB INC. LEASE	19
8.2.2 ROYALTIES FOR REGIONS AIRPORT WATER BOMBER FACILITY GRANT OFFER	25
8.3 DIRECTOR OF INFRASTRUCTURE SERVICES - Nil	29
8.4 DIRECTOR OF FINANCE & ADMINISTRATION	30
8.4.1 FINANCIAL STATEMENT FOR THE MONTH ENDING 31 JULY 2016	30
8.5 CHIEF EXECUTIVE OFFICER	33
8.5.1 EXTRAORDINARY ELECTION	33
8.5.2 APPOINTMENT OF COUNCIL DELEGATES	36
9. COMMITTEE REPORTS & RECOMMENDATIONS	40
10. MATTERS BEHIND CLOSED DOORS	40
11. NEW BUSINESS OF AN URGENT NATURE INTRODUCED BY DECISION OF MEETING	40
12. CLOSURE	40

Ordinary Council Meeting

6 September 2016

DISCLAIMER

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1. DECLARATION OF OPENING/ANNOUNCEMENT OF VISITORS

4.00pm – *The Shire President, Cr Morrell, declared the meeting open.*

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

MEMBERS:

- Cr David Morrell (Shire President)
- Cr Ceinwen Gearon (Deputy Shire President)
- Cr Mark Allen
- Cr Yasmin Bartlett
- Cr Peter Caron
- Cr Jan Lewis
- Vacant
- Vacant

STAFF:

- Mr Bill Parker (Chief Executive Officer)
- Mr Gilbert Arlandoo (Director of Infrastructure Services)
- Mr Kim Dolzadelli (Director of Finance & Administration)
- Mrs Annette Harbron (Director of Planning & Sustainability)
- Mr Gregg Harwood (Director of Community & Regulatory Services)
- Ms Claire Thompson (Executive Assistant)
- Ms Noni Entwisle (Finance Officer – Accounting)

APOLOGIES:

- Cr Rob Whooley

ON APPROVED LEAVE(S) OF ABSENCE:

Nil

ABSENT:

Nil

VISITORS:

- Members of the public in attendance at the commencement of the meeting: 41
- Members of the press in attendance at the commencement of the meeting: 4

DECLARATIONS OF INTEREST:

Name	Item No	Interest	Nature
Mr Harwood	8.2.1	Impartiality	Mr Harwood is a member of the Denmark Riverside Club Inc.
Mr Harwood	8.2.2	Impartiality	Mr Harwood made a cash donation towards Stage 1 of the project.

2.1 ELECTION OF DEPUTY SHIRE PRESIDENT

Given the recent resignation of former Councillor Kelli Gillies who was the Deputy Shire President, pursuant to Schedule 2.3, Division 2, Section 7 (1) (b) of the Local Government Act 1995 the office of deputy president is to be filled as the first matter dealt with at the first meeting of the council after an extraordinary vacancy occurs in the office.

A Nomination for the office of Deputy Shire President must be made in writing, on a Nomination of Deputy Shire President Form (Attachment 5.2), to the CEO at any time prior to the meeting and during the meeting up until the election. The Councillor nominated must advise the CEO, either orally or in writing that he or she is willing to be nominated for the office.

The process for determining the result of any election for the position (in the event of there being more than one accepted nomination) will be in accordance with Schedule 2.3 of the Local Government Act 1995. Voting for the position will be by secret ballot and all Councillors in attendance must vote.

The Councillor elected as the Deputy Shire President is to assume the role upon being declared elected and having completed the Declaration of Office.

The Chief Executive Officer announced that he had received one nomination for Cr Gearon and asked whether there were any further nominations.

Cr Gearon accepted the nomination.

There were no further nominations and the the Chief Executive Officer declared Cr Gearon elected as Deputy Shire President of the Shire of Denmark until the 2017 Local Government Election.

Cr Gearon was duly sworn into office in the presence of Ms Christine Venkatachalam JP and assumed the role as the Deputy Shire President.

3. ANNOUNCEMENTS BY THE PERSON PRESIDING

The Shire President announced that he wished to acknowledge former Councillors Kelli Gillies and Roger Seeney for their contributions over many years as Elected Members. Cr Morrell thanked them for their service and wished them well with their individual pursuits noted that they would be missed on Council.

4. PUBLIC QUESTION TIME

4.1 RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE

4.1.1 Mr Brian Humphries – Item 7.1 (Cr Whooley – Leave of Absence)

At the meeting held on 16 August 2016 Mr Humphries asked some questions which were taken on notice. A copy of the written response provided to Mr Humphries is copied below.

“In response to your questions taken on notice at the Ordinary Council meeting held on Tuesday, 16 August 2016, I provide the following responses. Your questions and these written responses will be published in the next Council Agenda for the Ordinary meeting scheduled for Tuesday, 6 September 2016.

Question 1 - Mr Humphries asked for the exact dates that each Councillor was informed of the Writ and why the Council had approved a reduction in the

Budget for legal expenses when Councillors would have known of the existence of the Writ and expenses which may be incurred.

Response:

(a) – Councillors were informed of the writ on 6 May 2016;

(b) – There is no relationship between the budget for legal expenses and the existence of the writ.

Question 2 - Mr Humphries referred to a legal workshop which took place sometime in May and asked what the exact date that the workshop was held.

Response: The Legal Presentation Workshop was held on Tuesday, 7 June 2016.”

4.2 PUBLIC QUESTIONS

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

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

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

Questions from the Public

4.2.1 Mr Ian Osborne – Item 8.2.1 (Denmark Riverside Club Inc. Lease)

Mr Osborne welcomed the new Chief Executive Officer and expressed his support for a lease between the Council and the Riverside Club noting that it was the final stage in a long process. Mr Osborne stated that he believed the facility to be outstanding and an asset to Denmark. Mr Osborne thanked Council and Council Officers, particular Mr Harwood, who had continually supported the project.

Cr Allen stated that he had had the privilege to visit the facility recently and that he believed it was a credit to the Club and all those involved in the project.

4.2.2 Mr Mike Neunuebel – Ocean Beach & South Coast Surfing

Mr Neunuebel welcomed the new Chief Executive Officer and advised that recently most of the beach at Ocean Beach had been washed away which meant that he couldn't park his trailer or erect his shade structure on the beach for his surfing business. Mr Neunuebel stated that he had been operating his business from that location for 20 years and had had numerous conversations with the Council for many years about providing him with a more permanent area off the beach. Mr Neunuebel asked whether Council could permit him to erect a temporary shelter, given his duty of care to his students and the fact that there was no beach at the current time, where he could operate his business from. Mr Neunuebel advised that all he would require was a couple of loads of gravel to enable him to use an area which he had already identified.

The Shire President referred to Mr Neunuebel's comments to the Director of Planning & Sustainability who advised that the 2010 Coastal Management

Plan had recommended that an area for Mr Neunuebel's business be considered in long term planning for the area. Mrs Harbron advised that Council had received some grant funding and the Ocean Beach & Peaceful Bay Foreshore Concept Plan Working Group would be meeting in the coming weeks to commence development of a plan for the area. Mrs Harbron advised that Council Officers would be happy to have a look at the area which Mr Neunuebel had referred to as being suitable for a temporary structure and that the cost and placing of any gravel on an identified suitable site would be at the discretion of Infrastructure Services.

4.2.3 Mr Chris Grain – Sub-Lease at Denmark Visitor Centre

Mr Grain raised concerns about the process that had been followed when Council had agreed to Denmark Tourism Inc. sub-leasing a space within the Denmark Visitor Centre to Dark Side Chocolates. As the owner and operator of the Denmark Chocolate Company, Mr Grain stated that he believed that any business with a shop front within the Denmark Visitor Centre had serious competitive advantages over other businesses. Mr Grain advised that he was aware of cases where people had purchased chocolate from the Denmark Visitor Centre and had not been told that there was another chocolate factory in Denmark. Mr Grain stated that he believed that the sub-lease had been granted without appropriate consultation with other affected parties, no advertising and no calling for expressions of interest. Mr Grain urged Council to revisit the decision.

The Shire President advised that he would direct Mr Grain's concerns to Council Officers to provide a response once all of the facts had been established.

4.2.4 Mr Fred Moreno – Item 8.2.2 (Royalties for Regions Airport Water bomber Facility Grant Offer)

Mr Moreno, President of the Denmark Airport Association, provided some background on the project and the improvements to the airports capacity for water bombers. Mr Moreno asked five members of the public gallery to stand to be acknowledged for their efforts and expertise that they had volunteered thus far to improve the facilities at the Airport. Mr Moreno requested Council's support for phase two of the project.

Cr Lewis advised that she would be proposing an amended recommendation which referenced a larger water tank and asked Mr Moreno whether he or the Association had any objections to it.

Mr Moreno responded that whilst there may be some minor technical issues associated with a larger tank, they would be happy with any additional capacity.

The Shire President thanked the Association for their achievements thus far.

4.2.5 Mr Rob Harben – Operation of Council

Mr Harben stated that he was disgusted with the operation of the Council during the Cr Whooley affair and he found the handling of the matter to be of concern. Mr Harben stated that he believed that Councillors needed to think about the area that they represented.

Cr Caron responded that the decision to vote against the Notice of Motion had been a difficult one and that he hoped that people had read the words that had

been recorded which had stated that the motion had no legal basis. Cr Caron said that he believed it was up to Cr Whooley to make a decision and not for Councillors to direct another Councillor's actions.

Some further discussion ensued between Cr Caron and Mr Harben regarding the same issue.

4.2.6 Mr Graeme Thallon – Operation of Council

Mr Thallon welcomed the new Chief Executive Officer and advised that he was the former Chief Bush Fire Control Officer and one of last year's Citizen of the Year, to which he was grateful to Council for awarding him. Mr Thallon advised that many residents had expressed to him their dismay and loss of faith in the Council. Mr Thallon indicated that many were calling for better governance and morals. Mr Thallon said that it was very difficult for him to say but given the number of people who had expressed this opinion to him he felt that there was a need for a fresh start and that the Council should resign. Mr Thallon said that he felt that it would be difficult for Council to regain the trust and faith of those that had felt it had been broken.

The Shire President noted Mr Thallon's concerns however he did believe that Council was still functioning well and getting on with business. Cr Morrell stated that he understood that some trust had gone however he believed it could be earned by the Council by endeavouring to make good decisions that were in the best interests of the community.

4.2.7 Mrs Lydia Kenyon – Denmark East River Development

Mrs Kenyon stated that she believed there to be a lot of concern in the community about sustainable development in Denmark. Mrs Kenyon thanked the Council for being available to hear those concerns.

4.2.8 Mr Murray Thornton – Operation of Council

Mr Thornton referred to the Council's Annual Report which stated that it was the view of the Council and Staff that some of the reserve funds, namely the plant replacement and waste management reserves, were underfunded to finance future expenditure and that a strategy was being implemented to address it. Mr Thornton asked why the Council did the exact opposite to their stated position the Annual Report when they bought down the budget.

Mr Thornton referred to page 21 of the Budget which stated that the reserve (plant) was premised on the basis that Council transfer the equivalent of the value of the deemed depreciation for all motor vehicles and road plant each year to the reserve. Mr Thornton asked why the Council didn't follow its stated plant depreciation policy and only transfer a fraction of the depreciation.

Mr Thornton asked whether the legal expenses administration line item could be detailed in the financial report for each meeting with full cost disclosure of consultants and full cost accounting for administration time.

The Shire President responded that he would take Mr Thornton's questions on notice and they would be responded to in writing however noting that it was not common local government practice to put money into reserves each year when the funds could be spent on other projects.

4.2.9 Ms Jan Axe – Operation of Council

Ms Axe stated that she was sorry to lose two good Councillors particularly following the resignation of another two good Councillors earlier in the year. Ms Axe said that she believed that the Council could have shown leadership when voting on the Notice of Motion by listening to the community who she believed had made Councillors aware of their concerns.

The Shire President responded that the Notice of Motion had been without power regardless of the way that Councillors voted and that Elected Members were not able to interfere with another Elected Members duties.

4.2.10 Ms Julie Marsh – Operation of Council

Ms Marsh extended a warm welcome to the new Chief Executive Officer and stated that everyone in the community had different perspectives. Ms Marsh highlighted what a beautiful place Denmark was asked for people to find some positive energy and show respect towards one another.

4.2.11 Mr Brian Humphries – Operation of Council

Mr Humphries referred to the recent Media Release reference to Cr Whooley taking leave of absence for the duration of his legal action and asked for clarity on how long the duration of his legal action would be.

The Chief Executive Officer responded that the Local Government Act allowed an Elected Member to take leave for three months and that the application further in the Agenda stated that it would be for four Council meetings. Mr Parker stated that should the legal action not be concluded by the end of Cr Whooley's leave then it would be reconsidered at that time.

Mr Humphries stated that he believed that it would then be up to the Minister to grant continuation of leave and that in his opinion a legal action could take years.

The Shire President advised that it was a legal process and that no one was certain how long it would take.

CORRECTION TO MINUTES.
Pursuant to Council Resolution No. 170916

4.2.12 Mr Owen ~~Hughes-Smith~~ Stokes-Hughes – Operation of Council

~~Ms Hughes-Smith~~ Mr Stokes-Hughes spoke as a previous Councillor and expressed his disappointment at the current situation that Councillors who had resigned were attacking the current Council and letting the Electors down.

4.2.13 Mr John Sampson – Operation of Council

Mr Sampson spoke about the connection between the budget process and the writ noting that he believed the Council were aware of the writ at the time of budget deliberations. Mr Sampson stated that if this was the case then why did the Council reduce the contingency in the budget for legal costs.

The Shire President advised that he would take the question on notice and it would be responded to it in writing.

4.2.14 Mr Doug Head – Operation of Council

Mr Head congratulated Cr Gearon on her election as the Deputy Shire President and welcomed the new Chief Executive Officer. Mr Head inferred a connection between Cr Lewis, Cr Gearon and Cr Bartlett and Cr Whooley given that they had all campaigned during the election on the red van. Mr Head stated that he believed that there was a public perception that those Councillors were now compromised going forward. Mr Head referred to the

word integrity which was used in the Declaration of Office and stated that he believed what was happening lacked integrity.

Cr Gearon responded that the reason she had agreed to place her name on the red van was because she had agreed with the slogan "time for change" and that she had stood as an independent Councillor. Cr Gearon stated that she believed that the community had wanted change and that there was never any intention to be on anyone else's ticket. Cr Gearon said that she believed that Denmark was in a stage of transition and that the community had been well engaged during the election campaign. Cr Gearon added that she had wanted there to be a democratic election and not Councillors being elected unopposed as they had been in the past.

Mr Head said that he still believed that there was a public perception that there were alignments made with a former Council employee who had been dismissed.

Cr Allen noted Mr Head's comments and stated that all Councillors had his full support and that he did not believe it was his role to ask another Councillors to step down.

Cr Lewis restated Cr Gearon's comments about the election campaign and that her intention had been to get people to vote and she had seen it as an opportunity to engage with the community. Cr Lewis said that she had wanted there to be an election and if she had found out that there were no other candidates then she wouldn't have nominated because she wanted the community to decide who they wanted. Cr Lewis advised that she made individual decisions and that she would not stand down because the community had elected her.

4.2.15 Mr John Davey – Denmark East Development Project

The Chief Executive Officer advised that he had received a letter from Mr Davey who had asked him to raise it at public question time given that he was unable to attend the meeting.

Mr Parker stated that the letter expressed Mr Davey's opposition to the placement of a road and bridge across the river in any of the proposed locations. Mr Parker read out the headings of each concern raised which were as follows;

1. Irregularities in the application for Royalties for Regions funding, and the process of this project getting approval.
2. The effect of the bridge, road and construction on the pristine river environment and the Kwoorabup Trail.
3. The effect on the children at the Golden Hill Steiner School.
4. The effects on Riverbend Lane and neighbouring properties.
5. We are unconvinced the strategic fire exit is viable.
6. Seek that the Shire and the Council ensure that no actions shall take place to commence the building of the road or the bridge until the proper consultation has concluded and that the community have come to an agreeable result.

Mr Davey's comments and questions were taken on notice to be responded to in writing.

4.2.16 Cr Lewis – Chief Executive Officer’s House

Cr Lewis had been asked to raise a question by a member of the public about the status of the Chief Executive Officer’s house as there had been a suggestion that perhaps the Shire could rent it out if the Chief Executive Officer was not going to be using it.

The Chief Executive Officer responded that he would be staying in Denmark for a couple of nights during each week and spending some weekends in Denmark with his family. Mr Parker stated that his wife and three children had only recently relocated from Jerramungup to Albany and that they would reassess the situation in six months’ time.

4.3 QUESTIONS BY MEMBERS OF WHICH DUE NOTICE HAS BEEN GIVEN

Nil

4.4 PRESENTATIONS, DEPUTATIONS & PETITIONS

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

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

Nil.

5. APPLICATIONS FOR FUTURE LEAVE OF ABSENCE

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

5.1 Cr Whooley

COUNCIL RESOLUTION	ITEM 5.1
MOVED: CR GEARON	SECONDED: CR BARTLETT
That Cr Whooley be granted Leave of Absence for the meetings to be held on Tuesday, 27 September 2016, 18 October 2016, 8 November 2016 and 29 November 2016.	
CARRIED UNANIMOUSLY: 6/0	Res: 040916

6. CONFIRMATION OF MINUTES

6.1 ORDINARY COUNCIL MEETING

COUNCIL RESOLUTION & OFFICER RECOMMENDATION	ITEM 6.1
MOVED: CR ALLEN	SECONDED: CR LEWIS
That the minutes of the Ordinary Meeting of Council held on the 16 August 2016 be confirmed as a true and correct record of the proceedings.	
CARRIED UNANIMOUSLY: 6/0	Res: 050916

6.2 STRATEGIC BRIEFING NOTES

COUNCIL RESOLUTION & OFFICER RECOMMENDATION	ITEM 6.2
MOVED: CR GEARON	SECONDED: CR CARON
That the minutes of the Notes from the Strategic Briefing held on Tuesday, 16 August 2016 be received.	
CARRIED UNANIMOUSLY: 6/0	Res: 060916

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

Nil

8. REPORTS OF OFFICERS

8.1 Director of Planning & Sustainability

8.1.1 PROPOSED PYLON SIGN – NO. 57 (LOT 103) SOUTH COAST HIGHWAY, DENMARK

File Ref:	A3900 (2016/87)
Applicant / Proponent:	M. Boyes (on behalf of Catholic Parish of Denmark)
Subject Land / Locality:	No. 57 (Lot 103) South Coast Highway, Denmark
Disclosure of Officer Interest:	Nil
Date:	22 August 2016
Author:	Jon Creedon, Senior Town Planner
Authorising Officer:	Annette Harbron, Director of Planning & Sustainability
Attachments:	8.1.1a – Development Application Documentation 8.1.1b – Site Photos

Summary:

The proponent is seeking retrospective Development Approval for a Pylon Sign associated with the Saint Mary’s Catholic Church at No. 57 (Lot 103) South Coast Highway, Denmark.

As per Town Planning Scheme Policy No. 32: Signs (Policy 32), a minimum ground clearance of 2.4 metres is required for a pylon sign and signs which advertise facilities, goods or services not on the actual property are prohibited. In this instance the minimum ground clearance is 0.7 metres and the sign is proposed to be located on the lot adjoining the Saint Mary’s Catholic Church – being a lot which is currently owned and utilised by the Church.

Having regard to the proposal, intent and provisions of Policy 32 it is recommended that retrospective Development Approval be granted subject to appropriate conditions.

Background:Current Application

An application for Development Approval was lodged with Planning Services in May 2016 for a pylon sign - refer Attachment 8.1.1a. It should be noted that in July 2016 it came to the attention of Planning Services that the pylon sign had been installed without the issuance of a valid Development Approval; retrospective development application fees were subsequently paid in August 2016.

The applicant's reasons and additional justification for the pylon sign are as follows:

- Justification for the need instead of the old sign on the church – the old sign cannot be safely read from the road as you drive by the church; we have had requests from the public local and out of town tourists over the last 12 months to make a clear sign that can be seen as they drive past. We believe we have planned a clear and safe sign. We also have planned this sign to be fixed in ground for safety so in high winds cannot blow over and possibly hit someone.
- Justification for position of sign – we are aware the sign is located on the next property but this is in use as our parish house so therefore deem it still part of the church and also have placed it over the water meter so no one can trip over it or drive over it. The sign is designed to be seen by drivers but feel it will not be distracting at all, in fact it will be safer than the old one which you had to slow down to read.
- Details of blank squares – they have been left blank due to the changing dates of Easter, so we can add Easter and Christmas mass times and days.

Consultation:

The Officer has considered the requirement for consultation and/or engagement with persons or organisations that may be unduly affected by the proposal and considered Council's Community Engagement Policy P040123 and the associated Framework; as well as the requirements of Town Planning Scheme No. 3 (TPS No. 3) and Policy 32, and undertook the following level of consultation:

External Consultation

- Main Roads WA – referred as the property abuts South Coast Highway (Main Roads WA controlled road).

Internal Consultation

- Development Co-ordination Unit

From the advertising period, a statement of non-objection was received from Main Roads WA,

Statutory Obligations:

TPS No. 3 and related Policy 32 specify the pertinent development requirements for the application. Schedule 2, Part 2, Clause 3(5) of the *Planning and Development (Local Planning Schemes) Regulations 2015* states:

In making a determination under this Scheme the local government must have due regard to each relevant local planning policy to the extent that the policy is consistent with this Scheme.

Should Council refuse this Development Application or impose conditions on a Development Approval that the applicant is aggrieved by, as per Part 14 of the *Planning and Development Act 2005*, the applicant can apply to the State Administrative Tribunal for a Right of Review.

As per current Delegation D100601: Implementation of Town Planning Scheme, the Chief Executive Officer, Director of Planning & Sustainability and/or the Senior Town Planner only have the delegation to approve applications for advertising signs where the proposal complies with TPS No. 3 and Town Planning Scheme Policy provisions. In this instance the proposal does not

comply with Policy 32 thus the development application is being referred to Council for determination.

Policy Implications:

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

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

Budget / Financial Implications:

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

Strategic & Corporate Plan Implications:

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

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

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

Governance Strategic Initiative 4.1.1 – Ensure quality, consistent and responsive development and building assessment approval processes and enforcement.

Sustainability Implications:

➤ **Governance:**

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

➤ **Environmental:**

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

➤ **Economic:**

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

➤ **Social:**

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

➤ **Risk:**

Risk	Risk Likelihood (based on history and with existing controls)	Risk Impact / Consequence	Risk Rating (Prior to Treatment or Control)	Principal Risk Theme	Risk Action Plan (Controls or Treatment proposed)
The proponent may lodge an application for review to the State Administrative Tribunal if the Council's decision was to refuse the proposal.	Possible (3)	Minor (2)	Moderate (5-9)	Failure to meet Statutory, Regulatory or Compliance Requirements	Accept Officer Recommendation as the decision is based on sound planning grounds. If a decision is made to refuse the application, Council is to provide sound reasoning to support solid defence at the State Administrative Tribunal should the applicant wish to pursue a Right of Review.

Comment/Conclusion:

Planning Services have assessed the proposal having regard to TPS No. 3 and Policy 32 and the proposal complies with all relevant provisions with the exception of the following:

- Pylon signs shall have a minimum clearance of 2.4m from ground level – the proposed sign only has a minimum clearance of 0.7m.
- Prohibited signs: a sign advertising facilities, goods or services not on the actual property – the proposed sign is located on the adjoining lot to where the church services take place.

With regards to the minimum ground clearance requirement of 2.4m, this is in place to ensure that signs of this nature are not hazardous to vehicular and/or pedestrian traffic and provide for adequate sightlines. In this instance the sign's location (above the water meter on-site) and setback from the South Coast Highway road carriageway and the adjoining footpath ensures that there is minimal impact on vehicular and/or pedestrian traffic – refer Attachment 8.1.1b.

In relation to the sign being located on the adjoining property, from a Planning Services perspective it is considered that this is appropriate and will not set a precedent in this instance as the use of the building on-site is a Presbytery that is directly associated with the adjoining Saint Mary's Catholic Church site, with the Catholic Parish of Denmark being the landowner of both lots.

Overall it is considered that the pylon sign is appropriate in this location given the simple design of the sign (without the use of any logos or colour) and its discreet nature in comparison to other signs along South Coast Highway.

Having regard to the characteristics of the site, including the adjoining site, as well as the intent and provisions of Policy 32 it is recommended that retrospective Development Approval be granted subject to appropriate conditions.

Voting Requirements:

Simple majority.

COUNCIL RESOLUTION & OFFICER RECOMMENDATION	ITEM 8.1.1
MOVED: CR LEWIS	SECONDED: CR CARON
<p>That with respect to the development application for the Proposed Pylon Sign at No. 57 (Lot 103) South Coast Highway, Denmark, Council resolves to grant retrospective Development Approval subject to the following:</p>	
<p><u>Conditions</u></p> <ol style="list-style-type: none"> 1. The Signage being erected and displayed as shown on the attached stamped approved plans dated 23 May 2016. 2. The sign shall only be used to display the service times of the Saint Mary’s Catholic Church as shown on the stamped approved plans and not for any other form of commercial advertising unrelated to the property (i.e. advertising of specials, promotions, offers etc). 3. The sign shall be kept clean and maintained free of dilapidation at all times to the satisfaction of the Shire of Denmark (Planning Services). 4. The existing ‘A’ frame sign which advertises the service times of the Saint Mary’s Catholic Church to be removed and not re-displayed. 5. Should the subject lot not be utilised in conjunction with the adjoining Saint Mary’s Catholic Church, the pylon sign to be removed from the property and the area reinstated to its original condition to the satisfaction of the Shire of Denmark (Planning Services). 	
<p><u>Advice Notes</u></p> <ol style="list-style-type: none"> 1. It is the responsibility of the applicant to ensure that 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 signage. 2. It is the responsibility of the developer to search the title of the property to ascertain the presence of any easements and/or restrictive covenants that may apply. 	
CARRIED UNANIMOUSLY: 6/0	Res: 070916

8.1.2	APPOINTMENT OF COMMUNITY MEMBERS TO THE SUSTAINABILITY ADVISORY COMMITTEE
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File Ref:	COMM.SUSAC
Applicant / Proponent:	Not applicable
Subject Land / Locality:	Not applicable
Disclosure of Officer Interest:	Nil
Date:	29 August 2016
Author:	Donna Sampey, Sustainability Officer
Authorising Officer:	Annette Harbron, Director of Planning & Sustainability
Attachments:	8.1.2a – Sustainability Advisory Committee Charter 8.1.2b – Community Member Nominations (CONFIDENTIAL to Councillors)

Summary:

At the 26 July 2016 Ordinary Meeting of Council, Council resolved to establish the Sustainability Advisory Committee and advertise for up to seven community members to serve on the Committee (Res: 170716). At the close of the advertising period, five nominations were received. Council are requested to review the Nominations for Community Members and appoint members.

Background:

At the 26 July 2016 Ordinary Meeting of Council, Council resolved the following with respect to the Sustainability Advisory Committee (Res: 170716):

1. *Establish a Sustainability Advisory Committee in accordance with the Charter in Attachment 8.1.1b, subject to the membership being amended to include three (3) Councillors and a maximum of seven (7) community members.*
2. *That Council abolish the Climate Change Advisory Committee in favour of the Sustainability Advisory Committee, noting that the terms of reference still includes climate change.*
3. *Nominate Councillor Gearon, Councillor Lewis and Councillor Caron to the Sustainability Advisory Committee.*
4. *Advertise for a minimum of 14 days seeking a maximum of seven (7) community members to serve on the Sustainability Advisory Committee.*

In accordance with the adopted Charter for the Committee (see Attachment 8.1.2a), membership is as follows:

- Councillor Gearon, Councillor Lewis and Councillor Caron (one of whom is to be elected Presiding Person)
- 7 x Community Members (maximum).

Consultation:

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

Public advertising of the community member positions commenced on 11 August 2016 and closed on 26 August 2016. During the advertising period the following consultation took place:

- Advertising notice in the Denmark Bulletin on 11 August 2016 inviting community nominations;
- Advertising notice inviting community nominations displayed at the Shire Administration Office, the Shire Library, the Shire's website and the Shire's Facebook page for the duration of the public advertising period; and,
- Advertising notice emailed to 11 relevant community group contacts, including Green Skills Inc., Wilson Inlet Catchment Committee and the Denmark Environment Centre.

At the close of the advertising period, a total of five (5) nominations were received (refer Attachment 8.1.2b).

Statutory Obligations:

Section 5.10 of the *Local Government Act 1995* relates to the appointment of committee members:

Committee members, appointment of

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

** Absolute majority required.*

- (2) *At any given time each council member is entitled to be a member of at least one committee referred to in section 5.9(2)(a) or (b) and if a council member nominates himself or herself to be a member of such a committee or committees, the local government is to include that council member in the persons appointed under subsection (1)(a) to at least one of those committees as the local government decides.*
- (3) *Section 52 of the Interpretation Act 1984 applies to appointments of committee members other than those appointed under subsection (4) or (5) but any power*

exercised under section 52(1) of that Act can only be exercised on the decision of an absolute majority of the local government.

- (4) *If at a meeting of the council a local government is to make an appointment to a committee that has or could have a council member as a member and the mayor or president informs the local government of his or her wish to be a member of the committee, the local government is to appoint the mayor or president to be a member of the committee.*
- (5) *If at a meeting of the council a local government is to make an appointment to a committee that has or will have an employee as a member and the CEO informs the local government of his or her wish —*
- a) to be a member of the committee; or*
 - b) that a representative of the CEO be a member of the committee,*

the local government is to appoint the CEO or the CEO's representative, as the case may be, to be a member of the committee."

Policy Implications:

There are no policy implications.

Budget / Financial Implications:

There are no known financial implications upon either the Council's current Budget or Long Term Financial Plan in accepting community nominations to the Committee.

Strategic & Corporate Plan Implications:

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

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

Natural environment goal - That the Shire of Denmark acknowledge the importance of the natural environment to the residents of Denmark and the region, and works with residents and all relevant agencies to maintain a high standard of environmental protection and its integration with community life.

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

Structure goal - Ensures that it has a structure that is transparent, trustworthy, flexible, consultative and collaborative, and is able to attract and retain a high standard of Councillors and Senior Management.

Structure strategic initiative 4.2.2 - Ensure that agendas and minutes are prepared and Council and Committee meetings are held in accordance with the appropriate legislation, Local Law, policies and corporate standards.

Co-operation & Community Input - Acknowledge that it also has a regional role, and endeavours to work collaboratively with neighbouring local governments, the State Government and external organisations, whilst remaining responsive to the voice of its own community.

Co-operation & community input initiative 4.4.6 - Support strategic alliances, community groups, stakeholder forums and advisory committees that assist the Shire in policy development and service planning.

Sustainability Implications:

➤ **Governance:**

Accepting community nominations to the Committee is in accordance with Division 5 of the *Local Government Act 1995*.

➤ **Environmental:**

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

➤ **Economic:**

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

➤ **Social:**

Community members on Council Committees provide an important ‘community’ perspective on Council functions, service provisions and strategic direction. Community representatives on Council Committees provides an additional conduit between the Council and the community.

➤ **Risk:**

Risk	Risk Likelihood (based on history and with existing controls)	Risk Impact / Consequence	Risk Rating (Prior to Treatment or Control)	Principal Risk Theme	Risk Action Plan (Controls or Treatment proposed)
That Council choose not to appoint Community Members to the Sustainability Advisory Committee	Rare (1)	Minor (2)	Low (1-4)	Not Meeting Community expectations	Accept Officer Recommendation OR re-advertise for new community nominations

Comment/Conclusion:

The following five (5) nominations were received for the Community Member vacancies on the Sustainability Advisory Committee:

- Dr Louise DUXBURY
- Brian Jervis (Jesz) FLEMING
- Nicole HODGSON
- John SCHINDLER
- Sonya STEWART

Copies of the nominations are attached (refer Attachment 8.1.2b).

In accordance with the Committee’s Charter, membership was to comprise of a maximum of seven (7) community members. Given there are fewer nominations than vacant positions, Council have the option to:

- Appoint the members who have nominated and advertise for the (up to) two outstanding vacant positions; or,
- Appoint the members who have nominated and accept five community members as the total community membership. This is possible, given the Charter referenced a *maximum* of seven community members; or,
- Appoint the members who have nominated and amend the Committee Charter to reduce the number of community members to five. Should Council wish to exercise this option, Council

may refer the matter to the Committee for discussion at its first meeting and recommendations back to Council; or,

- Not appoint members and re-advertise all or some of the positions.

The Officer recommends Council appoint all members who have nominated and retain the community membership in the Committee Charter as a maximum of seven. There are then two community member vacancies which could still be filled during the current term of community membership. Re-advertising for additional community members to fill the vacancies is not recommended, given the level of advertising which has already occurred is considered by the Officer to be adequate and that total committee membership should still enable a quorum to be reached at most meetings (sitting membership = 8; quorum = 5).

Voting Requirements:

Absolute majority.

COUNCIL RESOLUTION & OFFICER RECOMMENDATION		ITEM 8.1.2
MOVED: CR CARON		SECONDED: CR GEARON
That with respect to the nominations received for Community Member vacancies on the Sustainability Advisory Committee, Council appoint the following community members:		
<ul style="list-style-type: none"> • Dr Louise Duxbury • Brian Jervis (Jesz) Fleming • Nicole Hodgson • John Schindler • Sonya Stewart 		
CARRIED UNANIMOUSLY AND BY ABSOLUTE MAJORITY: 6/0		Res: 080916

8.2 Director of Community & Regulatory Services

8.2.1 DENMARK RIVERSIDE CLUB INC. LEASE	
File Ref:	ORG.78, A3188, A3069, A5601
Applicant / Proponent:	Denmark Riverside Club Inc.
Subject Land / Locality:	Reserve 39066, Location 1002 & Portion of Reserve 20403, Lot 1110.
Disclosure of Officer Interest:	The Author declares an impartiality interest as he is a member of the Denmark Riverside Club Inc.
Date:	24 August 2016
Author:	Gregg Harwood, Director of Community & Regulatory Services
Authorising Officer:	Gregg Harwood, Director of Community & Regulatory Services
Attachments:	8.2.1a – Draft Lease 8.2.1b – PTX Architect’s Maintenance Advice 8.2.1c – Denmark Riverside Club Inc. Rules of Association to be adopted at their 2016 AGM

Summary:

The officer report discusses the final step in the process of fulfilling a request from the Denmark Riverside Club Inc. for the amalgamation of the Bowling Club and Dragon Club leases into a new joint 21 year lease to provide security of tenure for the project and to enable them to satisfy grant funding conditions that have been approved in the name of Denmark Riverside Club Inc.

The officer report recommends that Council resolve to replace the existing amalgamated leases with a new 21 year lease now that the extent of the potential foreshore developments and public access issues associated with the stage 2 of the Riverside Club project have been researched via that process.

The resultant lease clarifies the public's right of access through what was bandstand lease area for Mokare Trail users and returns the majority of the foreshore that is directly in front of the bowling greens to full public access.

Background:

In 2011 the Denmark Bowling Club and the Denmark Dragon Boating Club came together to form the Denmark Riverside Club and in the early 2013 it was formally incorporated.

This amalgamation of the clubs met four needs:

- 1) It enabled the Denmark Bowling Club to achieve a sufficient membership level and income capacity to enable it to accelerate the paying down of its synthetic green loans and to build up sufficient cash reserves to undertake the Riverside Club Stage 1 replacement of the exiting Bowling Club Building.
- 2) It gave the Denmark Bowling Club a sufficient diversity of age ranges to ensure the social and financial viability of their club and facility in the long term.
- 3) It provided a way for the Denmark Bowling Club to equitably share the privileged CBD riverside location that they currently enjoy.
- 4) It enabled the Denmark Dragon Boating Club and other groups such as canoeists and kayakers to be able to gain access to a foreshore facility and to be able enjoy a standard of club rooms that they could never afford to build.

In order to satisfy funding body requirements and to reflect the amalgamated status of the clubs involved Council adopted the following resolution at its 11 February 2014 meeting (Resolution No. 050214):

"That in respect to the Denmark Riverside Club joint lease request Council;

1. *Authorise the Chief Executive Officer to transfer the Bowling Club and Dragon Boat Club's respective leases to the Denmark Riverside Club Inc. for the remainder of their current term in order to facilitate the construction of stage 1 of the Riverside Club Project.*
2. *Agree in principle to offering Denmark Riverside Club Inc. a replacement 21 year lease that nominally includes the current Bowling Club and Dragon Club lease areas once the foreshore developments and public access issues that are associated with the stage 2 of the Riverside Clubs project have been fully considered and resolved by Council."*

At the Ordinary Meeting held on Tuesday, 26 July 2016 Council considered the new joint lease and resolved as follows (Resolution No. 190716);

"That Council defer the item to 6 September 2016 and discuss the matter with the Riverside Club Inc. at the Briefing Forum to be held on 16 August 2016."

Consultation:

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

- 1) Other than discussions with representatives of Denmark Riverside Club Inc. which have occurred, no other officer consultation needs to take place in regards to this matter because it seeks to maintain the current status quo. In regards to the usage of site the arrangement brings an added benefit in that it will reinforcing public access to the foreshore by formally recognising on the lease that the Mokare Trail passes through it.
- 2) The terms of the lease and the maintenance of the building were discussed at length with Riverside Club representatives at the 16 August 2016 Briefing Session.

Statutory Obligations:

The Management Orders granted to Council with respect to both Reserves all provide the Council "power to lease for any term not exceeding 21 years, subject to the consent of the Minister for Lands".

Sections 3.54 and 3.58 of the Local Government Act 1995 and Regulation 30 of the Local Government (Functions and General) Regulations 1996 relate.

Policy Implications:

Policy P110102 – Lease of Land and/or Buildings to Community Groups relates and reads (in part) as follows;

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

- a. *There be a signed lease based on Council's standard 'not for profit' lease prior to occupation or upon renewal;*
- b. *Council desires lessees to be incorporated (with the exception of Volunteer Bush Fire brigades which are covered under the Bush Fires Act);*
- c. *Contribution by Council towards legal costs (if required) by Council 100%;*
- d. *Have differing rentals discounted to market valuation depending upon the following factors;*
 - i. *To what degree the property is utilised for charitable, not for profit or sporting purposes;*
 - ii. *The ability of the lessee to derive income from use of the property including sub-leases, rental hire and the presence of a liquor license;*
 - iii. *The strategic value of the land in the short term to Council;*
 - iv. *To what degree if any that the use is competing with commercial enterprise;*
- e. *Where the applied rental is lower than a valuation or real estate rental appraisal, Council indicate that contra difference in its annual budget, for that property;*
- f. *Offer local authority rate exemption rebate donation (rather than exemption contra);*
- g. *Offer Council insurance of the buildings and Council owned property / contents without recoup of the annual premium and to encourage repairs and reinstatement through insurance claims, Council will meet all bar the first \$500 of any insurance excess on claims;*
- h. *All outgoing and consumable costs to be met by the lessee including but not limited to water, sewer, gas, telephone, ESL, refuse charges, etc;*
- i. *Lessees to meet all ongoing internal and external building and grounds maintenance other than structural building repairs;*
- j. *Leases require endorsement of Council prior to signing;*
- k. *Have differing tenure and renewal rights and terms depending upon the strategic future requirements for that land and or building(s) but based on a maximum of 21 years including any right of renewal (subject to the prevailing management order if applicable);*
- l. *The use of the property is consistent with the zoning and/or management order and power to lease exists (if required).*
- n. *Councils Principal Building Surveyor at least on an annual basis inspect all leased buildings and land to ascertain their state of maintenance pursuant to the lease and priority for future and long term maintenance in conjunction with the lessee.*
- o. *The definition of 'exclusive occupation' does not include reference to yearly licenses to occupy storage space within a building such as at the Denmark Recreation Centre.*

Budget / Financial Implications:

The annual rent recommended in the current leases (attached) is \$1.00 (peppercorn).

Councillors should also note the lease conditions require Council to insure the building and to pay for its structural and external upkeep including paint which will be a considerable cost given the building size and extensive use of timber cladding.

This is consistent with similar leases that Council has with other Community Groups such as community halls and sporting clubs and still represents a significant saving to Council when compared to the running costs of a council owned and staffed facility.

Peppercorn rentals are recognition of the valuable Council service that community groups and sporting clubs perform.

The terms of the lease and the maintenance of the building were discussed at length with Riverside Club representatives at the 16 August 2016 Briefing Session.

David Gibson of PTX Architects has provided the attached estimate of the annual and five yearly external maintenance costs for the building. At the 16 August 2016 Briefing Session the club agreed to pick up the cost of the 6-12 month deck cleaning and recoating at around \$2,500 - \$3,000 per coating while Council would pick up the 5th year recoating of the exterior timber cladding and trim at an estimated \$4,000 – \$5,000 per coating.

Strategic & Corporate Plan Implications:

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

SOCIAL OBJECTIVE

Denmark's communities, people and places are connected and creative, vibrant and dynamic, healthy and safe.

GOVERNANCE OBJECTIVE

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

A formal lease protects the rights of the Council and the Community Group and clearly marks out each party's obligations with respect to the property.

Sustainability Implications:

➤ **Environmental:**

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

➤ **Economic:**

There are no known significant economic considerations relating to the report or officer recommendation other than the economic stimulus that these events bring.

➤ **Social:**

Lawn bowls and the various water based activities represented by Denmark Riverside Club Inc. bring important physical and mental health benefits to the community.

Given Council has a track record of recognising the significant community value of both organised competitive sport and less formal passive and active recreational activities consideration should be given to approving the officer recommendation.

➤ **Risk:**

Risk	Risk Likelihood (based on history and with existing controls)	Risk Impact / Consequence	Risk Rating (Prior to Treatment or Control)	Principal Risk Theme	Risk Action Plan (Controls or Treatment proposed)
That Council not enter into a Lease with the Denmark Riverside Club Inc. and they continue to occupy and manage the two sites.	Rare (1)	Minor (2)	Low (1-4)	Ineffective Management of Facilities and Events	Accept Officer Recommendation
That the building will deteriorate externally if it is not regularly maintained.	Almost Certain (5)	Insignificant (1)	Moderate (5-9)	Ineffective Management of Facilities and Events	Accept Officer Recommendation

Comment:

Currently there are two leases in place that relate to the Denmark Riverside Club project which are as follows:

- 1) The former Denmark Bowling Club Inc. lease - This lease is for the whole of Reserve 39066 and covers the current Bowling Club area. It is a 21 year lease that expires on 30 October 2029.
- 2) The former Denmark Dragon Boating Club Inc. lease - This lease is for a portion of Reserve 20403 and covers the John Clark Memorial Bandstand and a small section of the surrounding area. It is a 5 year lease that expired on 14 July 2015.

Neither of these leases cover the issue of public access to the foreshore or to the Mokare Trail that passes through that area. The attached draft lease addresses these issues and takes into account the deliberations of the Riverside Stage 2 Project Team and the feedback that they received from their extensive community consultation process.

Riverside Stage 2 Project report is currently waiting on final comments from aboriginal elders and will be brought to Council for consideration prior to being advertised for public comment by Council later this year. The August 2016 completion of the clubrooms development has necessitated the replacement lease being required to be in place at the time of occupation.

In considering the draft lease Councillors should note that the draft lease contains the following clauses that specifically relate to the Riverside stage 1 development.

Clause 9.1 c) vi)

Given that the visual impact and iconic nature of Clubhouse and the visibility of the grounds and their presence on the Denmark main road entrance makes them in effect a community entry statement, the Denmark Riverside Club is to develop and maintain its grounds to reflect this status.

Clause 9.1 d)

Given the land parcel's foreshore location the lessee is not permitted to fence the bowling green foreshore boundary or the boundaries that surround the bandstand or take other measures that unreasonably prevent public access to these areas.

Clause 9.1 e)

Where incidental use of the facility involves a profit to an individual or business rather than community group activities;

- i. That these uses are infrequent or of a business incubator nature.
- ii. That where such uses are more regular and/or ongoing that the rents, fees and charges proposed are structured to ensure that the Council and community is not seen as providing an unfair or subsidised facility that competes with private enterprise (a level playing field) and that Lessor permission will be sought who may impose conditions or limitations on that proposed use and or may refuse that use if in the opinion of the Lessor it is inconsistent with the principal community activities intended for the Club House.

These clauses and the lease in its entirety have been discussed with the club and they are supportive of them as they will give their successors and future Council staff guidance so that they can ensure that the building is used and maintained in such a way that it benefits the wider Denmark community.

16 August 2016 Briefing Session Outcome:

Following the 16 August 2016 Briefing Session the lease has also been amended in the following areas that show red on the attached lease and in excerpts below.

Structural Building Repairs means substantial and major repairs or replacement of essential structures relating to all loads, internal actions, material properties and foundation conditions that significantly affect structural sufficiency or serviceability including but not limited to:

- floors;
- masonry;
- roof covering and roof structure;
- footings and foundations;
- painting of external surfaces *but excludes cleaning and recoating of the decks;*

5. Use of the Premises

5.1 Permitted Use

The Tenant must only use the Premises for the Permitted Use *which is the uses permitted in the Denmark Riverside Club Inc.'s objects or purposes of the association.*

5.2 Restrictions on Use

The Tenant must not:

cause unreasonable levels of nuisance to the tenants or owners of adjacent premises;

12.1 Notices

In Writing

Any notice given under this Lease must be in writing. A notice by the Landlord is valid if signed by an officer or solicitor of the Landlord or any other person nominated by the Landlord.

Notice of Address

The Tenant must promptly notify the Landlord of its address and facsimile number or email address and update the notice if any changes occur.

Service of Notice on Tenant

The Landlord may serve a notice on the Tenant by:

giving it to the Tenant personally;

sending it to the Tenant's facsimile number; or

posting it to the Tenant's last known registered office, place of business or residence.

Via the Tenant's nominated email address or other agreed electronic medium.

e) *Commercial Usage*

Where incidental use of the facility involves a profit to an individual or business rather than community group activities;

iii. *That these uses are infrequent ~~and minor and~~ or of a business incubation ~~environment~~ nature.*

Voting Requirements:

Simple majority.

COUNCIL RESOLUTION & OFFICER RECOMMENDATION		ITEM 8.2.1
MOVED: CR LEWIS		SECONDED: CR BARTLETT
That Council;		
1. Relinquish the former Denmark Bowling Club Inc. lease and the former Denmark Dragon Boating Club Inc. lease; and		
2. Agree to enter into a lease with the Denmark Riverside Club Inc. for a term of 21 years with respect to Portion of Reserve 20403, Lot 1110, 1.1105ha, and Portion of Reserve 39066, Lot 1002, as per the attached draft lease (Attachment 8.2.1).		
CARRIED UNANIMOUSLY: 6/0		Res: 090916

8.2.2 ROYALTIES FOR REGIONS AIRPORT WATER BOMBER FACILITY GRANT OFFER
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File Ref:	A5413, ORG.80
Applicant / Proponent:	Great Southern Development Commission & Denmark Airport Association
Subject Land / Locality:	No. 22 (Lot 8027) Wrightson Rd, Hay (Reserve 41390)
Disclosure of Officer Interest:	The Author declares an impartiality interest as he made a cash donation to stage one of this project.
Date:	24 August 2016
Author:	Gregg Harwood, Director of Community & Regulatory Services
Authorising Officer:	Bill Parker, Chief Executive Officer
Attachments:	8.2.2a – GSDC Grant Offer 8.2.2b – Grant Application

Summary:

Council is requested to accept a grant in the amount of \$58,800 (ex GST), which has been given conditional approval through the Royalties for Regions (R4R) – Great Southern Regional Grants Scheme (RGS) for “Improved Bushfire Fighting Capabilities Phase 2”.

Background:

Having observed State Emergency Service (SES) volunteers filling water bombers over several seasons with small petrol driven pumps Denmark Airport Association (DAA) were of the opinion that significant efficiency improvements could be achieved by installing a high capacity electric pump, larger supply and delivery lines and a second hydrant and started fund raising to install the required equipment.

This fundraising was successful and the volunteers completed Phase1 with very little Council assistance and the completed works gave a three to four-fold improvement in refilling times and made the refilling task more pleasant for the volunteers.

Having completed what has become known as Phase 1 of this project in March 2016 the DAA compiled a Grant Application through the Royalties for Regions (R4R) – Great Southern Regional Grants Scheme (RGS) for the “Improved Bushfire Fighting Capabilities Phase 2”.

The application effectively sought funding to achieve the following improvements:

1. Seal the expanded portion of the water bomber refilling area	\$36,303 ex GST
2. Install a second water tank	\$23,846 ex GST
3. <u>Widen the airport’s taxiways</u>	<u>\$64,967 ex GST</u>
Total Grant Application	\$125,116 ex GST

Parts 1 and 2 of the grant application were successful and Council has received an offer of \$58,800 (ex GST) which covers the cost of the second water tank and sealing the expanded portion of the water bomber refilling area. The grant requires Council to provide a cash contribution of \$11,000 and the Officer believes that there is likely to be an additional \$4,000 in minor unfunded costs resulting in Council’s total cash contribution being \$15,000.

Part 3 of the application for the widening of the taxiways was not funded as the GSDC rationalised that it could be funded via a Regional Airports Development Scheme (RADS) grant.

Council has \$64,000 contained within its current 2016/2017 Municipal Budget for the “Widening of the Taxiways” under Job 54007, however it has since been established that this amount is not sufficient to complete the taxi way work.

Consultation:

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

Statutory Obligations:

Local Government Act 1995.

Policy Implications:

Delegation D040223 “Grants & Subsidies” relates and reads as follows;

“The Chief Executive Officer is delegated authority to make submissions for grants and/or subsidies from State and Commonwealth Governments without prior approval of Council. In exercising this delegated authority the following conditions shall be observed:

- 1) *The grant/subsidy shall not be accepted without Council’s endorsement.*
- 2) *The undertaking is to be in accordance with Council’s established strategic objectives.”*

Budget / Financial Implications:

Council has allocated \$64,000 within its 2016/2017 Municipal Budget for the widening of the taxiways, however it has since been established that this amount is not sufficient to complete the taxi way work.

The grant offer of \$58,800 (ex GST) covers the cost of the second water tank and sealing the expanded portion of the water bomber refilling area. The grant requires Council to provide a contribution of \$11,000 and an additional \$4,000 in minor unfunded costs resulting in a \$15,000 cash contribution.

The Officer is seeking a Budget amendment (reallocation) of \$15,000 from Job 54007 being Council’s contribution.

In addition, the officer seeks a Budget amendment (reallocation) of \$26,200 from Job 54007 to undertake the following additional works:

- 1) \$18,200 (ex GST) for the purchase and construction of an additional 280,000 litre water tank; and
- 2) \$8,000 (ex GST) for the construction of a 6m x 6m colour bond shed for equipment storage in a location that is adjacent to the water bomber filling area.

Should Council agree to the above requests this would leave a balance of \$22,800 in Job 54007 which could be utilised to support an application to the Regional Airports Development Scheme (RADS) grant for the proposed "widening of the taxiways".

Strategic & Corporate Plan Implications:

The report and officer recommendation is consistent with Council's adopted Mission and Vision and assists achieve the following specific adopted Strategic Objectives and Goals.

STRATEGIC COMMUNITY PLAN

ENVIRONMENT OBJECTIVE

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

Fire Management: ...work collaboratively with relevant agencies to maintain a high level of planning, communication and infrastructure for effective fire and emergency management.

GOVERNANCE OBJECTIVE

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

Funding: ...be fiscally responsible and seek to develop both safe income generating assets and the maximisation of external funding that will benefit the community and assist in meeting its aims and obligations.

CORPORATE BUSINESS PLAN

- 1.7 *Public Safety: work with relevant authorities and organisations to maintain a safe and secure environment for its residents and visitors*
- 1.7.5 *Maximise community safety through the management of the risks associated with fire, natural events and large scale emergencies, whilst supporting initiatives to improve community safety.*
- 2.3 *Fire Management: work collaboratively with relevant agencies to maintain a high level of planning, communication and infrastructure for effective fire and emergency management.*
- 2.3.1 *Support the community in emergency and fire management planning, preparedness, response and recovery.*

Sustainability Implications:

➤ **Environmental:**

There are significant environmental implications relating to the report or officer recommendation in that improved water bomber turn around rates will reduce the chance of Denmark’s bush, fauna and wetlands being exposed to catastrophically hot summer bush fires.

➤ **Economic:**

There are economic implications relating to the report or officer recommendation in that improved water bomber turn around rates will reduce the chance of the community being catastrophically affected by bush fire.

➤ **Social:**

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

➤ **Risk:**

Risk	Risk Likelihood (based on history and with existing controls)	Risk Impact / Consequence	Risk Rating (Prior to Treatment or Control)	Principal Risk Theme	Risk Action Plan (Controls or Treatment proposed)
That slow water bomber turn around rates may allow a major fire front to develop leading to loss of life and or property.	Likely (4)	Catastrophic (5)	Extreme (20-25)	Inadequate Organisation or Community Emergency Management	Accept Officer Recommendation

Comment:

Council is in the fortunate position where a group of passionate, skilled and motivated volunteers have prepared a quality application for a very worthy project for an additional water tank and sealing the expanded portion of the water bomber refilling area.

The Officer’s proposal is for more water storage (additional tank) and storage for water bomber equipment and airport maintenance and leaves \$22,800 as contributing funds for a future Regional Airports Development Scheme application or similar grant, for the widening of the Airport’s taxiways.

In considering the benefits of additional water storage Councillors should note that:

1. With the improved filling times and four water bombers working on a short 25km lead it is now possible to empty the current 200,000 litre tank in 4 hours,
2. It is conceivable with the airstrip improvements that as many as six water bombers could be operating out of Denmark Airport in the event of a local catastrophic fire,
3. Relatively few mobile Bush Fire Brigade water tankers in Denmark and Albany may already be deployed elsewhere in the event of a major fire,
4. Cartage of water is an expensive, consumes valuable scheme water and is another task to organise when an incident is being run, and
5. A further option is to install a bore downslope in a wetland at a potentially a similar cost but this is yet to be investigated.

Voting Requirements:

Absolute majority.

OFFICER RECOMMENDATION

ITEM 8.2.2

That with respect to improvements at the Denmark Airport, Council;

1. Accept the grant of \$58,800 (ex GST) offered via the Royalties for Regions (R4R) – Great Southern Regional Grants Scheme (RGS) for the “Improved Bushfire Fighting Capabilities Phase 2” and create Budget income line Item GL 1262015 “Improved Bushfire Fighting Capabilities Phase 2” in the amount of \$58,800 (ex GST).
2. Amend the 2016/17 Budget as follows;
 - a) Create a new Budget Expenditure Line Item Job 54008 “Improved Bushfire Fighting Capabilities Phase 2” for the amount of \$73,800 (ex GST);
 - b) Create a new Budget Expenditure Line Item Job 54009 “Airport – Installation of 2nd 280,000 litre water tank and Equipment Storage Shed” for the amount of \$26,200 (ex GST); and
 - c) Reduce Budget Expenditure Line Item 54007 “widening of the taxiways” by \$41,200 from \$64,000 to \$22,800 (ex GST).
3. Note that an application to the Regional Airports Development Scheme (RADS) will be submitted to complement the remaining balance of \$22,800 as described in point 2 c) above.

COUNCIL RESOLUTION

ITEM 8.2.2

MOVED: CR LEWIS

SECONDED: CR CARON

That with respect to improvements at the Denmark Airport, Council;

1. Accept the grant of \$58,800 (ex GST) offered via the Royalties for Regions (R4R) – Great Southern Regional Grants Scheme (RGS) for the “Improved Bushfire Fighting Capabilities Phase 2” and create Budget income line Item GL 1262015 “Improved Bushfire Fighting Capabilities Phase 2” in the amount of \$58,800 (ex GST).
2. Amend the 2016/17 Budget as follows;
 - a) Create a new Budget Expenditure Line Item Job 54008 “Improved Bushfire Fighting Capabilities Phase 2” for the amount of \$73,800 (ex GST);
 - b) Create a new Budget Expenditure Line Item Job 54009 “Airport Water Tank and Equipment Storage Shed” – for the amount of \$14284.54 (ex GST) which will increase the size of the grant funded 280,000 litre water tank to 390,000 litres at a cost of \$6,284.54; and
 - c) Reduce Budget Expenditure Line Item 54007 “widening of the taxiways” by \$29,284.54 from \$64,000 to \$34715.46 (ex GST).
3. Note that an application to the Regional Airports Development Scheme (RADS), DFES or other eligible grant funding agencies will be submitted to complement the remaining balance of \$34715.46 as described in point 2 c) above and for a third water tank if this is achievable.

CARRIED UNANIMOUSLY: 6/0

Res: 100916

REASON FOR CHANGE

Council Officers have had initial positive discussions with Department of Fire & Emergency Services regarding a contribution towards a third tank and the widening of the taxi ways. If this is successful this figure will return to Council for adoption as a further budget amendment.

8.3 Director of Infrastructure Services

Nil

8.4 Director of Finance & Administration

The Shire President announced that this would be the last meeting that Mr Dolzadelli would be attending as he was taking up a position in another local government area. Cr Morrell thanked Mr Dolzadelli for his efforts over the years and good explanations during budget deliberations.

The Director of Finance & Administration, Mr Dolzadelli, referred to some questions and comments that had been raised during public question time and commended Council on what he believed to be a very sound budget.

Mr Dolzadelli thanked Councillors, the Chief Executive Officer and the Directors for their support and asked that people get behind the new Council and have patience.

8.4.1 FINANCIAL STATEMENT FOR THE MONTH ENDING 31 JULY 2016
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File Ref:	FIN.1
Applicant / Proponent:	Not applicable
Subject Land / Locality:	Denmark
Disclosure of Officer Interest:	Nil
Date:	22 August 2016
Author:	Steve Broad, Accountant
Authorising Officer:	Kim Dolzadelli, Director of Finance And Administration
Attachments:	8.4.1 – July Monthly Financial Report

Summary:

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

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

Background:

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

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

Consultation:

Nil

Statutory Obligations:

Local Government Act 1995 Section 5.25 (1)
 Local Government (Financial Management) Regulations 1996

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

Policy Implications:

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

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

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

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

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

Budget / Financial Implications:

There are no significant trends or issues to be reported.

Strategic & Corporate Plan Implications:

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

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

Sustainability Implications:

➤ **Governance:**

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

➤ **Environmental:**

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

➤ **Economic:**

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

➤ **Social:**

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

➤ **Risk:**

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

Comment/Conclusion:

As at 31 July 2016 total cash funds held total \$12,127,139 (Note 4).

Shire Trust Funds total \$185,449 with the amount of \$174,287 invested for 183 days with the National Bank, maturing 18 December 2016 at the quoted rate of 2.80%.

Reserve Funds total \$10,883,031 and \$6,953,566 has been placed on investment for 30 days with the Western Australian Treasury Corporation at the quoted rate of 1.70% and \$3,548,672 has been invested with the National Bank, maturing 29 August 2016 at the quoted rate of 2.10%.

Municipal Funds total \$1,244,108 with the amount of \$1,572,110 invested with the National Bank, maturing on various dates up to the 27 September 2016 at an average rate of 2.43% (refer note 4 for detail).

Key Financial Indicators at a Glance

As the 2016/17 Municipal Budget was only adopted on 26 July 2016 there is very little activity available for comparison purposes.

Depreciation of non-current assets has not been calculated for the reporting period as the Annual Financial Audit for the year ended 30 June 2016 has not been concluded at the time of producing this report.

Budget Amendments and Variances (Note 5 and 5a)

As detailed in Note 5a.

Voting Requirements:

Simple majority.

COUNCIL RESOLUTION & OFFICER RECOMMENDATION	ITEM 8.4.1
MOVED: CR CARON	SECONDED: CR ALLEN
That with respect to Financial Statements for the month ending July 2016, Council;	
1. Receive the Financial Reports, incorporating the Statement of Financial Activity and other supporting documentation.	
2. Endorse the Accounts for Payment for July 2016 as listed.	
CARRIED UNANIMOUSLY: 6/0	Res: 110916

8.5 Chief Executive Officer

8.5.1 EXTRAORDINARY ELECTION

File Ref:	CR.1 & ELC.1
Applicant / Proponent:	Not applicable
Subject Land / Locality:	Shire of Denmark
Disclosure of Officer Interest:	Nil
Date:	23 August 2016
Author:	Teiga Murray, Administration Officer
Authorising Officer:	Bill Parker, Chief Executive Officer
Attachments:	8.5.1 – Letter from WAEC Electoral Commissioner & Election Timetable

Summary:

Following the resignations of Deputy Shire President Kelli Gillies and Councillor Roger Seeney effective 17 August 2016, Council is required to conduct an Extraordinary Election to elect replacement Councillors in the Kent / Nornalup Ward.

Background:

COUNCILLOR GILLIES

Councillor Kelli Gillies, who was originally elected to Council in 2011 and elected as Deputy President in October 2015, tendered her resignation in writing effective 17 August 2016. Councillor Gillies' term of office was scheduled to end in October 2017; as a consequence an Extraordinary Election is required to be conducted to elect a replacement Councillor in the Kent / Nornalup Ward.

COUNCILLOR SEENEY

Councillor Roger Seeney, who was also elected to Council in 2011, tendered his resignation in writing effective 17 August 2016. Councillor Seeney's term of office was scheduled to end in October 2019; as a consequence an extraordinary election is required to be conducted to elect a further replacement Councillor in the Kent / Nornalup Ward.

Consultation:

No external/internal engagement or consultation is required.

Statutory Obligations:

The Local Government Act 1995 and the Local Government (Elections) Regulations 1997 detail the process Council must follow to appoint new elected members, within specific legislated timeframes.

In order to conduct the Election as a Postal Election, Council is required to resolve to appoint the Western Australian Electoral Commission (WAEC). The Local Government Act s4.61 states:

4.61. Choice of methods of conducting election

(1) *The election can be conducted as a —*

postal election which is an election at which the method of casting votes is by posting or delivering them to an electoral officer on or before election day; or

voting in person election which is an election at which the principal method of casting votes is by voting in person on election day but at which votes can also be cast in person before election day, or posted or delivered, in accordance with regulations.

(2) *The local government may decide* to conduct the election as a postal election.*

Policy Implications:

There are no policy implications.

Budget / Financial Implications:

The estimated cost of the WAEC conducting a Postal Election is \$16,000 (including GST) and additional non statutory advertising costs may also be incurred. There are also minor indirect costs associated with the CEO, Director of Finance and support staff involved in the work required prior to an Election.

As there is no budget provision for the cost of an Extraordinary Election, a budget adjustment will be required at a later date when the actual costs are known.

Strategic & Corporate Plan Implications:

The report and officer recommendation is consistent with Council’s adopted Mission and Vision.

Sustainability Implications:

➤ **Governance:**

The process for conducting an Election is outlined in the Local Government Act 1995 and the Local Government (Elections) Regulations 1997.

➤ **Environmental:**

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

➤ **Economic:**

Costs associated with the item are detailed in the Budget / Financial Implications section of the report.

➤ **Social:**

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

➤ **Risk:**

Risk	Risk Likelihood (based on history and with existing controls)	Risk Impact / Consequence	Risk Rating (Prior to Treatment or Control)	Principal Risk Theme	Risk Action Plan (Controls or Treatment proposed)
That Council not adopt the recommendations in relation to appointing the WAEC to conduct the Election as a Postal Election	Unlikely (2)	Moderate (3)	Moderate (5-9)	Failure to meet Statutory, Regulatory or Compliance Requirements	Accept Officer Recommendation

Comment/Conclusion:

Given that the terms of office have approximately 14 months and 38 months to run before the next scheduled Elections (October 2017 and October 2019), Council is required to conduct an Election to replace the retiring Councillors.

In accordance with normal practice, the Electoral Commissioner has been advised of the resignations and has provided an estimate of the costs of conducting a Postal Election. The Electoral Commissioner has also advised that should the Shire wish to appoint the Electoral

Commission to conduct the Postal Election (as recommended), the Council will need to pass the following motions by absolute majority:

1. Declare, in accordance with section 4.20(4) of the Local Government Act 1995, the Electoral Commissioner to be responsible for the conduct of the Extraordinary Election; and
2. Decide, in accordance with section 4.61(2) of the Local Government Act 1995 that the method of conducting the Extraordinary Election will be as a Postal Election.

The WA Electoral Commission has also advised that if Council adopts the recommendations referred to above at its meeting on Tuesday 6 September 2016, the Election would be held on Friday 25 November 2016 in order to comply with legislative provisions. The various statutory steps are detailed on a schedule provided by the Electoral Commissioner in Attachment 8.5.1.

It is not recommended that Council conducts an ‘in-house’, ‘in-person’ Election for the following reasons:

- The CEO would normally be appointed as the Returning Officer and this can create demands on time and also provide a perceived conflict of interest;
- It is preferable that the Shire remains at ‘arm’s length’ from the process;
- If staff administrative time is costed there is no overall difference in cost;
- The Electoral Officer is seen as independent; and
- In the event of that a ‘Court of Disputed Returns’ action is taken the Shire will not be involved (at least not to the same extent).

Voting Requirements:

Absolute majority.

COUNCIL RESOLUTION & OFFICER RECOMMENDATION	ITEM 8.5.1
MOVED: CR GEARON	SECONDED: CR LEWIS
That with respect to the resignation of Councillor Kelli Gillies and Councillor Roger Seeney, Council;	
<ol style="list-style-type: none"> 1. Thank Councillor Gillies and Councillor Seeney for their contribution to the development of the Shire during their terms in office. 2. Declare, in accordance with section 4.20(4) of the Local Government Act 1995, the Electoral Commissioner to be responsible for the conduct of the Extraordinary Election(s); and 3. Decide, in accordance with section 4.61(2) of the Local Government Act 1995 that the method of conducting the Extraordinary Election(s) will be as Postal Election(s). 4. In accordance with section 4.9 of the Local Government Act, resolve to set the Election date as 25 November 2016. 	
CARRIED UNANIMOUSLY AND BY AN ABSOLUTE MAJORITY: 6/0	
Res: 120916	

8.5.2 APPOINTMENT OF COUNCIL DELEGATES

File Ref:	Various
Applicant / Proponent:	Not applicable
Subject Land / Locality:	Not applicable
Disclosure of Officer Interest:	Nil
Date:	25 August 2016
Author:	Teiga Murray, Administration Officer
Authorising Officer:	Bill Parker, Chief Executive Officer
Attachments:	8.5.2a – Committee & Working Group Members & Delegates List 8.5.2b – Delegate matrix

Summary:

Following the resignations of Deputy Shire President Kelli Gillies and Councillor Roger Seeney effective 17 August 2016, Council is required to appoint replacement Councillors as Delegates to the positions that were held previously by Councillors Gillies and Seeney.

Background:**COUNCILLOR GILLIES**

Councillor Kelli Gillies, who was elected to Council in 2011 and elected as Deputy President in October 2015, tendered her resignation in writing effective 17 August 2016. Councillor Gillies' term of office was scheduled to end in October 2017; as a consequence replacement Delegates are required to be appointed to the positions previously held by Councillor Gillies.

Councillor Gillies served as a Delegate to the following:

- Bush Fire Advisory Committee (*Proxy Delegate*)
- Cemetery Advisory Committee
- Waste Management Advisory Committee
- Denmark Arts Inc.
- Denmark Environmental Risk Assessment Reference Group (Water Corporation) – *this group has been disbanded following the conclusion of the project.*
- Denmark Riverside Project Team
- Nornalup Ratepayers & Residents Association Inc. (NRRA)
- Peaceful Bay Progress Association Inc. (PBPA)
- WA Local Government Association (WALGA) – Great Southern Zone

COUNCILLOR SEENEY

Councillor Roger Seeney, who was also elected to Council in 2011, tendered his resignation in writing effective 17 August 2016. Councillor Seeney's term of office was scheduled to end in October 2019; as a consequence replacement Delegates are required to be appointed to the positions previously held by Councillor Seeney.

Councillor Seeney served as a Delegate to the following:

- Bush Fire Advisory Committee
- Local Emergency Management Committee
- Municipal Heritage Inventory Advisory Committee
- Paths & Trails Advisory Committee (*Proxy Delegate*)
- Denmark Historical Society Inc.
- Great Southern Regional Road Group
- Nornalup Ratepayers & Residents Association Inc. (NRRA)
- Parry's Beach Voluntary Management Group Inc.
- Peaceful Bay Progress Association Inc. (PBPA) (*Deputy*)
- Southern Joint Development Assessment Panel (*Alternate Member*)

- WA Agricultural College – Denmark Decision Making Committee
- WALGA Great Southern Zone – District Emergency Management Committee – *this position is not appointed or nominated by Council.*
- Walpole Work Camp Committee (Department Of Corrective Services)

Consultation:

No external/internal engagement or consultation is required.

Statutory Obligations:

Section 5.10 of the Local Government Act 1995 relates to the appointment of **committee** members.

“5.10. Committee members, appointment of

- (1) *A committee is to have as its members —*
 - a) *persons appointed* by the local government to be members of the committee (other than those referred to in paragraph (b)); and*
 - b) *persons who are appointed to be members of the committee under subsection (4) or (5).*
- (2) *At any given time each council member is entitled to be a member of at least one committee referred to in section 5.9(2)(a) or (b) and if a council member nominates himself or herself to be a member of such a committee or committees, the local government is to include that council member in the persons appointed under subsection (1)(a) to at least one of those committees as the local government decides.*
- (3) *Section 52 of the Interpretation Act 1984 applies to appointments of committee members other than those appointed under subsection (4) or (5) but any power exercised under section 52(1) of that Act can only be exercised on the decision of an absolute majority of the local government.*
- (4) *If at a meeting of the council a local government is to make an appointment to a committee that has or could have a council member as a member and the mayor or president informs the local government of his or her wish to be a member of the committee, the local government is to appoint the mayor or president to be a member of the committee.*
- (5) *If at a meeting of the council a local government is to make an appointment to a committee that has or will have an employee as a member and the CEO informs the local government of his or her wish —*
 - a) *to be a member of the committee; or*
 - b) *that a representative of the CEO be a member of the committee,*

the local government is to appoint the CEO or the CEO’s representative, as the case may be, to be a member of the committee.”

Policy Implications:

There are no policy implications.

Budget / Financial Implications:

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

Strategic & Corporate Plan Implications:

The report and officer recommendation is consistent with Council’s adopted Mission and Vision.

Sustainability Implications:

➤ **Governance:**

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

➤ **Environmental:**

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

➤ **Economic:**

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

➤ **Social:**

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

➤ **Risk:**

Risk	Risk Likelihood (based on history and with existing controls)	Risk Impact / Consequence	Risk Rating (Prior to Treatment or Control)	Principal Risk Theme	Risk Action Plan (Controls or Treatment proposed)
That Council choose not to appoint Councillors to Council Committees, Working Group or external organisations.	Unlikely (2)	Minor (2)	Low (1-4)	Not Meeting Community expectations	Accept Officer Recommendation

Comment/Conclusion:

Committee Charters have previously been made available to Councillors and are available on the Shire’s website at <http://www.denmark.wa.gov.au/our-council/council-committees.aspx>. A copy of the current Committee Delegates List is attached (refer Attachment 8.5.2a) which lists the members of each Council Committee / Working / User Group and the current delegates to external organisations.

Proxy and Deputy Delegates are generally not required however Council are at liberty to nominate Councillors to such positions. For example, with respect to the Paths & Trails Advisory Committee and the Bush Fire Advisory Committee, Council can choose to nominate a new proxy delegate to these positions however there is no requirement in the Committee’s Charter for a proxy delegate.

SOUTHERN JOINT DEVELOPMENT ASSESSMENT PANEL

The appointment to the Southern Joint Development Assessment Panel (SJDAP) is subject to the approval of the Minister for Planning and Councillors should note that there is a training requirement for Councillors that seek to nominate for the Assessment Panel. Current membership is as follows, noting that these appointments have not yet received formal approval from the Minister for Planning (awaiting advice);

- Cr David Morrell (Member)*
- Cr Rob Whooley (Member)*
- Cr Ceinwen Gearon (Alternate Member)*
- Vacant (Alternate Member)*

Cr Morrell, Cr Whooley and Cr Gearon are yet to complete the required training and their appointments are awaiting Ministerial approval. Meetings are infrequent and are held on a 'needs basis'.

Council has the option to;

- Retain the existing members and await the Minister for Planning's approval;
- Nominate new Members and/or new Alternate Members – noting that "Members" can become "Alternate Members" and/or "Alternate Members" can become "Members".

KWOORABUP COMMUNITY PARK PUBLIC ART PLAN – ART SELECTION PANEL

The Art Selection process has been concluded and therefore this group is no longer required to meet. The Officer has included a recommendation to remove reference to the group from the Delegates List.

Voting Requirements:

Absolute majority.

COUNCIL RESOLUTION & OFFICER RECOMMENDATION	ITEM 8.5.2
MOVED: CR ALLEN	SECONDED: CR BARTLETT
That with respect to the delegate and member vacancies due to the resignations of Councillor Gillies and Councillor Seeney, Council;	
1. Appoint the following replacement delegates;	
a) Councillor Allen as the Council Delegate and Councillor Gearon as the Proxy Delegate to the Bush Fire Advisory Committee;	
b) Councillor Morrell as the Council Delegate to the Cemetery Advisory Committee;	
c) Councillor Lewis as the Council Delegate to the Waste Management Advisory Committee;	
d) Councillor Caron as the Council Delegate to Denmark Arts Inc.;	
e) Councillor Lewis as the Council Delegate to the Denmark Riverside Project Team;	
f) Councillor Morrell and Councillor Allen as the Council Delegates to the Nornalup Ratepayers & Residents Association Inc. (NRRRA);	
g) Councillor Morrell and Councillor Caron as the Council Delegates to the Peaceful Bay Progress Association Inc. (PBPA);	
h) Councillor Caron to the WA Local Government Association (WALGA) – Great Southern Zone;	
i) Councillor Morrell as the Council Delegate to the Local Emergency Management Committee;	
j) Councillor Bartlett as the Council Delegate to the Municipal Heritage Inventory Advisory Committee;	
k) Councillor Bartlett as the Council Proxy Delegate to the Paths & Trails Advisory Committee;	
l) Councillor Caron as the Council Delegate to the Denmark Historical Society Inc.;	
m) Councillor Allen as the Council Delegate to the Great Southern Regional Road Group;	
n) Councillor Lewis as the Council Delegate to the Parry's Beach Voluntary Management Group Inc.;	
o) Councillor Caron for appointment to the Southern Joint Development Assessment Panel as an Alternate Member;	
p) Councillor Gearon as the Council Delegate to the WA Agricultural College – Denmark Decision Making Committee; and	
q) Councillor Bartlett as the Council Delegate to the Walpole Work Camp Committee (Department of Corrective Services).	
2. Agree to review delegate and member appointments following the Extraordinary Election;	

- 3. Remove the Kwoorabup Community Park Public Art Plan – Art Selection Panel from the Delegates List given that the group has disbanded following the conclusion of their selection process.
 - 4. Remove the Denmark Environmental Risk Assessment Reference Group (Water Corporation) from the Delegates List as the group has been disbanded following conclusion of project.
- CARRIED UNANIMOUSLY AND BY AN ABSOLUTE MAJORITY: 6/0 Res: 130916

9. COMMITTEE REPORTS & RECOMMENDATIONS

Nil

10. MATTERS BEHIND CLOSED DOORS

Nil

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

Nil

5.43pm - Public Question Time

The Shire President stated that given that the meeting was about to conclude and it was prior to 6.00pm he would commence the second question time early. Cr Morrell called for questions from members of the public.

Mrs Lydia Kenyon – Funding Reserves

Mrs Kenyon referred to reports she had heard of local governments investing in overseas institutions and lost all of the funds. Mrs Kenyon said that she hoped that the Shire of Denmark weren't undertaking this practice.

The Chief Executive Officer advised that he had worked at a local government in the past where this had occurred. Since this time most local governments had refined their investments policies to alleviate similar instances happening again. Mr Parker said he would be happy to provide a breakdown of where investment funds are held.

12. CLOSURE OF MEETING

5.46pm – There being no further business to discuss the Shire President, Cr Morrell, declared the meeting closed.

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

Signed: _____
Bill Parker – Chief Executive Officer

Date: _____

These minutes were confirmed at a meeting on the _____.

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