



# Agenda

## ORDINARY MEETING OF COUNCIL

TO BE HELD IN THE COUNCIL CHAMBERS,  
953 SOUTH COAST HIGHWAY, DENMARK  
ON TUESDAY, 21 AUGUST 2018, COMMENCING AT 4.00PM.

<b>Contents</b>	<b>Page No.</b>
1. DECLARATION OF OPENING/ANNOUNCEMENT OF VISITORS	2
2. RECORD OF ATTENDANCE/APOLOGIES/APPROVED LEAVE OF ABSENCE	2
3. ANNOUNCEMENTS BY THE PERSON PRESIDING	2
4. PUBLIC QUESTION TIME	3
4.1 RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE	3
4.1.1 MR CHRIS HOWDEN – COMMUNITY SURVEY AND PRIVACY – QUESTION ON NOTICE UNANSWERED – 19 JUNE 2018	3
4.1.2 MR MIKE TRAVERS – SHIRE OFFICE PHOTOVOLTAIC SYSTEM	3
4.1.3 MRS STELLA HONDROS – PESTICIDES	3
4.2 PUBLIC QUESTIONS	5
4.3 QUESTIONS BY MEMBERS OF WHICH DUE NOTICE HAS BEEN GIVEN	5
4.4 PRESENTATION, DEPUTATIONS & PETITIONS	5
5. APPLICATIONS FOR LEAVE OF ABSENCE	5
6. CONFIRMATION OF MINUTES & NOTES	5
6.1 ORDINARY COUNCIL MEETING – 17 JULY 2018	5
6.3 STRATEGIC BRIEFING NOTES – 17 JULY 2018	6
6.3 SPECIAL COUNCIL MEETING – 31 JULY 2018	6
7. ELECTED MEMBERS MOTIONS OF WHICH PRE NOTICE HAS BEEN GIVEN	6
8. REPORTS OF OFFICERS	7
<b>8.1 DIRECTOR SUSTAINABLE DEVELOPMENT</b>	7
8.1.1 PROPOSED HOME BUSINESS (ART CLASSES) - NO. 17 (LOT 36) HARPER STREET, DENMARK	7
8.1.2 SUBSEQUENT OUTBUILDING – NO. 19 (LOT 104) PEPPERMINT WAY, PEACEFUL BAY	15
8.1.3 REQUEST TO INITIATE AMENDMENT TO LOCAL PLANNING STRATEGY (2011) TO MODIFY THE DESIGNATION FOR NO. 833 (LOT 50) MOUNT SHADFORTH ROAD, SHADFORTH AND NO. 44 (LOT 52) MIDDLETON CLOSE SHADFORTH FROM “PRIORITY AGRICULTURE” TO “RURAL SMALLHOLDINGS”	20
8.1.4 SUSTAINABLE EVENTS POLICY	29
<b>8.2 DIRECTOR INFRASTRUCTURE AND ASSETS - Nil</b>	34
<b>8.3 DIRECTOR CORPORATE AND COMMUNITY SERVICES</b>	35
8.3.1 FINANCIAL STATEMENTS FOR THE PERIOD ENDING 30 JUNE 2018	35
8.3.2 APPOINTMENT OF COMMUNITY EMERGENCY SERVICES MANAGER AS A BUSH FIRE CONTROL OFFICER	38
<b>8.4 CHIEF EXECUTIVE OFFICER</b>	41
8.4.1 DRAFT LEASE AND PROPOSED COMMERCIAL (RECEPTION/OFFICE/CAFÉ/BACK-OF-HOUSE FACILITIES BUILDING) DEVELOPMENT - NO. 1 (LOT 1084), RESERVE 46241, INLET DRIVE, DENMARK (RIVERMOUTH CARAVAN PARK)	41
8.4.2 MARKYT COMMUNITY SCORECARD	46
9. COMMITTEE REPORTS & RECOMMENDATIONS	50
9.1 BUSH FIRE ADVISORY COMMITTEE - SHIRE OF DENMARK FIRE MANAGEMENT NOTICE 2018/19	50
10. MATTERS BEHIND CLOSED DOORS	53
11. NEW BUSINESS OF AN URGENT NATURE INTRODUCED BY DECISION OF MEETING	53
12. CLOSURE	53

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

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

MEMBERS:

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

STAFF:

- Mr Bill Parker (Chief Executive Officer)
- Mr Gilbert Arlandoo (Director Infrastructure and Assets)
- Mrs Annette Harbron (Director Sustainable Development)
- Mr Cary Green (Director Corporate and Community Services)
- Ms Claire Thompson (Executive Assistant)

APOLOGIES:

ON APPROVED LEAVE(S) OF ABSENCE:

Cr Roger Seeney (pursuant to Council Resolution No. 010518)

ABSENT:

VISITORS:

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

DECLARATIONS OF INTEREST:

Name	Item No	Interest	Nature

**3. ANNOUNCEMENTS BY THE PERSON PRESIDING**

#### 4. PUBLIC QUESTION TIME

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

###### 4.1.1 Mr Chris Howden – Community Survey and Privacy – Question on Notice Unanswered – 19 June 2018

At the meeting held on 19 June 2018 Mr Howden asked the following question. A response has now been provided in writing and is copied below.

Extract from Council Minutes – 19 June 2018

“Mr Howden referred to the Chief Executive Officer’s response to his previous questions on notice and said that one question had not been answered and he sought clarification on the exact information that was disclosed, such as telephone numbers, mobile numbers, street addresses, email addresses etc.

Response:

The information that was provided was your street address, postal address (which was the same) and your email address.

###### 4.1.2 Mr Mike Travers – Shire Office Photovoltaic System

At the meeting held on Tuesday, 17 July 2018 Mr Travers asked some questions which were taken on notice. A copy of the questions and the written response is copied below.

Extract from Council Minutes

“Mr Travers referred to the Shire office photovoltaic system and asked what the value of power generated by the system over the last five years was, at current Synergy unit prices.”

Response:

Over the period 2012 – 2015, the Shire Administration Office’s solar PV panels generated a daily average of 95.73 kWh, with a daily maximum of 225.2 kWh.

The Shire does not supply power generated back to the grid, so it is not appropriate to use the current Synergy consumption tariff for power generated.

However, for information, for power consumed from the Western Power grid, the Administration Office is currently on a Business Time of Use (R1) tariff. In accordance with Synergy’s current unit price, the on-peak energy charge for consumption is 33.4528 cents per kWh and off-peak is 10.3175 cents per kWh. Note that this unit price and tariff has varied over the past 5 years in accordance with Synergy charges and type of tariff.

The Shire stopped conducting detailed monitoring of the solar PV power generation in 2015, since the subscription to do this was costing the Shire \$2,300 per year. The Shire is investigating more cost effective ways to collect the data. Detailed information regarding the Shire’s electricity consumption from the grid is collected and is included in the Shire’s Annual Reports.

###### 4.1.3 Mrs Stella Hondros – Pesticides

At the meeting held on Tuesday, 17 July 2018 Mrs Hondros asked some questions which were taken on notice. A copy of the questions and the written response is copied below.

Extract from Council Minutes

"Mrs Hondros advised that since 1980 she had had a history of episodic fast irregular heartbeat caused by a sensitivity to exposure to chemicals. Mrs Hondros explained the background to her condition stating the immense impact it had had on her life. Mrs Hondros said that escaping council spraying over the years had resulted in significant costs with respect to travel and accommodation. Mrs Hondros asked the following questions;

1. In order to have transparency and disclosure on pesticide use could you please notify residents by letter of your intentions to spray, advise what you intending to use, what strength it would be, the volumes and what residents should do if they do not want to be exposed? Please inform and issue the Roundup MSDS [Materials Safety Data Sheet] to residents.

Response:

The Shire of Denmark prints a notice in the Denmark Bulletin and on the Shire's website when we commence with herbicide spraying on the road verges and natural area reserves. Property owners can also request for verge areas adjoining their properties not to be sprayed via the 'No Spray Register'. Although the Shire has the MSDS at the depot, our current process does not include providing this to residents. Material Safety Data Sheets are easily accessible if anyone wishes to view this information.

2. Do you propose to relocate residents? If not, why not?

Response:

The Shire does not relocate residents when herbicides are being sprayed. The Shire does not have the capacity to relocate residents. Property owners can request for verge areas adjoining their properties not to be sprayed via the 'No Spray Register'.

3. How do you treat the problem of exposing children knowing that 450% could suffer breathing problems, asthma and eczema? and
4. How do you protect the elderly?

Response to 3 and 4:

The Shire does have a limited spraying program and applies all programs as prescribed. The Shire is currently investigating other options near playgrounds and in highly utilised public areas.

5. Do you have exclusion zones and how do you keep the chemicals from drifting?

Response:

The Shire does not have any exclusion zones. The Shire's operators are appropriately trained. Our operators are aware that drifting occurs when spraying is in progress and take a number of factors into consideration to minimise drift.

**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

**4.3 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.

**6. CONFIRMATION OF MINUTES**

**6.1 ORDINARY COUNCIL MEETING – 17 JULY 2018**

OFFICER RECOMMENDATION	ITEM 6.1
That the minutes of the Ordinary Meeting of Council held on the 17 July 2018 be confirmed as a true and correct record of the proceedings.	

**6.2 STRATEGIC BRIEFING NOTES – 17 JULY 2018**

OFFICER RECOMMENDATION ITEM 6.2

That the Notes from the Strategic Briefing held on 17 July 2018 be received.

**6.3 SPECIAL COUNCIL MEETING – 31 JULY 2018**

OFFICER RECOMMENDATION ITEM 6.3

That the minutes of the Special Meeting of Council held on the 31 July 2018 be confirmed as a true and correct record of the proceedings, subject to the following amendment to page 9, Resolution No. 170718.

1. Amend part 4 to read as follows;

4. Payment Options  
*In accordance with regulation 64(2) of the Local Government (Financial Management) Regulations 1996, adopts the following Instalment options:*

- Option 1 - *Payment in full by a single instalment (within 35 days of the issue date of the annual rates notice) with each payment due no later than 1st - 17 September 2018*
- Option 2 - *Payment in full by two instalments with each payment due no later than*  
*1st - 17 September 2018*  
*2nd - 19 November 2018*
- Option 3 - *Payment in full by four instalments with each payment due no later than*  
*1st - 17 September 2018*  
*2nd - 19 November 2018*  
*3rd - 21 January 2019*  
*4th - 25 March 2019*

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

## 8. REPORTS OF OFFICERS

### 8.1 Director Sustainable Development

#### 8.1.1 PROPOSED HOME BUSINESS (ART CLASSES) - NO. 17 (LOT 36) HARPER STREET, DENMARK

<b>File Ref:</b>	A2058 (DA 2018/82)
<b>Applicant / Proponent:</b>	Kendel Lynam
<b>Subject Land / Locality:</b>	No. 17 (Lot 36) Harper Street, Denmark
<b>Disclosure of Officer Interest:</b>	Nil
<b>Date:</b>	6 August 2018
<b>Author:</b>	Jasmine Tothill, Senior Planner
<b>Authorising Officer:</b>	Annette Harbron, Director Sustainable Development
	8.1.1a – Development Application Documentation
	8.1.1b – Schedule of Submissions
<b>Attachments:</b>	8.1.1c – Carparking Plan
	8.1.1d – Proponents Justification to support variation to Car Parking
	8.1.1e – Site Photos

#### **Summary:**

The applicant is seeking Development Approval to conduct a Home Business (Art Classes) within an existing Single House at No. 17 (Lot 36) Harper Street, Denmark.

Having regard to the number of students proposed to be accommodated on-site at any one time and associated traffic and parking demands, it is considered that the proposal would adversely affect the residential amenity of the area, contrary to the requirements of Town Planning Scheme No.3 (TPS 3). It is recommended that Development Approval be refused.

#### **Background:**

##### Current Application

An application for Development Approval was lodged with Planning Services in May 2018 to conduct Art Classes within a private garage (34m<sup>2</sup>) of a single house located on the subject property (refer Attachment 8.1.1a).

The applicant is a qualified education assistant and artist and is seeking to conduct Art Classes for a maximum of twelve (12) children or eight (8) adults at any one time. Up to 8 classes would be permitted per week, dependent upon demand, during the hours of 9.00am to 5:30pm Monday to Friday. The classes are proposed to teach a mixture of art/ craft mediums using safe non-toxic materials.

#### **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; Town Planning Scheme No. 3; and Schedule 2, Part 8, Clause 64 of the *Planning and Development (Local Planning Schemes) Regulations 2015*; and undertook the following level of consultation:

##### External Consultation:

- The applicant/ landowner
- 15 properties in the vicinity of the proposed Home Business

##### Internal Consultation:

- Development Co-ordination Unit

At the end of the advertising period 4 submissions were received all of which are in support of the proposal. Attached as Attachment 8.1.1b is the Schedule of Submissions – with all submissions received being entered into the schedule as verbatim.

**Statutory Obligations:**

Town Planning Scheme No. 3 (TPS No. 3) and the Residential Design Codes (R-Codes) specify the planning provisions pertinent to the proposed development.

Home Business is an ‘SA’ use under the Scheme which the Council may, at its discretion, permit after giving notice of the application.

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

**Policy Implications:**

There are no operational Policies relative to consideration of the Home Business.

**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 has regard to Council’s adopted Strategic Plan Aspirations and Objectives and the Corporate Business Plan Actions and Projects in the following specific ways:

Denmark 2027

E1.0 Our Economy

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

- *E1.1 To have a locally supported resilient, stable and innovative business community that embraces creativity, resourcefulness and originality.*

B3.0 Our Built Environment

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

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

C4.0 Our Community

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

- *C4.1 To have services that foster a happy, healthy, vibrant and safe community*
- *C4.2 To have services that are inclusive, promote cohesiveness and reflect our creative nature.*

L5.0 Our Local Government

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



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

**Corporate Business Plan**

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 or impose conditions that the applicant is aggrieved by.	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:**

In accordance with Town Planning Scheme No.3 (TPS No.3), the subject site is zoned "Residential (R2)". A "Home Business" is an "SA" use that the Council may, at its discretion, permit in the "Residential" zone.

A Home Business is defined under TPS 3 as:

*'a business, service or profession carried out in a dwelling or on land around a dwelling by an occupier of the dwelling which –*

- (a) Does not employ more than 2 people not members of the occupier's household;
- (b) Will not cause injury to or adversely affect the amenity of the neighbourhood;
- (c) Does not occupy an area greater than 50 square metres;

- (d) Does not involve the retail sale, display or hire of goods of any nature;
- (e) In relation to vehicles and parking, does not result in traffic difficulties as a result of the inadequacy of parking or an increase in traffic volumes in the neighbourhood, and does not involve the presence, use or calling of a vehicle more than 3.5 tonnes tare weight;
- (f) Does not involve the use of an essential services of greater capacity than normally required in the zone;
- (g) Notwithstanding clauses (c) and (e) approval may be granted in the Residential zone for trucks with a tare weight of up to 10 tonnes, providing it does not adversely affect the amenity of the surrounding area.'

Planning Services have assessed the proposal having regard to the relevant provisions of TPS No. 3, and the R-Codes with the following matters deemed to be appurtenant to consideration of the application:

#### Scale of Use

The Home Business use classification under the Scheme is intended to allow for small scale commercial businesses to be conducted from private residences where compatible with the amenity of the neighbourhood and not generating an increase in traffic volumes or parking difficulties.

The subject property is zoned Residential wherein the purpose and intent is to provide primarily for low density residential uses with Grouped Dwellings and selected non-residential uses permitted with approval of the Council. The subject property obtains sole access from a low order cul-de-sac road (Harper Road), which terminates to the north. The immediate locality is generally characterised by single residential dwellings on larger lots in close proximity to the Wilson Inlet, with the adjacent lot to the north remaining vacant. The nearest non-residential land uses are located approximately 150 metres to the north off Inlet Drive, being occupied by *Denmark Water Front & Pelicans at Denmark* (zoned Tourist T8) and *Lyra House* (an Additional Use site (A23)). These properties are subject to specific provisions under TPS 3 that relate to their use and development for such purposes.

The Shire does not have any Policy guidance on the establishment of Home Businesses within the Residential zone, although an administrative policy is operational with respect to Home Occupation proposals which are of a lesser scale. All such applications are to be assessed on a case by case basis having regard to relevant planning considerations as outlined under Schedule 2, Part 8, Clause 67 of the *Planning and Development (Local Planning Schemes) Regulations 2015*. A review of other local government authorities reveals varying degrees of Policy control being applied to such uses, including in some instances limitations on customer attendance. Notwithstanding, it is recognised that the acceptability of such uses are most likely driven by locational attributes such as the nature of surrounding area and adjoining road network and it would be difficult to establish a clear set of criteria that could be applied in all instances.

Whilst the total floor area to be occupied for the proposed classes is compliant with the maximum 50m<sup>2</sup> permissible under TPS No.3, the total number of students proposed to be accommodated at any one time and frequency of attendance is considered to exceed that reasonably expected under a single dwelling occupancy. Although TPS 3 does not provide any parameters on the number of customers/ clients that can attend as part of a Home Business application a review of previous approvals granted by the Shire reveals that they generally operate at a very low scale, with no public attendance or limited to one or two clients at a time. There have been no approvals granted for larger scale commercial classes of this nature. For the purpose of comparison a family day care centre was approved as a 'use not listed' based upon a maximum attendance of 5 children (DA2013/152).

Shire officers have liaised with the applicant to ascertain whether a reduction in the number of students and/or removal of the adult classes may be contemplated (noting that adult classes would likely generate greater parking demand as they would not operate on a drop off-pick up arrangement). For commercial reasons it is understood that this is not a viable option for the applicant.

**Parking & Traffic**

Based upon the proposed number of students the Home Business would generate additional traffic movements and parking demand beyond that expected of a single dwelling. The impact of increased traffic movements and parking on Harper Street would be exacerbated given that the property is located near the end of a cul-de-sac road and the existing garage is to be occupied for the purpose of the classes.

TPS No.3 does not nominate parking standards for Home Businesses thus such requirements are to be determined at the discretion of Council having regard to the Off Street Parking requirements under Clause 5.21 of TPS No.3. In terms of what parking may be appropriate a brief analysis is provided below relative to the number and type of students proposed to be accommodated and comparable standards for land uses identified under Appendix XI – Parking standards of TPS No.3.

Residential Dwelling	Maximum children	Maximum 8 adults	Total Recommended Parking
Minimum 2 bays as per the Residential Design Codes (which can be provided in tandem)	12  <b>If accommodating primarily drop off &amp; pick up.</b>  Based upon Day Care Centres, Pre-Schools, Kindergartens <b>(1 per 5 children)</b>  Or  Based upon An Education Establishment – 1.25 (Primary School) to <b>2 per classroom</b> (High School).	Most likely aligned to Clubs, Places of Assembly - 1 per 4 persons.	Minimum 4-5 bays (residential use plus home business related parking) on site plus dedicated space for children drop off/pick up.

A car parking plan (Attachment 8.1.1c) and additional supporting information (Attachment 8.1.1d) has been provided by the applicant that nominates 8 car parking spaces within the paved driveway, 4 car spaces within an adjacent grassed area and two cars within an outbuilding at the rear. The suggested carparking layout is not acceptable for the following reasons:

- The client bays are not able to be independently accessed (ie. the plan is reliant upon tandem parking);
- Some of the designated carbays are of inadequate dimension (minimum required 2.4 wide x 5.5m long), noting that the driveway narrows to 4.47 metres in part;
- The layout is reliant upon parking within the crossover and verge area, noting that the plan over estimates the length of the driveway within the private property which is closer to 15 metres long;
- The plan shows parking on a grassed area adjacent to the driveway, noting that all carparking spaces associated with a Home Business should be paved/ sealed. Such carbays would need to achieve a minimum 0.5 metre setback from the property boundary under the R-Codes and be mindful of the proximity of an electrical power dome (refer site photo Attachment 8.1.1e);

- The ability to secure access across the adjacent residential property for the purpose of accessing parking at the rear of the dwelling cannot be ensured through the development application.

In addition, it is noted that the existing driveway has not been constructed in accordance with the Development Approval and Building Licence granted for the Single Dwelling, which was to enable vehicles to exit the site in forward gear via a crossover further to the south. The Shire has no record of approval having been granted for the modified driveway, although it is assumed that this may have occurred due to the proximity of a nearby tree, as noted by one submitter. The driveway as constructed is non-compliant with the R-Code Deemed to Comply provisions requiring vehicles to exit in forward gear where the driveway exceeds 15 metres in length, although any carbays nominated forward of the garage would comply with the maximum reversing length.

In summary, the proposal does not demonstrate that sufficient carparking is available for the proposed Home Business. Based upon the configuration of the existing driveway, it would appear that a maximum of only 3 compliant carbays could be accommodated on-site, comprising x2 in tandem to service the single dwelling and x1 for the proposed Art Class use. Having regard to the R-Code Deemed to comply standards for residential development and the above parking analysis, should Council be mindful to support the application it is suggested that, as a minimum, at least one additional constructed carbay would be required and that arrangements be set in place to ensure any staggered drop off/ pick up of children. It is envisaged that, for the purpose of operating adult classes, parking demands would likely be greater – hence Planning Services would recommend that the adult class participants be limited accordingly as the current application is for classes with maximum eight (8) adults at any one time.

#### Planning in Bushfire Prone Areas

The subject property is located within a designated bushfire prone area therefore *State Planning Policy 3.7 Planning in Bushfire Prone Areas* (SPP 3.7) and the Guidelines for Planning in Bushfire Prone Areas apply.

For the purpose of SPP 3.7 the proposal constitutes a vulnerable land use as the participants of the art classes (namely children) would have a lesser capacity to respond in the event of a bushfire, posing potential evacuation challenges. In this regard SPP 3.7 stipulates that development applications for vulnerable land uses with a Bushfire Attack Level (BAL) rating greater than BAL 29 will not be supported, whilst those proposals with a lower rating need to be accompanied by a Bushfire Management Plan and an emergency evacuation plan for occupants. The application has been lodged in the absence of sufficient supporting information to address the requirements of SPP 3.7.

The existing house was developed prior to SPP3.7 coming in to force and BAL construction standards were not implementable at the time. In such instances a vulnerable land use conducted within an existing dwelling can potentially be considered 'Minor Development' wherein full compliance with the policy may not be required, however, this would only apply where the scale of the use is deemed to be consistent with that of a typical residence. In such circumstances the Shire has required that, as a minimum, an Emergency Evacuation Plan be provided to address emergency services, evacuation routes and protocol in such events.

Given that the officer level recommendation is for refusal, further supporting information has not been requested from the applicant, noting the additional cost impost that this would impose should approval not be granted. In the event that Council is mindful to approve the application, as a minimum an Emergency Evacuation Plan should be required.

### Conclusion

Notwithstanding support from nearby landowners and the community benefit such a service may provide, given the size and frequency of classes and associated traffic & parking demands the proposal is not deemed to be compatible with the intent of the Residential zoning or the amenity of the locality, noting the Home Business definition in TPS No.3. In this instance there are considered to be no unique circumstances relative to surrounding land uses, the adjacent road network or the character of the area so as to warrant such approval being granted.

From a strategic planning perspective, the cumulative impact of expanding the size and scope of Home Businesses that are permitted within the Residential zone may undermine the viability of other areas, such as the town centre which have been appropriately zoned and developed for such purposes.

It should be noted that Planning Services have had discussions with the applicant regarding locating the business in the CBD, and more recently the applicant has been liaising with Community Services regarding other potential options (i.e. operating from CRC (which was set up to be the 'business incubator' centre for Denmark), halls etc).

Having regard to the above assessment and in line with the intent and objectives of TPS No. 3 refusal is recommended.

Should Council consider that this proposal is acceptable and are considering approving this application, the following recommendation is provided for Council's reference (noting that the recommendation provides for altered children and adult numbers from the applicant's request as it is considered that this needs to be addressed in any approval as this is the greatest area of concern with the proposal):

*That with respect to the development application for a Home Business (Art Classes) at No. 17 (Lot 36) Harper Street, Denmark, Council:*

1. *Notes the submissions received;*
2. *Resolves to grant Development Approval subject to the following:*

#### Conditions

- a) *The Home Business is to be carried out in the area identified on the attached stamped approved plans dated 17 May 2018 subject to the following limitations:*
  - i. *No more than six (6) children or four (4) adults are to be accommodated on site at any one time.*
  - ii. *All classes are to be conducted between 9am and 5:30pm Monday to Friday;*
  - iii. *No more than 8 classes are to be conducted per week;*
  - iv. *Only safe non-toxic materials are to be used;*
- b) *A minimum of two (2) car parking bays for the residential dwelling and minimum two (2) carparking bays for the home business clientele being providing on-site, with the two (2) clientele bays being independently accessible (ie. not provided in tandem). All of the required car bays are to be located on-site with such bays, manoeuvring and circulation areas to be suitably constructed, sealed (ie. concrete, asphalt or brick pavers), drained and thereafter maintained. A car parking plan is to be submitted to the Shire of Denmark (Planning Services) for approval prior to any works occurring on-site to ensure the carparking layout is appropriate having regard to the R-Codes and Australian Standard AS2890.1.2004 Parking Facilities – Off-Street Car Parking.*
- c) *Prior to commencement of the Home Business a Fire and Emergency Evacuation Plan is to be submitted to and approved by the Shire of Denmark having regard to the requirements of Part 5.5.2 of the Guidelines for Planning in Bushfire Prone Areas and thereafter displayed in the premises in a highly visible and easily accessible location.*
- d) *The approved Home Business shall not entail employment of any person not a member of the occupier's household without the approval of the Shire of Denmark*

- e) *All wastewater from the approved operations is to be retained onsite to the satisfaction of the Shire of Denmark.*
- f) *The approved Home Business shall not cause injury to or adversely affect the amenity of the neighbourhood.*
- g) *The approved Home Business shall not occupy an area greater than 50m<sup>2</sup>.*
- h) *The approved Home Business shall not involve the retail sale, display or hire of goods of any nature.*
- i) *The approved Home Business shall not involve the use of an essential service of a greater capacity than normally required in the zone.*
- j) *In relation to vehicles and parking, the approved Home Business shall not result in traffic difficulties as a result of the inadequacy of parking or an increase in traffic volumes in the neighbourhood, and shall not involve the presence, use or calling of a vehicle of more than 3.5 tonnes tare weight.*
- k) *This approval is valid for 12 months from the date of approval and is subject to an annual renewal application and payment of a renewal application fee in accordance with Council's Operative Fees & Charges Schedule. In relation to the annual renewal application, an accompanying letter is required detailing compliance with the conditions provided for in this Development Approval and/or detailing any changes to the home business that have occurred over the preceding twelve (12) months.*
- l) *Should Council receive any valid complaints about the Home Business activities causing a nuisance or annoyance to the surrounding locality, this approval may be rescinded.*
- m) *This Development Approval relates to the land the subject of the application and to the applicant only, and cannot be assigned to any other person or be transferred to any other property or premises.*

Advice Notes

- a) *It is the responsibility of the applicant to ensure that building setbacks correspond with the legal description of the land. This may necessitate re-surveying and re-pegging the site. The Shire of Denmark will take no responsibility for incorrectly located buildings.*
  - b) *It is the responsibility of the applicant/owner to search the title of the property to ascertain the presence of any easements and/or restrictive covenants that may apply.*
3. *Advise the submitters of Council's resolution.*

**Voting Requirements:**

Simple majority.

OFFICER RECOMMENDATION	ITEM 8.1.1
That with respect to the development application for a Home Business (Art Classes) at No. 17 (Lot 36) Harper Street, Denmark, Council resolves to:	
<ol style="list-style-type: none"> <li>1. Note the submissions received.</li> <li>2. Refuse Development Approval for the following reasons:                     <ul style="list-style-type: none"> <li>(a) The proposed Home Business by reason of the number of clients and frequency of classes would be detrimental to the residential amenity of the locality by reason of increased activity, noise and associated traffic and parking demands.</li> <li>(b) The proposal does not demonstrate that sufficient car parking can be accommodated on site to meet the requirements of the Single Dwelling and Home Occupation use.</li> <li>(c) The development does not demonstrate compliance with the requirements for a vulnerable land use under <i>State Planning Policy 3.7 – Planning in Bushfire Prone Areas</i>.</li> </ul> </li> <li>3. Advise the submitters of Council's resolution.</li> </ol>	

<b>8.1.2 SUBSEQUENT OUTBUILDING – NO. 19 (LOT 104) PEPPERMINT WAY, PEACEFUL BAY</b>
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<b>File Ref:</b>	A3345 (2018/75)
<b>Applicant / Proponent:</b>	J & M Broun
<b>Subject Land / Locality:</b>	No. 19 (Lot 104) Peppermint Way, Peaceful Bay
<b>Disclosure of Officer Interest:</b>	Nil
<b>Date:</b>	19 July 2018
<b>Author:</b>	Marieke de Vries, Town Planner
<b>Authorising Officer:</b>	Annette Harbron, Director Sustainable Development
<b>Attachments:</b>	8.1.2a – Development Application Documentation 8.1.2b – Schedule of Submissions 8.1.2c – Applicant’s Response 8.1.2d - Site Photos

**Summary:**

The proponent is seeking Development Approval for a Subsequent Outbuilding at No. 19 (Lot 104) Peppermint Way, Peaceful Bay.

The proposal has been assessed having regard to the Residential Design Codes and Local Planning Policy 13.4: Outbuildings (Policy 13.4). Variations to the minimum criteria in Policy 13.4 are sought relating to the floor area and height.

Having regard to the issues raised from the submissions received, the applicant’s justification and assessment of the proposal, it is recommended that the Outbuilding be granted Development Approval subject to appropriate conditions.

**Background:**Current Application

An application for Subsequent (retrospective) Development Approval was lodged with Planning Services in April 2018 for an Outbuilding – refer Attachment 8.1.2a.

**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), Schedule 2, Part 8, Clause 64 of *the Planning and Development (Local Planning Schemes) Regulations 2015*, the Residential Design Codes and TPS Policy 13.4, and undertook the following level of consultation:

External Consultation:

- Applicant.
- Three (3) adjoining landowners inviting comment on the proposal.

Internal Consultation:

- Development Co-ordination Unit.

At the close of the advertising period two (2) submissions were received – refer Attachment 8.1.2b. All submissions received have been entered into the schedule as verbatim with Column 4 of the Schedule of Submissions being Planning Services comments/response to the issues raised in the submissions.

Attached at Attachment 8.1.2c is the applicant’s comments on the issues raised in the submissions.

**Statutory Obligations:**

TPS No. 3, Policy 13.4: Outbuildings and the Residential Design Codes (R-Codes) specify the pertinent planning provisions for the proposal.

As per current Delegation D100601: Implementation of Town Planning Scheme, the Chief Executive Officer, Director Sustainable Development and/or the Senior Town Planner only have the delegation to approve proposals for outbuildings where such outbuildings exceed a maximum floor area or height limit specified by a TPS No.3 or Town Planning Scheme Policy provision on the basis that the proposed outbuilding will not impact adversely on the locality and/or amenity of adjoining properties.

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

**Policy Implications:**

Town Planning Scheme Policy No. 13.4: Outbuildings is relevant to this 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.*

**Budget / Financial Implications:**

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

**Strategic & Corporate Plan Implications:**

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

Denmark 2027**B3.0 Our Built Environment:**

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

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

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

Corporate Business Plan

3.2.7 Guide local development and require compliance in accordance with the Planning Scheme policy.

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 considerations 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 or to impose conditions on the approval that the applicant is aggrieved by.	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.

**Comment/Conclusion:**

In accordance with Town Planning Scheme No. 3 (TPS No. 3) the subject site is zoned “Residential (R5)” and a ‘Single House’ (which includes ancillary uses such as an outbuilding) is a “P” use – that is the use is permitted provided the relevant standards and requirements are complied with.

Planning Services have assessed the proposal having regard to Policy 13.4 and the R-Codes, and the proposal does not comply with the following criteria within Policy 13.4 (noting that these vary some aspects of the R-Codes criteria for outbuildings):

➤ *Size of the Outbuilding*

- Maximum cumulative area of outbuildings for a “Residential” zoned lot (with a lot size greater than 1000m<sup>2</sup>) is 100m<sup>2</sup>;
- Maximum wall height of 3m; and
- Maximum ridge height of 4.2m.

In this instance the following applies:

- The cumulative area of outbuildings on the lot totals 243.8m<sup>2</sup>, noting that the area of the Subsequent Outbuilding is 112.2m<sup>2</sup> in addition to an existing 131.6m<sup>2</sup> outbuilding;
- The outbuilding has a 3.5m wall height; and
- The outbuilding has a 4.7m ridge height.

In accordance with Policy 13.4, applications for outbuildings that do not comply with the relevant criteria will be assessed on a case-by-case basis and may be granted Development Approval subject to the following matters being taken into consideration as part of the assessment process:

- *Demonstration that the larger size is required to satisfy specific domestic needs;*

In this regard the proponents have advised that the increase in size is to accommodate a caravan, vehicle and 9m long boat. The proponents have further advised that the existing shed has a skillion roof (with a height of 2.1m-2.8m) which is too low to fit the caravan and boat.

- *The outbuilding not being located within the primary street setback area;*

The proposed outbuilding is not located in the primary street setback area, being located to the rear of the dwelling and as a result does not have a dominant visual impact to the street.

- *Comments received from the affected adjoining landowner's (if applicable).*

As part of the consideration of this proposal, it was referred to three (3) adjoining landowners, with two objections received. Refer Attachment 8.1.2b for Planning Service's comments in relation to the submission.

It is noted that the proposal complies with all other elements of the Policy and the R Codes including boundary setbacks.

From a Planning Services perspective, the following comments are relevant to the proposal:

- a) The combined floor area of the outbuildings is considered excessive for a residential lot, however it is recognised that there does appear to be a need for the second outbuilding noting in particular the applicant's justification that the existing outbuilding does not have the height to accommodate the proponent's caravan and boat.
- b) When considering the subsequent outbuilding independently of the existing outbuilding the floor area is considered reasonable with a total variance from TPS Policy of 12.2sqm. As such removal of the existing outbuilding would result in a far more reasonable proposal and would be in keeping with the degree of variation generally supported by Planning Services in residential areas.
- c) It is not considered that the outbuildings have a combined impact of building bulk to neighbouring properties – the key visual impact relates to the subsequent outbuilding only. As such removal of the existing outbuilding is unlikely to improve the visual amenity impact to neighbours, further noting that it is well screened being located towards the middle of the lot and has a low profile (2.8m maximum height). Refer Attachment 8.1.2d for images of the both outbuildings as viewed from the neighbouring properties.
- d) It is not considered that approval would set a precedent for individual outbuildings to be supported with a similar floor area to the combined area as presented in this application, however it does have the potential to set a precedent where the floor area is split between multiple buildings. This being said, any application is to be considered on its individual merits, and having regard to the comments above Planning Services considered that there is merit in this instance to support the variation.

Having regard to the proposal, the submission received and the objectives, intent and provisions of Policy 13.4 it is recommended that Development Approval be granted subject to appropriate conditions.

**Voting Requirements:**

Simple majority.

**OFFICER RECOMMENDATION**

**ITEM 8.1.2**

That with respect to the development application for the Proposed Outbuilding at No. 19 (Lot 104) Peppermint Way, Peaceful Bay, Council:

1. Notes the submissions received.
2. Grants Subsequent Development Approval subject to the following:

Conditions

- a) Development to be in accordance with the attached stamped approved plans dated 25 July 2018 (site plan) and 18 April 2018 (floor plan and elevations).
- b) Within sixty (60) days of approval, vegetation screening being planted and subsequently maintained in the areas identified on the approved site plan to the satisfaction of the Shire of Denmark (Planning & Sustainability Services) – Refer Advice Note a.
- c) Driveway/accessway to the outbuilding shall be constructed and maintained to a minimum all-weather standard (e.g. gravel, crushed rock) to facilitate access to the development by 2 wheel drive vehicles.
- d) The approved outbuilding shall not be used for human habitation, commercial or industrial uses.
- e) All stormwater and drainage runoff from all roofed and impervious areas is to be retained on-site or connected to a legal point of discharge to the satisfaction of the Shire of Denmark (Infrastructure Services).

Advice Notes:

- a) It is highly recommended that the fence be realigned to the surveyed boundary to provide the maximum setback between the outbuilding and lot boundary to provide additional ground for screening vegetation. Due to the shady aspect of the planting area and height of the outbuilding careful selection of species is required to ensure that the vegetation provide a reasonable coverage of screening above the fence height. The Shires Sustainability Services can provide advice on native species selection, please phone 9848 0312.
  - b) It is the responsibility of the applicant to ensure that building setbacks correspond with the legal description of the land. This may necessitate re-surveying and re-pegging the site. The Shire of Denmark will take no responsibility for incorrectly located buildings.
  - c) It is the responsibility of the applicant/owner to search the title of the property to ascertain the presence of any easements and/or restrictive covenants that may apply.
3. Advise the submitters of Council's decision.

**8.1.3 REQUEST TO INITIATE AMENDMENT TO LOCAL PLANNING STRATEGY (2011) TO MODIFY THE DESIGNATION FOR NO. 833 (LOT 50) MOUNT SHADFORTH ROAD, SHADFORTH AND NO. 44 (LOT 52) MIDDLETON CLOSE SHADFORTH FROM “PRIORITY AGRICULTURE” TO “RURAL SMALLHOLDINGS”**

<b>File Ref:</b>	LPS2011/SA1 (A2260)
<b>Applicant / Proponent:</b>	Williams Consulting on behalf of G Robertson
<b>Subject Land / Locality:</b>	No. 833 (Lot 50) Mount Shadforth Road, Shadforth & No. 44 (Lot 52) Middleton Close, Shadforth
<b>Disclosure of Officer Interest:</b>	Nil.
<b>Date:</b>	7 August 2018
<b>Author:</b>	Annette Harbron, Director Sustainable Development
<b>Authorising Officer:</b>	Annette Harbron, Director Sustainable Development
<b>Attachments:</b>	8.1.3a – Strategy Amendment Report 8.1.3b – Agenda Item to Statutory Planning Committee on Final Endorsement of the Local Planning Strategy 8.1.3c – Shire Comments on Subdivision Application 154899

**Summary:**

Planning Services have received a request to amend Local Planning Strategy (2011) such that the designation for No. 833 (Lot 50) Mount Shadforth Road, Shadforth and No. 44 (Lot 52) Middleton Close, Shadforth is changed from “Priority Agriculture” to “Rural Smallholdings”.

The ultimate development scenario sought by the landowner is to create a ‘rural smallholding’ subdivision comprising of nine (9) lots ranging in size from 5.2184 ha to 12.6164 ha for rural living purposes coupled with opportunities for intensive agriculture pursuits.

Having due regard to the Local Planning Strategy (2011), relevant State Planning Policies and Town Planning Scheme Policies and the Shire’s Strategic Community Plan (Denmark 2027), it is recommended that Council do not initiate this amendment.

**Background:**

Current Application

A request to amend Local Planning Strategy (2011) such that the designation for No. 833 (Lot 50) Mount Shadforth Road, Shadforth and No. 44 (Lot 52) Middleton Close, Shadforth is changed from “Priority Agriculture” to “Rural Smallholdings” was lodged with Planning Services in late January 2018.

Attached at Attachment 8.1.3a is the Strategy Amendment report as prepared by the proponent.

In summary the applicant’s justification for the amendment is review of key WAPC policies (namely State Planning Policy 3.4: Planning in Bushfire Prone Areas), market trends and the need for commercially viable and affordable rural land for agricultural pursuits.

Local Planning Strategy (2011)

At the Special Meeting of Council held on 4 October 2011, Council adopted the draft Local Planning Strategy (LPS) with modifications (Res No: 181011).

Specifically in relation to the proposed extent of rural residential and rural smallholdings designations, Council resolved the following (Res No: 111011):

1. *That Council with respect to the proposed extent of ‘rural residential’ and ‘rural smallholdings’ designations as provided for in the draft Local Planning Strategy, resolve that the document should be modified such that:*

- a) A 'rural residential' designation applies to all of the land generally bordered by South Coast Highway, Wilson Inlet, Rudgyard Place and the Seaview Special Rural subdivision (area referenced as SR23 in TPS 3); and
  - b) A 'rural smallholdings/rural residential' designation applies to the land generally bounded by South Coast Highway, Cussons Road, Mt Shadforth Road and McLeod Road.
2. That negotiations with the WAPC on the extent of the rural residential and rural smallholdings be progressed until the 4 March 2012.

Following the adoption of the LPS, the then Department of Planning (DOP) sought formal comment from the then Department of Agriculture and Food WA (DAFWA) as part of their due consideration.

In light of Council's resolution to progress discussions until 4 March 2012 – which was on the basis of ensuring that the remainder of the LPS was not held up due to the issue of rural residential and rural smallholdings designations – a report was presented to the Ordinary Meeting of Council held on 20 March 2012 wherein Council resolved as follows (Res No: 040312):

*That with respect to the update provided in relation to the extent of proposed Rural Residential/Rural Smallholdings designations in the Local Planning Strategy, Council:*

1. *Notes that the Department of Planning are seeking formal comment from the Department of Agriculture & Food Western Australia; and*
2. *Progresses discussions with the Western Australian Planning Commission /Department of Planning accordingly.*

In April 2012, a meeting was convened between the DOP, DAFWA, Graeme Robertson's consultants at the time (planning and land capability consultants) and Shire staff to discuss the broader rural smallholdings designations in the LPS and then more specifically in relation to Graeme Robertson's landholdings off Sunrise Road. Following this meeting, the LPS was presented to the Statutory Planning Committee Meeting of the Western Australian Planning Commission held on 22 May 2012 for consideration, wherein they resolved as follows:

*That the Western Australian Planning Commission resolves to:*

1. *Determine the submissions in accordance with the attached Schedule of Submissions;*
2. *Endorse the Local Planning Strategy subject to the attached Schedule of Modifications being carried out;*
3. *Advise the Shire that future variations to State Policy in regard to rural living proposals could be applied for via an amendment to the local planning strategy. Please liaise with the Department of Planning to discuss evidence-based approach to such variation.*

Attached at Attachment 8.1.3b is the Agenda Report (minus attachments) to the Statutory Planning Committee that provides background to the reasoning behind the removal of the Rural Smallholdings designation on the subject land.

#### Subdivision Application 154899

In March 2017, Williams Consulting on behalf of G Robertson, lodged a subdivision application for the subject lots to create nine (9) rural lots ranging in size from 5.2184 ha to 12.6164 ha – noting that this subdivision proposal is the same development scenario provided for in the application to amend the Local Planning Strategy (2011).

In June 2017, the Western Australian Planning Commission issued a refusal on the following grounds:

1. The proposal is inconsistent with *State Planning Policy 2.5 – Rural Planning and Development Control Policy 3.4 – Subdivision of Rural Land* in that it does not meet any of the exceptional

circumstances of subdivision allowed for within the Rural zone and thus is considered ad hoc, unplanned subdivision that will fragment priority agricultural land and create lots more akin to a rural living zone which is unplanned for the locality and which would encourage land uses unrelated to agriculture.

2. The Western Australian Planning Commission is not prepared to support the proposal in that it introduces additional sensitive land uses, thus reducing the currently available land for primary production and increasing the potential of land use conflict between the proposed lots and within the surrounding agricultural land which is contrary to:
  - Shire of Denmark Town Planning Scheme No. 3;
  - Shire of Denmark Local Planning Strategy;
  - State Planning Policy 2.5 – Rural Planning;
  - State Planning Policy 2 ‘Environment and Natural Resource Policy’;
  - Development Control Policy 3.4 – Subdivision of Rural Land; and
  - Environmental Protection Guidance Statement No. 3: Separation Distances between Industrial and Sensitive Land Uses.
3. The proposal does not demonstrate that it can protect and sustainably manage environmental, landscape and water resource assets which is contrary to:
  - State Planning Policy 2.5 – Rural Planning;
  - State Planning Policy 2 ‘Environment and Natural Resource Policy’;
  - Development Control Policy 3.4 – Subdivision of Rural Land; and
  - Local Planning Policy No. 37 ‘Dams’.
4. The proposal is inconsistent with the state planning framework in that there is no existing or proposed regional variation to introduce additional circumstances for rural subdivision either within Shire of Denmark Town Planning Scheme No. 3 or the Shire of Denmark Local Planning Strategy.
5. The proposal would create an undesirable precedent to support subdivision proposals within rural land which are not in accordance with relevant provisions of the State and Local Government policy framework.

For information, and more detail on issues relating to the subdivision proposal, attached at Attachment 8.1.3c is the Shire’s response on the subdivision proposal.

The proponent did lodge a Right of Review with the State Administrative Tribunal – noting that the application was subsequently withdrawn following the mediation process.

#### **Consultation:**

In accordance with the *Planning and Development (Local Planning Schemes) Regulations 2015*, a Local Planning Strategy (including an amendment) is required to be the subject of public advertising for a minimum period of 21 days once it has been assessed by the Western Australian Planning Commission for compliance with regulation 11(2) of the *Planning and Development (Local Planning Schemes) Regulations 2015*.

Preliminary consultation has occurred on the amendment request with the Department of Planning, Lands and Heritage (Land Use Planning) and Department of Primary Industries and Regional Development (Land and Water Assessment – Sustainability and Biosecurity) and both have indicated that they do not support the amendment – refer comments section for more information.

#### **Statutory Obligations:**

Part 3 of the *Planning and Development (Local Planning Schemes) Regulations 2015* deals with the requirement and processes associated with Local Planning Strategies (including amendments to Local Planning Strategies).

**Policy Implications:**

The following policies have been given due consideration in relation to this proposal:

- State Planning Policy No. 1: State Planning Framework Policy
- State Planning Policy No. 2.5: Land Use Planning in Rural Areas
- State Planning Policy 3.7: Planning in Bushfire Prone Areas
- Town Planning Scheme Policy No. 29: Rural Settlement Strategy

**Budget / Financial Implications:**

Fees associated with this Local Planning Strategy Amendment Request have been paid as per Council's operative Fees and Charges Schedule.

**Strategic & Corporate Plan Implications:**

The site is designated 'Priority Agriculture' in the Shire of Denmark's Local Planning Strategy (2011). One of the key objectives in the Local Planning Strategy is to "*Identify and protect Priority Agriculture Land which is of State and regional significance and General Agriculture land which is the balance of the rural land not identified for settlement or future subdivision*".

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

Denmark Strategic Community Plan 2027

## E1.0 Our Economy

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

E1.4 To recognise the importance of agriculture in our local economy and protect prime agricultural land.

## B3.0 Our Built Environment

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

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

Corporate Business Plan

3.1.2 Encourage and promote the use of agricultural land.

3.1.3 Ensure that local planning development and long term growth needs are met to ensure a viable agricultural sector.

3.2.6 Provide supportive planning and development guidance on appropriate major land developments.

**Sustainability Implications:**➤ **Governance:**

Part 3 of the *Planning and Development (Local Planning Schemes) Regulations 2015* deals with the requirement and processes associated with Local Planning Strategies (including amendments to Local Planning Strategies).

➤ **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 approve Local Planning Strategy Amendment 1 for consent to advertise	Possible (3)	Minor (2)	Moderate (5-9)	Not Meeting Community expectations	Accept Officer Recommendation

**Comment/Conclusion:**

The request to amend Local Planning Strategy (2011) such that the designation for No. 833 (Lot 50) Mount Shadforth Road, Shadforth and No. 44 (Lot 52) Middleton Close, Shadforth is changed from “Priority Agriculture” to “Rural Smallholding” is not supported by Planning Services having regard to the following:

- Insufficient demonstration that there is deficient land available for rural living purposes – noting the following:
  - Total number of “Special Rural” zoned lots: 392
  - Total number of vacant “Special Rural” zoned lots: 86
  - Take-up rate of “Special Rural” zoned lots from 2011/12-2017/18: 37 dwellings approved during this period which is an average take-up rate of 5.28 dwellings/year. For information the take-up rate from 2006-2011 was 7 dwellings/year.
  - The Western Australian Planning Commission’s Denmark: Regional Land Supply Assessment (December 2017) report acknowledges that rural living developments have been popular in recent years and will continue to be sought after by new residents; noting that there is approximately 1620 hectares of land zoned for rural living purposes (for this purpose this included all land zoned “Special Rural” and “Rural Multiple Occupancy”), with the Local Planning Strategy (2011) identifying an additional 560 hectares of land for future rural residential and rural smallholding developments (with at least 280 hectares already zoned for such purpose in TPS No. 3). Overall the report identifies that there are sufficient stocks of residential and rural living land identified in TPS No. 3 and the Local Planning Strategy (2011), with a hypothetical temporal land supply of 30 years (36 years if the stock of vacant lots is included in the supply capacity) to meet the population growth into the long term (catering for an additional population of approximately 9000 people).
  
- The Department of Planning, Lands and Heritage (Land Use Planning) preliminary comments on the proposal – being as follows:
  - *The amendment to the strategy is not supported.*
  - *The current Strategy is less than 10 year old therefore not considered out of date.*
  - *This land has previously been considered by the Commission and the Minister, and not supported for Rural living as it is identified as Priority Agricultural Land, and it is removed from the service and community centre of Denmark.*
  - *Rural Planning Policies have been reviewed and updated recently. State Planning Policy 2.5 Rural Planning (SPP2.5) applies to this land and states land identified as Priority*



*Agriculture should be retained for that purpose (ie not changed to rural living, which rural smallholding is a subset of).*

- *Given the changes in Rural Planning Policy and Planning for Bushfire since the 2011 Strategy, this office supports the Shire of Denmark reviewing its Local Planning Strategy, however this should be done for the entire Shire, rather than for a particular lot.*
  - *Issues identified by the proponent can be addressed by the Shire when it reviews the Local Planning Strategy.*
  - *Finally it is the view of the WAPC that there are sufficient, suitable sized and located rural lots to cater for intensive and emerging primary production land uses.*
- The Department of Primary Industries and Regional Development (Land and Water Assessment – Sustainability and Biosecurity) preliminary comments on the proposal – being as follows:

*In relation to the preliminary comment sought – the Department does not dispute the horticultural potential for the Mt Shadforth area in the Shire of Denmark, or even the opportunity for some high-value horticulture to be grown from a variety of lot sizes. The Department agrees with the findings by land assessment consultant Martin Wells in a report identifying that the landform and soil conditions within the subject land area are generally of high capability for most land uses, including horticulture; and the Department acknowledges the supporting comments in the recent proposal response by Mr Johnson. The Department also does not dispute the findings that the soils have a high PRI and will have sufficient capacity for onsite effluent management.*

*However, the Department generally does not support the subdivision of larger land lots identified as Priority Agriculture Land (PAL) on the basis that it fragments rural land. Also, the caveat in the comment by Martin Wells is important to acknowledge because it highlights the assumption that there is the availability of good quality water for irrigation. The challenge of subdividing land into smaller lots, while proposing that those lots will have high horticulture potential assumes that each lot will still have a sufficient land area available to support a building envelope for house and sheds (with sufficient setbacks) together with a suitable area to develop a surface water catchment and dam to supply both domestic use and a potential horticulture development - together with the land area for any potential perennial horticulture development onsite. The Agricultural Report goes into detail about the economic value of avocados and the suitability of the land for such land use, but mentions very little about irrigation and water supply requirements.*

*On this basis, DPIRD would likely not support the development proposal to subdivide.*

- The amendment justification is purely premised on the basis that the creation of these rural smallholding lots will ensure rural living proposals are accommodated whilst also creating commercially viable and affordable land for agricultural pursuits. As referenced in the Shire's comments on Subdivision Application 154899 (refer Attachment 8.1.3b), the subdivision proposal (in terms of lot sizes and configuration) does not adequately support the undertaking of intensive agricultural pursuits having regard to protection of the remnant vegetation on-site, buffers to future on-site dwellings and/or existing and proposed dwellings on adjoining land parcels and general environmental management of the land. Consequently the ability for intensive agricultural pursuits of a scale beyond domestic/small-scale quantities is questionable at best and essentially reinforces that the primary purpose of this proposal is for rural living purposes and not for intensive agriculture considerations at all – noting that once the land is subdivided and created there is nothing to say that any of the landowners would undertake intensive agricultural pursuits on the property.

It should be noted that as per Local Planning Strategy (2011), 'rural smallholdings' is defined as "land, typically in the order of 4 ha – 40 ha, used for minor rural pursuits, hobby farms, conservation lots and alternative residential lifestyle purposes where part-time income from

cottage industries, home occupation and use of the land for agriculture may be derived. This land use may also seek to preserve and enhance landscape quality, environmental and conservation attributes". Having regard to this definition this also reinforces that the primary intent of such lots is for rural living purposes – with any use of the land for other purposes being of a hobby/part-time income basis.

- As per the Shire's Strategic Community Plan (Denmark 2027), a key objective is "To recognise the importance of agriculture in our local economy and protect priority agricultural land".

This proposal seeks to designate land currently identified as priority agricultural land for rural living purposes; which would be in conflict with the above mentioned key objective from Denmark 2027 without any substantial justification to do so – noting that the current justification provided by the proponent is not considered sufficient.

Consideration towards the broadening and diversification of the agriculture industry is vital to ensure long term sustainability however the subdivision/development of such land for rural living purposes as the primary land use does not achieve this outcome at all.

- The proposal for these two (2) sites to be considered for rural living purposes only is very short-sighted and does not represent a strategic approach to consideration of rural living opportunities or intensive agricultural opportunities. "Spot" considerations of this nature represents an ad-hoc, uncoordinated approach.

It therefore would be more appropriate to undertake a strategic approach to the consideration of rural living proposals and/or intensive agriculture opportunities as part of the broader review of the Local Planning Strategy in due course.

- The proposal is not consistent with Town Planning Scheme Policy No. 29: Rural Settlement Strategy – refer Attachment 8.1.3c for details on the relevant policy objectives, statements and criteria.
- Notwithstanding the above that the proposal is essentially a rural living development that is espoused as having intensive agricultural opportunities, the following is relevant for Council's consideration – particularly given intensive agricultural opportunities throughout the Shire should be explored further but that due regard needs to be given to location, appropriate lot sizes, land use conflicts etc.

If the proposal was seriously wanting to entertain intensive agriculture opportunities on-site, then it is considered that lot sizes in the order of 5 – 12 ha would not be adequate at all and there would be no need to have zoning of the site changed accordingly; that is intensive agriculture proposals can be entertained on rural zoned property and there is no specific need to subdivide – although one could argue that consideration of lot sizes smaller than 50 ha may be more appropriate. In this regard the subject lot sizes are 29.1097 ha (Lot 50) and 33.2837 ha (Lot 52) thus are of an appropriate size already to facilitate intensive agricultural pursuits whilst ensuring appropriate buffers (both on-site and off-site), coupled with associated infrastructure can be provided.

For information, Planning Services have undertaken preliminary research into other local government's requirements for intensive agriculture pursuits and it is evident that lot sizes are in the order of 15 ha – 30 ha (minimum). A summary of the preliminary research findings is provided below:

- City of Albany:
  - Council may support the subdivision of General Agriculture and Priority Agriculture land for existing intensive agricultural enterprises on the basis of a comprehensive submission demonstrating that all the following requirements are satisfied:
    - A report has been prepared which demonstrates the following:
      - There is a low risk of soil salinity build-up;
      - There is a low susceptibility to water logging;
      - Favourable soil acidity or alkalinity;
      - Suitable plant rooting and cultivation conditions;
      - A low potential to contribute to eutrophication of water bodies;
      - It can satisfy all relevant “Codes of Practice” and Environmental Planning documents and utilises best management practices; and
      - A Nutrient and Irrigation Management Plan has been agreed.
    - The proposed new lot contains a minimum of 15 ha of land with a high capability rating for annual or perennial horticultural production including the existing use.
    - The proponent demonstrates that each new lot has the capacity to capture and store a sufficient quantity of high quality water for that level of agricultural production and that DEWCP is prepared to agree that the capture of that water is within limits of the sustainable yield for that sub-catchment.
    - The total lot area is sufficient for the 15 ha minimum of high capability land, plus the water capture and storage area, plus an area for the dwelling and other farm infrastructure and buildings with sufficient setback from adjoining properties so as to not restrict potential agricultural productivity on those properties, plus the retention of any remnant vegetation that should be protected from clearing.
    - The enterprise would be unlikely to cause land use conflict or other unreasonable impacts on adjoining land uses or residents.
    - That the remaining parcel of the General Agriculture and Priority Agriculture lot (i.e. the balance of the original lot) is of sufficient area to be consistent with lot sizes in the surrounding General Agriculture and Priority Agriculture area and will not constitute a de facto residential development or where the remaining portion comprises remnant vegetation it should be consistent with the Policy for Conservation Lots Clause 3.3 in DC 3.4.
    - That all resulting lots are capable of being both profitable and sustainable for the proposed use; and
    - If the use ceases the land is suitable for other permitted uses.
- Shire of Manjimup:
  - In order to protect the productive capacity of agricultural land and the basis of State, regional and local economies, there is a general presumption against the further subdivision of land in the Priority Agriculture zone, except where it can be clearly demonstrated that the subdivision will be beneficial to viable and sustainable agricultural production and management on adjoining lands. Subdivision supported by the local government under these criteria shall have a minimum lot size of 80 ha.
  - In the case of subdivisions creating new or additional lots in the Priority Agriculture zone, new lots of less than 80 ha will not be supported except where the lot is a minimum of 40 ha and all of the following criteria are met:
    - An agronomist’s report or similar demonstrates that each new lot will contain a minimum of 30 ha of land with a high-capability rating (class 1 or 2) for annual or perennial horticultural production;
    - A hydrologist’s report or similar demonstrates that each new lot has the capacity to capture and store water of a sufficient quantity and quality as applicable to the potential agricultural production on that lot and the State water management agency is prepared to agree that the capture of that water is within the limits of an endorsed

Water Allocation Management Plan or is within the sustainable yield for that sub-catchment;

- The total lot area incorporates the minimum area of 30 ha of high-capability land, plus the water capture and storage area, plus an area for farm infrastructure and buildings with sufficient setback from adjoining properties so as not to restrict potential agricultural productivity on those properties, setbacks from watercourses and wetlands, plus the retention of any remnant vegetation that should be protected from clearing; and
- That the remaining rural holding is a minimum of 40 ha and is considered suitable for continued agricultural production based on lot size, land capability, water availability, has appropriate fire protection measures in place, lot configuration and advice from any relevant government agency.

Having regard to the above, and Council’s commitment to preparing a new Local Planning Scheme – which will include a review of the current Local Planning Strategy (2011) – it is recommended that Council not support this request to initiate an amendment such that the designation for No. 833 (Lot 50) Mount Shadforth Road, Shadforth and No. 44 (Lot 52) Middleton Close, Shadforth is changed from “Priority Agriculture” to “Rural Smallholdings”.

**Voting Requirements:**

Simple majority.

OFFICER RECOMMENDATION	ITEM 8.1.3
<p>That with respect to the request to initiate an amendment to Local Planning Strategy (2011) to modify the designation for No. 833 (Lot 50) Mount Shadforth Road, Shadforth and No. 44 (Lot 52) Middleton Close, Shadforth from “Priority Agriculture” to “Rural Smallholdings”, Council:</p> <ol style="list-style-type: none"> <li>1. Resolves to not initiate such amendment for the following reasons:                     <ol style="list-style-type: none"> <li>a) Insufficient demonstration there is deficient land available for rural living purposes within the Shire of Denmark;</li> <li>b) The preliminary comments provided by the Department of Planning, Lands &amp; Heritage (Land Use Planning) and Department of Primary Industries and Regional Development (Land and Water Assessment – Sustainability and Biosecurity) wherein support was not forthcoming due to lack of strategic justification and the subject land being identified as Priority Agriculture Land;</li> <li>c) The proposal is not consistent with Town Planning Scheme Policy No. 29: Rural Settlement Strategy;</li> <li>d) The proposal for the subject land to be developed primarily for rural living purposes is in conflict with the key objective in Denmark 2027 to ‘protect prime agricultural land’; and</li> <li>e) Consideration of this proposal for the subject sites only is an ad-hoc uncoordinated approach and consequently does not represent orderly and proper planning.</li> </ol> </li> <li>2. Request that as part of the review of the Local Planning Strategy (2011) that due consideration be given to providing criteria for intensive horticulture developments with matters being looked at including but not limited to appropriate locations, minimum lot sizes, addressing of land use conflicts etc.</li> </ol>	

<b>8.1.4 SUSTAINABLE EVENTS POLICY</b>
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<b>File Ref:</b>	PLN.66
<b>Applicant / Proponent:</b>	Not applicable
<b>Subject Land / Locality:</b>	Nil
<b>Disclosure of Officer Interest:</b>	Nil
<b>Date:</b>	1 August 2018
<b>Author:</b>	Donna Sampey, Sustainability Officer
<b>Authorising Officer:</b>	Annette Harbron, Director Sustainable Development
<b>Attachments:</b>	8.1.4a – Draft Policy – Sustainable Events presented at the 15 May 2018 Ordinary Council Meeting 8.1.4b – Proposed Final Policy – Sustainable Events for adoption 8.1.4c – Draft Information Sheet - Sustainable Events

**Summary:**

At the 15 May 2018 Ordinary Meeting, Council resolved to defer adopting a Sustainable Events Policy pending further discussion with Shire staff. Following further consultation undertaken by Shire staff with Council and external stakeholders, and development of draft supporting guidance information, it is recommended that Council adopt the draft Policy P100516 - Sustainable Events with modifications.

**Background:**

At the Ordinary Meeting of Council held on 15 May 2018, Council considered a draft Sustainable Events Policy (the Policy), wherein they resolved the following:

*That with respect to the draft Sustainable Events Policy, Council:*

1. Acknowledge the work undertaken to date by officers;
2. Request the CEO include the draft policy on the July 2018 Concept Briefing Forum to allow for further discussion between officers and Councillors in relation to matters including, but not limited to, implementation considerations, proposed community education programme and event implications; and
3. A report be presented to the August 2018 Ordinary Meeting of Council which has regard to the outcomes from the July 2018 Concept Briefing Forum.

The draft Policy presented to Council at the 15 May 2018 Ordinary Meeting can be found in Attachment 8.1.4a.

**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. In accordance with Council's resolution from the 15 May 2018 Ordinary Meeting, Shire staff have undertaken the following additional consultation:

- Internal - Waste Services; Community Development; Environmental Health.
- Meeting with Denmark Arts, a major event organiser, which was also attended by Councillors Caron and Lewis.
- Presentation to the 10 July 2018 Concept Briefing Forum. Comments from Councillors were incorporated into the proposed final Policy for adoption (refer Attachment 8.1.4b).
- City of Fremantle's Senior Project Officer – Sustainability.

The Sustainability Officer also attended the WA Local Government Association (WALGA) Plastic Reduction Options Workshop on 3 July 2018. At the workshop, consultation relating to a single-use plastic ban policy currently being compiled by the Town of Bassendean indicated that their local businesses did not see cost as a major impediment to switching to alternative packaging.

Consultation also completed by the City of Fremantle relating to their Sustainable Events Guidelines indicated that the major impediments to adhering to the Guidelines, which included ban of single-use plastics, was: a) cost of the alternative products; b) choice of alternatives available; and, c) site set up and space. The City of Fremantle's event organisers sought guidance from the City on types and sources of alternative products and possible sources of funding to implement the Guidelines.

Should Council endorse the proposed final Policy, a nine-month transition period is still proposed to enable engagement with affected external stakeholders to transition to the new requirements and inform the wider community. This is likely to involve, but not be limited to:

- Advertisements in the *Denmark Bulletin* and *Walpole Weekly* newspapers.
- Promotion and information on the Shire's website, Administration office and social media.
- Shire staff and Councillor education via internal email, staff meetings and more detailed meetings with relevant staff.
- Letters to all community and relevant sporting groups.
- Direct engagement with larger event organisers via targeted letters and/or meetings as required.
- Letters to local vendors and relevant businesses eg. caterers, catering suppliers.
- Drawing competition for children to design an image for the Shire to use in continued promotion of the Policy eg. refuse to use single-use plastics.
- Promote the success of local events in implementing the Policy.
- Survey all known events held during the transition period.

**Statutory Obligations:**

The WA State Government legislated the ban of lightweight single-use plastic bags on 1 July 2018. The ban includes biodegradable, compostable and degradable lightweight plastic bags. This Shire Policy supports the State legislation in the elimination of plastic bags at events.

**Policy Implications:**

The *Great Southern Group of Councils Regional Waste Strategic Plan 2014 – 2018* details activities relating to increasing the recovery of recyclables from general waste. In accordance with the draft Sustainable Events Policy, recycling bins would need to be provided at all events.

**Budget / Financial Implications:**

There will be immediate and longer-term costs associated with implementation of the final proposed Policy for both Shire and community events. The main costs are associated with the Policy conditions relating to waste minimisation and resource recovery, and applies both to the Shire and community as event organisers.

There are some potential negative financial implications for vendors and community groups that may rely on the sale of bottled water for income at events. There may also be some negative financial impact for local and regional businesses that sell balloons, and polystyrene and single-use plastic products. However, there may also be positive opportunities for businesses related to the hire of crockery and cutlery, and sale of alternative products.

The Officer recommends that during the transition period, the Shire purchase the following to assist both Shire and community events to implement the Policy:

- Cutlery and crockery - made available to hire for a small fee, plus bond. The Shire may have sufficient stock already available without having to purchase additional products.
- Fixed water dispensers, with bottle-filling capabilities, to be purchased and installed at major public areas.
- Portable water dispensers – made available for hire for a small fee, plus bond.
- Portable wash-up kits for cutlery and crockery.

These products could mostly be purchased within the Shire's annual operating budget, although installing fixed water dispensers throughout all major Shire reserves and facilities will require a separate budget for 2019/20. Note that as a Waterwise Council, the Shire may have access to subsidised pop-up and permanent/fixed water refill stations through the Water Corporation (depends on the Water Corporation's annual budget allocations).

During the transition period, local businesses may be identified which offer a hire service for cutlery, crockery and portable water dispensers, in which case, the Shire would no longer need to offer this service to the community. The purchased products could then be used just for Shire-run events.

The main cost implications related to implementation of the final proposed Policy is associated with the collection and processing of recyclable materials. Given the Shire does not currently provide public recycling bins at most of its reserves and facilities eg. Recreation Centre, Berridge Park, Ocean Beach, it would be the responsibility of the event organiser, whether that be the Shire or community, to provide the relevant quantity of bins and bear any cost related to disposal. The cost per bin is dependent upon the number of bins required, noting that Cleanaway does have a free events trailer available for use (subject to availability) (refer to Attachment 8.1.4c for indicative costs). There would be no cost to community event organisers in implementing the mandatory Policy condition related to provision of bins, should public recycling bins be available at all major Shire reserves and facilities (provided the number of public bins is suitable for the size of the event).

There will be some cost involved in promotion of the final proposed Policy which could be accommodated within the Shire's annual operating budget.

#### **Strategic & Corporate Plan Implications:**

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

#### Denmark 2027

- E1.0 Our Economy  
*We are an attractive location to live, invest, study, visit and work.*
- E1.1 To have a locally supported resilient, stable and innovative business community that embraces creativity, resourcefulness and originality.
- N2.0 Our Natural Environment  
*Our natural environment is highly valued and carefully managed to meet the needs of our community, now and in the future.*
- N2.1 To preserve and protect the natural environment.
- N2.3 To reduce human impact on natural resources, reduce waste and utilise renewable energy.
- N2.4 To acknowledge and adapt to climate change.
- C4.0 Our Community  
*We live in a happy, healthy, diverse and safe community with services that support a vibrant lifestyle and foster community spirit.*
- C4.3 To create a community that nurtures and integrates natural, cultural and historical values.

Corporate Business Plan

- 1.2.8 Support, encourage and advocate for the hosting of local events and festivals.
- 1.10.28 Encourage and support community groups to host public events.
- 2.2.1 Support community education and promotion of energy and water efficiency.
- 2.2.3 Reduce environmental impact and encourage sustainability in all aspects of Shire operations.

**Sustainability Implications:****➤ Governance:**

The Officer recommends no financial penalty for non-compliance with the final proposed Policy. This removes the requirement to conduct compliance inspections by Shire staff at events where the Policy applies. However, known non-compliance may jeopardise the event organiser from holding further events on Shire-managed land.

The final proposed Policy conditions should be incorporated into the Shire's approval procedures for booking public spaces, noting that the procedures for events with food and non-food are separate. Reference to the Policy would also be required for any event which receives funding through the Shire's Cultural Development Fund and Community Financial Assistance Grants.

There are additional governance implications associated with the proposed hire of crockery and cutlery, portable water dispensers and washing-up kits. Note that the Shire's annual Schedule of Fees and Charges already specifies utensil hire fees.

**➤ Environmental:**

The final proposed Policy addresses environment issues relating to waste minimisation, litter, recovery of resources, greenhouse gas emissions, minimising water and energy use, and sustainable agriculture.

**➤ Economic:**

The Officer's recommendations relating to the hire of portable water dispensers and washing-up kits purchased by the Shire would require new fees be introduced under the annual Schedule of Fees and Charges.

**➤ Social:**

There may be some negative impact on the Shire's reputation within the community should the final proposed Policy be endorsed by Council. This particularly applies to community and sporting groups that hold regular or large events, and local and regional businesses that currently supply products that are now prohibited at events. The risk will be largely mitigated through appropriate education and engagement with affected groups and businesses, as detailed in the "Consultation" section above, and a nine-month transition period.

Where health and safety requires the use of single-use plastics, or other materials prohibited under the final proposed Policy, exemptions can apply on written application to the Director Corporate and Community Services. These exemptions may apply to items such as plastic cups for the serving of alcohol where the Liquor Licence conditions prevents the use of glass.

The final proposed Policy advocates for healthy, local food and products at events. However, without the availability of bottled water, purchases may instead be directed to less healthy options or going without.



➤ **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 does not support the final proposed Sustainable Events Policy	Possible	Minor	Moderate (6)	Inadequate natural environment management	Amend Policy to provide exemptions for some event organisers or amend waste conditions OR improve current Shire waste management practices.
That Council does support the final proposed Sustainable Events Policy	Unlikely	Major	Moderate (8)	Ineffective management of facilities/venues/events	Accept Officer Recommendation, specifically relating to the 9-month transition period and engagement and promotion

**Comment/Conclusion:**

Following the additional consultation, the changes made to the draft Policy presented at the 15 May 2018 Ordinary Meeting of Council and now reflected in the proposed final Policy are:

- Changed “This policy applies to all events....supported by the Shire of Denmark” to “This policy applies to all events....funded by the Shire of Denmark”.
- Added a definition of “funded”.
- Divided the policy provisions into sections, with headings, separating the mandatory provisions and best practice provisions.
- Provided clarification as to which parts of the event the policy applies.
- Added an exemption for food-safe gloves.
- Changed the wording regarding the ban of polystyrene so that it is consistent with the ban for single-use plastics.
- Simplified the language used in the mandatory provision relating to recycling and waste bins, and removed reference to the costs being borne by the event organiser, since this is standard.
- Provided additional clarification regarding the protection of the environment.
- Provided additional clarification regarding the best practice provision relating to waste minimisation and resource recovery.
- Removed reference to encouraging the use of organic, non-genetically modified, fair trade, healthy food and providing vegan/vegetarian options.
- Provided additional detail regarding sustainable transport.
- Simplified the best practice statement relating to promotion of sustainable practices.
- Clarified that applications for policy exemptions must be made in writing.

A draft Information Sheet – Sustainable Events (refer Attachment 8.1.4c) has been developed by Shire staff. The Information Sheet provides guidance for event organisers on ways to implement the Policy. It is not compulsory to comply with the content of the Information Sheet. Ultimately, it is up to the event organiser how they choose to comply with the mandatory provisions of the final proposed Policy. The Information Sheet only provides best practice ways to do this. The Information Sheet will be revised further throughout the Policy transition period as deemed required by Shire staff.

The Information Sheet provides the following:

- Suggestions on how event organiser may ensure compliance with each of the mandatory and best practice Policy conditions.

- Suggestions for alternatives for each of the mandatory banned products under the Policy.
- Guidance for setting up a washing-up station.
- Event organiser checklist for sustainable events.
- Supplier suggestions and contacts. Note that this section will be completed once Council adopts the final proposed Policy and in consultation with local and regional businesses during the transition period.

Note that the Information Sheet defines bioplastics as a single-use plastic under the Policy, since, without a commercial composting facility on the South Coast, they end up as a litter or landfill and do not easily break down. Hence, they have not been identified as an alternative product to single-use plastics.

The proposed final Policy still provides for exemptions. In consultation with the Shire’s Principal Environmental Health Officer, food-safe gloves are now an automatic exemption in the Policy. All exemptions require written application to the Director Corporate and Community Services.

In consultation with the Shire’s Principal Environmental Health Officer, it is possible to have wash-up stations for reusable crockery and cutlery, at venues where standard kitchen facilities are unavailable eg. Berridge Park, to meet the health and hygiene requirements of the *Australian New Zealand Food Standards Code*. The draft Information Sheet – Sustainable Events (Annex B) provides guidance on meeting these requirements.

Noting that the largest cost associated with implementation of the Policy is provision of recycling bins at all events, if the Shire’s waste contract changes to provide for public recycling bins at popular Shire reserves and all facilities, event organisers could utilise the public bins, providing they were adequate for the size of the event. This currently occurs for the public general waste bins at events. This would decrease costs for Shire and community events.

The Officer still recommends a nine-month transition period for the final proposed Policy, if adopted by Council. This will allow adequate engagement and education to be undertaken by Shire staff (refer to “Consultation” section above) and gradual implementation of the Policy. After the nine-month transition period, the Officer recommends Council and Shire staff review the Policy with referral back to Council, if required, so that any changes deemed required from the outcomes of the transition period can be included in an amended Policy.

**Voting Requirements:**  
Simple majority.

OFFICER RECOMMENDATION	ITEM 8.1.4
<p>That with respect to Policy P100516 - Sustainable Events, Council adopt Attachment 8.1.4b as the final Policy, subject to:</p> <ol style="list-style-type: none"> <li>1. A nine-month transition period to allow Shire staff to undertake engagement with affected stakeholders and promotion of the Policy.</li> <li>2. Shire staff to review the Policy after nine-months with referral back to Council should amendments be deemed required.</li> </ol>	

**8.2 Director Infrastructure and Assets**  
Nil

### 8.3 Director Corporate and Community Services

<b>8.3.1 FINANCIAL STATEMENTS FOR THE PERIOD ENDING 30 JUNE 2018</b>
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<b>File Ref:</b>	FIN.1
<b>Applicant / Proponent:</b>	Not applicable
<b>Subject Land / Locality:</b>	Denmark
<b>Disclosure of Officer Interest:</b>	Nil
<b>Date:</b>	10 August 2018
<b>Author:</b>	Lee Sounness, Corporate Services Manager
<b>Authorising Officer:</b>	Cary Green, Director Corporate and Community Services
<b>Attachments:</b>	8.3.1 – June Monthly Financial Report

**Summary:**

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

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

**Background:**

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

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

**Consultation:**

Nil

**Statutory Obligations:**

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

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

**Policy Implications:**

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

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

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

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

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

**Budget / Financial Implications:**

Depreciation for Infrastructure Assets (roads) has not been expensed since April 1, 2018 due to a revaluation of this asset class. Once accepted, the asset figures and depreciation will be adjusted to new valuations as at June 30, 2018.

**Strategic & Corporate Plan Implications:**

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

Denmark 2027

L5.4 To be fiscally responsible

Corporate Business Plan

4.4.12 Provide Statutory and other relevant information to internal and external stakeholders on a timely basis.

**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	Accept Officer Recommendation

				Compliance Requirements	
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 30 June 2018 total cash funds held total \$12,340,337 (Note 4).

Shire Trust Funds total \$183,843.

- \$181,179 of this is invested for 6 months with the National Bank, maturing 18 Dec 2018 at the quoted rate of 2.47%.

Reserve Funds (restricted) total \$9,957,928

- \$5,346,751 of this has been placed on investment for 30 days with the Western Australian Treasury Corporation at the quoted rate of 1.45%,
- \$3,769,977 has been invested with the National Bank, maturing 28 Dec 2018 at the quoted rate of 2.55%
- \$230,855 has been invested with the National Bank, maturing 2 August 2018 at the quoted rate of 2.40%.
- 610,315 has been invested with the National Australia Bank, maturing 29 Dec 2018 at the quoted rate of 2.55%

Municipal Funds (unrestricted) total \$2,198,567

- \$702,583 of this is invested with the National Bank, maturing on Aug 19 2018 at the quoted rate of 2.45%

Key Financial Indicators at a Glance

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

- Taking into consideration the adopted Municipal Budget and any subsequent year to date budget amendments identified including the mid-year budget review (refer Note 5), the 30 June 2018 end of year surplus is currently \$1,149,879, however this may change after audit and year-end adjustments are completed. Once the adjustments are completed, the surplus is expected to be close to the estimated surplus of \$956,141 as adopted in the 2018/2019 budget.
- The Rates Collection percentage currently sits at 94.36% which is approximately 1.58% lower than for the same period last year (Note 6).
- The 2017/18 Capital Works Program is 74.08% complete utilising actual year to date figures and the total committed cost is 77.72% as at 30 June 2018 (Note 12). – see table below for forecast to June 30, 2018.
- Transfers to and from Reserve Funds have been made for 2017/18 (see Note 7)
- Salaries and Wages expenditure is generally in line with year to date budget estimates (not reported specifically in Financial Statement).

Budget Amendments and Variances (Note 5 and 5a)

Refer to more detailed information contained in Note 5a of the attachment.

Other Information

- Outstanding Rates  
The administration is currently taking action to follow up all outstanding rates owed to Council, with the exception of properties owned by eligible pension or other concession entitlement holders. This process may include referral of any or all amounts overdue to debt recovery specialists for action, and, where necessary, will result in legal proceedings being initiated to assist in pursuing full settlement of the debt.

**Voting Requirements:**

Simple majority.

OFFICER RECOMMENDATION	ITEM 8.3.1
<p>That with respect to Financial Statements for the period ending 30 June 2018, Council;</p> <ol style="list-style-type: none"> <li>1. Receive the Financial Reports, incorporating the Statement of Financial Activity and other supporting documentation.</li> <li>2. Endorse the Accounts for Payment for the months of July 2018 as listed.</li> </ol>	

<b>8.3.1 APPOINTMENT OF COMMUNITY EMERGENCY SERVICES MANAGER AS A BUSH FIRE CONTROL OFFICER</b>
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<b>File Ref:</b>	FIRE.1 & ADMIN.9
<b>Applicant / Proponent:</b>	Not applicable
<b>Subject Land / Locality:</b>	Shire of Denmark
<b>Disclosure of Officer Interest:</b>	Nil
<b>Date:</b>	1 August 2018
<b>Author:</b>	David Schober, Manager, Community Services
<b>Authorising Officer:</b>	Cary Green, Director Corporate and Community Services
<b>Attachments:</b>	No

**Summary:**

This report discusses the need for Scott Medhurst, Council’s recently appointed Community Emergency Services Manager (CESM), to be appointed as a Fire Control Officer (FCO) in order for him to be able to fulfil the duties of his position.

The appointment of the CESM as an FCO improves the resilience of our emergency response capacity as it means that the CESM is able to take control of a fire ground when local volunteer FCOs are not available.

The Officer report recommends that he be appointed to this role.

**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.

The Bush Fires Act 1954 does require the local government to publish appointments made under the Act in a newspaper circulating in its district.

**Statutory Obligations:**

Section 38 of the Bush Fires Act 1954 relates to the appointment of Bush Fire Control Officers.

**38. Local government may appoint bush fire control officer**

(1) A local government may from time to time appoint such persons as it thinks necessary to be its bush fire control officers under and for the purposes of this Act, and of those officers shall subject to section 38A(2) appoint 2 as the Chief Bush Fire Control Officer and the Deputy Chief Bush Fire Control Officer who shall be first and second in seniority of those officers, and subject thereto may determine the respective seniority of the other bush fire control officers appointed by it.

(2A) The local government shall cause notice of an appointment made under the provisions of subsection (1) to be published at least once in a newspaper circulating in its district.

Section 39 outlines the special powers of bush fire control officers.

**Policy Implications:**

Council Delegation D050109 records the Shire of Denmark's authorised Officers under the Bush Fires Act 1954 and will be amended accordingly should Council agree to make the recommended appointment. It is proposed that the Community Emergency Services Manager will be authorised within the entire Shire of Denmark.

**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:

Denmark 2027

- N2.0 Our Natural Environment  
*Our natural environment is highly valued and carefully managed to meet the needs of our community, now and in the future.*
- N2.1 *To preserve and protect the natural environment.*  
N2.3 *To reduce human impact on natural resources, reduce waste and utilised renewable energy.*
- C4.0 Our Community  
*We live in a happy, healthy, diverse and safe community with services that support a vibrant lifestyle and foster vibrant lifestyle and foster community spirit.*
- C4.1 *To have services that foster a happy, healthy, vibrant and safe community.*

Corporate Business Plan

- 1.7.3 *Support the functions of Community Emergency Services in achieving required actions and goals.*  
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.*  
2.3.1 *Support the community in emergency and fire management planning, preparedness, response and recovery.*  
2.3.2 *Maximise community safety through the management of the risks associated with fire.*

**Sustainability Implications:**

➤ **Governance:**

There are known governance considerations relating to the report as Council has the authority, under the Bush Fires Act 1954, to appoint Fire Control Officers.

➤ **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:**

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

➤ **Risk:**

Risk	Risk Likelihood (based on history and with existing controls)	Risk Impact / Consequence	Risk Rating (Prior to Treatment or Control)	Principal Risk Theme	Risk Action Plan (Controls or Treatment proposed)
That Council not appoint the Community Emergency Services Manager as a Fire Control Officer	Unlikely (2)	Moderate (3)	Moderate (5-9)	Inadequate Organisation or Community Emergency Management	Accept Officer Recommendation

**Comment/Conclusion:**

In July 2018, Council appointed numerous Bush Fire Control Officers. This particular appointment will complement the Shire of Denmark’s Bush Fire Control Officers, Senior Ranger and Ranger as Shire of Denmark employees that are authorised Bush Fire Control Officers.

**Voting Requirements:**

Simple majority.

<b>OFFICER RECOMMENDATION</b>	<b>ITEM 8.3.2</b>
<p>That in accordance with Section 38 of the Bush Fires Act 1954, Council;</p> <ol style="list-style-type: none"> <li>1. Appoint the Shire of Denmark’s Community Emergency Services Manager, Scott Medhurst, to the position of Bush Fire Control Officer within the entire Shire of Denmark.</li> <li>2. Authorise the Chief Executive Officer to publish the appointment in the Denmark Bulletin and update Council’s Delegation (Appointments) D050109 to reflect the assignment.</li> </ol>	



**8.4 Chief Executive Officer**

**8.4.1 DRAFT LEASE AND PROPOSED COMMERCIAL (RECEPTION/OFFICE/CAFÉ/BACK-OF-HOUSE FACILITIES BUILDING) DEVELOPMENT - NO. 1 (LOT 1084), RESERVE 46241, INLET DRIVE, DENMARK (RIVERMOUTH CARAVAN PARK)**

<b>File Ref:</b>	LEA.7; A1324 (2016/106)
<b>Applicant / Proponent:</b>	Jenbrook Nominees Pty Ltd
<b>Subject Land / Locality:</b>	No. 1 (Lot 1084), Reserve 46241, Inlet Drive, Denmark
<b>Disclosure of Officer Interest:</b>	Nil
<b>Date:</b>	6 August 2018
<b>Authors:</b>	Claire Thompson, Executive Assistant Annette Harbron, Director Sustainable Development
<b>Authorising Officer:</b>	Bill Parker, Chief Executive Officer
<b>Attachments:</b>	8.4.1a – Draft Lease (Confidential to Councillors) 8.4.1b – Table of Submissions 8.4.1c – Rivermouth Precinct Development Concept Plan 8.4.1d – Plans of Proposed Commercial Development (Reception/Office/Café/Back-of House Facilities Building)

**Summary:**

This report seeks Council’s approval to lease No. 1 (Lot 1084), Reserve 46241, Inlet Drive, Denmark (Rivermouth Caravan Park) to Jenbrook Nominees Pty Ltd for a period of 21 years, as well as Council’s consideration, as landowner, to a development application being lodged for the Reception/Office/Café/Back-of-House Facilities Building.

**Background:**

Lease

At the Ordinary Meeting of Council held on 19 June 2018, Council resolved as follows (Res. No: 120618):

*“That in relation to No. 1 (Lot 1084), Reserve 46241, Inlet Drive, Denmark, Council;*

1. *In accordance with section 3.58 (3) of the Local Government Act 1995, authorises the Chief Executive Officer to give local public notice of the proposed disposal of the subject property to Jenbrook Nominees Pty Ltd.*
2. *Endorses the terms of the proposed disposal to include;*
  - i) *A lease period of 21-years;*
  - ii) *Rental consideration to be based on a market valuation; and*
  - iii) *Annual rent reviews based on the Perth (All Groups) Consumer Price Index with periodic market rent reviews;*
3. *Considers any submissions made and the proposed lease document at the August 2018 Council Meeting.”*

The current lease of the Rivermouth Caravan Park is due to expire on 31 March 2025.

Development Application

At the Ordinary Meeting of Council held on 28 July 2015, Council considered a development proposal for additions/alterations to the Kiosk/Administration Office Building wherein they resolved as follows (Res. No: 230715):

*That with respect to the proposed additions/alterations to the Kiosk/Administration Office Building for Denmark Rivermouth Caravan Park at No. 1 (Lot 1084) Inlet Drive, Denmark, Council:*

1. *Advises the lessee that in principle support is given to the proposal as required under Clause 2 (14), however formal consent is to be deferred until such time as the Shire of Denmark and Jenbrook Nominees Pty Ltd progress discussions on the new Development Plan, such that*

*the level of development, services and facilities provided are appropriate for the Caravan Park site and the Rivermouth Precinct.*

2. *Advises the lessee that the 10 year forecast development plan works submitted for the site, including the proposed additions/alterations to the Kiosk/Administration Office Building, are to form the initial basis for development considerations for the updated Development Plan.*

Having received this advice of this resolution, the lessee chose not to participate in a Council funded development plan process as they felt that it unreasonably interfered in the conduct of their business on publicly owned land and in response submitted their own 10 year development plan for the Caravan Park site only. Further discussions occurred during the intervening period without an agreed outcome.

In June 2016, the lessees submitted a development proposal for a new commercial building comprising of office/reception/café/back-of-house functions to replace the current building on-site, and subsequently advised that they would be prepared to participate in a Council funded joint development plan process and their desire for a new or extended lease.

The new development proposal and desire for a new or extended lease was discussed at the 26 July 2016 Strategic Briefing Session wherein the consensus of Councillors was that the aesthetics of the plan and its connectivity to the foreshore needed further work and that this could be progressed via prepared a Development Concept Plan to guide future development considerations for the Precinct.

At the Ordinary Meeting of Council held on 16 August 2016, Council resolved as follows (Res. No: 090816):

*That Council:*

1. *Form a Rivermouth Precinct Development Concept Plan (RPDCP) Working Group to develop a Concept Plan to guide the future usage and development of the Rivermouth Caravan Park and the Rivermouth Precinct in accordance with the attached Terms of Reference.*
2. *Agree in principle to negotiate a new or extended 21 year lease for the caravan park with clauses that reflect the outcomes of the working group.*
3. *Officers voting rights are removed from the Working Group Terms of Reference.*

In line with the above resolution the Working Group was formed and the Development Concept Plan process progressed accordingly, with Council considering the outcomes of the community consultation process at the Ordinary Meeting of Council held on 19 June 2018 wherein they resolved as follows (Res. No: 050618):

*That with respect to the Rivermouth Precinct Development Concept Plan, Council:*

1. *Note the submissions received;*
2. *Adopt Attachment 8.1.2c as the final Development Concept Plan;*
3. *Advise the submitters of Council's decision;*
4. *Acknowledge the work of the Rivermouth Precinct Development Concept Plan Working Group in the development of the Development Concept Plan to guide the future usage and development of the Caravan Park and the Rivermouth Precinct.*
5. *Formally cease the Rivermouth Precinct Development Concept Plan Working Group given the Working Group's aim to develop the Development Concept Plan is now complete.*

Attached at 8.4.1c is the Rivermouth Precinct Development Concept Plan for Council's reference.

In July 2018 the lessee's advised that they are now seeking to formally lodge a development application for a new reception/office/café/back-of-house facilities building on-site – refer Attachment 8.4.1d.

As per the provisions of the current and draft lease (which is the subject of this report), and the Shire of Denmark's Procedure *OP040239: Construction of New or Significant Alterations to Building Structures on Council Land*, owner approval of the proposed development is required to be obtained prior to formal assessment of a Development Application. In this regard, as per Delegation 130311: *Building Structures on Council Land*, the Chief Executive Officer only has delegation to sign on behalf of Council as the landowner for minor developments (defined as gazebos, verandahs, sheds and fences), with all major development applications to be referred to Council for Council consideration.

**Consultation:**Lease

Consultation has occurred with the Lessee, Council Officers and Shire Solicitors.

Details of Council's intention to dispose of the property was provided by public notice and advertised as follows;

- Shire's website;
- Shire's Facebook page;
- Shire's Notice Boards;
- Councillors and Staff;
- Email direct to the Department of Planning (Albany);
- Albany Advertiser;
- Great Southern Weekender; and
- Denmark Community Resource Centre.

The public notice was not able to be published in the Denmark Bulletin given the timeframe required for submissions (minimum 14 days) as the Denmark Bulletin took leave which would have resulted in a delay in bringing the item and submissions back to Council for consideration.

13 public submissions were received and were all in support of the disposal (see Attachment 8.4.1b).

Comment was specifically requested from the Department of Planning, Lands and Heritage (Land Use Planning), particularly in relation to coastal management and policies and their response is included in the schedule of submissions.

Development Application

The Rivermouth Precinct Development Concept Plan was the subject of extensive community consultation therefore it is not considered that the development application is required to be the subject of further consultation – noting that a "Caravan Park" and "Restaurant" are "AA" landuses in the 'Tourist' zone thus are not required to be the subject of public advertising prior to determination.

**Statutory Obligations:**

Section 3.58 of the Local Government Act 1995 relates to a local governments requirements when disposing of property. "Disposal" includes to sell, lease, or otherwise dispose of.

The Public Notice described the property, the details of the disposition and invited submissions.

**Policy Implications:**

There are no policy implications.

**Budget / Financial Implications:**

A market valuation has been obtained from a licensed independent valuer. The market rental value for lease area is \$60,000 per annum (excluding GST).

The draft lease stipulates that the rent will be increased by CPI annually and a market review will be conducted every three (3) years.

#### **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:

#### *Lease*

##### Denmark 2027

L5.0 The Shire of Denmark is recognised as a transparent, well governed and effectively managed Local Government

L5.4 To be fiscally responsible

B3.2 To have community assets that are flexible, adaptable and of high quality to meet the purpose and needs of multiple users

#### *Development Application*

##### Denmark 2027

B3.0 Our Built Environment

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

*B3.2 To have community assets that are flexible, adaptable and of high quality to meet the purpose and needs of multiple users.*

*B3.4 To manage assets in a consistent and sustainable manner.*

#### Corporate Business Plan

3.7.1 *Continue to support new sustainable tourism development (across accommodation, activity, attraction, amenity, access sectors) that will contribute to growth in tourism; as well as supporting improvements to existing tourism.*

#### **Sustainability Implications:**

##### ➤ **Governance:**

The lease has been drafted by solicitors and the disposal process required under the Local Government Act 1995 have been adhered to.

##### ➤ **Environmental:**

The draft lease includes a 12 metre vegetation buffer between the Caravan Park and Inlet Drive which the Lessee must retain. The Lessee is also responsible for maintaining the grassed area on the river foreshore to the satisfaction of the Lessor.

##### ➤ **Economic:**

A new lease will provide the Lessee with security of tenure to develop and continue to manage a significant tourism business in the Shire.

##### ➤ **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 the Council does not agree to a new 21 year lease.	Unlikely (2)	Moderate (3)	Moderate (5-9)	Ineffective Management of Facilities and Events	Accept Officer Recommendation
That Council does not support the proposed reception/office/ café/back-of-house facilities building, thus not supporting the development application as landowner	Unlikely (2)	Insignificant (1)	Low (1-4)	Inadequate Engagement – Community / Stakeholders / Crs	Accept Officer Recommendation

**Comment/Conclusion:**

Lease

The draft lease attached is the result of negotiation between Shire Officers and the proponent (see Attachment 8.4.1a – provided to Councillors under separate cover).

The key discussions to date have included;

1. *The Lease Term*

The proponents have requested a new 21-year lease, from the date of execution. This will give the Lessee greater certainty of tenure and further development of the Rivermouth Caravan Park into the future.

2. *Obligations on Expiry or Termination of Lease*

The current lease includes a mechanism for the Shire to purchase the proponents improvements at the end of the lease term. The clauses are ambiguous and not ideal from the Shire’s perspective. A new lease provides an opportunity to clearly articulate the obligations of both parties at the end of the lease term.

3. *Completion of Development Plan*

In discussing a new lease, the parties discussed the Rivermouth Caravan Park’s development plan and includes provisions to ensure that the works are completed in a timely manner.

4. *Maintenance of the Foreshore*

Both the Planning and Sustainability and Infrastructure Directorates provided input into this component of the lease. Both Directorates felt that the Shire should maintain the foreshore area rather than the lessee. In consultation with the lessee, the Shire has decided to maintain the status quo with the lessee maintaining the foreshore area. The main reason for this is that the lessee will require a higher level of service than what the Shire is able to provide. Being an important community and tourist asset, it was decided that the lessee was best placed to continue maintaining the site.

The current lease between the Shire and Jenbrook Nominees Pty Ltd will need to be terminated should Council agree to enter into a new lease commencing on the date of execution.

**Development Application**

Having regard to the Rivermouth Precinct Development Concept Plan and the draft lease (which is the subject of this report as well), it is considered that the proposal is generally consistent in terms of location and landuse. The Development Concept Plan does reference that the design principle of “New built structures to follow the design language established for the Rivermouth Foreshore Development Plan, and incorporate layered natural and composite timbers and materials”, thus it is recommended that Council, as the landowner, should require that the lessees not use colorbond associated with the café component of the building in favour of a composite timber proposal or similar.

The Shire’s Development Co-ordination Unit has undertaken a preliminary review of the plans and there are no fundamental flaws with the proposal – noting issues such as disability access and compliance with AHD requirements for the site can be addressed as part of the assessment process for the development application and/or the building permit.

**Voting Requirements:**

Simple majority.

<b>OFFICER RECOMMENDATION</b>	<b>ITEM 8.4.1</b>
<p>That in relation to No. 1 (Lot 1084), Reserve 46241, Inlet Drive, Denmark, Council;</p> <ol style="list-style-type: none"> <li>1. Note the submissions received in relation to the lease.</li> <li>2. Surrender the current lease with Jenbrook Nominees Pty Ltd effective from the date of execution of the new lease.</li> <li>3. Accept the conditions of the draft lease with Jenbrook Nominees Pty Ltd for a period of 21 years effective from the date of execution, as per Attachment 8.4.1a.</li> <li>4. Authorise the Chief Executive Officer and the Shire President to execute the lease documentation.</li> <li>5. Consent as the landowner to the development application for the proposed Commercial (Reception/Office/Café/Back-of-House Facilities Building) Development subject to the café component of the building being constructed/clad in a composite timber material (or similar) and not colorbond as is currently shown.</li> </ol>	

**8.4.2 MARKYT COMMUNITY SCORECARD**

<b>File Ref:</b>	PBR.23
<b>Applicant / Proponent:</b>	Not applicable
<b>Subject Land / Locality:</b>	Not applicable
<b>Disclosure of Officer Interest:</b>	Nil
<b>Date:</b>	8 August 2018
<b>Author:</b>	Teiga Murray, Corporate Planning Officer
<b>Authorising Officer:</b>	Bill Parker, Chief Executive Officer
<b>Attachments:</b>	8.4.2 – MARKYT Community Scorecard

**Summary:**

The purpose of this report is to receive the results of the 2017/18 Catalyse MARKYT Community Scorecard and endorse the measures contained within the report as key performance indicators for the Strategic Community Plan, Denmark 2027, and the Shire’s future Corporate Business Plan.

**Background:**

In March 2018 the Shire of Denmark sought proposals from three providers to undertake an annual community perception survey to understand community levels of satisfaction and establish

key performance indicators for the Shire of Denmark's Strategic Community Plan, Denmark 2027, and future Corporate Business Plan.

Catalyse was selected as the preferred provider due to their competitive pricing and extensive experience providing community perception surveys for over 40 Local Governments across Western Australia. In addition, Catalyse provided the ability to benchmark the results of the survey against the results of other regional and metropolitan Councils, enabling the Shire to access industry benchmark and industry high scores, providing an additional level of analysis that has previously been unattainable.

In May 2018, survey invitations were sent to 3,000 randomly selected households, with 1,000 invitations sent by mail and 2,000 by email. To ensure a statistically valid sample the Shire was seeking a response of approximately 400 completed surveys. In total, 563 responses were submitted, reducing the sampling error to  $\pm 4.26\%$  at the 95% confidence interval.

Of these respondents, 529 respondents were randomly selected and a further 34 opted in to take part through a referral from a community group, family or friend. Analysis of the responses from the random and referred sample showed significant differences in the results, with Catalyse reporting on these outcomes separately. The main body of the report presents responses from the random sample. The referred sample is referred to in the report on pages 95-97, with a comparison table outlining the results against the random sample.

Questions within the survey were aligned to the themes of the Shire's Strategic Community Plan, Denmark 2027, with the Shire utilising Catalyse standard questions where possible in order to provide the opportunity to benchmark the results.

**Consultation:**

A random sample of 3,000 residents were independently selected by Catalyse to undertake the MARKYT Community Scorecard from the Shire's Ratepayer, Library, Recreation Centre and Denmark 2027 Community Engagement databases.

**Statutory Obligations:**

There are no statutory implications.

**Policy Implications:**

The officer recommends the review of policies:

- P040132 Privacy Policy, to clarify the release of ratepayer information to third parties (such as Catalyse) for Shire of Denmark use; and
- P040130 Biennial Community Needs & Customer Satisfaction Survey, to reflect the Shire's approach to undertaking an annual MARKYT Community Scorecard.

**Budget / Financial Implications:**

The cost for delivering a MARKYT Community Scorecard is \$10,000 plus postage, with the Shire investigating a regional pricing model (to reduce costs) with all other Local Governments in the Great Southern, as part of the Shire's membership of the Regional Peer Support Program.

**Strategic & Corporate Plan Implications:**

The report and officer recommendation is consistent with Council's adopted Strategic Community Plan Aspirations and Objectives and the Shire's future Corporate Business Plan as it provides key performance indicators for both components of the Integrated Planning and Reporting Frameworks, through supporting and monitoring the successful delivery of each strategic aspiration.

**Sustainability Implications:**

➤ **Governance:**

The MARKYT Community Scorecard provides the Shire of Denmark with the opportunity to better understand community perceptions and benchmark our performance across key services and facilities over time and across the industry.

Reporting against the aspirations and objectives of the Strategic Community Plan is a key recommendation of the Integrated Planning and Reporting Framework and utilising an external provider to undertake this reporting ensures that the process is open and transparent and the results are professionally analysed and reported.

➤ **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 endorse the MARKYT Community Scorecard questions and results as Key Performance Indicators (and subsequent baselines) for the Strategic Community Plan and future Corporate Business Plan	Possible (3)	Minor (2)	Low (1-4)	Not Meeting Community expectations	Accept Officer Recommendation

**Comment/Conclusion:**

The results from the MARKYT Community Scorecard indicate that residents are very positive about the Shire of Denmark as a place to live and visit. Higher performing areas include library and information services, festivals, events, art and cultural activities, customer service, safety and security, and playgrounds, parks and reserves.

Areas with the lowest performance scores included agricultural development, how open and transparent Council processes are, services and facilities for youth, and planning and building approvals.

As a place to live, the Shire of Denmark received a performance index score of 82 out of 100, 6 Index Points above the MARKYT Industry Standard. As a governing organisation, the Shire of Denmark received a performance index score of 48; 9 Index Points below the MARKYT Industry Standard.



Performance scores tended to be higher among seniors and people born overseas, with performance scores lower among renters, younger adults, families with young children (0-12 years) and residents who live in outer areas.

The results of the MARKYT Community Scorecard support the need for improvement in the delivery and communication of a number of key Shire services and processes. Many of the results mirror the priorities raised during the review of the Strategic Community Plan, with the Shire receiving low performance scores in areas that were identified as major priorities for the community (for example agricultural development and community engagement). Actions contained within the Shire’s soon to be adopted Corporate Business Plan will seek to improve the Shire’s standing in these areas, with performance tracked through the results of the annual scorecard.

The MARKYT Community Scorecard represents a shift from the Shire’s previous Biennial Community Needs and Customer Satisfaction Survey, which was administered in-house and only once every two years. Differences in the reporting styles of the former Biennial Community Needs and Customer Satisfaction Survey and MARKYT Community Scorecard are highlighted in Attachment 8.4.2.

The Shire wishes to commit to undertaking an annual scorecard, with the use of an external provider ensuring that the process is open and transparent and the results are professionally analysed and reported. Annual surveys will support the Shire and Council in decision making and prioritising projects and actions for delivery in the Corporate Business Plan, ensuring that community expectations are better understood and the impact of new actions and activities are able to be analysed to assess their impact on levels of satisfaction within the community.

Following the release and finalisation of the report, on 7 August 2018, the Shire of Denmark received formal advice from Catalyse that all personal data that was provided to Catalyse by the Shire of Denmark in relation to the MARKYT Community Scorecard had been destroyed.

In undertaking the MARKYT Community Scorecard, various issues were identified in terms of the Shire’s Privacy Policy and previous policies associated with the Biennial Community Needs and Customer Satisfaction Survey. The Privacy Policy needs to be reviewed to provide more clarity to staff and consider the concerns raised by residents during the survey process. In terms of the Biennial Community Needs and Customer Satisfaction Survey, all policies and procedures relating to this methodology need to be updated to reflect the Integrated Planning and Reporting Framework.

**Voting Requirements:**

Simple majority.

OFFICER RECOMMENDATION	ITEM 8.4.2
<p>That with respect to the 2017/18 MARKYT Community Scorecard, Council:</p> <ol style="list-style-type: none"> <li>1. Receive the report and results contained therein;</li> <li>2. Endorse the measures within the report as key performance indicators for the Strategic Community Plan, Denmark 2027, and the future Corporate Business Plan;</li> <li>3. Agree to undertake a MARKYT Community Scorecard annually, allowing the Shire to benchmark their performance over time;</li> <li>4. Agree to review the P040132 Privacy Policy, to clarify the release of ratepayer information to third parties for Shire of Denmark use; and</li> <li>5. Agree to review policy P040130 Biennial Community Needs &amp; Customer Satisfaction Survey to reflect an annual MARKYT Community Scorecard.</li> </ol>	

**9. COMMITTEE REPORTS & RECOMMENDATIONS**

**9.1 BUSH FIRE ADVISORY COMMITTEE - SHIRE OF DENMARK FIRE MANAGEMENT NOTICE 2018/19**

<b>File Ref:</b>	FIRE.1
<b>Applicant / Proponent:</b>	Not applicable
<b>Subject Land / Locality:</b>	All Privately held land within the Shire of Denmark
<b>Disclosure of Officer Interest:</b>	Nil
<b>Date:</b>	1 August 2018
<b>Author:</b>	David Schober, Manager, Community Services
<b>Authorising Officer:</b>	Cary Green, Director, Corporate and Community Services
<b>Attachments:</b>	9.1 – Draft 2018/19 Fire Management Notice including definitions

**Summary:**

This report recommends that Council adopt the 2018/19 Annual Fire Management Notice which incorporates minor changes endorsed by the Bush Fire Advisory Committee (BFAC).

**Background:**

At the BFAC meeting held on 26 June 2018 the notice was discussed and the following decision was made;

*“The Shire of Denmark 2018/19 Fire Management Notice to be reworded from ‘open’ to ‘no permit required’ and the word ‘unrestricted’ in the definitions be changed to read ‘no permit required; you may light an open fire but you must have the means to extinguish or control and contain the fire within the boundaries of the property’.”*

**Consultation:**

During the review process the following were consulted;

- Bush Fire Advisory Committee
- Relevant Shire staff

Once adopted and printed, an accompanying letter outlining and explaining the adjustments will be mailed out with the notice.

During the month of October (Bushfire Awareness month) information sessions will be scheduled for the public to attend where questions can be asked and further information given.

**Statutory Obligations:**

Section 33 (1) of the *Bush Fires Act 1954* says a Local Government “*may give notice to an owner or occupier situated within the district of the local government or shall give notice to all owners or occupiers of land in its district...*”.

Section 33 (2) of the *Bush Fires Act 1954* says that a notice in writing may be given to an owner or occupier of land by posting it to him at his last postal address known to the local government and may be given to an owner of land by posting it to him at the address shown in the rate record kept by the local government.

**Policy Implications:**

Council has several policies relevant to the Fire Management Notice. The Fire Management Notice will align with these policies which are;

- Policy P050101      Burning of Garden Refuse
- Policy P050102      Camping & Cooking Fires

**Budget / Financial Implications:**

The Fire Management Notice will be published in the Government Gazette, providing notice to all owners and occupiers in the district at a cost of approximately \$450, this can be accommodated under Council's advertising budget.

Printed copies of the Notice will be posted to all Ratepayers at a cost of approximately \$3,400, this can be accommodated under the Council's allocated budget (GL1510522).

Additional copies can be printed at the Shire Office upon request and an electronic version will be available on the Shire's website.

### **Strategic & Corporate Plan Implications:**

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

#### Denmark 2027

##### N2.0 Our Natural Environment

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

*N2.1 To preserve and protect the natural environment.*

*N.2.3 To reduce human impact on natural resources, reduce waste and utilised renewable energy.*

##### C4.0 Our Community

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

#### Corporate Business Plan

*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.*

*2.3.2 Maximise community safety through the management of the risks associated with fire.*

*2.3.6 Review the Fire Regulation Notice and ensure compliance.*

### **Sustainability Implications:**

#### ➤ **Governance:**

In the Officer's opinion, it is in the best interests of a Local Government to publish and distribute a Fire Management Notice to assist with preventing the spread or extension of bushfire within the district.

#### ➤ **Environmental:**

Management of potential risks associated with bushfire plays a role in protection of the natural environment.

#### ➤ **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 Shire of Denmark not having a Fire Management Notice in place to manage property preparedness.	Rare (1)	Moderate (3)	Low (1-4)	Inadequate Natural Environment Management Practices and possible issues relating to infrastructure and public safety.	Accept Officer Recommendation

**Comment/Conclusion:**

In summary the minor modifications to the 2018/19 Fire Regulation Notice are as follows;

- The minor change to the document is the wording and slight change of format; the Fire Management Notice will comprise of three A4 pages;  
 Page 1 – *First & Final Notice and Dates to Remember*  
 Page 2 – *Requirements*  
 Page 3 – *Fire Control Officers*

The Notice will be printed and mailed out and it will also be available to view on the Shire’s website. The remaining pages – Explanatory Notes, Definitions and Variation to Fire Management Notice Application Form will be posted on the Shire website to view and also download.

The Officer fully supports the changes of the content and format of the notice as recommended by the Bush Fire Advisory Committee and recommends that Council support the Officer Recommendation.

Through the use of a Fire Management Notice the Shire of Denmark and the community can better manage the risks associated with fire.

The Fire Management Notice presented is for the 2018/19 Bushfire season with the compliance date being 1<sup>st</sup> December 2018. In order for the notice to printed and distributed to property occupiers and owners and to enable them to comply, it is necessary for the notice to be adopted at this Council meeting.

**Voting Requirements:**

Simple majority.

COMMITTEE RECOMMENDATION

ITEM 9.1

That the Committee recommends to Council that they;

1. *“The Shire of Denmark 2018/19 Fire Management Notice to be reworded from ‘open’ to ‘no permit required’ and the word ‘unrestricted’ in the definitions be changed to read ‘no permit required; you may light an open fire but you must have the means to extinguish or control and contain the fire within the boundaries of the property’.”*

The Officer has incorporated the recommended changes from the Bush Fire Advisory Committee into the draft Fire Management Notice (attached), given the timeframe with the impending 2018/19 Fire Season and the need for property owners to start preparing.

**OFFICER RECOMMENDATION**

ITEM 9.1

That Council adopt the 2018/19 Fire Management Notice pursuant to Section 33 (1) of the Bush Fires Act 1954, as per Attachment 9.1.

**10. MATTERS BEHIND CLOSED DOORS**

Nil

**11. NEW BUSINESS OF AN URGENT NATURE INTRODUCED BY DECISION OF THE MEETING****12. CLOSURE OF MEETING**