

Shire of Denmark

Ordinary Council Meeting

AGENDA

21 DECEMBER 2021



TO BE HELD IN COUNCIL CHAMBERS, 953 SOUTH COAST HIGHWAY, DENMARK ON TUESDAY, 21 DECEMBER 2021, COMMENCING AT 4.00PM.



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Strategic Community Plan (snapshot)

E1.0

Our Economy

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

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

N2.0

Our Natural Environment

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

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

B3.0

Our Built Environment

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

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

C4.0

Our Community

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

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

L5.0

Our Local Government

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

- L5.1 To be high functioning, open, transparent, ethical and responsive
- L5.2 To have meaningful, respectful and proactive collaboration with the community
- L5.3 To be decisive and to make consistent and well considered decisions
- L5.4 To be fiscally responsible
- L5.5 To embrace change, apply technological advancement and pursue regional partnerships that drive business efficiency
- L5.6 To seek two-way communication that is open and effective

Table of Contents

1. DECLARATION OF OPENING/ANNOUNCEMENT OF VISITORS	4
2. RECORD OF ATTENDANCE/APOLOGIES/APPROVED LEAVE OF ABSENCE	4
3. DECLARATIONS OF INTEREST	4
4. ANNOUNCEMENTS BY THE PERSON PRESIDING	4
5. PUBLIC QUESTION TIME	4
5.1 RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE	4
5.2 PUBLIC QUESTIONS	6
5.3 QUESTIONS BY MEMBERS OF WHICH DUE NOTICE HAS BEEN GIVEN	6
5.4 PRESENTATIONS, DEPUTATIONS & PETITIONS	7
6. APPLICATIONS FOR FUTURE LEAVE OF ABSENCE	7
7. CONFIRMATION OF MINUTES	7
7.1 ORDINARY COUNCIL MEETING – 16 NOVEMBER 2021	7
7.2 STRATEGIC BRIEFING NOTES – 16 NOVEMBER 2021	7
8. ELECTED MEMBERS MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN	8
9. REPORTS OF OFFICERS	8
9.1 DIRECTOR ASSETS AND SUSTAINABLE DEVELOPMENT	8
9.1.1 SCHEME AMENDMENT 151	8
9.2 DIRECTOR CORPORATE AND COMMUNITY SERVICES	11
9.2.1 FINANCIAL STATEMENTS FOR THE PERIOD ENDED 31 OCTOBER 2021	11
9.2.2 LIST OF PAYMENTS FOR THE PERIOD ENDING 31 OCTOBER 2021.....	14
9.2.3 INVESTMENT REPORT FOR THE PERIOD ENDED 30 OCTOBER 2021	16
9.3 CHIEF EXECUTIVE OFFICER	19
9.3.1 LIGHT INDUSTRIAL AREA FIREWATER SERVICE	19
9.3.2 2020-2021 AUDIT, FINANCIAL AND ANNUAL REPORT, GENERAL MEETING OF ELECTORS.....	27
9.3.3 ORDINARY COUNCIL MEETING DATES FOR 2022.....	30
9.3.4 DELEGATIONS REVIEW 2021	34
9.3.5 APPOINTMENT OF COUNCIL MEMBERS AND DELEGATES	39
9.3.6 BEVANS (WA) PTY LTD – FISHERMANS LEASE RENEWAL	45
9.3.7 CONTINUING PROFESSIONAL DEVELOPMENT POLICY – ELECTED MEMBERS.....	52
10. COMMITTEE REPORTS AND RECOMMENDATIONS	53
10.1 BUSH FIRE ADVISORY COMMITTEE MINUTES – 2 SEPTEMBER 2021.....	53
11. MATTERS BEHIND CLOSED DOORS	56
11.1 COMMUNITY CITIZEN OF THE YEAR AWARDS 2021	56
11.2 SPORTSPERSON OF THE YEAR AWARDS 2021	59
12. NEW BUSINESS OF AN URGENT NATURE	61
13. CLOSURE OF MEETING	61

- 1. **DECLARATION OF OPENING/ANNOUNCEMENT OF VISITORS**
- 2. **RECORD OF ATTENDANCE/APOLOGIES/APPROVED LEAVE OF ABSENCE**

MEMBERS:

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

STAFF:

David Schober (Chief Executive Officer)
 Gina McPharlin (Director Corporate & Community Services)
 Claire Thompson (Governance Coordinator)
 Lisa Sanders (Executive Support Officer)
 Jasmin Tothill (Senior Town Planner)

APOLOGIES

David King (Deputy Chief Executive Officer)

ON APPROVED LEAVE(S) OF ABSENCE

ABSENT

VISITORS

- 3. **DECLARATIONS OF INTEREST**

Name	Item No	Interest	Nature

- 4. **ANNOUNCEMENTS BY THE PERSON PRESIDING**

- 5. **PUBLIC QUESTION TIME**

5.1 RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE

Karen presented a petition that had 412 signatures. The petition preamble read as follows;

“We the undersigned are opposed to the new changes to the Dog Exercise Area (Leash Free) at Reserve 20578, known as Prawn Rock Channel including the adjoining Wilson Inlet delta and sandflats.

We call on the Shire to:

1. *Reject the changes to this area as per Resolution 060521 (18 May 2021 Denmark Council Meeting).*
2. *Return the area to Resolution 131114, **Point 2**, (11 Nov. 2014 Denmark Council Meeting).”*

Karen asked the following questions:

1. [Request] that the Shire repeal the decision of 18th May 2021 Resolution 060521, which significantly reduced the Dog Exercise Area at Prawn Rock and the adjoining sandflats and return it to Resolution 13114 [sic], 11th November 2014 until a more equitable and fair solution can be agreed upon for all users of the area.

RESPONSE:

Officers provided a report to council at the May 2021 Ordinary Council Meeting (OCM) leading to resolution 060521. Officers do not consider the need for a review at this time.

2. (Request) that the Shire resubmit for Public Comment [sic] a more detailed survey of the Prawn Rock Off Lead Dog Area that includes questions clearly stating and asking for comments relating to a permanent (sic) reduction of dog access to a significant section of the area. That the area be clearly identified.

RESPONSE:

Officers provided a report to council, including community consultation and information, at the May 2021 OCM, leading to resolution 060521. There will be further community consultation and engagement on the Ocean to Channel Precinct Concept Plan in 2022.

3. Where was the survey distributed?

RESPONSE:

The 'Dog Areas' consultation was undertaken using the Your Denmark webpage which provided information on the relevant legislation, existing dog areas and bird sanctuary proposal.

Consultation opened on 20 September 2020 and closed on 1 November 2020.

The webpage was well visited with a total of over 1200 people accessing the information. The key statistics included:

- 78 visitors engaged (answered the survey)
- 417 visitors informed (downloaded some additional information)
- 821 visitors aware (visited the page but no downloads or surveys completed)

4. Why was the survey originated?

RESPONSE:

The Dog Areas Policy had not been reviewed since 2014. The survey sought feedback to inform the development of a revised Policy.

5. Who designed the survey?

RESPONSE:

Community consultation around the Dog Policy review and Ocean to Channel Precinct Concept Plan was designed and administered by Shire Officers.

6. When is it to be reviewed?

RESPONSE:

There are no statutory requirements on the timeframes that a Policy requires review. However, there will be further community consultation and engagement on the Ocean to Channel Precinct Concept Plan in 2022.

5.2 PUBLIC QUESTIONS

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

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

In accordance with 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

5.3 QUESTIONS BY MEMBERS OF WHICH DUE NOTICE HAS BEEN GIVEN

The following Questions on Notice were received by the Chief Executive Officer (CEO) from Councillor Jan Lewis in writing on Monday 22nd November 2021 and therefore complies with the Shire of Denmark Standing Orders Local Law clause 3.10.

At the Ordinary Council Meeting of 15th December 2020 Council considered item:

9.1.1 RECONSIDERATION - PROPOSED TOTAL SIGNAGE PLAN – NO.69 (STRATA LOT 1/LOT 75) SOUTH COAST HIGHWAY, DENMARK

The proponent challenged the decision of Council (res. no. 111220) in the State Administrative Tribunal (SAT).

Could the Chief Executive Officer please:

1. Update Council on the outcome of these SAT hearings.

RESPONSE:

The application for review was dismissed. The decision on the respondent (Shire of Denmark) was affirmed

2. Detail the costs incurred by the Shire in defending this Council decision.

RESPONSE:

\$25,144 and approximately 50 hours of officer time

3. Comment on the viability of initiating, in the interests of transparency, a reporting mechanism whereby the results of any matters that are referred to the SAT are included in the Agenda of an Ordinary Council Meeting (OCM).

RESPONSE:

As a matter of practice, officers would advise the Council of progress and outcomes of any SAT related matters.

Legislatively, the Local Government Act requires that officers report on any reportable over expenditure so that Council, and the public, can be aware of any escalating costs resulting from unforeseen legal fees.

As a result of the above practices and legislation a reporting mechanism would need to be implemented with a Policy position. Officers do not recommend introducing a new reporting mechanism/process which would duplicate this course of action

5.4 PRESENTATIONS, DEPUTATIONS & PETITIONS

In accordance with Section 5.24 of the Local Government Act 1995, Sections 5, 6 and 7 of the Local Government (Administration) Regulations and section 3.3 and 3.13 of the Shire of Denmark Standing Orders Local Law, the procedure for persons seeking a deputation and for the Presiding Officer of a Council Meeting dealing with Presentations, Deputations and Petitions shall be as per Council Policy P040118 which can be downloaded from 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.

BRICKS AND MORTAR HOUSING ASSOCIATION (BAMHA)

BAMHA members will outline their purpose, objectives and activities for Council’s information.

6. APPLICATIONS FOR FUTURE LEAVE OF ABSENCE

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

7. CONFIRMATION OF MINUTES

7.1 ORDINARY COUNCIL MEETING – 16 NOVEMBER 2021

OFFICER RECOMMENDATION	ITEM 7.1
That the minutes of the Ordinary Meeting of Council held on the 16 NOVEMBER 2021 be CONFIRMED as a true and correct record of the proceedings.	

7.2 STRATEGIC BRIEFING NOTES – 16 NOVEMBER 2021

OFFICER RECOMMENDATION	ITEM 7.2
That the Notes from the Strategic Briefing Forum held on 16 NOVEMBER 2021 be RECEIVED.	

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

Nil

9. REPORTS OF OFFICERS**9.1 DIRECTOR ASSETS AND SUSTAINABLE DEVELOPMENT****9.1.1 SCHEME AMENDMENT 151**

File Ref:	TPS3/SA151
Applicant / Proponent:	Williams Consulting on behalf of G Robertson
Subject Land / Locality:	Strata Lot 25, Lot 2 (#429) Mount Shadforth Road, Shadforth
Disclosure of Officer Interest:	None
Date:	1 December 2021
Author:	Craig Pursey, Manager Sustainable Development
Authorising Officer:	David King, Deputy Chief Executive Officer
Attachments:	9.1.1a - Scheme Amendment 151 document 9.1.1b - Karri Mia Development Guide Plan

Summary:

Council is to consider initiating a scheme amendment that would allow the undeveloped portion of the Karri Mia tourist development to be subdivided and developed independently of the remainder of the site.

The purpose of this report is:

- To formally present to Council the draft Scheme Amendment 151 proposal, Attachment 9.1.1a; and
- For Council to determine whether it supports the proposal in-principle with or without modifications.

Background:Subject Site

Lot 2 Mount Shadforth Road, Shadforth is located approximately 4 kilometres west of the Denmark Town Centre. It is zoned Tourist Zone No.1 by the Shire of Denmark Town Planning Scheme No.3 (the Scheme). The site is located on a tourist route and forms part of the Karri Mia Bungalows tourist development; refer to Figures 1 and 2 of the Scheme Amendment document, Attachment 9.1.1a.

Tourist Zone No.1 (Karri Mia Tourist Zone) is developed with a restaurant, caravan park, motel, spa retreat, and chalet development.

The land has been subdivided and strata-titled in accordance with the Karri Mia Development Plan 09-16-DP(t) found in Attachment 9.1.1b.

Lot 2 within the Karri Mia Tourist Zone has been strata titled to allow each strata title lot to be developed with a dwelling and several chalets.

The applicant states that the landowner has undertaken significant efforts over several years to develop this portion of the site under the existing strata scheme. Market feedback has identified that a separate strata scheme is required to secure investment to facilitate future tourist development.



A 2.2ha portion of the Lot 2 (Strata Lot 25) remains undeveloped.

Proposal

The landowner wishes to amend the scheme that limits further subdivision of Lot 2 to strata title subdivision only by Amending Appendix XIII – Schedule of Tourist Zones – Tourist Zone 1 Condition (ii), of the Scheme text by inserting the following wording:

“Subdivision of Lot 84 (proposed Lot 2) shall be of strata title only, except to create a single freehold lot for the portion of the site containing lots SR19 – SR26 (inclusive) as shown on the Karri Mia Development Plan: 09-16-DP(t), or any minor variation thereto approved by Council.”

The applicant justifies this amendment because this amendment will enable the undeveloped portion of the site to be subdivided from Lot 2, enabling it to be located on its own freehold lot. This will allow the landowner to secure investment to develop additional tourist accommodation via a separate strata scheme.

Consultation:

Preliminary discussions advice from the Albany office of the Department of Planning, Lands and Heritage (DPLH) indicated that a scheme amendment would be required if Strata Lot 25 were to be converted to a green title lot.

Statutory Obligations:

Planning and Development (Local Planning Schemes) Regulations 2015

Regulation 35 prescribes the resolution required to prepare or adopt an amendment to the local planning scheme.

Division 3 outlines the process for standard amendments to the local planning scheme.

Policy Implications:

The following documents have been given consideration:

- *State Planning Policy No. 3: Urban Growth and Settlement*

- State Planning Policy 3.7: Planning in Bushfire Prone Areas
- Government Sewerage Policy
- Planning Bulletin 83/2013: Planning for Tourism
- Denmark Tourism Strategy – Stage 1

Budget / Financial Implications:

Nil

Strategic & Corporate Plan Implications:

The site is designated ‘Tourist’ in the Local Planning Strategy (2011). The proposal is accordingly inconsistent with the Local Planning Strategy.

The report and officer recommendation are 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

B3.0 Our Built Environment

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

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:**

The applicant has stated that the current restriction stipulating strata title only has resulted in the further development of this Tourist zone being unviable.

➤ **Social:**

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

➤ **Risk:**

Risk	Risk Likelihood (based on history and with existing controls)	Risk Impact / Consequence	Risk Rating (Prior to Treatment or Control)	Principal Risk Theme	Risk Action Plan (Controls or Treatment proposed)
That Council not adopt (initiate) Scheme Amendment 151	Possible (3)	Minor (2)	Moderate (5-9)	Not Meeting Community expectations	Accept Officer Recommendation

Comment/Conclusion:

This Scheme Amendment seeks to enable the green title subdivision of the vacant portion of Lot 2 (being known as Strata Lot 25). The requirements of the adopted Development Plan and design guidelines remain in place, including bushfire management, servicing, design guidelines, and access.

While Tourism planning principles encourage a single point of management for a tourist development to improve the tourist experience, in this case, a second lot (fragmenting the overall site) is supported for the following reasons:

- The proposed lot faces another direction and functions as a stand-alone property.

- The caravan park, restaurant, motel, Chimes Spa Retreat, and Karri Mia strata scheme already break the tourist zone into smaller parcels.
- Creating another small parcel within this zone provides the opportunity to provide another tourist product with its own distinct identity, attracting different clientele to the tourist precinct and incentivising its development.

Karri Mia Development Plan: 09-16-DP(t)

Karri Mia Development Plan (Development Plan) currently guides development and subdivision in Tourist Zone No.1.

The proposed changes may necessitate minor amendments to this plan to allow for a manager’s residence on the new green title lot; this is a separate process initiated if the amendment was successful.

Voting Requirements:

Simple majority.

OFFICER RECOMMENDATION	ITEM 9.1.1
<p>THAT Council,</p> <ol style="list-style-type: none"> 1. In accordance with section 75 of the Planning and Development Act 2005, ADOPT (initiate) Amendment No.151 of the Shire of Denmark Local Planning Scheme No. 3 as shown in Attachment 9.1.1a; and, 2. In accordance with Regulation 35 (2) of the <i>Planning and Development (Local Planning Schemes) Regulations 2015</i>, DETERMINES that Amendment No.151 of the Shire of Denmark Local Planning Scheme No. 3 is a standard amendment for the following reasons: <ul style="list-style-type: none"> • The amendment is consistent with the objectives identified in the scheme for the Tourist zone. • The proposal is a text-only amendment to amend and/or delete provisions relating to the existing Tourist Zone 1. • The proposal will not have any significant environmental, social or economic governance impacts on land in the scheme area. 	

9.2 DIRECTOR CORPORATE AND COMMUNITY SERVICES

9.2.1 FINANCIAL STATEMENTS FOR THE PERIOD ENDED 31 OCTOBER 2021

File Ref:	FIN.1
Applicant / Proponent:	Not applicable
Subject Land / Locality:	Not applicable
Disclosure of Officer Interest:	Nil
Date:	1 December 2021
Author:	Lee Sounness, Manager Corporate Services
Authorising Officer:	Gina McPharlin, Director Corporate & Community Services
Attachments:	9.2.1 – October 2021 Monthly Financial Report

Summary:

The monthly financial statement report is a standard financial reporting item prepared in accordance with the provisions of the Local Government Act 1995 and Regulation 34 of the Local Government (Financial Management) Regulations 1996.

Council is to consider the financial results for the period ending 31 October 2021.

Background:

In accordance with Financial Management Regulation 34 the Shire is to prepare a monthly Statement of Financial Activity reporting on the sources and applications of funds, as set out

in the annual budget under Financial Management Regulation (1) (d), for that month with the following details:

- a) annual budget estimates;
- b) budget estimates to the end of the month to which the statement relates;
- c) actual amounts of expenditure, revenue, and income to the end of the month to which the statement relates;
- d) material variances between the comparable amounts referred to in (b) and (c); and
- e) net current assets at the end of the month to which the statement relates.

Consultation:

Nil

Statutory Obligations:

LOCAL GOVERNMENT ACT 1995 S6.8 (1)(b) – a Local Government is not to incur expenditure from its municipal fund for an additional purpose except where the expenditure is authorised in advance by resolution.

LOCAL GOVERNMENT (FINANCIAL MANAGEMENT) REGULATION 34

Regulation (1) – the Shire is to prepare a monthly Statement of Financial Activity reporting on the sources and applications of funds, as set out in the annual budget.

Regulation (1)(d) the monthly Statement of Financial Activity includes material variances between budget estimates and actual expenditure, revenue, and income.

Regulation 34(5) - Council adopted a material variance threshold of 10% or a minimum of \$10,000, whichever is greater. (Res: 230821)

Policy Implications:

Policy P040222 - Material Variances in Budget and Actual Expenditure - An explanation or report is required for levels of variances for financial reporting exceeding 10% (minimum dollar variance of \$10,000) of the annual budget estimates to the end of the month to which the report refers for each program or General/Ledger Job Account.

Budget / Financial Implications:

Council endorsed amendments to the capital works and expenditure program for the 2021/2022 financial year at the 16 November 2021 Ordinary Council Meeting (Res: 161121). These amendments are not included in this report and will be captured in the financial report for the period ended 30 November 2021.

There are no significant trends or issues to be reported. Any proposed adjustments to the adopted budget will be presented for Council consideration during the mid-year budget review process.

Strategic & Corporate Plan Implications:

The report and officer recommendation are 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

L5.4 To be fiscally responsible

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:**

Nil

Comment/Conclusion:

The commentary contained in the body of this report is in line with Financial Management Regulation 34(2)(b) that requires commentary on material variances to the Statement of Financial Activity at the nature/type, program, or business unit level.

The 31 October 2021 Statement of Financial Activity shows a year-to-date actual closing surplus position of \$7,740,193 compared to the year-to-date budget of \$7,297.775, a year-to-date variance of \$442.419.

The adopted budget for 2021/2022 was built on an estimated brought forward surplus position from 2020/2021 of \$1,553,964. On audit signoff, the confirmed closing position for the year ended 30 June 2021 was \$1,582,425, an increase of \$28,461. The increase in closing financial position was the result of the finalisation of year-end accruals and adjustments to various restricted grants and will be accounted for as part of the mid-year review presented for Council consideration in February 2022

Year-to-date operating revenue is \$138,451 higher than budgeted (Statement Report by Nature and Type). This is due to:

- fees and charges income across various programs being higher than expected activity in the following areas:
 - building and planning fee income
 - recreation centre fee income
 - transport and vehicle licensing fees
 - reimbursement and rental income, and
- operating grants that have been received in advance of budget profile (timing).

Actual operating expenditure is \$224,448 less than the year-to-date budgeted amount. The main cause of this variance is an overestimate of Fire Control Depreciation expense and timing and seasonal issues affecting planned general maintenance of roadworks, footpaths, and DRFAWA Reinstatement.

\$156,690 capital expenditure has been incurred to the end of October 2021, which is \$145,095 less than budgeted. The main variation is McLean Oval Water Re-Use Project has been delayed, pending a license amendment.

Outstanding Debtors (Note 4)

As at 31 October 2021, outstanding Rates Debtors totalled \$2,158,054 compared to \$,186,451 at the same time last year.

The rates collection percentage for the year sits at 70.92% (see Note 4), compared to 68.99% at the same time last year.

Reserves

Movement to reserves represents interest earned on reserve funds and transfers to and from reserves. Transfers to and from General Reserve Funds have not been made for the 2021/2022 year.

Cash Management

As at 31 October 2021, total cash funds held (excluding trust funds) totals \$11,242,883 (Note 1).

Shire Trust Funds total \$850 (Note 9).

Reserve Funds (restricted) total \$4,655,727 (Note 5).

Municipal Funds (unrestricted) total \$6,587,156 (Note 2).

Voting Requirements:

Simple majority.

OFFICER RECOMMENDATION	ITEM 9.2.1
<p>That Council, RECEIVE the Financial Statements for the period ending 31 October 2021, incorporating the Statement of Financial Activity and other supporting documentation.</p>	

9.2.2 LIST OF PAYMENTS FOR THE PERIOD ENDING 31 OCTOBER 2021

File Ref:	FIN.1
Applicant / Proponent:	Not applicable
Subject Land / Locality:	Not applicable
Disclosure of Officer Interest:	Nil
Date:	23 November 2021
Author:	Lee Sounness, Manager of Corporate Services
Authorising Officer:	Gina McPharlin, Director Corporate & Community Services
Attachments:	9.2.2 – October Monthly List of Payments Summary

Summary:

The purpose of this report is to advise the Council of payments made during the period 1 October 2021 to 31 October 2021.

Background:

Nil

Consultation:

Consultation was not required for this report.

Statutory Obligations:

LOCAL GOVERNMENT (FINANCIAL MANAGEMENT) REGULATIONS 1996

Regulation 12 – the CEO can make payments from the Municipal or the trust fund if the local government has delegated its power to the CEO or if the payment is authorised by resolution of Council in advance.

Regulation 13 - If the local government has delegated to the CEO the exercise of its power to make payments from the municipal fund or the trust fund, a list of accounts paid by the CEO is to be prepared, presented at a Council meeting and minuted each month. Showing for each account paid since the last such list was prepared

- (a) the payee’s name;
- (b) the amount of the payment;
- (c) the date of the payment; and
- (d) sufficient information to identify the transaction

Policy Implications:

Delegation Number D040201 – Payment of Accounts

Budget / Financial Implications:

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

Strategic & Corporate Plan Implications:

Implement a financial strategy to ensure the Shire of Denmark’s financial sustainability.

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

L5.4 To be fiscally responsible

Corporate Business Plan

Nil

Sustainability Implications:

➤ **Governance:**

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

➤ **Environmental:**

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

➤ **Economic:**

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

➤ **Social:**

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

➤ **Risk:**

Nil

Comment/Conclusion:

Nil

Voting Requirements:

Simple majority.

OFFICER RECOMMENDATION	ITEM 9.2.2
<p>That with respect to the attached Schedule of Payments, totalling \$2,465,028.67, for the month of September 2021, Council RECEIVE the following summary of accounts:</p> <ul style="list-style-type: none"> • Electronic Funds Transfers EFT31303 to EFT31497 - \$1,910,681.22; • Municipal Fund Cheque No’s 60452 – 60456 - \$8,802.70; • Internal Account Transfers (Payroll) - \$433,716.15; and • Direct Debit - \$9,200.78; • Corporate Credit Card; \$6,840.52; • Department of Transport Remittances; \$95,787.30, and • Loan Payments: \$0. 	

9.2.3 INVESTMENT REPORT FOR THE PERIOD ENDED 30 OCTOBER 2021

File Ref:	FIN.19
Applicant / Proponent:	Not applicable
Subject Land / Locality:	Not applicable
Disclosure of Officer Interest:	Nil
Date:	28 November 2021
Author:	Lee Sounness, Manager Corporate Services
Authorising Officer:	Gina McPharlin, Director Corporate & Community Services
Attachments:	9.2.3 - September 2021 Investment Register

Summary

This report presents the Investment Register for the month ending 31 October 2021, Attachment 9.2.3.

Background

Nil

Consultation

Nil.

Statutory Obligations

LOCAL GOVERNMENT ACT 1995

Section 6.14 - money held in the municipal or trust funds surplus to a local government's immediate needs can be invested under The Trustees Act 1962 – Part III Investments. The local government must prescribe the circumstances where the money can be invested and provide for the application of investment earnings and management of investments.

LOCAL GOVERNMENT (FINANCIAL MANAGEMENT) REGULATION 34

Regulation 19 – a local government must establish and follow control procedures to enable the identification of the nature and location and related transactions of all investments.

Regulation 19C – restrictions apply to local government investments' type, term, and currency.

Regulation 28 – it is a requirement for an estimate of the amount earned from the investment of money held in reserves or other investment money to be included in the notes to the annual budget.

Regulation 34 – a local government is to prepare a statement of financial activity each month. The report must report on investments (assets), revenue (investment earnings), year to date and annual budget estimates and actual v budget variances.

Regulation 49 – it is a requirement for the amount earned from the investment of money held in reserves or other invested money to be included in the notes to the annual financial report.

Policy Implications

Policy P040229 – Investments sets the criteria for making authorised investments of surplus funds after assessing credit risk and diversification limits to maximise earnings and ensure the security of the Shire's funds.

All investments are to comply with the following three (3) key criteria:

- a) Portfolio Credit Framework - limits the percentage of the portfolio exposed to any particular credit rating category (table a.)

Table a.

A. S&P Long Term Rating	B. S&P Short Term Rating	C. Direct Investment Maximum %	D. Managed Funds Maximum %
AAA	A-1+	100%	100%
AA	A-1	60%	80%
A	A-2	40%	80%

- b) Counterparty Credit Framework – limits single entity exposure by restricting investment in an individual counterparty/institution by their credit rating (table b.)

Table b.

A. S&P Long Term Rating	B. S&P Short Term Rating	C. Direct Investment Maximum %	D. Managed Funds Maximum %
AAA	A1+	50%	50%
AA	A-1	35%	45%
A	A-2	25%	40%

If any of the Council’s investments are downgraded such that they no longer fall within the investment policy, they will be divested as soon as practicable.

- c) Term to Maturity Framework - limits investment based upon maturity of securities (table c.)

Table c.

Overall Portfolio Return to Maturity		
Portfolio % <1 year	Min 40%	Max 100%
Portfolio % >1 year	Min 0%	Max 60%
Portfolio % >3 year	Min 0%	Max 50%
Portfolio % >3 year < 5 year	Min 0%	Max 25%

Investments fixed for greater than 12 months are to be reviewed on a regular basis and invested for no longer than five (5) years.

Budget / Financial Implications

There are no significant trends or issues to be reported.

Strategic & Corporate Plan Implications

Implement a financial strategy to ensure the Shire of Denmark’s financial sustainability.

The report and officer recommendation are 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

L5.4 To be fiscally responsible

Corporate Business Plan

Nil

Sustainability Implications

➤ **Governance:**

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

➤ **Environmental:**

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

➤ **Economic:**

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

➤ **Social:**

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

➤ **Risk:**

Nil.

Comment / Conclusion

The attached Investment Register, Attachment 9.2.3, summarises how funds are invested as per the Shire’s Investment Policy and reports on the Investment Portfolio balance as at 31 October 2021.

The Investment Portfolio complies with the criteria of Investment Policy P040229 with the portfolio balance mix meeting the requirement of no single institution holding more than 50% of the total funds invested, and an individual institution’s Standard & Poor’s (S&P) credit rating meeting the required threshold to limit single entity exposure.

The total Reserve Funds invested as at 31 October 2021 totals \$4,655,727.

The total Municipal Funds Invested as at 31 October 2021 totals \$5,508,766.

The Reserve Bank of Australia (RBA) has not altered its cash rate for this month. The cash rate remains set at 0.10%.

Voting Requirements

Simple majority.

OFFICER RECOMMENDATION	ITEM 9.2.3
That Council RECEIVE the Investment Register (Attachment 9.2.3) for the period ended 31 October 2021.	

9.3 CHIEF EXECUTIVE OFFICER

9.3.1 LIGHT INDUSTRIAL AREA FIREWATER SERVICE

File Ref:	TEN.3-2021/22
Applicant / Proponent:	N/A
Subject Land / Locality:	LIA - Hay
Disclosure of Officer Interest:	N/A
Date:	2 December 2021
Author:	David King, Deputy CEO
Authorising Officer:	David Schober, CEO
Attachments:	9.3.1 - Development WA land sale flyer

Summary:

Low scheme water pressure is a barrier to development at the Light Industrial Area (LIA). It cannot provide adequate firefighting flow and pressure for certain developments to be commercially viable.

This report provides project background and progress information on installing a shared firewater system for the LIA.

Background:

Funding History

On 22 March 2016, Council accepted a Royalties for Regions (RfR) grant and a contribution from LandCorp towards the Denmark East Development Project. The project scope included the creation of the LIA, upgrades to the connecting roads, including a bridge crossing across the Denmark River, Restricted Access Vehicle (RAV) connectivity to Scottsdale Road, and a roundabout at the Denmark-Mount Barker Road/East River Road intersection.

In December 2016, works were suspended on the portion of the project west of the Denmark-Mount Barker Road.

On 11 July 2017, the Shire received written confirmation that the Minister was prepared to split the project into two separate components, each supported by a single Financial Assistance Agreement. Under this arrangement, the Eastern Precinct would continue as planned and essentially mirror the current works program. At the same time that the industrial area proceeded, the Council would continue working on the Western Precinct under a separate FAA that would progress this component of the project to detailed design. At this point, Council could determine the financial shortfall and potentially pursue alternative funding arrangements to complete the Western Precinct, using the remaining funding as leverage.

On 18 July 2018, the Council moved to inform the Department of Primary Industries and Regional Development (DPIRD) that they had declined to proceed with the East River Road Bridge Project due to the Shire's broader financial and asset management position. As a result, there was no requirement to construct a roundabout as part of intersection treatment for Denmark-Mount Barker and East River Road intersection of the project.

On 7 January 2019, DPIRD agreed to a variation to the FAA for Denmark East Development Precinct by extending the final milestone date to 31 December 2019. Main Roads WA (MRWA) informed the Shire of Denmark that before construction on the intersection could begin, they would require new designs and environmental approvals to start in the latter part of 2019.

East River Road and Denmark-Mount Barker intersection treatment is a standard intersection widening and pavement treatment, delivered by Main Roads WA and tie-in completion by the Shire of Denmark. A practical completion letter for Denmark – Mount Barker Road / East

River Road Intersection Upgrade was provided to the Shire of Denmark by Main Roads on 12 August 2020.

The final cost to complete the intersection to MRWA standards was \$406,292. This resulted in significant savings of \$523,308 against the project deliverable budget of \$929,600.

With savings made after the East River Road intersection widening, the Shire asked the State to re-purpose the remaining money to complete outstanding works aligned with the original scope as per the funding agreement.

Variation Request

When developing lots in the LIA, all new buildings must be designed and constructed according to the minimum standards set out in the Building Code of Australia (BCA). The deemed to satisfy provisions of the BCA apply to individual buildings and hence do not offer the opportunity to share services between a group of buildings under separate ownership.

The BCA objectives include the provision of fire services and, in particular, firefighting water. The BCA calls up AS2419.1, which sets out the minimum fire water flow rates for the various classifications of buildings and the storage and pumping requirements if the town water supply cannot achieve these.

Many rural towns in Western Australia have water supplies that do not meet the AS2419.1 minimum requirement. Therefore, certain buildings must be provided with tanks and pumps. This puts an onerous cost on these buildings, in capital and maintenance costs, and the cost of lost opportunities due to loss of floor area. In addition, large volumes of water are tied up in storage.

Regionally, this issue has been dealt with on an individual building basis, whether by reducing the size of the building structures, providing the deemed to satisfy tanks and pumps, or alternative performance-based solutions.

Performance-based solutions have been successfully developed to rationalise the systems provided to individual buildings. Typically, these include shared-use agreements between neighbouring lots to rationalise the cost of capital infrastructure and maintenance.

The use of a communal firewater storage facility does not conflict with the BCA's intent; however, it will be treated as an alternative solution to the deemed to satisfy provisions.

A communal system that provides adequate firefighting water to an estate, instead of individual buildings, will offer the following benefits:

- Reduced initial capital cost for individual building developers.
- Reduced cost of maintenance of equipment.
- Greater reliability of equipment.
- Firefighters would be aware of the location of tanks and pumps for any particular estate, saving time for setting up alternative water supplies.
- The volume of water in static storage is reduced

The typical parameters for buildings on a light industrial estate are considered to be:

- Class 8 buildings, with associated office space,
- Complies with all BCA deemed to satisfy requirements.
- Single storey, or predominantly single storey with mezzanine floor, or less than 20% of floor area to be double storey.
- Single classification.
- Floor area between 500 m² and 5,000 m². Note that buildings with less than 500 m² floor areas are not required to be provided with fire hydrants.
- No dangerous goods stored.
- No occupancy of excessive hazard permitted.

Any buildings that fall outside these parameters will be required to provide an individual assessment to demonstrate that the “communal” approach will still be adequate.

Previous Resolutions

In November 2020, a report on the LIA firewater project was tabled, and Council resolved to:

“AUTHORISE the CEO to apply for a variation to the East River Road Redevelopment Financial Assistance Grant to fund the Capital infrastructure upgrades that:

- enables a non-potable firewater service to the thirteen (13) lots within the Light Industrial Area*
- has sufficient performance characteristics to meet Australian Standards and DFES hydrant requirements for buildings in excess of 500sq.m and up to 5000sq.m”*

Following the above, a funding variation was approved to install a communal firewater storage facility and reticulate, through the road reserve, to serve the 13 lots within the LIA.

Consultation:

Tender advertising

A request for tender was published in the West Australian, Albany Advertiser and Denmark Bulletin.

Statutory Obligations:

Local Government Act 1995. Section 6.38 Service Charges

It has been indicated by Department of Fire and Emergency Services (DFES) that the Shire would need to maintain the service in perpetuity or until alternative solutions for fire protection are developed. The cost incurred to proceed with the project include annual maintenance and end-of-life asset replacement.

Officers have considered various funding methods and have deemed that a service charge is the most appropriate solution.

The Shire may impose a service charge on owners or occupiers of land within the district, or a defined part of the district, to meet the cost to the local government in the provision for the service in relation to the land.

In this case, it would be appropriate for the Shire to impose a fixed annual service charge for the LIA lots to recover the service costs.

Revenue from services charges can only be spent for the purpose for which it was taken or transferred to a reserve for the purpose. The reserve purpose cannot be changed, which assures the owners or occupiers that the funds will be spent on maintaining the service and renewing the infrastructure as required.

In November 2020, a report on the LIA firewater project was tabled, and Council resolved to:

“ACCEPT:

- that a Service charge will be applied to the 13 Light Industrial Area lots to recover the cost of providing the service.*
- that the service charge will be imposed commencing on the next budget cycle following commissioning of the service.*
- ongoing responsibility to provide firewater service to the 13 lots within the Light Industrial Area.”*

The November 2020 resolution signifies an intent only. Formal adoption of a service charge would need to be approved annually as part of the budget.

Costs are discussed in the Financial Implications section of this report.

Tender Award

Regulation 11 of the Local Government (Functions and General) Regulations 1996 (Regulations) requires Council to publicly tender if the contract is, or is expected to be, or more than \$250,000.00

Regulation 18 of the Regulations outlines several requirements relating to the choice of tender. Council is to decide which of the acceptable tenders is the most advantageous to Council. The Council may also decline to accept any tender.

Regulation 19 of the Regulations requires the Council to advise each tenderer in writing the Council's decision.

Policy Implications:

P040220 Purchasing Policy and P040216 Regional Price Preference Policy apply to this item.

Budget / Financial Implications:

2021/22 Budget

A breakdown of the project budget is provided in Table 1 below.

The original cost estimate provided by the consultant in 2020 estimated the construction costs at around \$500,000. In the 2021/22 budget, the project allocates \$550,000, which is 100% funded by the FAA. to a value of \$550,000.

It can be seen from Table 1 that the tendered costs for construction are well over the original cost estimate. This is resulting in a predicted shortfall of around \$580,000. The high offer results from significant supply and demand issues in the construction industry.

The reserve account that has been holding the East River Road Project funds since 2016 has been generating interest. The total interest earned is estimated to be \$170,000. Historically, the State Government has recovered interest earned on grant funds. If the interest can be assigned to this project, the resulting shortfall is around \$410,000.

If the Tender is awarded, the shortfall would need to be funded by the Shire of Denmark reserves or other own-source funding.

The comment section of this report makes recommendations on progressing this project.

Table 1 – project budget

Item	Cost
Fire Engineering Consultants and Project Superintendence	\$40,000
Legal Consultants	\$15,000
Construction	\$979,386
Construction Contingency (10%)	\$97,938
Total	\$1,132,324
Adopted Budget	\$550,000
Grant Funding (FAA)	\$550,000

Future Budget Financial Implications

If the project progresses, there are ongoing costs associated with annual maintenance and asset replacement at the end of life.

The ongoing maintenance costs and asset replacement are proposed to be covered by imposing an annual service charge on the thirteen (13) lots. Table 2 provides the updated annual costs to reflect tendered sums.

Table 2 – Annual cost of the service

Item	Capital Cost	Life	Annual Cost*
Site Works and Shed	\$100,000	30	\$4,348
Backflow Devices	\$10,000	10	\$3,333
Fire Systems Booster	\$20,000	20	\$1,538
Pumps	\$100,000	20	\$7,692
Tanks	\$200,000	30	\$8,696
Pipework	\$500,000	50	\$11,628
Annual Depreciation			\$37,235
Annual Maintenance			\$3,000
TOTAL ANNUAL COST			\$40,235
TOTAL ANNUAL LOT CONTRIBUTION**			\$3,095

*Assumes 7 years until all lots are contributing to the scheme

**Assumes 13 Lots contributing evenly

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.

Sustainability Implications:

➤ **Governance:**

For DFES to accept a performance-based solution, there needs to be ongoing security of firewater supply.

It is proposed that the Shire of Denmark own and reticulate the firewater. As such, there will be a requirement for the Shire of Denmark to commit to the supply of firewater in perpetuity or until others provide an alternative supply.

It is proposed that this be in the form of a notice on the affected titles and includes a legal agreement with landowners to provide the details sufficient to satisfy DFES requirements.

➤ **Environmental:**

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

➤ **Economic:**

The officer’s recommendation would increase the viability for business to move to start up at the LIA.

➤ **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)	Risk Action Plan (Controls or Treatment proposed)	Risk Rating (Prior to Treatment or Control)
General Project					
Reputation: That a fatal flaw is uncovered, resulting in a lower functionality of the infrastructure.	Unlikely (2)	Major (4)	Moderate (8)	Accept Risk	-
Financial: That poor management results in costs to the general ratepayer to maintain and renew infrastructure	Possible (3)	Major (4)	High (12)	Manage by imposing a service charge and annual maintenance contract	Moderate (8)
Option 1					
Financial: Cost overruns require significant contributions from Council own source funding	Almost Certain (5)	Major (4)	Extreme (20)	Manage by seeking allocation of interest earned on the grant	Extreme (20)
Option 2					
Reputational: That potential buyers are unhappy that the project has stalled	Likely (4)	Minor (2)	Moderate (8)	Accept Risk	-
Financial: That the grant funding is withdrawn	Possible (3)	Minor (2)	Moderate (6)	Accept Risk	-
Financial: That the Shire struggle to sell their lots as a result of grant funding being withdrawn	Unlikely (2)	Major (4)	Moderate (8)	Accept Risk	-
Option 3					
Reputational: That potential buyers are unhappy that the project is withdrawn	Likely (4)	Minor (2)	Moderate (8)	Accept Risk	-
Financial: That the grant funding is withdrawn	Almost Certain (5)	Minor (2)	High (10)	Accept Risk	-
Financial: That the Shire struggle to sell their lots as a result of grant funding being withdrawn	Unlikely (2)	Major (4)	Moderate (8)	Accept Risk	-

Comment:

Project Progress and Key Issues

Table 3 shows the project progress to date and expected timeframes:

Table 3 – Project Milestones

Milestone	Date
Submit FAA variation request	Complete
Engage suitably qualified consultants for design works and legal practitioners to consider options relating to DFES performance-based solution requirements	Complete

Submit a Fire Engineering Brief to DFES to initiate the performance-based solution discussions	Complete
A developed Draft performance-based solution that DFES supports	Complete
Tender advertisement for physical works	Complete
Tender award	December OCM 2021
Practical Completion and commissioning for in ground works	May 2022
Completed legal agreements and title notifications where applicable	As required for development

The key risk in progressing the project remains the possibility of a fatal floor uncovered through further investigation. This lies in the finalisation in developing a suitable performance-based solution and the ability to recover costs from the lot owners without burdening the general ratepayer.

The Shires Fire engineering consultants have progressed the performance-based design to a point where confidence is high that the performance-based solution will meet the requirements of DFES.

Tender Evaluation

At the closing date, one (1) submission was received from Westline Plumbing and Drainage Pty. Ltd., which was deemed conforming. The tender was evaluated using a weighted attributed methodology. The method scores the evaluation criteria and weights the importance to determine an overall point score for each tender.

The criteria and weightings are shown in Table 4 – Criteria and Weightings

Table 4 – Criteria and Weightings

Criteria	% Weight
Relevant Experience	20%
Key Personnel	15%
Tenderers Resources	15%
Cost	50%

The qualitative criteria of ‘relevant experience’ and ‘tenderers resources’ were scored as per Table 3 – Qualitative scoring.

Table 3 – Qualitative scoring

Score	Description
0	Inadequate or non appropriate offer, many deficiencies, does not meet criterion (c not submit any documentation to support claims)
1	Between 0 and 2
2	Marginal offer, some deficiencies, partly meets criterion
3	Between 2 and 4
4	Fair offer, few deficiencies, almost meets criterion
5	Between 4 and 6
6	Good offer, no deficiencies, meets criterion
7	Between 6 and 8
8	Very good offer, exceeds criterion
9	Between 8 and 10
10	Outstanding offer, greatly exceeds criterion

Based on the evaluation process, the Westline Plumbing and Drainage Pty. Ltd. tender was deemed to satisfy all the qualitative selection criteria outlined in Table 3. However, as can be

seen from the Budget section of this report, the tendered cost is considerably more than the budget.

Current Market Conditions

In November 2020, only one (1) of the lots had been sold. Currently, Development WA has sold or has under offer five (5) out of their (6) lots.

This represents an apparent change in a circumstance. Previously, it was assumed that the lots would struggle to sell without the success of the LIA Firewater project.

The Shire owns in freehold the remaining five (5) lots being Lots 3, 8, 9, 10 and 11. The Development WA flyer provides a lot layout and is provided in Attachment 9.3.1. Officers have been approached by several potential buyers requesting information on the lots, including the timeframe for which they may be released to the market. The Long Term Financial Plan assumes lots 8,9,10 and 11 will be sold over the 10 year timeframe.

Option 1 – Award the Tender and Progress the Project

For the project to progress and exclude the risk of withdrawn grant funding, the Council would have to accept the tender and cover the shortfall with Reserve Funds or other own-source allocation. Officers do not consider that a Shire expenditure between \$410,000 and \$580,000 is an appropriate expenditure of general revenue given the limited number of private businesses that would benefit from the scheme.

This is reinforced by several recent sales that suggest the saleability relies less on a communal firewater system supply.

Options 2 – Decline the Tender and investigate alternate construction options

If realised, the project would remove a barrier to development at the LIA. Although not 'normal' local government business, it is not uncommon for local governments to address areas of significance where other agencies or the private sector cannot solve a local issue.

Whilst the current offer would result in a significant Council funded contribution, it is expected that alternate construction strategies could be implemented to reduce direct construction costs. These include separating contracts into specialised components and the Shire carrying out a lead contractor role. This would encourage more competition and remove significant risks for contractors, driving costs down. However, this strategy requires significantly more human resourcing. It needs to be considered with the Shires Capital Works Program in mind. Further investigation is necessary to understand the magnitude of direct cost savings and the impact on other projects.

If this option is successful, it would require a variation to the funding agreement to extend the acquittal date into the 2022/23 financial year. This is because of the necessary re-tender timeframes and a limited seasonal construction window. There is a risk that the DPRID will not accept the extended timeframe and withdraw the funding.

Option 3 – Decline the Tender and Withdraw the Project

Given the potential project benefits of installing a firewater system, officers do not consider this an appropriate course of action until all other options have been investigated.

Conclusion

Given the current market conditions, it is recommended that the project should only go ahead if the initial capital costs are significantly covered by grant funding.

It is recommended to decline to accept the Tender and request that officers work with the GSDC and report to Council on the next steps.

Voting Requirements:

Simple majority.

OFFICER RECOMMENDATION	ITEM 9.3.1
<p>That Council:</p> <ol style="list-style-type: none"> 1. DECLINE to accept any Tender for TEN.3-2021/22 – LIA Firewater; and, 2. REQUEST the Chief Executive Officer to provide a report back to Council, no later than March 2022, on options for progressing the LIA Firewater project. 	

9.3.2 2020-2021 AUDIT, FINANCIAL AND ANNUAL REPORT, GENERAL MEETING OF ELECTORS.

File Ref:	FIN.31
Applicant / Proponent:	Not Applicable
Subject Land / Locality:	Not Applicable
Disclosure of Officer Interest:	Nil
Date:	3 December 2021
Author:	Angela Simpson, Corporate Planning Officer Lee Sounness, Manager Corporate Services
Authorising Officer:	David Schober, Chief Executive Officer
Attachments:	9.3.2 - Draft Annual Report including Audited Annual Financial Report

Summary:

The purpose of this report is to accept the Shire of Denmark 2020/2021 Annual Report, including the Annual Financial Statements and Audit Report, and to set a date for the Annual General Meeting of Electors.

Background:

Each year, as part of the Council’s audit process, an independent audit is undertaken to assess the Annual Financial Report and the legitimacy and accuracy of the Shire’s accounts.

An Independent Audit Report is then issued by the Auditor. The Auditor, after completing the audit, is to forward a copy of the audit and/or management report to:

- (a) The President
- (b) The Chief Executive Officer
- (c) The Minister, via the Department of Local Government, Sport and Cultural Industries

The Independent Audit Report is also required to be included in Council’s Annual Report. Any issues arising from the Independent Audit Report are to be reviewed by management and, where applicable, action taken to resolve those issues.

The Shire has prepared its Annual Financial Report for the year ending 30 June 2021, in accordance with the Australian Accounting Standards and the specific requirements of the Local Government Act 1995 and associated Regulations.

The financial statements were provided to the Office of Auditor General’s appointed auditor, Lincolns on 28 September 2021 and audit fieldwork was conducted from 11 October to 14 October 2021. The audit was conducted in a matter consistent with the 2021 Audit Plan.

The Annual Financial Report and Auditors Report have now been received from the Office of the Auditor General and are attached to this report. No management findings are applicable to the 2021 audit.

A Local Government, in accordance with Section 5.54(2) of the Local Government Act 1995, is to prepare an Annual Report for each financial year. The Annual Report is a record of the Council’s activities for the financial year and forms part of the accountability principles established for local government and is to be presented to an Annual General Meeting of Electors.

Consultation:

1. Office of the Auditor General (OAG) Senior Director
2. Lincolns Audit Principal

On Tuesday, 30 November 2021, the Shire President, Deputy Shire President and Shire officers met with the OAG and Lincolns via telephone conference to discuss audit findings and matters relating to the audit of the financial statements of the Shire of Denmark for the financial year ended 30 June 2021.

Statutory Obligations:

Local Government Act 1995

- Section 5.27 – An Annual General Meeting of Electors must be held within 56 days of Council accepting the Annual Report with appropriate notice of the meeting to be given
- Section 5.29 - fourteen (14) days public notice is to be given of the time and place of the Annual Electors Meeting.
- Section 5.53 – Local governments are to prepare an Annual Report each financial year.
- Section 5.54 – Local government is required to accept the Annual Report by an absolute majority.
- Section 5.55 – CEO to give notice of the availability of an accepted Annual Report.
- 7.12A. - Duties of local government with respect to audits.

Local Government (Financial Management) Regulations 1996.

Local Government (Audit) Regulations 1996 – Regulation 16.

Local Government (Administration) Regulations 1996.

Policy Implications:

There are no policy implications.

Budget / Financial Implications:

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

Strategic & Corporate Plan Implications:

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

Denmark 2027

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

L5.1 To be high functioning, open, transparent, ethical and responsive.

L5.4 To be fiscally responsible.

Sustainability Implications:➤ **Governance:**

There are no known significant governance considerations relating to the report or officer recommendation. The adoption of the Annual Report is a key activity for all local governments.

➤ **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 does not accept the Independent Auditor's report, Annual Report and does not set a date for the Annual Electors meeting.	Unlikely (2)	Moderate (3)	Moderate (5-9)	Failure to meet Statutory, Regulatory or Compliance Requirements	TREAT Risk by providing reasoning and detailed explanations to Council to enable informed decision making.

Comment/Conclusion:

Audited Financial Report 2020-2021

In accordance with the Local Government Act 1995 (Section 7.12a – Duties of local government with respect to audits), a local government must –

- (aa) examine an audit report received by the local government; and
 - (a) determine if any matters raised by the audit report, require action to be taken by the local government; and
 - (b) ensure that appropriate action is taken in respect of those matters.

The Annual Financial Report was audited by the Office of Auditor General and there were nil management letter findings. The Auditor notes:

“In my opinion the financial report of the Shire of Denmark:

- *is based on proper accounts and records*
- *fairly represents, in all material respects, the results of the operations of the Shire for the year ended 30 June 2021 and its financial position at the end of that period in accordance with the Local Government Act 1995 (the Act) and, to the extent that they are not inconsistent with the Act, Australian Accounting Standards”*

The following matter in the Audit Opinion indicated a significant adverse trend in the financial position of the Shire:

“a) The Operating Surplus Ratio has been below the Department of Local Government, Sport and Cultural Industries’ standard for the past 3 years. The financial ratios are reported at Note 33 to the financial report.”

Management advises that the methodology currently used to calculate the Operating Surplus Ratio makes it difficult for many regional local governments to achieve minimum benchmark settings for this ratio. This is especially so for Tier Three (3) regional local governments, such as the Shire of Denmark.

A Working Group was established by West Australian Local Government Association (WALGA) in 2020 to review the relevance of some financial ratios used in local government financial reporting and their methods of calculation. Recommendations have been made to the Department of Local Government, Sport and Cultural Industries on the findings of this review and it is hoped, that if accepted, the audit finding associated with the Operating Surplus Ratio would no longer apply. It is expected this would further enhance the Shire’s financial health indicator score.

It is recommended that Council accept the 2020-2021 Annual Financial Report and Audit Report.

Annual Report 2020-2021

In accordance with section 5.53 (1&2) of the Local Government Act, the Shire is to prepare an annual report of each financial year that contains –

- a) a report from the mayor or president; and
- b) a report from the CEO; and
- f) the financial report for the financial year; and
- i) such other information as may be prescribed.

Council is required to accept the Annual Report by 31 December following the financial year-end. However, should the Auditor’s Report not be made available in time to be accepted by 31 December, the Annual Report must be accepted no later than two (2) months after receiving the Audit Report.

The Audit Report was received by the Shire of Denmark on 2 December 2021, and in accordance with Section 5.54(2) of the Local Government Act 1995, is required to be accepted by 31 December 2021.

It is recommended that Council accept the 2020-2021 Annual Report.

Annual General Meeting of Electors

Section 5.27 of the Local Government Act 1995 requires that the Annual General Meeting of Electors be held on a day and time selected by the local government, but not more than 56 days after the annual report is accepted. The Shire also needs to give 14 days’ public notice of the meeting.

In order to comply with its statutory obligations, following the adoption of the 2021 Annual Report, it is recommended that the Annual General Meeting of Electors be held on 8 February 2022, commencing at 6 pm in the Council Chambers.

Voting Requirements:

Absolute majority.

OFFICER RECOMMENDATION	ITEM 9.3.2
<p>That in relation to the 2020-21 Annual Report, Council;</p> <ol style="list-style-type: none"> 1. ACCEPT the Annual Report including the Annual Financial Report and Auditor’s Report for the financial year 2020-2021; and 2. CONFIRM the date for the Annual General Meeting of Electors for Tuesday, 8 February 2022 to be held in the Council Chambers, commencing at 6.00 pm. 	

9.3.3 ORDINARY COUNCIL MEETING DATES FOR 2022

File Ref:	CR.2
Applicant / Proponent:	Not applicable
Subject Land / Locality:	Not applicable
Disclosure of Officer Interest:	Nil
Date:	17 November 2021
Author:	Lisa Sanders, Executive Support Officer
Authorising Officer:	David Schober, Acting Chief Executive Officer
Attachments:	9.3.3 - Draft Council Meeting Schedule for 2022

Summary:

This report recommends that Council set its Ordinary Meeting schedule for 2022.

Background:

At the Council Meeting held on 17 November 2020, with respect to meeting times, location and frequency for 2021, Council resolved as follows (Resolution No. 161120);

“That with respect to the Ordinary Meetings of Council to be held in 2021, Council;

- 1. RETAIN a 4.00pm commencement time for all Ordinary Council meetings in 2021; and*
- 2. ENDORSE the proposed dates as shown in the Officer Report, with the first meeting commencing on Tuesday, 16 February 2021;*
- 3. Pursuant to Policy P040103, HOST two Locality (Kent/Nornalup) Ward Meetings for the interest of residents, ratepayers and community organisations at the Peaceful Bay Community Hall and the Tingledale Community Hall at times and dates to be determined by the Chief Executive Officer in conjunction with the Shire President, the Peaceful Bay Progress Association and Tingledale Hall Committee, and widely advertise those times & dates prior to the meetings; and*
- 4. ADVERTISE the dates, times and locations in part 2 and 3 in the Denmark Bulletin, the Walpole Weekly, on Council’s website, on Council’s Notice Boards and on the Shire’s Facebook page.”*

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 believes that no additional external/internal engagement or consultation is required.

Statutory Obligations:

The following legislation relates to Council meeting dates;

LOCAL GOVERNMENT ACT 1995

5.3. Ordinary and special council meetings

- 1) A council is to hold ordinary meetings and may hold special meetings.*
- 2) Ordinary meetings are to be held not more than 3 months apart.*
- 3) If a council fails to meet as required by subsection (2) the CEO is to notify the Minister of that failure.*

5.4. Calling council meetings

An ordinary or a special meeting of a council is to be held —

- a) if called for by either —*
 - i. the mayor or president; or*
 - ii. at least 1/3 of the councillors, in a notice to the CEO setting out the date and purpose of the proposed meeting; or*
- b) if so decided by the council.*

Section 12 (1) of the LOCAL GOVERNMENT (ADMINISTRATION) REGULATIONS 1996 relates to a local government’s requirement to give local public notice of the dates, and the time and place at which the ordinary council meetings are to be held in the next twelve (12) months.

Pursuant to section 5.5 of the Local Government Act 1995, Convening council meetings, the Chief Executive Officer is to provide each Councillor an Agenda at least seventy-two (72) hours prior to the meeting.

Policy Implications:

Current Policies P040101, P040103 and P040238 relate and read as follows.

P040101: ORDINARY COUNCIL MEETINGS

The Council shall meet on the third Tuesday of each month with the Ordinary Council meeting commencing at 4.00pm.

Pursuant to Council Resolution No. 131215, Agendas shall be published and distributed seven (7) days prior to the meeting.

P040103: LOCALITY (KENT/NORNALUP WARD) MEETINGS

Council will host a meeting of citizens and community organisations at least once a year in Peaceful Bay and will alternate an additional meeting each year between the localities of Tingle Dale and Nornalup and it will be widely advertised prior to the meetings.

P040238: ANNUAL CLOSURES OF SOME SERVICES & OPERATIONS OVER DECEMBER & JANUARY

That Council authorise the closure of all Shire of Denmark services and operations, with the exception of Emergency Services, Waste Services, Ranger Services and Cleaning Services, annually from the Christmas Day holiday until normal working hours on the day following the New Year public holiday inclusive, with employees required to use their leave entitlements and the closure being well publicised prior to this date.

Budget / Financial Implications:

The cost of advertising the Council and Locality meeting dates can be accommodated within Council's existing general administration advertising budget (account number 1420152).

Each ordinary meeting of the Council typically involves two (2) meals and refreshments for Councilors (dinner after the meeting and lunch depending upon the start time of the Strategic Briefing for that day). These costs are accommodated under Council's Budget. In addition, Councilors are entitled to claim travel for attending Council meetings based on a kilometer basis and allowance for such is included in Council's 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 2027L5.0 Our Local Government

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

Corporate Business Plan

Nil

Sustainability Implications:**➤ Governance:**

Frequency of meetings provides for continuity of decision making and impacts turnaround times on applications and the like, some of which are governed by other legislated timeframes.

➤ 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)
Compliance: That Council not determine a meeting schedule for 2022.	Rare (1)	Minor (2)	Low (1-4)	Failure to meet Statutory, Regulatory or Compliance Requirements	Manage by determining a meeting schedule for 2022

Comment/Conclusion:

The proposed meeting schedule for 2022 is based on the Council’s current meeting frequency being on the third (3) Tuesday of every month.

Council is at liberty to amend the meeting days, times and frequency for the next 12 months, noting that pursuant to Regulations, Council is required to provide public notice of its meeting schedule for the ensuing 12 months.

PROPOSED MEETING SCHEDULE 2022

- Commencing 15 February 2022.
- One (1) ordinary Council meeting per month.
- Held on the third (3) Tuesday of each month.
- Eleven (11) ordinary Council meetings per year.

DATE	LOCATION
15 February 2022	Council Chambers, 953 South Coast Highway, Denmark
15 March 2022	Council Chambers, 953 South Coast Highway, Denmark
19 April 2022	Council Chambers, 953 South Coast Highway, Denmark
17 May 2022	Council Chambers, 953 South Coast Highway, Denmark
21 June 2022	Council Chambers, 953 South Coast Highway, Denmark
19 July 2022	Council Chambers, 953 South Coast Highway, Denmark
16 August 2022	Council Chambers, 953 South Coast Highway, Denmark
20 September 2022	Council Chambers, 953 South Coast Highway, Denmark
18 October 2022	Council Chambers, 953 South Coast Highway, Denmark
15 November 2022	Council Chambers, 953 South Coast Highway, Denmark
20 December 2022	Council Chambers, 953 South Coast Highway, Denmark

Pursuant to Council Policy P040238, the Shire Office will be closed from 24 December 2021 and re-opening on 4 January 2022.

During the December / January Christmas and New Year’s holiday period, typically many employees take periods of leave to take advantage of the additional forced shutdown days and Public Holidays. For this reason, there is a risk that there may not be staff available to write reports and/or prepare documentation for a January 2022 Ordinary Council meeting. This notwithstanding, should the Council decide to commence the 2022 meeting schedule in January, Shire Officers would endeavour to accommodate this preference.

For the reasons above, the Officer recommends that, as per the 2019, 2020 and 2021 schedule, next year’s meetings commence in February 2022.

Additionally, regarding agenda publication to Council and members of public, at the 19 November 2019 meeting, resolution 261119, Council requested that Policy P040101 be amended to include:

“Pursuant to Council Resolution No. 131215, Agendas shall be published and distributed seven (7) days prior to the meeting.”

It has been raised during informal meetings that Council’s now preference to agenda publication be 10 days prior to the meeting.

Officers have strived to ensure publication of the agenda 10 days prior to the meeting. However, whilst publishing the agenda 10 days prior to Ordinary Council Meetings is only a three (3) day difference, it has resulted in some added pressure on Officers who prepare reports, agendas and minutes.

Officers are requesting that Council consider reducing the timeframe from 10 days to nine (9) days. The Agenda would be published on the Friday, two (2) weeks prior to the meeting. This would still allow Councilors to have the Agenda over two (2) weekends to give sufficient time for reading and questions of Officers.

Voting Requirements:

Simple majority.

OFFICER RECOMMENDATION	ITEM 9.3.3a
<p>That with respect to the Ordinary Meetings of Council to be held in 2022, Council;</p> <ol style="list-style-type: none"> 1. RETAIN a 4.00pm commencement time for all Ordinary Council meetings in 2022; and 2. ENDORSE the proposed dates as shown in the Officer Report, with the first meeting commencing on Tuesday, 15 February 2022; and, 3. Pursuant to Policy P040103, HOST two Locality (Kent/Nornalup) Ward Meetings for the interest of residents, ratepayers and community organisations at the Peaceful Bay Community Hall and the Tingledale Community Hall. 2022 Locality Meeting is to be scheduled for Nornalup Hall, times and dates to be determined by the Chief Executive Officer, in conjunction with the Shire President, the Peaceful Bay Progress Association and Tingledale Hall Committee, and widely advertise those times & dates prior to the meetings; and 4. ADVERTISE the dates, times and locations in part 2 and 3 in the Denmark Bulletin, the Walpole Weekly, on Council’s website, on Council’s Notice Boards and on the Shire’s Facebook page. 	

OFFICER RECOMMENDATION	ITEM 9.3.3b
<p>That in relation to the publication timeframe for the Ordinary Council Meeting Agenda, Council AMEND Policy P040101, to determine that agendas are published and distributed nine (9) days prior to the meeting, as per schedule of 2022 meetings in, Attachment 9.3.2.</p>	

9.3.4 DELEGATIONS REVIEW 2021

File Ref:	Delegations Register
Applicant / Proponent:	Not applicable
Subject Land / Locality:	Not applicable
Disclosure of Officer Interest:	Nil
Date:	3 December 2021
Author:	Claire Thompson, Governance Coordinator
Authorising Officer:	David Schober, Chief Executive Officer
Attachments:	9.3.4a – Existing Register – marked up with changes 9.3.4b – Notes on changes to existing register 9.3.4c – New Register – marked up with changes 9.3.4d – Notes on new register 9.3.4e – Extract s3.24 & Schedules 3.1 and 3.2

Summary:

Council is required to review its delegations each year.

Background:

The delegations were last reviewed in November 2020.

Consultation:

Western Australian Local Government Association (WALGA) and internal employees.

Statutory Obligations:

LOCAL GOVERNMENT ACT 1995

Section 3.24, Subdivision 2 – *Certain provisions about land*

Local government may authorise a person to exercise powers under Subdivision 2.

Section 5.42 – local government may delegate to the Chief Executive Officer (CEO) the exercise of any of its powers or duties under the Local Government Act 1995 or s214(2), (3) or (5) of the Planning and Development Act 2005, by an absolute majority.

Section 5.43 and Regulation 18G of the Local Government (Administration) Regulations 1996 – the following powers or duties cannot be delegated (in summary):

1. Any that require an absolute majority decision of Council;
2. Powers under s5.98, 5.98A, 5.99, 5.99A or 5.100 (Council member fees etc.);
3. Borrowing money;
4. Hearing or determining objection an objection of a person who has been issued with a notice under Part 3 of the Act (certain things to be done with respect to land);
5. Authorise a person to sign documents on behalf of the local government;
6. Any power or duty that requires the approval of the Minister or Governor;
7. S7.12A – duties of local government with respect to audits.

Section 5.44 – CEO may delegate powers and duties to other employees.

Section 5.45 – Delegations can be for a specific period or an unspecified period. Nothing prevents a local government from performing the powers or duties that have been delegated.

Section 5.46 – A register of delegations must be kept and delegations must be reviewed at least once annually by the local government.

Section 9.49A(4) – Local government may authorise the CEO, another employee or agent of the local government to sign documents on behalf of the local government.

Section 9.49B – A person authorised under s9.49A(4) may make, vary or discharge a contract in the name of or on behalf of the local government.

LOCAL GOVERNMENT (ADMINISTRATION) REGULATIONS 1996

Regulation 19 – A written record must be kept of how and when the delegated power or duty was exercised, and the person or class of person directly affected by the exercise.

BUILDING ACT 2011

Section 127(1) & (3) – Local government may delegate any of its powers or duties to a local government employee.

BUSH FIRES ACT 1954

Section 17(10) – Local government may delegate to its Shire President and Chief Bush Fire Control Officer, jointly its powers and duties under subsections (7) and (8) (variation to prohibited burning times).

Section 48 – Local government may delegate to the CEO any of its functions.

Section 48(3) – CEO cannot sub-delegate.

CAT ACT 2011

Section 44 – Local government may delegate to its CEO the exercise of any of its powers or duties, by an absolute majority.

Section 45 – CEO may delegate any of the CEOs powers or duties to any employee.

Section 45(3) – CEO may sub-delegate any of the powers or duties that have been delegated by the local government to the CEO to any employee.

DOG ACT 1976

Section 10AA – Local government may delegate to its CEO any power or duty by an absolute majority. Must expressly state whether power or duty is permitted to be sub-delegated.

FOOD ACT 2008

Section 118(2)(b) – Local government may delegate functions to a person.

GRAFFITI VANDALISM ACT 2016

Section 16 – Local government may delegate to the CEO any of its powers or duties by an absolute majority.

PUBLIC HEALTH ACT 2016

Section 21(1)(b) – Local government may delegate to the CEO or an authorised officer designated by the local government a power or duty.

PLANNING AND DEVELOPMENT ACT 2005

Section 5.42(b) of the Local Government Act 1995 – Local government can delegate s214(2), (3) and (5) under the Planning and Development Act.

LOCAL PLANNING SCHEME - *Planning & Development (Local Planning Schemes) Regulations 2015*

Clause 82 – Local government may delegate to a committee or CEO any powers or duties, by an absolute majority.

Clause 83 – CEO may delegate powers or functions.

HEALTH (MISCELLANEOUS PROVISIONS) ACT 1911

Section 26 – local government may appoint and authorise any person to be its deputy to exercise and discharge all or any of the powers and functions of the local government under the Health (Misc. Prov.) Act.

Policy Implications:

Council's Delegation Register will be updated accordingly following this review.

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 are 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

L5.0 Our Local Government

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

L5.1 To be high functioning, open, transparent, ethical and responsive.

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

Corporate Business Plan

Nil

Sustainability Implications:

➤ **Governance:**

Delegations provide mechanisms to enable the day-to-day business of the Shire to be handled administratively in a timely and efficient manner. Alternatively, all decisions made under delegation would need to be considered formally by the Council. This could have timing implications, potentially reduce customer satisfaction of the Shire’s ability to make efficient, consistent decisions.

➤ **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)
Compliance: That Council not review its delegations.	Rare (1)	Minor (2)	Low (1-4)	Failure to meet Statutory, Regulatory or Compliance Requirements	Accept Officer Recommendation

Comment/Conclusion:

In February 2021, WALGA undertook an extensive review of the Shire of Denmark’s Delegations Register.

Over many years, the register had become a “one-stop-shop” for delegations, authorisations, appointments and designations. It was important to separate these, particularly so that it was clear which were delegations that Council were required to review each year.

The first step to this process was to examine each “delegation” and extract any that were not legally a delegation. They included a number that should be considered as policy positions or internal procedures, not delegation. There are also a number of new delegations that have been suggested by WALGA and have been included in the new register.

The items flagged as potential policy positions will be considered by officers and likely discussed, in the first instance, informally with Councillors.

Attached are the following documents for Council’s review;

1. Current Delegations, Authorisations & Appointments Register – marked up with comments - Attachment 9.3.4a);
2. Notes on the delegations, authorisations and appointments, including suggested action - Attachment 9.3.4b).
3. New Delegations Register – marked up with comments - Attachment 9.3.4c);
4. Notes on the new delegations, including whether new or replacing previous - see Attachment 9.3.4d).

The Officer also recommends that the Council:

1. Authorise persons under Part 3, Division 3, Subdivision 2 of the Local Government Act 1995 (LGA). An extract of the functions under these provisions and schedules are attached (see Attachment 9.3.4e).
2. Authorise the CEO and Deputy CEO for the purposes of s9.49A and s9.49B of the LGA (signing of contracts); and
3. Appoint and authorise a “deputy” to exercise and discharge all of the powers and functions of the local government under the Health (Miscellaneous Provisions) Act 1911.

Voting Requirements:

Absolute majority.

OFFICER RECOMMENDATION	ITEM 9.3.4a
That Council AGREE to delegate the powers and duties as detailed in Attachment 9.3.4a.	

** Absolute majority required.*

OFFICER RECOMMENDATION	ITEM 9.3.4b
That for the purposes of exercising the local government’s powers under Part 3, Division 3, Subdivision 2 of the Local Government Act 1995, Council AUTHORISES the following persons;	
<ul style="list-style-type: none"> • Chief Executive Officer • Deputy Chief Executive Officer • Director Corporate & Community Services. 	

** Absolute majority required.*

OFFICER RECOMMENDATION	ITEM 9.3.4c
That Council AUTHORISE the Chief Executive Officer and the Environmental Health Officer as its deputies for the purpose of exercising and discharging all of its powers and functions under the Health (Miscellaneous Provisions) Act 1911.	

** Absolute majority required.*

OFFICER RECOMMENDATION	ITEM 9.3.4d
That Council AUTHORISE the Chief Executive Officer, the Deputy Chief Executive Officer and the Director Corporate & Community Services to;	
<ol style="list-style-type: none"> 1. Sign documents on behalf of the local government (in accordance with s9.49A(4) of the Local Government Act 1995); and 2. Make, vary or discharge a contract in the name of the local government (s9.49B of the Local Government Act 1995). 	

** Absolute majority required.*

9.3.5 APPOINTMENT OF COUNCIL MEMBERS AND DELEGATES

File Ref:	CR.2
Applicant / Proponent:	Not applicable
Subject Land / Locality:	Not applicable
Disclosure of Officer Interest:	Nil
Date:	6 December 2021
Author:	Claire Thompson, Governance Coordinator
Authorising Officer:	David Schober, Chief Executive Officer
Attachments:	9.3.5a - Committees & Delegates List – as at 16 November 2021 9.3.5b - Behaviour Complaints Committee Charter 9.3.5c - Code of Conduct Behaviour Complaints Management Policy 9.3.5d - Denmark Bushfire Mitigation Working Group Terms of Reference 9.3.5e - Laing Park Dog Exercise Area Development Concept Plan Working Group Terms of Reference 9.3.5f - Paths & Trails Development Plan Working Group Terms of Reference 9.3.5g - Waste Reform Working Group Terms of Reference

Summary:

Council is asked to appoint members to the Behaviour Complaints Committee, consider its current position in relation to working groups and appoint delegates to external agencies and organisations.

Background:

The external agencies and organisations that have had delegates prior to the 2021 Local Government Election are detailed in Attachment 9.3.5a.

At the meeting held on 16 November 2021, Council re-established (and appointed members to) the Audit Advisory Committee, the Bush Fire Advisory Committee, the Disability Services Advisory Committee and the Local Emergency Management Committee.

Additionally, Council retained the Local Planning Strategy Working Group and appointed delegates to the Great Southern Regional Road Group and the WA Local Government Association – Great Southern Zone.

The Behaviour Complaints Committee was established at the meeting held on 20 July 2021 (Resolution No. 160721). The following Councillors were appointed as members: Cr Allen (former), Cr Lewis, Cr Seeney (former), Cr Gibson and Cr Bowley (former). Out of the five (5) members, three (3) are no longer Councillors; therefore it is recommended that Council consider appointing the members.

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 Chief Executive Officer (CEO), Directors and the Governance Coordinator led an informal discussion with Elected Members regarding committees, working groups and delegates, at the Induction Forum held on 2 November 2021.

Statutory Obligations:

PLANNING AND DEVELOPMENT (DEVELOPMENT ASSESSMENT PANELS) REGULATIONS 2011

Section 26(3) and 28 – the Minister has requested Council nominate two (2) delegates as *members* and two (2) delegates as *alternate members* on the Joint Development Assessment Panel. The current members are Cr Gibson and Cr Phillips, their term of appointment ends on 26 January 2022.

There are no other statutory requirements for Council to appoint delegates to external organisations and agencies.

Policy Implications:

Nil

Budget / Financial Implications:

Elected Member expenses can be recouped in accordance with Council Policy P040137 – Elected Member Allowances and Expenses.

Strategic & Corporate Plan Implications:

The report and officer recommendation are consistent with Council’s adopted Strategic Community Plan Aspirations and Objectives in the following specific way:

Denmark 2027

L5.0 Our Local Government

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

L5.6 To seek two-way communication that is open and effective.

Sustainability Implications:

➤ **Governance:**

Council Delegates provide a conduit between the local government and external organisations as well as fulfilling the Council’s role in some required positions, such as the Joint Development Assessment Panel.

➤ **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)
REPUTATIONAL Community is dissatisfied with Council engagement.	Unlikely (2)	Moderate (3)	Moderate (5-9)	Not Meeting Community expectations	Managed by retaining an open and effective administrative relationship with the external groups.

Comment/Conclusion:

Following are the Committee’s, Working Groups and delegate appointments for consideration, including the Officer’s recommendation on each.

BEHAVIOUR COMPLAINTS COMMITTEE

Attached is a copy of the Committee Charter (adopted by Council in July 2021), together with the *Code of Conduct Behaviour Complaints Management Policy*. (see Attachment 9.3.5b and 9.3.5c). As three (3) of the inaugural members are no longer Councillors, it is recommended that Council appoint (or re-appoint some) members.

DENMARK BUSHFIRE MITIGATION WORKING GROUP

A copy of the Terms of Reference is attached. (see Attachment 9.3.5d).

There are three (3) Councillor vacancies on the Working Group.

Previous members were Cr Gearon, Cr Seeney (former) and Cr Phillips.

LAING PARK DOG EXERCISE AREA DEVELOPMENT CONCEPT PLAN WORKING GROUP

The sunset clause for this working group was as follows:

The Working Group will cease to exist following completion of a Laing Park Dog Exercise Area Development Concept Plan approved by Council.

The draft concept plan was not considered by Council as there has been no funding available. The last meeting of the group was held in July 2020.

A copy of the Terms of Reference is attached (see Attachment 9.3.4e).

Officers recommend that this working group be re-established in the future should funding or grant opportunities become available.

PATHS & TRAILS DEVELOPMENT PLAN WORKING GROUP

This group was established in November 2017 with the following objective and sunset clause.

Objectives

To implement and prioritise outcomes from regional plans or strategies associated with recreational trails within the Shire of Denmark.

Sunset Clause

The Working Group will cease to exist once outcomes and priorities have been determined from regional plans or strategies associated with recreational trails within the Shire of Denmark.

A copy of the Terms of Reference is attached (see Attachment 9.3.5f).

At the informal discussion with Councillors on 2 November 2021, Officers had suggested that the group be disbanded however, some Councillors indicated that they would like to see the group continue.

It is recommended that the groups objective(s) and sunset clause be discussed at a future Councillor briefing to inform Officers what the group would be established to achieve. It is proposed that this will be considered in February 2022.

WASTE REFORM WORKING GROUP

This group was established in November 2019 with the following objective and sunset clause.

Objective

To develop a waste services reform for implementation in 2020-21 financial year. This will include:

- *Contracting Model*
- *Extent of Household Waste Services (General, Recycling, Food Organics Green Organics)*
- *Resolution on the Green Waste Disposal at the Macintosh Road Waste Facility*
- *Resolution on bin lid issues*

Sunset Clause

The Working Group will cease to exist following completion of a Waste reform adopted by Council.

A copy of the Terms of Reference is attached (see Attachment 9.3.5g).

At the informal discussion with Councillors on 2 November 2021, Officers had suggested that the group be disbanded however, some Councillors indicated that they would like to see the group continue.

Some Councillors also indicated that they felt that there were some similarities between waste and sustainability, and suggested that perhaps this could be considered by the Officers in reviewing the objectives and sunset clause.

It is recommended that a Sustainability Committee is established. Officers will lead a discussion in a December 2021 briefing to Councillors to develop terms of reference and objectives.

DELEGATES TO EXTERNAL ORGANISATIONS

- A. External Organisations or Committees that require a Council Delegate due to legislation, their charter / constitution or in accordance with a Deed or Agreement.

Council is requested to nominate a delegate for each of the following entities.

DENMARK CHAMBER OF COMMERCE INC.

One (1) x Councillor

JOINT DEVELOPMENT ASSESSMENT PANEL

Development Assessment Panels (DAP) are intended to enhance planning expertise in decision making by improving the balance between technical advice and local knowledge. The panel consists of three (3) specialist members and two (2) local government members. The role of DAPs is to determine development applications within a certain type and value threshold. A local government is required to nominate two (2) members and two (2) alternate members pursuant to the Planning and Development (Development Assessment Panels) Regulations 2011.

Current Council Members are Cr Gibson and Cr Phillips, with their appointments ending on 26 January 2022.

Appointments are subject to the approval of the Minister for Planning and there is a training requirement for members.

One (1) x Councillor (Member)
 One (1) x Councillor (Member)
 One (1) x Councillor (Alternate Member)
 One (1) x Councillor (Alternate Member)

- B. External Organisations or Committees that seek a Council Delegate or the Council has previously determined that it should have ongoing representation with.

DENMARK AQUATIC CENTRE COMMITTEE INC.

One (1) x Councillor

DENMARK ARTS INC.

One (1) x Councillor

DENMARK COMMUNITY RESOURCE CENTRE INC. COMMITTEE

One (1) x Councillor

DENMARK HISTORICAL SOCIETY INC.

One (1) x Councillor

DENMARK RESIDENTS & RATEPAYERS ASSOCIATION INC.

One (1) x Councillor

GREAT SOUTHERN RECREATION ADVISORY GROUP

Manager Community Services

One (1) x Councillor

LAKE MUIR / DENBARKER COMMUNITY FERAL PIG ERADICATION GROUP

One (1) x Councillor

NORNALUP RATEPAYERS & RESIDENTS ASSOCIATION INC. (NRRRA)

One (1) x Councillor

PEACEFUL BAY PROGRESS ASSOCIATION INC. (PBPA)

One (1) x Councillor

WALPOLE WORK CAMP COMMITTEE (Department of Corrective Services)

One (1) x Councillor

WILSON INLET CATCHMENT COMMITTEE INC. (WICC)

One (1) x Councillor

Councillors have determined that the Parrys Beach Management Group is an operational body best served with officers in attendance and therefore does not require Councillor representation.

On 2 November 2021, the Shire received a request from the Denmark Mountain Bike Club (DMBC) to have a Council delegate to liaise with the club and participate in monthly club meetings.

The Club stated that they believe it would help to improve the working relationship between the club and the Shire so that both parties could deliver better results together for the residents of Denmark.

Officers have recommended that Council provide a delegate.

Voting Requirements:

Absolute majority.

OFFICER RECOMMENDATION	ITEM 9.3.5a
That Council appoint the following five members to the Behaviour Complaints Committee:	
Cr _____;	
Cr _____;	
Cr _____;	
Cr _____; and	
Cr _____.	

OFFICER RECOMMENDATION ITEM 9.3.5b

That Council appoint the following three members to the Denmark Bushfire Mitigation Working Group:
 Cr _____;
 Cr _____; and
 Cr _____.

OFFICER RECOMMENDATION ITEM 9.3.5c

That with respect to the Paths & Trails Development Plan Working Group and the Waste Reform Working Group, Council request the Chief Executive Officer to place an item on the February 2022 Strategic Briefing Agenda in order for Councillors and Officers to review their objectives and sunset clauses.

OFFICER RECOMMENDATION ITEM 9.3.5d

That Council advise the Minister for Planning, Lands and Heritage that the following Councillors are nominated as the delegates on the Joint Development Assessment Panel;
 Cr _____ (Member);
 Cr _____ (Member);
 Cr _____ (Alternate Member); and
 Cr _____ (Alternate Member).

OFFICER RECOMMENDATION ITEM 9.3.5e

That Council appoint the following members as its respective delegates to the following external entities;

1. Denmark Chamber of Commerce Inc.
 Cr _____
2. Denmark Aquatic Centre Committee Inc.
 Cr _____
3. Denmark Arts Inc.
 Cr _____
4. Denmark Community Resource Centre Inc.
 Cr _____
5. Denmark Historical Society
 Cr _____
6. Denmark Residents & Ratepayers Association Inc.
 Cr _____
7. Great Southern Recreation Advisory Group
 Cr _____
8. Lake Muir / Denbarker Community Feral Pig Eradication Group
 Cr _____

- 9. Nornalup Residents & Ratepayers Association Inc.
Cr _____
- 10. Peaceful Bay Progress Association Inc.
Cr _____
- 11. Walpole Work Camp Committee
Cr _____
- 12. Wilson Inlet Catchment Committee Inc.
Cr _____

OFFICER RECOMMENDATION **ITEM 9.3.5f**

That Council accept the invitation from the Denmark Mountain Bike Club Inc. and appoint Cr _____ to the its delegate.

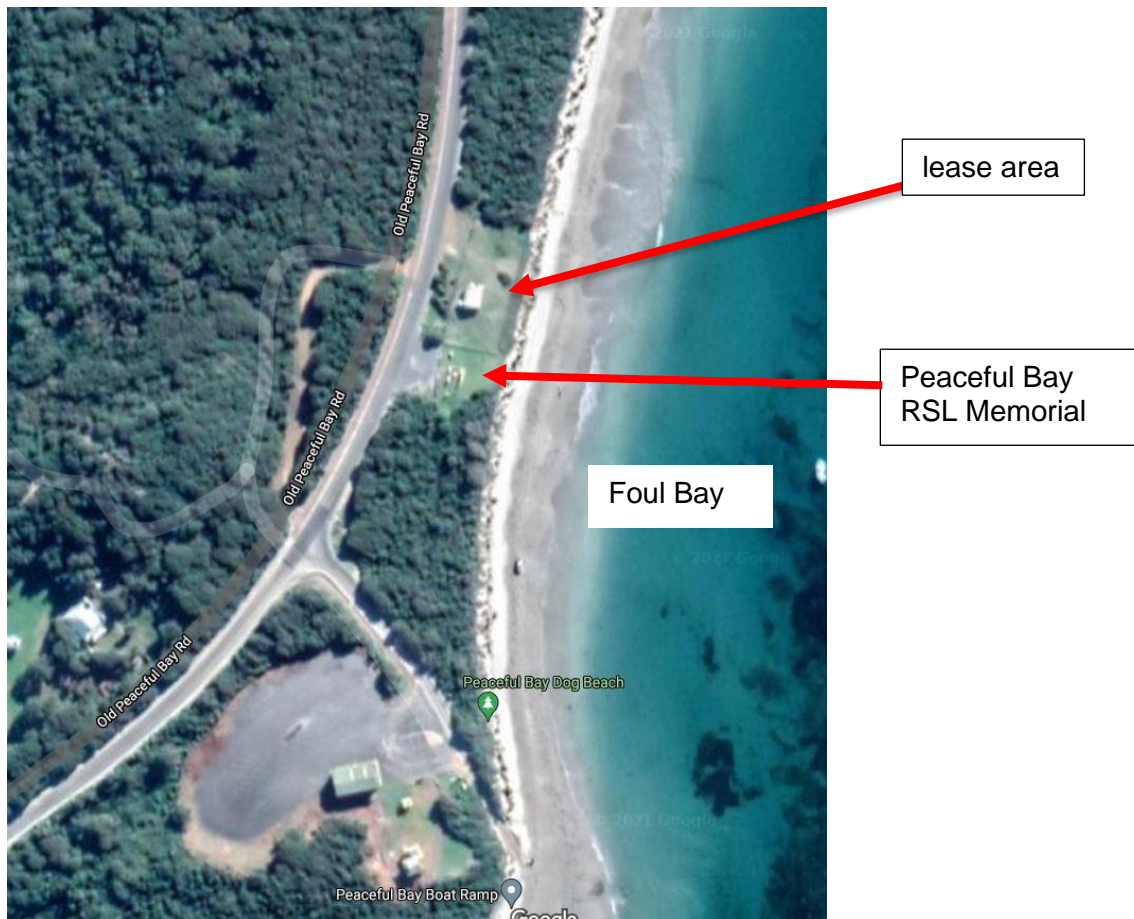
9.3.6 BEVANS (WA) PTY LTD – FISHERMANS LEASE RENEWAL

File Ref:	LEA.47
Applicant / Proponent:	Bevans (WA) Pty Ltd
Subject Land / Locality:	Lot 303 on Deposited Plan 220017 (Portion of Reserve 24510)
Disclosure of Officer Interest:	Nil
Date:	11 November 2021
Author:	Claire Thompson, Governance Coordinator
Authorising Officer:	David Schober, Chief Executive Officer
Attachments:	Nil

Summary:
Council is asked to consider renewing a lease between Bevans (WA) Pty Ltd and the Shire of Denmark for Lot 303 on Deposited Plan 220017, for the purposes of advertising.

Background:
The first record of a formal lease between the Shire and Bevans was 1991, when the portion of land was leased to NT & I E Bevan & Co. (the parents of the current leaseholder). The Bevan family have been fishing from the Peaceful Bay area since the mid-1950s.

The most current lease between Bevans (WA) Pty Ltd and the Shire was for 10 years and expired on 30 June 2021. The Lessee is now occupying the site as a monthly tenant awaiting Council’s decision on a new lease.



This matter was considered by the Council at its meeting held on 20 July 2021 where it was resolved (carried 4/2) as follows:

That with respect to Site 303 on Deposited Plan 220017, Council:

1. *ADVISE Bevans (WA) Pty Ltd that is prepared to consider a new 10-year lease subject to the lease containing provisions relating to;*
 - a) *Use of the site being restricted to during the salmon fishing season only;*
 - b) *Limiting the number of caravans, campers, tents or the like on the premises at any one time;*
 - c) *Requirement for the lessee to minimise any negative environmental impact at the site or land adjacent;*
 - d) *Referencing the site risks identified in the Ocean Beach and Peaceful Bay Coastal Hazard Risk Management and Adaption Plan, including the continual requirement that any structures on site remain a minimum of 10 metres from the edge of the dune cliff, due to the high risk of continual erosion or a significant one-off event;*
2. *Should Bevans (WA) Pty Ltd agree to the Council’s offer, REQUEST the Chief Executive Officer to liaise with the lessee to obtain an independent market rental valuation and refer the matter back to Council for further consideration.*

Consultation:

Officers have met with the lessee. They have agreed to the initial terms in the Council’s resolution and a market valuation has been obtained.

Any new commercial lease is required by legislation to be advertised for public comment.

Statutory Obligations:

LAND ADMINISTRATION ACT 1997

Reserve 24510 is managed by the Shire of Denmark and the Minister has granted the Shire power to lease for any term not exceeding 21 years. The purpose of the reserve is “holiday homes, recreation, caravan park, camping”.

LOCAL GOVERNMENT ACT 1995

Section 3.58 allows local governments to dispose of property, including to lease.

Section 3.58(3) permits a local government to dispose of property if it invites public submissions by local public notice and it considers any submissions.

Section 3.58(3) and (4) details the information that is required to be included in the public notice, such as the market value.

Policy Implications:

There are no policy implications.

Budget / Financial Implications:

In 2020/2021 the annual rent for the site was \$1,420 (including GST) and rates levied were \$1,181. The lessee has paid their rent and rates on time throughout the term of the lease.

The new valuation (dated 19 October 2021) has determined the annual market rent to be \$1,950 (ex GST).

The cost of a valuation shall be borne by the lessee, in accordance with the provisions in the existing lease.

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

L5.0 Our Local Government

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

L5.1 To be high functioning, open, transparent, ethical and responsive.

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

Sustainability Implications:Sustainability Strategy

6.0 Local & Sustainable Food

6.2 Support businesses seeking to develop food production facilities.

➤ Governance:

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

➤ Environmental:

In the past few years, coastal erosion has uncovered rubbish in the sand dune directly adjacent to the lease area. The lessee advised that they were unsure who the rubbish belonged to and, that upon noticing the waste in the dunes themselves, they carefully removed any items that became exposed.



Waste exposed in adjacent dune

The *Ocean Beach and Peaceful Bay Coastal Hazard Risk Management and Adaptation Plan* (2018) ('the Plan') evaluated the coastal hazards at Peaceful Bay concluding that "monitoring/planning" in the first ten (10) years and "managed retreat" thereafter, was a feasible option for the fisherman's lease and the RSL Memorial (both located at Foul Bay).

Table 6.2 Peaceful Bay Longer Term Coastal Adaptation

Coastal Asset	Planning Horizon (years)										
	5	10	20	30	40	50	60	70	80	90	100
Peaceful Bay: Finger Jetty	Accommodate										
Foul Bay: Old Peaceful Bay Road	Monitoring/ Planning		Protect or Managed Retreat								
Peaceful Bay: Coastal stairs and platforms	Accommodate		Managed Retreat								

ABOVE: Extract from the Plan, page 72.

The Plan also noted that, with the respect to the fisherman's lease, the Shire had in place the existing risk management controls;

1. Lessee required to maintain a ten (10) metre separation between any building and structure and the top of the dune cliff.
2. Either party can provide written notice, at any time, to terminate the lease.
3. Lease contains a clause entitled 'Total Destruction of the Premises', for any reason including inundation or significant (unacceptable) coastal erosion.



War Memorial

ABOVE: constructed building on leased premises and fenced off dune facing Foul Bay.

As can be seen from the photos above the actual lease area is well maintained and a good distance away from the edge of the sand dune.

➤ **Economic:**

Bevans have not commercially fished at Peaceful Bay since 2009 because the market conditions had not been conducive to salmon and herring fishing, making it not commercially viable.

Since that time, Bevans have been involved in the Australian Seafood Cooperative Research Centre project, to provide industry input, to improve fish quality, foster collaboration and contribute to new seafood product development. The project was focussed on Australian Salmon

(see "FISH", *Fisheries Research Development Corporation News, Volume 22, Issue 4.* <https://www.frdc.com.au/media-publications/fish/FISH-Vol-22-4/Market-makeover-for-Australian-Salmon>).

Recently however, in 2020 and 2021 there have been significant movements in the Great Southern, and Western Australia in general, to create new domestic and export markets for salmon, including an increase in marketing campaigns.

In 2021, a regional fish processor (Westerberg’s) received \$175,000 in State Government funding to complete the first phase of upgrades to its Albany processing and packaging facility (*Albany Advertiser online. 29 April 2021*). Bevans have been working with Westerberg’s as Bevans are the only processor registered for export in the Albany region.

Bevans are keen to recommence their salmon fishing operation at Peaceful Bay once these diversified markets are available and are proven to be commercially viable.

➤ **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)
Environment: That continued occupancy of the premises has a negative environmental impact.	Unlikely (2)	Insignificant (1)	Low (1-4)	Inadequate Natural Environ. Management Practices	Manage by including provisions in the lease that directly relate to the lessee’s responsibility to protect the natural environment and respond to coastal erosion.

Comment/Conclusion:

In 2013, the Lessee requested some amendments to the lease. At the Council meeting held in October 2013, prior to considering the request, the Council requested information about the lessee’s fishing operations and requested the lessee to provide reasons why the Council should not terminate the lease, “...given Council’s continuing concerns regarding environmental impacts cause by occupation of the site...”.

In response, the Lessee provided the following information to address Council’s concerns, in that they;

1. continually repair and maintain the building, revegetate the land and attempt to stop any erosion (by using sand bags, and other means);
2. between 2001 and 2005, they relocated and upgraded the building, constructed a fence and revegetated the area to attempt to reduce erosion on the sand cliff;
3. have further revegetated the land in 2003 and 2011;
4. hold a current salmon fishing licence, comply with all of the conditions on the licence and have spent time and money to establish new markets.

Bevans have a current Salmon Fishing Licence for Peaceful Bay and while the Council are not required to provide them with a lease area, they cannot be denied access to the coast to fish within their licensed area by any person (s77 of the *Fish Resources Management Act 1994*).

Without a lease, Bevans are still be permitted to fish within their licensed area and the licence can reference boats, vehicles, number of persons, area of land and waters or any other factor that the licence is permitted to use or access. The close proximity of the Fisherman’s lease area to the beach, allows the licence holder (Bevans) to contain vehicles, equipment and any other necessary resources required for them to fish within the one area, rather than on the beach itself.

The current lease states that use of the premises shall only be for business purposes during the salmon fishing season. There is no limit on the number of occupants at the site. This notwithstanding, the Shire has received a few complaints from nearby residents and/or business operators about the number of caravans the lessee has had on site at particular

times. The lessee acknowledges that it would be best to limit the number of people camping at the site at any one time and is prepared to endorse a condition to that effect in any new lease.

The lessee has also acknowledged that at times, visitors have stopped at the leased premises thinking that it was the caravan park. The lessee has expressed a desire to advocate for a sign or signs, prior to the leased area, stating how far away the caravan park is and a “Fisherman’s Lease Area” sign to eliminate any confusion and better direct visitors towards the commercial accommodation area.

The lessee has advised that the original lessee, Norm Bevan (*dec.*), passed away recently and they would like to seek the Shire’s approval to erect a sign depicting the history of the Fisherman’s lease site, Norm’s contribution and acknowledge its heritage, should a new lease be granted.

The lessees have indicated that they would welcome a new lease from the Shire and accept that they;

1. have a responsibility to protect the area from any negative environmental impact, as they have done previously throughout the term of the leases by undertaking revegetation in an effort to reduce erosion;
2. will be required to maintain a ten (10) metre separation between any buildings and the edge of the sand dune facing Foul Bay, and should this become unable to be achieved, the lease would be terminated;
3. must only occupy the site during the salmon fishing season.
4. must comply with any conditions imposed by the Council, including the number of caravans, campers, tents or the like on the premises at any one time.

The Officer has recommended a ten (10) year term as it consistent with the previous term, the term of the fisherman’s lease at Parry Beach and consistent with the CHRMAP “monitor/planning” period.

Voting Requirements:

Simple majority.

<p>OFFICER RECOMMENDATION</p> <p>That with respect to Site 303 on Deposited Plan 220017, Council:</p> <ol style="list-style-type: none"> 1. ADVERTISE its intention to enter into a new lease with Bevans (WA) Pty Ltd on the following basis: <ol style="list-style-type: none"> a. The term of the lease will be 10 years with no further option; and b. Annual market rent of \$1,950.00 (excluding GST). 2. REQUEST that a draft lease and any submissions be brought back to Council for final consideration. 	<p>ITEM 9.3.6</p>
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9.3.7 CONTINUING PROFESSIONAL DEVELOPMENT POLICY – ELECTED MEMBERS

File Ref:	ADMIN.2
Applicant / Proponent:	Not applicable
Subject Land / Locality:	Not applicable
Disclosure of Officer Interest:	Nil
Date:	7 December 2021
Author:	Claire Thompson, Governance Coordinator
Authorising Officer:	David Schober, Chief Executive Officer
Attachments:	Continued Professional Development Policy

Summary:

The Council are required to review the Continuing Professional Development Policy.

Background:

The requirement for local governments to develop and adopt a policy for the continued and professional development of council members was legislated in 2019.

The Council adopted a policy in February 2020.

Consultation:

Nil

Statutory Obligations:

LOCAL GOVERNMENT ACT 1995

Section 5.128(1) – local government must prepare and adopt a policy in relation to the continuing professional development of council members.

Section 5.128(5)(a) – After each ordinary election a local government must review its continuing professional development policy.

Policy Implications:

Attached is the current policy. Shire Officers are not proposing any amendments.

Budget / Financial Implications:

Training expenses can be accommodated within the Council's 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

L5.0 Our Local Government

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

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:**

Nil

Comment/Conclusion:

The policy appears to be working effectively and the Officer does not recommend any amendments.

Voting Requirements:

Absolute majority.

OFFICER RECOMMENDATION	ITEM 9.3.7
That Council ADOPT the Continued Professional Development Policy, as per Attachment 9.3.7.	

10. COMMITTEE REPORTS AND RECOMMENDATIONS

10.1 BUSH FIRE ADVISORY COMMITTEE MINUTES – 2 SEPTEMBER 2021

File Ref:	COMM.BFAC
Applicant / Proponent:	Not applicable
Subject Land / Locality:	Not applicable
Disclosure of Officer Interest:	Nil
Date:	26 November 2021
Author:	David King, Deputy Chief Executive Officer Lisa Sanders, Executive Support Officer
Authorising Officer:	David Schober, Acting Chief Executive Officer
Attachments:	10.1 – Bush Fire Advisory Committee (BFAC) Minutes 2 September 2021

Summary:

Council is requested to receive Minutes from the Bush Fire Advisory Committee.

Background:

The Bush Fire Advisory Committee met on the 2 September 2021, a copy of the Minutes of this meeting as per Attachment 10.1

Consultation:

Volunteer Bush Fire Brigades.

Statutory Obligations:

Section 5.22 of the Local Government Act 1995 requires that the Presiding Person of a Council Committee is to cause minutes to be kept of the meeting’s proceedings.

Committee minutes are not required under legislation to be presented to Council however, the Chief Executive Officer has determined that, in order to improve transparency and ensure that Councillors are aware of their various Committees’ activities, all Advisory Committee minutes will be presented to Council to be received.

Policy Implications:

There are no policy implications.

Budget / Financial Implications:

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

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

L5.0 Our Local Government

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

L5.1 To be high functioning, open, transparent, ethical and responsive.

L5.2 To have meaningful, respectful and proactive collaboration with the community.

L5.6 To seek two-way communication that is open and effective.

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.

Sustainability Implications:Sustainability Strategy

1. Health & Happiness

1.4 Support initiatives that create connected communities with key service areas.

2. Equity & Local Economy

2.2 Support the community to promote a circular economy and buy local philosophy.

3. Culture & Community

3.6 Embrace inclusivity and ensure availability and access of infrastructure and services to all minority groups including disadvantaged, and people with disabilities.

➤ **Governance:**

Fire Control Officers assist the local government to comply with their duties under Part 111 of the Bush Fires Act 1954, "Prevention of bush fires".

➤ **Environmental:**

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

➤ **Economic:**

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

➤ **Social:**

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

➤ **Risk:**

Nil

Comment/Conclusion:

The committee made a recommendation for Council to revisit charges for green waste at the East River Road Facility.

In early 2021, the Waste Reform Working Group considered gate fees for green waste as part of the 2021/22 budget preparation.

Council determined that commercial operations should be charged a green waste gate fee by adopting fees and charges for this service.

Green waste tip passes for residential properties have been issued to enable facility operators to differentiate between commercial and residential waste.

Residential property green waste is free of charge by presenting a valid green waste tip pass.

It will be appropriate to review the effectiveness of the scheme as part of the 2022/23 budget considerations. Any changes to the 2021/22 fees and charges schedules will require an understanding of the budget implications.

Voting Requirements:

Simple majority.

OFFICER RECOMMENDATION	ITEM 10.1a
That Council RECEIVE the Minutes of the Bush Fire Advisory Committee meeting held on 2 September 2021, as per Attachment 10.1.	

COMMITTEE RECOMMENDATION	ITEM 10.1b
That Council REVISIT the new scheme to charge residents for disposal of green waste at the East River Road tip.	

OFFICER RECOMMENDATION	ITEM 10.1c
That Council ADVISE the Bush Fire Advisory Committee of the following:	
<ul style="list-style-type: none"> • The Waste Reform Working Group considered gate fees for green waste as part of the 2021/22 budget preparation; and, • Council determined that commercial operations should be charged a green waste gate fee by adopting fees and charges for this service; and, • Green waste tip passes for residential properties have been issued to enable facility operators to differentiate between commercial and residential waste; and, • Residential property green waste is free of charge by presenting a valid green waste tip pass; and, • Council will review the effectiveness of the scheme as part of the 2022/23 budget considerations. 	

11. MATTERS BEHIND CLOSED DOORS

11.1 COMMUNITY CITIZEN OF THE YEAR AWARDS 2021

File Ref:	PBR.1.B.2021
Applicant / Proponent:	Various
Subject Land / Locality:	Not Applicable
Disclosure of Officer Interest:	The author is a referee and the former partner of the nominator of Community Citizen Award Nominee 5.
Date:	1 December 2021
Author:	Rosie Arnephie, Community Development Officer
Authorising Officer:	Gina McPharlin, Director Corporate and Community Services
Attachments:	11.1a – Community Citizen of the Year Nominations (Confidential to Councillors) 11.1b – Young Community Citizen of the Year Nominations (Confidential to Councillors) 11.1c – Senior Community Citizen of the Year Nominations (Confidential to Councillors) 11.1d – Active Citizen of the Year Nominations (Confidential to Councillors)

Summary:

Council is requested to consider the attached nominations for the 2022 Australia Day Community Citizen of the Year Awards and determine the successful recipients for each category.

Background:

The Shire of Denmark coordinates the annual Australia Day Community Citizen of the Year Awards to recognise individuals and community groups significant and positive contributions to our community. The award can acknowledge current year service or service over several years.

Outstanding contribution and community service can be in the areas of education, health, fund-raising, charitable and voluntary services, business, sport, arts, the environment, social inclusion, or any other area that contributes to the advancement and wellbeing of a community.

Nominations can only be made for an individual who ordinarily resides in the Shire of Denmark or for a community group or event which is based, operated, and held within the Shire of Denmark. Additional citizen activities or events operated or based outside of the Shire may be taken into consideration during the selection process.

The Australia Day Community Citizen of the Year Awards run in conjunction with the Australia Day Council of WA and consist of four categories:

- Community Citizen of the Year
- Young Community Citizen of the Year (Under 25 years of age)
- Senior Community Citizen of the Year (Over 65 years of age)
- Active Citizenship – Group or Event

The awards are presented at the Australia Day Celebration on 26 January.

The Shire of Denmark has a membership with Australia Day Council WA. Membership includes access to the official online nomination process, use of their logo for promotion, certificates, and medallions for each award recipient.

Consultation:

The Officer has considered Council's Community Engagement Policy P040123 and the associated Framework and believes that no additional external/internal engagement or consultation is required, other than the following engagement undertaken to promote the program.

The awards were promoted as follows;

- Shire of Denmark Website
- Shire of Denmark Notice Boards
- Shire of Denmark social media pages (Facebook and Instagram)
- Denmark Recreation Centre
- Denmark Library
- Email to the local community & sporting groups/organisations
- My Community Directory
- Advertisement in the Denmark Bulletin
- Advertisement in the Walpole Weekly
- Email to Councillors & Employees
- Denmark Direct
- Denmark FM
- Denmark Community Resource Centre

Statutory Obligations:

There are no statutory obligations.

Policy Implications:

Council's Citizens & Sportspersons of the Year Policy's (Policy P040113)

The objective is to recognise individuals and organisations making a notable contribution during the current year or those who have given outstanding service over several years.

Budget / Financial Implications:

Council's 2020/21 Budget includes an allocation for the Community Citizen of the Year Awards as part of the Australia Day event (GL1410252).

Strategic & Corporate Plan Implications:

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

Denmark 2027

C4.0 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.

Corporate Business Plan

The 2021-2024 Corporate Business Plan lists the Australia Day celebration as an existing service that the Community Services Team delivers.

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:**

The Community Citizen of the Year Awards provides an opportunity for Council to recognise and acknowledge local individuals and community groups (or events) who have made

significant and ongoing contributions to the Denmark community. These awards also foster a sense of community pride and encourage active community engagement.

➤ **Risk:**
Nil

Comment/Conclusion:

There are ten (10) nominations for the Australia Day Community Citizen of the Year Awards. All nominations meet the award requirements and have been forwarded to Councillors under a separate confidential cover at Attachment 10.1. An assessment matrix is included with the nominations.

The Australia Day Council guidelines for assessing the nominations are as follows.

Selection Guidelines

In choosing the recipients of the Community Citizen of the Year Awards, regard is given to the nominee's achievements in the year immediately prior to receiving the award, as well as their past achievements and ongoing contribution to the community.

- a) A nominee need only be nominated once to be considered.
- b) The number of nominations received per nominee bears no weight in their selection.
- c) Recipients will have been judged to have shown:
 - Significant contribution to the local community over and above what is normally expected from their paid employment/business.
 - Demonstrated leadership on a community issue resulting in the enhancement of community life.
 - A significant initiative that has brought about positive change and added value to community life.
 - Inspiring qualities as a role model for the community.

Eligibility Criteria

- a) Nominees must fit in the nominated category:
 - Community Citizen of the Year (No age restriction)
 - Young Community Citizen of the Year (Under 25 years of age)
 - Senior Community Citizen of the Year (Over 65 years of age)
 - Active Citizenship – (Group or Event)
- b) Nominees should reside or work principally within the Shire of Denmark.
- c) Awards may be granted posthumously in recognition of recent achievements.
- d) Groups of people or couples will not normally be eligible except when meeting the criteria for a community group. Though a couple or pair working together on a joint initiative may be considered in an individual category at the discretion of the local selection committee,
- e) A person may receive an award on more than one occasion in recognition of their particularly outstanding community contribution or involvement in an alternative initiative.
- f) Unsuccessful nominees may be nominated in future years.
- g) Nominations must be apolitical in their nature and should not in any way bring the awards program or local government area into disrepute.
- h) Sitting members of State, Federal and Local Government are not eligible.

Voting Requirements:

Simple majority.

OFFICER RECOMMENDATION	ITEM 11.1
That with respect to the 2022 Australia Day Community Citizens of the Year, that Council AWARD;	
1. _____ as the successful recipient of the Active Citizenship of the Year (Group or event); and,	
2. Select _____ as the successful recipient of the Community Citizen of the Year; and,	

3. Select _____ as the successful recipient of the Senior Citizen of the Year; and,
4. Select _____ as the successful recipient of the Young Citizen of the Year; and,
5. ENSURE the names of the recipients of the awards remain confidential until the official announcement by the Shire President or delegate at the award ceremony on the 26 January 2022.

11.2 SPORTSPERSON OF THE YEAR AWARDS 2021

File Ref:	PBR.30.2021
Applicant / Proponent:	Various
Subject Land / Locality:	Not Applicable
Disclosure of Officer Interest:	Not Applicable
Date:	1 December 2021
Author:	Nicky Higgs, Club Development Officer
Authorising Officer:	Gina McPharlin, Director Corporate and Community Services
Attachments:	11.2a – 2021 Junior Sportsperson of the year (Under 18 years of age) Nominations (Confidential to Councillors) 11.2b – 2021 Service to Sport Award (Confidential to Councillors)

Summary:

Council is requested to consider the nominations for the Shire of Denmark Sportsperson of the Year Awards 2021 and determine winners for the Sportsperson and Junior Sportsperson category.

Background:

Sportsperson of the Year Award recognises individuals notable contributions to the advancement and service to sport and recreation during the current year or those who have given outstanding service over several years. Outstanding contribution and community service include fundraising, voluntary services, umpiring, sporting achievement, coaching, sportsmanship, or any other area of contribution.

A nominee need only be nominated once to be considered. The number of nominations received per nominee does not provide additional weight to the evaluation process.

The Awards are provided pursuant to Policy P040113 and are presented at the Council's Australia Day Event on 26 January of each year.

Consultation:

The Officer has considered Council's Community Engagement Policy P040123 and the associated Framework and believes that no additional external/internal engagement or consultation is required.

Marketing and promotion for these awards included the following;

- Shire of Denmark Website
- Shire of Denmark Facebook page
- Denmark Recreation Centre
- Letter to local sporting groups/organisations
- Email to local sporting groups/organisations
- Email to Councillors and Employees
- Denmark FM
- Media release in the Denmark Bulletin
- Denmark Library
- Community Resource Centre

Statutory Obligations:

There are no statutory obligations.

Policy Implications:

Council’s Citizens & Sportspersons of the Year Policy’s (Policy P040113).

Budget / Financial Implications:

Council’s 2020/21 Budget includes an allocation for the Community Citizen of the Year Awards as part of the Australia Day event (GL1410252).

Strategic & Corporate Plan Implications:

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

Denmark 2027

C4.0 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.

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:**

The Sportsperson of the Year Awards is an opportunity for Council to recognise and acknowledge local individuals who have made significant and ongoing contributions to the community. These awards also foster a sense of community pride and encourage active community engagement.

➤ **Risk:**

Nil

Comment/Conclusion:

10 nominations have been received for Sportsperson of the year awards, Seven (7) for Junior Sportsperson and three (3) for Service to Sport Awards. All nominations meet the award requirements and have been forwarded to Councillors under a separate confidential cover at Attachment. There were no nominations received for Senior Sportsperson.

Voting Requirements:

Simple majority.

OFFICER RECOMMENDATION	ITEM 11.2
That with respect to the Sportsperson of the Year Awards for 2021, that Council AWARD;	
1. _____ as the successful recipient of the 2021 Junior Sportsperson of the year (Under 18 years of age); and,	
2. _____ as the successful recipient of the 2021 Service to Sport Award; and,	

3. ENSURE the names of the recipients of the awards remain confidential until the official announcement by the Shire President or delegate at the award ceremony on the 26 January 2022

12. NEW BUSINESS OF AN URGENT NATURE

Nil

13. CLOSURE OF MEETING