

Shire of Denmark

Ordinary Council Meeting MINUTES

17 MAY 2022



HELD IN COUNCIL CHAMBERS, 953 SOUTH COAST HIGHWAY, DENMARK, ON TUESDAY, 17 MAY 2022, COMMENCING AT 4.00PM.



Contact Us

953 South Coast Highway, Denmark WA 6333

Correspondence to:

Post Office Box 183, DENMARK WA 6333

Phone: (08) 9848 0300

Email: enquiries@denmark.wa.gov.au

Website: www.denmark.wa.gov.au

Facebook: shireofdenmark

Your Denmark: www.yourdenmark.wa.gov.au

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

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DISCLAIMER

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

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1. DECLARATION OF OPENING/ANNOUNCEMENT OF VISITORS

4.02pm – The Shire President, Cr Gearon, declared the meeting open and acknowledged the Bibbulmun and Minang people as the traditional custodians of the land on which the meeting was being held. Cr Gearon paid her respects to Elders past, present and emerging.

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 Donna Carman
- Cr Donald Clarke
- Cr Jan Lewis
- Cr Jackie Ormsby
- Cr Janine Phillips

STAFF:

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

APOLOGIES

- Cr Nathan Devenport
- Gina McPharlin (Director Corporate & Community Services)

ON APPROVED LEAVE(S) OF ABSENCE

Nil

ABSENT

Nil

VISITORS

Nil

3. DECLARATIONS OF INTEREST

Name	Item No	Interest	Nature
Cr Phillips	9.3.1	Impartiality	My husband is an offshore fisherman while Mr Bevan onshore fisherman.

4. ANNOUNCEMENTS BY THE PERSON PRESIDING

The Shire President announced that local resident Belinda Ross had been awarded the Great Southern Service to Sport Award at a ceremony held in Albany during the week.

Cr Gearon said that the award recognised volunteers who contribute significantly to local sport or recreation clubs. Cr Gearon acknowledged that Belinda had founded the local athletics and running clubs, and was a volunteer with the junior football and basketball clubs.

Cr Gearon extended the Council’s congratulations to Belinda.

5. PUBLIC QUESTION TIME

5.1 RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE

Nil

5.2 PUBLIC QUESTIONS

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

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

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

Questions from the Public

5.2.1 Kelli Gillies – Item 9.3.1 (Bevans Fishermans Lease)

Kelli requested that Council withdraw the lease and revegetate the site as she was concerned about the environmental impact on a fragile area. Kelli said that she had never seen the lessee fish at Peaceful Bay and believed that they only used the site as a private camping area.

5.2.2 Shane Smith – Bird Sanctuary and Ocean Beach Sea Wall

Shane spoke as a fifth-generation fisherman of Wilson Inlet and expressed concern about the segregation that the fenced area of the bird sanctuary would create. Shane said he was disappointed that he was never consulted on the proposal given his connection with the area.

Shane referred to the limestone sea wall that was being erected at the swimming area at Ocean Beach, stating that he felt it was vandalism of the coastline.

The Shire President acknowledged Shane's long family history and connection with the area and thanked him for raising his concerns with the Council.

5.2.3 Yasmin Bartlett – COVID-19 and Vaccinations

Yasmin provided information to the Council and expressed a number of concerns around the accuracy of polymerase chain reaction (PCR) tests, what was actually in the vaccinations and the lack of warnings of such. Yasmin showed statistics on the annual influenza deaths, adverse reactions to the vaccines and the number of people in hospital who were vaccinated.

5.3 QUESTIONS BY MEMBERS OF WHICH DUE NOTICE HAS BEEN GIVEN

Nil

5.4 PRESENTATIONS, DEPUTATIONS & PETITIONS

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

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

Nil.

6. APPLICATIONS FOR FUTURE LEAVE OF ABSENCE

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

6.1 CR CAMPBELL, CR GEARON AND CR PHILLIPS

COUNCIL RESOLUTION	ITEM 6.1
MOVED: CR GIBSON	SECONDED: CR ORMSBY
That the Cr Campbell, Cr Gearon and Cr Phillips be granted leave of absence for the Ordinary Council Meeting scheduled for 21 June 2022.	
CARRIED: 8/0	Res: 010522

7. CONFIRMATION OF MINUTES

7.1 ORDINARY COUNCIL MEETING – 19 APRIL 2022

COUNCIL RESOLUTION & OFFICER RECOMMENDATION	ITEM 7.1
MOVED: CR GIBSON	SECONDED: CR CARMAN
That the minutes of the Ordinary Meeting of Council held on the 19 April 2022 be CONFIRMED as a true and correct record of the proceedings.	
CARRIED: 8/0	Res: 020522

7.2 STRATEGIC BRIEFING NOTES – 19 APRIL 2022

COUNCIL RESOLUTION & OFFICER RECOMMENDATION	ITEM 7.2
MOVED: CR CLARKE	SECONDED: CR CAMPBELL
That the Notes from the Strategic Briefing Forum held on 19 April 2022 be RECEIVED.	
CARRIED: 8/0	Res: 030522

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 PROPOSED NAMING OF ROAD RESERVE ‘PINNIGER ROAD’, REMOVING NAME FROM ROAD RESERVE AND AMALGAMATION INTO ADJOINING RESERVE

File Ref:	A3080, A2 & R30240
Applicant / Proponent:	Shire of Denmark
Subject Land / Locality:	1. Unnamed Road Reserve, off South Coast Highway, Kentdale/Parryville; 2. ‘Pinniger Point Road’ Reserve; and 3. Reserve No. 22248, Lot 5433 on Deposited Plan
Disclosure of Officer Interest:	Nil
Date:	29 April 2022
Authors:	Lorraine Spencer, Project Officer Engineering Claire Thompson, Governance Coordinator
Authorising Officer:	David King, Deputy Chief Executive Officer
Attachments:	9.1.1 - Extract from Landgate Gazetted List

Summary:

Council is requested to name an unnamed road reserve ‘Pinniger Road’, unname an existing road reserve and amalgamate it into Lot 5433 on Deposited Plan 144747 (portion of Reserve No. 22248).

Background:

PROPOSED “PINNIGER ROAD”

The Shire’s Rates Officer has identified that the road reserve colloquially known, and sign posted, as ‘Pinnigers Road’ is not a recognised gazetted road name.

Lot 7037 on Deposited Plan 210587, No. 3971 South Coast Highway, Parryville has recently been subdivided into two lots as described on Deposited Plan 422045.

LIMITED IN DEPTH TO 12.99 METRES



ABOVE: Deposited Plan 422045 showing the unnamed Road Reserve (highlighted)

Two residences exist on the unnamed road reserve and their associated address is off South Coast Highway.



ABOVE: Image showing residences on unnamed Road reserve requiring new addresses for emergency services and rates purposes.

While the Shire recognises the road as “Pinnigers Road” and has sign posted it as such, it is important for it to be gazetted (according to State legislation), for the properties to be correctly identified in the Shire’s rates system (for valuation and rate calculation purposes) and so that emergency services can find the road on digital mapping systems.

'Pinnigers Road', Road Number 3050240, is already identified in the Road Network Software (RAMM) utilised by Main Roads WA and Shire of Denmark, and is already maintained by the Shire.

Note: the balance of this report will refer to 'Pinniger' not 'Pinnigers' as the Geographical Names Committee will not accept possessive apostrophes. The road is proposed to be named after the late William (Bill) Hamilton Pinniger.

The Geographical Names Committee (GNC) does not permit the duplication of names within the same locality, within close proximity and those which are identical or have similar spelling or pronunciation. The proposed 'Pinniger Road' has failed the Shire's preliminary attempt to verify it with GNC because of an existing 'Pinniger Point Road'.

PINNIGER POINT ROAD

'Pinniger Point Road', located off Inlet Drive, was to be removed in 1992 by Landgate but the action was inadvertently not followed through. Pinniger Point Road had been replaced by Inlet Drive and Poisson Point Road (Attachment 9.3.1). A small remanent of this road still remains officially on mapping platforms but the road is unmade and not sign posted.



ABOVE: Remains of Pinniger Point Road, Denmark, looking north to 1 Crowea Road.

Consultation:

PINNIGER ROAD

The *Policies and Standards for Geographical Naming in Western Australia* determines any consultation required regarding road naming. With respect to the proposed 'Pinniger Road', the Shire is required to consult with residents immediately affected by road name changes.

It is recommended that this occur if the Council resolve an intention to name the road 'Pinniger Road' and if there are any objections received, the matter will be brought back to Council for further consideration prior to it being referred to the Geographical Names Committee.

PINNIGER POINT ROAD

Given that in 1992, this road was proposed to be unnamed and the fact that physically it is no longer a through road, there are no affected residents and it is not sign posted, the author does not consider it necessary to undertake any level of consultation.

ALMAGAMATION

There is no requirement to undertake any consultation in relation to this matter.

Statutory Obligations:

Landgate's *Policies and Standards for Geographical Naming in WA* relates and must be considered before putting proposed names forward to the Geographic Names Committee. The GNC make the final determination as to whether the name is allocated to the identified road reserve.

For the transfer of Road Reserve back to UCL the following applies:

Section 58 of the Land Administration Act 1997

Provides the process of closing a road and requires the request to close a road be made to the Minister.

Section 9 of the Land Administration Regulation 1998

Provides the detail on how the request to the Minister should be made.

Policy Implications:

Council Policy P100603 – Road & Reserve Naming within the Shire relates to potential road names however it does not have any implications for this report or the officer recommendation.

Budget / Financial Implications:

There are minimal costs associated with the consultation with impacted residences on Pinniger Road being officer time and any postage. The road is already sign posted.

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.

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

Corporate Business Plan

Nil

Sustainability Implications:

➤ **Governance:**

It is not a requirement that 'Pinniger Point Road' road reserve be amalgamated into the adjoining reserve however, it would remove the area from appearing as an unnamed road reserve in the future and instead show it as part of Reserve 22248, which on the ground it essentially is.

➤ **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:**

Using the names of local identities who have contributed significantly or in a significant way provides an interesting insight into the history and culture of areas. They form an integral part of personal identity by defining where people were born, live, have lived and from where their ancestors have come from.

➤ **Risk:**

Risk	Risk Likelihood (based on history and with existing controls)	Risk Impact / Consequence	Risk Rating (Prior to Treatment or Control)	Principal Risk Theme	Risk Action Plan (Controls or Treatment proposed)
That the Geographical Names Committee do not approve the proposal.	Unlikely (2)	Minor (2)	Low (1-4)	Inadequate Document Management	Accept Risk

Comment/Conclusion:

PINNIGER ROAD

GNC will only consider the use of personal names for naming when:

1. It is posthumously;
2. The immediate family has granted permission;
3. The person has or had;
 - a) A demonstrated record of achievement;
 - b) A long-term association with the location and made a significant contribution to the area.

Current or past ownership of land is not considered sufficient grounds.

Historical Background – William Pinniger



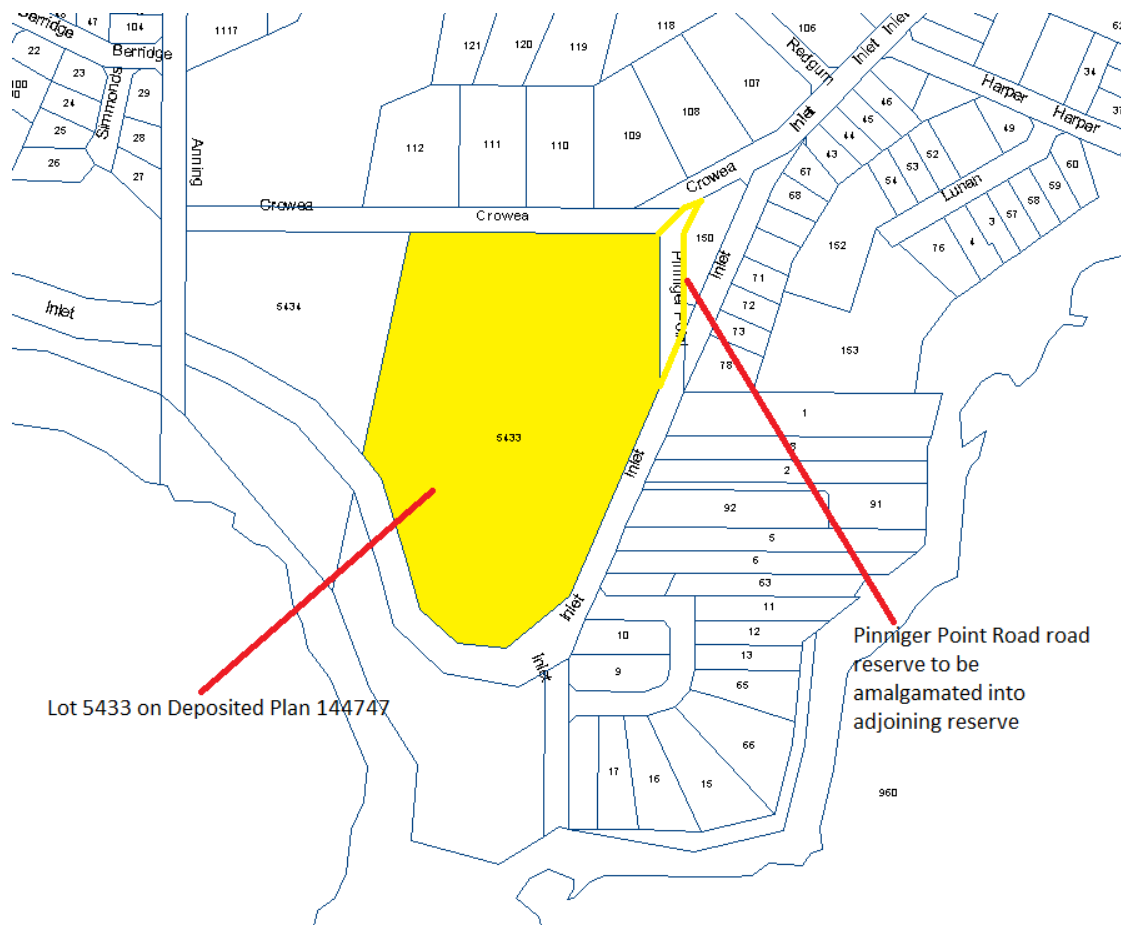
William Hamilton Pinniger was born at Mill Point in Perth on 26 April 1906. His father Charles came to WA from Ballarat and retired to Denmark in 1926. He acquired land on the Kent River in Kentdale/Parryville. William Pinniger started fishing commercially in the area in 1934 along with Jack Rich. Eventually they constructed a road into the back of Parry Beach

to gain better access. The Pinniger family still fishes at Parry Beach today. William passed away in 1998 aged 91. (Extracted from *What's in a Name?*, page 23, B McGuinness).

'Pinniger Point Road' was named in commemoration of William Pinniger and for this reason and Williams' significant contributions to the Parryville area, the author believes that the naming proposal would be considered favourably by GNC.

UNNAMING PINNIGER POINT ROAD AND AMALGAMATION INTO ADJOINING RESERVE

'Pinniger Point Road' road reserve adjoins Reserve No. 22248 (Lot 5433 on Deposited Plan 144747) and it is recommended that it be removed from the gazetted road names register and amalgamated into this recreational reserve. There are no official residences or properties on 'Pinniger Point Road'. The reserve is managed by the Shire of Denmark for the purpose of *Landscape Protection and Recreation*.



ABOVE: Map showing location of unmade Pinniger Point Road and Reserve No. 22248.

In order for GNC to consider approving Pinniger Road, unaming Pinniger Point Road is imperative because of the GNC's policies regarding the non-duplication of names.

It is not a requirement for the road reserve to then be amalgamated into an adjoining reserve however the author believes that the request could be made at the same time as it would tidy up mapping systems. There is nothing to indicate that it would be used as a road in the future given the surrounding, established residential areas.

Voting Requirements:
Simple majority.

COUNCIL RESOLUTION & OFFICER RECOMMENDATION	ITEM 9.1.1a)
MOVED: CR CLARKE	SECONDED: CR LEWIS
That Council;	
1. ADVISE the owners and occupiers of the land adjacent to the unnamed road reserve identified in Deposited Plan 422045, of Council’s intention to name the road ‘Pinniger Road’, and if there is no objection received REQUEST the Geographical Names Committee to;	
a) REMOVE Pinniger Point Road from its gazetted road list for the Denmark local government area; and	
b) NAME the unnamed road reserve adjacent to South Coast Highway, as shown in Deposited Plan 422045 ‘Pinniger Road’.	
CARRIED: 8/0	Res: 040522

COUNCIL RESOLUTION & OFFICER RECOMMENDATION	ITEM 9.1.1b)
MOVED: CR CARMAN	SECONDED: CR GIBSON
That Council,	
1. Pursuant to section 58(3) and 58(1) of the <i>Land Administration Act 1997</i> ,	
a) REQUEST the Chief Executive Officer to provide public notice, seeking submissions for a period of 35 days, or more, of Council’s intent to permanently close Pinniger Point Road Reserve;	
b) AUTHORISE the Chief Executive Officer to consider the submissions and request that the Minister close Pinniger Point Road Reserve, subject to no objections being received during the submission period, and in accordance with <i>section 9 of the Land Administration Regulations 1998</i> .	
2. REQUEST the Department of Planning, Lands and Heritage to amalgamate the road reserve into Lot 5433 on Deposited Plan 144747, once notification of the road closure is received from the Minister.	
CARRIED: 8/0	Res: 050522

9.2 DIRECTOR CORPORATE AND COMMUNITY SERVICES

9.2.1 FINANCIAL STATEMENTS FOR THE PERIOD ENDED 31 MARCH 2022 AND BUDGET AMENDMENTS

File Ref:	FIN.1
Applicant / Proponent:	Not applicable
Subject Land / Locality:	Not applicable
Disclosure of Officer Interest:	Nil
Date:	4 May 2022
Author:	Lee Sounness, Manager Corporate Services
Authorising Officer:	Gina McPharlin, Director Corporate & Community Services
Attachments:	9.2.1a – March 2022 Monthly Financial Report 9.2.1b – Capital Expenditure – Project Status 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 March 2022 and proposed budget amendments, detailed in this report.

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).

Further amendments to the adopted budget were endorsed by Council as part of the statutory mid-year budget review, which was adopted at a Special Council Meeting held on 1st March 2022 (Res: 010322).

All Council approved budget amendments for the 2021/2022 financial year are included in the financial statements presented for the period ended 31 March 2022.

At the mid-year budget review Council was informed that the Surf Club Redevelopment at Ocean Beach Recreation Precinct, the major capital works project, was not likely to commence in the 2021/2022 financial year because of the unsuccessful Building Better Regions Fund 4 (BBRF 4) grant application. However, the project and its funding sources were retained in the budget as a new funding application was being submitted to the BBRF 5, and it was expected a decision regarding the success of that submission would be known by May 2022, with works to commence immediately upon notification.

Since the mid-year budget review factors, including the upcoming Federal Election, clarity regarding the status of the funding application for the Ocean Beach Recreation Precinct project and uncertain agreed scope of works, indicate work on the project will not commence before 30 June 2022.

Officers recommended that the Surf Club Redevelopment project be removed from the 2021/2022 budget and the budget be amended accordingly.

An updated project business case, including funding details and loan request, will be put before Council for consideration during the development of the 2022/2023 budget and following the agreement of the project scope.

The amendments required are as follows:

A/c 1137063 – Non-operating Grant Income – Recreation Facilities Upgrade – reduce income by \$2,125,000.

A/c 1136583 – Contribution Income – Recreation Facilities Upgrade – reduce income by \$50,000.

Capital Income – Proceeds from Borrowings – reduce income by \$1,769,225.

A/c 1121004 (Job 52100) – Surf Club Redevelopment Contractor Expense – reduce expense by \$3,985,000.

A/c 1121004 (Job 52100) – Surf Club Redevelopment Overhead Expense – reduce non-cash expense allocation by \$15,000.

A/c 1436901 – Overheads allocated to Contract Works Expense – reduce non-cash expense redistribution by \$15,000.

The above amendments result in a net adjustment to the estimated year-end position of \$40,775 surplus.

To bring the estimated year-end position back to a balanced budget it is also recommended to make the following adjustments:

A/c 1121003 – Sale of Lime Sand Income – reduce income estimate by \$30,775. This amendment is required to adjust the income expectation for this activity to the level expected due to the lower tonnage of lime being mined in 2022 as referenced in the outstanding debtors area of this report.

A/c 1317543 – Standpipe Water Sales Income – reduce income estimate by \$10,000. This amendment will better align the budget to the actual revenue from sales achieved for 2021/22.

There are no other significant trends or issues to be reported. Some minor variances to year-to-date budgets are disclosed in Note 3(a) of the financial statements including those relating to the timing of the works program.

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:

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

The Statement of Financial Activity for the period ended 31 March 2022 (Statement of Financial Activity - Statutory Reporting by Nature & Type page 2. Attachment 9.2.1a – March 2022 Monthly Financial Report) shows a year-to-date actual closing surplus position of \$3,115,031 compared to the year-to-date budget of \$1,546,358, a year-to-date variance of \$1,568,674.

The year-to-date operating revenue is \$37,449 higher than the year-to-date budgeted amount. The increase is due to the net result of fees and charges income (primarily recreation centre fees) and Container Deposit Scheme income being higher than expected, and operating grants received behind the budget timeline.

The actual operating expenditure is \$351,928 less than the year-to-date budgeted amount. This variance is explained by timing and contractor supply issues affecting planned DRFAWA storm reinstatement works (refer to Materials and Contracts Expense in the Statement of Financial Activity Report by Nature and Type).

\$1,797,830 capital expenditure has been incurred to the end of March 2022. \$1,277,735 less than budgeted. Contributing to the current underspend is the delay of the McLean Oval Water Re-Use Project due to the pending license amendment, and the road renewal reseal program (including several Main Roads Regional Road Group funded projects) tracking behind the budget timeline. These road projects are expected to be completed by June 30 as budgeted.

Outstanding Debtors (Note 4)

As at 31 March 2022, outstanding Rates Debtors totalled \$776,967 compared to \$597,358 at the same time last year. The increase is due to the timing of the final rate instalment (7 April 2022), and it is expected the Rates Debtors will be within budget estimates at year-end.

The rates collection percentage for the year sits at 89.51% (see Note 4), compared to 91.53% at the same time last year.

As at 31 March 2022, outstanding Sundry Debtors totalled \$61,859 compared to \$119,699 at the same time last year.

The sundry outstanding debtors exceeding 90 days of \$36,758 are mainly related to unpaid lime sales. Outstanding lime sales income is not expected to be received as the contracted lime tonnage has not been mined and all orders placed have been unable to be filled. Credit notes have been applied to impacted lime sale debtors in April. If the proposed budget

amendment is not adopted, it will result in a revenue shortfall variance being reported in the April financial report for this line item.

Reserves

The movement to reserves represents interest earned on reserve funds and transfers to and from reserves. A transfer of \$545,000 from the Denmark East Development Reserve (see Note 5) has been made to fund the Denmark East Light Industrial Area Fire Suppression System project which is now unlikely to proceed, and an application to DPIRD to repurpose these funds through a project variation is currently being prepared by management.

Cash Management

As at 31 March 2022, total cash funds held (excluding trust funds) totals \$7,312,881 (Note 1).

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

Reserve Funds (restricted) total \$4,112,406 (Note 5).

Municipal Funds (unrestricted) total \$4,477,700 (Note 2).

Voting Requirements:

Absolute majority.

COUNCIL RESOLUTION & OFFICER RECOMMENDATION	ITEM 9.2.1
MOVED: CR CLARKE	SECONDED: CR PHILLIPS
That Council:	
1. RECEIVE the Financial Reports for the period ending 31 March 2022, incorporating the Statement of Financial Activity and other supporting documentation; and	
2. APPROVE the following amendments to the 2021/2022 Budget:	
a) A/c 1137063 – reduce non-operating income by \$2,125,000.	
b) A/c 1136583 – reduce operating income by \$50,000.	
c) Reduce proceeds from borrowings by \$1,769,225.	
d) A/c 1121004 (Job 52100) – reduce contract capital expenditure by \$3,985,000.	
e) A/c 1121004 (Job 52100) – reduce overhead capital expense allocation by \$15,000.	
f) A/c 1436901 – reduce overhead expense redistribution allocation by \$15,000.	
g) A/c 1121003 – reduce operating income by \$30,775.	
h) A/c 1317543 – reduce operating income by \$10,000.	
CARRIED BY AN ABSOLUTE MAJORITY: 8/0	Res: 060522

9.2.2 LIST OF PAYMENTS FOR THE PERIOD ENDING 31 MARCH 2022

File Ref:	FIN.1
Applicant / Proponent:	Not applicable
Subject Land / Locality:	Not applicable
Disclosure of Officer Interest:	Nil
Date:	2 May 2022
Author:	Lee Sounness, Manager of Corporate Services
Authorising Officer:	Gina McPharlin, Director Corporate & Community Services
Attachments:	9.2.2 – March 2022 Monthly List of Payments Summary

Summary:

The purpose of this report is to advise the Council of payments made during the period 1 March 2022 to 31 March 2022.

Background:

Nil

Consultation:

Consultation was not required for this report.

Statutory Obligations:

Local Government (Financial Management) Regulation 13.

Policy Implications:

Delegation Number D040201

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 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:

Nil

Voting Requirements:

Simple majority.

COUNCIL RESOLUTION & OFFICER RECOMMENDATION	ITEM 9.2.2
MOVED: CR GIBSON	SECONDED: CR CARMAN
That with respect to the attached Schedule of Payments, totalling \$1,877,790.26, for the month of March 2022, Council RECEIVE the following summary of accounts:	
<ul style="list-style-type: none"> • Electronic Funds Transfers EFT32424 to EFT32678 - \$1,376,036.47; • Municipal Fund Cheque No's 60477 – 60481 - \$8,610.45; • Internal Account Transfers (Payroll) - \$406,531.24; and • Direct Debit - \$11,611.24; • Corporate Credit Card; \$3,153.31; • Department of Transport Remittances; \$71,847.55, and • Loan Payments: \$Nil 	
CARRIED: 8/0	Res: 070522

9.2.3 INVESTMENT REPORT FOR THE PERIOD ENDED 31 MARCH 2022

File Ref:	FIN.19
Applicant / Proponent:	Not applicable
Subject Land / Locality:	Not applicable
Disclosure of Officer Interest:	Nil
Date:	30 April 2022
Author:	Lee Sounness, Manager Corporate Services
Authorising Officer:	Gina McPharlin, Director Corporate & Community Services
Attachments:	9.2.3 – March 2022 Investment Register

Summary

This report presents the Investment Register for the period ending 31 March 2022.

Background

This report is for Council to receive the Investment Register for the period ending 31 March 2022.

Council's Investment of Funds Policy 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.

Consultation

Nil.

Statutory Obligations

The *Local Government Act 1995 – Section 6.14, the Trustees Act 1962 – Part III Investments, the Local Government (Financial Management) Regulations 1996 - Reg. 19, 28 and 49, and the Australian Accounting Standards*, sets out the statutory conditions under which funds may be invested.

Regulation 34 of the *Local Government (Financial Management) Regulations* requires a monthly report on the Shires Investment Portfolio to be provided to Council.

Policy Implications

All investments are made in accordance with Council Policy P040229 – Investments, which states that 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 Plan Objectives and Goals and the Corporate Business Plan Actions and Projects in the following specific ways:

Denmark 2027

L5.4 To be fiscally responsible

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 summarises how funds are invested as per the Shires Investment Policy and reports on the Investment Portfolio balance as at 31 March 2022.

The portfolio balance mix meets the policy requirement in that no single institution hold more than 50% of the total funds invested, and the individual institution's S&P credit rating meet the required threshold to limit single entity exposure.

The total Reserve Funds invested as at 31 March 2022 totals \$4,112,407.
The total Municipal Funds Invested as at 31 March 2022 totals \$2,658,766.

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.

COUNCIL RESOLUTION & OFFICER RECOMMENDATION	ITEM 9.2.3
MOVED: CR GIBSON	SECONDED: CR ORMSBY
That Council RECEIVE the Investment Register (Attachment 9.2.3) for the period ended 31 March 2022.	
CARRIED: 8/0	Res: 080522

9.3 CHIEF EXECUTIVE OFFICER

Cr Phillips declared that her husband is an offshore fisherman while Mr Bevan is an onshore fisherman and as a consequence there may be a perception that her impartiality on this matter may be affected. Cr Phillips declared that she would consider this matter on its merits and vote accordingly.

9.3.1 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:	9.3.1 - Draft Lease

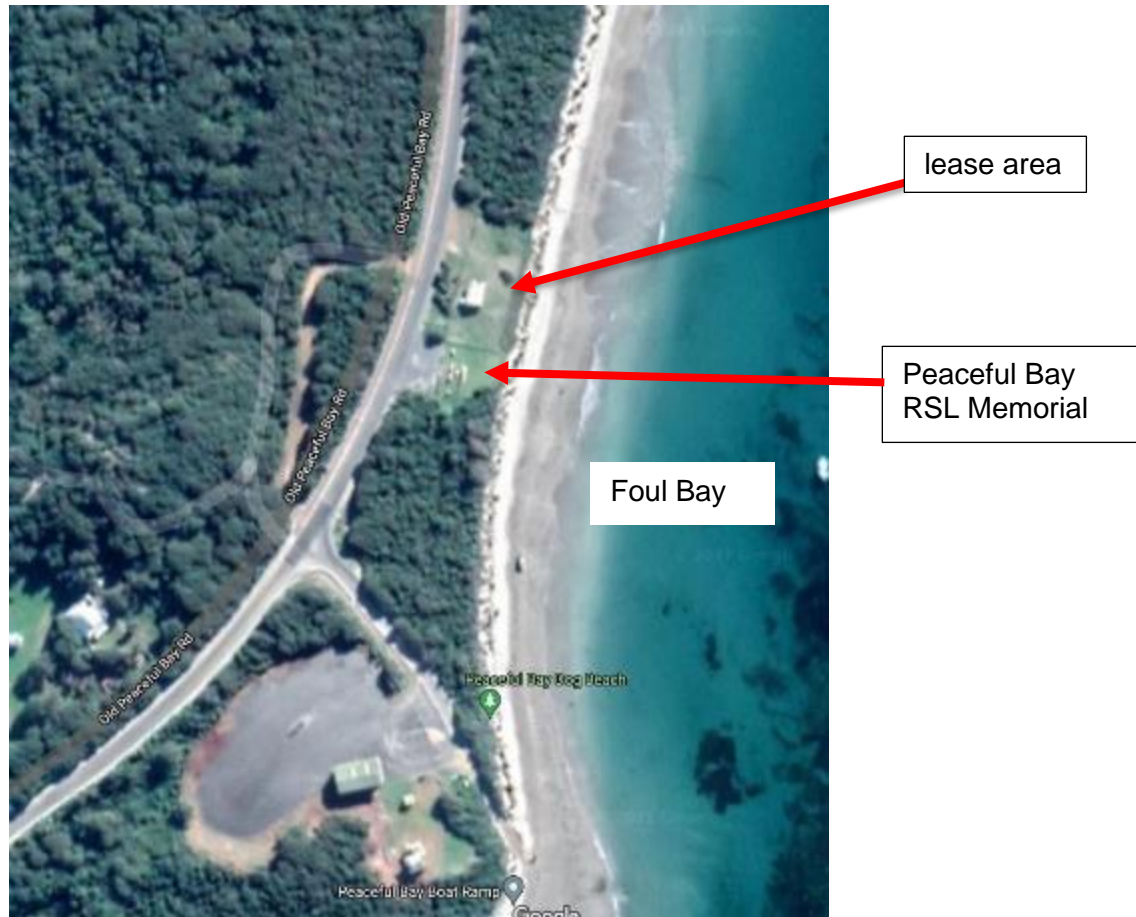
Summary:

Council is asked to consider offering a new lease to Bevans (WA) Pty Ltd for Lot 303 on Deposited Plan 220017.

Background:

The first record of a formal lease between the Shire and Bevans is 1991 when the portion of land was leased to NT & IE 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.*

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

This matter was considered further by the Council at its meeting held on 21 December where it was resolved (carried 8/1) as follows:

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

1. *ADVERTISE its intention to enter into a new lease with Bevans (WA) Pty Ltd on the following basis:*
 - 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 and that the draft lease include the following conditions:*
 - a) *Use of the site being restricted to the salmon fishing season only;*
 - b) *Limiting the number of caravans, campers, tents or the like on the premises at any one time;*
 - c) *Limiting the number of people resident on-site at any one time;*
 - d) *Requirement for the lessee to minimise any negative environmental impact at the site or land adjacent;*
 - e) *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.*

Consultation:

In accordance with Council's December 2021 resolution, the Council's intention to dispose was advertised for public comment. No submissions were received.

The Author has consulted internally with the Shire's Principal Building Surveyor and Principal Environmental Health Officer with respect to camping at the site, including numbers of people at any one time, the availability of potable or non-potable water and effluent.

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".

Ministerial approval would need to be sought in accordance with s 18.

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:

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

The draft lease includes provision that the annual rent be increased by the Consumer Price Index (CPI) each year.

A market review is not recommended given the previous valuation (10 years ago) was only approximately \$900 less than the 2021 valuation. In the officer's opinion, given that the use of the premises is not proposed to change during the ensuing lease term, the cost to obtain

a commercial valuation, even after five years, would not be financially beneficial for the Shire.

The lessee will be required to continue to pay rates and all outgoings. In 2021/22 financial year, the rates paid were \$1,700 which included one waste service.

Strategic & Corporate Plan Implications:

The report and officer recommendation are consistent with Council’s adopted Strategic Community Plan Aspirations 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.

E1.0 Our Economy

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

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 Lessee has also advised that they continually revegetate the land and attempt to stop any erosion (by using sand bags, and other means).

Whilst coastal erosion is an issue for any coastal area including Foul Bay, the Author does not believe that it has any direct correlation to the lessee’s occupancy of the premises.

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 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 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.

The draft lease includes similar provisions. Item 1 (above) is covered under Special Condition 10.2 and Items 2 and 2 (above) are covered under clause 11.1.





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.Man agement Practices	Manage by including provisions in the lease that: 1. Require the lessee to take responsibility for the protection of the natural environment and respond to coastal erosion. 2. Allow the Shire to terminate the lease by giving 3 months' notice at any time.

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 permitted to fish (at Peaceful Bay) 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 draft lease states that use of the premises shall only be for business purposes during the salmon fishing season and restricts the number of caravans/campers/tents at any one time (see Special Condition 10.1).

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 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 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.

OFFICER RECOMMENDATION

ITEM 9.3.1

That with respect to the draft lease for Site 303 on Deposited Plan 220017, Council:

1. AUTHORISE the Chief Executive Officer to seek Ministerial Approval, in accordance with section 18 of the Land Administration Act 1997; and
2. Should the Minister approve the draft lease, AUTHORISE the Shire President and the Chief Executive Officer to execute the draft lease, as per Attachment 9.3.1.

COUNCIL RESOLUTION

MOVED: CR GEARON

SECONDED: CR GIBSON

That Standing Orders be suspended.

CARRIED: 8/0

COUNCIL RESOLUTION

MOVED: CR GEARON

SECONDED: CR CAMPBELL

That Standing Orders be resumed.

CARRIED: 8/0

Officers advised that there was a minor error in the draft lease and provided the following Amended Officer Recommendation.

COUNCIL RESOLUTION & AMENDED OFFICER RECOMMENDATION

ITEM 9.3.1

MOVED: CR GIBSON

SECONDED: CR GEARON

That with respect to the draft lease for Site 303 on Deposited Plan 220017, Council:

1. AUTHORISE the Chief Executive Officer to seek Ministerial Approval, in accordance with section 18 of the Land Administration Act 1997; and
2. Should the Minister approve the draft lease, AUTHORISE the Shire President and the Chief Executive Officer to execute the draft lease, as per Attachment 9.3.1, subject to the following amendment:
 - a. Replace the words “caravan park” with “commercial” in clause 3.5(d).

AMENDMENT

MOVED: CR LEWIS

SECONDED: CR ORMSBY

Add part 2 b. that states that the lease term in Item 4.1 of the Schedule be reduced from 10 years to 5 years.

CARRIED: 5/3	Res: 090522
<i>Pursuant to Council Policy P040134 all Councillors' votes on the above resolution are recorded as follows;</i>	
<i>FOR: Cr Campbell, Cr Clarke, Cr Ormsby, Cr Carman and Cr Lewis.</i>	
<i>AGAINST: Cr Gibson, Cr Phillips and Cr Gearon.</i>	
AMENDMENT	
MOVED: CR PHILLIPS	MOVED: CR LEWIS
Add part 2 c. that says, Add an additional Special Condition that states, The Lessee is required, at their expense, to revegetate a three (3) metre section of the lawn adjacent to the sand dune and extending the width of the lease area, with native vegetation, to the satisfaction of the Shire of Denmark, within 12 months from the commencement date of the lease.	
LOST: 2/6	Res: 100522
<i>Pursuant to Council Policy P040134 all Councillors' votes on the above resolution are recorded as follows;</i>	
<i>FOR: Cr Phillips and Cr Lewis.</i>	
<i>AGAINST: Cr Campbell, Cr Clarke, Cr Gibson, Cr Gearon, Cr Ormsby and Cr Carman.</i>	
AMENDED MOTION	
That with respect to the draft lease for Site 303 on Deposited Plan 220017, Council:	
1. AUTHORISE the Chief Executive Officer to seek Ministerial Approval, in accordance with section 18 of the Land Administration Act 1997; and	
2. Should the Minister approve the draft lease, AUTHORISE the Shire President and the Chief Executive Officer to execute the draft lease, as per Attachment 9.3.1, subject to the following amendment:	
a. Replace the words "caravan park" with "commercial" in clause 3.5(d).	
b. The lease term in Item 4.1 of the Schedule be reduced from 10 years to 5 years.	
CARRIED: 8/0	Res: 110522

9.3.2 LEASE OF RESIDENTIAL PROPERTY AT 7 BEVERIDGE STREET, DENMARK

File Ref:	A3032
Applicant / Proponent:	Government Regional Officers' Housing
Subject Land / Locality:	Lot 152 on Deposited Plan 224101 (No. 7 Beveridge Street, Denmark)
Disclosure of Officer Interest:	Nil
Date:	3 May 2022
Author:	Claire Thompson, Governance Coordinator
Authorising Officer:	Gina McPharlin, Director Corporate & Community Services
Attachments:	9.3.2 – Housing Affordability Policy

Summary:

Council is asked to consider the future use of the residential property owned by the Shire of Denmark at 7 Beveridge Street, Denmark and respond to a request from the current tenant for a new longer-term lease (two years).

Background:

The house at Beveridge Street was constructed to be used as a residential premises for the Shire CEO. The current CEO's contract commenced in March 2021 and he declined the option to relocate to the premises, due to the fact that he and his family own and operate a family farm nearby, and had established themselves at the property for the past 18 years.

This resulted in the house being vacant. At around the same time, the Department of Communities contacted the Shire, desperate to find accommodation for a couple of educators who were due to commence teaching at a local school. This brought about the initial report to Council in April 2021.

In April 2021 Council considered an initial request to lease the property to the Government Regional Officers' Housing program (GROH) and resolved as follows (Resolution No. 100421):

That Council;

1. *AUTHORISE the Chief Executive Officer and Shire President to execute a lease with Government Regional Officer Housing for the occupation of 7 Beveridge Road Denmark, subject to the following conditions;*
 - a) *The lease term is no greater than 3 months; and*
 - b) *Weekly rental is greater than \$475.00 (inc. GST); and*
 - c) *Include a provision in the lease to allow for a further six-month term should the permanent Director Corporate & Community Services choose not to reside at the property.*
2. *Should the lease be extended under Part 1c), REQUEST the Chief Executive Officer to report back to Council, prior to the expiry of the further term, on the future use of the property at 7 Beveridge Road, Denmark.*

The original lease between the Shire of Denmark and GROH was for a three (3) month period, 20 March 2021 to 18 June 2021 (noting that the lease agreement was not signed until May 2021), and provided for a further term of 12 months.

In June 2021, GROH requested that the Shire consider providing a new lease for a two (2) year term. The Chief Executive Officer (CEO) responded that a decision wouldn't be made until the finalisation of the Director Corporate and Community Services recruitment when it could be ascertained if the successful candidate required the use of the property.

The incumbent Director did not require the property and the CEO authorised GROH to continue to occupy the premises as a monthly tenant.

GROH have requested that the Shire now consider a new longer-term lease.

Consultation:

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

Statutory Obligations:

Local Government Act 1995

Section 3.58 enables a local government to dispose of property (includes leasing).

Section 5.41(g) states that the CEO is responsible for the employment, management supervision, direction and dismissal of other employees of the local government.

Local Government (Functions & General) Regulations 1996

Regulation 30(2)(c)(ii) provides an exemption from disposal provisions under s 3.58 if the land is disposed to 'a department, agency, or instrumentality of the Crown in right of the State or the Commonwealth ...'.

Regulation 30(2)(d) provides an exemption from disposal provisions if it is the leasing of land to an employee of the local government for use as the employee's residence.

Regulation 30(2)(g) provides an exemption from disposal provisions if the leasing is of a residential property to a person.

Property

Lot 152 on Deposited Plan 224101 is owned freehold by the Shire of Denmark.

Policy Implications:

The scope of the Council's adopted Housing Affordability Policy includes decisions on the use of Shire owned properties (see Attachment 9.3.2).

Budget / Financial Implications:

The current rent is \$550 per week, based on a valuation dated March 2021. Should Council choose to offer GROH a new lease, it could be based on the existing market appraisal, or Council could seek a re-valuation to align with the current rental market.

Should the property be made available on the open rental market, it is recommended that it be managed by an independent property agent. This would result in reducing the net rent as agent commission would be deducted from the rent received.

If the property was leased to a Shire employee, the lease and the income would be managed internally by the Shire.

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 ways:

Denmark 2027

B3.0 Our Built Environment

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

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

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**

01 Health & Happiness

1.1 Foster and encourage an active, healthy and happy workforce.

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

➤ **Governance:**

Like many Western Australian local governments, Denmark is experiencing a housing shortage. GROH's request for a new two (2) year lease indicates that they are still seeking housing for government employees such as teachers, health professionals and police.

Similarly, the CEO is aware that there are Shire employees who are finding it difficult to secure rental accommodation. Potentially, this could result in the loss of permanent staff as they may need to relocate to find accommodation. Officers consider that the retention and/or attraction of Shire employees should be considered when looking at the future use of the property.

➤ **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:**

It is noted that any inability for essential government workers to find accommodation in Denmark could potentially have an adverse effect on the provision of services for the local community however, the author is not aware that this is significantly evident at the moment.

The author is aware that there are currently Shire employees, with families, facing homelessness due to the shortage of available housing in Denmark.

➤ **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 That the Council's preference for the short to mid-term use of the premises is not supported by sectors of the community.	Possible (3)	Insignificant (1)	Low (1-4)	Not Meeting Community expectations	Accept Risk

Comment/Conclusion:

Whilst it is acknowledged that the GROH would like to continue to rent the premises, it is recommended that 7 Beveridge Steet, Denmark be offered, short-term, to any Shire employees who are unable to secure rental accommodation, in order to provide them time to find something more permanent.

In the event the property is not required for an employee, it is recommended that the CEO be authorised to appoint a local property agent or real estate firm (in accordance with the Council's Purchasing Policy), to manage the property and rent it on a short-term basis in the open market.

It should also be noted that the CEO's Contract of Employment provides that the CEO's decision to not move into the property be reviewed annually, as part of his annual performance review.

To ensure the property is available by the Shire in the future, for example, to either retain or attract a CEO or Director, it is recommended that the term of any lease is short-term (maximum 12 months). It is noted that one Director already rents a Shire owned property and the other Director and the CEO's contract terms both expire in 2026.

Voting Requirements:

Simple majority.

COUNCIL RESOLUTION & OFFICER RECOMMENDATION	ITEM 9.3.2
MOVED: CR GEARON	SECONDED: CR PHILLIPS
That with respect to the Shire of Denmark’s freehold property at Lot 152 on Deposited Plan 224101, Council:	
<ol style="list-style-type: none"> 1. ADVISE the Department of Communities that it is unable to offer a new, two (2) year lease as the Shire of Denmark may require the property for the retention or attraction of its employees; and 2. AUTHORISE the CEO to: <ol style="list-style-type: none"> a) Offer the property to any Shire employees who are in need of housing, or b) Should the house not be rented to an employee, engage a local real estate firm to manage the property; for maximum terms of 12 months at a time, for the weekly rent as determined by the March 2021 market valuation. 3. NOTE that in the case of 2a) or 2b), the house may be required in 2026 for the retention or attraction of a CEO or Senior Employee. 	
AMENDMENT	
MOVED: CR GIBSON	SECONDED: CR ORMSBY
Change Part 2 b) to read, Should the house remain vacant for a period exceeding four months, engage a local real estate firm to manage the property, for maximum terms of 12 months at a time, for the weekly rent as determined by the market.	
LOST: 3/5	Res: 120522
<i>Pursuant to Council Policy P040134 all Councillors’ votes on the above resolution are recorded as follows;</i>	
<i>FOR: Cr Gibson, Cr Campbell and Cr Ormsby.</i>	
<i>AGAINST: Cr Clarke, Cr Phillips, Cr Gearon, Cr Carman and Cr Lewis.</i>	
AMENDMENT	
MOVED: CR PHILLIPS	SECONDED: CR GEARON
Remove the words “March 2021” and “valuation” from Part 2 b).	
CARRIED: 8/0	Res: 130522
AMENDED MOTION	
That with respect to the Shire of Denmark’s freehold property at Lot 152 on Deposited Plan 224101, Council:	
<ol style="list-style-type: none"> 1. ADVISE the Department of Communities that it is unable to offer a new, two (2) year lease as the Shire of Denmark may require the property for the retention or attraction of its employees; and 2. AUTHORISE the CEO to: <ol style="list-style-type: none"> a) Offer the property to any Shire employees who are in need of housing, or b) Should the house not be rented to an employee, engage a local real estate firm to manage the property; for maximum terms of 12 months at a time, for the weekly rent as determined by the market. NOTE that in the case of 2a) or 2b), the house may be required in 2026 for the retention or attraction of a CEO or Senior Employee.	
CARRIED: 8/0	Res: 140522

10. COMMITTEE REPORTS AND RECOMMENDATIONS

Nil

11. MATTERS BEHIND CLOSED DOORS

Nil

12. NEW BUSINESS OF AN URGENT NATURE

Nil

13. CLOSURE OF MEETING

6.05pm – *There being no further business to discuss the Shire President declared the meeting closed.*

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

Signed: _____
David Schober – Chief Executive Officer

Date: _____

These minutes were confirmed at a meeting on the _____.

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