

# Shire of Denmark

## Special Council Meeting

# AGENDA

10 November 2020



TO BE HELD IN THE COUNCIL CHAMBERS, 953 SOUTH COAST HIGHWAY,  
DENMARK ON TUESDAY, 10 NOVEMBER 2020, COMMENCING AT 4.00PM.

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For the purpose of:

1. Considering a nomination for Honorary Freeman of the Municipality; and
2. Light Industrial Area Firewater Service.



### Contact Us

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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

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**1. DECLARATION OF OPENING/ANNOUNCEMENT OF VISITORS****2. RECORD OF ATTENDANCE/APOLOGIES/LEAVE OF ABSENCE**MEMBERS:

Cr Ceinwen Gearon (Shire President)  
 Cr Mark Allen (Deputy Shire President)  
 Cr Geoff Bowley  
 Cr Kingsley Gibson  
 Cr Jan Lewis  
 Cr Ian Osborne  
 Cr Janine Phillips  
 Cr Roger Seeney

STAFF:

Mr David Schober (Acting Chief Executive Officer)  
 Mr David King (Director Assets and Sustainable Development)  
 Mr Lee Sounness (Acting Director Corporate & Community Services)  
 Ms Claire Thompson (Governance Coordinator)

APOLOGIES:ON LEAVE OF ABSENCE:

Cr Steve Jones (pursuant to Council Resolution No. 030720)

ABSENT:VISITORS:DECLARATIONS OF INTEREST:

Name	Item No	Interest	Nature

**3. ANNOUNCEMENT BY THE PERSON PRESIDING****4. PUBLIC QUESTION TIME****4.1 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.

For a Special Meeting of Council, such as this, **they must only relate to the item(s) on the Agenda.**

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

Should you wish to address Council please note that the Presiding Person (the Shire President) may have to limit the time of individual speakers in order to allow sufficient time for all speakers present at the meeting to address Council. The rules of this process and the time allocated will be determined by the Presiding Person at the Meeting dependent upon the indicative number of speakers.

### Questions from the Public

## 5. REPORTS OF OFFICERS

### 5.1 LIGHT INDUSTRIAL AREA FIREWATER SERVICE

<b>File Ref:</b>	PLN.74
<b>Applicant / Proponent:</b>	Not applicable
<b>Subject Land / Locality:</b>	Light Industrial Area, East River Road, Hay
<b>Disclosure of Officer Interest:</b>	Nil
<b>Date:</b>	27 October 2020
<b>Author:</b>	David King, Director Assets and Sustainable Development
<b>Authorising Officer:</b>	David Schober, Acting Chief Executive Officer
<b>Attachments:</b>	5.1 – Feasibility Study

#### **Summary:**

Potential buyers of lots at the Light Industrial Area (LIA) have indicated that the cost of installing a firewater service, created by low scheme water pressure and flow, is a significant hurdle to development.

This report considers the merits of applying for a variation to the Financial Assistance Agreement (FAA) for Denmark East Development Precinct to provide a firewater service to the LIA lots capable of delivering improved pressure and flow rates suitable for buildings in excess of 500 m<sup>2</sup>.

#### **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 that lies 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 would essentially mirror the current program of works. At the same time that the industrial area proceeded, 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 Shire of Denmark, by Council Resolution moved to inform 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. With the East River Road Bridge Project not proceeding, there was no requirement to

construct a roundabout as part of intersection treatment for Denmark-Mount Barker and East River Road intersection of the Denmark East Development Precinct final deliverable.

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 prior to commencing construction on the intersection they would require new designs and environmental approvals with a view to commencing in the latter part of 2019.

The treatment of East River Road and Denmark-Mount Barker intersection is a standard intersection widening and pavement treatment, delivered by Main Roads WA and with 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 has resulted in significant savings of \$523,308 against the project deliverable budget of \$929,600.

With savings made after the practical completion of East River Road intersection widening it is requested to utilise the remaining amount of money to complete outstanding works which are aligned with the original scope as per the funding agreement.

#### The Proposal

When developing lots in the LIA all new buildings are required to be designed and constructed in accordance with 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 the provision of 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 these cannot be achieved by the town water supply.

Many rural towns in Western Australia have water supplies that do not meet the AS2419.1 minimum requirement and therefore, these buildings are required to be provided with tanks and pumps. This puts an onerous cost on these buildings, in capital and maintenance costs, as well as 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 or by providing the deemed to satisfy tanks and pumps, or by alternative performance-based solutions that either delete the requirements for the tanks and pumps or minimise the size of the tanks and/or pumps.

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.

In this case it is proposed to install a communal firewater storage facility and reticulate, through the road reserve, to serve the thirteen (13) lots within the LIA. It is understood that this would be a first of its kind performance-based solution in Western Australia as noted by Development WA. It also serves as a solution to a long-standing issue across Western Australia and therefore has the full support and assistance by Development WA staff.

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



It is considered that a communal system that provides adequate firefighting water to an estate, instead of individual buildings, will provide 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, which would save time for setting up alternative water supplies.
- The volume of water in static storage is significantly 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 largely single storey with mezzanine floor, or less than 20% of floor area to be double storey.
- Single classification.
- Floor area between 500 m<sup>2</sup> and 5,000 m<sup>2</sup>. Note that buildings with less than 500 m<sup>2</sup> floor area 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.

#### Firewater Requirements

Clause E1.3 (a) of the BCA states that a fire hydrant system must be provided to serve a building with a total floor area of greater than 500 m<sup>2</sup> and where a fire brigade is available to attend. This assessment therefore considers industrial type buildings of greater than 500 m<sup>2</sup> located in areas where a fire brigade is available. As the buildings are located in Denmark it is assumed that a volunteer fire brigade will be available, however this will not materially affect the assessment.

AS2419.1 sets out the requirements for fire water supplies. Table 2.1 indicates the minimum number of hydrants required to discharge simultaneously. For a class 8 building with area between 500 and 5,000 m<sup>2</sup> two hydrants are required to discharge simultaneously. Each hydrant is required to provide 10L/s at a minimum residual pressure of 200kPa if fed from the town mains. Therefore, the industrial buildings under consideration would require 20L/s with greater than 200kPa pressure.

If this water supply cannot be provided from town mains then on-site water storage is required and the residual pressure requirement increase to 700kPa. AS2419.1 requires that at least 50% of the required water volume remains available at any time, including during maintenance. This is usually satisfied by providing two tanks each containing 50% of the total water requirement, or by dividing a tank into two.

Pumps are required to provide the pressures and flow rates. AS2419.1 requires at least two pumps with at least two independent power sources.

#### Key Considerations

There are a couple of key issues to be addressed and considered in development of a performance-based solution. These are:

1. Ongoing security of firewater supply that will be required, in perpetuity, for Department of Fire and Emergency Service (DFES) to give approval. This is discussed in the Governance section of this report.

2. Ongoing maintenance and renewal costs. This is discussed in the Budget/Financial and Statutory Obligations sections of this report.

The initial feasibility study on the proposal can be found in Attachment 5.1.

**Consultation:**

The Officer has undertaken the following consultation:

Development WA (Previously Landcorp)

Development WA own a number of the vacant lots at the LIA. It is broadly understood that the Shire of Denmark will not sell lots in its freehold ownership until those owned by Development WA have been sold.

Development WA noted that the lack of firewater supply in rural industrial areas is a State-wide problem. Discussions with Development WA revealed that an options report was commissioned by Landcorp (Development WA) in 2011. The preferred option of that report is consistent with this proposal.

Development WA support the proposal as the next, innovative step in solving the State-wide issue.

DFES

Officers have held preliminary discussions with DFES officers to confirm the feasibility of the proposal leading to the development of a performance-based solution approach and suitable timeframes discussed. The timeframes discussed are contained in the Comment section of this report.

Great Southern Development Commission (GSDC)

The GSDC are the conduit to DPIRD. As such they have been made aware of this consideration of Council. The GSDC are supportive of the proposal.

Existing Lot Owners

Officers have discussed the proposal with existing lot owners (x1). Although the owners have constructed buildings smaller than 500 m<sup>2</sup> the proposal was strongly supported and the ongoing annual service charge of approximately \$1,600 was not considered a concern.

Potential Lot Owners

Officer have discussed the parties potentially interested in purchasing a lot (x2). The proposal was strongly supported and the ongoing annual service charge of approximately \$1,600 was not considered a concern.

**Statutory Obligations:**

Local Government Act 1995. Section 6.38 Service Charges

It is almost certain that the Shire would need to maintain the service in perpetuity or until the Water Corporation upgrades are sufficient to meet proposed performance characteristics. The cost incurred to proceed with the project include annual maintenance and end of life asset replacement.

Officers have considered various methods of funding the service 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 service charge evenly across the LIA lots in order to recover the costs of providing the service.

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 provides assurance to the owners or occupiers that the funds will be spent on maintaining the service and renewing the infrastructure as required.

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

#### **Policy Implications:**

There are no policy implications.

#### **Budget / Financial Implications:**

##### Budget

The 2020/21 Budget contains the following line items

1. Denmark East Development Project - East River West - Widen & Reseal (\$200,000)
2. Denmark East - Lot 3 Earthworks (\$350,000)

Both of these line items are subject to variation of the FAA for Denmark East Development Precinct seeking expenditure of the remaining funds against these projects. They are assumed to be 100% funded by the FAA with no Council contribution.

To date, the variation requests for the above projects have not been formally applied for. However, initial indications are that item (1) would be approved, but item (2) potentially would not be as the scope is not linked closely enough with the original intent for the agreement objectives.

The officer's recommendation is to remove any expenditure from these two line items and consolidate into a single \$550,000 project for the construction and commissioning of an communal non potable firewater supply.

Attachment 5.1 provides the opinion of probable cost for the works in section 1.2.1.

#### Financial Implications

Whilst the initial capital cost is proposed to be covered by variation to the FAA, there would be ongoing costs associated with annual maintenance and asset replacement at end of life.

It is proposed that the ongoing maintenance costs and asset replacement is covered by imposing an annual service charge on the thirteen (13) lots. The below table provides the approximate annual costs but would be subject to annual review through the budget process.

<b>Item</b>	<b>Capital Cost</b>	<b>Life</b>	<b>Annual Cost*</b>
Site Works and Shed	\$50,000	30	\$2,174
Backflow Devices	\$5,000	10	\$1,667
Fire Systems Booster	\$10,000	20	\$769
Pumps	\$50,000	20	\$3,846
Tanks	\$100,000	30	\$4,348
Pipework	\$250,000	50	\$5,814
<b>Annual Depreciation</b>			<b>\$18,618</b>
<b>Annual Maintenance</b>			<b>\$3,000</b>
<b>TOTAL ANNUAL COST</b>			<b>\$21,618</b>
<b>TOTAL ANNUAL LOT CONTRIBUTION**</b>			<b>\$1,663</b>

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

\*\*Assumes 13 Lots contributing

Officers will need to seek legal advice as to the appropriateness of a service charge for this purpose. Certainty is required on:

1. The ability to levy a service charge for this purpose
2. The ability to charge for asset renewal
3. The ability to charge for annual maintenance
4. The ability to charge all lots regardless of the stage of development

### **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

E1.0 Our Economy

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

E1.3 To have diverse education and employment opportunities.

#### Corporate Business Plan

1.1.1 Advocate for the provision and promotion of services and facilities that meet the needs of the community.

### **Sustainability Implications:**

#### ➤ **Governance:**

In order 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 an alternative supply is provided by others.

It is proposed that this will be in the form of a notice on the effected titles, and include 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)
<b>Financial</b> That a potential fatal flaw is uncovered resulting in project withdrawal.	Possible (3)	Major (4)	High (12)	Accept Risk	High (12)
<b>Financial</b> 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)

**Comment:**

If Council accept the officer's recommendation the following milestones and approximate timeframes are proposed in the below table:

Milestone	Date
Submit FAA variation request	November 2020
Engage suitably qualified consultants for design works and legal practitioners to consider options relating to DFES performance based solution requirements	December 2020
Submit a Fire Engineering Brief to DFES to initiate the performance-based solution discussions	December 2020
Developed Draft performance-based solution that is supported by DFES	February 2021
Tender advertisement for physical works	March 2021
Tender award and Council authorisation to execute legal agreements	May OCM 2021
Practical Completion and commissioning for in ground works	October 2021
Completed legal agreements and title notifications where applicable	November 2021

**Conclusion:**

An opportunity exists to develop firewater infrastructure which is funded entirely by the Federal Government. The opportunity exists by redirecting a \$200,000 road upgrade and renewal project, considered to be non-essential, and \$350,000 earthwork improvements to the Shires freehold lot at the LIA. However, it is noted that the \$350,000 earthworks project has not received approval or encouraging feedback from the GSDC or DPIRD to date.

It has been made clear that variations to the FAA must be submitted immediately or else the remaining balance will be recovered by DPIRD. If Council do not authorise the firewater variation, Officers will revert back to the variation submissions for East River Road and Lot 3 earthworks as approved in the annual budget.

The key risk in accepting the officer's recommendation is the possibility of a fatal flaw being uncovered through further investigation. This lies in both the ability to develop a suitable performance-based solution, and the ability to recover costs from the lot owners without burdening the general ratepayer. Preliminary discussions with DFES officers, hydraulic consultants and the Department of Local Government give officers a high level of confidence that these issues can be overcome. However, the risk remains and any motion to delay this decision would likely result in the loss of opportunity to seek variation to the FAA.

Whilst feasibility has been completed, there are still some critical details to be worked through in order to realise the project. These are the development of a performance-based solution to satisfy DFES/BCA requirements, and more detailed design and costing.

If realised, the project would remove a considerable 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. It is clear in this instance that the problem will remain unsolved, and therefore Officers recommend to pursue the opportunity whilst it exists utilising state government funds.

It should be noted that the Officers recommendation seeks authorisation for funding variation so the project can progress. If this is accepted, future considerations of Council will be required to authorise any service charge, or enter into any required legal agreements with landowners.

**Voting Requirements:**

Absolute majority.

OFFICER RECOMMENDATION	ITEM 5.1
That Council:	
1. AUTHORISE the CEO to apply for a variation to the East River Road Redevelopment Financial Assistance Grant to fund the Capital infrastructure upgrades that:	
a) enables a non-potable firewater service to the thirteen (13) lots within the Light Industrial Area	
b) has sufficient performance characteristics to meet Australian Standards and DFES hydrant requirements for buildings in excess of 500sq.m and up to 5000sq.m	
2. DIRECT officers to amend the budget in the first quarterly review to:	
a) remove Denmark East Development Project East River West - Widen & Reseal (\$200,000) and Denmark East - Lot 3 Earthworks (\$350,000); and	
b) include a new line item to reflect the application for the water service provision identified in (1) above.	
3. ACCEPT:	
a) that a Service charge will be applied to the thirteen (13) Light Industrial Area lots to recover the cost of providing the service.	
b) that the service charge will be imposed commencing on the next budget cycle following commissioning of the service.	
c) ongoing responsibility to provide firewater service to the thirteen (13) lots within the Light Industrial Area.	

\* Absolute majority required.

**6. MATTERS BEHIND CLOSED DOORS**

OFFICER RECOMMENDATION	ITEM 6
That the meeting move behind closed doors to consider Item 6.1, in accordance with Section 5.23 (b) of the Local Government Act 1995 because it deals with the personal affairs of a person.	

**6.1 NOMINATION FOR HONORARY FREEMAN OF THE MUNICIPALITY**

<b>File Ref:</b>	PBR.1
<b>Applicant / Proponent:</b>	Cr R Seeney and Cr M Allen
<b>Subject Land / Locality:</b>	Not Applicable
<b>Disclosure of Officer Interest:</b>	Nil
<b>Date:</b>	3 November 2020
<b>Author:</b>	Sue Mearns, Executive Support Officer
<b>Authorising Officer:</b>	David Schober, Acting Chief Executive Officer
<b>Attachments:</b>	6.1 – Nomination Forms and supporting documentation (CONFIDENTIAL)

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This item is confidential and has been provided to Councillors under separate cover.

**7. CLOSURE OF MEETING**