

# Shire of Denmark

## Ordinary Council Meeting **AGENDA**

**18 APRIL 2023**



TO BE HELD IN COUNCIL CHAMBERS, 953 SOUTH COAST HIGHWAY, DENMARK, ON TUESDAY, 18 APRIL 2023, COMMENCING AT 4.00PM.



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## Strategic Community Plan (snapshot)

### E1.0

#### Our Economy

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

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

### N2.0

#### Our Natural Environment

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

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

### B3.0

#### Our Built Environment

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

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

### C4.0

#### Our Community

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

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

### L5.0

#### Our Local Government

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

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

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

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

MEMBERS:

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

STAFF:

- David Schober (Chief Executive Officer)
- David King (Deputy Chief Executive Officer)
- Lee Sounness (Acting Director Corporate & Community Services)
- Claire Thompson (Governance Coordinator)

APOLOGIES

ON APPROVED LEAVE(S) OF ABSENCE

Nil

ABSENT

VISITORS

**3. DECLARATIONS OF INTEREST**

Name	Item No	Interest	Nature

**4. ANNOUNCEMENTS BY THE PERSON PRESIDING**

## 5. PUBLIC QUESTION TIME

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

#### 5.1.1 PETER KERR

At the meeting held on 21 March 2023, you asked the following questions that were taken on notice. Responses have been provided to you in writing and are copied below.

1. *You asked when Council expected the restoration to the concrete path around the drainage sumps along Ocean Beach Road cycleway would be completed?*

*Response:*

*The contractor has advised that the cycleway restoration should be completed around the middle of May 2023.*

2. *You referred to a question that you had asked of Council six months earlier regarding re-establishing the Seniors Advisory Committee. You asked what the Council's response to the request was.*

*Response:*

*Councillors received a briefing from the Community Services Team regarding a seniors advisory committee in November 2022. It was determined that an advisory committee for seniors will not be reformed, as the circumstances surrounding the cessation of the previous committee have not changed.*

### 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

**5.3 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 the Shire'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.

**5.4.1 KWOORABUP NATURE SCHOOL**

Representatives from the school will make a presentation to Council on their proposal to expand their lease area.

**6. APPLICATIONS FOR FUTURE LEAVE OF ABSENCE**

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

**7. CONFIRMATION OF MINUTES**

**7.1 ORDINARY COUNCIL MEETING – 21 MARCH 2023**

OFFICER RECOMMENDATION	ITEM 7.1
That the minutes of the Ordinary Meeting of Council held on the 21 March 2023 be CONFIRMED as a true and correct record of the proceedings.	

**7.2 STRATEGIC BRIEFING NOTES – 21 MARCH 2023**

OFFICER RECOMMENDATION	ITEM 7.2
That the Notes from the Strategic Briefing held on 21 March 2023 be RECEIVED.	

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

Nil

## 9. REPORTS OF OFFICERS

### 9.1 DIRECTOR ASSETS AND SUSTAINABLE DEVELOPMENT

#### 9.1.1 PROPOSED REVISED LOCAL PLANNING POLICY NO. 51: CARAVAN PARKS & CAMPING GROUNDS

<b>File Ref:</b>	PLN.70.P
<b>Applicant / Proponent:</b>	Not Applicable
<b>Subject Land / Locality:</b>	Rural and Tourist zones
<b>Disclosure of Officer Interest:</b>	Nil
<b>Date:</b>	22 March 2023
<b>Author:</b>	Will Hosken, Planning Officer
<b>Authorising Officer:</b>	David King, Deputy CEO
<b>Attachments:</b>	9.1.1 – Proposed draft <i>Local Planning Policy No. 51: Caravan Parks &amp; Camping Grounds</i>

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#### IN BRIEF

- This report proposes advertising of a draft planning policy that guides the assessment of caravan park proposals, particularly within the Rural Zone.
- This policy has been proposed in response to trends towards the establishment of small-scale caravan parks/camping grounds and a lack of clarity on the approval requirements and development standards for this type of land use.

#### RECOMMENDATION

That Council, pursuant to Schedule 2, Part 2 of the *Planning and Development (Local Planning Schemes) Regulations 2015*, resolves to:

1. ADOPT draft *Local Planning Policy No. 51: Caravan Parks & Camping Grounds* (as shown at Attachment 9.x.xa) for the purpose of public consultation.
2. Publish notice of the Council's decision to advertise draft *Local Planning Policy No. 51: Caravan Parks & Camping Grounds* for a period of 30 days on the Shire's website, in the Shire's offices and in a local newspaper.

#### LOCATION

1. The proposed draft policy will apply to all land within the Rural and Tourist zones where 'Caravan Park' is a discretionary land use in *Town Planning Scheme No. 3 (TPS 3)*.

#### BACKGROUND

2. The development of small-scale caravan parks/camping grounds has become increasingly common, enabled by the growth of online booking platforms and the popularity of self-contained caravans and recreational vehicles (RVs).
3. Caravan parks/camping grounds of this type are typically limited to less than 10 sites, located within a bushland or farmland setting, used for short length stays, provide few (if any) on site services, and are secondary to other land uses.

4. These parks typically cater to travellers that are seeking a more remote, natural setting and lower price point compared to many larger, established caravan parks. This market segment is recognised in the Shire's Sustainable Tourism Strategy.
5. The Shire has become aware of growing number of small-scale caravan parks/camping grounds that are operating without having first gained required approvals. Two forms of approval are necessary in all cases:
  - Planning approval to establish a 'Caravan Park' land use (and any associated development) under TPS 3 – a discretionary land use in the Rural and Tourist zones.
  - Granting of a licence to operate a Caravan Park under the *Caravan Parks and Camping Grounds Regulations 1997*.
6. There is potentially a risk that unapproved caravan parks may:
  - Be located in a zone or location where the land use is inappropriate, with undesirable impacts on environment and amenity.
  - Not meet minimum expected standards for safety from bushfires, as defined in *State Planning Policy 3.7* and the *Guidelines for Planning in Bushfire Prone Areas*.
  - Not meet the minimum level of services and facilities for guests or addressed relevant health and safety standards as required by the *Caravan Parks and Camping Grounds Regulations 1997*.
  - Increase the use of public services such as rural roads, rubbish bins, toilets and dump points, with the associated costs being borne by Shire ratepayers.
7. The majority of unapproved caravan parks are located within the Rural Zone and could therefore make application to seek approval at any time. Two known unapproved caravan parks are located within the Residential Zone and therefore cannot be granted planning approval (as a Caravan Park is not a permitted land use in this zone).
8. Applications for planning approval under TPS 3 are required to demonstrate the ability of the proposed park to meet general development standards for the zone, bushfire safety requirements according to State policies, and the provision of appropriate services, infrastructure and management.
9. Applications for a licence under the *Caravan Parks and Camping Grounds Regulations 1997* are required to provide a management plan and other details as necessary to demonstrate that the proposed park would meet the service, safety and management expectations of the Regulations. These standards vary according to the type of park proposed, with six categories denoted in the Regulations.
10. The type of caravan park defined in the *Caravan Parks and Camping Grounds Regulations 1997* that aligns with the majority of unapproved small-scale caravan parks/ camping grounds that the Shire has identified is a 'nature based park'. A nature based park is defined as being located in a setting that:
  - Is not in close proximity to a built up area.
  - Is predominantly formed by nature.



- Has limited artificial light and noise intrusion.

The *Nature Based Parks: Licensing guidelines for developers and local government* (the Guidelines) prepared by the Department of Local Government, Sport & Cultural Industries (DLGSCI) suggest that this definition may be broadened to include agricultural as well as bushland settings.

11. The requirements for services and infrastructure in nature based parks is defined in the *Caravan Parks and Camping Grounds Regulations 1997* and is substantially reduced compared to other park types. The intent of this is to reflect nature based parks as small scale, low cost, remote and short term caravan parks/ camping grounds.
12. The Caravan Parks Regulations and the Guidelines leave a substantial amount of discretion to local governments to direct the number and location of services and facilities in nature based parks, including with regard to toilets, infant changing, showers, handbasins, kitchen/ washing up facilities, hot water, electricity, rubbish collection, telephone services, lighting and fire management.
13. The draft Policy also notes the intention for existing caravan parks to retain a minimum of 50% of open sites for caravans and camping. This provision has been included to reflect the recommendations of the Draft Local Planning Strategy adopted by Council in September 2022. The Strategy discusses the protection of caravan parks as a public asset in further detail.

#### **DISCUSSION / OFFICER COMMENTS**

14. The use of online booking platforms has facilitated the development of small-scale caravan parks and acted as a disruptor to the traditional caravan park industry, similar to the trends observed with holiday homes and other traditional accommodation providers. Similar to the history associated with holiday homes, many operators of small-scale caravan parks appear unaware of the need for approvals and/or do not wish to bear the costs associated with approvals and the provision of services.
15. In the past 2-3 years Shire officers have provided advice about approval requirements to a substantial number of enquiries relating to the establishment of small-scale caravan parks, camping and 'glamping' operations. Over this time Shire officers have also become aware of a number of unapproved operators, the extent of which has been indicated through a recently completed audit of online booking platforms.
16. While initiating compliance action against unapproved operators is an appropriate response, Shire officers recommend this is preceded by:
  - Improvements to the local planning framework to provide clarity for operators, particularly with regard to expected services/ infrastructure requirements.
  - Publicising approval requirements, acknowledging that this information may not be commonly understood given the extent of non-compliance relating to this particular type of land use.
17. These proposed actions reflect the recommendations of the Sustainable Tourism Strategy, which identifies shortcomings in the common level of understanding of the approval requirements for tourism land uses and how and when the Shire can exercise discretion in the decision-making process.

18. Enabling the approval of small-scale caravan parks in appropriate locations and with an adequate level of services is recommended in recognition of the potential community benefits, including:

- Providing additional accommodation options for a market type synonymous with Denmark's nature-based brand, in high demand, and noting the limited extent of nature-based camping options within the Shire (including the absence of State managed campgrounds between Albany and Walpole).
- Potential for the greater availability of low-cost camping options to decrease illegal camping on public reserves, which is a significant and ongoing compliance issue for the Shire's Rangers.
- Potential for the enabling and diversification of rural and tourism businesses, where low key development can complement primary land uses without impacting on adjoining land.

19. To achieve this Shire officers have prepared *Draft Local Planning Policy 51: Caravan Parks & Camping Grounds* included at Attachment 9.1.1a. The objectives of the Draft Policy are to:

- Identify standards for the development of caravan parks and camping grounds in the Rural Zone.
- Enable the approval of small-scale caravan parks and camping grounds in appropriate circumstances.
- Clarify interpretations and facility requirements relating to 'nature-based' parks.

20. Broadly, the Draft Policy includes provisions to address:

- Protection of rural production, landscape values and neighbouring land uses.
- Road infrastructure/ traffic generation.
- Size/ scale of caravan parks in the Rural Zone, Tourism Precincts and Tourism Zone.
- Interpretation of 'nature based' as it may be applied to an agricultural setting.
- Minimum expectations for services and infrastructure for nature-based parks, taking into account the Caravan Parks Regulations and the Guidelines, the availability of public services and appropriate environmental protections.

21. While there is currently no consistent approach across the state, Shire officers have considered the scheme and policy-based approaches of other local governments in preparing the Draft Policy and propose that it meets the objectives of the Council's strategic direction while addressing issues of clarity, equity and transparency.

#### **CONSULTATION AND EXTERNAL ADVICE**

22. In accordance with the requirements of the *Planning and Development (Local Planning Schemes) Regulations 2015* (the Regulations) public notices are required to advertise a proposed local planning policy should the Council adopt the officer recommendation of this

report. This will include notices at the Shire offices and on the Shire website, and it is considered appropriate to exercise the option to publish a notice in the local newspaper for this proposed policy.

23. No consultation has taken place with caravan park operators or members of the public prior to the preparation of this report. Shire officers propose to write to the operators of caravan parks (approved and not approved, where identified) to invite their comment on the draft policy, detail approval requirements, and refer to the compliance requirements in relevant legislation.
24. Public comment will be invited for a period of 30 days, after which time submissions will be reviewed and a subsequent report prepared for the Council.
25. Public consultation associated with the draft policy will provide the opportunity for all directly affected parties (including operators of approved and not approved caravan parks/ camping grounds) and the wider community to provide feedback on the policy position proposed.

#### **STATUTORY / LEGAL IMPLICATIONS**

26. The preparation, amending or rescinding of a local planning policy must occur in accordance with the *Planning and Development (Local Planning Schemes) Regulations 2015*, including public consultation. The Shire is required to publish notice of a proposed local planning policy in accordance with Schedule 2, Part 12, Clause 87. This includes a minimum public comment period of 21 days.
27. The proposed policy will provide guidance for proponents and for decision making by the Shire but does not alter the statutory requirements of TPS 3 or the *Caravan Parks and Camping Grounds Regulations 1997*.
28. Potential compliance responses by the Shire to unauthorised land uses or development are required to be undertaken in accordance with the *Planning and Development Act 2005* and the *Planning and Development Regulations 2009*. This may include:
  - Issuing an infringement of \$500.
  - Charging of fees at three times the prescribed rate for planning applications made retrospectively.
  - Prosecution with a maximum penalty of up to \$200,000 for individuals (or \$1,000,000 for companies) and a daily penalty of \$25,000 for individuals (or \$125,000 for companies) for a continuing offence.

Compliance responses may also be pursued under the *Caravan Parks and Camping Grounds Act 1995* which includes a penalty of \$5,000 for operating a park without a licence.

#### **STRATEGIC / POLICY IMPLICATIONS**

29. The Shire's Sustainable Tourism Strategy discusses the continuing demand for low-service, low-cost accommodation options, particularly as the number of self-contained caravans and recreational vehicles increases.

The draft policy proposed aims to provide clarity for the approval pathway to enable the establishment of caravan parks/ camping grounds where appropriate.

30. The Shire's Sustainable Tourism Strategy also notes that some tourism business operators perceive the approvals process as being difficult to understand, cumbersome, and unclear as to the exercise of discretion in decision making.

The draft policy proposed aims to improve clarity and document the development standards and expectations upon which decisions may be based.

31. The Shire's Draft Local Planning Strategy (LPS), adopted by Council in September 2022 and currently awaiting the consent of the WA Planning Commission to advertise, identifies the need to address the establishment of small-scale caravan parks/ camping grounds by recommending:

- Amending the land use classes in the planning scheme to better distinguish between types and scales of caravan parks.
- Developing preferred areas for tourism development, preserving the primacy of rural land uses, and preferencing hosted above unhosted forms of tourist accommodation.
- Advocating for modernisation of the *Caravan Parks and Camping Grounds Regulations 1997*.

32. The Draft LPS identifies a potential to introduce a 'Camping Ground' use class to cater for small scale, low service caravan parks/ camping grounds; however, potential changes to land use classes in the planning scheme will continue to be reviewed and will be influenced by:

- Whether the provisions of the draft policy proposed are effective and/ or require strengthening (if adopted).
- A holistic review of tourism-related use classes and permissibilities as part of the preparation of a new planning scheme.
- Further advice from the Department of Planning, Lands & Heritage regarding potential changes to the model scheme provisions in the *Planning and Development (Local Planning Schemes) Regulations 2015*.

33. The draft policy proposed is consistent with the following objectives of the Strategic Community Plan 'Denmark 2027':

*Our Economy*

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

### *Our Built Environment*

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

### **FINANCIAL IMPLICATIONS**

34. The implementation of the proposed draft policy will occur within existing resources and will not require any changes to the adopted budget or long-term financial plan.
35. It is anticipated that the majority of operators of unauthorised caravan parks/ camping grounds will voluntarily seek to comply with the need for approvals or cease to operate. In the event that the Shire is required to pursue a substantial number of compliance matters concurrently this would likely result in an interruption to other functions of the Planning Services team.

### **OTHER IMPLICATIONS**

#### **Environmental**

36. The draft policy proposed is expected to support improved environmental outcomes, noting that existing unauthorised land uses may not be managing rubbish, wastewater, effluent disposal and erosion effectively in some cases.

#### **Economic**

37. The draft policy proposed is expected to provide clarity and ultimately enable the establishment of tourism businesses in appropriate circumstances, supporting micro-businesses and local employment opportunities.

#### **Social**

38. The assessment and approval of appropriate caravan parks/ camping grounds is expected to have positive social benefit by assisting the Shire to address existing unauthorised land uses and preserving the amenity of neighbours to newly proposed businesses.

### **RISK MANAGEMENT**

39. A risk assessment has been undertaken per the Shire's Risk Management Governance Framework, and no risks have been identified in relation to the officer recommendation of the report.

Risks may exist in association with unauthorised caravan parks/ camping grounds that are not known at this time, and are not individually the subject of this report. These risks will be addressed as part of planning assessment and/ or compliance action as appropriate.

### **VOTING REQUIREMENTS**

40. Simple majority.

OFFICER RECOMMENDATION	ITEM 9.1.1
<p>That Council, pursuant to Schedule 2, Part 2 of the <i>Planning and Development (Local Planning Schemes) Regulations 2015</i>, resolves to:</p> <ol style="list-style-type: none"> <li>1. ADOPT draft <i>Local Planning Policy No. 51: Caravan Parks &amp; Camping Grounds</i> (as shown at Attachment 9.1.1a) for the purpose of public consultation.</li> <li>2. Publish notice of the Council’s decision to advertise draft <i>Local Planning Policy No. 51: Caravan Parks &amp; Camping Grounds</i> for a period of 30 days on the Shire’s website, in the Shire’s offices and in a local newspaper.</li> </ol>	

**9.2 DIRECTOR CORPORATE AND COMMUNITY SERVICES**

**9.2.1 FINANCIAL STATEMENTS FOR THE PERIOD ENDED 28 FEBRUARY 2023**

<b>File Ref:</b>	FIN.1
<b>Applicant / Proponent:</b>	Not applicable
<b>Subject Land / Locality:</b>	Not applicable
<b>Disclosure of Officer Interest:</b>	Nil
<b>Date:</b>	29 March 2023
<b>Author:</b>	Scott Sewell, Financial Accountant
<b>Authorising Officer:</b>	Lee Sounness, Acting Director Corporate & Community Services
<b>Attachments:</b>	9.2.1a – February 2023 Monthly Financial Report 9.2.1b – February 2023 Investment Register

**IN BRIEF**

- Under the Local Government Financial Management Regulations, a local government is to prepare, on a monthly basis, a statement of financial activity that reports on the Shire’s financial performance in relation to its adopted budget.
- The Shire of Denmark’s Statement of Financial Activity for the period ending 28 February 2023 has been prepared and is attached.
- In addition, the Shire provides Council with a monthly investment summary to ensure the investment portfolio complies with the Shire’s Investment Policy.

**RECOMMENDATION**

That Council with respect to;

1. the Financial Statements for the period ending 28 February 2023, RECEIVE the Financial Reports, incorporating the Statement of Financial Activity and other supporting documentation, as per Attachment 9.2.1a.and;

2. The plant replacement program, APPROVE the CEO to issue purchase orders for three (3) light vehicles scheduled for replacement in the 2023-2024 financial year for a value not exceeding \$112,500 (GST Exclusive).

**LOCATION**

Nil

**BACKGROUND**

- 1) In order to fill statutory reporting obligations, the Monthly Financial Report prepared provides a snapshot of the Shire's year-to-date financial performance. The report provides:
  1. Statement of Financial Activity by Nature or Type;
  2. Statement of Financial Activity by Program;
  3. Explanation of Material Variances;
  4. Net Current Funding Position;
  5. Receivables;
  6. Capital Acquisitions;
  7. Cash Backed Reserve Balances;
  8. Loan Schedule.
- 2) Each year a local government is required to adopt a percentage or value to be used in the Statement of Financial Activity for reporting material variances. Under Resolution 030822, Council adopted the monthly reporting variance for the 2022/2023 financial year of 10% or greater for each program area in the budget as a level that requires an explanation or report, with a minimum dollar variance of \$10,000.
- 3) Pursuant to the Shire's Investment Policy, an investment report and investment register (Attachment 9.2.1b) are to be provided to Council on a monthly basis, detailing the investment portfolio in terms of performance and counterparty percentage exposure of total portfolio.

**DISCUSSION / OFFICER COMMENTS**

1. The Statement of Financial Activity for February 2023 shows a year-to-date closing funding surplus of \$4,135,972 compared to the year-to-date budget surplus of \$2,525,759, a variance of \$1,610,213. The reason why there is a significant closing funding surplus, is that most of the total operating revenue has been recognised (from raising of rates and fees and charges), however, most of the Shire's expenditure occurs evenly over the 12 months. This results in a timing variance and the actual surplus reduces as the financial year progresses. It is also quite usual for a number of capital expenditure projects and any associated non-operating grant funding income applicable to the progress milestones of those projects to be scheduled in the second half of the year and the timing of some of these works have been adjusted for various reasons since the adoption of the budget.
2. A summary of the financial position for February 2023 is detailed in the table below:

	Amended Annual Budget	YTD Budget (a)	YTD Actual (b)	Var. \$ (b)-(a)	Var. % (b)-(a)/(a)
	\$	\$	\$	\$	%
<b>Opening Funding Surplus / (Deficit)</b>	<b>1,493,572</b>	<b>1,493,572</b>	<b>1,493,572</b>	<b>0</b>	<b>0%</b>
<b>Revenue</b>					
Operating revenue	13,641,755	12,332,112	12,388,146	56,034	0%
Capital revenue, grants and contributions	5,095,106	577,912	598,536	20,624	4%
	<b>18,736,861</b>	<b>12,910,024</b>	<b>12,986,682</b>	<b>76,658</b>	
<b>Expenditure</b>					
Operating Expenditure	- 17,612,285	-11,441,890	-11,034,365	407,525	-4%
Capital Expenditure	-7,169,837	-3,455,002	-2,656,854	798,148	-15%
	- <b>24,782,122</b>	- <b>14,896,892</b>	- <b>-13,691,219</b>	<b>1,205,673</b>	
Funding balance adjustments	4,551,690	3,019,056	3,346,938	327,882	11%
<b>Closing Funding Surplus / (Deficit)</b>	<b>0</b>	<b>2,525,759</b>	<b>4,135,972</b>	<b>1,610,213</b>	<b>64%</b>

OTHER INFORMATION

3. Council has embarked on a program of purchasing its light fleet vehicles as a preference to leasing. There are currently three (3) leased vehicles remaining on the light vehicle fleet and all of those leases expire between August and October 2023, at which time they will need to be replaced. The current lead wait time for delivery of a new vehicles remains problematic with significant delays still being experienced worldwide. Past experience has also shown that trying to negotiate a variation to an existing lease when required is cost prohibitive and short term rental/leasing of vehicles places an expensive and unnessessary financial cost on Council’s operating budget.
4. In order to ensure the Shire can achieve the timely supply and changeover of appropriate vehicles to replace those coming up to lease expiry in early 2023/24, officers recommend that Council authorise administration to issue purchase orders and commit capital expenditure from the 2023-2024 budget now so that the vehicle(s) will be received in a timely fashion to ensure the leased vehicles can be surrendered on or before the lease maturity/expiry date and not attract late handover penalty charges.
5. The vehicles are all included for purchase in the Long Term Financial Plan (LTFP), with the capital expense budget relating to the Plant Replacement Program for the 2023/2024 year to be funded from the Plant Replacement Reserve.



6. Should Council choose to wait to approve the expenditure until the adoption of the 2023-2024 Budget scheduled for late July it is possible the vehicles may not be received until early in the 2024 calendar year, resulting in additional operating cost penalties referenced above being incurred.
7. The total cost for the vehicles has been provisioned in the draft LTFP and 2023-2024 Budget at a maximum of \$112,500 (3 x \$37,500). A proposed recommendation for Council to approve the pre-issue of purchase orders for the vehicles not be received until after the formal adoption of the 2023-2024 Budget has been included as part of this report for consideration.

The three lease vehicles:

- 2019 Totota Rav4 Hybrid AWD
  - 2020 Toyota Camry Hybrid
  - 2020 Totota Rav4 Hybrid AWD
8. It is proposed these vehicles will be replaced by small SUV Hybrid's, with a future plan to replace to electric vehicles as the Shire formalises its corporate fleet transition plan. Officers are currently working with the Western Australian Local Government Association (WALGA) consultants to determine the capacity of our site to accommodate EV charging infrastructure and to collaborate in joint funding opportunities.

#### INVESTMENT REPORT (INVESTMENT REGISTER – ATTACHMENT 9.2.2)

9. Pursuant to the Shire's Investment Policy, an investment report and investment register are to be provided to Council on a monthly basis, detailing the investment portfolio in terms of performance and counterparty percentage exposure of total portfolio. The Investment Register is also to provide details of investment income earned against budget, whilst confirming compliance of the portfolio with legislative and policy limits.
10. As at 28 February 2023, total cash funds held (including trust funds) totals \$9,059,603 (Summary – Investment Register).
  - Municipal Funds total \$4,211,525
  - Shire Trust Funds total \$850
  - Reserve Funds (restricted) invested, total \$4,847,228
  - Municipal Funds (unrestricted) invested, total \$3,006,367
11. The official Reserve Bank of Australia's (RBA) cash rate increased during the month of March 2023 by 0.25% from 3.35% to 3.60%.

#### CONSULTATION AND EXTERNAL ADVICE

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 / LEGAL IMPLICATIONS**

### Local Government (Financial Management) Regulations 1996

Regulations 19, 28 and 49, and The Australian Accounting Standards, set out the statutory conditions under which Council funds may be invested.

Regulation 34 (1-5) - details the form and manner in which a local government is to prepare financial activity statements.

### Local Government Act 1995

Section 6.5(1)(b) – local government can incur expenditure from its municipal fund for an additional purpose if authorised in advance by Council resolution.

Section 6.14 – power to invest.

### Trustees Act 1962

Part III Investments.

## **STRATEGIC / POLICY IMPLICATIONS**

Delegation Number D040201 relates:

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

L5.0 Our Local Government

L5.4 To be fiscally responsible

## **FINANCIAL IMPLICATIONS**

The Shire's 2022/2023 Annual Budget provides a set of parameters that guides the Shire's financial practices.

Any financial implications or trends are detailed within the context of this report.

## **OTHER IMPLICATIONS**

### **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 MANAGEMENT**

An assessment of evident risks has been undertaken in accordance with the Shire’s Risk Management Governance Framework and no risks have been identified in relation to the officer recommendation or the report.

**VOTING REQUIREMENTS**

Absolute majority.

OFFICER RECOMMENDATION	ITEM 9.2.1
<p>That Council with respect to;</p> <ol style="list-style-type: none"> <li>1. The Financial Statements for the period ending 28 February 2023, RECEIVE the Financial Reports, incorporating the Statement of Financial Activity and other supporting documentation, as per Attachment 9.2.1a.and;</li> <li>2. The plant replacement program, AUTHORISE the CEO to issue purchase orders for three (3) light vehicles scheduled for replacement in the 2023-2024 financial year for a value not exceeding \$112,500 (GST Exclusive).</li> </ol>	

*\* Absolute majority required.*

**9.2.2 LIST OF PAYMENTS FOR THE PERIOD ENDING 28 FEBRUARY 2023**

<b>File Ref:</b>	FIN.1
<b>Applicant / Proponent:</b>	Not applicable
<b>Subject Land / Locality:</b>	Not applicable
<b>Disclosure of Officer Interest:</b>	Nil
<b>Date:</b>	28 March 2023
<b>Author:</b>	Jodi Masson, Manager of Corporate Services (Acting)
<b>Authorising Officer:</b>	Lee Sounness, Director Corporate & Community Services (Acting)
<b>Attachments:</b>	9.2.2 – February 2023 Monthly List of Payments Summary

**IN BRIEF**

The purpose of this report is to advise the Council of payments made during the period 1 February 2023 to 28 February 2023.

**RECOMMENDATION**

That with respect to the attached Schedule of Payments, totalling \$1,544,785.30 for the month of February 2023, Council RECEIVE the following summary of accounts:

- Electronic Funds Transfers EFT34802 to EFT34993 - \$997,508.62;
- Municipal Fund Cheque No’s 60524 - 60525 - \$5,182.20;

- Internal Account Transfers (Payroll) - \$431,495.05; and
- Direct Debit - \$8,686.79;
- Corporate Credit Card - \$3,584.69;
- Department of Transport Remittances - \$81,755.00; and
- Loan Payments - \$16,572.95

**LOCATION**

Nil

**BACKGROUND**

Nil

**DISCUSSION / OFFICER COMMENTS**

Nil

**CONSULTATION AND EXTERNAL ADVICE**

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 / LEGAL IMPLICATIONS**

Local Government (Financial Management) Regulation 13 relates:

**STRATEGIC / POLICY IMPLICATIONS**

Delegation Number D040201 relates:

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

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

Denmark 2027

*L5.4 To be fiscally responsible*

Corporate Business Plan

Nil

**FINANCIAL IMPLICATIONS**

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

**OTHER IMPLICATIONS****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 MANAGEMENT**

An assessment of evident risks has been undertaken in accordance with the Shire’s Risk Management Governance Framework and no risks have been identified in relation to the officer recommendation or the report.

**VOTING REQUIREMENTS**

Simple majority.

<b>OFFICER RECOMMENDATION</b>	<b>ITEM 9.2.2</b>
<p>That with respect to the attached Schedule of Payments, totalling \$1,544,785.30 for the month of February 2023, Council RECEIVE the following summary of accounts:</p> <ul style="list-style-type: none"> <li>• Electronic Funds Transfers EFT34802 to EFT34993 - \$997,508.62;</li> <li>• Municipal Fund Cheque No’s 60524 - 60525 - \$5,182.20;</li> <li>• Internal Account Transfers (Payroll) - \$431,495.05; and</li> <li>• Direct Debit - \$8,686.79;</li> <li>• Corporate Credit Card - \$3,584.69;</li> <li>• Department of Transport Remittances - \$81,755.00; and</li> <li>• Loan Payments - \$16,572.95</li> </ul>	

**9.2.3 SHIRE OF DENMARK EVENTS PROGRAM 2023/2024**

<b>File Ref:</b>	PBR.1
<b>Applicant / Proponent:</b>	Not applicable
<b>Subject Land / Locality:</b>	Not applicable
<b>Disclosure of Officer Interest:</b>	Nil
<b>Date:</b>	16 March 2023
<b>Author:</b>	Rosemarie Arnephie, Community Development Officer
<b>Authorising Officer:</b>	Lee Souness, Director Corporate and Community Services (Acting)
<b>Attachments:</b>	Nil

**IN BRIEF**

- This report outlines a series of proposed events for the 2023/2024 Financial Year, including dates, expected attendance, and the proposed expenditure associated with each event.

- This report seeks Council's in principle support for the planned community events in 2023/2024 to allow sufficient time for the planning, delivery and sourcing of external funding of these events.

## RECOMMENDATION

That Council PROVIDES in principle support towards the proposed 2023/2024 Shire of Denmark Events Program and associated budget allocations for:

1. Seniors Week Luncheon (\$5,000);
2. International Day of People with Disability (IDPwD) (\$1,000);
3. Christmas Pageant (\$10,000);
4. Australia Day Festival (\$14,000);
5. Youth Festival (\$6,000); and
6. Volunteer Appreciation Function (\$5,000).

## BACKGROUND

1. The Shire of Denmark delivers an annual events program for the community each year. Previously, Council has approved the Shire's annual events program through the budgeting process. The Annual Budget is usually endorsed by Council in August each year, leaving insufficient lead time to plan, seek funding and deliver these events. A minimum lead time of 6-10 months is required to allow adequate time to:
  - Advertise for Expression of Interest for outsourced events
  - Organise all required permits
  - Seek grant funding
  - Source and secure event contractors and suppliers
  - Market and promote the events.
2. The Shire's event program for 2022/23 included the following:
  - Seniors Week Luncheon (\$5,000)
  - International Day of People with Disability (IDPwD) (\$1,000)
  - Christmas Pageant - outsourced (\$10,000)
  - Australia Day Festival - outsourced (\$14,000)
  - Youth Week WA Festival (\$6,000)
  - Volunteer Appreciation Day (\$5,000).
3. The Seniors Week Luncheon, International Day of People with Disability, Youth Week WA Festival and Volunteer Appreciation Day are managed internally by the Community Development Officer. The two more significant events (Christmas Pageant and Australia Day) are too large for the Shire to manage and are outsourced to local community groups through an Expression of Interest process.
4. The cost to deliver these events has increased significantly over the years with little or no increase in each budget allocation despite inflation. The Shire currently outsources the Christmas Parade and Australia Day Events for external community groups to manage. Feedback from the contracted event organisers indicates that the current lead time is inadequate. The Christmas Parade organiser (Denmark Community Resource Centre) also reported that the current budget was insufficient to meet the event's actual cost, requiring

them to rely on in-kind contributions from the community (volunteer labour and services) to meet the shortfall. Sourcing in-kind contributions has become increasingly difficult, and the event organiser will need to seek additional grant funding for future events to be viable.

5. Table 1: Events Program 2022/23

	Account/ Job No	Event/Function	Shire Contribution 2022/23	Grant Funding	Total cost
1	1630252	Seniors Week Luncheon	\$5,000	\$1000	\$6,000
2	1630222	International Day of People with Disability (IDPwD)	\$1,000	\$1000	\$2,000
3	1328742	Christmas Pageant (outsourced)	\$10,000	Nil Grant funding **\$8,000 (in-kind)	\$18,000
4	1410252/ 14121	Australia Day Festival (outsourced)	\$14,000	\$10,000	\$24,000
5	1620222	Youth Festival	\$6,000	\$6,000	\$12,000
6	1410252/ 14124	Volunteer Appreciation Day	\$3,000	Nil	\$3,000

\*\*In-kind contribution

**DISCUSSION / OFFICER COMMENTS**

- The existing program of events were well received by the community. The 2022 IDPwD sports events, however, had a much lower attendance of 40-50 people, compared to the previous year, which attracted approximately 100-150 people. The Officer will work with the Disability Services Advisory Committee to explore a collaborative approach with community groups. Both of the outsourced events, the Christmas Pageant and Australia Day were highly successful. The Christmas Pageant was the most outstanding event of the program for the 2022/2023 financial year, achieving the best community development outcomes. It had the highest community participation rate, bringing together people from diverse ages, abilities, cultures, and genders to celebrate as a community. Community members were encouraged to create unique costumes for the parade. This allowed them to express their authentic self in an inclusive, non-judgemental way, supporting community cohesiveness and providing a sense of belonging.
- Below is the proposed 2023/2024 calendar of events, outlining dates, expected attendance (based on previous years) and the proposed expenditure associated with each event. The expenditure amount in the proposed budget is Council's contribution and is not reflective of the total event delivery costs. Additional funding will be sourced to top up the budget.
- The budget increase for the Volunteer Appreciation Day is to cover the inclusion of the Denmark Citizen of the Year Awards, gifts and associated costs. Previously this was covered in the Australia Day budget. To be eligible for the National Australia Day Council (NADC) grant funding, Council's budget must not be less than the previous years.

9. Table 2: Events Program 2023/24

	<b>Account/ Job No</b>	<b>Event/Function</b>	<b>2023/2024 Proposed Dates</b>	<b>Expected Attendance</b>	<b>2023/2024 Budget</b>
1	1630252	Seniors Week Luncheon	16/11/2023	100-150	\$5,000
2	1630222	International Day of People with Disability (IDPwD)	03/12/2023	50-100	\$1,000
3	1328742	Christmas Pageant (outsourced)	15/12/2023	1000-1500	\$10,000
4	1410252/ 14121	Australia Day Festival (outsourced)	26/01/2024	1000	\$14,000
5	1620222	Youth Festival	15-22 April 2024 (TBC)	400-600	\$6,000
6	1410252/ 14124	Volunteer Appreciation Day	18/5/2024	100-150	\$5,000

10. Given the level of success and community buy-in for the Christmas Pageant, it is recommended that Council continues to support this event in 2023/2024. Given the State Governments' current stance on Australia Day events, it is also proposed that the event continues. Australia Day is a contentious issue in the community and any amendments to the program should only be considered after extensive community consultation.

11. In order to continue delivering sustainable and safe events, officers and event organisers will need to source grant funding to cover the increased costs. Funding bodies such as Lotterywest can take 3-4 months to process funding applications. Additionally, funding bodies also require evidence that Council has approved these events as part of the funding conditions. Endorsing the events in this report will increase the ability to secure grant funding.

**CONSULTATION AND EXTERNAL ADVICE**

12. 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. The Officer has consulted with previously contracted external event Organisers, Denmark Community Resource Centre and Down South Creative and believes that no additional external/internal engagement or consultation is required.

**STATUTORY / LEGAL IMPLICATIONS**

- Public Health Act 2016
- Health (Public Buildings) Regulations 1992
- Department of Health Guidelines for concerts, events and organise gatherings 2022
- Australian Standard AS/NZS 31000:20009 Risk management – Principles and guidelines
- Sustainable Events Policy



**STRATEGIC / POLICY IMPLICATIONS**

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

Denmark 2027

C4.0 Our Community  
*We live in a happy, healthy, diverse and safe community with services that support a vibrant lifestyle and foster community spirit.*

C4.2 To have services that are inclusive, promote cohesiveness and reflect our creative nature

Corporate Business Plan

The 2022-2025 Corporate Business Plan lists the events as an existing service that is delivered by the Community Services Team.

**FINANCIAL IMPLICATIONS**

14. An allocation of \$39,000 has been included in the draft 2023/2024 Community Services and Governance budget. This amount does not include \$19,000 of unconfirmed grant funding provided by various funding bodies for public community events.

**OTHER IMPLICATIONS**

**Environmental:**

15. There are no known significant environmental implications relating to the Report or Officer recommendation.

**Economic:**

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

**Social:**

17. The annual calendar of events provide an opportunity for Council to encourage and support community participation in a range of public activities and events where residents can gather and interact and have a sense of community, pride and belonging.

**RISK MANAGEMENT**

18. Risk Table

Risk	Risk based on history and with existing controls			Proposed Treatment/Control
	Likelihood	Consequence	Risk Rating	
<b>Financial Impact:</b> Insufficient budget to deliver planned event	3	2	6 (moderate)	Apply for grant funding to supplement budget
<b>Financial Impact:</b> Failure to secure funding	3	2	6 (moderate)	Downgrade the event to reduce cost or cancel the event if not possible
<b>Reputational:</b> Some events are not able to proceed	3	2	6 (moderate)	Communicate clearly with our community and stakeholders the reasons for any changes

**VOTING REQUIREMENTS**

Simple majority.

OFFICER RECOMMENDATION	ITEM 9.2.3
<p>That Council PROVIDES in principle support towards the proposed 2023/2024 Shire of Denmark Events Program and associated budget allocations for:</p> <ol style="list-style-type: none"> <li>1. Seniors Week Luncheon (\$5,000);</li> <li>2. International Day of People with Disability (IDPwD) (\$1,000);</li> <li>3. Christmas Pageant (\$10,000);</li> <li>4. Australia Day Festival (\$14,000);</li> <li>5. Youth Festival (\$6,000); and</li> <li>6. Volunteer Appreciation Function (\$5,000).</li> </ol>	

### 9.3 CHIEF EXECUTIVE OFFICER

#### 9.3.1 KWOORABUP NATURE SCHOOL PROPOSAL

<b>File Ref:</b>	LEA.41
<b>Applicant / Proponent:</b>	Kwoorabup Nature School
<b>Subject Land / Locality:</b>	No.2 (Lot 952) Inlet Drive. Reserve 30277
<b>Disclosure of Officer Interest:</b>	Nil
<b>Date:</b>	3 April 2023
<b>Author:</b>	David King, Deputy Chief Executive Officer Claire Thompson, Governance Co-ordinator
<b>Authorising Officer:</b>	David Schober, Chief Executive Officer
	9.3.1a – Kwoorabup Nature School Proposal (2023)
	9.3.1b – 2014 Concept Plan
	9.3.1c – 2019 Concept Plan
<b>Attachments:</b>	9.3.1d – Stakeholder Submissions
	9.3.1e – Rural and Residential property within 5km of the Denmark Townsite
	9.3.1f – Schedule of Shire Leases

#### IN BRIEF

- The Kwoorabup Nature School (KNS) (formerly the Spirit of Play) is requesting an extension of their lease area and a new 21-year lease. The proposal is provided in Attachment 9.3.1a.
- The proposed expansion area would incorporate the existing area leased to the Denmark Lions Club Inc. (Lions).
- Council needs to consider and determine the long-term use of the reserve and whether the school's proposal is aligned with that use.

#### RECOMMENDATION

That Council:

1. PROVIDE in principle support for the expansion of the Kwoorabup Nature School on Reserve 30277.
2. ADVISE the Kwoorabup Nature School that the proposed concept plan as attached in 9.3.1a is not accepted.
3. REQUEST the Chief Executive Officer to engage key stakeholders in developing a revised concept plan and considers the following:
  - a) Enhancement of the key railway reserve aspects including, but not limited to, the relocation of the Station Masters House to its original position and the restoration of the Ash Pit (including carriage) and the Turntable.
  - b) Minimal fencing, especially around heritage features such as the Old Post Office building.
  - c) Removal of the 'Public Shared Use Area' from any new lease and improving public access to that area.
  - d) Installation of appropriate interpretative signage of heritage assets.

- e) Relocation of the Station Masters House to its original location in adjacent Reserve 46242.
  - f) Relocation of the shed within the current Lions lease area to the adjacent Reserve 46242.
4. ADVERTISE a revised concept plan for public consultation and present back to Council, with any submissions received.

### LOCATION

1. The KNS occupy a portion of Lot 952 on Deposited Plan 39348, located at 2 Inlet Drive, Denmark.
2. The Denmark Machinery Restoration Group (DMRG), Mens Shed, and the Lions currently occupy leased areas on the reserve, as delineated in Figure 1.
3. The Bibbulmun Track and the Heritage Rail Trail also pass through the reserve and are popular with local bushwalkers and the like.

**Figure 1 – Site Context**



### BACKGROUND

4. The KNS has leased a portion of Reserve 30277 since 2003. The initial lease was for five (5) years.
5. At its meeting held on 24 June 2008, Council approved a new lease for a period of five (5) years (Resolution No. 130608), which resulted in a new expiration date of 2013.
6. At its meeting held on 25 September 2012, Council approved an extension to the lease area to incorporate an approved additional storage building, existing septic tanks and adequate area for sufficient soft fall sand under the swing set (Resolution No. 160912).

7. In 2013, under clause 4.6 (Further Term) of the Lease, the Lessee exercised their option for a further five (5) year term by written request to the Chief Executive Officer. A new valuation was undertaken in October 2013, which formed the basis of their annual lease fee from 1 December 2013 to 30 November 2018.
8. At its meeting held on 27 May 2014, Council adopted the Denmark Historic Railway Precinct Concept Plan with respect to Reserve No. 30277 (Resolution No. 240514). Part 6 of the resolution stated,  
  
"Advise the Spirit of Play that it has amended the plan such that the label of the building that they currently lease is titled "Old Post Office Building" so as to provide clarity that it is Council's view that an expanded community school at the site is not a long term complementary use at the Heritage Precinct."  
  
See Attachment 9.3.1b for the adopted Concept Plan (2014).
9. At its meeting held on 22 March 2016, Council approved the addition of a temporary classroom which involved an extension of the lease area (Resolution No. 160316). This resulted in a relative increase in the annual lease fee, based on the 2013 valuation.
10. In 2017, the KNS approached Council advising that whilst they had identified an appropriate alternative site for the school, they would require a 12-month extension to give them sufficient time to relocate to the new site. At its meeting on 18 July 2017, Council granted permission for the KNS to continue occupying the Leased Premises as a monthly tenant until 21 December 2019 (Resolution No. 120717).
11. In February 2019, the Council agreed to allow the KNS to extend their lease area, grant the school a new 15 year lease and amend the Denmark Historical Railway Station Precinct Concept Plan ('Concept Plan') to include reference to the school's lease area on the reserve. Due to concerns raised by the other lessees of the portions of the reserve and the Denmark Historical Society, the KNS provided a compromise to the other lessees by agreeing to do some 'Common Area Works'. The Amended Concept Plan is provided as Attachment 9.3.1c.
12. 'Common Area Works' is defined in the lease as:
  - a) Relocation of access road from Inlet Drive;
  - b) Construction of car parking surrounding Lions Lair;
  - c) Construction of car parking adjacent to Crellin Street and a culvert to allow vehicle access;
  - d) Any servicing requirements as a result of school activities; and
  - e) Including any ancillary works required to undertake or complete such works.
13. It was also agreed at the time to include a 'Public Shared Use Area' that incorporated the historical turntable and ash pit. Item 9 of the Schedule states that 'any works undertaken on Reserve 30277 must be consistent with the adopted [Concept Plan] and be sympathetic to the heritage of the precinct. Any works or modifications to the historical relics at the site must be undertaken in liaison with the Denmark Historical Society'.
14. Item 10.2 of the Lease Schedule requires the lessee to 'fund the agreed costs of construction / installation of nature play areas and refurbishment of the Historical Turntable and the Ash Pit in the Public Shared Use Area'. The common area works were completed relatively quickly after the new lease commenced; however, the historical relics are yet to be refurbished or interpretative signage installed.

## DISCUSSION / OFFICER COMMENTS

### The Proposal

15. The KNS has requested an extension to their lease area to allow them to expand to 160 students by 2027. The expansion would enable space for an additional four classrooms and a number of other infrastructure supports, such as ablutions and play spaces. In addition, the school has also requested a new 21-year lease. This would also enable them to apply for a grant to partially fund the building cost of any new classrooms. The full proposal is included in Attachment 9.3.1a.
16. The proposed expansion area would encapsulate the current area leased to the Denmark Lions Club ('Lions'). As with the other reserve leaseholders, specific feedback was sought from the Lions and has been included in the consultation section of this report and attached (see Attachment 9.3.1d).

### Denmark Lions Club Lease

17. While the Lions have advised that they have been an occupant at the site for 20 years, the Shire only formally entered into a lease with the Lions in 2007. A new 10-year lease was executed in 2012. The lease is consistent with other leases to community groups, the annual rent being \$1.00, and the rates, to date, have been waived by Council. The lease expired on 31 August 2022, around the same time the Shire was made aware of the KNS's proposal. The Lions have been occupying the site as a monthly tenant.
18. The KNS have indicated that they would be prepared to enter into a shared-use agreement with the Lions and cover any outgoings such as gas, water, electricity and waste disposal. The KNS would also permit other community groups to use the building outside of school hours.
19. The KNS has advised that they are happy to explore other working arrangements with the Lions as some of their facilities may be more practical to their needs. For example, the KNS would support Lions use of the Post Office building to provide a more open and flexible space for meetings, gatherings and memorabilia displays.
20. The shed adjacent to the Station Masters House is used by the Lions to store equipment that they use for charity work and to comply with their obligations under a Service Agreement with the Shire to maintain a portion of the Denmark Cemetery.
21. The Lions have indicated that proposed shared-use agreements would not suit their operations. This is primarily due to the Lions use of the building and its facilities (showers and kitchen) at many different times during the week as they undertake their various community volunteer works. The Lions' have expressed their views that this is incompatible with school use due to children occupying the building for most of the week.
22. Officers have explored a number of alternative solutions to replicate the existing situation but there does not appear to be any that would meet the Club's current service level in terms of functionality.
23. Should the Council agree to accommodate the KNS's proposal, the Lions have requested that:
  - The Station Masters house and workshop/shed be relocated to a suitable location on the reserve; and

- All associated costs be covered by the Shire and the KNS, including, but not limited to, all utility services, sewage, stormwater etc.

#### Alternative School Sites

24. Under Town Planning Scheme No. 3 (TPS3), a school is considered under the land use definition for 'Education Establishment', which is a discretionary land use in the 'Residential' and 'Rural' zones.
25. Provided issues of land area, access and bushfire safety are accounted for, there would appear to be many options for the existing school to relocate to without necessitating a rezoning. Attachment 9.3.1e shows the land parcels that could be considered without a rezoning.
26. As no rezoning is required for land indicated in attachment 9.3.1e, the development application would be considered under Council's discretion and not subject to the West Australian Planning Commission approval processes.
27. The development would be assessed against State Guidelines for new schools. These guidelines are primarily for greenfield structure planning, and relaxations can be considered at the local government's discretion where appropriate.
28. KNS cite numerous financial constraints for development on an alternate site. These are:
  - The school has invested close to \$2M into the current site.
  - A new site development is likely to cost between \$4-5M at today's construction costs.
  - Development on a new site is unachievable within 5-10 years, even with assistance from capital works grants and loans.

#### Leasing of Crown Land across the Denmark Municipality

29. A schedule of Shire leases is provided as Attachment 9.3.1f.
30. Not including the Peaceful Bay leasehold area, the Shire has 43 leases, of which 28 are non-commercial (peppercorn) and leased at \$1 per year or \$5 per year in one instance.
31. The 28 non-commercial leases are for community groups that either manage and maintain a Council building, provide a service to the community, or are member-based clubs.
32. The Shire has 14 commercial leases; 3 of these leases are on freehold land, with the remaining 11 on Crown reserves.
33. Several of these leases, particularly the caravan parks and fishing leases, are located on reserves that would be considered as having high public value if they were not privatised.
34. As with the community leases, it is argued that there are instances where Council have determined that the public benefit of leasing Crown Land outweighs the public benefit of open access.

#### European Heritage Implications

35. Council's long-stated intention for this reservation is as a heritage precinct.
36. The Council's adopted Municipal Heritage Inventory (MHI) includes the following Place Records which relate to the reserve;

- Railway Precinct (including the Bridge, Ashpit and Turntable);
  - Denmark River Railway Bridge;
  - Old Post Office (currently in the Spirit of Play lease area);
  - Station Master House (current Lions Lair); and
  - Old Railway Station (former Bowling Club on Reserve 20403).
37. Heritage management principles would encourage the adaptive reuse of heritage buildings to ensure that the built fabric is actively managed over time.
38. Adaptive reuse of the main heritage buildings on the reserve is already occurring with the Lions tenure within the Station Masters House, and the Old Post Office, located within the school's lease area. The proposal does not improve or detract from adaptive reuse principles.
39. Adaptive reuse principles preserve historical assets. However, they do not necessarily provide interpretation or enhance areas external to the asset being 'reused'. If the ultimate intention of the site is to retain heritage assets and retain public access, then the allocation of large portions of the site for privatisation and/or fencing of the heritage assets does not meet this intention.
40. Figure 2 shows the reserve and provides a comparison between 1962 and 2022. Aside from the addition of numerous new buildings, none of which add any historical value to the reserve, the original position of the Old Station Masters House can be seen in the NW corner of the adjoining reserve (No. 46242).

**Figure 2 – Ariel photography 1962 and 2022**



41. It is the view of officers that the site is already limited in delivering precinct-wide heritage values due to the existence of several new buildings on the site, including the Mens Shed, the Denmark Machinery Restoration Group Shed, ancillary outbuildings, school classrooms and associated play areas.



42. It could also be argued that the location of the Old Post Office building and the Station Masters House, not being in their original locations, detract from the 'railway' heritage precinct values.
43. It is noted that some of the heritage elements of the 2019 Concept Plan have been installed by the other stakeholders/leaseholders, including a section of a railway line that has been rebuilt in accordance with the 2019 Concept Plan and as far as possible in alignment with the location of the original railway line.
44. It is noted that the KNS proposal does not adversely impact the 2019 Concept Plan with regard to the specific improvements to heritage relics on the site.

#### Future Use of the Reserve

45. A key consideration is the suitability and appropriateness of an independent (private) school using public Crown Land, particularly given this specific reserve's heritage value.
46. The Reserve purpose registered on the title is for Heritage, Recreational and Community purposes.
47. In the broad sense, Denmark has a competitive advantage over other country towns in the range of schooling options available; this helps to attract and retain families in the district. Therefore, encouraging and facilitating the retention of an existing primary school in the district could be seen as a community purpose. This is in alignment with the Ministerial approval for the current KNS lease.
48. The adopted planning framework for the reserve, including Strategy, Scheme and Denmark Historical Railway Station Precinct Concept Plan, all recognise the site as a parks and recreation reserve and a heritage precinct. The existing primary school is small-scale (and approved as a temporary land use) and uses existing heritage-listed buildings and transportable classroom buildings. If the school is to be expanded and made a permanent land use, the planning framework should be adjusted to suit.
49. Council has considered and approved a small-scale primary school on the eastern portion of Reserve 30277 for many years. At the current scale, parking, access, bushfire management requirements and the necessary standards for effluent disposal and potable water have all been met. There appears to be no technical reason to prevent the school from expanding, and officers see no fatal flaws in meeting the required standards.
50. The precedent of a school site on the reserve already exists to some extent, as the KNS currently holds a 15-year lease for a portion of the reserve and has been permitted to operate from the site, albeit in a smaller scale, since 2003.
51. The current proposal differs from the above in that if Council grants KNS a new 21-year lease and permits the lease area requested, the inference will be that the KNS will have long-term tenure and the ability to develop a full build-out to accommodate a single-stream private primary school.
52. The current proposal, including exclusive lease and shared space, equates to approximately 20% of the total reserve by area. Noting that large portions of the reserve are heavily vegetated, officers estimate that the proposal equates to around 40% of the cleared areas of the reserve.

## **CONSULTATION AND EXTERNAL ADVICE**

53. Initial comments have been sought from the other lessees of portions of the reserve; being the Denmark Men's Shed, the Denmark Machinery Restoration Group and the Denmark Lions Club. In addition, the Denmark Historical Society was asked for comment. Their comments are attached (see Attachment 9.3.1d).
54. In addition, the Shire has received 22 independent submissions from community members who have heard about the KNS's proposal. Officers recommend that if the Council wish to entertain the school's expansion, the Concept Plan should be reviewed and be the subject of broader consultation. Should this occur, these additional submissions will be incorporated within that process.

## **STATUTORY / LEGAL IMPLICATIONS**

### Local Government Act 1995 & Regulations

55. Section 3.58 – requires local governments to comply with disposal provisions, including advertising and calling for submissions.
56. Regulation 30(2)(b)(i) excludes disposals of land to a body, 'the objects of which are ... educational ...'.

### Land Administration Act 1997

57. The Shire of Denmark has a Management Order for Reserve 30277 and the power to lease for up to 21 years. The designated purpose of the reserve is 'Historical Precinct, Recreation and Community Purposes'.
58. Section 18 – any use of Crown Land requires approval from the Minister.
59. An extension of the lease area and/or a variation to the term of a lease, would require a new lease, in accordance with Landgate Guidelines.

### Town Planning Scheme No. 3

60. Town Planning Scheme No.3 designates the entire reserve as 'Parks and Recreation'.
61. Council is required to have 'due regard' to this designation, but this designation does not prevent Council from considering a school in this local scheme reservation.

## **STRATEGIC / POLICY IMPLICATIONS**

### Existing Concept Plan

62. The original (2014) and amended Concept Plan (2019) are provided in Attachment 9.3.1b and Attachment 9.3.1c and were both the subject of extensive stakeholder and public / community consultation.
63. The proposal departs physically from the existing concept plan in the following ways:
  - The Lions exclusive lease of the Station Masters House and surrounds are removed.
  - An increase in the school lease area of 3,120sqm, encompassing the existing Lions lease area.
  - A new, expanded car park to the east of the existing Lions lease is proposed.

- The shed currently within the Lions Club lease is to be relocated to the new car park.
- The installation of new classrooms along the south of the proposed new lease area boundary (adjacent to DMRG lease).
- The installation of a nature play feature within the new lease area.
- The installation of a hard court within the new lease area.

64. Officers believe it pertinent that if the Council consider amending the Concept Plan, then broad community consultation needs to be undertaken regarding the proposed amendments to find a mutually agreeable solution where possible.

### **FINANCIAL IMPLICATIONS**

65. The KNS pay commercial rent for the leased premises. As of 2022/23 the amount payable is \$17,930 (ex GST). CPI is applied yearly, and the next market valuation is due in 2024. The school is exempt from paying rates [s 6.26(2)(f) of the Local Government Act 1995].

66. An expansion to the lease area would, in theory, generate more income for the Shire. Officers would recommend that any change to the leased area and term be subject to a new independent valuation.

67. Officers expect a revised lease value to be approximately double the existing lease as the additional area and built structures are comparable to the status quo.

68. The requested new lease term and area would require a new lease document.

### **OTHER IMPLICATIONS**

#### **Environmental**

69. There are no known significant environmental implications relating to the report or officer recommendation. Any environmental considerations as a result of a future Concept Plan, lease or Development Application will be considered at that time.

#### **Economic**

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

#### **Social**

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

**RISK MANAGEMENT**

72. Risk Table

Risk	Risk based on history and with existing controls			Proposed Treatment/Control
	Likelihood	Consequence	Risk Rating	
<b>Reputational:</b> There is a risk that whatever decision the Council make, it will likely attract media attention, giving that the proposal has already been reported on in the media, including the views of the school and the Lions, and independent submissions received to date are divided on the issue.	4	3	12 (High)	Ensure appropriate consultation for any changes to the adopted concept plan.

**CONCLUSION**

- 73. Fundamentally, it is officer's view that unless the status quo is to remain, further consultation with the wider community is required. This is primarily due to the fact that the current proposal deviates from a concept plan that underwent significant community consultation and is only four (4) years old. In addition, it has long been implied that the school was to be a temporary land use, and this proposal is a significant deviation from that.
- 74. The proposal will significantly impact the Lions and the way in which they currently operate. Whilst the Lions would have to adjust their current practises, it is not inconceivable that they could utilise other Shire assets.
- 75. While there are considerations concerning the impact on the Lions, officers consider that the overriding consideration is the suitability of using Crown Land, of historical significance, for an independent school.
- 76. As discussed, this precedent has already been made to some extent, although the current proposal differs from the status quo in that the KNS will have long-term tenure with the development of a full build-out to accommodate a single stream Primary School.
- 77. Whilst there are a number of potential alternative sites close to, or within, the Denmark Townsite, it is argued by KNS, and taken at face value by officers, that the KNS would not be in a financial position to relocate due to the costs of land acquisition and capital infrastructure requirements.
- 78. KNS has also been clear that with the current proposal, that they wish to progress with capital improvements to facilitate a single-stream school as soon as possible, realising the community benefit sooner (by 2027) than otherwise would (if at all) if they had to relocate.

79. The question of the 'privatisation' of a reserve has also been discussed. It is noted that in Denmark, and typically more widely across regional Western Australia, Crown land is routinely leased for community and commercial use. In this case, officers view that the potential impacts on the heritage value of the reserve, and public access to the proposed lease site, do not clearly outweigh the community's value in providing alternative education options.
80. However, it is also officers view that the school's proposal does not provide a balanced approach to managing the reserve's heritage aspects.
81. For these reasons, it is recommended that the proposal be supported in principle and be the subject of broad consultation that can provide community input into any proposed amendments to the Concept Plan, and find a mutually agreeable solution where possible.
82. The following should be considered in the discussion:
- Enhancement of the key Railway Reserve aspects including, but not limited to, the relocation of the Station Masters House to its original position and the restoration of the Ash Pit (including carriage) and the Turntable.
  - Minimal fencing, especially around heritage features such as the Old Post Office building.
  - Removing the 'Public Shared Use Area' from any new lease and improving public access to that area.
  - Installation of appropriate interpretative signage of heritage assets.
  - Relocation of the Station Masters House to its original location in adjacent Reserve 46242.
  - Relocation of the shed within the current Lions lease area to the adjacent Reserve 46242.
83. The school have indicated that for them to apply for the current round of external Commonwealth funding, a 20-year lease would need to be in place and signed by 30 June 2023. Given the high public interest in the reserve, the school and the proposal, the recommendation would not support this timeframe.

#### **VOTING REQUIREMENTS**

84. Simple majority.

OFFICER RECOMMENDATION	ITEM 9.3.1
<p>That Council:</p> <ol style="list-style-type: none"> <li>1. PROVIDE in principle support for the expansion of the Kwoorabup Nature School on Reserve 30277.</li> <li>2. ADVISE the Kwoorabup Nature School that the proposed concept plan as attached in 9.3.1a is not accepted.</li> <li>3. REQUEST the Chief Executive Officer to engage key stakeholders in developing a revised concept plan and considers the following:             <ol style="list-style-type: none"> <li>a) Enhancement of the key railway reserve aspects including, but not limited to, the relocation of the Station Masters House to its original position and the restoration of the Ash Pit (including carriage) and the Turntable.</li> <li>b) Minimal fencing, especially around heritage features such as the Old Post Office building.</li> <li>c) Removal of the 'Public Shared Use Area' from any new lease and improving public access to that area.</li> <li>d) Installation of appropriate interpretative signage of heritage assets.</li> <li>e) Relocation of the Station Masters House to its original location in adjacent Reserve 46242.</li> <li>f) Relocation of the shed within the current Lions lease area to the adjacent Reserve 46242.</li> </ol> </li> <li>4. ADVERTISE a revised concept plan for public consultation and present back to Council, with any submissions received.</li> </ol>	

**9.3.2 REVIEW OF ACTIVITIES ON THOROUGHFARES AND TRADING IN THOROUGHFARES AND PUBLIC PLACES LOCAL LAW AND FENCING LOCAL LAW**

<b>File Ref:</b>	LEG.1
<b>Applicant / Proponent:</b>	Not applicable
<b>Subject Land / Locality:</b>	Not applicable
<b>Disclosure of Officer Interest:</b>	Nil
<b>Date:</b>	16 March 2023
<b>Author:</b>	Niel Mitchell, Consultant Claire Thompson, Governance Coordinator
<b>Authorising Officer:</b>	David Schober, Chief Executive Officer
<b>Attachments:</b>	9.3.2a – Shire of Denmark Activities on Thoroughfares and Trading in Thoroughfares and Public Places Local Law 9.3.2b – Shire of Denmark Fencing Local Law 9.3.2c – Consultant’s Report – Local Laws Review (2)

**IN BRIEF**

- Finalisation of review of two local laws –
  - Activities on Thoroughfares and Trading in Thoroughfares and Public Places Local Law (see Attachment 9.3.2a); and
  - Fencing Local Law (see Attachment 9.3.2b).

## RECOMMENDATION

That Council –

1. NOTES the completion of a periodic review of the following local laws in accordance with the *Local Government Act 1995* section 3.16 –
  - (a) Activities on Thoroughfares and Trading in Thoroughfares and Public Places Local Law; and
  - (b) Fencing Local Law.
2. with respect to the Activities on Thoroughfares and Trading in Thoroughfares and Public Places Local Law –
  - (a) MERGE the provisions of the Activities in Thoroughfares & Public Places and Trading Local Law, with the Local Government Property Local Law and develop a single Public Places and Local Government Property Local Law;
  - (b) SEEK the Governor’s approval under the *Local Government Act 1995* section 3.6 for extension of powers in any local law dealing with both public places and local government property for power to control activities –
    - (i) 200 metres seawards from the coastline;
    - (ii) 50 metres over water only, from the western shore line in Wilson Inlet, subject to the prior agreement of the City of Albany, and
    - (iii) to the whole of Irwin Inlet.
  - (a) the current local laws be REPEALED as part of the adoption of the new local law –
    - (i) *Activities in Thoroughfares & Public Places and Trading Local Law 2001*,
    - (ii) *Local Government Property Local Law 2001*.
3. with respect to the Fencing Local Law –
  - (a) DEVELOP a new Fencing Local Law; and
  - (b) REPEAL the *Fencing Local Law 2001* as part of the adoption of the new local law.

## LOCATION

1. Whole of Shire of Denmark local government district.

## BACKGROUND

2. The review was initiated in November 2022. The *Local Government Act 1995* ('Act') requires a periodic review of each local law at least every 8 years.
3. The Act also specifies the process for the conduct of the review, and that an absolute majority is required to determine if the local law is to be amended or repealed.
4. Any amendment or repeal is required to follow the statutory process for making a local law.

## DISCUSSION / OFFICER COMMENTS

5. Both local laws reviewed have their origin in the WA Local Government Association model local laws, although the Activities on Thoroughfares and Trading in Thoroughfares and Public Places Local Laws was adopted by reference to the same local law adopted by the Shire of Kojonup in 2000.

6. For both local laws, legislation and community expectations have moved in the past 20 years since adoption in 2001.
7. The consultant's report outlines the major issues noted, although there are others of a more minor nature that remain.
8. There is no requirement for Council to implement any or all recommendations of the report, or to amend or repeal any current local law, nor any statutory timeframe to do so.

### **CONSULTATION AND EXTERNAL ADVICE**

9. Local public notice of the review of local laws requires that the community be given the opportunity to comment for a minimum of 6 weeks. The notice of the review is required to be published in at least 4 places. Notice was published in accordance with the Administration Regulations r.3A –
  - dates of publication –
    - o Website (mandatory) – 30 November 2022
      - website notice is considered to be the commencement of the statutory 6-week minimum public consultation period
    - o Office and library notice boards – 30 November 2022
    - o Social media – 30 November 2022
    - o Denmark Bulletin – 8 December 2022
    - o Walpole Weekly – 7 December 2022
  - earliest date for close of public comment – 12 January 2023
  - actual date of close of public comment – 20 January 2023.
10. No public comment or submission was received. Comments were received from relevant Shire officers.

### **STATUTORY / LEGAL IMPLICATIONS**

#### **11. LOCAL GOVERNMENT ACT 1995**

Section 3.16 – local government required to undertake periodic review of local laws at least every 8 years.

### **STRATEGIC / POLICY IMPLICATIONS**

#### **12. Denmark 2027**

##### **L5.0 Our Local Government**

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

### **FINANCIAL IMPLICATIONS**

13. There are no financial implications resulting from a completion of the review.
14. Should the recommendations be accepted, there will be cost to develop the new local laws, this has been estimated at \$7,500 (ex GST).
15. This cost can be accommodated within the existing budget allocated to the local law review (GL 1420322).



**OTHER IMPLICATIONS**

**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 MANAGEMENT**

**Risk Analysis Table**

Risk	Risk based on history and with existing controls			Proposed Treatment/Control
	Likelihood	Consequence	Risk Rating	
<b>Compliance:</b> That if Review Report recommendations are not implemented, the local laws will become increasingly out of date, and less relevant to circumstances and community expectations.	1	2	2 (Low)	Development and adoption of new local laws.

**VOTING REQUIREMENTS**

Absolute majority.

OFFICER RECOMMENDATION	ITEM 9.3.2
That Council –	
1. NOTES the completion of a periodic review of the following local laws in accordance with the <i>Local Government Act 1995</i> section 3.16 –	
(a) Activities on Thoroughfares and Trading in Thoroughfares and Public Places Local Law; and	
(b) Fencing Local Law.	
2. with respect to the Activities on Thoroughfares and Trading in Thoroughfares and Public Places Local Law –	
(a) MERGE the provisions of the Activities in Thoroughfares & Public Places and Trading Local Law, with the Local Government Property Local Law and develop a single Public Places and Local Government Property Local Law;	
(b) SEEK the Governor’s approval under the <i>Local Government Act 1995</i> section 3.6 for extension of powers in any local law dealing with both public places and local government property for power to control activities –	

- (i) 200 metres seawards from the coastline;
  - (ii) 50 metres over water only, from the western shore line in Wilson Inlet, subject to the prior agreement of the City of Albany, and
  - (iii) to the whole of Irwin Inlet.
- (c) the current local laws be REPEALED as part of the adoption of the new local law –
- (i) *Activities in Thoroughfares & Public Places and Trading Local Law 2001,*
  - (ii) *Local Government Property Local Law 2001.*
3. with respect to the Fencing Local Law –
- (a) DEVELOP a new Fencing Local Law; and
  - (b) REPEAL the *Fencing Local Law 2001* as part of the adoption of the new local law.

\* Absolute majority required.

### 9.3.3 DENMARK WALPOLE FOOTBALL CLUB INC. LEASE

<b>File Ref:</b>	LEA.53
<b>Applicant / Proponent:</b>	Not applicable
<b>Subject Land / Locality:</b>	Part of Reserve 15513 being part of Lot 1087 on Deposited Plan 193666
<b>Disclosure of Officer Interest:</b>	<ul style="list-style-type: none"> <li>• The Author’s stepson plays league and reserves for the Denmark Walpole Football Club.</li> <li>• The Authorising Officer’s son plays Under 16s for the Denmark Walpole Football Club.</li> </ul>
<b>Date:</b>	30 March 2023
<b>Author:</b>	Claire Thompson, Governance Coordinator
<b>Authorising Officer:</b>	David Schober, Chief Executive Officer
<b>Attachments:</b>	9.3.3 – Draft Lease

#### IN BRIEF

- The Shire administration seeks to formalise the Denmark Walpole Football Club’s (‘DWFC’) use of the clubrooms and other infrastructure by entering into a lease.

#### RECOMMENDATION

That with respect to the Denmark Walpole Football Club Incorporated’s occupation of a portion of Reserve 15513, being part of Lot 1087 on Deposited Plan 193666, Council:

1. AGREE to lease the premises for a period of 21 years for an annual rent of \$1.00, as per Attachment 9.3.4;
2. AUTHORISE the Shire President and the Chief Executive Officer to execute the lease, subject to obtaining Ministerial Approval.

#### LOCATION

1. Portion of Reserve 15513, being part of Lot 1087 on Deposited Plan 193666. The clubrooms form part of the McLean Oval Precinct located at 73 Brazier Street, Denmark.



**BACKGROUND**

2. The DWFC has used the premises since approximately 1976 but has never had a formal lease with the Shire.
3. Shire officers commenced negotiations with the DWFC in 2021 and the draft lease is a result of those negotiations (see Attachment 9.3.3).

**DISCUSSION / OFFICER COMMENTS**

4. DWFC are members of the Great Southern Football League Inc.
5. The DWFC incorporates the following grades and registrations for 2022 were as follows:
  - Under 16s – 36 players
  - Colts – 32 players
  - Reserves and League – 89 players
  - Womens Senior League – 39 players

The club has 130 members and 20 – 30 volunteers through all of the grades.

6. The draft lease is based on the Shire's standard community group lease template however, of note for this particular lease is that;
  - a) Clause 6.1(b) includes that the Shire will remain responsible for the removal of graffiti that is classified as vandalism.
  - b) The DWFC will retain ownership and be 100% responsible for the Ticket Shed, the Scoreboard and the Shed that houses the Scoreboard.
7. Given the longevity of the DWFC and their affiliation with the premises, officers are recommending that Council grant a 21 year lease term. The maximum tenure permissible under the Reserve Management Order.
8. The changerooms to the north of the proposed DWFC lease area are maintained, cleaned and stocked with relevant consumables by the Shire once per week, which is why they are not included in the leased premises.
9. As occupants and caretakers of the clubrooms for over 45 years, upon recent inspection, it is clear to officers that the DWFC take great pride in the facility and keep it maintained to a high standard.
10. The clubrooms are also used regularly by the Denmark Cricket Club, the Denmark Athletics Club and the Denmark Walpole Junior Football Club, and the DWFC are prepared to continue making the facilities available for any other sporting clubs and community groups.

#### **CONSULTATION AND EXTERNAL ADVICE**

11. 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.
12. It is clear from the comments made in the Sport and Recreation Master Plan (2019) that other users of the McLean Oval have been of the view that the DWFC already had a lease with the Shire. For this reason, officers did not take the view that other users needed to be consulted as the lease just formalises what was already considered to be in place.

#### **STATUTORY / LEGAL IMPLICATIONS**

13. LOCAL GOVERNMENT ACT 1995

Section 3.58 permits a local government to dispose of property (this includes lease)

14. LOCAL GOVERNMENT (FUNCTIONS & GENERAL) REGULATIONS 1996

Regulation 30 – disposition of land to a body whose objects are recreational is exempt from s 3.58 disposal provisions, such as advertising.

## 15. RESERVE MANAGEMENT

The Minister has granted Management Order for the reserve to the Shire of Denmark, with power to lease for up to 21 years.

## 16. LAND ADMINISTRATION ACT 1997

Section 18 – Ministerial approval is required to lease any Crown land.

### **STRATEGIC / POLICY IMPLICATIONS**

17. Shire of Denmark Sport and Recreation Master Plan (2019) talks about a lease between the Shire and the DWFC however, no such as lease is in place.

## 18. Denmark 2027

B3.0 Our Built Environment

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

L5.0 Our Local Government

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

### **FINANCIAL IMPLICATIONS**

19. The annual rent for the lease proposed is \$1.00 which is aligned with other community groups that look after Shire buildings and facilities.

20. Whilst clause 4.1(b) states that the lessee is responsible to pay rates, the lease Schedule includes Special Condition 10.1 that states that the Council will annually consider the provision of a concession to the value of the rates payable for the premises. This is also aligned with other similar community group leases but provides the Council the option to determine each year whether they grant concession or not.

21. Over the year's the DWFC have invested into the clubrooms and other surrounding infrastructure including:

- Contributed \$2,700 to the upgrade of the oval lights.
- In 2011 the DWFC entered into a self-supporting \$30,000 loan with the Shire to undertake capital upgrades to the clubhouse.

Both of these loans have been paid back by the DWFC.

### **OTHER IMPLICATIONS**

#### **Environmental**

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

**Economic**

Home games during the football season are generally very well spectated by locals and people associated with the away clubs. While the club runs a canteen on these occasions, with produce being purchased locally, hosting an event that brings visitors to town could benefit local businesses.

**Social**

The Sport and Recreation Master Plan (2019) consider the benefits of local sport and states, *‘local sporting clubs such as the local football, netball or golf club have played a key role in regional communities across Australia providing better physical and mental health outcomes for people of all ages. They also help teach values, volunteerism, cooperation, leadership, teamwork, and help in overcoming adversity. For school age children, learning these crucial socialisation skills has a significant impact on their academic performance’.*

**RISK MANAGEMENT**

An assessment of evident risks has been undertaken in accordance with the Shire’s Risk Management Governance Framework and no risks have been identified in relation to the officer recommendation or the report.

**Risk Analysis Table**

Risk	Risk based on history and with existing controls			Proposed Treatment/Control
	Likelihood	Consequence	Risk Rating	
<b>Property:</b> That there is another sporting club or community group that would like to exclusively lease the clubrooms.	1	1	1 (Low)	Accept risk. The Shire is not aware of any other club or group that has expressed an interest in exclusively leasing the clubrooms.

**VOTING REQUIREMENTS**

Simple majority.

OFFICER RECOMMENDATION	ITEM 9.3.3
<p>That with respect to the Denmark Walpole Football Club Incorporated’s occupation of a portion of Reserve 15513, being part of Lot 1087 on Deposited Plan 193666, Council:</p> <ol style="list-style-type: none"> <li>1. AGREE to lease the premises for a period of 21 years for an annual rent of \$1.00, as per Attachment 9.3.4;</li> <li>2. AUTHORISE the Shire President and the Chief Executive Officer to execute the lease, subject to obtaining Ministerial Approval.</li> </ol>	

### 9.3.4 SALE OF LIGHT INDUSTRIAL AREA LOT 8, 39 CORYMBIA CRESCENT

<b>File Ref:</b>	File A5969
<b>Applicant / Proponent:</b>	J & N De Hert
<b>Subject Land / Locality:</b>	Lot 8 on Deposited Plan 413974, No. 39 Corymbia Crescent, Hay
<b>Disclosure of Officer Interest:</b>	Nil
<b>Date:</b>	31 March 2023
<b>Author:</b>	Claire Thompson, Governance Coordinator
<b>Authorising Officer:</b>	David Schober, Chief Executive Officer
<b>Attachments:</b>	9.3.4a – Contract of Sale (Confidential) 9.3.4b – March 2022 valuations for the LIA lots

#### IN BRIEF

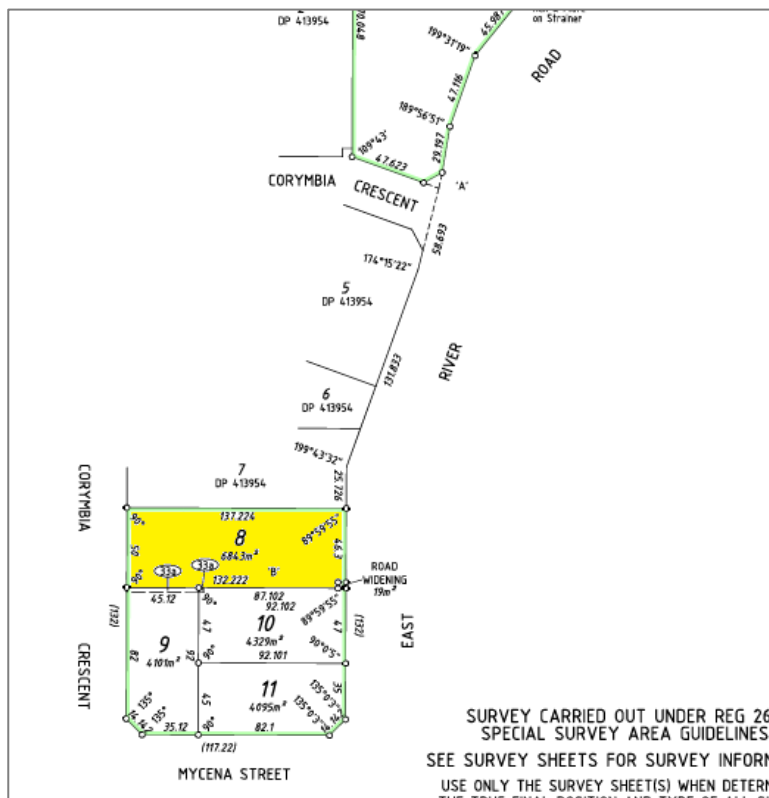
- The Shire has received an offer to purchase a lot within the Light Industrial Area.

#### RECOMMENDATION

That Council APPROVE the sale of Lot 8 on Deposited Plan 413974 to Joeri and Naomi De Hert for \$280,000 (excluding GST) with the sale proceeds to be transferred to the Infrastructure Reserve.

#### LOCATION

- Lot 8 on Deposited Plan 413974, 39 Corymbia Crescent, Hay (highlighted yellow below).



**BACKGROUND**

2. In July 2022, Council resolved to list light industrial area Lots 8, 9, 10 and 11 for sale and authorised the Chief Executive Officer to negotiate any prospective purchase.
3. Council requested that any contract of sale be presented to Council for consideration.

**DISCUSSION / OFFICER COMMENTS**

4. The Shire has received an offer to purchase a lot within the Light Industrial Area.
5. The Acting Chief Executive Officer advertised the offer to purchase for public comment, and no submissions were received.
6. A copy of the (confidential) Contract of Sale has been provided to councillors under separate cover and listed as Attachment 9.3.4a.

**CONSULTATION AND EXTERNAL ADVICE**

7. At the close of advertising, no submissions regarding the sale were received.

**STATUTORY / LEGAL IMPLICATIONS**

8. LOCAL GOVERNMENT ACT 1995

Section 3.58 – local governments can dispose of property by private treaty following a period of advertising and the consideration of any submissions.

Council has the option to either accept the offer or put forward a counteroffer. If a counteroffer is determined, the proposed sale would need to be re-advertised.

**STRATEGIC / POLICY IMPLICATIONS**

9. DENMARK 2027

L5.0 Our Local Government

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

**FINANCIAL IMPLICATIONS**

10. Lot 8 was valued by an independent valuer in March 2022, at \$310,000 (ex GST), (see Attachment 9.3.4b). As part of the Shire's obligation to have their asset classes independently valued every four years, an independent valuation of all the Shire's land assets and balance sheet was undertaken in 2022. Lot 8 was valued and recorded on the Shire's balance sheet at \$290,000 (excl GST).
11. \$310,000 (ex GST) equates to \$45/sqm.
12. Referring to the independent valuation provided as Attachment 9.3.4b, Lot 7 Corymbia Crescent was sold in July 2018 for \$304,545 at a rate of \$44/sqm.
13. The comparability is noted as "Smaller site area to Lot 3, similar to Lot 8 and larger to lots 9 - 11 within the subject development. The land is predominately gently undulating and easier to develop than Lot 3 and somewhat similar to Lots 8 - 11. This sale indicates a lower rate per square metre is applicable to Lot 3, a somewhat similar rate for Lot 8 and a



higher rate per square metre is applicable to lots 9 - 11. Generally static market conditions prevail since the date of sale.”

- 14. More recent sales in January and June 2021 for lots 4 and 5 sold, or were listed at \$32/sqm and \$34/sqm respectively.
- 15. The comparability with these sites is note as “Smaller site area to Lot 3 and larger to lots 8 - 11 within the subject development. The land is predominately gently undulating and easier to develop than Lot 3. This sale indicates a lower rate per square metre is applicable to Lot 3 and a higher rate per square metre is applicable to lots 8 - 11.”
- 17. Whilst the valuation assumes the highest value based on the sale of Lot 3 in 2018, the offer of \$280,000 equates to \$40.6/sqm which in officers view is in reasonable agreement with (13), (14) and (15) above, and therefore considered a fair offer.
- 18. The adopted 2022/2023 Annual Budget did not include a budget provision for proceeds from sale of this land. Therefore, if the Council accept the offer, it is recommended land sale proceeds be transferred to the Infrastructure Reserve.

**OTHER IMPLICATIONS**

**Environmental**

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

**Economic**

- 20. The sale of a lot will result in additional development of the LIA. This has an economic benefit to the municipality.

**Social**

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

**RISK MANAGEMENT**

- 22. A risk assessment has been undertaken per the Shire's Risk Management Governance Framework, and no risks have been identified in relation to the officer recommendation or the report.

**VOTING REQUIREMENTS**

- 23. Simple majority.

<b>OFFICER RECOMMENDATION</b>	<b>ITEM 9.3.4</b>
<p>That Council APPROVE the sale of Lot 8 on Deposited Plan 413974 to Joeri and Naomi De Hert for \$280,000 (excluding GST) with the sale proceeds to be transferred to the Infrastructure Reserve.</p>	

**9.3.5 GOLDEN HILL STEINER SCHOOL LEASE**

<b>File Ref:</b>	File A322
<b>Applicant / Proponent:</b>	Golden Hill Steiner School
<b>Subject Land / Locality:</b>	No. 23 (Lot 1) Riverbend Lane, Scotsdale
<b>Disclosure of Officer Interest:</b>	Nil
<b>Date:</b>	30 March 2032
<b>Author:</b>	Claire Thompson, Governance Coordinator
<b>Authorising Officer:</b>	David Schober, Chief Executive Officer
<b>Attachments:</b>	Nil

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**IN BRIEF**

- Golden Hill Steiner School (GHSS) are seeking to lease a portion of Lot 1 Riverbend Lane, Scotsdale prior to purchase.

**RECOMMENDATION**

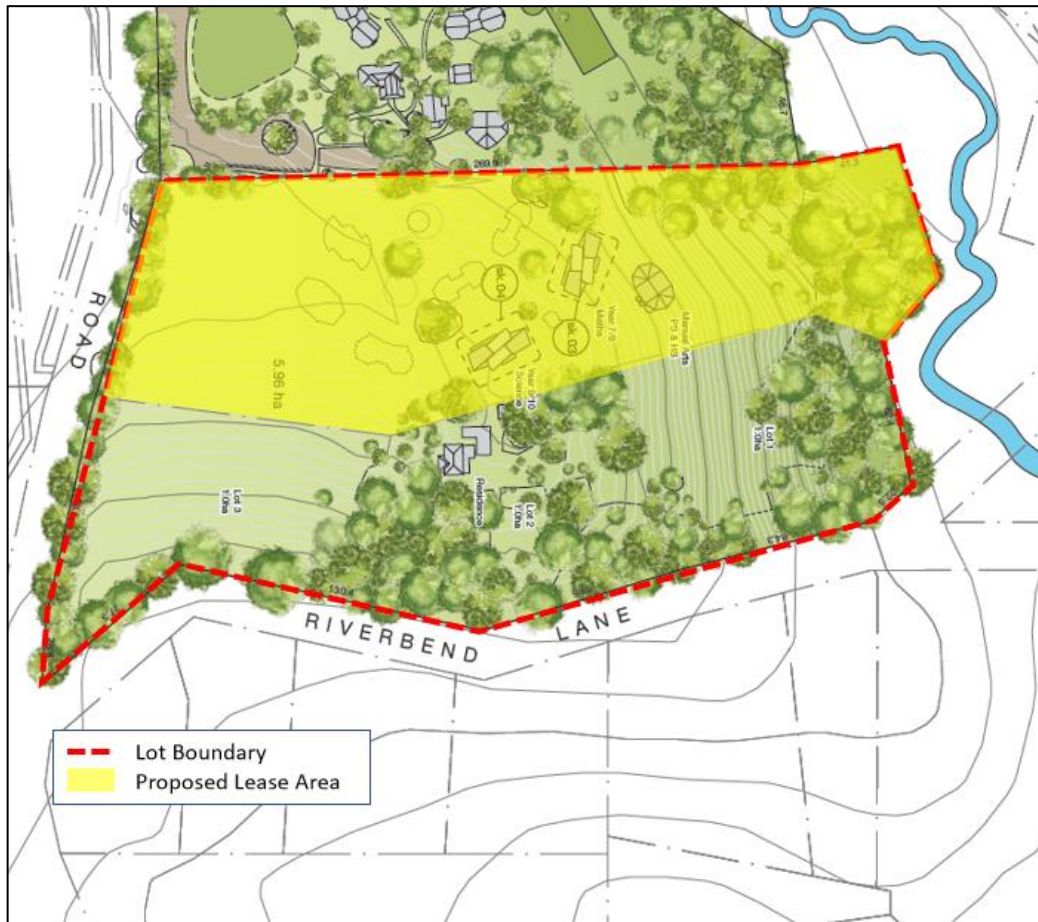
That with respect to No. 23 (Lot 1) Riverbend Lane, Council:

1. ACKNOWLEDGE that the Golden Hill Steiner School have agreed to purchase the land, subject to a successful re-zoning process.
2. NOTE that the re-zoning process can take 12 – 18 months.
3. AGREE to enter into a 20 year, commercial lease with the Golden Hill Steiner School subject to conditions including:
  - a) Two year option to purchase;
  - b) If purchase is to be made after two years, it will be the subject of a new valuation, legislative disposal provisions and Council’s approval;
  - c) Development of the site remaining at the absolute discretion of the Shire during the lease period;
  - d) The current on site residential dwelling and surrounds do not form part of the lease area; and
  - e) The annual rent being offset against the purchase price but if the purchase does not proceed, then the annual rent will not be reimbursed to the lessee.
4. AUTHORISE the Chief Executive Officer to:
  - a) negotiate the lease terms, including conditions in part 3 above; and
  - b) obtain an independent market rental valuation and apply the valuation to the lease.
5. AUTHORISE the Shire President and the Chief Executive Officer to execute the lease.

**LOCATION**

1. Portion of 23 (Lot 1) Riverbend Lane, Scotsdale as indicated in Figure 1.

**Figure 1**



**BACKGROUND**

2. At its meeting held on 15 November 2022 Council authorised the Chief Executive Officer to negotiate the sale of Lot 1 Riverbend Lane to the GHSS, subject to conditions and disposal provisions.
3. The conditions attached to the Council’s authorisation were met and the sale by private treaty was advertised for public comment.

**DISCUSSION / OFFICER COMMENTS**

4. The GHSS is located at Lot 110 Scotsdale Road, adjacent to Lot 1 Riverbend Lane. GHSS has made a submission to the Shire stating its objective to grow the school and offer a secondary schooling option (years 7 to 12), in addition to the primary school (kindy to year 6) currently in operation. To achieve this growth objective the school requires access to the adjoining land, Lot 1 Riverbend Lane. This is the basis for the Shire to consider its sale.
5. The GHSS have agreed to purchase the land subject to the completion of re-zoning process. This process could take 12 – 18 months.
6. In the interim, the GHSS have the opportunity to apply for a Commonwealth Grant to obtain funding to build the high school buildings on Lot 1, Riverbend Land. If successful, the funds would be available from early 2024.

7. One of the conditions of the funding stream is that the applicant must either own land freehold or have at least a 20 year secure tenure over the land.
8. The GHSS would like to apply for the funding but are reluctant to purchase the land in case the WA Planning Commission impose unviable conditions through the re-zoning process.
9. Officers have advised the GHSS that if Council were to endorse a lease, the lease preparation and a commercial valuation would be at their cost.
10. Officers have also advised the GHSS that any lease would be subject to conditions, such as option to purchase and the Council retaining absolute discretion as to any development of the site during the lease period.
11. This report seeks a Council decision on whether they approve a conditional lease, prior to the GHSS outlaying any funds for the preparation of a conditional lease and a commercial rental valuation.
12. Given the short time frame that the GHSS have to have a secure land tenure in place to comply with the funding conditions, it is recommended that if Council agree to a lease, then the Chief Executive Officer be authorised to negotiate and approve the lease terms, apply an independent market rental valuation and execute the lease.

#### **CONSULTATION AND EXTERNAL ADVICE**

13. The disposal of Lot 1 Riverbend Land by private treaty to the GHSS was advertised for public comment. One submission in favour was received.
14. As the proposed lease is exempt from disposal provisions there is no requirement to request public submissions.

#### **STATUTORY / LEGAL IMPLICATIONS**

15. LOCAL GOVERNMENT ACT 1995

Section 3.58 – a local government can dispose of property in accordance with legislative provisions.

16. LOCAL GOVERNMENT (FUNCTIONS & GENERAL) REGULATIONS 1996

Regulation 30 – a disposition to a body whose objects are educational and the members of which are not entitled or permitted to receive any pecuniary profit from the body's transactions, is exempt from the disposal provisions under s 3.58.

#### **STRATEGIC / POLICY IMPLICATIONS**

17. 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.

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.

### **FINANCIAL IMPLICATIONS**

18. Should the Council approve and the GHSS subsequently enter into a commercial lease for the site whilst awaiting completion of the re-zoning process, the Shire would receive additional general revenue in the form of annual rent. It is proposed that the annual rent will be offset from the purchase price of \$900,000 (ex GST).
19. In the event that the sale does not proceed the rent would not be reimbursed.

### **OTHER IMPLICATIONS**

#### **Environmental**

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

#### **Economic**

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

#### **Social**

22. The link between education and social outcomes has long been recognised. Most recently, in the past few decades, research has supported that education not only enables individuals to perform better in the labour market, but also helps to improve their overall health, promote active citizenship and contain violence.
23. Golden Hill Steiner School has made a submission to the Shire regarding the potential to offer secondary education by expanding its campus into adjoining Lot 1. Having a range of schooling options will improve educational outcomes for the community and the social benefits that accompany it.

### **RISK MANAGEMENT**

24. A risk assessment has been undertaken per the Shire's Risk Management Governance Framework, and no risks have been identified in relation to the officer recommendation or the report.
25. Any risks that officers can foresee will be mitigated by including conditions in the lease.

### **VOTING REQUIREMENTS**

26. Simple majority.

OFFICER RECOMMENDATION	ITEM 9.3.5
<p>That with respect to No. 23 (Lot 1) Riverbend Lane, Council:</p> <ol style="list-style-type: none"> <li>1. ACKNOWLEDGE that the Golden Hill Steiner School have agreed to purchase the land, subject to a successful re-zoning process.</li> <li>2. NOTE that the re-zoning process can take 12 – 18 months.</li> <li>3. AGREE to enter into a 20 year, commercial lease with the Golden Hill Steiner School subject to conditions including:             <ol style="list-style-type: none"> <li>a) Two year option to purchase;</li> <li>b) If purchase is to be made after two years, it will be the subject of a new valuation, legislative disposal provisions and Council’s approval;</li> <li>c) Development of the site remaining at the absolute discretion of the Shire during the lease period;</li> <li>d) The current on site residential dwelling and surrounds do not form part of the lease area; and</li> <li>e) The annual rent being offset against the purchase price but if the purchase does not proceed, then the annual rent will not be reimbursed to the lessee.</li> </ol> </li> <li>4. AUTHORISE the Chief Executive Officer to:             <ol style="list-style-type: none"> <li>a) negotiate the lease terms, including conditions in part 3 above; and</li> <li>b) obtain an independent market rental valuation and apply the valuation to the lease.</li> </ol> </li> <li>5. AUTHORISE the Shire President and the Chief Executive Officer to execute the lease.</li> </ol>	

**10. COMMITTEE REPORTS AND RECOMMENDATIONS**

**10.1 DISABILITY SERVICES ADVISORY COMMITTEE MINUTES 9 FEBRUARY 2023 AND RECOMMENDATIONS**

<b>File Ref:</b>	COMM.DSC
<b>Applicant / Proponent:</b>	Various
<b>Subject Land / Locality:</b>	Not Applicable
<b>Disclosure of Officer Interest:</b>	Nil
<b>Date:</b>	28 March 2023
<b>Author:</b>	Rosie Arnephie, Community Development Officer
<b>Authorising Officer:</b>	Lee Sounness, Acting Director Corporate and Community Services
<b>Attachments:</b>	10.1 - Disability Services Advisory Committee Meeting Minutes 9 February 2023

**IN BRIEF**

- The Disability Services Advisory Committee met on 9 February 2023.
- The Committee discussed the ongoing issue of a non-compliant access ramp at the Denmark Pharmacy.

**RECOMMENDATION**

That Council:

1. RECEIVE the Committee Minutes for the meeting held on 9 February 2023 and;
2. DIRECTS the CEO to write a letter to Denmark Pharmacy recommending they install a bell at the entrance of the pharmacy and a non-slip coating be applied to the access ramp.

**LOCATION**

Not applicable

**BACKGROUND**

12. The Disability Services Advisory Committee held a meeting on 9 February 2023 at the Shire Administration Building.
13. The CEO, under the direction of Council, was asked to investigate a non-compliant ramp at the Denmark Pharmacy - Resolution 131021.
14. The investigation found that the building is compliant to the year built. As a private business, the Council has no legal recourse to direct the pharmacy to install a compliant ramp.
15. Should the pharmacy lodge a development application in the future, they may be required to upgrade the ramp in accordance with the current Building Code of Australia.

**DISCUSSION / OFFICER COMMENTS**

16. The officer recommends that Council receive the minutes from 9 February 2023.
17. Item 6.3. of the Minutes, Access Ramp to the Denmark Pharmacy, the Committee recommended the following actions to improve access for people with disability.
  - a) That a bell is installed at the entrance to the pharmacy with a sign to notify people with mobility challenges or a disability to ring the bell if they require assistance to use the ramp.
  - b) That a non-slip coating is applied to the ramp to reduce the risk of slips and trip hazards for people with disability.

**CONSULTATION AND EXTERNAL ADVICE**

18. 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 / LEGAL IMPLICATIONS**

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

20. Minutes of Council Committee meetings are not required under legislation to be presented to Council, however, the Chief Executive Officer has determined that, in order to improve transparency and ensure that Councillors are aware of their various Committees' activities, all Advisory Committee minutes will be presented to Council to be received.
21. Council Committees are generally established to advise and make recommendations to Council.

### **STRATEGIC / POLICY IMPLICATIONS**

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

#### Denmark 2027

##### L5.0 Our Local Government

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

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

#### Corporate Business Plan

The 2022-2025 Corporate Business Plan lists Disability Access and Inclusion as an existing service that is delivered by the Community Services Team, which aims to deliver strategies and actions to improve access and inclusion outcomes for people of all abilities within the Shire.

### **FINANCIAL IMPLICATIONS**

There are no known financial implications for Council's current budget or long-term financial plan.

### **OTHER IMPLICATIONS**

#### **Environmental**

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

#### **Economic**

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

#### **Social**

The Disability Services Advisory Committee members provide an important 'community' perspective on Council functions, service provisions and strategic direction to support people with disability in our community.



**RISK MANAGEMENT**

An assessment of evident risks has been undertaken in accordance with the Shire’s Risk Management Governance Framework, and no risks have been identified in relation to the officer recommendation or the report.

**VOTING REQUIREMENTS**

Simple majority.

OFFICER & COMMITTEE RECOMMENDATION	ITEM 10.1
<p>That Council:</p> <ol style="list-style-type: none"> <li>1. RECEIVE the Committee Minutes for the meeting held on 9 February 2023 and;</li> <li>2. REQUESTS the CEO to write a letter to Denmark Pharmacy recommending they install a bell at the entrance of the pharmacy and a non-slip coating be applied to the access ramp.</li> </ol>	

**10.2 BUSH FIRE ADVISORY COMMITTEE – MINUTES AND RECOMMENDATIONS**

<b>File Ref:</b>	COMM.BFAC
<b>Applicant / Proponent:</b>	Bush Fire Advisory Committee
<b>Subject Land / Locality:</b>	Not applicable
<b>Disclosure of Officer Interest:</b>	Nil
<b>Date:</b>	3 April 2023
<b>Author:</b>	Renee Wiggins, Manager Community Services Claire Thompson, Governance Coordinator
<b>Authorising Officer:</b>	Lee Sounness, Acting Director Corporate & Community Services
<b>Attachments:</b>	10.2 – Bush Fire Advisory Committee Minutes

**IN BRIEF**

- Council is requested to receive the Minutes from the Bush Fire Advisory Committee (BFAC) and approve a reviewed and updated policy.
- The BFAC have made a number of recommendations for Council’s consideration.

**RECOMMENDATIONS**

Recommendation 1

That with respect to the Bush Fire Advisory Committee’s comments about the correspondence received from the State Government on its prescribed burning policy and procedures, Council NOTE their comments and thank them for their support.

Recommendation 2

That with respect to public donations made to Volunteer Bush Fire Brigades, Council:

1. APPROVE the release of accumulative donations to the value of \$3,049 to the Mt Shadforth Bush Fire Brigade to coordinate the purchasing of a tablet, tablet mount, sim and charger for each brigade appliance; and

2. NOTE that the Shire Administration will advise the brigades that future public donations are to be directly deposited into individual brigade accounts for those brigades to manage.

### Recommendation 3

That Council:

1. CONSIDER including a local law review project in the Corporate Business Plan for the 2023/24 financial year; and
2. CONSIDER including funds in the 2023/24 Budget to facilitate a review of at least two of the Shire of Denmark Local Laws, one being the Bush Fire Brigades Local Law.

### Recommendation 4

That with respect to the purchase of an Electronic Fire Danger Rating Sign, Council:

1. REQUEST the Chief Executive Officer to source quotes; and
2. CONSIDER including the funds in the 2023/24 Budget.

### Recommendation 5

That Council RECEIVE the Minutes of the Bush Fire Advisory Committee meeting held on the 19 January 2023, as per Attachment 10.2.

### **LOCATION**

27. Not applicable.

### **BACKGROUND**

28. The BFAC met on 19 January 2023, a copy of the Minutes is attached (see Attachment 10.2) and made a number of recommendations.
29. RECOMMENDATION 1

*With respect to the recent correspondence received from the State Government's prescribed burning policy and procedures, the Bush Fire Advisory Committee:*

1. *Welcomes the request from the Council for comment:*
2. *NOTES that the Standing Committee on Environment and Public Affairs is evaluating submissions regarding Petition No. 029 calling for an independent review of the Department of Biodiversity, Conservation and Attractions' Prescribed Burning Practices, and believe that this is an appropriate process.*
3. *BELIEVES that continued open investigation and research in relation to prescribed burning, especially on a large scale, is essential to determine the most effective bushfire mitigation strategies around towns and communities.*
4. *SUPPORTS the Council's request that the State Government provide additional resources for the early detection and rapid suppression of bushfires and in particular notes:*
  - a. *that a number of Department of Fire and Emergency Services funded firefighting appliances and fire sheds are well beyond their scheduled replacement dates; and*
  - b. *improved backup power supplies to essential communication facilities is another underfunded issue.*

c. *additional LGGS funded resources for a growing community as supported by Report 13: 2022-23 Funding of Volunteer Emergency and Fire Services, Office of the Auditor General.*

5. *NOTES that the carefully targeted reduction of fuel loadings is important for the preservation of high value community and environmental assets.*

30. RECOMMENDATION 2

*That the Bush Fire Advisory Committee use donated funds to purchase a tablet, tablet mount, sim, and charger for each appliance. Brigades with pre-existing tablets to be reimbursed.*

31. RECOMMENDATION 3

*The Bush Fire Advisory Committee requests the review of the Shire of Denmark Bush Fire Brigades Local Law, policies and procedures are prioritised as in their current form they pose an unacceptable risk to the safety of volunteers.*

32. RECOMMENDATION 4

*The Bush Fire Advisory Committee request Council funding for Electronic Fire Danger Rating signage in the 2023-24 budget considerations.*

33. Officers have provided comments on each recommendation in the discussion section of this report.

**DISCUSSION / OFFICER COMMENTS**

34. RECOMMENDATION 1

Officers recommend that Council note the BFAC's recommendation and thank them for their support.

35. RECOMMENDATION 2

Officers recommend that future public donations be directly deposited into individual brigade accounts for brigades to manage.

This recommendation is discussed further in the financial section of this report.

36. RECOMMENDATION 3

While officers note the BFAC's request to have the Bush Fire Brigades Local Law reviewed, officers do not concur that there are any provisions in the Local Law that pose an unacceptable risk to members.

The Shire is currently reviewing the Activities on Thoroughfares & Trading in Thoroughfares & Public Places Local Law, the Fencing Local Law and developing a new Waste Local Law.

The Shire has 12 Local Laws, six of which are overdue for review, one is new (Cat Local Law), and two should await legislative changes prior to considering a review (Standing Orders Local Law and the Health Local Law).

Officers recommend that Council consider including a local law review project in the Corporate Business Plan for the 2023/24 financial year. Should this be included and budgeted for, officers will include the Bush Fire Brigade Local Law as one of the local laws to be reviewed.

#### 37. RECOMMENDATION 4

Officers agree with this recommendation. Currently the Community Emergency Services Coordinator is required to manually update these signs, including weekends. The Local Government Grant Scheme (LGGS) does not currently have provisions for signage upgrades.

#### **CONSULTATION AND EXTERNAL ADVICE**

38. 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 / LEGAL IMPLICATIONS**

39. Nil

#### **STRATEGIC / POLICY IMPLICATIONS**

40. Nil

#### **FINANCIAL IMPLICATIONS**

41. Donated funds from the public to brigades has previously been held by the Shire. Currently this amount is \$3,049. The Bush Fire Advisory Committee are requesting to use these funds, together with other brigade funds, to purchase a tablet, tablet mount, sim and charger for each appliance (see Committee Recommendation 2).
42. As stated above, officers are recommending that this practice discontinue and that any donations are banked directly by individual brigades.

#### **OTHER IMPLICATIONS**

##### **Environmental**

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

##### **Economic**

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

##### **Social**

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

**RISK MANAGEMENT**

46. A risk assessment has been undertaken per the Shire's Risk Management Governance Framework, and no risks have been identified in relation to the officer recommendation or the report.

**VOTING REQUIREMENTS**

47. Simple majority.

OFFICER RECOMMENDATION	ITEM 10.2a
<p>That with respect to the Bush Fire Advisory Committee’s comments about the correspondence received from the State Government on its prescribed burning policy and procedures, Council NOTE their comments and thank them for their support.</p>	

COMMITTEE & OFFICER RECOMMENDATION	ITEM 10.2b
<p>That with respect to public donations made to Volunteer Bush Fire Brigades, Council:</p> <ol style="list-style-type: none"> <li>1. APPROVE the release of accumulative donations to the value of \$3,049 to the Mt Shadforth Bush Fire Brigade to coordinate the purchasing of a tablet, tablet mount, sim and charger for each brigade appliance; and</li> <li>2. NOTE that the Shire Administration will advise the brigades that future public donations are to be directly deposited into individual brigade accounts for those brigades to manage.</li> </ol>	

COMMITTEE & OFFICER RECOMMENDATION	ITEM 10.2c
<p>That Council:</p> <ol style="list-style-type: none"> <li>1. CONSIDER including a local law review project in the Corporate Business Plan for the 2023/24 financial year; and</li> <li>2. CONSIDER including funds in the 2023/24 Budget to facilitate a review of at least two of the Shire of Denmark Local Laws, one being the Bush Fire Brigades Local Law.</li> </ol>	

COMMITTEE & OFFICER RECOMMENDATION	ITEM 10.2d
<p>That with respect to the purchase or an Electronic Fire Danger Rating Sign, Council:</p> <ol style="list-style-type: none"> <li>1. REQUEST the Chief Executive Officer to source quotes; and</li> <li>2. CONSIDER including the funds in the 2023/24 Budget.</li> </ol>	

OFFICER RECOMMENDATION	ITEM 10.2e
<p>That Council RECEIVE the Minutes of the Bush Fire Advisory Committee meeting held on the 19 January 2023, as per Attachment 10.2.</p>	

**11. MATTERS BEHIND CLOSED DOORS**

OFFICER RECOMMENDATION	ITEM 11
<p>That in accordance with s 5.23(b) of the Local Government Act 1995, Council move behind closed doors to discuss the nominations for Items 11.1 and 11.2.</p>	

**11.1 2023 CITIZEN OF THE YEAR AWARDS**

<b>File Ref:</b>	PBR.1.B.2022/23
<b>Applicant / Proponent:</b>	Various
<b>Subject Land / Locality:</b>	Not applicable
<b>Disclosure of Officer Interest:</b>	Nil
<b>Date:</b>	30 March 2023
<b>Author:</b>	Rosie Arnephie, Community Development Officer
<b>Authorising Officer:</b>	Lee Sounness, Acting Director Corporate and Community Services
<b>Attachments:</b>	11.1a – Nominations (Confidential) 11.1b – Assessment Matrix (Confidential) 11.1c – Nomination Guidelines 11.1d – Denmark Citizen of the Year Awards Policy

**IN BRIEF**

- 12 nominations have been received for the 2023 Citizen of the Year Awards across four categories - Community, Seniors, Youth and Group.
- Council is requested to consider the nominations and select the winner for each category.

**RECOMMENDATION**

That Council select;

1. \_\_\_\_\_ as the successful recipient of the 2023 Community Citizen of the Year.
2. \_\_\_\_\_ as the successful recipient of the 2023 Senior Citizen of the Year.
3. \_\_\_\_\_ as the successful recipient of the Youth Citizen of the Year
4. \_\_\_\_\_ as the successful recipient of the 2023 Group Citizen of the Year.
5. That the names of the recipients of the awards remain confidential until the official announcement by Shire President or delegate at the award ceremony on the 20 May 2023.

**LOCATION**

1. Not applicable.

**BACKGROUND**

2. Each year the Shire of Denmark coordinates the Citizen of the Year Awards to recognise the significant and positive contributions of individuals and groups within our community. The awards recognise individuals and organisations making notable contributions during the current year and/or those who have given outstanding service over several years.
3. Previously, the awards were run in conjunction with the Australia Day Council of WA as part of the Shire's Auspire membership, with the awards presented at the Australia Day Celebrations. This year, the award is being managed internally by the Shire and will now be presented at the Volunteer Appreciation Day Celebrations, held on 20 May 2023.

**DISCUSSION / OFFICER COMMENTS**

4. Nominations for the Denmark Citizen of the Year Awards are across four categories:
  - Citizen of the Year – Community (Any age)
  - Citizen of the Year – Youth (Under 25 years of age)
  - Citizen of the Year – Seniors (Over 65 years of age)
  - Citizen of the Year – Group
5. A total of twelve (12) nominations have been received for the Denmark Citizen of the Year Awards as follows:
  - Citizen of the Year – Community: 6 nominations
  - Citizen of the Year – Youth: 2 nominations
  - Citizen of the Year – Seniors: 2 nominations
  - Citizen of the Year – Group: 2 nominations
6. All nominations meet the award requirements and have been forwarded to Councillors under a separate confidential cover at Attachment 11.1, along with the assessment matrix and nomination guidelines.

**CONSULTATION AND EXTERNAL ADVICE**

7. 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 / LEGAL IMPLICATIONS**

8. Denmark Citizen of the Year Policy.
9. 2023 Denmark Citizen of the Year Awards Guidelines and Criteria

**STRATEGIC / POLICY IMPLICATIONS**

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

Denmark 2027

C4.0 Community

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

C4.1 To have services that foster a happy, healthy, vibrant, and safe community.

**FINANCIAL IMPLICATIONS**

11. The Council’s 2022/2023 Budget includes an allocation for the Community Citizen of the Year Awards as part of the Volunteer Celebration event (GL1410252, Job 14124).

**OTHER IMPLICATIONS**

**Environmental**

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

**Economic**

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

**Social**

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

**RISK MANAGEMENT**

15. A risk assessment has been undertaken per the Shire's Risk Management Governance Framework, and no risks have been identified in relation to the officer recommendation or the report.

**VOTING REQUIREMENTS**

16. Simple majority.

OFFICER RECOMMENDATION	ITEM 11.1
That with respect to the Citizen of the Year Awards, Council:	
1. SELECT	
a) _____ as the successful recipient of the 2023 Community Citizen of the Year.	
b) _____ as the successful recipient of the 2023 Senior Citizen of the Year.	
c) _____ as the successful recipient of the Youth Citizen of the Year	
d) _____ as the successful recipient of the 2023 Group Citizen of the Year.	
2. REQUEST that the names of the recipients of the awards remain confidential until the official announcement by Shire President or delegate at the award ceremony on the 20 May 2023.	



## 11.2 2023 SPORTSPERSON OF THE YEAR AWARDS

<b>File Ref:</b>	PBR.30.2023
<b>Applicant / Proponent:</b>	Various
<b>Subject Land / Locality:</b>	Not applicable
<b>Disclosure of Officer Interest:</b>	Nil
<b>Date:</b>	3 April 2023
<b>Author:</b>	Karis Aplin, Recreation Services Coordinator
<b>Authorising Officer:</b>	Lee Sounness, Acting Director Corporate and Community Services
<b>Attachments:</b>	11.2a – Nominations (Confidential) 11.2b – Assessment Matrix (Confidential) 11.2c – Nomination Guidelines 11.2d – Sportsperson of the Year Policy

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### IN BRIEF

- 8 nominations have been received for the 2023 Sportsperson of the Year across three categories – Junior, Senior, Service to Sport.
- Council is requested to consider the nominations and select the winner for each category.

### RECOMMENDATION

That with respect to the 2023 Sportsperson of the Year Awards, Council:

1. SELECT
  - a) \_\_\_\_\_ as the successful recipient of the 2023 Senior Sportsperson of the Year.
  - b) \_\_\_\_\_ as the successful recipient of the 2023 Junior Sportsperson of the Year.
2. NOTE that Service to Sport Award will not be awarded as there were no nominations.
3. REQUEST that the names of the recipients of the awards remain confidential until the official announcement by Shire President, or delegate, at the award ceremony on the 20 May 2023.

### LOCATION

1. Not applicable.

### BACKGROUND

2. Each year the Shire of Denmark coordinates the Sportsperson of the Year Awards to recognise To recognise and celebrate local individuals who have achieved sporting success or made a significant contribution to the sports and recreation culture in the Shire of Denmark.
3. Previously the awards were run in conjunction with the Australia Day Council of WA and the awards presented at the Australia Day Celebrations. This year the award will be presented at the Volunteer Appreciation Day Celebrations, held on 20 May 2023.

**DISCUSSION / OFFICER COMMENTS**

2. Nominations for the Denmark Citizen of the Year Awards are across four categories:
  - Junior Sports person of the Year – Under 18 at 31 March 2023
  - Senior Sports person of the Year – 18 years and over at 31 March 2023
  - Service to Sports Award (All Ages)
3. A total of 8 nominations have been received for the Denmark Sports person of the Year Awards as follows:
  - Junior Sports person of the Year – 6 nominations
  - Senior Sports person of the Year – 2 nominations
  - Service to Sports Award (All Ages) – 0 Nominations
4. All nominations meet the award requirements and have been forwarded to Councillors under a separate confidential cover at Attachment 10.2a. along with the assessment matrix and nomination guidelines.

**CONSULTATION AND EXTERNAL ADVICE**

5. 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 / LEGAL IMPLICATIONS**

6. Sports person of the Year Awards Policy.
7. 2023 Sports person of the Year Guidelines and Criteria.

**STRATEGIC / POLICY IMPLICATIONS**

8. The report and officer recommendation are consistent with Council's adopted Strategic Community Plan Aspirations and Objectives in the following specific ways:
  - Denmark 2027  
C4.0 Community  
We live in a happy, healthy, diverse and safe community with services that support a vibrant lifestyle and foster community spirit.

C4.1 To have services that foster a happy, healthy, vibrant, and safe community.

**FINANCIAL IMPLICATIONS**

9. The Council's 2022/2023 Budget includes an allocation for the Sports person of the Year Awards (GL1160752). Successful nominees will receive a suitable gift at a value determined annually by Council during the budget process (GL1160752), and a prize of \$100.00 will be awarded to the winner's club or a local club nominated by the successful nominee (should the nominee not be a member of a club).

**OTHER IMPLICATIONS**

**Environmental**

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

**Economic**

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

**Social**

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

**RISK MANAGEMENT**

- 13. A risk assessment has been undertaken per the Shire's Risk Management Governance Framework, and no risks have been identified in relation to the officer recommendation or the report.

**VOTING REQUIREMENTS**

- 14. Simple majority.

<b>OFFICER RECOMMENDATION</b>	<b>ITEM 11.2</b>
<p>That with respect to the 2023 Sportsperson of the Year Awards, Council:</p> <ul style="list-style-type: none"> <li>1. SELECT             <ul style="list-style-type: none"> <li>a) _____ as the successful recipient of the 2023 Senior Sportsperson of the Year.</li> <li>b) _____ as the successful recipient of the 2023 Junior Sportsperson of the Year.</li> </ul> </li> <li>2. NOTE that Service to Sport Award will not be awarded as there were no nominations.</li> <li>3. REQUEST that the names of the recipients of the awards remain confidential until the official announcement by Shire President, or delegate, at the award ceremony on the 20 May 2023.</li> </ul>	

**12. NEW BUSINESS OF AN URGENT NATURE**

Nil

**13. CLOSURE OF MEETING**