

Shire of Denmark

Ordinary Council Meeting MINUTES

18 JULY 2023



HELD IN COUNCIL CHAMBERS, 953 SOUTH COAST HIGHWAY,
DENMARK, ON TUESDAY, 18 JULY 2023.



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DISCLAIMER

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

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1. DECLARATION OF OPENING/ANNOUNCEMENT OF VISITORS

4.00pm – The Shire President, Cr Gearon, declared the meeting open and acknowledged the Bibbulmun and Minang people as the traditional custodians of the land on which the meeting was being held. Cr Gearon paid her respects to Elders past, present and emerging.

2. RECORD OF ATTENDANCE/APOLOGIES/APPROVED LEAVE OF ABSENCEMEMBERS:

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 Janine Phillips

STAFF:

David King (Chief Executive Officer)
Claire Thompson (Governance Coordinator)
Craig Pursey (Manager Development Services)

APOLOGIES

Cr Jackie Ormsby

ON APPROVED LEAVE(S) OF ABSENCE

Nil

ABSENT

Nil

VISITORS

Nil

3. DECLARATIONS OF INTEREST

Nil

4. ANNOUNCEMENTS BY THE PERSON PRESIDING

Nil

5. PUBLIC QUESTION TIME

5.1 RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE

5.1.2 ROGER SEENEY

At the meeting held on 20 June 2023 Roger asked the following question which was taken on notice.

1. How are the Council going to compensate the Lion's on their investments into the Lair [Station Masters House] since 2003?

The Chief Executive Officer has provided the following response to Roger in writing.

It is common practice for Local Governments to provide peppercorn leases to community groups. The leases generally require the community group to undertake general maintenance on the premises, such is the case for the Lions, effectively in return for the subsidised rent.

A typical community group lease also stipulates that any additions and improvements (including fixtures and fittings) undertaken by the Lessee require Lessor approval, but on the understanding that they become the property of the Lessor on termination of the lease. These same provisions apply to the Lions and therefore there is no compensation due.

5.2 PUBLIC QUESTIONS

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

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

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

Questions from the Public

5.2.1 Peter Kerr – Road Drainage, Kwoorabup Nature School Lease and CEO Title

Peter referred to sub-standard drainage at the corner of Little River Road and Marveen Place and asked when the existing drain would be cleared, and when the grate, sump and connecting pipework would be upgraded.

The Shire President responded that the questions would be taken on notice and responded to in writing.

Peter asked whether the Shire had received the Minister's approval for the lease.

The Chief Executive Officer responded no.

Peter asked whether David King was the substantive Chief Executive Officer or the temporary Chief Executive Officer.

The Shire President advised that Council had appointed David as the temporary Chief Executive Officer.

5.2.2 John Xanthis – Hart Cove and Public Safety after Sandbar Opening

John, President of the Wilson Inlet Restoration Group, said that they supported the naming of Hart Cove as it was important to recognise the historical carers of the Wilson Inlet.

John referred to the recent Wilson Inlet Sandbar opening and asked whether some signs could be put up to warn people of resulting dangerous rips. John noted that the Denmark Surf Life Saving Club had previously put up some signs and wondered whose responsibility it was to warn the public.

The Chief Executive Officer said that while there was no requirement to install signs, he would look into getting some put in place.

5.2.3 Don Atkinson – Deterioration of Road Network

Don expressed his concern about the condition of the road network in Denmark, particularly around drainage. Don also advised that he had reported a dangerous tree to the Shire some time ago and nothing had been done.

Don said that he had worked for the Shire for many years before retirement and prior to working with the Shire he had had a number of years experience working on road maintenance.

Don said that he would be happy to go for a drive with Shire Officers to point out the issues that he had concerns with.

The Chief Executive Officer advised Don that his concerns were not isolated as road maintenance had been one of the major issues raised in the Shire's recent community survey. David said that the draft 2023/24 Budget included increased funding and resourcing for the Shire to do more work on roads and drainage. David said that with 12,000km of drainage across the Shire, it was a big task to keep them all maintained all the time.

The Chief Executive Officer said that he would be happy to accommodate Don's offer to assist with identifying priority areas.

5.2.4 Tony Pedro – Fire Rating Signs, Expulsion from Volunteer Brigade and Training Requirements

Tony said that he believed that there were fatal flaws in the new State Government's fire rating system in that the danger ratings were too broad and at times did not fit with the local weather.

Tony said that he had recently been told that he was not welcome in the East Denmark Volunteer Bush Fire Brigade and believed the reason was because he highlighted issues. Tony said that brigades excluding experienced firefighters was detrimental to the community.

The Shire President acknowledged Tony's experience and said that she believed that Tony had to complete the mandatory training to remain an active member of the brigade.

Cr Phillips asked the Chief Executive Officer to investigate the process around expulsion of brigade members.

Cr Carman asked the Chief Executive Officer whether there was any way that prior firefighting experience could be recognised.

The Chief Executive Officer advised that the training had been made mandatory to ensure that volunteers had the required skills and knowledge and it was the Shire's responsibility to keep volunteers safe. David said that he would investigate dismissal of volunteer brigade members and whether the Department of Fire & Emergency Services would recognise the prior experience of volunteers.

5.2.5 Peter Kerr – Experience of Community Members

Peter said that he believed that there were a lot of community members who had experience and expertise in a number of different areas and that the Shire could take advantage of those skills.

The Shire President stated that the Shire typically supported local community organisations that sought to engage with local knowledge and expertise.

5.3 QUESTIONS BY MEMBERS OF WHICH DUE NOTICE HAS BEEN GIVEN

5.3.1 CR PHILLIPS – NEW ABORIGINAL CULTURAL HERITAGE ACT 2021

The following Questions on Notice were received by the Chief Executive Officer in writing on the 29 June 2023 and therefore comply with the Shire of Denmark Standing Orders Local Law clause 3.10.

Cr Phillips made the following comments and asked the following questions.

“On Monday, June 20, new guidelines for the Aboriginal Cultural Heritage Act 2021 were released on the website of the relevant State Government department.

However, they were removed after a few hours because the Minister, Tony Buti, stated that he had not fully considered industry feedback. Four days later, on Saturday, June 24, updated guidelines were once again posted on the Departmental website. These new guidelines include exclusions for some "like for like" activities, but they are difficult to understand in terms of the rationale behind different types of ground disturbance.

It appears that organisations and businesses that disturb the ground must conduct a "due diligence assessment" before engaging in activities that involve digging more than 50cm or disturbing more than 10m² of soil. Consequently, staff members responsible for ground excavation will have to decide whether they believe a site holds significance in terms of Aboriginal spiritual heritage or social history before commencing work.

The new guidelines introduce severe criminal penalties and fines, which can amount to millions of dollars and even jail time. These penalties are more stringent than those stipulated by the previous Aboriginal Heritage Act of 1972, representing a significant change.

Please answer the following questions:

- 1. If Shire staff or volunteers fail to comprehend or self-assess Aboriginal heritage before conducting ground activities, who will be held accountable for the criminal penalties and fines? Will it be councillors, the CEO, or other staff members?*
- 2. Can the Shire obtain insurance coverage in case of mistakes?*
- 3. Can the CEO seek clarification on what local government activities are considered "like for like" in a local government operational setting? For example, activities such as building roads, installing culverts in flood-prone areas, planting trees with roots deeper than 50cm, or installing public art/sculptures or playgrounds in parks with footings deeper than 50cm. The Council will need this information to budget for potential consultation fees.*
- 4. To avoid incidents like the one in Port Hedland, where a council lawn mower touched a rock of heritage significance, would it be necessary to erect warning signs, barriers, or fencing? What are the associated costs and risk profile?"*

The Chief Executive Officer provides the following responses.

1. The advice that we have received is that generally section 9.56 of the Local Government Act 1995 will provide protection for liability for wrongdoing for council members, employees and others engaged by the local government. The protection is however limited to where the person has acted in good faith.

The local government itself remains liable where the actions of its council members, employees or others have failed to comply with legislative requirements.

2. Shire Officers have sought advice from the Shire's insurer but have yet to receive a response. Should a response be received prior to the meeting, it will be provided verbally at that meeting and recorded in the Minutes.
3. The Department of Planning, Lands and Heritage have indicated that the need to seek approval for activities that may harm Aboriginal heritage has not changed. The requirement for approval already existed under the Aboriginal Heritage Act 1972. Operationally, officers will need to consider the project

activity and determine the level of due diligence to be undertaken, as well as any financial implications.

4. The Department provides an Aboriginal Cultural Heritage Directory that anyone can access to determine whether the proposed activity area has recognised cultural significance. Under the new law, the State Government can establish Local Aboriginal Cultural Heritage Services (LACHS) that will be a locally focussed entities to provide services relating to Aboriginal cultural heritage matters within their designated area.

If the activity is not an exempt activity and requires due diligence, any person, including a local government, can engage the LACHS to determine whether the area has cultural significance and whether the proposed activity can proceed.

With respect to warning signs, barriers or fencing, the Shire would take direction from the Local Aboriginal Cultural Heritage Service. Areas within the Shire of Denmark that have recognised cultural significance have not typically been sign posted, barricaded or fenced. While we have read the articles in relation to the Port Hedland incident, the Shire is not privy to all of the facts and therefore unable to provide a like for like situation.

At this early stage of implementation, it is not clear what additional costs, if any, the replacement legislation will have on the Council's budget and risk profile for the Shire would be difficult to determine. The State Government have developed LACHS (Fees) Guidelines that can found on the State Governments website.

Anyone who has questions or concerns about the new Aboriginal Cultural Heritage Act 2021 are encouraged to contact the Department of Planning, Lands and Heritage. Information can also be found on the State Government's website at www.wa.gov.au/ach-act.

The Chief Executive Officer advised that since the Agenda was published, the Shire's insurer had advised that any breaches of the legislation would be covered.

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.

Nil.

6. APPLICATIONS FOR FUTURE LEAVE OF ABSENCE

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

6.1 CR GEARON

COUNCIL RESOLUTION
 MOVED: CR GIBSON SECONDED: CR CLARKE
 That Cr Gearon be granted leave of absence for the OCM 15 August 2023.
 CARRIED: 8/0 Res: 010723

6.2 CR CARMAN

COUNCIL RESOLUTION
 MOVED: CR LEWIS SECONDED: CR CLARKE
 That Cr Carman be granted leave of absence for the entire month of September 2024.
 CARRIED: 8/0 Res: 020723

7. CONFIRMATION OF MINUTES

7.1 ORDINARY COUNCIL MEETING – 20 JUNE 2023

COUNCIL RESOLUTION & OFFICER RECOMMENDATION ITEM 7.1
 MOVED: CR GIBSON SECONDED: CR PHILLIPS
 That the minutes of the Ordinary Meeting of Council held on the 20 June 2023 be CONFIRMED as a true and correct record of the proceedings.
 CARRIED: 8/0 Res: 030723

7.2 SPECIAL COUNCIL MEETING – 27 JUNE 2023

COUNCIL RESOLUTION & OFFICER RECOMMENDATION ITEM 7.2
 MOVED: CR GIBSON SECONDED: CR PHILLIPS
 That the minutes of the Special Meeting of Council held on the 27 June 2023 be CONFIRMED as a true and correct record of the proceedings.
 CARRIED: 8/0 Res: 040723

7.3 STRATEGIC BRIEFING NOTES – 20 JUNE 2023

COUNCIL RESOLUTION & OFFICER RECOMMENDATION ITEM 7.3
 MOVED: CR CLARKE SECONDED: CR CARMAN
 That the Notes from the Strategic Briefing held on 20 June 2023 be RECEIVED.
 CARRIED: 8/0 Res: 050723

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

Nil

9. REPORTS OF OFFICERS

9.1 DEVELOPMENT SERVICES

9.1.1 PROPOSED ROAD CLOSURES – DENMARK AIRFIELD

File Ref:	A5143
Applicant / Proponent:	Not Applicable
Subject Land / Locality:	Denmark Airfield, Reserve 41390
Disclosure of Officer Interest:	Nil
Date:	28 June 2023
Author:	Craig Pursey, Manager of Development Services
Authorising Officer:	David King, Chief Executive Officer
Attachments:	9.1.1a – Denmark Airfield Strategy extract 9.1.1b – Proposed Road Closure

IN BRIEF

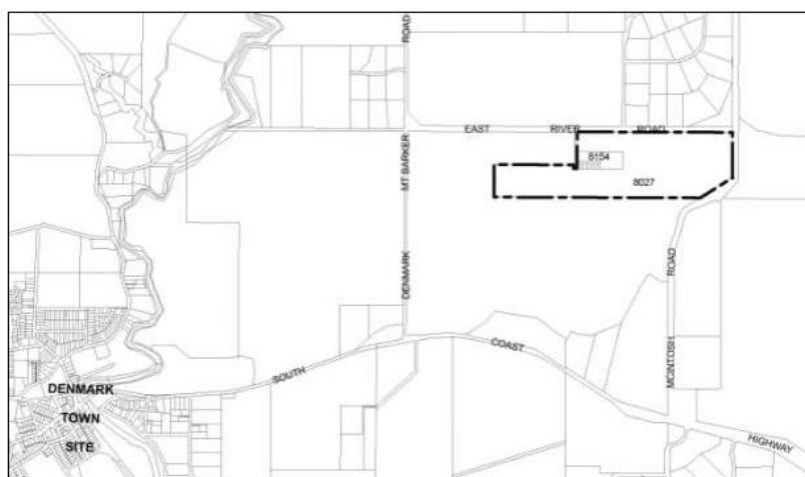
- Lots 210 to 219 Paxillus Way, Hay, were subdivided in 2010. The lots were created as part of an Airpark Strategy to be developed with aircraft hangars and housing; the lots need to use Paxillus Way and Macartney End for taxing aircraft to the runway.
- Paxillus Way is a public road and may not be used by aircraft.
- After considering all options, it is proposed to close Paxillus Way and amalgamate it with the surrounding airfield reserve.

RECOMMENDATION

That Council, pursuant to clause 58 of the Land Administration Act 1997 and Reg. 9 of the Land Administration Regulations 1998, REQUEST the Chief Executive Officer to provide public notice, seeking submissions for a period of no less than 35 days, of Council’s intent to close Paxillus Way and Macartney End and amalgamate these road reserves with Reserve 41390.

LOCATION

1. The Denmark Airfield is approximately 5km northeast of the Denmark town centre, accessed from East River Road.



BACKGROUND

2. Reserve 41390 contains the Denmark Airstrip, associated taxiways, the terminal building, communal water tank and public car parking. It is categorised by CASA as an Aeroplane Landing Area (ALA).
3. In December 2010 Council adopted a Land Use Strategy and local planning policy to guide the development of the airfield and significantly facilitate an 'airpark' or fly-in estate. An extract of the Land Use Strategy is at Attachment 9.1.1a of this report.
4. Also, in 2010, the WAPC granted subdivision approval to subdivide Lot 8154 Paxillus Way, Hay into 10 lots (Lots 210 to 219); the Airfield Strategy identifies these lots for 'hangar accommodation'. That is, a hangar and residence on the same property with a requirement that no house is to be approved without an associated hangar.
5. Before approving the subdivision, the Great Southern police advised the WAPC that they did not support using Paxillus Way for aircraft, as this would contravene the Road Traffic Act and probably other federal legislation.
6. Despite this advice but following research into Airparks elsewhere in the country and independent advice from the Civil Aviation Safety Authority (CASA), the WAPC approved the subdivision.
7. The issue of aircraft not being able to use a public road and the potential for conflict between vehicles and aircraft has been noted in the past, and the following measures were taken to address this issue:
 - Access is restricted via a gate with a code effectively making Paxillus Way 'airside' in the management of the airfield;
 - Signage installed warning vehicles to give way to aircraft at all times and setting a speed limit; and
 - Landowners advised that they need to tow their aircraft to the airfield taxiway.
8. This approach effectively places Paxillus Way 'airside' and manages this space both as an aircraft taxiway and for vehicles accessing the properties located on the 'airside' of the airfield.
9. Officers at the time believed that these measures were adequate to address any issues arising with the status of Paxillus Way as a public road. The airfield appears to operate well with these management arrangements in place.



Gates with access code to Paxillus Way



Warning Sign

10. Development fronting Lots 210 to 219 Paxillus Way is currently limited to a single aircraft hangar constructed on Lot 211 (#5) Paxillus Way in 2016.

DISCUSSION / OFFICER COMMENTS

11. The issue to be resolved is the status of Paxillus Way as a public road, with aircraft not being permitted on a public road. On reflection, the management measures put in place to address this are not suitable as follows:

- Legislation requires that a public road remain accessible to the public. A permanent gate with a coded entry pad does not meet this requirement.
- An aircraft is an oversized load and cannot be towed on a road without a Main Roads WA permit issued each time it is towed.
- Signage is appropriate, but speed limit restrictions are not possible without the separate approval of Main Roads WA.

12. Lots on Paxillus Way are being placed on the market and staff are receiving enquiries. Now that the limitations on using Paxillus Way are understood, this issue needs to be rectified.

13. Officers have explored several options in consultation with the Department for Planning Lands and Heritage (DPLH) and there are two options:

- a) Construction of a new aircraft taxiway along the northern side of Lots 210 to 219 connecting back to the existing taxiway within R41390.
- b) Close Paxillus Way (& a small associated road – Macartney End) and amalgamate this with Reserve 41390, confirming this space as part of the airfield.

New Taxiway Option



Denmark Airfield, Lots 210 – 219 Paxillus Way edged in red and the proposed taxiway in blue

14. Creating a new taxiway at the rear of Lots 210-219 would retain legal road frontage for these properties and enable aircraft to taxi to the runway along a dedicated taxiway, separated from vehicular traffic. Points in favour of this approach include:

- The DPLH favours this option as it would meet all legislative requirements.
- It would ease bushfire management issues for future housing on Lots 210 to 219 by creating a buffer to existing vegetation.

The issues with this option include:

- An existing hangar on Lot 211 (#5) is orientated to Paxillus Way.
- The land slopes down reasonably steeply to the north, hangars would require substantial earthworks as would the new taxiway.
- The cost of the design and construction of a new taxiway would be a substantial undertaking and need to be borne by the ratepayer when this should have been addressed at the time of subdivision in 2010 by the WAPC and paid for by the subdivider.

Road Closure

15. Closing Paxillus Way and Macartney End and amalgamating these road reserves with Reserve 41390, as shown at Attachment 9.1.1b of this report. This option would confirm the airfield's current access and management arrangements, which are working well, at little cost to the Shire.

16. The DPLH does not favour this option as it would result in lots without legal road frontage. The WAPC Operational Policy 1.1 “Subdivision of Land – general principles” (OP1.1) states:

“New lots will be created only where each lot has, or can be, provided with direct frontage access to a constructed public road, which is connected to the road system of the locality.”

Assessment/Conclusion

17. Officers recommend that the closure of the road reserves should be pursued in the first instance as there would be little impact upon the airfield operations and little cost to the Shire.
18. There are many instances of green title lots not having “direct frontage to a constructed public road”. Often these ‘legacy lots’ are accessed through reserves, it will be a question as to whether the WAPC wants to support new lots in these circumstances. Given that the WAPC subdivision approval created these issues in the first place, there is some expectation that the WAPC will be willing to explore common sense options to solve the current problems.
19. OP1.1 appears to require direct frontage to a constructed public road to “ensure the provision of public utility and other services as well as to provide vehicular and pedestrian access to the lot.” In this case, Lots 210 to 219 are legacy lots, created as hangar accommodation lots as part of an adopted Airfield Land Use Strategy and confirmed through their zoning. Suitable, controlled access would still be available to each lot, and services would either run through the Reserve or be secured by easement as required.
20. It is argued that the intent of the DPLH requirement for ‘direct frontage to a constructed public road’ is met, and the road closure should be pursued in the first instance.
21. The road closure process requires initiation by Council and considerable consultation with government agencies and service authorities before further consideration by Council and then the Minister for Lands.

CONSULTATION AND EXTERNAL ADVICE

22. DPLH advised if the Shire wishes to explore the road closure, then they would require comment/consideration from (but not limited to):
 - DPLH Land Use Planning Division (LUP) and Legal Services
 - Western Australian Police (WAPOL)
 - Civil Aviation Safety Authority (CASA)
 - Shire’s compliance w/ road closure requirements pursuant to s.58 LAA
 - o Public Advertising
 - o Canvassing affected landowners
 - o Service Provider Comments
 - o LUP input
23. Should Council resolve to pursue a road closure, this process requires a minimum of 35 days of consultation with all relevant government agencies and service authorities.

STATUTORY / LEGAL IMPLICATIONS

24. Section 58 of the Land Administration Act 1997 provides the process for closing a road which begins with advertising the proposal for 35 days before bringing the matter back to Council and then to the Minister for Lands for final consideration.

25. The Shire of Denmark Local Planning Policy 25.1 Denmark Airfield and Airpark and associated Airfield Land Use Strategy guide the development of the Denmark Airfield.

STRATEGIC / POLICY IMPLICATIONS

Our Future 2023

26. The report and officer recommendation aligns with the Strategic Community Plan ‘Our Future 2033’ in supporting the ongoing development and economic opportunities that an Airpark and functional airfield bring.

Local Planning Strategy

27. The proposal is consistent with and seeks to apply the recommendations of the adopted Denmark Airfield Land Use Strategy.

FINANCIAL IMPLICATIONS

28. There will be some survey costs associated with actioning a road closure which are able to be contained within the current budget structure.

OTHER IMPLICATIONS

Environmental

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

Economic

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

Social

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

RISK MANAGEMENT

32. Should the proposed road closure process not be supported by the Council and/or the Minister, there may be ten landowners who cannot develop their property in accordance with the Local Planning Scheme requirements. There may be an expectation of the Shire to solve this problem in another fashion or there is a minor chance of the Shire being exposed to litigation.

VOTING REQUIREMENTS

33. Simple majority.

COUNCIL RESOLUTION & OFFICER RECOMMENDATION	ITEM 9.1.1
MOVED: CR CLARKE	SECONDED: CR CAMPBELL
That Council, pursuant to clause 58 of the Land Administration Act 1997 and Reg. 9 of the Land Administration Regulations 1998, REQUEST the Chief Executive Officer to provide public notice, seeking submissions for a period of no less than 35 days, of Council’s intent to close Paxillus Way and Macartney End and amalgamate these road reserves with Reserve 41390.	
CARRIED: 8/0	Res: 060723

9.1.2 PROPOSED DRAFT REVISED LOCAL PLANNING POLICY NO. 13: OUTBUILDINGS & WATER TANKS

File Ref:	PLN.70.I
Applicant / Proponent:	Not Applicable
Subject Land / Locality:	Residential, Special Residential, Professional Office, Special Rural, Landscape Protection, Rural Multiple Occupancy and Rural zones
Disclosure of Officer Interest:	Nil
Date:	3 July 2023
Author:	Will Hosken, Planning Officer
Authorising Officer:	Craig Pursey, Acting Chief Executive Officer
Attachments:	9.1.2a – Existing <i>Local Planning Policy No. 13.4: Outbuildings</i> (2014) 9.1.2b – Existing <i>Local Planning Policy No. 40: Rainwater Tanks and Greywater Re-use Systems</i> (2010) 9.1.2c – Proposed <i>Local Planning Policy No. 13: Outbuildings & Water Tanks</i> (2023) 9.1.2d – Schedule of Submissions

IN BRIEF

- On 16 May 2023, the Council endorsed public advertising of a draft revised *Local Planning Policy No. 13: Outbuildings & Water Tanks* to replace two existing local planning policies (*Local Planning Policy No. 13.4: Outbuildings* and *Local Planning Policy No. 40: Rainwater Tanks and Greywater Re-use Systems*).
- Public advertising was opened on 29 May 2023 and closed on 29 June 2023, with 3 submissions received during this time.
- This report recommends final adoption of *Local Planning Policy No. 13: Outbuildings & Water Tanks* subject to modifications.

RECOMMENDATION

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

1. REVOKE *Local Planning Policy 13.4: Outbuildings* and *Local Planning Policy 40: Rainwater Tanks and Greywater Re-use Systems*
2. ADOPT *Local Planning Policy No. 13: Outbuildings & Water Tanks* (as shown at Attachment 9.1.2c), which includes the following modifications from the advertised draft:
 - a. Increasing the allowable height for water tanks under the acceptable development standards by amending Part 5.2.1(b) to read “Maximum height of 3.5m above natural ground level (including site works).”

- b. Including an additional explanatory note by adding the following to Part 5.2.1(a): *“(Note: The minimum requirement for on-site water supply storage where a reticulated water supply service is not available is 92,000 litres)”*.
- c. Amending all references to the Rural Multiple Occupancy Zone to align the standards for this zone with those of the Rural Zone:
 - (i) Removing reference to the Rural Multiple Occupancy Zone from the headings to Parts 4.2.1, 5.1.2 and 5.2.1.
 - (ii) Adding reference to the Rural Multiple Occupancy Zone to the headings to Parts 4.2.2, 5.1.3 and 5.2.2.
 - (iii) Including an additional note after Part 5.1.3(a) to read *“(Note: Within the Rural Multiple Occupancy Zone this refers to the parent lot.)”*.
 - (iv) Including an additional note after Part 5.2.2(a) to read *“(Note: Within the Rural Multiple Occupancy Zone this refers to the parent lot.)”*.
- d. Removing the acceptable development standard for non-reflective external materials in the Residential Zone:
 - (i) Amending Part 5.1.1(f) to include reference to this provision applying within the Special Residential Zone only.
 - (ii) Amending Part 5.2.1(d) to include reference to this provision applying within the Special Residential, Special Rural and Landscape Protection zones only.
- e. Clarifying the intent of Part 5.7 ‘Unenclosed Additions’ by amending the wording to read as follows:

To reduce the size and bulk of outbuildings within the Residential, Special Residential, Professional Office, Special Rural and Landscape Protection zones, the addition of carports and other unenclosed structures to outbuildings must not result in a cumulative roofed area greater than the permitted outbuilding floor area (see Part 5.1) plus 30%.

(Note: For example, a property within the Special Rural Zone can build an outbuilding of up to 150m² with attached verandas or carport up to an additional 30% (45m²), totalling a maximum cumulative roofed area of 195m². Alternatively, this potentially also provides for an outbuilding of 110m² with attached unenclosed structures of up to 85m². A structure is considered enclosed if it is bound on three or more sides by a permanent wall and covered [roofed] in a water impermeable material.)

- 3. Publish notice of the adoption of *Local Planning Policy No. 13: Outbuildings & Water Tanks* on the Shire’s website and in the Shire’s offices.

LOCATION

- 1. The proposed Policy will apply to all land designated *Town Planning Scheme No. 3 (TPS 3)* as being within the Residential, Special Residential, Professional Office, Special Rural, Landscape Protection, Rural Multiple Occupancy and Rural zones. An outbuilding may be

approved as development that is ancillary to a residential dwelling in any of these zones, or as a building associated with another land use (e.g. Rural Pursuit) where TPS 3 allows.

BACKGROUND

2. A report presented to Council on 16 May 2023 discussed the background to the development of the proposed Policy, including:
 - The Shire's existing *Local Planning Policy 13.4: Outbuildings* (Attachment 9.1.2a) was adopted by Council in February 2013 and last revised in April 2014. The Shire's existing *Local Planning Policy No. 40: Rainwater Tanks and Greywater Re-use Systems* (Attachment 9.1.2b) was adopted by Council in June 2010.
 - The Shire regularly receives planning applications for outbuildings that are fully compliant with the existing Outbuildings Policy and the zone's requirements but have not been exempted from the need for planning approval.
 - The Shire also regularly receives applications to vary from the standards for size (floor area) and building heights established in the existing Outbuildings Policy, which has resulted in precedents that are inconsistent with the Policy.
 - The Rainwater Tanks and Greywater Systems Policy contains only a few functioning provisions, including the establishment of 'acceptable development' standards that enable the installation of water tanks without approval within these parameters.
 - Reviewing these two existing policies, Shire officers have identified several opportunities for improvement that will enable acceptable development, clarify development requirements, and support consistent decision-making.
3. The objectives of proposed *Local Planning Policy No. 13: Outbuildings & Water Tanks* are to:
 - Identify standards for the development and use of outbuildings and water tanks that balance the needs of landowners with the protection of visual amenity, environment and streetscape character.
 - Enable the development of outbuildings and water tanks that are consistent with adopted development standards.
 - Provide clear direction for the assessment of proposed variations from adopted development standards.
4. The proposed Policy includes provisions to address:
 - The size and height of outbuildings and water tanks relative to the density of the neighbourhood.
 - The potential impact of outbuildings and water tanks on amenity and visual landscape values.
 - The preservation of native vegetation and waterways.

DISCUSSION / OFFICER COMMENTS

5. Public consultation for the proposed Policy has now been completed and submissions received by the Shire assessed. The public consultation period was open from 29 May to 29 June 2023, during which time 3 submissions were received. Submissions received and officer responses are detailed in Attachment 9.1.2d.
6. One objection was received from a resident dissatisfied with restrictions on property development. The proposed Policy directly responds to this issue by creating a pathway for development that meets accepted standards to proceed without requiring approval.
7. Two submissions were received from building companies that supported the proposed Policy.
8. One submission from a building company provided details of standard water tank products from major Western Australian suppliers. Based on this information officers have proposed to increase the allowable height for water tanks to ensure that the acceptable development standards more accurately reflect standard products on the market. In response to this submission, an additional explanatory note on the minimum requirement for on site storage (a requirement of TPS 3) has also been proposed.
9. During the development and advertising of the proposed Policy, officers have continued to review the Policy provisions against enquiries and applications that have come to the Shire during this period. In doing so, officers have identified that the proposed minimum requirements for external building materials that are non-reflective could potentially result in a proposed outbuilding within the Residential Zone requiring development approval where it is otherwise exempt under the *Planning and Development (Local Planning Schemes) Regulations 2015* and the *Residential Design Codes*. The intent of the proposed Policy is to reduce the need for approvals where development is within acceptable standards. Given that existing Residential and Professional Office zoned areas are already substantially developed and that colour requirements are unlikely to result in a substantially improved visual landscape outcome, officers are proposing to remove this requirement from the proposed Policy for these two zones. This requirement is retained in other zones that are more sensitive to visual amenity concerns and where external building materials requirements are already common.
10. A development application enquiry about the development of outbuildings on a property within the Rural Multiple Occupancy Zone has prompted a review and recommended relaxation of requirements relating to this zone. All properties within the Rural Multiple Occupancy Zone are large rural lots. It is common for these properties to have a larger number of outbuildings than the existing Policy suggests, commensurate with their residential and rural land use functions. Officers recommend aligning the Rural Multiple Occupancy Zone requirements with the Rural Zone, which will provide greater flexibility and reduce development requirements in appropriate circumstances.
11. A development application enquiry for a small outbuilding with a larger unenclosed carport structure also prompted a review of the wording of Part 5.7 'Unenclosed Additions'. Officers recommend modification of this Part to ensure that it clearly allows for this form of development (ie. unenclosed structure larger than the outbuilding) while retaining the same limits (as advertised) on the maximum extent of development.

12. The introduction of 'acceptable development' standards and allowance for exemptions from planning approval is considered to provide substantial benefit to landowners, businesses and the Shire alike. This is considered an appropriate and responsive approach to feedback from the community seeking the reduction of 'red tape', while retaining flexibility to enable improved development outcomes and considering appropriate development in the context of each site.

CONSULTATION AND EXTERNAL ADVICE

13. In accordance with the requirements of the *Planning and Development (Local Planning Schemes) Regulations 2015* (the Regulations) the Shire published public notices to advertise this proposed local planning policy. This included notices at the Shire offices, on the Shire website (main website and project page on Your Denmark) and within local newspapers (Denmark Bulletin and Walpole Weekly).
14. In addition, Shire officers wrote to all builders, shed and tank installers known to be operating in the municipality to invite their comment on the proposed Policy.
15. The 3 submissions received during the public consultation period (29 May to 29 June 2023) are discussed above and detailed in Attachment 9.1.2d.
16. Minor modifications to the proposed policy are recommended on the basis of feedback received through public submissions, as discussed above.
17. The modifications proposed to be made to the policy are not considered to be substantial in nature nor prejudice any proposed development, and as such re-advertising is not considered necessary.
18. All parties who were notified of the draft policy and any other persons that provided a submission will be notified in writing of the Council's decision.

STATUTORY / LEGAL IMPLICATIONS

19. 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, which was exceeded for the advertising of this proposed policy (31 days).
20. 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 *Planning and Development (Local Planning Schemes) Regulations 2015*, including where exemptions from the need for approval already apply.
21. The proposed revised Policy will amend the Residential Design Codes (R-Codes) provisions by providing revised standards for outbuildings on lots within the Residential Zone. The consent of the WA Planning Commission is not required to vary R-Codes provisions for outbuildings in regional areas.
22. If the Council adopts the proposed *Local Planning Policy 13: Outbuildings & Water Tanks* as per the officer recommendation of this report, this policy will supersede the two related existing policies (*Local Planning Policy No. 13.4: Outbuildings* and *Local Planning Policy No. 40: Rainwater Tanks and Greywater Re-use Systems*).

STRATEGIC / POLICY IMPLICATIONS

Our Future 2033

23. The proposed policy proposed is consistent with the following objectives of the Strategic Community Plan 'Our Future 2033':

Economic development

- We want less bureaucracy, red tape and restrictions.

The proposed policy promotes the effective use of Shire resources by reducing the need for assessment of development that meets acceptable standards and reducing the time and cost for development proposals in these circumstances.

Engagement and decision making

- We want the reasons for decisions to be explained and transparent.

The proposed policy clarifies how proposals to vary from the adopted standards will be assessed and determined.

Draft Local Planning Strategy

24. The Shire's Draft Local Planning Strategy (LPS), adopted by the Council in September 2022 and currently awaiting the consent of the WA Planning Commission to advertise, identifies the need to manage visual amenity impacts and landscape values as part of subsequent improvements to the local planning framework. The proposed Policy revisions are consistent with this intent.

FINANCIAL IMPLICATIONS

25. Implementing the proposed Policy will occur within existing resources and will not require any changes to the adopted budget or long-term financial plan.
26. The proposed Policy is expected to slightly decrease the number of development applications that will be received by the Shire, including corresponding fee receipts.

OTHER IMPLICATIONS

Environmental

27. The proposed Policy includes provisions designed to safeguard environmental outcomes, requiring a development application when clearing remnant vegetation is proposed or development is within 30m of a natural wetland or waterway.

Economic

28. The proposed Policy is expected to facilitate compliant development, reducing the time and cost of development (associated with the submission of a development application) in many circumstances.

Social

29. The proposed Policy is not expected to have any substantial social implications; although development proposals are better facilitated, the policy provisions also consider potential impacts on neighbouring landowners.

RISK MANAGEMENT

30. 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.

VOTING REQUIREMENTS

31. Simple majority.

<p>COUNCIL RESOLUTION & OFFICER RECOMMENDATION</p> <p>MOVED: CR CLARKE</p> <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"> 1. REVOKE <i>Local Planning Policy 13.4: Outbuildings and Local Planning Policy 40: Rainwater Tanks and Greywater Re-use Systems</i> 2. ADOPT <i>Local Planning Policy No. 13: Outbuildings & Water Tanks</i> (as shown at Attachment 9.1.2c) which includes the following modifications from the advertised draft: <ol style="list-style-type: none"> a. Increasing the allowable height for water tanks under the acceptable development standards by amending Part 5.2.1(b) to read “Maximum height of 3.5m above natural ground level (including site works)”. b. Including an additional explanatory note by adding the following to Part 5.2.1(a): “(Note: The minimum requirement for on-site water supply storage where a reticulated water supply service is not available is 92,000 litres)”. c. Amending all references to the Rural Multiple Occupancy Zone to align the standards for this zone with those of the Rural Zone: <ol style="list-style-type: none"> i. Remove reference to the Rural Multiple Occupancy Zone from the headings to Parts 4.2.1, 5.1.2 and 5.2.1. ii. Adding reference to the Rural Multiple Occupancy Zone to the headings to Parts 4.2.2, 5.1.3 and 5.2.2. iii. Including an additional note after Part 5.1.3(a) to read “(Note: Note: Within the Rural Multiple Occupancy Zone this refers to the parent lot.)”. iv. Including an additional note after Part 5.2.2(a) to read “(Note: Within the Rural Multiple Occupancy Zone this refers to the parent lot.)”. d. Removing the acceptable development standard for non-reflective external materials in the Residential Zone: <ol style="list-style-type: none"> i. Amending Part 5.1.1(f) to include reference to this provision applying within the Special Residential Zone only. ii. Amending Part 5.2.1(d) to include reference to this provision applying within the Special Residential, Special Rural and Landscape Protection zones only. e. Clarifying the intent of Part 5.7 ‘Unenclosed Additions’ by amending the wording to read as follows: To reduce the size and bulk of outbuildings within the Residential, Special Residential, Professional Office, Special Rural and Landscape Protection zones, the addition of carports and other unenclosed structures to outbuildings must not result in a cumulative roofed area greater than the permitted outbuilding floor area (see Part 5.1) plus 30%. (Note: For example, a property within the Special Rural Zone can build an outbuilding of up to 150m² with attached verandas or carport up to an 	<p>ITEM 9.1.2</p> <p>SECONDED: CR DEVENPORT</p>
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additional 30% (45m²), totalling a maximum cumulative roofed area of 195m². Alternatively, this potentially also provides for an outbuilding of 110m² with attached unenclosed structures of up to 85m². A structure is considered enclosed if it is bound on three or more sides by a permanent wall and covered [roofed] in a water impermeable material.)

3. Publish notice of the adoption of *Local Planning Policy No. 13: Outbuildings & Water Tanks* on the Shire’s website and in the Shire’s offices.

CARRIED: 8/0

Res: 070723

9.2 CORPORATE SERVICES

9.2.1 FINANCIAL STATEMENTS FOR THE PERIOD ENDED 31 MAY 2023

File Ref:	FIN.1
Applicant / Proponent:	Not applicable
Subject Land / Locality:	Not applicable
Disclosure of Officer Interest:	Nil
Date:	27 June 2023
Author:	Scott Sewell, Financial Accountant
Authorising Officer:	Jodi Masson, Acting Manager Corporate Services
Attachments:	9.2.1 – May 2023 Monthly Financial Report

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 31 May 2023 has been prepared and is attached.
- In addition, the Shire provides Council with a monthly investment register to ensure the investment portfolio complies with the Shire’s Investment Policy.

RECOMMENDATION

That with respect to the Financial Statements for the period ending 31 May 2023, Council RECEIVE the Financial Reports, incorporating the Statement of Financial Activity, and other supporting documentation, as per Attachment 9.2.1.

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;
 9. Investment Register;
 10. Cash and Investments Summary.
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 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

4. The Statement of Financial Activity for May 2023 shows a year-to-date closing funding surplus of \$1,179,369 compared to the year-to-date budget surplus of \$462,988, a variance of \$716,381. 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.
5. Both the year-to-date budget and actual closing funding position balances appear to be comparatively low for this time of year when compared to prior years. This is due to a number of non-operating grants relating to capital works that are yet to be received and plus net transfers from Reserves (normally scheduled for financial year end), that are yet to be transacted. When these items are factored in, coupled with lower operating expenditure than budgeted, the final closing funding position as at 30 June 2023 is expected to align reasonable well to the adopted amended budget.
6. A summary of the financial position for May 2023 is detailed in the table below:

	Amended Annual Budget	YTD Budget (a)	YTD Actual (b)	Var. \$ (b)-(a)	Var. % (b)-(a)/(a)
	\$	\$	\$	\$	%
Opening Funding Surplus / (Deficit)	1,493,572	1,493,572	1,493,572	0	0%
Revenue					
Operating revenue	13,641,755	12,999,678	13,026,237	26,559	0%
Capital revenue, grants and contributions	5,215,106	3,370,056	2,419,535	-950,521	-28%
	18,856,861	16,369,734	15,445,772	-923,962	

Expenditure					
Operating Expenditure	-17,732,285	-16,076,135	-15,500,142	575,993	4%
Capital Expenditure	-7,169,837	-5,483,071	-4,016,835	1,466,236	-15%
	-24,902,122	- 21,559,206	-19,516,977	2,042,229	
Funding balance adjustments	4,551,690	4,158,888	3,757,002	-401,886	-10%
Closing Funding Surplus / (Deficit)	0	462,988	1,179,369	716,381	155%

INVESTMENT REPORT

7. 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. The Investment Register is part of the Monthly Financial Report found at Attachment 9.2.1.

8. As at 31 May 2023, total cash funds held (including trust funds) totals \$6,858,624 (Summary – Investment Register).
 - Municipal Funds total \$2,476,967
 - Shire Trust Funds total \$850
 - Reserve Funds (restricted) invested, total \$4,380,806
 - Municipal Funds (unrestricted) invested, total \$1,106,126

9. The official Reserve Bank of Australia’s (RBA) cash rate remained set at 3.85% during the month of May 2023 but was increased by 0.25% to 4.10% at the Reserve Bank Board meeting held on 7 June 2023.

CONSULTATION AND EXTERNAL ADVICE

10. 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

11. Regulation 34 (1-5) of the Local Government (Financial Management) Regulations 1996, details the form and manner in which a local government is to prepare financial activity statements.

 The Local Government Act 1995 – Section 6.14.
 The Trustees Act 1962 – Part III Investments.

12. The Local Government (Financial Management) Regulations 1996 - Reg. 19, 28 and 49; and The Australian Accounting Standards, sets out the statutory conditions under which Council funds may be invested.

STRATEGIC / POLICY IMPLICATIONS

13. Nil

FINANCIAL IMPLICATIONS

14. 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

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

RISK MANAGEMENT

18. 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

19. Simple majority.

COUNCIL RESOLUTION & OFFICER RECOMMENDATION	ITEM 9.2.1
MOVED: CR CLARKE	SECONDED: CR GIBSON
That with respect to the Financial Statements for the period ending 31 May 2023, Council RECEIVE the Financial Reports, incorporating the Statement of Financial Activity and other supporting documentation, as per Attachment 9.2.1.	
CARRIED: 8/0	Res: 080723

9.2.2 LIST OF PAYMENTS FOR THE PERIOD ENDING 31 MAY 2023

File Ref:	FIN.1
Applicant / Proponent:	Not applicable
Subject Land / Locality:	Not applicable
Disclosure of Officer Interest:	Nil
Date:	28 June 2023
Author:	Kelly Schroeter, Acting Assistant Accountant
Authorising Officer:	Jodi Masson, Acting Manager Corporate Services
Attachments:	9.2.2 – May 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 May 2023 to 31 May 2023.

RECOMMENDATION

That with respect to the attached Schedule of Payments, totalling \$1,998,580.03 for the month of May 2023, Council RECEIVE the following summary of accounts:

- Electronic Funds Transfers EFT 35482 to EFT 35683- \$1,173,829.95;
- Municipal Fund Cheque No’s 60532 - 60537 - \$8,698.60;
- Internal Account Transfers (Payroll) - \$655,865.07;
- Direct Debit - \$8,066.90;
- Corporate Credit Card - \$7,791.66;
- Department of Transport Remittances - \$101,076.95; and
- Loan Payments – \$43,250.90

LOCATION

Nil

BACKGROUND

Nil

DISCUSSION / OFFICER COMMENTS

Nil

CONSULTATION AND EXTERNAL ADVICE

1. 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

2. Local Government (Financial Management) Regulation 13 relates.

STRATEGIC / POLICY IMPLICATIONS

3. Nil

FINANCIAL IMPLICATIONS

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

OTHER IMPLICATIONS

Environmental

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

Economic

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

Social

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

RISK MANAGEMENT

8. 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

9. Simple majority.

COUNCIL RESOLUTION & OFFICER RECOMMENDATION	ITEM 9.2.2
MOVED: CR CLARKE	SECONDED: CR CAMPBELL
<p>That with respect to the attached Schedule of Payments, totalling \$1,998,580.03 for the month of May 2023, Council RECEIVE the following summary of accounts:</p> <ul style="list-style-type: none"> • Electronic Funds Transfers EFT 35482 to EFT 35683- \$1,173,829.95; • Municipal Fund Cheque No’s 60532 - 60537 - \$8,698.60; • Internal Account Transfers (Payroll) - \$655,865.07; • Direct Debit - \$8,066.90; • Corporate Credit Card - \$7,791.66; • Department of Transport Remittances - \$101,076.95; and • Loan Payments – \$43,250.90 	
CARRIED: 8/0	Res: 090723

9.3 INFRASTRUCTURE AND ASSETS

Nil

9.4 GOVERNANCE

9.4.1 DENMARK WALPOLE FOOTBALL CLUB INC. LEASE

File Ref:	LEA.53
Applicant / Proponent:	Not applicable
Subject Land / Locality:	Part of Reserve 15513 being part of Lot 1087 on Deposited Plan 193666
Disclosure of Officer Interest:	The Author’s stepson plays league and reserves for the Denmark Walpole Football Club.
Date:	5 July 2023
Author:	Claire Thompson, Governance Coordinator
Authorising Officer:	Craig Pursey, Acting Chief Executive Officer
Attachments:	9.4.1 – 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 9.4.1; and
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 9.4.1).
4. At the meeting held on 18 April 2023, Council deferred consideration of the draft lease to allow officers time to consult with other sporting organisations that use the facility, to ascertain their interest in being a tenant in common with the Denmark Walpole Football Club.

DISCUSSION / OFFICER COMMENTS

5. DWFC are members of the Great Southern Football League Inc.
6. 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.

7. 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.
8. 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.
9. 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.
10. 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.
11. 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

- 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 and believes that no additional external/internal engagement or consultation is required.
- 13. 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.
- 14. Shire Officers sought feedback from the following users, following the 18 April 2023 Council resolutions. Emails were sent on 26 May 2023:

Group	Comment
Denmark Walpole Junior Football Club	No response
Denmark Senior Soccer Club	No response
Denmark Junior Soccer Club	Responded but no comment
Denmark Cricket Club	No response
Denmark Little Athletics	Responded that group disbanded in 2020
Denmark Running Club	Responded, no objection.

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. Our Future 3033

The preparation of a lease agreement with the DWFC is consistent with the engagement and decision making objectives of the Strategic Community Plan 'Our Future 2033'.

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 years 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

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

Economic

23. 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 benefits local businesses.

Social

24. 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

25. 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

Simple majority.

COUNCIL RESOLUTION & OFFICER RECOMMENDATION	ITEM 9.4.1
MOVED: CR CARMAN	SECONDED: CR DEVENPORT
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 9.4.1; and	
2. AUTHORISE the Shire President and the Chief Executive Officer to execute the lease, subject to obtaining Ministerial Approval.	
CARRIED: 8/0	Res: 100723

9.4.2 PROPOSED NAMING – PORTION OF WILSON INLET FORESHORE, ‘HART COVE’

File Ref:	File
Applicant / Proponent:	Serena Kirby on behalf of the family
Subject Land / Locality:	Portion of northern shoreline of Wilson Inlet
Disclosure of Officer Interest:	Nil
Date:	14 June 2023
Author:	Claire Thompson, Governance Coordinator
Authorising Officer:	David King, Chief Executive Officer
	9.4.2a – Proposal
	9.4.2b – Maps
Attachments:	9.4.2c – Advice from Wagyl Kaip Cultural Advice Committee

IN BRIEF

- The Shire has received a request to name an area along the Wilson Inlet Foreshore ‘Hart Cove’.
- Council is required to consider the proposal and if agreed to in principle, advertise and seek public and stakeholder input.

RECOMMENDATION

That with respect to the proposal to name a portion of the northern shoreline of Wilson Inlet, located within the Shire of Denmark local government area, Council:

1. SUPPORT the proposal in principle;
2. ADVERTISE the proposal broadly seeking public comment;
3. SEEK comment from residents and ratepayers who live near the location;
4. SEEK specific comment from the following stakeholders:
 - a) Department of Fisheries
 - b) Department of Transport
 - c) Department of Water
 - d) Department of Planning, Lands and Heritage
 - e) Southern Seafood Producers WA
 - f) Denmark Sea Rescue
 - g) Denmark Cruise and Adventures

- h) Madfish Charters
 - i) Wilson Inlet Restoration Group
 - j) Wilson Inlet Catchment Committee
 - k) South Coast Natural Resource Management
 - l) Denmark Historical Society
5. REQUEST that the Chief Executive Officer bring the matter back to Council with any submissions received for further consideration.

LOCATION

1. Portion of northern foreshore of Wilson Inlet, within the Shire of Denmark local government area. See Attachment 9.4.2b.
2. The location proposed is at the rear of Jim and Ethel Hart's residence of over 32 years. Ethel still resides at the dwelling.

BACKGROUND

3. The Shire has received a proposal from a member of the public, on behalf of the Hart Family, to name a portion of the Wilson Inlet Foreshore, 'Hart Cove'.
4. Council is required to consider and comment/endorse the proposal prior to it being submitted to Landgate.
5. This report and recommendation serves as the first part of the process, being initial in principle support for the purposes of consultation.

DISCUSSION / OFFICER COMMENTS

6. A copy of the naming proposal is attached (see Attachment 9.4.2a).
7. The documentation provides evidence of Jim's connection to Denmark and the area proposed for naming.

CONSULTATION AND EXTERNAL ADVICE

8. The *Policies and Standards for Geographical Naming in Western Australia* ('Policies and Standards') detail consultation requirements for different types of naming proposals, and requires consultation with Aboriginal communities prior to any public consultation.
9. The proposal has been referred to the Wagyl Kaip Cultural Advice Committee who have advised that they have no objection (see Attachment 9.4.2c). It is noted that this advice was received some time ago however, due to an administration oversight, the Author was only made aware of it in late May 2023.
10. Given the requirement for an assessment of Jim's 'significant community contribution', initial advice was also sought from Landgate. Landgate have provided in principle support noting that it will still need to be considered by the Geographic Names Committee and the Minister.
11. All commemorative name proposals must include evidence of support by the wider community and reach beyond a single local government, person or special interest group.
12. Officers consider this proposal to be of interest to the extended community, as defined in clause 1.8.1 of the Policies and Standards. Should Council support the proposal for the purpose of advertising, it is recommended that key stakeholders also be consulted.

STATUTORY / LEGAL IMPLICATIONS

13. Land Administration Act 1997

Section 26A(5) – a person must not assign a name to an area without the prior approval of the Minister for Lands.

14. The legislation is supported by the *Policies and Standards for Geographical Naming in Western Australia* ('Policies and Standards'), which detail the process to be undertaken prior to referring a proposed name to the Geographic Names Committee, who then make a recommendation to the Minister. Of note in the Policies and Standards:

- Clause 1.4.2
 - the use of a personal name can only be used posthumously. Jim passed away in February 2022.
 - permission of the immediate family must be obtained. The applicant is acting on behalf of the family.
 - There must be evidence of broad community support for the proposal.
- Clause 1.8.1 - Consultation
 - The immediate community is defined as including residents, ratepayers and businesses within the immediate area who are directly affected by the submission.
 - The extended community includes residents, ratepayers and businesses surrounding the area directly affected by the proposal, any visitor groups to the area, and government or non-government organisations with an interest in the area.
- Clause 3.1.2
 - Each topographic name proposal needs to include a feature class.
- Appendix 3A
 - Defines a 'Cove' as "a sheltered recess in a coast, a small bay, a creek or inlet where boats may shelter. This is considered appropriate for this proposal.
- Section 9
 - Provides guidance on consultation and naming proposals.

15. Road & Reserve Naming within the Shire Policy

The name 'Hart' is identified in the policy to be used in the future in recognition of a 'War Veteran'. There is no other information and from the history received, there is no mention of Jim Hart going to war, so it is unlikely that the 'Hart' reference is for Jim.

Notwithstanding, it does not negatively impact this proposal.

STRATEGIC / POLICY IMPLICATIONS

16. Our Future 3033

The proposed naming of Hart Cove is consistent with the engagement and decision making objectives of the Strategic Community Plan ‘Our Future 2033’.

FINANCIAL IMPLICATIONS

17. The cost of advertising the proposed name can be accommodated within the Shire’s current advertising budget.

OTHER IMPLICATIONS

Environmental

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

Economic

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

Social

20. Geographic nomenclature can provide a mechanism to recognise a person’s connection and contribution to an area and/or community.

RISK MANAGEMENT

21. This report and recommendation seek the Council’s in principle to support, or not, the naming proposal for the purposes of consultation.

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.

COUNCIL RESOLUTION & OFFICER RECOMMENDATION	ITEM 9.4.2
MOVED: CR GEARON	SECONDED: CR GIBSON
That with respect to the proposal to name of ‘Hart Cove’ for a portion of the northern shoreline of Wilson Inlet, located within the Shire of Denmark local government area, Council:	
<ol style="list-style-type: none"> 1. SUPPORT the proposal in principle; 2. ADVERTISE the proposal broadly seeking public comment; 3. SEEK comment from residents and ratepayers who live near the location; 4. SEEK specific comment from the following stakeholders: <ol style="list-style-type: none"> a) Department of Fisheries b) Department of Transport c) Department of Water d) Department of Planning, Lands and Heritage 	

- e) Southern Seafood Producers WA
 - f) Denmark Sea Rescue
 - g) Denmark Cruise and Adventures
 - h) Madfish Charters
 - i) Wilson Inlet Restoration Group
 - j) Wilson Inlet Catchment Committee
 - k) South Coast Natural Resource Management
 - l) Denmark Historical Society
5. REQUEST that the Chief Executive Officer bring the matter back to Council with any submissions received for further consideration.

AMENDMENT

MOVED: CR CARMAN

SECONDED: CR LEWIS

That the Part 4 stakeholder list include the South Coast Bushcare Services.

CARRIED: 8/0

Res: 110723

AMENDED MOTION

That with respect to the proposal to name a portion of the northern shoreline of Wilson Inlet, located within the Shire of Denmark local government area, Council:

1. SUPPORT the proposal in principle;
2. ADVERTISE the proposal broadly seeking public comment;
3. SEEK comment from residents and ratepayers who live near the location;
4. SEEK specific comment from the following stakeholders:
 - a) Department of Fisheries
 - b) Department of Transport
 - c) Department of Water
 - d) Department of Planning, Lands and Heritage
 - e) Southern Seafood Producers WA
 - f) Denmark Sea Rescue
 - g) Denmark Cruise and Adventures
 - h) Madfish Charters
 - i) Wilson Inlet Restoration Group
 - j) Wilson Inlet Catchment Committee
 - k) South Coast Natural Resource Management
 - l) Denmark Historical Society
 - m) South Coast Bushcare Services
5. REQUEST that the Chief Executive Officer bring the matter back to Council with any submissions received for further consideration.

THE AMENDED MOTION BECAME THE SUBSTANTIVE MOTION WHICH WAS PUT &

CARRIED: 8/0

Res: 120723

REASONS FOR CHANGE

Council added South Coast Bushcare Services Inc. as a stakeholder because they work in land management on the Wilson Inlet Foreshore.

9.4.3 SALE OF INDUSTRIAL AREA LOT 9, 47 CORYMBIA CRESCENT, HAY

File Ref:	A5970
Applicant / Proponent:	J Lucre
Subject Land / Locality:	Lot 9 on Deposited Plan 413974, No. 47 Corymbia Crescent, Hay
Disclosure of Officer Interest:	Nil
Date:	4 July 2023
Author:	Claire Thompson, Governance Coordinator
Authorising Officer:	David King, Chief Executive Officer
Attachments:	9.4.3 - Contract of Sale (Confidential)

IN BRIEF

- Council is asked to accept an offer to purchase a lot within the Industrial Area.

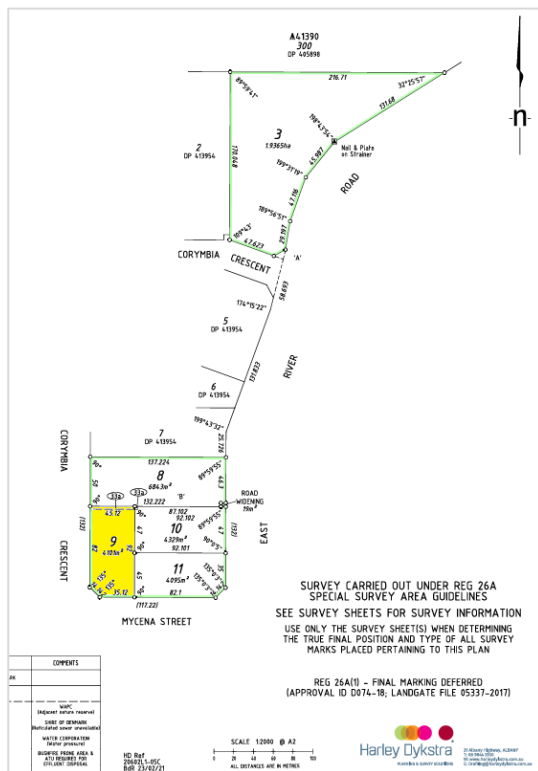
RECOMMENDATION

That Council:

1. APPROVE the sale of Lot 9 on Deposited Plan 413974 to Judith Lucre for \$225,000 (excluding GST); and
2. ENDORSE the net proceeds being placed into Shire reserve investment.

LOCATION

1. Lot 9 on Deposited Plan 413974, 47 Corymbia Crescent, Hay (highlighted yellow below).



BACKGROUND

2. In July 2022, Council resolved to list 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 Industrial Area.
5. The Chief Executive Officer has 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.

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.

STRATEGIC / POLICY IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

9. Lot 9 was valued at \$240,000 (ex GST).
10. A negotiated offer of \$225,000 (ex GST) has been received. The offer was considered acceptable by the Shire (subject to Council's endorsement), and was advertised.
11. The price offered was considered acceptable because officers are aware that the price for other lots within Industrial Area, owned by Development WA, have recently been reduced due to the current market.
12. If the Council accept the offer, it is recommended that the funds be provisioned to the Infrastructure Reserve.
13. Council has the option to either accept the offer or put forward a Counter Offer. If a Counter Offer is determined, the proposed sale would need to be re-advertised.

OTHER IMPLICATIONS**Environmental**

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

Economic

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

Social

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

RISK MANAGEMENT

- 17. 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

- 18. Simple majority.

COUNCIL RESOLUTION & OFFICER RECOMMENDATION	ITEM 9.4.3
MOVED: CR GIBSON	SECONDED: CR LEWIS
That Council:	
1. APPROVE the sale of Lot 9 on Deposited Plan 413974 to Judith Lucre for \$225,000 (excluding GST); and	
2. ENDORSE the net proceeds being placed into Shire’s Infrastructure Reserve.	
CARRIED: 8/0	Res: 130723

9.5 COMMUNITY SERVICES
Nil

10. COMMITTEE REPORTS AND RECOMMENDATIONS
Nil

11. MATTERS BEHIND CLOSED DOORS
Nil

12. NEW BUSINESS OF AN URGENT NATURE

COUNCIL RESOLUTION	SECONDED: CR CARMAN
MOVED: CR GIBSON	
That, in accordance with clause 3.11 of the Shire of Denmark Standing Orders Local Law, Council ACCEPT an item of new business to finalise the sale of Lot 10 East River Road, Hay.	
CARRIED: 8/0	Res: 140723

12.1 SALE OF INDUSTRIAL AREA LOT 10, 105 EAST RIVER ROAD, HAY

File Ref:	A5971
Applicant / Proponent:	Tellbareena Pty Ltd
Subject Land / Locality:	Lot 10 on Deposited Plan 413974, No. 105 East River Road, Hay
Disclosure of Officer Interest:	Nil
Date:	5 July 2023
Author:	Claire Thompson, Governance Coordinator
Authorising Officer:	Craig Pursey, Acting Chief Executive Officer
Attachments:	Contract of Sale (Confidential)

IN BRIEF

- Council is asked to accept an offer to purchase a lot within the Industrial Area.

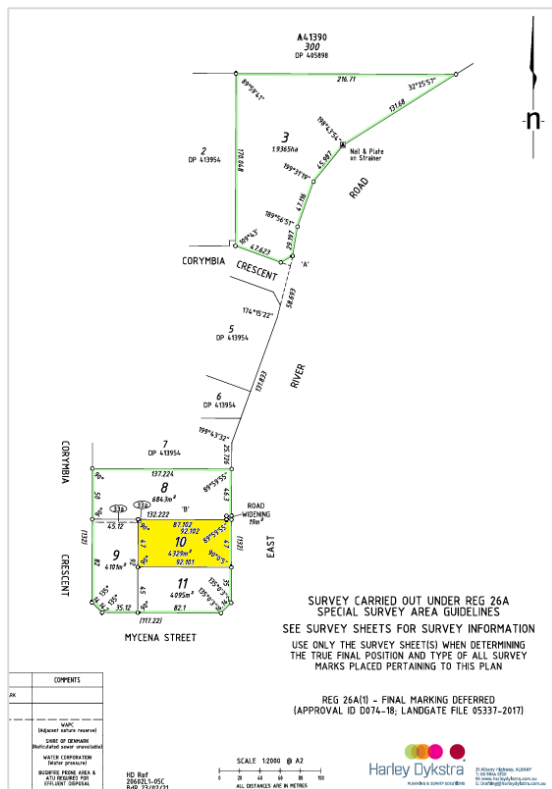
RECOMMENDATION

That Council:

1. APPROVE the sale of Lot 10 on Deposited Plan 413974 to Tellbareena Pty Ltd for \$240,000 (excluding GST); and
2. ENDORSE the net proceeds being placed into Shire reserve investment.

LOCATION

1. Lot 10 on Deposited Plan 413974, 105 East River Road, Hay (highlighted yellow below).



BACKGROUND

2. In July 2022, Council resolved to list 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 Industrial Area.
5. The Chief Executive Officer has 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.

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.

STRATEGIC / POLICY IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

9. Lot 10 was valued at \$250,000 (ex GST).
10. A negotiated offer of \$240,000 (ex GST) has been received. The offer was considered acceptable by the Shire, but subject to Council's endorsement, and advertised.
11. The price offered was considered acceptable because officers are aware that the price for other lots within Industrial Area, owned by Development WA, have recently been reduced due to the current market.
12. If the Council accept the offer, it is recommended that the funds be provisioned to the Infrastructure Reserve.
13. Council has the option to either accept the offer or put forward a Counter Offer. If a Counter Offer is determined, the proposed sale would need to be re-advertised.

OTHER IMPLICATIONS**Environmental**

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

Economic

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

Social

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

RISK MANAGEMENT

- 17. 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

- 18. Simple majority.

COUNCIL RESOLUTION & OFFICER RECOMMENDATION	ITEM 12.1
MOVED: CR CLARKE	SECONDED: CR DEVENPORT
That Council:	
1. APPROVE the sale of Lot 10 on Deposited Plan 413974 to Tellbareena Pty Ltd for \$240,000 (excluding GST); and	
2. ENDORSE the net proceeds being placed into Shire’s Infrastructure Reserve.	
CARRIED: 8/0	Res: 140723

13. CLOSURE OF MEETING

5.16pm – There being no further business to discuss the Shire President declared the meeting closed.

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

Signed: _____
David King – Chief Executive Officer

Date: _____

These minutes were confirmed at a meeting on the _____.

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