

# Shire of Denmark

## Ordinary Council Meeting MINUTES

17 November 2020



HELD IN THE COUNCIL CHAMBERS, 953 SOUTH COAST HIGHWAY, DENMARK ON TUESDAY, 17 NOVEMBER 2020.



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## E1.0

### Our Economy

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

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

## N2.0

### Our Natural Environment

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

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

## B3.0

### Our Built Environment

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

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

## C4.0

### Our Community

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

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

## L5.0

### Our Local Government

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

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

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## DISCLAIMER

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

4.02pm – The Shire President, Cr Gearon, declared the meeting open.

Cr Gearon acknowledged the land on which the meeting was being held and the traditional custodians of the land, the Bibbulmun and Minang people.

Cr Gearon stated that she would also like to show her respect for Elders past, present and emerging.

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

MEMBERS:

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

STAFF:

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

APOLOGIES:

Nil

ON APPROVED LEAVE(S) OF ABSENCE:

Nil

ABSENT:

Nil

VISITORS:

Nil

DECLARATIONS OF INTEREST:

Name	Item No	Interest	Nature
Cr Gearon	8.1.1	Impartiality	Cr Gearon lives within the impacted vicinity.
Cr Allen	8.1.1	Proximity	Cr Allen lives within the tower zone.
Cr Allen	8.1.2	Financial	Cr Allen occasionally works for the preferred tenderer as a contractor.
Cr Phillips	8.3.2	Financial	Cr Phillips is a part owner of the Peaceful Bay Caravan Park.

**3. ANNOUNCEMENTS BY THE PERSON PRESIDING**

The Shire President announced that at the Shire’s Seniors Function held on Friday, 13 November 2020, Mrs Beth Franz OAM was declared an Honorary Freeman of the Shire of Denmark. Cr Gearon stated that the title was rarely bestowed and there had only been two other Denmark citizens who had received it in the Shire’s history. Cr Gearon

*acknowledged the significant contributions that Mrs Franz had made to Denmark in many different areas and the recognition was very well deserved.*

### **3.1 RATES PRIZE INCENTIVE**

*The Shire's Rates Officer, Judy Savic, announced the winner of the Rates Prize Incentive scheme and presented him with \$1,000 Denmark Dollars.*

## **4. PUBLIC QUESTION TIME**

### **4.1 RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE**

Nil

### **4.2 PUBLIC QUESTIONS**

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

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

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

#### Questions from the Public

#### **4.2.1 Mr Jim King – Item 8.3.1 (Airport Hangar Leases)**

Mr King thanked the Governance Coordinator for working with himself and the other leaseholders to prepare the new lease and provided Councillors with information on the annual costs compared to other airports and their facilities. Mr King requested Council to support the Officer Recommendation.

#### **4.2.2 Mr Nick Whishaw – Item 8.1.1 (Telecommunications Tower)**

Mr Whishaw urged Council to support the Officer Recommendation to bring the Ocean Beach area into the 21<sup>st</sup> Century by providing mobile coverage.

#### **4.2.3 Ms Diana Holt – Removal of Fig Tree at Springdale Estate**

Ms Holt advised that there were a number of residents who were distressed by the removal of a very old fig tree within the Springdale Estate. Ms Holt said that the residents had been promised by the developer that the tree would not be removed and sought guidance as to what could be done.

*The Shire President responded that Councillors and Officer had been made aware of the situation and asked the Acting Chief Executive Officer if he had any comment.*

*The Acting Chief Executive Officer offered to meet with the residents to discuss the situation and also noted that some of the information he had heard was in fact incorrect. Mr Schober said that he would welcome the opportunity to advise the residents of the Shire's position.*

*The Shire President acknowledged that there were many people who felt quite passionate about the tree's removal and said that the first step would be to meet with Mr Schober to understand whether anything could be done.*

**4.3 QUESTIONS BY MEMBERS OF WHICH DUE NOTICE HAS BEEN GIVEN**

Nil.

**4.4 PRESENTATIONS, DEPUTATIONS & PETITIONS**

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

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

Nil.

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

Nil.

**6. CONFIRMATION OF MINUTES****6.1 ORDINARY COUNCIL MEETING – 20 OCTOBER 2020**

<b>COUNCIL RESOLUTION &amp; OFFICER RECOMMENDATION</b>	ITEM 6.1
MOVED: CR SEENEY	SECONDED: CR BOWLE
That the minutes of the Ordinary Meeting of Council held on the 20 October 2020 be CONFIRMED as a true and correct record of the proceedings.	
CARRIED UNANIMOUSLY: 9/0	Res: 051120

**6.2 STRATEGIC BRIEFING NOTES – 20 OCTOBER 2020**

<b>COUNCIL RESOLUTION &amp; OFFICER RECOMMENDATION</b>	ITEM 6.2
MOVED: CR GIBSON	SECONDED: CR PHILLIP
That the Notes from the Strategic Briefing Forum held on the 20 October 2020 be RECEIVED.	
CARRIED UNANIMOUSLY: 9/0	Res: 06112

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

Nil

**8. REPORTS OF OFFICERS****8.1 DIRECTOR ASSETS AND SUSTAINABLE DEVELOPMENT**

*Cr Allen declared a proximity interest in relation to Item 8.1.1 on the basis that he lives within the tower zone.*

*4.23pm - Cr Allen left the room and did not participate in discussion or vote on the matter.*

*Cr Gearon declared a proximity interest in relation to Item 8.1.1 on the basis that she lives within the impacted vicinity.*

*Cr Gearon noted that as the Deputy Shire President, Cr Allen, had also declared an interest then the Council must nominate a Presiding Person to chair the meeting while they are both out of the room.*

**COUNCIL RESOLUTION**

MOVED: CR LEWIS

SECONDED: CR BOWLE

That Council nominate Cr Gibson to assume the Chair as the Presiding Person.

CARRIED UNANIMOUSLY: 8/0

Res: 07112

4.24pm - Cr Gearon left the room and did not participate in discussion or vote on the matter.

Cr Gibson assumed the Chair as the Presiding Person.

### 8.1.1 RESERVE 46273 - EXCISE & EASEMENT REQUEST FOR TELECOMMUNICATIONS

<b>File Ref:</b>	A3770
<b>Applicant / Proponent:</b>	Nil
<b>Subject Land / Locality:</b>	Crown Reserve 46273
<b>Disclosure of Officer Interest:</b>	Nil
<b>Date:</b>	3 November 2020
<b>Author:</b>	David King, Director Assets and Sustainable Development
<b>Authorising Officer:</b>	David Schober, Acting Chief Executive Officer
<b>Attachments:</b>	8.1.1 - Excise Portion and Easement

#### Summary:

Mobile Blackspot Funding has been awarded to Telstra to address the blackspots along the Denmark coastline. Telstra have come up against numerous hurdles in securing tenure of a suitable site that complies with the funding criteria.

Telstra now seek to construct the tower within the Shire quarry reserve on Ocean Beach Road. This requires the Shire to agree to excise a portion of the reserve to enable a change of purpose for the telecommunication facility.

#### Background:

Through the jointly funded Federal Government, and the Western Australian Government Round 1 Mobile Black Spot Program, Telstra were awarded funding to establish a new Macro Cell Base Station for the Denmark and Ocean Beach communities and their immediate surrounds.

This macro cell base station would extend Telstra's 3G and 4G coverage by improving and filling in the existing mobile coverage gaps. This macro cell base station will provide significant improvement to both local and coastal coverage and also provide further economic, safety and social benefits to those living, holidaying, travelling and working in the area.

Over the last 12 months, Telstra have been working towards installing the infrastructure on an area to be excised from a portion of the Denmark Community Windfarm site. To this end, a Development Application has been processed and approved by the Shire of Denmark for a 50m concrete monopole construction.

Most recently, Telstra have been advised that in order to excise the portion of the Class A reserve for Telecommunication and Ancillary Infrastructure, approval must be granted by all houses of Parliament. This process is lengthy and it is likely that timeframes would extend past the funding deadlines. If an alternate site cannot be secured in a timely manner the project will dissolve and the funding returned.

Telstra's consultant, Service Stream, have reached out to the Shire of Denmark seeking an alternate site. Collaboration with Shire Officers has resulted in the identification of a suitable site on a portion of land within the lime pit currently vested to the Shire for the purpose of mining.

The identified portion of land at 906 Ocean Beach Rd, Ocean Beach is contained within Class C Reserve 46273 LR3106/226 which is held under the administration of the Shire of Denmark., It is subject to a Management Order H664911 providing the power to lease for any term not exceeding 21 years, subject to the consent of the Minister of Lands. Since the land is a Class C reserve the necessary approvals are delegated to the Minister of Lands and therefore will not require the lengthy Parliamentary approval process.

Unfortunately for Telstra, and the Mobile Black Spot Program, the purpose of Mining does not extend to cover Telecommunication and Ancillary Infrastructure, which macro cell base stations apply. Reserve 46273 is held solely for the Purpose of Mining and as such the management order only applies for that purpose and therefore cannot be used for any other purpose.

The only possible means for Telstra to use that identified portion of Reserve 46273 land is to excise it out of the reserve and for the Crown agent, being the Department of Planning, Lands and Heritage to create a new and separate land title.

Accordingly, Telstra now seek the approval of the Shire of Denmark, as the administrator of Reserve 46273, to relinquish the identified portion of the reserve land and grant written approval to Telstra and its agents to liaise directly with the Department of Planning, Land and Heritage to excise that portion for the underlying purpose of Telecommunication and Ancillary Infrastructure.

Further, Telstra will also require the approval of the Shire of Denmark as the administrator of Reserve 46273 to create a non-exclusive access and utility easement over the existing quarry access track to ensure legal access to the aforementioned proposed excised land.

Attachment 8.1.1 shows the proposed area to be relinquished and the area of the proposed easement.

**Consultation:**

The Officer has considered the requirement for consultation and/or engagement with persons or organisations that may be unduly affected by this proposal and in conjunction with reviewing Council's Community Engagement Policy P040123 as well as the associated Framework, and believes that no consultation is required

**Statutory Obligations:**

The following applies to this item:

Land Administration Act 1997

Section 46. Care, control and management of reserves;

Section 51. Cancelling, changing etc. reserves, Minister's powers as to

**Policy Implications:**

There are no policy implications.

**Budget / Financial Implications:**

There are no significant budget implications associated with this transfer.

**Strategic & Corporate Plan Implications:**

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

Denmark 2027

L5.0 Our Local Government

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

**Sustainability Implications:**

➤ **Governance:**

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

➤ **Environmental:**

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

➤ **Economic:**

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

➤ **Social:**

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

➤ **Risk:**

Risk	Risk Likelihood (based on history and with existing controls)	Risk Impact / Consequence	Risk Rating (Prior to Treatment or Control)	Principal Risk Theme	Risk Action Plan (Controls or Treatment proposed)
<b>Reputational:</b> Community concern over the installation of a telecommunication tower overlooking Ocean Beach	Likely (4)	Minor (2)	Moderate (5-9)	Inadequate Engagement - Community / Stakeholders / Crs	Accept Risk

**Comment/Conclusion:**

It is proposed that the construction and height of the infrastructure be consistent with the previously approved Development Application on the Windfarm site. This being a 50m high concrete monopole.

It is envisaged that that new location will be less visually intrusive than previous proposals, as a portion of the monopole would sit below the ridge line, creating a more visually sensitive backdrop. However, the less prominent location will result in less coverage, especially to the south where the ridgeline blocks the signal.

That said, the new location still meets the requirements of the funding criteria, and will provide vastly improved coverage for the Ocean Beach suburb and William Bay coastal areas.

Should Council resolve to relinquish the portion of reserve Telstra would need to apply for another Development Application. Officers have delegated authority to approve developments of this nature.

Officers have considered the impediment to mining operations and deemed them insignificant due to the chosen location being at the entrance where no mining is planned. As such there will be no longer term financial implications for the Shire.

As details progress, officers will work through site access, fire management and security issues. A revised Development Application will also be required for the new site.

**Voting Requirements:**

Simple majority.

OFFICER RECOMMENDATION

ITEM 8.1.1

That with respect to the Reserve 46273 Council:

1. APPROVES to relinquish a portion of Reserve 43491 as identified in Attachment 8.1.1.
2. APPROVES to create a non-exclusive access and utility easement, to Telstra, over the existing quarry access track to ensure legal access to the proposed excise land in (1) above.
3. AUTHORISES the CEO to manage any further actions required by the Department of Planning, Lands and Heritage to achieve the outcomes of points (1) and (2) above.

Since the publication of the Agenda, Officers have identified that the Reserve number in part 1 of the Officer Recommendation is incorrect and should be 46273.

The following Amended Officer Recommendation also alters the wording of the original to make it more succinct.

**COUNCIL RESOLUTION & AMENDED OFFICER RECOMMENDATION**      ITEM 8.1.1  
 MOVED: CR JONES      SECONDED: CR BOWLEY

That with respect to Reserve 46273, Council AUTHORISES the Chief Executive Officer to execute the required documentation to achieve an outcome which:

1. RELINQUISHES a portion of Reserve 46273 as identified in Attachment 8.1.1; and
2. CREATES a non-exclusive access and utility easement, to Telstra, over the existing quarry access track to ensure legal access to the proposed excise land in (1) above.

CARRIED UNANIMOUSLY: 7/0      Res: 081120

4.26pm - Cr Gearon and Cr Allen returned to the room. Cr Gearon thanked Cr Gibson and resumed the Chair as the Presiding Person.

Cr Allen declared a financial interest in Item 8.1.2 on the basis that he occasionally works for the preferred tenderer as a contractor.

4.27pm - Cr Allen left the room and did not participate in discussion or vote on the matter.

**8.1.2 CONTRACT AWARD – TEN.2.20/21 HAZELVALE ROAD RECONSTRUCTION**

**File Ref:** TEN.2.20/21  
**Applicant / Proponent:** Various  
**Subject Land / Locality:** Hazelvale Road  
**Disclosure of Officer Interest:** Nil  
**Date:** 9 November 2020  
**Author:** Martin Buczak, Manager Technical Services  
**Authorising Officer:** David King, Director Assets and Sustainable Development

**Attachments:**

A confidential briefing note has been distributed under separate cover in accordance with section 5.23 of the Local Government Act 1995(2)(e)(iii), being a matter that if disclosed, would reveal information about the commercial affairs of a person other than the Local Government.

**Summary:**

The Shire of Denmark has sought Tenders from suitable Contractors for the provision of Civil works associated with the reconstruction of Hazelvale Road.

**Background:**

The Shire of Denmark Technical Service department has been successful in applying for funding in 20/21 financial year through the Regional Road Group to reseal and reconstruct

sections of Hazelvale Road where pavement failures have been identified through the Shire's asset condition data base. The road failure is due to the pavement reaching the end of its useful life.

The upgrade seeks to reconstruct the pavement and replace or repair aging culverts.

**Consultation:**

A request for tender was published in the West Australian on 15<sup>th</sup> October 2020, Albany Advertiser on 15<sup>th</sup> October 2020, and in the Denmark Bulletin on 15<sup>th</sup> October 2020.

**Statutory Obligations:**

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

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

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

**Policy Implications:**

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

**Budget / Financial Implications:**

A breakdown of the project budget is included in the confidential briefing note associated with this report.

**Strategic & Corporate Plan Implications:**

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

Denmark 2027

B3.0 Our Built Environment

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

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

L5.4 Our Local Government

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

L5.4 L5.4 To be fiscally responsible.

Corporate Business Plan

Nil

**Sustainability Implications:**

➤ **Governance:**

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

➤ **Environmental:**

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

➤ **Economic:**

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

➤ **Social:**

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

➤ **Risk:**

Risk	Risk Likelihood (based on history and with existing controls)	Risk Impact / Consequence	Risk Rating (Prior to Treatment or Control)	Principal Risk Theme	Risk Action Plan (Controls or Treatment proposed)
<b>Financial:</b> That works go over budget due to variations as a result of latent conditions	Possible (3)	Moderate (3)	Moderate (5-9)	Inadequate Procurement, Disposal, Tender Practice	Accept Risk

**Comment/Conclusion:**

Three (3) conforming submissions were received that were then evaluated by the evaluation panel which consisted of three (3) Shire officers, including a Director. The purpose of the Panel was to assess and score each tender and undertake any communication with tenderers that may be necessary to clarify submissions. To ensure that the assessment of the tenders is undertaken fairly and in a way that can be measured and documented, the Panel assessed each tender according to a pre-determined weighting schedule.

The criteria and weightings are show below.

Criteria	% Weight
Relevant Experience	25%
Tenderers Resources	25%
Cost	50%

The Cost score was electronically scored after application of the Council price preference policy to the tendered sums. The below table shows the costs scores for each.

Tenderer	Cost Score
MCC Contractors	5.82
Tenderer B	0.99
Tenderer C	0

The qualitative criteria of ‘relevant experience’ and ‘tenderers resources’ were scored on the following scale:

Score	Description
0	Inadequate or non-appropriate offer, many deficiencies, does not meet criterion (did not submit any documentation to support claims)
1	Between 0 and 2
2	Marginal offer, some deficiencies, partly meets criterion
3	Between 2 and 4

4	Fair offer, few deficiencies, almost meets criterion
5	Between 4 and 6
6	Good offer, no deficiencies, meets criterion
7	Between 6 and 8
8	Very good offer, exceeds criterion
9	Between 8 and 10
10	Outstanding offer, greatly exceeds criterion

The quality of the submissions was generally high. However, it can be seen from the Table below that locally based MCC Contractors provided the most competitive price and within the allocated budget.

The following table summarises the tenderers and overall evaluation score:

Tenderer	Cost Score	Relative Experience	Tenderer's resources	Total Score
MCC Contractors	291.15	150	200	<b>641.15</b>
Tenderer B	0	200	200	<b>400</b>
Tenderer C	49.63	200	150	<b>399.63</b>

The evaluation panel unanimously agreed that MCC Contractors be recommended as the preferred contractor.

**Voting Requirements:**

Simple majority.

<p><b>COUNCIL RESOLUTION &amp; OFFICER RECOMMENDATION</b>                  MOVED: CR GIBSON                  That Council ACCEPT the tender from MCC Contractors for TEN.2.20/21 Hazelvale Road Reconstruction.  <b>AMENDMENT</b>                  MOVED: CR SEENEY                  Add the words “, this being the road reconstruction from the intersection of Valley of the Giants Road/Hazelvale Road for 450 metres” after the word “Reconstruction”.                  CARRIED UNANIMOUSLY: 8/0</p>	<p>ITEM 8.1.2                  SECONDED: CR BOWLEY                  SECONDED: CR LEWIS                  Res: 091120</p>
<p><b>AMENDED MOTION</b>                  That Council ACCEPT the tender from MCC Contractors for TEN.2.20/21 Hazelvale Road Reconstruction, this being the road reconstruction from the intersection of Valley of the Giants Road/Hazelvale Road for 450 metres.                  THE AMENDED MOTION BECAME THE SUBSTANTIVE MOTION WHICH WAS PUT &amp;                  CARRIED: 8/0</p>	<p>Res: 101120</p>

REASONS FOR CHANGE

To notify members of the public the area of road works in question to allow them to prepare for the works.

4.37pm – Cr Allen returned to the room.

## 8.2 DIRECTOR CORPORATE AND COMMUNITY SERVICES

### 8.2.1 FINANCIAL STATEMENTS FOR THE PERIOD ENDED 30 SEPTEMBER 2020 INCLUDING QUARTERLY REVIEW

<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>	4 November, 2020
<b>Author:</b>	Scott Sewell, Accountant
<b>Authorising Officer:</b>	Lee Sounness, Acting Director Corporate & Community Services
<b>Attachments:</b>	8.2.1 – September 2020 Monthly Financial Report

#### Summary:

The attached financial statements and supporting information for the period ending 30 September 2020 are presented for the consideration of Elected Members.

#### Background:

In order to prepare the attached financial statements, the following reconciliations and financial procedures have been completed and verified;

- Reconciliation of all bank accounts.
- Reconciliation of the Rate Book, including outstanding debtors and the raising of interim rates.
- Reconciliation of all assets and liabilities, including payroll, taxation and other services.
- Reconciliation of the Sundry Debtors and Creditors Ledger.
- Reconciliation of the Stock Ledger.
- Completion of all Works Costing transactions, including allocation of costs from the Ledger to the various works chart of accounts.

#### Consultation:

Nil

#### Statutory Obligations:

It is a requirement of the Local Government Act 1995 that monthly and quarterly financial statements are presented to Council, in order to allow for proper control of the Shire's finances. In addition, Council is required by legislation to undertake a mid-year review of the Municipal Budget to ensure that income and expenditure is in keeping with budget forecasts. It should be noted that the budget is monitored by management on a monthly basis in addition to the requirement for a mid-year review. Furthermore, in line with a commitment provided by the executive team as part of the budget adoption process and the ongoing management of the impacts of COVID with its potential to affect the operation of Council provided services and facilities and the community generally a quarterly review of the budget performance has been undertaken which required all Managers and responsible officers to review all aspects of the activities included within the budget which relate to areas under their control. The attached statements are prepared in accordance with the requirements of the Local Government Act 1995 (s.5.25(1)) and the Local Government (Financial Management) Regulations 1996.

#### Policy Implications:

Policy P040222 - Material Variances in Budget and Actual Expenditure, relates

*For the purposes of Local Government (Financial Management) Regulation 34 regarding levels of variances for financial reporting, Council adopted a variance of 10% or greater of*

*the annual budget for each program area in the budget, as a level that requires an explanation or report, with a minimum dollar variance of \$10,000.*

*The material variance is calculated by comparing budget estimates to the end of month actual amounts of expenditure, revenue and income to the end of the month to which the financial statement relates.*

*This same figure is also to be used in the Annual Budget Review to be undertaken after the first six months of the financial year to assess how the budget has progressed and to estimate the end of the financial year position.*

*A second tier reporting approach shall be a variance of 10% or greater of the annual budget estimates to the end of the month to which the report refers for each General Ledger/Job Account in the budget, as a level that requires an explanation, with a minimum dollar variance of \$10,000.*

**Budget / Financial Implications:**

There are no significant trends or issues to be reported from the budget adoption on 4<sup>th</sup> August 2020.

**Strategic & Corporate Plan Implications:**

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

Denmark 2027

L5.4 To be fiscally responsible

Corporate Business Plan

Nil

**Sustainability Implications:**

➤ **Governance:**

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

➤ **Environmental:**

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

➤ **Economic:**

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

➤ **Social:**

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

➤ **Risk:**

Nil

**Comment/Conclusion:**

As at 30 September 2020, total cash funds held (excluding trust funds) totals \$11,259,013 (Note 1).

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

Reserve Funds (restricted) total \$4,224,787 (Note 5).

Municipal Funds (unrestricted) total \$7,034,225 (Note 2).

### Key Financial Indicators at a Glance

The following comments and/or statements provide a brief summary of major financial/budget indicators and are included to assist in the interpretation and understanding of the attached Financial Statements:

- Taking into consideration the adopted Municipal Budget, the 30 June 2021 end of year financial position is currently estimated to be a \$200,000 surplus. As part of the quarterly budget review undertaken in preparing this report it will be recommended that some of this budgeted surplus be utilised to fund additional projects and resourcing requirements as outlined below.
- Operating revenue and expenditure is generally in line with year to date budget predictions for the period ended 30 September 2020 (Statement of Financial Activity) except for items referenced in Note 3(a) which includes depreciation expense which is yet to be applied for the 2020/2021 financial year.
- The Rates Collection percentage currently sits at 63.26% and is in keeping with historical collection performance statistics (see Note 4)
- The 2020/2021 Capital Works Program has only just commenced with 3.31% completed for the year to date with a total committed cost of 29.45% as at 30 September 2020 (see Note 10).
- Most transfers to and from general Reserve Funds have not been made for the 2020/2021 year as they are generally undertaken in the latter part of the financial year, depending on the specific projects to which the transfers relate. One transfer of \$156,292 has been made from the Demark East Development Reserve for recoup of municipal fund expenditure previously incurred.
- Salaries and Wages expenditure is generally in line with year to date budget estimates (not reported specifically in Financial Statement).

#### Other Information

- Depreciation Expense – Depreciation of all asset classes have not yet been calculated for the reporting period. Depreciation expenses will be applied once the annual audit of financial figures for the year ended 30 June 2020 have been confirmed.

### QUARTERLY BUDGET REVIEW INFORMATION

The most significant item for Council to consider as part of the quarterly budget review is the resourcing required for the task of completing the Local Planning Strategy & Scheme Review. This matter has previously been provided to and discussed with Council at a workshop where it was agreed to employ a Strategic Planner. It is envisaged that the cost of completing the project will be in the order of \$100,000 of which the salary and on-costs for the 2020/2021 year (pro-rata) will amount to \$71,000, the remaining \$29,000 will be spent in additional consulting fees and other minor expenses. An officer recommendation has been included as part of this report to accommodate the provision of this additional expense to be funded by a reduction in the projected year end surplus position from the adopted budget.

The Ocean Beach Precinct project was workshopped with Council and it is anticipated that a budget provision of \$20,000 for a consultant to prepare the business case is now required to advance this project. This funding will be sourced from the adopted budget surplus position and a recommendation to this effect is included in the officer recommendation.

If Council accepts the Officer Recommendation put forward in relation to the change in purpose of the proposed Denmark East works for 2020/2021 the budget will be amended to reflect the change in project name to be completed in respect to the funding purpose. It should however be noted that this will have no impact on the budget overall as the total cost of the capital works will not change and nor will the funding source of the Denmark East Development Reserve.

The Denmark Men’s Shed originally provided a quotation for \$25,000 for the access road and car park. During budget deliberations this was set at \$15,000 where alternative designs were considered. Further consultation with adjacent community groups have required the original design to be implemented. The amount required is a further \$10,000 taking the total budgeted expense to \$25,000. It is recommended that this request be agreed to with the cost of the additional works to be funded from the Infrastructure Reserve.

Management acknowledges that Council has made some decisions that will impact operating expense budgets in some areas of Council activity, including but not limited to, the CEO recruitment process and the maintenance of the Denmark Visitors Centre in the short term. Funding of such items will be further reviewed as part of the formal legislated Mid-Year Budget Review process as indicated in the reports presented to Council on those issues. The additional time utilised to further review the funding sources for those items will enable management to properly identify cost savings and revenue gains that are able to be reallocated within the adopted budget framework. Part of the reason for this is that it remains important to understand that whilst expenditure is tracking well to budget, allowing for seasonal adjustments, revenue and debt collection is also consistent to other years, the potential of a requirement to react to COVID at any time remains, and can be dictated by State or Federal Government decisions and policy. At this stage it would appear that regional Western Australia can look forward to a busy tourist season ahead but that also may mean additional demands will be placed on the Shire’s ability to appropriately service the extra load on its infrastructure and other facilities during that time.

**Voting Requirements:**  
 Absolute majority.

<b>COUNCIL RESOLUTION &amp; OFFICER RECOMMENDATION</b>	<b>ITEM 8.2.1</b>
MOVED: CR GIBSON	SECONDED: CR BOWLEY
That Council;	
<ol style="list-style-type: none"> <li>1. With respect to Financial Statements for the period ending 30 September 2020, RECEIVE the Financial Reports, incorporating the Statement of Financial Activity and other supporting documentation.</li> <li>2. APPROVE an allocation of an additional \$65,000 to A/c 1040082 – Town Planning Salaries Expense and \$6,000 to A/c 1040092 – Town Planning Superannuation Expense and \$29,000 to A/c 1040112 – Town Planning Contract Services Expense to fund the Local Planning Strategy and Scheme Review with the funding to be sourced by a reduction of \$100,000 in the adopted budget year end surplus position.</li> <li>3. APPROVE an allocation of an additional \$20,000 to A/c 1220412 – Infrastructure Concept Planning &amp; Design Expense to fund investigation work in to the Ocean Beach Precinct Project with the funding to be sourced by a reduction of \$20,000 in the adopted budget year end surplus position.</li> <li>4. APPROVE additional expenditure of \$10,000 in relation to Job 50090 – Men’s Shed Access Road &amp; Carpark Construction with funding to be sourced from the Infrastructure Reserve.</li> </ol>	
CARRIED UNANIMOUSLY & BY AN ABSOLUTE MAJORITY: 9/0	
Res: 111120	

## 8.2.2 LIST OF PAYMENTS FOR THE PERIOD ENDING 31 OCTOBER 2020

<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>	3 November 2020
<b>Author:</b>	Scott Sewell, Accountant
<b>Authorising Officer:</b>	Lee Sounness, Acting Director Corporate & Community Services
<b>Attachments:</b>	8.2.2 – October Monthly List of Accounts Submitted Report

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### Summary:

The purpose of this report is to advise the Council of payments made during the period 1 October 2020 to 31 October 2020.

### Background:

Nil

### Consultation:

Consultation was not required for this report.

### Statutory Obligations:

Local Government (Financial Management) Regulation 13 relates:

### Policy Implications:

Delegation Number D040201 relates:

### Budget / Financial Implications:

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

### Strategic & Corporate Plan Implications:

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

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

#### Denmark 2027

*L5.4 To be fiscally responsible*

#### Corporate Business Plan

Nil

### Sustainability Implications:

#### ➤ **Governance:**

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

#### ➤ **Environmental:**

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

#### ➤ **Economic:**

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

➤ **Social:**

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

➤ **Risk:**

Nil

**Comment/Conclusion:**

Nil

**Voting Requirements:**

Simple majority.

<b>COUNCIL RESOLUTION &amp; OFFICER RECOMMENDATION</b>	<b>ITEM 8.2.2</b>
MOVED: CR SEENEY	SECONDED: CR JONES
That with respect to the attached Schedule of Payments, totalling \$1,730,880.02, for the month of October 2020, Council RECEIVE the following summary of accounts:	
a) Electronic Funds Transfers EFT28634 to EFT28868 - \$1,233,462.64;	
b) Municipal Fund Cheque No's 60394 – 60401 - \$11,955.41;	
c) Internal Account Transfers (Payroll) - \$376,122.92; and	
d) Direct Debit - \$9,962.17;	
e) Corporate Credit Card; \$2,602.68;	
f) Department of Transport Remittances; \$96,774.20, and	
g) Loan Payments: \$0	
CARRIED UNANIMOUSLY: 9/0	Res: 121120

**8.2.3 INVESTMENT REPORT FOR THE PERIOD ENDED 31 OCTOBER 2020**

<b>File Ref:</b>	FIN.19
<b>Applicant / Proponent:</b>	Not applicable
<b>Subject Land / Locality:</b>	Not applicable
<b>Disclosure of Officer Interest:</b>	Nil
<b>Date:</b>	2 November 2020
<b>Author:</b>	Scott Sewell, Accountant
<b>Authorising Officer:</b>	Lee Sounness, Acting Director Corporate & Community Services
<b>Attachments:</b>	8.2.3 - October 2020 Investment Register

**Summary**

This report presents the Investment Register for the month ending 31 October 2020.

**Background**

This report is for Council to receive the Investment Register as at 31 October 2020.

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

**Consultation**

Nil.

**Statutory Obligations**

The *Local Government Act 1995 – Section 6.14, the Trustees Act 1962 – Part III Investments, the Local Government (Financial Management) Regulations 1996 - Reg. 19,*

28 and 49, and the Australian Accounting Standards, sets out the statutory conditions under which funds may be invested.

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

**Policy Implications**

All investments are made in accordance with Council Policy P040229 – Investments, which states that in relation to Counterparty Credit Framework that no more than 50% of the total investment portfolio should be held with any one institution.

To control the credit quality over the entire portfolio, the following credit framework limits the percentage of the portfolio exposed to any particular credit rating category.

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

Exposure to an individual counterparty/institution will be restricted by their credit rating so that single entity exposure is limited, as detailed in the table below.

A. S&P Long Term Rating	B. S&P Short Term Rating	C. Direct Investment Maximum %	D. Managed Funds Maximum %
AAA	A1+	50%	50%
AA	A-1	35%	45%
A	A-2	20%	40%

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

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

**Budget / Financial Implications**

There are no significant trends or issues to be reported.

**Strategic & Corporate Plan Implications**

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

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

Denmark 2027

L5.4 To be fiscally responsible

Corporate Business Plan

Nil

**Sustainability Implications**

➤ **Governance:**

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

➤ **Environmental:**

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

➤ **Economic:**

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

➤ **Social:**

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

➤ **Risk:**

Nil.

**Comment**

The attached Investment Report tables summarise how funds are invested as per the Shires Investment Policy and reports on the Investment Portfolio balance as at 31 October 2020.

At the end of October 2020 Council had a total of \$10,135,594 invested with four banking institutions to ensure an appropriate portfolio balance mix with no single institution holding more than 50% of the total funds invested which is in accordance with the requirements outlined in Council policy P040229.

The total Reserve Funds invested as at 31 October 2020 totals \$4,227,425.  
The total Municipal Funds Invested as at 31 October 2020 total \$5,908,168.

The Reserve Bank of Australia (RBA) did not alter its cash rate at its meeting held on 6<sup>th</sup> October 2020. At the time of writing this report the RBA had not held its November meeting, but economists were widely predicting a further cut in the official cash rate to be announced from the current rate of 0.25%.

**Voting Requirements**

Simple majority.

<b>COUNCIL RESOLUTION &amp; OFFICER RECOMMENDATION</b>	<b>ITEM 8.2.3</b>
<b>MOVED: CR GIBSON</b>	<b>SECONDED: CR PHILLIPS</b>
That Council RECEIVE the Investment Register (attachment 8.2.3) for the period ended 31 October 2020.	
<b>CARRIED UNANIMOUSLY: 9/0</b>	<b>Res: 131120</b>

### 8.3 CHIEF EXECUTIVE OFFICER

4.42pm – Cr Bowley left the room.

4.42pm – Cr Bowley returned to the room.

*The following questions were asked prior to the meeting. Officers provided all Councillors with written responses which are provided below.*

#### CR LEWIS' QUESTION

#### 1. **Do Manjimup charge landing fees? It is my understanding that we do not – is this correct?**

*Response: The Shire of Denmark does not charge landing fees nor does the Shire of Manjimup.*

#### 8.3.1 DENMARK AIRPORT LEASEHOLD AREA

<b>File Ref:</b>	LEA.22, LEA.23, LEA.25, A5413, A5418, A5416 & A5415
<b>Applicant / Proponent:</b>	Leaseholders of Hangar Sites 2, 3 & 5
<b>Subject Land / Locality:</b>	Lot 300 on Deposited Plan 405898 (Reserve 41390)
<b>Disclosure of Officer Interest:</b>	Nil
<b>Date:</b>	29 October 2020
<b>Author:</b>	Claire Thompson, Governance Coordinator
<b>Authorising Officer:</b>	David Schober, Acting Chief Executive Officer
	8.3.1a - Surveyed Lease Area & Aerial Photo
	8.3.1b - Previous standard lease
<b>Attachments:</b>	8.3.1c - New standard lease – existing hangar constructed
	8.3.1d - New standard lease – hangar to be constructed
	8.3.1e - Market Valuation

#### **Summary:**

Council are asked to consider granting further lease terms to the existing lessees of sites at the Denmark Airport and endorse two new standard leases for the leasehold area.

#### **Background:**

In February 2009, Council agreed to lease nine (9) hangar sites to interested parties who wanted to construct a private hangar. A copy of the surveyed area is attached (see Attachment 8.3.1a).

The proposal was advertised and most of the lots were subsequently leased. The lease was conditional upon the lessee constructing a hangar within two (2) years. There were three (3) hangars constructed. The lessees are occupying the premises on a monthly tenancy because their lease expired in April 2020.

Item 7.1 of the Lease Schedule provides that, “upon expiry of the Term, a further lease period of ten years will be offered by the Lessor...”. A copy of the standard lease is attached (see Attachment 8.3.1b).

#### **Consultation:**

Officers have been liaising with the current lessees who have provided their input into the revised standard lease. Legal advice has also been obtained regarding the new standard leases.

Any intention to dispose of property (including to lease) must be advertised for public submissions, according to legislation.

**Statutory Obligations:**

The Shire of Denmark has a Management Order for the reserve with the power to lease for up to 21 years. The designated purpose is “Aerial Landing Ground”.

**LOCAL GOVERNMENT ACT 1995**

Section 3.58 provides the ways in which a local government can dispose of property. The Officer proposes that this disposal be advertised pursuant to s 3.58(3), and any submissions be considered. It is recommended that if there are no objections, the Chief Executive Officer and the Shire President be authorised to formally execute the leases.

The market value and the consideration to be received for the disposition is required to be included in the public notice, pursuant to section 3.58(4).

**LAND ADMINISTRATION ACT 1997**

Section 18 requires that any dealing of crown land must have Ministerial Approval.

**Policy Implications:**

The leasehold area is consistent with the Denmark Airfield Land Use Strategy and Town Planning Policy No. 25.1 – Denmark Airfield and Airpark.

**Budget / Financial Implications:**

A valuation was completed by an independent valuer in February 2020 (see Attachment 8.3.1e).

The Denmark lease area was compared to the Manjimup, Augusta and Northam Airports with similar areas in terms of their size and facilities offered as well as the size of the communities they service. The evidence ranged from \$2.45/m<sup>2</sup> to \$4.00/m<sup>2</sup>. The valuation took into consideration the limited services available at the Denmark Airport and at the leasehold area and determined an annual rental value of \$2.50/m<sup>2</sup>.

The lessees are also required to pay rates based on a rating category of GRV Non-Rural Improved. Due to the low gross rental value of hangar lots they are charged a minimum payment. \$1,097 plus ESL in the 2020/21 financial year.

The annual rent has not been reviewed since 2010 and, at that time, Council determined a rental value of \$1.00/m<sup>2</sup>. In the February 2009 report to Council, it was stated that the agreed value was determined based upon the fact that the lessees are expected to pay rates as well and the low standard of the Denmark facility (unsealed road, no water or power).

One of the lessees provided the following comparison with Manjimup and has requested that Council consider reducing the recommended value per square metre.

MANJIMUP	Rent on 210m <sup>2</sup>	\$3.35/m <sup>2</sup>	\$ 703.50
	Rates	\$4.60/m <sup>2</sup>	\$ 966.00
	<b>Total</b>	<b>\$7.95/m<sup>2</sup></b>	<b>\$ 1,669.50</b>
DENMARK	Rent on 210m <sup>2</sup>	\$2.50/m <sup>2</sup>	\$ 525.00
	Rates	\$5.62/m <sup>2</sup>	\$ 1,181.00
	<b>Total</b>	<b>\$8.12/m<sup>2</sup></b>	<b>\$ 1,706.00</b>

The Officer considers that due to the lack of facilities and infrastructure at the Denmark leasehold area it is appropriate that the lease fee be kept at a minimum. A reasonable rental could also be more attractive to potential lessees.

If the lease fee had increased each year by CPI or by the amount that fees and charges are generally indexed, after 10 years it would have equated to a lease fee of approximately \$247.00 (ex GST) being an 18% increase.

Since the leases were offered, there have been no improvements to the lease area. It could be deemed reasonable that if Council were to increase the lease fee then it should only be minimally, say by 20% to \$1.20/m<sup>2</sup>.

It should be noted that there are three different sizes for the lease areas. 195m<sup>2</sup>, 210m<sup>2</sup> and 225m<sup>2</sup>.

Council have the option to apply the valuation or apply any rate that is deemed appropriate.

### **Strategic & Corporate Plan Implications:**

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

#### Denmark 2027

##### 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.

*B3.5 To have diverse and affordable housing, building and accommodation options.*

##### L5.0 Our Local Government

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

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

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

#### Corporate Business Plan

Nil

### **Sustainability Implications:**

#### ➤ **Governance:**

The main purpose of re-writing the leases was to minimise any ambiguity and protect the rights of the Shire and the Lessee.

#### ➤ **Environmental:**

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

#### ➤ **Economic:**

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

#### ➤ **Social:**

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

#### ➤ **Risk:**

Nil

### **Comment/Conclusion:**

Attached is a copy of;

1. The existing standard lease (Attachment 8.3.1b)
2. New standard lease – hangar constructed (Attachment 8.3.1c)
3. New standard lease – hangar to be constructed within two years (Attachment 8.3.1d).

The first term expiry of the leases presented an opportunity for the lease to be reviewed. The existing lease did not realise when a hangar had been built and the arbitration clause (particularly) was considered inadequate. In the current lease there is no alternative method of dispute resolution other than under the provisions of the Commercial Arbitration Act 2012 which seeks to resolve any dispute through an impartial arbitral tribunal (consisting of one or more arbitrators).

The two new leases only differ to the extent that one is for a leasehold area which already has a hangar constructed and one requires a hangar to be constructed within two years.

The draft lease has been reviewed by the lessees and most of their comments / suggestions have been incorporated. The exceptions being as follows.

1. Request for the following clause to be transferred to the new lease (under the Termination of Lease clause in the current lease).

*If this lease is terminated by the Lessor in accordance with the above then the Lessor shall at their expense relocate any building or hangar as may be erected on the land to another site on Reserve 41390 and a new lease shall be offered for the remainder of the term of the original lease.*

Officer Comment:

Council Officers considered the request but declined to transfer the clause due to potential significant cost to ratepayers should any, or all, of the hangars require relocating.

2. Remove the Rent Review clause

Officer Comment:

As per Item 6.1 and 6.2 of the Schedule the rent is not intended to be reviewed annually and therefore the clause would not apply. In order to keep the Shire's leases consistent, Officers are of the view that the clause should remain even though it is not applicable in this instance. Clause 3.4 (b) requires that the rent be reviewed should any further term be agreed.

3. Providing approval in the lease for sub-let or assignment

Officer Comment:

Each request for assignment, sub-let or mortgage needs to be considered by the local government on its merits. Clause 18 states that the Lessor must consider the request promptly and have good reason(s) for any refusal.

In order to consider such requests administratively and expediate the process, it is recommended that the wording of the clause be altered from "Lessor's written consent" to "Chief Executive Officer's written consent" and include a definition of Chief Executive Officer in Clause 1.2.

During this process the lessee of Site 5 has sold his hangar to Mr R Phillis. Mr Phillis has been involved throughout this process and provided input into the draft lease.

**Voting Requirements:**

Simple majority.

<b>COUNCIL RESOLUTION &amp; OFFICER RECOMMENDATION</b>	ITEM 8.3.1
MOVED: CR ALLEN	SECONDED: CR SEENEY
That with respect to the Airport Hangar Lease Area, Council;	
1. APPROVE both of the draft standard leases (as per Attachments 8.3.1c and 8.3.1d) with an amendment to Clause 18 to replace the word "lessor's" with "Chief Executive Officer's" and include a definition of Chief Executive Officer under clause 1.2;	

2. REQUEST the Chief Executive Officer to seek Ministerial Approval;
  3. ADVERTISE its intention to lease three Hangar Sites as follows;
    - a) Site 2 to C M Owen for a period of 10 years with a further option of 10 years for an annual rent of \$234.00 (ex GST), the market value being \$390.00 (ex GST) per annum; and
    - b) Site 3 to J M King and M E King for a period of 10 years with a further option of 10 years for an annual rent of \$252.00 (ex GST), the market value being \$420.00 (ex GST) per annum;
    - c) Site 5 to R Phillis for a period of 10 years with a further option of 10 years for an annual rent of \$252.00 (ex GST), the market value being \$420.00 (ex GST) per annum.
  4. Should there be no objections received during the submission period, AUTHORISE the Chief Executive Officer and the Shire President to formally execute the leases, noting that if objections are received then the matter and submissions will be brought back for Council's consideration.
- CARRIED UNANIMOUSLY: 9/0
- Res: 141120

*Cr Phillips declared a financial interest on the basis that she is a part owner of the Peaceful Bay Caravan Park.*

*4.53pm - Cr Phillips left the room and did not participate in discussion or vote on the matter.*

**8.3.2 ANNUAL REVIEW OF DELEGATIONS, AUTHORISATIONS AND APPOINTMENTS & REVIEW OF POLICY P040207 (COMMON SEAL)**

<b>File Ref:</b>	Delegations Register
<b>Applicant / Proponent:</b>	Not applicable
<b>Subject Land / Locality:</b>	Not applicable
<b>Disclosure of Officer Interest:</b>	Nil
<b>Date:</b>	5 November 2020
<b>Author:</b>	Claire Thompson, Governance Coordinator
<b>Authorising Officer:</b>	David Schober, Acting Chief Executive Officer
<b>Attachments:</b>	8.3.2a - Delegations Register (marked up with proposed amendments) 8.3.2b - Policy P040207 (marked up)

**Summary:**

Council are required to review its delegations each year.

**Background:**

The delegations were last reviewed in November 2019.

**Consultation:**

CEO, Directors and the Governance Coordinator.

**Statutory Obligations:**

LOCAL GOVERNMENT ACT 1995

*5.42. Delegation of some powers and duties to CEO*

*(1) A local government may delegate\* to the CEO the exercise of any of its powers or the discharge of any of its duties under —*

*(a) this Act other than those referred to in section 5.43; or*

*(b) the Planning and Development Act 2005 section 214(2), (3) or (5).*

*\* Absolute majority required.*

- (2) A delegation under this section is to be in writing and may be general or as otherwise provided in the instrument of delegation.

5.43. *Limits on delegations to CEO*

A local government cannot delegate to a CEO any of the following powers or duties —

- (a) any power or duty that requires a decision of an absolute majority or a 75% majority of the local government;
- (b) accepting a tender which exceeds an amount determined by the local government for the purpose of this paragraph;
- (c) appointing an auditor;
- (d) acquiring or disposing of any property valued at an amount exceeding an amount determined by the local government for the purpose of this paragraph;
- (e) any of the local government's powers under section 5.98, 5.98A, 5.99, 5.99A or 5.100;
- (f) borrowing money on behalf of the local government; hearing or determining an objection of a kind referred to in section 9.5;
- (ha) the power under section 9.49A(4) to authorise a person to sign documents on behalf of the local government;
- (h) any power or duty that requires the approval of the Minister or the Governor;
- (i) such other powers or duties as may be prescribed.

5.44. *CEO may delegate powers and duties to other employees*

- (1) A CEO may delegate to any employee of the local government the exercise of any of the CEO's powers or the discharge of any of the CEO's duties under this Act other than this power of delegation.
- (2) A delegation under this section is to be in writing and may be general or as otherwise provided in the instrument of delegation.
- (3) This section extends to a power or duty the exercise or discharge of which has been delegated by a local government to the CEO under section 5.42, but in the case of such a power or duty —
  - (a) the CEO's power under this section to delegate the exercise of that power or the discharge of that duty; and
  - (b) the exercise of that power or the discharge of that duty by the CEO's delegate,are subject to any conditions imposed by the local government on its delegation to the CEO.
- (4) Subsection (3)(b) does not limit the CEO's power to impose conditions or further conditions on a delegation under this section.
- (5) In subsections (3) and (4) —  
**conditions** includes qualifications, limitations or exceptions.

5.45. *Other matters relevant to delegations under this Division*

- (1) Without limiting the application of sections 58 and 59 of the Interpretation Act 1984 —
  - (a) a delegation made under this Division has effect for the period of time specified in the delegation or where no period has been specified, indefinitely; and
  - (b) any decision to amend or revoke a delegation by a local government under this Division is to be by an absolute majority.

(2) *Nothing in this Division is to be read as preventing —*

- (a) *a local government from performing any of its functions by acting through a person other than the CEO; or*
- (b) *a CEO from performing any of his or her functions by acting through another person.*

5.46. *Register of, and records relevant to, delegations to CEO and employees*

- (1) *The CEO is to keep a register of the delegations made under this Division to the CEO and to employees.*
- (2) *At least once every financial year, delegations made under this Division are to be reviewed by the delegator.*
- (3) *A person to whom a power or duty is delegated under this Act is to keep records in accordance with regulations in relation to the exercise of the power or the discharge of the duty.*

#### LOCAL GOVERNMENT (ADMINISTRATION) REGULATIONS 1996

##### Regulation 19

Where a power or duty has been delegated under the Act to the CEO or to any other local government employee, the person to whom the power or duty has been delegated is to keep a written record of —

- (a) how the person exercised the power or discharged the duty; and
- (b) when the person exercised the power or discharged the duty; and
- (c) the persons or classes of persons, other than the council or committee members or employees of the local government, directly affected by the exercise of the power or discharge of the duty.

#### INTERPRETATION ACT 1984

##### Section 49

Where a written law confers a power or imposes a duty on the holder of a public office as such, the power may be exercised and the duty shall be performed by the person for the time being lawfully holding, acting in, or performing the functions of the office.

#### BUSH FIRES ACT 1954

##### Section 17(10)

A local government may by resolution delegate to its mayor, or president, and its Chief Bush Fire Control Officer, jointly its powers and duties under subsections (7) and (8).

##### Section 18(5C)

The provisions of section 17(8), (9), (10) and (11), with the necessary adaptations and modifications, apply to and in relation to the variation of restricted burning times or prescribed conditions by a local government, as if those provisions were expressly incorporated in this section.

#### LOCAL GOVERNMENT LEGISLATION AMENDMENT REGULATIONS (No. 2) 2020

The above regulations came into effect on 7 November 2020 and include significant changes to the process of authorising persons under various legislation, including the Local Government Act 1995. The result is that a large number of the delegations need to be adjusted because the amendment provides power to the Chief Executive Officer to “appoint classes of persons to be authorised persons...”

Due to the requirement for the Council to review its delegations annually (last review done November 2019) and the amount of rework required to bring the existing delegations inline with the 7 November 2020 amendments, officers will work through this administratively over the next few months.

**Policy Implications:**

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

It is also recommended that Council amend Policy P040207. Details are included in the table in the comment section against Delegation D040218 and in Attachment 8.3.2.

**Budget / Financial Implications:**

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

**Strategic & Corporate Plan Implications:**

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

Denmark 2027

L5.0 Our Local Government

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

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

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

Corporate Business Plan

L5.3.5 Review and improve the Delegations, Authorisations and Appointments Register.

**Sustainability Implications:**

➤ **Governance:**

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

Apart from the suggested amendments, the current delegations, authorisations, appointments and designations appear to be working well and providing appropriate authority and guidance to the administration.

➤ **Environmental:**

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

➤ **Economic:**

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

➤ **Social:**

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

➤ **Risk:**

Risk	Risk Likelihood (based on history and with existing controls)	Risk Impact / Consequence	Risk Rating (Prior to Treatment or Control)	Principal Risk Theme	Risk Action Plan (Controls or Treatment proposed)
<b>Compliance:</b> That Council not review its delegations.	Rare (1)	Minor (2)	Low (1-4)	Failure to meet Statutory, Regulatory or Compliance Requirements	Accept Officer Recommendation

**Comment/Conclusion:**

To assist in the effective administration of the Shire, Council has granted various delegations. Delegations made under the Local Government Act 1995 (as opposed to some other Acts) to the Chief Executive Officer (CEO) or Council Committees.

Where permissible under legislation, appropriate and/or required, the CEO can sub-delegate to other Shire employees, with conditions as specified, unless the Council’s delegation to the CEO specifically removes the right of sub-delegation.

The Shire of Denmark’s Delegations Register includes more than authority or functions delegated by the Council. Delegations provided directly to Officers through instruments of delegation or other legislation (other than the Local Government Act 1995) cannot be altered by the Council.

A copy of the existing Delegations Register with the proposed amendments is attached (refer Attachment 8.3.2a) which has been marked up to show where and what the proposed recommended changes are.

The table below provides a summary of the changes within the attached ‘marked up’ document.

Reference Number	Title	Officer Recommended Amendment / Addition
D040108	Citizenship Ceremonies	Correct Minister’s portfolio title
D040209	Vehicles, Use Of	Repeal. There is no provision in the Local Government Act where the Council can determine any conditions relating to the use of Shire vehicles. It is not a function of Council, but the CEO, so there is no function to delegate. The CEO is required to inform the Council of each proposal to employ (or dismiss) a Senior Employee.
D040218	Execution of Documents	Correct section that relates to power to delegate.  Add new condition, detailed in Policy P040207 (recommended to be amended).  Delete condition 2 as Officers consider that this is duplication of condition 1.  Reference to Section 9.49A(3) of the Local Government Act 1995 which REQUIRES that any documents are executed by the Shire President and the CEO.

		<p>Amend the recording requirements to be broader and include requirement for the seal register to be available for public inspection (detailed in Policy P040207 which is recommended to be amended).</p> <p>Amend Policy P040207 to remove duplication with delegation and legislation (refer Attachment 8.3.2b).</p>
D040230	Master Lending Agreement	Amend the recording requirements to reflect suggested changes for Delegation D040218 and Policy P040207.
D050103	Burning, Prohibited & Restricted Times (Variations)	Corrected legislative power to delegate function from Section 48 to Sections 17(10) and 18(5C).
D050105	Bush Fires Act 1954 – Issuing & Withdrawal of Infringements and Prosecution	<p>Re-allocated authority from Officers and Fire Control Officers to initiate and carry on proceedings (and pay out any costs and expenses) in the name of the local government to the Chief Executive Officer only.</p> <p>Added words that clarify that the delegates can issue infringements (section 59A) of the Bush Fires Act 1954.</p> <p>Remove authority from Chief Executive Officer to issue infringements as it is considered best practice that the person with authority to withdraw infringements should not have the authority to infringe.</p>
D050202	Dogs – Local Laws & Dog Act 1976	<p>Correct the word “authorises” to “appoints” to reflect the terminology used in the Dog Act 1976.</p> <p>Section 29(1) provides power to a local government to appoint authorised persons.</p> <p>Added reference to what Section 44 of the Dog Act 1976 and Part 7 of the Dogs Local Law refer to.</p>
D050201	CONFISCATED OR UNCOLLECTED GOODS	Amalgamate with Delegation D050303.
D050303	IMPOUNDING GOODS	Repeal. Amalgamated with Delegation D050201.
D050308	FINES, PENALTIES AND INFRINGEMENT NOTICES ENFORCEMENT ACT 1994 – APPOINTMENT OF PROSECUTION OFFICERS	<p>Removed Cary Green.</p> <p>Added Lee Sounness and Emma Holliday.</p>
D100203	LITTER ACT 1979 – AUTHORISED OFFICERS	<p>This is a delegation direct from the legislation (not through Council).</p> <p>Added part 2, which is referred to under Section 26(1) of the Litter Act 1979 (suggested repealing D100204 which refers to the appointment of an Honorary Inspector).</p>
D100204	LITTER ACT 1979 – HONORARY INSPECTORS	Repeal. Since this was added to the Delegations Register in 2015, no Honorary Inspectors have been appointed. Suggest remove as it seems unnecessary to keep it. The Act provides for an appointment and the delegation can be reinstated in the future should the Council appoint someone.
D100601	TOWN PLANNING SCHEME	Added recording requirements including that

		authorised persons need to be issued with an identification card.
D110301	RECREATION CENTRE (DENMARK) – REFUNDS	Removed policy wording from delegation so that the current version of the policy is always the one referred to.
D130201	PEACEFUL BAY HOLIDAY COTTAGE LEASES – ASSIGNMENT	Added reference to the Shire President as this is the current practice and the Assignments require the Common Seal.  Authority to mortgagee is generally done by letter from the Chief Executive Officer only.
D130202	PEACEFUL BAY & RIVERMOUTH CARAVAN PARK LEASES	Added reference to the Shire President as this is the current practice and the Assignments require the Common Seal.  Authority to mortgagee is generally done by letter from the Chief Executive Officer only.

**Voting Requirements:**

Absolute majority.

<b>COUNCIL RESOLUTION &amp; OFFICER RECOMMENDATION</b>	ITEM 8.3.2
MOVED: CR GIBSON	SECONDED: CR JONES
That Council;	
1. ADOPT the Delegations, Authorisations & Appointments Register with additions, deletions and amendments as per Attachment 8.3.2a; and	
2. ADOPT the amended Policy P040207, as per Attachment 8.3.2b.	
CARRIED UNANIMOUSLY & BY AN ABSOLUTE MAJORITY: 8/0	Res: 151120

4.56pm – Cr Phillips returned to the room.

**8.3.3 ORDINARY COUNCIL MEETING DATES FOR 2021**

<b>File Ref:</b>	CR.2
<b>Applicant / Proponent:</b>	Not applicable
<b>Subject Land / Locality:</b>	Not applicable
<b>Disclosure of Officer Interest:</b>	Nil
<b>Date:</b>	6 November 2020
<b>Author:</b>	Claire Thompson, Governance Coordinator
<b>Authorising Officer:</b>	David Schober, Acting Chief Executive Officer
<b>Attachments:</b>	8.3.3 - Draft Meeting Schedule for 2021

**Summary:**

This report recommends that Council set its Ordinary Meeting schedule for 2021.

**Background:**

At the Council Meeting held on 19 November 2019, with respect to meeting times, location and frequency for 2020, Council resolved as follows (Resolution No. 251119);

*“That with respect to the Meetings of Council to be held in 2020, Council;*

1. *Retain a 4.00pm commencement time for all Ordinary Council meetings in 2020; and*
2. *Endorse the proposed dates for the Ordinary Council meetings in 2020 as shown in the Officer Report, with the first meeting commencing on Tuesday, 18 February 2020;*

3. Pursuant to Policy P040103, host two Locality (Kent/Nornalup) Ward Meetings for the interest of residents, ratepayers and community organisations at the Peaceful Bay Progress Association Hall and the Tingledale Community Hall at times and dates to be determined by the Chief Executive Officer in conjunction with the Shire President, the Progress Association and Tingledale Community Hall Committee, and widely advertise those times & dates prior to the meetings; and
4. Advertise the dates, times and locations in part 2 and 3 in the Denmark Bulletin, the Walpole Weekly, on Council's website, on Council's Notice Boards and on the Shire's Facebook page."

With respect to Part 3 above, the locality meetings were not held in 2020 due to the COVID-19 pandemic. For this reason, the Officer has recommended that Tingledale Community Hall be the second location for a locality meeting in 2021.

**Consultation:**

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

**Statutory Obligations:**

The following legislation relates to Council meeting dates;

LOCAL GOVERNMENT ACT 1995

5.3. Ordinary and special council meetings

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

5.4. Calling council meetings

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

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

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

Pursuant to section 5.5 of the Local Government Act 1995 the Chief Executive Officer is to provide each Councillor an Agenda at least 72 hours prior to the meeting.

**Policy Implications:**

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

P040101: ORDINARY COUNCIL MEETINGS

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

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

P040103: LOCALITY (KENT/NORNALUP WARD) MEETINGS

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

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

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

**Budget / Financial Implications:**

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

Each ordinary meeting of the Council typically involves two meals and refreshments for Councillors (dinner after the meeting and lunch depending upon the start time of the Strategic Briefing for that day). These costs are accommodated under Council's Budget.

In addition, Councillors are entitled to claim travel for attending Council meetings based on a kilometre basis and allowance for such is included in Council's Budget.

**Strategic & Corporate Plan Implications:**

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

Denmark 2027

L5.0 Our Local Government

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

Corporate Business Plan

Nil

**Sustainability Implications:**

➤ **Governance:**

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

➤ **Environmental:**

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

➤ **Economic:**

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

➤ **Social:**

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

➤ **Risk:**

Risk	Risk Likelihood (based on history and with existing controls)	Risk Impact / Consequence	Risk Rating (Prior to Treatment or Control)	Principal Risk Theme	Risk Action Plan (Controls or Treatment proposed)
<b>Compliance:</b> That Council not determine a meeting schedule for 2020.	Rare (1)	Minor (2)	Low (1-4)	Failure to meet Statutory, Regulatory or Compliance Requirements	Manage by determining a meeting schedule for 2020 which can be publicly advertised.

**Comment/Conclusion:**

The proposed meeting schedule for 2021 is based on the Council’s current meeting frequency being on the third Tuesday of every month.

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

**PROPOSED MEETING SCHEDULE 2021**

- Commencing 16 February.
- One Ordinary Council meeting per month.
- Held on the third Tuesday of each month.
- 11 meetings per year.

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

Pursuant to Council Policy P040238, the Shire Office will be closed from 25 December and re-opening on 4 January 2021.

The December / January Christmas and New Year’s holidays typically see many employees taking periods of leave to take advantage of the additional forced shutdown days. For this reason, there is a risk that there may not be staff available to write reports and/or prepare documentation for a January 2021 meeting. This notwithstanding, should the Council decide to commence the 2021 meeting schedule in January, Shire Officers would accommodate this preference.

The Officer recommends that, as per the 2018, 2019 and 2020 schedule, next year’s meetings commence in February 2021.

**Voting Requirements:**

Simple majority.

**COUNCIL RESOLUTION & OFFICER RECOMMENDATION**

ITEM 8.3.3

MOVED: CR GEARON

SECONDED: CR ALLEN

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

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

CARRIED UNANIMOUSLY: 9/0

Res: 161120

*The following questions were asked prior to the meeting. Officers provided all Councillors with a written response which are provided below.*

**CR LEWIS' QUESTIONS****2. How much wastewater is produced on a daily basis?**

*Response: Average of 350Kl per day totalling around 130,000Kl per year. This proposal will use about ¼ of the wastewater*

**3. What happens to the water waste during winter months when it is not being used to irrigate Mclean oval?**

*Response: Waste water would not be diverted to the McLean Oval and therefor discharged to the inlet.*

**4. Is there an option to increase the amount of water we take per day?**

*Response: The pumping infrastructure will be designed for the planed requirement. However, officers will work with the Water Corporation to ensure that there is a level of residual capacity in the event that additional flow rates are required.*

**5. Do we have any additional uses for the waste water, could we run reticulation down to gravity feed Annie Harrison and/or Berridge Park for instance?**

*Response: The waste water could be used to irrigate other areas in the future. Annie Harrison and Berridge parks would be the practical next steps. Any new areas would require approved irrigation management plans from the Department of Health.*

**6. Could the wastewater be further treated for use in a swimming pool?**

*Response: Officers are not aware of any instances where this happens in Australia. Whilst wastewater is recycled and used as potable water, it occurs indirectly. For example, in Perth a percentage of treated waste water is injected back into the aquifers before being drawn back out and treated for consumption. However, officers will consider the possibility through the Pool feasibility study.*

## CR OSBORNE'S QUESTION

### 1. **The proposal states that water supply will not be guaranteed but will be supplied on a best endeavours basis. Who arbitrates on what "best endeavours" means?"**

*Response: Any arbitration process for any contractual disputes will be outlined in a formal agreement. This is not developed as yet. The intent of the officer's recommendation, Point (2), is to provide the CEO the authorisation to negotiate the details, in line with the proposal, before entering into the formal agreement.*

*However, it is understood that supply may be effected in the event that the treatment plant malfunctions and cannot, for whatever reason, provide water supply of the required quality.*

## 8.3.4 LOCAL ROADS AND COMMUNITY INFRASTRUCTURE PROGRAM

<b>File Ref:</b>	GRT.28.B
<b>Applicant / Proponent:</b>	Not applicable
<b>Subject Land / Locality:</b>	Various
<b>Disclosure of Officer Interest:</b>	Nil
<b>Date:</b>	8 November 2020
<b>Author:</b>	David King, Director Assets and Sustainable Development
<b>Authorising Officer:</b>	David Schober, Chief Executive Officer Acting
<b>Attachments:</b>	8.3.4 - Water Corporation Proposal

### **Summary:**

In July 2020 the Shire of Denmark accepted a grant for Local Roads and Community Infrastructure (LRCI) for \$349,937.

This report outlines the proposed spending against the LRCI Grant.

### **Background:**

The LRCI Program aims to assist a community-led recovery from COVID-19 by supporting local jobs, firms, and procurement. It is expected councils, where possible, will use local businesses and workforces to deliver projects under the LRCI Program to ensure stimulus funding flows into local communities.

The LRCI Program is administered by the Department of Infrastructure, Transport, Regional Development and Communications (The Department).

Both road and community infrastructure projects are eligible through the funding. However, the funding cannot be used to replace Council funds for projects already budgeted for the 2020/21 financial year.

A work schedule must be submitted and approved by the Department before works can commence.

At a Council forum in June 2020, the Officers indicated that they were going to open discussion with Water Corporation (Watercorp) with the view to allocating the funding to a waste water reuse project for irrigation at McLean Oval.

The waste water reuse project was considered a priority by officers in order to secure a water source to irrigate the McLean oval into the future. It became clear over the 2019/20 summer that the installed bores and dam are insufficient to meet the irrigation requirements of the new surface. In the instance that these sources ran dry, offices would be required to

draw on scheme water to prevent degradation of the playing surface; an unacceptable solution.

Since August 2020 officers have been negotiating with Watercorp and have reached a point of agreement. The key points are outlined below and are also included in the proposal document in Attachment 8.3.4. Subject to Council approval, the Shire will enter into a formal agreement with the Watercorp consistent with the proposal.

- 15-year term
- Payment of \$61,902 to cover the cost of pumping infrastructure
- Operational and maintenance charges of \$0.00/kL to be reviewed at 5-year intervals
- Water corporation design and management plan assistance
- Water corporation to own and maintain the pumping infrastructure
- Shire of Denmark to own and maintain the pipework and tank at Mclean Oval

Project costs are included in the Budget section of this report.

**Consultation:**

The Officer has considered the requirement for consultation and/or engagement with persons or organisations that may be unduly affected by this proposal and in conjunction with reviewing Council’s Community Engagement Policy P040123 as well as the associated Framework, and believes that consultation is required with the following:

- Water Corporation
- Department of Health
- Property owners adjacent to the pipe works
- McLean oval user groups

**Statutory Obligations:**

There are no policy implications.

**Policy Implications:**

There are no policy implications.

**Budget / Financial Implications:**

A sum of \$349,937 has been allocated in the 2020/21 budget and is attached to the funding income. However, it has not been allocated to any specific projects.

It is conservatively expected that the full amount will be required to realise this project. A breakdown is provided in the Table below.

**Table 1 - Budget Costs**

Item	Cost
Design of pumping infrastructure and installation	\$61,902
Design of pipework and irrigation management plans	\$25,000
Superintendence and Project Management	\$25,000
Construction of pipework	\$200,000
Construction of tank	\$38,035
<b>TOTAL</b>	<b>\$349,937</b>

The LRCI grant must be spent before 30 June 2021 with unspent funds potentially returned to the Commonwealth. As such it would be appropriate to nominate a second project in the event that the project comes in underbudget.

Officers have looked through the existing Corporate Business Plan to identify suitable projects that could be funded through this grant. The corporate business plan identifies the construction of a dual use path between Riverside Drive and Macpherson Drive in

Nornalup. This was scheduled for construction in 2020/21 but was unfunded and not included in the budget as a result of COVID-19.

Officers have a draft design that is costed in the order of \$70,000. However, the design is scalable and could be done in two sections without significant efficiency losses.

It is proposed that if there are surplus funds from the waste water reuse project that they be allocated to this dual use path.

**Strategic & Corporate Plan Implications:**

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

Denmark 2027

**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.

B3.1.14 Construct a dual use path between Riverside Drive and Macpherson Drive to provide safe access for residents, students and visitors traversing between the two roads to access the school bus stop and local parks and reserves

Corporate Business Plan

Nil

**Sustainability Implications:**

➤ **Governance:**

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

➤ **Environmental:**

Directing waste water to irrigate Mclean oval will reduce the nutrients being discharged into the Wilson Inlet.

➤ **Economic:**

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

➤ **Social:**

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

➤ **Risk:**

Risk	Risk Likelihood (based on history and with existing controls)	Risk Impact / Consequence	Risk Rating (Prior to Treatment or Control)	Principal Risk Theme	Risk Action Plan (Controls or Treatment proposed)
<b>Financial:</b> Projects are not complete on time resulting in the loss of funding	Possible (3)	Moderate (3)	Moderate (5-9)	Inadequate Supplier / Contract Management	Accept Risk

**Comment/Conclusion:**

Nil

**Voting Requirements:**

Simple majority.

<b>COUNCIL RESOLUTION &amp; OFFICER RECOMMENDATION</b>	<b>ITEM 8.3.4</b>
MOVED: CR ALLEN	SECONDED: CR LEWIS
That Council:	
1. APPROVES the expenditure of the Local Road and Community Infrastructure Grant on the following projects:	
a) Waste water reuse for irrigation at McLean Oval; and	
b) Dual use footpath between Riverside Drive and Macpherson Drive; and	
2. AUTHORISES the CEO to enter into a 15 year agreement with the Water Corporation in order to secure water supply for the irrigation of McLean Oval.	
CARRIED UNANIMOUSLY: 9/0	Res: 171120

**8.3.5 SOUTH COAST ALLIANCE INC. 2021 MEMBERSHIP NOMINATION**

<b>File Ref:</b>	SCA
<b>Applicant / Proponent:</b>	Not applicable
<b>Subject Land / Locality:</b>	Not applicable
<b>Disclosure of Officer Interest:</b>	Nil
<b>Date:</b>	9 November 2020
<b>Author:</b>	Claire Thompson, Governance Coordinator
<b>Authorising Officer:</b>	David Schober, Acting Chief Executive Officer
<b>Attachments:</b>	8.3.5 - Membership Policy

**Summary:**

Council are asked to nominate an Elected Member to represent the Shire of Denmark on the South Coast Alliance Inc. (SCA) Committee.

**Background:**

The SCA (formerly the Lower Great Southern Economic Alliance) is an incorporated body of representatives from the City of Albany and the Shire’s of Denmark, Plantagenet and Jerramungup for the purpose of *promoting the sustainable growth of the Lower Great Southern sub-region*.

A regional Economic Development Plan has been endorsed by the Alliance and the recommendations are yet to be implemented.

**Consultation:**

Nil

**Statutory Obligations:**

The Rules of Association require that an Annual General Meeting be held to appoint the Committee for the ensuing 12 months and that the Committee is made up of 12 ordinary committee members.

**Policy Implications:**

The South Coast Alliance Inc. has adopted a Membership Policy (refer Attachment 8.3.5) which requires that the President/Mayor and Deputy President/Mayor be members and an additional Elected Member from each local government.

**Budget / Financial Implications:**

The Shire of Denmark has budgeted up to \$50,000 (ex GST) for approved Alliance projects in the 2020/21 Budget.

**Strategic & Corporate Plan Implications:**

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

Denmark 2027

E1.0 Our Economy

*We live in 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.

L5.0 Our Local Government

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

L5.5 To embrace change, apply technological advancement and pursue regional partnerships that drive business efficiency.

Corporate Business Plan

E1.1.5 Implement actions from the Regional Economic Development Strategy to stimulate economic development in partnership with the Lower Great Southern Economic Alliance.

**Sustainability Implications:**

➤ **Governance:**

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

➤ **Environmental:**

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

➤ **Economic:**

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

➤ **Social:**

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

➤ **Risk:**

Risk	Risk Likelihood (based on history and with existing controls)	Risk Impact / Consequence	Risk Rating (Prior to Treatment or Control)	Principal Risk Theme	Risk Action Plan (Controls or Treatment proposed)
<b>Reputational:</b> That Council not nominate an Elected Member and this is seen as the Shire not supporting the Alliance.	Rare (1)	Minor (2)	Low (1-4)	Not Meeting Community expectations	Accept Officer Recommendation

**Comment/Conclusion:**

Each of the four local governments can nominate three (3) representatives to the SCA however one must be the Shire President or Mayor and one has to be the Deputy Shire President or Mayor.

The SCA Committee is made up of 12 ordinary committee members, four (4) of whom hold the offices of Chair, Deputy Chair, Secretary and Treasurer.

Cr Jan Lewis has been the Denmark Council’s third representative since the commencement of the Alliance in 2015.

A Councillor who is nominated by the Council will be required to formally lodge their application with the SCA, pursuant to the Rules of Association.

**Voting Requirements:**

Simple majority.

**OFFICER RECOMMENDATION**

ITEM 8.3.5

That Council NOMINATE \_\_\_\_\_, as the additional Elected Member representative, from the Shire of Denmark to the Board of the South Coast Alliance Inc. until the next Annual General Meeting.

<b>COUNCIL RESOLUTION</b>	ITEM 8.3.5
MOVED: CR PHILLIPS	SECONDED: CR SEENEY
That Council NOMINATE Cr Jan Lewis as the additional Elected Member representative, from the Shire of Denmark to the Board of the South Coast Alliance Inc. until the next Annual General Meeting.	
CARRIED UNANIMOUSLY: 9/0	Res: 181120

**9. COMMITTEE REPORTS AND RECOMMENDATIONS**

Nil

**10. MATTERS BEHIND CLOSED DOORS**

Nil

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

Nil

**12. CLOSURE OF MEETING**

*5.15pm – There being no further business to discuss the Shire President, Cr Gearon, declared the meeting closed.*

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

Signed: \_\_\_\_\_  
*David Schober – Acting 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.)*