

# Shire of Denmark

## Ordinary Council Meeting MINUTES

15 December 2020



HELD IN THE COUNCIL CHAMBERS, 953 SOUTH COAST HIGHWAY, DENMARK ON TUESDAY, 15 DECEMBER 2020.



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## Strategic Community Plan (snapshot)

### E1.0

#### Our Economy

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

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

### N2.0

#### Our Natural Environment

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

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

### B3.0

#### Our Built Environment

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

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

### C4.0

#### Our Community

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

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

### L5.0

#### Our Local Government

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

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

## **DISCLAIMER**

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

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In particular and without derogating in any way from the broad disclaimer above, in any discussion regarding any planning application or application for a license, any statement or limitation or approval made by a member or officer of the Shire of Denmark during the course of any meeting is not intended to be and is not taken as notice of approval from the Shire of Denmark. The Shire of Denmark warns that anyone who has an application lodged with the Shire of Denmark must obtain and should only rely on WRITTEN CONFIRMATION of the outcome of the application, and any conditions attaching to the decision made by the Shire of Denmark in respect of the application.

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

4.00pm – 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)
- Mr Craig Pursey (Manager Sustainable Development)
- Ms Claire Thompson (Governance Coordinator)

APOLOGIES

Nil

ON APPROVED LEAVE(S) OF ABSENCE

Nil

ABSENT

Nil

VISITORS

Nil

**3. DECLARATIONS OF INTEREST**

Name	Item No	Interest	Nature
Cr Bowley	9.1.1	Financial	Indirect financial benefit arising from Council election campaign contribution below the reportable threshold.
Cr Bowley	10.2	Impartiality	Friend and club member of a nominee (M Cowdell) for senior sports person.
Cr Allen	9.1.2	Financial	Part time employed by MCC Contractors who tendered for road works.
Cr Allen	10.1	Impartiality	Play sport in the same team a nominee.
Cr Osborne	10.1	Impartiality	I am the Council delegate to Denmark Historical Society.
Cr Osborne	10.2	Impartiality	A nominee in the senior category is a friend of mine.

Cr Seeney	10.1	Impartiality	Member of Denmark Historical Society.
Cr Gibson	10.1	Impartiality	I am a friend of one of the nominees.
Cr Gibson	10.2	Impartiality	I am a friend of one of the nominees.
Cr Lewis	10.1	Impartiality	I nominated HorsePower Denmark and am a volunteer with them. I am a member of the same Bush Fire Brigade as Nigel Marsh.
Cr Gearon	10.1	Impartiality	Most of the applicants are known to me.
Cr Gearon	10.2	Impartiality	Most of the applicants are known to me.

#### 4. ANNOUNCEMENTS BY THE PERSON PRESIDING

*The Shire President announced that the Shire of Denmark was recently highly commended through the Department of Fire and Emergency Services, Holistic Community Resilience building for Bushfire award category. Cr Gearon congratulated the Shire's Bushfire Risk Planning Coordinator, Mel Haymont for all of the work that she had been doing around bushfire mitigation and community education.*

*Ms Haymont thanked the Shire President for the acknowledgement however stated that it had been, and was still, a team effort. Ms Haymont said that she had accepted the award on behalf of everyone that had contributed to the program including the Council, Shire staff, volunteers and the community.*

#### 5. PUBLIC QUESTION TIME

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

Nil

##### 5.2 PUBLIC QUESTIONS

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

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

In accordance with 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

##### 5.2.1 Mr John Xanthis – Proposed Bird Sanctuary at Prawn Rock Channel

Mr Xanthis, on behalf of the Wilson Inlet Restoration Group (WIRG) expressed concern about the proposed location of a bird sanctuary at the mouth of Wilson Inlet particularly implications for any future sandbar openings. Mr Xanthis also discussed the cliffs adjacent to the channel which were eroding due to people using it as access to the sandbar when the water levels were too high to permit access from the other side. Mr Xanthis said that many years ago the Council had accepted a proposal to install stairs down the cliff face to prevent erosion but it had never happened.

Mr Xanthis asked the Council had been in contact with the Department of Water, who had jurisdiction from the high water mark into the inlet, on the bird sanctuary zone and its impact on water levels for sandbar openings and recreation, in and out of the breeding season.

*The Acting Chief Executive Officer responded that there had been no discussions with the Department yet as the Shire were simply collecting information from the community. Mr Schober said that Shire Officers would involve all relevant stakeholders if the proposed was to be considered formally by the Council.*

*The Director Assets & Sustainable Development advised that the proposed stairs down the cliff had been dependent on external funding which the Shire was yet to receive.*

*The Shire President said that the Council were acutely aware of the issues at Prawn Rock Channel and Ocean Beach and were hopeful that the planned Ocean Beach Precinct development may solve some of the issues.*

#### **5.2.2 Mr Stuart Irving – Right of Way Issues**

Mr Irving explained that the right of way to his property was adjacent to a dam which was eroding and overflowing into his access. Mr Irving stated that it had been an ongoing problem for years and wanted the Shire's help to fix it.

*The Director Assets & Sustainable Development noted that Shire Officers had been on site, did not believe that the Shire had any jurisdiction over the matter and had advised Mr Irving that they believed that it could be a civil matter.*

*The Shire President acknowledged Mr Irving's difficult situation and said that the Council would need to leave the matter to be dealt with by Officers who could determine whether there was anything that the Shire could do.*

#### **5.2.3 Mr Ross Thornton – Item 9.1.1 (Signage)**

Mr Thornton referred to correspondence that his planning consultant had sent Councillors prior to the meeting and discussed the report and the proposal. Mr Thornton raised a discrepancy in the report regarding the number of advertising signs.

Mr Thornton said he had gone to considerable lengths to ensure that the development was visually appealing including the cladding he had used on the convenience store. Mr Thornton said that the extra sign was to advertise the convenience store.

#### **5.2.4 Ms Julie Marsh - WA Forest Alliance & Signage**

Ms Marsh noted that the WA Forest Alliance representative was unwell and unable to attend the meeting to make her presentation however, she wanted to offer her support of the objectives of the WA Forest Alliance.

Ms Marsh referred to the Strategic Community Plan that she believed strongly showed the community's support to retain a "village feel" for Denmark and felt that, to achieve that, signage in the town should be kept to a minimum.

#### **5.2.5 Mr Adrian Baer – Short Term Lending Facility, Telstra Tower at Ocean Beach & Waterwater Reuse.**

Mr Baer asked whether the Short Term Lending Facility had been used to cover any shortfall in rate collection since COVID-19.

The Acting Chief Executive Officer advised that it had not been necessary to access the facility.

Mr Baer asked whether the proposal to offer Telstra a portion of the quarry land for a communications tower had been done.

The Shire President said that Council had agreed to excise a portion of the reserve for Telstra to access.

The Director Assets & Sustainable Development said that a development application from Telstra was expected before Christmas and building would likely commence sometime in March or April 2021.

Mr Baer referred to the recent Council decision to re-allocate waterwater from the Wastewater Treatment Plant to McLean Oval and asked whether there was any intention to run the wasterwater even further to the Country Club.

The Acting Chief Executive Officer advised that ideally the program would be scoped in a way that it could be added to should any additional funding become available.

#### **5.2.6 Mr Mark Shepherd – Proposed Bird Sanctuary**

Mr Shepherd showed Councillors a couple of photos from the 1930s which showed no vegetation on the bar, indicating that perhaps the birds weren't nesting there at that time.

Mr Shepherd said that he believed it was important for the Council to get the balance right because a lot of people used the area for a lot of different things.

Mr Shepherd stated that he agreed with the protection of birds but not at the detriment of dog owners.

### **5.3 QUESTIONS BY MEMBERS OF WHICH DUE NOTICE HAS BEEN GIVEN**

Nil.

### **5.4 PRESENTATIONS, DEPUTATIONS & PETITIONS**

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

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

#### **5.4.1 WA Forest Alliance**

Representatives from the WA Forest Alliance were unable to attend the meeting due to an unforeseen circumstance.

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

Nil

**7. CONFIRMATION OF MINUTES**

**7.1 SPECIAL COUNCIL MEETING – 10 NOVEMBER 2020**

<b>COUNCIL RESOLUTION &amp; OFFICER RECOMMENDATION</b>	ITEM 7.1
MOVED: CR SEENEY	SECONDED: CR BOWLEY
That the minutes of the Special Meeting of Council held on the 10 November 2020 be CONFIRMED as a true and correct record of the proceedings.	
CARRIED UNANIMOUSLY: 9/0	Res: 041220

**7.2 ORDINARY COUNCIL MEETING – 17 NOVEMBER 2020**

<b>COUNCIL RESOLUTION &amp; OFFICER RECOMMENDATION</b>	ITEM 7.2
MOVED: CR GIBSON	SECONDED: CR JONES
That the minutes of the Ordinary Meeting of Council held on the 17 November 2020 be CONFIRMED as a true and correct record of the proceedings.	
CARRIED UNANIMOUSLY: 9/0	Res: 051220

**7.3 STRATEGIC BRIEFING NOTES – 17 NOVEMBER 2020**

<b>COUNCIL RESOLUTION &amp; OFFICER RECOMMENDATION</b>	ITEM 7.3
MOVED: CR LEWIS	SECONDED: CR PHILLIPS
That the Notes from the Strategic Briefing Forum held on the 17 November 2020 be RECEIVED.	
CARRIED UNANIMOUSLY: 9/0	Res: 061220

**7.4 SPECIAL COUNCIL MEETING – 1 DECEMBER 2020**

<b>COUNCIL RESOLUTION &amp; OFFICER RECOMMENDATION</b>	ITEM 7.4
MOVED: CR GIBSON	SECONDED: CR SEENEY
That the minutes of the Special Meeting of Council held on the 1 December 2020 be CONFIRMED as a true and correct record of the proceedings.	
CARRIED UNANIMOUSLY: 9/0	Res: 071220

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

Nil

**9. REPORTS OF OFFICERS**

**9.1 DIRECTOR ASSETS AND SUSTAINABLE DEVELOPMENT**

*Cr Bowley declared a financial interest on the basis that he has an indirect financial benefit arising from Council election campaign contribution below the reportable threshold.*

*4.49pm – Cr Bowley left the room and did not participate in discussion or vote on the matter.*

### 9.1.1 RECONSIDERATION - PROPOSED TOTAL SIGNAGE PLAN – NO.69 (STRATA LOT 1/LOT 75) SOUTH COAST HIGHWAY, DENMARK

<b>File Ref:</b>	A4122; DA2020/108
<b>Applicant / Proponent:</b>	Ross Thornton
<b>Subject Land / Locality:</b>	No.69 (Strata Lot 1/ Lot 75) South Coast Highway, Denmark
<b>Disclosure of Officer Interest:</b>	Nil
<b>Date:</b>	7 December 2020
<b>Author:</b>	Jasmine Tohill, Senior Planner
<b>Authorising Officer:</b>	David King, Director Assets & Sustainable Development
<b>Attachments:</b>	9.1.1a – Approved Total Signage Plan 9.1.1b – Additional supporting information 9.1.1c – Grounds of Review 9.1.1d – 2003 Caltex Signage 9.1.1e – Recommended Plan Amendments

#### Summary:

Council is requested to reconsider the development approval granted under delegated authority to a Total Signage Plan for the Shell Service Station at No.69 (Strata Lot 1/ Lot 75) South Coast Highway, Denmark. This request has arisen following preliminary consideration of the matter at a State Administrative Tribunal (SAT) mediation conference.

The Shire's development approval imposed a requirement for two (x2) proposed promotional poster unit signs on the South Coast Highway frontage to be reduced in size from 1.684m to 1.2m in height with a maximum area of 1m<sup>2</sup>. It is this requirement that forms the subject of the applicant's request for review. For the purpose of reconsidering this matter, the applicant seeks to restrict Council's assessment solely to the issue of the height/ size of the two promotional panel signs. It is the view of Shire Officers that these promotional panel signs should not be considered in isolation and must be viewed in the context of the Total Signage Plan for the site as a whole.

The reconsideration process provides Council with an ability to assess the Total Signage Plan afresh and to issue a new determination that may depart in whole, or in part from the approval previously granted. Notwithstanding, the basis of this report remains primarily focused on the promotional panel signs and does not seek to re-visit the merits, or otherwise, of all signs being proposed under the Total Signage Plan.

In the context of the additional supporting information provided by the applicant, and upon further consideration of those relevant matters identified in Schedule 2, Part 9, Clause 67 of the *Planning and Development (Local Planning Schemes) Regulations 2015*, including the objectives and provisions of Town Planning Scheme No. 3 (TPS No. 3), and associated Local Planning Policies it is recommended that a maximum of one (1) promotional panel sign be supported at a maximum height of 1.484m.

#### Background:

The service station has been operating in its current location at the junction of Ocean Beach Road and South Coast Highway for many decades. The service station and proposed signs are contained within a 1516m<sup>2</sup> Survey Strata lot forming part of a two lot strata scheme (Strata Plan 48254) that includes the adjacent Mitre 10 hardware store.

On 6 August 2020 the Shire granted development approval under delegated authority for additions/ alterations to the service station, including a 106m<sup>2</sup> building extension to accommodate new toilet facilities, a storeroom and dining area (DA2020/66). A signage scheme for rebranding of the facility from Caltex to Shell was subject to preliminary consideration by Shire Officers but did not form part of the Shire's determination, as referenced in the following condition and advice note:

Condition 12: *No signage has been approved as part of this development – refer Advice Note 1.*

Advice Note 1: *In relation to Condition 12, any modification to the approved signage requires submission of a new 'Total Site Signage Plan' in accordance with Town Planning Scheme Policy 32 – Signs.*

Concerns were raised with the applicant at this time over the height of a proposed 7-metre-high x 2.01 metre wide pylon sign adjacent to the South Coast Highway frontage. The 'promotional poster unit signs' that are subject to the current SAT review did not form part of the initial signage package. This was requested later by the applicant.

The development application encompassing the Total Signage Plan for Shell re-branding was lodged with the Shire on 21 August 2020. The Total Signage Plan incorporates 37 signs across the forecourt area, above and beneath the forecourt roof canopy, on the front and side walls of the building and x3 signs on the South Coast Highway frontage. Twenty six (26) of these signs are deemed not to be for advertising purposes being necessary for the functional operation of the service station. The Total Signage Plan varied from the earlier signage scheme considered by the Shire as follows:

- the size of the pylon/monolith sign was reduced to approximately 5.305m (H) (excluding the base) x 1.3m (W);
- two dual sided promotional poster unit signs 1.684m (H) x .957m (W) were added on the South Coast Highway frontage; and
- details of a 'Shop Sign' were introduced above the main 'shop' entrance.

In the original determination issued under delegation, staff had every intention of refusing the two promotional panel signs. In an attempt to avoid time and cost implications of pursuing this matter through a formal SAT process, Shire officers sought to mediate an outcome to allow the signs at a smaller scale (maximum 1.2m (H)/ maximum 1m<sup>2</sup> in area) noting the applicant's assertion that they could be readily converted to 'in' and 'out' signs in the future should that prove necessary.

Although agreement was reached at an on-site meeting, subsequent correspondence provided by the applicant advised that Shell was not prepared to lower the height of the promotional panel signs as they form part of their standard world-wide branding. Furthermore, the applicant was of the belief that the panel signs were justified by having a lesser impact than three previous approved signs on the South Coast Highway frontage.

The Total Signage Plan was approved under delegated authority on 16 September 2020 subject to notation to restrict the size of the Promotional Poster Units to a "*Maximum Height of 1.2 m and area of 1.0m<sup>2</sup>. No illumination permitted*" (**Attachment 9.1.1a**). The following conditions formed part of this approval:

#### Conditions

1. *The signage shall be in accordance with the attached stamped approved plans and details, including modifications in red, dated 21 August 2020.*
2. *Signs shall be kept clean and maintained free of dilapidation at all times to the satisfaction of the Shire of Denmark.*
3. *The advertisements must not be illuminated (with the exception of 'Sign 10 – 5 mt prime sign' and 'Sign 2 – Shell Pectons'), moving, pulsating, flashing, incorporate animation or movement into their design or structure, or be in the opinion of the **City**, objectionable, dangerous or offensive, at any time.*

**(Note: typographic error in Condition 3 – 'City' is to be substituted for 'Shire')**

### Advice Notes

1. *Should any new and/or additional signage be proposed, consultation should occur with the Shire of Denmark (Planning Services) to determine if any approvals are required to be obtained.*
2. *It is the responsibility of the applicant to ensure that building setbacks correspond with the legal description of the land. This may necessitate re-surveying and re-pegging the site. The Shire of Denmark will take no responsibility for incorrectly located buildings.*
3. *It is the responsibility of the applicant/owner to search the title of the property to ascertain the presence of any easements and/or restrictive covenants that may apply.*

A request for review has been lodged with the State Administrative Tribunal against the restrictions applied to the size of the Promotional Poster Units (DR 227/2020). As part of the SAT proceedings, Shire Officer's attended a Directions hearing on 6 November 2020 via video conference to consider the preliminary issues between the parties. No mediated agreement could be reached and the applicant has requested that the matter be forwarded to Council for reconsideration. The following Orders were made in this regard:

1. *The applicant is to provide additional supporting information to the respondent by 23 November 2020.*
2. *Pursuant to s31 of the State Administrative Tribunal Act 2004 (WA) the respondent is invited to reconsider its decision at its meeting of 15 December 2020.*
3. *The matter is listed for directions hearing, to be conducted by teleconference, on 23 December 2020 at 9:30am.*
4. *By not later than 48 hours prior to the directions hearing, the parties are to provide their contact telephone number for the teleconference.*

A full copy of the applicant's supporting information received by the Shire on 23 November 2020 is provided at **Attachment 9.1.1b**. The applicant suggests a compromise position whereby the height of the signs be supported at 1.484m and no restriction be applied to the total surface area.

### **Consultation:**

South Coast Highway is classified as a primary distributor road in the road hierarchy for Western Australia, falling under the responsibility of Main Roads Western Australia (MRWA). MRWA were consulted as part of the original signage concept (excluding the x2 Promotional Poster Units) with the following advice provided:

*"Main Roads objects to the signs being partially in the South Coast Highway Road reserve, all structures relating to the development must be contained within the developments property boundaries"*

The approved Caltex Service Station signage plans depicted x3 signs on the South Coast Highway frontage partly within the road reserve. This appears to be an anomaly that was not picked up by the assessing officer at the time. The Total Signage Plan forming part of the current application shows all signage located wholly within the boundary of the subject property.

Details of the promotional poster unit signs have been provided to MRWA with the following advice provided (*in summary*):

- *Advertising signs within a Designated Townsite Area are the responsibility of the Local Government Authority;*
- *Shire Town Planning Regulations override MRWA Advertising Signs Guidelines in a Designated Town Site Area*
- *Unless the signs pose a hazard to road users MRWA have no comment at this stage.*

**Statutory Obligations:**

The applicant's grounds of review (**Attachment 9.1.1c**) make reference to assessment of the development application under Section 77(1) of the *Deemed Provisions of the Planning and Development (Local Planning Schemes) Regulations 2015* ('Deemed Provisions') as an amendment to the Caltex service station signage approved in 2003. Advice provided by Shire officers prior to lodgement of the signage application advised that, in the context of significant changes to the total number, location, function and content of all the proposed signs (not only limited to the x3 signs on South Coast Highway) this represented a substantial change and therefore should be assessed as a new application.

The development application as lodged with the Shire made no reference to the application being an amendment under Section 77(1), with the relevant fee also being paid for a new application. The Shire therefore undertook its assessment and issued a determination on the Total Signage Plan as if it were a new application, not under Section 77(1). Further comment on this issue is not provided as part of the applicant's reconsideration request to Council and it is not clear whether this will remain a point of contention should the matter proceed to a full SAT hearing. Notwithstanding, it is the opinion of Shire Officers that this would not fundamentally change the matters that Council is required to have due regard to in considering the Total Signage Plan.

Clause 67 of the Deemed Provisions outlines those matters that the local government is to have 'due regard to' when considering an application for development approval. Where relevant, these matters are discussed in further detail as part of the **Comments** section of this report.

Should Council refuse the application, or impose conditions on a development approval that the applicant is aggrieved by, as per the provisions of the *Planning and Development Act 2005*, the applicant may continue to pursue the matter through the State Administrative Tribunal Review process.

**Policy Implications:**

The Town Planning Scheme Policies that relate to this application are:

- Policy 32: Signs
- Policy 15: Townscape Policy
- Policy 26.1 – South Coast Highway Commercial Developments
- Policy 28 – Settlement Strategy for Denmark
- Policy 31 – Commercial Strategy

**Budget / Financial Implications:**

There will be cost implications for the Shire in engaging legal representation should the applicant pursue the matter through the SAT review process.

**Strategic & Corporate Plan Implications:**

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

Denmark 2027

E1.0 Our Economy

Aspiration

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

E1.2 *To be a vibrant and unique tourist destination, that celebrates our natural and historical assets.*

B3.0 Our Built Environment

Aspiration

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

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

**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)
The applicant pursue a review to the State Administrative if the Council's decision was to refuse the proposal or to impose conditions that the applicant is aggrieved by.	Likely (4)	Minor (2)	Moderate (5-9)	Failure to meet Statutory, Regulatory or Compliance Requirements	Council support the Officer 's amended recommendation as it is based on sound planning grounds.  Council agree to resourcing the Shire's response through the SAT review process.
The approved signs detract from the visual amenity of the townsite	Possible (3)	Moderate (3)	Moderate (3)	Not meeting community expectations	Apply planning conditions to mitigate amenity impacts.

**Comment:**

A summary of all signage forming part of the Total Signage Plan assessed against TPS Policy 32 is provided in Table 1 *below*. The signage description/ number can be cross referenced against the approved signage plans at **Attachment 9.1.1a**. A separate representation of the promotional panel signs in situ is provided at page 3 of applicant's reconsideration submission **Attachment 9.1.1b**.

TABLE 1

Qty	Description	TPS Policy Sign Type	Size	Illuminated	Assessment against Policy
x1	Logo and Fuel pricing (Sign 10)	Pylon or on Ground Sign	1.3m W x 5m H  Total area  Approx. 6.5m <sup>2</sup> in area	YES	<b>Policy Variation sought.</b> Technically a monolith sign which is not specifically covered under the policy. Most closely aligned to a Pylon sign – Maximum height 4m (with a minimum ground clearance of 2.4m). Maximum dimension of 2m and max 2m <sup>2</sup> area. <b>Pylon Signs are only permitted in the Commercial zone once an application incorporating a Total Site Signage Plan is submitted and approved.</b>

x2	Logo (Sign 1 – Shell Pectons)  On western and eastern roof elevation.	Part of Roof	1.2 W x 1.2m H	YES	<b>Complies.</b> Maximum area 3m <sup>2</sup> . Maximum projection 300mm from building. Not within 500mm of end of fascia. <b>Requires Planning Consent. Applications for a part roof sign are required to be accompanied by a Total Site Signage Plan.</b>
x4	Pump Branding (Sign 2)	N/A	N/A	No	<b>Exempt.</b> Not considered an advertising sign, part of functional operations.
x4	V-Power Column Spreaders (Sign 3)	Projecting	1.6m W x 1m H	No	<b>Policy Variation Sought.</b> One projecting sign per tenancy. Max Length 2.4m x max height 600m. <b>Variation is required to be considered as part of Total Site Signage Plan – Refer Part 4.0.</b>
x8	Bowser Numbers (Sign 4)	Projecting	350mm W x 300mm H	No	<b>Exempt.</b> Not considered an advertising sign, part of functional operations
x4	Leaderboards (Fuel Grade Signs) (Sign 5)	Non-Portable On Ground	800-mm W x 1.2m H	No	<b>Exempt.</b> Not considered an advertising sign.  The delegated officer's report recommended notation to preclude these signs being modified for general advertising purposes. This was inadvertently omitted and should be corrected as part of the Council's reconsideration.
x2	Height markers (Sign 6)	Projecting	2.8m W x 200mm H	No	<b>Exempt.</b> Not considered an advertising sign, part of functional operations.
x1	Sign 7 – Shell Lubricants	Wall	2.4m W x 600mm H	No	<b>Complies.</b> Maximum 2 on any wall. Max 10m <sup>2</sup> or 25% of wall. Permitted in Commercial zone.
x8	Safety Information Sign (Sign 8)	N/A	100mm W x 870mm H	No	<b>Exempt.</b> Not considered an advertising sign, part of functional operations.
x2	Double sided Promotional Posters (Sign 9 – not depicted on overall signage plan )	Non-Portable On Ground	957mm W x 1.68m	No	<b>Variation sought.</b> Maximum 1.2m H; Max 1m <sup>2</sup> . Max 1 per street frontage <b>Variation required to be considered as part of Total Site Signage Plan</b>
x1	'Shop Signage' (Not depicted/ on overall signage plan)	Wall	No dimension provided	No	<b>Complies.</b> Max 2 on any wall. Max 10m <sup>2</sup> or 25% of wall. Permitted in Commercial zone.

**Relevant matters to be considered by the local government (Clause 67 of Deemed Provisions)**

*(Note: In considering these matters the relevant clauses are not listed in sequential order)*

- (a) the aims and provisions of this Scheme and any other local planning scheme operating within the Scheme area;**

The subject site is zoned Commercial under the Shire of Denmark Town Planning Scheme No.3 (TPS 3) with the primary purpose and intent being to allocate land for the major service, retail, office and entertainment uses in the townsite.

Clause 5.30 of TPS 3 refers to the control of advertisements. The objectives include:

.... *“To secure the orderly and proper planning and the amenity of the Scheme Area through the control of advertisements by the examination and determination of applications for advertising signs in the light of:*

- *The impact of new advertisements upon residential, rural and recreational areas;*
- *The potential of any proposed advertisement to enhance or detract from the visual amenity and character of an area; and*
- *The potential for the rationalisation, consolidation or removal of existing advertisements where amenity is already impaired by poor, excessive or derelict advertising.”*

For the purpose of Consideration of Applications, CI 5.30.4 states that:

*“Without limiting the generality of the matters which may be taken into account when making a decision upon an application for consent to erect, place or display an advertisement, Council shall examine each such application in the light of the objectives of the scheme and with particular reference to the character and amenity of the locality within which it is to be displayed.”*

In the context of the proximity of the promotional panel signs to South Coast Highway, the nature of advertising to be displayed and the cumulative impact of all signage proposed for the site, it is the assessing officer’s opinion that the x2 promotional poster unit signs would result in an unnecessary duplication and proliferation of signage so as to detract from the visual amenity and character of the western approach to the Denmark town centre.

A marginal reduction in the height of both signs would not result in any fundamental improvement, and likely further restrict landscaping within the property frontage and verge area (see additional comments on landscaping *below*).

**(g) any local planning policy for the Scheme area;**

TPS Policy 32 – *Signage* is to be read in conjunction with Clause 5.30 of TPS No.3. The policy provides further guidance on Council’s consideration of signage applications.

Clause 1.8 lists the following factors Council is to have regard to in considering proposals for new advertising signage:

- 1.8.1 *whether a new sign is compatible with any existing signs on the site;*
- 1.8.2 *whether a new sign complements or detracts from the dominant character of the surrounding landscape;*
- 1.8.3 *whether a new sign complements or detracts from the architectural style and character of the building, site or area;*
- 1.8.4 *whether a new sign compromises surrounding land uses due to its size, design, location or the use of illumination or devices such as flashing or moving elements;*
- 1.8.5 *Whether a new sign may be hazardous to vehicular or pedestrian traffic;*
- 1.8.6 *Whether a new sign on or attached to a heritage building is discreet and complements the building and area, and*
- 1.8.7 *Whether rationalisation or reduction in the number of existing signs is appropriate and achievable.*

Importantly, in accordance with Policy 32, the proposed promotional panel signs are to be assessed as part of a Total Site Signage Plan (TSSP). A TSSP is required for specific signage types or where variations to the standards established in the Policy are proposed (refer criteria in Table 1). The TSSP allows for Council to consider the cumulative impact of all signage on site and provides a mechanism by which Council may seek to consolidate or rationalise signage. Whilst the applicant has suggested that Council’s consideration should be limited to the variance in height of two promotional signs only, the appropriateness of

these signs need to be reviewed in light of their contribution to the signage scheme as a whole.

The TSSP (referred to as a Total Signage Plan under the current application) proposes a large number of additional signs in and around the bowers, canopy and forecourt of the service station. Many of these signs have been supported as an exception to TPS Policy 32 standards given that they are consistent with standard Shell service station branding elsewhere and would generally be accepted by the community and visitors in the context of the service station use. The same is not considered to apply to the proposal for duplicate promotional advertising signs in the location and of the size proposed.

With regard to the specific merits of the x3 signs on the South Coast Highway frontage, the following points should be noted:

- the central 5 metre high pylon/ monolith sign was supported by officers at a height greater than that nominated in TPS Policy 32. This relaxation had regard to the regulatory requirements for the display of fuel pricing and the visual amenity benefit that would arise through consolidation of fuel pricing into a single Shell branding sign.

Although a Caltex pylon sign was previously approved up to a height of 6m/ 1.82m width, this was of a substantially different form, with the base raised more than 2 metres above ground level to cantilever over the planted landscaping strip. The new sign is proposed as a solid pillar extending to ground level. Although it is of a marginally reduced size (0.5m<sup>2</sup> less) this does not reduce the overall visual bulk of the sign when compared to that previously approved. In this instance the rationale for supporting the over height pylon sign arises from the amenity benefit that will be achieved through the consolidation and removal of a separate fuel pricing sign.

- The two promotional panel signs are classed as on ground signs. TPS Policy 32 states that only one on ground sign is permitted per street frontage at a maximum height of 1.2m and maximum area of 1m<sup>2</sup>, being of a similar scale to a typical sandwich board sign. The applicant has requested Council support a variation to both the size and number of these signs. A compromise is being proposed to reduce the height of these signs from 1.684m proposed in the original application to 1.484m by lowering the height of the supporting plinth.

It has been inferred that the surface area of the signs should be calculated based on the advertising poster only and would therefore be compliant with the maximum area under Policy 32. This is incorrect as Policy 32 requires such signage to be assessed having regard to the total sign area (equivalent to the total height and breadth of its silhouette). At a height of 1.684m high (including the solid plinth) this would equate to an area of approximately 1.6m<sup>2</sup>. With a reduction in the plinth height, as proposed, this would equate to an area of approximately 1.4m<sup>2</sup> – being 40% over size (if a solid plinth is retained) or 1.29m<sup>2</sup> – being 29% over size (if the solid plinth is removed). If the area were to be calculated in the manner being suggested by the applicant it would be necessary to double the actual size, noting that the panel sign is dual sided.

Notwithstanding the above discussion approval had been provided under delegated authority for the two promotional panel signs at a reduced height of 1.2m/ maximum 1m<sup>2</sup> area upon reconsidering it is considered that there is merit in supporting only one of the promotional poster unit signs at a reduced height of 1.484m. This acknowledges that a similar sign had been approved in 2003 up to 2.2m in height (approx. 2m<sup>2</sup> in area), the replacement sign would be of a lesser scale, and allow consolidation of promotional signage reasonably required to support the convenience store and food premises activities.

**(w) the history of the site where the development is to be located**

A review of applications since 1998 demonstrates an incremental increase in the number, size and types of signage associated with the service station use over time.

**22<sup>th</sup> September 1998** – Approval granted for a small kitchen to enable the sale of a broader range of takeaway foods. A condition was applied stipulating that no additional signage was to be provided on the exterior of the building or the property.

No photo record or signage plan could be located to confirm signage in place at this time. The earliest photo record is from January 2001 (*below*) showing a single Caltex pylon sign, a takeaway hot food sign and small entrance ‘arrow’ signs within the front setback area.



**24<sup>th</sup> October 2000** – Refusal was issued for a portable Sandwich Board Sign 1.16m (H) .946m2 in area, inscribed ‘Holiday Accommodation, Enquiries here’.

**12<sup>th</sup> June 2002** – Approval granted for two (2) new Caltex fuel price boards signs (2.5m H x 1.5m W). These signs were necessary due to the introduction of legislation requiring the price of fuel to be clearly displayed. A condition was imposed requiring the existing promotional ‘Hot Food’ on ground sign to be incorporated under the proposed western fuel pricing board.

A photo record from 2 October 2003 (*below*) shows the approved signage in place.



**2 October 2003** – Approval granted for removal of two(2) small arrow entry signs, replacement and enlargement of the eastern fuel price sign (2.7m H x 1.22m W), replacement of the western fuel price sign/ hot food sign with a single promotional poster unit sign (total height 2.2m/ panel size 1.7m x 1.2m), enlargement of the central pylon sign though the addition of a new panel, the introduction of x2 new canopy facia signs (one on the western roof of the forecourt and a Star Shop sign above the entrance door). It is evident that the ‘existing’ fuel price signs as referenced in the plans provided to the Shire at the time did not accurately reflect the scale of signs previously approved, being of a greater height but narrower width (2.6mH x 1.2m W). They also did not represent the signs that were in place at the time. A full copy of the 2003 signage plans is provided at **Attachment 9.1.1d**.

Street view photos from February 2010 (below) show the full scope of signage installed following the 2003 approval (with the exception of the eastern facia sign which is hidden from view but can be seen in the later 2019 photos). This shows advertising signage was primarily focussed on the South Coast Highway frontage, with very limited signage in the main forecourt area.



**4 February 2010** – (DA2020/22) Approved granted under delegated authority for a portable A Frame sign 1.2 metres high x 0.5m wide (‘Fish and Chips / Hot Food’).

Street view photos from December 2019 (*below*) show the full scope of the previous Caltex signage, in place at the time. The second photo shows those signs marked with a red cross for which no approvals could be located. This included a panel extension at the base of the central pylon sign on South Coast Highway.



**(m) the compatibility of the development with its setting including the relationship of the development to development on adjoining land or on other land in the locality including, but not limited to, the likely effect on the height, bulk, scale, orientation and appearance of the development;**

**(n) the amenity of the locality including the following –**

- (i) environmental impacts of the development;
- (ii) the character of the locality;**
- (iii) social impacts of the development;

The service station is located in a prominent position on the south eastern corner of South Coast Highway and Ocean Beach Road. It represents the first developed commercial zoned site (in conjunction with the Mitre 10) on the western approach to the Denmark town centre. The proposed promotional panel signs and the central pylon sign will be visible for some distance on South Coast Highway in both directions. The signs will be readily visible to pedestrian traffic on the adjacent public footpath.

Excluding those signs deemed to have a functional purpose, a total of 11 advertising signs are proposed under the Total Signage Plan. This represents almost a doubling in the total number of signs, up from 5 under the previous 2003 service station signage approval, or 6 including a small portable A frame sign approved in 2010.

The installation of two (2) dual sided promotional panel signs allowing the display of 4 interchangeable advertisements will add to the cumulative impact of signage on this property and lead to additional visual clutter. A slight reduction in the height of the signs (through a reduction in the plinth height) may marginally reduce the bulk of the sign but have no effect

on cumulative visual clutter generated by other factors such as the prominence of the sign, its placement relative to others signs, the total number of signs proposed and the specific advertising content.

The Denmark townsite functions as a sub-regional centre, being primarily focused on tourist trade and as a service/ retail centre for the broader district. The desired character of the town centre is addressed through the Shire's established Policies, including *Policy 26.1 – South Coast Highway Commercial Developments*, *Policy 28 – Settlement Strategy for Denmark* *Policy 31 – Commercial Strategy* and the Shire's Local Planning Strategy. These documents make reference to maintaining Denmark's essential character as a country town, ensuring future development enhances Denmark's "village character".

Policy 26.1 provides guidance for the development of commercial properties on South Coast Highway, with the primary goal being *"to maintain the essential character of Denmark and preserve the attractive entrance to the Denmark Townsite by providing strict guidelines on the form of development along this major arterial road."*

Policy 15 provides guidance on Approaches & Town Entries as follows: *"Council will maintain and enhance approaches to town by discouraging bill posting or hoardings, by formalising placement of appropriate signs, by retention of existing indigenous vegetation and promoting tree planting on verges"*.

The desired village character of the townsite is reiterated through the community's aspirations in the Community Strategic Plan (Denmark 2027).

An over proliferation of corporate signage and unnecessary duplication of promotional advertising is not considered to be compatible with the desired character of the Denmark townsite as detailed above.

**(p) whether adequate provision has been made for the landscaping of the land to which the application relates and whether any trees or other vegetation on the land should be preserved;**

The service station development is not compliant with the minimum 10% landscaping required under *TPS Policy 26.1 – Commercial Development on South Coast Highway* and Table 2 of TPS 3 (151.6m<sup>2</sup> required/ approx. 60m<sup>2</sup> provided). This shortfall was recognised in the recent development approval granted for additions to the service station building (DA2020/66) but no additional landscaping area was required. A condition was imposed requiring any remaining areas on site, including a small section of the adjacent South Coast Highway verge, to be maintained as landscaped areas at all times. No condition was imposed to inform the details of such landscaping or ongoing maintenance requirements and the remaining planting has been removed as part of the development works.

The central pylon/ monolith sign and promotional poster unit signs are proposed within the area designated for landscaping purposes. As evident from historic photos, this area had been planted and maintained with a mix of small/ medium sized shrubs over many years which had helped to soften the development and to some degree the signage as viewed from South Coast Highway.

The base of the proposed advertising panel on the pylon/ monolith sign and the promotional poster panel are shown to have significantly less ground level clearance compared to those signs approved in 2003. For the central pylon sign a clearance of approximately 2m was achieved, which will now be reduced to approximately 0.5m. For the western poster unit sign a clearance of 0.5m was achieved and would be reduced to 0.228m based on the reduced plinth height. In the context of the promotional panel signs in particular this will significantly inhibit the form and height of re-planting that can be achieved. In this regard the suggested compromise put forward to reduce the height of the poster panel plinth would be of little or

no benefit alone, and would likely further compromise planting within the front setback area and adjacent verge

The landscape concept plans appended to the applicant's reconsideration request, do not show the proposed signs along the South Coast Highway frontage, or the form or type of landscaping that is to be accommodated in this area. The indicative plans showing a landscaped picnic area in the public road reserve adjacent to the intersection was acknowledged as part of the prior development approval for the building extensions and referenced therein as some rationale for supporting the landscaping shortfall on-site. Any such improvements are, however, subject to separate negotiations between the proponent and MRWA and falls outside the scope of the current application to control. Furthermore, landscaping of this nature would not mitigate against amenity impacts of excessive signage or the loss of landscape vegetation on the South Coast Highway frontage.

To ensure that an appropriate level of planting is reinstated within the landscaping area that is to contain the proposed pylon sign and promotional poster unit sign/s (if approved) it is recommended that an additional condition be applied to require the submission and approval of detailed landscaping plans.

**(r) the suitability of the land for the development taking into account the possible risk to human health or safety;**

In light of information provided with the reconsideration request no objections are raised with regard to pedestrian or traffic safety. Notwithstanding, in order to limit the potential for driver distraction a presumption should be maintained against the proliferation of advertising signage.

**(x) the impact of the development on the community as a whole notwithstanding the impact of the development on particular individuals;**

A proliferation of signage in the manner proposed has the potential to detrimentally impact upon the streetscape and character of the townsite, being contrary to community expectations expressed through the Shire's Policies, Local Planning Strategy and Strategic Community Plan.

**(za) the comments or submissions received from any authority consulted under clause 66**

Refer to advice provided by MRWA under the **consultation** section of this report.

### **Conclusion**

The Shell service station rebranding proposes a great deal more signage around the bowers, canopy, forecourt and building to that which was previously approved for the site. For other businesses, the extent of this signage would not likely be supported in the Denmark townsite. Assessing officers took the view that it would be reasonable to expect some additional signage material associated with company logos, and that of a promotional nature within the context of a service station use. This does not alleviate the need to balance the extent of such signage against impacts upon the streetscape and the amenity and desired character of the townsite.

Too much signage on a site can cause 'visual clutter' where the effectiveness of the signs are lost. In this instance the service station already has high exposure to passing traffic and excessive signage/ or duplication of signage is seen as unnecessary for the purpose of attracting customers to the goods and services available. The installation of x2 dual sided promotional poster unit signs (enabling the display of x4 promotional advertisements) is considered to be excessive and unnecessary in the context of the site and other signage concessions granted. It is the officer's view the proposal does not provide a reasonable

balance between broader amenity impacts for the community and the advertising needs of the business. Signage should ideally be kept to the minimum necessary to enable the identification of a business and to inform the nature of goods and services available.

A reduction in the height of the poster unit signs alone, as suggested by the applicant, would be of limited benefit in reducing visual clutter or addressing the consequential impacts upon streetscape amenity. Achieving the height reduction by simply lowering the plinth height would further constrain the form/ height planting that can be accommodated within the required landscaping area on the South Coast Highway frontage.

In light of information provided as part of the reconsideration request and upon further comprehensive assessment of the Total Signage Plan against the Scheme and Policy requirements it is recommended that an alternative recommendation be supported to allow one promotional sign only at a reduced height of 1.484m. This is considered to achieve the best result by balancing the promotional needs of the business whilst minimising consequential impacts upon the amenity and character of the townsite.

**Voting Requirements:**

Simple majority.

<p><b>COUNCIL RESOLUTION</b></p> <p>MOVED: CR JONES</p> <p>That pursuant to the Orders made by the state Administrative Tribunal, and in accordance with Section 31 of the <i>State Administrative Tribunal Act 2004</i>, Council has reconsidered the development approval granted on 16 September 2020 for a Total Signage Plan at No.69 (Strata Lot 1/ Lot 75) South Coast Highway, Denmark and RESOLVES to:</p> <ol style="list-style-type: none"> <li>1. ADVISE the applicant that, having regard to the provisions of TPS No.3 and TPS Policy 32, Council is prepared to support the installation of two (2) dual sided promotional poster unit sign at reduced height of 1.484m on the basis that:             <ol style="list-style-type: none"> <li>i) It will replace an advertising panel sign previously approved in a similar location.</li> <li>ii) It will demonstrate an amenity benefit to support operation of the convenience store/ approved food outlet.</li> <li>iii) It is not considered to represent a proliferation or duplication of similar signage.</li> </ol> </li> <li>2. GRANT approval to the Total Signage Plan subject to:             <p>The plans being modified as follows:</p> <ol style="list-style-type: none"> <li>a) amended notation being applied to the remaining promotional poster unit sign as follows:                 <p style="margin-left: 40px;"><i>“On Ground Sign to be a maximum of 1.484m high and a maximum of 0.957m wide. No illumination permitted”</i>; and</p> </li> <li>b) required landscaping on the South Coast Highway frontage being nominated in green.</li> </ol> <p>and the following amended conditions being applied:</p> <p><u>Conditions</u></p> <ol style="list-style-type: none"> <li>1) The signage shall be in accordance with the attached stamped approved plans and details, including modifications in red, dated 21 August 2020.</li> <li>2) All approved signage, including footings and associated supporting structures shall be located entirely within the boundary of the property and shall not be permitted to encroach into the road reserve. This is to be demonstrated to the satisfaction of the Shire of Denmark through re-survey and pegging of the South Coast Highway boundary adjacent to the proposed signs.</li> <li>3) The approved leader board signs (Sign 5) shall not be used for general promotional or advertising purposes, whether temporary or permanent.</li> </ol> </li> </ol>	<p style="text-align: right;">ITEM 9.1.1</p> <p style="text-align: right;">SECONDED: CR SEENEY</p>
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- 4) Prior to the installation of the approved promotional panel sign, a landscaping plan for the area highlighted in green on the approved plans shall be submitted to and approved to the satisfaction of the Shire of Denmark detailing:
  - the location, species, number and size of plants;
  - the location of approved signage, services, lighting, structures or services, whether existing or proposed;
  - any surface treatment/ mulch;
  - reticulation methods; and
  - ongoing management arrangements.
- 5) All landscaping shall be carried out in accordance with the approved landscaping plan within 1 month of the promotional poster panel sign being installed and thereafter shall be maintained as landscaping at all times.
- 6) The advertisements must not be illuminated (with the exception of 'Sign 10 – 5m prime sign' and 'Sign 2 – Shell Pectons'), moving, pulsating, flashing, incorporate animation or movement into their design or structure, or be in the opinion of the Shire, objectionable, dangerous or offensive, at any time.
- 7) Signs shall be kept clean and maintained free of dilapidation at all times to the satisfaction of the Shire of Denmark.
- 8) This approval replaces and supersedes all signage approvals previously granted for the property.

Advice Notes:

- i. Should any amendment to the approved signage or new/ additional signage be proposed, consultation should occur with the Shire of Denmark (Planning Services) to determine what approvals if any are required. A Total Signage Plan will be necessary as part of any new or amended signage application.
- ii. It is the responsibility of the applicant to ensure that building setbacks correspond with the legal description of the land. This may necessitate re-surveying and re-pegging the site. The Shire of Denmark will take no responsibility for any incorrectly located signs.
- iii. It is the responsibility of the applicant/owner to search the title of the property to ascertain the presence of any easements and/or restrictive covenants that may apply.

TIED: 4/4

Res: 081220

*Pursuant to Council Policy P040134 all Councillors' votes on the above resolution are recorded as follows;*

**FOR:** Cr Jones, Cr Seeney, Cr Osborne and Cr Phillips.

**AGAINST:** Cr Allen, Cr Gibson, Cr Gearon and Cr Lewis.

THE SHIRE PRESIDENT USED HER CASTING VOTE AGAINST THE MOTION WHICH WAS RESULTED IN THE MOTION BEING LOST: 5/4

Res: 091220

**COUNCIL RESOLUTION & OFFICER RECOMMENDATION**

ITEM 9.1.1

MOVED: CR GIBSON

SECONDED: CR ALLEN

That pursuant to the Orders made by the state Administrative Tribunal, and in accordance with Section 31 of the *State Administrative Tribunal Act 2004*, Council has reconsidered the development approval granted on 16 September 2020 for a Total Signage Plan at No.69 (Strata Lot 1/ Lot 75) South Coast Highway, Denmark and RESOLVES to:

1. ADVISE the applicant it is not prepared to grant approval for the installation of two (2) promotional poster unit signs on the South Coast Highway frontage as part of the Total Signage Plan having regard to the following:
  - i) The size, location and form of these signs (dual sided), would exacerbate visual clutter on South Coast Highway to the detriment of the streetscape amenity on the western approach to the Denmark town centre.

- ii) In the context of the total number, size and placement of all signs proposed under Total Signage Plan the cumulative impact would lead to an unacceptable proliferation of signage.
  - iii) The number, placement and layout of the signs, including their limited ground clearance would compromise landscaping on the South Coast Highway frontage to the detriment of the streetscape amenity.
2. ADVISE the applicant that, having regard to the provisions of TPS No.3 and TPS Policy 32, Council is prepared to support the installation of one (1) dual sided promotional poster unit sign at reduced height of 1.484m on the basis that:
- i) It will replace an advertising panel sign previously approved in a similar location.
  - ii) It will demonstrate an amenity benefit by consolidating signage to support operation of the convenience store/ approved food outlet.
  - iii) It is not considered to represent a proliferation or duplication of similar signage.

3. GRANT approval to the Total Signage Plan subject to:

The plans being modified as follows (refer **Attachment 9.1.1e**):

- a) the promotional poster unit sign adjacent to the eastern driveway entrance being deleted;
- b) amended notation being applied to the remaining promotional poster unit sign as follows:  
*“On Ground Sign to be a maximum of 1.484m high and a maximum of 0.957m wide. No illumination permitted”*; and
- c) required landscaping on the South Coast Highway frontage being nominated in green.

and the following amended conditions being applied:

Conditions

- 1) The signage shall be in accordance with the attached stamped approved plans and details, including modifications in red, dated 21 August 2020.
- 2) All approved signage, including footings and associated supporting structures shall be located entirely within the boundary of the property and shall not be permitted to encroach into the road reserve. This is to be demonstrated to the satisfaction of the Shire of Denmark through re-survey and pegging of the South Coast Highway boundary adjacent to the proposed signs.
- 3) The approved leader board signs (Sign 5) shall not be used for general promotional or advertising purposes, whether temporary or permanent.
- 4) Prior to the installation of the approved promotional panel sign, a landscaping plan for the area highlighted in green on the approved plans shall be submitted to and approved to the satisfaction of the Shire of Denmark detailing:
  - the location, species, number and size of plants;
  - the location of approved signage, services, lighting, structures or services, whether existing or proposed;
  - any surface treatment/ mulch;
  - reticulation methods; and
  - ongoing management arrangements.
- 5) All landscaping shall be carried out in accordance with the approved landscaping plan within 1 month of the promotional poster panel sign being installed and thereafter shall be maintained as landscaping at all times.
- 6) The advertisements must not be illuminated (with the exception of ‘Sign 10 – 5m prime sign’ and ‘Sign 2 – Shell Pectons’), moving, pulsating, flashing, incorporate animation or movement into their design or structure, or be in the opinion of the Shire, objectionable, dangerous or offensive, at any time.
- 7) Signs shall be kept clean and maintained free of dilapidation at all times to the satisfaction of the Shire of Denmark.

8) This approval replaces and supersedes all signage approvals previously granted for the property.	
<u>Advice Notes:</u>	
iv.	Should any amendment to the approved signage or new/ additional signage be proposed, consultation should occur with the Shire of Denmark (Planning Services) to determine what approvals if any are required. A Total Signage Plan will be necessary as part of any new or amended signage application.
v.	It is the responsibility of the applicant to ensure that building setbacks correspond with the legal description of the land. This may necessitate re-surveying and re-pegging the site. The Shire of Denmark will take no responsibility for any incorrectly located signs.
vi.	It is the responsibility of the applicant/owner to search the title of the property to ascertain the presence of any easements and/or restrictive covenants that may apply.
TIED: 4/4	Res: 101220
<i>Pursuant to Council Policy P040134 all Councillors' votes on the above resolution are recorded as follows;</i>	
<i>FOR:</i>	<i>Cr Allen, Cr Gibson, Cr Gearon and Cr Lewis.</i>
<i>AGAINST:</i>	<i>Cr Seeney, Cr Jones, Cr Osborne and Cr Phillips.</i>
THE SHIRE PRESIDENT USED HER CASTING VOTE FOR THE MOTION WHICH RESULTED IN THE MOTION BEING CARRIED: 5/4	
	Res: 111220

*Cr Allen declared a financial interest on the basis that he is a part time employee of MCC Contractors who tendered for road works.*

*5.23pm – Cr Allen left the room and did not participate in discussion or vote on the matter.*

*5.24pm – Cr Bowley returned to the room.*

**9.1.2 20/21 CAPITAL WORKS - PEACEFUL BAY ROAD RECONSTRUCTION**

<b>File Ref:</b>	TEN.3.20/21
<b>Applicant / Proponent:</b>	Not applicable
<b>Subject Land / Locality:</b>	Peaceful Bay Road
<b>Disclosure of Officer Interest:</b>	Nil
<b>Date:</b>	4 December 2020
<b>Author:</b>	David King, Director Assets and Sustainable Development
<b>Authorising Officer:</b>	David King, Director Assets and Sustainable Development
<b>Attachments:</b>	A confidential briefing note has been distributed under separate cover in accordance with section 5.23(2)e)iii) of the Local Government Act 1995, 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 Peaceful Bay Road.

The tender offers all exceeded the budget, and therefore it is recommended not to accept any tender.

Instead, it is proposed to award a contract to West Coast Profilers Pty. Ltd. (WCP) under the Western Australian Local Government Association (WALGA) Panel of Prequalified Suppliers for an amended scope of works.

**Background:**

The Shire of Denmark Technical Service department has been successful in applying for funding for the 20/21 financial year through the Regional Road Group to reseal and reconstruct a section of Peaceful Bay Road. In addition to the Regional Road Group funding the project is also funded by the Drought Relief Fund on a one third basis.

The primary failure mechanism of the pavement can be attributed to water ingress due to the annual submergence of the pavement prior to sandbar openings of the Irwin Inlet. The upgrade seeks to rectify the pavement failures and increase the height of the Peaceful Bay Road (in low sections) by approximately 100mm to reduce the effect of inlet water levels.

Over the course of the first part of the financial year, the project team has been working on various components of the design as below:

- Survey completed in August 2020
- Initial Geotechnical Investigation and Pavement Design were completed Late September 2020
- Tender drawings were complete early in October 2020.
- Tender documents were completed early in October 2020.

The Tendered Scope of works for Tender included:

- widening and reconstruction of SLK 2.4-2.8 and SLK 3.3 – 5.47 and
- resealing of SLK 0.00 – 5.60.

**Consultation:**

A request for tender was published in the West Australian on 15 October 2020, Albany Advertiser on 15 October 2020, and in the Denmark Bulletin on 15 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 the 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 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 To be fiscally responsible.

**Sustainability Implications:**

➤ **Governance:**

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

➤ **Environmental:**

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

➤ **Economic:**

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

➤ **Social:**

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

➤ **Risk:**

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:**

TEN.3.21/21 Peaceful Bay Road Reconstruction

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 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, although all the tender estimates exceeded the allocated budget. However, officers evaluated the Tenders as submitted to determine the preferred contractor for the works.

Based on the tender submission, evaluation team unanimously agreed that WCP Civil were the preferred contractor due to their demonstrated experience and the availability of resources.

The following table summarises the tenderers and overall evaluation score:

Tenderer	Cost Score	Relative Experience	Tenderer's resources	Total Score
WCP Civil	62.32	200	200	<b>462.32</b>
Tenderer B	222.63	100	125	<b>447.63</b>
Tenderer C	0	200	200	<b>400</b>

The Local Government Functions and General Regulations 1996 (The Regulations) allow Local Governments to negotiate minor variations to the tender before entering into a contract. However, as the Tendered sums were significantly over budget, scope amendments were required to bring the project back on budget. Therefore, the variations cannot be considered minor, and officers recommend that Council decline to accept all Tenders for TEN.3.20/21.

Scope Amendments

The tendered scope includes drainage replacement, widening of the formation, cement stabilised sub-base, new raised basecourse, two coat sealing and line marking. This would be considered a typical treatment in the widening and renewal of a failed pavement. However, it is costly, as a number of earthmoving and pavement construction processes are required to achieve a desirable outcome.

A less costly alternative to remediate the failed basecourse is to rehabilitate the pavement by mixing through a specified percentage of cement. This process uses the in-situ material rather than bringing in an entirely new layer of gravel.

To meet funding conditions, a pavement lift is also required, and this will be facilitated by the addition of suitable material to be incorporated into the pavement. A lift of 100mm is achievable with this method, but will not result in the widening of the road shoulders.

The proposed scope remains consistent with both the Drought Relief and Regional Road Group funding criteria.

Tendered Scope:

SLK 2.4-2.8 and SLK 3.3 – 5.47  
 Replace Drainage Structures  
 Widen formation  
 Stabilise Sub-base  
 New Basecourse to achieve lift

SLK 0 – 5.6  
 Reseal

Proposed Revised Scope:

SLK 2.4-2.8 and SLK 3.3 – 5.47  
 Lift and cement stabilise

SLK 0 – 5.6  
 Reseal

Alternative Contract

Local Government may, without advertising a Tender, award a contract in excess of \$250,000 to suppliers registered on the WALGA Panel of Preferred Suppliers.

Council Purchasing Policy P040220 allows for the engagement of suppliers on the WALGA Panel by reference to section 6.7 that notes the Tender exemptions under the Regulations. As such, Officers may engage suppliers from the WALGA Panel as long as the objective of the Council Policy are met.

WCP are on the WALGA Panel of Preferred Suppliers and were the preferred contractor from the aforementioned Tender for works on Peaceful Bay. As such, it is proposed that a contract for the revised scope is awarded to WCP under the WALGA Panel Contract. Officers have been in negotiation with WCP in relation to the revised scope of works.

The below details the objective of P040220 and how they would be met in this case:

*The attainment of best value for money*

The negotiations by officers have been based on the unit rates submitted by WCP as part of the Tender offer. These rates were offered in a competitive marketplace and officers are confident that they represent good value in the current market.

*Sustainability benefits where possible. Environmental, social and local economic factors are to be considered in the overall value for money assessment*

The revised scope of works is significantly more environmentally sustainable than the original scope of work. This is because the Physical requirement of moving materials is less, which will result in less emissions from the Machinery. The revised scope also requires less raw material.

*Consistent, efficient and accountable processes and decision-making*

The process undertaken to determine the preferred supplier for the original tender has been outlined in this report and is robust. Whilst the revised scope exceeds what officers deem to be 'minor' variations in accordance with the Regulations, the works are similar in nature and it would therefore be entirely reasonable to negotiate the revised works with the preferred supplier from the Tender process.

*Fair and equitable competitive processes that engage potential suppliers impartially, honestly and consistently*

As above.

Consideration was made to seeking further quotes from the other suppliers for the revised scope of works. However, given that the revised scope of works is similar,

and the geographic location the same, officers consider it unethical to subsequently offer a 'second chance' to suppliers that ordinarily would not have won the work if the Shire was to have awarded a contract on the original tender.

Probity and integrity, including the avoidance of bias and of perceived and actual conflicts of interest.

There are no conflicts of interest or bias in the officer's decision making

Compliance with the Local Government Act 1995, Local Government (Functions and General) Regulations 1996, as well as any relevant legislation, Codes of Practice, Standards and the Shire of Denmark's Policies and Procedures.

Compliance is met through award through the WALGA Panel of Preferred Suppliers.

Records created and maintained to evidence purchasing activities in accordance with the State Records Act and the Shire of Denmark's Record Keeping Plan.

Records from the Tender process are up to date and will be maintained.

Confidentiality protocols that protect commercial-in-confidence information.

Tender sums are provided confidentially under separate cover.

It is recommended that Council consider awarding a contract to WCP though the WALGA panel of preferred suppliers for the capital works on Peaceful Bay Road in line with the revised scope of works.

Project Budget

The following table presents the forecast costs associated with the revised scope.

Item	Committed Funds	YTD Actual	Forecast Cost to Completion	Comments
<b>Preliminaries</b>				
Feature Survey	\$5,970	\$5,970	\$5,970	Complete
Civil Design Consultant	\$18,500	\$8,750	\$18,500	Partially Invoiced
Geotechnical Investigation with Pavement design	\$13,470	\$13,470	\$13,470	Complete
Advertising and Other Administration Costs	\$1,524	\$1,524	\$1,524	Complete
Geotechnical Consultant (further investigation)	\$5,511	\$0	\$5,511	Not completed
Traffic control for Geotechnical investigation (Shire Staff for one day)	\$2,000	\$0	\$2,000	Not completed
<b>Construction</b>				
Construction Contract	\$600,000	\$0	\$690,000	Allowed 15% construction contingency
		<b>TOTAL</b>	<b>\$736,975</b>	
		<b>Budget</b>	<b>\$650,000</b>	
		<b>Variance</b>	<b>-\$86,975</b>	

Some minor costs have been allowed for additional consultant resources through the construction phase. However, the project will be superintended by Shire of Denmark officers which will not incur a budget cost associated.

The current budget has no room for contingency, even with the amended scope. A contingency of 10-15% is typically realised as a result of minor latent conditions. Local Government Regulations stipulate that officers may expend municipal funds on items contained with the budget. Regulations do not stipulate that budget figures should not be exceeded, and instead require reporting of certain variances to budget. As such, even though it is possible that the budget will be exceeded, there is no requirement at this time to amend the budget associated with this project.

Road Closures

The revised scope of works is planned to commence in February 2021 with the project estimated to be completed early March 2021. There will be no full road closures required with the reconstruction. Traffic will be managed by a single lane closure which will be minimal impact to all road users.

**Voting Requirements:**

Simple majority.

<b>COUNCIL RESOLUTION &amp; OFFICER RECOMMENDATION</b>	<b>ITEM 9.1.2</b>
MOVED: CR PHILLIPS	SECONDED: CR GIBSON
That Council:	
1. DECLINE to accept all Tenders for TEN.3.20/21 Peaceful Bay Road Reconstruction.	
2. AUTHORISE the Chief Executive Officer to award a Contract for the Reconstruction of Peaceful Bay Road to West Coast Profilers Civil Pty. Ltd. under the following conditions:	
<ul style="list-style-type: none"> <li>• Contract to be awarded from the Western Australian Local Government Association (WALGA) Panel of Preferred Suppliers.</li> <li>• Initial Contract sum to not exceed \$600,000 ex GST.</li> </ul>	
3. AUTHORISE the CEO to approve variations to the contract (2) above, up to a maximum contract value of \$690,000.	
CARRIED UNANIMOUSLY: 8/0	Res: 121220

5.38pm – The Manager Sustainable Development left the room and did not return.

5.39pm – Cr Allen returned to the room.

**9.2 DIRECTOR CORPORATE AND COMMUNITY SERVICES**

**9.2.1 FINANCIAL STATEMENTS FOR THE PERIOD ENDED 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>	24 November, 2020
<b>Author:</b>	Scott Sewell, Accountant
<b>Authorising Officer:</b>	Lee Sounness, Acting Director Corporate & Community Services
<b>Attachments:</b>	9.2.1 – October 2020 Monthly Financial Report

**Summary:**

The attached financial statements and supporting information for the period ending 31 October 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, a quarterly review of the budget performance was undertaken for the financial period ended 30 September 2020 as previously presented to Council, this 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. The amendments made to the budget as part of the quarterly review adopted by Council at its Ordinary meeting held on 17<sup>th</sup> November 2020 will be incorporated into the

November financial statements and presented to Council at its next Ordinary meeting to be held in February 2021.

**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

**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 31 October 2020, total cash funds held (excluding trust funds) totals \$10,707,734 (Note 1).

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

Reserve Funds (restricted) total \$4,227,426 (Note 5).

Municipal Funds (unrestricted) total \$6,480,309 (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 was initially budgeted for a \$200,000 surplus. As part of the quarterly budget review undertaken to September 2020 this will be amended to \$80,000 with \$120,000 of the originally adopted budgeted surplus to be utilised to fund additional projects and resourcing requirements as agreed by Council.
- Operating revenue and expenditure is generally in line with year to date budget predictions for the period ended 31 October 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 68.99% and is in keeping with historical collection performance statistics (see Note 4)
- The 2020/2021 Capital Works Program is still in its initial stages with 6.31% completed for the year to date with a total committed cost of 40% as at 31 October 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.
- The financial statements presented as part of this report pre-date the quarterly review outcome which was adopted by Council at its Ordinary meeting held on 17<sup>th</sup> November 2020 and therefore do not include the amendments to the adopted budget accepted by Council at that meeting. Financial Statements for the period ended 30 November 2020 incorporating the outcome of the first quarterly review for the 2020/2021 financial year will be presented to the next Ordinary meeting of Council.

**Voting Requirements:**

Simple majority.

<b>COUNCIL RESOLUTION &amp; OFFICER RECOMMENDATION</b>	<b>ITEM 9.2.1</b>
<b>MOVED: CR BOWLEY</b>	<b>SECONDED: CR ALLEN</b>
That Council RECEIVE the Financial Statements for the period ending 31 October 2020, incorporating the Financial Reports, the Statement of Financial Activity and other supporting documentation.	
<b>CARRIED UNANIMOUSLY: 9/0</b>	<b>Res: 131220</b>

**9.2.2 LIST OF PAYMENTS FOR THE PERIOD ENDING 30 NOVEMBER 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>	01 December 2020
<b>Author:</b>	Gina McPharlin, Manager of Corporate Services
<b>Authorising Officer:</b>	Lee Sounness, Acting Director Corporate & Community Services
<b>Attachments:</b>	9.2.2 – November Monthly List of Accounts Submitted Report

**Summary:**

The purpose of this report is to advise the Council of payments made during the period 1 November 2020 to 30 November 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 is consistent with Council’s adopted Strategic Community Plan Aspirations and Objectives and the Corporate Business Plan Actions and Projects in the following specific ways:

Denmark 2027

*L5.4 To be fiscally responsible*

**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 9.2.2</b>
MOVED: CR SEENEY	SECONDED: CR GIBSON
That with respect to the attached Schedule of Payments, totalling \$1,115,135.07, for the month of November 2020, Council RECEIVE the following summary of accounts:	
<ul style="list-style-type: none"> <li>• Electronic Funds Transfers EFT28869 to EFT29063 - \$523,167.47;</li> <li>• Municipal Fund Cheque No’s 60402 – 60406 - \$9,590.18;</li> <li>• Internal Account Transfers (Payroll) - \$378,254.03; and</li> <li>• Direct Debit - \$11,103.45;</li> <li>• Corporate Credit Card; \$3,426.57;</li> <li>• Department of Transport Remittances; \$90,024.60, and</li> <li>• Loan Payments: \$99,568.77</li> </ul>	
CARRIED UNANIMOUSLY: 9/0	Res: 141220

### 9.2.3 INVESTMENT REPORT FOR THE PERIOD ENDED 30 NOVEMBER 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>	1 December 2020
<b>Author:</b>	Gina McPharlin, Manager Corporate Services
<b>Authorising Officer:</b>	Lee Sounness, Acting Director Corporate & Community Services
<b>Attachments:</b>	9.2.3 – November 2020 Investment Register

#### Summary

This report presents the Investment Register for the month ending 30 November 2020.

#### Background

This report is for Council to receive the Investment Register as at 30 November 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 / Conclusion**

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 30 November 2020.

At the end of November 2020 Council had a total of \$10,138,009 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 30 November 2020 totals \$4,227,464.  
The total Municipal Funds Invested as at 30 November 2020 total \$5,910,545.

At its November meeting the Reserve Bank of Australia (RBA) confirmed an expected reduction in the official cash rate from 0.25% to 0.10%.

**Voting Requirements**

Simple majority.

<b>COUNCIL RESOLUTION &amp; OFFICER RECOMMENDATION</b>	<b>ITEM 9.2.3</b>
MOVED: CR GIBSON	SECONDED: CR BOWLEY
That Council RECEIVE the Investment Register (Attachment 9.2.3) for the period ended 30 November 2020.	
CARRIED UNANIMOUSLY: 9/0	Res: 151220

- 8.3 CHIEF EXECUTIVE OFFICER**  
Nil

- 9. COMMITTEE REPORTS AND RECOMMENDATIONS**  
Nil

- 10. MATTERS BEHIND CLOSED DOORS**

<b>COUNCIL RESOLUTION &amp; OFFICER RECOMMENDATION</b>	<b>ITEM 10</b>
MOVED: CR GEARON	SECONDED: CR BOWLEY
That pursuant to section 5.23(b) of the Local Government Act 1995, the meeting move behind closed doors to determine Items 10.1 and 10.2 as they discuss the personal affairs of a person.	
CARRIED UNANIMOUSLY: 9/0	Res: 161220

*Prior to consideration of Item 10.1, the following impartiality declarations were made by the following Councillors:*

- *Cr Gearon declared that most of the applicants were known to her.*
- *Cr Allen declared he plays sport in the same team as a nominee.*
- *Cr Osborne is the Council delegate to Denmark Historical Society.*
- *Cr Seeney is a member of the Denmark Historical Society.*
- *Cr Gibson is a friend of one of the nominees.*
- *Cr Lewis nominated HorsePower Denmark and is a volunteer with them. Cr Lewis also declared that she is a member of the same Bush Fire Brigade as Nigel Marsh.*

*Cr Gearon, Cr Allen, Cr Osborne, Cr Seeney, Cr Gibson and Cr Lewis declared that they would consider this matter on its merits and vote accordingly.*

## 10.1 2020 COMMUNITY CITIZEN, GROUP OR EVENT OF THE YEAR AWARDS

<b>File Ref:</b>	PBR.1.B.2020
<b>Applicant / Proponent:</b>	Various
<b>Subject Land / Locality:</b>	Not applicable
<b>Disclosure of Officer Interest:</b>	As a person actively engaged with the community, some of the nominations have been put forward by the author.
<b>Date:</b>	27 November 2020
<b>Author:</b>	Claudia Simpson, Community Development Officer
<b>Authorising Officer:</b>	Lee Sounness, Director of Corporate and Community Services
<b>Attachments:</b>	10.1a – Nominations (Confidential to Councillors)

### Summary:

Council is requested to peruse the attached nominations for Community Citizen, Group or Event of the Year Awards for 2020 and determine the winners for each category.

### Background:

The Community Citizen, Group or Event of the Year Awards recognise individuals and organisations making a notable contribution during the current year, and/or to those who have given outstanding service over a number of years.

Outstanding contribution and community service includes areas such as: education, health, fund-raising, charitable and voluntary services, business, sport, arts, the environment, social inclusion or any other area that contributes to the advancement and wellbeing of a community.

A nominee need only be nominated once to be considered. The number of nominations received per nominee does not provide additional weight to the evaluation process.

The Awards are provided pursuant to Policy P040113 and are presented at the Council's Australia Day Event on 26 January of each year.

The Shire's membership with Australia Day Council WA includes access to the official online nomination process, use of their logo with the Shire's promotion, certificates and medallions for each award recipient.

### 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.

The marketing & promotion for these awards included the following:

- Shire of Denmark Website (including banner on the front page)
- Shire of Denmark Notice Boards (x 2)
- Shire of Denmark Facebook page (plus reminder posts)
- Denmark Recreation Centre
- Denmark Library
- Email to local community & sporting group / organisations
- SMS alert reminder with link to nomination page
- Advertisement in the Denmark Bulletin
- Advertisement in the Walpole Weekly
- Email to Councillors & Employees

**Statutory Obligations:**

There are no statutory obligations.

**Policy Implications:**

Part A of Council Policy P040113 reads as follows:

Australia Day Active Citizenship Awards

The Awards be advertised in September, inviting nominations for awards in the following categories:

- Citizen of the Year (no age restriction);
- Citizen of the Year – Senior (over 65 years);
- Citizen of the Year – Youth (under 25 years);
- Active Citizenship Award (for a community group or event).

A person may only be nominated for one category on a Nomination Form. A person may be nominated more than once on separate Nomination Forms.

Winners to be chosen at a meeting of the Council and the results kept strictly confidential until presentation.

Presentation to be at a local function celebrating Australia Day (January 26<sup>th</sup>).

Eligibility

For Citizen of the Year Awards, the nomination:

- must be made of person(s) who ordinarily reside in the Shire of Denmark; and
- must demonstrate that person(s) citizenship activities which occur within the Shire of Denmark however, external additional citizenship activities may be taken into consideration during the selection process.

For a Community Group or Event, the nomination can only be made for a Group or Event which is based, operated and held within the Shire of Denmark however, additional activities or events operated or based outside of the Shire may be taken into consideration during the selection process.

**Budget / Financial Implications:**

Council has included provision for the cost of the membership with Australia Day Council WA in the 2019/2020 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

## C4.0 Community

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

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

Corporate Business Plan

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

**Sustainability Implications:**

➤ **Governance:**

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:**

The Community Citizen of the Year Awards provide an opportunity for Council to recognise and acknowledge local individuals and community groups (or events) who have made significant and ongoing contributions to the Denmark community. These awards also foster a sense of community pride and encourage active community engagement.

➤ **Risk:**

Risk	Risk Likelihood (based on history and with existing controls)	Risk Impact / Consequence	Risk Rating (Prior to Treatment or Control)	Principal Risk Theme	Risk Action Plan (Controls or Treatment proposed)
That Council not select winners for the 2020 Citizen & Community Group or Event of the Year.	Rare (1)	Minor (2)	Low (1-4)	Not Meeting Community expectations	Accept Officer Recommendation

**Comment/Conclusion:**

15 nominations have been received and have been provided to Councillors under separate confidential cover.

The nominees for each category are as follows:

**CATEGORY: Citizen of the Year**

- Beverly Ford
- Nigel Marsh
- Ben Power
- Belinda Ross
- Peter Wiseman

**CATEGORY: Senior Citizen of the Year – Senior (65 years or over)**

- Chris Howden
- Rob Senior
- Olly Wakka

**CATEGORY: Citizen of the Year – Youth (under 25 years)**

- Tyler Hartfield
- Macy Lane
- Will Miller

**CATEGORY: Active Citizenship Award (for a community group or event)**

- Denmark Historical Society
- Denmark Volunteer Fire and Rescue Service
- HorsePower Denmark
- Movies with Meaning

**Voting Requirements:**

Simple majority.

**OFFICER RECOMMENDATION**

**ITEM 10.1**

With respect to the Community Citizen of the Year Awards for 2020, the following recipients be AWARDED in the respective categories. These names are to remain confidential to Councillors, Senior Officers and the Governance Coordinator and remain embargoed until the Awards Ceremony on 26 January 2021;

- a) 2020 Citizen of the Year to \_\_\_\_\_;
- b) 2020 Citizen of the Year – Senior (person over 65 years) to \_\_\_\_\_;
- c) 2020 Citizen of the Year – Youth (person under 25 years) to \_\_\_\_\_;
- d) 2020 Community Group or Event of the Year to \_\_\_\_\_.

**COUNCIL RESOLUTION**

MOVED: CR GIBSON

SECONDED: CR GEARON

That Standing Orders be suspended to allow free discussion on Item 10.1.

CARRIED UNANIMOUSLY: 9/0

Res: 171220

**COUNCIL RESOLUTION**

MOVED: CR GEARON

SECONDED: CR PHILLIPS

That Standing Orders be resumed.

CARRIED UNANIMOUSLY: 9/0

Res: 181220

**COUNCIL RESOLUTION**

MOVED: CR PHILLIPS

**ITEM 10.1**

SECONDED: CR SEENEY

With respect to the Community Citizen of the Year Awards for 2020, the following recipients be AWARDED in the respective categories. These names are to remain confidential to Councillors, Senior Officers and the Governance Coordinator and remain embargoed until the Awards Ceremony on 26 January 2021;

- 1. 2020 Citizen of the Year to embargoed;
- 2. 2020 Citizen of the Year – Senior (person over 65 years) to embargoed;
- 3. 2020 Citizen of the Year – Youth (person under 25 years) to embargoed;
- 4. 2020 Community Group or Event of the Year to embargoed.

CARRIED UNANIMOUSLY: 9/0

Res: 191220

*Prior to consideration of Item 10.2, the following impartiality declarations were made by the following Councillors:*

- *Cr Bowley is a friend and club member of a nominee (M Cowdell) for senior sportsperson.*
- *Cr Osborne declares that a nominee in the senior category is a friend of his.*
- *Cr Gibson is a friend of one of the nominees.*
- *Cr Gearon declared that most of the applicants were known to her.*

*Cr Bowley, Cr Osborne, Cr Gibson and Cr Gearon declared that they would consider this matter on its merits and vote accordingly.*

## 10.2 2020 SPORTS AWARDS

<b>File Ref:</b>	PBR.1.B.2020
<b>Applicant / Proponent:</b>	Various
<b>Subject Land / Locality:</b>	Not applicable
<b>Disclosure of Officer Interest:</b>	As a person actively engaged with the community, some of the nominations have been put forward by the author.
<b>Date:</b>	7 December 2020
<b>Author:</b>	John Overton, Community Development Officer
<b>Authorising Officer:</b>	Lee Sounness, Director of Corporate and Community Services
<b>Attachments:</b>	10.2 - Nominations ( <b>Confidential to Councillors</b> )

### Summary:

Council is requested to peruse the attached nominations for Sportsperson of the Year Awards for 2020 and determine the winners for each category.

### Background:

The Sportsperson of the Year Awards recognise individuals making a notable contribution during the current year, and/or to those who have given outstanding service over a number of years.

Outstanding contribution and community service include areas such as: fund-raising, voluntary services, umpiring, sporting achievement, coaching, sportsmanship or any other area that contributes to the advancement and service to sport and recreation.

A nominee need only be nominated once to be considered. The number of nominations received per nominee does not provide additional weight to the evaluation process.

The Awards are provided pursuant to Policy P040113 and are presented at the Council's Australia Day Event on 26 January of each year.

The Shire's membership with Australia Day Council WA includes access to the official online nomination process, use of their logo with the Shire's promotion, certificates and medallions for each award recipient.

### 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.

The marketing & promotion for these awards included the following:

- Shire of Denmark Website
- Shire of Denmark Notice Boards (x 2)
- Shire of Denmark Facebook page (plus reminder posts)
- Denmark Recreation Centre
- Letter to local community & sporting group / organisations
- Email to local community & sporting group / organisations

### Statutory Obligations:

There are no statutory obligations.

### Policy Implications:

Part A of Council Policy P040113 reads as follows:

### Australia Day Active Citizenship Awards

The Awards be advertised in November, inviting nominations for awards in the following categories:

- Junior Sportsperson of the Year (Under 18 years of age);
- Senior Sportsperson of the Year;
- Service to Sport;

A person may only be nominated for one category on a Nomination Form. A person may be nominated more than once on separate Nomination Forms.

Winners to be chosen at a meeting of the Council and the results kept strictly confidential until presentation.

Presentation to be at a local function celebrating Australia Day (January 26<sup>th</sup>).

### Eligibility

For Sportsperson of the Year, the nomination:

- must be made of person(s) who ordinarily reside in the Shire of Denmark; and
- must demonstrate that person(s) sporting activities which occur within the Shire of Denmark however, external additional sporting activities may be taken into consideration during the selection process.

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

Council has included provision for the cost of the membership with Australia Day Council WA in the 2019/2020 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

#### C4.0 Community

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

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

### Corporate Business Plan

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

### **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:**

The Sportsperson of the Year Awards provide an opportunity for Council to recognise and acknowledge local individuals who have made significant and ongoing contributions to the Denmark community. These awards also foster a sense of community pride and encourage active community engagement.

➤ **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)
Council do not select winners for the 2020 Sportsperson of the Year Awards	Rare (1)	Minor (2)	Low (1-4)	Not Meeting Community expectations	Accept Officer Recommendation

**Comment/Conclusion:**

Nominations were accepted up until the 4<sup>th</sup> December 2020 to ensure an adequate number of nominations have been received.

The nominees for each category are as follows:

**CATEGORY: Junior Sportsperson of the Year (Under 18 years of age)**

- Lucia Edwards

**CATEGORY: Senior Sportsperson of the Year**

Maureen Cowdell

**CATEGORY: Service to Sport Award**

- Belinda Ross
- Kellee Hick
- Amie McHenry

**Voting Requirements:**

Simple majority.

**OFFICER RECOMMENDATION**

**ITEM 10.2**

With respect to the Sportsperson of the Year Awards for 2020, the following recipients be awarded in the respective categories. These names are to remain confidential to Councillors, Senior Officers and the Governance Coordinator and remain embargoed until the Awards Ceremony on 26 January 2021;

- a) 2020 Junior Sportsperson of the Year (Under 18 years of age) \_\_\_\_\_;
- b) 2020 Senior Sportsperson of the Year \_\_\_\_\_;
- c) 2020 Service to Sport Award \_\_\_\_\_.

**COUNCIL RESOLUTION**

MOVED: CR GIBSON

SECONDED: CR GEARON

That Standing Orders be suspended to allow free discussion on Item 10.2.

CARRIED UNANIMOUSLY: 9/0

Res: 201220

**COUNCIL RESOLUTION**

MOVED: CR GEARON

SECONDED: CR GIBSON

That Standing Orders be resumed.

CARRIED UNANIMOUSLY: 9/0

Res: 211220

<b>COUNCIL RESOLUTION</b>	ITEM 10.2
MOVED: CR SEENEY	SECONDED: CR JONES
<p>With respect to the Sportsperson of the Year Awards for 2020, the following recipients be awarded in the respective categories. These names are to remain confidential to Councillors, Senior Officers and the Governance Coordinator and remain embargoed until the Awards Ceremony on 26 January 2021;</p> <p>a) 2020 Junior Sportsperson of the Year (Under 18 years of age) embargoed;</p> <p>b) 2020 Senior Sportsperson of the Year embargoed;</p> <p>c) 2020 Service to Sport Award embargoed.</p>	
CARRIED UNANIMOUSLY: 9/0	Res: 221220

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

<b>COUNCIL RESOLUTION</b>	ITEM 11
MOVED: CR LEWIS	SECONDED: CR GIBSON
<p>That in accordance with clause 3.11 of the Shire of Denmark Standing Orders Local Law, Council ACCEPT a late item regarding the Acting Chief Executive Officer’s Performance Review, comply with Council Resolution 190920, to complete the review by 31 December 2020.</p>	
CARRIED UNANIMOUSLY: 9/0	Res: 231220

**10.3 ACTING CHIEF EXECUTIVE OFFICER PERFORMANCE REVIEW**

<b>File Ref:</b>	Personnel File
<b>Applicant / Proponent:</b>	Not applicable
<b>Subject Land / Locality:</b>	Nil
<b>Disclosure of Officer Interest:</b>	The Author and the Authorising Officer are both employed by the Chief Executive Officer
<b>Date:</b>	10 December 2020
<b>Author:</b>	Claire Thompson, Governance Coordinator
<b>Authorising Officer:</b>	Lee Sounness, A/Director Corporate and Community Services
<b>Attachments:</b>	10.3 – CEO Annual Appraisal Report

**Summary:**

Council is required to annually review the Chief Executive Officer performance.

**Background:**

Council appointed Mr David Schober to the position of Acting CEO in August 2019 following the departure of the permanent CEO, Bill Parker. David commenced in the role on 30 September 2020 on the 12 month contract, expiring on 29 September 2020 or until a permanent CEO was appointed.

Due to border restrictions and other business interruptions as a result of COVID-19 early in 2020, the CEO recruitment process was put on hold. The recruitment process is now progressing and it is expected that a CEO will be appointed sometime in March 2021.

As the recruitment process would likely go behind the expiry date of Mr Schober’s contract, in September 2020, Council renewed his contract for a period of up to 12 months or until a permanent CEO was appointed, whichever occurs first.

At the September 2020 meeting, Council resolved as follows (Resolution No. 190920);

*That with respect to the position of Chief Executive Officer, Council:*

1. *RENEW Mr. Schober's contract and re-appoint him to the position of Acting Chief Executive Officer with a renewal date of 1 October 2020, for 12 months or until such time as a permanent Chief Executive Officer has been appointed and commenced with the Shire of Denmark (whichever comes first);*
2. *ADVISE Mr. Schober that his salary and conditions will remain unchanged under the new contract, due to the current economic climate and the fact that no Shire employees received any raises for the 2020 / 2021 financial year;*
3. *ENGAGE a suitably qualified external consultant up to the value of \$4,000 to:*
  - a) *facilitate a review of Mr. Schober's performance as Acting Chief Executive Officer since his commencement on 30 September 2019;*
  - b) *assist the Council to determine and set new performance criteria for the office of Chief Executive Officer for the next 12 months; and*
  - c) *present the outcome of the review to Council by 31 December 2020.*
4. *AUTHORISE the Shire President to execute a letter of renewal.*

In accordance with part 3 of the resolution, a qualified external consultant was appointed to assist with the annual CEO performance appraisal process.

**Consultation:**

All elected members were consulted throughout the process, which included the assessment from an independent reviewer.

**Statutory Obligations:**

Local Government Act 1995

5.38. Annual review of employees' performance

- (1) *A local government must review the performance of the CEO if the CEO is employed for a term of more than 1 year.*

**Policy Implications:**

There are no policy implications.

**Budget / Financial Implications:**

Costs associated with the employment of a CEO are already provided for in the Annual Budget.

**Strategic & Corporate Plan Implications:**

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.*

**Sustainability Implications:**

➤ **Governance:**

There are no known significant environmental implications 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)
That the Council does not endorse the A/CEO's performance review.	Unlikely (2)	Moderate (3)	Moderate (5-9)	Business Disruption	Accept Officer Recommendation

**Comment/Conclusion:**

The consultant's review process included distributing questionnaires to all Councillors, arranging for Mr Schober to provide a self-assessment report, conducting interviews, collating the responses, as well as preparing and presenting a feedback report for use as part of the appraisal. All Councillors were invited to participate in the review.

Ratings and comments were aggregated and summarised and presented in a 'reviewer report' for use at the formal appraisal meeting undertaken on 25 November 2020. At the formal appraisal meeting, Councillors and Mr Schober discussed his performance in the role of Acting Chief Executive Officer during the review period, the areas of focus and key actions for 2020/2021 as well as reviewing his total reward package.

A confidential report of the review has been provided to Councillors under separate cover as it contains the personal affairs of Mr Schober.

The Officer Recommendation below has been provided by the Consultant.

**Voting Requirements:**

Simple majority.

<b>COUNCIL RESOLUTION &amp; OFFICER RECOMMENDATION</b>	ITEM 11
MOVED: CR GEARON	SECONDED: CR GIBSON
That Council:	
1. NOTES that Mr David Schober's annual appraisal as the Interim Acting Chief Executive Officer for the Shire of Denmark for the period September 2019 to November 2020 has been undertaken;	
2. ENDORSES the overall performance outcome as 'More than Satisfactory';	
3. ENDORSES the updated focus areas and actions for the 2020/2021 review period;	
4. SCHEDULES the next review of the CEO's performance to be completed by September 2021.	
5. NOTES that Mr Schober has elected to not apply for consideration of an increase to his Total Reward Package due to the prevailing economic and public health circumstances.	
CARRIED UNANIMOUSLY: 9/0	Res: 241220

**12. CLOSURE OF MEETING**

6.33pm – 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.)*

