

# Shire of Denmark

## Special Council Meeting MINUTES

9 May 2023



HELD IN THE COUNCIL CHAMBERS, 953 SOUTH COAST HIGHWAY, DENMARK ON TUESDAY, 9 MAY 2023.

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For the purposes of:

1. Accepting the Chief Executive Officer's resignation;
2. Considering a mutual variation of the contractual notice period;
3. Appointing a Temporary Chief Executive Officer; and
4. Considering designated senior employee positions.



### Contact Us

953 South Coast Highway, Denmark WA 6333

*Correspondence to:*

Post Office Box 183, DENMARK WA 6333

Phone: (08) 9848 0300 | Email: [enquiries@denmark.wa.gov.au](mailto:enquiries@denmark.wa.gov.au)

Website: [www.denmark.wa.gov.au](http://www.denmark.wa.gov.au)

Facebook: shireofdenmark

# Strategic Community Plan (snapshot)

## E1.0

### Our Economy

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

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

## N2.0

### Our Natural Environment

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

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

## B3.0

### Our Built Environment

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

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

## C4.0

### Our Community

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

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

## L5.0

### Our Local Government

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

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

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## **DISCLAIMER**

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

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

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

**2. RECORD OF ATTENDANCE/APOLOGIES/LEAVE OF ABSENCE****MEMBERS:**

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

**STAFF:**

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

**APOLOGIES:**

David Schober (Chief Executive Officer)

**ON LEAVE OF ABSENCE:**

Cr Jackie Ormsby (approved February 2023 / Resolution No. 020223)

**ABSENT:**

Nil

**VISITORS:**

Nil

**DECLARATIONS OF INTEREST:**

| Name         | Item No | Interest     | Nature                                                                                        |
|--------------|---------|--------------|-----------------------------------------------------------------------------------------------|
| David King   | 6.1     | Impartiality | The position of CEO is my direct line manager.                                                |
| David King   | 6.2     | Financial    | I have applied for the position of Temporary CEO.                                             |
| Lee Sounness | 5.1     | Impartiality | It is my current position that is recommended to be designated as a senior employee position. |
| Lee Sounness | 6.1     | Impartiality | The position of CEO is my direct line manager.                                                |

**3. ANNOUNCEMENT BY THE PERSON PRESIDING**

Nil

**4. PUBLIC QUESTION TIME****4.1 PUBLIC QUESTIONS**

In accordance with Section 5.24 of the Local Government Act 1995, Council conducts a public question time to enable members of the public to address Council or ask questions of Council. For a Special Meeting of Council, such as this, **they must however relate to the item(s) on the Agenda.**

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

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

Questions from the Public

*There were no members of the public in attendance.*

**5. REPORTS OF OFFICERS****5.1 DESIGNATED SENIOR EMPLOYEES**

|                                        |                                                                                             |
|----------------------------------------|---------------------------------------------------------------------------------------------|
| <b>File Ref:</b>                       | PER.11.23.CEO                                                                               |
| <b>Applicant / Proponent:</b>          | Not applicable                                                                              |
| <b>Subject Land / Locality:</b>        | Not applicable                                                                              |
| <b>Disclosure of Officer Interest:</b> | Nil                                                                                         |
| <b>Date:</b>                           | 3 May 2023                                                                                  |
| <b>Author:</b>                         | Claire Thompson, Governance Coordinator                                                     |
| <b>Authorising Officer:</b>            | David Schober, Chief Executive Officer                                                      |
| <b>Attachments:</b>                    | 5.1 – Temporary Employment of Appointment of CEO and Designation of Senior Employees Policy |

**IN BRIEF**

- Council needs to review its designated senior employee positions in light of the resignation of the incumbent CEO and employment of a Temporary CEO.

**RECOMMENDATION**

That Council AMEND the Temporary Employment or Appointment of CEO and Designation of Seniors Employees Policy by designating the position of Acting Director Corporate & Community Services as a Senior Employee.

**LOCATION**

1. Not applicable.

**BACKGROUND**

2. The incumbent CEO has resigned effective 11 April 2023 and is serving out a period of notice.
3. Only a designated Senior Employee can be appointed as an Acting CEO.
4. The Director Corporate and Community Services resigned in March 2023.
5. Lee Sounness is currently the Shire's Acting Director Corporate & Community Services.

**DISCUSSION / OFFICER COMMENTS**

6. Only employees deemed Senior Employees are considered suitably qualified to perform the role of Acting CEO, in accordance with Council's *Temporary Employment of Appointment of CEO and Designation of Senior Employees Policy*.
7. Current designated Senior Employees are Chief Executive Officer, Director Assets & Sustainable Development / Deputy CEO and Director Corporate & Community Services.
8. As it is likely that the Director Assets & Sustainable Development / Deputy CEO will be the Shire's Temporary CEO, either until a substantive external Temporary CEO or CEO is appointed, it is necessary to designate the position of Acting Director Corporate & Community Services as a Senior Employee.
9. This will ensure that there is a staff member who can be appointed as Acting CEO should the Temporary CEO be on leave for a period greater than 48 hours.

**CONSULTATION AND EXTERNAL ADVICE**

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

**STATUTORY / LEGAL IMPLICATIONS**

11. LOCAL GOVERNMENT ACT 1995

Section 5.37(1) – local government may designate employees or persons belonging to a class of employee to be senior employees.

Section 5.39C(1)(b) – local government must prepare and adopt a policy that sets out the process to be followed by the local government in relation to the appointment of an employee to act in the position of CEO, for a term not exceeding 1 year.

Section 5.39C(2) – local government may amend the policy by an Absolute Majority.

**STRATEGIC / POLICY IMPLICATIONS**

12. TEMPORARY EMPLOYMENT OF APPOINTMENT OF CEO AND DESIGNATED SENIOR EMPLOYEES POLICY

Clause 2 - Current designated Senior Employees are Chief Executive Officer, Director Assets & Sustainable Development / Deputy CEO and Director Corporate & Community Services.

**FINANCIAL IMPLICATIONS**

Nil

**OTHER IMPLICATIONS****Environmental**

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

**Economic**

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

**Social**

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

**RISK MANAGEMENT**

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

**VOTING REQUIREMENTS**

17. Absolute majority.

|                                                                                                                                                                                                                                                              |                     |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------|
| <b>COUNCIL RESOLUTION &amp; OFFICER RECOMMENDATION</b>                                                                                                                                                                                                       | ITEM 5.1            |
| MOVED: CR GIBSON                                                                                                                                                                                                                                             | SECONDED: CR CLARKE |
| That Council AMEND the <i>Temporary Employment or Appointment of CEO and Designation of Seniors Employees Policy</i> by designating the position of Acting Director Corporate & Community Services as a Senior Employee.                                     |                     |
| <b>AMENDMENT</b>                                                                                                                                                                                                                                             |                     |
| MOVED: CR LEWIS                                                                                                                                                                                                                                              | SECONDED: CR GEARON |
| That the position of Manager of Sustainable Development also be designated as a Senior Employee.                                                                                                                                                             |                     |
| CARRIED: 8/0                                                                                                                                                                                                                                                 | Res: 010523         |
| <b>AMENDED MOTION</b>                                                                                                                                                                                                                                        |                     |
| That Council AMEND the <i>Temporary Employment or Appointment of CEO and Designation of Seniors Employees Policy</i> by designating the positions of Acting Director Corporate & Community Services and Manager Sustainable Development as Senior Employees. |                     |
| CARRIED BY AN ABSOLUTE MAJORITY: 8/0                                                                                                                                                                                                                         | Res: 020523         |

4.12pm – The Deputy Chief Executive Officer left the room and did not return.



## 6. MATTERS BEHIND CLOSED DOORS

### COMMITTEE RESOLUTION & OFFICER RECOMMENDATION

MOVED: CR LEWIS

SECONDED: CR CLARKE

That Items 6.1 and 6.2 be considered behind closed doors in accordance with section 5.23(2)(a) of the Local Government Act 1995.

CARRIED: 8/0

Res: 030523

### 6.1 RESIGNATION OF CEO AND VARIATION OF NOTICE PERIOD

|                                        |                                                                                 |
|----------------------------------------|---------------------------------------------------------------------------------|
| <b>File Ref:</b>                       | PER.11.23.CEO                                                                   |
| <b>Applicant / Proponent:</b>          | Not applicable                                                                  |
| <b>Subject Land / Locality:</b>        | Not applicable                                                                  |
| <b>Disclosure of Officer Interest:</b> | The position of CEO is the Author and Authorising Officer's direct line manager |
| <b>Date:</b>                           | 2 May 2023                                                                      |
| <b>Author:</b>                         | Claire Thompson, Governance Coordinator                                         |
| <b>Authorising Officer:</b>            | Lee Sounness, Acting Director Corporate & Community Services                    |
| <b>Attachments:</b>                    | Confidential Attachments                                                        |

The report and associated attachments are confidential and were provided to Councillors under separate cover.

### COUNCIL RESOLUTION & OFFICER RECOMMENDATION

ITEM 6.1

MOVED: CR GIBSON

SECONDED: CR CLARKE

That Council:

1. ACCEPT David Schober's resignation from his position as the Shire of Denmark's Chief Executive Officer and thanks David for his contributions and service to the Council and the Community; and
2. AGREE with Proposal 1, as detailed within the report.

CARRIED: 8/0

Res: 040523

## 6.2 APPOINTMENT OF TEMPORARY CHIEF EXECUTIVE OFFICER

|                                        |                                                                                 |
|----------------------------------------|---------------------------------------------------------------------------------|
| <b>File Ref:</b>                       | PER.11.23.CEO                                                                   |
| <b>Applicant / Proponent:</b>          | Not applicable                                                                  |
| <b>Subject Land / Locality:</b>        | Not applicable                                                                  |
| <b>Disclosure of Officer Interest:</b> | The position of CEO is the Author and Authorising Officer's direct line manager |
| <b>Date:</b>                           | 3 May 2023                                                                      |
| <b>Author:</b>                         | Claire Thompson, Governance Coordinator                                         |
| <b>Authorising Officer:</b>            | Lee Sounness, Acting Director Corporate & Community Services                    |
| <b>Attachments:</b>                    | Confidential Attachments                                                        |

The report and associated attachments are confidential and were provided to Councillors under separate cover.

|                                                        |                    |
|--------------------------------------------------------|--------------------|
| <b>COUNCIL RESOLUTION &amp; OFFICER RECOMMENDATION</b> | ITEM 6.2           |
| MOVED: CR GEARON                                       | SECONDED: CR LEWIS |

That Council:

1. AUTHORISE the Shire President to negotiate an Employment Contract with David King, Deputy CEO, for the position of Temporary CEO and that the contract terminates upon employment of a substantive CEO; and
2. ADVISE the Shire President that the Total Remuneration Package plus any additional allowances should not exceed the incumbent CEO's entitlements, as detailed within the report; and
3. REQUEST that the draft Employment Contract will be brought back to the Council for approval, in accordance with s 5.36(2) of the Local Government Act 1995.

CARRIED: 8/0

Res: 050523

### COUNCIL RESOLUTION

MOVED: CR GIBSON

SECONDED: CR GEARON

That the meeting proceed in public.

CARRIED: 8/0

Res: 060523

*There were no members of the public therefore the Shire President did not read out the resolutions.*

## 7. CLOSURE OF MEETING

*4.50pm – There being no further business to discuss, the Shire President declared the meeting closed.*

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

Signed: \_\_\_\_\_  
*David Schober – 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*