



ORDINARY MEETING OF COUNCIL
 HELD IN THE COUNCIL CHAMBERS,
 953 SOUTH COAST HIGHWAY, DENMARK ON
 TUESDAY, 1 DECEMBER 2015.

Contents	Page No.
DISCLAIMER	2
1. DECLARATION OF OPENING/ANNOUNCEMENT OF VISITORS	3
2. RECORD OF ATTENDANCE/APOLOGIES/APPROVED LEAVE OF ABSENCE	3
3. ANNOUNCEMENTS BY THE PERSON PRESIDING	4
4. PUBLIC QUESTION TIME	4
4.1 RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE	4
4.2 PUBLIC QUESTIONS	4
4.3 QUESTIONS BY MEMBERS OF WHICH DUE NOTICE HAS BEEN GIVEN	9
4.4 PRESENTATION, DEPUTATIONS & PETITIONS – Nil	9
5. APPLICATIONS FOR LEAVE OF ABSENCE	9
6. CONFIRMATION OF MINUTES	9
6.1 ORDINARY COUNCIL MEETING – 10 NOVEMBER 2015	9
7. ELECTED MEMBERS MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN	10
7.1 CR GILLIES – BOAT LAUNCHING AT OCEAN BEACH	10
7.2 CR LEWIS – AQUATIC CENTRE	17
7.3 CR WHOOLEY – CHRISTMAS PARADE	21
8. REPORTS OF OFFICERS	22
8.1 DIRECTOR OF PLANNING & SUSTAINABILITY - Nil	22
8.2 DIRECTOR OF COMMUNITY & REGULATORY SERVICES - Nil	22
8.3 DIRECTOR OF INFRASTRUCTURE SERVICES - Nil	22
8.4 DIRECTOR OF FINANCE & ADMINISTRATION	22
8.4.1 FINANCIAL STATEMENT FOR THE MONTH ENDING 31 OCTOBER 2015	22
8.4.2 CHANGE OF METHOD OF VALUATION – 101 (LOT 1) BOAT HARBOUR ROAD, PARRYVILLE	26
8.5 CHIEF EXECUTIVE OFFICER	31
8.5.1 ESPERANCE BUSHFIRE APPEAL DONATION	31
8.5.2 ORDINARY COUNCIL MEETING DATES FOR 2016	36
8.5.3 COMMERCIAL LEASES ON LOT 300 – DENMARK HAULAGE AND DENMARK EARTHMOVING	43
8.5.4 DENMARK FESTIVAL OF CYCLING 2016 – REQUEST FOR SPONSORSHIP AND LETTER OF SUPPORT	52
9. COMMITTEE REPORTS & RECOMMENDATIONS - Nil	55
10. MATTERS BEHIND CLOSED DOORS	55
10.1 SENIOR OFFICER CONTRACT RENEWAL	55
10.2 SENIOR OFFICER – PROPOSED OFFER OF CONTRACT OF EMPLOYMENT	59
10.3 SENIOR OFFICER CONTRACT	62
11. NEW BUSINESS OF AN URGENT NATURE INTRODUCED BY DECISION OF MEETING	63
12. CLOSURE	63

Ordinary Council Meeting

1 December 2015

DISCLAIMER

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1. DECLARATION OF OPENING/ANNOUNCEMENT OF VISITORS

5.00pm – *The Shire President, Cr Morrell, declared the meeting open.*

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

MEMBERS:

- Cr David Morrell (Shire President)
- Cr Kelli Gillies (Deputy Shire President)
- Cr Yasmin Bartlett
- Cr Ceinwen Gearon
- Cr Jan Lewis
- Cr Dawn Pedro
- Cr John Sampson
- Cr Roger Seeney
- Cr Rob Whooley

STAFF:

- Mrs Annette Harbron (Acting Chief Executive Officer / Director of Planning & Sustainability)
- Mr Kim Dolzadelli (Director of Finance & Administration)
- Mr Gregg Harwood (Director of Community & Regulatory Services)
- Ms Claire Thompson (Executive Assistant)

APOLOGIES:

- Mr Dale Stewart (Chief Executive Officer)
- Mr Martin Buczak (Acting Director of Infrastructure Services)

ON APPROVED LEAVE(S) OF ABSENCE:

Nil

ABSENT:

Nil

VISITORS:

- Members of the public in attendance at the commencement of the meeting: 39
- Members of the press in attendance at the commencement of the meeting: 1

The Shire President advised that Ms Josie Mitchell was in the public gallery and that he had granted her some extra time during public question time to provide a short presentation and that there were some students from the Denmark Primary School who would also be addressing Council during public question time.

DECLARATIONS OF INTEREST:

Name	Item No	Interest	Nature
Cr Morrell	7.3	Impartiality	Cr Morrell is a landowner of a property in Strickland street.
Cr Whooley	10.3	Impartiality	Cr Whooley believed that people could have a perception that he wouldn't be impartial.

3. ANNOUNCEMENTS BY THE PERSON PRESIDING

3.1 Local Government Award for Tourism

The Shire President announced that on the 14 November 2015, the Shire of Denmark won Bronze for the "Local Government Award for Tourism", recognising the Shire for its outstanding achievements in infrastructure development, and the promotion and servicing of the WA tourism industry.

The Awards process is highly competitive with hundreds of entrants from across the State. Taste Great Southern, the food and wine festival coordinated and delivered by Denmark Tourism Incorporated won Silver in the "Festivals and Events" category winning over the City of Albany's "Anzac Centenary".

4. PUBLIC QUESTION TIME

4.1 RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE

Nil

4.2 PUBLIC QUESTIONS

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

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

In accordance with clause 3.2 (2) & (3) of the Shire of Denmark Standing Orders Local Law, a second Public Question Time will be held, if required and the meeting is not concluded prior, at approximately 7.00pm.

Questions from the Public

4.2.1 Miss Jade Britza – Item 7.2 (Cr Lewis – Aquatic Centre)

Miss Britza, student at the Denmark Primary School, expressed her disappointment that Denmark did not have a pool and asked that Council try to find a way.

4.2.2 Miss Lily Goode – Item 7.2 (Cr Lewis – Aquatic Centre)

Miss Goode, student at the Denmark Primary School, highlighted the benefits the pool would have for the people of Denmark particularly those requiring physiotherapy. Miss Goode asked Council to support a pool.

4.2.3 Miss Hayley Dodson – Item 7.2 (Cr Lewis – Aquatic Centre)

Miss Dodson, student at the Denmark Primary School, talked about the distance that people had to travel to go to the pool in Albany. Miss Dodson stated that they had asked a number of children at School who would be submitting their comments to Council and hoped that Councillors would read them. Miss Dodson urged Council to support a pool.

4.2.4 Ms Josie Mitchell – Denmark Thrills Adventure Park

Ms Mitchell gave a presentation on a number of grievances in relation to the construction of the Denmark Thrills Adventure Park and the impacts of the activities on nearby residents. Ms Mitchell reflected on the planning approval

process and highlighted a number of concerns from residents about the application and the way in which the submissions were handled. Ms Mitchell added that she was aware of a number of complaints which had been made to Shire, including ones about noise from the site, however they had not been responded to.

Ms Mitchell asked whether the park would be allowed to open on its advertised opening day of 12 December 2015 if all of the conditions have not been met.

Ms Mitchell also queried a recent purchase by the Shire of \$1,000 for 10 passes for the park and asked who authorised the payment, who were they for and whether it was practice for Council to support all local businesses?

The Acting Chief Executive Officer responded stating that the passes had been purchased for the school holiday program which youth pay to participate in. Ms Harbron added that it depended on what they were opening and what they are doing however conditions would indeed have to be met.

The Director of Community & Regulatory Services advised that he was in the process of issuing an infringement to the owners in relation to the noise created from the construction site on a Sunday.

4.2.5 Mr Jim King – Denmark Thrills Adventure Park

Mr King referred to a recent Shire purchase of \$1,000 worth of passes for the Adventure Park and asked the following questions, which he believed to be irresponsible and provocative, given the objections to the development;

- Who the vouchers were for?
- Whether the Council was being invoiced or whether Council gratuitously received them?
- What measures were in place to recoup the money if the Adventure Park can't honour the passes?

The Director of Community & Regulatory stated that he had numerous staff and that he couldn't be sure who had authorised the purchase. Mr Harwood stated that they had delegated authority to run their programs and objectives and they utilised local businesses whenever they could. Mr Harwood stated that his staff weren't necessarily privy to Council discussion or political sensitivity. With respect to what would happen if the business could not honour the vouchers, Council would stand in line as any other creditor would.

Cr Gearon asked whether the purchase was actual crowd funding.

The Acting Chief Executive Officer advised that it wasn't.

Cr Whooley sought clarification on the use of the passes.

The Shire President advised that the question would be taken on notice and that Cr Whooley would be provided an answer in writing.

4.2.6 Mrs Deborah Feld – Denmark Thrills Adventure Park

Mrs Feld expressed a number of concerns about the development including entrance and exits from the property and noise. Mrs Feld asked whether they had been issued a permit to make noise associated with the construction on a Sunday.

The Director of Community & Regulatory Services responded that accordingly a permit had not been issued and that they had been issued a fine.

Mrs Feld noted that she believed that this development had received preferential treatment by the Council and that it was already causing problems for nearby landowners before it opened, and that they had received a letter of complaint from one of their guests in relation to the noise on a Sunday. Mrs Feld asked why they were receiving preferential treatment and how Council was going to control what they did if they were already not making the owners meet regulations. Mrs Feld noted that the Adventure Park's Facebook page noted that it would be open on the 12 December 2015.

The Acting Chief Executive Officer advised that she did not believe that they were receiving any preferential treatment, that they had been issued a fine for the noise that they made on the Sunday and she had been advised that they would not be officially opening on 12 December 2015.

4.2.7 Mr Jesz Fleming – Denmark Thrills Adventure Park

Mr Fleming noted that the Facebook page stated the opening would be 12 December 2015 and that this was incorrect. Mr Fleming asked what the Shire would do if 200 people came to go the park when it wasn't open.

The Director of Community & Regulatory Services stated that if there was sufficient concern, Rangers would be deployed to direct and disperse any traffic.

4.2.8 Mrs Wendy Edgeley – Item 7.2 (Cr Lewis – Aquatic Centre)

Mrs Edgeley expressed her support for Cr Lewis' motions and Council and the Denmark Aquatic Centre Committee continuing to converse about moving forward. Mrs Edgeley asked Council to acknowledge the strong support in the community and support Cr Lewis' motions.

4.2.9 Mr Brendon Smith – Item 8.5.3 (Commercial Leases on Lot 300 – Denmark Haulage and Denmark Earthmoving)

Mr Smith from Denmark Concrete referred to the development application referenced in the report. Mr Smith thanked the Officer for the recommendation however expressed concerns relating to parts b) and c) and requested that these conditions be removed.

The Acting Chief Executive Officer responded stating that the issues and requests raised would be subject to the debate of Councillors.

Some discussion ensued with Councillors asking questions for the Officer and Mr Smith.

4.2.10 Mr Courtney Powys – Item 7.2 (Cr Lewis – Aquatic Centre)

Mr Powys congratulated new Councillors and stated that he had recently been elected to the Denmark Aquatic Centre Committee (DACCI). Mr Powys stated that he hoped with new faces on Council and new faces on the DACCI that they could all move forward towards an affordable solution.

4.2.11 Mr Russell Carter – Item 7.1 (Cr Gillies – Boat Launching at Ocean Beach)

Mr Carter congratulated all new Councillors and those that were re-elected. Mr Carter expressed support for Cr Gillies Notice of Motion on the Agenda.

4.2.12 Mr Lee Shelley – Item 7.1 (Cr Gillies – Boat Launching at Ocean Beach)

Mr Shelley asked why it had taken so long to progress the study into a McGeary's Rock boat launching facility.

The Acting Chief Executive Officer stated that the request for quotation had been sent out to seven consultancy firms today and that the matter had been delayed as the Chief Executive Officer had been aware that there were potential Notice of Motions from Councillors which would have, most likely, meant that Council may not have accepted that grant and therefore not been able to fund the study.

4.2.13 Mr Mark Blowers – Item 7.2 (Cr Lewis – Aquatic Centre)

Mr Blowers stated that he had recently been appointed to the Denmark Aquatic Centre Committee and that he looked forward to working with Council towards finding a way to get a pool.

4.2.14 Ms Karen Britza – Item 7.2 (Cr Lewis – Aquatic Centre)

Ms Britza highlighted the benefits that she had had growing up in a place which had a pool and whilst noting that money was an obstacle she believed that it could be done.

4.2.15 Mr Geoff Bowley – Item 7.2 (Cr Lewis – Aquatic Centre)

Mr Bowley stated that he would love to see a pool in Denmark however he had some concerns about the ongoing running and maintenance costs involved.

4.2.16 Mr John Taylor – Item 7.1 (Cr Gillies – Boat Launching at Ocean Beach)

Mr Taylor asked whether the Councillors that were sitting prior to the election were aware of the 380 signature petition that had been submitted regarding the closing of Ocean Beach launching.

Councillors who were sitting prior to the election responded that they had seen it.

4.2.17 Mrs Ashleigh Crock – Item 7.3 (Cr Whooley – Christmas Parade)

Mrs Crock stated that they had established a large group of volunteers and had support from a number of local businesses to proceed with the Christmas Parade. Mrs Crock urged Councillors to consider the current level of support for the activity when they made their decision.

4.2.18 Mr Bruce Sharp – Item 7.2 (Cr Lewis – Aquatic Centre)

Mr Sharp read out a message from Ms Tash Rubie, a local swimming instructor, which highlighted issues regarding a smaller learn to swim pool. Mr Sharp stated that Ms Rubie urged Councillors to continue dialogue with the Denmark Aquatic Centre Committee to create an affordable facility.

4.2.19 Mrs Barbara Marshall – Item 7.2 (Cr Lewis – Aquatic Centre)

Mrs Marshall expressed frustration that both the Referendum and the Survey had returned a no vote for a pool and yet the Denmark Aquatic Centre Committee and Council kept going with the issue.

4.2.20 Dr Cyril Edwards – Water Refuelling at Denmark Airport

Dr Edwards, member of the Ocean Beach Volunteer Bush Fire Brigade, referred to the improved efficiencies and turnaround times for water refuelling at the Denmark Airport and stated that it had meant a fantastic response to a recent fire which could have been a disaster. Dr Edwards noted the work that

the East Denmark Volunteer Bush Fire Brigade had undertaken to make the changes and asked whether Council had provided any financial support towards the project.

The Director of Community & Regulatory stated that there had been no Emergency Services Levy (ESL) funding provided nor Council contribution as the project been initiated by the volunteers after the commencement of the financial year. Mr Harwood stated that he would need to go through the details in order to provide any further information.

Post Script: The Director of Community & Regulatory Services provides the following additional information in response to Dr Edwards' question.

"The reasons why an ESL funding was application was not submitted for the volunteer initiated airport water bomber supply upgrade are as follows:

- 1) The proposal was initiated by the volunteers after the commencement of the financial year.*
- 2) Static water supplies (eg. water tanks) or not eligible for ESL funding.*

Notwithstanding these funding limitations the following Council contributions to the project have occurred.

- a) Colourbond garden shed \$999;*
- b) One 7m³ load of gravel via Infrastructure Services;*
- c) One 7m³ load of sand via Infrastructure Services;*
- d) Cr Seeney donated his expertise to provide cable location services at a value of \$300;*
- e) Council's Community Emergency Services Manager personally donated \$200 to the project; and*
- f) Council's Director of Community & Regulatory Services personally donated \$500 to the project."*

4.2.21 Mr Don Smith – Item 7.1 (Cr Gillies – Boat Launching at Ocean Beach)

Mr Smith, President of the Denmark Boating and Angling Club expressed their Club's support for Cr Gillies' Notice of Motion.

4.2.22 Mr Geoff Bowley – Notices of Motions

Mr Bowley expressed concern that there was very little information provided with respect to Notices of Motion headings as they didn't provide much clarity on what the item was about.

The Shire President responded stating that whilst Officer's prepared detailed Reports there was a different process for Councillors.

4.2.23 Mr Adrian Baer – Former Frail Aged Lodge Refurbishment & Illuminated School Zone Signs

Mr Baer asked when the refurbishment of the former Frail Aged Lodge was expected to be completed.

Mr Baer asked whether there had been any progress on the requested installation of illuminated school zone signs.

The Shire President advised that they would take Mr Baer's first question on notice and respond to it in writing as they did not have the information at hand.

The Shire President stated that the Council’s Roadwise Advisory Committee had sent further communication to Main Roads WA to have it included in the next round of funding which he believed to be around February or April 2016.

Cr Whooley stated that he had met with Main Roads WA last week and that he was led to believe that they were hoping to have the signs installed before the start of School next year.

4.3 QUESTIONS BY MEMBERS OF WHICH DUE NOTICE HAS BEEN GIVEN

Nil

4.4 PRESENTATIONS, DEPUTATIONS & PETITIONS

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

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

Nil.

5. APPLICATIONS FOR FUTURE LEAVE OF ABSENCE

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

COUNCIL RESOLUTION	ITEM 5
MOVED: CR GEARON	SECONDED: CR GILLIES
That Cr Bartlett be granted leave of absence for the meeting to be held on Tuesday, 22 December 2015.	
CARRIED UNANIMOUSLY: 9/0	Res: 011215

6. CONFIRMATION OF MINUTES

6.1 ORDINARY COUNCIL MEETING

COUNCIL RESOLUTION & OFFICER RECOMMENDATION	ITEM 6.1
MOVED: CR SEENEY	SECONDED: CR GEARON
That the minutes of the Ordinary Meeting of Council held on the 10 November 2015 be confirmed as a true and correct record of the proceedings, subject to the following amendment;	
1. Page 23 – In part 2 of Resolution No. 061115, add the words “and Outbuilding” after the word “House”.	
CARRIED UNANIMOUSLY: 9/0	Res: 021215

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

7.1 Cr Gillies – Boat Launching at Ocean Beach

The following Notice of Motion was received on the 18 November 2015 and therefore complies with the Shire of Denmark Standing Orders Local Law clause 3.10.

COUNCIL RESOLUTION & CR GILLIES' NOTICE OF MOTION	ITEM 7.1
MOVED: CR GILLIES	SECONDED: CR WHOOLEY

Cr Sampson requested that his words be recorded;

“Councillors, you will recall what I said at last year’s October meeting. I won’t repeat what I said, my words are recorded in the minutes of that meeting for all to see. I would however like to quote from Dr.Ceinwen Gearon’s minuted submission a couple of salient points;

“ the issue of mixing recreational boats and other beach users has been discussed by various Denmark Shire Councils since 1996. The recreational amenity of launching boats from Ocean Beach cannot take precedence over public safety and it is now time to reduce the risk. The liability for any future incident is now unequivocally with the Council.

the suspension of boat launching from Ocean Beach at specified times is a reasonable compromise allowing boat launching to occur for the remaining 46 weeks of the year, in other words for most of the year the situation will remain as it currently is” and

“Finally, I think that the social and economic impact of a more serious incident at Ocean Beach will be devastating to this community. This issue can no longer be ignored and I ask each Councillor to support the proposal to suspend boat launching and retrieval at Ocean Beach at the specified times of the year.”

Wise words in my opinion.

I reiterate that at heart this is an issue about public safety, Council’s duty of care and risk management. We have had clear, expert advice and recommendations from our insurers, risk assessors, Surf Life Saving WA, DFES, Dept of Transport, Australian Coastal Public Safety Guidelines, our own lawyers McCleods and the CEO Dale Stewart. If Council chooses to ignore all this advice and reinstate boat launching at peak periods and another accident occurs then Council and individual Councillors could find themselves in a very, very difficult legal position. It is for this reason that I ask my words and opposition to this motion be recorded.”

That Council with respect to Boat Launching at Ocean Beach, being portion of Reserve 24913, managed by the Shire of Denmark for the purposes of recreation;

1. Council advertise its intention, through local public notice and, its website and also specific letter to users identified below, for a period of 21 days and in accordance with clause 2.2 of the Shire of Denmark Local Government Property Local Law, to reinstate the approval prior to Council Resolution 291214 of the 23rd December 2014 and in accordance with Council Resolution 190508 of May 2008 to allow any motorised vessel (boats) to launch and / or be retrieved from the existing “over beach” ramp at Ocean Beach, Ocean Beach (portion of Reserve 24913).
 - Denmark Sea Rescue
 - Denmark Boating & Angling Club
 - Denmark Surf Life Saving Club
 - Mike Neunuebel, Surfing Instructor / Lessons
 - DFES Volunteer Marine Rescue Service
 - Department of Transport
 - Recfish West.

CARRIED: 7/2

Res: 031215

Pursuant to Resolution No.031115 all Councillors' votes on the above resolution are recorded as follows;

FOR: Cr Gillies, Cr Whooley, Cr Lewis, Cr Bartlett, Cr Seeney and Cr Gearon.

AGAINST: Cr Sampson and Cr Pedro.

Background

At its meeting held on 27 May 2008, Council resolved as follows;

Resolution No. 190508

"That Council;

1. *Support the retention of boat launching at Ocean Beach, Denmark and the proposed signage (noting the graphic on the sign to be altered to reflect the correct proposed 30m channel width scale at the beach), gazetted boating channel and boating prohibited area as submitted by the Department for Planning & Infrastructure and invite comments from the listed specific interest groups as well as a general advertisement in the Denmark Bulletin with submissions closing within 21 days following publication prior to adopting a final Council position and recommendation to that Department. Specific interest groups to be invited to make comment include;
 - a. Denmark Sea Rescue
 - b. Denmark Boating & Angling Club
 - c. Denmark Surf Life Saving Club
 - d. Mike Neunuebel, Surfing Instructor / Lessons
 - e. FESA Volunteer Marine Rescue Service
 - f. South Coast Management Group.Include for consideration in the next review of its Strategic Plan support of the Government in the next 10 year planning horizon for a suitable safe Ocean Boat Launching Facility for Denmark."*

At its meeting held on 23 December 2014, Council resolved as follows;

Resolution No. 291214

"That Council with respect to Boat Launching at Ocean Beach, being portion of Reserve 24913, managed by the Shire of Denmark for the purposes of recreation;

1. *Note the various submissions received and acknowledge that whilst 'Ocean Beach for everybody' is a noble endeavour, that it must balance its duty of care as the land manager compared to the wishes of the majority of the submitters.*
2. *Note the advice contained in the legal advice prepared by Council's Solicitors, McLeods.*
3. *Note the advice contained in the Public Liability Site Risk Assessment prepared by Council's insurance and risk service provider, LGIS Risk Management.*
4. *Note and support the education and signage improvements being proposed by the Department of Transport, authorising the CEO to liaise with that Department regarding the content on that sign and educational material and seeking inclusion of reference to the concern that swimming is not recommended in the shared use zone.*
5. *Not advocate to the Department of Transport for the installation of 'in-water' channel or line markers or buoys due to concerns that they may have more frequent and unintended consequences to swimmers / board riders, causing in the opinion of the Council, potentially more life threatening injuries than what they may seek to prevent.*
6. *Not seek the assistance of the Denmark Surf Life Saving Club volunteer lifeguards or its own employed lifeguards to man radios with boats, due to that role being considered a potential distraction from their primary tasks.*
7. *Strongly encourage the Denmark Surf Life Saving Club to;*

- a. Record and share statistics of near miss events involving motorised vessels and swimmers or board riders to assist inform knowledge of the frequency of the risks perceived versus occurring;
 - b. Utilise a loud haler, horn or other sufficiently loud device to warn beach users of pending motorised vessels returning to shore.
8. Not employ dedicated Lifeguards or Rangers to oversee the activity due to it being impractical and an inefficient use of resources, particularly given the relatively low volumes and infrequent nature.
9. Authorise the CEO to liaise with user groups at Ocean Beach regarding implementation of the principles of the signage improvements recommended in the Public Liability Site Risk Assessment and consistent with this entire resolution and to purchase and erect those signs as a matter of priority and not later than Easter 2015.
10. Confirm that it will be applying for a grant from the Department of Transport (closing in February 2015) to undertake an investigation into potential physical (specifically geomorphic and hydrological) site constraints for alternate locations for an ocean going vessel launch and retrieval facility for the locality of Ocean Beach, with particular focus on the bay and beach immediately north-west of McGeary's Rock.
11. Resolve that due to concerns with respect to the potential for the increasing likelihood of conflict between motorised vessels and other beach users, as well as moving vehicles and boat trailers during peak use holiday periods in particular, that it is Council's strategic intention to move towards permanently ceasing the activity of the launching and retrieving of non-emergency service vessels (motorised boats) on Ocean Beach once an alternative facility is provided.
12. Resolve to amend the Shire of Denmark Local Government Property Local Law Determination Number 1 such that it states that motorised vehicles are permitted to be utilised and/or parked on that portion of Ocean Beach (Reserve Number 24913) immediately west of the bollards for the purposes of launching and retrieving of motorised vessels with the exception of the following dates and activities, whereupon it is closed to that activity;
 - a. 20 December through to 31 January (inclusive);
 - b. Easter Friday through to Easter Monday (inclusive) and;
 - c. Other large scale scheduled and promoted days that in the opinion of the CEO would not be safe to allow the practice to occur such as State Surf Life Saving Carnival or the Southern Ocean Classic Mile swim event.
 - d. Emergency service vessels (for example Sea Rescue and or Life Saving vessels) exempted from the restrictions in part 12a and 12b.
13. Give local public notice of the amended Determination in Part 12 with the commencement date of that amendment being effective from Easter 2015.
14. Request the CEO to ensure that signage at the site clearly differentiates closed times and that the closure is adequately monitored for compliance.
15. Request the CEO to have undertaken an in-house assessment of the liability risks to Council of over-beach launching at Council managed beaches at Peaceful Bay and Parry Beach with a view to ensuring that signage and information at those beaches is adequate.
16. Seek written assurance from Council's insurer that it is covered for Public Liability Risk and has not breached its duty of care at present and/or with the above controls in place."

Prior to the above Resolution, with respect to part 12, the section of Determination Number 1, relating to Motorised Vehicles, read as follows;

"MOTORISED VEHICLES, including motor homes, trucks, passenger vehicles, busses, 4 wheel drive vehicles and motorbikes of any description, are not permitted to enter, drive / ride or park, on any beach or reserve except where:

- a. reserve is set aside for motor sport

- b. *prior written approval of Council has been obtained*
- c. *clear defined vehicular access ways and / or parking areas are evident*
- d. *beach is an approved motorised vehicle access beach*

Motorised vehicles are permitted on the following beaches:

- a. *Parrys Beach (Reserve 20928)*
- b. *Boat Harbour (Reserve 7723)*
- c. *Peaceful Bay (Reserve 24510)*

The following conditions apply to all motorised vehicle access areas:

1. *where speed signs are in place – speed is limited to that shown on sign*
2. *where speed signs are not in place – speed limit observed is not to be greater than 40 kph*
3. *pedestrians have right of way at all times*
4. *approved beach areas – vehicles to be driven / ridden only between the low and high water lines*
5. *vehicles are not to be driven / ridden in a reckless / dangerous manner*
6. ***Ocean Beach boat ramp – vehicles and boat trailers may be parked near the ramp for the purpose of boat launching and retrieving***
7. *only fully road registered / licensed motorised vehicles may enter / park / travel on authorised beach and reserve areas.”*

Following Resolution No. 291214, this section was amended to read as follows;

“MOTORISED VEHICLES, including motor homes, trucks, passenger vehicles, busses, 4 wheel drive vehicles and motorbikes of any description, are not permitted to enter, drive / ride or park, on any beach or reserve except where:

- a. *the reserve is set aside for motor sport; and/or*
- b. *the prior written approval of Council has been obtained; and/or*
- c. *clear defined vehicular access ways and / or parking areas are evident; and/or*
- d. *the beach is an approved motorised vehicle access beach.*

Motorised vehicles are permitted on the following beaches:

- a. *Parry Beach (Reserve 20928);*
- b. *Boat Harbour (Reserve 7723);*
- c. *Peaceful Bay (Reserve 24510);*
- d. *Ocean Beach (Reserve 24913) being that portion denoted as the Ocean Beach Boat Ramp as defined by clause 6.*

The following conditions apply to all motorised vehicle access areas:

1. *where speed signs are in place – speed is limited to that shown on sign;*
2. *where speed signs are not in place – speed limit observed is not to be greater than 40 kph;*
3. *pedestrians have right of way at all times;*
4. *approved beach areas – vehicles to be driven / ridden only between the low and high water lines;*
5. *vehicles are not to be driven / ridden in a reckless / dangerous manner;*
6. *Ocean Beach boat ramp – motorised vehicles are permitted to be utilised and/or parked on that portion of Ocean Beach (Reserve No. 24913) immediately west of the bollards for the purposes of launching and retrieving of motorised vessels with the exception of the following dates and activities, whereupon it is closed to that activity;*
 - a. *20 December through to 31 January (inclusive).*
 - b. *Easter Friday through to Easter Monday (inclusive);*

- c. *Other large scale scheduled and promoted days that in the opinion of the Chief Executive Officer would not be safe to allow the practice to occur such as State Surf Life Saving Carnival or the Southern Ocean Classic Mile swim event.*
 - d. *Emergency service vessels (for example Sea Rescue and/or Life Saving vessels) exempted from the restrictions in part 6a, 6b and 6c.*
7. *only fully road registered / licensed motorised vehicles may enter / park / travel on authorised beach and reserve areas."*

Statutory Obligations:

The Council's Property Local Law provides the statutory framework to allow 'determinations' to be made on land that is under the control of the local government, such as Reserve 24913, Ocean Beach, as follows;

"local government property" means anything except a thoroughfare –

- a) *which belongs to the local government;*
- b) *of which the local government is the management body under the Land Administration Act 1997; or*
- c) *which is an 'otherwise unvested facility' within section 3.53 of the Act;*

Procedure for making a determination

2.2 (1) *The local government is to give local public notice of its intention to make a determination.*

(2) *The local public notice referred to in subclause (1) is to state that –*

- a) *the local government intends to make a determination, the purpose and effect of which is summarised in the notice;*
- b) *a copy of the proposed determination may be inspected and obtained from the offices of the local government; and*
- c) *submissions in writing about the proposed determination may be lodged with the local government within 21 days after the date of publication.*

(4) *If submissions are received in accordance with subclause (2)(c) the Council is to –*

- a) *consider those submissions; and*
- b) *decide –*
 - (i) *whether or not to amend the proposed determination; or*
 - (ii) *not to continue with the proposed determination.*

Register of determinations

2.5 (1) *The local government is to keep a register of determinations made under clause 2.1, and of any amendments to or revocations of determinations made under clause 2.6.*

(2) *Sections 5.94 and 5.95 of the Act are to apply to the register referred to in subclause (1) and for that purpose the register is to be taken to be information within section 5.94(u)(i) of the Act.*

2.7 (1) *A determination may provide that specified local government property is set aside as an area on which a person may –*

- e) *launch, beach or leave a boat;*
- f) *take or use a boat, or a particular class of boat;*

(2) *A determination may specify the extent to which and the manner in which an activity referred to in subclause (1) may be pursued and in particular –*

- a) *the days and times during which the activity may be pursued;*
- d) *may limit the activity to a class of vehicles, boats, equipment or things, or may extend it to all vehicles, boats, equipment or things;*
- e) *may specify that the activity can be pursued by a class of persons or all persons; and*
- f) *may distinguish between different classes of the activity.*

2.8 (1) *A determination may provide that a person is prohibited from pursuing all or any of the following activities on specified local government property -*

- e) *taking or using a boat, or a particular class of boat;*

(2) *A determination may specify the extent to which and the manner in which a person is prohibited from pursuing an activity referred to in subclause (1) and, in particular -*

- a) *the days and times during which the activity is prohibited;*
- b) *that an activity is prohibited on a class of local government property, specified local government property or all local government property;*
- c) *that an activity is prohibited in respect of a class of vehicles, boats, equipment or things, or all vehicles, boats, equipment or things;*
- d) *that an activity is prohibited in respect of a class of persons or all persons; and*
- e) *may distinguish between different classes of the activity.*

CEO Comment:

The Chief Executive Officer does not support the proposed change for the reasons outlined in the Officer Report to the Council Meeting of 23 December 2014.

Should Cr Gillies' Notice of Motion be carried, the result would be to advertise the following suggested Determination pursuant to the Shire of Denmark Property Local Law;

"MOTORISED VEHICLES, including motor homes, trucks, passenger vehicles, busses, 4 wheel drive vehicles and motorbikes of any description, are not permitted to enter, drive / ride or park, on any Council beach or reserve except where:

- a. *the reserve is set aside for motor sport; and/or*
- b. *the prior written approval of the Council or Chief Executive Officer has been obtained; and/or*
- c. *clear defined vehicular access ways and / or parking areas are evident; and/or*
- d. *the beach is an approved motorised vehicle access beach.*

Motorised vehicles are permitted on the following beaches:

- a. *Parry Beach (Reserve 20928);*
- b. *Boat Harbour (Reserve 7723);*
- c. *Peaceful Bay (Reserve 24510);*
- d. *Ocean Beach (Reserve 24913) being that portion denoted as the Ocean Beach Boat Ramp as defined by clause 6.*

The following conditions apply to all motorised vehicle access areas:

1. *where speed signs are in place – speed is limited to that shown on the sign;*
2. *where speed signs are not in place – speed limit observed is not to be greater than 40 kph;*
3. *pedestrians have right of way at all times;*
4. *approved beach areas – vehicles are to be driven / ridden only between the low and high water lines;*
5. *vehicles are not to be driven / ridden in a reckless / dangerous manner;*

6. *Ocean Beach boat ramp – motorised vehicles are permitted to be utilised and/or parked on that portion of Ocean Beach (Reserve No. 24913) immediately west of the bollards for the purposes of launching and retrieving of motorised vessels;*
7. *only fully road registered / licensed motorised vehicles may be driven / ridden or enter / park / travel on authorised beach and reserve areas.”*

7.00pm - Public Question Time

The Shire President stated that the second public question time would begin & called for questions from members of the public.

Mrs Fiona Ross – Denmark Thrills Adventure Park

Mrs Ross asked whether the tickets that the Shire purchased for the Adventure Park were for primary school children.

The Director of Community & Regulatory Services advised that he believed that the tickets were purchased for the youth program.

Mrs Ross stated that at one time she had received a call from the Recreation Centre asking what her children would be willing to attend and asked what the results of that survey was. Mrs Ross asked whether the cost of programs would be covered or would parents have to pay the difference?

The Director of Community & Regulatory Services stated that the school holiday program was subsidised by the State Government and that he was unsure about the results of the ring around by the Recreation Centre.

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

Ms Josie Mitchell – Denmark Thrills Adventure Park

Ms Mitchell noted that similar adventure parks only allowed children of certain age, weights and heights on certain activities.

The Shire President stated that he was sure that the Officers would take the advice.

Mr Louis Papaelias – Denmark Thrills Adventure Park

The Acting Chief Executive Officer advised that the following question had been received via email from Mr Louis Papaelias;

"Can the Council please explain the reasoning behind the Shire's purchase of ten passes worth \$1000 to the yet to be opened Thrills Adventure Park. Considering that there has been expressed concern and petition by a significant number of ratepayers over the shire's alleged partial handling of the adventure parks approval process would it not be appropriate for the shire to recoup the \$1000 thereby being seen to be impartial to all parties

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

7.04pm – Cr Whooley left the room.

7.04pm – Cr Seeney left the room.

7.05pm – Cr Morrell left the room.

COUNCIL RESOLUTION	
MOVED: CR LEWIS	SECONDED: CR GILLIES
That the meeting be adjourned for a short recess.	
CARRIED: 6/0	Res: 041215

7.10pm – The meeting resumed with all Councillors, the Acting Chief Executive Officer and the Executive Assistant.

7.2 Cr Lewis – Aquatic Centre

The following Notice of Motion was received on the 19 November 2015 and therefore complies with the Shire of Denmark Standing Orders Local Law clause 3.10.

Pursuant to the Section 10 (1a) of the Local Government (Administration) Regulations 1996, the following rescission motion requires the expressed support from at least one third of the Councillors, whether present or not, inclusive of the mover, prior to it being considered (3 are required in total therefore).

Cr Lewis, Cr Whooley & Cr Gearon had expressed their support for considering the proposed rescission.

If supported and then moved, pursuant to the Section 10 (1) (a) of the Local Government (Administration) Regulations 1996, the proposed rescission motion must be carried by an absolute majority decision (5 Councillors required to vote in support) in order for it to be effective.

COUNCIL RESOLUTION & CR LEWIS' NOTICE OF MOTION		ITEM 7.2a
MOVED: CR LEWIS	SECONDED: CR WHOOLEY	

Cr Lewis requested that her words be recorded:

“Firstly I would like to make two things crystal clear;

Number one - I need to reassure my fellow Councillors and the community, that even if I had the ability to, I have absolutely no intention of pushing through a pool at any cost. I will not vote to build a pool in Denmark until the majority of the community have demonstrated that they are willing to pay for it.

Number two – my sole aim in moving this rescission motion, is to remove the obstacle to continuing the dialogue with the community.

The first paragraph of Resolution No. 160915 states “That given the outcomes of both the 2013 (6 lane 25m) ratepayer survey and the 2015 Program (Hydrotherapy) and Learn to Swim Facility elector and ratepayer survey have convincingly rejected both heated pool options by a significant margin, Council resolve not to revisit the issue until the year 2021”

I reject that the outcomes of the surveys “convincingly rejected both heated pool options”

Those Councillors who attended the Public Information Forum concerning the Gym Model/Program Pool on the 11th of August will have witnessed the criticism levelled at this model because it was not viewed as being compatible with the needs of the wider community.

The results of the subsequent survey, along with feedback from the community and indeed from the floor tonight, have borne out this view. When people voted ‘No’ admittedly some did so because they do not want any sort of pool at any cost; many more however voted no because,

whilst they definitely want a pool, they did not believe that the proposed model was adequate for use by the wider community.

This false or misread ‘No’ vote was the catalyst for the motion I am asking you to rescind.

The resolution that Council ‘not revisit the issue until the year 2021’ flies in the face of the established premise that ‘our community need and want a pool’.

That need and want is not going to disappear just because the previous Council voted to ignore it for the next 7 years.

Indeed I was at a meeting last night where I observed the revitalization of the DACCI committee and the renewed commitment and enthusiasm from members to continue to advocate on behalf of the wider community for a proper Aquatic Centre.

The blinding omission in the pool debate to date has been a consensus between DACCI and the Shire on the design, cost of the build and ongoing operational costs. My fervent hope in rescinding this motion is that it will clear the way for the conversation with DACCI to continue so that eventually an agreed set of parameters can be put to the wider community.

One day Denmark will have a pool, it will not be next year, it may not be within the next five years, but by shutting the door on this issue not only are we rendering all the hard work, time, effort and dollars spent on the process so far worthless, we are also doing a great disservice to the wider community.

I ask you all not to stifle this debate but to encourage and embrace it.”

7.34pm – Cr Bartlett left the room.

7.38pm – Cr Bartlett returned to the room.

That Council rescind Resolution No. 160915 from the Council meeting held on 29 September 2015.

CARRIED BY AN ABSOLUTE MAJORITY: 5/4

Res: 051215

Pursuant to Resolution No.031115 all Councillors’ votes on the above resolution are recorded as follows;

FOR: Cr Lewis, Cr Bartlett, Cr Gearon, Cr Gillies and Cr Whooley.

AGAINST: Cr Sampson, Cr Pedro, Cr Seeney and Cr Morrell.

Background:

Resolution No. 160915

“That given the outcomes of both the 2013 (6 lane 25m) ratepayer survey and the 2015 Program (Hydrotherapy) and Learn to Swim Facility elector and ratepayer survey have convincingly rejected both heated pool options by a significant margin, Council resolve not to revisit the issue until the year 2021 when the following factors may warrant reconsideration of the matter:

- 1. Denmark’s population will have increased.*
- 2. Economic conditions may have changed and likely funding scenarios may have improved.*
- 3. Community attitudes and/or aptitude towards heated aquatic facilities may have changed.*

4. *Transport options between Albany and Denmark may have improved.*
5. *Any future decision to proceed with an Aquatic Facility only proceed after the majority of Ratepayers of the Denmark Shire give support to the proposal by way of a Ratepayer survey. All capital and ongoing running costs to be clearly conveyed to the Ratepayer in the survey."*

CR LEWIS' NOTICE OF MOTION

ITEM 7.2b

That Council with respect to the building of an Aquatic Facility in Denmark:

1. Acknowledges that given the outcomes and community feedback from both the 2013 (6 lane 25m) ratepayer survey and the 2015 Program (Hydrotherapy) and Learn to Swim Facility elector and ratepayer survey, the community have been discouraged and confused by Councils attempts to provide a suitable mechanism that achieves an acceptable outcome regarding an Aquatic Facility in Denmark.
2. Recognises that a staged approach to building an Aquatic Facility which includes; a 25 metre 6/8 lane lap pool, a hydrotherapy/learn to swim program pool, a children's pool or splash play area, has yet to be investigated and as such Council will:
 - a) Encourage ongoing dialogue with DACCI via two Councillor Delegates & appoints Crs _____ & _____ in those positions.
 - b) Requests that the CEO arrange a meeting with DACCI and the Councillor Delegates by the end of February 2016 to consider a way forward to progress this issue.

CEO comment:

The Chief Executive Officer does not support the proposed rescission nor the proposed new motion for the reasons outlined in the Officer Report to the Council Meeting of 29 September 2015.

COUNCIL RESOLUTION & CR LEWIS' AMENDED NOTICE OF ITEM 7.2b MOTION

MOVED: CR LEWIS

SECONDED: CR GILLIES

That Council, with respect to the building of an Aquatic Facility in Denmark:

1. Acknowledges the outcomes of the 2013 (6 lane 25m) ratepayer survey and the 2015 Program (Hydrotherapy) and Learn to Swim Facility elector and ratepayer survey and that a 'willingness to pay' has yet to be demonstrated by the community.
2. Recognises the community's need and desire for an Aquatic facility; however Council concludes that accessing adequate grants and other financing to enable the building of this facility is unlikely in the short term due to the current political and economic climate.

Notwithstanding the above, Council acknowledges that a staged approach to building an Aquatic Facility has yet to be investigated and as such Council encourages ongoing dialogue with DACCI via two Councillor Delegates & appoints Crs _____ & _____ in those positions.

AMENDMENT

MOVED: CR SEENEY

SECONDED: CR PEDRO

That the words "to medium" be added after the word "short".

PROCEDURAL MOTION

MOVED: CR WHOOLEY

SECONDED: CR GILLIES

That the amendment be put.

CARRIED UNANIMOUSLY: 9/0

Res: 061215

THE AMENDMENT WAS THEN PUT AND CARRIED: 5/4

Res: 071215

Pursuant to Resolution No.031115 all Councillors' votes on the above resolution are recorded as follows;

FOR: Cr Sampson, Cr Morrell, Cr Seeney, Cr Pedro and Cr Gillies.

AGAINST: Cr Lewis, Cr Bartlett, Cr Whooley and Cr Gearon.

AMENDED MOTION

That Council, with respect to the building of an Aquatic Facility in Denmark:

1. Acknowledges the outcomes of the 2013 (6 lane 25m) ratepayer survey and the 2015 Program (Hydrotherapy) and Learn to Swim Facility elector and ratepayer survey and that a 'willingness to pay' has yet to be demonstrated by the community.
2. Recognises the community's need and desire for an Aquatic facility; however Council concludes that accessing adequate grants and other financing to enable the building of this facility is unlikely in the short to medium term due to the current political and economic climate.

Notwithstanding the above, Council acknowledges that a staged approach to building an Aquatic Facility has yet to be investigated and as such Council encourages ongoing dialogue with DACCI via two Councillor Delegates & appoints Councillors Lewis & Gearon in those positions.

THE AMENDED MOTION WAS THEN PUT AND CARRIED: 6/3

Res: 081215

Pursuant to Resolution No.031115 all Councillors' votes on the above resolution are recorded as follows;

FOR: Cr Lewis, Cr Whooley, Cr Gearon, Cr Gillies and Cr Bartlett.

AGAINST: Cr Sampson, Cr Morrell, Cr Pedro and Cr Seeney.

7.3 Cr Whooley – Christmas Parade

The following Notice of Motion was received on the 20 November 2015 (prior to 5.00pm) and therefore complies with the Shire of Denmark Standing Orders Local Law clause 3.10.

COUNCIL RESOLUTION & CR WHOOLEY’S NOTICE OF MOTION	ITEM 7.3
MOVED: CR WHOOLEY	SECONDED: CR BARTLETT
That Council support the annual Christmas Parade as a Shire event under our Public Liability insurance with event organisers arranging other statutory requirements such as the Code of Practice for Traffic Management and the Road Traffic Act.	
CARRIED UNANIMOUSLY: 9/0	Res: 091215

Councillor comment:

Financial implications – Nil as such an event is already covered by Councils insurance. No financial contribution proposed.

Comment: The parade is proposed to travel from the intersection of Barnett and Brazier down to Strickland Street turning left – proceed to Walker Street and turn right - down to Hollings Road and turn left – parking opposite Berridge Park. A suspension of the Road Traffic Act is required because the vehicles involved and the carrying of passengers does not meet the requirements of the Road traffic Act.

In terms of the “gathering” proposed by Denmark Arts (endorsed by Council through the budget process) an Event Traffic Management Plan is a statutory requirement. In my professional opinion, the risk and liability associated with such a presumably large “gathering”, would almost certainly require a road closure under the required risk assessment. Any traffic designer would find it very hard to reduce the risk to a satisfactory level without closing the road. In other words the same precautions would be required as for Market Days- after all it is essentially the same format.

The Christmas Parade therefore will not need a road closure - it would simply enter the existing closure required for the “gathering”.

I’ve kept this simple for clarity and I am happy to provide further details or clarification if required.

Note: A suspension of the Road Traffic Act is different to a Traffic Management Plan, Event Management Plan and a Road Closure - all are separate requirements depending on the actions proposed.

CEO comment:

The Officer is of the opinion that the parade should not proceed as Officer’s have had insufficient time to make an informed assessment of the proposal and the Council has previously provided advice to the CEO at Council Briefing Forums and, via the Budget adoption, that a parade was not favoured to be undertaken this year. In addition, as of today’s date (20 November 2015) the proposal is still one that is not developed to an extent that it can be formally assessed for managing the Council and Community’s exposure to liability and/or risk. It is the view of the Officer that the Community Christmas being managed by Denmark Arts and sponsored by the Shire, that was proposed to be undertaken without a parade through the streets, should be allowed to conclude as proposed and the event reviewed by Councillors, Community and Staff following.

8. REPORTS OF OFFICERS

8.1 Director of Planning & Sustainability
Nil

8.2 Director of Community & Regulatory Services
Nil

8.3 Director of Infrastructure Services
Nil

8.4 Director of Finance & Administration

8.4.1 FINANCIAL STATEMENT FOR THE MONTH ENDING 31 OCTOBER 2015

File Ref:	FIN.1
Applicant / Proponent:	Not applicable
Subject Land / Locality:	Denmark
Disclosure of Officer Interest:	Nil
Date:	12 November 2015
Author:	Steve Broad, Accountant
Authorising Officer:	Kim Dolzadelli, Director of Finance And Administration
Attachments:	8.4.1 – October Monthly Financial Report

Summary:

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 to review the Municipal Budget on a six monthly basis to ensure that income and expenditure is in keeping with budget forecasts. It should be noted that the budget is monitored on a monthly basis in addition to the requirement for a six monthly review.

The attached financial statements and supporting information are presented for the consideration of Elected Members. Council staff welcome enquiries in regard to the information contained within these reports.

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 Rates Book, including outstanding debtors and the raising of interim rates.
- Reconciliation of all assets and liabilities, including payroll, taxation and postal 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:

Local Government Act 1995 Section 5.25 (1)
Local Government (Financial Management) Regulations 1996

The attached statements are prepared in accordance with the requirements of the Local Government Act 1995.

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 adopt 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.

Strategic Implications:

The report and officer recommendation is consistent with Council's adopted Mission and Vision and assists achieve the following specific adopted Strategic Objectives and Goals.

Governance Objective: The Shire of Denmark provides renowned leadership in sustainability, is effective with both its consultation with its people and its management of its assets, and provides transparent and fiscally responsible decision making.

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)
Not meeting Statutory Compliance	Rare (1)	Moderate (3)	Low (1-4)	Failure to meet Statutory, Regulatory or Compliance Requirements	Accept Officer Recommendation
Financial mismanagement and/or Budget overruns.	Rare (1)	Moderate (3)	Low (1-4)	Inadequate Financial, Accounting or Business Acumen	Control through robust systems with internal controls and appropriate reporting mechanisms

Comment/Conclusion:

As at 31 October 2015 total cash funds held total \$9,264,569.

Shire Trust Funds total \$182,210 with the amount of \$170,717 invested for 91 days with the National Bank, maturing 19 December 2015 at the quoted rate of 2.75%.

Reserve Funds total \$4,131,331 and have been placed on investment for 90 days with the National Bank, maturing 3 December 2015 at the quoted rate of 2.80%.

Municipal Funds total \$4,951,027 with the amount of \$4,392,644 invested with the National Bank, maturing on various dates up to the 19 December 2015 at an average rate of 2.60% (refer note 4 for detail).

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.

Depreciation of non-current assets has not been calculated for the reporting period as the Annual Financial Audit for the year ended 30 June 2015 had not been concluded at the time of producing this report.

- Taking into consideration the adopted Municipal Budget and subsequent amendment identified, the estimated 30 June 2015 end of year position is estimated to be \$1,087, as per budget projections (Note 5).
- Operating revenue and expenditure is slightly higher than that predicted for 31 October 2015 (Statement of Financial Activity).
- Rates Collection percentage of 69.74% is in keeping with historical collection rates (Note 6).
- The 2015/16 Capital Works Program is 7.66% complete as at 31 October 2015 (Note 12).
- Various transfers to and from Reserve Funds have not yet been made for 2015/16 and are generally undertaken in the latter half of the financial year, depending on specific projects to which these transfers relate.
- Salaries and Wages expenditure is in keeping with budget estimates (not reported specifically in Financial Statement).

Budget Amendments and Variances (Note 5 and 5a)

As detailed in Note 5a.

Voting Requirements:

Simple majority.

*8.03pm – Cr Gearon left the room.**8.08pm – Cr Gearon returned to the room.**8.15pm – Cr Gillies left the room.**8.18pm – Cr Gillies returned to the room.***COUNCIL RESOLUTION & OFFICER RECOMMENDATION**

ITEM 8.4.1

MOVED: CR SEENEY

SECONDED: CR LEWIS

That with respect to Financial Statements for the month ending October 2015, Council;

1. Receive the Financial Reports, incorporating the Statement of Financial Activity and other supporting documentation.
2. Endorse the Accounts for Payment for October 2015 as listed.

CARRIED UNANIMOUSLY: 9/0

Res: 101215

8.4.2 CHANGE OF METHOD OF VALUATION – 101 (LOT 1) BOAT HARBOUR ROAD, PARRYVILLE
--

File Ref:	A2986
Applicant / Proponent:	Shire of Denmark
Subject Land / Locality:	101 (Lot 1) Boat Harbour Road, Parryville
Disclosure of Officer Interest:	Nil
Date:	10 November 2015
Author:	Jason Young, Finance Officer Rates
Authorising Officer:	Kim Dolzadelli, Director of Finance and Administration
Attachments:	8.4.2a – OCR15633662 email to the owner 8.4.2b – Land Information and Use Survey 8.4.2c – Aerial map identifying the Subject Land

Summary:

Following consultation with the owner, Council is requested to approve a request to the Minister for Local Government to change the method of valuation of the subject land from gross rental valuation ["GRV"] to unimproved valuation ["UV"], due to the predominantly rural use of the 43 hectare land parcel.

Background:

On 6 July 2000, the former owner of the subject land advised the Shire of Denmark of their intention to use the subject land for aquacultural, agricultural and silvicultural purposes.

On 30 August 2000, the Shire of Denmark advised the former owner that their aquaculture proposal had received approval of planning consent on the same day.

On 14 April 2002, the subject land was transferred to the current owner, David Michael Scofield.

On 5 June 2015, the current owner of the subject land formally requested the Shire of Denmark to review the method of valuation for local government rating purposes, on the basis that the subject land is predominantly used for farming marron, and has been only used as such for at least twelve years prior to that date.

Although Council Policy P030101 "Council Rating Equity Policies" does not specifically require administrative staff to assess for predominantly rural or non-rural use of land parcels over a size of 20 hectares, the same policy does support s.6.28 of the Local Government Act 1995 in that where the land is used predominantly for rural purposes, the UV of the land will be used as the basis of rating. Where an assessment is undertaken, and a determination is made that the use is predominantly rural, Council is then required to consider approving a request to the Minister for Local Government to change the method of valuation to UV.

The Department of Local Government and Communities' ["the Department"] Rating Policy "Valuation of Land (s6.28) February 2015" provides guidance underpinning the Ministerial determination on the method of valuation of the subject land for rating purposes. Attached to this report is Land Information and Use Survey which relates to the change of method of valuation of the subject land, which meets the requirements of the Department's "Application Form – Rating Policy: Valuation of Land".

Consultation:

Landgate
Owner of the subject land
City of Albany
Shire of Manjimup

Statutory Obligations:

Section 6.28 of the Local Government Act 1995 states:

“6.28. Basis of rates

- (1) *The Minister is to —*
 - (a) *determine the method of valuation of land to be used by a local government as the basis for a rate; and*
 - (b) *publish a notice of the determination in the Government Gazette.*
- (2) *In determining the method of valuation of land to be used by a local government the Minister is to have regard to the general principle that the basis for a rate on any land is to be —*
 - (a) *where the land is used predominantly for rural purposes, the unimproved value of the land; and*
 - (b) *where the land is used predominantly for non rural purposes, the gross rental value of the land.*
- (3) *The unimproved value or gross rental value, as the case requires, of rateable land in the district of a local government is to be recorded in the rate record of that local government.*
- (4) *Subject to subsection (5), for the purposes of this section the valuation to be used by a local government is to be the valuation in force under the Valuation of Land Act 1978 as at 1 July in each financial year.*
- (5) *Where during a financial year —*
 - (a) *an interim valuation is made under the Valuation of Land Act 1978; or*
 - (b) *a valuation comes into force under the Valuation of Land Act 1978 as a result of the amendment of a valuation under that Act; or*
 - (c) *a new valuation is made under the Valuation of Land Act 1978 in the course of completing a general valuation that has previously come into force,*

the interim valuation, amended valuation or new valuation, as the case requires, is to be used by a local government for the purposes of this section.”

Schedule 6.1(2) of the Local Government Act 1995 allows the Shire of Denmark to phase in new valuations over a three year period.

Policy Implications:

The following extract from Shire of Denmark Council Policy P030101 “Council Rating Equity Policies” relates:

“In implementing suitable rating systems and procedures, Council seeks to observe the principles of objectivity, fairness and equity, consistency, transparency, and administrative efficiency. To achieve this:

- 1. Where the land is used predominantly for rural purposes, the Unimproved Valuation (UV) of the land will be used as the basis of rating; and,*
- 2. Where the land is used predominantly for non-rural purposes, the Gross Rental Valuation (GRV) of the land will be used as the basis of rating.”*

Budget / Financial Implications:

The notional decrease in rating income, based on the actual rate charge in 2015/2016 for the subject land, is **(\$107.23)**.

The Shire of Denmark does not incur any significant expense in seeking a determination from the Minister for Local Government.

The expected cost of revaluation is approximately \$64.00, which is the cost of a normal interim valuation update.

No extra staff resources are required to implement this change of method of valuation.

Strategic Implications:

The report and officer recommendation is consistent with Council's adopted Mission and Vision and assists achieve the following specific adopted Strategic Objectives and Goals.

Governance Goals:

Funding

Rating is partly a mechanism to ensure that the principles of objectivity, fairness and equity, consistency, transparency, and administrative efficiency are observed in ensuring that all ratepayers contribute to the cost of local government services and facilities. Where a lower density of rateable land parcels exist, the cost of providing services and facilities directly to the respective properties, and indirectly elsewhere in the district, is lower due to decreased population pressure on those services and facilities.

Rating is also the principal source of income to fund many of the Shire of Denmark's operations. A key to optimising rating revenue is to ensure that the appropriate method of valuation of land is used as the basis for levying rate charges. Applying the appropriate method of valuation to each property also minimises complaints from ratepayers of inconsistent and inequitable treatment.

Changing the method of valuation of the subject land will ensure that an equitable rate charge is applied to the property.

This meets the goal of funding in that the Shire of Denmark can continue to equitably benefit the community and assist in meeting the Shire of Denmark's aims and obligations.

Co-operation and Community Input

In researching this Council Report, the local governments of City of Albany and Shire of Manjimup were consulted, along with Landgate, as required by the Department of Local Government and Communities. The owner was consulted via email and phone.

This meets the goal of co-operation and community input in that any resolution from Council will be the result of collaborative input from a neighbouring local government, from the State Government, and from the owner.

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)
That Council or the Minister for Local Government does not approve a request for a change of method of valuation	Possible (3)	Minor (2)	Moderate (5-9)	Not Meeting Community expectations	Accept Risk
That the owner of the subject land, or any other ratepayer, objects to any decrease in the local government rate charge	Rare (1)	Insignificant (1)	Low (1-4)	Not Meeting Community expectations	Manage by considering objection in accordance with Local Government Act 1995

Comment/Conclusion:

The following statistics summarise the characteristics of twenty properties immediately surrounding the subject land:

- Rate Code:
 - 18 properties UV Rural Zone Rural Use Only
 - 1 property GRV Rural Zone Improved Use (Assessment A90)
 - 1 property GRV Rural Zone Caravan Park Use (Assessment A1754)
- Local Government Rate Charge:
 - GRV properties \$ 975.00 to \$1,778.34
 - UV properties \$1,162.00 to \$8,676.71
 - Average \$1,834.69
- Area (hectares):
 - GRV properties 4.6166 to 21.7475
 - UV properties 27.0000 to 675.9575
 - Average 106.2938

The two smaller properties are on a GRV method of valuation due to the following reasons:

- A90 is sized 4.6166 hectares, which is considered to be non-viable for agricultural purposes, in accordance with Council Policy P030101 “Council Rating Equity Policies”
- A1754 contains a licensed chalet and caravan park

The remaining properties are on a UV method of valuation due to the size of the constituent land parcels totalling over twenty hectares, and therefore being viable for agricultural purposes, in accordance with Council Policy P030101 “Council Rating Equity Policies”.

The subject land is 43.0022 hectares in size, solely contains a rural use, and is surrounded by similar properties. The rural nature of the neighbouring land parcels supports the change of method of valuation for the subject land to UV.

This report ensures that Council applies a consistent and equitable method of valuation to rural land parcels which are predominantly used for non-rural purposes. In doing so, Council has observed the following principles, to ensure a satisfactory outcome for all parties involved in this matter:

- Objectivity
 - Identifying subject land that is predominantly used for rural purposes
 - The criteria used to make this judgement is objectively based on the requirements of the Department
 - The owner has been informed of this process through correspondence and a phonecall
- Fairness and Equity
 - Rating principles are applied in a fair and equitable manner
 - Reviewing the predominant use of rural land parcels to ensure that all predominantly rural uses are rated on the basis of a UV method of valuation
- Consistency
 - By ensuring that predominantly rural uses are rated on the basis of a UV method of valuation, Council is treating like properties in a like manner
- Transparency
 - Council follows the Department’s Rating Policy “Valuation of Land (s6.28) February 2015”, ensuring that Council provides the public with a clearly documented system of reviewing and changing methods of valuation in the Shire of Denmark.
- Administrative Efficiency
 - The use of the Department’s Rating Policy “Valuation of Land (s6.28) February 2015” ensures that Council is using best practice systems which are efficient and cost-effective.

Council is now requested to approve the officer’s recommendation to request the Minister for Local Government to change the method of valuation of the subject land from GRV to UV.

Council is advised that there is no set timeframe for submitting an application to the Minister for Local Government for a change of method of valuation

The Minister for Local Government will:

- obtain technical descriptions from Landgate (if required);
- advertise the ministerial determination in the Government Gazette; and,
- write to the Shire of Denmark and Landgate, with a copy of the gazettal notice.

The Shire of Denmark will then inform the owner of the gazettal notice, and seek a new valuation from Landgate, before implementing the change of method of valuation.

This report to Council covers all the required information, and will form the basis of any request, required by the Minister for Local Government.

Voting Requirements:

Simple majority.

COUNCIL RESOLUTION & OFFICER RECOMMENDATION	ITEM 8.4.2
MOVED: CR GEARON	SECONDED: CR SEENEY
<p>That, in accordance with Section 6.28 of the Local Government Act 1995, Council hereby requests the Minister for Local Government to approve a change of method of valuation for 101 (Lot 1 on Diagram 93045) Boat Harbour Road, Parryville, from a Gross Rental Value to an Unimproved Value, for the basis of rating, with effect from 1 July 2015 or, where the Minister for Local Government does not agree with this date, with effect from the date as determined by the Minister for Local Government.</p>	
CARRIED UNANIMOUSLY: 9/0	Res: 111215

8.31pm – Cr Sampson left the room.

8.32pm – Cr Bartlett left the room.

8.33pm – Cr Sampson returned to the room.

8.33pm – Cr Bartlett returned to the room.

8.5 Chief Executive Officer

8.5.1 ESPERANCE BUSHFIRE APPEAL DONATION

File Ref:	PBR.10
Applicant / Proponent:	Not applicable
Subject Land / Locality:	Shire of Esperance
Disclosure of Officer Interest:	Nil
Date:	18 November 2015
Author:	Dale Stewart, Chief Executive Officer
Authorising Officer:	Dale Stewart, Chief Executive Officer
Attachments:	8.5.1 – Article from The West Australian – 19 November 2019 and City of Perth Media Release

Summary:

Given the devastating fires that have occurred near the towns of Esperance, Salmon Gums, Grasspatch and Scaddan, in the Shire of Esperance, over the last several days (16 November 2015), it is considered appropriate for Council to consider a donation to assist the victims of the bush fires. Four (4) lives and, to the date of the report, at least four (4) houses have been destroyed, as well other livestock and buildings, equipment, fencing and crops.

Background:

An appeal for donations to assist those who are affected by the fires has been established by the Shire of Esperance and the City of Perth, who are developing criteria for the disbursement of funds.

In 2010 Council donated \$2,000 to the Shire of Toodyay Bushfire Appeal.

In January 2011 Council donated \$2,500 to the Gascoyne and Midwest Flood Appeal and an additional \$2,500 to the Queensland Flood Appeal.

In December 2011 Council donated to the devastating Augusta-Margaret River Fires.

With respect to this fire (which is still continuing at the time of writing of this report), there are four confirmed dead, with several missing. Over 300 people have been evacuated, with 60 people fleeing to Norseman.

More than 150,000 hectares has been burned (117,000 ha for Scaddan / Salmon Gums / Grass Patch, 15,000 hectares for Merivale, 23,000 hectares for Norseman), with at least 15,000 head of livestock killed and at least four homes destroyed.

Evacuation centres have been established at the Esperance Civic Centre and Norseman Town Hall.

Comment:

The following is extracted from the West Australian from the edition of 19 November 2015;

“It was their day from hell — devastating hours of chaos, fear and loss as a fire believed to be the deadliest in WA’s history roared through their close-knit rural communities.

With black smoke looming large in the distance, the people of Esperance and surrounding farming areas spent yesterday pulling together, to mourn the four people killed, to comfort the hundreds evacuated and brace for more catastrophic days ahead.

Scaddan farmer Kym Curnow was among those who perished, found in his car when the fire had passed.

He was described as a hero after going to warn his neighbours to evacuate and likely saving lives by redirecting cars heading the wrong way.

It is believed one of the cars he turned around was carrying a man and two women, believed to be European backpackers working as farmhands, who were also later found dead.

There were fears the death toll could rise further, amid grave fears for those still unaccounted for last night.

Phone towers were destroyed, which exacerbated communication difficulties and led desperate friends and relatives to flood social media pleading for information about their missing loved ones.

“Catastrophic and unstoppable” fires, sparked by lightning on Sunday, tore through more than 150,000ha and numerous farms around Salmon Gums, Scaddan, Grass Patch, Merivale and Norseman.

On Monday, the area had a fire danger index rating of 250 — worse than the day of the Black Saturday bushfires in Victoria and more than double what is considered to indicate catastrophic conditions.

Fanned by strong winds, the fires swept through at up to 25km/h, destroying an unconfirmed three homes and 15,000 head of livestock and blackening countless paddocks with crops ready for harvesting after a bumper season.

Nationals party WA president Colin De Grussa was among those farmers forced to flee their properties, describing the “sick feeling” of leaving but conceding the “monster” fire left him no choice.

About 300 people were evacuated in total, including 60 who fled to Norseman and more than 120 others who sought shelter at a relocation point at the Esperance Civic Centre.

The close-knit Esperance community immediately began to rally with offers of every kind of help imaginable: money, food, clothing, furniture, rooms, hot showers and care for pets and animals.

At a community meeting last night, shire president Victoria Brown asked people to contribute to a disaster relief fund rather than providing goods, as they were not yet sure what was needed.

She also asked that people did not try to return to the fire zone until it was declared safe.

“I know you’re desperate, some of you, to go home and check your stock but please don’t do that,” she said.

Applause rang out after Mrs Brown said that despite early reports that Scaddan Primary School had been destroyed, an aerial search found it was undamaged.

Firefighters were deployed from Perth, Kalgoorlie and South West towns to help exhausted local brigades and police, some of whom had been working for 16 hours.

Last night, the fire had a 250km perimeter and more than 200 firefighters, volunteers and pastoralists were working to protect homes and strengthen containment lines.

They were expected to be reinforced this morning by 25 appliances which were due to arrive in Ravensthorpe last night.

They hoped to bring the fires under control by 6pm. While fire conditions eased yesterday, with consistent winds and lower temperatures, more unfavourable weather was expected at the weekend and on Monday.

Department of Fire and Emergency Services Acting Supt. Craig Waters said the size of the fire meant it was “extremely hard work” to try to control but once it was contained, they would be able to get a clearer indication of how much damage had been done.

Emergency warnings were still in place for the Salmon Gums, Grass Patch and Merivale fires last night.

About 165 people were without power and could be for several days, while poles and wires were repaired. Cascade, Grass Patch, Salmon Gums and Scaddan primary schools are all closed.

Premier Colin Barnett flew to Esperance yesterday to meet those people affected and said he was devastated by the loss of life.

But he praised locals for being “very stoic, very brave, and really all pitching in”.

Prime Minister Malcolm Turnbull also offered his condolences and said the Federal Government stood ready to provide assistance. “Our thoughts and prayers are with the families of those who’ve lost their loved ones,” he said. “This is a very tragic event.”

Donations can be made directly in person at the Shire of Esperance Administration Building. An Esperance Fires Appeal will be set up at Bankwest in due course.

Bankwest, Commonwealth Bank and ANZ have activated emergency assistance and disaster response packages for customers affected by the bushfires in the Esperance region.

Consultation:

The officer has considered the Council’s Community Engagement Framework and believes that no consultation with the community on this matter is necessary.

Statutory Obligations:

Given the Budget contains adequate financial provision, via a relevant specified account, there are no relevant statutory obligations.

Policy Implications:

Policy P040233 (Donation of Funds to Emergency & Disaster Recovery) relates and reads as follows;

In considering financial assistance to various emergency and disaster relief efforts and to accommodate funding for such unforeseen requests during a budget year the following budget provisions be made;

- *Allowance for 1 x annual Local and State Emergency/Disaster - up to \$10,000; and*
- *Allowance for 1 x annual National Emergency/Disaster – up to \$5,000; and*
- *International Emergency/Disaster - Nil and the CEO be authorised to advise proponents of requests for international disaster relief that Council’s Policy is to refer such requests to State & Federal Governments, whose jurisdiction includes international relations.*

Budget / Financial Implications:

At the time of preparing this Report, \$nil had been expended for the current financial year and it is the view of the author that a donation of \$2,500 could be made from this allocation (Ledger Account 1530262 has a \$5,000 Budget) without any undue impact on the account and the current Budget, noting that the fire season is yet to really commence for the State (and Denmark).

Strategic Implications:

The report and officer recommendation is consistent with Council’s adopted Mission and Vision as follows;

“Denmark in the year 2031 is a leading example of a dynamic, connected, caring and cohesive community, in tune with its environment.”

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 Western Australian community as a whole have displayed enormous generosity in donating to this appeal and highlights the ability of the State to unite in times of tragedy. It is the view of the author that the Shire of Denmark community would expect Council to contribute to such an appeal, given the widespread devastation that has occurred.

➤ **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 not make a donation at this time for whatever reason and the Council is considered or perceived by the media and or residents / ratepayers (of not just this local authority) as either uncaring or inconsiderate.	Almost Certain (5)	Moderate (3)	High (10-16)	Not Meeting Community expectations	Accept Officer Recommendation
That the Council make a donation and subsequently requires to make additional donations to other subsequent disasters within the next 7 months of the financial year.	Possible (3)	Insignificant (1)	Low (1-4)	Not Meeting Community expectations	Accept Officer Recommendation to donate 50% of the provisional sum.

Comment/Conclusion:

In the view of the author, a donation at this time would be seen as appropriate, timely, caring and responsive by both the residents and ratepayers of the Shire of Denmark and Esperance and is in keeping with the purposes of the Council's Policy with respect to such donations.

A donation of \$2,500 is proposed, which is 50% of the allocation, to accommodate subsequent potential donations to other disasters during the financial year. The Council is at liberty to increase or decrease this suggested amount.

Voting Requirements:

Simple majority.

COUNCIL RESOLUTION & OFFICER RECOMMENDATION	ITEM 8.5.1
MOVED: CR GILLIES	SECONDED: CR GEARON
That Council allocate \$2,500 to the Lord Mayor's Distress Relief Fund for the Shire of Esperance Bushfires to be funded from Account # 1530262 Local & State Emergency Disaster Relief.	
CARRIED UNANIMOUSLY: 9/0	Res: 121215

8.5.2 ORDINARY COUNCIL MEETING DATES FOR 2016	
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File Ref:	CR.2
Applicant / Proponent:	Not applicable
Subject Land / Locality:	Not applicable
Disclosure of Officer Interest:	Nil
Date:	17 November 2015
Author:	Claire Thompson, Executive Assistant
Authorising Officer:	Dale Stewart, Chief Executive Officer
Attachments:	8.5.2a – Draft Meeting Schedule (3 weekly cycle) 8.5.2b – Draft Meeting Schedule (monthly cycle)

Summary:

This report recommends that Council set its Ordinary Meeting schedule for 2016 together with the commencement times.

Background:

At the Special Meeting of Council held on Tuesday, 20 October 2015, after the last ordinary election, Council resolved as follows (Resolution No. 061015);

“That pursuant to Clause 2.1 of the Shire of Denmark Standing Orders Local Law 2000, the Council determines that the Council will ordinarily meet as follows;

- a) Every third Tuesday commencing 20 October 2015; and*
- b) Commencing at 5pm; and*
- c) At the Council Chambers, 953 South Coast Highway, Denmark; and*
- d) Determine, by resolution, the meeting schedule for 2016 at its meeting scheduled for 1 December 2015.*
- e) That the Agenda for the meeting be made available at least 10 days prior to the meeting.”*

Consultation:

Nil

Statutory Obligations:

The following legislation relates to Council meeting dates;

Section 5.3 & 5.4 of the Local Government Act 1995 states;

5.3. Ordinary and special council meetings

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

5.4. Calling council meetings

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

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

Clause 2.1 of the Shire of Denmark Standing Orders Local Law relates;

“The Council shall decide at the first meeting held after each ordinary elections day –

- a) The day or days in each month when an ordinary meeting is to be held;*

- b) *The hours during which an ordinary meeting is to be held; and*
- c) *The place at which each ordinary meeting is to be held.”*

Section 12 (1) of the Local Government (Administration) Regulations relates to a local government’s requirement to give local public notice of the dates on which and the time and place at which the ordinary council meetings are to be held in the next 12 months.

Clause 3.9 of the Shire of Denmark’s Standing Orders Local Law also relates to timeframes for submitting notices of motion.

- “(1) Unless the Act, Regulations or these Standing Orders otherwise provide, a member may raise at a meeting such business as he or she considers appropriate, in the form of a motion, of which notice has been given in writing to the CEO.*
- (2) A notice of motion under subclause (1) is to be given at least seven (7) clear working days before the meeting at which the motion is moved.*
- (3) A notice of motion is to relate to the good government of persons in the district.*
- (4) The CEO -*
- (a) with the concurrence of the President, may exclude from the notice paper any notice of motion deemed to be out of order; or*
 - (b) may on his or her own initiative make such amendments to the form but not the substance thereof as will bring the notice of motion into due form; and*
 - (c) may under his or her name provide relevant and material facts and circumstances pertaining to the notice of motion on such matters as policy, budget and law.*
- (5) No notice of motion is to be out of order because the policy involved is considered to be objectionable.*
- (6) A motion of which notice has been given is to lapse unless -*
- (a) the member who gave notice thereof, or some other member authorised by him or her in writing moves the motion when called on; or*
 - (b) the Council on a motion agrees to defer consideration of the motion to a later stage or date.*
- (7) If a notice of motion is given and lapses in the circumstances referred to in subclause (6)(a), notice of motion in the same terms or the same effect is not to be given again for at least 3 months from the date of such lapse.”*

Policy Implications:

Council Policies P040101 & P040103 relate and read as follows.

“P040101 ORDINARY COUNCIL MEETINGS

The Council shall meet every three (3) weeks on a Tuesday with a Briefing Session beginning at 10.00am and the Ordinary Council meeting commencing at 4.00pm, and/or as determined by the Chief Executive Officer in conjunction with the Shire President.”

“P040103 LOCALITY (KENT/NORNALUP WARD) MEETINGS

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

Pursuant to Council Resolution No. 061015, Council amended the meeting commencement time from 4.00pm to 5.00pm. This change will be made to Policy P040101 in due course, together with any other changes which may arise from this item.

The Officer has recommended that Council endorse a monthly cycle, being the third Tuesday of each month and should this be endorsed by Council, Policy P040101 will be amended accordingly.

Budget / Financial Implications:

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

Each ordinary meeting of the Council typically involves two meals and refreshments for Councillors (generally dinner after the meeting and typically lunch depending upon the start time of the meetings for that day). These costs are accommodated under Council’s existing “Council Meeting Meals” Budget.

In addition, Councillors are entitled to claim travel for attending Council meetings based on a kilometre basis.

Strategic Implications:

The report and officer recommendation is consistent with Council’s adopted Mission and Vision and assists achieve the following specific adopted Strategic Objectives and Goals.

GOVERNANCE OBJECTIVE - The Shire of Denmark provides renowned leadership in sustainability, is effective with both its consultation with its people and its management of its assets, and provides transparent and fiscally responsible decision making.

Sustainability Implications:

➤ **Governance:**

Frequency of meeting provides for continuity of decision making for the community and quicker turnaround times on Council decisions, particularly relating to applications and the like however, with the slowdown of the economy since 2009, Council meetings have typically involved fewer agenda items.

➤ **Environmental:**

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

➤ **Economic:**

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

➤ **Social:**

There are no known significant social considerations relating to the report or officer recommendation however the officer has heard it expressed, by some in the community at least, that a regular ‘Tuesday’, such as being on the third Tuesday of each month, is easier to schedule in ones diary to attend, than the current ‘every third’ Tuesday cycle.

➤ **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 determine a meeting schedule for Ordinary Council Meetings in 2016 at this meeting.	Rare (1)	Minor (2)	Low (1-4)	Failure to meet Statutory, Regulatory or Compliance Requirements	Accept Officer Recommendation

Comment/Conclusion:

As determined in Resolution No. 061015, Council meets every three weeks on a Tuesday however, at the meeting held on 20 October 2015 there was some discussion that some community members would prefer a set day of each month rather than the three weekly cycle. For this reason two draft schedules have been provided for consideration.

The Officer would support either cycle and should Council prefer a set day of each month, the Officer would recommend the third or fourth Tuesday of each month to tie in with other meetings and other local authorities. However, the most practical first meeting date for 2016 is the third Tuesday in January (due to a public holiday being on the fourth Tuesday in January 2016).

For information, the Shire of Plantagenet meets every four weeks on a Tuesday, commencing at 3.00pm, and the City of Albany meets every fourth Tuesday, commencing at 6.00pm and the Shire of Manjimup meets every three weeks on a Thursday, commencing at 5.00pm.

Attached are two draft meeting schedules which indicates meeting dates, public holidays, officer report deadlines and distribution of Agenda dates. Tables with just the proposed meeting dates are below. Attachment 8.5.2a shows a three weekly cycle and Attachment 8.5.2b shows monthly cycle, being the third Tuesday of every month.

For either cycle, the Officer recommends that the first meeting be Tuesday, 19 January 2016. This will allow Officers sufficient time to prepare reports and the Agenda for distribution to Councillors prior to the meeting date, noting that the office will be closed from 26 December 2015 to 2 January 2016, re-opening on the 4 January 2016, pursuant to Council Resolution No. 291015.

To hold a meeting any earlier than this may result in there being no Officer Reports on the Agenda.

Table 1 (refer also Attachment 8.5.2b) Proposed Meeting Schedule – Three (3) weekly cycle, every three weeks on a Tuesday.

DATE	LOCATION
19 January	Council Chambers, 953 South Coast Highway, Denmark
9 February	Council Chambers, 953 South Coast Highway, Denmark
1 March	Council Chambers, 953 South Coast Highway, Denmark
22 March	Council Chambers, 953 South Coast Highway, Denmark
12 April	Council Chambers, 953 South Coast Highway, Denmark
3 May	Council Chambers, 953 South Coast Highway, Denmark
24 May	Council Chambers, 953 South Coast Highway, Denmark
14 June	Council Chambers, 953 South Coast Highway, Denmark
5 July	Council Chambers, 953 South Coast Highway, Denmark
26 July	Council Chambers, 953 South Coast Highway, Denmark
16 August	Council Chambers, 953 South Coast Highway, Denmark
6 September	Council Chambers, 953 South Coast Highway, Denmark
27 September	Council Chambers, 953 South Coast Highway, Denmark
18 October	Council Chambers, 953 South Coast Highway, Denmark
8 November	Council Chambers, 953 South Coast Highway, Denmark
29 November	Council Chambers, 953 South Coast Highway, Denmark
20 December	Council Chambers, 953 South Coast Highway, Denmark

Table 2 (refer also Attachment 8.5.2b) Proposed Meeting Schedule – Monthly cycle, every third Tuesday of each month.

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

A three weekly cycle would equate to 17 Council meetings per year and a monthly cycle would equate to 12 Council meetings per year. Whilst the Officer would support either cycle, there have been times during the three weekly cycle where there have been few items on the Agenda. A monthly cycle would likely see slightly more substantial Agendas and significantly reduce costs associated with meals, printing and agenda preparation and distribution and also reduce Councillors travel costs and commitments.

MEETING TIMES

At its meeting held on 20 October, Council amended the commencement time for Ordinary Meetings from 4.00pm to 5.00pm. Should Council resolve to proceed with a monthly cycle, it is likely that the Agendas could be slightly more substantial, given that there will be five (5) less meetings in the year, and therefore the conclusion times of meetings are likely to be later than at present.

With respect to members of the public wishing to address Council, Council convenes two public question times, one at 4.00pm and one at 6.00pm (if the meeting is still continuing) which does, to some extent, overcome concerns about the 4.00pm start times, compared to a 5.00pm start.

Of course there is nothing preventing the members of the public submitting questions to the Council notwithstanding that they can't be in attendance.

Typically a meal is provided for Councillors following an Ordinary Council meeting and later conclusion times could result in later meal times. In the past, every third meeting or so, Councillors would dine out at a local restaurant however most establishments that are open on a Tuesday night, close their kitchen at around 8pm. Travel times for Councillors after the meeting would also of course be later.

TIMEFRAME FOR PUBLISHING AGENDA

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

At its meeting held on 20 October, Council requested that the Agenda be published 10 days prior to a Council meeting (which is a Saturday and therefore the Agenda is published on the Friday, being 11 days prior) however this has created a conflict with Councillors wishing to put forward Notices of Motion, which, pursuant to Clause 3.9 of the Shire of Denmark's Standing Orders Local

Law, are to be given at least seven (7) clear working days before the meeting at which the motion is moved.

Council could amend the Local Law, however the Officer advises that this process is costly (due to statutory advertising requirements) and the process can take approximately six months. In the Officer's opinion, it would be easier and less costly to accept the former publishing timeframe, being one week prior to the meeting, which would enable Councillors to comply with the Local Law and ensure that their Notice of Motion was included in the published Agenda.

Whilst it could be said that given the 72 hours notice required by law, that the published Agenda can just be amended (technically up to three days prior) to include the Notice of Motion, however, in the Officer's opinion, this could create a situation where members of the public have already viewed or downloaded the already published document only to find that the "real" one is different. Whilst it is the "Council's" Agenda, this could be confusing for residents and ratepayers.

The Officer Recommendation is based on what the Officer believes to be the best solution for Councillors and members of the public. The Officer understands that there may be members of the public that would prefer a later start time due to work commitments and the like however, Councillors may wish to adjust the commencement time in consideration of the potential, and likely, later conclusion times for meetings, for the reasons stated above.

Voting Requirements:

Simple majority.

OFFICER RECOMMENDATION

ITEM 8.5.2

That with respect to the Meetings of Council to be held in 2016, Council;

1. Endorse the dates for the Ordinary Council meetings in 2016, as shown in the monthly meeting cycle table within the report, with the first meeting commencing on Tuesday, 19 January 2016;
2. Request as a matter of policy that the Agenda for Ordinary Council Meetings be published seven (7) days prior to the meeting, to reduce the conflict with Clause 3.9 of the Shire of Denmark's Standing Orders Local Law;
3. Amend Council Policy P040101 to read as follows;

"P040101 ORDINARY COUNCIL MEETINGS

The Council shall meet on the third Tuesday of each month with a Briefing Session beginning at 10.00am, or as determined by the Chief Executive Officer in conjunction with the Shire President, and the Ordinary Council meeting commencing at 5.00pm."

4. Host a Kent/Nornalup Ward Meeting for the interest of residents, ratepayers and community organisations at the Peaceful Bay Progress Association Hall and the Tingle Dale Hall in 2016 at times and dates to be determined by the Chief Executive Officer in conjunction with the Shire President and Progress Association and Hall Committee, and widely advertise those times & dates prior to the meeting.
5. Advertise in the Denmark Bulletin, Walpole Weekly, on Council's website and on Council's Notice Boards the dates and locations in parts 1 & 4.

COUNCIL RESOLUTION

ITEM 8.5.2

MOVED: CR GILLIES

SECONDED: CR SEENEY

That with respect to the Meetings of Council to be held in 2016, Council;

1. Endorse the dates for the Ordinary Council meetings in 2016, as shown as the three weekly meeting cycle table within the report, with the first meeting commencing on Tuesday, 19 January 2016;
2. Request as a matter of policy that the Agenda for Ordinary Council Meetings be published seven (7) days prior to the meeting, to reduce the conflict with Clause 3.9 of the Shire of Denmark's Standing Orders Local Law;
3. Amend Council Policy P040101 to read as follows;

"P040101 ORDINARY COUNCIL MEETINGS

The Council shall meet every three (3) weeks on a Tuesday with a Briefing Session beginning at 10.00am, or as determined by the Chief Executive Officer in conjunction with the Shire President, and the Ordinary Council meeting commencing at 4.00pm."

4. Host a Kent/Nornalup Ward Meeting for the interest of residents, ratepayers and community organisations at the Peaceful Bay Progress Association Hall and the Tingle Dale Hall in 2016 at times and dates to be determined by the Chief Executive Officer in conjunction with the Shire President and Progress Association and Hall Committee, and widely advertise those times & dates prior to the meeting.
5. Advertise in the Denmark Bulletin, Walpole Weekly, on Council's website and on Council's Notice Boards the dates and locations in parts 1 & 4.

CARRIED: 6/3

Res: 131215

REASONS FOR CHANGE

Council wished to continue with a three weekly cycle for Ordinary Council Meetings and for the meetings to commence at 4.00pm.

Pursuant to Resolution No.031115 all Councillors' votes on the above resolution are recorded as follows;

FOR: Cr Morrell, Cr Sampson, Cr Gillies, Cr Seeney and Cr Pedro.

AGAINST: Cr Gearon, Cr Whooley and Cr Bartlett.

8.5.3 COMMERCIAL LEASES ON LOT 300 – DENMARK HAULAGE AND DENMARK EARTHMOVING

File Ref:	A1077, A2228 & A5561
Applicant / Proponent:	Not applicable
Subject Land / Locality:	Lot 300, Denmark-Mount Barker Rd, Denmark
Disclosure of Officer Interest:	Nil
Date:	20 November 2015
Author:	Dale Stewart, Chief Executive Officer
Authorising Officer:	Dale Stewart, Chief Executive Officer
Attachments:	8.5.3a – Extract Report – 8 September 2015 8.5.3b – Development Application Documentation 8.5.3c – Schedule of Submissions

Summary:

Council is asked to consider any submissions received relating to its intention to lease portions of Lot 300 to Denmark Earthmoving and Denmark Haulage and authorise the Chief Executive Officer to negotiate a new lease with both parties based on their current lease terms, with an additional purposes of use being added to the lease with Denmark Earthmoving.

Background:

At its meeting held on 8 September 2015, Council resolved as follows (Resolution No. 100915);

“That with respect to the two commercial leases due to expire on 31 December 2015 on portion of lot 300, Denmark-Mount Barker Road, Denmark, Council;

- 1. Authorise the Chief Executive Officer to exercise an extension of the lease to Soil Solutions for a further two year term to 31 December 2017, should they request it;*
- 2. Honour the principles of its previous commitment to Denmark Haulage pursuant to resolution number 190314, to extend their lease under the same terms and conditions at present, until 31 December 2017, subject to advertising the proposed private treaty arrangement, considering submissions, and seeking a new valuation at the expense of the lessee; and*
- 3. Agree to the principle of a new lease to Denmark Earthmoving, under the same general terms and conditions at present, inclusive of the existing sublet clause, until 31 December 2017, subject to advertising the proposed private treaty arrangement, considering submissions, and seeking a new valuation at the expense of the lessee; and*
- 4. Authorise the Chief Executive Officer, as the landowners representative, to sign the development application by Denmark Earthmoving and or its proposed sub-lessee for the application for planning consent for the proposed ‘Concrete Batching Plant’ to be assessed.*
- 5. Agree in principle with the Denmark Earthmoving sub-lease subject to planning approval being obtained.”*

Acecoast Pty Ltd, trading as Denmark Earthmoving, has a lease expiring on 31 December 2015, with no option to renew or extend (it was the balance of a 21 year lease).

Their lease comprises 8,100 sqm with a current annual rental of \$17,997 plus GST, for the purposes of earthmoving, storage and operations including transport.

Their current lease has a standard sub-let clause that allows the lessee to sub-let, but requires lessor permission (clause 9.6).

Pursuant to Resolution No. 100915, Council have agreed to allow the lessee to sub-let and extend the purpose of use to include “concrete batching” and “hydraulic hose repairs”.

Avalon Pty Ltd, trading as Denmark Haulage, has a lease expiring on 31 December 2015, with no option to renew or extend (it was the balance of a 21 year lease).

Their lease comprises 3,600 sqm with a current annual rental of \$13,230 plus GST, for the purposes of Truck Maintenance/Transport.

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 apart from statutory advertising undertaken, no additional external/internal engagement or consultation is required.

A public notice was published in the Albany Advertiser on 10 November 2015 (due to time constraints associated with advertising in the Denmark Bulletin) with submissions closing on 25 November 2015.

At the close of the advertising period no submissions were received.

Statutory Obligations:

Pursuant to the Local Government Act 1995, Section 3.58 is required to be adhered to where a local government proposes to lease land not covered by an existing as of right lease entitlement (renewal right) and/or not exempt, pursuant to the Local Government (Functions and General) Regulations 1996, as is the case relating to the requests by Denmark Earthmoving and Denmark Haulage;

9. Disposing of property

(1) In this section —

dispose *includes to sell, lease, or otherwise dispose of, whether absolutely or not;*

property *includes the whole or any part of the interest of a local government in property, but does not include money.*

(2) Except as stated in this section, a local government can only dispose of property to —

a) the highest bidder at public auction; or

b) the person who at public tender called by the local government makes what is, in the opinion of the local government, the most acceptable tender, whether or not it is the highest tender.

(3) A local government can dispose of property other than under subsection (2) if, before agreeing to dispose of the property —

a) it gives local public notice of the proposed disposition —

(i) describing the property concerned; and

(ii) giving details of the proposed disposition; and

(iii) inviting submissions to be made to the local government before a date to be specified in the notice, being a date not less than 2 weeks after the notice is first given;

and

b) it considers any submissions made to it before the date specified in the notice and, if its decision is made by the council or a committee, the decision and the reasons for it are recorded in the minutes of the meeting at which the decision was made.

- (4) *The details of a proposed disposition that are required by subsection (3)(a)(ii) include —*
- a) *the names of all other parties concerned; and*
 - b) *the consideration to be received by the local government for the disposition; and*
 - c) *the market value of the disposition —*
 - (i) *as ascertained by a valuation carried out not more than 6 months before the proposed disposition; or*
 - (ii) *as declared by a resolution of the local government on the basis of a valuation carried out more than 6 months before the proposed disposition that the local government believes to be a true indication of the value at the time of the proposed disposition.*
- (5) *This section does not apply to —*
- a) *a disposition of an interest in land under the Land Administration Act 1997 section 189 or 190; or*
 - b) *a disposition of property in the course of carrying on a trading undertaking as defined in section 3.59; or*
 - c) *anything that the local government provides to a particular person, for a fee or otherwise, in the performance of a function that it has under any written law; or*
 - d) *any other disposition that is excluded by regulations from the application of this section.*

Policy Implications:

There are no policy implications.

Budget / Financial Implications:

Independent valuations for the new lease (as advertised) have been undertaken at the expense of the Lessee and are as follows, the total annual rental income for Council being \$42,300 (ex GST) per annum;

- Avalon Pty Ltd t/as Denmark Haulage\$18,000 (ex GST) per annum
- Acecoast Pty Ltd t/as Denmark Earthmoving\$24,300 (ex GST) per annum.

The valuations to apply with effect from 1 January 2016 for both would generate an additional \$11,073 income per annum for the Council.

Strategic Implications:

The report and officer recommendation is consistent with Council’s adopted Mission and Vision and assists achieve the following specific adopted Strategic Objectives and Goals.

Employment: ...identify the key economic drivers in the region and develop, implement and advocate for policies that will provide and assist viable and acceptable employment opportunities for residents and ratepayers.

Funding: ...be fiscally responsible and seek to develop both safe income generating assets and the maximisation of external funding, that will benefit the community and assist in meeting its aims and obligations.

Provision of another two year term will enable the businesses to continue to operate from their current sites with certainty whilst the Council’s Industrial Area planned for McIntosh Road is developed. The development of this precinct is still at least two years away and is subject to rezoning and obtaining grants. If the Industrial Area is not ready in two years’ time then there

would be nothing to stop the Council agreeing to another extension on a case by case basis (subject to advertising again). A longer term is not recommended nor advised in the proposed new lease.

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:**

Providing certainty to two businesses that employ several local persons will provide continued local employment and economic activity associated with their operations. As there is currently no suitable land for these types of businesses, other than the existing ‘service park’ site, a continuation of their operation is recommended for at least another two years, until the proposed Industrial Area (and lots therein) is available for subdivision / acquisition.

➤ **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 agree to extensions of (new) leases.	Possible (3)	Minor (2)	Moderate (5-9)	Not Meeting Community expectations	Accept Officer Recommendation

Comment/Conclusion:

At the close of the advertising period no submissions were received on Council’s intention to lease under private treaty.

With respect to each of the leases due for expiry on 31 December 2015, the Officer has recommended a new two (2) year lease for both, with an expiry date of 31 December 2017.

Comment in relation to the assessment of the development application for the concrete batching plant will be added as an addendum to this report, following receipt of the pending submissions from Main Roads WA and the Department of Environment and Regulation, together with a submission made by the Department of Education (Denmark Agricultural College).

ADDENDUM

An application for Retrospective Development Approval was lodged with Planning Services in September 2015 (being date officially deemed a ‘complete application’ in light of lease issues) for a Concrete Batching Plant at No. 832 (Portion of Lot 300) South Coast Highway, Scotsdale – refer Attachment 8.5.3b.

In accordance with Town Planning Scheme No. 3 (TPS No. 3) the subject site has a local scheme reservation of “Public Use” – noting this reservation was in place reflecting the original tenure of

the land as a Reserve (being Reserve 27101 vested in the Shire of Denmark); for reference the Shire of Denmark purchased the land from the State Government in mid 2011.

As part of the development application assessment process, the development application was referred to:

- Three (3) adjoining landowners (noting same landowner for the three (3) properties) inviting comment on the proposal.
- Referral to Main Roads WA, Department of Environment Regulation (Contaminated Sites Branch) and Department of Environment Regulation (Land Use Planning Branch)
- Proponent

At the close of the advertising period, four (4) submissions were received. Attached as Attachment 8.5.3c is the Schedule of Submissions – with the submissions received being entered into the schedule as verbatim. Column 4 of the Schedule of Submissions represents Planning Services comments/response to the submission.

The proposal has been assessed having regard to the relevant provisions of TPS No. 3 (noting that there are minimal development requirements specifically pertaining to this 'Public Use' reservation), the lease that relates to the site, the EPA's Guidance Statement No. 3: Separation Distances between Industrial and Sensitive Land Uses, the *Environmental Protection (Concrete Batching and Cement Product Manufacturing) Regulations 1998* and the submissions received during the advertising period and it is considered that use of site for concrete batching plant purposes (for the short-term until such as the McIntosh Road Industrial Area is developed) is considered complementary to the current land uses on-site (being Denmark Earthmoving, Denmark Haulage and Soil Solutions), and can be appropriately managed via development approval conditions and/or Works Approval/Registration requirements of the Department of Environment Regulation.

In this regard it should be noted that the recommended conditions are standard in nature that would apply to a business of this type; however particular attention for the benefit of the applicant and the head lessee (Acecoast Pty Ltd) to consider upfront before committing to the business operating on-site is the condition requested by Main Roads WA that all access/egress to the site is to be via Denmark-Mt Barker Road and not South Coast Highway.

From a Shire of Denmark perspective, access to a Main Roads WA controlled road is determined by Main Roads WA and in this instance they have advised that the additional land use on-site has triggered a review of access and consequently access to South Coast Highway is not permitted should the concrete batching plant business operate from the site - noting if remains as Denmark Earthmoving only as per the current lease arrangements then access to South Coast Highway can remain. This is not a fundamental flaw from a Shire of Denmark perspective as there is the ability for access/egress to be accommodated via the area of land on the southern side of the fencing that has been erected to denote the area leased to Vancouver Waste Services (trading as Soil Solutions) – being driveway 2 as denoted on the plan provided in Main Roads WA submission. It will require the accessway to be constructed to an all-weather standard (noting from a recent site inspection the area is over-grown with grass but can readily be made able to be made trafficable).

It should also be noted that a concrete batching plant requires a Works Approval from the Department of Environment Regulation (DER) to construct/set up the development and a Registration to operate. As part of this application process, the DER may impose additional conditions/requirements on the development that the applicant/operator will need to comply with over and above the conditions contained on any Development Approval issued by the Shire of Denmark.

Voting Requirements:

Simple majority.

COUNCIL RESOLUTION	ITEM 8.5.3a
MOVED: CR WHOOLEY	SECONDED: CR BARTLETT
<p>That with respect to the two commercial leases due to expire on 31 December 2015 on portion of Lot 300, Denmark-Mount Barker Road, Denmark, noting that there are no adverse submissions received by the closing date of 25 November 2015, Council;</p> <ol style="list-style-type: none"> 1. Authorise the Chief Executive Officer to negotiate a new five year lease with Acecoast Pty Ltd t/as Denmark Earthmoving based on the new market valuation and which is consistent with the principles of their current lease but including additional purposes of use being 'Concrete Batching Plant' and 'Hydraulic Hose Repairs'; and 2. Authorise the Chief Executive Officer to negotiate a new five year lease with Avalon Pty Ltd t/as Denmark Haulage based on the new market valuation and which is consistent with the principles of their current lease. 	
LOST: 3/6	Res: 141215

REASONS FOR CHANGE

Council changed the Officer Recommendation to reflect a five year lease option for both Lessees.

Pursuant to Resolution No.031115 all Councillors' votes on the above resolution are recorded as follows;

FOR: Cr Gearon, Cr Bartlett and Cr Whooley.

AGAINST: Cr Pedro, Cr Lewis, Cr Sampson, Cr Gillies, Cr Seeney and Cr Morrell.

COUNCIL RESOLUTION & OFFICER RECOMMENDATION	ITEM 8.5.3a
MOVED: CR SAMPSON	SECONDED: CR GILLIES
<p>That with respect to the two commercial leases due to expire on 31 December 2015 on portion of Lot 300, Denmark-Mount Barker Road, Denmark, noting that there are no adverse submissions received by the closing date of 25 November 2015, Council;</p> <ol style="list-style-type: none"> 1. Authorise the Chief Executive Officer to negotiate a new two year lease with Acecoast Pty Ltd t/as Denmark Earthmoving based on the new market valuation and which is consistent with the principles of their current lease but including additional purposes of use being 'Concrete Batching Plant' and 'Hydraulic Hose Repairs'; and 2. Authorise the Chief Executive Officer to negotiate a new two year lease with Avalon Pty Ltd t/as Denmark Haulage based on the new market valuation and which is consistent with the principles of their current lease. 	
CARRIED UNANIMOUSLY: 9/0	Res: 151215

OFFICER RECOMMENDATION

ITEM 8.5.3b

That Council with respect to the retrospective development application for the Proposed General Industry (Concrete Batching Plant) at No. 832 (Lot 300) South Coast Highway, Scotsdale:

1. Note the submissions received.
2. Grant Development Approval subject to the following:
 - Conditions
 - a) Development to be in accordance with the attached stamped approved plans dated 14 August 2015.

- b) Vehicular access to the site shall be via Denmark-Mount Barker Road only. No direct vehicular access is permitted from South Coast Highway – refer Advice Note 1.
- c) Prior to operations commencing, the existing crossover to South Coast Highway being removed and the verge reinstated to the satisfaction of Main Roads WA.
- d) The driveway/accessway/vehicle parking/manoeuvring and circulation areas shall be constructed and maintained to a minimum all-weather standard (e.g. gravel, crushed rock) to facilitate access to the development by 2 wheel drive vehicles at all times.
- e) All car parking areas and access ways shall be maintained for their stated purpose at all times and shall not be used for display or general storage purposes.
- f) No parking or display of vehicles and/or equipment shall occur within the adjoining road verge areas at any time.
- g) The loading and unloading of goods to and from the premises shall be carried on entirely within the site at all times and shall be undertaken in a manner so as to cause minimum interference with other vehicular traffic.
- h) Any bulk fuel storage on-site will require approval of the Shire of Denmark.
- i) An approved bunded, sealed or secondary contained area is to be provided for all oil, fuel and bulk chemical storage.
- j) A sealed vehicle wash-down bay is to be provided and the effluent from this area is to be discharged into an oil plate separator and the final effluent from the separation process is to be disposed of below ground if bin and/or vehicle plant washing is to be regularly undertaken at the site.
- k) The works involved in the implementation of the development must not cause sand drift and/or dust nuisance. In the event that the Shire of Denmark is aware of, or is made aware of, the existence of a dust problem, measures such as installation of sprinklers, use of water tanks, mulching, or other land management systems as appropriate may be required to be installed or implemented to prevent or control dust nuisance, and such measures shall be installed or implemented within the time and manner directed by the Shire of Denmark (Environmental Health Services).
- l) No servicing of commercial vehicles associated with the approved development is to be undertaken on-site without the approval of the Shire of Denmark.
- m) No retail sales occurring from the premises without an amended Development Approval being sought from the Shire of Denmark (Planning Services).
- n) All stormwater and drainage runoff from all roofed and impervious areas, yard run off and excess process water from the batching plant is to be retained on-site to the satisfaction of the Shire of Denmark (Infrastructure Services).
- o) No signage has been approved as part of this application – refer Advice Note 2.

Advice Notes

- a) In relation to Condition b), access to Denmark-Mt Barker Road can be accommodated via the area of land on the southern side of the fencing that has been erected to denote the area leased to Vancouver Waste Services (trading as Soil Solutions) – being driveway 2 as denoted on the plan provided in Main Roads WA submission.

Main Roads WA has advised that in the event of a vehicular accident at this driveway access, Main Roads WA may close driveway 2 in favour of driveway 1 being the safest driveway access point to the site.

- b) In relation to Condition o), consultation should occur with Planning Services prior to erection of any signage to ascertain what approvals, if any, are required to be obtained.
- c) The proposed development will require a Works Approval from the Department of Environment Regulation (DER) to construct/set up the development and a Registration to operate. Consultation should occur with the DER regarding the necessary requirements to obtain such Works Approval and Registration requirements. It is the applicant's responsibility to ensure that such permit is obtained – with a copy being

provided, by the applicant, to the Shire of Denmark of all relevant approvals obtained from DER.

- d) The Department of Environment Regulation (Contaminated Sites Branch) advises as follows: "Due to the potential risk of encountering hydrocarbon-impacted soil at the site, a site-specific health and safety plan should be developed and implemented to address the risk to the health of any workers undertaking intrusive works".
 - e) The applicant is advised that approval is required from the Department of Health for the manufacture of septic tanks and leach drains.
 - f) A Building Permit is required to be obtained for the retaining walls that are proposed. In this regard please note that as the Shire of Denmark is the landowner, the Shire's Principal Building Surveyor is unable to certify the Building Permit application, thus a Private Building Certifier will need to be engaged. For further information in this regard please liaise with Building Services on 9848 0312.
 - g) 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.
 - h) 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.
3. Advise the submitters of Council's resolution.

COUNCIL RESOLUTION

MOVED: CR WHOOLEY

ITEM 8.5.3b

SECONDED: CR SEENEY

9.20pm – Cr Pedro left the room.

9.24pm – Cr Pedro returned to the room.

That Council with respect to the retrospective development application for the Proposed General Industry (Concrete Batching Plant) at No. 832 (Lot 300) South Coast Highway, Scotsdale:

1. Note the submissions received.
2. Grant Development Approval subject to the following:

Conditions

- a) Development to be in accordance with the attached stamped approved plans dated 14 August 2015.
- b) Vehicular access to the site shall be via an approved crossover by Main Roads WA – refer Advice Note a.
- c) The driveway/accessway/vehicle parking/manoeuvring and circulation areas shall be constructed and maintained to a minimum all-weather standard (e.g. gravel, crushed rock) to facilitate access to the development by 2 wheel drive vehicles at all times.
- d) All car parking areas and access ways shall be maintained for their stated purpose at all times and shall not be used for display or general storage purposes.
- e) No parking or display of vehicles and/or equipment shall occur within the adjoining road verge areas at any time.
- f) The loading and unloading of goods to and from the premises shall be carried on entirely within the site at all times and shall be undertaken in a manner so as to cause minimum interference with other vehicular traffic.
- g) Any bulk fuel storage on-site will require approval of the Shire of Denmark.
- h) An approved bunded, sealed or secondary contained area is to be provided for all oil, fuel and bulk chemical storage.
- i) A sealed vehicle wash-down bay is to be provided and the effluent from this area is to be discharged into an oil plate separator and the final effluent from the separation process is to be disposed of below ground if bin and/or vehicle plant washing is to be regularly undertaken at the site.
- j) The works involved in the implementation of the development must not cause sand drift and/or dust nuisance. In the event that the Shire of Denmark is aware of, or is made

aware of, the existence of a dust problem, measures such as installation of sprinklers, use of water tanks, mulching, or other land management systems as appropriate may be required to be installed or implemented to prevent or control dust nuisance, and such measures shall be installed or implemented within the time and manner directed by the Shire of Denmark (Environmental Health Services).

- k) No servicing of commercial vehicles associated with the approved development is to be undertaken on-site without the approval of the Shire of Denmark.
- l) No retail sales occurring from the premises without an amended Development Approval being sought from the Shire of Denmark (Planning Services).
- m) All stormwater and drainage runoff from all roofed and impervious areas, yard run off and excess process water from the batching plant is to be retained on-site to the satisfaction of the Shire of Denmark (Infrastructure Services).
- n) No signage has been approved as part of this application – refer Advice Note b).

Advice Notes

- a) In relation to Condition b), consultation to occur with Main Roads WA regarding vehicular access to the site.
 - b) In relation to Condition n), consultation should occur with Planning Services prior to erection of any signage to ascertain what approvals, if any, are required to be obtained.
 - c) The proposed development will require a Works Approval from the Department of Environment Regulation (DER) to construct/set up the development and a Registration to operate. Consultation should occur with the DER regarding the necessary requirements to obtain such Works Approval and Registration requirements. It is the applicant's responsibility to ensure that such permit is obtained – with a copy being provided, by the applicant, to the Shire of Denmark of all relevant approvals obtained from DER.
 - d) The Department of Environment Regulation (Contaminated Sites Branch) advises as follows: "Due to the potential risk of encountering hydrocarbon-impacted soil at the site, a site-specific health and safety plan should be developed and implemented to address the risk to the health of any workers undertaking intrusive works".
 - e) The applicant is advised that approval is required from the Department of Health for the manufacture of septic tanks and leach drains.
 - f) A Building Permit is required to be obtained for the retaining walls that are proposed. In this regard please note that as the Shire of Denmark is the landowner, the Shire's Principal Building Surveyor is unable to certify the Building Permit application, thus a Private Building Certifier will need to be engaged. For further information in this regard please liaise with Building Services on 9848 0312.
 - g) 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.
 - h) 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.
3. Advise the submitters of Council's resolution.
 4. Main Roads WA be advised that the Council supports access to South Coast Highway via the existing crossover.

CARRIED UNANIMOUSLY: 9/0

Res: 161215

REASONS FOR CHANGE

Council included references to further liaison with Main Roads WA regarding vehicular access to the site given concerns raised by the proponent during Public Question Time.

8.5.4 DENMARK FESTIVAL OF CYCLING 2016 – REQUEST FOR SPONSORSHIP AND LETTER OF SUPPORT

File Ref:	A3035
Applicant / Proponent:	Denmark Festival of Cycling Committee
Subject Land / Locality:	Shire of Denmark
Disclosure of Officer Interest:	Nil
Date:	19 November 2015
Author:	Claire Thompson, Executive Assistant
Authorising Officer:	Dale Stewart, Chief Executive Officer
Attachments:	Festival Summary

Summary:

Council is asked to consider a sponsorship request received from the Denmark Festival of Cycling Committee, auspiced by Green Skills Inc., towards the cost of managing, promoting and co-ordinating a Festival of Cycling to be held in Denmark to coincide with Bike Week next year, being 12 - 20 March 2016.

Background:

The Committee has been established to co-ordinate the event and includes a number of local enthusiasts, a representative of Green Skills Inc, the Denmark High School and the Denmark Agricultural College. This event will be the first of its kind in Denmark and the organisers hope, depending upon its success, that it will be a continuing event in Denmark in future years to celebrate Bike Week.

Bike Week has been a Department of Transport co-ordinated event for the past 30 years. It is WA's annual celebration and promotion of riding a bicycle for transport and is held every year across Western Australia in March.

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 Committee includes community representatives who have already had initial conversations with associated clubs, local schools and the Manager of Recreation and Youth Services.

Statutory Obligations:

An appropriate event on road application pursuant to the Road Traffic Act 1974 and Traffic Management for Events Code of Practice may be required.

Policy Implications:

There are no policy implications.

Budget / Financial Implications:

Sponsorship for the event could be accommodated from Council's existing Donations budget. The total budget allocation for 2015/16 is \$20,284.00. An amount of \$12,500.00 is currently unspent and unallocated as at November 2015.

Strategic Implications:

The report and officer recommendation is consistent with Council's adopted Mission and Vision and assists achieve the following specific adopted Strategic Objectives and Goals.

SOCIAL GOALS

Health: ...work with relevant authorities and organisations to maintain and improve health services at all levels within the region.

Recreation: ...monitor all forms of recreational and cultural facilities and services, and take careful account of the level of community support for those in determining the improvements or new facilities to be supported together with their relative contribution to personal and community well-being.

ECONOMIC OBJECTIVE - Denmark's economy is diverse and vibrant - its primary industries of tourism and agriculture rely on and enjoy natural and other assets that are sensibly managed and promoted.

ECONOMIC GOAL

Tourism: ...acknowledge the importance of tourism to the region, and, by innovative policies, practices and partnerships, facilitates and encourages the greater year-round sustainability of tourism, whilst monitoring and managing its impacts.

Sustainability Implications:

➤ **Governance:**

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

➤ **Environmental:**

There are positive environmental implications in the promotion of cycling as an alternative and physically active mode of transport.

➤ **Economic:**

There are potential economic benefits for Denmark and the region as the Festival will be widely promoted and there is an expectation that it will bring visitors to the Great Southern to participate.

➤ **Social:**

There are many social benefits related to the proposed events including promotion of cycling as a healthy alternative mode of transport and a fun and social recreational pursuit. The various events proposed during the Festival provide a number of opportunities for young and senior persons and activities that families can participate in together.

➤ **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 resolve not to sponsor the event.	Possible (3)	Insignificant (1)	Low (1-4)	Not Meeting Community expectations	Accept Officer Recommendation

Comment/Conclusion:

The attached Festival Summary provides details of the proposed events, budget breakdown and indicative funding sources. Council’s Manager of Recreation and Youth Services has also submitted an application for funding through another source to run a community bike ride as part of the festival.

The Denmark Festival of Cycling Committee consists of approximately 10 members and the event will be auspiced by Green Skills Inc., who will also provide public liability for the activities.

With the recent receipt of the Bike Plan and the Trails Hub Assessment, the construction and upgrades to many dual use paths within the Shire over the past few years and the Munda Biddi Trail (which is becoming a world-class nature based off-road cycling experience including includes 137kms within the Shire of Denmark) the Festival in Denmark will help to further promote Denmark as a cycling destination for visitors.

The Festival aims to promote cycling as an activity for the entire community and the different types of events proposed focus on encouraging community and visitor participation in cycling.

The broader objectives of the Festival are (as detailed in Attachment 8.5.4);

- Provide opportunities for all our community members to access and engage in cycling activities
- Demonstrate and promote cycling as a healthy, social activity
- Demonstrate and promote cycling as a means of commuting to school and work
- Showcase Denmark’s amazing roads and trails for cycling
- Raise the profile of cycling and cyclists among all community members
- Develop fun events that demonstrate the broader sustainability aspects of cycling
- Create an annual festival that continues to grow and attract visitors to the region

The Author is of the view that an event such as this has many positives for Denmark and the region by promoting cycling as a healthy social activity and by offering competitions which are likely to bring non-local participants to Denmark, providing benefits to the local economy and fostering social connections.

The organisers have indicated that the proposed event has already been widely promoted and has received great interest through regional cycle networks, community (local and non-local) organisations and social media.

Council’s support for this event being held in Denmark may assist the Committee with their applications for funding from other sources (RAC, Healthways and businesses), which will help in ensuring that this event comes to fruition and, if successful, perhaps provide another annual event on the Denmark calendar.

The Officer is supportive of the application given the potential benefits to the local economy, environment (long term) and in the essence of social participation and well-being.

Voting Requirements:

Simple majority.

COUNCIL RESOLUTION & OFFICER RECOMMENDATION	ITEM 8.5.4
MOVED: CR GILLIES	SECONDED: CR GEARON
<p>That with respect to the request from the Denmark Festival of Cycling Committee, under the auspice of Green Skills Inc., to sponsor the 2016 Denmark Festival of Cycling, Council;</p> <ol style="list-style-type: none"> 1. Provide \$2,000 as sponsorship for the event, subject to the Council being recognised in promotional and advertising material and that the sponsorship be provided from Council’s Donations Budget (GL1410082); and 2. Authorise the Chief Executive Officer to write a letter of support for the event, acknowledging Council’s contribution and the benefits to Denmark and the region. 3. Advise the organisers that an appropriate Traffic Management Plan and Risk Management Plan may be required to be submitted and assessed by the Main Roads WA (if required), the WA Police and the Shire of Denmark well prior to the event. 	
CARRIED UNANIMOUSLY: 9/0	Res: 171215

COUNCIL RESOLUTION	ITEM 10
MOVED: CR LEWIS	SECONDED: CR WHOOLEY
That the meeting be adjourned for a short recess.	
CARRIED UNANIMOUSLY: 9/0	Res: 181215

9.30pm – The Executive Assistant left the room and did not return.

9.48pm – The meeting resumed with all Councillors who were present prior to the adjournment and the Acting Chief Executive Officer.

9. COMMITTEE REPORTS & RECOMMENDATIONS

Nil

10. MATTERS BEHIND CLOSED DOORS

COUNCIL RESOLUTION & OFFICER RECOMMENDATION	ITEM 10
MOVED: CR SAMPSON	SECONDED: CR PEDRO
That pursuant to Section 5.23 (2) (b) of the Local Government Act 1995 and Clause 3.7 of the Shire of Denmark Standing Orders Local Law, Council move behind closed doors for the consideration of Item 10.1, 10.2 and 10.3 to consider three matters relating to the personal affairs of employees.	
CARRIED UNANIMOUSLY: 9/0	Res: 191215

9.52pm – The Acting Chief Executive Officer left the room.

In the absence of any Council Officer in the room, Cr Gillies assumed the role of Minute taker.

10.1 SENIOR OFFICER CONTRACT RENEWAL	
File Ref:	Personal File
Applicant / Proponent:	Dale Stewart, Chief Executive Officer
Subject Land / Locality:	Not applicable
Disclosure of Officer Interest:	Nil
Date:	19 November 2015
Author:	Dale Stewart, Chief Executive Officer
Authorising Officer:	Dale Stewart, Chief Executive Officer
Attachments:	10.1 – Confidential - Contract provided to Councillors under separate cover

Summary:

The CEO recommends that a renewal of employment contract be offered to the current incumbent of the position of Director of Finance and Administration and seeks the support of Council to do so.

Background:

The officer’s current employment contract expires 20 October 2016 and a decision is preferred prior to this date and indeed is required at least 9 months prior to this date under the contract.

The contract has some 11 months to run were it not to be renewed.

Consultation:

The officer seeks a 5 year renewal of term but is prepared to accept a 3 year extension if that is Council's and / or the CEO's preference.

Statutory Obligations:

The Local Government Act 1995 Section 5.37 and 5.39 relates;

5.37. Senior employees

- (1) *A local government may designate employees or persons belonging to a class of employee to be senior employees.*
- (2) *The CEO is to inform the council of each proposal to employ or dismiss a senior employee, other than a senior employee referred to in section 5.39(1a), and the council may accept or reject the CEO's recommendation but if the council rejects a recommendation, it is to inform the CEO of the reasons for its doing so.*
- (3) *Unless subsection (4A) applies, if the position of a senior employee of a local government becomes vacant, it is to be advertised by the local government in the manner prescribed, and the advertisement is to contain such information with respect to the position as is prescribed.*
- (4A) *Subsection (3) does not require a position to be advertised if it is proposed that the position be filled by a person in a prescribed class.*
- (4) *For the avoidance of doubt, subsection (3) does not impose a requirement to advertise a position where a contract referred to in section 5.39 is renewed.*

5.39. Contracts for CEO and senior employees

- (1) *Subject to subsection (1a), the employment of a person who is a CEO or a senior employee is to be governed by a written contract in accordance with this section.*
- (4) *A contract under this section is to be renewable and subject to subsection (5), may be varied.*

Parts of the Local Government Administration Regulations 1996 Section 18B also relate;

18B. Matters to be included in contracts for CEO's and senior employees — s. 5.39(3)(c)

For the purposes of section 5.39(3)(c), a contract governing the employment of a person who is a CEO, or a senior employee, of a local government is to provide for a maximum amount of money (or a method of calculating such an amount) to which the person is to be entitled if the contract is terminated before the expiry date, which amount is not to exceed whichever is the lesser of —

- a) the value of one year's remuneration under the contract; or*
- b) the value of the remuneration that the person would have been entitled to had the contract not been terminated.*

The Directors specific renewal clauses in his contract of employment states as follows;

"2.2 Extension of Term

- (1) *In accordance with section 5.39(4) of the Act, this Contract is renewable, and the Term may be extended, by agreement between the parties.*
- (2) *Neither the Shire of Denmark nor You has any obligation to agree to this Contract being renewed or to the Term being extended.*
- (3) *You must, not later than 9 months before the expiry of the Term, notify the CEO in writing whether or not You seek a renewal of this Contract and, if so, for what term.*

- (4) *Within 2 months of the CEO receiving that notification, the CEO must advise You in writing of the Shire of Denmark’s intention to either advertise the Position or to offer You a renewal of this Contract and, if so, on what terms.*
- (5) *If there is any delay in the CEO giving You the notice in writing under clause 2.2(4), the Term is deemed to be extended for a period equal to the period of the delay, but not to exceed 12 months.*
- (6) *If the CEO and You agree to an extension of the Term, then, subject to that agreement -*
 - a) *this Contract will continue to apply unless amended in writing by the parties; and*
 - b) *clause 2.1 is to be read as though it refers to the extended Term.”*

Policy Implications:

There are no policy implications.

Budget / Financial Implications:

The contract amount proposed is in keeping with the known financial implications upon the Council’s current Budget and draft Long Term Financial Plan.

Strategic Implications:

The report and officer recommendation is consistent with Council’s adopted Mission and Vision and assists achieve the following specific adopted Strategic Objectives and Goals.

That the Shire of Denmark ensures that it has a structure that is transparent, trustworthy, flexible, consultative and collaborative, and is able to attract and retain a high standard of Councillors and Senior Management.

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)
That the Council delay offering a new contract to the employee potentially indicating to the employee that they should commence looking for alternative employment.	Almost Certain (5)	Moderate (3)	High (10-16)	Ineffective People Management	Accept Officer Recommendation

Comment/Conclusion:

Council has the option of rejecting the author’s recommendation in accordance with section 5.37 of the Local Government Act 1995 or suggesting variations to the intended recommendation.

The officer’s recommendation is that the existing incumbent be offered a new 3 year contract based on the same terms and conditions as the existing contract,

The incumbent has worked with Council as the Director since 21 October 2013 and has been an effective and inspiring leader for his Directorate and communicates well with the public and Councillors.

A copy of the officer’s current contract (with current remuneration values) is provided to Councillors under separate cover.

Voting Requirements:

Simple majority.

9.53pm – Cr Bartlett left the room.

COUNCIL RESOLUTION & OFFICER RECOMMENDATION	ITEM 10.1
MOVED: CR SEENEY	SECONDED: CR GILLIES
That Council agree with the Chief Executive Officers proposal of a renewal of employment contract with Mr Kim Dolzadelli in the designated senior officer position of Director of Finance & Administration for a further term of 3 years, with the conditions of that contract being in accordance with his current contract provided to Councillors under separate cover.	

9.56pm – Cr Bartlett returned to the room.

ADJOURNMENT MOTION	
MOVED: CR WHOOLEY	SECONDED: CR GEARON
That the Item be adjourned until the January 2016 Council meeting.	
LOST: 4/5	Res: 201215
<i>Pursuant to Resolution No.031115 all Councillors’ votes on the above resolution are recorded as follows;</i>	
<i>FOR: Cr Whooley, Cr Bartlett, Cr Lewis & Cr Gearon.</i>	
<i>AGAINST: Cr Sampson, Cr Pedro, Cr Gillies, Cr Morrell & Cr Seeney.</i>	

10.06pm – Cr Bartlett left the room.

THE ORIGINAL MOTION WAS THEN PUT AND CARRIED: 6/2	Res: 211215
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Pursuant to Resolution No.031115 all Councillors’ votes on the above resolution are recorded as follows;

FOR: Cr Sampson, Cr Lewis, Cr Pedro, Cr Gillies, Cr Morrell & Cr Seeney.

AGAINST: Cr Gearon & Cr Whooley

10.07pm – Cr Bartlett returned to the room.

COUNCIL RESOLUTION	
MOVED: CR LEWIS	SECONDED: CR GILLIES
That Council suspend Standing Orders to allow discussion on Item 10.2	
CARRIED UNANIMOUSLY: 9/0	Res: 221215

COUNCIL RESOLUTION	
MOVED: CR LEWIS	SECONDED: CR GILLIES
That Council resume Standing Orders.	
CARRIED UNANIMOUSLY: 9/0	Res: 231215

10.2 SENIOR OFFICER – PROPOSED OFFER OF CONTRACT OF EMPLOYMENT

File Ref:	Personal File
Applicant / Proponent:	Dale Stewart, Chief Executive Officer
Subject Land / Locality:	Not applicable
Disclosure of Officer Interest:	Nil
Date:	19 November 2015
Author:	Dale Stewart, Chief Executive Officer
Authorising Officer:	Dale Stewart, Chief Executive Officer
Attachments:	10.2 – Confidential – Contract and copy of Curriculum Vitae (CV) provided to Councillors under separate cover

Summary:

The CEO proposes and recommends that an employment contract be offered to the preferred applicant for the position of Director of Infrastructure Services and seeks the support of Council to do so.

Background:

Nil

Consultation:

The applicant seeks a five (5) year term but is reluctantly prepared to accept a three (3) year term if that is Council's preference.

Statutory Obligations:

The Local Government Act 1995 Section 5.37 and 5.39 relates;

5.37. Senior employees

- (4) *A local government may designate employees or persons belonging to a class of employee to be senior employees.*
- (5) *The CEO is to inform the council of each proposal to employ or dismiss a senior employee, other than a senior employee referred to in section 5.39(1a), and the council may accept or reject the CEO's recommendation but if the council rejects a recommendation, it is to inform the CEO of the reasons for its doing so.*
- (6) *Unless subsection (4A) applies, if the position of a senior employee of a local government becomes vacant, it is to be advertised by the local government in the manner prescribed, and the advertisement is to contain such information with respect to the position as is prescribed.*

- (4A) *Subsection (3) does not require a position to be advertised if it is proposed that the position be filled by a person in a prescribed class.*
- (4) *For the avoidance of doubt, subsection (3) does not impose a requirement to advertise a position where a contract referred to in section 5.39 is renewed.*

5.39. *Contracts for CEO and senior employees*

- (2) *Subject to subsection (1a), the employment of a person who is a CEO or a senior employee is to be governed by a written contract in accordance with this section.*
- (4) *A contract under this section is to be renewable and subject to subsection (5), may be varied.*

Parts of the Local Government Administration Regulations 1996 Section 18B also relate;

18B. *Matters to be included in contracts for CEO's and senior employees — s. 5.39(3)(c)*

For the purposes of section 5.39(3)(c), a contract governing the employment of a person who is a CEO, or a senior employee, of a local government is to provide for a maximum amount of money (or a method of calculating such an amount) to which the person is to be entitled if the contract is terminated before the expiry date, which amount is not to exceed whichever is the lesser of —

- c) *the value of one year's remuneration under the contract; or*
- d) *the value of the remuneration that the person would have been entitled to had the contract not been terminated.*

Policy Implications:

There are no policy implications.

Budget / Financial Implications:

The contract amount proposed is in keeping with the known financial implications upon the Council's current Budget and draft Long Term Financial Plan.

Strategic Implications:

The report and officer recommendation is consistent with Council's adopted Mission and Vision and assists achieve the following specific adopted Strategic Objectives and Goals.

That the Shire of Denmark ensures that it has a structure that is transparent, trustworthy, flexible, consultative and collaborative, and is able to attract and retain a high standard of Councillors and Senior Management.

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)
That the Council not accept the CEO's recommendation and decline to offer an employment contract for the vacant position.	Unlikely (2)	Moderate (3)	Moderate (5-9)	Ineffective People Management	Accept Officer Recommendation

Comment/Conclusion:

Council has the option of rejecting the author's recommendation in accordance with section 5.37 of the Local Government Act 1995 or suggesting variations to the intended recommendation.

The officer's recommendation is that the applicant be offered a new five (5) year contract based on the contract provided to Councillors as a separate confidential attachment.

The applicant is relocating from the metropolitan area and offering a three (3) year contract, initially, may not be sufficient to entice the applicant to take on the position and relocate. If the Council is so inclined to give flexibility to the CEO to negotiate the term, then the resolution could reflect words as follows, "a term of between three (3) and five (5) years".

The applicant's Curriculum Vitae (CV) has been provided to Councillors as a separate confidential attachment and details the applicant's work history, experience and expertise.

Voting Requirements:

Simple majority.

COUNCIL RESOLUTION & OFFICER RECOMMENDATION	ITEM 10.2
MOVED: CR SEENEY	SECONDED: CR GILLIES
That Council agree with the Chief Executive Officer's proposal of an employment contract with the preferred applicant in the designated senior officer position of Director of Infrastructure Services for a term of three (3) years, with the conditions of that contract being in accordance with the principle of the contract provided to Councillors under separate cover.	
CARRIED: 8/1	Res: 241215

Pursuant to Resolution No.031115 all Councillors' votes on the above resolution are recorded as follows;

FOR: Cr Sampson, Cr Bartlett, Cr Pedro, Cr Lewis, Cr Pedro, Cr Gillies, Cr Seeney & Cr Gearon.

AGAINST: Cr Whooley.

Prior to consideration of Item 10.3, Cr Whooley declared that he could vote however he believed that people could have the perception that he wouldn't be impartial.

10.29pm - Cr Whooley left the room and did not participate in debate or vote on the matter. Cr Whooley did not return to the meeting.

COUNCIL RESOLUTION	
MOVED: CR SAMPSON	SECONDED: CR PEDRO
That Council suspend Standing Orders to allow discussion on Item 10.3.	
CARRIED UNANIMOUSLY: 8/0	Res: 251215

11.28pm – Cr Sampson left the room.

11.30pm – Cr Sampson returned to the room.

COUNCIL RESOLUTION	
MOVED: CR SEENEY	SECONDED: CR GILLIES
That Council resume Standing Orders.	
CARRIED UNANIMOUSLY: 8/0	Res: 261215

10.3 SENIOR OFFICER CONTRACT	
File Ref:	Personal File
Applicant / Proponent:	Dale Stewart, Chief Executive Officer
Subject Land / Locality:	Not applicable
Disclosure of Officer Interest:	The CEO declares a financial interest as this report deals with his contract with Council.
Date:	19 November 2015
Author:	Dale Stewart, Chief Executive Officer
Authorising Officer:	Dale Stewart, Chief Executive Officer
Attachments:	10.3 – Confidential - Contract provided to Councillors under separate cover

This item and its associated attachment is confidential to Councillors and has been provided to Elected Members under separate cover.

COUNCIL RESOLUTION		ITEM 10.3
MOVED: CR SEENEY	SECONDED: CR GILLIES	
That the Shire President and Deputy Shire President to enter into negotiations with the Chief Executive Officer to mutually end the employment relationship (with the consent of the Chief Executive Officer), subject to a Deed of Settlement and Release;		
Authorise the Shire President and the Deputy Shire President to negotiate the financial component of the Deed of Settlement and Release.		
CARRIED: 5/3		Res: 271215

Pursuant to Resolution No.031115 all Councillors' votes on the above resolution are recorded as follows;

FOR: Cr Gillies, Cr Seeney, Cr Pedro, Cr Morrell and Cr Sampson.

AGAINST: Cr Bartlett, Cr Lewis and Cr Gearon.

COUNCIL RESOLUTION	
MOVED: CR GILLIES	SECONDED: CR SEENEY
That Council come out from behind closed doors.	
CARRIED UNANIMOUSLY: 8/0	Res: 281215

The Deputy Shire President, Cr Gillies, read out the Resolutions with respect to Items 10.1 and 10.2.

The Shire President, Cr Morrell, advised the public of the outcome in relation to Item 10.3 by reading out the Media Release that would be released officially on the 2 December 2015.

11. NEW BUSINESS OF AN URGENT NATURE INTRODUCED BY DECISION OF THE MEETING
Nil

12. CLOSURE OF MEETING

11.51pm – There being no further business the Shire President, Cr Morrell, declared the meeting closed.

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

Signed: _____
Annette Harbron – 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.)