

# Shire of Denmark

## Ordinary Council Meeting MINUTES

17 September 2019



HELD IN THE COUNCIL CHAMBERS, 953 SOUTH COAST HIGHWAY,  
DENMARK ON TUESDAY, 17 SEPTEMBER 2019.



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## Strategic Community Plan (snapshot)

### E1.0

#### Our Economy

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

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

### N2.0

#### Our Natural Environment

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

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

### B3.0

#### Our Built Environment

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

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

### C4.0

#### Our Community

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

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

### L5.0

#### Our Local Government

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

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

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

4.00pm – *The Shire President, Cr Gearon, declared the meeting open.*

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

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

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

MEMBERS:

- Cr Ceinwen Gearon (Shire President)
- Cr Peter Caron (Deputy Shire President)
- Cr Mark Allen
- Cr Kingsley Gibson
- Cr Jan Lewis
- Cr Ian Osborne
- Cr Janine Phillips
- Cr Roger Seeney

STAFF:

- Mr Bill Parker (Chief Executive Officer)
- Mr Cary Green (Director Corporate and Community Services)
- Mr David King (Director Assets and Sustainable Development)
- David Schober (Manager Community Services)
- Craig Pursey (Manager Sustainable Development)
- Ms Claire Thompson (Executive Assistant & Governance Coordinator)

APOLOGIES:

- Cr Rob Whooley

ON APPROVED LEAVE(S) OF ABSENCE:

Nil

ABSENT:

Nil

VISITORS:

Members of the public in attendance at the commencement of the meeting: 81

DECLARATIONS OF INTEREST:

Name	Item No	Interest	Nature
Cr Lewis	8.1.2	Proximity	The applicants are Cr Lewis' neighbours.
Cr Gearon	8.1.4	Proximity	Cr Gearon is the joint owner of a property in locality of Inlet Drive.
Cr Gearon	8.1.5	Financial	Cr Gearon's partner is an employee of the Denmark Community Resource Centre.
Cr Seeney	8.1.6	Impartiality	Cr Seeney is a member of the Denmark Lions Club and the Denmark Historical Society.

**3. ANNOUNCEMENTS BY THE PERSON PRESIDING**

Nil

## 4. PUBLIC QUESTION TIME

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

#### 4.1.1 MR MURRAY THORNTON – BUDGET PROCESS

At the meeting held on 20 August 2019, Mr Thornton referred to previous statements that the recent 4% rate rise was to spend more ratepayer funds on capital improvements and maintenance. Mr Thornton said that he had looked at previous budgets, such as 2015/2016 and 2016/2017, which showed that Council had funded capital improvements at double the 2019/2020 budget. Mr Thornton said that the maintenance expenditure when rates were a million dollars less was on par with the 2019/2020 budget which he believed meant that the rate rises had not been spent on community assets, but on recurrent expenditure and wages. Mr Thornton asked why the ratepayers had been misled.

*The Chief Executive Officer took the questions on notice and advised Mr Thornton that his response would be forwarded to him in writing and recorded in the Minutes. The written response is as follows;*

*“I refer to your question taken on notice at the meeting of 20 August 2019. The answers to your questions were tabled (included in the Minutes) at the September Council Meeting. Please see the response below;*

*There could be a number of reasons why Council’s contribution to capital works in 2015/16 and 2016/17 were higher than this financial year. These include;*

- 1. A higher than normal opening balance due to incomplete works*
- 2. Additional funding being received and classified as ‘Council Cash’ (e.g. Country Local Government Fund)*
- 3. Recent changes to the Accounting Standards and capital reporting thresholds*

*Having looked back at our expenditure over the last 6 years, 2015/16 and 2016/17 are abnormally high.*

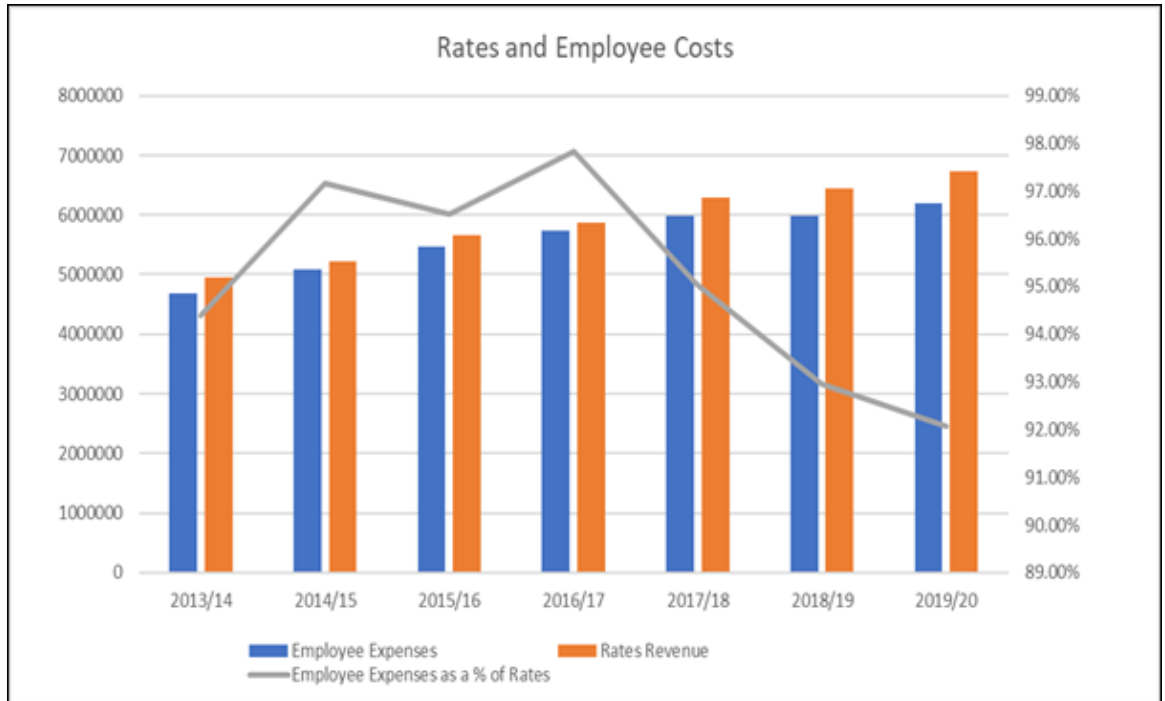
*I agree with your comments in relation to this year’s rate increase being applied to recurrent expenditure, however disagree that the increase has not been applied to community assets. Changes to the accounting standards has resulted in the Shire rebuilding the budget to ensure that assets with a value below \$5,000 at the time of acquisition are excluded from the capital program. This year’s budget includes \$900k more in recurrent expenditure across multiple asset programs including roads, waste, buildings, parks and gardens.*

*It’s important to note that asset performance is measured by three (3) key ratios as defined by the Local Government (Financial Management) Regulations 1996. Simply looking at ‘Council Funded Capital’ does not capture all asset management expenditure and is therefore an inaccurate reflection of performance.*

*I disagree with your statement in relation to this year’s rate increase being spent on wages. If you look at performance historically, this year’s budget delivers a further decrease in the percentage of employee costs when compared to rates income. This is particularly impressive when you consider that;*



- a. *Employee costs that were incorrectly allocated in previous years have been corrected in 2019/20*
- b. *The Shire has a number of positions that are either fully or partially funded e.g. Bushfire Risk Mitigation Officer, Community Emergency Services Manager, Club Development Officer.*



*I thank you for your continued interest in Council matters.*

**4.2 PUBLIC QUESTIONS**

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

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

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

Questions from the Public

**4.2.1 Mr Dominic Chanovre – Item 7.1 (Climate Change)**

Mr Chanovre expressed his support for the motion stating that he believed action needed to be taken at local levels.

*The Shire President asked Mr Chanovre which ward of the Shire he lived in.*

Mr Chanovre replied that he did not reside in Denmark and lived in the Fremantle area.

**4.2.2 Ms Yasmin Bartlett – Item 7.1 (Climate Change, Water Levels & 2019 Local Government Election)**

Ms Bartlett stated that she was concerned about the current low water levels in Denmark and expressed her support for Item 7.1. Ms Bartlett wished all the Candidates good luck in the upcoming local government election.

**4.2.3 Ms Beverley Ford – Item 7.1 (Climate Change) & Item 7.2 (Proposed Water Pipeline)**

Ms Ford said that the Denmark Residents & Ratepayers Association Committee supported Item 7.1 and Item 7.2.

**4.2.4 Mr Jesz Fleming – Denmark Bird Group**

Mr Fleming thanked the Council for their financial assistance to help the Denmark Bird Group produce an information brochure and host their upcoming “Get to Know Your Birds” function. Mr Fleming acknowledged the volunteers of the Denmark Bird Group.

**4.2.5 Mr Mike Travers – CEO Acknowledgement & Civic Centre Toilets**

Mr Travers acknowledged the Chief Executive Officer’s upcoming departure and thanked him for his contributions to the Shire.

Mr Travers said that since advising Council of the poor condition of the Civic Centre in March there had been no improvement.

*The Director Assets & Sustainable advised that there would be some work done in the current financial year.*

*The Shire President thanked Mr Travers for his comments and wished to also express hers, and the Council’s, thanks to the Chief Executive Officer who would be leaving the organisation to take up a position in Perth in coming weeks. Cr Gearon stated that whilst Mr Parker had come to the Shire at a tumultuous time, he had managed to modernise the organisational structure and the Shire now had plans in place to ensure that the Council and Staff had a clear direction moving forward, based on the community’s aspirations in the Strategic Community Plan. The Shire President said that she was grateful for the work that Mr Parker had done and wished him and his family well with their move to Perth.*

**4.2.6 Mr Tony Pedro – CEO Acknowledgement & Item 7.1 (Climate Change)**

Mr Pedro thanked the Chief Executive Officer for his contributions to the Shire.

Mr Pedro referred to Item 7.1 and said that he believed rather than making declarations, the Shire should be looking at what actions could be taken.

*Cr Lewis referenced the work that the Sustainability Strategy Working Group was doing stating that it was focussing on what actions the Shire could take that could be measured.*

**4.2.7 Ms Liz Jack – CEO Acknowledgement, Item 7.2 (Proposed Water Pipeline), Item 8.1.3 (Policy 47 Town Centre Parking) & Item 8.1.5 (Proposed Fresh Food Market)**

Ms Jack thanked the Chief Executive Officer for his contributions to the Shire and wished him well with his new position at the City of Perth.

On behalf of the Denmark Chamber of Commerce Committee, Ms Jack said that they supported Item 7.2, welcomed consultation on parking within the CBD and supported the trial of the food market, as long as it was kept as a fresh food market and did not compete with existing businesses.



**4.2.8 Ms Julie Marsh – CEO Acknowledgement & Item 7.2 (Proposed Water Pipeline)**

Ms Marsh commended the Chief Executive Officer on his contributions to the Shire and the changes he initiated.

Ms Marsh said that she supported Item 7.2 and that it was important that the community are aware of the water supply situation.

*The Shire President noted that there was some information on the Water Corporation's website and a document called "Water Forever".*

**4.2.9 Mr Murray Thornton – Item 4.1.1 (Questions on Notice Previously Taken) & Rate Increase**

Mr Thornton asked why the answers to his questions taken on notice had not been included in the Agenda.

*The Chief Executive Officer responded that due to current administrative workload and staff being on annual leave, the response had not been prepared in time for the Agenda.*

Mr Thornton referred to the recent rate rise and said that he believed there should have been more modelling done as he believed that there was some inequity.

**4.2.10 Mr David Beckwith – Item 8.1.1 (Proposed Place of Public Worship)**

Mr Beckwith urged Council to reject the proposal as he believed it would negatively impact the amenity of the area given the scale of the development.

**4.2.11 Ms Josie Mitchell – Item 8.1.5 (Proposed Fresh Food Market)**

Ms Mitchell gave reasons why she believed the proposed markets would negatively affect the existing Kwoorabup Markets.

**4.2.12 Mr Brian Wilson – Item 8.1.3 (Policy 47 Town Centre Parking)**

Mr Wilson suggested that Council needed to look at increasing parking within the Denmark Townsite not reduce it.

**4.2.13 Mr Ilan Trom – Item 8.1.5 (Proposed Fresh Food Market)**

Mr Trom asked Council to reject the application because he believed that it would directly compete with the existing Kwoorabup Markets.

**4.2.14 Mr John Sampson – Item 7.1 (Climate Change) & Privacy**

Mr Sampson spoke in support of Item 7.1 but noted that he believed that there was only so much that local governments could do.

Mr Sampson asked the following questions on notice regarding privacy;

1. Can the CEO confirm that 100s of ratepayers' private information has been unnecessarily divulged by the Shire of Denmark?
2. Will the CEO confirm that it is his responsibility to ensure the proper preparation of this date?
3. Why did the Shire President who had this information not bring the privacy breach to the immediate attention of the CEO?
4. Will the CEO notify in writing all of the effected ratepayers so that they can take steps to secure themselves from identity theft?
5. What steps apart from promising that this will never happen again will the CEO take to restore community confidence in the Shire's protection of their private data and information?

*The Chief Executive Officer asked Mr Sampson what he was referring to.*

Mr Sampson said that the Election Candidates had received Electoral Rolls which contained people’s date of birth.

*Cr Lewis stated that as a candidate she was aware that such information contained within the rolls were not to be disclosed to other people. Cr Lewis asked how Mr Sampson had obtained the information if he wasn’t a candidate.*

Mr Sampson responded that he did not have the information but had been made aware of the situation.

*The questions were taken on notice and will be responded to in writing.*

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

Nil

**4.1 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.

**6. CONFIRMATION OF MINUTES**

**6.1 ORDINARY COUNCIL MEETING – 20 AUGUST 2019**

<b>COUNCIL RESOLUTION &amp; OFFICER RECOMMENDATION</b>	ITEM 6.1
MOVED: CR SEENEY	SECONDED: CR GIBSON
That the minutes of the Ordinary Meeting of Council held on the 20 August 2019 be confirmed as a true and correct record of the proceedings.	
CARRIED UNANIMOUSLY: 8/0	Res: 010919

**6.2 STRATEGIC BRIEFING NOTES – 20 AUGUST 2019**

<b>COUNCIL RESOLUTION &amp; OFFICER RECOMMENDATION</b>	ITEM 6.2
MOVED: CR CARON	SECONDED: CR ALLEN
That the Notes from the Strategic Briefing Forum held on the 20 August 2019 be received.	
CARRIED UNANIMOUSLY: 8/0	Res: 020919

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

The following Notice of Motion was received by the Chief Executive Officer in writing on the 4 September 2019 and therefore complies with the Shire of Denmark Standing Orders Local Law clause 3.9.

**7.1 CLIMATE CHANGE**

<b>File Ref:</b>	CR.3
<b>Applicant / Proponent:</b>	Cr Kingsley Gibson
<b>Subject Land / Locality:</b>	Not applicable
<b>Disclosure of Officer Interest:</b>	Nil
<b>Date:</b>	4 September 2019
<b>Author:</b>	Cr Kingsley Gibson
<b>Authorising Officer:</b>	Cr Kingsley Gibson
<b>Attachments:</b>	Nil

<p><b>COUNCIL RESOLUTION</b>                  MOVED: CR GIBSON</p> <p>That Council;</p> <ol style="list-style-type: none"> <li>1. Acknowledge the latest report of the Intergovernmental Panel on Climate Change (IPCC);</li> <li>2. Acknowledge that the Shire of Denmark is likely to be substantially affected by climate-change impacts, including but not limited to; sea level rise, heat waves, bush fires, climate migrants and refugees, rainfall decline, drought and floods;</li> <li>3. Acknowledge and endorse the WALGA Policy Statement on Climate Change which says:                         <ul style="list-style-type: none"> <li><i>Local Government acknowledges:</i> <ol style="list-style-type: none"> <li>I. <i>The science is clear: climate change is occurring and greenhouse gas emissions from human activities are the dominant cause.</i></li> <li>II. <i>Climate change threatens human societies and the Earth's ecosystems.</i></li> <li>III. <i>Urgent action is required to reduce emissions, and to adapt to the impacts from climate change that are now unavoidable.</i></li> <li>IV. <i>A failure to adequately address this climate change emergency places an unacceptable burden on future generations. Local Government is committed to addressing climate change.</i></li> </ol> </li> <li><i>Local Government is calling for:</i> <ol style="list-style-type: none"> <li>I. <i>Strong climate change action, leadership and coordination at all levels of government.</i></li> <li>II. <i>Effective and adequately funded Commonwealth and State Government climate change policies and programs.</i></li> </ol> </li> </ul> </li> <li>4. Declare that we are in a state of climate emergency that requires urgent action by all levels of government, including by local councils;</li> <li>5. Call upon the State and Federal Governments to:                         <ol style="list-style-type: none"> <li>a. Acknowledge that there is a climate emergency, and</li> <li>b. Back this up with legislated programs to drive emergency action to reduce greenhouse gas emissions and meet the lower of the Paris Agreement targets at +1.5°C;</li> </ol> </li> <li>6. Request the Sustainability Working Group to incorporate a detailed response to climate change into its Sustainability Strategy and associated action plan as a matter of priority, including the establishment of organisational greenhouse gas (GHG) reduction targets, with the aim of providing recommendations to council within 12 months;</li> <li>7. In the interim, adopt, in line with The Paris Agreement and the recommendations of the Australian Government's Climate Change Authority, the following Greenhouse Gas reduction targets:                         <ol style="list-style-type: none"> <li>a. A 50% reduction on current Shire of Denmark GHG emissions by 2030; and</li> </ol> </li> </ol>	<p>ITEM 7.1                  SECONDED: CR ALLEN</p>
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- b. The achievement of net zero GHG emissions from all Shire of Denmark operations and activities by 2050.

CARRIED: 7/1

Res: 030919

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

*FOR: Cr Gibson, Cr Allen, Cr Caron, Cr Seeney, Cr Gearon, Cr Phillips and Cr Lewis.*

*AGAINST: Cr Osborne.*

*Cr Osborne requested that his words against the motion be recorded which were as follows;*

*"Madam President, as late as this morning I was determined not to say anything on this motion because I realised I had the problem always faced by logical positivists (who believe that only statements verifiable through direct observation or logical proof are meaningful) which is that "it's useless to try to reason a person out of a position they haven't reasoned themselves into."*

*But at the end I'm an optimist, I won't give up on the struggle to keep speaking the truth and to make at least one statement for the other side of this debate. George Patton said, "if everyone is thinking alike, then someone isn't thinking"; and the one who isn't thinking around this subject is not me.*

*Councillors, the word "Science" should mean a very specific thing - it should mean a branch of knowledge or study dealing with a body of facts or truths gained through observation and experimentation, systematically arranged and showing the operation of general laws applying to the physical world.*

*However, nowadays, "science" isn't that sort of fixed-point thing, it's become a continuum.*

*We have physics, mathematics, engineering (real sciences) on one end; and things like alchemy, witchcraft, astrology, phrenology, eugenics, the Y2K bug, the SARS panic, homeopathy, the anti-vaccination movement, diet science, and now "climate emergency" (fake sciences) on the other.*

*So it is in this debate - we have on the one hand people who rely on true science and on the other hand we have people who rely on computer model predictions of the future for which there are no data, which have repeatedly been found to be wrong in the past, which are driven by a quasi-religious conviction, and which therefore deserve to be treated with scepticism.*

*So in the full knowledge that we're dealing in bad science here, I'll make what I think are 10 statements of fact:*

- 1. Yes, the climate is changing, it always has and it always will. The Earth is a dynamic planet in a dynamic solar system: thus climate change is, now and for millions of years to come, inevitable and unstoppable.*
- 2. This motion carries the implication that mankind is responsible for that change, the truth is that climate change is mostly natural and the climate system is quite insensitive to humanity's greenhouse gas emissions.*
- 3. In this context the word "consensus" is meaningless. "Consensus" just means "majority view" and we all know that majority views can be badly wrong. Science is advanced by the exercise of intellectual freedom and by the testing of evidence, it is not established by crowd appeal or "consensus".*
- 4. The case for alarm regarding climate change is grossly overstated. Surface temperature changes over the past century have been episodic and modest and there has been no net global warming for over a decade now. After controlling for population growth and property values, there has been no increase in damages from severe weather-related events. The*

computer models forecasting rapid temperature change abjectly fail to explain recent climate behaviour. We know that sea levels, CO2 levels, hurricane incidence and reef disturbance are either furrphies or within historical boundaries. Temperature is wobbling around, as it always has. None of these natural variations threaten life on Earth.

5. Therefore there is no “emergency” as the motion claims. In fact the world is mostly getting better. Average global life expectancy has more than doubled since 1900 and is now more than 70 years. The world is more literate, child labour is decreasing and we are living in one of the most peaceful times in history. Remote sensing data from NASA’s satellites across the past two decades show that the Earth has increased its green leaf area by a total of 5 per cent, roughly 5.5 million square kilometres — equivalent to the size of the entire Amazon rainforest.
6. There is good evidence that action to fight climate change will be more damaging than the predicted changes, and that adaptation would be cheaper, easier and less damaging than the cure proposed by the evangelists.
7. Australia is actually on track to meet its Paris commitment and recent ANU research confirms that our per capita renewables deployment rate is four to five times faster than in the EU, the US, Japan and China.
8. Even if you believe CO2 influences global temperatures, at 1.3 per cent of global emissions and a 1 per cent growth rate, Australia’s emissions are hardly a danger to the planet.
9. Therefore, actions proposed in Australia to “stop climate change” are quite pointless, in fact Australia could totally decarbonise its economy tomorrow and not a shred of difference in world climate records would be observable.
10. Finally, this whole debate misses the point of local government, which despite the growing fad to the contrary, I firmly believe are the old basics of roads, rubbish, sanitation, pest control and food safety. I'm very supportive of common sense actions like reducing waste, saving energy, waterwise, bushfire resilience, and so on; but we always do these sensible things anyway as good practice, not because doing them will avert a "climate emergency".

I’ll close on that last idea. In my experience, every time I’ve seen an elected representative railing about some cosmic sin (in this case “global cooling”, or “global warming”, or “climate change”, or “catastrophic sea level rise”, or the Paris Climate Accord, or “climate emergency”, or whatever it’s called this month) I think you can be pretty sure that there is a whole raft of problems in that person’s own midst that they are clueless about or indifferent to.

We have big challenges in Denmark – real and immediate challenges. I support this Council in addressing these through the Integrated Planning & Reporting Framework. We were on a Government watch list for non-compliance, we now have a Strategic Community Plan and a Corporate Business Plan in place, and our Long Term Financial Plan and Asset Management Plan are soon to be adopted.

I say we should keep our eye on those things and ignore the social contagion of “climate emergency” and its demands that we waste our time devising hypothetical solutions to an imaginary problem at great cost to the Ratepayers.”

The following Notice of Motion was received by the Chief Executive Officer in writing on the 8 September 2019 and therefore complies with the Shire of Denmark Standing Orders Local Law clause 3.9.

**7.2 PROPOSED WATER PIPELINE FROM ALBANY TO DENMARK**

**File Ref:** CR.3  
**Applicant / Proponent:** Cr Jan Lewis  
**Subject Land / Locality:** Not applicable  
**Disclosure of Officer Interest:** Nil  
**Date:** 8 September 2019  
**Author:** Cr Jan Lewis  
**Authorising Officer:** Cr Jan Lewis  
**Attachments:** Nil

<b>COUNCIL RESOLUTION</b>	<b>ITEM 7.2</b>
MOVED: CR LEWIS	SECONDED: CR CARON
<p>Council request that the Chief Executive Officer write to the Minister for Water, the Hon. Dave Kelly MLA, the Member for Warren-Blackwood, Hon. Terry Redman MLA and the Water Corporation to request their attendance at a community meeting to discuss plans for the long-term water security of Denmark and our region. Potential discussion points for this meeting include but are not limited to:</p> <ol style="list-style-type: none"> <li>1. The proposed water pipeline between Albany and Denmark.</li> <li>2. The capacity of the Albany aquifer and the consequences of drawing this down.</li> <li>3. Encouragement and support for residents, tourists and the Shire to implement water saving options.</li> <li>4. Enablement of increased rainwater harvesting in our Shire and any impacts that may have on the Wilson Inlet.</li> <li>5. Any plans to expand the water catchment and dams in the Shire of Denmark.</li> <li>6. A desalination plant.</li> <li>7. Potential impediments to development within the town such as industry and future subdivisions.</li> <li>8. Diversion and reuse of the treated waste water from the Denmark Wastewater Treatment Plant to the golf club and other sites.</li> </ol>	
CARRIED UNANIMOUSLY: 8/0	Res: 040919

**5.59pm – 2<sup>nd</sup> Public Question Time**

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

**4.2.15 Mr Brian Humphries – Item 8.1.6 (Proposed Classroom, Vehicle Access & Carparking – Inlet Drive)**

Mr Humphries said that he was representing the Denmark Historical Society and spoke against the proposal.

**4.2.16 Pastor Graeme Ritchie – Item 8.1.1 (Proposed Place of Public Worship)**

Pastor Ritchie thanked the Shire for working with them to present an amended proposal for the Council’s consideration.

**4.2.17 Mr Murray Thornton – Developer Contributions**

Mr Thornton asked that the following questions be taken on notice;

1. Does the Shire of Denmark have a Developer contribution area as set out in section 72 of Planning and Development Regulations 2015 part 7, and as per SPP [State Planning Policy] 3.6 excluding the standard provisions of appendix one of the SPP 3.6?

2. Given there is no such area designated in TPS [Town Planning Scheme] 3, and given the provisions of section 73 of Planning and Development Regulations 2015 section 7, please set out the policy documentation for the Shire Presidents statement, item 4.2.4, 21<sup>st</sup> May 2019 that states “the shire has the power to impose conditions associated with any development in a case by case basis”. In this item I am specifically talking about the fees as set by resolution 180410, not the standard development contribution requirements as set out in Appendix 1, SPP 3.6.
3. Given that since I asked questions about Developer Contribution fees in March 2019, the Department of Planning Albany branch no longer applies non appendix 1 SPP 3.6 fees to subdivisions in the Shire of Denmark, and the Shire no longer applies a Developer contribution fee to Group or strata DA [Development Application], what cases is the Shire President referring to when she informed the public that fees are applied on a case by case basis.
4. In the 2019/20 schedule of fees and charges Developer contributions as per resolution 180410 have mysteriously disappeared. Was resolution 180410 rescinded? If it was within Council’s power to apply non appendix 1 SPP 3.6 fees as per the Shire President’s statement of item 4.2.4, 21<sup>st</sup> May why has it suddenly dropped the fees?

*The questions were taken on notice and will be responded to in writing.*

#### **4.2.18 Mr Ross Thornton – Item 8.1.3 (Proposed Policy 47) & Item 8.1.4 (Proposed Policy 48)**

Mr Thornton referred to the Department of Planning’s “Green Paper” which has an effect on local government policies and said that he didn’t believe that Council had the power to override a State Planning Policy with respect to R Codes.

Mr Thornton said that he also didn’t believe that Council could amend parking provisions as it would mean overriding the Scheme which was not permitted.

*The Manager Sustainable Development thanked Mr Thornton for his comments and said he was aware that local government policies would be a part of the reform process. Mr Pursey said that he believed that there was provision for the Council to vary R Codes given local circumstances. Mr Pursey said that he agreed that policies could not override the Scheme but he believed that Council could seek to relax provisions in a consistent fashion but not tighten any provisions.*

#### **4.2.19 Mr John Sampson – Rate Increase**

Mr Sampson asked a number of questions on notice which were as follows;

1. Was the council aware that they were imposing a very large increase of 6.5% in GRV rates when they set the budget?
2. Was the council aware that they were reducing the UV rates by 1.1% when they set the budget?

If yes to the above -

3. What was the reason and economic justification for doing this?
4. Do you believe that it was responsible?

If no to question 1 -

5. Does the Shire President stand by her statement that the budget was considered and responsible?



6. Do the CEO and President agree that there was a serious lack of transparency in advertising a 4% rate rise when the vast majority of ratepayers were subject to a 6.5% plus increase?
7. What is the median increase in GRV rates for 2020?
8. There have been a number of statements in the press attributing recent revaluing of the GRV book as a reason for rate increases.
9. Will the CEO confirm that as a matter of fact the overall GRV plays absolutely no role in determining what the overall rates collected are or any rate increase required? Rather it is the council that determines the rate increase and then uses the GRV valuations to fairly apportion the burden.

Given how fundamentally important to local government the communities confidence in the rating system is -

10. What steps will the CEO and President take to apologise to the ratepayers for the marked imbalance in the 2020 rates?

Policy P030101 Council Rating Equity Policy states "In implementing suitable rating systems and procedures, council seeks to observe the principles of objectivity, fairness and equity, consistency, transparency and administrative efficiency."

11. Taking into consideration answers to previous questions can the Shire President confidently say that this policy has been adhered to particularly in respect of the fairness and equity elements?

I attach [sic] statements made by you madam President prior to your election in 2015. I note that you expressed concerns about council spending and rates.

The 2020 budget shows a 21.4% increase in GRV min rate since 2015, it also shows a 28.7% increase in overall rates since 2015 and it shows a 22% increase in employment costs since 2015. All of these figures are far, far, far in excess of the inflation rate.

12. Can you inform the community if you are still concerned about council spending and rates or are you satisfied with the current levels?
13. The average GRV rate is \$1541. If the council were to implement its proposal to increase rates by 4% per annum for 20 years, does the council acknowledge that the average GRV rate would more than double to become \$3376?

In the past staff have modelled various rating scenarios with a rates playbook to check and ensure that there are no anomalies.

14. Did the staff run models to check the rates?
15. If not why not?
16. If they did why was the imbalance in UV GRV not picked up?
17. How many budget workshops were held by council?
18. Does the President agree that oversight of the budget preparation and setting of the rates is a fundamental and key responsibility and duty of councillors in particular of the President and Deputy?

19. Does the president feel that she has fulfilled this responsibility and duty?

*The questions were taken on notice and will be responded to in writing.*

**4.2.20 Mr Adrian Hinds – Item 7.1 (Climate Change)**

Mr Hinds said that Denmark had always had issues relating to fire risk and water shortage. Mr Hinds asked, now the Council had declared a Climate Emergency, whether the Shire would be offering the community information on how to mitigate the issue.

*Cr Lewis said that the Sustainability Strategy Working Group were working on a number of projects.*

**4.2.21 Mr Geoff Bowley – Differential Rates**

Mr Bowley said that he believed that the process and timing of the Council advertising its differential rates each year could be improved.

**4.2.22 Ms Lydia Kenyon – Rates & Community Funding & Item 7.1 (Climate Change)**

Mrs Kenyon said that she believed it was good that some the rates revenue would be given back to the community by way of grants for community projects.

Mrs Kenyon thanked Cr Gibson for bringing his climate change motion to the meeting and asked whether the Council could consider an open forum to discuss climate change with young people, to ascertain their views and thoughts on actions that could be taken.

**8. REPORTS OF OFFICERS**

**8.1 DIRECTOR ASSETS AND SUSTAINABLE DEVELOPMENT**

**8.1.1 PROPOSED RECONSIDERATION OF APPLICATION FOR A PLACE OF PUBLIC WORSHIP – NO. 987 (LOT 166) SOUTH COAST HIGHWAY, DENMARK**

<b>File Ref:</b>	A2361; 2018/205
<b>Applicant / Proponent:</b>	Martin H Beeck for Baptist Union of Western Australia Inc (owner) and Denmark Baptist Community Inc
<b>Subject Land / Locality:</b>	No.987 (Lot 166 on Plan 224101) South Coast Highway, Denmark
<b>Disclosure of Officer Interest:</b>	Nil
<b>Date:</b>	2 September 2019
<b>Author:</b>	Steve Thompson, Consultant Planner Craig Pursey, Manager Sustainable Development
<b>Authorising Officer:</b>	David King, Director Assets & Sustainable Development
<b>Attachments:</b>	8.1.1a – Location plan 8.1.1b – Aerial photograph and cadastre 8.1.1c – Development Application documentation 8.1.1d – Schedule of Submissions 8.1.1e – Amended application details including updated plans, streetscape photo montage and written clarification of proposed land use.

**Summary:**

Council is asked to reconsider a development application for a ‘Place of Public Worship’ at No.987 (Lot 166) South Coast Highway, Denmark following consideration of the matter at a State Administrative Tribunal (SAT) mediation conference.

In light of the clarifications provided by the applicant, the objectives and provisions of Town Planning Scheme No.3 (TPS No.3) and the planning framework, it is recommended that Development Approval be granted subject to appropriate conditions.

**Background:**

The Baptist Church has been operating in Denmark for decades and currently meets at the St John Ambulance Hall at 10 Price Street. The Baptist Union of Western Australia Inc have owned No.987 (Lot 166) South Coast Highway, Denmark for approximately 30 years with the intention of developing a church on this site.

**Subject Site**

No.987 (Lot 166) South Coast Highway, Denmark (the subject site) is 4806m<sup>2</sup> in area, vacant, gently sloping and contains several mature trees. The subject site is zoned 'Residential R5/15' by the Shire of Denmark Town Planning Scheme No.3 (TPS3).

The application site's location is outlined in Attachment 8.1.1a which is approximately 600 metres east of the town centre. The site adjoins residential properties. Land located opposite, on the northern side of South Coast Highway, is Reserve 47020 which is occupied by the high school and TAFE. Nearby non-residential uses include the Riverside Club and Shire office.

Attachment 8.1.1b shows aerial photography and cadastre. The site forms part of the entry or 'gateway' into Denmark. A key characteristic of the area is the tree-lined entry adjoining the South Coast Highway. The South Coast Highway reserve width varies between approximately 25 – 38 metres adjoining the site. There are several trees within the road reserve on the southern side along with a dual use path.

**Original Development Application**

An application for Development Approval was lodged with Planning Services on 1 January 2019 for a place of public worship, community purpose and consulting rooms (refer Attachment 8.1.1c). The application (plans and associated letter) proposed:

- a building of approximately 560m<sup>2</sup> located to the south of the site. The building has a width of 26.4m, a depth of 28.8m, a wall height of 3m, a standard ridge height of 5m, with a small section of the ridge height on the northern side to 6.3m;
- the walls are a combination of fibre cement weatherboarding and select corrugated Colourbond sheeting. The roof and gutters will be Colourbond. The colours have not been specified;
- all walls will be thermally, and where necessary, acoustically insulated;
- the building consists of an assembly hall to provide seating for 180 people, support facilities including toilets, rooms for creche and storage, kitchen, offices, rooms for counselling, lobby and reception area;
- undercover drop off area;
- sealed vehicular access (to/from the South Coast Highway), vehicle manoeuvring and 46 car parking bays (see Attachment 8.1.1e) in the northern and central portions of the site. 42 standard car parking bays are proposed along with 4 car parking bays for people with disabilities;
- landscaping including various 'public art' sculptures (yet to be designed); and
- a children's playground.

The application is supported by a bushfire management plan (incorporating a bushfire emergency evacuation plan), geotechnical report, site classification report, survey plan and Main Roads Western Australia (MRWA) crossover advice.

**Previous Consideration**

Council considered a development application for a place of public worship, community purpose and consulting rooms at No.987 (Lot 166) South Coast Highway, Denmark at their meeting of 21<sup>st</sup> May 2019 and resolved as follows:

*That with respect to the Development Application for a Place of Public Worship, Community Purpose and Consulting Rooms at No.987 (Lot 166 on Plan 224101) South Coast Highway, Denmark, Council:*

1. *Notes the submissions received and advise the submitters of Council's decision.*
2. *Resolves to issue a notice of refusal for the following reasons:*
  - i) *The proposal does not satisfy the following matters to be considered as identified in Schedule 2, Part 9, Clause 67 of the Planning and Development (Local Planning Schemes) Regulations 2015, namely:*
    - (a) *the aims and provisions of this Scheme and any other local planning scheme operating within the Scheme area;*
    - (b) *the compatibility of the development with its setting including the relationship of the development to development on adjoining land or on other land in the locality including, but not limited to, the likely effect of the height, bulk, scale, orientation and appearance of the development;*
    - (c) *the amenity of the locality including the following —*
      - ii) *environmental impacts of the development;*
      - iii) *the character of the locality;*
      - iv) *social impacts of the development;*
    - (d) *the likely effect of the development on the natural environment or water resources and any means that are proposed to protect or to mitigate impacts on the natural environment or the water resource;*
    - (e) *whether adequate provision has been made for the landscaping of the land to which the application relates and whether any trees or other vegetation on the land should be preserved;*
    - (f) *the adequacy of —*
      - ii) *the proposed means of access to and egress from the site; and*
      - iii) *arrangements for the loading, unloading, manoeuvring and parking of vehicles;*
    - (g) *the amount of traffic likely to be generated by the development, particularly in relation to the capacity of the road system in the locality and the probable effect on traffic flow and safety, noting also its location on a heavily used dual-use path leading to the local high-school.*
      - ii) *The application is inconsistent with the objectives of the Shire of Denmark Town Planning Scheme No. 3 including clause 1.6(d) 'to provide for the protection of the natural environment and landscape from inappropriate development'.*
      - iii) *Community use (community centre) is not a permitted use in a residential area.*
      - iv) *The provision of consulting rooms detracts from the primacy of the CBD for service provision.*
      - v) *It will create a detrimental impact on the amenity of the locality through a large-scale commercial sized building located on a key 'gateway' into Denmark.*
      - vi) *Approval will create an undesirable precedent for substantial non-residential development in residential precincts – in particular in this case the provision of a 180-seat auditorium, consulting rooms and associated car-parking is not in keeping with a residential precinct.*
      - vii) *There is community opposition to the application with wide-ranging objections and concerns including noise and land use compatibility impacts.*
      - viii) *The application is inconsistent with the aims of orderly and proper planning given there will be insufficient on-site car parking for major events. This in-turn will exacerbate car parking impacts in the locality given its physical separation from other commercial parking spaces.*

Advice

*If the applicant or owner is aggrieved by this determination there is a right of review by the State Administrative Tribunal in accordance with the Planning and Development Act 2005 Part 14. An application must be made within 28 days of the determination."*

State Administrative Tribunal (SAT)

The applicant subsequently appealed this decision with the State Administrative Tribunal (SAT) with the matter proceeding directly to a mediation conference held on the 5<sup>th</sup> August 2019. This mediation session was attended by the Director Assets & Sustainable Development, the Manager Sustainable Development, the applicant and the applicant's professional support.

The details of the matters discussed in mediation are confidential and anything said in mediation cannot be used as evidence in any later hearing. A mediation session is intended to be a cooperative problem solving process designed to help parties find constructive solutions with the assistance of a trained mediator.

The result of the mediation was that the applicant was to provide additional information to the Shire by the 26 August 2019 and that Council is invited to reconsider its decision on or before 17 September 2019.

**Consultation:**

The original application was advertised in accordance with the requirements of the Scheme and adopted procedures during which time the Shire received 11 submissions on the Development Application.

The main issues and objections raised in the submissions include:

- the size, scale and height of the building is excessive;
- safety and traffic impacts on South Coast Highway and on local roads;
- adverse impacts on neighbouring properties including amenity, noise from traffic and noise from activities in a quiet residential area;
- there is insufficient on-site parking;
- loss of mature trees and impacts on birdlife;
- the nature of screening vegetation/landscaping is unspecified;
- visual impacts;
- there are sufficient existing places of public worship and meeting facilities in Denmark;
- clarifying operating days and hours;
- servicing concerns including effluent disposal and stormwater;
- whether the community centre will be available to all groups and people; and
- detrimental impacts on property values.

The request for reconsideration has not resulted in the need to seek further comment, although all people who lodged submissions on the original application have been notified that the matter is being listed for reconsideration with Council.

**Statutory Obligations:**

TPS3 zones the site as 'Residential R5/15'. Clause 3.1.3(a) of TPS3 sets out the purpose and intent of the Residential zone is 'primarily for low density residential uses with Group Dwellings and selected non-residential uses permitted with approval of the Council'.

Table 1 - Zoning Table of TPS3 sets out the following permissibility for uses in the Residential Zone:

- public worship - is a 'SA' use indicating that any application requires advertising and is at the discretion of local government for approval;
- community purpose – use not listed and requires advertising; and

- consulting rooms - is a 'SA' use indicating that any application requires advertising and is at the discretion of local government for approval.

Appendix I of TPS3 provides the following interpretations:

*Place of Public Worship* – means land and buildings used for the religious activities of a church but does not include an institution for primary, secondary, or higher education, or a residential training institution.

*Community Purpose* – means the use of premises designed or adapted primarily for the provision of educational, social or recreational facilities or services by organisations involved in activities for community benefit.

*Consulting Rooms* – means a building (other than a hospital or medical centre) used by no more than two practitioners who are legally qualified medical practitioners or dentists, physiotherapists, chiropractors or persons ordinarily associated with a practitioner in the prevention, investigation or treatment of physical or mental ailments, and the two practitioners may be of one profession or any combination of professions or practices.

As described in the Council report of 21<sup>st</sup> May 2019, the development proposal fully meets the development standards and parking requirements of TPS3.

Should Council refuse this request for reconsideration or impose unreasonable conditions, the applicant can choose to continue with their appeal to SAT with a further mediation session scheduled for 1 October 2019, should the applicant choose to pursue mediation and not proceed directly to a formal hearing.

#### **Policy Implications:**

Various policies have been given due consideration in assessing this application including:

- *State Planning Policy No. 1 - State Planning Framework Policy;*
- *State Planning Policy No. 2.9 - Water Resources;*
- *State Planning Policy No. 3.1 - Residential Design Codes;*
- *State Planning Policy 3.7 - Planning in Bushfire Prone Areas;*
- *Town Planning Scheme Policy 15 – Townscape Policy* – includes 'Council will maintain and enhance approaches to town...by the retention of existing indigenous vegetation and promoting tree planting on verges'; and
- *Town Planning Scheme Policy 42 Public Art* – applies to developments with a construction cost of \$500,000 or more but does not apply to not-for-profit organisations.

It is suggested the application complies with the above and other relevant policies.

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

Under the Local Government Act, religion entities are eligible for exemptions from rates and therefore an application from the applicant akin to this may be forthcoming if the development proceeds.

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

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

#### Denmark 2027

*B3.0 Our Built Environment: We have a functional built environment that reflects our rural and village character and supports a connected, creative and active community.*

**Sustainability Implications:**

➤ **Governance:**

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

➤ **Environmental:**

The Development Application creates minimal environmental impacts, noting the site is predominantly cleared and there is a need for appropriate servicing.

➤ **Economic:**

The development, if approved and implemented, will provide direct and indirect employment through the construction process. This will assist to provide economic benefits to the local economy.

➤ **Social:**

Some residents have concerns and raise objections to the Development Application. Various range social impacts have been raised. While noting this, it is considered the proposed development is compatible with adjoining and nearby development. It is also noted that some issues are outside the scope of planning legislation and the planning system.

➤ **Risk:**

Risk	Risk Likelihood (based on history and with existing controls)	Risk Impact / Consequence	Risk Rating (Prior to Treatment or Control)	Principal Risk Theme	Risk Action Plan (Controls or Treatment proposed)
The applicant continue with the application for review to the State Administrative Tribunal if the Council's decision was to refuse the application or impose unreasonable conditions.	Possible (3)	Minor (2)	Moderate (5-9)	Failure to meet Statutory, Regulatory or Compliance Requirements	Accept Officer Recommendation as it is based on sound planning grounds and development conditions can further mitigate impacts.
The approval results in unacceptable noise and disruption to the immediate community.	Unlikely (2)	Moderate (3)	Moderate (5-9)	Not Meeting Community expectations	Control through compliance process established through planning conditions and application of other applicable legislation.

**Comment:**

The previous Council report considered by Council on the 21<sup>st</sup> May 2019 fully assessed the proposal against the development requirements of TPS3 and the 'Matters to be Considered' and recommended that the application be approved.

Council resolved to refuse the application for reasons including (these are paraphrased from the formal 'reasons for refusal' reproduced in full in the background section of this report):

- the incompatibility of the development with its setting given its height, bulk and scale;
- the impact upon the amenity of the locality;
- adequacy of parking, access and manoeuvring, potential conflict with the existing dual use path and potential issues for parking numbers at times of large event;



- is inconsistent with the objectives of the Shire of Denmark Town Planning Scheme No. 3 including clause 1.6(d) 'to provide for the protection of the natural environment and landscape from inappropriate development'
- Community use (community centre) is not a permitted use in a residential area
- The provision of consulting rooms detracts from the primacy of the CBD for service provision.
- It will create a detrimental impact on the amenity of the locality through a large-scale commercial sized building located on a key 'gateway' into Denmark.
- Approval will create an undesirable precedent for substantial non-residential development in residential precincts – in particular in this case the provision of a 180-seat auditorium, consulting rooms and associated car-parking is not in keeping with a residential precinct.
- There is community opposition to the application with wide-ranging objections and concerns including noise and land use *compatibility impacts*.

#### Amended Application

Following mediation, the applicant has provided the following information seeking to address Council's reasons for refusal and requesting a reconsideration:

- Amended plans clarifying the use of the proposed building but not changing the dimensions of the building;
- A streetscape perspective highlighting the scale of the proposed building when viewed from South Coast Highway; and
- Further explanation of the proposed land use including:
  - Clarifying that the application is for a "Place of Public Worship" only and not 'community use' or 'consulting rooms';
  - Expanding on what role the church plays in the community and the services it provides as part of its ministry;
  - Explains the need for the 180 seats to cater for weddings and funerals and 'other such church activities' but that the weekly congregation is far fewer than the capacity number;
  - The church intend on "coordinating its community ministry and support from, and within, this building" the community uses are subordinate to the Place of Worship which takes primacy;
  - The land use is permissible in the Residential zone and meets the development requirements of the Scheme. The applicant strongly believes that the land use is well suited to this location and will not have an effect upon the existing town centre; and
  - The "included streetscape clearly identifies that the building has been designed to sit comfortably within its environment and compliment the residential area with retained mature trees and supplementary landscaping."

A full copy of the amended application is found at Attachment 8.1.1e.

#### Assessment

This report seeks to assess whether the additional information provided by the applicant adequately addresses the reasons for refusal of the original application.

The main issues arising as reasons for refusal appear to be concern with the scale of the proposed building and land use and its potential impact on a reasonably quiet residential area.

Whilst the amended information does not change the scale of the proposed building it does provide additional information as to its use and the streetscape perspective provides some sense of scale for the proposed building.

Some of the original concerns with the proposal may have been around the proposed community use and consulting rooms land uses suggesting that the building could be used by a large cross section of the community and result in high levels of traffic and noise in what is a reasonably quiet residential area. This misperception may have resulted from the church seeing themselves as a provider of community services and counselling in their role as a church and the Town Planning Scheme interpreting this as independent land uses that require assessment for their impact on the locality.

The applicant has clarified that the application is for a 'Place of Public Worship' only and all activities on the site would be under the definition of this land use. Any other use of the site by non-church groups would require separate approval.

The removal of the land use categories 'community use' and 'consulting rooms' does serve to clarify that the site is for church purposes only. The assessed traffic and potential for noise generated from a church premise would be considerably reduced in light of this change.

The proposed car parking and access meets the requirements of TPS3. The scale of the building could be argued to be residential in scale in light of the size of the adjacent houses and the size of the property. However, with the addition of a substantial car parking area changes the nature of this to a more civic land use. On the other hand the proposed landscaping will serve to soften the look of the development from the street and the immediate area has a number of other substantial civic land uses including the school and Shire offices.

On balance, the additional information and clarification of the way in which the site is proposed to operate appear to largely address the issues raised concerning the potential impact on the amenity of the area, traffic and parking issues, noise and scale of the building.

Conditional approval is recommended.

**Voting Requirements:**

Simple majority.

<b>COUNCIL RESOLUTION &amp; OFFICER RECOMMENDATION</b>	ITEM 8.1.1
MOVED: CR GIBSON	SECONDED: CR SEENEY
<p>That pursuant to the Orders made by the State Administrative Tribunal in accordance with Section 31 of the State Administrative Tribunal Act 2004, Council reconsiders its decision of 21 May 2019, and grants Development Approval to the proposed Place of Public Worship at No.987 (Lot 166 on Plan 224101) South Coast Highway, Denmark subject to the following conditions:</p>	
<p><u>Conditions</u></p>	
<p>a) The development hereby approved shall at all times comply with the definition of 'Place of Public Worship' as provided in Appendix 1 of the Shire of Denmark Town Planning Scheme No.3, as follows:</p> <p style="padding-left: 40px;"><i>"means land and buildings used for the religious activities of a church but does not include an institution for primary, secondary, or higher education, or a residential training institution."</i></p>	
<p>b) The development hereby approved must be carried out and implemented in accordance with the stamped approved plan(s) dated August 2019 (Site Plan, Floor</p>	

Plan, Elevations and Roof Plan), the Supplementary Information dated 15 August 2019 and the Bushfire Management Plan dated 15 November 2018 including notations marked in red.

- c) This approval shall expire if the development hereby approved has not been substantially commenced within a period of three (3) years from the date hereof, or within any extension of that time (requested in writing prior to the approval expiring) that may be granted by the Shire of Denmark. Where the Development Approval has lapsed no further development is to be carried out.
- d) The development is to be constructed to Australian Standard 3959 – Construction of Buildings in Bushfire Prone Areas (BAL 12.5).
- e) The opening hours of the facility shall be restricted to between 7.30am and 9.00pm, unless a variation is approved in writing by the Shire of Denmark.
- f) No more than 180 people to be on-site at any one time unless specific approval has been granted in writing by the Shire of Denmark.
- g) All vehicle parking, manoeuvring and circulation areas shall be suitably constructed, sealed (asphalt, concrete or brick pavers), drained, kerbed, marked and sign posted (where required) to the satisfaction of the Shire of Denmark prior to occupation and thereafter maintained – refer Advice Note (ii).
- h) The land being filled, drained and stabilised to the satisfaction of the Shire of Denmark.
- i) The provision of details as part of the Building Permit application as to how stormwater will be addressed for the proposed development, including stormwater from roofs, car parking and other impervious areas, to the satisfaction of the Shire of Denmark. Stormwater disposal plans, details and calculations shall be submitted for approval to the satisfaction of the Shire of Denmark. The stormwater facilities provided in accordance with this condition shall be implemented prior to occupation and be permanently maintained in an operative condition to the satisfaction of the Shire of Denmark.
- j) At least 3 bicycle parking spaces (racks) are provided prior to occupation to the satisfaction of the Shire of Denmark.
- k) Prior to issuance of a Building Permit, a schedule of materials and colours to be used on the building is to be submitted for approval by the Shire of Denmark.
- l) Prior to the commencement of site works, a detailed landscaping plan is to be submitted for approval by the Shire of Denmark. Such plan/s to specify details of the vegetation, hard landscaping, paving materials, furniture, bollards, lighting, reticulation methods and the children's playground. All landscaping shall be carried out in accordance with the approved landscaping plan/s within 60 days of the practicable completion of the building and from then on maintained to the specification and satisfaction of the Shire of Denmark.
- m) No goods or materials shall be stored, either temporarily or permanently, in the parking or landscape areas or in access driveways, unless otherwise agreed in writing by the Shire of Denmark.
- n) A bin storage/rubbish enclosure area of sufficient size to service the development is to be provided on-site and screened from public view to the satisfaction of the Shire of Denmark.
- o) Noise attenuation measures are to be detailed within the Building Permit application to the satisfaction of the Shire of Denmark and thereafter implemented prior to occupation.
- p) Immediately prior to the occupation of the development for its approved purpose, the developer shall notify the Shire of Denmark, in writing, of the effective completion of

the approved development such that a Final Inspection can be carried out to determine compliance with the conditions contained in this Development Approval.

Advice Notes

- i. The applicant is advised that the approved development must comply with all relevant provisions of the *Health Act*, the *Building Code of Australia* and the *Public Buildings Regulations*.
- ii. With regard to Condition g), engineering drawings are to be submitted for approval of the Shire of Denmark prior to commencement of works detailing the proposed materials, pavement depths, kerbing, landscaping and swales associated with the proposed carpark and vehicle manoeuvring areas.
- iii. Any food preparation undertaken on site must comply with the requirements of the *Health (Food Hygiene) Regulations*. If the kitchen is used for commercial purposes, it must comply with the *Australia and New Zealand Food Standards Code 3.2.3*.
- iv. No signage has been approved as part of this application. Any signs proposed to be erected on-site may require the separate approval of the Shire of Denmark.
- v. With regard to Condition l) plant selection is to consider the Bushfire Prone classification of the site and not result in a heightened bushfire risk to the building or neighbouring properties. Existing trees are encouraged to be retained where possible and practical.
- vi. With regard to Condition o), an acoustic report may be required should band practice or events be proposed.
- vii. The applicant is encouraged to install suitable boundary fencing prior to occupation.
- viii. It is the responsibility of the applicant/ landowner 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.
- ix. The installation of any outdoor lighting on the building and/or in the car parking area shall be in accordance with the requirements of Australian Standard AS4282-1997: Control of the Obtrusive Effects of Outdoor Lighting.
- x. It is the responsibility of the applicant to search the title of the property to ascertain the presence of any easements and/or restrictive covenants that may apply.
- xi. The level of noise emanating from the premises shall not exceed that prescribed in the *Environmental Protection Act 1986*, and the *Environmental Protection (Noise) Regulations 1997*.

CARRIED UNANIMOUSLY: 8/0

Res: 050919

**COUNCIL RESOLUTION**

MOVED: CR CARON

SECONDED: CR LEWIS

That there be a brief adjournment, the time being 6.54pm.

CARRIED UNANIMOUSLY: 8/0

Res: 060919

**COUNCIL RESOLUTION**

MOVED: CR ALLEN

SECONDED: CR SEENEY

That the meeting be resumed, the time being 7.07pm.

CARRIED UNANIMOUSLY: 8/0

Res: 070919

Cr Lewis declared a proximity interest in relation to Item 8.1.2 on the basis that the applicants are her neighbours .

7.07pm - Cr Lewis left the room and did not participate in discussion or vote on the matter.

### 8.1.2 PROPOSED THIRD HOUSE – NO. 56 (LOT 2011) MCHENRY LANE, SCOTSDALE

<b>File Ref:</b>	A366 (2019/99)
<b>Applicant / Proponent:</b>	M McHenry & J Anwar McHenry
<b>Subject Land / Locality:</b>	No. 56 (Lot 2011) McHenry Lane, Scotsdale
<b>Disclosure of Officer Interest:</b>	Nil
<b>Date:</b>	29 August 2019
<b>Author:</b>	Laura Delbene, Town Planner
<b>Authorising Officer:</b>	David King, Director Assets and Sustainable Development
<b>Attachments:</b>	8.1.2a – Aerial Map 8.1.2b – Development Application Documentation 8.1.2c–Town Planning Scheme Policy No. 7: Second Dwellings/Additional Houses and Chalet Developments on Rural Zoned Lots 8.1.2d – Property Paddock Map. 8.1.2e – Site Photos

#### Summary:

The applicant is seeking Development Approval for a Third House at No. 56 (Lot 2011) McHenry Lane, Scotsdale. After due assessment of the proposal, it is recommended that the application for a third house be granted Development Approval with appropriate conditions.

#### Background:

##### Subject Site

No. 56 (Lot 2011) McHenry Lane, Scotsdale (the subject site) is 146 hectares in area and is zoned 'Rural' under the Shire of Denmark Town Planning Scheme No. 3 (TPS3).

The subject site is one of the most northerly located Rural zoned properties within the Shire and is bounded on all sides by Mount Lindsey Reserve (Reserve No. 47891) and the Denmark River. The site has an undulating topography and comprises of areas of riparian and remnant vegetation that are afforded protection by a significant network of fences. There are also a number of water courses through the site requiring bridges/crossings for access across the property. The property is currently used for the running of Perendale Sheep Stud, cattle and silage, and will soon include use for research in crops/pasture/lamb production in partnership with the Federal Government funded Future Food Systems Cooperative Research Centre. See Attachment 8.1.2a for an aerial map and site plan mark-up, and 8.1.2e for photos of the proposed house site.

##### Current Application

An application for Development Approval was lodged with Planning Services on 19 July 2019 for a third dwelling (refer Attachment 8.1.22.b) The application (plans and letters) propose:

- A loft style building of approximately 130m<sup>2</sup> consisting of 3 bedrooms, a combined laundry/bathroom, kitchen and main living area.
- The house will be sited adjacent to a large gully dam and includes a deck that overlooks the dam with holding tanks beneath for effluent disposal.
- Access to the proposed development will be via existing tracks through the property.
- The site has two existing approved dwellings occupied by other family members including the property owner (mother) who resides in the main house and leases the farm to two sons, one of which is the applicant (family of five), and the other who resides in the second house (also a family of five).

### Previous Development Proposals and Associated Approvals

Approval was granted in 1984 for additions to the original farmhouse following the purchase of the property by the current owner in 1982. Approval for an aquaculture venture that has been confirmed as no longer viable was granted in 2006 (308/2005), and later, a second dwelling approved in 2013 (DA2013/18) to provide permanent residence for one of the owner's sons (not the applicant of this proposal) and his family. In 2014, approval was also given to operate a Home Occupation (cakes) from the second dwelling (DA2014/129).

In 2014, the applicant made enquiries with Planning Services for the partial conversion of a hay shed to provide accommodation for his family, who were at the time commuting between Perth and Denmark to help manage the farm and the sheep business which they had purchased from the parents (the applicant's father is since deceased). The advice given by staff at the time was that a third dwelling would likely not be supported, noting at this stage the applicants advised that they were only managing the farm for approximately one third of the year.

Having since relocated to Denmark permanently, the applicant and family are currently in a share-house arrangement, living in the main farmhouse with the owner. Approval was recently granted for a detached habitable studio associated with the main dwelling (DA2017/162A) which is now nearing completion and is intended to provide additional space for use as a private dance/music studio and storage of the equipment required for these personal pursuits of the applicant as outlined in Attachment 8.1.2b. The studio is an 88m<sup>2</sup> structure conditioned such that permanent occupation is not permitted.

### **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; Town Planning Scheme No. 3; Schedule 2, Part 8, Clause 64 of the Planning and Development (Local Planning Schemes) Regulations 2015; and undertook the following level of consultation:

#### External Consultation:

- The applicant

#### Internal Consultation:

- Development Co-ordination Unit

### **Statutory Obligations:**

Town Planning Scheme No.3 (TPS No. 3) specifies the pertinent planning provisions for the proposed development.

Clause 8.2.4 of TPS No. 3 states:

*A Town Planning Scheme Policy shall not bind the Council in respect of any application for planning consent, but the Council shall take into account the provisions of the policy and the objectives which the policy was designed to achieve before making its decision.*

Should Council refuse this Development Application or impose conditions on the Development Approval that the applicant is aggrieved by, as per the provisions of the *Planning and Development Act 2005*, the applicant can apply to the State Administrative Tribunal for a Right of Review.

### **Policy Implications:**

Various policies have been given due consideration in assessing this application including:

- *State Planning Policy 3.7 - Planning in Bushfire Prone Areas;*
- *Town Planning Scheme Policy 5: Minimum Setbacks;*

- *Town Planning Scheme Policy 7: Second Dwellings, Additional Houses & Chalet Development on Rural Zoned Lots.*

**Budget / Financial Implications:**

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

**Strategic & Corporate Plan Implications:**

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

Denmark 2027

*B3.0 Our Built Environment:*

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

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

Corporate Business Plan

Nil

**Sustainability Implications:**

➤ **Governance:**

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

➤ **Environmental:**

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

➤ **Economic:**

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

➤ **Social:**

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

➤ **Risk:**

Risk	Risk Likelihood (based on history and with existing controls)	Risk Impact / Consequence	Risk Rating (Prior to Treatment or Control)	Principal Risk Theme	Risk Action Plan (Controls or Treatment proposed)
The proponent may lodge an application for review to the State Administrative Tribunal if the Council’s decision was to refuse the proposal or impose conditions that the applicant is aggrieved by.	Possible (3)	Minor (2)	Moderate (5-9)	Failure to meet Statutory, Regulatory or Compliance Requirements	Accept Officer Recommendation as the decision is based on sound planning grounds. If a decision is made to refuse the application, Council is to provide sound reasoning to support solid defence at the State Administrative tribunal should the applicant wish to pursue a Right of Review.



**Comment:**Provisions of Town Planning Scheme No. 3

Clause 5.3.2 of TPS No. 3 states that:

*“No more than two single houses shall be permitted on any lot in the Rural Zone, unless the written approval of Council is granted. Approval will not be granted if, in the opinion of Council, the use is deemed to conflict with Rural Multiple Occupancy zoning.”*

The purpose and intent of the Rural Multiple Occupancy Zone (RMO zone) relates to development of a ‘single’ intensive rural pursuit by people living on one common property carrying out cooperative management of the pursuit. In consideration of this, it is determined that the current proposal is not in conflict with the intent of the RMO zone.

One of the fundamental issues with this proposal relates to the potential for a ‘third house’ precedent to be made, noting it has consistently been the position of Council and advice of Officers to suggest that such proposals will ‘likely not be supported’. It is therefore important to demonstrate that there are ‘exceptional circumstances’ to justify approval of a third dwelling.

Policy Consideration

*Town Planning Scheme Policy No. 7: Second Dwellings/Additional Houses and Chalet Developments on Rural Zoned Lots* (refer Attachment 8.1.2c) provides criteria for consideration of additional houses on ‘Rural’ zoned lots and in this instance the following criteria is relevant:

- Additional Houses (total of three) – Council’s discretion
- Council Discretionary Approval Conditions (B):
  - 1) Any additional houses will need upon application to Council to substantiate that the dwelling is needed for management purposes of an existing rural enterprise.
  - 2) In consideration of a proposed venture, Council will require that substantial progress has been taken to bring the venture into operation.
  - 3) Requirements of a water source, road contribution(s), siting, effluent disposal and building materials will be as determined by Council.

Past Decisions

The most recent proposal for a third dwelling on a Rural zoned lot was lodged in 2013 (DA2013/107) whereby refusal was recommended as it could not be substantiated that a third house was deemed necessary from a rural enterprise operational management perspective, due to the lot size of approximately 28 hectares. A review was also conducted at the time to establish whether Council had approved three houses on Rural zoned lots in the past. It was ascertained that there were several approvals granted for three or more dwellings in the 1980’s, subject to the owners entering into an ex-gratia rates payment agreement and on the basis that the owners would not apply for subdivision. Subsequently, the introduction of Town Planning Scheme No. 3 resulted in these properties being zoned Rural Multiple Occupancy.

Assessment

In response to the criteria of TPS Policy No. 7 the applicant has provided written justification (see attachment 8.1.2b) and a site visit has been undertaken by Officers to assess the site characteristics and constraints described in the applicant’s submission.

As per TPS Policy No. 7 –

- 1) *Any additional houses will need upon application to Council to substantiate that the dwelling is needed for management purposes of an existing rural enterprise.*

The applicant has confirmed that there is an existing rural enterprise being carried out on the property including sheep and cattle. Planning services have considered that these could be constituted as normal agricultural pursuits that occur on many rural properties within the Shire without the need for a third dwelling for management purposes.

Since purchasing the sheep business, it has been the intention of the applicant to improve and develop Perendale Sheep Stud (the only Perendale Stud registered in Western Australia). The farm has recently been recognised as a progressive WA-based small to medium enterprise, with the applicants having been selected as a research/industry partner with the Federal Government funded Future Food Systems Cooperative Research Centre [FFSCRC]. The applicant has suggested that their involvement in the FFSCRC program will demand more intensive farm management practices, as in addition to the sheep, they will add research crops/pasture to the enterprise.

One of the key points the applicant raises relates to the added difficulties of farm management due to the property sharing all boundaries with Mount Lindsey National Park and the Denmark River. The need and location of a third dwelling is therefore proposed to enable more efficient management of the enterprise, noting it will be closer to where most of the damage occurs particularly from kangaroos, and will serve as a better deterrent to foxes and dogs that cross into the property from the national park especially during lambing season. The applicant has expressed that they spend considerable time and money repairing fences which is a one-sided affair, without the advantage of being able to be shared with adjoining farming landowners both from a physical and economical perspective.

In addition, the applicant has commented that topography of the property, the complex arrangement of paddocks which experience varying soil types (see Attachment 8.1.2d) and the location of water courses, adds time to get around the property and as such suggests that the location of the proposed dwelling will reduce this considerably. It has also been noted that the original 'Groupy' house was located at the site of the proposed dwelling, which is advantageous in the ability to view a considerable area of the property from this location, not possible from the other two dwellings.

*2) In consideration of a proposed venture, Council will require that substantial progress has been taken to bring the venture into operation.*

The applicant has demonstrated that there is a well-established venture in place that they have actively been involved in for many years. Since purchasing the Perendale Stud operation, the applicant has grown the business including making considerable investment in fences, trees, troughs and other infrastructure for the property and more recently engaging with FFSCRC, whereby the property will be used for ongoing research for optimal food production.

*3) Requirements of a water source, road contribution(s), siting, effluent disposal and building materials will be as determined by Council.*

With regards to these criteria, there is adequate water available as the property has several dams of which a large gully dam was constructed as an irrigation source for the expanding rural enterprise. The method of effluent disposal and the final location will be determined in consultation with the Shire's Environmental Health Officer who has been consulted through the internal referral process. It is not considered that a road contribution is deemed necessary. The property is accessed from a private gravel road that runs off McHenry Lane that was recently granted approval to be

renamed 'McHenry Lane' (Council Res: 050719) and no additional traffic movement to that which occurs now is perceived as a result of a third dwelling. In respect of building materials, there are no specific material or colour provisions that relate to rural properties specified within TPS No.3, and no visual impact to the surrounding locale is perceived due to the proposed siting of the dwelling.

The following comments have been provided from a Planning perspective:

- Second dwellings are a permitted use under TPS No.7 on lots greater than 10 hectares and are generally determined under Delegated Authority with no requirement to demonstrate that they are solely for rural enterprise management purposes. In this regard and as per policy, it is the third dwelling that needs to substantiate to Council that it is required for management of an existing rural enterprise. The application proposed seeks to allow a third dwelling for the independent management of the existing rural enterprise, noting that with respect to all members who currently reside in the two existing dwellings and whom are actively involved in farm operations; it is the applicants who undertake the main rural enterprise activity on the property.
- Refusal of the most recent application for a third house was determined on the basis that the lot size of 28 hectares could not be used to substantiate the need for an additional dwelling for the purpose of management of a rural enterprise. The size of the lot for this proposal is 146 hectares in area which is approximately 136% larger than the subject of the refused proposal.
- Property size alone should not be the sole basis for consideration of a third dwelling and whilst it is noted that the applicant's partnership with the FFSCRC project is also a relevant consideration, the need for a third dwelling has also been assessed in isolation of these factors. The Officer has taken into consideration that there is a well-established rural enterprise that has grown in scale and complexity on the property. In addition, there are additional physical/environmental circumstances that will remain unchanged from a farm management perspective which include; the difficulty of having no shared boundaries; the challenging topography; the location of several water courses and maintenance of bridges; and the involvedness of pasture management due to the site characteristics.
- The location of the third dwelling is fully compliant with TPS Policy No. 5 – Minimum Setbacks. A minimum of 15m is prescribed to side boundaries and in this instance a 100m setback from the closest boundary is proposed. In addition, the siting of the third dwelling is relatively clustered in close proximity to the other two dwellings. Had the third dwelling been proposed in the north western corner of the lot, it may have been construed that this was done so for optimising subdivision potential, noting the applicant has confirmed this is not a future intention, and is aware of the Shire's position against subdivision of Rural zoned land.
- The siting of the dwelling is such that there are no perceived adverse visual or amenity impacts on adjoining landowners, nor is the dwelling visible from a public roadway.
- No removal of native vegetation is required for the siting of the dwelling and access will be via existing access ways within the property.
- The property is in a bushfire prone area, whereby as per State Planning Policy 3.7 – Planning in Bushfire Prone Areas, a BAL 29 or lower shall be achieved. The dwelling is to be located in a relatively cleared area adjacent to a constructed dam and achieves a BAL 12.5 rating. In addition, as the applicant and family are already living on the property, there is no increase of resident numbers as a result of the additional dwelling.
- The proposal is consistent with the objectives of TPS No. 7 and is not deemed to be in conflict with the intentions of the Rural Multiple Occupancy Zone.

Conclusion

Having regard to the objectives of TPS Policy No. 7, the applicant has demonstrated that a third dwelling is justified for the purpose of management of an existing rural enterprise and can demonstrate that considerable measures have been taken to grow the venture. Officer consideration has been given to the size of the property and more importantly, to the applicant's demonstration of a genuine need to improve the efficiency of management of the rural enterprise, largely due to the increasing scale and complexity of the enterprise and the additional management constraints and land characteristics that are specific to the property. It is therefore recommended that Council approve the application.

**Voting Requirements:**

Simple majority.

<b>COUNCIL RESOLUTION &amp; OFFICER RECOMMENDATION</b>	ITEM 8.1.2
MOVED: CR CARON	SECONDED: CR GIBSON

That with respect to the development application for a Third House at No. 56 (Lot 2011) McHenry Lane, Scotsdale, Council:

1. Notes the submission received.
2. Grants Development Approval subject to the following:

Conditions

- a) The development shall be carried out and fully implemented in accordance with the stamped approved plan(s) dated 19 July 2019.
- b) A Notification pursuant to Section 70A of the Transfer of Land Act must be registered against the Certificate of Title to the land the subject of the proposed development advising the owners and subsequent owners of the land that the dwelling is to be occupied by person or persons involved in the management/running of the agricultural property. Such notification is required to be placed on the title prior to the issue of a Building Licence.
- c) The dwelling to be constructed to Australian Standard 3959 – Construction of buildings in bushfire prone areas (BAL-12.5).
- d) The driveway/accessway shall be constructed and maintained to a minimum all-weather standard (eg. gravel, crushed rock) to facilitate access to the development by 2-wheel drive vehicles, and be constructed in accordance with Acceptable Solution A3.5 of Element 3: Vehicular Access of the Guidelines for Planning in Bushfire prone areas – refer Advice Note a.
- e) The approved development shall provide a potable water supply (ie. Rainwater tank) with a capacity of not less than 92,000 litres. The tank shall be installed in accordance with the Department of Health's standard on water tanks. This includes but is not limited to a "First Flush Water Diverter" (for detailed information see 'Water' link at <http://www.public.health.wa.gov.au>).
- f) The rainwater tank shall provide an adequate dedicated water supply of not less than 10,000 litres for bushfire fighting purposes, accessible by a DFES approved coupling for emergency purposes only, with such rainwater tank to be located to ensure that vehicle access is provided within 3 metres of the rainwater tank.
- g) The approved development shall be connected to an approved effluent disposal system to the satisfaction of the Shire of Denmark (Environmental Health Services).
- h) All stormwater and drainage runoff from all roofed and impervious areas, including rainwater tank overflow is to be retained on-site or connected to a legal point of discharge to the satisfaction of the Shire of Denmark (Infrastructure Services).

Advice Notes:

- a) For the driveway/accessway to meet Acceptable Solution A3.5 of Element 3: Vehicle Access of the Western Australian Planning Commission's Guidelines for Planning in Bushfire Prone Areas:

- All sections of the driveway/accessway should have a minimum constructed trafficable surface with a width of 4 metres and horizontal clearance of 6 metres.
  - All vegetation overhanging the driveway/accessway should be trimmed to maintain a minimum vertical clearance of 4.5 metres.
  - Passing bays should be located every 200 metres with a minimum length of 20 metres and a minimum width of two metres, and constructed to a suitable standard (eg. Gravel, crushed rock).
  - Turn-around areas within 50 metres of the approved dwelling and located every 500 metres along the accessway and designed to accommodate type 3.4 fire appliances to enable them to turn around safely and must be constructed to a suitable standard (eg. Gravel, crushed rock).
  - Any bridges or culverts are able to support a minimum weight capacity of 15 tonnes.
- b) From a preliminary review of the information provided, the Shire’s Principal Building Surveyor advises that in addition to the standard Building Permit application documentation the following additional information is required:
- As per *NCC Building Code of Australia 2016 – Volume Two – Facilities*: a separate wash trough is required in the same room as a washing machine.
  - Engineering Certification of the entire structure will be required.
- c) 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.
- d) 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.
- CARRIED UNANIMOUSLY: 7/0 Res: 080919

7.12pm – Cr Lewis returned to the room.

**8.1.3 DRAFT LOCAL PLANNING POLICY 47 – TOWN CENTRE PARKING AND SUSTAINABLE TRANSPORTATION – SEEKING CONSENT TO PUBLICLY ADVERTISE**

<b>File Ref:</b>	PLN.70.M
<b>Applicant / Proponent:</b>	Not applicable
<b>Subject Land / Locality:</b>	Applies in the Denmark town centre
<b>Disclosure of Officer Interest:</b>	Nil
<b>Date:</b>	30 August 2019
<b>Author:</b>	Steve Thompson, Consultant Planner
<b>Authorising Officer:</b>	David King, Director Assets & Sustainable Development
<b>Attachments:</b>	8.1.3a - Draft Local Planning Policy 47 – Town Centre Parking and Sustainable Transportation 8.1.3b - Extract from <i>Planning and Development (Local Planning Schemes) Regulations 2015</i>

**Summary:**

The purpose of this report is to seek Council support to publicly advertise a draft planning policy relating to car parking and sustainable transportation in the Denmark town centre.

**Background:**

It has been twenty years since Council adopted the Commercial Strategy and twenty five years since Town Planning Scheme No. 3 (TPS3) was gazetted. Both documents provide guidelines and standards relating to car parking. It is considered timely to review car parking standards in the Denmark town centre based on changing circumstances, to consider new forms of land uses (including small bars), to promote appropriate re-use, redevelopment and

development in the town centre and to encourage increased sustainable transportation to/from the town centre.

Like many town centres, there are a range of pressures and challenges including from on-line shopping and the feasibility of new development. Some of the feasibility considerations include the requirement for either significant on-site parking or the associated cash-in-lieu payment (including the rate) for uses such as cafes, restaurants and small bars. The Shire administration is aware of issues raised by applicants and the Denmark Chamber of Commerce relating to car parking provision and/or costs for these uses.

There are also various opportunities to ensure the Denmark town centre has a high level of amenity and activity and a well-defined sense of place. Part of this is encouraging vibrancy and new development including cafes, restaurants and small bars. One opportunity, is supporting the potential to reduce car parking standards in the Denmark town centre to promote business activity, encourage appropriate redevelopment and development and promote sustainable transportation such as walking and cycling.

Draft Local Planning Policy (LPP47), set out in Attachment 8.1.3a, seeks to provide guidance regarding car parking and sustainable transportation to Council, the Shire administration, landowners and applicants. It introduces, for the first time locally, standards to promote walking and cycling. Draft LPP47 is intended to apply to change of land use applications, where an intensification of land use is proposed, development and redevelopment applications within the area identified as 'Town Centre – Inner Core' in the Local Planning Strategy and shown in Figure 1 of the draft policy.

The objectives of draft LPP47 are to:

- promote business activity along with appropriate redevelopment and development in the town centre;
- assist in creating a vibrant town centre that is increasingly resilient;
- establish guidelines relating to the rate of providing car parking bays for redevelopment, new development and changes of use;
- facilitate the provision of adequate car, bicycle and motorcycle parking facilities within the town centre;
- ensure parking is provided for various services, facilities and developments at a rate that is appropriate for a town centre environment and to efficiently manage parking supply and demand;
- complement the car parking provisions and standards in the Scheme;
- provide guidance as to when the local government may vary the parking provisions of the Scheme for development within the town centre; and
- promote sustainable transportation including walking and cycling.

For most of the year and at most times, there is sufficient car parking in the Denmark town centre. Draft LPP47, applying to new development, is likely to have minimal impacts on overall parking provision given the expected rate of development in the town centre in the coming years.

Although an adequate supply of convenient parking is essential, it is also suggested that car parking areas should not dominate the structure of the town centre given it will make the town centre less attractive and vibrant. Preference is given to using short-term, on street parking for retail patrons, and keeping long-term, off street parking for those who work in the town centre. A more sustainable option is promoting access to and from the town centre by walking and cycling.

Attachment 8.1.3b provides an extract from the *Planning and Development (Local Planning Schemes) Regulations 2015*. The 'deemed provisions' in the Regulations replace relevant clauses in Local Planning Schemes. The Regulations require draft local planning policies to be publicly advertised for at least 21 days.

**Consultation:**

Should the Council agree to its public release, draft LPP47 will be subject to community and stakeholder consultation for a suggested 42-day period.

**Statutory Obligations:**

*Planning and Development Act, Planning and Development (Local Planning Schemes) Regulations 2015 and TPS3.*

**Policy Implications:**

These are addressed in this report and in the attached draft LPP47. Finalisation of LPP47 will increase certainty for everyone with an interest in the matter and should assist in more consistent decision making.

**Budget / Financial Implications:**

There are Shire costs associated with advertising draft LPP47.

**Strategic & Corporate Plan Implications:**

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

Denmark 2027**B3.0 Our Built Environment:**

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

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

Corporate Business Plan

Nil

**Sustainability Implications:****➤ Governance:**

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

**➤ Environmental:**

The draft policy supports sustainable transportation including walking and cycling.

**➤ Economic:**

The draft policy supports reuse, redevelopment and development in the town centre and in-turn supports job creation. This will assist to provide economic benefits to the local economy.

The provision of car parking is an impost upon new developments, particularly developments which increase floor space. There is a need for appropriate provision of car parking given the traffic that the development generates and the expectation of patrons that convenient parking will be available. If the car parking is not provided by the development, the responsibility and cost to provide the car parking is shifted to the Shire ratepayer through the need to provide and maintain public car parking.

The Council will need to consider various matters including job creation, vibrancy, development feasibility and potential increased rates compared to costs that could, in-time, be associated with providing and maintaining public car parking in the town centre.

➤ **Social:**

The draft Policy seeks to set out standards for parking and sustainable transportation in the town centre consistent with anticipated community and stakeholder expectations.

**Risk:**

Risk	Risk Likelihood (based on history and with existing controls)	Risk Impact / Consequence	Risk Rating (Prior to Treatment or Control)	Principal Risk Theme	Risk Action Plan (Controls or Treatment proposed)
The Council does not support the release of the draft Policy for public comment.	Possible (3)	Minor (2)	Low (1-4)	Not Meeting Community expectations	Accept Officer Recommendation
Commercial operators/owners, the community and stakeholders are not aware of the advertised draft Policy.	Possible (3)	Minor (2)	Moderate (5-9)	Failure to meet Statutory, Regulatory or Compliance Requirements	Undertake extensive consultation which exceeds statutory requirements including liaising with the Denmark Chamber of Commerce.

**Comment:**

Draft LPP47 sets out that developments, as required, provide car parking spaces and/or for the applicant to make a cash-in-lieu payment to the Shire. Draft LPP47 however supports a lower parking space rate than set in TPS3 where agreed sustainable transport measures are provided to the satisfaction of the Shire.

Draft LPP47 is considered appropriate to be publicly advertised for community and stakeholder comment. The goal of the advertising is to encourage community and stakeholder debate and to seek the receipt of submissions and informed comments. If Council agrees, submissions will be invited through various methods for a six-week period. It is proposed to consult widely through the Shire administration writing to and inviting comments from wide-ranging stakeholders, placing public notices in local papers, placing details on the Shire website and Facebook page and information being available at the Shire office.

Following the close of the consultation period, the Council and the Shire administration will consider the submissions and determine whether LPP47 is suitable for final adoption, whether it should be modified or whether to not to proceed with the Policy. It is suggested the objective is to finalise a Policy which will assist to increase certainty for everyone with an interest in this issue and which will provide increased guidance to Council and the Shire administration in assessing development applications.

**Voting Requirements:**

Simple majority.

OFFICER RECOMMENDATION

ITEM 8.1.3

That Council:

1. Support the public release of the draft *Local Planning Policy 47 – Town Centre Parking and Sustainable Transportation*, outlined in Attachment 8.1.3a, and require the draft Policy to be publicly advertised for an increased period of six weeks.
2. Will reconsider the draft *Local Planning Policy 47 – Town Centre Parking and Sustainable Transportation* following the close of the public submission period and will determine whether to proceed with the Policy without modification, proceed with the Policy with modification or to not proceed with the Policy.



<b>DEFERRAL</b>	ITEM 8.1.3
MOVED: CR CARON	SECONDED: CR SEENEY
That the item be deferred to the 15 October 2019 to allow further investigation.	
CARRIED UNANIMOUSLY: 8/0	Res: 090919

The Shire President, Cr Gearon declared a proximity interest in relation to Item 8.1.4 on the basis that she is the joint owner of property in the locality of Inlet Drive.

Cr Gearon declared a financial interest in relation to Item 8.1.5 on the basis that her partner is an employee of the Denmark Community Resource Centre.

7.16pm - Cr Gearon left the room and did not participate in discussion or vote on Item 8.1.4 or 8.1.5.

The Deputy Shire President, Cr Caron assumed the chair as the Presiding Person.

**8.1.4 DRAFT LOCAL PLANNING POLICY 48 – INLET DRIVE AND MINSTERLY ROAD PRECINCTS – SEEKING CONSENT TO PUBLICLY ADVERTISE**

<b>File Ref:</b>	PLN.70.N
<b>Applicant / Proponent:</b>	Not applicable
<b>Subject Land / Locality:</b>	Applies in land zoned Residential R2 & R2.5 located on Inlet Drive & Minsterly Road, Denmark
<b>Disclosure of Officer Interest:</b>	Nil
<b>Date:</b>	3 September 2019
<b>Author:</b>	Craig Pursey, Manager Sustainable Development
<b>Authorising Officer:</b>	David King, Director Assets & Sustainable Development
<b>Attachments:</b>	8.1.4 - Draft Local Planning Policy 48 – Inlet Drive and Minsterly Road Precincts

**Summary:**

The purpose of this report is to seek Council support to publicly advertise a draft planning policy relating to establishing modified side setbacks for new or extended dwellings, new outbuildings and retaining walls in an area zoned Residential R2 & R2.5 located on Inlet Drive and Minsterly Road, Denmark.

**Background:**

A number of areas within the Denmark townsite have a low density coding (i.e. R2 & R2.5) but are characterised by comparatively quite narrow lots; in particular, lots facing Inlet Drive and Minsterly Road.

The R-Codes set a setback standard of 10 metres from side and rear boundaries for land coded R2, while a 7.5m side and rear setback applies for land coded R2.5.

Many proposals cannot meet the “deemed-to-comply” side setbacks of the Residential Design Codes (R-Code) applicable under an R2 or R2.5 density coding. For example, no dwelling design for the property can comply with a 10m side setback standard given some lots have a 20m width.

Given the above, the local government has on many occasions, accepted side setback variations for development in these areas, resulting in many buildings having been approved and built with a 1m side setback. However, getting to this point usually takes considerable Shire resources in consulting and liaising with applicants and neighbours for a similar result each time and has potential for an inconsistent standard of development.

Draft Local Planning Policy (LPP48), set out in Attachment 8.1.3a, seeks to establish an alternate ‘deemed-to-comply’ standard for:

- Side setbacks for dwellings;
- Side and rear setbacks for outbuildings; and
- Side setbacks for retaining walls

within the area identified in Figure 1 of the draft policy.

The intention is to provide some consistency of approach that responds to local conditions and to establish a common understanding for landowners, Council and Shire staff.

**Consultation:**

Should the Council agree to its public release, draft LPP48 will be subject to community and stakeholder consultation for a suggested 42-day period.

**Statutory Obligations:**

*Planning and Development Act, Planning and Development (Local Planning Schemes) Regulations 2015 State Planning Policy 3.7 Residential Design Codes and TPS3.*

State Planning Policy 3.1 Residential Design Codes (R- Codes) includes provisions for decision-makers to prepare local planning policies to replace certain development standards of the R-Codes where a specific local need arises. Additionally, clause 61(4)(c) of the Deemed Provisions from the Planning and Development (Local Planning Schemes) Regulations 2015 (to be called the 'Regulations') enable Local Planning Policies to amend or replace the deemed-to-comply requirement of the R-Codes.

The R-Codes set out that proposals that do not satisfy the deemed-to-comply requirements of the R-Codes will need to address the design principles of the R-Codes. The design principles provide different ways of achieving an acceptable design outcome if this is consistent with the objectives of the R-Codes.

This Policy provides variations to relevant deemed-to-comply requirements of the R-Codes, within the precincts, to assist in implementing appropriate development to meet the local context.

**Policy Implications:**

These are addressed in this report and in the attached draft LPP48. Finalisation of LPP48 will increase certainty for everyone with an interest in the matter and should assist in more consistent decision making.

**Budget / Financial Implications:**

There are Shire costs associated with advertising draft LPP48.

**Strategic & Corporate Plan Implications:**

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

Denmark 2027

*B3.0 Our Built Environment*

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

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

Corporate Business Plan

Nil

**Sustainability Implications:**

➤ **Governance:**

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

➤ **Environmental:**

There are no known significant environmental 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.

➤ **Risk:**

Risk	Risk Likelihood (based on history and with existing controls)	Risk Impact / Consequence	Risk Rating (Prior to Treatment or Control)	Principal Risk Theme	Risk Action Plan (Controls or Treatment proposed)
The Council does not support the release of the draft Policy for public comment.	Possible (3)	Minor (2)	Low (1-4)	Failure to meet Statutory, Regulatory or Compliance Requirements	Accept Officer Recommendation
Landowners are not aware of the advertised draft Policy.	Possible (3)	Minor (2)	Moderate (5-9)	Failure to meet Statutory, Regulatory or Compliance Requirements	Undertake extensive consultation which exceeds statutory requirements including writing to each landowner individually.

**Comment:**

The R-Codes apply controls over side setbacks to reduce building bulk on adjoining properties, ensure adequate direct sunlight and ventilation for the proposed building and adjoining properties and minimise the extent of overlooking. In most R-Code density categories the taller and longer a wall adjacent to a boundary is, the further it should be setback. However, the R2 and R2.5 density categories apply a standard 10m and 7.5m side and rear setback to all development.

Draft LPP48 seeks to establish the same setback standards for the areas identified in Figure 1 of the draft LPP (generally being narrow lots with a R2 or R2.5 density coding) as those for the slightly higher density codes of R5 & R10. This seeks to recognise the inherent difficulty in meeting the standard setback requirements on these properties by establishing a new, consistent 'standard'.

Draft LPP48 is considered appropriate to be publicly advertised for community and stakeholder comment. The goal of the advertising is to encourage community and stakeholder debate and to seek the receipt of submissions and informed comments. If Council agrees, submissions will be invited through various methods for a six-week period. It is proposed to consult widely through the Shire administration writing to and inviting comments from wide-ranging stakeholders, placing public notices in local papers, placing details on the Shire website and Facebook page and information being available at the Shire office.

Following the close of the consultation period, the Council and the Shire administration will consider the submissions and determine whether LPP48 is suitable for final adoption, whether it should be modified or whether to not to proceed with the Policy. It is suggested the objective is to finalise a Policy which will assist to increase certainty for everyone with an interest in this issue and which will provide increased guidance to Council and the Shire administration in assessing development applications.

**Voting Requirements:**

Simple majority.

<b>COUNCIL RESOLUTION &amp; OFFICER RECOMMENDATION</b>	<b>ITEM 8.1.4</b>
MOVED: CR PHILLIPS	SECONDED: CR GIBSON
That Council:	
<ol style="list-style-type: none"> <li>1. Support the public release of the draft <i>Local Planning Policy 48 – Inlet Drive and Minsterly Road Precincts</i>, outlined in Attachment 8.1.3a, and require the draft Policy to be publicly advertised for an increased period of six weeks.</li> <li>2. Will reconsider the draft <i>Local Planning Policy 48 – Inlet Drive and Minsterly Road Precincts</i> following the close of the public submission period and will determine whether to proceed with the Policy without modification, proceed with the Policy with modification or to not proceed with the Policy.</li> </ol>	
CARRIED UNANIMOUSLY: 7/0	Res: 100919

**8.1.5 PROPOSED FRESH FOOD MARKET (6 MONTH TRIAL) – DENMARK COMMUNITY RESOURCE CENTRE CARPARK, NO.2 (LOT 228) STRICKLAND STREET, DENMARK**

<b>File Ref:</b>	LEG12 (A3048; A5729)
<b>Applicant / Proponent:</b>	Denmark Community Resource Centre
<b>Subject Land / Locality:</b>	No.2 (Lot 228) Strickland Street, Denmark
<b>Disclosure of Officer Interest:</b>	Nil
<b>Date:</b>	29 August 2019
<b>Author:</b>	Jasmine Tohill, Senior Planner
<b>Authorising Officer:</b>	David King, Director Assets & Sustainable Development
<b>Attachments:</b>	8.1.5a – Permit Application Documentation 8.1.5b – Submission Schedule

**Summary:**

The Denmark Community Resource Centre is seeking a Permit to conduct a 6 month trial of a Weekly Fresh Food Market on No.2 (Lot 228) Strickland Street, Denmark.

Having regard to the proposal and the relevant provisions of the Trading in Thoroughfares and Public Property Local Law it is recommended that approval be granted subject to appropriate conditions.

**Background:**

The Permit application was lodged with Planning Services on 11 June 2019 seeking approval to conduct a 6 month trial of a Saturday morning (8:30am to 12 noon) Fresh Food Market within the sealed carpark at the front of the Denmark Community Resource Centre. The market is proposed to accommodate between 10 and 30 private stallholders and be limited to the sale of fresh produce such as vegetables, fruits, dairy, meats, coffee with some value-added stalls such as jams, chutneys, soaps, natural cosmetics, bees wax candles utilising local products from the region, but not general art and craft items. Local wine producers may also be permitted with an appropriate liquor license.

A stall holder fee will be charged by the operator with public access to be free of charge. No food vans/ caravans will be permitted that on-sell produce, although occasional not for profit

food stalls may be permitted to provide limited food/ beverages. As a result of submissions received during the advertising period it is recommended that any such food service be limited to community fund-raising events only and preclude a commercial coffee vendor.

Potential overflow parking was demarcated within the lawn area off Horsley Road, however, upon further review and having regard to potential impacts upon the lawn and trees forming part of the curtilage of the heritage site it is recommended that the parking area be excluded from the trial with patrons encouraged to utilise existing formal public parking areas within the town centre.

Attendance is anticipated to be around 500-1000 people per week although this would be verified through the trial process.

### **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 Council's Community Engagement Policy P040123 and undertaken the following level of consultation:

The Permit application was subject to public advertising from 25 July 2019 to 16 August 2019 (being 22 days) as per the following:

- Advertising notice in the Denmark Bulletin on 25 July 2019 inviting public comment;
- x2 Signs on-site (adjacent to the Strickland Street entry & Hollings Road)
- Referral letters to adjacent properties and all landowners within the area defined as the Town Centre- Inner Core on the Shire of Denmark Local Planning Strategy.
- Referral letters to:
  - Kwoorabup Community Market
  - Denmark Chamber of Commerce
  - Denmark Historical Society
  - Denmark Volunteer Fire and Rescue
  - Denmark Arts Council
  - Department of Planning Lands and Heritage (Heritage)
  - Department of Fire and Emergency Services (owner of Lot)
- Referral to Department of Planning Lands and Heritage (Heritage)
- The Permit application was available for viewing at the Shire Administration Office and on the Shire's website.

At the end of the advertising period, submissions were received– refer Attachment 8.1.5b.

### **Statutory Obligations:**

The Shire's Thoroughfares and Public Places Local Law outlines relevant considerations that must be given due regard by the local government in determining an application for a Permit to trade. This includes:-

- (a) Any relevant policies of the local government;
- (b) The desirability of the proposed activity;
- (c) The location of the proposed activity;
- (d) The principles set out in the Competition Principles Agreement; and
- (e) Such other matters as the local government may consider to be relevant in the circumstances of the case.

There are no known matters of relevance to the Competition Principles Agreement as referenced under the applicable Local Law, noting that the application has been lodged by an independent operator and no similar tourism ventures/ businesses of this nature operate or have previously sought to operate at this location.

The Planning and Development (Local Planning Scheme) Regulations 2015 cl61. (2) (f) exempt development approval for temporary use which is in existence for less than 48 hours, or a longer period agreed by the local government, in any 12 month period.

**Policy Implications:**

Policy P070404 - Principles Supporting the Shire of Denmark Activities Thoroughfares & Trading in Thoroughfares & Public Places Local Law provides relevant guidance are relevant to consideration of the application.

**Budget / Financial Implications:**

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

Fees and Charges will apply as per the Shire's 2019/20 Fees and Charges.

**Strategic & Corporate Plan Implications:**

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

Denmark 2027*E1.0. Our Economy*

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

E1.1 To have a locally supported resilient, stable and innovative business community that embraces creativity, resourcefulness and originality.

Surveys informing the Denmark 2027 Strategic Community Plan, indicated a desire for a centrally located farmers market within the CBD.

**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.

The market may assist in increasing activity at the northern end of Strickland Street and vibrancy within the townsite as a whole offering potential benefits for spin-off trade to other businesses. Any associated cost/ benefits would need to be assessed at the completion of the trial.

**➤ Social:**

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

➤ **Risk:**

Risk	Risk Likelihood (based on history and with existing controls)	Risk Impact / Consequence	Risk Rating (Prior to Treatment or Control)	Principal Risk Theme	Risk Action Plan (Controls or Treatment proposed)
<b>Reputation:</b> There is a risk that Business owners suffer a loss of income and respond negatively to the Markets	Possible (3)	Moderate (3)	Moderate (5-9)	Ineffective Management of Facilities and Events	Initially allow a 6 month permit with further consultation with the community and consideration by Council after this time period .
<b>Reputation:</b> There is a risk that lack of parking drives illegal parking	Possible (3)	Moderate (3)	Moderate (5-9)	Ineffective Management of Facilities and Events	Initially allow a 6 month permit with further consultation with the community and consideration by Council after this time period .

**Comment:**

The site is reserved for “Parks and Recreation” under TPS No.3, and is held in freehold by the Shire of Denmark following acquisition in 2016.

The market trial is proposed within the curtilage of the Old Denmark District Hospital which is listed on the Shire of Denmark Municipal Heritage Inventory and the State Register of Heritage Places. Comments provided by the Department of Planning Lands and Heritage indicate support for the market noting that it will assist in enhancing use and activation of the site.

Following public advertising a total of 20 public submissions were received. Of these submissions, 14 objected/ raised concerns, one provided general comment and 4 were in support. Attached at Attachment 8.1.2b is the Schedule of Submissions – with the submissions received entered verbatim.

The primary concerns raised in submissions relate to:

- Potential to compete/ undermine existing shop owners
- Potential to compete/ undermine existing market operators
- Adequacy of Parking
- Impact upon trees

Competition with Existing Shop Owners

The range of goods/ products to be offered for sale is to be limited so as not to unduly undermine other goods/ services already available within the town centre. The markets have the potential to increase vibrancy and activity within the town centre, limiting loss of trade to other centres and providing passing trade for existing retailers and service providers. In light of submissions received, and the proximity of nearby food/ café operators it is recommended, however, that the sale of coffee be precluded.

A review of the proposed market operation would be undertaken following completion of the trial to ascertain whether the market is a viable ongoing proposition. This would include additional consultation with established business owners as recommended by the Denmark Chamber of Commerce to determine whether it may offer broader benefits for the town centre in the longer term.

### Competition with Existing Markets

A consistent theme raised in submissions relates to the potential for the market to compromise the viability of the Kwoorabup Markets that currently operates from the Steiner School. This market operates on a Sunday providing a wider range of goods, including the service of food and beverages and arts and crafts which will not be permitted as part of the town centre market proposal. As such the Kwoorabup Market can continue to offer a point of difference.

Some submitters have suggested that town centre market may also undermine the Local Produce Swap that operates every second Saturday from the Scout Hall, near McClean Oval. The produce swap is an informal, low scale community initiative servicing growers who may have excess produce to trade for other items. In this regard the current market trial is different and is not anticipated to impact upon this activity.

### Parking

The application had sought to accommodate an area of overflow parking off Horsley Road, noting that the proposal would result in the closure of 28 on-site bays during the time of operation.

Following a site inspection, it is recommended that the nominated overflow parking area be removed from the application. It was noted that during the site inspection there appeared to be a number of trees that could present a risk to public health and public property if intensive parking use was allowed. In addition, there is a concern that intensive parking use in close proximity to the trees could have an adverse impact.

If the use of the overflow parking area is to be considered, an up to date arborist report should be undertaken and acted upon to mitigate public risk concerns.

The site is otherwise well serviced by parking, with 37 remaining bays having been accommodated as part of the redevelopment of the site.

Given the restricted hours of operation (limited to Saturday morning) and availability of public parking throughout the townsite, it is anticipated that the additional demands on parking would not likely impose significant impacts upon other users.

In order to limit conflict, and noting high demand for parking on Denmark Market days, it is appropriate that approval precludes operation at agreed Denmark Market days.

### Impact upon Trees

The market is proposed to be contained within the sealed carpark area and therefore will not impact any trees.

Fresh food markets operate successfully within other local government jurisdictions.

If issued the Permit would be limited to the initial 6 month period, noting that a subsequent permit would be required if operation were to continue. This would be subject to further consideration and public consultation providing an opportunity to obtain feedback following completion of the initial 6 month period.

Given concerns that have been raised by the local community and business operators within the town site, it is appropriate that restrictions be placed upon the sale of food/ beverages and that a coffee vendor be precluded. The initial permit will provide sufficient opportunity to determine the acceptability of allowing the activity longer term, and a review of associated conditions, including the days and times of operation.

Having regard to assessment of the proposal in line with the Shire of Denmark Activities on Thoroughfares & Trading in Thoroughfares & Public Places Local Law and relevant Policy



requirements, it is recommended that the Permit be granted subject to appropriate conditions being imposed.

**Voting Requirements:**

Simple majority.

<b>COUNCIL RESOLUTION &amp; OFFICER RECOMMENDATION</b>	ITEM 8.1.5
MOVED: CR GIBSON	SECONDED: CR SEENEY
That with respect to the Permit application for the Fresh Food Market Site Council:	
<ol style="list-style-type: none"> <li>1. In accordance with the Planning and Development (Local Planning Schemes) Regulations 2015 cl.61 (2) (f) agrees that the use is temporary subject to the below permit conditions listed.</li> <li>2. Grant approval for a 6 month permit to Trade in a public Place subject to payment of the required annual Permit fee of \$399 (GST incl) as per the Shire's 2019/20 Fees and Charges Schedule for trading in public places subject to the following conditions and advice notes:</li> </ol>	
Conditions:	
<ol style="list-style-type: none"> <li>a. The Permit applies to the Fresh Food Market Site as depicted on the stamped approved plan dated 11 June 2019.</li> <li>b. The Permit being restricted to the following days, times:             <ol style="list-style-type: none"> <li>i. <b>Days of operation: Saturday</b></li> <li>ii. <b>Times of operation: 8:30am to 12pm</b></li> </ol> </li> <li>c. The following Saturdays are precluded from the permit so not to interfere with the Denmark Markets:             <ol style="list-style-type: none"> <li>i. <b>14th December 2019</b></li> <li>ii. <b>4th January 2020</b></li> <li>iii. <b>25th January 2020</b></li> </ol> </li> <li>d. All produce is to originate from the Great Southern Region.</li> <li>e. A coffee vendor is precluded from the permit.</li> <li>f. The Permit is valid for six (6) months from 5 October 2019 until 28 March 2020.</li> <li>g. Toilets within the CRC premises to be available for traders.</li> <li>h. The operator shall, before commencing operations within the permitted area, take out public liability insurance for the term of the Permit to a minimum value of \$10,000,000 for any one claim, which indemnifies Council for the full period of the Permit. A copy of any Policy renewal required during the term of the Permit is to be lodged with the Shire prior to expiry.</li> <li>i. The Permit holder must conduct the activities so as not to cause a traffic hazard or danger to the safety of the general public.</li> <li>j. The operator shall, before commencing operations submit a traffic management plan for approval of the Shire of Denmark (Infrastructure Services) to address access and parking arrangements within the site, including temporary signage and directional arrangements (on-site attendees) to manage parking and traffic flow within the site. All signage, temporary bunding and associated traffic management devices are to be removed at the conclusion of each period of operation of the permitted use.</li> <li>k. The Permit holder is responsible for any damage to Shire property arising from the permitted use.</li> <li>l. The Permit holder, employees, volunteers and stallholders are to comply with all reasonable directions of Shire Rangers or other authorised Shire Officers.</li> <li>m. At the conclusion of each market, the surrounding area must be left in a clean and litter free condition.</li> <li>n. All advertising signage and banners are to be portable in nature and limited to a maximum size of two 1800 x 600mm signs or banners that are displayed no more</li> </ol>	

than 1 hour prior to the commencement of the market and removed within 1 hour after.

o. The operator must not connect to or utilise any Shire of Denmark utilities without prior approval and at an additional charge.

Advice Notes:

- a. The granting of a Permit does not imply a right to exclusive use of any portion of the Shire’s property or reserves.
- b. The granting of a Permit does not include approval to install additional advertising signage and or banners outside of No.2 (Lot 228) Strickland Street, Denmark.
- c. Please note that the granting of this Permit should not be interpreted to imply that future Permit applications will be granted.
- d. This Permit is not transferrable.

3. Requires that subsequent permit approval be considered by Council.

CARRIED: 6/1 Res: 110919

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

FOR: Cr Allen, Cr Caron, Cr Gibson, Cr Seeney, ~~Cr Gearon~~, Cr Lewis and Cr Osborne.

AGAINST: Cr Phillips.

**CORRECTION TO MINUTES.**  
Pursuant to Council Resolution No. 021019

7.24pm – The Shire President, Cr Gearon returned to the room as resumed the chair as the Presiding Person.

**8.1.6 PROPOSED CLASSROOM, VEHICLE ACCESS & CARPARKING – NO.2 (Lot 952) INLET DRIVE, DENMARK**

<b>File Ref:</b>	A5598
<b>Applicant / Proponent:</b>	Spirit of Play Community School Inc.
<b>Subject Land / Locality:</b>	No.2 (Lot 952) Inlet Drive, Denmark
<b>Disclosure of Officer Interest:</b>	Nil.
<b>Date:</b>	4 September 2019
<b>Author:</b>	Jasmine Tohill, Senior Town Planner
<b>Authorising Officer:</b>	David King – Director Assets & Sustainable Development
<b>Attachments:</b>	8.1.6a – Development Application Documentation (As Advertised) 8.1.6b – Amended floor plan and elevations 8.1.6c – Denmark Historical Railway Station Precinct Concept Plan 8.1.6d – Schedule of Submissions 8.1.6e – Applicant response to submissions 8.1.6f – Modified concept for Lions Club carpark

**Summary:**

The applicant (Spirit of Play Community School Inc.) as lessee of a portion of Reserve 30277, No.2 (Lot 952) Inlet Drive, Denmark is seeking Development Approval for a new Classroom, Vehicle Access and Carparking).

Having regard to the relevant provisions of the established lease, the adopted Concept Plan for the Denmark Historical Railway Station Precinct and Town Planning Scheme No.3, it is recommended that Development Approval be granted subject to appropriate conditions.

**Background:**

Current Application

At the Ordinary meeting of Council held on 16 April 2019, Council resolved to consent to lodge the application subject to minor plan modifications (which were duly undertaken) and

thereafter to undertake public advertising. It was also resolved that the application be brought back to council for consideration following formal assessment and consultation (Resolution 080419). A full copy of the plans as advertised are provided at Attachment 8.1.6a.

Modified plans have been received following advertising that incorporate changes to the window placement (required as part of the energy efficiency assessment), an increase in the size of the compost toilet access, the addition of skylights and a stained glass window. The size of the building and overall design form remains the same and as such the changes are not considered to materially alter the proposal so as to warrant re-advertising. A copy of the modified floor plan and elevations are provided at Attachment 8.1.6b.

Further modifications to the Lions Club carpark are recommended (as referenced in the Officer's comments below) having regard to feedback received during the public consultation process and in order to address design constraints of the original design.

#### Previous Council Resolution Regarding Lease & Precinct Concept Plan

At the Ordinary Meeting of Council held on 19 February 2019 Council resolved to adopt the amended Denmark Heritage Railway Station Precinct Concept Plan (Attachment 8.1.6b) (Resolution 230219) and to approve an extension of the lessees lease term and their lease area (Resolution 260219).

Pursuant to Clause 10.2 of the Lease, the applicant is required to undertake Common Area Works, at their cost, which includes:

- . Relocation of access road from Inlet Drive;
- . Construction of carparking surrounding the Lions Lair (Denmark Lions Club Lease Area);
- . Construction of carparking adjacent to Crellin Street and a culvert to allow vehicle access; and
- . Any servicing requirements as a result of school activities.

The Common Area Works associated with the new access road and carparking are incorporated into the Development Application for the new Stage 1 classroom.

#### **Consultation:**

Consultation was undertaken for a minimum period of 21 days, commencing on 6 June 2019 having regard to Council's resolution of 16 April 2019 and Council's Community Engagement Policy P040123 and the associated Framework as follows:

- (i) External Consultation *Publishing of a notice of the proposal in a newspaper circulating in the Scheme area;*
- (ii) *Placement of a sign on the land the subject of the application;*
- (iii) *Letters to:*
  - o *Denmark Lions Club;*
  - o *Denmark Machinery Restoration Group;*
  - o *Denmark Men's Shed;*
  - o *Denmark Woodturners;*
  - o *Denmark Historical Society;*
  - o *Denmark Weed Action Group (DWAG);*
- (iv) *Referral of the application to the Department of Fire and Emergency Services (noting minimum 42 day referral required under cl. 66(3) of the Regulations);*
- (v) *Referral of the application to the Department of Planning Lands and Heritage (Heritage) (noting minimum 42 day referral required under cl.66(3) of the Regulations)*

- (vi) *Referral of the application to the Department of Water and Environmental Regulation (Clearing) (noting minimum 42 day referral required under cl.66(3) of the Regulations.*

The public consultation period closed on 28<sup>th</sup> June 2019 whilst the Government Agency consultation period closed on 7 August 2019. The comments provided by each party are provided in full at Attachment 8.1.6d.

Internal Consultation:

- Development Co-ordination Unit

**Statutory Obligations:**

The Town Planning Scheme No.3 (TPS No. 3) and the *Planning and Development (Local Planning Schemes) Regulations 2015* outlines those matters pertinent to Council's assessment of the proposed development.

Should Council refuse the application or impose conditions that the applicant is aggrieved by the applicant would retain an ability to apply to the State Administrative Tribunal for a Right of Review.

**Policy Implications:**

Schedule 2, Part 2; Clause 3(5) of the *Planning and Development (Local Planning Schemes) Regulations 2015* states:

*In making a determination under this Scheme the local government must have due regard to each relevant local planning policy to the extent that the policy is consistent with this Scheme.*

Town Planning Scheme Policy No.45: Planning Application Process for Heritage Places relates to the development application given that the Shire of Denmark's Municipal Heritage Inventory (2011) contains Place Record Forms for the 'Railway Precinct' which encompasses the full extent of Reserve 30277 within which development is proposed.

Policy No.45 provides guidance on the assessment process for planning applications that relate to heritage places. All planning applications pertaining to a heritage place are required to be referred to the Denmark Historical Society and/ or the State Heritage Office (depending on listing type) for comment. The development application has also been subject to broader public consultation in accordance with Council's resolution of 16 April 2019.

The Denmark Heritage Railway Station Precinct Concept Plan provides a guide for the coordination of future development within the Precinct, with the final location/ design of buildings and associated infrastructure to be informed through the development assessment process. The application departs from the indicative concept plan by re-positioning the classroom building in the south east corner of the Spirit of Play lease area. Indicative parking and access arrangements have also been adjusted to take into account user requirements and to minimise tree removal wherever possible.

**Budget / Financial Implications:**

There are no known financial implications upon either the Council's current Budget or Long Term Financial Plan. Council will be responsible for ongoing management of the shared access/ parking areas and it is appropriate that the final carpark design and construction standards be approved by Technical Services so as to minimise future maintenance liability.

**Strategic & Corporate Plan Implications:**

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

Denmark 2027

E1.0 *Our Economy*

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

E1.3 To have diverse education and employment opportunities.

Corporate Business Plan

Nil

**Sustainability Implications:**

➤ **Governance:**

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

➤ **Environmental:**

Some tree removal and clearing of understorey will be required to accommodate siting of the new classroom and facilitate carpark construction.

➤ **Economic:**

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

➤ **Social:**

The Spirit of Play Community School provides alternative schooling options to the public education system. Works associated with construction of the new access road and car parking facilities will improve access for other leaseholders and reserve users.

➤ **Risk:**

Risk	Risk Likelihood (based on history and with existing controls)	Risk Impact / Consequence	Risk Rating (Prior to Treatment or Control)	Principal Risk Theme	Risk Action Plan (Controls or Treatment proposed)
The proponent may lodge an application for review to the State Administrative Tribunal if the Council's decision was to refuse the proposal.	Possible (3)	Minor (2)	Moderate (5-9)	Failure to meet Statutory, Regulatory or Compliance Requirements	Accept Officer Recommendation

**Comment/Conclusion:**

Public advertising of the proposal was undertaken in accordance with TPS No.3 and Schedule 2, Part 8, Clause 64 of the *Planning and Development (Local Planning Schemes) Regulations 2015*, with eleven (11) submissions received of which two (2) raised objection, three (3) raised issues of concern, one (1) provided comment and five (5) were from government agencies providing advice or no objection. Attached at Attachment 8.1.6d is the Schedule of Submissions – with the submissions received entered verbatim.

The primary issues raised in submissions relate to:

- Proposal being contrary to the TPS No.3 Parks and Recreation reservation
- Proposal being contrary to the vesting of the reserve
- Impacts upon Heritage significance of the precinct;
- Siting and Design of the Building;
- Adequacy of Parking/ Access; and
- Tree removal.

The applicant has been provided an opportunity to respond to the issues raised and their response is provided verbatim as Attachment 8.1.6e.

From a Planning Services perspective the following comments are relevant to the submissions received:

### TPS No.3 Reservation

In accordance with TPS No. 3 the subject land is reserved for the purpose of Parks and Recreation.

Clause 2.2 of TPS No.3 provides that:

*Where an application for planning consent is made with respect to reserved land, the Council shall have regard to the ultimate purpose intended for the reserve and the Council shall, in the case of land reserved for the purposes of a public authority, confer with that authority before granting its consent.*

In addition, Clause 67(j) of the deemed provisions in Schedule 2 of the *Planning and Development (Local Planning Schemes) Regulations 2015 (Deemed Provisions)* requires that the local government is to have due regard to:

- (j) *in the case of land reserved under this Scheme, the objectives for the reserve and the additional and permitted uses identified in this Scheme for the reserve’.*

TPS No.3 does not contain objectives for the reserve, nor does it provide any indication as to those uses that may be permitted or precluded. It is important to note that the reserve objectives identified by the submitter and referenced in Schedule 1 of the Regulations (Model Provisions) do not apply in this instance as they have not been formally incorporated into TPS No.3, unlike the Schedule 2 (Deemed Provisions) which are applicable to all local planning schemes whether or not they have been incorporated into the Scheme. As such there is nothing to preclude Council from granting approval to the development under the Parks and Recreation reservation.

The reserve is utilised by a range of community groups, as formalised through established lease arrangements with the Spirit of Play, Lions Club and Denmark Machinery Restoration Group. It is not uncommon for land reserved for the purpose of Parks and Recreation in local planning schemes to accommodate a wide range of uses, including those that may limit broader public access/ imply an exclusivity of use (eg. private recreation, café’s and equipment hire). Those considerations relevant to the appropriate use and development of the reserve have previously been addressed through Council’s consideration and adoption of the Precinct Plan and Lease agreements. The proposed classroom, access and carparks accord with the intent of the adopted Precinct Plan.

### Reserve Vesting/ Purpose

The Shire of Denmark has a Management Order for Reserve No.30277 and power to lease for up to 21 years. The designated purpose of the reserve is “Historical Precinct, Recreation and Community Purposes”. The reserve purpose and the mechanism by which it applies differs from the reserve designation and associated planning considerations that apply under TPS No.3 (as detailed above).

The Department of Planning Lands and Heritage (Lands) advises that the proposed development is considered to be in line with the reserve purpose and therefore consent is not required for the development application.

### Municipal Heritage Listing

The Council's adopted Municipal Heritage Inventory includes the following Place records which relate to the broader reserve:

- The Railway Precinct (Bridge, Ashpit and Turntable)
- Denmark River Railway Bridge
- Old Post Office (within the Spirit of Play Lease Area)
- Station Master House (Lions Lair)
- Old Railway Station (former Bowling Club on Reserve 20403)

Several submissions have reiterated earlier concerns regarding the potential impact of the school upon the Heritage Precinct and the long-term use/ development of the reserve as a tourism/ heritage hub. Such matters have previously been addressed through Council's consideration and adoption of the related Precinct t Plan and are reflected in terms applied through the Spirit of Play Lease Agreement. It ultimately remains the intent that the school will relocate once a suitable alternative site becomes available, with the Lease term (15 years) and associated conditions of the Lease reflecting this.

The proposed Stage 1 classroom building is located within an existing disturbed area, forming part of the established driveway access off Inlet Drive. It is sited well clear of the heritage listed buildings/ infrastructure, although remaining within the curtilage of such places.

The Department of Planning, Lands and Heritage have declined to provide comments on the proposal, noting that it is not in the State Register of Heritage Places, is not subject to a heritage agreement, and is not identified as a place warranting assessment by the Heritage Council. A preliminary review undertaken by the Heritage Council's Register Committee in June 2019 referral of the turntable and ashpit for inclusion in the State Register of Heritage Places determined that while the place may have some cultural heritage significance it was unlikely to meet the threshold for entry on the State Register of Heritage Places and therefore does not warrant a full assessment.

The Denmark Historical Society raise no objection to the plans, although it is noted that there are individual objections to the proposal in separate submissions.

### Siting and Design of the Building

There are no prescribed setbacks under TPS No.3 or within associated TPS Policies to provide guidance on the siting of buildings within scheme reserves. The proposed Stage 1 building is to be contained entirely within the south-eastern corner of the allocated lease area.

The building is a single storey framed construction with walls and roof to be clad in colorbond steel ('Jasper' and 'Paperbark' walls/ 'Pale Eucalypt' roof). The building has a traditional pitch roof design and incorporates a gable end feature on the southern elevation with a simple pitched roof facing Inlet Drive. Window placement, use of decorative mural wall panels and contrasting colorbond wall panels will provide visual interest and articulation on the public interface. Window placement will also encourage visual surveillance of the broader reserve and adjacent footpath.

The scale/ size and design of the building, the proposed material palate and colour tones are compatible with its setting within the bushland surroundings and is not out of keeping with the scale and form of other buildings already occupying the reserve, including the established school buildings, heritage buildings, and Denmark Machinery Restoration Group shed. Relocation of the existing driveway off Inlet Drive will provide an opportunity to reinstate landscaping south of the building providing improved visual amenity of a degraded area as viewed from the Inlet Drive public footpath.

### Adequacy of Parking and Access

The Spirit of Play carparking area off Crellin Street nominates a total of 29 carparking bays, which is in excess of the carparking standards under TPS No.3 (Educational Establishments – Primary 1.25 bays per classroom). Although this carpark is to be constructed by the school it does not form part of their exclusive use lease area and will be freely available for other reserve users outside of school hours. No significant issues have been raised with regard to the design/ use of the school carpark area. Technical services have advised that blackspot funding has been sought to address safety concerns associated with the Crellin Street/ Inlet Drive intersection design as raised in submissions.

A review of parking for the Lions Club has been undertaken in light of the submissions received. The original carpark design drafted by Spirit of Play had accommodated 21 bays but was modified at the request of Shire officers prior to advertising to enable the retention of two large Marri trees, thereby reducing the number of bays to 17. Upon further review it is evident that the carpark design would be problematic in terms of reduced manoeuvring space, isle widths, lack of turning area and placement of bays immediately abutting the proposed school buildings. The Lions Club are not supportive of the reduced number of bays proposed or other elements which may impact upon the use of their buildings.

In this instance officers consider that an alternative design, incorporating a one-way loop road and angled parking for a minimum of 21 bays would be a preferable arrangement for the Lions Club and the broader reserve (Attachment 8.1.6e) The modified concept design has been discussed with the Lions Club and a representative of the Denmark Machinery Restoration Group (DMRG) with no significant objections raised, noting that any final agreement would need to be ratified by their members.

Comments from the Spirit of Play were also sought. However, they did have some concerns relating to the cost of construction through low lying areas and inundation in winter. The Spirit of Play did also indicate that they were happy to come to a compromise following further consultation.

Further inspection of the site has been undertaken by Shire officers to review site levels and consider any consequential impacts upon trees. On site it was evident that the loop road could be further re-aligned to minimise low points and tree removal, allow for the protection DMRG memorial trees, accommodate appropriate access for the Lions Club shed and maintain access to the rail trail as requested by the DMRG.

When comparing the original driveway and carpark construction area proposed by the school the revised area would not be significantly greater (5%) than the original proposal. In this regard Infrastructure Services are satisfied that the additional construction requirements would not be excessive.

Subject to Council supporting the amended carpark concept it is recommended that delegation be afforded to the Director of Assets and Sustainable Development to negotiate with the relevant parties to resolve the final detailed design.

### Bushfire Planning

State Planning Policy 3.7 and the associated Guidelines apply to the proposal noting that the site is mapped as a Bushfire Prone Area under the Department of Fire and Emergency Services (DFES) state wide mapping. The school also constitutes a vulnerable land use for the purpose of the Policy whereby additional assessment requirements apply.

A Bushfire Management Plan has been prepared for the broader precinct to inform the siting of new buildings, strategic fire access routes and ongoing management requirements for the reserve. Supporting information provided as part of the current application includes updates



to the Asset Protection Zone (APZ) and works program for the Stage 1 classroom building and a Bushfire Emergency Evacuation Plan.

DFES has identified modifications that will be required to the BMP necessitating a marginal (1 metre) increase in the building's APZ, however, consider that these modifications are minor in nature and should not affect siting of the development. The APZ adjustment will not necessitate additional tree removal beyond that previously identified.

Tree Removal

The removal of x5 smaller trees and five significant trees (swamp mahogany, Blue Gum and Marri) are required to accommodate siting of the proposed classroom in accordance with recommendations contained within the Bushfire Management Plan.

Although one submission has requested retention of the large Marri tree south of the classroom building, upon further inspection and in consultation with the Bushfire Assessor, it has been deemed that this would not be feasible or desirable due to the close proximity of nearby buildings and the extent/ angle of branch overhang that would likely render the tree inherently unstable/ unsafe. Modifications to the Lions Carpark will enable retention of two mature marri trees nominated for removal on the Precinct Concept Plan. No trees are proposed to be removed within the Spirit of Play Carpark area although a small area of understorey will be cleared to accommodate 9 carbays on the northern side of the access driveway.

A review of the proposal by Building, Health and Infrastructure Services has raised no significant issues subject to appropriate conditions being applied in accordance with the officer's recommendation.

**Voting Requirements:**  
Simple majority.

<b>COUNCIL RESOLUTION &amp; OFFICER RECOMMENDATION</b>	ITEM 8.1.6
MOVED: CR ALLEN	SECONDED: CR LEWIS
That with respect to the development application for the proposed classroom for the Spirit of Play Community School, vehicle access and carparking on portion of No.2 (Lot 952) Inlet Drive, Denmark, Council:	
<ol style="list-style-type: none"> <li>1. Notes the submissions received and advise the submitters of Council's decision</li> <li>2. Authorise the Director of Assets and Sustainable Development to negotiate the final carpark design and access road layout.</li> <li>3. Grants Development Approval subject to the following: <ol style="list-style-type: none"> <li>a. The development shall be in accordance with the attached stamped approved plans dated 27 May 2019 (Precinct Carparking Plan &amp; Site Plan), 24 May 2019 (Spirit of Play Carparking Plan) and 2 September 2019 (Stage 1 &amp; 2 Plans, Floor Plan &amp; Elevations) subject to the following modifications: <ol style="list-style-type: none"> <li>(i) The proposed Inlet Drive access driveway and Lions Club Carparking area to be modified to the satisfaction of the Chief Executive Officer.</li> </ol> </li> <li>b. Prior to issuance of a Building Permit, the Bushfire Management Plan and BAL Contour Plan for Reserve 30277, including the Schedule of Works Program for Spirit of Play (Stage 1) is to be modified to accommodate a 21 metre APZ area, to the satisfaction of the Shire of Denmark (Community Emergency Services Manager).</li> <li>c. The development is to be constructed to Australian Standard 3959 – <i>Construction of Buildings in Bushfire Prone Areas</i> (BAL-29).</li> </ol> </li> </ol>	

- d. Clearing of vegetation to meet the BAL 29 classification to accord with the Asset Protection Zone and works program under the approved Bushfire Management Plan.
- e. The approved Bushfire Emergency Evacuation Plan is to be clearly displayed within the premises at all times to the satisfaction of the Shire of Denmark (Community Emergency Services Manager).
- f. The approved classroom building shall achieve a minimum finished floor level of 2.5 metre AHD.
- g. Prior to issuance of a Building Permit, a detailed car parking layout plan shall be submitted and approved by the Shire of Denmark (Infrastructure Services) including the following:
  - Full dimensions & construction standards
  - Signage (including entry and no entry signs for one way systems)
  - Drainage collection points and stormwater conveyance and treatment.
  - Culvert crossings to accommodate fire trucks
  - Disabled parking
  - Bollard location and design
- h. All vehicle parking to be provided on-site in accordance with the requirements of Australian standard AS2890.1.2004 Parking Facilities – Off-Street Car Parking and the Building Code of Australia, with such car parking bays, manoeuvring and circulation areas being suitably constructed to a minimum all-weather standard (e.g. gravel, crushed rock) and drained to facilitate access to the development by 2 wheel drive vehicles.
- i. All driveways/ access ways to be constructed to a minimum all-weather standard (eg. gravel, crushed rock) to the satisfaction and specifications of the Shire of Denmark to facilitate access to the development by 2-wheel drive vehicles, and be constructed in accordance with Acceptable Solution A3.5 of Element 3: Vehicular Access of the Guidelines for Planning in Bushfire Prone Areas.
- j. The vehicle crossover to Inlet Drive shall be constructed, drained and sealed (concrete, asphalt or brick pavers) to the satisfaction and specifications of the Shire of Denmark (Infrastructure Services) and thereafter maintained.
- k. The vehicle crossovers to Crellin Street shall be suitably constructed and drained to the satisfaction and specifications of the Shire of Denmark (Infrastructure Services) and thereafter maintained.
- l. The redundant Inlet Drive crossover and any associated driveway/ gravel hardstand not required for access purposes is to be removed and landscaping reinstated to the satisfaction and specifications of the Shire of Denmark.
- m. All stormwater and drainage runoff from all roofed and impervious areas is to be retained on-site or connected to a legal point of discharge to the satisfaction of the Shire of Denmark (Infrastructure Services). The development is connected to a reticulated water supply provided by a licensed water provider prior to occupation.
- n. The approved development shall be connected to an approved effluent disposal system to the satisfaction of the Shire of Denmark (Environmental Health Services).
- o. The installation of any outdoor lighting shall be in accordance with the requirements of Australian Standard AS4282-1997: *Control of the Obtrusive Effects of Outdoor Lighting*.

#### Advice Notes

- (i) With regard to Condition (g), given the proximity of the Wilson Inlet the Department of Water and Environmental Regulation recommend that swales collecting stormwater run-off from the carparks be vegetated with native sedges and rushes to treat stormwater prior to discharge off-site.
- (ii) It is the responsibility of the applicant to ensure that building setbacks correspond with the legal description of the land, including the designated Lease boundary. This may necessitate re-surveying and re-pegging the site. The Shire of Denmark will take no responsibility for incorrectly located buildings.

(iii) It is the responsibility of the applicant to search the title of the property to ascertain the presence of any easements and/or restrictive covenants that may apply.

CARRIED: 7/1

Res: 120919

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

*FOR: Cr Allen, Cr Caron, Cr Gibson, Cr Gearon, Cr Phillips, Cr Lewis and Cr Osborne.*

*AGAINST: Cr Seeney.*

7.40pm – The Manager Sustainable Development left the room and did not return.

## 8.2 DIRECTOR CORPORATE AND COMMUNITY SERVICES

### 8.2.1 FINANCIAL STATEMENTS FOR THE PERIOD ENDING 31 JULY 2019

<b>File Ref:</b>	FIN.1
<b>Applicant / Proponent:</b>	Not applicable
<b>Subject Land / Locality:</b>	Not applicable
<b>Disclosure of Officer Interest:</b>	Nil
<b>Date:</b>	5 September, 2019
<b>Author:</b>	Lee Sounness, Manager Corporate Services
<b>Authorising Officer:</b>	Cary Green, Director Corporate & Community
<b>Attachments:</b>	8.2.1 – July Monthly Financial Report

#### Summary:

The attached financial statements and supporting information for the period ending 31 July 2019 are presented for the consideration of Elected Members.

#### Background:

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

- Reconciliation of all bank accounts.
- Reconciliation of the 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:

It is a requirement of the Local Government Act 1995 that monthly and quarterly financial statements are presented to Council, in order to allow for proper control of the Shire's finances. In addition, Council is required by legislation to undertake a mid-year review of the Municipal Budget to ensure that income and expenditure is in keeping with budget forecasts. It should be noted that the budget is monitored by management on a monthly basis in addition to the requirement for a mid-year review. The attached statements are prepared in accordance with the requirements of the Local Government Act 1995 (s.5.25(1)) and the Local Government (Financial Management) Regulations 1996.

**Policy Implications:**

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

*For the purposes of Local Government (Financial Management) Regulation 34 regarding levels of variances for financial reporting, Council adopted a variance of 10% or greater of the annual budget for each program area in the budget, as a level that requires an explanation or report, with a minimum dollar variance of \$10,000.*

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

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

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

**Budget / Financial Implications:**

There are no significant trends or issues to be reported.

**Strategic & Corporate Plan Implications:**

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

Denmark 2027

L5.0 Our Local Government

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

L5.4 To be fiscally responsible

Corporate Business Plan

Nil

**Sustainability Implications:****➤ Governance:**

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

**➤ Environmental:**

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

**➤ Economic:**

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

**➤ Social:**

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

➤ **Risk:**

Risk	Risk Likelihood (based on history and with existing controls)	Risk Impact / Consequence	Risk Rating (Prior to Treatment or Control)	Principal Risk Theme	Risk Action Plan (Controls or Treatment proposed)
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 July 2019, total cash funds held totals \$5,570,071 (Note 4).

Shire Trust Funds total \$164,581

- \$161,917 of this is invested for 3 months with the National Aust. Bank, maturing 28 September 2019 at the quoted rate of 2.00%.

Reserve Funds (restricted) total \$4,505,462

- \$1,121,912 of this has been placed on investment for 31 days with the Western Australian Treasury Corporation at the quoted rate of 1.45%,
- \$3,383,551 has been invested with the National Aust. Bank in 2 term deposits, maturing at various dates at an average rate of 1.90%

Key Financial Indicators at a Glance

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

- Taking into consideration the adopted Municipal Budget and any subsequent year to date budget amendments identified including the mid-year budget review (refer Note 5), the 30 June 2020 end of year position is estimated to be \$0 which is in line with budget projections (Statement of Financial Activity).
- Operating revenue and expenditure is generally in line with year to date budget predictions for 31 July 2019 (Statement of Financial Activity) except for depreciation expense, which is yet to be applied this financial year.
- The Rates Collection percentage currently sits at 9.44%, is in keeping with historical collection rates (see Note 6)
- The 2019/20 Capital Works Program is 6.77% complete utilising actual year to date figures and the total committed cost is 11.48% as at 31 July 2019 (see Note 12).
- Various transfers to and from Reserve Funds have not been made for 2019/20 as they are generally undertaken in the latter half of the financial year, depending on the specific projects to which the transfers relate.
- Salaries and Wages expenditure is generally in line with year to date budget estimates (not reported specifically in Financial Statement).

Other Information

- Depreciation Expense

Depreciation of all asset classes have not been calculated for the reporting period. Depreciation expense will be calculated once the annual audit of financial figures for 2018/19 are confirmed.

**Voting Requirements:**

Simple majority.

<b>COUNCIL RESOLUTION &amp; OFFICER RECOMMENDATION</b>	<b>ITEM 8.2.1</b>
<b>MOVED: CR GIBSON</b>	<b>SECONDED: CR CARON</b>
That with respect to Financial Statements for the period ending 31 July 2019, Council;	
1. Receive the Financial Reports, incorporating the Statement of Financial Activity and other supporting documentation.	
2. Endorse the Accounts for Payment for the month of August 2019 as listed.	
<b>CARRIED UNANIMOUSLY: 8/0</b>	<b>Res: 130919</b>

**8.2.2 COMMUNITY SPORTING AND RECREATION FACILITIES FUND (CSRFF) FORWARD PLANNING GRANTS APPLICATION PROCESS SHIRE OF DENMARK**

<b>File Ref:</b>	A5588
<b>Applicant / Proponent:</b>	Shire of Denmark
<b>Subject Land / Locality:</b>	Not applicable
<b>Disclosure of Officer Interest:</b>	Members of Officers family are members of the Denmark Surf Life Saving Club
<b>Date:</b>	30 August 2019
<b>Author:</b>	Damian Schwarzbach, Manager Recreation Services
<b>Authorising Officer:</b>	Cary Green, Director Corporate and Community Services
<b>Attachments:</b>	8.2.2a - CSRFF Procedure 8.2.2b - Summary of CSRFF Applications 8.2.2c - CSRFF Grant Application – Denmark Surf Club Transformation Project

**Summary:**

Prior to the Department for Local Government, Sport and Cultural Industries (DLGSC) considering applications for funding assistance through the Community Sporting and Recreation Facilities Fund (CSRFF), Local Governments are required to endorse funding applications from community groups and place a funding priority on each application. The Local Government support, and ranking order of the applications received are forwarded to DLGSC by 30 September 2019.

The only application received for consideration by Council from the 2019/20 round of funding is from the Shire of Denmark in partnership with the Denmark Surf Life Saving Club (DSLSC). The DSLSC are proposing to build a new, modern and fit-for-purpose facility that services the needs of members, the Denmark community and visitors to Ocean Beach. The Shire of Denmark will develop the public realm where the existing surf club facility is to activate the space as a community asset.

The report recommends Council support the application and request staff to submit the grant application to the Department of Local Government, Sport & Cultural Industries.

**Background:**

The Community Sporting and Recreation Facility Fund (CSRFF) is a Department of Local Government, Sport and Cultural Industries administered grant program.

The purpose of the program is to provide financial assistance to community groups and Local Government authorities to develop basic infrastructure for sport and recreation.

The CSRFF program aims to increase participation in sport and recreation, with an emphasis on physical activity, through rational development of sustainable, good quality, well designed and well utilised facilities.

The CSRFF Forward Planning Grants are offered on an annual basis. The grants were advertised and opened in June 2019 and successful applicants are notified in February 2020.

CSRFF grants are made on the basis of one third grant and two thirds investment from group/local government/other funding sources. Local applications compete with other regional applications and the State as a whole.

#### List of CSRFF Applications for 2019/2020

1. CSRFF application submitted by the Shire of Denmark  
Project: Denmark Surf Life Saving Club Transformation Project  
Project Cost: \$5,607,000  
CSRFF Grant Request: \$750,000

The Denmark Surf Life Saving Club (DSLSC) are proposing to build a new, modern and fit-for-purpose facility that services the needs of members, the Denmark community and visitors to Ocean Beach.

The Denmark Surf Life Saving Club was officially formed on the 28th of November 1958, with the first patrol commencing on Sunday 14 December 1958. By the end of 1960, the first clubhouse was built, and is still in use today, housing the patrol equipment, members' boards and kiosk. The clubhouse provided a venue to train the first Ocean Beach Surf Life Saving group who were awarded the Bronze Medallion in 1962.

In 1987, new club rooms were built, which included the completion of the 2 story club house with a function room, kitchen and toilet facilities plus extensive storage space. The Denmark SLSC will host the Surf Life Saving WA Country Carnival in 2019 which attracts many clubs from around WA.

The DSLSC had grown significantly from the small and dedicated group of surf club pioneers numbering around 18 active members in 1964 to 363 active members in 2018/19. Patrols have been extended to include full time paid Life Guards, funded by the Shire of Denmark, during the summer school holidays and voluntary patrols on Saturday afternoons, plus the usual all day Sunday patrols.

The DSLSC recently earned the prestigious Lavan WA Club of the Year award at the Surf Life Saving WA Awards of Excellence in Perth for the 2017/18 season.

The Shire of Denmark owns the land, with the DSLSC holding a 21-year lease over the current site, expiring in 2031.

This project is identified by the State Sporting Association (Surf Life Saving WA) as a priority development. The project is aligned to the Surf Life Saving WA Strategic Plan by addressing the following objectives;

- Increased organisational sustainability,
- Enhanced club membership growth,
- Building safer communities and,
- Providing community education and health promotion.

The Club has secured funding from Lotterywest for \$1,500,000 towards the total project cost.

The existing facility would continue to be utilised during the construction phase enabling The Club to continue to provide their community service and club activities. Once the new facility is built the demolition of the existing building would occur.

The Club submitted a CSRFF Application in 2017/18, which was supported by Council, but was unsuccessful.

The DLGSC provided feedback suggesting the application was not successful due to the project not securing significant funding towards the project cost.

This feedback has been addressed this year with the commitment from Lotterywest for \$1,500,000 and from Council \$900,000.

At the Ordinary Council meeting held on December 18, 2018, Resolution 081218 was passed;

*“That in relation to the construction of a new building for the Denmark Surf Life Saving Club (DSLSC) at Reserve 24913, Ocean Beach, Council:*

- 1. Endorses the Denmark Surf Life Saving Club Transformation Project.*
- 2. Agrees in principle to a \$400,000 financial contribution towards the new surf club building funded by a loan from Treasury, subject to the Shire of Denmark’s input into the detailed design of the public elements of the surf club building.*
- 3. Agrees in principle to a \$500,000 financial contribution towards the public realm with the funding model to be further refined by the administration once further information is available with regard to the Mine Closure Plan associated with the Ocean Beach Lime Quarry.*
- 4. Instructs the Chief Executive Officer to include the project within the Draft Long Term*
- 5. Financial Plan to be considered by Council in late 2018/19.”*

**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.

Consultation undertaken to date:

- Key Community Stakeholders;
- Club members.
- Representatives from the Department of Local Government, Sport and Cultural Industries.

Planned consultation to occur:

- Community Information Sessions.

Council has adopted the Shire of Denmark Sport and Recreation Master Plan developed by ABV Consultants. This report included extensive community consultation. The report identifies this project as one of the priorities for Council.

The Project is also identified in the Shire’s Corporate Business Plan.

**Statutory Obligations:**

There are no Statutory Obligations.

**Policy Implications:**

P110304 Sustainability & Co-location (Sport & Recreation Facilities) relates and reads as follows:

*“Council will give priority support to facility development or redevelopment that shows capacity for co-locating or the sharing of resources.*

*Applicants must be community based organisations and incorporated under the WA Association Incorporations Act 1997.*

*Council will require community based organisations seeking public funds of greater than \$10,000 for developing new or refurbishing current facilities to have a business plan appropriate to the size of their organisation.*

*Council will contribute to a maximum of one-third (1/3) only of major facility development / redevelopment with a project cost greater than \$50,000 to demonstrate the need for such*



*development and their strategies to ensure that the development will be viable for at least the next 10 years or such period requested by Council.”*

This project supports the capacity for co-locating with the community infrastructure and sharing of resources.

**Budget / Financial Implications:**

The CSRFF application asks Council to provide in principle support for the project. The financial contribution from Council would be \$900,000 (Res: 081218) towards a project total of \$5,607,000. Council’s contribution would include \$400,000 funded by a loan and \$500,000 funded by reserves and potentially proceeds from the sale of property.

Source of funding	\$Amount ex GST
Local government	\$900,000
Applicant cash	\$50,000
Volunteer labour	0
Donated materials	0
Other State Government funding	\$1,500,000
Federal Government funding	\$2,407,000
Other funding – to be listed	0
CSRFF request (No Development Bonus)	\$750,000
or CSRFF request (Development Bonus)	
<b>b) Total project funding</b>	<b>\$5,607,000</b>

**Strategic & Corporate Plan Implications:**

The report and Officer recommendation is consistent with Council’s adopted Strategic Community Plan aspirations and objectives and the Corporate Business Plan actions and projects in the following specific ways:

Denmark 2027

E1.0 Our Economy

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

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

N2.0 Our Natural Environment

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

N2.2 To promote and encourage responsible development.

B3.0 Our Built Environment

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

B3.1 To have public spaces and infrastructure that are accessible and appropriate for our community

B3.2 To have community assets that are flexible, adaptable and of high quality to meet the purpose and needs of multiple users.

L5.0 Our Local Government

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

- L5.2 To have meaningful, respectful and proactive collaboration with the community.
- L5.3 To be decisive and to make consistent and well considered decisions.
- L5.4 To be fiscally responsible.

**Corporate Business Plan**

- B3.2.7 Prepare a business case for the construction of a new Surf Life Saving Club to relocate the facility above the coastal erosion zone and increase the amenity of the area.
- B3.2.8 Undertake concept design and prepare a project proposal and cost benefit analysis for the Denmark Surf Life Saving Club Public Realm.

**Sustainability Implications:**

➤ **Governance:**

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

➤ **Environmental:**

Staff are unsure if a native vegetation clearing permit will be required. An environmental consultant will be engaged in the next detailed design phase of the project, which will set out all requirements in this regard. The area is potentially not a high conservation area and is fundamentally a regrowth area.

The new development is designed to include measures for energy and water efficiency. These include solar collection, thermal mass, passive ventilation, energy generation and evacuated tube solar hot water.

➤ **Economic:**

The works prescribed for this project will have significant benefits for local businesses who are successful in tendering for specific parts of the reconstruction. It will assist with employment of local contractors, accommodation for workers required that can't be sourced locally and spending within the local community from external contractors.

➤ **Social:**

Sport and recreation can bring people together for the good of their community. Community members participating, volunteering, utilising their expertise in positive social settings assists in developing stronger and more resilient communities.

➤ **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 do not support the CSRFF Application	Possible (3)	Moderate (3)	Moderate (5-9)	Not Meeting Community expectations	Accept Officer Recommendation to support the application
That Council supports the CSRFF Application, but is unsuccessful and does not receive funding.	Possible (3)	Moderate (3)	Moderate (5-9)	Ineffective Management of Facilities and Events	Accept Risk and if unsuccessful revisit funding opportunities and the timeframe for the project.

**Comment/Conclusion:**

Shire of Denmark Officers have followed the CSRFF Procedure (attached).

The process and supporting documentation supplied by the DSLSC, addresses all the important requirements of the CSRFF grant. The studies and plans produced are of a high standard and demonstrate considerable due diligence towards the project costs and the ongoing management of the facility.

The proposed facility would become an iconic community facility that would service the Shire of Denmark for the future and be a source of pride for the local participants.

The whole of life costings have been completed. These analyse the operational life over twenty and thirty year periods. The projections demonstrate clear profit potential for the new build throughout the building’s life cycle, compared to likely losses over time for both refurbishment and do nothing options.

Similarly, the capital cost offset analyses show clear potential for a new build over other options, despite its far higher capital requirements initially.

The Officer recommends Council supports the CSRFF application and rank the project number one, as the only application for this round.

**Voting Requirements:**

Simple majority.

<b>COUNCIL RESOLUTION &amp; OFFICER RECOMMENDATION</b>	ITEM 8.2.2
MOVED: CR GIBSON	SECONDED: CR LEWIS
Advise the Department of Local Government, Sport and Cultural Industries that the only application received for the Community Sport and Recreation Facilities Fund Grants Round was from the Shire of Denmark for the Denmark Surf Life Saving Club Transformation Project. This project is supported by Council.	
CARRIED UNANIMOUSLY: 8/0	Res: 140919

**8.3 CHIEF EXECUTIVE OFFICER**

**8.3.1 MANAGEMENT ORDER – RESERVE NO. 37930, NO. 39 (LOT 1055) ZIMMERMAN STREET, DENMARK**

<b>File Ref:</b>	A3182
<b>Applicant / Proponent:</b>	Main Roads WA
<b>Subject Land / Locality:</b>	Reserve No. 37930, No. 39 (Lot 1055), Zimmerman Street, Denmark
<b>Disclosure of Officer Interest:</b>	Nil
<b>Date:</b>	4 September 2019
<b>Author:</b>	Claire Thompson, Executive Assistant & Governance Coordinator
<b>Authorising Officer:</b>	Bill Parker, Chief Executive Officer
<b>Attachments:</b>	Nil

**Summary:**

Council are asked to consider taking over the Management Order for Reserve No. 37930.

**Background:**

Management for the Reserve is currently the responsibility of Main Roads WA.

The Reserve is used by the Shire to store materials such as wood chips, sand and general road building materials, given that is located adjacent to the Shire’s Works Depot. This has been the case for approximately 17 years.

In 2008, the Shire wrote to Main Roads asking whether they would consider transferring the Management Order to the Shire of Denmark. Main Roads have now responded to the letter asking if the Council are still seeking to take over management of the Reserve.



**Consultation:**

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

**Statutory Obligations:**

Section 46 of the Land Administration Act 1997 provides power to the Minister for Lands to, by order, place the care, control and management of a reserve.

Section 3.54 of the Local Government Act 1995 relates to local government care and control of reserves placed under their management.

**Policy Implications:**

There are no policy implications.

**Budget / Financial Implications:**

There are no known financial implications upon either the Council's current Budget or Long Term Financial Plan. Should there be a change of land use in the future, there could potentially be financial implications associated with remediating any possible contamination.

**Strategic & Corporate Plan Implications:**

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

Denmark 2027

L5.0 Our Local Government

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

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

Corporate Business Plan

Nil

**Sustainability Implications:**

➤ **Governance:**

The site is not used by Main Roads WA but by the Shire to store materials. By obtaining the management order, the Shire can have some certainty over continued use of the site.

➤ **Environmental:**

The site has not been subject to an environmental investigation. Main Roads WA have advised that the presence of absence of any contamination has not been determined however given that the site has been a depot for a number of years it could be assumed that it has been used for purposes that have the potential to contaminate. The Shire has been using the site since 2002, which is half the number of years since it was created.

➤ **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 not seek to obtain management of the Reserve.	Unlikely (2)	Minor (2)	Low (1-4)	Inadequate Change Management	Accept Officer Recommendation

**Comment/Conclusion:**

Recent discussions on the draft Long Term Financial Plan have indicated that the relocation of the Depot site is not a short term financial priority. The Shire requires the extra storage room that the Reserve provides for materials and this would continue to be the case until such time that it is considered financially viable for the Depot to relocate to a larger site.

Obtaining the Management Order for the Reserve would provide some certainty over its continued use by the Shire.

**Voting Requirements:**

Simple majority.

<b>COUNCIL RESOLUTION &amp; OFFICER RECOMMENDATION</b>	ITEM 8.3.1
MOVED: CR CARON	SECONDED: CR GIBSON
That with respect to Reserve No. 37930, No. 39 (Lot 1055) Zimmermann Street, Denmark Council request Main Roads WA to arrange transfer of the Management Order, through the Department of Planning, Lands and Heritage, to the Shire of Denmark.	
CARRIED UNANIMOUSLY: 8/0	Res: 150919

## 9. COMMITTEE REPORTS AND RECOMMENDATIONS

### 9.1 BUSH FIRE ADVISORY COMMITTEE - SHIRE OF DENMARK FIRE MANAGEMENT NOTICE AND FIRE AND BURNING INFORMATION BOOKLET 2019/20

<b>File Ref:</b>	FIRE.1
<b>Applicant / Proponent:</b>	Not applicable
<b>Subject Land / Locality:</b>	All privately held land within the Shire of Denmark
<b>Disclosure of Officer Interest:</b>	Nil
<b>Date:</b>	3 September 2019
<b>Author:</b>	Scott Medhurst, Community Emergency Services Manager
<b>Authorising Officer:</b>	Cary Green, Director, Corporate and Community Services
<b>Attachments:</b>	9.1a – 2019/20 Fire Management Notice 9.1b – Fire and Burning Information Booklet

#### Summary:

This report recommends that Council adopt the 2019/20 Annual Fire Management Notice which incorporates changes endorsed by the Bush Fire Advisory Committee (BFAC).

#### Background:

At the BFAC meeting held on 20th June 2019 the notice was discussed and the following decision was made;

*The Shire of Denmark 2019/20 Fire Management Notice is to be compiled into a Notice and Information Booklet that was more in line with community expectations. This notice was to be similar to that used by other Local Governments.*

At the following BFAC meeting held on the 29 August 2019 the Committee were provided the opportunity to view the notice and provide feedback and changes. The Officer has reviewed the recommended changes from the Committee and incorporated them in line with legislative, committee and community expectations. The draft Fire Management Notice and Fire and Burning Information Booklet is attached.

The endorsed Notice and Booklet will be printed and mailed out to all ratepayers within the Shire of Denmark and it will also be available to view, and or print, on the Shire's website. The Variation to Fire Management Notice Application Form will be posted on the Shire of Denmark's website to view, and download, and or print.

Through the use of a Fire Management Notice and Fire and Burning Information Booklet the Shire of Denmark and the community can better manage the risks associated with fire.

The Fire Management Notice and Fire and Burning Information Booklet presented is for the 2019/20 Bushfire season. All occupiers and ratepayers will be required to comply from 1<sup>st</sup> December 2019. The Notice and Booklet has been raised at this time in order for the notice to be printed and distributed to property occupiers and ratepayers to enable them to comply with the requirements for the 2019/2020 bush fire season.

Once adopted and printed, an accompanying letter outlining and explaining the adjustments will be mailed out with the Notice and Booklet.

Information sessions will be scheduled throughout the year for the public to attend where questions can be asked and further information given.

#### Consultation:

During the review process the following were consulted;

- Bush Fire Advisory Committee

- Relevant Shire Staff including Emergency Services & Rangers
- Department of Fire and Emergency Services
- Department of Biodiversity, Conservation and Attractions
- External Bushfire Planning and Design specialist consultants

**Statutory Obligations:**

Section 33 (1) of the *Bush Fires Act 1954* says a Local Government “*may give notice to an owner or occupier situated within the district of the local government or shall give notice to all owners or occupiers of land in its district...*”.

*Section 33 (2) of the Bush Fires Act 1954 says that “a notice in writing may be given to an owner or occupier of land by posting it to him at his last postal address known to the local government and may be given to an owner of land by posting it to him at the address shown in the rate record kept by the local government.”*

**Policy Implications:**

Council has several policies relevant to the Fire Management Notice. The Fire Management Notice will align with the following policies;

- Policy P050101      Burning of Garden Refuse
- Policy P050102      Camping & Cooking Fires

**Budget / Financial Implications:**

The Fire Management Notice and Booklet will be published in the Government Gazette, providing notice to all owners and occupiers in the district at a cost of approximately \$450. This can be accommodated under Council’s advertising budget.

Printed copies of the Notice and Booklet will be posted to all Ratepayers at a cost of approximately \$10,500. This can be accommodated under the Council’s allocated budget (GL1510522).

Additional copies can be printed at the Shire Office upon request and an electronic version will be available on the Shire’s website.

**Strategic & Corporate Plan Implications:**

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

Denmark 2027

N2.0 Our Natural Environment

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

*N2.1 To preserve and protect the natural environment.*

*N.2.3 To reduce human impact on natural resources, reduce waste and utilised renewable energy.*

C4.0 Our Community

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

Corporate Business Plan

C4.1.8 Review and Improve the Fire Management Notice to improve emergency services outcomes

C4.1.15 Review and improve firebreak and fire mitigation policies to support emergency services outcomes.

C4.1.16 Support the community in fire and emergency management planning through Street Meets and other engagement activities.

**Sustainability Implications:**

➤ **Governance:**

In the Officer’s opinion, it is in the best interests of a Local Government to publish and distribute a Fire Management Notice to assist with preventing the spread or extension of bushfire within the district.

➤ **Environmental:**

Management of potential risks associated with bushfire plays a role in protection of the natural environment.

➤ **Economic:**

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

➤ **Social:**

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

➤ **Risk:**

Risk	Risk Likelihood (based on history and with existing controls)	Risk Impact / Consequence	Risk Rating (Prior to Treatment or Control)	Principal Risk Theme	Risk Action Plan (Controls or Treatment proposed)
The Shire of Denmark not having a Fire Management Notice in place to manage property preparedness.	Rare (1)	Moderate (3)	Low (1-4)	Inadequate Natural Environment Management Practices and possible issues relating to infrastructure and public safety.	Accept Officer Recommendation

**Comment/Conclusion:**

In summary the changes to the 2019/20 Fire Management Notice are as follows;

- The change to the document includes the removal of the explanatory notes which have now been incorporated into the Fire Management Notice as one document. Minor changes to wording and changes to the format and layout are also included; the Fire Management Notice will comprise of six A4 pages;
  - Page 1 – *First & Final Notice and Definitions*
  - Page 2 – *Definitions and Requirements*
  - Page 3 – *Requirements*
  - Page 4 – *Requirements and Variations*
  - Page 5 – *Additional Works, Bush Fires Act Responsibilities/Council Policies*
  - Page 6 – *Bush Fires Act Responsibilities/Council Policies*
- The inclusion of a new Fire and Burning Information booklet will capture times to remember, key information about fire danger ratings, restricted and prohibited burning times, permits and Fire Control Officer contacts as well as fire safety information and simple bushfire emergency plans.

The Officer believes the new Notice and Booklet provides residents with great clarity on their legal obligations by providing documents that are more easily read and understood.

The Officer fully supports the changes made to the content and format of the Notice including the addition of the Fire and Burning Information Booklet, as endorsed by the Bush Fire Advisory Committee, and therefore seeks the endorsement for the officer recommendation provided.

**Voting Requirements:**

Simple majority.



Whilst the Bush Fire Advisory Committee endorsed the draft documents at their meeting held on 29 August 2019, a formal recommendation to Council was not made at that meeting. The Officer’s Recommendation reflects their endorsement.

**OFFICER RECOMMENDATION**

ITEM 9.1

That Council adopt the Shire of Denmark 2019/20 Fire Management Notice and Fire and Burning Information booklet as per Attachments 9.1a and 9.1b.

Since the Agenda was published, the Shire has received some suggested amendments from the Department of Fire & Emergency Services. Shire Officers have considered the proposed suggestions and recommend the changes in the draft Fire & Burning Information Booklet. The Amended Officer Recommendation below reflects the suggested changes to the Booklet.

**COUNCIL RESOLUTION & AMENDED OFFICER RECOMMENDATION** ITEM 9.1  
 MOVED: CR SEENEY SECONDED: CR ALLEN

That Council adopt the Shire of Denmark 2019/20 Fire Management Notice and Fire and Burning Information booklet as per Attachments 9.1a and 9.1b, with the following amendments;

1. Page 9 – In the white space at the top right hand side of the page add the following words, *“Bushfire Preparedness – Bushfires are unpredictable and happen every year. The single biggest killer is indecision. To survive a bushfire you must be prepared to make your own decisions. Visit the following pages to meet likeminded local people and to help you plan.”*
2. Page 9 – correct the Bushfire Ready logo to be the most current logo.
3. Page 15 – Replace the words *“Below is a basic plan to follow in the event of a bush fire”* with *“If you are considering this option you must be well prepared. This means being mentally and physically prepared to fight the fire without any assistance.”*

**AMENDMENT**

MOVED: CR CARON

SECONDED: CR GEARON

That with respect to the Fire and Burning Information Booklet be amended as follows;

1. Replace the map on the cover page with a map showing Denmark not the Perth region; and
2. Page 13 – under the section headed “Burning near Quickup Dam and Denmark Surface Catchment Area” replace the text to read, *“Special controls apply for vegetation in these areas under the Country Areas Water Supply Act 1947. Please review the information sheet at [www.denmark.wa.gov.au](http://www.denmark.wa.gov.au) or visit [www.water.wa.gov.au](http://www.water.wa.gov.au) or call the Water Corporation Albany Regional Office on 9841 0100 for more information.”*

CARRIED UNANIMOUSLY: 8/0

Res: 160919

**AMENDED MOTION**

That Council adopt the Shire of Denmark 2019/20 Fire Management Notice and Fire and Burning Information booklet as per Attachments 9.1a and 9.1b, with the following amendments;

1. Page 9 – In the white space at the top right hand side of the page add the following words, *“Bushfire Preparedness – Bushfires are unpredictable and happen every year. The single biggest killer is indecision. To survive a bushfire you must be prepared to make your own decisions. Visit the following pages to meet likeminded local people and to help you plan.”*
2. Page 9 – correct the Bushfire Ready logo to be the most current logo.
3. Page 15 – Replace the words *“Below is a basic plan to follow in the event of a bush fire”* with *“If you are considering this option you must be well prepared. This means being mentally and physically prepared to fight the fire without any assistance.”*
4. Replace the map on the cover page with a map showing Denmark not the Perth region; and

5. Page 13 – under the section headed “Burning near Quickup Dam and Denmark Surface Catchment Area” replace the text to read, “*Special controls apply for vegetation in these areas under the Country Areas Water Supply Act 1947. Please review the information sheet at [www.denmark.wa.gov.au](http://www.denmark.wa.gov.au) or visit [www.water.wa.gov.au](http://www.water.wa.gov.au) or call the Water Corporation Albany Regional Office on 9841 0100 for more information.*”

THE AMENDED MOTION BECAME THE SUBSTANTIVE MOTION WHICH WAS PUT & CARRIED UNANIMOUSLY: 8/0 Res: 170919

**10. MATTERS BEHIND CLOSED DOORS**

**COUNCIL RESOLUION & OFFICER RECOMMENDATION** ITEM 10  
 MOVED: CR GEARON SECONDED: CR CARON

That the meeting move behind closed doors for the following reason;  
 1. Pursuant to Section 5.23 (2) (b) of the Local Government Act 1995, for the consideration of Item 10.1 to allow the successful applicant’s name to remain confidential to Council until the official announcement at the Denmark Senior High School Graduation Ceremony.

CARRIED UNANIMOUSLY: 8/0 Res: 180919

*All members of the public left the room.*

**COUNCIL RESOLUION**  
 MOVED: CR GEARON SECONDED: CR GIBSON

That Standing Orders be suspended to allow free discussion on Item 10.1.  
 CARRIED UNANIMOUSLY: 8/0 Res: 190919

**COUNCIL RESOLUION**  
 MOVED: CR CARON SECONDED: CR GIBSON

That Standing Orders be resumed.  
 CARRIED UNANIMOUSLY: 8/0 Res: 200919

**10.1 2019 LEADERSHIP AWARD**

<b>File Ref:</b>	PBR.1
<b>Applicant / Proponent:</b>	Various
<b>Subject Land / Locality:</b>	Not applicable
<b>Disclosure of Officer Interest:</b>	Nil
<b>Date:</b>	5 September 2019
<b>Author:</b>	Claudia Simpson, Community Development Officer
<b>Authorising Officer:</b>	Cary Green, Director Corporate and Community Services
<b>Attachments:</b>	10.1a - List of previous recipients 10.1b - Applications (Confidential)

**Summary:**

Council is requested to peruse the attached applications for the Shire of Denmark 2019 Y12 Leadership Award and determine the successful applicant for 2019.

**Background:**

The Shire of Denmark Leadership Award was established in March 2011.

The aim of the award it to provide sponsorship for a Year 12 student, currently attending Denmark Senior High School, to assist with the cost of participating in an activity or program which focuses on skill development and fostering Leadership skills.

A list of previous recipients is attached as Attachment 10.1a.

**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.

This Award was marketed and promoted as follows;

- Advertisement in the local newspaper.
- Media release
- Included in Denmark Senior High School August newsletter
- Emailed to parents / guardians of all Y12 students at Denmark Senior High School.
- Promotion on Shire of Denmark Notice Boards
- Promotion on Shire of Denmark website & Facebook Page.
- Promotion on dedicated 4Youth Facebook Page and Instagram
- Email to Councillors & employees
- Liaison with the Denmark Senior High School Year 12 Coordinator
- Manager of Community Services addressed Year 12 students at Denmark Senior High School and handed out application forms to students.

**Statutory Obligations:**

There are no statutory obligations.

**Policy Implications:**

Council Policy P080202 relates as reads as follows;

Shire of Denmark Leadership Award

Objective

*To provide an annual sponsorship for a Year 12 student, currently attending the Denmark High School, to assist with the cost of participating in an activity or program which focuses on;*

- *Skill development;*
- *Leadership;*
- *Self-growth and development (self-discovery);*
- *Problem solving;*
- *Confidence building;*
- *Strengthening personal motivation;*
- *Initiative; and/or*
- *Team work & communication.*

*The selected activity or program could include;*

- *A registered leadership program;*
- *A personal endeavour.*

Guidelines

- a) *The applicant must be a Year 12 student currently attending the Denmark High School;*
- b) *The Sponsorship will be awarded based on citizenship, community involvement and leadership;*
- c) *The successful applicant will be required to complete the selected program or activity within 12 months of being awarded this Sponsorship.*
- d) *The Sponsorship amount will be \$1,000 and will be paid to the successful applicant;*

- e) *The CEO and/or the Shire President address the Seniors School students at the commencement of the advertising of the program (generally in September) to promote the award and the principles of leadership;*
- f) *The Sponsorship be widely promoted in local papers, notice boards and Council's website to both potential nominees and their parents or guardians;*
- g) *The successful applicant will be required to acquit the Sponsorship, within a reasonable timeframe of completion, by providing a written report to Council on their activity or program and presenting that report to Council;*
- h) *A Sponsorship will not be awarded if there are no suitable applicants;*
- i) *The decision of Council and/or the delegated Committee shall be final.*
- j) *The closing date for applications will be determined each year by the CEO to allow sufficient time for determination of the winner by Council at presentation at the relevant school's graduation ceremony.*

**Budget / Financial Implications:**

Council's 2019/20 Budget includes an amount of \$1,000 for the 2019 Leadership Award (GL1610822).

**Strategic & Corporate Plan Implications:**

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

Denmark 2027

E1.0 Our Economy

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

E1.3 To have diverse education and employment opportunities.

C4.0 Community

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

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

Corporate Business Plan

E1.3.3 Recognise and support the educational achievements of students through the Denmark Agricultural Scholarship and the Shire of Denmark Youth Leadership Award.

**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 Y12 Leadership Award is an important method for Council to recognise the achievements and leadership qualities of our local youth. The award encourages the development of youth leadership in our community by supporting personal development and growth.

➤ **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 no application is suitable and therefore the 2019 Leadership Award is not awarded	Rare (1)	Insignificant (1)	Low (1-4)	Not Meeting Community expectations	Accept Risk

**Comment/Conclusion:**

Five applications have been received for the 2019 Leadership Award. The applications have been forwarded to Councillors under separate confidential cover as Attachment 10.1b.

**Voting Requirements:**

Simple majority.

<p><b>COUNCIL RESOLUTION &amp; OFFICER RECOMMENDATION</b>                  MOVED: CR ALLEN</p> <p>That with respect to the 2019 Shire of Denmark Leadership Award, Council;</p> <ol style="list-style-type: none"> <li>1. Announce William Roocke as the successful applicant at the Denmark Senior High School’s graduation ceremony in 2019;</li> <li>2. Authorise the Chief Executive Officer to schedule a meeting with the successful applicant to discuss their selected program or activity and make the necessary arrangements with respect to the payment of the award; and</li> <li>3. Keep the name of the recipient of the award, and the decision of this meeting confidential to Council, Seniors Officers, Community Development Officer and Executive Assistant / Governance Coordinator until the official announcement.</li> </ol> <p>CARRIED UNANIMOUSLY: 8/0</p>	<p>ITEM 10.1                  SECONDED: CR LEWIS</p> <p>Res: 210919</p>
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<p><b>COUNCIL RESOLUTION</b>                  MOVED: CR GEARON</p> <p>That the meeting resume in public.</p> <p>CARRIED UNANIMOUSLY: 8/0</p>	<p>SECONDED: CR ALLEN</p> <p>Res: 220919</p>
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*There were no members of the public that returned to the meeting.*

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

Nil

**12. CLOSURE OF MEETING**

*8.05pm – There being no further business to discuss the Shire President, Cr Gearon, declared the meeting closed.*

<p>The Chief Executive Officer recommends the endorsement of these minutes at the next meeting.</p> <p>Signed: _____  <i>Bill Parker – Chief Executive Officer</i></p> <p>Date: _____</p> <p>These minutes were confirmed at a meeting on the _____.</p> <p>Signed: _____  <i>(Presiding Person at the meeting at which the minutes were confirmed.)</i></p>
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