

Shire of Denmark

Ordinary Council Meeting **AGENDA**

15 MARCH 2022



TO BE HELD IN COUNCIL CHAMBERS, 953 SOUTH COAST HIGHWAY, DENMARK, ON TUESDAY, 15 MARCH 2022, COMMENCING AT 4.00PM.



Contact Us

953 South Coast Highway, Denmark WA 6333

Correspondence to:

Post Office Box 183, DENMARK WA 6333

Phone: (08) 9848 0300

Email: enquiries@denmark.wa.gov.au

Website: www.denmark.wa.gov.au

Facebook: shireofdenmark

Your Denmark: www.yourdenmark.wa.gov.au

Strategic Community Plan (snapshot)

E1.0

Our Economy

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

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

N2.0

Our Natural Environment

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

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

B3.0

Our Built Environment

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

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

C4.0

Our Community

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

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

L5.0

Our Local Government

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

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

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- 1. DECLARATION OF OPENING/ANNOUNCEMENT OF VISITORS**
- 2. RECORD OF ATTENDANCE/APOLOGIES/APPROVED LEAVE OF ABSENCE**

MEMBERS:

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

STAFF:

David Schober (Chief Executive Officer)
 David King (Deputy Chief Executive Officer)
 Gina McPharlin (Director Corporate & Community Services)
 Jasmin Tohill (Acting Manager Sustainable Development)
 Claire Thompson (Governance Coordinator)

APOLOGIES

ON APPROVED LEAVE(S) OF ABSENCE

ABSENT

VISITORS

- 3. DECLARATIONS OF INTEREST**

Name	Item No	Interest	Nature

- 4. ANNOUNCEMENTS BY THE PERSON PRESIDING**
- 5. PUBLIC QUESTION TIME**
 - 5.1 RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE**

5.2 PUBLIC QUESTIONS

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

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

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

Questions from the Public

5.3 QUESTIONS BY MEMBERS OF WHICH DUE NOTICE HAS BEEN GIVEN

5.4 PRESENTATIONS, DEPUTATIONS & PETITIONS

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

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

5.4.1 BUSHLAND HEALER – MARK PARRE REVEGETATION VIDEO

A video showcasing the achievements of the Shire's Revegetation Officer and the positive impact Mark Parre has had on Shire's revegetation of reserves.

6. APPLICATIONS FOR FUTURE LEAVE OF ABSENCE

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

7. CONFIRMATION OF MINUTES

7.1 ORDINARY COUNCIL MEETING – 21 DECEMBER 2021

OFFICER RECOMMENDATION	ITEM 7.2
That the minutes of the Ordinary Meeting of Council held on the 21 December 2021 be CONFIRMED as a true and correct record of the proceedings.	

7.2 STRATEGIC BRIEFING NOTES – 21 DECEMBER 2021

OFFICER RECOMMENDATION	ITEM 7.2
That the Notes from the Strategic Briefing Forum held on 21 December 2021 be RECEIVED.	

7.3 SPECIAL COUNCIL MEETING – 1 MARCH 2022

OFFICER RECOMMENDATION	ITEM 7.3
That the minutes of the Special Meeting of Council held on the 1 March 2022 be CONFIRMED as a true and correct record of the proceedings.	

8. ELECTED MEMBERS MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN**9. REPORTS OF OFFICERS****9.1 DIRECTOR ASSETS AND SUSTAINABLE DEVELOPMENT****9.1.1 PRAWN ROCK CHANNEL DOG EXERCISE AREA PETITION**

File Ref:	PLN.94 / PROJ.ENG.54.20/21
Applicant / Proponent:	Petitioners
Subject Land / Locality:	Reserve 20578 Prawn Rock Channel
Disclosure of Officer Interest:	Nil
Date:	22 January 2022
Author:	Damian Schwarzbach, Manager Projects
Authorising Officer:	David King, Deputy Chief Executive Officer
Attachments:	9.1.1a – Petition 9.1.1b – Policy P050203

Summary:

This report recommends Council amend the adopted Dog Policy P050203 to include a biennial review.

Background:

At the Ordinary Council meeting on 18 May 2021, Resolution 060521, the Council adopted Policy P050203 Dog Areas (Attachment 9.1.1b).

At the Ordinary Council meeting on 16 November 2021, Council received a petition with 412 signatures (Attachment 9.1.1a). This petition opposed the adopted Dog Policy P050203 regarding the designated dog access areas at Reserve 20578 and asked Council to revisit the off-leash dog exercise area at Prawn Rock Channel and sandflats.

Consultation:

There has been no external consultation regarding the petition.

Resolution 060521, to adopt the amendments in May 2021, was informed by a significant amount of consultation. Full details of the consultation regarding the Dog Policy and surrounding recreation areas can be found in the Minutes of the Ordinary Council meeting in 18 May 2021, Items 9.1.1 and 9.1.2. A summary is provided below.

The Dog Areas consultation was undertaken using the Your Denmark webpage, which provided information on the relevant legislation, existing dog areas and bird sanctuary proposal.

The Dog Areas consultation opened on 20 September 2020 and closed on 1 November 2020.

The webpage was well visited, with over 1200 people accessing the information. The key statistics included:

- 78 visitors engaged (answered the survey)
- 417 visitors informed (downloaded some additional information)
- 821 visitors aware (visited the page but no downloads or surveys completed)

The Ocean to Channel consultation included a broader representation of recreation use in the area. The consultation involved engaging with the community through various mediums, including one-on-one meetings, site meetings, written responses, telephone responses, survey and background information provided through the Bang the Table medium.

The consultation period ran from 15 July 2020 until 31 January 2021.

The consultation set out to determine what the community loved, needed and wished for the Ocean Beach to Prawn Rock Recreational Precinct.

The mediums used to gather this feedback were:

- Ocean to Channel Recreational Precinct page on the Bang the Table website including:
 - background documents,
 - A frequently asked questions section,
 - A precinct map in which participants could drop a pin on an area and provide their thoughts,
 - A dedicated survey question about the proposed Surf Life Saving Club building.
- Static displays with hard copies to allow people to submit their comments at the Recreation Centre and Library.
- Signs at Prawn Rock and Ocean Beach; explaining the project and directing people to the various mediums to provide their feedback.
- One-on-one meetings with interested community members and stakeholders. Including the Wilson Inlet Restoration Group, Denmark Environment Centre, South Coast Bush Care, Denmark Bird Group & the Department of Planning Lands & Heritage.
- Shire website and Facebook page directing people to the various mediums to provide their feedback.

Key statistics include;

- 674 visits to the online site.
- 51 engaged – voted in either or both surveys/polls.
- 242 informed – downloaded a document, viewed a video, read the FAQ's.
- 517 aware – visited at least one page.
- 33 responses to the Surf Club facility survey.
- 36 contributors to the Ideas Map.

Statutory Obligations:

Shire of Denmark Standing Orders Local Law

The petition complies with the requirements of Section 3.4. Therefore, the petition was tabled at the Ordinary Council Meeting on 16 November 2021.

There are no other statutory obligations related to the petition.

Policy Implications:

Policy P050203 Dog Areas, Attachment 9.1.1b, prescribes dog areas within the Shire of Denmark.

It is recommended that a biennial review period be included in the policy.

Budget / Financial Implications:

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

Strategic & Corporate Plan Implications:

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

Denmark 2027

B3.0 Our Built Environment

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

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

Sustainability Implications:

➤ **Governance:**

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

➤ **Environmental:**

Amending the Dog Areas Policy to expand the off-leash areas to the northern sand flats will impact shorebirds that nest on the water's edge.

➤ **Economic:**

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

➤ **Social:**

With an increasing population with diverse recreational preferences, the community requires an element of compromise to ensure social sustainability.

➤ **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)
Reputation: Adverse media as a result of a decision not to amend the Dog areas as requested by the petition	Possible (3)	Moderate (3)	Moderate (5-9)	Not Meeting Community expectations	Accept Officer Recommendation

Comment/Conclusion:

Officers have the following comments in response to the petition statements.

- 1. The current Off-Leash Area at Prawn Rock Channel is not a workable scenario. It is causing divisiveness, angst, anger and in some cases conflict within the community.*

Officer comment:

The Shire makes every effort to reduce issues of divisiveness and anger in our community.

To address conflict at Prawn Rock Channel, officers undertook extensive consultation prior to the Council considering an Ocean to Channel Concept Plan and amendments to the Dog Policy.

Officers acknowledge that there has been a level of continuing conflict that is referenced in item 9.1.2 of this agenda. Item 9.1.2 recommends further infrastructure improvements to enhance dog owner accessibility to Ocean Beach and the Wilson inlet sand flats.

- 2. This area is of high usage by dog owners, whose numbers continue to increase annually. The new reduction in the area is disproportionate to its high usage. {Current dog registrations= 1287}*

Officer comment:

The population of Denmark is increasing, bringing a higher risk of conflict between users of all public areas. All users of public spaces will have to compromise to ensure social sustainability and best meet the whole community's needs.

The current dog policy and Ocean to Channel Concept Plan aim to present a balanced outcome where all stakeholders are accommodated.

3. *Diminishing this area makes no accommodation for the continuing growth of dog usage by community, tourists and day visitors.*

Officer comment:

As per Officer comment two (2) above, compromise is required to ensure social sustainability for the whole community.

A biennial review of the Dog Policy is recommended to ensure that growth in numbers of dog owners can be accommodated by considering expanding or developing new areas for off-leash activity.

4. *This area is the only easily accessible, flat landscape with safe waters for all members of the dog community. By minimising it, the Shire has discriminated against those in the community and their dogs who cannot access other "like" areas.*

Officer comment:

The Shire works on behalf of the entire community. Unfortunately, our landscape in Denmark is not always user-friendly for people of all ages, mobility and abilities.

Our community's high value on preserving our pristine environment dictates that we avoid taking interventions that will damage our environment. There are a number of flat, dog off-leash areas in Denmark which serve as alternatives for people who cannot access our coastal dog exercise areas.

5. *Due to the seasonally changing depth of the Inlet water and sandbank formations, the arbitrary boundary across these waters does not allow for the safe access for dogs and owners to the Nullaki and the beach.*

Officer comment:

The dog prohibited boundary is not the significant cause of access issues. The sand delta is a constantly changing environment where nature causes restricted access.

Officers are currently working on a new universal access lookout at Prawn Rock Channel, a sealed pathway leading to stair access to the eastern side of Ocean Beach. This will improve the accessibility to the off-leash area for a broader range of environmental conditions.

6. *This area is of great significance to the fabric of the dog community, young and old, both for their mental and physical health, providing them with a safe, accessible area to engage with other people whilst also socialising their dogs.*

Officer comment:

Officers recognise the Prawn Rock Channel area as a beloved community recreation area for the reasons outlined. It is also beloved by our community because of its unique wildlife and environmental values. The Shire has a responsibility to both and has done its best to achieve a balanced outcome.

The current policy has been in place for eight (8) months and was recommended as a balanced outcome with a level of compromise for all area users and environmental considerations. There have been no additional information or external influences that would alter the previous Officers recommendation on the Dog Policy in May 2021.

Any changes to the current policy will need to consider the impacts of all other users and environmental impacts.

The inlet conditions experienced so far, during the 2021/22 summer, have presented a restricted environment for all area users. Diminished sand flats and limited accessibility to

the east of the opening are typical for an open inlet. Still, they are more significant due to an unusually high bar opening in 2021.

Currently, the only significant area of sand flats west of the open channel is directly beneath the Ocean Beach lookout; this area is permissible but inaccessible for dogs. Infrastructure improvements will significantly improve access to off-leash areas during restrictive inlet conditions.

The infrastructure design to improve access is underway, and a budget proposal will be forthcoming for the 2022/23 financial year.

Officers recommend a review prior to July 2023 and biennially thereafter.

Voting Requirements:

Simple majority.

OFFICER RECOMMENDATION	ITEM 9.1.1
<p>That Council:</p> <ol style="list-style-type: none"> 1. AMEND Policy P050203 Dog Areas to include the following: "This policy will be formally reviewed biennially by Council"; and 2. REQUEST that the review of Policy P050203 - Dog Areas, occurs prior to July 2023 and includes further consultation with the community. 	

9.1.2 BIRD SANCTUARY

File Ref:	PROJ.ENG.54.20/21
Applicant / Proponent:	Not Applicable
Subject Land / Locality:	Reserve 20578
Disclosure of Officer Interest:	Nil
Date:	5 January 2022
Author:	David King, Deputy Chief Executive Officer Damian Schwarzbach, Manager Projects
Authorising Officer:	David King, Deputy Chief Executive Officer
Attachments:	9.1.2a - Bird Sanctuary Extents 9.1.2b - Denmark Bird Group Bird Sanctuary Proposal

Summary:

At the Ordinary Council Meeting on 18 May 2021, Council adopted the concept of a bird sanctuary.

This report provides the next steps in the development of a bird sanctuary.

Background:

The Collins English Dictionary describes a bird sanctuary as *an area of land where birds are protected and encouraged to breed*.

In 2014, Council approved the installation of a seasonal fence to discourage users from entering the sand flats, adjacent to the northern part of Prawn Rock Channel island to protect the migratory birds. This fencing has been installed annually since 2014.

In May 2018, The Denmark Bird Group (DBG) attended the Council Concept Forum and presented a bird sanctuary proposal.

In November 2020, the DBG attended a second Council Concept Forum and presented information on the Wilson Inlet's birdlife. The DBG tabled a revised proposal for a bird sanctuary for Council's information.

The DBG and Birdlife Australia members have been monitoring birdlife within the Wilson Inlet from 2009 to the present date. This data is recorded in *Birddata*, a national database and forms the basis for the DBG proposal.

The full proposal is provided as Attachment 9.1.2b.

At the Ordinary Meeting of Council on 18 May 2021, Resolution 080521, Council adopted the Ocean to Channel Upgrades Concept Plan. It endorsed the consultation plan for the proposed bird sanctuary. Officers have now completed the required consultation and present a proposal for Council's consideration.

Consultation:

Officers completed extensive consultation before the adopted concept of a bird sanctuary at Prawn Rock Channel. Further information on this stage of the consultation and decision making can be found in the Minutes of the Ordinary Council meeting on 18 May 2021, Item 9.1.2.

At the time of adopting the concept of a bird sanctuary, Officers had not completed a detailed assessment and review of the practicalities of implementation. Council resolved to endorse a consultation plan for the bird sanctuary that would provide the necessary investigation to develop the concept further.

Table 1 shows the consultation plan that Council endorsed for the bird sanctuary development.

Officers designed the consultation to:

- understand the legislative mechanisms to establish a controlled area,
- understand jurisdiction over the land and water bodies,
- accommodate, where possible, key stakeholder concerns of access,
- receive additional stakeholder feedback.

Table 1 – Consultation plan for the bird sanctuary development and comments

Stakeholder Group	Level of Engagement	Why	Status
Denmark Bird Group	Collaborate	Major Stakeholder and will require two-way input into the design	Numerous ongoing meetings and discussions were held to understand the requirements for the bird sanctuary to be a success.
Department Water and Environmental Regulation	Collaborate	May be required to provide approval	A face to face meeting was held to discuss any necessary approvals, considerations or concerns with the project
Department of Transport	Collaborate	May be required to provide approval	A face to face meeting was held to discuss any necessary approvals, considerations or concerns with the project
Wilson Inlet Restoration Group	Involve	Major Stakeholder and will require two-way input into the design	A face to face meeting was held to discuss any considerations or concerns with the project
Denmark Environment Centre	Involve	Concerns and aspirations need to be considered in high regard	A face to face meeting was held to discuss any considerations or concerns with the project
Commercial Fisherman	Involve	Concerns and aspirations need to be	Contact with Western Australian Fishing Industry

		considered in high regard	Council Inc (WAFIC). They are WA's Peak Industry body representing the interests of commercial fishing. They have circulated amongst their members.
Boating & Angling Club	Consult	Key Community Group	A face to face meeting was held to discuss any considerations or concerns with the project
Wider Community	Inform	Input has resulted in the endorsed concept of a bird sanctuary. The community needs to be informed of the progress and associated details as the project progresses.	The community was informed of the progress through the Your Denmark Webpage. Formal public notice of intent will be the final item of consultation.

Table 2 provides a summarised list of the comments and concerns received through the consultation.

Table 2 – Consultation key comments

Comment/Concern	Officer Comment
<p><u>Denmark Bird Group (DBG)</u></p> <p>Requirements for a successful outcome for the protection of birdlife includes:</p> <ul style="list-style-type: none"> • A minimum prescribed area as shown in Attachment 9.1.2a • Bird observation hide and boardwalk • Community-based citizen science monitoring program • Educational and interpretive signage • Permanent fencing on Prawn Rock island to identify the bird sanctuary • Removable fencing is dependent on water levels to identify the southern limit of the sanctuary. 	<p>At a minimum, the fencing and signage need to be installed.</p> <p>Bird hide and other infrastructure are a lower priority.</p> <p>DBG to continue monitoring program.</p>
<p><u>Department of Water and Environmental Regulation (DWER)</u></p> <p>Department of Water and Environmental Regulation (DWER) is required by legislation to enact the Waterways Conservation Act and Environmental Protection Act.</p> <p>If the Shire were to proceed with the proposal, then the DWER Native Vegetation Department would become involved in approving any clearing work to provide paths/bird hide.</p> <p>DWER foresees no issues with the proposal from a regulatory perspective.</p>	<p>Noted.</p>

<p><u>Department of Transport (DoT)</u></p> <p>Department of Transport (DoT) cannot restrict access to the water area unless the safety of people is compromised. This is not the case for the bird sanctuary proposal.</p> <p>The Shire has no authority to restrict access to craft on a water body.</p> <p>No speed limit coverage for the proposed water body in the sanctuary.</p> <p>DoT would require notification where fencing is installed in water.</p> <p>DoT foresees no issues with the proposal from a regulatory perspective.</p>	<p>Noted.</p>
<p><u>Wilson Inlet Restoration Group (WIRG)</u></p> <p>The proposed area is a wildlife protected area, not just a bird sanctuary.</p> <p>Request access to complete delta mapping</p> <p>Request access to perform digging/dredging work with a license from DWER, generally in April/May</p> <p>Concern that prawning, crabbing and fishing be restricted.</p>	<p>Requests for information on delta mapping and dredging were noted.</p> <p>Prawning and crabbing will not be prohibited as the restrictions do not extend to areas covered by water. However, access to prawning and crabbing areas would not be permitted across the land designated as a sanctuary.</p> <p>Fishing by boat would be unrestricted by the bird sanctuary.</p> <p>Fishing from the land where the land is designated as a sanctuary would be prohibited.</p>
<p><u>Denmark Environment Centre</u></p> <p>Supportive as proposed.</p>	<p>Noted.</p>
<p><u>Commercial Fishermen.</u></p> <p>No feedback on the circulation has been received.</p>	<p>Noted.</p>
<p><u>Denmark Boating & Angling Club (DBAC)</u></p> <p>Supportive as proposed.</p>	<p>Noted.</p>
<p><u>Department of Planning, Lands and Heritage (DPLH)</u></p> <p>The Shire sought advice if the purpose of the Reserve needed to be changed from its current purpose of Recreation to Environmental Conservation to establish a bird sanctuary</p> <p>DPLH response stated that the concept plan for the bird sanctuary enabling public access to the bird sanctuary area (through double gated access, boardwalk, bird hide etc.) is consistent with the current Reserve purpose of 'Recreation', so excising the northern section</p>	<p>Noted.</p>

<p>of Reserve not required from DPLH, as is consistent with current Management Order.</p>	
<p><u>Denmark Equestrian Management Group (DEMG)</u></p> <p>Request for provision for float parking in the northern car park.</p> <p>Access to the eastern side of Ocean Beach is via the northern section of the island and on to Ocean Beach. Request for this to continue.</p> <p>Provision of 2 dual-use yards for horse and public.</p>	<p>Infrastructure request is noted but not applicable to the consideration for a bird sanctuary.</p> <p>It is understood that access to Ocean Beach is generally through the water and, therefore, will not be significantly restricted by the proposal.</p>
<p><u>Dog Owners of Denmark (DOOD)</u></p> <p>Requested loop trail around the south of the island – on lead area</p> <p>Why are horses and fishermen allowed but not dogs?</p> <p>Clear signage explaining</p> <p>Can it be a seasonal area?</p> <p>Request for seasonal access at Ocean Beach during winter months / potential parking (Australian Council for Rehabilitation of Disabled - ACROD) at the boat launching.</p>	<p>A loop trail would require a Dog Policy amendment. Council item 9.1.1 recommends a review prior to July 2023.</p> <p>The current situation prohibits dogs only through the Dog Areas Policy. If a bird sanctuary is prescribed as proposed, access will be limited to all animals with restricted access for people (walk trails only).</p> <p>Seasonal access to the northern sand flats has been considered by Officers but is not recommended. Officers consider the seasonal option would become a management issue. Users would be in a habitual usage pattern that could become hard to break, confusing when access is allowed and not. The arrival of the migratory birds is not on a set date; it usually occurs between September & October, and the peak breeding time is commonly between September to April. To change dates to coincide with varying usage patterns of the migratory birds would further lead to confusion.</p> <p>Seasonal access from the Surf Club has been considered but is not recommended for the reasons above. Planned beach access from the lookout will improve access whilst retaining a dog-free beach in front of the Surf Club.</p>

Statutory Obligations:

Shire of Denmark Local Government Property Local Law

Part 2 - Determinations in respect of local government property provides the mechanism whereby Council can make a determination to prohibit traversing of land which, in the opinion of the Local Government, has environmental value warranting such protection, either absolutely or except by paths provided for that purpose.

The Local Government is to give local public notice for 21 days of its intention to make a determination and consider any submissions prior to continuing with the resolution.

The Local Government may amend or revoke a determination subject to conditions outlined in the Local Law.

Policy Implications:

Policy P050203 Dog Areas relates but is not affected.

Budget / Financial Implications:

There is no budget line item for bird sanctuary infrastructure in the 2021/22 budget. If prohibitions are determined over the land after the public notice period, officers will include a recommendation for a budget allocation at this time.

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.

N2.1 To preserve and protect the natural environment.

Corporate Business Plan

Deliver project management services for infrastructure projects in progress.

Sustainability Implications:

➤ **Governance:**

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

➤ **Environmental:**

Progressing the bird sanctuary will offer protection to a number of bird species that live and nest in the area.

➤ **Economic:**

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

➤ **Social:**

With an increasing population with diverse recreational preferences, an element of compromise is required to ensure social sustainability.

➤ **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)
Reputation Community dissatisfied with bird sanctuary proposal.	Possible (3)	Moderate (3)	Moderate (5-9)	Not Meeting Community expectations	Manage by continuing education and communication with the community and policy review

Comment/Conclusion:

A bird sanctuary is an area designed to protect bird species. Like other wildlife refuges, the main goal of a sanctuary is to prevent species from becoming endangered or extinct and to protect important wildlife habitats. Natural habitat protection is a strong community expectation for the Shire of Denmark.

Over many years, studies of the birdlife in the Wilson Inlet have revealed that the Prawn Rock Channel area and Morley Beach are the most important sites for shorebirds. These areas are important because they have a variety of food services needed for the survival of these species. This is especially the case for migratory shorebirds that arrive from their 12,000km journey from the Arctic regions of Siberia in need of replenishing their bodies. The Prawn Rock Channel area is a preferred feeding and roosting ground for these birds.

Human and animal disturbance levels are also known factors in bird distribution. There has been much conjecture around the bird sanctuary. The issues of birds, dogs and other area users resulted in numerous comments throughout the consultation. It also featured heavily in the consultation process.

The Officers recommendation to develop a bird sanctuary has taken into account the following key considerations:

- The area as indicated in Attachment 9.1.2b
- Permanent fencing on Prawn Rock island to identify the bird sanctuary is essential
- Removable fencing is dependent on water levels. Clarity on the southern limit of the sanctuary is essential.
- Improved access for dog walkers from the Ocean Beach Lookout in future years should be considered.
- Bird Observation Hide with boardwalk and educational signage is optional.
- Prawning, crabbing and fishing can continue with some minor restrictions regarding access.
- Access to the eastern side of Ocean Beach for horses is achieved by walking them in the water around the northern section of the island and onto Ocean Beach.
- Permits can be issued to allow access for WIRG to complete delta mapping and perform digging/dredging work with a license from DWER.

Given the environmental concerns, the bird sanctuary is supported at an Officer level. Although all users and stakeholders are required to compromise, Officers consider that the proposal does not prevent current users from continuing to enjoy the Prawn Rock Channel area.

One of the key legislative considerations, is that the Shire cannot make determinations on land under the control of the management of another entity. In this case, where the inlet is inundated to any depth, the Department of Transport assumes control and management of activity on the water.

Whilst the determination proposed encompasses a wide area, it is only applicable to areas not inundated by inlet waters. This results in a fluctuating protection area subject to the water level and sandbanks.

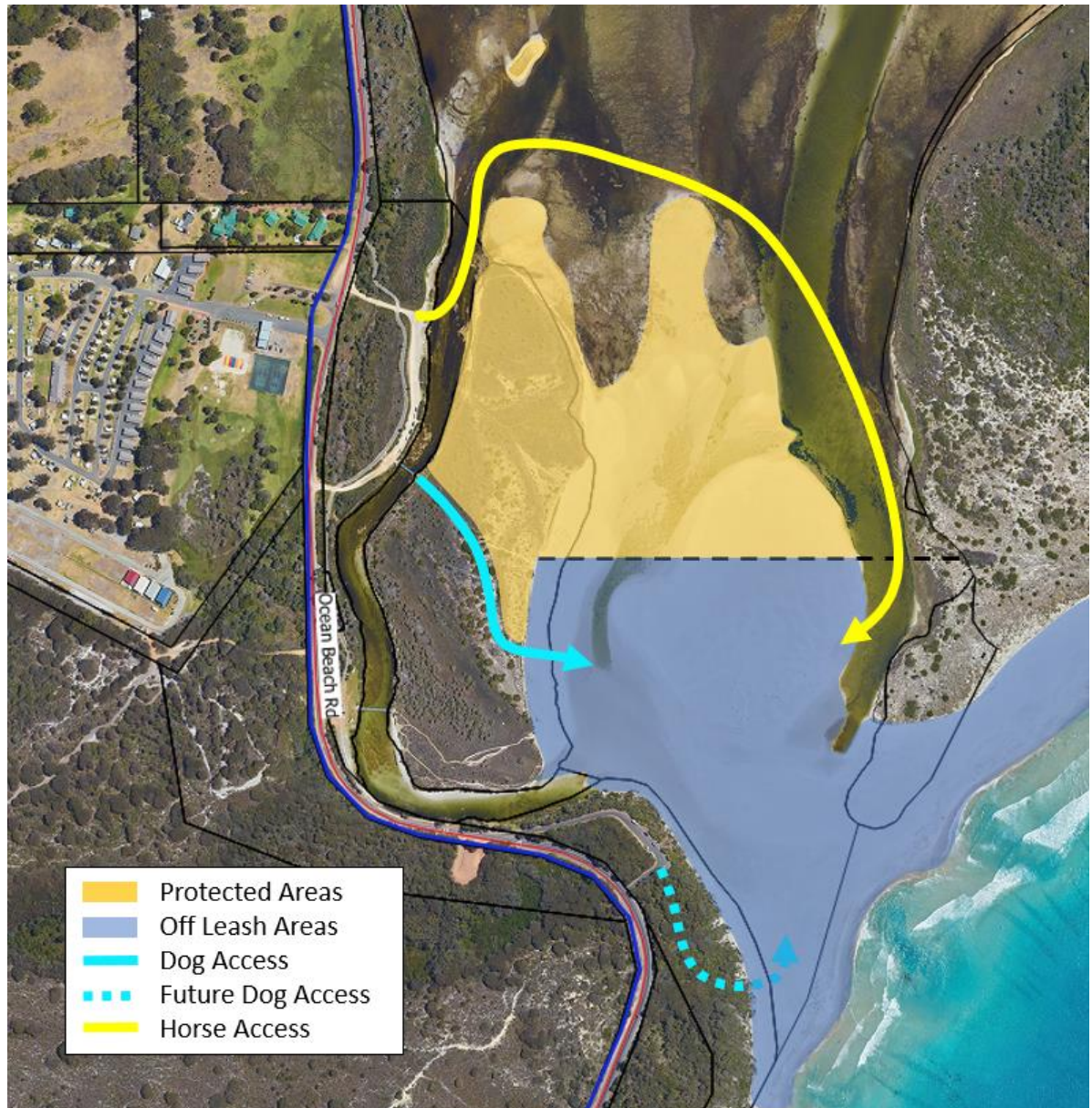
Three (3) scenarios representing different inlet conditions are provided below to illustrate the proposed bird sanctuary's extent and its effect on other activities.

Scenario 1 – Low water level

Figure 1 shows a low water level.

Seasonal variances in water level determine the accessibility to the island's eastern side and Ocean Beach. As shown in Figure 1, accessibility to usable areas for recreation and bird protection is considerable.

Figure 1 – Low water



Scenario 2 – High water

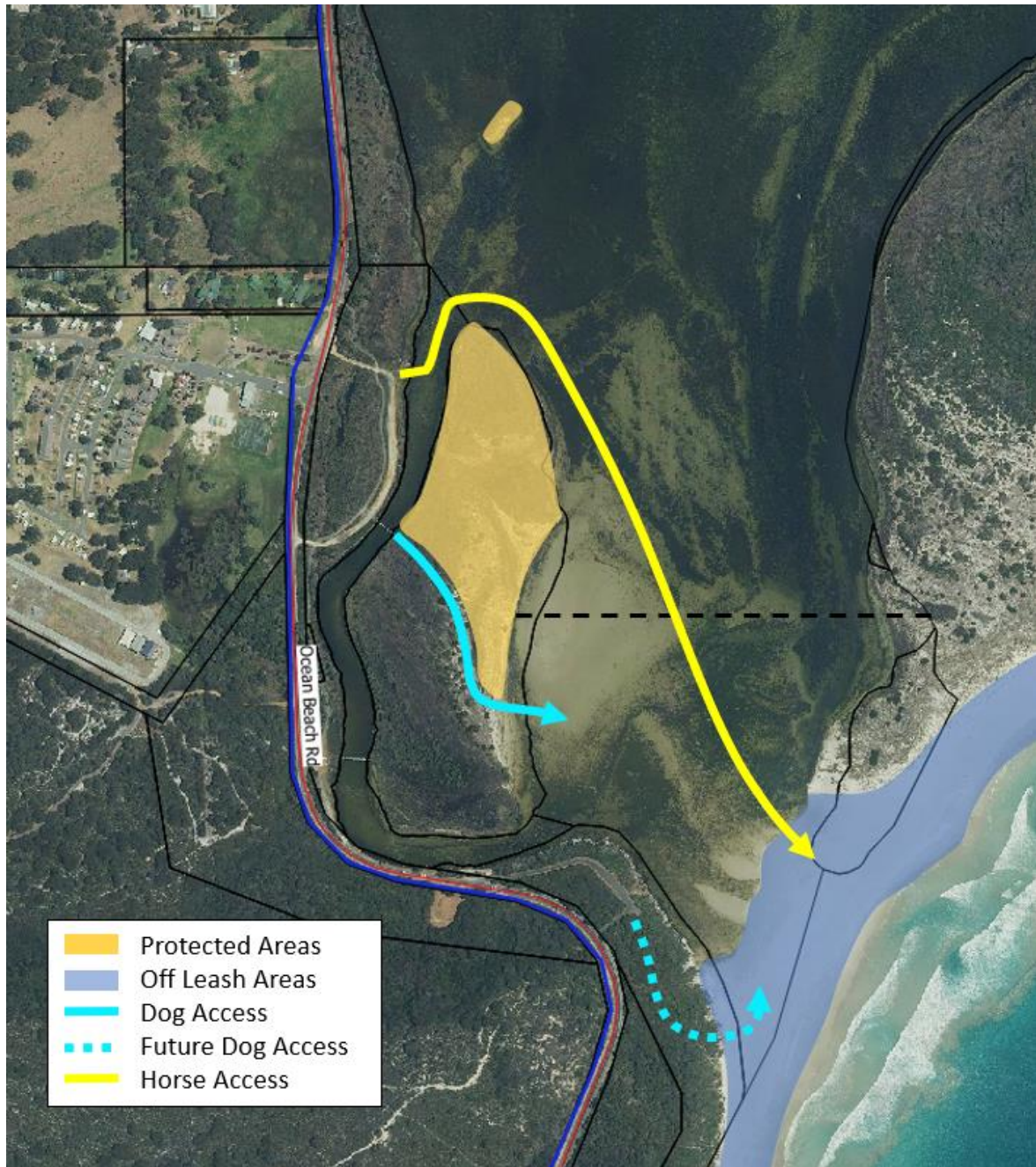
Figure 2 shows a high water level.

There is limited space for access on the island's eastern side and limited space for migratory birds to nest. The bird sanctuary is limited to the islands only.

There is no off-leash area accessible from Prawn Rock Channel as it is inundated.

Future access to the beach is proposed for off-leash activity.

Figure 2 – High water



Scenario 3 – Medium water levels

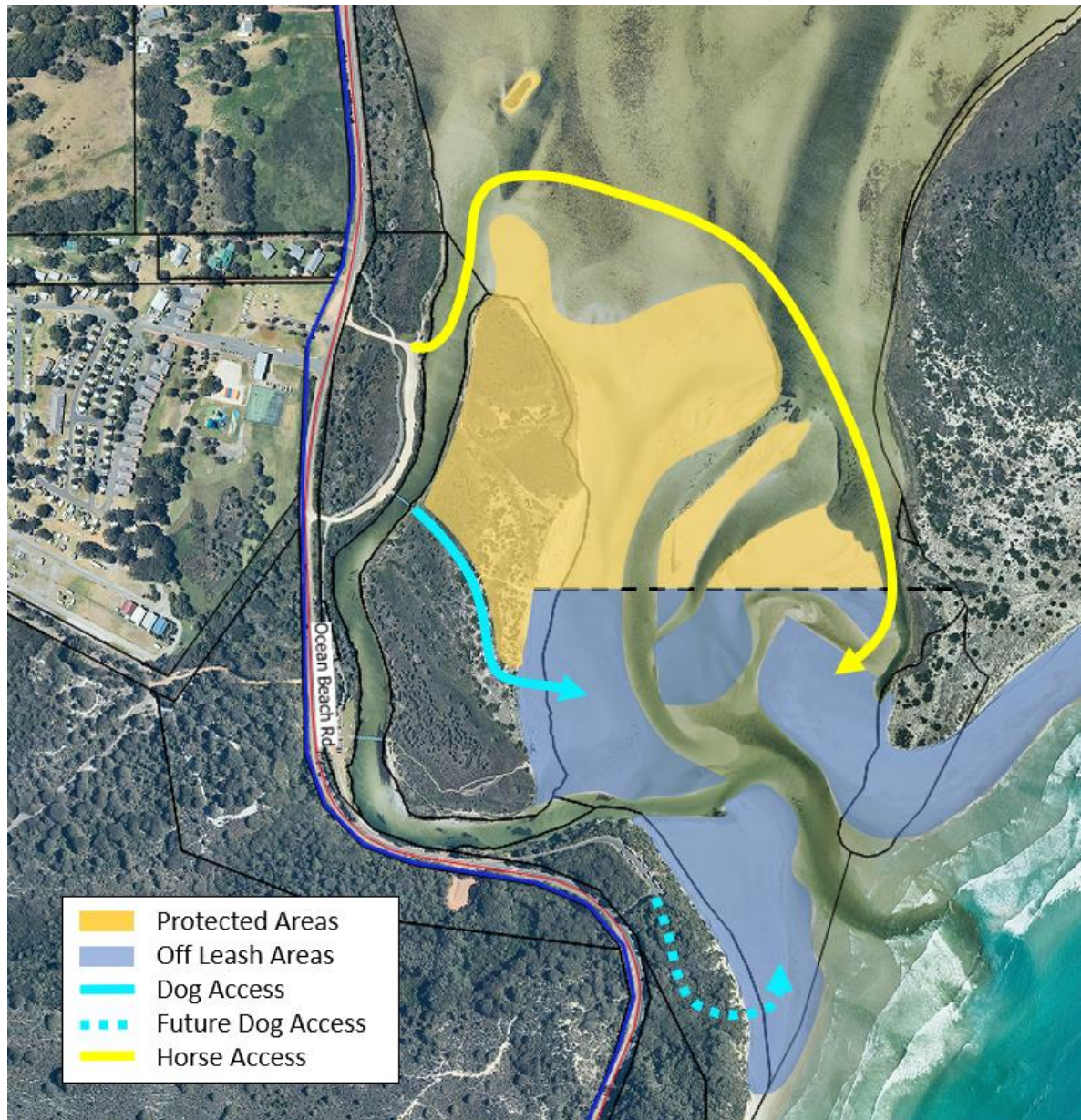
Figure 3 shows a typical medium water level.

In this situation, there is reasonable space for both bird protection and off-leash activity.

The channel locations will affect the access to the off-leash areas. The 2021/22 summer has resulted in a channel location hard up against the island, reducing the accessibility for off-leash activity.

Future access to the beach will improve the amenity for off-leash activity.

Figure 3 – Medium water levels



Voting Requirements:
Simple majority.

OFFICER RECOMMENDATION	ITEM 9.1.2
That Council, pursuant to section 2.2 of the Local Government Property Local Law, REQUEST the Chief Executive Officer to give public notice of its intent to make a determination to develop a bird sanctuary by prohibiting the traversing of land, for all unauthorised persons, except on paths provided for that purpose, over the areas specified in Attachment 9.1.2a.	

9.2 DIRECTOR CORPORATE AND COMMUNITY SERVICES

9.2.1 FINANCIAL STATEMENTS FOR THE PERIOD ENDED 30 NOVEMBER 2021

File Ref:	FIN.1
Applicant / Proponent:	Not applicable
Subject Land / Locality:	Not applicable
Disclosure of Officer Interest:	Nil
Date:	7 January 2022
Author:	Lee Sounness, Manager Corporate Services
Authorising Officer:	Gina McPharlin, Director Corporate & Community Services
Attachments:	Attachment 9.2.1 – November 2021 Monthly Financial Report

Summary:

The monthly financial statement report is a standard financial reporting item prepared in accordance with the provisions of the Local Government Act 1995 and Regulation 34 of the Local Government (Financial Management) Regulations 1996.

Council is to consider the financial results for the period ending 30 November 2021.

Background:

In accordance with Financial Management Regulation 34, the Shire is to prepare a monthly Statement of Financial Activity reporting on the sources and applications of funds, as set out in the annual budget under Financial Management Regulation (1) (d), for that month with the following details:

- a) annual budget estimates;
- b) budget estimates to the end of the month to which the statement relates;
- c) actual amounts of expenditure, revenue, and income to the end of the month to which the statement relates;
- d) material variances between the comparable amounts referred to in (b) and (c); and
- e) net current assets at the end of the month to which the statement relates.

Consultation:

Nil

Statutory Obligations:

LOCAL GOVERNMENT ACT 1995 S6.8 (1)(b) – a Local Government is not to incur expenditure from its municipal fund for an additional purpose except where the expenditure is authorised in advance by resolution.

LOCAL GOVERNMENT (FINANCIAL MANAGEMENT) REGULATION 34

Regulation (1) – the Shire is to prepare a monthly Statement of Financial Activity reporting on the sources and applications of funds, as set out in the annual budget.

Regulation (1)(d) the monthly Statement of Financial Activity includes material variances between budget estimates and actual expenditure, revenue, and income.

Regulation 34(5) - Council adopted a material variance threshold of 10% or a minimum of \$10,000, whichever is greater. (Res: 230821)

Policy Implications:

Policy P040222 - Material Variances in Budget and Actual Expenditure - An explanation or report is required for levels of variances for financial reporting exceeding 10% (minimum dollar variance of \$10,000) of the annual budget estimates to the end of the month to which the report refers for each program or General/Ledger Job Account.

Budget / Financial Implications:

Council endorsed amendments to the capital works and expenditure program for the 2021/2022 financial year at the 16 November 2021 Ordinary Council Meeting (Res: 161121).

These amendments are included in Note 3 of Attachment 9.2.1.

There are no significant trends or issues to be reported. Some minor variances in the year-to-date budgets are disclosed in Note 3(a) of the financial statements, including those relating to the timing of the works program. Where applicable, any proposed adjustments to the adopted budget for these items will be presented for Council consideration during the mid-year budget review process.

Strategic & Corporate Plan Implications:

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

Denmark 2027

L5.4 To be fiscally responsible

Sustainability Implications:

➤ **Governance:**

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

➤ **Environmental:**

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

➤ **Economic:**

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

➤ **Social:**

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

➤ **Risk:**

Nil

Comment/Conclusion:

The commentary contained in the body of this report is in line with Financial Management Regulation 34(2)(b) which requires commentary on material variances to the Statement of Financial Activity at the nature/type, program, or business unit level.

The 30 November 2021 Statement of Financial Activity shows a year-to-date actual closing surplus position of \$8,023,171 compared to the year-to-date budget of \$7,300,173, a year-to-date variance of \$723,000.

The adopted budget for 2021/2022 was built on an estimated brought forward surplus position from 2020/2021 of \$1,553,964. On audit signoff, the confirmed closing position for the year ended 30 June 2021 was \$1,582,425, an increase of \$28,461. The increase in closing financial position was the result of the finalisation of year-end accruals and adjustments to various restricted grants and will be accounted for as part of the mid-year review presented for Council consideration in February 2022

Year-to-date operating revenue is \$157,239 higher than the budgeted amount (Statement Report by Nature and Type).

This is due to:

- fees and charges income across various programs being higher than expected activity in the following areas:
 - building and planning fee income
 - recreation centre fee income
 - transport and vehicle licensing fees

- reimbursement and rental income, and
- operating grants that have been received in advance of budget profile (timing).

Actual operating expenditure is \$468,931 less than the year-to-date budgeted amount. The main cause of this variance is an overestimate of Fire Control Depreciation expense and timing and seasonal issues affecting planned general maintenance of roadworks, footpaths, depot and DRFAWA Reinstatement.

A total of \$315,438 capital expenditure was incurred to the end of November 2021, which is \$157,002 less than budgeted. The main variation is McLean Oval Water Re-Use Project has been delayed, pending a license amendment.

Outstanding Debtors (Note 4)

As at 30 November 2021, outstanding Rates Debtors totalled \$1,794,800 compared to \$1,582,331 at the same time last year.

The rates collection percentage for the year sits at 75.82% (see Note 4), compared to 77.56% at the same time last year.

Reserves

The movement to reserves represents interest earned on reserve funds and transfers to and from reserves. A transfer of \$545,000 from the Denmark East Development Reserve (see Note 5) was made during November to fund the pending Denmark East Light Industrial Area Fire Suppression System project.

Cash Management

As at 30 November 2021, total cash funds held (excluding trust funds) totals \$10,984,054 (Note 1).

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

Reserve Funds (restricted) total \$4,110,753 (Note 5).

Municipal Funds (unrestricted) total \$6,873,301 (Note 2).

Voting Requirements:

Simple majority.

OFFICER RECOMMENDATION	ITEM 9.2.1
<p>That Council, with respect to the Financial Statements for the period ending 30 November 2021, RECEIVE the Financial Reports, incorporating the Statement of Financial Activity and other supporting documentation.</p>	

9.2.2 LIST OF PAYMENTS FOR THE PERIOD ENDING 3 NOVEMBER 2021

File Ref:	FIN.1
Applicant / Proponent:	Not applicable
Subject Land / Locality:	Not applicable
Disclosure of Officer Interest:	Nil
Date:	17 January 2021
Author:	Lee Sounness, Manager of Corporate Services
Authorising Officer:	Gina McPharlin, Director Corporate & Community Services
Attachments:	Attachment 9.2.2 – November 2021 Monthly List of Payments Summary

Summary:

The purpose of this report is to advise the Council of payments made during the period 1 November 2021 to 30 November 2021.

Background:

Nil

Consultation:

Consultation was not required for this report.

Statutory Obligations:

Local Government (Financial Management) Regulation 13 relates.

Policy Implications:

Delegation Number D040201 relates.

Budget / Financial Implications:

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

Strategic & Corporate Plan Implications:

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

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

Denmark 2027

L5.4 To be fiscally responsible

Sustainability Implications:**➤ Governance:**

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

➤ Environmental:

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

➤ Economic:

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

➤ Social:

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

➤ Risk:

Nil

Comment/Conclusion:

Nil

Voting Requirements:

Simple majority.

OFFICER RECOMMENDATION	ITEM 9.2.2
<p>That with respect to the attached Schedule of Payments, totalling \$1,380,568.52, for the month of November 2021, Council RECEIVE the following summary of accounts:</p> <ul style="list-style-type: none"> • Electronic Funds Transfers EFT31498 to EFT31806 - \$816,950.46; • Municipal Fund Cheque No's 60457 – 60457 - \$3,799.00; • Internal Account Transfers (Payroll) - \$416,696.60; and • Direct Debit - \$8,383.25; • Corporate Credit Card; \$5,140.66; • Department of Transport Remittances; \$101,763.10, and • Loan Payments: \$27,835.45 	

9.2.3 INVESTMENT REPORT FOR THE PERIOD ENDED 30 NOVEMBER 2021

File Ref:	FIN.19
Applicant / Proponent:	Not applicable
Subject Land / Locality:	Not applicable
Disclosure of Officer Interest:	Nil
Date:	28 November 2021
Author:	Lee Sounness, Manager Corporate Services
Authorising Officer:	Gina McPharlin, Director Corporate & Community Services
Attachments:	Attachment 9.2.3 - November 2021 Investment Register

Summary

This report presents the Investment Register for the period ending 30 November 2021.

Background

This report is for Council to receive the Investment Register for the period ending 30 November 2021.

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

Consultation

Nil.

Statutory Obligations

The *Local Government Act 1995 – Section 6.14, the Trustees Act 1962 – Part III Investments, the Local Government (Financial Management) Regulations 1996 - Reg. 19, 28 and 49, and the Australian Accounting Standards* sets out the statutory conditions under which funds may be invested.

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

Policy Implications

All investments are made in accordance with Council Policy P040229 – Investment, which states that investments are to comply with the following 3 key criteria:

- a) Portfolio Credit Framework - limits the percentage of the portfolio exposed to any particular credit rating category (table a.)

Table a.

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

- b) Counterparty Credit Framework – limits single entity exposure by restricting investment in an individual counterparty/institution by their credit rating (table b.)

Table b.

A. S&P Long Term Rating	B. S&P Short Term Rating	C. Direct Investment Maximum %	D. Managed Funds Maximum %
AAA	A1+	50%	50%
AA	A-1	35%	45%
A	A-2	25%	40%

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

- c) Term to Maturity Framework - limits investment based upon maturity of securities (table c.)

Table c.

Overall Portfolio Return to Maturity		
Portfolio % <1 year	Min 40%	Max 100%
Portfolio % >1 year	Min 0%	Max 60%
Portfolio % >3 year	Min 0%	Max 50%
Portfolio % >3 year < 5 year	Min 0%	Max 25%

Investments fixed for greater than 12 months are to be reviewed regularly and invested for no longer than five years.

Budget / Financial Implications

There are no significant trends or issues to be reported.

Strategic & Corporate Plan Implications

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

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

Denmark 2027

L5.4 To be fiscally responsible

Sustainability Implications

➤ **Governance:**

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

➤ **Environmental:**

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

➤ **Economic:**

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

➤ **Social:**

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

➤ **Risk:**

Nil.

Comment / Conclusion

The attached Investment Register summarises how funds are invested as per the Shire's Investment Policy and reports on the Investment Portfolio balance as at 30 November 2021.

The Investment Portfolio complies with the criteria of Investment Policy P040229 with the portfolio balance mix meeting the requirement of no single institution holding more than 50% of the total funds invested. In addition, an individual institution's Standard & Poor's (S&P) credit rating meets the required threshold to limit single entity exposure.

The total Reserve Funds invested as at 30 November 2021 totals \$4,110,752.

The total Municipal Funds Invested as at 30 November 2021 totals \$4,758,766

The Reserve Bank of Australia (RBA) has not altered its cash rate for this month. The cash rate remains set at 0.10%.

Voting Requirements

Simple majority.

OFFICER RECOMMENDATION	ITEM 9.2.3
That Council; RECEIVE the Investment Register (attachment 9.2.3) for the period ended 30 November 2021.	

9.2.4 FINANCIAL STATEMENTS FOR THE PERIOD ENDED 31 DECEMBER 2021

File Ref:	FIN.1
Applicant / Proponent:	Not applicable
Subject Land / Locality:	Not applicable
Disclosure of Officer Interest:	Nil
Date:	3 February 2022
Author:	Lee Sounness, Manager Corporate Services
Authorising Officer:	Gina McPharlin, Director Corporate & Community Services
Attachments:	9.2.4 – December 2021 Monthly Financial Report

Summary:

The monthly financial statement report is a standard financial reporting item prepared in accordance with the provisions of the Local Government Act 1995 and Regulation 34 of the Local Government (Financial Management) Regulations 1996.

Council is to consider the financial results for the period ending 31 December 2021.

Background:

In accordance with Financial Management Regulation 34, the Shire is to prepare a monthly Statement of Financial Activity reporting on the sources and applications of funds, as set out in the annual budget under Financial Management Regulation (1) (d), for that month with the following details:

- a) annual budget estimates;
- b) budget estimates to the end of the month to which the statement relates;
- c) actual amounts of expenditure, revenue, and income to the end of the month to which the statement relates;
- d) material variances between the comparable amounts referred to in (b) and (c); and
- e) net current assets at the end of the month to which the statement relates.

Consultation:

Nil

Statutory Obligations:

LOCAL GOVERNMENT ACT 1995 S6.8 (1)(b) – a Local Government is not to incur expenditure from its municipal fund for an additional purpose except where the expenditure is authorised in advance by resolution.

LOCAL GOVERNMENT (FINANCIAL MANAGEMENT) REGULATION 34

Regulation (1) – the Shire is to prepare a monthly Statement of Financial Activity reporting on the sources and applications of funds, as set out in the annual budget.

Regulation (1)(d) the monthly Statement of Financial Activity includes material variances between budget estimates and actual expenditure, revenue, and income.

Regulation 34(5) - Council adopted a material variance threshold of 10% or a minimum of \$10,000, whichever is greater. (Res: 230821)

Policy Implications:

Policy P040222 - Material Variances in Budget and Actual Expenditure - An explanation or report is required for levels of variances for financial reporting exceeding 10% (minimum dollar variance of \$10,000) of the annual budget estimates to the end of the month to which the report refers for each program or General/Ledger Job Account.

Budget / Financial Implications:

Council endorsed amendments to the capital works and expenditure program for the 2021/2022 financial year at the 16 November 2021 Ordinary Council Meeting (Res: 161121).

These amendments are included in Note 3 of Attachment 9.2.4.

There are no significant trends or issues to be reported. Some minor variances to year-to-date budgets are disclosed in Note 3(a) of the financial statements, including those relating to the timing of the works program. Where applicable, any proposed adjustments to the adopted budget for these items is presented for Council consideration as part of the mid-year budget review process in a separate report and attachment forming part of the February 2022 Ordinary Council Meeting agenda.

Strategic & Corporate Plan Implications:

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

Denmark 2027

L5.4 To be fiscally responsible

Sustainability Implications:➤ **Governance:**

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

➤ **Environmental:**

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

➤ **Economic:**

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

➤ **Social:**

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

➤ **Risk:**

Nil

Comment/Conclusion:

The commentary contained in the body of this report is in line with Financial Management Regulation 34(2)(b) which requires commentary on material variances to the Statement of Financial Activity at the nature/type, program, or business unit level.

The 31 December 2021 Statement of Financial Activity shows a year-to-date actual closing surplus position of \$6,693,273 compared to the year-to-date budget of \$5,920,303, a year-to-date variance of \$772,970.

The adopted budget for 2021/2022 was built on an estimated brought forward surplus position from 2020/2021 of \$1,553,964. On audit signoff, the confirmed closing position for the year ended 30 June 2021 was \$1,582,425, an increase of \$28,461. The increase in closing financial position was the result of the finalisation of year-end accruals and adjustments to various restricted grants and is accounted for as part of the mid-year review presented for Council consideration as part of this agenda.

Year-to-date operating revenue is \$225,406 higher than the year to date budgeted amount (Statement Report by Nature and Type). This is due to:

- fees and charges income across various programs having higher than expected activity in the following areas:
 - building and planning fee income
 - recreation centre fee income
 - transport and vehicle licensing fees
 - reimbursement and rental income, and
- operating grants that have been received in advance of budget profile (timing).

Actual operating expenditure is \$507,410 less than the year-to-date budgeted amount. The main cause of this variance is an overestimate of Fire Control Depreciation expense and timing and contractor supply issues affecting planned DRFAWA Reinstatement.

\$659,130 capital expenditure has been incurred to the end of December 2021, which is \$191,338 less than budgeted. The main variation is McLean Oval Water Re-Use Project which has been delayed, pending a license amendment.

Outstanding Debtors (Note 4)

As at 31 December 2021, outstanding Rates Debtors totalled \$1,409,015 compared to \$1,484,035 at the same time last year.

The rates collection percentage for the year sits at 81.02% (see Note 4), compared to 78.96% at the same time last year.

As at 31 December 2021, outstanding Sundry Debtors totalled \$439,180 compared to \$96,412 at the same time last year. The outstanding sundry debtors exceeding 30 days of \$340,281, mainly relates to unpaid lime sales. The outstanding sundry debtors exceeding 60 days of \$51,722, mainly relates to unpaid Peaceful Bay lease fees.

Reserves

The movement to reserves represents interest earned on reserve funds and transfers to and from reserves. A transfer of \$545,000 from the Denmark East Development Reserve (see Note 5) has been made to fund the Denmark East Light Industrial Area Fire Suppression System project.

Cash Management

As at 31 December 2021, total cash funds held (excluding trust funds) totals \$10,101,299 (Note 1).

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

Reserve Funds (restricted) total \$4,112,385 (Note 5).

Municipal Funds (unrestricted) total \$5,988,915 (Note 2).

Voting Requirements:

Simple majority.

OFFICER RECOMMENDATION	ITEM 9.2.4
<p>That Council, with respect to the Financial Statements for the period ending 31 December 2021, RECEIVE the Financial Reports, incorporating the Statement of Financial Activity and other supporting documentation.</p>	

9.2.5 LIST OF PAYMENTS FOR THE PERIOD ENDING 31 DECEMBER 2021

File Ref:	FIN.1
Applicant / Proponent:	Not applicable
Subject Land / Locality:	Not applicable
Disclosure of Officer Interest:	Nil
Date:	27 January 2022
Author:	Lee Sounness, Manager of Corporate Services
Authorising Officer:	Gina McPharlin, Director Corporate & Community Services
Attachments:	9.2.5 – December 2021 Monthly List of Payments Summary

Summary:

The purpose of this report is to advise Council of payments made during the period 1 December 2021 to 31 December 2021.

Background:

Nil

Consultation:

Consultation was not required for this report.

Statutory Obligations:

Local Government (Financial Management) Regulation 13 relates.

Policy Implications:

Delegation Number D040201 relates.

Budget / Financial Implications:

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

Strategic & Corporate Plan Implications:

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

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

Denmark 2027

L5.4 To be fiscally responsible

Sustainability Implications:

➤ **Governance:**

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

➤ **Environmental:**

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

➤ **Economic:**

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

➤ **Social:**

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

➤ **Risk:**

Nil

Comment/Conclusion:

Nil

Voting Requirements:

Simple majority.

OFFICER RECOMMENDATION	ITEM 9.2.5
<p>That with respect to the attached Schedule of Payments, totalling \$1,844,258.86, for the month of December 2021, Council RECEIVE the following summary of accounts:</p> <ul style="list-style-type: none"> • Electronic Funds Transfers EFT31807 to EFT32046 - \$1,020,290.19; • Municipal Fund Cheque No's 60459 – 60463 - \$11,434.60; • Internal Account Transfers (Payroll) - \$625,740.22; and • Direct Debit - \$7,852.44; • Corporate Credit Card; \$7,876.12; • Department of Transport Remittances; \$105,793.30, and • Loan Payments: \$65,271.99 	

9.2.6 INVESTMENT REPORT FOR THE PERIOD ENDED 31 DECEMBER 2021

File Ref:	FIN.19
Applicant / Proponent:	Not applicable
Subject Land / Locality:	Not applicable
Disclosure of Officer Interest:	Nil
Date:	2 February 2022
Author:	Lee Sounness, Manager Corporate Services
Authorising Officer:	Gina McPharlin, Director Corporate & Community Services
Attachments:	Attachment 9.2.6 - December 2021 Investment Register

Summary

This report presents the Investment Register for the period ending 31 December 2021.

Background

This report is for Council to receive the Investment Register for the period ending 31 December 2021.

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

Consultation

Nil.

Statutory Obligations

The *Local Government Act 1995 – Section 6.14, the Trustees Act 1962 – Part III Investments, the Local Government (Financial Management) Regulations 1996 - Reg. 19, 28 and 49, and the Australian Accounting Standards*, sets out the statutory conditions under which funds may be invested.

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

Policy Implications

All investments are made in accordance with Council Policy P040229 – Investments, which states that investments are to comply with the following three key criteria:

- a) Portfolio Credit Framework - limits the percentage of the portfolio exposed to any particular credit rating category (table a.)

Table a.

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

- b) Counterparty Credit Framework – limits single entity exposure by restricting investment in an individual counterparty/institution by their credit rating (table b.)

Table b.

A. S&P Long Term Rating	B. S&P Short Term Rating	C. Direct Investment Maximum %	D. Managed Funds Maximum %
AAA	A1+	50%	50%
AA	A-1	35%	45%
A	A-2	25%	40%

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

- c) Term to Maturity Framework - limits investment based upon maturity of securities (table c.)

Table c.

Overall Portfolio Return to Maturity		
Portfolio % <1 year	Min 40%	Max 100%
Portfolio % >1 year	Min 0%	Max 60%
Portfolio % >3 year	Min 0%	Max 50%
Portfolio % >3 year < 5 year	Min 0%	Max 25%

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

Budget / Financial Implications

There are no significant trends or issues to be reported.

Strategic & Corporate Plan Implications

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

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

Denmark 2027

L5.4 To be fiscally responsible

Sustainability Implications

➤ **Governance:**

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

➤ **Environmental:**

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

➤ **Economic:**

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

➤ **Social:**

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

➤ **Risk:**

Nil.

Comment / Conclusion

The attached Investment Register summarises how funds are invested as per the Shires Investment Policy and reports on the Investment Portfolio balance as at 31 December 2021.

The Investment Portfolio complies with the criteria of Investment Policy P040229 with the portfolio balance mix meeting the requirement of no single institution holding more than 50% of the total funds invested. In addition, an individual institution's Standard & Poor's (S&P) credit rating meets the required threshold to limit single entity exposure.

The total Reserve Funds invested as at 31 December 2021 totals \$4,112,384

The total Municipal Funds Invested as at 31 December 2021 totals \$4,758,766

The Reserve Bank of Australia (RBA) has not altered its cash rate for this month. The cash rate remains set at 0.10%.

Voting Requirements

Simple majority.

OFFICER RECOMMENDATION

ITEM 9.2.6

That Council; RECEIVE the Investment Register (attachment 9.2.6) for the period ended 31 December 2021.

9.2.7 FINANCIAL STATEMENTS FOR THE PERIOD ENDED 31 JANUARY 2022

File Ref:	FIN.1
Applicant / Proponent:	Not applicable
Subject Land / Locality:	Not applicable
Disclosure of Officer Interest:	Nil
Date:	21 February 2022
Author:	Lee Sounness, Manager Corporate Services
Authorising Officer:	Gina McPharlin, Director Corporate & Community Services
Attachments:	9.2.7 – January 2022 Monthly Financial Report

Summary:

The monthly financial statement report is a standard financial reporting item prepared in accordance with the provisions of the Local Government Act 1995 and Regulation 34 of the Local Government (Financial Management) Regulations 1996.

Council is to consider the financial results for the period ending 31 January 2022.

Background:

In accordance with Financial Management Regulation 34, the Shire is to prepare a monthly Statement of Financial Activity reporting on the sources and applications of funds, as set out in the annual budget under Financial Management Regulation (1) (d), for that month with the following details:

- f) annual budget estimates;
- g) budget estimates to the end of the month to which the statement relates;
- h) actual amounts of expenditure, revenue, and income to the end of the month to which the statement relates;
- i) material variances between the comparable amounts referred to in (b) and (c); and
- j) net current assets at the end of the month to which the statement relates.

Consultation:

Nil

Statutory Obligations:

LOCAL GOVERNMENT ACT 1995 S6.8 (1)(b) – a Local Government is not to incur expenditure from its municipal fund for an additional purpose except where the expenditure is authorised in advance by resolution.

LOCAL GOVERNMENT (FINANCIAL MANAGEMENT) REGULATION 34

Regulation (1) – the Shire is to prepare a monthly Statement of Financial Activity reporting on the sources and applications of funds, as set out in the annual budget.

Regulation (1)(d) the monthly Statement of Financial Activity includes material variances between budget estimates and actual expenditure, revenue, and income.

Regulation 34(5) - Council adopted a material variance threshold of 10% or a minimum of \$10,000, whichever is greater. (Res: 230821)

Policy Implications:

Policy P040222 - Material Variances in Budget and Actual Expenditure - An explanation or report is required for levels of variances for financial reporting exceeding 10% (minimum dollar variance of \$10,000) of the annual budget estimates to the end of the month to which the report refers for each program or General/Ledger Job Account.

Budget / Financial Implications:

Council endorsed amendments to the capital works and expenditure program for the 2021/2022 financial year at the 16 November 2021 Ordinary Council Meeting (Res: 161121). These amendments are included in Note 3 of attachment 9.2.7.

There are no significant trends or issues to be reported. Some minor variances to year-to-date budgets are disclosed in Note 3(a) of the financial statements, including those relating to the timing of the works program. Where applicable, any proposed adjustments to the adopted budget for these items is presented for Council consideration as part of the mid-year budget review process in a separate report and attachment as part of the 1 March 2022 Special Council Meeting agenda.

Strategic & Corporate Plan Implications:

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

Denmark 2027

L5.4 To be fiscally responsible

Sustainability Implications:➤ **Governance:**

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

➤ **Environmental:**

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

➤ **Economic:**

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

➤ **Social:**

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

➤ **Risk:**

Nil

Comment/Conclusion:

The commentary contained in the body of this report is in line with Financial Management Regulation 34(2)(b) that requires commentary on material variances to the Statement of Financial Activity at the nature/type, program, or business unit level.

The 31 January 2022 Statement of Financial Activity (page 1. Attachment 9.2.7 – January 2022 Monthly Financial Report) shows a year-to-date actual closing surplus position of \$5,660,402 compared to the year-to-date budget of \$4,740,310, a year-to-date variance of \$920,092.

The adopted budget for 2021/2022 was built on an estimated brought forward surplus position from 2020/2021 of \$1,553,964. On audit signoff, the confirmed closing position for the year ended 30 June 2021 was \$1,582,425, an increase of \$28,461. The increase in closing financial position was the result of the finalisation of year-end accruals and adjustments to various restricted grants and is accounted for as part of the mid-year review presented for Council consideration in the agenda for the Special Meeting of Council scheduled for 1 March 2022.

Year-to-date operating revenue is \$223,879 higher than the year to date budgeted amount (Statement Report by Nature and Type) due to:

- fees and charges income across various programs having higher than expected activity in the following areas:
 - building and planning fee income
 - recreation centre fee income
 - transport and vehicle licensing fees
 - reimbursement and rental income, and
- operating grants that have been received in advance of budget profile (timing).

Actual operating expenditure is \$516,726 less than the year-to-date budgeted amount. The main cause of this variance is an overestimate of Fire Control Depreciation expense and timing and contractor supply issues affecting planned DRFAWA Reinstatement.

\$827,089 capital expenditure has been incurred to the end of January 2022, which is \$383,683 less than budgeted. The main variation is McLean Oval Water Re-Use Project which has been delayed, pending a license amendment. The road renewal reseal program is also currently tracking behind the budget profile timeline.

Outstanding Debtors (Note 4)

As at 31 January 2022, outstanding Rates Debtors totalled \$1,213,903 compared to \$1,127,068 at the same time last year.

The rates collection percentage for the year sits at 83.60% (see Note 4), compared to 84.02% at the same time last year.

As at 31 January 2022, outstanding Sundry Debtors totalled \$162,381 compared to \$418,128 at the same time last year.

The outstanding sundry debtors exceeding 60 days of \$89,481, mainly relates to unpaid lime sales. The outstanding sundry debtors exceeding 90 days of \$32,631, mainly relates to unpaid Peaceful Bay lease fees.

Reserves

The movement to reserves represents interest earned on reserve funds and transfers to and from reserves. A transfer of \$545,000 from the Denmark East Development Reserve (see Note 5) has been made to fund the Denmark East Light Industrial Area Fire Suppression System project.

Cash Management

As at 31 January 2022, total cash funds held (excluding trust funds) totals \$9,637,992 (Note 1).

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

Reserve Funds (restricted) total \$4,112,392 (Note 5).

Municipal Funds (unrestricted) total \$5,525,600 (Note 2).

Voting Requirements:

Simple majority.

OFFICER RECOMMENDATION	ITEM 9.2.7
<p>That With respect to the Financial Statements for the period ending 31 January 2022, Council RECEIVE the Financial Reports, incorporating the Statement of Financial Activity and other supporting documentation.</p>	

9.2.8 LIST OF PAYMENTS FOR THE PERIOD ENDING 31 JANUARY 2022

File Ref:	FIN.1
Applicant / Proponent:	Not applicable
Subject Land / Locality:	Not applicable
Disclosure of Officer Interest:	Nil
Date:	25 February 2022
Author:	Lee Sounness, Manager of Corporate Services
Authorising Officer:	Gina McPharlin, Director Corporate & Community Services
Attachments:	9.2.8 – January 2022 Monthly List of Payments Summary

Summary:

The purpose of this report is to advise the Council of payments made during the period 1 January 2022 to 31 January 2022.

Background:

Nil

Consultation:

Consultation was not required for this report.

Statutory Obligations:

Local Government (Financial Management) Regulation 13 relates:

Policy Implications:

Delegation Number D040201 relates.

Budget / Financial Implications:

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

Strategic & Corporate Plan Implications:

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

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

Denmark 2027

L5.4 *To be fiscally responsible*

Sustainability Implications:

➤ **Governance:**

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

➤ **Environmental:**

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

➤ **Economic:**

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

➤ **Social:**

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

➤ **Risk:**

Nil

Comment/Conclusion:

Nil

Voting Requirements:

Simple majority.

OFFICER RECOMMENDATION	ITEM 9.2.8
<p>That with respect to the attached Schedule of Payments, totalling \$1,343,393.65, for the month of January 2022, Council RECEIVE the following summary of accounts:</p> <ul style="list-style-type: none"> • Electronic Funds Transfers EFT32047 to EFT32215 - \$733,407.70; • Municipal Fund Cheque No's 60464 – 60470 - \$11,664.25; • Internal Account Transfers (Payroll) - \$468,740.66; and • Direct Debit - \$8,464.10; • Corporate Credit Card; \$7,476.54; • Department of Transport Remittances; \$99,279.50, and • Loan Payments: \$14,360.90 	

9.2.9 INVESTMENT REPORT FOR THE PERIOD ENDED 31 JANUARY 2022

File Ref:	FIN.19
Applicant / Proponent:	Not applicable
Subject Land / Locality:	Not applicable
Disclosure of Officer Interest:	Nil
Date:	28 February 2022
Author:	Lee Sounness, Manager Corporate Services
Authorising Officer:	Gina McPharlin, Director Corporate & Community Services
Attachments:	9.2.9 - January 2022 Investment Register

Summary

This report presents the Investment Register for the period ending 31 January 2022.

Background

This report is for Council to receive the Investment Register for the period ending 31 January 2022.

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

Consultation

Nil.

Statutory Obligations

The *Local Government Act 1995 – Section 6.14, the Trustees Act 1962 – Part III Investments, the Local Government (Financial Management) Regulations 1996 - Reg. 19, 28 and 49, and the Australian Accounting Standards*, sets out the statutory conditions under which funds may be invested.

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

Policy Implications

All investments are made in accordance with Council Policy P040229 – Investments, which states that investments are to comply with the following three (3) key criteria:

- d) Portfolio Credit Framework - limits the percentage of the portfolio exposed to any particular credit rating category (table a.)

Table a.

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

- e) Counterparty Credit Framework – limits single entity exposure by restricting investment in an individual counterparty/institution by their credit rating (table b.)

Table b.

A. S&P Long Term Rating	B. S&P Short Term Rating	C. Direct Investment Maximum %	D. Managed Funds Maximum %
AAA	A1+	50%	50%
AA	A-1	35%	45%
A	A-2	25%	40%

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

- f) Term to Maturity Framework - limits investment based upon maturity of securities (table c.)

Table c.

Overall Portfolio Return to Maturity		
Portfolio % <1 year	Min 40%	Max 100%
Portfolio % >1 year	Min 0%	Max 60%
Portfolio % >3 year	Min 0%	Max 50%
Portfolio % >3 year < 5 year	Min 0%	Max 25%

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

Budget / Financial Implications

There are no significant trends or issues to be reported.

Strategic & Corporate Plan Implications

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

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

Denmark 2027

L5.4 To be fiscally responsible

Sustainability Implications

➤ **Governance:**

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

➤ **Environmental:**

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

➤ **Economic:**

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

➤ **Social:**

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

➤ **Risk:**

Nil.

Comment / Conclusion

The attached Investment Register summarises how funds are invested as per the Shires Investment Policy and reports on the Investment Portfolio balance as at 31 January 2022.

The Investment Portfolio complies with the criteria of Investment Policy P040229 with the portfolio balance mix meeting the requirement of no single institution holding more than 50% of the total funds invested, and an individual institution's Standard & Poor's (S&P) credit rating meeting the required threshold to limit single entity exposure.

The total Reserve Funds invested as at 31 January 2022 totals \$4,112,384

The total Municipal Funds Invested as at 31 January 2022 totals \$4,158,766

The Reserve Bank of Australia (RBA) has not altered its cash rate for this month. The cash rate remains set at 0.10%.

Voting Requirements

Simple majority.

OFFICER RECOMMENDATION	ITEM 9.2.9
That Council RECEIVE the Investment Register (attachment 9.2.9) for the period ended 31 January 2022.	

9.3 CHIEF EXECUTIVE OFFICER

9.3.1 SUSTAINABLE PROJECTS COMMITTEE

File Ref:	CR.1
Applicant / Proponent:	Not applicable
Subject Land / Locality:	Not applicable
Disclosure of Officer Interest:	Nil
Date:	17 January 2022
Author:	David King, Deputy CEO and David Schober CEO
Authorising Officer:	David Schober, Chief Executive Officer
Attachments:	9.3.1 - Draft Sustainable Projects Committee Charter

Summary:

This report recommends that the Council establish a Sustainable Projects Committee (The Committee) and appoint four (4) Councillor representatives.

Background:

In November 2018, the Shire of Denmark established a Sustainability Strategy Working Group (SSWG) to deliver a Sustainability Strategy for the Shire of Denmark. As well as establishing a Waste Working Group (WWG) tasked to deliver a plan for waste reduction across the Shire.

In September 2019, the Shire of Denmark declared a climate emergency. It adopted organisational targets to reduce Green House Gas (GHG) emissions to 50% by 2030 and net-zero by 2050.

In March 2021, Council adopted the Sustainability Strategy and associated Action Plans. The Sustainability Strategy reaffirms the organisational goals for GHG reduction. It guides the Council on nine (9) other areas, including a target of zero waste to landfill by 2030.

The creation of the Sustainability Strategy met the requirement of the SSWG sunset clause.

In May 2021 Council endorsed a Waste Action Plan that included actions to meet Waste Avoidance and Resource Recovery Act 2007 (WARR) Strategy Targets.

The endorsement of an action plan met the requirement of the WWG sunset clause.

Given the significance of the Sustainability Strategy, there is a need for the Council to have strategic oversight of the progress towards the Shires adopted targets.

Consultation:

Councillors considered the formation of a Sustainable Projects Committee of Council at the following briefing sessions:

- 9 November 2021 – Concept Briefing
- 14 December 2021 – Concept Briefing
- 21 December 2021 – Strategic Briefing

Statutory Obligations:

The following legislation relates to Council Committees:

LOCAL GOVERNMENT ACT 1995

Subdivision 2 — Committees and their meetings

5.8. Establishment of committees

A local government may establish* committees of three (3) or more persons to assist the Council and to exercise the powers and discharge the duties of the local government that can be delegated to committees.

* *Absolute majority required.*

5.9. Committees, types of

- (2) A committee is to comprise —
- (a) council members only; or
 - (b) council members and employees; or
 - (c) council members, employees and other persons; or
 - (d) council members and other persons; or
 - (e) employees and other persons; or
 - (f) other persons only.

Subdivision 3 — Matters affecting council and committee meetings

5.19. Quorum for meetings

The quorum for a meeting of a council or Committee is at least 50% of the number of offices (whether vacant or not) of member of the Council or the Committee.

5.20. Decisions of councils and committees

- (2) A decision of a committee does not have effect unless it has been made by a simple majority or, if another kind of majority has been prescribed by regulations or a local law for the particular kind of decision, by that kind of majority.

Policy Implications:

Policy P040235 – Presiding Members of Council Committees and Working Groups relates

Budget / Financial Implications:

There are no financial implications in establishing a Committee of Council.

Strategic & Corporate Plan Implications:

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

Denmark 2027

L5.0 Our Local Government

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

Corporate Business Plan

Nil

Sustainability Implications:➤ **Governance:**

Committee of Council requires additional administrative compliance requirements.

➤ **Environmental:**

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

➤ **Economic:**

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

➤ **Social:**

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

➤ **Risk:**

Nil

Comment/Conclusion:

Officers recommend forming a Sustainable Projects Committee to meet strategic requirements.

The intent in forming a Sustainable Projects Committee is to:

1. develop actions and policies to make the organisation more sustainable, and
2. support the broader Denmark community to become more sustainable.

Officers recommend that four (4) Councillors form the Committee.

Officers considered the merit of having external agencies and other stakeholders as core members of the Committee. Officers believe that including additional members on the Committee would be inefficient and often lead to meetings where agenda items may not be relevant to all members. Many agencies and stakeholders have also expressed this view.

As such, and given the strategic role of this Committee, it is recommended to include Councillors only. Collaboration and partnerships between the Shire, key stakeholders and external agencies will be achieved through targeted invitations.

Voting Requirements:

Absolute majority.

OFFICER RECOMMENDATION	ITEM 9.3.1
<p>That Council;</p> <ol style="list-style-type: none"> 1. ESTABLISH a Sustainable Projects Committee of Council, according to the Charter, Attachment 9.3.1; and 2. ENDORSE the following Councillors as members of the Sustainable Projects Committee of Council; Cr _____, Cr _____, Cr _____ and Cr _____ 	

9.3.2 CEO PERFORMANCE REVIEW PROCESS

File Ref:	Personnel File
Applicant / Proponent:	Not applicable
Subject Land / Locality:	Not applicable
Disclosure of Officer Interest:	The Author and Authorising Officer are both direct reports to the position of Chief Executive Officer
Date:	28 February 2022
Author:	Marcia Chamberlain, Coordinator Employee Support and Culture
Authorising Officer:	David King, Deputy CEO
Attachments:	9.3.2 - CEO Recruitment, Performance and Termination Standards Policy

Summary:

Council is requested to commence a performance review process of the Chief Executive Officer (CEO), which includes the development of key performance indicators to determine the CEO's priorities and objectives for the ensuing 12 months.

Background:

David Schober was appointed by Council to the CEO position on 16 March 2021, following a term of 19 months as the Acting CEO. Mr Schober has been appointed for a five (5) year term. Council has a statutory obligation to review the CEO's performance annually.

At the Ordinary Council Meeting, 21 September 2021, Council adopted the CEO Recruitment, Performance and Termination Standards Policy. This policy, attachment 9.3.2, guides Council and the CEO on the standards for review and the process to be undertaken.

At a discussion forum held on 8 September 2020, Councillors considered the preferred method to undertake the performance review of the CEO in 2021. At this time, Councillors indicated that they would prefer an external consultant, as this was consistent with how previous CEOs had been reviewed. Officers have not discussed the CEO annual review process with the new Council and accept that there may be an alternate view. Alternative methods for consideration are discussed later in this report.

Consultation:

Nil

Statutory Obligations:

Local Government Act 1995

Section 5.38 (1) states a *local government must review the performance of the CEO if the CEO is employed for a term of more than 1 year.*

Section 5.38 (3) states a *review under subsection (1) or (2) must be conducted at least once in relation to each year of the person's employment.*

Section 5.39 (7) states a *CEO is to be paid or provided with such remuneration as is determined by the Salaries and Allowances Tribunal under the Salaries and Allowances Act 1975 section 7A.*

Policy Implications:

CEO Recruitment, Performance and Termination Standards Policy

Part 16

- (1) The local government and the CEO must agree on —
 - (a) the process by which the CEO's performance will be reviewed; and
 - (b) any performance criteria to be met by the CEO that are in addition to the contractual performance criteria.
- (2) Without limiting subclause (1), the process agreed under subclause (1)(a) must be consistent with clauses 17, 18 and 19.
- (3) The matters referred to in subclause (1) must be set out in a written document.

Part 17

- (1) The review must be carried out in an impartial and transparent manner
- (2) Council must —
 - (a) collect evidence regarding the CEO's performance in respect of the contractual performance criteria and any additional performance criteria in a thorough and comprehensive manner; and
 - (b) review the CEO's performance against the contractual performance criteria and any additional performance criteria, based on that evidence.

Budget / Financial Implications:

Performance Review Costs

Officers have recommended contracting an external consultant to undertake the performance review of the CEO in this report. The cost of engaging a consultant is estimated at \$5,000.

The Strategic Planning & General Consultancies (GL1420322) budget has been used for this purpose in previous years.

The budget item had an amended total allocation for 2021/22 of \$118,000. \$66,387 of expenditure is recorded in this account year-to-date.

Officers recommend obtaining three (3) written quotations for review.

Strategic & Corporate Plan Implications:

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

Denmark 2027

L5.0 Our Local Government

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

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

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

L5.4 To be fiscally responsible.

Sustainability Implications:

➤ **Governance:**

An annual performance review allows the Council to measure the CEO's performance in the role and determine key performance indicators (objectives) for the ensuing 12 months.

➤ **Environmental:**

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

➤ **Economic:**

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

➤ **Social:**

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

➤ **Risk:**

Risk	Risk Likelihood (based on history and with existing controls)	Risk Impact / Consequence	Risk Rating (Prior to Treatment or Control)	Principal Risk Theme	Risk Action Plan (Controls or Treatment proposed)
That Council's preferred approach does not meet community expectations	Rare (1)	Minor (2)	Low (1-4)	Not Meeting Community expectations	Accept Risk

Comment/Conclusion:

Employment Contract

Below are the relevant clauses from the CEO's Employment Contract relating to the annual performance review.

Clause 4.3(1) of the CEO's Employment Contract states that the Council, in consultation with the CEO, is to determine –

- a) Who the reviewer is to be; and
- b) Whether the reviewer is to be accompanied or assisted by any other person and, if so, the identity of that person.

Clause 4.3(2) for example, the reviewer may be –

- a) the Council;
- b) a committee to which the conduct of the performance review has been delegated by the Council; or
- c) a person or body who has been authorised by the Council.

Clause 4.4(1) requires that the CEO provide the Shire President at least one month's written notice of when the performance review is required.

The CEO sent the Shire President an email on 3 February 2022 to this effect.

Clause 4.4(2) – the review is to be conducted in accordance with Schedule 2 of the Local Government (Administration) Regulations 1996. [Council Policy is aligned with the requirements under Schedule 2].

There are no statutory provisions relating to the process of a performance review.

Last year, the review was facilitated by an external consultant.

The CEO supports the recommendation that an external consultant be engaged for the 2022 review to assist the Council to perform its functions under Part 17(2) of the Policy.

Officers, therefore, recommend an external consultant for transparency, impartiality and administrative ease.

Should the Council disagree with the officer's recommendation, it would be advisable for the Council to defer the matter to allow informal discussion between the CEO and Councillors to determine an agreed process.

However, clause 4.3(3) of the Standards for CEO Recruitment, Performance and Termination Policy, that if no agreement can be made, then the Council shall make the determination.

Voting Requirements:

Simple majority.

OFFICER RECOMMENDATION	ITEM 9.3.2
<p>That with respect to the position of Chief Executive Officer, Council:</p> <ol style="list-style-type: none"> 1. SEEK at least three (3) quotations, from suitably qualified consultants, to appraise the CEO's performance from March 2021 to March 2022; 2. AUTHORISE the Shire President to engage with the CEO and seek mutual agreement on one of the consultants, subject to budget limitations; 3. AUTHORISE the Shire President to engage a suitably qualified external consultant up to the value of \$5,000 to: <ol style="list-style-type: none"> a) facilitate a review of Mr. Schober's performance as Chief Executive Officer from March 2021 to March 2022; and b) assist the Council to determine, and set, new performance criteria for the office of Chief Executive Officer for the next 12 months. 	

10. COMMITTEE REPORTS AND RECOMMENDATIONS

10.1 AUDIT ADVISORY COMMITTEE - 2021 COMPLIANCE AUDIT RETURN

File Ref:	FIN.8A
Applicant / Proponent:	Not applicable
Subject Land / Locality:	Not applicable
Disclosure of Officer Interest:	Nil
Date:	22 February 2022
Author:	Claire Thompson, Governance Coordinator
Authorising Officer:	David Schober, Chief Executive Officer
Attachments:	10.1a - 2021 Compliance Audit Return 10.1b - Audit Advisory Committee Minutes 4 March 2022

Summary:

The Council are required to adopt the 2021 Compliance Audit Return (CAR) following a review by the Audit Advisory Committee.

The Minutes from the Committee meeting are also attached for Council's information.

Background:

Each year a local government is required to carry out a compliance audit for the period 1 January to 31 December against the requirements of the Compliance Audit Return provided by the Department of Local Government, Sport and Cultural Industries.

The information derived from the CAR is retained by the Department for future reference.

Consultation:

Relevant Shire employees, who had responsibility to ensure compliance of matters within the CAR, have been consulted.

Statutory Obligations:

- Section 7.13 (1) (i) of the Local Government Act 1995 requires that the audit of compliance is to be carried out in a prescribed manner and in a form approved by the Minister.
- Regulation 13 sets out the prescribed manner and form of a compliance audit return, which has been approved by the Minister.
- Regulation 14 refers to the compliance audit period, the format and states that the compliance audit return is to be reviewed by the local government's audit committee and that the audit committee must report the result of that review to Council. The audit committee's report must be presented to, and adopted by, the Council.
- Regulation 15 refers to the requirement that a certified copy of the compliance audit return is presented to the Director General of the Department by 31 March.

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.

Strategic & Corporate Plan Implications:

The report and officer recommendation is consistent with Council's adopted Strategic Community Plan aspirations 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 a high functioning, open, transparent, ethical and responsive.

Sustainability Implications:

➤ **Governance:**

To comply with legislation, the Compliance Audit Return is to be submitted to the Department by 31 March, each year.

➤ **Environmental:**

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

➤ **Economic:**

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

➤ **Social:**

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

➤ **Risk:**

Nil

Comment/Conclusion:

The draft 2021 Compliance Audit Return (CAR) is attached.

There was one area of non-compliance relating to the timeframe for adopting a code of conduct for Council members, committee members and candidates. The requirement for a new code came into operation on 3 February 2021 and local governments were required to adopt a new code (policy) within 3 months.

The new code (policy) was presented to, and adopted by, Council on 20 July 2021.

The Audit Advisory Committee reviewed the CAR and made the recommendation below, for Council’s consideration.

Voting Requirements:

Simple majority.

COMMITTEE RECOMMENDATION	ITEM 10.1a
<p>That with respect to the 2021 Compliance Audit Return, Council:</p> <ol style="list-style-type: none"> 1. Note the one area of non-compliance; 2. Endorse the 2021 Compliance Audit Return; and 3. Submit a certified copy to the Director General of the Department of Local Government, Sport and Cultural Industries by 31 March 2022. 	

COMMITTEE RECOMMENDATION	ITEM 10.1b
<p>That Council NOTE the Minutes of the Audit Advisory Committee meeting held on 4 March 2022, as per Attachment 10.1b.</p>	

11. MATTERS BEHIND CLOSED DOORS

12. NEW BUSINESS OF AN URGENT NATURE

13. CLOSURE OF MEETING