

Shire of Denmark

Ordinary Council Meeting **MINUTES** 21 JUNE 2022



HELD IN COUNCIL CHAMBERS, 953 SOUTH COAST HIGHWAY,
DENMARK, ON TUESDAY, 21 JUNE 2022.



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Strategic Community Plan (snapshot)

E1.0

Our Economy

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

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

N2.0

Our Natural Environment

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

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

B3.0

Our Built Environment

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

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

C4.0

Our Community

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

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

L5.0

Our Local Government

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

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

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

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1. DECLARATION OF OPENING/ANNOUNCEMENT OF VISITORS

4.10pm – The Deputy Shire President, Cr Gibson, declared the meeting open and acknowledged the Bibbulmun and Minang people as the traditional custodians of the land on which the meeting was being held. Cr Gibson paid his respects to Elders past, present and emerging.

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

MEMBERS:

- Cr Kingsley Gibson (Deputy Shire President)
- Cr Donna Carman
- Cr Donald Clarke
- Cr Nathan Devenport
- Cr Jan Lewis
- Cr Jackie Ormsby

STAFF:

- David Schober (Chief Executive Officer)
- David King (Deputy Chief Executive Officer)
- Gina McPharlin (Director Corporate & Community Services)
- Claire Thompson (Governance Coordinator)

APOLOGIES

Nil

ON APPROVED LEAVE(S) OF ABSENCE

- Cr Janine Phillips (pursuant to Council Resolution No. 010522 / 17 May 2022)
- Cr Clare Campbell (pursuant to Council Resolution No. 010522 / 17 May 2022)
- Cr Ceinwen Gearon (Shire President) (pursuant to Council Resolution No. 010522 / 17 May 2022)

ABSENT

Nil

VISITORS

Nil

3. DECLARATIONS OF INTEREST

Name	Item No	Interest	Nature
Cr Lewis	9.3.1	Impartiality	My husband is President of Horsepower Denmark and I volunteer for them.

4. ANNOUNCEMENTS BY THE PERSON PRESIDING

The Deputy Shire President acknowledged that it was the winter solstice and said that from now the days would be getting longer and, hopefully warmer.

5. PUBLIC QUESTION TIME

5.1 RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE

Nil

5.2 PUBLIC QUESTIONS

In accordance with Section 5.24 of the Local Government Act 1995, Council conducts a public question time to enable members of the public to address Council or ask questions of Council. The procedure for public question time can be found on

the wall near the entrance to the Council Chambers or can be downloaded from our website at <http://www.denmark.wa.gov.au/council-meetings>.

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

In accordance with 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

5.2.1 Nick Ayton – Item 9.1.2 (Kearsley Road Structure Plan Amendment)

Nick provided background on the Structure Plan and advised that the developer had undertaken significant consultation to date, particularly with the Environmental Protection Authority. Nick thanked Council Officers for their assistance and requested Council's support for the amendment.

5.2.2 John Xanthis – Item 9.1.1 (Bird Sanctuary)

John spoke on behalf of the Wilson Inlet Restoration Group (WIRG) and noted continuing concern about the erosion near the Prawn Rock Channel. John referred to the proposed area for the bird sanctuary, in relation to future Inlet openings, stating that excavation through the proposed area could be an issue. John requested that the map be amended to exclude the eastern channel. John also mentioned that the breakwater works at Ocean Beach could impede access by machinery required to open the inlet in the future.

John asked what the current situation was with proposed works to address the erosion at Prawn Rock Channel.

The Deputy CEO advised that works at PRC were being considered through the budget process and would need to be considered against other priorities.

John asked what had been discussed regarding machinery access after last year's floods.

The Deputy CEO responded that access difficulties had been acknowledged and in 2021 there had been discussions about bringing in machinery via the Nullaki if required. Mr King said that if the works at Ocean Beach had not been done, significant infrastructure at Ocean Beach could have been lost.

5.2.3 Brad Kneebone – Item 9.1.1 (Bird Sanctuary)

Brad spoke on behalf of the Denmark Bird Group and expressed disappointment that Officer's were recommending a reduction in bird protection area and said that he felt that the access paths should not be determined in a year when there was such a high water mark. Brad requested that the Council not reduce the area that had been advertised and said that they preferred a southern access so as to further reduce any human or dog impact on nesting birds.

5.2.4 Graham Robertson – Item 9.1.2 (Kearsley Road Structure Plan Amendment)

Mr Robertson said that they had been working with the Shire of Denmark and the WA Planning Commission to ensure that the subdivision adequately addressed any future impacts from climate change, such as flooding and fire management. Mr Robertson said that he believed that the proposed amendment that had been reached was a good compromise.

5.2.5 Jill Williams – Item 9.1.1 (Bird Sanctuary)

Jill expressed her passion for birds and dogs and acknowledged that the bird sanctuary proposed had caused some conflict within the community. Jill requested that the access path be further south of the fence to lessen the disruption of birds from people and dogs entering the area. Jill said that the proposed reduction in the protection area would be a significant loss to the birds.

5.2.6 Shane Smith – Item 9.1.1 (Bird Sanctuary)

Shane spoke as a fifth generation fisherman of Wilson Inlet and said that he believed that the bird sanctuary was a waste of time, as there were other areas where the birds nested around the Inlet. Shane said that he interacted daily with birds on the water and said that he had not seen a Swan cygnet for around five years, and perhaps that was something that needed investigating. Shane said that he believed the Inlet and shore were for everyone and that there should not be any segregation.

5.2.7 Ross Thornton – Item 9.1.2 (Kearsley Road Structure Plan Amendment)

Ross spoke as the owner of property on Kearsley Road and referred to an approved subdivision for his lot that included the boulevard. Ross referred to the Officer report that recommended the removal of the boulevard in the proposal before the Council. Ross asked whether the intention was for part of the road to be a boulevard and part of it not to be.

The Deputy CEO advised that the intention was for Council to support in principle the remove the proposed boulevard for the entire length of Kearsley Road.

5.2.8 Mel Rees – Item 9.3.5 (Commercial Gymnasium Use)

Mel stated that she had been a physiotherapist for 40 years and had been providing physio classes in the Recreation Centre gymnasium for 28 years. Mel provided a broad overview of the class participants noting that much of the work was to assist the participants to remain physically active and, some of them out of the aged care system.

Mel thanked the Shire for allowing her to facilitate the classes to date and, now, officers' efforts to achieve a compromise however, she said that not having exclusive use would have negative impacts on the program, particularly by there being music and class participants feeling rushed.

Mel said that if the changes were to be adopted by Council, she would prefer the permitted commercial use times to be earlier in the day as it would suit the majority of her clients.

5.2.9 John Davis – Item 9.3.5 (Commercial Gymnasium Use)

John spoke as a participant of Mel Rees physiotherapy classes, after being referred to it by a local General Practitioner. John advised that they usually did a full circuit, using all of the equipment, and having other general gym users there would not allow them to do that anymore.

John said that he volunteered within the community and it was the physio classes that helped him remain physically active and capable.

5.2.10 Mike Travers – Item 9.3.5 (Commercial Gymnasium Use)

Mike stated that the Recreation Centre gymnasium was the only gym available in Denmark as there were none that were privately run. Mike expressed concern that because of this, the Shire had a monopoly and the proposal in the Agenda seemed to favour 24 hour users. Mike said that the

Shire should be supporting allied health services using community facilities in order to service their clients.

5.2.11 Jan Hardwick – Item 9.3.5 (Commercial Gymnasium Use)

Jan advised that she had been attending the physio (circuit) classes for many years and was disappointed that access to the Recreation Centre gym would no longer be allowed. Jan said that her and husband had just come back from volunteering for Blaze Aid and it was from attending the classes that allowed her to be physically able to volunteer in such capacity.

Jan said that she felt that Shire Officers had been influenced by a few complaints and had reached a decision without considering any of the other users.

5.3 QUESTIONS BY MEMBERS OF WHICH DUE NOTICE HAS BEEN GIVEN

Nil

5.4 PRESENTATIONS, DEPUTATIONS & PETITIONS

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

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

Nil.

6. APPLICATIONS FOR FUTURE LEAVE OF ABSENCE

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

6.1 CR PHILLIPS

The Deputy Shire President advised that Cr Phillips had contacted him and requested leave of absence for the July 2022 Ordinary Council Meeting. Cr Gibson asked if any of the Councillors would like to move a motion.

COUNCIL RESOLUTION	ITEM 6.1
MOVED: CR LEWIS	SECONDED: CR CLARKE
That Cr Phillips be granted leave of absence for the July 2022 Ordinary Council Meeting.	
CARRIED: 6/0	Res: 010622

7. CONFIRMATION OF MINUTES

7.1 ORDINARY COUNCIL MEETING – 17 MAY 2022

OFFICER RECOMMENDATION	ITEM 7.1
MOVED: CR CARMAN	SECONDED: CR ORMSBY
That the minutes of the Ordinary Meeting of Council held on the 17 May 2022 be CONFIRMED as a true and correct record of the proceedings.	
CARRIED: 6/0	Res: 020622

7.2 STRATEGIC BRIEFING NOTES – 17 MAY 2022

OFFICER RECOMMENDATION	ITEM 7.2
MOVED: CR CLARKE	SECONDED: CR LEWIS
That the Notes from the Strategic Briefing Forum held on 17 May 2022 be RECEIVED.	
CARRIED: 6/0	Res: 030622

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

Nil

9. REPORTS OF OFFICERS

9.1 DIRECTOR ASSETS AND SUSTAINABLE DEVELOPMENT

9.1.1 BIRD SANCTUARY – DETERMINATION UNDER THE SHIRE OF DENMARK PROPERTY LOCAL LAW

File Ref:	PROJ.ENG.54.20/21
Applicant / Proponent:	Not Applicable
Subject Land / Locality:	Reserve 20578
Disclosure of Officer Interest:	Nil
Date:	26 May 2022
Author:	Damian Schwarzbach, Manager Projects
Authorising Officer:	David King, Deputy Chief Executive Officer
Attachments:	9.1.1a – Determination Map 9.1.1b – Ocean Beach Dog Prohibited Areas 9.1.1c – Public Submissions

Summary:

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

At the Ordinary Council meeting on 15 March 2022, Council requested the CEO to advertise a proposed determination to facilitate a bird sanctuary under the Shire of Denmark Property Local Law.

This report summarises the submissions, seeks to finalise the determination and make recommendations on the operational aspect of a bird sanctuary.

Background:

A bird sanctuary is 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. This fencing has been installed annually since 2014.

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

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

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

At the Ordinary Meeting of Council on 18 May 2021, resolution 080521, Council adopted the Ocean to Channel Concept Plan. It endorsed the consultation plan for a proposed bird sanctuary.

The consultation was completed and presented back to Council on 15 March 2022. Council requested the CEO to give public notice for 21 days, inviting submissions on a proposed determination to facilitate the bird sanctuary.

The public notice has been completed; submissions received and reviewed.

Consultation:

A wide range of consultation has been completed.

Consultation Timeline

- 2020 - Community and key stakeholder consultation during the Ocean to Channel project public submission period.
- 2021 – Individual consultation sessions with key stakeholders to investigate the bird sanctuary concept.
- 2022 – Public notice inviting submissions.

There were 123 submissions received. Of these, 60 responses were in favour, 56 were opposed and 7 were neutral.

These submissions are provided as Attachment 9.1.1c with officers' comments. Further discussion can be found in the comments section of this report.

Statutory Obligations:

Shire of Denmark Local Government Property Local Law

Part 2 - Determinations in respect of local government property provides the mechanism whereby the 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 before continuing with the determination.

The local government is to consider all submissions and decide if it is to amend the proposed determination. Public notice is required to make the public aware of the final determination.

One of the key legislative considerations is that the Shire cannot make determinations on land that is owned or managed by another entity.

In this case, where the inlet is inundated to any depth, the Department of Transport (DOT) assume control and management of the activity. Therefore, whilst the determination proposed encompasses a wide area, it is only applicable to areas not inundated by inlet waters. This results in fluctuating protection areas subject to the water level and sand banks.

Policy Implications:

Policy P050203 Dog Areas relates but is not directly affected by the recommendation.

However, it is proposed to amend the Dog Areas Policy to align it with the protected area boundary.

Budget / Financial Implications:

There is no budget line item for bird sanctuary infrastructure in the 2021/22 budget.

If the bird sanctuary is adopted, officers will consider a recommendation for a budget allocation in 2022/23.

Officers will recommend a budget allocation of \$10,000.

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

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 continued shared use of the area.

➤ **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:

The following key themes were evident from the submissions received:

- Access to the beach
- The extent of dog exercise areas
- Fencing types
- Walk tracks on the northern part of the island

Access to beach

There are currently two access points from the dog car park to the beach. These are shown in Figure 1.

The northern access point enters adjacent to the current removable fence line. Figure 1 shows that with the currently proposed determination of March 2022, this access is removed to provide separation between the protected area and the point at which dogs are let off the leash.

The southern access point enters approximately 60 metres south of the fenceline, as shown in Figure 1. The currently proposed determination would retain this access as the only access from the car park.

The inlet opening this year has led to a large cut out of the shoreline at the southern access point. Access at this location is currently difficult for mobility-impaired users. The northern access point is a shorter walk and usually provides a flatter entry point to the sand flats.

Due to the feedback received, officers recommend retaining the northern access path. To enable separation between the access and the protected area, the area must be amended, as shown in Figure 2. Essentially this moves the southern boundary of the protected area 30m north of its original position and adjusts the location of the island fenceline.

Recommendation 1: Amend the proposed determination in accordance with Figure 2 and Attachment 9.1.1a.

Figure 1 – Map showing affected access resulting from the advertised determination March 2022

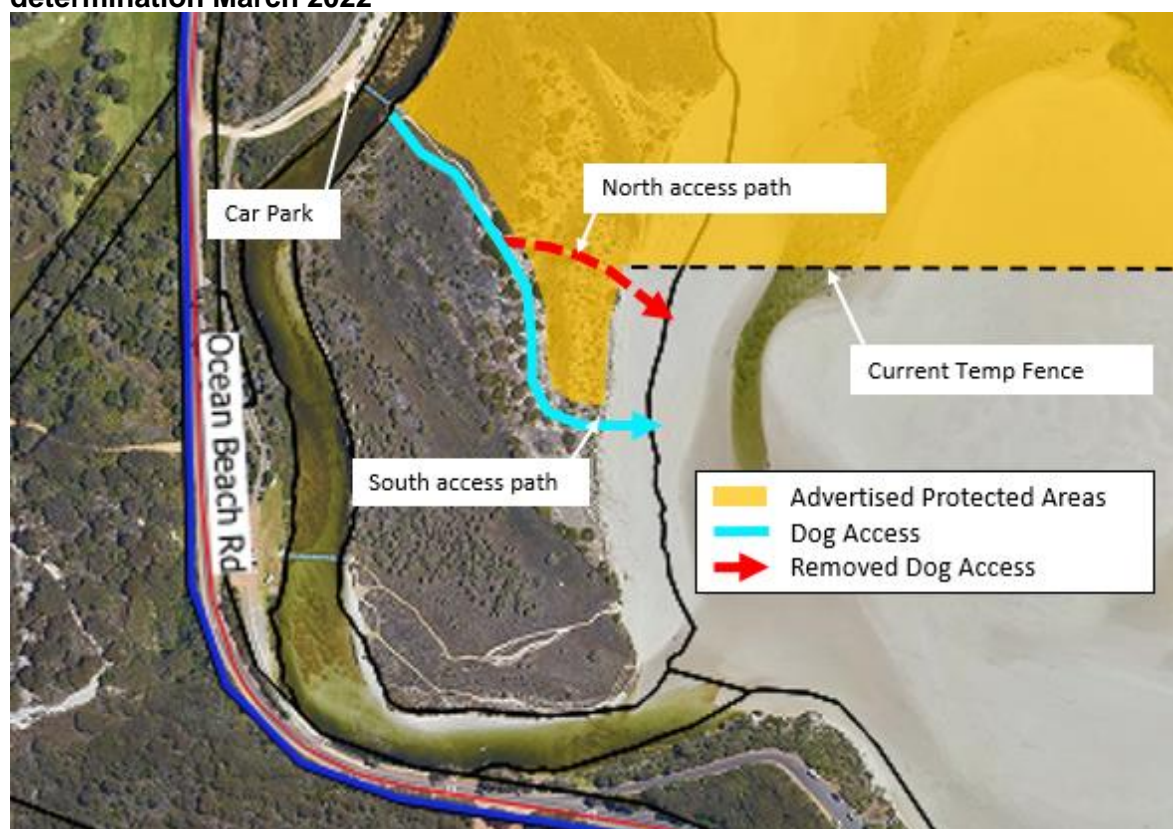
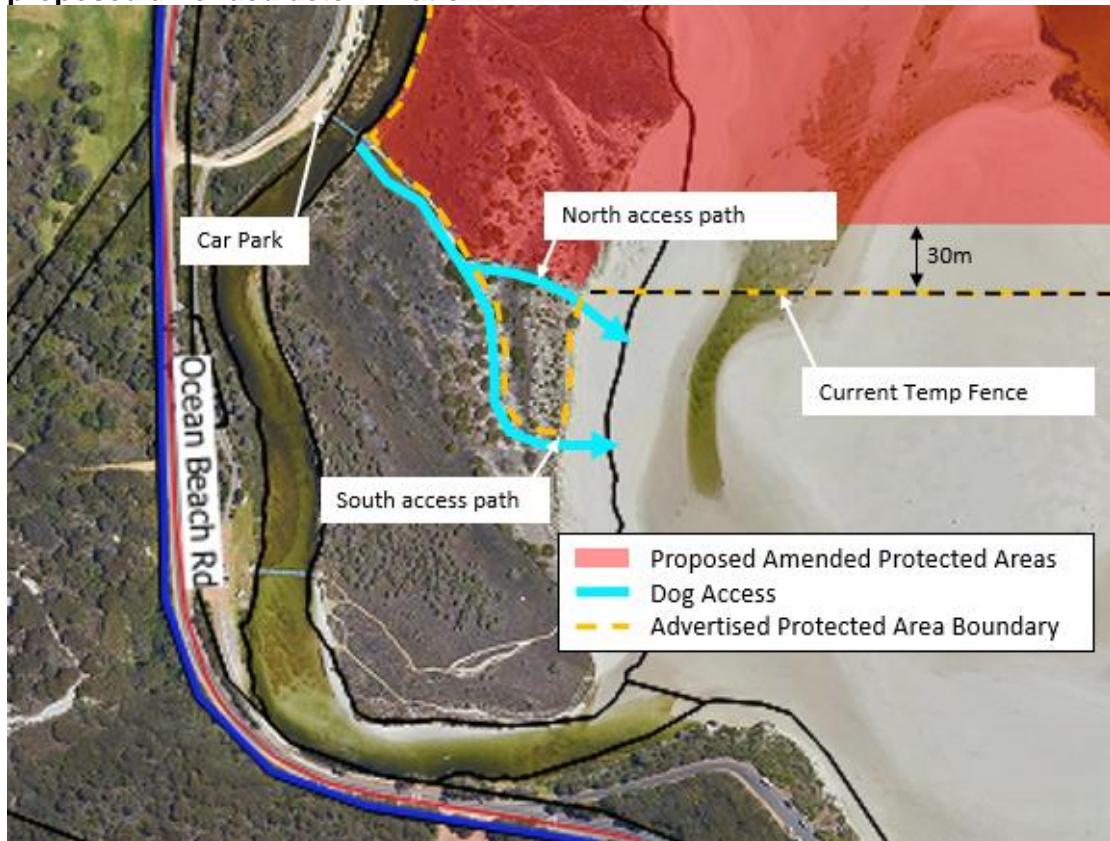
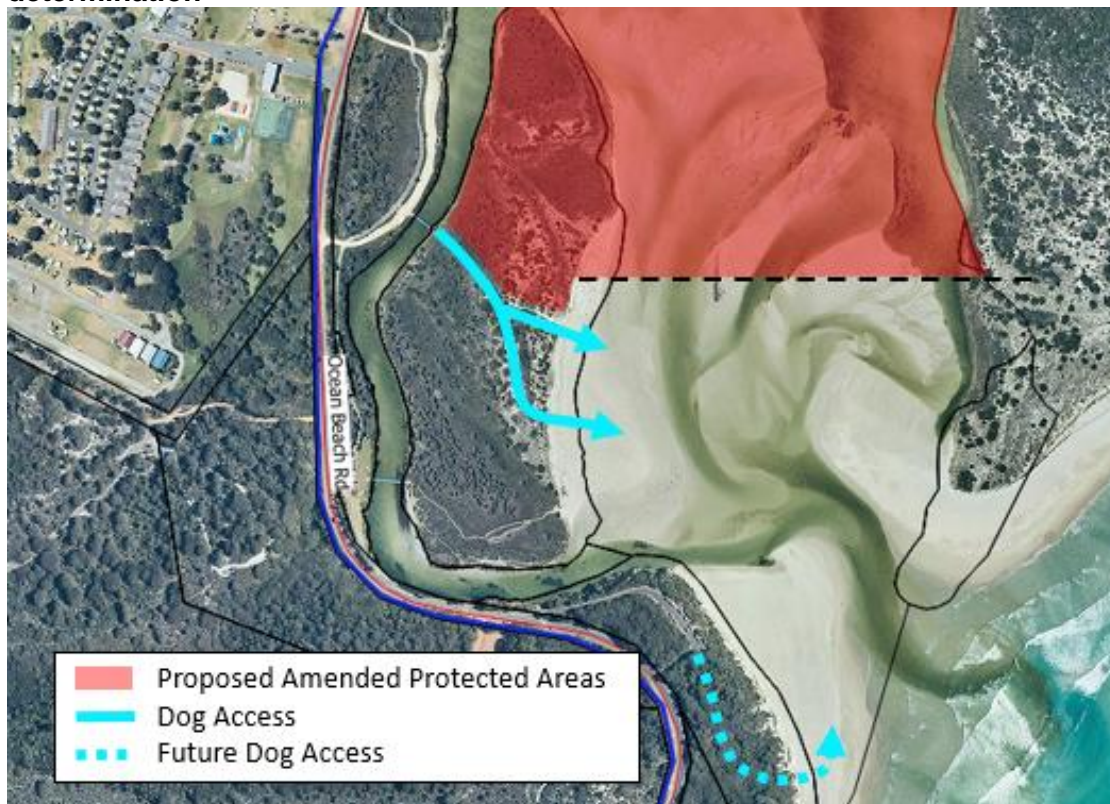


Figure 2 – Map showing affected access resulting from officers proposed amended determination



Accessibility to the beach could also be improved by providing a path and stair access to the eastern side of Ocean Beach. When the channel is opened, this area currently cannot be accessed. This access is shown in Figure 3.

Figure 3 – Proposed Dog access resulting from officers proposed amended determination



Recommendation 2: Provide formalised beach access from the Ocean Beach Inlet Lookout.

The extent of dog exercise areas

There were a number of comments regarding the loss of dog exercise areas. The proposed determination from March 2022 had no reduction of dog exercise areas and was not in conflict with the Dog Areas Policy.

The amendments proposed to the advertised determination enable a modest increase in the dog exercise areas. However, this will require a modification to the Policy to reduce the dog prohibited areas outlined in the Dog Areas Policy.

Recommendation 3: Update the Dog Areas Policy to match the proposed amendments to the designated area.

Fencing

Several submissions questioned the need, length and the visual impact of a fence across the island and the sand flats.

A Bird Sanctuary is an area designed to protect bird species. The main goal of a sanctuary is to prevent species from becoming endangered or extinct, and to protect important wildlife habitats. Human and animal disturbance levels are a factor in bird distribution. Natural habitat protection is a strong community objective that has been identified in the Strategic Community Plan. Fencing across the island provides a physical barrier between the protected and general access areas and should be considered.

Regarding the fencing proposed on the island, it is acknowledged that there will be a visual impact, but the height will be limited, as well as a post and wire construction that will enable the fence to blend in with the environment. The fence is proposed to be offset from the path a few meters to allow it to be partly screened by existing vegetation. These measures will reduce the visual impact to an acceptable level.

Regarding the fencing across the sand flats, officers agree with a number of the comments that it has a significant impact on the area's visual amenity. However, the removable fencing has been used since 2014 on a seasonal basis and has proven to be reasonably effective in delineating the informal area to date.

Continuing with the temporary fencing across the sand flats is recommended to enable initial clarity on the proposed formalised protected areas. As users of the area adapt and understand the access requirements, alternate methods should be investigated. It is proposed that markers at the western and eastern ends of the sand flats to mark the southern boundary of the sanctuary could serve as a longer-term solution, as indicated in Figure 4. However, this requires some further investigation.

Based on a number of the responses, there is a misconception in the community that there will be permanent fencing across the whole inlet. This is incorrect. The only permanent fencing proposed will be across the island, with temporary, seasonal fencing across the exposed sand flats as already occurs seasonally.

Recommendation 4: Install a permanent fence along the edge of the protected areas across the island.

Recommendation 5: Continue the installation of the temporary seasonal fence on exposed sand flats until alternative, less visually intrusive solutions can be implemented.

Recommendation 6: Investigate the potential for permanent marker posts to replace the temporary fence.

Figure 4 – Map showing proposed location of temporary fence and marker posts.



Central pathway in the protected area

The proposed determination advertised for public submissions showed a perimeter walkway around the protected area of the island.

Numerous submissions have explained this as not a practical outcome, and a central path to a bird hide would be more suitable.

The perimeter walkway is not deemed suitable, and a central pathway is recommended due to the following reasons:

1. Habitat
The island's perimeter is a habitat for feeding and nesting shore and wetland birds. The perimeter walkway would be situated where feeding and nesting shorebirds congregate. The proposal is looking to protect these habitats, not place them in jeopardy.
2. Water inundation
Over the years, water levels and wave actions have affected the island's perimeter. The shoreline is a fragile area. If the perimeter walkway was to proceed, this would increase disturbance to bird habitat, nesting, and feeding areas situated close to the shoreline. A central pathway would remove activity from the habitat areas and remove activity from the fragile edges of the shoreline affected by changing water levels.
3. Access
The location of the proposed central pathway is only indicative at this stage. A topographical survey will be initiated to determine a suitable location if the concept is supported. The DBG has indicated the high ground through the mid-northeast area of the island as appropriate for the pathway and bird hide.

Recommendation 7: Amend the proposed determination in accordance with Attachment 9.1.1a.

Seasonal Access

Officers have considered seasonal access to the northern sand flats but do not recommend this option. Officers view the seasonal option as a management issue. Seasonal access will increase the risk of confusion about 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, which coincides with peak recreational usage. Opening up the area in the off-season does not represent a significant enough benefit against the potential risks.

Conclusion

Studies of the birdlife in the Wilson Inlet have revealed that the Prawn Rock Channel area and Morley Beach are important sites for shorebirds. These areas are important because they have the food supplies and variety needed for the survival of these species.

The proposal aligns with the community’s objective in the Strategic Community Plan to protect the natural environment.

Natural environment protection is identified as a key element in the Strategic Community Plan. This proposal aligns Council with the community's expectations and values in that regard.

The recommendation seeks a compromise to allow all users access to this area in some capacity.

Summary of officer recommendations:

1. Amend the proposed determination in accordance with Figure 2 and Attachment 9.1.1a.
2. Provide formal beach access from the Ocean Beach Inlet lookout (not included in the Officer Recommendation as it will be subject to a budget allocation in 2022/23).
3. Update the Dog Policy to match the proposed amendments to the designated area.
4. Install a suitable, permanent fence along the edge of the bird sanctuary across the island.
5. Continue the installation of the temporary seasonal fence on exposed sand flats until alternative, less visually intrusive solutions can be implemented.
6. Investigate the potential for permanent marker posts to replace the temporary fence.
7. Amend the proposed determination in accordance with Attachment 9.1.1a.

Voting Requirements:

Simple majority.

5.42pm – Cr Carman left the room.

5.43pm – Cr Carman returned to the room.

OFFICER RECOMMENDATION	ITEM 9.1.1a)
MOVED: CR DEVENPORT	
That Council:	
1. NOTE the submissions received.	
2. AMEND the proposed determination by reducing the area and noting the discontinued and future paths, in accordance with the map provided in Attachment 9.1.1a.	
3. AUTHORISE the Chief Executive Officer to give public notice of the amendments and that the amended determination has effect as a determination on and from the publication date.	
LAPSED FOR WANT OF A SECONDER	

COUNCIL RESOLUTION

MOVED: CR CLARKE

SECONDED: CR LEWIS

That the meeting be adjourned for a short break, the time being 6.05pm.

CARRIED: 6/0

Res: 040622

6.23pm – *The Deputy Shire President resumed the meeting, with all Councillors and Officers present who were in attendance prior to the adjournment.*

6.23pm - Public Question Time

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

1. Julia Fitzgerald – Meeting Procedure

Julie asked why the meeting had been adjourned.

The Deputy Shire President advised that he had adjourned the meeting so that Councillors and Officers could draft a proposed amendment to the Officer's Recommendation.

2. Jill Williams – Item 9.3.5 (Bird Sanctuary)

Jill asked what the Councillors actually knew about shorebirds.

The Deputy Shire President responded stating he did not believe that the Council knew a lot about shorebirds but they were learning, and would probably like to know more.

3. Jesz Fleming – Mt Hallowell Trails Concept Plan

Jesz spoke on behalf of the Denmark Residents and Ratepayers Association and advised that he they had written to the Shire suggesting that an alternative Shire managed reserve on Turner Road which was currently being revegetated.

The Deputy Shire President responded that the Council would consider the Association's submission when the proposal came back to Council for determination.

4. Mike Travers – Proposed Cat Local Law

Mike expressed his support for the proposed local law and said that he believed that all cats should be confined to their owner's property.

COUNCIL RESOLUTION

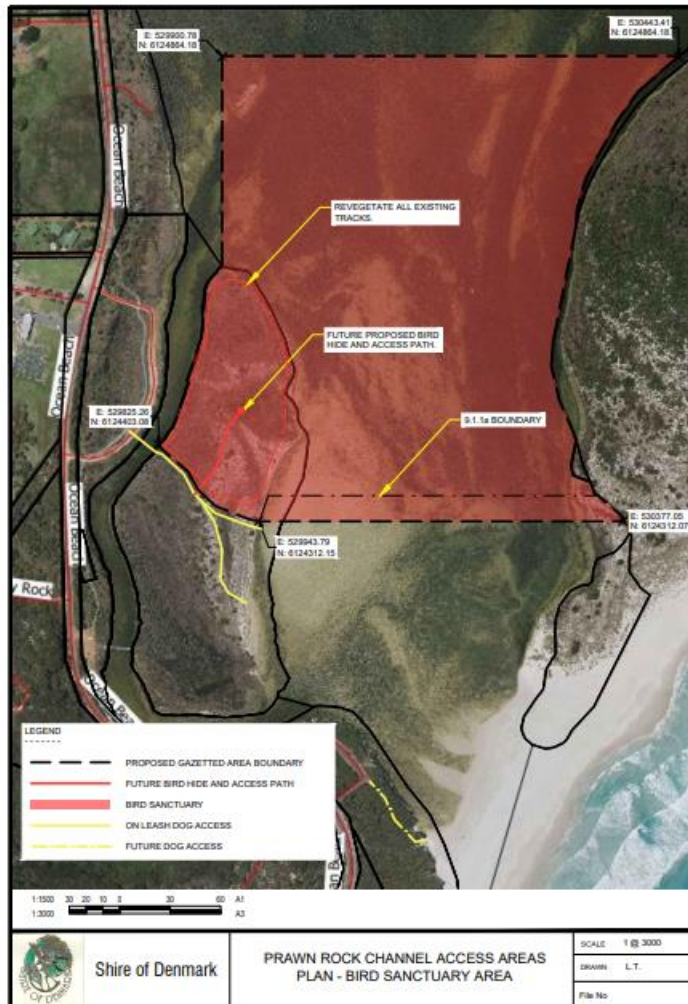
MOVED: CR CARMAN

ITEM 9.1.1a)

SECONDED: CR CLARKE

That Council:

1. NOTE the submissions received.
2. AMEND the proposed determination, as shown in the map below (which will be included in the Minutes as Attachment 9.1.1d), noting the discontinued and future paths.



3. AUTHORISE the Chief Executive Officer to give public notice of the amendments and that the amended determination has effect as a determination on and from the publication date.

CARRIED: 5/1

Res: 050622

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

FOR: Cr Clarke, Cr Lewis, Cr Gibson, Cr Ormsby and Cr Carman.

AGAINST: Cr Devenport.

REASONS FOR CHANGE

Having the fence 30m south provides protection to the section of beach considered by the Denmark Bird Group to have high conservation value whilst maintaining the highly desirable paths for beach access requirements of dog walkers.

OFFICER RECOMMENDATION

ITEM 9.1.1b)

That Council AMEND Policy P050203 Dog Areas to align with the proposed protected areas by replacing “Prawn Rock Channel Map” with Attachment 9.1.1b.

COUNCIL RESOLUTION

ITEM 9.1.1b)

MOVED: CR GIBSON

SECONDED: CR LEWIS

That Council AMEND Policy P050203 Dog Areas to ensure that the Prawn Rock Channel Map is not in conflict with the determination as per Attachment 9.1.1d.

CARRIED: 6/0

Res: 060622

REASONS FOR CHANGE

Given the Council’s Resolution for Item 9.1.1a), Council needed to ensure that the resolution for Item 9.1.1b) reflected the correct map.

COUNCIL RESOLUTION & OFFICER RECOMMENDATION

ITEM 9.1.1c)

MOVED: CR GIBSON

SECONDED: CR ORMSBY

That Council SUPPORT the installation of:

1. A permanent fence across the island, on the boundary of the designated protected area.
2. A temporary, seasonal fence across exposed sand flats to delineate the southern boundary of the bird sanctuary area until completion of (3).
3. Vertical marker posts on either side of the sand flats to delineate the protected area.

AMENDMENT

MOVED: CR LEWIS

SECONDED: CR CLARKE

1. Remove the words “installation of” from the preamble;
2. Add the words “Installation of” prior to the words “A permanent” in part 1
3. Add the words “Installation of” prior to the words “A temporary” in part 2; and
4. Amend part 3 to include the words “Investigation of the practicability of” prior to the word “Vertical”.

CARRIED: 6/0

Res: 070622

AMENDED MOTION

That Council SUPPORT the:

1. Installation of a permanent fence across the island, on the boundary of the designated protected area.
2. Installation of a temporary, seasonal fence across exposed sand flats to delineate the southern boundary of the bird sanctuary area until completion of (3).
3. Investigation of the practicability of vertical marker posts on either side of the sand flats to delineate the protected area.

CARRIED: 6/0

Res: 080622

REASONS FOR CHANGE

The amendment aligns the resolution with the officer report (page11) “Recommendation 6: Investigate the potential for permanent marker posts to replace the temporary fence.”

The Deputy Shire President announced that given the interest from the public gallery in Item 9.3.5, he would move to that item at this point of the meeting.

7.19pm – Cr Lewis left the room.

7.20pm – Cr Lewis returned to the room.

Prior to the consideration of Item 9.3.5, Cr Lewis requested that the following questions be recorded in the Minutes. The Deputy Shire President accepted Cr Lewis' request.

1. Is it correct that another one or more commercial operators 'could' hire the gym non exclusively for a max of 3 days a week?

The CEO said that this was correct.

2. Is there any time limit on the length of hire per session?

The CEO said that Officers were suggesting \$102 per hour, and that the Officer Recommendation would be amended slightly to add "per hour" for clarity.

3. What is the current annual gym membership fee?

The CEO advised that gym membership was \$500 or \$550 if after hours access was included, and that gym and fitness membership was \$550 or \$600 with after hours access. Mr Schober added that Officers were proposing to recommend that after hours access would be incorporated into the membership fees, rather than have two separate fees for each category.

4. It's my understanding that in general, gym members contribute significantly to the costs of operating a community recreation centre, thus reducing the subsidy for all ratepayers, is this the case?

The CEO said that along with casual entry for indoor sports, gym membership income forms the largest revenue source for the Centre.

5. What, generally speaking, would be the financial and other ramifications if we were to revoke 24 hour gym access?

The CEO advised that Officers had not investigated the legal implications of selling 24 hour access membership and then reducing the number of hours that those members could access the facility. Mr Schober added that whilst the financial impact had not been calculated, it would be likely that members who have current 24 hour membership could be entitled to a refund. Mr Schober said that it was worth noting that 24 gymnasium access was an industry standard for all gymnasiums in Albany and Mt Barker.

6. Have officers considered a '22hr' gym access membership & allocating 2 hours every week day where the gym could be hired exclusively by health professionals? If not, is it worth consideration?

The CEO advised that Officers had not considered 22 hour access as 24 hour access was the industry standard.

9.3.5 AMENDMENT OF DENMARK RECREATION CENTRE COMMERCIAL OPERATOR GYM AND FITNESS ROOM HIRE

File Ref:	SER.15
Applicant / Proponent:	Not Applicable
Subject Land / Locality:	Not Applicable
Disclosure of Officer Interest:	Nil
Date:	27 May 2022
Author/s:	Claire Thompson, Governance Coordinator
Authorising Officer:	David Schober, Chief Executive Officer
Attachments:	9.3.5 – Submissions

Summary:

This report seeks Council approval to re-name the *Commercial operator gym and fitness room hire fee* to the *Health Practitioner gym room hire fee* and amend the corresponding room hire fee (based on the premise of cost recovery).

Council is also asked to consider incorporating the after hours access fee into the general membership fee to improve operational efficiencies.

Background:

Currently, the Denmark Recreation Centre Schedule of Fees and Charges (2021/2022) includes:

- Room Hire (per hour) – Commercial operator Gym and Fitness Room only

This fee allows a commercial operator to hire the Shire gymnasium for \$65 per hour.

The operator has discretion as to the number of, and cost to, participants.

Any class participation fees are paid directly to that operator. There is no requirement for class participants to have a gym membership or pay a gym casual user fee.

In 2016, in order to meet gymnasium user demand and increase recreation services, the Shire introduced the ability for members to access the facility at all hours (24/7) and included an after-hours access fee in the Schedule of Fees and Charges.

Currently there is one commercial operator (Physiotherapist) who has regularly hired the gym for the past 28 years. The classes are well attended and the number of participants has, at times, been up to 40. Over the years, the Shire's administration has allowed the operator to use the gym exclusively during the hire periods. This has created some conflict with the Shire providing (and charging) members for 24 hour/7 day a week access.

Users of the gymnasium have grown substantially over the last three (3) years, with gym memberships increasing from 131 in June 2019, to 382 in May 2022. In addition to its members, 682 casual users have visited the gymnasium this financial year, to date.

It is proposed to allow commercial health practitioners to continue to hire the facility for classes however, the use would be non-exclusive and the number of participants would be capped, to ensure that the facility is available for other paid members and casual users.

Consultation:

Consultation regarding user conflicts commenced with the current, long time, commercial operator in 2018.

The matter was then discussed informally with Councillors in 2021 to obtain guidance on possible solutions that would be in the best interest of the community, both gym members and persons needing to use the gym equipment under the guidance of a health practitioner.

Participants of the current program have expressed their desire for the program to be allowed to continue, during a meeting held with the Manager Community Services and the Chief Executive Officer at the Shire Office on 26 May 2022 and the Shire has also received 24 submissions relating to the matter. See Attachment 9.3.5.

The author has also consulted with the Shire's Manager Community Services who has provided background information, statistics on current use and an overview of the discussions had at the May 2022 meeting with participants.

Statutory Obligations:

LOCAL GOVERNMENT ACT 1995

3.18. *Performing executive functions* - in performing its executive functions, a local government may provide services and facilities but must satisfy itself that the services and facilities provided;

- (a) integrate and coordinate, so far as practicable, with any provided by the Commonwealth, the State, or any public body; and
- (b) do not duplicate, to the extent that the local government considers inappropriate, services or facilities provided by the Commonwealth, the State, or any other body or person, whether public or private; and
- (c) are managed efficiently and effectively.

Section 6.16 allows local governments to charge a fee for providing the use of or allowing admission to any property or facility wholly or partly owned, controlled, managed or maintained by the local government.

Any new fees or changes to existing fees must first be advertised (notice given) and then adopted by Council before including or updating the fee in the Local Government's Schedule of Fees and Charges (s 6.19).

Section 6.17 states that a local government must take into consideration the cost of providing the service or goods, the importance of the service or goods to the community, and the price at which the service or goods could be provided by an alternative provider when setting a fee or charge.

Policy Implications:

It is acknowledged that many of the participants who attend the current commercial class are seniors. In this regard, the Council's Seniors Policy (P080601) relates in the following ways.

Objective: Supports the provision of specialist services for the region.

Strategy: Develop formal mechanism for ongoing communication between relevant profession groups, seniors and Council.

Budget / Financial Implications:

The current fee for commercial operator use of the gym is \$65 per hour. Class participants are not required to be gym members or pay a casual user fee. They do, however, pay the commercial operator for the service (class). The \$65 fee is a booking fee to secure a time and date for the class.

It is proposed to limit the number of class participants to 20, to mitigate conflict with other gym users, which is 50% of the room capacity of approximately 40 users. It is acknowledged that booking out up to 50% of the gym for a class could have a significant impact on other paid members and officers recommend that this be reflected in the proposed amended fees.

Currently, there are also health practitioners who use the gym ad-hoc, with one or two clients. These practitioners are not required to book in advance because the gyms availability is subject to other users and the use does not significantly impact other users. Administratively, the health practitioner is permitted free of charge, and each client is required to pay for their own entry.

In setting a fee for hire officers have considered what is fair and equitable for all gym users. It is recommended that the draft 2022/2023 Fees and Charges commercial gym use be amended to:

1. Health Practitioner gymnasium (group) booking (5 – 20 clients) Fee \$102.00 per hour

Notes: Available three (3) days a week from 11am to 3pm. Non-exclusive use and maximum 20 class participants during any one hire period. Fee includes participant user fee.

The recommended \$102 per hour fee has been calculated on the following basis:

- Concession rate for casual user \$8.50
- Assume median number of participants (12)
- 12 x \$8.50 = \$102.00 (including booking fee)

Noting if there are 20 participants, the discounted rate is \$5.10 per person.

2. Health Practitioner gymnasium use (under 5 clients) relevant gym entry fee

Notes: Non-exclusive use. Participants required to pay individual attendance fee, unless already gym members.

Estimated revenue increase of \$5,000 - 1160113 Income – Gym.

AFTER HOURS ACCESS FEE

Currently there is a membership fee and a separate charge for after hours access.

Officers propose incorporating the after-hours access fee into the 2022/2023 gym membership fee to simplify the fee structure, improve operational efficiencies and respond to member feedback. The new proposed (combined) fee will be presented to Council in the draft 2022/2023 Fees & Charges for adoption.

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

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

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

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:**

The rehabilitation and fitness programs delivered by external health practitioners provide vital community services to maintain and improve the physical and mental health of class participants.

➤ **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 health practitioners want to be able to hold classes with more than the allowable number of participants (clients).	Possible (3)	Insignificant (1)	Low (1-4)	Not Meeting Community expectations	Accept Risk.

Comment/Conclusion:

The current hire situation for commercial operators, as discussed above, impede gym users from accessing the gymnasium 24 hours a day, seven (7) days a week. To achieve this outcome, commercial operators will no longer be allowed to use the room exclusively and the number of days and times for operators with more than 5 clients, will be capped to three (3) days a week between 11am to 3pm.

Officers acknowledge that the proposed changes to the commercial operator hire fees will have some impact to the current health practitioner who hires the gym (exclusively) to host classes with up to 40 participants. However, the changes are proposed in an attempt to ensure fairness and access to the facility for all users, 24 hours / 7 days a week.

Changing the name ‘Commercial Operator Gym and Fitness Room hire’ to ‘Health Practitioner gym room hire fee’ better reflects the intent of the fee by clearly defining the category of hirers eligible to hire the facility.

It is proposed this arrangement allows the health practitioner a maximum of 20 clients at any time.

Officers recommend that the Chief Executive Officer develop a Commercial Hire Form that sets out the responsibilities of the hirer and the Shire and includes (but not limited to) conditions such as:

- a) Maximum number of participants;
- b) Non-exclusive use; and
- c) Insurance requirements.

Voting Requirements:

Simple majority.

COUNCIL RESOLUTION & OFFICER RECOMMENDATION ITEM 9.3.5

MOVED: CR GIBSON

SECONDED: CR DEVENPORT

That with respect to the commercial hire of the Denmark Recreation Centre Gymnasium Council:

1. REMOVE the existing *Commercial Operator* fee in the draft 2022/2023 Fees & Charges Schedule;
2. ADD the following new fees and associated notes in the draft 2022/2023 Fees & Charges Schedule:
 - a) Health Practitioner gymnasium (group) booking (5 – 20 clients) Fee \$102.00 per hour
 Notes: *Available three (3) days a week from 11am to 3pm. Non-exclusive use and maximum 20 class participants during any one hire period. Fee includes participant user fee.*
 - b) Health Practitioner gymnasium use (under 5 clients) Relevant Gym Entry Fee
 Notes: *Non-exclusive use. Participants required to pay individual attendance fee, unless already gym members.*
3. REQUEST the Chief Executive Officer to develop a Commercial Hire Form that includes conditions such as maximum number of participants, advice of non-exclusive use and insurance requirements.

CARRIED: 4/2

Res: 090622

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

FOR: Cr Gibson, Cr Ormsby, Cr Devenport and Cr Carman.

AGAINST: Cr Clarke and Cr Lewis.

The Deputy Shire President moved back to Item 9.1.2 on the Agenda.

9.1.2 PROPOSED STRUCTURE PLAN AMENDMENT – PLANNING UNIT C KEARSLEY ROAD

File Ref:	PLN.60
Applicant / Proponent:	Williams Consulting
Subject Land / Locality:	Lots 9000, 349 and 350 McLean, Kearsley and Mt Shadforth Roads, Denmark
Disclosure of Officer Interest:	None
Date:	2 May 2022
Author:	Jasmine Tohill, A/Manager Sustainable Development
Authorising Officer:	David King, Deputy Chief Executive Officer
Attachments:	Attachment 9.1.2a – Structure Plan Amendment Attachment 9.1.2b – Current Precinct C Local Structure Plan Attachment 9.1.2c – Current Subdivision Guide Plan Attachment 9.1.2d – Current Precinct B Structure Plan Attachment 9.1.2e – Current Zoning Attachment 9.1.2f – Schedule of Submissions

Summary:

Council is requested to consider a proposed amendment to the McLean Road, Kearsley Road Local Structure Plan for Precinct C (Attachment 9.1.2a). The proposal has been subject to public advertising with submissions received.

The options available to Council in considering the proposal are:

- 1) To recommend modifications to the document to address issues raised in the submissions and undertake re-advertising; or
- 2) To assess the structure plan and provide a recommendation report to the Western Australian Planning Commission on whether the proposed structure plan should be approved, including a recommendation on any proposed modifications.

Officers recommend option (2) and that the Council recommend the structure plan amendment is not approved in its current form by reason that:

- Substantial updates are required to rectify deficiencies in the documentation.
- Inadequate supporting information has been provided to inform relevant planning considerations or the merits of the proposal.
- More information is required to ensure the lot sizes and layout optimise vegetation protection and reduce the extent of site works required within the steep portions of the site.
- The proposal will compromise the orderly and proper planning of adjoining landholdings within the Precinct C Structure Plan area.

Background:

The site forms part of the adopted McLean Road, Kearsley Road Local Structure Plan for Precinct C including Lot 407 and Lot 9000 to the north (previously Lot 348) and Lot 350 to the south (Attachment 9.1.2b). This Precinct forms part of a contiguous urban growth area identified within TPS Policy 28 (Settlement Strategy for Denmark) that extends east towards Scotsdale Road, including the adjacent Planning Unit 'B' Wishart Place Structure Plan (Attachment 9.1.2d).

This site was rezoned from Rural to Residential R10 and Special Residential (13) through Town Planning Scheme No.3 (TPS3) Amendment 106, gazetted on 23 August 2011. (Attachment 9.1.2e).

The existing Structure Plan for Precinct C was adopted by the resolution of Council on 23 September 2009 (RES:130909) to inform the zoning changes proposed under Amendment 106. Council adopted a separate Subdivision Guide Plan for Precinct C on 23 November 2010 as part of Amendment 106 to inform more detailed subdivision and development requirements (RES:081110) (Attachment 9.1.2c).

The key planning considerations raised through the Local Structure Plan, Subdivision Guide Plan and rezoning process centred on land capability, servicing, protection of remnant vegetation, the design of Kearsley Road for tree retention and minimising the broader visual landscape impact of urban development.

A subdivision application was lodged with the WAPC in 2019 (WAPC 157677) to subdivide the site generally in accordance with the adopted Local Structure Plan and Subdivision Guide Plan. Still, it had excluded the required widening of Kearsley Road to accommodate a 'boulevard'. The Shire provided preliminary comments outlining a range of concerns relating to the deletion of the boulevard, impact upon tree retention, coordination with adjacent landholdings and bushfire planning implications. The application was deferred by WAPC to provide an opportunity to consider options for review of the Local Structure Plan.

The Structure Plan Amendment for consideration seeks to progress planning for the property and address issues identified by the WAPC as part of its assessment of the subdivision application lodged in 2019. Among the key changes are the deletion of the Kearsley Road boulevard, ceding of public open space to contain remnant vegetation, removal of additional areas of remnant vegetation, and reconfiguring of the internal roads and lot layout.

The proponent undertook preliminary consultation with officers from the Shire and the Department of Planning Lands and Heritage before lodgement of the Structure Plan amendment. Officer level feedback primarily centred on the scope and content of the document, planning matters relating to the design of Kearsley Road, drainage requirements and coordination with adjoining land holdings. Several updates to the document were recommended but not implemented before lodgement.

Consultation:

In accordance with the *Planning and Development (Local Planning Schemes) Regulations 2015 (the Regulations)*, the documents met the minimum prescribed standards for advertising. The Regulations do not provide Council with a formal opportunity to consider the planning merits of the proposal before advertising.

Shire Officers considered the Council's Community Engagement Policy P040123 and the requirements of the Regulations with advertising undertaken for 42 days as follows:

- Advert in the Denmark Bulletin
- Notification to adjoining landowners;
- Notification to relevant agencies, including the Department of Water and Environmental Regulation (DWER), Department of Biodiversity, Conservation and Attractions (DBCA), Department of Fire and Emergency Services (DFES), Department of Primary Industries and Regional Development (DPIRD), Department of Planning, Lands and Heritage (DPLH), Department of Health, Water Corporation and Western Power.
- Posting of the advertisement on the Shire's website
- A copy of the document being made available in the Shire offices.

The advertising period closed on 11 February 2022, with four (4) public and four Government Agencies' submissions received. The submissions with the officer's comments are provided as Attachment 9.1.2f to this report.

Statutory Obligations:

An amendment to a Structure Plan is to be treated in the same manner as a new structure plan.

Schedule 2, Part 4, clauses 17 & 18 of the Regulations requires that the WAPC is to be notified and the plan advertised for public comment upon acceptance of a structure plan. The Shire complied with the requirements for advertising the Structure Plan.

Schedule 2, Part 4, clauses 19 & 20 of the Regulations require that Council consider the submissions received during the advertising period and recommend to the WAPC on how to proceed with the structure plan.

Policy Implications:

The following policies have been given due consideration in relation to this proposal:

- State Planning Policy No. 2: Environment and Natural Resources Policy
- State Planning Policy No. 3: Urban Growth and Settlement
- State Planning Policy 3.7: Planning in Bushfire Prone Areas
- State Planning Policy 7: Design of the Built Environment
- Liveable Neighbourhoods (2009) and (Draft 2015)
- Town Planning Scheme Policy No. 28: Settlement Strategy for Denmark
- Town Planning Scheme Policy No.39: Public Open Space

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**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

B3.0 Our Built Environment

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

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

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

Sustainability Implications:➤ **Governance:**

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

➤ **Environmental:**

There are environmental implications relating to the proposed clearing of native vegetation.

➤ **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. The proposal, if progressed, would facilitate additional residential land supply.

➤ **Risk:**

There is no risk to Council in determining this Structure Plan amendment proposal.

The Council's recommendation is provided to the Western Australian Planning Commission (WAPC) for final determination, and any appeal of their final decision lies with the WAPC.

Comment/Conclusion:Scope and Content of the Document

There are various deficiencies in the document, as summarised below:

- The proposal will impact the coordination of road connections, vegetation protection, site works and drainage on adjoining properties. This detail is not included in the amendment.

- A Special Residential zone applies to approximately half of the site. The proposal does not adequately address the requirements for the rezoning of the Special Residential zone, which will need to be progressed before creating any Residential R10 lots within that area.
- The site is subject to a Subdivision Guide Plan. The Subdivision Guide Plan is linked to Special Provisions contained within TPS 3 that control subdivision and development within the Special Residential zone. The proposal does not address the requirements relating to amendment of the Subdivision Guide Plan.
- The Structure Plan map (*Figure 1*) does not include any of the land use/zoning designations shown on the current Local Structure Plan. This detail is essential to inform future subdivision requirements and any associated zoning changes required to TPS 3.
- The Structure Plan map (*Figure 1*) does not include the full extent of the Precinct C Structure Plan Area. This is necessary to inform how the changes will integrate with the adjacent landholdings.
- The Structure Plan Map forming part of the supporting Technical Documents (Bushfire Management Plan & Flora and Vegetation Survey) does not correlate with the submitted structure plan.

Planning Considerations

The proposal has merit in facilitating residential land supply, the ceding of land to protect remnant vegetation, and the provision of a road interface to separate remnant vegetation from residential lots. However, there is a lack of resolution on numerous planning matters and an absence of sufficient supporting information to inform the acceptability of the proposal or the modifications that may be required.

There are two primary aspects of the structure amendment that require particular consideration. These are:

1. Removal of the Kearsley Road boulevard; and
2. The extent of remnant vegetation clearing within an area currently designated for Vegetation Protection.

Further consideration of the relevant planning matters are raised in the Schedule of Submissions at Attachment 9.1.2c and addressed further below; these are:

3. Road and lot layout
4. Lot configuration
5. Drainage

1. Kearsley Road

Kearsley Road will function as the primary north-south access connector servicing adjacent urban development areas.

The protection of trees within Kearsley Road was integral in rezoning Precinct C and adopting Structure Plans for both Precincts C and B. Creating a boulevard to retain trees within a median island have been a long-standing requirement of the structure plan and subdivision process.

A detailed design for the northern portion of Kearsley Road boulevard (north of Wishart Place) was undertaken to support a previous subdivision application (WAPC143581) that has since lapsed.

The design included road reserve widening of up to (10) metres across the frontage of Lot 349, and (6.1) metres across Lot 9000. This road reserve widening provided provision for the northbound lane and dual-use path. The southbound lane was designed to be cited along the cleared area within the existing Kearsley Road reserve.

The Amendment proposes reducing road reserve widening from (10) metres to (4) metres and deleting the boulevard adjacent to Lot 349 in place of a single road pavement along the cleared area within the existing Kearsley Road reserve. The Structure Plan report includes the proposed pruning and clearing of the understorey within Kearsley Road for bushfire mitigation and sightlines, with ongoing maintenance of the verge intended to be assigned to adjacent landowners.

In lieu of a detailed design for the single 6m carridgeway, officers have walked the alignment, and are confident that a 6m carridgeway can be incorporated from Mount Shadforth Road with limited removal of significant trees.

The concept of a 6m single carridgeway results in mature trees retained within the western road verge abutting the residential lots instead of a central median strip. The protection of large canopy trees within a verge, as opposed to a central median strip, may be compromised if the canopies extend over future residential dwellings. This can potentially be managed by the requirement to prepare a Local Development Plan (LDP) to vary the permissible front setback under the Residential R10 coding (currently allowable between 3.75 metres to 7.5 metres) . The final lot configuration proposed under the Structure Plan must demonstrate that sufficient space is available to accommodate the additional front setback enabling development to be sited clear of the mature Karri canopy

2. Vegetation Protection

The western portion of Lot 349 contains approximately 7.7 hectares of remnant vegetation (predominantly Karri and Tingle) classified as very good to excellent condition that abuts an A Class Reserve to the west. The adopted Local Structure Plan and Subdivision Guide Plan intended that the majority of this vegetation be retained as a Vegetation Protection Area within private lots, recognising that it would provide an important landscape backdrop to development.

The vegetation values within the site were taken into account by the Environmental Protection Authority (EPA) through its advice on Amendment 106. This had noted that the Subdivision Guide Plan was to provide for building envelopes in existing cleared areas, and provisions would apply to prevent additional clearing of vegetation within Lot 349.

The proposal will require additional clearing of vegetation on the steeper slopes to accommodate a new road and residential lots. In exchange, it is intended to cede 4.303 hectares of the remaining area as public open space (POS) (equating to approximately 35% of the total area of Lot 349). Supporting technical reports indicate that clearing would further encroach into the POS area and Lot 9000 for road and site works. Access routes are also nominated along the southern and western boundaries within the POS area.

Although the accompanying Flora and Vegetation Survey (December 2020) concludes that the vegetation does not constitute a Threatened or Priority Ecological Community or form part of a Vegetation Complex of conservation significance, with no Threatened (Declared Rare) or Priority flora species recorded, the vegetation remains of high quality and has value from a local habitat, wildlife corridor, community, and landscape perspective. The retention of vegetation on such steeply sloping sites is also important in soil stabilisation, drainage and erosion mitigation. A fauna survey has not been provided to inform significant fauna

habitat values, and ideally, this should be undertaken if further clearing were to be contemplated.

A reduction in the area of remnant vegetation retained on Lot 349 will further impact the configuration and viability of the remaining Vegetation Protection areas nominated within Lot 9000 to the north and Lot 350 to the south; This has not been addressed as part of the design.

The amendment demonstrates an inferior outcome for vegetation retention and broader environmental and landscape amenity. More information is required to ensure the lot sizes and layout optimise vegetation protection.

3. Road and Lot layout

The Structure Plan amendment has been generated by the WAPC's requirement to accommodate a western road interface between residential lots and remnant vegetation.

The western road alignment encroaches into an area of excellent quality vegetation on a steeply sloping site, nominated under the adopted structure plan for Vegetation Protection. No rationale has been provided to justify the chosen alignment of the road, or how it would coordinate to provide a road interface to vegetation on the adjacent properties to the north and south.

The road layout also requires a significant cut batter in the order of (7) meters in the northwest corner of the development. Cut batters of this magnitude in a residential setting have engineering and landscaping challenges and should be avoided where possible.

The proposed southern road connection to Kearsley Road is proposed to be relocated to fall entirely within Lot 349. This modification does not accord with a recent subdivision approval granted by WAPC for Lot 350.

4. Lot configuration

The Structure Plan Map (Figure 1) proposes 39 residential lots ranging in size from 1132m² to 2144m² and a 4.303 hectare lot (intended for POS but not allocated as such on the map).

Several of the lots are located partially within the Special Residential zone and would be non-compliant with the minimum 2000m² lot size. This anomaly would need to be corrected through a separate Scheme amendment prior to subdivision.

The remainder of the site is zoned Residential R10 where a minimum lot size of 875m² and an average lot size of 1000m² applies. Larger lot sizes are intended to respond to the steep gradient and limit the requirement for lot retaining and overshadowing impacts. Preliminary officer feedback on the proposal had requested that consideration be given to smaller lots on the lower gradients and further information provided to justify the lot dimensions proposed across the whole site, noting the extent of encroachment westward into the remnant vegetation.

As submitted, the proposed lot layout does not provide enough justification to demonstrate an optimal outcome for developing the serviced residential land. Justification should be sought to ensure the east-west lot dimensions have been reduced as far as possible to limit encroachment westward into the vegetated area.

5. Drainage

The preliminary drainage design details will need to be further refined as part of an Urban Water Management Plan pending resolution of the final road and lot layout.

Aspects of note include:

- The northern drainage basis is of irregular configuration and traversed by a Water Corporation easement. It has not been demonstrated if/ how this can be practically developed for drainage purposes.
- Upgrades will be required to accommodate outflow and conveyance of major flow events from the site. This is dependent upon resolution of the design requirements for Kearsley Road and may require an easement or agreement from the adjacent landowner to address construction and maintenance if this is to be accommodated through the property to the south.
- The preliminary engineering details show significant earthworks to accommodate the new road alignment battering into the neighbouring lot (to the North) and public open space area, with a cut of approximately 7 metres. This may result in problems with the in-situ soils and the batters constantly seeping water in the winter.
- The TABEC (Civil Engineering Consultants) report mentions that the lots will attenuate 15mm stormwater prior to entering the road drainage system. Officers do not consider this to be appropriate as the ground will usually be saturated. A maximum ground attenuation of 5mm would be considered reasonable for this site.
- There is no mention if the lots are going to be provide lot connection pits. This is strongly recommended.
- Clearing of remnant vegetation and site works have the potential to exacerbate stormwater runoff and erosion on steep slopes.
- The development needs to accommodate on-site retention from the construction of Kearsley Road (north of Wishart Place) noting the existing drainage system on Kearsley and Wishart is not able to accommodate this.

Conclusion

There are deficiencies in the proposal and supporting documentation that require significant updates to inform an acceptable design outcome. The proposal does not demonstrate that every effort has been made to avoid impacts upon high quality vegetation and steep slopes located in the western portion of the site or to optimise use of available serviced land within the Denmark townsite

Having regard to these matters it is recommended that the proposed Structure Plan amendment be forwarded to the Western Australian Planning Commission with a recommendation that it not be approved in its current form.

Voting Requirements:

Simple majority.

COUNCIL RESOLUTION & OFFICER RECOMMENDATION	ITEM 9.1.2a)
MOVED: CR CLARKE	SECONDED: CR LEWIS
That Council, in accordance with the requirements of the Planning and Development (Local Planning Schemes) Regulations 2015, Schedule 2, Part 4, clause 20:	
1. Resolve NOT TO APPROVE the proposed Amendment to the Local Structure Plan - Planning Unit C Kearsley Road by reason of:	
(i) Substantial updates are required to rectify deficiencies in the documentation.	
(ii) Inadequate supporting information has been provided to inform relevant planning considerations on the merits of the proposal.	
(iii) The proposal would impact upon the orderly and proper planning of adjoining landholdings within the Precinct C Structure Plan area that have not been included as part of the structure plan amendment.	

(iv) The extent of remnant vegetation and steep sections of the site impacted by clearing and earthworks would result in an unacceptable environmental, landscape and amenity outcome.

(v) The proposed lot sizes and layout do not demonstrate an optimal outcome having regard to use of serviced residential land, vegetation protection or minimising site works.

(iv) The extent of the modifications necessary to rectify deficiencies in the document and address the relevant planning considerations would constitute a substantially new proposal.

2. FORWARD its recommendation, with a copy of the Council report and schedule of submissions to the Western Australian Planning Commission for determination.

CARRIED: 6/0 Res: 100622

COUNCIL RESOLUTION & OFFICER RECOMMENDATION ITEM 9.1.2b)
 MOVED: CR ORMSBY SECONDED: CR CLARKE

That Council advise of its in principle SUPPORT for the removal of the boulevard design of Kearsley Road in its consideration of any future structure plan, structure plan amendment or subdivision proposal.

CARRIED: 6/0 Res: 110622

9.1.3 SCHEME AMENDMENT 149 – PROPOSED REZONING FROM TOURIST (9) ZONE TO SPECIAL RESIDENTIAL (6) ZONE, RATIONALISATION OF ZONING (VAROVS LOTS) AND AMENDMENT TO THE SPECIAL PROVISIONS FOR THE SPRINGDALE BEACH SPECIAL RESIDENTIAL (6) ZONE

File Ref: TPS3/SA149
Applicant / Proponent: Ayton Baesjou Planning on behalf of LWP Denmark
Subject Land / Locality: Various lots in Springdale Beach Estate
Disclosure of Officer Interest: None
Date: 25 May 2022
Author: Jasmine Tohill, A/ Manager Sustainable Development
Authorising Officer: David King, Director Assets and Sustainable Development
 9.1.3a – Minutes and Attachments from Ordinary Council Meeting 16 February 2021
Attachments: 9.1.3b – Proposed modified Scheme Amendment 149
 9.1.3c – Appendices for Scheme Amendment 149 (*available on the Shire’s website or at the Shire Office for viewing*)

Summary:
 Council resolved to adopt (initiate) Amendment 149 to Town Planning Scheme No.3 at its meeting of 16 February 2021.

Modifications to the Amendment document have been required to address feedback provided by the Environmental Protection Authority (EPA) and to correct anomalies following Council’s earlier resolution.

Background:
 At its meeting on 16 February 2021, Council resolved to adopt (initiate) Amendment 149 to Town Planning Scheme No.3 for the purpose of rezoning a Tourist (T9) site within the Springdale Beach Estate to Special Residential. (Res:080221).

In accordance with relevant legislative requirements, the Amendment was referred to the Western Australian Planning Commission (WAPC) and the Environmental Protection Authority (EPA) for consideration before undertaking to advertise. The WAPC requested several minor updates that were actioned. However, the EPA advised that the Amendment

document contained insufficient supporting information to enable a determination, meaning the proposal could not progress to advertising.

The Applicant and Shire have revised the Amendment in consultation with officers from the EPA, including updates to the scheme amendment maps and modified text provisions. The Amendment is being presented back to Council for further consideration of adoption.

Proposal

Amendment 149 proposes to rezone a portion of Lot 9008 from the Tourist (T9) zone to 'Special Residential' (SR6). Reference was made in the original Council report to the ceding of 1.117 hectares as foreshore reserve (proposed 'Parks and Recreation' reserve). However, this was not shown on the Scheme Amendment Maps. This discrepancy has been corrected, and the foreshore area further increased to 1.325ha to optimise vegetation retention.

Concurrent with the above, various zoning anomalies arising from the misalignment of the Tourist (T9) zone, Special Residential (SR6) zone and Parks and Recreation Reserve with the existing lot boundaries are proposed to be corrected.

To address concerns raised by the EPA, Council is requested to consider introducing new/modified Scheme Provisions that will apply to future subdivisions and development within the Special Residential (6) zone. The updated Scheme Amendment 149 report and provisions (excluding appendices) are appended to this report as Attachment 9.1.3b with the full appendices available to download from the Shire's website, as Attachment 9.1.3c.

Consultation:

In accordance with *the Planning and Development (Local Planning Schemes) Regulations 2015*, a 'complex amendment' (refer to explanation under 'Statutory Obligations') is required to be subject to public advertising for a minimum period of 60 days once the EPA has given its 'environmental clearance' and the WAPC has granted consent to advertise the Scheme Amendment.

If adopted, the modified Amendment must be re-referred to the WAPC and EPA for consent to advertise.

Statutory Obligations:

- *Planning and Development Act 2005* – TPS No. 3 is an operative Local Planning Scheme under the Act;
- *Planning and Development (Local Planning Schemes) Regulations 2015* provide for complex, standard and basic amendments. Having regard to Regulation 34, Amendment No.149 constitutes a complex amendment.

Policy Implications:

The following policies have been given due consideration in relation to this proposal:

- *State Planning Policy No. 2: Environment and Natural Resources Policy*
- *State Planning Policy No. 2.6: State Coastal Planning Policy*
- *State Planning Policy No. 2.9: Water Resources*
- *State Planning Policy No. 3: Urban Growth and Settlement*
- *State Planning Policy 3.7: Planning in Bushfire Prone Areas*
- *Government Sewerage Policy 2019*
- *Planning Bulletin 83/2013: Planning for Tourism*
- *WAPC Development Control Policy 2.5: Special Residential Zones*
- *Denmark Tourism Strategy – Stage 1*

Budget / Financial Implications:

Fees associated with the amendment have been paid as per Council's operative Fees and Charges Schedule.

Strategic & Corporate Plan Implications:

The portion of the site proposed to be rezoned from Tourist to Special Residential is designated as 'Tourist' in the Local Planning Strategy (2011). Considerations relevant to departure from the Tourist designation were addressed through Council's adoption of Amendment 149 in 2021.

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 Strategic Community Plan 2027**N2.0 Our Natural Environment**

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

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

Sustainability Implications:**➤ Governance:**

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

➤ Environmental:

The Amendment has been updated to address environmental considerations raised by the EPA.

➤ Economic:

Residential development is an important contributor to Denmark's economy.

➤ Social:

There are no known significant social considerations relating to the report or officer recommendation. The proposal will facilitate the ceding of additional land for public use and an increase in residential lot supply.

➤ Risk:

Nil

Comment/Conclusion:

This report is presented to Council for consideration of modifications to Amendment 149 prior to adoption and re-referral back to WAPC and the EPA. The report is to be read in conjunction with the officer's report from 16 February 2021 (Attachment 9.1.3a).

The EPA had raised various concerns regarding the adequacy of supporting documents and a lack of provisions to guide, amongst other matters: water quality outcomes for the Wilson Inlet (including requirements of the Government Sewerage Policy), protection of vegetation and fauna habitat, widening and enhancement of the foreshore reserve, drainage, erosion and sediment control.

Updates to the Amendment are proposed to address these matters and to rectify anomalies in the original Amendment report and maps, including:

- Modification of the Scheme Amendment Maps shows the full extent of the additional area ceded as "Parks and Recreation" Reserve.
- Updates to the text description to correlate with the proposed Scheme Amendment Maps.

- Updates to the body of the report including further consideration of opportunities to optimise vegetation retention.
- Updates to the indicative layout plan to reflect an intended increase in the foreshore reserve area and a reduction in the indicative lot yield by one.
- Proposed modifications to the existing Springdale Beach Special Residential (SRes 6) Provisions in Appendix XIV to delete reference to grazing of livestock being a permissible land use and to state that “*Intensive Horticulture and grazing of livestock are not permitted*”.
- The introduction of detailed Special Provisions for the Special Residential 6 zone to inform additional environmental requirements through structure planning, subdivision and development.

The proposed changes to Amendment 149 are intended to facilitate improved environmental outcomes as informed by consultation with the EPA. It is recommended that the Council resolves not to proceed with the Amendment in its current form and adopt (initiate) Amendment 149 as modified.

Voting Requirements:

Simple majority.

COUNCIL RESOLUTION & OFFICER RECOMMENDATION	ITEM 9.1.3
MOVED: CR CLARKE	SECONDED: CR CARMAN
That Council:	
1. Pursuant to Section 75 of the <i>Planning and Development Act 2005</i> and Part 5, r.37(5) of the Planning and Development (Local Planning Schemes) Regulations 2015, RESOLVES NOT TO PROCEED with Scheme Amendment 149, in its current form (date of resolution 16 February 2021).	
2. Pursuant to Section 75 of the <i>Planning and Development Act 2005</i> and Part 5, r.35(2) and r.37(1) of the Planning and Development (Local Planning Schemes) Regulations 2015, RESOLVES TO:	
a) PREPARE and ADVERTISE Complex Amendment No.149 to amend the Shire of Denmark Local Planning Scheme No.3 by:	
(i) Rezoning portion Lot 9008 Beaufortia Gardens, Hay from the Tourist (T9) Zone to Special Residential (sRes6) Zone;	
(ii) Rezoning portion Lot 9008 from Tourist (T9) Zone to the Parks & Recreation Reserve;	
(iii) Moving portion Lot 9008 Beaufortia Gardens, Hay, Shire of Denmark, from the Special Residential (SRes6) Zone to the Parks & Recreation Reserve;	
(iv) Moving portion Reserve 52123, from the Tourist (T9) Zone to the Parks & Recreation Reserve;	
(v) Rezoning portion Lots 180, 181, 182 & 184 Beaufortia Gardens from the Tourist (T9) Zone to the Special Residential (SRes6) Zone;	
(vi) Rezoning Lots 193, 194, 195 & 196 Pimelea View from the Tourist (T9) Zone to the Special Residential (SRes6) Zone;	
(vii) Rezoning portion of Beaufortia Gardens and Pimelea View from the Tourist (T9) Zone and the Special Residential (SRes6) Zone to Road Reserve;	
(viii) Delete Tourist Zone (T9) from Appendix XIII;	
(ix) Modify Appendix XIV – S Res 6 Special Provisions as follows:	
• Delete the words “ <i>Livestock Grazing - see clause (viii)a</i> ” from the Proposed Uses column.	
• Delete provisions a), b), c) and d) of provision viii) and replace with:	
a) <i>Intensive horticulture and grazing of livestock is not permitted;</i>	

- (x) Add the following to SRes 6 Special Provisions in Appendix XIV;
- xii) *In addition to the Special Provisions outlined above, for the purpose of subdivision and development of land contained within that area generally bound by Beaufortia Gardens to the east, Wilson Inlet to the south, Pimelea View and Lot 196 to the north, and Reserve 12232 to the west, the following additional provisions shall apply, noting in the event of any conflict these additional provisions will prevail:*
- a) *The Special Residential lots should comply with the requirements of the Government Sewer Policy 2019 unless further supporting information is provided to demonstrate capability. A lot size of no less than 3000m² will be considered.*
 - b) *In addition to the minimum setback requirements prescribed under provision ii) (a) above, all buildings, site works and retaining walls shall be set back a minimum of 20 metres from the western boundary with Reserve 12232. No further reduction in this setback will be permitted.*
 - c) *Subdivision of the site shall generally accord with an approved Structure Plan that incorporates the following supporting documents:*
 - 1) *A site specific Flora and Fauna Assessment.*
 - 2) *The Springdale Beach Estate Urban Water Management Plan 2014 is to be updated to the satisfaction of the Shire of Denmark and the Department of Water and Environmental Regulation and include reference to consistency with the Wilson Inlet Management Strategy.*
 - 3) *An addendum to the Site and Soil Evaluation report prepared by Aurora Environmental (December 2021), to inform appropriate lot sizes, configuration, and yield, the proposed method of on-site effluent disposal, building envelopes, remediation works (where applicable) and consistency with the Wilson Inlet Management Strategy, is to be prepared to the satisfaction of the Shire of Denmark, Department of Water and Environmental Regulation and Department of Health.*
 - 4) *An addendum to the existing Foreshore Management Plan that includes appropriate management conditions consistent with the Wilson Inlet Foreshore Reserve Management Plan 2008 (or its equivalent as amended) and the Wilson Inlet Management Strategy. The addendum is to be prepared to the satisfaction of the Shire of Denmark and the Department of Water and Environmental Regulation to address, amongst other matters:- protection of vegetation and fauna habitat, erosion control, weed management, walkways/ bike paths and access controls, lighting to incorporate dark sky principles as referenced in the WAPC's Position Statement "Dark Sky and Astrotourism" and the "National Light Pollution Guidelines for Wildlife" (as amended), re-vegetation, setbacks and parking and*

any other matters appurtenant to or impacting upon the adjacent foreshore area.

- 5) *A Landscape Management Plan shall be prepared to the satisfaction of the Shire of Denmark for the balance of the development area to address the provision of street trees, identification and protection of trees to be retained, areas for replanting, the protection of fauna habitat, a preference for use of locally indigenous native species in domestic gardens and public reserves, fertiliser/ nutrient input, mechanisms for implementation and timing, lighting to incorporate dark sky principles as referenced in the WAPC Position Statement "Dark Sky and Astrotourism" and the National Light Pollution Guidelines for Wildlife (as amended), including consideration of estate covenants and/ or Local Development Plans if deemed appropriate.*
- 6) *A Bushfire Management Plan that addresses and responds to the requirements and recommendations of the Flora and Fauna Assessment, Foreshore Management Plan, and Landscape Management Plan.*
- 7) *The requirement for preparation of a Construction Management Plan prior to the commencement of subdivision or development site works to the satisfaction of the Shire of Denmark to address such matters as erosion and sediment transport control and dieback control (including land based movement and groundwater movement).*
 - a) *Where required under an approved Structure Plan, a local development plan is to be prepared for all or part of the structure plan area.*
 - b) *All buildings, retaining walls and effluent disposal systems are to be contained within an approved building envelope if nominated on an approved Structure Plan.*
 - c) *Where informed by recommendations contained within a Site and Soil Evaluation report and/ or approved Structure Plan Council may impose conditions at the time of subdivision to address site remediation, fill and compaction of house pads and effluent disposal areas within the defined building envelopes.*
 - d) *Where identified on an approved Structure Plan, Council may impose conditions at the time of subdivision to require the construction of Strategic Firebreaks/ Fire Service Access Routes and a requirement for registration of such as an easement in gross under Section 195 of the Land Administration Act 1997.*
 - e) *No clearing of significant trees or endemic vegetation shall be permitted where such vegetation is shown on the approved Structure Plan for retention unless:*
 - f) *Such clearing is approved in conjunction with a development application granted by the Shire of Denmark.*
 - g) *Trees are diseased or dangerous as confirmed in writing by a qualified arborist and verified by the Shire of Denmark.*

- h) *Such works have been mandated under the Shire of Denmark's Fire Management Notice.*
- (xi) Amending the Scheme maps accordingly.
3. CLASSIFY Scheme Amendment No. 149 as a 'Complex Amendment' in accordance with Regulation 35(2) of the *Planning and Development (Local Planning Schemes) Regulations 2015* given the amendment is not consistent with the *Shire of Denmark Local Planning Strategy* which designates the site as 'Tourist'.
 4. REFER the Amendment to the Environmental Protection Authority in accordance with Section 81 of the *Planning and Development Act 2005*.
 5. REFER the Amendment to the Western Australian Planning Commission in accordance with Part 5, r.37(2) and (3), to determine if any modifications to the amendment are required prior to advertising.
 6. In accordance with Part 5, r.38 of the *Planning and Development (Local Planning Schemes) Regulations 2015*, if the Commission advise that it is satisfied that the Complex amendment is suitable to be advertised, the Shire is to advertise the amendment for a period not less than 60 days.
- CARRIED: 6/0 Res: 120622

9.1.4 PROPOSED AMENDMENT NO. 153 TO TOWN PLANNING SCHEME NO. 3 – MICROBREWERY DEFINITION

File Ref:	TPS3/SA153
Applicant / Proponent:	Not applicable
Subject Land / Locality:	All Zones
Disclosure of Officer Interest:	Nil
Date:	21 June 2022
Author:	Will Hosken, Strategic Town Planner
Authorising Officer:	David King, Deputy Chief Executive Officer
Attachments:	9.1.4 – Amendment No. 153 Report

Summary:

This report requests Council adopt (initiate) proposed Amendment No.153 to Town Planning Scheme No. 3 (TPS3).

Amendment No. 153 intends to provide flexibility to consider the production of beer, cider and spirits under an established use class of a Microbrewery by utilising elements of the model scheme text definitions of Brewery.

Background:

On 14 April 2022, the Shire received a development application requesting consent to develop and operate a distillery, barrel store, and cellar door sales outlet on Lot 83 (No. 427) Mount Shadforth Road, Shadforth. This seeks to enable the production, storage and sale of alcoholic spirits by a local company.

Lot 83 forms part of the 'Karri Mia' tourism site. Karri Mia is included in the Tourist Zone and guided by the land use and development provisions set out in Appendix XIII – Schedule of Tourist Zones (refer tourism site T1). This provides for the following as the '*...only permissible land uses*' on Lot 83:

Function Centre (maximum 200 persons)	P
Manager's Accommodation	IP
Microbrewery	P

Office	IP
Restaurant	P

The P and IP are defined in our Town Planning Scheme as follows:

‘P’ means that the use is permitted in the zone provided the relevant standards and requirements laid down in the Scheme are complied with;

‘IP’ means a use that is not permitted unless the Council decides such use is incidental to the predominant use.

The definition of a Microbrewery in TPS3 is as follows:

“means premises used for the purposes of brewing and sale of boutique hand crafted beers with a limited capacity (as determined by Council) in conjunction with an existing tourist operation”

The Shire currently cannot consider a proposal for a distillery under this definition.

The land-use outcomes for a brewery are considered equivalent to that of a distillery, as demonstrated by the model definition of a ‘Brewery’ provided within the *Planning and Development (Local Planning Schemes) Regulations 2015* (the Regulations):

“means premises the subject of a producer’s licence authorising the production of beer, cider or spirits granted under the Liquor Control Act 1988”

To respond to the development application received by the Shire for Lot 83, and provide more contemporary planning controls for similar Tourist zone sites, officers have prepared draft Amendment 153 to:

- i) Insert the model definition of ‘Brewery’ as per the *Planning and Development (Local Planning Schemes) Regulations 2015* into TPS 3; and
- ii) Amend the definition of Microbrewery to:

“means a small scale premises (with a limited capacity as determined by Council) the subject of a producer’s licence authorising the production of beer, cider or spirits granted under the Liquor Control Act 1988 in conjunction with an approved tourist operation ”

Wholesale, retail sale and service of liquor may occur as defined by the conditions of a producer’s licence granted under the *Liquor Control Act 1988*.

Proposed Amendment 153 meets the criteria outlined in the Regulations (Part 5, Division 1, Clause 34) to be considered a ‘basic’ amendment to the local planning scheme. The Amendment is:

- (b) an amendment to the scheme so that it is consistent with the model provisions in Schedule 1 or with another provision of the local planning scheme;
- (d) an amendment to the scheme so that it is consistent with any other Act that applies to the scheme or the scheme area;

This proposed change to Microbrewery improves consistency with the Regulations while retaining reference to the Council’s ability to limit premises capacity. Officers consider premises capacity as an important determinant in assessing the suitability of a proposal. Maintaining this reference also ensures consistency with the intent of a ‘basic’ amendment as an administrative change with little or no effective land use outcome. In other words, the proposed change allows a brewery or distillery to be developed under the same conditions – whereas removing reference to capacity as it relates to the established Tourist zones would potentially provide for the development of a much larger operation.

Broadly, officers recommend that the Microbrewery use class is reviewed as part of the upcoming preparation of a new local planning scheme where new use classes, definitions and the relationship to existing development standards can be assessed in greater detail.

Consultation:

As proposed, Amendment No. 153 is classified as a 'basic' amendment. Therefore, no public consultation is required.

Statutory Obligations:

An amendment to Town Planning Scheme No. 3 must be prepared in the manner and form prescribed by the WA Planning Commission and the *Planning and Development (Local Planning Schemes) Regulations 2015*.

Proposed Amendment No.153 is classified as a 'basic' amendment that in accordance with the Regulations, does not require public consultation and is required to be considered only once by Council.

The WAPC may direct the local government to advertise the Amendment if it does not concur that it meets the requirements of a basic amendment.

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 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

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.

N2.0 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.

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

Sustainability Implications:

➤ **Sustainability Strategy 2021-2031**

4.1 Implement responsible and sustainable practices through policy development and land-use planning.

Providing clarity and consistency in the local planning framework enables opportunities for businesses to provide income and employment for the Shire's residents within the local area.

➤ **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:

Adoption of proposed Amendment No. 153 to Town Planning Scheme No. 3 is recommended in order to improve consistency with the Regulations, provide the opportunity for the development of Lot 83 as proposed, and enable the development of like businesses within the Shire.

Voting Requirements:

Simple majority.

COUNCIL RESOLUTION & OFFICER RECOMMENDATION	ITEM 9.1.4
MOVED: CR DEVENPORT	SECONDED: CR LEWIS
<p>1. In accordance with Section 75 of the Planning and Development Act (2005), resolves to ADOPT (initiate) Amendment No. 153 of the Shire of Denmark Local Planning Scheme No. 3 as shown in Attachment 9.1.4;</p> <p>2. in accordance with Regulation 35(2) of the Planning and Development (Local Planning Schemes) Regulations 2015, DETERMINES that Amendment No. 153 of the Shire of Denmark Local Planning Scheme No. 3 is a basic amendment for the following reasons:</p> <ul style="list-style-type: none"> • The Amendment provides for consistency with the model definition provided in the <i>Planning and Development (Local Planning Scheme) Regulations 2015</i>. • The Amendment is consistent with the classification of a ‘Basic Amendment’ as identified in Part 5, Division1, Clause 35(b) and (d) of the Regulations. <p>3. AUTHORISES the Shire President and the Chief Executive Officer, in accordance with Section 9.49a of the Local Government Act 1995, to execute under Common Seal Amendment No. 153 to Shire of Denmark Local Planning Scheme No. 3</p>	
CARRIED: 6/0	Res: 130622

Prior to the consideration of Item 9.1.5, Cr Lewis requested that the following questions be recorded in the Minutes. The Deputy Shire President accepted Cr Lewis’ request.

1. What are the most up to date Annual Average Daily Traffic counts (AADT) on Harewood, Walter, Mt Lindesay, Ficifolia & Parker Rds?

The CEO advised as follows, noting that traffic counts were only left out for approximately 2-4 weeks at a time. Mr Schober said that AADTs are estimates only and assumed 112 on-peak days and 253 off-peak days.

Harewood Rd

- ADT (On-Peak, 24 Mar 2021) = 114
- ADT (Off-Peak, 19 Sep 2018) = 98
- AADT = 103

Walter Rd

- ADT (On-Peak, 23 Apr 2015) = 95
- ADT (Off-Peak, 22 Oct 2021) = 71
- AADT = 78

Mt Lindesay Rd

- ADT (On-Peak, 11 Apr 2017) = 69
- ADT (Off-Peak, 7 Oct 2021) = 69
- AADT = 69

Ficifolia Rd

- ADT (17 Dec 2021)= 126

Parker Rd

- ADT (On-Peak, 24 Mar 2021)= 85
- ADT (Off-Peak, 29 Jun 2017) = 56
- AADT = 65

2. When were these roads last re-sheeted?

The CEO requested that the question be taken on notice, responded to in writing and recorded in the next Council Meeting Agenda.

3. When was Lights Rd last re-sheeted?

The CEO requested that the question be taken on notice, responded to in writing and recorded in the next Council Meeting Agenda.

4. Which of these roads are Roads of Regional Significance and what level of funding does that qualify them for?

The CEO advised that projects on local roads included in Roads 2040 (recently updated from 2030) are eligible for Road Project Grant funding under the State Road Funds to Local Government Agreement. Mr Schober said that Road Project Grant funding was merit based and administered through the Regional Road Group and that preservation (asset renewal) was prioritised through the program. Mr Schober said that preservation ordinarily represented the majority of the Shire's annual submissions and that the Long Term Financial Plan makes assumptions as to the level of funding through this program, and currently allocates it towards transport renewal.

5. How can regional roads be added to the Roads of Regional Significance register?

The CEO advised that Roads 2040 documents a strategic review of regionally significant local government roads and the development strategies for them. Mr Schober said that there was a five-yearly review of regional road development strategies that is intended to respond to the changes in demand on the road network.

The CEO said that there were guidelines and criteria for the identification of significant local government roads with regional importance and that proposed additions must meet the criteria, which included significance to the regional network, freight function, traffic volume and tourism, and that specific benchmarks must be met for two or more of the criteria to be eligible.

Mr Schober added that where a local government believes that an addition is required, it must be reviewed against the criteria by the Regional Technical Working Group, be approved by the Regional Road group, and finally approved the State Advisory Committee.

9.1.5 SEALING OF GRAVEL ROADS ANALYSIS

File Ref:	ENG.11
Applicant / Proponent:	Not applicable
Subject Land / Locality:	Not applicable
Disclosure of Officer Interest:	Nil
Date:	16 May 2022
Author:	David King, Deputy Chief Executive Officer
Authorising Officer:	David Schober, Chief Executive Officer
Attachments:	Nil

Summary:

This report responds to the resolution of Council which required a report to Council regarding the costs of sealing gravel roads.

Background:

In September 2021, Council resolved as follows:

That Council REQUEST the Chief Executive Officer to:

1. *CONDUCT a preliminary Cost-Benefit Analysis on the sealing of one or more gravel roads in the Shire of Denmark that:*
 - a. *Have high traffic counts; and/or,*
 - b. *Are on school bus routes; and/or,*
 - c. *Officers believe have relevant factors to consider that may lead to a positive cost-benefit, e.g. tourist and/or freight routes, link roads, access/egress in bushfire situations etc; and/or,*
 - d. *Is included in Roads 2030 Regional Strategy for significant local government roads, Great Southern; and,*
2. *INVESTIGATE innovative and environmentally sustainable options for road surfacing; and,*
3. *FACTOR into this analysis consideration of improved community satisfaction and environmental outcomes; and*
4. *PRESENT the results of this analysis to Council for consideration no later than March 2022 so that they may be considered in the 2022/3 budget deliberations.*

A summary of the findings is provided in the comment section of this report.

Consultation:

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

Statutory Obligations:

Nil

Policy Implications:

Nil

Budget / Financial Implications:

The analysis investigates costs associated with any future actions. However, there are no direct budget or financial implications relating to the officers' recommendations.

Strategic & Corporate Plan Implications:

The sealing of Lights Road is a project listed in the Corporate Business Plan.

Sustainability Implications:**➤ Sustainability Strategy**

Carbon costings for sealed versus unsealed roads have not been undertaken as part of this analysis.

➤ 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:

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

Comment/Conclusion:**Cost-Benefit Analysis and Life Cycle Costs**

Cost-Benefit Analysis (CBA) is a process used to determine the value of a project in relative terms. For a CBA, project justification is determined by the economic worth to the community. In the context of a road, this would include, but is not limited to, the financial costs to the asset owner, the costs of the users in terms of vehicle wear and tear, cost of travel time and cost potential of insurable damage.

Lifecycle costs are considered a component of cost-benefit analysis relating to the actual costs of the asset owner to deliver and maintain. For roads, this is the cost to the Shire of Denmark in the renewal and maintenance of the asset.

Lifecycle costs are presented in this report so that Council can appreciate costs to the ratepayer. For a CBA, Council will need to consider a budget allocation as this will require an external consultant.

Analysis Road Selection

The resolution requests a preliminary Cost-Benefit Analysis on the sealing of one or more gravel (unsealed) roads in the Shire of Denmark that:

1. Have high traffic counts; and/or.
2. Are on school bus routes; and/or.
3. Officers believe have relevant factors to consider that may lead to a positive cost-benefit, e.g. tourist and/or freight routes, link roads, access/egress in bushfire situations etc; and/or.
4. Is included in Roads 2030 Regional Strategy for significant local government roads, Great Southern.

In considering the Shire of Denmark's unsealed network, officers have conducted a lifecycle costs analysis for Lights Road. Lights Road meets all requirements listed in Council's resolution.

Lifecycle Costs for Lights Road

Figures 2a and 2b show the lifecycle costs for Lights Road renewal and maintenance per kilometre if the road is maintained as an unsealed road.

The calculations are based on the following assumptions:

- Maintenance grading six (6) times per year
- Re-sheet (150mm) every ten (10) years

Calculations do not consider costs associated with a sealed road and an unsealed road, such as drain cleaning and verge maintenance. These costs apply equally to both and do not need to be considered for comparison.

Figure 2 shows that the highest lifecycle cost is attributed to the re-sheeting of the road. The wearing course (typically 100-150mm deep) is lost through traffic loading and maintenance practices. Re-sheeting of the gravel road replaces the gravel wearing course by importing new gravel. The cost of re-sheeting is considered a capital renewal, not maintenance, and is a planned expenditure through the Long Term Financial Plan (LTFP) and Strategic Asset Management Plan (SAMP). The time between re-sheets is dependent on traffic loading and maintenance grading frequency. The life cycle analysis assumes a ten (10) year timeframe between re-sheets as this is considered best practise for well used unsealed roads. However, this is considered conservative. Historical trends and current investment into re-sheeting through the LTFP and SAMP assume between 15 and 20 years between re-sheets.

In-between re-sheeting, maintenance grading is the other cost associated with an unsealed road. Maintenance grading is the cutting and respraying of the wearing surface to restore the running surface condition. As shown in Figure 2a, maintenance grading is not a significant contributor to lifecycle costs. However, whilst relatively inexpensive, asset managers must be careful not to excessively maintenance grade as this will shorten the required timeframe for re-sheeting. A maximum of six (6) grades per year is the industry standard.

Maintenance grading is an operational cost in the municipal budget.

Figure 2a – Lifecycle costs for unsealed road per km (Lights Road) over 15 years

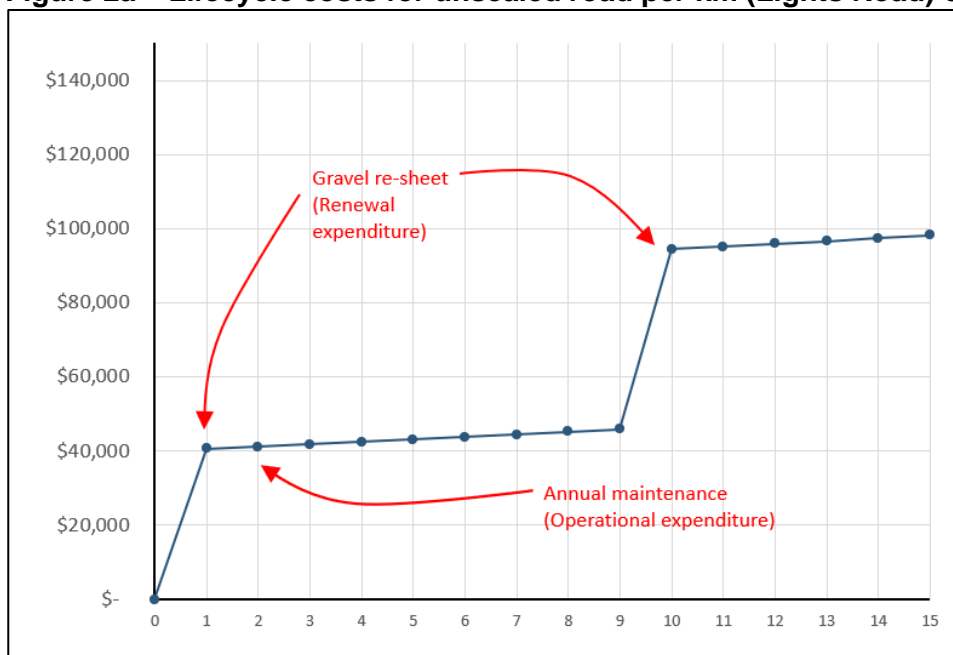


Figure 2b shows the lifecycle costs over a 50-year timeframe. For Lights Road, an annual cost per kilometre equates to around \$7,000.

Figure 2b - Lifecycle costs for unsealed road per km (Lights Road) over 50 years

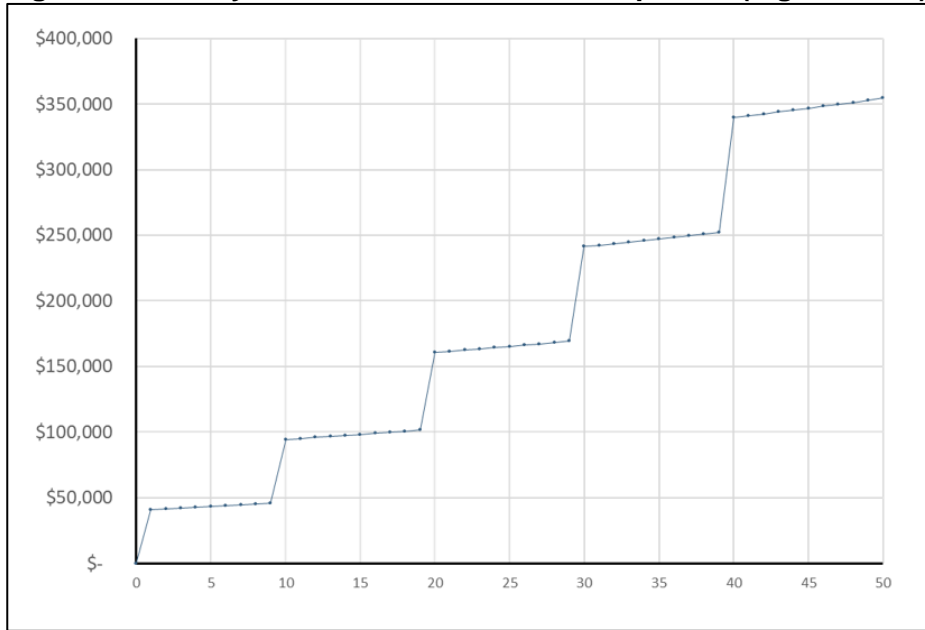


Figure 3 shows the life cycle costs for sealing, renewal and maintenance of Lights Road.

The calculations are based on the following assumptions:

- Minor improvements to geometry
- Major drainage improvements

Figure 3 shows that the high lifecycle cost of sealing an unsealed road is the capital cost of the upgrade. The cost of this is considered a capital upgrade expenditure. Upgrade costs are not renewal expenditure; therefore, any upgrades should be in addition to planned renewal expenditure in the LTFP and SAMP.

Ongoing annual maintenance, as with an unsealed road, is negligible. Annual maintenance is typically pothole repair and crack sealing.

The annual lifecycle cost of Lights Road (sealed) is approximately \$11,500.

Figure 3 – Lifecycle costs for sealed road per km (Lights Road) over 50 years

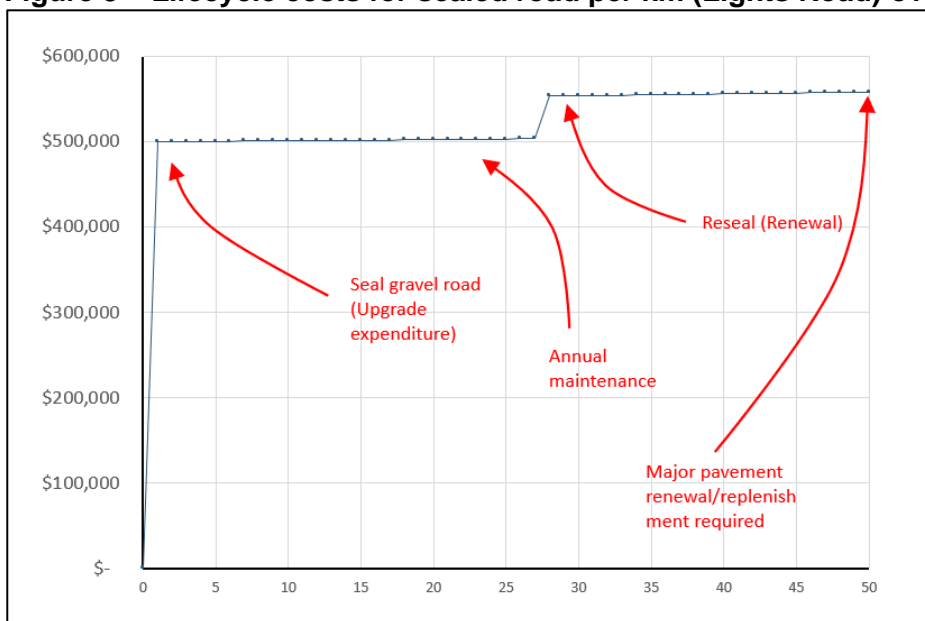
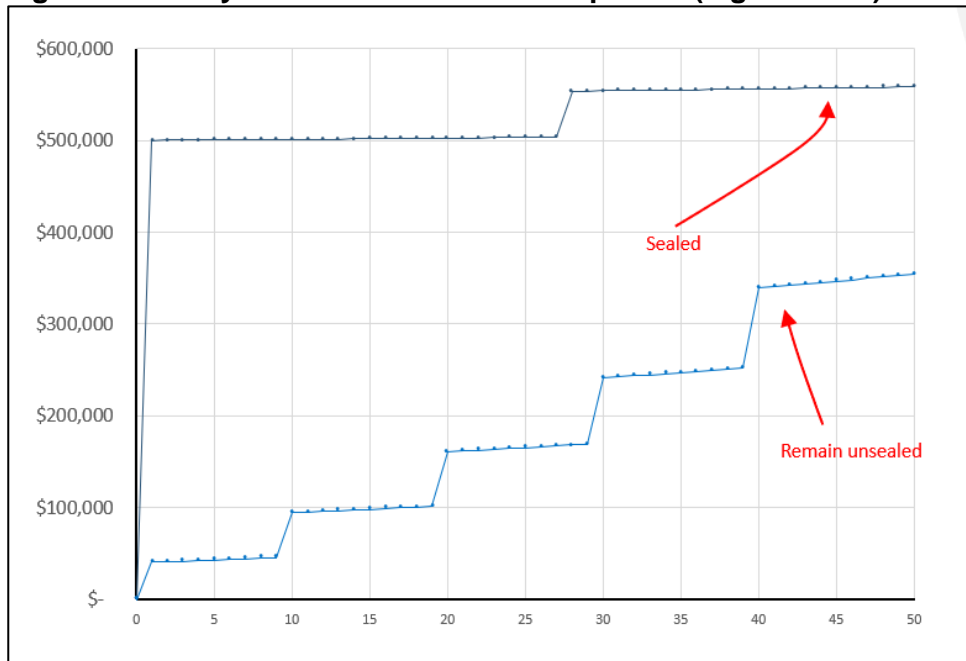


Figure 4 shows the lifecycle costs comparatively. This highlights the significance of capital costs and frequency of re-sheet in the comparison.

Figure 4 – Lifecycle costs for sealed road per km (Lights Road) vs unsealed



When do Life Cycle Costs Favour Sealing?

Figure 4 shows that the annual maintenance costs are not a significant factor in producing positive life cycle costs for sealing an unsealed road. The key elements are the initial capital investment to upgrade to a sealed standard and the frequency of re-sheeting.

Capital Investment

The lower the capital cost, the more likely a favourable lifecycle cost; Capital costs in the order of \$200-300k would be required for the cost benefit analysis to favour sealing a road. The initial capital investment is dependent on:

1. Geometric improvements
2. Drainage improvements
3. Existing formation/pavement

Lower capital costs will be achievable if the existing unsealed road is well-formed with appropriate drainage and cleared back slopes.

Frequency of Re-sheeting

The most comprehensive and relevant research on the effect of gravel loss on sealed roads due to traffic and maintenance tasks has been undertaken by Western Australian Local Government Association (WALGA) which culminated in a *'Technical Basis for Estimating the Cost of Road Wear on Unsealed Local Government Roads in Western Australia'*.

Officers derive the following from the report:

Significant heavy freight usage will typically trigger the sealing of an unsealed road where the annual freight tonnage exceeds 200,000T. This correlates to the requirement for re-sheeting every five (5) to seven (7) years.

The Shire of Denmark does not have roads where this threshold is reached. Current data suggests that Kernutts Road is the Shire's most heavily trafficked unsealed road regarding heavy freight. The latest traffic data suggest that up to 25 heavy vehicles use the road daily

which could equate to significant tonnages. However, more investigation would be required into actual tonnages based on the industries using the road.

Other Considerations

Favourable lifecycle costs may occur where maintenance costs are proportionally high.

Service level expectations

It is unlikely that the material loss caused by light traffic tasks, including base population growth and increasing tourism, will result in a favourable life cycle cost for sealing an unsealed road. However, excessive light traffic reduces ride quality between grading cycles and pressures the asset owners to upgrade the road.

Generally, grading should be undertaken at a frequency proportional to road use. The higher the traffic volume, the more frequently it is graded. The typical maximum number of grading operations a year is six (6). This corresponds with an approximate Annual Average Daily Traffic (AADT) of around 200.

From a service level viewpoint, 200 AADT would represent a traffic level that would warrant investigation into sealing for light traffic applications. Lights Road has an AADT of around 250 and should be considered for an upgrade. However, as identified in this report, upgrades to Lights Road represent an increase in lifecycle costs which will be typical across the network.

Officers note that anecdotally, community pressure to upgrade or increase grading is felt as the AADT exceeds 100. This is significantly less than could be expected based on current literature. No detailed research or investigation has been undertaken to understand the reasons for this. There are several plausible explanations:

1. Poor gravel quality with high clay content results in excessive deterioration following a maintenance grade. This may be due to poor material properties used in the re-sheeting, or a deterioration of the wearing course without timely re-sheeting. Anecdotally, historical mining practises discarded rocky material and focussed on screening in situ gravels. This is evident in rocky material leftover in various properties around the Shire. The remedy in this situation is to re-sheet the road with appropriate materials. Stabilising materials such as cement, lime or other proprietary products are expensive and short-lasting.
2. Poor geometry and drainage result from topographical difficulties and insufficient pavement material to construct suitable cross falls. A lack of wearing course contributes to this issue. However, Denmark's topographic nature and the community's expectation of retaining significant trees make drainage problematic in many instances. Removal of significant trees to assist drainage is not considered an acceptable solution. Timely re-sheeting and reinstatement of cross fall will assist in these instances.
3. Changing seasonal weather patterns experienced over the past few years. Wet weather and heavy rain can result in faster deterioration of the wearing course.
4. High expectations from the community potentially arise from relocation from larger population centres with higher service levels.

Operational Actions

The following actions are recommended.

1. Seal Lights Road 2022-24 (funding secured) as this road carries significantly more traffic than any other unsealed road in the Shire of Denmark.
2. Continue a re-sheeting program ensuring appropriate material specifications.

3. Continue an appropriate maintenance schedule.
4. Continue to monitor traffic data and identify roads that may exceed 200AADT within 10 years (or similar Equivalent Standard Axles ESA).
5. Consider a sealing upgrade program in conjunction with the LTFP for roads that are predicted to exceed 200AADT within 10 years.

Voting Requirements:

Simple majority.

COUNCIL RESOLUTION & OFFICER RECOMMENDATION	ITEM 9.1.5
MOVED: CR GIBSON	SECONDED: CR CLARKE
That with respect to Council's request for a Cost-Benefit Analysis on the sealing of one or more gravel roads in the Shire of Denmark:	
1. NOTE the information provided in the report; and	
2. ACKNOWLEDGE the operational activities of:	
<ol style="list-style-type: none"> a) Seal Lights Road 2022-24 (funding secured) as this road carries significantly more traffic than any other unsealed road in the Shire of Denmark. b) Continue a re-sheeting program ensuring appropriate material specifications. c) Continue an appropriate maintenance schedule. d) Continue to monitor traffic data and identify roads that may exceed 200AADT within 10 years (or similar Equivalent Standard Axles ESA). e) Consider a sealing upgrade program in conjunction with the LTFP for roads that are predicted to exceed 200AADT within 10 years. 	
CARRIED: 6/0	Res: 140622

9.2 DIRECTOR CORPORATE AND COMMUNITY SERVICES

9.2.1 FINANCIAL STATEMENTS FOR THE PERIOD ENDED 30 APRIL 2022 AND AMMENDMENT TO BUDGET

File Ref:	FIN.1
Applicant / Proponent:	Not applicable
Subject Land / Locality:	Not applicable
Disclosure of Officer Interest:	Nil
Date:	31 May 2022
Author:	Lee Sounness, Manager Corporate Services
Authorising Officer:	Gina McPharlin, Director Corporate & Community Services
Attachments:	9.2.1 – April 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 30 April 2022 and approve an amendment to the budget for the Civic Centre upgrade project.

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.

Council endorsed further amendments to the adopted budget as part of the statutory mid-year budget review which was adopted at a Special Council Meeting held on 1st March 2022 and at its Ordinary Council Meeting held on 17th May 2022

All Council approved budget amendments for the 2021/2022 financial year are captured within the financial statements presented for the period ended 30 April 2022.

At the mid-year budget review Council was informed that the Civic Centre building upgrade project with an estimated cost of \$40,000, was not intended to proceed during the 2021/2022 financial year. It is now requested that the capital works expense attributable to the Civic Centre upgrade and its associated State Government funding source be reinstated to the budget and that these funds be spent prior to 30 June 2022. The details of the project are included in a separate report forming part of this agenda

The amendments required are as follows:

A/c 1117383 – Non-operating Grant Income – Halls & Civic Centre – increase income by \$40,000

A/c 1111004 (Job 50212) – Civic Centre Upgrade Capital Expense – increase expense by \$40,000

As we approach the closing stage of the 2021/2022 financial year, it has become clear that several projects, particularly in the capital expense area of the budget, will not be completed by 30th June. The delays result from global pressures, continued difficulties procuring the supply of goods and services, and ongoing impacts of COVID.

These constraints have also affected the delivery timeline of the Plant & Equipment scheduled for replacement during 2021/2022, which will need to be re-budgeted and added to the 2022/2023 plant replacement program.

The following issues have also impacted the completion of the capital works program this financial year:

- a contractor engaged to perform work related to the part of the Council's road network reseal, and renewal program has withdrawn its services;
- an agreement variation for a change in scope for works relating to the completion of the Denmark East development project has proved challenging;
- complications in obtaining the appropriate licence for the Mclean Oval Water Use Project and;
- changes to the scope and progress of the DRFAWA storm reinstatement works and DFES funded Fire Mitigation works will further impact the year-end position.

These issues will result in unspent funds as at 30 June, which will need to be considered as part of the adoption of the 2022/2023 budget.

There are no other 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.

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 in 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 Statement of Financial Activity for the period ended 30 April 2022 shows a year-to-date actual closing surplus position of \$2,974,566 compared to the year-to-date budget of \$1,559,125, a year-to-date variance of \$1,415,442.

Year-to-date operating revenue is \$550,134 higher than the year-to-date budgeted amount (Statement Report by Nature and Type). This is due to:

- fees and charges income having higher than expected activity in the following areas:
 - recreation centre fee income;
 - Parry Beach camping charges and;
 - rates property enquiry fees
- the pre-release of 75% of the 2022/2023 WA Local Government Grants Commission Financial Assistance Grants (FAG's) allocation totalling \$834,718 and operating grants that have been received on a varied timeline to that of the budget profile, including Fire Mitigation Activity funding and Main Roads WA Regional Road Group funding. These combined will affect the year-end closing position.

The actual operating expenditure is \$852,451 less than the year-to-date budgeted amount. The leading cause of this variance is timing and contractor supply issues affecting planned DRFAWA storm reinstatement works and Fire Mitigation Works, as mentioned earlier in this report. (refer to Materials and Contracts Expense in the Statement of Financial Activity Report by Nature and Type)

\$2,262,347 capital expenditure has been incurred to the end of April 2022, which is \$1,542,846 less than budgeted. One significant variation is on the McLean Oval Water Re-Use Project, which has been delayed pending a license amendment.

The road renewal reseal program, including several Main Roads regional road group funded projects, is behind the budget. Not all of these road projects will be completed by June 30 as budgeted.

Outstanding Debtors (Note 4)

As at 30 April 2022, outstanding Rates Debtors totalled \$449,839 compared to \$489,684 at the same time last year.

The rates collection percentage for the year sits at 93.93% (see Note 4), compared to 93.07% at the same time last year.

As at 30 April 2022, outstanding Sundry Debtors totalled \$57,593 compared to \$121,943 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) has been made to fund the Denmark East Light Industrial Area Fire Suppression System project, which has been suspended, and an application to DPIRD to repurpose these funds through a project variation is currently being prepared by management.

Cash Management

As at 30 April 2022, total cash funds held (excluding trust funds) total \$7,422,667 (Note 1).

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

Reserve Funds (restricted) total \$4,112,414 (Note 5).

Municipal Funds (unrestricted) total \$3,310,253 (Note 2).

Voting Requirements:

Absolute majority.

COUNCIL RESOLUTION & OFFICER RECOMMENDATION	ITEM 9.2.1
MOVED: CR CARMAN	SECONDED: CR DEVENPORT
That Council:	
1. With respect to the Financial Statements for the period ending 30 April 2022, RECEIVE the Financial Reports, incorporating the Statement of Financial Activity and other supporting documentation; and	
2. APPROVE the following budget amendments to the budget:	
a) A/c 1117383 – increase non-operating grant income by \$40,000; and	
b) A/c 1111004 (Job 50212) – increase contract capital expenditure by \$40,000.	
CARRIED BY AN ABSOLUTE MAJORITY: 6/0	Res: 150622

9.2.2 LIST OF PAYMENTS FOR THE PERIOD ENDING 30 APRIL 2022

File Ref:	FIN.1
Applicant / Proponent:	Not applicable
Subject Land / Locality:	Not applicable
Disclosure of Officer Interest:	Nil
Date:	28 May 2022
Author:	Lee Sounness, Manager of Corporate Services
Authorising Officer:	Gina McPharlin, Director Corporate & Community Services
Attachments:	9.2.2 – April 2022 Monthly List of Payments Summary

Summary:

The purpose of this report is to advise the Council of payments made during the period 1 April 2022 to 30 April 2022.

Background:

Nil

Consultation:

Consultation was not required for this report.

Statutory Obligations:

Local Government (Financial Management) Regulation 13 requires that a local government present a list of accounts paid to the Council each month.

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 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:

Nil

Voting Requirements:

Simple majority.

COUNCIL RESOLUTION & OFFICER RECOMMENDATION	ITEM 9.2.2
MOVED: CR CLARKE	SECONDED: CR LEWIS
<p>That with respect to the attached Schedule of Payments, totalling \$1,440,955.16, for the month of April 2022, Council RECEIVE the following summary of accounts:</p> <ul style="list-style-type: none"> • Electronic Funds Transfers EFT32424 to EFT32678 - \$945,206.18; • Municipal Fund Cheque No's 60482 – 60485 - \$7,749.20; • Internal Account Transfers (Payroll) - \$404,880.83; and • Direct Debit - \$8,932.00; • Corporate Credit Card; \$2,339.40; • Department of Transport Remittances; \$71,847.55, and • Loan Payments: \$0 	
CARRIED: 6/0	Res: 160622

9.2.3 INVESTMENT REPORT FOR THE PERIOD ENDED 30 APRIL 2022

File Ref:	FIN.19
Applicant / Proponent:	Not applicable
Subject Land / Locality:	Not applicable
Disclosure of Officer Interest:	Nil
Date:	30 May 2022
Author:	Lee Sounness, Manager Corporate Services
Authorising Officer:	Gina McPharlin, Director Corporate & Community Services
Attachments:	9.2.2 – April 2022 Investment Register

Summary

This report presents the Investment Register for the period ending 30 April 2022.

Background

This report is for Council to receive the Investment Register for the period ending 30 April 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 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 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, Objectives and Goals and the Corporate Business Plan Actions and Projects in the following specific ways:

Denmark 2027

L5.4 To be fiscally responsible.

Sustainability Implications

➤ **Governance:**

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

➤ **Environmental:**

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

➤ **Economic:**

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

➤ **Social:**

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

➤ **Risk:**

Nil.

Comment / Conclusion

The attached Investment Register summarises how funds are invested as per the Shires Investment Policy and reports on the Investment Portfolio balance as at 30 April 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 30 April 2022 totals \$4,112,414.

The total Municipal Funds Invested as at 30 April 2022 totals \$2,000,000.

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.

COUNCIL RESOLUTION & OFFICER RECOMMENDATION	ITEM 9.2.3
MOVED: CR ORMSBY	SECONDED: CR CLARKE
That Council RECEIVE the Investment Register (Attachment 9.2.3) for the period ended 30 April 2022.	
CARRIED: 6/0	Res: 170622

9.2.4 CIVIC CENTRE – CONVERSION OF THE COMMERCIAL KITCHEN TO A DRESSING ROOM

File Ref:	A3116
Applicant / Proponent:	Nil
Subject Land / Locality:	Portion of Lot 938 on Deposited Plan 206771 Portions of Lots 1 & 2 on Deposited Plan 222379
Disclosure of Officer Interest:	Nil
Date:	31 May 2022
Author/s:	David King, Deputy CEO Gina McPharlin, Director Corporate and Community Services
Authorising Officer:	Gina McPharlin, Director Corporate and Community Services
Attachments:	Nil

Summary:

As part of the Civic Centre capital works project funded by the State Government, it is proposed to remove the existing commercial kitchen and use the area for a dressing room.

This report seeks Council's authorisation of the proposed changes.

Background:

The Shire of Denmark (the Shire) has been awarded a Small Grants Program 2021 (State Government Election commitments) grant of \$40,000 to fund an upgrade to the Denmark Civic Centre. The Civic Centre is an important asset to the vibrant Denmark arts community. A community that has a national profile and a reputation for creating innovative, inclusive, and participatory arts projects.

At the mid-year budget review Council was informed that the Civic Centre building upgrade project with an estimated cost of \$40,000, would not proceed during the 2021/2022 financial year. Subsequent to this, the project scope has been changed and the project is expected to progress with funds to be spent prior to 30 June 2022.

Consultation:

The Shire has worked closely with the regular users of the Denmark Civic Centre, to provide key direction and advice on the requirements for this project.

The users have recommended the following scope of works:

- refurbish the stage and the backstage/green room space in order to provide adequate space for performers to enter and exit the green room/stage during performances.
- create a dressing room in place of the existing commercial kitchen.
- rationalisation and upgrade of theatre technological equipment, including mixing desk and lighting console.

Statutory Obligations:

This project requires the disposal of the existing commercial kitchen appliances and cabinetry.

Section 3.58 - Local Government Act 1995 requires Council to dispose (sell, lease or otherwise dispose) of property assets by public auction, public tender or local public notice in accordance with the legislated requirements. Section 3.58(d) allows for certain dispositions to be exempted from these requirements through regulations.

Policy Implications:

Nil

Budget / Financial Implications:

The capital works expense attributable to the Civic Centre upgrade and its associated State Government funding source will require the amendments as outlined in the financial report Item 9.2.1 (of this Agenda).

Strategic & Corporate Plan Implications:

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

Denmark 2027

- L5.0 Our Local Government
 - L5.4 To be fiscally responsible

B3.0 Our Built Environment

- 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:**

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)
Reputational: That the wider community does not support the project scope	Possible (3)	Minor (2)	Moderate (5-9)	Inadequate Engagement - Community / Stakeholders / Crs	Accept Risk

Comment/Conclusion:

The refurbishment of the backstage/green room area to provide adequate space for performers will involve the removal of the commercial kitchen facilities currently located within the Civic Centre. The upgrade is limited to improving the performer’s ability to enter and exit the green room/stage which will remove the need to use the toilets as a holding room for artists at the side of the stage.

It is the officer’s assessment that the loss of the commercial kitchen facilities at the Civic Centre will have minimal impact on the community. In the last 12 months, the commercial kitchen facilities have been hired once, generating revenue of \$93.60.

There have been no significant renovations or upgrades undertaken by the Shire to the commercial kitchen facilities in the last 10 years. There are also a number of commercial kitchen facilities in Denmark including at the Denmark Community Resource Centre, Country Club, Football Club, Riverside Club, Scouts, Denmark Recreation Centre, Country Womens Association and the Steiner School, which community groups or individuals may be able to negotiate to use.

Voting Requirements:

Simple majority.

COUNCIL RESOLUTION & OFFICER RECOMMENDATION	ITEM 9.2.4
MOVED: CR CLARKE	SECONDED: CR DEVENPORT
That Council AUTHORISE the demolition of the commercial kitchen at the north end of the Civic Centre, and replace with a stage extension and dressing room.	
CARRIED: 6/0	Res: 180622

9.3 CHIEF EXECUTIVE OFFICER

Prior to consideration of Item 9.3.1, Cr Lewis declared that her husband is President of Horsepower Denmark and she is a volunteer for them, and as a consequence there may be a perception that her impartiality on this matter may be affected.

9.3.1 DENMARK EQUESTRIAN MANAGEMENT GROUP – LEASE AND PROPOSED CONCEPT PLAN

File Ref:	LEA.43 & A3189
Applicant / Proponent:	Denmark Equestrian Management Group
Subject Land / Locality:	Whole of Reserve 39067 being Lot 1004 on Deposited Plan 215923
Disclosure of Officer Interest:	Nil
Date:	12 May 2022
Author:	Claire Thompson, Governance Coordinator
Authorising Officer:	David Schober, Chief Executive Officer
Attachments:	9.3.1 – Draft Lease

Summary:

Council is asked to approve a new lease and provide in principle support for a proposed development concept plan for Reserve 39067.

Background:

Management Order for the Reserve was transferred to the Shire in 1985, for the purpose of ‘Recreation – Trotting Ground’, with power to lease for any term not exceeding 21 years. The current land use is ‘Horse Racing Ground and Recreation’.

The first lease commenced in 1989 with the Denmark Trotting Club Inc. for a period of 10 years.

In 1999 a new 10 year lease commenced with joint tenants, Denmark Trotting Club Inc. and Denmark Riding and Pony Club Inc. The lessees occupied the premises as monthly tenants for a few years until a new lease could be negotiated.

In 2012, joint tenants Denmark Riding & Pony Club Inc. and the Denmark Equestrian Club Inc. became the joint tenants in a new 10 year lease.

The lease included a “Survivorship” clause and when the Denmark Riding & Pony Club Inc. disbanded in November 2014, the Denmark Equestrian Club Inc. became the sole lessee.

In 2019, the Denmark Equestrian Management Group (DEMG) was formed as an incorporated body with constituent representation from the Denmark Equestrian Club, Denmark Pony Club and Horsepower Denmark (formerly Riding for the Disabled).

The purpose of the group is to:

1. Maintain and improve the Denmark Equestrian grounds, buildings and facilities.
2. Collaborate with the Shire of Denmark in encouraging participation, planning and facilities development, to meet the collective needs of the associated clubs.
3. Facilitate communication within and between clubs.

Consultation:

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

Internally, consultation has occurred with the Shire's Principal Building Surveyor and the Principal Environmental Health Officer in relation to Special Condition 10.6.

Statutory Obligations:

MANAGEMENT ORDER

The Shire has Management Order for Crown land Reserve 39067 with power to lease for up to 21 years. The purpose of the reserve is *Horse Racing Tracks and Recreation*.

LOCAL GOVERNMENT ACT 1995

Section 3.58 permits Council to dispose of property, including leasing of land.

LOCAL GOVERNMENT (FUNCTIONS & GENERAL) REGULATIONS 1996

Regulation 30(2)(b)(i) exempts any disposal of property to a body whose objects are of a recreational or sporting nature from disposal provisions detailed under s 3.58. The DEMG's objects comply with this exemption.

LAND ADMINISTRATION ACT 1997

Section 18 requires that Ministerial Approval be given for any transaction involving Crown land.

CARAVAN PARK AND CAMPING REGULATIONS 1997

Regulation 11 allows a person to camp for up to three (3) nights in any period of 28 consecutive days on land which he or she owns or has a legal right to. Special Condition 10.6 complies with this regulation.

Policy Implications:

Policy P110102 – Leasing of Land to Community Groups relates.

The Shire of Denmark Sport & Recreation Master Plan (2019) identified the following opportunity (recommendation) for the Equestrian Ground:

- Provide power and water services to the site.
- Consider upgrade to amenities building with suitable toilets, including an accessible toilet.
- Potential shade structure at mounting yard.
- Cross country trail improvements.
- Support existing clubs in improvements to arenas.

- Review leasing arrangements and explore opportunity of a management body to oversee the development of all clubs including: equestrian, Trotting, Pony Club and Riding for the Disabled. (this is now the DEMG)

Budget / Financial Implications:

Clause 4.1 of the lease requires the lessee to pay all rates, taxes, charges, assessments, licence fees, duties, impositions, penalties, and other outgoings in respect of the premises or the use or occupation of the Premises or any part.

Special Condition 10.8 states that the Council will consider waiving the rates each year. In any case the lessee will be required to pay the Emergency Service Levy.

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.

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

B3.4 To manage assets in a consistent and sustainable manner.

L5.0 Our Local Government

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

L5.2 To have meaningful, respectful and proactive collaboration with the community.

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

Corporate Business Plan

Nil

Sustainability Implications:

➤ **Sustainability Strategy:**

Nil

➤ **Governance:**

Officers are recommending that the Council, as the land manager, support the DEMG’s endeavour to develop a concept plan for the reserve in order to provide the volunteers with some confidence that their efforts would be in keeping with the Council’s future aspirations for the area.

It is recommended that any draft concept plan then be presented to the Council for adoption so that the plan essentially becomes the Shire’s confirmed position on the future use of the reserve. The DEMG’s vision is to seek funding opportunities to achieve aspirations under a concept plan and an adopted plan would clearly indicate the Council’s support and commitment to the future use of the reserve.

Alternatively, the Council may decide that they do not want to make any firm decision on the future of the reserve and therefore not support the development of a concept plan.

➤ **Environmental:**

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

➤ **Economic:**

Shire Officers have checked with two large, local caravan park operators who have advised that they don't allow horses at their facilities. For this reason, allowing overnight camping at the ground would not be negatively impacting commercial caravan and camping operators.

➤ **Social:**

The DEMG states that they are keen to maintain the fun and friendly environment to encourage and support socialisation of likeminded people and to facilitate the development of new skills in the local equestrian community.

➤ **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 a new lease and/or the principle of a concept plan is not supported by the community	Rare (1)	Insignificant (1)	Low (1-4)	Not Meeting Community expectations	Accept Risk

Comment/Conclusion:

The Denmark Equestrian Management Group Inc. (DEMG) comprises members from three (3) local, incorporated groups who use the facilities on Reserve 39067. The DEMG was established so that the groups could collaborate on the needs and wants of each group with the view of working towards developing the area, to improve its use and ensure its viability into the future.

Below is some information on each of the member organisations.

DENMARK EQUESTRIAN CLUB (extracted from information provided by DEMG)

1. Encourages the continued education and support for the adult riding community.
2. Was previously a joint lessee before becoming the sole lessee in 2014.
3. Over 40 active members holding monthly rallies that cater for most levels of horses and riders.
4. Hold lessons with local instructors, trail rides and activity days throughout the year.

HORSEPOWER (extracted from information provided by DEMG)

1. Previously known as Riding for the Disabled Association of WA.
2. Registered voluntary, charitable not for profit organisation that provides people with diverse abilities opportunities that empower them to break through physical, cognitive, emotional and social barriers utilising the power of the horse to develop new skills, discover new abilities and define the life they want to live.
3. Operating since 2015 and one of 14 affiliated centres.
4. Provides a variety of programs including riding, vaulting, hippotherapy and walking.
5. In 2022, 12 riding members and over 20 volunteers.
6. Affiliated with Federation of Horses in Education and Therapy International and Disability Sports Australia.

DENMARK PONY CLUB (extracted from information provided by DEMG)

1. Incorporated in 2018 and awarded Pony Club WA's 'Pony Club of the Year' in 2019
2. Over 27 active members, plus support persons.
3. *Pony Club* is an international youth association dedicated to providing opportunities for young people that are interested in horses, ponies and riding.

4. More than 60 affiliated pony clubs with Pony Club WA.
5. Promotes the physical, mental and spiritual development of young people by encouraging sportsmanship and good citizenship.
6. Provides opportunities for young riders to gain knowledge and become proficient in their chose equestrian sport.
7. All members are encouraged to participate regardless of their riding ability.
8. Activities include Working Rallies, camps, trail rides, lectures and films, visits to places of interest, demonstrations, polo, polocrosse and vaulting.
9. Attracts riders from outside Denmark to monthly rally days and the Club's highly successful Combined Training Championship Series, which is in its third year.

LEASE

The DEMG are seeking a lease for a period of not less than 10 years. Ideally, a 21-year lease would provide them with tenure security in order to seek external funding opportunities and invest significant volunteer hours in establishing a development concept plan and progressing developments as funds become available.

Attached is a draft lease, based on the Shire's standard community group lease, that has been negotiated with the DEMG. Shire Officers have recommended that the term be 21 years.

Of particular note for Council are Special Conditions 10.3, 10.4 and 10.6.

- Condition 10.3 – Mowing of Lawns

The Shire has historically always provided assistance with mowing the grounds. The provision in the previous lease to the Denmark Equestrian Club was that the Shire would slash or mow the lawns on at least two occasions during each calendar year.

During the negotiations, DEMG asked whether the Shire would consider increasing the frequency to four times per year. From an operational perspective, Shire Officers do not consider mowing the grounds four times a year too onerous, and believe that it can be accommodated within the Shire's existing Parks & Reserves Maintenance Budget (GL1138102).

It is also important for the Shire to take on some responsibility for ensuring the reserve is maintained adequately from a bushfire mitigation perspective.

- Condition 10.4 – Consent for Ad-Hoc Use

DEMG advised that ad-hoc use from non-members has always been permitted however, moving forward this practice could provide an opportunity for the club to gain some income. The provision in the draft lease, speaks to a "reasonable" fee and requires the club to indemnify the Shire and the Minister for Lands against any third party claims.

- Condition 10.6 – Consent for Overnight Camping

The DEMG state that it is not uncommon for the managers of Equestrian Grounds to permit overnight camping, as the grounds provide a safe and secure setting for people and their horses.

Regional competitions, training and rallies all draw significant non-local participants to the Shire and from the DEMG's perspective, it would be beneficial if outside participants could use the grounds to camp for up to three nights.

The DEMG have in place (these have been provided to Shire Officers):

- Booking form

- Booking conditions and fees
- Public liability
- Hazard & risk assessment for camping
- Emergency plan
- Map of emergency evacuation points and procedures
- Ground rules and users guide

A recent example (January 2022) was when the Shire approved overnight camping at the grounds for four riders from WA Trekkers who visited Denmark to do a reconnaissance for a future trek of the South Coast in 2023.

In addition to the reasons stated above, most local accommodation providers do not allow, or have provision for, horses or ponies.

Condition 10.6 permits camping at the ground subject to a number of conditions, and complies with statutory requirements under the *Caravan Parks and Camping Grounds Regulations 1997*.

CONCEPT PLAN

Should the DEMG be granted a lease, they would like to create a development concept plan for the reserve with the following features:

1. Improved water supply.
2. New club house – incorporating solar panels, improved kitchen facilities (servery and canteen capability) and upgraded toilets, including a universally accessible toilet and changing place.
3. Improved Arena surfaces.
4. Establishment of a new undercover arena – currently they have no undercover areas to protect users from the weather. Last year Horsepower had to cancel three activity days during the wetter months. Denmark
5. Additional storage.
6. Undercover seated area/pergola for spectators.
7. Obstacle course to challenge riders, particularly those with disability.
8. Improved cross country course.
9. Improved safety for clients, members and visitors, including the delineation of a dedicated parking area.

DEMG have provided the following identified benefits of creating a concept plan (the comments in brackets are those of Shire Officers):

1. Better use of the space (entire reserve).
2. More opportunity for funding (particularly if it is supported & adopted by Council)
3. Better facilities to increase income streams.
4. Improve safety of riders, spectators and horses and other users.
5. Increase membership to help with ongoing maintenance and development.
6. Assist clubs to be financially viable (self-supporting).
7. Increased use by outside parties, grounds are well placed for trail riding and trekking groups.
8. Better arena for outside clubs, clinicians and coaches to hire.

Voting Requirements:
Simple majority.

COUNCIL RESOLUTION & OFFICER RECOMMENDATION	ITEM 9.3.1
MOVED: CR GIBSON	SECONDED: CR ORMSBY
That with respect to whole of Reserve 39067 being Lot 1004 on Deposited Plan 215923, Council:	
<ol style="list-style-type: none"> 1. AUTHORISE the Chief Executive Officer to offer a 21-year lease to the Denmark Equestrian Management Group Inc., as per Attachment 9.3.1, subject to obtaining Ministerial Approval in accordance with the Land Administration Act 1997; and 2. ADVISE the Denmark Equestrian Management Group Inc. that it supports the development of a draft concept plan for the reserve, in principle; and 3. REQUEST the Denmark Equestrian Management Group Inc. to present a draft concept plan to the Council for adoption should one be developed. 	
CARRIED: 6/0	Res: 190622

9.3.2 DRAFT CATS LOCAL LAW

File Ref:	LEG.1
Applicant / Proponent:	Shire of Denmark
Subject Land / Locality:	Not applicable
Disclosure of Officer Interest:	Nil
Date:	14 March 2022
Author:	Chris Liversage, Consultant Claire Thompson, Governance Coordinator
Authorising Officer:	David Schober, Chief Executive Officer
Attachments:	9.3.2 – Draft Shire of Denmark Cats Local Law

Summary:

To propose a new Cats Local Law and write to the Minister for Housing; Lands; Homelessness; Local Government requesting that the Cat Act 2011 be reviewed to provide local governments with more power to restrict the movement of cats.

Background:

Clause 5.2.4 of the *Shire of Denmark Health Local Laws 1998* deals with the keeping of cats in the district. Amongst other things, it provides that a person must not keep more than two cats over the age of six months without the approval of the Shire.

There are 183 cats registered with the Shire of Denmark.

There have been a significant number of changes in this area of activity, including the introduction of the *Cat Act 2011*, *the Cats Regulations 2012* and *the Cat (Uniform Local Provisions) Regulations 2013*.

Amongst other things, the *Cat Act 2011* requires that keepers of cats must register them with the local government where they are normally kept, cats must be microchipped, and sterilised unless exempt.

Consultation:

Section 3(2) of the *Cat Act* provides that words and expressions defined in the *Local Government Act 1995* have the same meaning in the *Cat Act*, unless the contrary intention appears.

This includes making local laws, and using the process set out in section 3.12(3) of the *Local Government Act 1995*. Amongst other things this requires a local government to give local public notice stating that it proposes to make a local law, the purpose and effect of which is summarized in the notice for a period of 6 weeks after it first appears. A copy is also to be given to the Minister for Local Government.

The purpose and effect of the proposed local law is:

Purpose

To set a ‘standard number’ of cats that may be kept on premises and deal with cats that may be a nuisance as defined in the local law.

Effect

Persons must not keep more than the standard number of cats unless provided for by the local law, the Cat Act or its associated Regulations, or be a nuisance as defined in the local law to persons in the district.

The results of the community consultation and feedback from the Minister are to be considered by Council before it makes the local law.

Statutory Obligations:

The *Cat Regulations 2012* deals with matters such as:

- Microchipping;
- Registration and registration periods;
- Applications for approval to breed cats;
- Registration fees; and
- Application fees to obtain a permit to breed cats.

The *Cat (Uniform Local Provisions) Regulations 2013* operate as if they are local laws. Amongst other things these Regulations provide for:

- Local laws to determine what is the ‘standard number’ of cats that can be kept, excluding cats under the age of 6 months;
- If a member of a ‘cat organisation’ is normally resident on the premises, then the number of cats that can be kept on premises to be 3 times the standard number;
- Catteries; and
- Applications to keep additional numbers of cats.

Local laws that deal with cats must comply with the Cat Act and associated Regulations. What can be dealt with by local laws is set out in section 79 of the Cat Act:

79. Local laws

(1) ...

(2) ...

(3) *Without limiting subsection (1), a local law may be made as to one or more of the following —*

- (a) *the registration of cats;*
- (b) *removing and impounding cats;*
- (c) *keeping, transferring and disposing of cats kept at cat management facilities;*
- (d) *the humane destruction of cats;*
- (e) *cats creating a nuisance;*
- (f) *specifying places where cats are prohibited absolutely;*
- (g) *requiring that in specified areas a portion of the premises on which a cat is kept must be enclosed in a manner capable of confining cats;*
- (h) *limiting the number of cats that may be kept at premises, or premises of a particular type;*
- (i) *the establishment, maintenance, licensing, regulation, construction, use, record keeping and inspection of cat management facilities;*
- (j) *the regulation of approved cat breeders, including record keeping and inspection;*
- (k) *fees and charges payable in respect of any matter under this Act.*

As noted above, as cats are now regulated under different legislation to the Health Act it is preferable to make a new Cats Local Law to ensure compliance with the Cat Act and its associated Regulations.

In addition, the Shire could consider if it is suitable to introduce any provisions to seek to deal with nuisances that may be caused by cats, and/or specified areas where cats could be prohibited from being.

These issues are discussed below.

Local Laws come into effect 14 days after publication in the *Government Gazette*.

Note that under s3.12(7) of the Local Government Act, the Minister for Local Government has issued directions under which local governments are required to submit local laws for review by the WA Parliamentary Joint Standing Committee on Delegated Legislation (JSCDL). If the JSCDL believes that a local law has not been properly made, is not in accordance with enabling legislation, or offends its terms of reference it may recommend that Parliament disallow the local law in its entirety.

If any issues arise however, the JSCDL usually requests that the local government undertake to amend the local law and not to enforce it in a manner contrary to the undertaking in the meantime.

Policy Implications:

There are no policy implications.

Budget / Financial Implications:

There are costs associated with drafting and if 'made', publishing the proposed new local law in the *Government Gazette*. In addition, subject to future budgetary discussions, a publicity and incentive scheme aimed at cat owners to voluntarily confine cats is considered appropriate.

If measures such as the introduction of areas where cats are prohibited from being and/or must be confined are introduced as part of the local law, enforcement costs could be significant, but will depend on the degree of restrictions imposed.

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

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.

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.

Corporate Business Plan

Governance Project:

- Cat Local Law

Action: Regulate to introduce a local law regarding keeping cats within the Shire, including the number that can be kept, the places where cats can be kept and the areas where cats are prohibited.

Sustainability Implications:

➤ **Sustainability Strategy:**

04 Land & Nature

4.4 Support provision of education to the broader community on protection of the natural environment.

➤ **Governance:**

If the draft local law is eventually ‘made’, Council could consider delegating power to the CEO under s5.42 of the Local Government to decide applications to keep more than the recommended standard number of cats (currently two, and which is proposed to be continued under the new local law), and which could also be subject to any conditions which could be listed in the instrument of delegation or a policy.

➤ **Environmental:**

The proposed local law and associated education initiatives have the potential to change behaviour of cat keepers which could result in a reduction of damage to the environment caused by domestic cats in the district.

➤ **Economic:**

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

➤ **Social:**

Domestic cats are companion animals for significant sections of the community and, in some cases, help control mice and rat numbers in households or on business premises.

Other members may consider them as predators of native wildlife who should be subject to significant restrictions. The draft local law seeks to balance these issues without polarising the community.

➤ **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)
Financial: There is a risk that a proposed local law or provisions therein are disallowed by the Joint Standing Committee on Delegated Legislation. This would require the Shire to amend the local law resulting in additional costs.	Possible (3)	Minor (2)	Moderate (5-9)	Failure to meet Statutory, Regulatory or Compliance Requirements	This risk has been mitigated somewhat by engaging the guidance from a qualified consultant.

Comment/Conclusion:

A draft Shire of Denmark Cats Local Law is attached (see Attachment 9.3.2). It is based on others developed by other local governments and advisory notes from the WA Department of Local Government, Sport and Cultural Industries (see <https://www.dlgsc.wa.gov.au/departments/publications/publication/cat-local-law-guideline>).

The salient features are discussed below.

- *Number of cats that may be kept without a permit*

Clause 5.2.4 of the current *Shire of Denmark Health Local Law 1998* provides that up to two cats over the age of three months may be kept on premises within the district without a permit from the Shire.

It is proposed to retain this as the 'standard number' of cats that may be kept without a permit. This will deal with most issues that relate to cats that may be kept in significant numbers. Regulation 5 of the *Cat (Uniform Local Provisions) Regulations 2013* excludes cats under 6 months of age for the purposes of determining the standard number of cats in a local law.

The process for a person to keep more than the standard number of cats is set out in the *Cat (Uniform Local Provisions) Regulations 2013*. In addition, clauses 2.3 – 2.6 of the proposed new local law set out possible conditions that could be applied where approval is given, and which must be considered on a case by case basis.

- *Cats creating a nuisance*

It is considered that the local law should include provisions about nuisance behaviour of cats.

As such, 'nuisance' is defined in clause 1.4 of the draft local law as:

- an activity or condition which is harmful or annoying and which gives rise to legal liability in the tort of public or private nuisance at law;*
- an unreasonable interference with the use and enjoyment of a person of his or her ownership or occupation of land; or*
- interference which causes material damage to land or other property on the land affected by the interference;*

Clause 3.1 of the draft local law provides that:

The owner or occupier of premises on which a cat is ordinarily kept shall prevent the cat from creating a nuisance on other premises, to another person or exposing another person to health and/or safety risks by:

- The noise or odour generated by the presence of the cat/s;*
- The aggressive nature of the cat/s; or*
- A cat that wanders outside the premises where it is ordinarily kept.*

Enforcement provisions are set out in Part 4 of the draft local law.

- *Specifying places where cats are prohibited absolutely and/or confined*

Note that it is not possible to impose a district wide ban to prohibit cats from being anywhere other than their owner's property.

Section 79(3)(f) of the Cat Act provides that a local law may be made as to specifying places where cats are prohibited absolutely, and subclause (g) requiring that in specified areas a portion of the premises on which a cat is kept must be enclosed in a manner capable of confining cats (emphasis added).

As noted above, local laws are subject to review by the WA Parliamentary Joint Standing Committee on Delegated Legislation which has taken the view that 'specified' and 'specifying' cannot include an entire district.

'Specified' areas could though include places adjacent to nature reserves to protect wildlife and could be included in a schedule to the local law. This can be in the form of a map of the

district highlighting the area/s where cats are prohibited or alternatively the local law could specify (and name) particular areas, such as reserves, foreshores, regional parks etc.

There are however resource implications to enforce prohibition and/or confinement provisions even if narrowly scoped – if the Shire is unable to police the local law, then it will be ineffective. The Shire currently has two (2) full time rangers and, in the view of Shire Officers, any enforcement of a local law that regulates prohibition and confinement requirements will likely require additional resources.

Alternatively, self-regulation by the community may be a more efficient way of achieving a desired outcome and should at least be tried. For example, local governments have long advocated for dog owners to collect dog faeces from public places and encouraged them to do so by providing bags at strategic spots, and to the extent now where it is socially unacceptable not to.

In this regard it may assist for the Shire to run an education campaign to encourage cat keepers to confine cats. As an incentive and a way of generating publicity this could also include (for example) the Shire giving away a free confinement unit manufactured by a local business, for which all keepers of cats who register their cat with the Shire might be eligible to win in a draw, and repeated annually if successful.

Cats and their keeping can be divisive issues. As well as being potentially more cost effective, incentives and positives, rather than perhaps punitive measures, are less likely to polarise the community.

As such, the draft local law does not contain measures relating to specified areas where cats are prohibited from being or where they must be confined. This could be reviewed in due course (local governments are required to review local laws at least once every eight years under s3.16 of the Local Government Act) and any further measures considered if self-regulation proves ineffective.

Finally, note too that the draft local law contains text boxes referring to the Cat Act and its associated regulations. These text boxes do not form part of the local law and are for guidance only; they will be removed from the official version eventually published in the Government Gazette if the local law is made.

CAT ACT 2011 REVIEW

Officers note that during informal discussion workshops held with councillors on the draft local law, there was some concern about local governments not being able to prohibit cats in areas more broadly, due to restrictive provisions within the Cat Act that only allow the Council to specify areas.

Councillors were advised that in order for local governments to impose more broad prohibition of cats, the Cat Act would need to be amended. In 2019, the Department of Local Government completed a review into the Cat Act and Dog Act and reported a number of findings, including *“strong support for cat numbers and confinement/curfews of cats to be implemented Statewide (in legislation) rather than through individual local laws”*.

Further to the 2019 review, the WALGA put forward a motion to the WALGA – State Council in 2021 requesting that the review recommendations be progressed. The recommendation was carried unanimously by the State Council.

With respect to the State Government’s review, the CEO has provided a report to the WALGA – Great Southern Zone to consider writing to the Minister and the Department to request an update on the implementation of the review’s findings. In addition, Officers have recommended that the Council also write to the Minister requesting that the Cat Act be reviewed and, in particular, provisions around prohibition and confinement.

Voting Requirements:

Simple majority.

COUNCIL RESOLUTION & OFFICER RECOMMENDATION	ITEM 9.3.2a)
MOVED: CR GIBSON	SECONDED: CR LEWIS
That Council:	
1. In accordance with sections 3.12(3)(a) and (3a) of the Local Government Act 1995, GIVES local public notice stating that:	
(a) It is proposed to make a Shire of Denmark Cats Local Law, and a summary of its purpose and effect;	
(b) Copies of the proposed local law may be inspected at the Shire offices or on the Shire of Denmark’s website;	
(c) Written submissions (including via email) about the proposed local law may be made to the Shire within a period of not less than 6 weeks after the notice is given;	
2. In accordance with section 3.12(3)(b) of the Act, as soon as the notice is given sends a copy of the proposed local law to the Minister for Local Government;	
3. In accordance with section 3.12(3)(c) of the Act, supply a copy of the proposed local law to any person requesting it; and	
4. Notes that the results of the public consultation be presented to Council for consideration of any submissions received.	
CARRIED: 6/0	Res: 200622

COUNCIL RESOLUTION & OFFICER RECOMMENDATION	ITEM 9.3.2b)
MOVED: CR LEWIS	SECONDED: CR CARMAN
That Council request the Chief Executive Officer to write to the Minister for Housing; Lands; Homelessness; Local Government requesting that the 2019 Department of Local Government review recommending changes to the Cat Act be progressed, particularly in relation to providing local governments increased power to confine the movement of cats within their respective local government areas.	
CARRIED: 6/0	Res: 210622

9.3.3 DENMARK LIONS CLUB SERVICE AGREEMENT FUNDING INCREASE

File Ref:	A3212 & AGR.46
Applicant / Proponent:	Denmark Lions Club Inc.
Subject Land / Locality:	Reserve 11655
Disclosure of Officer Interest:	Nil
Date:	12 May 2022
Author:	David Schober, Chief Executive Officer
Authorising Officer:	David Schober, Chief Executive Officer
Attachments:	Nil

Summary:

Council is requested to support the continuing of an agreement between the Shire and the Denmark Lions Club to maintain a portion of the Denmark Cemetery.

Council is also asked to approve a one-off payment of \$2,500 to the Denmark Lions Club for services rendered at the Denmark Cemetery on behalf of the Shire of Denmark in the 21/22 financial year.

Background:

Since 2001 the Denmark Lions Club have played a significant role in the maintenance and mowing of the Cemetery and have been provided with an annual contribution of \$7,500 to carry out these services on behalf of the Shire.

In 2021, Denmark Lions members met with officers and requested an increase to the annual contribution by \$2,500 to cover increases experienced with respect to mowing and maintenance of the Cemetery. Members also raised the issue with officers that no increase had been requested since 2011/12 (more than 10 years earlier).

As a result of this request, the Denmark Lions were invited to present to the March 2021 Ordinary Council Meeting about their contribution to the Denmark community, including works conducted at the Denmark Cemetery. Following this presentation, it was the intent of officers to recommend an increase to the amount payable to Lions, within Cemetery Maintenance (Job no. 21201) during budget workshops in May 2021, noting no increase in the job number, but detailing the contribution to Lions in the budget notes. Unfortunately, this did not occur and the notation of "Mowing Lions Club" remained, without stating the contribution amount.

Consultation:

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

Internally, consultation has occurred with the Shire's Reserves and Waste team in relation to the works undertaken on behalf of the Shire.

Statutory Obligations:

LOCAL GOVERNMENT ACT 1995

Section 6.8 permits expenditure from municipal fund, not included in annual budget, if it is authorised in advance by an absolute resolution of Council.

Policy Implications:

P100706 CEMETERY INCOME

Objective

To ensure that all surplus income over expenditure inclusive of depreciation in relation to the Denmark Cemetery are transferred to the Cemetery Reserve Fund.

Policy

Council include in the annual Budget the following principle;
That any surplus income over expenditure (including depreciation) at the Denmark Cemetery at the conclusion of a financial year is to be transferred to a Cemetery Reserve Fund to then be utilised for future upgrading, expansion, refurbishment of facilities and/or additional facilities.

Cemetery Reserve objective:

To develop and maintain the cemetery.

Implications

The current balance is \$2,118.

Over the last 10 years the transfer to Cemetery Reserves has been less than \$100 per annum. Any decision of Council that reduces income, or increases expenditure, would impact on future reserve balances.

Budget / Financial Implications:

The budget allocation for Cemetery Maintenance (Job no. 21201) in the 2021/22 financial year is \$29,991. Year to date expenditure against this account is \$17,367.

Officers anticipate this account will be underspent for the current financial year. Thus, no additional funds are required by the Shire should the officer recommendation be endorsed to provide the Denmark Lions with an additional \$2,500 for the 2021/2022 financial year. This would reimburse them for additional costs incurred in undertaking the maintenance of portions of the Denmark Cemetery

Should Council not endorse the officer recommendation, and allocate the tasks listed in the Service Agreement to staff, this would require an additional allocation within the 2022/23 wages and salaries account. Officers have estimated this value would exceed the proposed annual contribution to Denmark Lions by a considerable margin.

In previous years, Officers have also compared the cost of the works verses the engagement of a commercial contractor, and found that the cost of a commercial contractor would be significantly higher. Notwithstanding, this is an alternative option that Council may wish to pursue.

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.

B3.4 To manage assets in a consistent and sustainable manner.

L5.0 Our Local Government

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

L5.2 To have meaningful, respectful and proactive collaboration with the community.

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

Corporate Business Plan

Nil

Sustainability Implications:

➤ **Sustainability Strategy:**

Nil

➤ **Governance:**

Officers are recommending that Council, as the land manager, support the development and implementation of a service agreement which clearly articulates the services required of the Denmark Lions for an annual contribution of \$10,000.

The service agreement is to support the maintenance, appearance and safety at the Cemetery, and clearly define the Shire's and the Lions respective responsibilities and obligations.

➤ **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 implications 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 another community organisation would like the opportunity to be paid to maintain the Denmark Cemetery.	Rare (1)	Insignificant (1)	Low (1-4)	Not Meeting Community expectations	Accept Risk

Comment/Conclusion:

A service relationship between the Shire and Denmark Lions has existed since 2001. The existing agreement is in accordance with a letter from the, then, Chief Executive Officer in 28 August 2001.

The Lions work with the Shire’s Parks and Reserves Team to maintain the entire Cemetery Reserve.

Officers support the continuing of maintenance assistance from the Denmark Lions, and accordingly, the development of a service agreement to clearly articulate roles and responsibilities of both the Lions and the Shire. This has become even more important with the new Work Health and Safety Act 2020, which took effect from 31 March 2022.

The author believes the annual allocation of \$10,000 would be considerably less than these services being delivered “in-house” by staff who are already working to capacity, or alternatively a commercial contractor. In addition to budget savings, Lions exist to serve and support the local community. Lions Australia list among their key purposes that they exist in order:

- *To fund and otherwise serve the civic, cultural, social and moral welfare of the community*
- *To assist financially, culturally, socially and morally the disabled, disadvantaged and infirm of the community both directly and also indirectly, and*
- *To encourage service-minded people to serve their community without personal financial reward, and to encourage efficiency and promote high ethical standards in commerce, industry, professions, public works and private endeavours.*

In supporting the Lions, as a key not for profit partner in the Denmark community, Shire funds allocated within the service agreement, over and above the amount required to cover consumables (eg. lawnmower fuel) would be reinvested back into the community through the many projects the Denmark Lions undertake each year. The significant saving to Council, and the ability for the Lions Club to reinvest some of the payment, is due to the work being undertaken by unpaid volunteers.

The agreement would include a provision to mitigate against the Lions Club inability to perform the work. In such an instance, the Shire would take over the maintenance work and the reduce any payment for service accordingly.

Voting Requirements:

Absolute majority.

COUNCIL RESOLUTION & OFFICER RECOMMENDATION	ITEM 9.3.3
MOVED: CR CARMAN	SECONDED: CR LEWIS
That Council:	
<ol style="list-style-type: none"> 1. INCLUDE a budget allocation of \$10,000 for the 2022/23 financial year, under Job No. 21201, noting that the funds are for the Denmark Lions and in accordance with a Service Agreement, to be negotiated and agreed between the Denmark Lions and the Chief Executive Officer; and 2. APPROVE an additional payment of \$2,500, from account Cemetery Maintenance (Job no. 21201), to Denmark Lions for services rendered within the 2021/22 financial year. 	
CARRIED BY AN ABSOLUTE MAJORITY: 6/0	Res: 220622

9.3.4 DENMARK HISTORICAL SOCIETY REQUEST FOR SUPPORT TO HOST ROYAL WESTERN AUSTRALIA HISTORICAL SOCIETY ANNUAL STATE HISTORY CONFERENCE OF AFFILIATED SOCIETIES

File Ref:	ORG.15
Applicant / Proponent:	Denmark Historical Society
Subject Land / Locality:	Not applicable
Disclosure of Officer Interest:	Nil
Date:	1 June 2022
Author:	David Schober, Chief Executive Officer
Authorising Officer:	David Schober, Chief Executive Officer
Attachments:	Nil

Summary:

Council is asked to approve an allocation of \$1,500 in the 2022/23 annual budget, along with free use of Council Chambers and Reception Room, to host the official welcome of the Royal Western Australia Historical Society Annual State History Conference of Affiliated Societies (State Conference) to be held in Denmark on 9 to 11 September 2022.

Background:

The Denmark Historical Society (DHS) have been successful in attracting the 2022 State Conference to Denmark. The Conference is expected to host 150 delegates from around Western Australia.

The event will be conducted at the Denmark Riverside Club, and the DHS are seeking support from Council to host the official welcome on the Friday night (9 September) ahead of the Conference on Saturday 10 and Sunday 11 September 2022.

On 17 March 2020, DHS President, Mr Ashleigh Murch, and State Conference Committee Member, Mr Malcolm Trail, presented to Councillors at the Strategic Briefing to obtain support for the 2021 Conference.

Unfortunately, due to Covid-19 restrictions, the 2021 State Conference was postponed and Denmark was subsequently offered the opportunity to host the 2022 Conference.

Consultation:

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

Statutory Obligations:

Nil

Policy Implications:

P040120 USE OF COUNCIL CHAMBER/RECEPTION ROOM

Objective

To ensure this meeting venue is available for Council purposes at the times and dates required.

Policy

That the Council Chamber and/or Reception Area be used only for meetings of the Council, Council Committees and/or approved regular events (refer also Policy P110711 – Woodturners of Denmark Annual Exhibition) and otherwise at the discretion of the Shire President or the Chief Executive Officer.

The Officer recommendation is consistent with Policy P040120.

Budget / Financial Implications:

The Denmark Historical Society (host of the State Conference) seek support of \$1,500 plus use of Council Chambers and Reception room. The amount of \$1,500 would provide finger food and beverages (alcoholic and non-alcoholic) for conference attendees and invited guests.

Hire of Council Chambers and Reception is listed at \$416 (inc. GST) for each half day (maximum of 4 hours) within the Schedule of Fees and Charges for 2021/22. This would be an in-kind contribution, off set in the *Donated Use of Council Facilities* GL1410602.

Strategic & Corporate Plan Implications:

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

Denmark 2027

C4.0 Our Community

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

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.

L5.2 To have meaningful, respectful and proactive collaboration with the community.

Corporate Business Plan

Nil

Sustainability Implications:➤ **Sustainability Strategy:**

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

➤ **Governance:**

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

➤ **Environmental:**

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

➤ **Economic:**

The economic benefit of this event has not been calculated, given the small amount requested by the Denmark Historical Society, compared to the resources required to undertake the assessment.

In noting no formal assessment has been undertaken, in the authors opinion the conference would provide a significant economic benefit to Denmark businesses with 150 conference attendees attending over 3 days.

➤ **Social:**

The History Council of WA in 2019 endorsed a Value of History Statement. This focuses on seven ways in which history is essential in:

- shaping our identities,
- engaging us as citizens,
- creating inclusive communities,
- contributing to our economic well-being,
- teaching us to think critically and creatively,
- inspiring our leaders, and
- providing a foundation for future generations.

➤ **Risk:**

Nil

Comment/Conclusion:

Officers believe the small amount requested by the Denmark Historical Society would provide significant benefits, both financially and socially, for the organisation and to the broader Denmark community and recommend Council support the request.

Voting Requirements:

Simple majority.

OFFICER RECOMMENDATION

ITEM 9.3.4

That with respect to the 2022 State Historical Societies Conference being held in Denmark from 9 – 11 September 2022, Council:

1. Assist the Denmark Historical Society to host the official Welcome Function by:
 - a) CONSIDERING the allocation of \$1,500 (ex GST) in the 2022/23 Budget; and
 - b) DONATING the use of the Council Chambers and the Reception Room, valued at \$416 (including GST).
2. REQUEST that the Denmark Historical Society acknowledge the Council's sponsorship at the event.

COUNCIL RESOLUTION

ITEM 9.3.4

MOVED: CR LEWIS

SECONDED: CR CLARKE

That with respect to the 2022 State Historical Societies Conference being held in Denmark from 9 – 11 September 2022, Council:

1. Assist the Denmark Historical Society to host the official Welcome Function by DONATING the use of the Council Chambers and the Reception Room, valued at \$416 (including GST); and
2. REQUEST that the Denmark Historical Society acknowledge the Council's sponsorship at the event.

CARRIED: 6/0

Res: 230622

REASONS FOR CHANGE

Removed part 1a as the Council believed that requests for contributions such as this needed to be submitted and considered as part of the Council’s annual Community Financial Assistance Program.

9.3.5 AMENDMENT OF DENMARK RECREATION CENTRE COMMERCIAL OPERATOR GYM AND FITNESS ROOM HIRE

File Ref:	SER.15
Applicant / Proponent:	Not Applicable
Subject Land / Locality:	Not Applicable
Disclosure of Officer Interest:	Nil
Date:	27 May 2022
Author/s:	Claire Thompson, Governance Coordinator
Authorising Officer:	David Schober, Chief Executive Officer
Attachments:	9.3.5 – Submissions

This item was considered earlier in the meeting. Go to page 22.

10. COMMITTEE REPORTS AND RECOMMENDATIONS

10.1 SUSTAINABLE PROJECTS COMMITTEE MINUTES – 3 MAY 2022 & 7 JUNE 2022 INCLUDING COMMITTEE RECOMMENDATIONS

File Ref:	COMM.SPC
Applicant / Proponent:	Not applicable
Subject Land / Locality:	Not applicable
Disclosure of Officer Interest:	Nil
Date:	7 June 2021
Author:	David King, Deputy Chief Executive Officer
Authorising Officer:	David King, Deputy Chief Executive Officer
Attachments:	10.1a - Sustainable Projects Committee Minutes 3 May 2022 10.1b - Sustainable Projects Committee Minutes 7 June 2022

Summary:

Council is requested to:

1. RECEIVE the Minutes from the Sustainable Projects Committee (SPC) the 3 May 2022 meeting; and
2. RECEIVE the Minutes from the SPC and consider a recommendation from the 7 June 2022 meeting.

Background:

There were no recommendations from the 3 May 2022 SCP meeting.

The SPC held a meeting on 7 June 2022 at which, the Committee made the following two recommendations:

“That Council request the Chief Executive Officer:

1. *INITIATE a FOGO service in the 2023/24 financial year.*
2. *MAKES provision in 2022/23 budget for the associated costs.”*

and;

“That Council request the Chief Executive Officer, REVIEW the kerbside collection Fees and Charges to ensure they are more cost reflective.”

Consultation:

Internal consultation has been undertaken on the proposed Committee recommendations.

Statutory Obligations:

Section 5.22 of the Local Government Act 1995 requires that the Presiding Person of a Council Committee is to cause minutes to be kept of the meeting's proceedings.

Minutes of Council Committee meetings are not required under legislation to be presented to Council however, the Chief Executive Officer has determined that, in order to improve transparency and ensure that Councillors are aware of their various Committees' activities, all Advisory Committee minutes will be presented to Council to be received.

Council Committees are generally established to advise, and make recommendations to, Council.

Policy Implications:

Nil

Budget / Financial Implications:

Officers consider that a provisional budget item of \$20,000 be allocated to any preliminary investigations required to finalise a communications plan, an operational plan and business case for the implementation of FOGO.

It is considered appropriate that the communications plan, and business case, are presented back to the Committee, and Council, prior to authorising additional capital start-up costs which are expected to be in the order of \$200-300,000; primarily due to the purchase of bin stock.

Strategic & Corporate Plan Implications:

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

Denmark 2027

L5.0 Our Local Government
The Shire of Denmark is recognised as a transparent, well governed and effectively managed Local Government.

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

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

L5.4 To be fiscally responsible.

Sustainability Implications:**➤ Governance:**

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

➤ Environmental:

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

➤ Economic:

There are no known significant environmental 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)
Reputational: That the community are misinformed on the reasons behind changes to fees and charges	Almost Certain (5)	Moderate (3)	High (10-16)	Inadequate Engagement - Community / Stakeholders / Crs	Manage by undertaking a substantial education campaign on any proposed changes
Financial: That start up costs are spent and FOGO cannot roll out as planned.	Possible (3)	Moderate (3)	Moderate (5-9)	Inadequate Change Management	Manage by incorporating a staged approach with further oversight from the Sustainable Projects Committee, and Council, prior to expenditure over \$20,000.

Comment/Conclusion:

The Author recommends that the Minutes be received by Council.

COMMITTEE RECOMMENDATION - 7 June 2022

“That Council request the Chief Executive Officer:

1. *INITIATE a FOGO service in the 2023/24 financial year.*
2. *MAKES provision in 2022/23 budget for the associated costs.”*

Officer Comment

The Waste Avoidance and Resource Recovery Act 2007 (WARR) Strategy outlines high-level overarching targets and strategies for the State under three key objectives: Avoid, Recover and Protect. Specific targets have also been set under each objective, separated into targets for the community, government, and the waste industry, as shown in the table below. The targets are set for Municipal Solid Waste (MSW) and commercial and industrial waste (C&I) for 2025 and 2030.

The Shire does not currently fall under the category of a major regional centre. However, the Shires sustainability strategy aims for zero waste to landfill by 2030. This is a higher benchmark than the WARR Strategy Targets for major regional centres.

Table showing WARR Strategy Targets

Objectives	Community	Government	Industry
Avoid, Reduce, Reuse (AVOID)	2025 – Reduction in MSW generation per capita by 5%	Reduction in C&D waste generation per capita by 15% by 2025, 30% by 2030	2030 – All waste is managed and/or disposed using better practice approaches.
	2030 – Reduction in MSW generation per capita by 10%	Reduction in C&I waste generation per capita by 5% by 2025, 10% by 2030	
Recycle, Recover, Treat (RECOVER)	2025 – Increase MSW recovery to 55% in major regional centres	C&I sector – Increase material recovery to 70% by 2020, 75% by 2025, 80% by 2030	2030 – All waste facilities adopt resource recovery better practice.
	2030 – Increase MSW material recovery to 60% in major regional centres	C&D sector – Increase material recovery to 75% by 2020, 77% by 2025, 80% by 2030	
Dispose (PROTECT)	2030 – Move towards zero illegal dumping	2030 – Move towards zero illegal dumping	2030 – All waste facilities adopt environmental protection better practice.
	2030 – Move towards zero littering		

Kerbside Food Organics Green Organics (FOGO) investigations – 50% of the Shires kerbside Municipal Solid Waste (MSW) is considered to be compostable. Therefore, to work towards the WARR Strategy and Shires Sustainability Strategy goals, this must be diverted from landfill.

In July 2021, Council endorsed the action plan in the below table. The Sustainability Committee has considered the short-term viability of dealing with the Shires FOGO waste locally across various avenues, including composting, biochar, and anaerobic digestion. While several promising initiatives are currently being investigated, it is unlikely that these will be operational in the short term.

The nearest licenced facility to receive compostable material and process it is approximately 100km away. This is not ideal, but there is no alternative short-term solution at this time.

The facility operator has advised that at this point in time the Shire would not be able to take FOGO material to this location due to licence capacity issues. However, it is expected that the operator will be able to increase their licence capacity to accommodate the Shires waste in the short to medium term.

A 2022/23 rollout of FOGO will be dependent on the operator increasing their licence capacity.

Table showing Endorsed Council Action Plan

Hierarchy Group	Avoid, Reuse (AVIOD)	Reduce, Recycle (RECOVER)	Recover and Treat (RECOVER)	Dispose (PROTECT)
2021/22		Provide all townsites with kerbside recycling services Bin lid colour standardisation to reduce recycling contamination	Continue to promote and include fortnightly general waste collections Kerbside FOGO consideration for Council including further on-site processing investigation	Pre-paid tip passes for rural properties to incentivise responsible disposal and reduce illegal burning or burying
2022/23			TBC pending investigation outcomes	
2023/24		Local Law Updated		Local Law Updated
2024/25				
2025/26				
2026/27	Infrastructure to enable best practise facility operation	Infrastructure to enable best practise facility operation		Infrastructure to enable best practise facility operation
2027/28				
2028/29				
2029/30				

COMMITTEE RECOMMENDATION - 7 June 2022

“That Council request the Chief Executive Officer, REVIEW the kerbside collection Fees and Charges to ensure they are more cost reflective.”

Officer Comment

Historically, the Shire has offered the option of a weekly or fortnightly collection. Typically, the fortnightly collection has been offered at half the weekly fee, and has had an uptake rate of around 50%.

Financially, the cost of providing the fortnightly service is around 80% of the cost of the weekly service. The circa 20% reduction in Shires costs is primarily due to waste disposal fees resulting from less waste. Unless close to 100% of services were fortnightly, there are little savings from reduced plant and labour costs as the collection truck still has to complete the same run every week to collect weekly services.

Given the current fee structure, the fortnightly service does not provide cost recovery and is subsidised by the weekly service income. As such, since 2019/20 the Shires fees and charges schedule 'grandfathered' the fortnightly option to protect future cost recovery.

Amending the collection rates for greater alignment with cost recovery will increase fortnightly collection fees by around \$50-100 per year. Correspondingly, a similar cost reduction would be applied to the current weekly collection fee.

Amending the fees for cost recovery would enable the Shire to offer the fortnightly service.

From an environmental and cultural point of view, offering a fortnightly service at a cheaper rate promotes waste reduction. This can range from simply being more conscious of waste quantities, to household composting.

There are no significant operational issues with amending the fees and offering the historical collection options.

Officers have concerns over the implementation of amended fees in 2022/23 financial year. For fee changes of this magnitude, officers would recommend a substantial education campaign to reduce the risk of reputational damage from misinformation on the issue. It is recommended that this implementation be deferred until 2023/24 when it can be considered in conjunction with other fee changes associated with FOGO implementation.

Voting Requirements:

Simple majority.

COUNCIL RESOLUTION & OFFICER RECOMMENDATION	ITEM 10.1a)
MOVED: CR CLARKE	SECONDED: CR CARMAN
That Council RECEIVE the Committee Minutes for the meeting held on 3 May 2022 and 7 June 2022.	
CARRIED: 6/0	Res: 240622

COUNCIL RESOLUTION, OFFICER & COMMITTEE RECOMMENDATION	ITEM 10.1b)
MOVED: CR LEWIS	SECONDED: CR CLARKE
"That Council request the Chief Executive Officer:	
<ol style="list-style-type: none"> 1. INITIATE a FOGO service in the 2023/24 financial year, and; 2. MAKES provision in 2022/23 budget for the associated costs. 	
CARRIED: 6/0	Res: 250622

COMMITTEE RECOMMENDATION	ITEM 10.1c)
That Council request the Chief Executive Officer, to REVIEW the kerbside collection Fees and Charges to ensure they are more cost reflective.	

Officer Comment:

The Officer Recommendation is provided to include reference to the financial year.

OFFICER RECOMMENDATION	ITEM 10.1c)
That Council REQUEST the Chief Executive Officer, to REVIEW the kerbside collection Fees and Charges to ensure they are more cost reflective for the 2023/24 budget.	

COUNCIL RESOLUTION	ITEM 10.1c)
MOVED: CR GIBSON	SECONDED: CR LEWIS
That Council request the Chief Executive Officer, to REVIEW the kerbside collection Fees and Charges to ensure they are more cost reflective for the 2022/23 budget.	
CARRIED: 6/0	Res: 260622

REASONS FOR CHANGE

The Council wished to have the review take place to ensure that the fees were more cost reflective in the 2022/23 budget rather than wait until the 2023/24 budget.

11. MATTERS BEHIND CLOSED DOORS

Nil

12. NEW BUSINESS OF AN URGENT NATURE

COUNCIL RESOLUTION	SECONDED: CR CARMAN
MOVED: CR LEWIS	
That Council accept an item of new business of an urgent nature in order to set times and dates for two Special Council Meetings in July and August 2022,	
CARRIED: 6/0	Res: 270622

12.1 SPECIAL MEETINGS OF COUNCIL – 5 JULY 2022 AND 2 AUGUST 2022

File Ref:	ADMIN.12
Applicant / Proponent:	Not applicable
Subject Land / Locality:	Not applicable
Disclosure of Officer Interest:	Nil
Date:	15 June 2022
Author:	Lee Sounness, Corporate Services Manager
Authorising Officer:	Gina McPharlin, Director Corporate and Community Services
Attachments:	Nil

Summary:

Council is asked to consider setting dates for two (2) Special Meetings to be held:

- 5 July 2022 for the purpose of:
2022/23 Proposed Differential Rates and Minimum Payments for Public Comment;
and,
- 2 August 2022 for the purpose of:
Adoption of the 2022/2023 Annual Budget.

Background:

A Special Meeting on 5 July 2022 will enable Council to consider the Proposed Differential Rates and Minimum Payments for the 2022/2023 financial year and invite community feedback. The Officer is of the view that the Special Meeting business will, in itself, take approximately 1 hour.

A Special Meeting on 2 August 2022 will enable Council to consider the Adoption of the 2022/2023 Annual Budget. The Officer is of the view that the Special Meeting business will, in itself, take approximately 2 hours.

Comment:

Nil

Consultation:

Direct consultation has occurred with the Chief Executive Officer and all Directors with input from Managers.

Statutory Obligations:

The following legislation relates to Council meeting dates;

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

5.3. Ordinary and special council meetings

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

5.4. Calling council meetings

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

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

Policy Implications:

Nil

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 and Objectives and the Corporate Business Plan Actions and Projects in the following specific ways:

Denmark 2027

L5.0 Our Local Government

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

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

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

L5.4 To be fiscally responsible.

Sustainability Implications:**➤ Governance:**

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

➤ Environmental:

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

➤ Economic:

There are no known significant environmental 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)
Reputational: the setting of rates 2022/2023 is not transparent to the community	Likely (4)	Moderate (3)	Moderate (5-9)	Not Meeting Community expectations	Accept Officer Recommendation

Comment/Conclusion:

Nil

Voting Requirements:

Simple majority.

COUNCIL RESOLUTION & OFFICER RECOMMENDATION ITEM 12.1a)
 MOVED: CR CARMAN SECONDED: CR CLARKE

That Council CONVENE a Special Meeting of Council on 5 July 2022 at 4.00pm to:

1. AUTHORISE the advertising of the proposed differential rates and minimum payments for 2022/23; and,
2. AUTHORISE the advertising of the Statement of Objects and Reasons.

CARRIED: 6/0 Res: 280622

COUNCIL RESOLUTION & OFFICER RECOMMENDATION ITEM 12.1b)
 MOVED: CR LEWIS SECONDED: CR DEVENPORT

That Council CONVENE a Special Meeting of Council on 2 August 2022 at 4.00pm for the Adoption of the Annual Budget 2022/2023.

CARRIED: 6/0 Res: 290622

13. CLOSURE OF MEETING

8.55pm – There being no further business to discuss, the Deputy Shire President declared the meeting closed.

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

Signed: _____
David Schober – Chief Executive Officer

Date: _____

These minutes were confirmed at a meeting on the _____.

Signed: _____
(Presiding Person at the meeting at which the minutes were confirmed.)