

Shire of Denmark

Ordinary Council Meeting **MINUTES**

16 AUGUST 2022



HELD IN COUNCIL CHAMBERS, 953 SOUTH COAST HIGHWAY,
DENMARK, ON TUESDAY, 16 AUGUST 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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1. DECLARATION OF OPENING/ANNOUNCEMENT OF VISITORS

4.01pm – The Shire President, Cr Gearon, declared the meeting open and acknowledged the Bibbulmun and Minang people as the traditional custodians of the land on which the meeting was being held. Cr Gearon paid her respects to Elders past, present and emerging.

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

MEMBERS:

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

STAFF:

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

APOLOGIES

Nil

ON APPROVED LEAVE(S) OF ABSENCE

Nil

ABSENT

Nil

VISITORS

Nil

3. DECLARATIONS OF INTEREST

Nil

4. ANNOUNCEMENTS BY THE PERSON PRESIDING

Nil

5. PUBLIC QUESTION TIME

5.1 RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE

At the meeting held on 19 July 2022, Peter Kerr asked some questions that were taken on notice. The questions and the responses have been provided to Peter in writing and are copied below.

1. Bearing in mind your responsibility to provide Councillors with relevant and factually correct information, can you provide the specific details of the information you relied on to write the report in support of the Council's Resolution No. 090622?

Response:

The following sources provided information in the preparation of the report:

- a. Western Australian Physiotherapy Registration Board

- b. Western Australian Local Government Insurance Scheme
- c. Western Australia Local Government Act 1995
- d. Western Australia Local Government (Function and General) Regulations 1996
- e. Shire of Denmark Policies
- f. Ms Melanie Rees (Denmark Physiotherapy)
- g. Shire of Denmark officers
- h. Denmark Physiotherapy class participants

For reason of commercial in-confidence I am unable to provide specific documents on the matter.

2. Can you provide proof that at the time of introducing after-hours access, Council's intention wasn't anything more than just to provide after-hours access?

Response:

The provision of 24 hour, 7 day a week access has no bearing on the requirement for commercial operators to provide information to the Shire when using ratepayer funded facilities.

3. Bearing in mind the dictionary definition, meaning and correct application of the words "literal" and "figurative" why do you persist in putting a literal interpretation on what is clearly a figurative expression, specifically "24/7" and is associated variants?

Response:

The use of the term 24/7 access refers to 24 hour access, 7 days a week. This terminology is used throughout the health and fitness industry.

4. Why have you applied a bureaucratic approach to what was and still is a commercial problem?

Response:

Officers had worked directly with the business owner since 2018 in an attempt to find a solution. It is common, that if officers are unable to resolve an issue administratively, it is referred to Council for decision.

5. Why have you abandoned your best, most long time customer without so much as a valid explanation?

Response:

The business owner has been consulted since 2018. They are fully aware of the process and requested that the matter be referred to Council for decision. For reasons of commercial in-confidence the Shire is unable to disclose information publicly which relates to the individual business.

6. Why have you set the bar so high that no commercial operator would consider it sensible to accept the conditions you have imposed?

Response:

A number of Denmark allied health businesses have a current commercial agreement in place with the Recreation Centre. These arrangements are consistent with industry standards and best practice.

7. Why did you not consider the commercial operator of the Physiotherapist Supervised Rehabilitation Circuit to be a customer?

Response:

The Physiotherapist was considered a customer. This is noted in the report (p.67 of the June 2022 Council Meeting Minutes.)

8. Why did you not consider the needs of your customer's customers?

Response:

All parties were considered and consulted (see p.68 of the June 2022 Council Meeting Minutes). It was also noted that it would be inappropriate for Shire officers to speak directly with clients of a business without having the business owner's direct consent. This approach was offered to the business owner at multiple stages throughout the negotiation process. When requested officers did provide correspondence for the clients of the business.

9. Why did you now consider other options better suited to address the problems that you alluded to but failed to describe or address. Options that would be acceptable to all parties including the customer's customers?

Response:

I am unsure what this refers to. There were numerous options provided throughout the four years of negotiation.

10. Are you aware that the Physiotherapist Supervised Rehabilitation Circuit has chosen to decline the ridiculous conditions and has relocated to the Scout Hall while the gymnasium is effectively empty?

Response:

The Shire is aware Ms Rees has made alternative arrangements.

11. What are you prepared to do to correct this appalling situation being informed as you should be by the 2027 Strategic Community Plan and referenced document describing "age friendly" communities?

Response:

Officers are required to carry out the directions and decisions of Council.

12. In reference to the 2015 Council Resolution to re-establish the Seniors Advisory Committee, will the Council move to yet again re-establish a Seniors Advisory Committee? If not, why not?

Response:

In November 2017 Council resolved to dis-continue the Seniors Advisory Group. Reasons for this decision are available by reading the minutes of that meeting on the Shire of Denmark's website.

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 Peter Kerr – Accuracy of Minutes and Commercial Gymnasium Use

Peter expressed concern about the accuracy of the minutes with respect to the questions that he had asked of the Council at the July 2022 Council Meeting. Peter requested that Council revoke the resolution regarding commercial use of the gym to allow the physiotherapy classes to continue and said that he believed that there had been no review of the accuracy of the report prior to the matter being presented to the Council.

The Shire President advised that the Council would determine whether the Minutes were accurate and call for any corrections if necessary. With respect to the report, Cr Gearon said that Councillors had been kept informed over the past 18 months regarding the issues associated with commercial use of the gymnasium.

5.2.2 Mike Travers – Commercial Gymnasium Use

Mike made comments relating to the 24 hour access to the gym and said that the Council had made the decision to allow 24 hour access to gym members knowing that it would conflict with the physiotherapy classes who already had exclusive use. Mike said that officers had said that they would provide the class members with gymnasium membership statistics but they had yet to receive them.

Cr Lewis sought clarification from Mike on when the statistics were promised to members.

Mike said that officers had offered the information at an informal meeting held with class members.

The Chief Executive Officer said that the statistics had been included in the report.

5.2.3 Brian Wilson – Commercial Gymnasium Use

Brian spoke as one of the physiotherapy class participants and said that he was concerned that Council had not considered all of the reasons why the class should have been allowed to continue. Brian said that all of the reasons that they had been told for discontinuing, such as legislation, regulations and competitive neutrality, did not in fact exist in reality. Brian said that the class now had to operate from the Scout Hall at a time when there were only two cars in the Recreation Centre carpark.

5.2.4 Fabian Stein – Tiny Houses

Fabian asked whether the Council would allow tiny houses on wheels within the Shire if the State Government laws were changed.

Cr Gibson said that the draft Local Planning Strategy may allow for tiny houses if the law was to change.

Fabian referred to a recent amendment to a Local Planning Policy which allowed people to rent out granny flats and asked whether there had been much uptake from landowners.

The Deputy CEO said that he wasn't aware that the Shire held such statistics but would take the question on notice.

Fabian asked whether the Shire had, or was, actively promoting or encouraging landowners to build granny flats in areas where they would be permitted.

The Deputy CEO said that it had just been a policy change and the Shire had not actively encouraged landowners to take advantage of it.

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 ORMSBY

COUNCIL RESOLUTION	ITEM 7.1
MOVED: CR GEARON	SECONDED: CR GIBSON
That Cr Ormsby be granted leave of absence from the 4 th to the 15 th October 2022.	
CARRIED: 9/0	Res: 060822

7. CONFIRMATION OF MINUTES

7.1 ORDINARY COUNCIL MEETING – 19 JULY 2022

OFFICER RECOMMENDATION ITEM 7.1

That the minutes of the Ordinary Meeting of Council held on the 19 July 2022 be CONFIRMED as a true and correct record of the proceedings.

COUNCIL RESOLUTION	ITEM 7.1
MOVED: CR PHILLIPS	SECONDED: CR GIBSON
That the minutes of the Ordinary Meeting of Council held on the 19 July 2022 be CONFIRMED as a true and correct record of the proceedings, subject to the following correction:	
1. Page 10 – correct the interest declared by Cr Clarke.	
CARRIED: 9/0	Res: 070822

REASONS FOR CHANGE

Council wanted to make a correction.

7.2 SPECIAL COUNCIL MEETING – 2 AUGUST 2022

COUNCIL RESOLUTION & OFFICER RECOMMENDATION	ITEM 7.2
MOVED: CR GIBSON	SECONDED: CR ORMSBY
That the minutes of the Special Meeting of Council held on the 2 August 2022 be CONFIRMED as a true and correct record of the proceedings.	
CARRIED: 9/0	Res: 080822

7.3 STRATEGIC BRIEFING NOTES – 19 JULY 2022

COUNCIL RESOLUTION & OFFICER RECOMMENDATION	ITEM 7.3
MOVED: CR CAMPBELL	SECONDED: CR CLARKE
That the Notes from the Strategic Briefing Forum held on 19 July 2022 be RECEIVED.	
CARRIED: 9/0	Res: 090822

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 SCHEME AMENDMENT 146 – PROPOSED REZONING FROM RURAL TO RESIDENTIAL R20/ R30 – LOT 621 HARLEQUIN STREET AND LOT 1 SOUTH COAST HIGHWAY, DENMARK

File Ref:	TPS3/ SA146 (A5734 & A5735)
Applicant / Proponent:	Williams Consulting
Subject Land / Locality:	Lot 621 Harlequin Street & Lot 1 South Coast Highway, Denmark
Disclosure of Officer Interest:	None
Date:	1 August 2022
Author:	Senior Town Planner
Authorising Officer:	David King, Deputy Chief Executive Officer
Attachments:	<ul style="list-style-type: none"> 9.1.1a – Site Plan 9.1.1b – Proposed Scheme Amendment 146 (A copy of the entire Amendment including all appendices can be found on the Shire's website) 9.1.1c – Draft Local Structure Plan 9.1.1d – Precinct F Structure Plan

Summary:

Council has received a request to adopt (initiate) Scheme Amendment No.146 to Town Planning Scheme No.3 to rezone No.27 (Lot 621) Harlequin Street and No.1189 (Lot 1) South Coast Highway, Denmark from “Rural” to “Residential R20/ R30”.

Having due regard to the *Planning and Development (Local Planning Scheme) Regulations 2015*, the Shire’s Local Planning Strategy (2011) and TPS Policy 28 – *Settlement Strategy for Denmark*, it is recommended that the amendment be adopted subject to modifications.

Background:

A request to initiate Amendment 146 to rezone the subject land from “Rural” to “Residential R20/ R30” has been lodged with the Shire. The site is located within the western portion of the Denmark townsite, covering an area of approximately 16.88 hectares and having an estimated lot/ dwelling yield of 160 based on the density code and indicative lot layout provided.

The subject land fronts South Coast Highway on its northern edge and the Denmark-Nornalup Heritage Rail Trail to the south. It abuts residential lots within the established ‘Kemsley Estate’ to the east, Residential R5 Coded lots to the south-east and a large residential development site to the west that was rezoned from Rural to Residential R20 in 2009 under Amendment 103 (Site Plan - Attachment 9.1.1a).

The site is identified within the Shire’s Local Planning Strategy and the Settlement Strategy for Denmark (Precinct E) for Urban Residential purposes and represents a logical extension of residential zoned land within the Denmark townsite.

This report is presented to Council for consideration of adoption (initiation) for the purpose of referral to the EPA and thereafter undertaking public advertising for a period of 42 days. Time considerations are relevant to the proposal noting Council is shortly to consider the draft Local Planning Strategy and resolution to prepare a new Local Planning Scheme that will place a moratorium on initiation of new scheme amendments.

Proposal

Amendment 146 seeks to rezone the site from Rural to Residential R20/30. No supporting provisions have been provided to inform the split R-Code requirements or the statutory mechanism by which the final R-Code will be applied.

The amendment has been lodged with the Shire concurrent with a draft Local Structure Plan. In effect, the Scheme amendment will be required to establish the right to develop the site for residential purposes, whilst the Local Structure Plan will inform the design and how the various site constraints will be responded to. A copy of the indicative Structure Plan Map is included in the Amendment document at Figure 3 (Attachment 9.1.1c).

The *Planning and Development (Local Planning Scheme) Regulations* establish a separate statutory process and timeframes for assessment of Local Structure Plans. As the land remains under the Rural zone and the WAPC has not formally determined that a structure plan is required for the area, advertising the Local Structure Plan has not progressed.

A preliminary review of the Local Structure Plan has been undertaken by Shire Officers, noting various updates and modifications will be required to address relevant planning considerations and to inform the final development layout, including the foreshore 'creekline' reserve width, visual amenity buffers, vegetation protection, public open space, drainage, bushfire planning and lot/ road configuration. Several of these issues were conveyed to the applicant prior to submission of the Amendment and Structure Plan but have yet to be fully resolved.

Some of the key planning considerations relating to the proposal are:

- South Coast Highway interface (noise, access and visual amenity)
- Denmark-Nornalup Rail Trail interface
- Protection of remnant vegetation
- Bushfire Planning requirements and assumptions
- Adequacy of the foreshore reserve width
- Public Open Space design and function, including the proposed interface with residential lots
- Access/ connections and interface with the established Kemsley Estate
- Opportunities for connection/ integration with the established R2 area and the adjacent R20 development site (west).
- Lot yield and densities commensurate with the proximity to the town centre.
- Stormwater Drainage Design
- Internal Road Design/ Road Hierarchy.

It is recommended that key planning considerations relevant to the site be addressed in detail through Structure Planning process and supported by additional provisions introduced into the Scheme text to inform the split density coding.

Consultation:

In accordance with *the Planning and Development (Local Planning Schemes) Regulations 2015*, a 'standard amendment' (refer to explanation under 'Statutory Obligations') is required to be subject to public advertising for a minimum period of 42 days once the EPA has given its 'environmental clearance'.

If adopted the Amendment is to be referred to the EPA for consideration prior to undertaking advertising.

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.146 constitutes a standard amendment.

Policy Implications:

The Shire of Denmark TPS Policy 28 – Settlement Strategy for Denmark is relevant to the proposal.

The following State Planning policies have also been given due consideration:

- *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 2.9– Water resources / Draft State Planning Policy 2.9– Planning for Water*
- *State Planning Policy 5.4 – Road and Rail Noise*
- *Government Sewerage Policy 2019*

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 site proposed for rezoning is designated as 'Urban Residential' in the Local Planning Strategy (2011).

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:**

There are no known significant environmental considerations relevant to rezoning, although matters such as vegetation and creekline protection and water sensitive urban design will require further consideration as part of the structure planning process.

➤ **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 within close proximity to services and facilities within the Denmark townsite.

➤ **Risk:**

Risk	Risk Likelihood (based on history and with existing controls)	Risk Impact / Consequence	Risk Rating (Prior to Treatment or Control)	Principal Risk Theme	Risk Action Plan (Controls or Treatment proposed)
That Council not adopt (initiate) Scheme Amendment No.146.	Possible (3)	Minor (2)	Moderate (5-9)	Not Meeting Community expectations	Accept Risk

Comment:

The proposal is consistent with the Urban Residential nomination in the Shire’s Local Planning Strategy (2011), and the Residential Planning Unit E area under *TPS Policy 28 – Settlement Strategy for Denmark*.

The Settlement Strategy for Denmark identifies the following key planning considerations recommended to be addressed through the rezoning and structure planning process:

- Visual impact
- Retention and protection of remnant vegetation
- Stormwater management
- Foreshore reserve and POS provision
- Fire protection
- Screen development and restrict access to South Coast Highway
- Coordinate planning with Unit F (undeveloped residential land west of the site)
- Land capability in the southern area
- Liveable Neighbourhoods design principles.

The technical documents forming part of the amendment indicate that there are no significant impediments to the Residential zoning being progressed having regard to land capability, bushfire planning, servicing and drainage. A preliminary review of the technical documents has identified some shortfalls that will need further review as the amendment and structure planning progress to inform the final design outcome.

Careful consideration will need to be given to broader landscape amenity impacts as part of the future subdivision design to incorporate the protection of remnant vegetation and creek line, and suitable interface/ connections with Kemsley Estate, the adjoining Residential R2 coded lots and the existing Local Structure Plan for Precinct F immediately to the west. (Attachment 9.1.1d)

Residential Density Code

A density code of R20/R30 has been proposed in response to preliminary feedback provided by Shire staff on the need to accommodate diversity in lot sizes, including pockets of medium density development where this can be sympathetically incorporated in higher amenity locations. The density code range as proposed is unlikely to facilitate any meaningful benefit for diversity in housing stock to meet future population needs.

It is recommended that the density code be adjusted to include reference to R40, allowing opportunities for increased housing diversity to be explored through the Structure Planning process.

CONCLUSION

The proposal represents a logical extension/ infill of residential zoned land within the Denmark townsite, consistent with the relevant strategic planning documents in place.

It is recommended that the amendment be adopted to progress advertising subject to the following modifications:

- Introduction of supporting clauses within the scheme text to trigger the requirement for a structure plan and inform the Local Structure Plan requirements; and
- The Residential Density Code range increased to include reference to R40.

Voting Requirements:

Simple majority.

COUNCIL RESOLUTION & OFFICER RECOMMENDATION	ITEM 9.1.1
MOVED: CR GEARON	SECONDED: CR CLARKE
That Council:	
1. REQUIRE the following modifications to Amendment No.146 of the Shire of Denmark Town Planning Scheme No.3:	
<ul style="list-style-type: none"> (i) The R20/30 Residential Density Code to be replaced with R20-40 where referenced in the Amendment document and Scheme Amendment map. (ii) Add the following provisions under Clause 5.3.7 of the Shire of Demark Town Planning Scheme No.3 text: <ul style="list-style-type: none"> (a) In areas with an R-Code of R20-40 a Local Structure Plan is required to be prepared before any future subdivision or development is undertaken. (b) The Local Structure Plan required under Clause 5.3.7(a) is to include: <ul style="list-style-type: none"> (i) the criteria that will be used to allocate the final R-Code for the purpose of subdivision and development; (ii) a density plan that nominates the R-Code to be applied for future subdivision and development; (iii) Supporting information to address the following planning considerations: <ul style="list-style-type: none"> • A Landscape Management Plan to optimise environmental and landscape amenity outcomes for retention of remnant vegetation, and the protection of view lines from South Coast Highway, the Denmark-Nornalup Rail Trail and established residential areas. • Traffic Noise Management and remediation measures informed by on-site noise modelling and the requirements of State Planning Policy 5.4 “Road and Rail Noise”; • A Foreshore Reserve Management Plan for the existing creekline to inform the foreshore reserve width and landscaping/ revegetation requirements; • Stormwater Management as informed by an approved Local Water Management Strategy; • A Bushfire Management Plan to reflect retention of remnant vegetation within the Zimmermann Street Road Reserve, accommodate any existing remnant vegetation to be retained on-site and re-vegetation/ landscaping informed by the Landscape Management Plan and Foreshore Management Plan. (c) Where required under an approved Local Structure Plan, a local development plan is to be prepared for all or part of the structure plan area. 	

- (iii) The Local Structure Plan (Figure 3) contained within the Amendment document is to be notated as "Indicative Only".
2. ADOPT Amendment 146, in accordance with Section 75 of the *Planning and Development Act 2005* subject to the modifications detailed in Council Resolution Part (1) above.
 3. CLASSIFY Scheme Amendment No. 146 as a 'Standard Amendment' in accordance with Regulation 35(2) of the *Planning and Development (Local Planning Schemes) Regulations 2015* given the amendment is consistent with the *Shire of Denmark Local Planning Strategy* which designates the site as 'Urban Development'.
 4. REFER the Amendment to the Environmental Protection Authority in accordance with Section 81 of the *Planning and Development Act 2005*.
 5. In accordance with Part 5, r.47 of the *Planning and Development (Local Planning Schemes) Regulations 2015*, the Shire is to ADVERTISE the amendment for a period not less than 42 days.

AMENDMENT

MOVED: CR GIBSON

SECONDED: CR GEARON

1. Add another dot point under Part 1 (b)(iii) that reads, "*The street design, public open space and lot configuration (size, width, shape and orientation) is to demonstrate a site and climate-responsive design that optimises energy efficiency and solar access in winter*".
2. Add part 6 to state, "ADVISE the applicant that the Shire of Denmark will be seeking conditions requiring suitable capacity in the electricity infrastructure to allow for fully electrical households be applied to any future subdivision".

CARRIED: 9/0

Res: 100822

AMENDED MOTION

That Council:

1. REQUIRE the following modifications to Amendment No.146 of the Shire of Denmark Town Planning Scheme No.3:
 - (i) The R20/30 Residential Density Code to be replaced with R20-40 where referenced in the Amendment document and Scheme Amendment map.
 - (ii) Add the following provisions under Clause 5.3.7 of the Shire of Denmark Town Planning Scheme No.3 text:
 - (a) In areas with an R-Code of R20-40 a Local Structure Plan is required to be prepared before any future subdivision or development is undertaken.
 - (b) The Local Structure Plan required under Clause 5.3.7(a) is to include:
 - (i) the criteria that will be used to allocate the final R-Code for the purpose of subdivision and development;
 - (ii) a density plan that nominates the R-Code to be applied for future subdivision and development;
 - (iii) Supporting information to address the following planning considerations:
 - A Landscape Management Plan to optimise environmental and landscape amenity outcomes for retention of remnant vegetation, and the protection of view lines from South Coast Highway, the Denmark-Nornalup Rail Trail and established residential areas.

- Traffic Noise Management and remediation measures informed by on-site noise modelling and the requirements of State Planning Policy 5.4 “*Road and Rail Noise*”;
 - A Foreshore Reserve Management Plan for the existing creekline to inform the foreshore reserve width and landscaping/ revegetation requirements;
 - Stormwater Management as informed by an approved Local Water Management Strategy;
 - A Bushfire Management Plan to reflect retention of remnant vegetation within the Zimmermann Street Road Reserve, accommodate any existing remnant vegetation to be retained on-site and re-vegetation/ landscaping informed by the Landscape Management Plan and Foreshore Management Plan.
 - The street design, public open space and lot configuration (size, width, shape and orientation) is to demonstrate a site and climate-responsive design that optimises energy efficiency and solar access in winter.
- (c) Where required under an approved Local Structure Plan, a local development plan is to be prepared for all or part of the structure plan area.
- (iv) The Local Structure Plan (Figure 3) contained within the Amendment document is to be notated as “Indicative Only”.
2. ADOPT Amendment 146, in accordance with Section 75 of the *Planning and Development Act 2005* subject to the modifications detailed in Council Resolution Part (1) above.
 3. CLASSIFY Scheme Amendment No. 146 as a ‘Standard Amendment’ in accordance with Regulation 35(2) of the *Planning and Development (Local Planning Schemes) Regulations 2015* given the amendment is consistent with the *Shire of Denmark Local Planning Strategy* which designates the site as ‘Urban Development’.
 4. REFER the Amendment to the Environmental Protection Authority in accordance with Section 81 of the *Planning and Development Act 2005*.
 5. In accordance with Part 5, r.47 of the *Planning and Development (Local Planning Schemes) Regulations 2015*, the Shire is to ADVERTISE the amendment for a period not less than 42 days.
 6. ADVISE the applicant that the Shire of Denmark will be seeking conditions requiring suitable capacity in the electricity infrastructure to allow for fully electrical households be applied to any future subdivision.
- THE AMENDED MOTION BECAME THE SUSTANTIVE MOTION AND WAS PUT AND CARRIED: 9/0 Res: 110822

REASONS FOR CHANGE

The Council wanted to include reference to climate responsive design elements and suitable electricity infrastructure.

9.2 DIRECTOR CORPORATE AND COMMUNITY SERVICES

9.2.1 FINANCIAL STATEMENTS FOR THE PERIOD ENDED 30 JUNE 2022

File Ref:	FIN.1
Applicant / Proponent:	Not applicable
Subject Land / Locality:	Not applicable
Disclosure of Officer Interest:	Nil
Date:	27 July 2022
Author:	Lee Sounness, Manager Corporate Services
Authorising Officer:	Gina McPharlin, Director Corporate & Community Services
Attachments:	9.2.1 – June 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 June 2022.

Background:

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

- 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 adopted at a Special Council Meeting held on 1st March 2022 and at its Ordinary Council Meeting on 17th May 2022. The Council approved budget amendments for the 2021/2022 financial year are captured within the financial statements presented for the period ended 30 June 2022.

In finalising the 2021/2022 financial year and preparing the 2022/2023 draft budget, any projects requiring total or partial re-budgets to enable completion have been considered and adequately accounted for.

The Financial Statements as presented are the final draft reports (pre-audit) for the 2021/2022 financial year. They have been used to determine the opening net current funding position as at 1 July 2022 included in the 2022/2023 draft budget.

A small number of capital expenditure projects were not completed in the 2021/2022 financial year, resulting in unspent funds as of 30 June. These funds will be considered as part of the adoption of the 2022/2023 budget.

The delay in receipt of funding from the Department of Fire and Emergency Services (DFES) for the Disaster Recovery Funding Arrangements Western Australia (DRFAWA) storm claim has the potential to impact the Shires cash flow. With the repairs completed and funded from Shire funds, the reimbursement from DFES is still to be received. The Shire is working with DFES to expedite payment as soon as possible.

Some minor variances to the adopted or amended budgets for 2021/2022 are disclosed in Note 3(a) of the financial statements for information purposes.

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:

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

The Statement of Financial Activity for the period ended 30 June 2022 shows an actual closing net current funding position of \$2,192,772 (surplus) which has been used as the opening balance carried forward in the preparation of the 2022/2023 draft budget.

Operating revenue is \$104,634 higher than the amended budget amount (Statement Report by Nature and Type). This is the result of:

- higher than expected activity in the following fees and charges income areas:
 - Parry Beach camping charges,
 - rates property enquiry fees, and;
 - recreation centre fee income
- lower than expected operating grants and contributions revenue as the net result of:
 - the pre-release of 75% (\$834,718) of the 2022/2023 WA Local Government Grants Commission Financial Assistance Grants (FAG's),
 - part payment of the Fire Mitigation Activity funding, and
 - Disaster Recovery Funding Arrangements Western Australia (DRFAWA) storm claim is being finalised, so the funding has not yet been received.

The actual operating expenditure is \$1,006,233 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).

\$4,120,886 capital expenditure has been incurred for the year ended 30 June 2022, which is \$2,013,623 less than budgeted. Several capital projects and plant purchases were not completed this financial year. They will be addressed in the 2022/2023 budget process for the proposed inclusion in 2022/2023 capital works and plant replacement programs.

Issues that have impacted the completion of the capital works program this financial year include:

- global supply chain issues resulting in extended delivery delays to the Plant &
- Equipment scheduled for replacement
- 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,
- delays 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.

Outstanding Debtors (Note 4)

As at 30 June 2022, outstanding Rates Debtors totalled \$261,532 compared to \$319,339 at the same time last year.

The rates collection percentage for the year sits at 96.47% (see Note 4), compared to 95.40% for the year ended 30 June 2021.

As at 30 June 2022, outstanding Sundry Debtors totalled \$188,978 compared to \$45,358 as 30 June 2021.

Reserves

The movements to and from reserves have been processed and are fully captured in the financial report for the year ended 30 June 2022.

Cash Management

As at 30 June 2022, total cash funds held (excluding trust funds) totals \$6,877,882 (Note 1).

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

Reserve Funds (restricted) total \$4,808,385 (Note 5).

Municipal Funds (unrestricted) total \$2,069,497 (Note 2).

Voting Requirements:

Simple majority.

COUNCIL RESOLUTION & OFFICER RECOMMENDATION	ITEM 9.2.1
MOVED: CR GIBSON	SECONDED: CR CAMPBELL
That Council RECEIVE the Financial Reports for the period ending 30 June 2022, incorporating the Statement of Financial Activity and other supporting documentation.	
CARRIED: 9/0	Res: 120822

9.2.2 LIST OF PAYMENTS FOR THE PERIOD ENDING 30 JUNE 2022

File Ref:	FIN.1
Applicant / Proponent:	Not applicable
Subject Land / Locality:	Not applicable
Disclosure of Officer Interest:	Nil
Date:	2 August 2022
Author:	Lee Sounness, Manager of Corporate Services
Authorising Officer:	Gina McPharlin, Director Corporate & Community Services
Attachments:	9.2.2 – June 2022 Monthly List of Payments Summary

Summary:

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

Background:

Nil

Consultation:

Consultation was not required for this report.

Statutory Obligations:

Local Government (Financial Management) Regulation 13 relates:

Policy Implications:

Delegation Number D040201 relates:

Budget / Financial Implications:

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

Strategic & Corporate Plan Implications:

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

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

Denmark 2027

L5.4 *To be fiscally responsible*

Corporate Business Plan

Nil

Sustainability Implications:

➤ **Governance:**

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

➤ **Environmental:**

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

➤ **Economic:**

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

➤ **Social:**

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

➤ **Risk:**

Nil

Comment/Conclusion:

Nil

Voting Requirements:

Simple majority.

COUNCIL RESOLUTION & OFFICER RECOMMENDATION	ITEM 9.2.2
MOVED: CR CARMAN	SECONDED: CR ORMSBY
That with respect to the attached Schedule of Payments, totalling \$2,011,839.52, for the month of June 2022, Council RECEIVE the following summary of accounts:	
<ul style="list-style-type: none"> • Electronic Funds Transfers EFT33081 to EFT33343 - \$1,154,880.46; • Municipal Fund Cheque No’s 60491 – 60496 - \$24,221.26; • Internal Account Transfers (Payroll) - \$628,756.80; and • Direct Debit - \$6,996.13; • Corporate Credit Card; \$7,583.95; • Department of Transport Remittances; \$124,129.15, and • Loan Payments: \$65,271.77 	
CARRIED: 9/0	Res: 130822

9.2.3 INVESTMENT REPORT FOR THE PERIOD ENDED 30 JUNE 2022

File Ref:	FIN.19
Applicant / Proponent:	Not applicable
Subject Land / Locality:	Not applicable
Disclosure of Officer Interest:	Nil
Date:	2 August 2022
Author:	Lee Sounness, Manager Corporate Services
Authorising Officer:	Gina McPharlin, Director Corporate & Community Services
Attachments:	9.2.3 - June 2022 Investment Register

Summary

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

Background

This report is for Council to receive the Investment Register for the period ending 30 June 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 Plan 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 June 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 June 2022 totals \$4,808,385
 The total Municipal Funds Invested as at 30 June 2022 totals \$750,000
 The Reserve Bank of Australia (RBA) has altered its cash rate for this month. The cash rate is now set at 0.85%.

Voting Requirements

Simple majority.

COUNCIL RESOLUTION & OFFICER RECOMMENDATION	ITEM 9.2.3
MOVED: CR CLARKE	SECONDED: CR CARMAN
That Council RECEIVE the Investment Register (Attachment 9.2.3) for the period ended 30 June 2022.	
CARRIED: 9/0	Res: 140822

9.3 CHIEF EXECUTIVE OFFICER

9.3.1 DENMARK FM – LICENCE TO ACCESS TELECOMMUNICATIONS TOWER

File Ref:	LEA.34 & LIC.20
Applicant / Proponent:	Denmark FM
Subject Land / Locality:	Part of Lot 210 on Deposited Plan 20982 (No. 45 Payne Road, Denmark)
Disclosure of Officer Interest:	Nil
Date:	2 August 2022
Author:	Claire Thompson, Governance Coordinator
Authorising Officer:	David Schober, Chief Executive Officer
Attachments:	9.3.1 - Draft Licence

Summary:

Council is asked to consider granting a licence to Denmark FM to permit them access to the telecommunications tower owned by the Shire of Denmark and consider any annual licence fee.

Background:

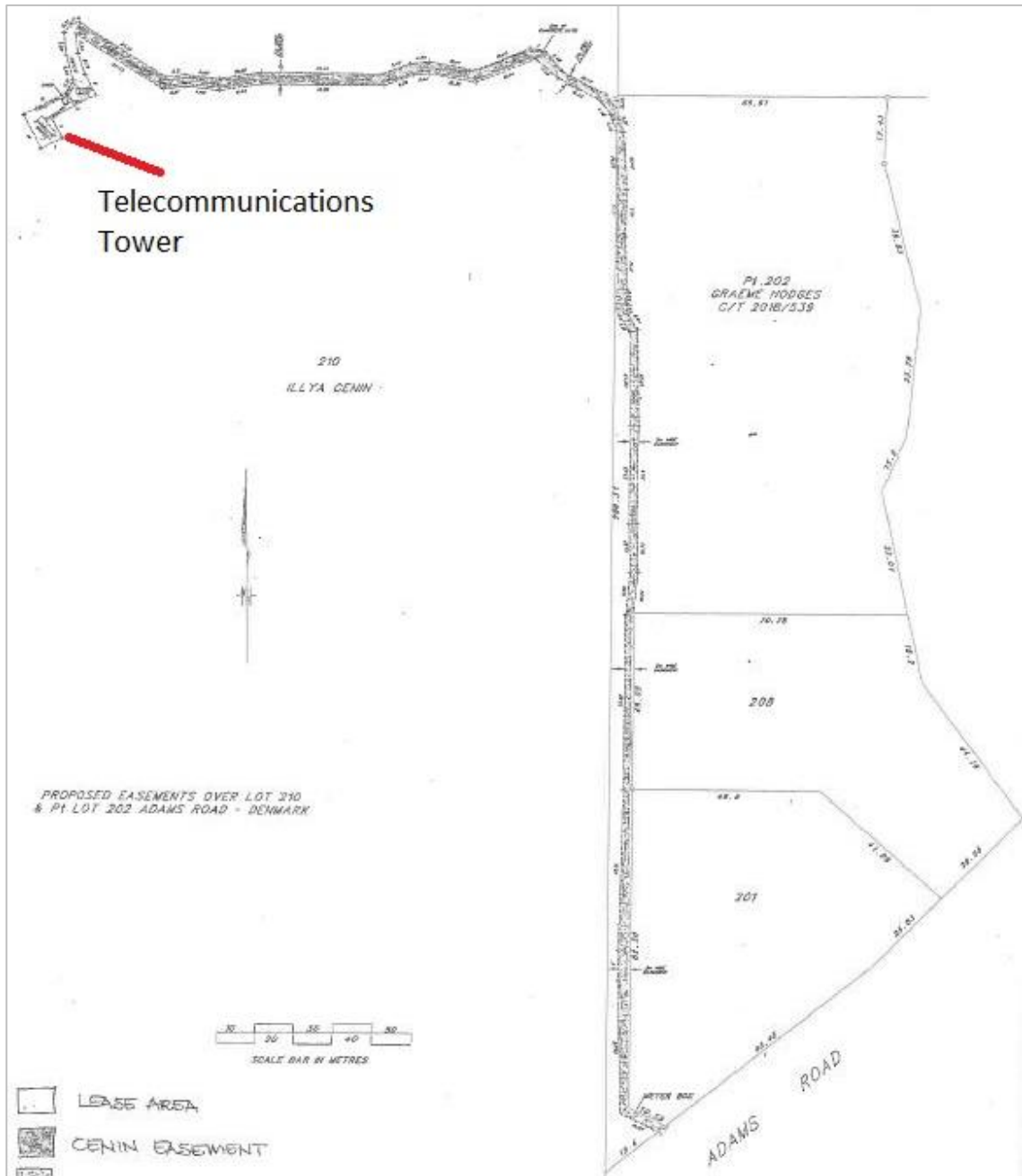
HEAD LEASE

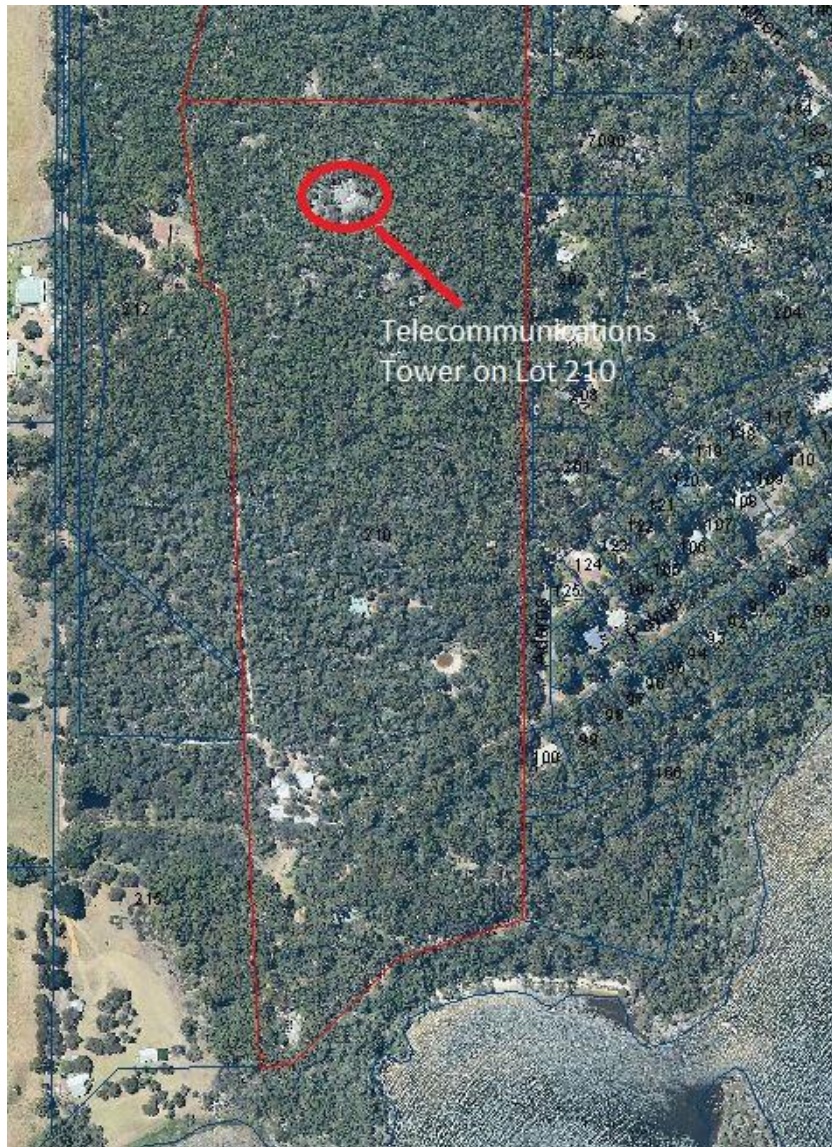
The Shire leases a site from the landowner of Lot 210 on Deposited Plan 20982 (No. 45 Payne Road, Denmark). The lease area is shown in Figure 1.

The lease commenced in 2003 and was entered into for the purpose of installing a telecommunications tower to transmit an analogue TV signal to the residents of Denmark. Upon the introduction of digital TV, the analogue system was shut down.

The broad term of the lease dictates that the Shire leases the land and that the infrastructure is owned by the Shire of Denmark. The lease expires on 29 June 2024.

FIGURE 1 – map showing location of Telecommunications Tower within Lot 210. The leased area is shaded and includes access to the site.





DENMARK FM

Denmark FM trade under the Denmark Community Resource Centre Inc. and was established to offer:

.. a new and innovative platform to engage the whole community, celebrate its talents and diversity while also providing unprecedented levels of timely communication in terms of local news, information and in times of emergencies. Additionally, it will showcase the community through playing local music and locally-produced content involving schools, community groups and individuals. [Manager, Denmark FM]

LICENCE

Denmark FM contacted the CEO last year requesting permission to install their transmitter on the Shire's telecommunications tower in time for them to commence their test transmission in early 2021. Shire officers indicated that the Shire would need to arrange for a licence to permit Denmark FM to access the site where the tower was located. This would also involve obtaining approval from the property owner.

As the process was indicatively going to take some time, Shire officers inspected the tower and granted Denmark FM interim approval to install the transmitter so that they could adhere to their transmission timeline.

Consultation:

The head lessor has not expressed any concerns with the proposed licence and use of the premises.

A solicitor has drawn up the draft licence and the terms are agreeable to Denmark FM and the Denmark Community Resource Centre Inc.

Statutory Obligations:

The Local Government Act 1995 ('Act') permits a local government to enter into a contract with a third party.

A licence does not grant exclusive access or use to the premises, so the Act's disposal provisions do not apply.

Policy Implications:

There are no policy implications.

Budget / Financial Implications:

The Shire pays an annual rent to the property owner under the lease, which is reviewed each year and is increased by the same percentage as the Shire rates for the land, provided that the rent payment will not be less than the previous year.

Shire expenses for the lease area for 2021/2022 Financial Year

Rent\$1,087.
 Insurance\$64.
 Electricity.....\$1,074.

Denmark FM has advised that they would prefer not to have to pay an annual licence fee, as, under the banner of the Denmark Community Resource Centre Inc. they are not-for-profit.

Council has the option to charge Denmark FM an annual licence fee or stipulate some other form of consideration in lieu of a monetary fee. Consideration is required to make a contract legally binding.

The objectives of Denmark FM and the community radio service align well with the Shire's Strategic Community Plan, particularly in relation to community safety and social connectivity. For this reason, officers are recommending that the Shire support the service by not charging a monetary fee but instead requesting that Denmark FM acknowledge the Shire of Denmark as a supporter through its media.

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.

C4.1 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.

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.

Corporate Business Plan

Nil

Sustainability Implications:➤ **Sustainability:**01 *Health & Happiness*

1.3 Prioritise investment in community initiatives to improve health, well-being and community connection.

1.4 Support initiatives that create connected communities with key service areas.

03 *Culture & Community*

3.6 Embrace inclusivity and ensure availability and access of infrastructure and services to all minority groups including disadvantaged, and people with disabilities.

➤ **Governance:**

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

➤ **Environmental:**

There is an existing access track to the licensed area

➤ **Economic:**

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

➤ **Social:**

Denmark FM is focused on improving social connectivity and providing accessible local information to residents and visitors.

An additional objective of the radio station was to connect people, including those at risk of become socially isolated.

➤ **Risk:**

Nil

Comment/Conclusion:

The lease between the Shire of Denmark and the property owner expires in June 2024. The term of the draft licence cannot go beyond that date.

Before the lease expires, officers would commence a conversation with the lessor on the possibility of a new lease, and any such lease would be presented to the Council for approval. If approved, officers could then discuss an extension to the licence term.

The licence protects both parties, including the requirement for the licensee to ensure their activities and equipment within the licensed area are adequately insured for public liability.

The draft licence is attached for Council's consideration. See Attachment 9.3.1.

Voting Requirements:

Simple majority.

COUNCIL RESOLUTION & OFFICER RECOMMENDATION	ITEM 9.3.1
MOVED: CR CLARKE	SECONDED: CR PHILLIPS
That Council APPROVE the draft Licence, as per Attachment 9.3.1, and authorise the Shire President and the Chief Executive Officer to execute the document.	
CARRIED: 9/0	Res: 150822

9.3.2 DOG ACT AND DOGS LOCAL LAW DELEGATIONS

File Ref:	LEG.1 & ADMIN.9
Applicant / Proponent:	Not applicable
Subject Land / Locality:	Not applicable
Disclosure of Officer Interest:	Nil
Date:	4 August 2022
Author:	Claire Thompson, Governance Coordinator
Authorising Officer:	David Schober, Chief Executive Officer
Attachments:	9.3.2a – Delegation – prior 2021 9.3.2b – Shire of Denmark Dogs Local Law 9.3.2c – Draft Dogs Local Law Delegations 9.3.2d – Draft Dog Act 1976 delegation (s 26)

Summary:

Council is asked to delegate the functions and powers under the Shire of Denmark Dogs Local Law and the powers under section 26(3) of the Dog Act 1976 to the Chief Executive Officer, and allow sub-delegation of most to other Shire officers.

Background:

In 2021 Council reviewed its delegations to the Chief Executive Officer.

Shire officers had undertaken a significant review of all of the delegations with assistance from the Western Australian Local Government Association (WALGA).

The review included reformatting and numbering of the delegations, removal of ‘non’ delegations and some additional delegations that WALGA recommended.

The previous Dog Act and Dogs Local Law delegations were omitted from the new document. This report seeks Council’s approval to reinstate them.

Attached is a copy of the delegation in place before the 2021 review (see Attachment 9.3.2a).

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:

LOCAL GOVERNMENT ACT 1995

Section 5.42 permits the Council to delegate some of its powers and functions to the Chief Executive Officer, including powers under the Shire’s Local Laws.

Section 5.44 permits the Chief Executive Officer to sub-delegate, so long as the Council has not expressly disallowed sub-delegation.

DOG ACT 1976

Section 26(3) allows a local government to authorise the keeping of more than the number of dogs allowable under the local law (which is two (2) dogs) at a premises (without a kennel licence), but cannot permit more than six (6) dogs at any one premises.

SHIRE OF DENMARK DOGS LOCAL LAW

A copy of the Local Law is attached (see Attachment 9.2.3b).

Policy Implications:

There are no policy implications.

Budget / Financial Implications:

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

Strategic & Corporate Plan Implications:

The report and officer recommendation is consistent with Council's adopted Strategic Community Plan Aspirations 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.

Corporate Business Plan

Nil

Sustainability Implications:

➤ **Sustainability:**

Nil

➤ **Governance:**

Delegations of Council powers and functions enable the Shire Administration to more effectively and efficiently respond to, cancel or vary applications and appoint authorised persons, as required.

➤ **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 delegations before Council for approval have been delegated functions of Shire Officers for many years. However, they were unintentionally omitted during the extensive 2021 review.

Council must review delegations annually and can also review them at any time. In this regard, Council has the option to decide if they want to continue with these delegations or not.

Attached are two draft delegation documents. Attachment 9.3.2c is with respect to the Shire of Denmark Dogs Local Law, and Attachment 9.3.2d is with respect to section 26(3) of the Dog Act 1976.

Voting Requirements:

Absolute majority.

COUNCIL RESOLUTION & OFFICER RECOMMENDATION	ITEM 9.3.2
MOVED: CR GIBSON	SECONDED: CR LEWIS
That Council DELEGATE its functions and powers as detailed in Attachment 9.3.2c and Attachment 9.3.2d.	
CARRIED BY AN ABSOLUTE MAJORITY: 9/0	Res: 160822

10. COMMITTEE REPORTS AND RECOMMENDATIONS

10.1 BUSH FIRE ADVISORY COMMITTEE MINUTES AND APPOINTMENT OF THE 2022/2023 FIRE CONTROL OFFICERS, CHIEF BUSH FIRE CONTROL OFFICER, DEPUTY CHIEF FIRE CONTROL OFFICER AND FIRE WEATHER OFFICER

File Ref:	COMM.BFAC
Applicant / Proponent:	Not applicable
Subject Land / Locality:	Shire of Denmark
Disclosure of Officer Interest:	Nil
Date:	5 August 2022
Author:	Claire Thompson, Governance Coordinator
Authorising Officer:	David Schober, Chief Executive Officer
Attachments:	10.1a - Committee AGM Minutes – 21 July 2022 10.1b - Committee Minutes – 21 July 2022

Summary:

In accordance with current practice, attached are the Minutes from the Bush Fire Advisory Committee meeting and AGM held on 21 July 2022 to be received by Council.

The BFAC have also put forward a recommendation to Council to appoint the 2022/2023 Fire Control Officers, Chief Bush Fire Control Officer and the Deputy Chief Bush Fire Control Officer and the Fire Weather Officer.

Background:

The Bush Fire Advisory Committee held there Annual General Meeting and Committee meeting on 21 July 2022. The Committee’s recommendations are below under the Committee and Officer Recommendation.

Consultation:

Volunteer Bush Fire Brigades.

Statutory Obligations:

Section 38 provides a local government the power to “... appoint such persons as it thinks necessary to be its bush fire control officers ... and of those officers shall ... appoint 2 as the Chief Bush Fire Control Officer and the Deputy Chief Bush Fire Control Officer ...”.

Section 38 (8) of the Bush Fires Act 1954 provides Council with the authority to appoint to the office of Fire Weather Officer such number of senior Bush Fire Control Officers as it thinks necessary.

Policy Implications:

Appointed Fire Control Officers are recorded administratively under an Authorisations and Appointments Register.

Budget / Financial Implications:

There are some minor financial costs upon the Council’s proposed budget with the costs associated with the official Gazetting of the Fire Weather Officer and the issuing of appointment cards as per the Bush Fires Act 1954. These costs are able to be covered under existing budget lines. There is also a requirement to advertise the appointments in a newspaper circulating within the district.

Strategic Implications:

This report and Officer recommendation is consistent with Council’s adopted Strategic Plan Objectives and Goals and the Corporate Business Plan Actions and Projects in the following specific ways:

Denmark 2027

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.

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

1.7.3 *Support the functions of Community Emergency Services in achieving required actions and goals.*

1.7.5 *Maximise community safety through the management of the risks associated with fire, natural events and large scale emergencies, whilst supporting initiatives to improve community safety.*

Sustainability Implications:➤ **Governance:**

Fire Control Officers assist the local government to comply with their duties under Part 111 of the Bush Fires Act 1954, “Prevention of bush fires”.

➤ **Environmental:**

Fire Control Officers play an important role in protecting and preserving the natural environment when faced with out of control bush fires.

➤ **Economic:**

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

➤ **Social:**

Fire Control Officers play an important role in public safety by assisting the Shire with fire mitigation and control and assisting local volunteer brigades to carry out their activities.

Risk:

Risk	Risk Likelihood (based on history and with existing controls)	Risk Impact / Consequence	Risk Rating (Prior to Treatment or Control)	Principal Risk Theme	Risk Action Plan (Controls or Treatment proposed)
That Council not appoint Fire Control Officers and therefore by default the Council would be required to undertake the role pursuant to the Bush Fires Act 1954 and local volunteer brigades could lack necessary leadership, coordination leading to reduced efficiency and potential delays in fire response times.	Rare (1)	Catastrophic (5)	Moderate (5-9)	Inadequate Organisation or Community Emergency Management	Accept Officer Recommendation

Comment/Conclusion:

All of the Brigade Officers recommended have carried out senior/management roles in their respective Brigades and have completed, or enrolled to complete, relevant training.

Voting Requirements:

Simple majority.

<p>COUNCIL RESOLUTION ITEM 10.1 MOVED: CR GIBSON SECONDED: CR PHILLIPS</p> <p>That the Recommendations for Items 10.1a), 10.1b); 10.1c) and 10.1d) be CARRIED en bloc.</p> <p>AMENDMENT</p> <p>MOVED: CR GEARON SECONDED: CR LEWIS</p> <p>That Addas Gara be removed as a Fire Control Officer from 10.1c), following his resignation as an employee for the Shire of Denmark.</p> <p>CARRIED: 9/0 Res: 170822</p> <p>AMENDED MOTION</p> <p>That the Recommendations for Items 10.1a), 10.1b) and 10.1c) be CARRIED en bloc, with the following amendment:</p> <p>1. That Addas Gara be removed as a Fire Control Officer from 10.1c), following his resignation as an employee for the Shire of Denmark.</p> <p>THE AMENDED MOTION BECAME THE SUBSTANTIVE MOTION WHICH WAS PUT AND CARRIED: 9/0 Res: 180822</p>

<p>COUNCIL RESOLUTION & OFFICER RECOMMENDATION ITEM 10.1a)</p> <p>That Council RECEIVE the Minutes of the Bush Fire Advisory Committee Annual General Meeting held on 21 July 2022, as per Attachment 10.1a.</p> <p>CARRIED EN BLOC BY RESOLUTION NO. 180822</p>
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COUNCIL RESOLUTION & OFFICER RECOMMENDATION ITEM 10.1b)
 That Council RECEIVE the Minutes of the Bush Fire Advisory Committee meeting held on 21 July 2022, as per Attachment 10.1b.
CARRIED EN BLOC BY RESOLUTION NO. 180822

COUNCIL RESOLUTION & COMMITTEE AND OFFICER RECOMMENDATION ITEM 10.1c)
 That, pursuant to Section 38 (1) of the Bush Fires Act 1954, Council APPOINT the following persons for the financial year 2022/2023 and that the appointments be advertised in the Denmark Bulletin;

Bush Fire Control Officers authorised within the entire Shire of Denmark

Senior Law Enforcement Officer	Charmaine Shelley
Law Enforcement Officer	David Lonie
Fire Control Officer	Addas Gara
Fire Control Officer & Chief Fire Control Officer	Lez Baine
Fire Control Officer & Deputy Chief Fire Control Officer (Fire 2)	Nigel Marsh
Fire Control Officer (Fire 3)	Shane Howlett
Carmarthen Volunteer Bush Fire Brigade	Craig Hughes
Denmark East Volunteer Bush Fire Brigade	Chris Hoare
Harewood Volunteer Bush Fire Brigade	Ian Thomson
Hazelvale/Tingledale Volunteer Bush Fire Brigade	Alex Williams
	Brian Vigus
Kordabup Volunteer Bush Fire Brigade	Craig Lilley
Owingup Volunteer Bush Fire Brigade	Paul Moncrieff
Mehniup Volunteer Bush Fire Brigade	VACANT
Mt Lindesay Volunteer Bush Fire Brigade	Murray Brooker
Nornalup Volunteer Bush Fire Brigade	Neville Brass
Ocean Beach Volunteer Bush Fire Brigade	Hank Alberts
Parryville Volunteer Bush Fire Brigade	VACANT
Peaceful Bay Volunteer Bush Fire Brigade	VACANT
Scotsdale/Shadforth Volunteer Bush Fire Brigade	Geoff Bowley
Somerset Hill Volunteer Bush Fire Brigade	Steve Yates
William Bay Volunteer Bush Fire Brigade	Simon Coppock

Bush Fire Control Officers authorised within the prescribed Denmark Fire & Rescue Service area only

Denmark Volunteer Fire and Rescue Service (Town)	Darin Hockley
Denmark Volunteer Fire and Rescue Service (Town)	Paul Harbron

CARRIED WITH AMENDMENT EN BLOC BY RESOLUTION NO. 180822

COUNCIL RESOLUTION & COMMITTEE & OFFICER RECOMMENDATION ITEM 10.1d)
 That, pursuant to Section 38 (8) of the Bush Fires Act 1954, Council APPOINT Adrian Kranendonk for the financial year 2022/2023 as a Fire Control Officer and Fire Weather Officer to be authorised within the entire Shire of Denmark;
CARRIED EN BLOC BY RESOLUTION NO. 180822

11. MATTERS BEHIND CLOSED DOORS

COUNCIL RESOLUTION & OFFICER RECOMMENDATION	ITEM 11
MOVED: CR GIBSON	SECONDED: CR GEARON
That Council move behind closed doors to consider Item 11.1 as the item deals with a matter affecting an employee.	
CARRIED: 9/0	Res: 190822

11.1 CHIEF EXECUTIVE OFFICER, PERFORMANCE REVIEW

File Ref:	Personnel File
Applicant / Proponent:	CEO Performance and Remuneration Review 2021-22
Subject Land / Locality:	Not applicable
Disclosure of Officer Interest:	Nil
Date:	August 2022
Author:	Jane Nicolson, Associate Consultant, Price Consulting
Authorising Officer:	Not applicable
Attachments:	11.1 - CEO Performance Indicators 2022-23 (Confidential)

This report and attachment are confidential and have been provided to Councillors under separate cover.

COUNCIL RESOLUTION	SECONDED: CR GEARON
MOVED: CR GIBSON	
That Standing Orders be suspended.	
CARRIED: 9/0	Res: 200822

COUNCIL RESOLUTION	SECONDED: CR ORMSBY
MOVED: CR GIBSON	
That Standing Orders be resumed.	
CARRIED: 9/0	Res: 210822

COUNCIL RESOLUTION & CONSULTANT RECOMMENDATION	ITEM 11.1
MOVED: CR GIBSON	SECONDED: CR CLARKE
That Council:	
<ol style="list-style-type: none"> 1. NOTES that the appraisal of Mr David Schober, Chief Executive Officer, has been completed for the period of March 2021 to June 2022. 2. ENDORSES the findings of the 2021-22 Annual Performance Review Report as presented by Price Consulting and thanks Mr Schober for his efforts. 3. APPROVES an increase of 4% to the salary component of Mr Schober’s Total Remuneration Package, effective 16 March 2022. 4. APPROVES the CEO’s Performance Criteria for the 2022-2023 period, as per Attachment 1. 	
CARRIED BY AN ABSOLUTE MAJORITY: 9/0	Res: 220822

12. NEW BUSINESS OF AN URGENT NATURE

Nil

13. CLOSURE OF MEETING

6.07pm – *There being no further business to discuss, the Shire President declared the meeting closed.*

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

Signed: _____
David Schober – Chief Executive Officer

Date: _____

These minutes were confirmed at a meeting on the _____.

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