

Shire of Denmark

Ordinary Council Meeting

MINUTES

15 NOVEMBER 2022



HELD IN COUNCIL CHAMBERS, 953 SOUTH COAST HIGHWAY,
DENMARK, ON TUESDAY, 15 NOVEMBER 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

4.00pm – 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 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

Cr Jackie Ormsby (Council Resolution No. 011022)

ABSENT

Nil

VISITORS

Nil

3. DECLARATIONS OF INTEREST

Name	Item No	Interest	Nature
Cr Lewis	9.2.3	Impartiality	I am a volunteer with Horsepower Denmark (formerly Riding for the Disabled) and my partner is President.
Cr Phillips	9.3.1	Financial	Lessee at Peaceful Bay.
Cr Campbell	9.1.2	Proximity	Resident on Lights Road (property owner).
Cr Gearon	9.1.1	Impartiality	Member of Denmark Surf Life Saving Club and Vice Patron.
Cr Devenport	9.2.3	Financial	I own the bike shop and am running the event for the MTB Club.
Cr Clarke	9.2.3	Impartiality	Member Denmark Arts.

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 18 October 2022, Peter Kerr asked the following questions that were taken on notice. The responses have been provided to Peter in writing and are copied below.

1. *Please clarify your response regarding whether the Living Longer program has exclusive use of the gymnasium.*

Response:

The Living Longer, Living Stronger program does not have exclusive use of the gymnasium. The CEO is aware that an advertisement of Denmark Recreation Centre programs in the Denmark Bulletin contained incorrect information. This has now been corrected in all printed and online material.

2. *Will the Council accept that the participants of a physiotherapy rehabilitation circuit group should be afforded exclusive use as well? The question is about two identical groups of people both requiring guided exercise.*

Response:

The Living Longer, Living Stronger program does not have exclusive use of the gymnasium as explained in question 1.

3. *Why does the Council discriminate against pensioners who are unable to afford a lump sum annual membership? The pensioner concession rate per visit is more than the rate per visit if the pensioner had paid an annual membership fee.*

Response:

The Shire does not discriminate against pensioners and provides an opportunity to pay per visit (\$8.50) or take out either a 1 month (\$120), 3 month (\$250) or 12 month (\$600) membership.

Assuming a pensioner uses the facility twice per week the associated costs could be:

- a. *\$17.00 per week, by paying per visit, or*
- b. *\$27.91 per week, by paying per month, or*
- c. *\$19.23 per week, by paying per quarter, or*
- d. *\$11.54 per week, by paying per annum.*

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 – Soft Plastic Recycling and Use of the Gymnasium

Peter asked whether the Shire would be providing temporary storage for soft plastics until such time that Australia's soft plastic recycling program recommenced.

The Chief Executive Officer said that the Shire were reviewing the matter and couldn't yet make any firm commitment.

Peter asked whether the roller door that separates the gymnasium area would remain open so that the entire area would be available to all paying members 365 days and nights of the year.

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

Peter referred to Council’s previous resolution to cap the number of participants in a commercially run program to 20 and asked what the Shire will do when on of its own programs exceeds 20 participants.

The Chief Executive Officer advised that if Peter was referring to the Shire’s Living Longer Living Stronger program, then the Shire would likely offer additional classes.

5.2.2 Sam Williams – Item 9.1.1 (Ocean Beach Concept Plan)

Sam, President of the Denmark Surf Life Saving Club, commended the officers report and advised that their committee fully supported the recommendation.

Sam provided Council with an overview of the club and their activities noting the benefits that they provide to the wider community and visitors through beach patrols, education and training.

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.

5.4.1 GOLDEN HILL STEINER SCHOOL

Principal, Jacqui Hamblin discussed the school’s future aspirations and why they were interested in purchasing Lot 1 Riverbend Lane, being the subject of Item 11.1 on the Agenda.

6. APPLICATIONS FOR FUTURE LEAVE OF ABSENCE

Nil

7. CONFIRMATION OF MINUTES

7.1 ORDINARY COUNCIL MEETING – 18 OCTOBER 2022

COUNCIL RESOLUTION & OFFICER RECOMMENDATION	ITEM 7.1
MOVED: CR PHILLIPS	SECONDED: CR GIBSON
That the minutes of the Ordinary Meeting of Council held on the 18 October 2022 be CONFIRMED as a true and correct record of the proceedings.	
CARRIED: 8/0	Res: 011122

7.2 STRATEGIC BRIEFING NOTES – 18 OCTOBER 2022

COUNCIL RESOLUTION & OFFICER RECOMMENDATION	ITEM 7.2
MOVED: CR CARMAN	SECONDED: CR CAMPBELL
That the Notes from the Strategic Briefing Forum held on 18 October 2022 be RECEIVED.	
CARRIED: 8/0	Res: 021122

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

Nil

9. REPORTS OF OFFICERS

9.1 DIRECTOR ASSETS AND SUSTAINABLE DEVELOPMENT

Cr Gearon declared that she is a member of the Denmark Surf Life Saving Club, and Vice Patron, and as a consequence there may be a perception that her impartiality on this matter may be affected. Cr Gearon declared that she would consider this matter on its merits and vote accordingly.

9.1.1 OCEAN BEACH PROJECT

File Ref:	PROJ.ENG.54.2021
Applicant / Proponent:	N/A
Subject Land / Locality:	Ocean Beach
Disclosure of Officer Interest:	Officers are members of the Denmark Surf Lifesaving Club
Date:	18 October 2022
Author:	Damian Schwarzbach, Manager Sustainable Projects
Authorising Officer:	David King, Deputy Chief Executive Officer
Attachments:	9.1.1a - Ocean to Channel Recreational Precinct 9.1.1b - Proposed Concept

Summary:

This report discusses the re-scoping of the Ocean Beach Precinct, including the Ocean Beach Surf Life Saving Club project, as a result of reduced external funding and seeks Council endorsement of a revised concept plan.

Background:

At the Ordinary Council meeting on 18 May 2021, Resolution 080521, Council adopted the Ocean to Channel Concept Plan as per Attachment 9.1.1a. Council had previously received advice from the Federal member for O’Connor, and Regional Development Australia (RDA), to apply and include the Ocean Beach Surf Life Saving Club project with the Prawn Rock Channel proposal in order to develop a whole of precinct approach. This was the catalyst for the Ocean to Channel Precinct Project.

The Ocean to Channel project was estimated to cost \$7,958,000. To assist with funding, Council applied through the Building Better Regions Fund (BBRF) Round 5 for \$3,979,000. Council was unsuccessful with this application and Round 4 in 2019. Officers then submitted a Round 6 application in 2022, but due to a change in federal government, the now Labour government announced in October 2022 that the BBRF program would be discontinued. The project has committed funding from the following sources, as shown in Table 1.

Table 1 – committed funding

Source	Amount
LotteryWest	\$1,500,000
CSRFF	\$625,000
Surf Club	\$50,000
TOTAL	\$2,175,000

The funding bodies; Lotterywest and the Department for Local Government, Sport and Cultural Industries (DLGSC) through their Community Sport and Recreation Facilities Fund (CSRFF), have both sought clarity about the progress of the project.

Both Lotterywest and the CSRFF funding were granted for the purpose of developing new, and relocated, Surf Life Saving Club facilities. It is accepted that any change in scope and design would require this funding to be re-allocated specifically to Surf Life Saving Club facilities, in order to meet the funding criteria. Therefore, in developing the alternative options, \$2.175M has been allocated directly to improvements to the Surf Life Saving Club facilities. Other funding sources would need to be sought for public realm and public facility components.

To reduce the risk of Lotterywest and CSRFF withdrawing their support, officers engaged with the Denmark Surf Life Saving Club (DSLSC) to develop alternative options for consideration in the event that the BBRF was unsuccessful.

The 2022/23 Budget confirmed Council's financial commitment to the project of \$1,449,874 for a total project budget of \$3,624,874 excluding BBRF funding. Officers considered the following project options as a result of the reduced budget:

1. Co-location with the Boating and Angling Club (reduce building requirement)
2. Reduced new Surf Life Saving Club building, in the proposed new location
3. Refurbishment of the existing Surf Life Saving Club building

Co-location with the Boating and Angling Club

This option involves moving the main club functions of the Denmark Surf Life Saving Club (DSLSC) to, and being co-located with the Boating and Angling Club. This site is set beyond the 50-year retreat line for coastal development. Training facilities and private changing rooms would be incorporated into this building, with key operational needs provided for in a new, smaller building, within the Public Realm.

This option was not supported by the Denmark Surf Lifesaving Club as it was felt that this would result in poor outcomes for the Club.

Rescoped/reduced Surf Club building in the proposed new location

This option looked at a redesigned new facility in the location indicated in Attachment 9.1.1a. The proposed facility would be a single-storey clubhouse with a new public amenity. The existing public amenity and DSLSC building would be demolished, and the area would be developed for the public realm.

The Opinion of Probable Cost (OPC) came back at \$5,265,000; \$1,600,000 over budget, and therefore officers discounted this option.

Refurbishment of the existing Surf Club

This option involves refurbishing the existing Surf Club building and demolishing the existing patrol building and public amenities. As a result of the demolition, new public amenities and a new storage facility would need to be constructed.

The OPC for this revision was \$4,198,000. A 15% reduction in scope is required to deliver on budget. This could be achieved through the detailed design phase.

This option is supported by Shire Officers and the DSLSC and will be discussed in detail further in the report. This concept is provided as Attachment 9.1.1b.

Consultation:

The consultation process conducted in the development of the Ocean to Channel Concept Plan can be found on the 'Your Denmark' webpage. Further information can be found in the consultation section of Item 9.1.2 of the Ordinary Council Meeting on 18 May 2021.

In response to the reduced funding, as detailed in the background section of this report, officers have revisited the concept for the Ocean Beach part of this concept. In doing so,

the comments and feedback from the original consultation have been used to guide the development.

Officers have also been working closely with the DSLSC to ensure that the revised concept does not compromise the operations of the Club.

The Denmark Surf Life Saving Club's Committee resolved the following with regards to attachment 9.1.1b;

The committee resolved to support Master Plan Revision C dated 21/9/2022, in principle, however, would like further input into the continued development of the design including the public realm.

The Project Control Group will develop a consultation plan to ensure that the final designs maximise the deliverables and that the community and other stakeholders are well informed through the construction phase.

Statutory Obligations:

There are no statutory obligations directly relating to this report. However, if the project was to proceed, there would be a requirement for the lodgement of a Development Application, Building Permit and Demolition Licence. The authority to approve the aforementioned sits with Officers under delegation.

In addition, it is expected that the construction contracts will fall outside of the delegated authority of the CEO. Therefore, construction contracts related to this project are likely to be presented to Council for their consideration.

Policy Implications:

There are no policy implications.

Budget / Financial Implications:

Current Budget

Council has allocated in the 2022/23 Budget for this project. The funding allocations are provided below in Table 2.

Table 2 – Funding

Source	Amount
LotteryWest	\$1,500,000
CSRFF	\$625,000
Denmark Surf Lifesaving Club	\$50,000
Shire of Denmark	\$1,449,874
TOTAL	\$3,624,874

Quantity Surveyor Estimates

The current concepts provided in Attachment 9.1.1b has been reviewed by a qualified quantity surveyor (QS). The approximate breakdown of costs, including a design and construction contingency, is provided in Table 3.

Table 3: Opinion of Probable Cost

Source	Amount
Preliminary works	\$98,050
Refurbished Club house	\$1,743,400
New Storage Shed	\$440,450
New Public Amenities	\$394,450
Enhanced Public realm	\$1,139,650
Professional Fees	\$382,000
TOTAL	\$4,198,000

Officers acknowledge that the project will require a 15% reduction in costs, which could be achieved during the detailed design phase. QS estimates will be obtained throughout the design process to minimise the risk of construction tenders exceeding budget allocations.

Financial Control

The Project Control Group will include the Manager of Corporate Services to ensure that cash flow requirements are met.

Funding

LotteryWest and CSRFF are key stakeholders in the success of this project. They have been accommodating to date with extensions of time to resolve some of the financial difficulties this project has faced. It is important to have all parties in agreement on a way forward to ensure the funding is not withdrawn.

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.

N2.2 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, active and safe community.

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

Corporate Business Plan

Deliver upgrades to the Surf Life Saving Club facilities and public facilities at Ocean Beach.

Sustainability Implications:

➤ **Governance:**

The proposed governance framework is provided in Figure 1

Project Control Group

The Project Control Group is tasked with:

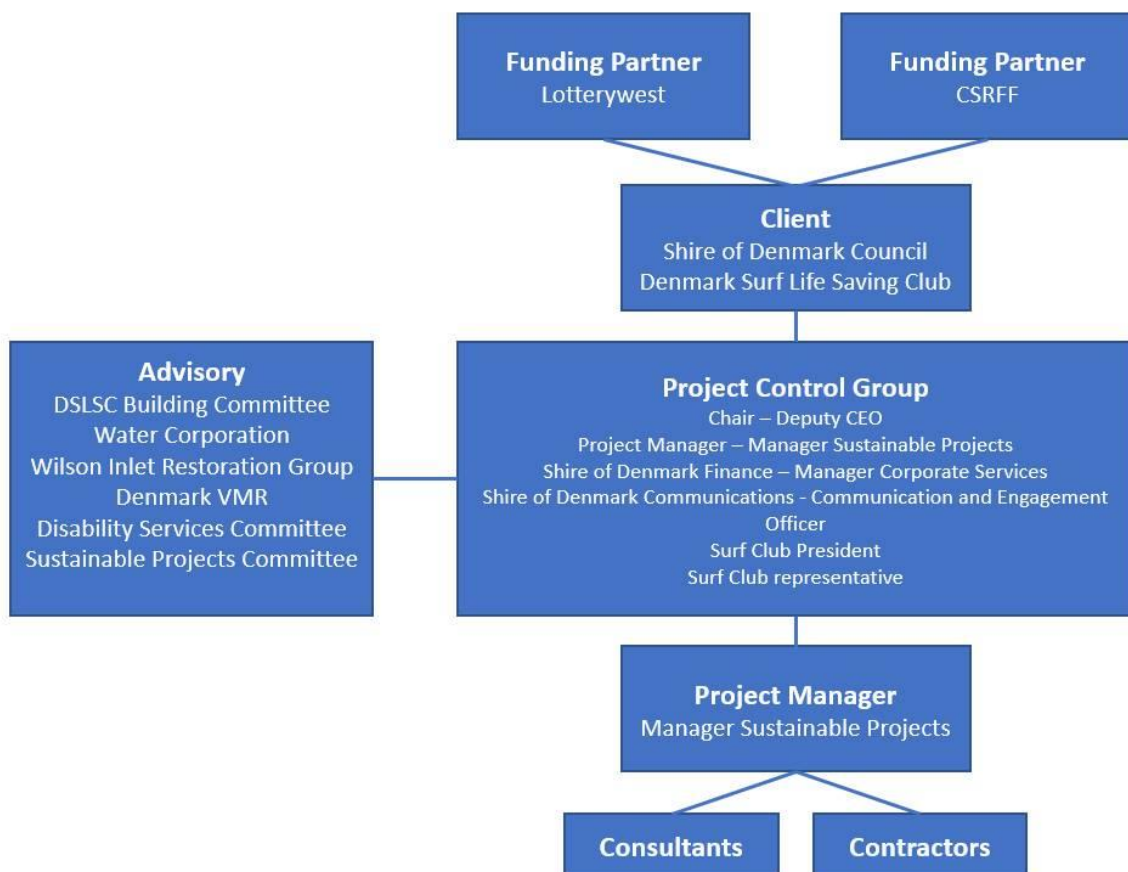
- Reviewing and finalisation of the project development plan
- Detailed planning and design of the project development plan
- Overseeing the implementation of the development plan
- Ensuring appropriate representation of all views is considered in the development phase
- Providing expertise and coordination of the resources to ensure parties receive the best outcome for investment.
- Making recommendations as to the communication strategy required to inform the community of changes to the current situation.
- Updating Council and the Surf Club on progress.

Project Manager

The Project Manager is engaged and appointed to deliver the defined project outputs and will be responsible for organising the project into one or more sub-projects, managing the day-to-day aspects of the project. The role of the Project Manager is to:

- Develop and maintain the Project Management Plan.
- Manage and monitor the project activity through detailed plans and schedules.
- Manage (client/provider/stakeholder) expectations through formal specification and agreement of goals, objectives, scope, outputs, resources required, budget, schedule, project structure, roles and responsibilities.
- Generate project risk assessment procedures and continually assess and mitigate any potential or identified risks to the project.
- Put in place issue reporting structures and implement change control processes and configuration management.
- Undertake the day to day management of the project, having responsibility for any ongoing operational issues and the reporting to the PCG on the progress and achievements of the project.

Figure 1 – Project governance framework



➤ **Environmental:**

A Coastal Hazard Risk Management and Adaptation Plan (CHRMAP) was completed in 2018 for the Shire of Denmark. This is a coastal planning framework outlined in the WA State Coastal Planning Policy and CHRMAP guidelines. The CHRMAP included the identification and assessment of coastal hazards at Ocean Beach and Peaceful Bay, a risk assessment of the potential impact of coastal hazards upon coastal assets, and coastal adaptation planning for different planning horizons.

Severe erosion occurred at Ocean Beach during the 2021 winter. A relatively early southern opening of the Wilson Inlet (with an elevated Inlet water level), combined with high swells and water levels during July 2021, severely eroded the beach and damaged coastal

infrastructure. Emergency works were undertaken by the Shire of Denmark to repair damage to the retaining wall, beach access and sinkholes behind the retaining wall.

The allowances for coastal processes that were the basis for the 2018 CHRMAP have been reviewed and are considered to be suitable for coastal planning purposes. However, due to recent storm erosion, the 2021 coastal vegetation line is presently about 5m landward of the 2016 coastal vegetation line upon which the 2018 coastal hazard lines are setback from.

The main implication of revising these coastal hazard lines is that the main surf club building sited high on the dune that was previously landward of the 10yr hazard line, would currently be within the 10yr hazard line. This asset was already classified as "high risk" in the 2018 CHRMAP due to its relatively high exposure to coastal processes and high economic value. However, coastal adaptation of this structure should be given increased priority in the short term. This structure is particularly sensitive to decisions regarding the maintenance of the timber retaining wall (that protect the toe of the dune), and the longer-term slope geotechnical stability of the structure on the steep coastal dune.

The concept proposed seeks to continue to protect main surf club building which is likely to require a further upgrade to the timber retaining wall. Whilst the current project does not have an allocation to upgrading the retaining wall, State funds will be sought to manage this issue in the longer term.

➤ **Economic:**

The Cost Benefit Analysis provided in the Business case submitted by Keston Economics on the Ocean to Channel Recreational Precinct assessed the benefits against a do-nothing approach. The business case is based on some minor improvements to Prawn Rock Channel and a new surf club building with a café on the top floor.

The Net Present Value (NPV) was estimated at \$37,300,000. This is the net benefit of the project over the costs for a 25-year life span. The benefits would be derived from; an increase in visitation and length of stay, improved event capacity, membership and volunteering and improved physical activity and health outcomes.

Based on the revised project costs, the Benefit Cost Ratio (BCR) is 10.2, which means that for every dollar spent, \$10.20 is returned to the community. However, whilst the project still delivers the major components, this is likely to be slightly reduced as a result of the project re-scoping.

➤ **Social:**

The proposed improved facilities and public realm will improve the opportunities and experiences for the community at Ocean beach. This could lead to an increase in sports/club participation, physical activity levels, wellbeing, community interaction and involvement. This proposal provides spaces for unstructured recreation in a natural setting strengthening our communities bond with the environment.

All Abilities Access

There are four (4) distinguishable levels to the site and it is not physically possible to provide compliant access from a single location. Instead, access is provided from separate accessible points as proposed below.

1. Top floor of the Surf Club – provided by compliant access from the top car park – this includes access to a Universal Access Toilet on top floor.
2. Bottom floor of the Surf Club, Public Amenity – provided from all abilities bay adjacent to the public amenity
3. Grassed areas at sea wall level – not physically possible to provide car access. Access will be possible from a beach ramp and beach wheelchair from (4)
4. Beach – accessed by beach wheelchair, compliant car parking and beach access ramp adjacent to the boat ramp in the southern corner (unfunded at present but a priority with cost savings).

In light of the challenges, the Project Control Group will seek input from the Disability Advisory Service Committee through the design development phase to discuss the acceptance of reduced compliance standards to facilitate improved access.

➤ **Risk:**

Risk	Risk Likelihood (based on history and with existing controls)	Risk Impact / Consequence	Risk Rating (Prior to Treatment or Control)	Principal Risk Theme	Risk Action Plan (Controls or Treatment proposed)
That the funding bodies withdraw funds due to change in scope	Unlikely (2)	Major (4)	Moderate (5-9)	Inadequate Engagement - Community / Stakeholders / Crs	Manage by maintaining open and consistent communication with the funding bodies to achieve the outcomes that the grants require.

Comment/Conclusion:

The 2022/23 Shire of Denmark Budget confirmed Council's financial commitment to the project of \$1,449,874 for a total project budget of \$3,624,874. Without the BBRF, the original concept of a new building to house the public amenity, full surf club operations and a café cannot be achieved. A revised concept is presented to Council for their consideration.

The revised concept to refurbish the existing clubhouse and other associated works achieve the following outcomes:

- Improved community space and amenities
- Club house facility refurbished with an expected 20 year life span
- Improved training, storage and patrol capabilities for the Denmark Surf Life Saving Club
- Improved access for critical emergency response craft to the beach
- Universal access to three different areas of Ocean beach – upper floor of the building, lower level of the public realm and to the beach.

These outcomes are achieved with a reduced budget whilst delivering good outcomes for the community and the Denmark Surf Life Saving Club.

If approved, officers would proceed with the project under the governance framework indicated in Figure 1 of this report. The first step would be to convene the Project Control Group.

It is expected that the project construction could commence around April 2023 and is likely to be complete in March 2025.

Council is asked the adopt the following elements of the concept:

- **Demolition of the front patrol and kiosk building**
This represents a managed retreat of a facility that is at risk from coastal processes. This approach is consistent with the CHRMAP. The location of the existing patrol building is prime real estate that can be returned to the community as part of the public realm.
- **Demolition of the public amenity building**
The current public amenity is outdated and has high maintenance costs. This facility is at the end of its life and requires renewal.
- **Refurbishment of the current Denmark Surf Life Saving Club building**
This will improve operational outcomes and incorporate a patrol function. This aspect of the project is renewal expenditure and seeks to restore the life of the asset.

- **New public amenity building (toilet block)**

A new public amenity will be included to improve accessibility and provide updated changing and toilet facilities.

Consideration has been given to the continued provision of indoor showers. Community consultation did not provide a clear direction to upgrade the indoor shower facilities. It should be noted that if indoor showers were to be provided, they would only be supplied with cold water and therefore, the value to the community diminished.

Given the budget constraints, officers propose to provide outdoor showers only. Officers believe that the significant capital cost would be better spent on improving the public realm and solving site accessibility issues. Further, the high ongoing operational costs of cleaning and unblocking drains would be better spent on other activities across the site.

- **New storage building**

This will allow improved access for emergency services and watercraft launching and reduces pedestrian conflict with motorised vehicles.

- **Public realm enhancements**

The concept seeks to increase public realm space and improve visitors' experience.

Voting Requirements:

Simple majority.

COUNCIL RESOLUTION & OFFICER RECOMMENDATION		ITEM 9.1.1
MOVED: CR CLARKE		SECONDED: CR DEVENPORT
That Council ADOPT the revised Ocean Beach concept plan, including the following key elements;		
<ol style="list-style-type: none"> 1. Demolition of the front patrol and kiosk building 2. Demolition of the public amenity building 3. Refurbishment of the current Surf Life Saving Club building 4. New public amenity building 5. New storage building, and 6. Public realm enhancements. 		
AMENDMENT		
MOVED: CR LEWIS		SECONDED: CR PHILLIPS
<ol style="list-style-type: none"> 1. <i>That the words "as per Attachment 9.1.1b" be added after the word "plan" in the preamble; and</i> 2. <i>That the words "including a minimum of 2 indoor showers in each section" be added after the word "building" in part 4.</i> 		
CARRIED: 8/0		Res: 031122
AMENDED MOTION		
That Council ADOPT the revised Ocean Beach concept plan, as per Attachment 9.1.1b, including the following key elements;		
<ol style="list-style-type: none"> 1. Demolition of the front patrol and kiosk building 2. Demolition of the public amenity building 3. Refurbishment of the current Surf Life Saving Club building 4. New public amenity building, including a minimum of 2 indoor showers in each section 5. New storage building, and 6. Public realm enhancements. 		
CARRIED: 8/0		Res: 041122

REASONS FOR CHANGE

Council referred to the attachment number to provide clarity as to which concept plan they were adopting and wanted to ensure that the amenities included showers.

COUNCIL RESOLUTION

MOVED: CR GEARON

SECONDED: CR GIBSON

That the meeting be adjourned for a short break, the time being 5.45pm.

CARRIED: 8/0

Res: 051122

5.57pm – The Shire President resumed the meeting with all members and officers who were present prior to the adjournment in attendance.

Cr Campbell declared a proximity interest in relation to Item 9.1.2 on the basis that she is a resident on Lights Road (owns property) .

5.57pm - Cr Campbell left the room and did not participate in discussion or vote on the matter.

9.1.2 CONTRACT AWARD – TEN.2.22/23 LIGHTS ROAD UPGRADE

File Ref:	TEN.2.22/23
Applicant / Proponent:	Not applicable
Subject Land / Locality:	Lights Road
Disclosure of Officer Interest:	Nil
Date:	31 October 2022
Author:	Martin Buczak, Manager Technical Services
Authorising Officer:	David King, Director Assets and Sustainable Development
Attachments:	Nil

Summary:

The Shire of Denmark has sought Tenders from suitable Contractors to provide civil works associated with the Construction of Lights Road.

This report seeks approval from Council to increase the project scope and award the tender's separable portion two (SP2).

Background:

The Shire of Denmark received funding in the 2021/2022 financial year through the Great Southern Regional Road Group (GSRRG) to design the upgrade for the 1.6 km of Lights Road that is currently unsealed. The design was completed in June 2021, and Officers planned to construct the project in two (2) stages over two (2) financial years. The stages are;

1. Separable Portion 1 (SP1) – Lights Road – first 800m - 2022/2023
2. Separable Portion 2 (SP2) – Lights Road – second 800m - 2023/2024

In November 2021, the GSRRG approved it's 2022/2023 budget and funding for the construction of SP1 was included. Accordingly, the MRWA Project - Lights Road - slk 0.03 - 0.83, was included in the Shire of Denmark's 2022/2023 adopted budget.

In September 2022, the Shire tendered the full 1.6 km in one (1) tender with two (2) separable portions, SP1 and SP2. The rationale for this tender process was to allow for funding application uncertainties by enabling the Shire to award SPI in the current financial year (2022/2023) and SP2 in the next financial year (2023/2024) or for the Shire to award both SP1 and SP2 in a single financial year, if this could be achieved to create an economy of scale advantage.

The Shire received five (5) tenders in total, with two (2) local contractors providing competitive pricing despite the current construction market.

The tender's SP1 has been awarded to a local contractor (MCC Contractors) under the Chief Executive Officer's (CEO) delegation as the value was below the CEO's delegation threshold, and the tender was within the budget allocation.

For minimal disruption and in the interest of completing this project for the community in a timely manner, officers have considered the opportunity to award the full works for completion in the 22/23 financial year.

This report considers the relative merits of this opportunity.

Consultation:

Tender Process

Publication of the Tender was in accordance with the Local Government (Functions and General) Regulations 1996.

Funding Partner

The proposal to modify funding in accordance with the budget section of this report has been approved by the GSRRG.

Construction Impacts

Affected residents have been invited to a site meeting with the Shire and the contractor. The purpose of the meeting is to discuss the design and the likely impacts during construction. This meeting was held on 1 November 2022.

The contractor has also completed a letter drop and door knock to provide contractor contact details. This purpose is to provide residents with direct communication with the contractor so that most issues can be dealt with in a timely and direct manner.

Statutory Obligations:

Regulation 11 of the Local Government (Functions and General) Regulations 1996 (Regulations) requires Council to publicly tender if the contract is, or is expected to be, more, or worth more, than \$250,000.

Regulation 18 of the Regulations outlines a number of requirements relating to choice of tender. Council is to decide which of the acceptable tenders is the most advantageous to Council. It may also decline to accept any tender.

Regulation 19 of the Regulations requires Council to advise each tenderer in writing the result of Council's decision

Policy Implications:

P040220 Purchasing Policy and P040216 Regional Price Preference Policy are applicable to this item.

Budget / Financial Implications:

To complete the full works of Lights Road (SP1 and SP2) in 2022/2023 the following amendment of the 2022/2023 capital expenditure budget is required,

- Job No.50374 - MRWA Project – Lights Road increase from \$0.700M to \$1.382M
- Job No.50374 - MRWA Project – Lights Road increase from \$0.732M to \$1.382M

Noting the Regional Road Group (RRG) funding allocation changes have been approved as follows,

- MRWA Project – Mt Shadforth Road reducing from \$0.455M to \$0.033M
- MRWA Project – Lights Road increasing from \$0.433M to \$0.855M

The result of the amendments is that (adopted v proposed) the balance of the capital and funding sources budgets remain unchanged. The amendments proposed are shown in Table 1.

Table 1 – 2022/23 Comparison adopted budget v proposed amended budget

Adopted - Excerpt Capital Expenditure Budget 2022/2023

Job No.	Project Description	Budget \$M	*RRG \$M	*R2R \$M	*LCR13 \$M	Sport & Rec \$M	Other Grants \$M	Loan \$M	Reserves \$M	Contributions \$M	Council Funds \$M	Total Funding \$M
51600	Upgrade Community Infrastructure (McLean Oval Water Re-use Project - 21/22 c/fwd)	0.200	-	-	-	-	-	-	0.200	-	-	0.200
52100	Denmark Surf Club Precinct Development	3.625	-	-	0.550	0.625	1.500	0.570	0.330	0.050	-	3.625
51676	Prawn Rock Channel Precinct	0.150	-	-	0.150	-	-	-	-	-	-	0.150
50371	MRWA Project - Mt Shadforth Road - slk 0.09 - 0.79	0.732	0.455	0.020	-	-	-	-	-	-	0.258	0.732
50374	MRWA Project - Lights Road - slk 0.03 - 0.83	0.700	0.433	-	-	-	0.037	-	-	-	0.229	0.700
50140	Ficofolia Road - slk 0.09 - 0.83	0.100	-	-	-	-	-	-	-	-	0.100	0.100
51003	Pathway - Nornalup Riverside / McPherson Dr	0.100	-	-	-	-	-	-	-	-	0.100	0.100
		5.607	0.888	0.020	0.700	0.625	1.537	0.570	0.530	0.050	0.687	5.607

Proposed - Excerpt Capital Expenditure Budget 2022/2023

Job No.	Project Description	Budget \$M	*RRG \$M	*R2R \$M	*LCR13 \$M	Sport & Rec \$M	Other Grants \$M	Loan \$M	Reserves \$M	Contributions \$M	Council Funds \$M	Total Funding \$M
51600	Upgrade Community Infrastructure (McLean Oval Water Re-use Project - 21/22 c/fwd)	0.200	-	-	0.150	-	-	-	0.050	-	0.000	0.200
52100	Denmark Surf Club Precinct Development	3.625	-	-	-	0.625	1.500	0.570	0.330	0.050	0.550	3.625
51676	Prawn Rock Channel Precinct	0.150	-	-	-	-	-	-	0.150	-	-	0.150
50371	MRWA Project - Mt Shadforth Road - slk 0.09 - 0.79	0.050	0.033	-	-	-	-	-	-	-	0.017	0.050
50374	MRWA Project - Lights Road - slk 0.03 - 0.83	1.382	0.855	0.020	0.400	-	0.037	-	-	-	0.070	1.382
50140	Ficofolia Road - slk 0.09 - 0.83	0.100	-	-	0.050	-	-	-	-	-	0.050	0.100
51003	Pathway - Nornalup Riverside / McPherson Dr	0.100	-	-	0.100	-	-	-	-	-	-	0.100
		5.607	0.888	0.020	0.700	0.625	1.537	0.570	0.530	0.050	0.687	5.607

*RRG Regional Road Group

*R2R Roads to Recovery

*LCR13 Local Roads & Community Infrastructure

The reallocation of all other funding sources to reflect the above will be included in the 2022/2023 Mid-Year review, to be adopted by Council in March 2023.

The GSRRG have indicatively approved the construction of Mount Shadforth Road for the 2023/24 financial year. Council will further consider this through the 2023/24 budget process.

Strategic & Corporate Plan Implications:

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

Denmark 2027

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

- L5.4 Our Local Government
The Shire of Denmark is recognised as a transparent, well governed and effectively managed Local Government.
- L5.4 To be fiscally responsible.

Sustainability Implications:

➤ **Governance:**

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

➤ **Environmental:**

Every effort has been made to reduce vegetation loss and retain aesthetics. A typical design would result in the loss of over 450 trees. Officers have reduced this to 25 (an average of one (1) every 50m), which in the opinion of officers will not affect the road's aesthetics.

➤ **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 significant risks associated with the officer recommendation.

Comment/Conclusion:

Tenders for Lights Road Upgrade have been assessed by a team of three (3) officers including a senior officer.

Table 2 provides the evaluated scores.

Table 2 – Scoring Evaluation

		MCC		Tenderer B		Tenderer C		Tenderer D		Tenderer E	
Selection Criteria	Weighting	Score	Weighted	Score	Weighted	Score	Weighted	Score	Weighted	Score	Weighted
Insert criteria and weightings											
Cost (Electronically)	50%	7.65	382.49	7.73	386.65	6.60	329.83	2.24	112.01	0.78	39.02
Relevant experience	25%	6	150.00	6	150.00	6	150.00	6	150.00	7	175.00
Tenderers resources	15%	6	90.00	6	90.00	6	90.00	5	75.00	7	105.00
Demonstrated understanding	10%	6	60.00	4	40.00	4	40.00	4	40.00	6	60.00
Totals	100%		682.49		666.65		609.83		377.01		379.02
Rating Scale:	10 = Outstanding offer, greatly exceeds criterion 8 = Very good offer, exceeds criterion 6 = Good offer, no deficiencies, meets criterion										
	4 = Fair offer, few deficiencies, almost meets criterion 2 = Marginal offer, some deficiencies, partly meets criterion 0 = Inadequate offer, many deficiencies, does not meet criterion										

MCC contractors were deemed the most suitable, primarily due to the price offer, but also as they are available to start works prior to Christmas. As such SP1 has been awarded to MCC Contractors under CEO delegation.

For minimal disruption and in the interest of completing the Lights Road upgrade project for the community in a timely manner, officers have considered the opportunity to award the full works for completion in the 2022/2023 financial year.

The Tender allows that SP2 may be offered to any of the tenderers. However, it is recommended that SP2 is offered to MCC Contractors as they have been deemed the most suitable contractor for the works. In addition, awarding SP1 and SP2 to the same contractor has administrative efficiencies.

Council is asked to consider a budget amendment to enable the award of SP2 to complete the works in the 2022/2023 financial year.

Voting Requirements:

Simple majority.

COUNCIL RESOLUTION & OFFICER RECOMMENDATION	ITEM 9.1.2
MOVED: CR GIBSON	SECONDED: CR LEWIS
That Council:	
1. AWARD separable portion two (SP2) to MCC contractors for TEN.2.22/23 Lights Road Upgrade.	
2. AMEND the 2022/2023 annual budget to reflect the following:	
<ul style="list-style-type: none"> • Mount Shadforth Road budget (Job No. 50371) be reduced by \$682,000 to \$50,000 for design component only. • Lights Road budget (Job No. 50374) be increased by \$682.000. 	
CARRIED: 7/0	Res: 061122

COUNCIL RESOLUTION	SECONDED: CR GIBSON
MOVED: CR GEARON	
That in accordance with clause 3.2(4) of the Shire of Denmark Standing Orders Local Law, Item 9.3.1 be brought forward to this point of the Agenda.	
CARRIED: 7/0	Res: 071122

Cr Phillips declared a financial interest on the basis that she is a lessee at Peaceful Bay.

6.06pm - Cr Phillips left the room and did not participate in discussion or vote on the matter.

6.06pm – Cr Campbell returned to the room.

9.3.1 PEACEFUL BAY LEASE RENEWAL POLICY

File Ref:	A3104
Applicant / Proponent:	Not applicable
Subject Land / Locality:	Leasehold Lots on Deposited Plan 220017 (Reserve 24510)
Disclosure of Officer Interest:	Nil
Date:	30 August 2022
Author:	Claire Thompson, Governance Coordinator
Authorising Officer:	David Schober, Chief Executive Officer
Attachments:	9.3.1a - Draft Policy 9.3.1b - Draft Lease 9.3.1c - Schedule of Submissions on the draft policy 9.3.1d - Schedule of Submissions on the draft lease

For item and resolution go to page 29.

6.50pm – Cr Phillips returned to the room.

9.2 DIRECTOR CORPORATE AND COMMUNITY SERVICES

9.2.1 FINANCIAL STATEMENTS FOR THE PERIOD ENDED 30 SEPTEMBER 2022

File Ref:	FIN.1
Applicant / Proponent:	Not applicable
Subject Land / Locality:	Not applicable
Disclosure of Officer Interest:	Nil
Date:	27 October 2022
Author:	Lee Sounness, Manager Corporate Services
Authorising Officer:	Gina McPharlin, Director Corporate & Community Services
Attachments:	9.2.1a – September 2022 Monthly Financial Report 9.2.1b – September 2022 Investment Register

Summary:

Under the Local Government Financial Management Regulations, a local government is to prepare, on a monthly basis, a statement of financial activity that reports on the Shire’s financial performance in relation to its adopted budget.

The Shire of Denmark's Statement of Financial Activity for the period ending 30 September 2022 has been prepared and is attached.

Background:

In order to fill statutory reporting obligations, the Monthly Financial Report prepared provides a snapshot of the Shire's year-to-date financial performance. The report provides:

1. Statement of Financial Activity by Nature or Type;
2. Statement of Financial Activity by Program;
3. Explanation of Material Variances;
4. Net Current Funding Position;
5. Receivables;
6. Capital Acquisitions;
7. Cash Backed Reserve Balances;
8. Loan Schedule.

Each year a local government is required to adopt a percentage or value to be used in the Statement of Financial Activity for reporting material variances. Under Resolution 030822, Council adopted the monthly reporting variance for the 2022/2023 financial year of 10% or greater for each program area in the budget as a level that requires an explanation or report, with a minimum dollar variance of \$10,000.

Pursuant to the Shire's Investment Policy, an investment report and investment register (Attachment 9.2.2) are to be provided to Council on a monthly basis, detailing the investment portfolio in terms of performance and counterparty percentage exposure of the total portfolio.

Consultation:

Nil

Statutory Obligations:

The Local Government (Financial Management) Regulations 1996 - Reg. 34 (1-5) the form and manner in which a local government is to prepare financial activity statements.

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 Council funds may be invested.

Policy Implications:

Policy P040222 - Material Variances in Budget and Actual Expenditure

Policy P040229 - Investment Policy, 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;
- b) Counterparty Credit Framework – limits single entity exposure by restricting investment in an individual counterparty/institution by their credit rating; and
- c) Term to Maturity Framework - limits investment based upon maturity of securities

Budget / Financial Implications:

The Shire's 2022/2023 Annual Budget provides a set of parameters that guides the Shire's financial practices.

Any financial implications or trends are detailed within the context of this report.

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:

The Statement of Financial Activity for September 2022 shows a year-to-date closing funding surplus of \$9,681,823 compared to the year-to-date budget surplus of \$9,411,502, a variance of \$270,321. The first six months of any financial year has a large surplus because over 75% of the total revenue has been recognised (from raising rates and fees and charges). However, most of the Shire’s expenditure occurs evenly over the twelve months, resulting in a timing variance. The actual surplus reduces as the financial year progresses.

A summary of the financial position for September 2022 is detailed in the table below:

	Adopted Annual Budget	YTD Budget (a)	YTD Actual (b)	Var. \$ (b)-(a)	Var. % (b)-(a)/(a)
	\$	\$	\$	\$	%
Opening Funding Surplus / (Deficit)	2,192,772	2,192,772	2,246,844	54,072	2%
<u>Revenue</u>					
Operating revenue	13,411,131	10,334,017	10,389,460	55,443	1%
Capital revenue, grants and contributions	8,831,605	413,099	414,152	1,053	0%
	22,242,736	10,747,116	10,803,612	56,496	
<u>Expenditure</u>					
Operating Expenditure	-16,349,642	-3,853,736	-2,811,705	1,042,031	-27%
Capital Expenditure	-11,540,161	-546,449	-556,928	-10,479	2%
	-27,889,803	-4,400,185	-3,368,633	1,031,552	

Funding balance adjustments	3,454,295	871,800	0	-871,800	-100%
Closing Funding Surplus / (Deficit)	0	9,411,503	9,681,823	270,320	3%

Investment Report (Investment Register - Attachment 9.2.2)

Pursuant to the Shire’s Investment Policy, an investment report and register are to be provided to Council monthly, detailing the investment portfolio in terms of performance and counterparty percentage exposure of the total portfolio. The Investment Register must also provide details of investment income earned against budget whilst confirming compliance of the portfolio with legislative and policy limits.

As at 30 September 2022, total cash funds held (including trust funds) totals \$11,497,011 (Summary – Investment Register).

- Municipal Funds total \$1,666,261
- Shire Trust Funds total \$850
- Reserve Funds (restricted) invested, total \$4,829,899
- Municipal Funds (unrestricted) invested, total \$6,666,261

The official Reserve Bank of Australia’s (RBA) cash rate increased during the month of September by 0.5% from 1.85% to 2.35%. Increases are expected in the coming months, further increasing the cash rate.

Emergency Maintenance Expenditure - Coastal Infrastructure

Due to unforeseen erosion of a section of prawn rock channel within the vicinity of the footpath, boardwalk and pontoon bridge, emergency maintenance expenditure of up to \$100,000 is forecast to mitigate this issue. All expenditure related to the emergency repairs of Prawn Rock Channel will be costed to Job No.11042 – Coastal Infrastructure Maintenance, which has a 2022/23 budget of \$26,000. At the 2022/23 mid-year budget review, officers will request amendment to this account, with the additional budget expenditure to be funded by operational savings identified during the review or by applicable reserve funds.

Conclusion:
Nil

Voting Requirements:
Simple majority.

COUNCIL RESOLUTION & OFFICER RECOMMENDATION	ITEM 9.2.1
MOVED: CR GEARON	SECONDED: CR CAMPBELL
With respect to the Financial Statements for the period ending 30 September 2022, Council RECEIVE the Financial Reports, incorporating the Statement of Financial Activity and other supporting documentation.	
CARRIED: 8/0	Res: 081122

9.2.2 LIST OF PAYMENTS FOR THE PERIOD ENDING 30 SEPTEMBER 2022

File Ref:	FIN.1
Applicant / Proponent:	Not applicable
Subject Land / Locality:	Not applicable
Disclosure of Officer Interest:	Nil
Date:	27 October 2022
Author:	Lee Sounness, Manager of Corporate Services
Authorising Officer:	Gina McPharlin, Director Corporate & Community Services
Attachments:	9.2.2 – September 2022 Monthly List of Payments Summary

Summary:

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

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 GIBSON	SECONDED: CR CLARKE
That with respect to the attached Schedule of Payments, totalling \$1,458,686.39, for the month of September 2022, Council RECEIVE the following summary of accounts:	
<ul style="list-style-type: none"> • Electronic Funds Transfers EFT33684 to EFT33920 - \$847,982.71; • Municipal Fund Cheque No's 60503 – 60506 - \$7,947.00; • Internal Account Transfers (Payroll) - \$491,179.32; and • Direct Debit - \$6,558.07; • Corporate Credit Card; \$4,716.49; • Department of Transport Remittances; \$100,302.80, and • Loan Payments: \$Nil 	
CARRIED: 8/0	Res: 091122

Cr Lewis declared that she is a volunteer with Horsepower Denmark (formerly Riding for the Disabled), her partner is the President and as a consequence there may be a perception that her impartiality on this matter may be affected.

Cr Clarke declared that he is a member of Denmark Arts and as a consequence there may be a perception that her impartiality on this matter may be affected.

Cr Devenport declared a financial interest on the basis that he owns the bike shop and is running the event for the MTB Club .

6.56pm - Cr Devenport left the room and did not participate in discussion or vote on the matter.

9.2.3 2022 COMMUNITY GRANT PROGRAM

File Ref:	FIN.55
Applicant / Proponent:	Not applicable
Subject Land / Locality:	Not applicable
Disclosure of Officer Interest:	The Author is a member of the Board of the Denmark Community Resource Centre Inc.
Date:	28 October 2022
Author:	Rosemarie Arnephie, Community Development Officer
Authorising Officer:	Gina McPharlin, Director Corporate and Community Services
Attachments:	9.2.3a – 2022 Applications and Allocations 9.2.3b – 2022 Applications and Evaluation Matrix (confidential)

Summary:

The purpose of this report is to request that Council endorse the recipients of the 2022 Community Grant Program.

Background:

The Community Grant Program provides financial support to Shire of Denmark not-for-profit community organisations and groups to fund projects and initiatives that benefit the Denmark community. Grants can be used for any purpose, including minor building construction, maintenance or repairs, equipment purchase or hire, events or functions, and relief from Council fees and charges.

The Shire's program is competitive and has historically been oversubscribed. Successful applications must demonstrate alignment with the Shire of Denmark's Strategic Community Plan and Sustainability Strategy and deliver community benefit to a broad or diverse target group of Shire residents.

Applications for the 2022 Community Grant Program opened on 18 August 2022 and closed on 15 September 2022. On 2 September 2022, additional support was provided to prospective applicants through an online Community Grant forum. Applicants also had the opportunity to discuss their application before submission with the Community Development Officer.

Consultation:

A comprehensive marketing strategy was undertaken to promote the Community Grant Program to the broader community.

- Electronic Direct Mailout to community groups/organisations - 19 August 2022.
- Newspaper advertisements in the Walpole Weekly and Denmark Bulletin - 18 August 2022.
- Social Media (Facebook) advertisements - 18 August to 15 September 2022.
- Shire of Denmark website - 18 August to 15 September 2022
- E-news promotion - 18 August 2022
- Online Grant forum held - 2 September 2022
- Community Notice Boards and VMS promotion - 18 August to 15 September 2022
- Face-to-face meeting opportunity with the Community Development Officer - 18 August to 15 September 2022

Statutory Obligations:

There are no statutory obligations.

Policy Implications:

P040125 – Community Grant Program Policy.

Budget / Financial Implications:

An amount of \$25,000 has been allocated in the 2022/2023 Annual Budget for the purpose of this program (GL1420342).

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

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

Corporate Business Plan

C4.1.3 - Support local community groups and sporting clubs through the Community Financial Assistance Grants

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:

Twenty-two applications were received for the 2022 funding round totalling \$90,385, exceeding the allocated funding pool of \$25,000.

The applications were assessed by a panel of three (3) officers, with two disclosure of officer interests made. (One (1) as a Denmark Community Resource Centre board member, and the other as a member of the Mountain Bike Club.)

The twenty-two applications were assessed as follows:

1. Four (4) applications did not meet the eligibility criteria. These applications were either requesting retrospective funding or taking place outside the grant funding year - after 1 July 2023.
2. Two (2) applications were withdrawn during the assessment process. (One (1) for exceeding the number of applications permitted per grant round and one (1) due to cancellation of the proposed funded event.)
3. The remaining sixteen eligible applications were assessed using a scoring matrix to rank the applications against Community Program guidelines criteria and whether the applications were satisfactorily completed and provided all relevant supporting documentation. The assessment also considered the needs of the clubs/groups, their capacity to undertake the project if not awarded their full grant request and whether they have received funding in the last two (2) years.

The applicants' final scores were converted to a percentage to determine the percentage of requested funds that could be awarded.

Rating	Assessment	Funds allocated of total requested
High	Meets 90 -100% of the weighted criteria	100%
Medium	Meets 70-89% of the weighted criteria	70%
Low	Meets 50-69% of the weighted criteria	50%
Not Recommended	Meets less than 50% of the weighted criteria	0%

Based on the club/group's rating, some applicants received the total funding requested, and others received only partial funding. Noting those who qualified for partial funding but indicated that their projects would only be viable with full funding did not receive funding.

Specific details of these applications are outlined in the confidential attachments.

Officers' have recommended allocating 100% of the 2022 Community Grant annual budget provision of \$25,000.

Voting Requirements:

Simple majority.

COUNCIL RESOLUTION & OFFICER RECOMMENDATION		ITEM 9.2.3
MOVED: CR CARMAN		SECONDED: CR CLARKE
That Council APPROVE the following Community Program applications totalling \$25,000 for 2022/2023:		
Description	Agreed Funding Amount	
Chamber Of Blessings (Liz Jack)/Denmark Arts Inc. Satirical writing workshops & publication for Brave New Works	\$3,000.00	
Denmark Community Rowing Association St Ayles Skiffs - Launch of "Denmark Rowers" and Inaugural Regatta Event.	\$950.00	
Denmark FM/Denmark Community Resource Centre Denmark Schools on Air training workshops for children & youth (music presentation, script writing and technical operations).	\$5,000.00	
Denmark Gymnastics Go for 2&5 Freestyle/ Acro Workshop for youth. Equipment purchase, venue hire & coach fee.	\$2,062.00	
Denmark Machinery Restoration Group Inc DMRG Sand Blaster Equipment purchase	\$495.00	
Denmark Mountain Bike Club Inc Australian 1st State Round Downhill Mountain Bike 2023 Event	\$1,000.00	
Green Skills Inc Community Garden Workshops	\$2,999.00	
Nornalup Residents and Ratepayers Association Indigenous history plaque and native garden for Nornalup Community Centre	\$1,435.00	
Riding for the Disabled Association Denmark Centre Inc T/A Horsepower Denmark Equipment Purchase – large Horse float to transport donated ex-WA Police Horse. Newly acquired horse is for new program for teens with disability.	\$8,059.00	
Grand Total	\$ 25,000.00	
CARRIED: 7/0		Res: 101122

7.20pm – Cr Devenport returned to the meeting.

9.2.4 REPEAL SHIRE OF DENMARK YEAR 6 & YEAR 10 STUDENT AWARDS POLICY

File Ref:	ADMIN.2
Applicant / Proponent:	Not applicable
Subject Land / Locality:	Not applicable
Disclosure of Officer Interest:	Nil
Date:	15 November 2022
Author:	Renee Wiggins, Community Services Manager
Authorising Officer:	Gina McPharlin, Director Corporate and Community Services
Attachments:	Nil

Summary:

The purpose of this report is to request that Council repeal Policy P080203 Shire of Denmark Year 6 & Year 10 Student Awards and instead consider it a donation in future municipal budgets.

Background:

The Chief Executive Officer (CEO) was requested to review the Shire of Denmark Year 6 & Year 10 Student Awards Policy at the September 2022 Ordinary Council Meeting (Res: 110922).

This policy sponsors annual book awards (valued at approximately \$100 each) to a worthy Year 6 Denmark Primary School student and a Denmark High School Year 10 student. The principals of the Denmark Primary School & the Denmark Senior High School determine the successful recipients.

The policy was created on 22 March 2011 and amended on 21 February 2017.

Consultation:

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

Statutory Obligations:

There are no statutory obligations.

Policy Implications:

P080203 SHIRE OF DENMARK YEAR 6 & YEAR 10 STUDENT AWARDS

That Council annually sponsor a book award (or similar) of approximately \$100 to a worthy Year 6 student, from the Denmark Primary School, and a worthy Year 10 student, from the Denmark High School, to be determined by the Principal of the Denmark Primary School & the Denmark High School respectively.

Budget / Financial Implications:

An amount of \$200 has been allocated in the 2022/2023 Annual Budget for the purpose of this Policy (GL1410082).

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

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

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

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 Officer recommends that P080203 be repealed and that Council continue to consider an amount as a donation through the annual budget process.

Officers consider it unnecessary to have a policy for a relatively small contributions as they can be adequately accounted for within the annual budget.

Voting Requirements:

Simple majority.

COUNCIL RESOLUTION & OFFICER RECOMMENDATION	ITEM 9.2.4
MOVED: CR GIBSON	SECONDED: CR GEARON
That Council REPEAL Policy (P080203) Shire of Denmark Year 6 & Year 10 Student Awards, as it is considered unnecessary to have a policy for a relatively small contribution.	
CARRIED: 8/0	Res: 111122

9.3 CHIEF EXECUTIVE OFFICER

9.3.1 PEACEFUL BAY LEASE RENEWAL POLICY

File Ref:	A3104
Applicant / Proponent:	Not applicable
Subject Land / Locality:	Leasehold Lots on Deposited Plan 220017 (Reserve 24510)
Disclosure of Officer Interest:	Nil
Date:	30 August 2022
Author:	Claire Thompson, Governance Coordinator
Authorising Officer:	David Schober, Chief Executive Officer
Attachments:	9.3.1a - Draft Policy 9.3.1b - Draft Lease 9.3.1c - Schedule of Submissions on the draft policy 9.3.1d - Schedule of Submissions on the draft lease

Summary:

Council is asked to adopt a policy which will allow new 21-year leases for leasehold lots at Peaceful Bay in particular circumstances and approve a new draft lease.

Background:

Leasehold Area

The Shire manages 203 leasehold properties at Peaceful Bay for the purpose of “Holiday Cottage”.

The Leases are all for 21 years and are due to expire in June 2031.

The Lessees are able to sell their leases on the open market, subject to the approval of the Shire and the Minister for Lands. Sales are subject to a Deed of Assignment, signed by the assignor, the assignee, the Shire President and the CEO (under the Shire of Denmark’s Common Seal).

The Peaceful Bay Progress Association Inc., on behalf of their members, have asked if the Council would consider allowing new 21-year leases to be issued in certain circumstances. In particular, when a lease is sold, bequeathed or the lessee makes a significant capital investment into the property.

Draft Policy

In June 2021, the Council resolved to advertise its intention to consider a policy, to allow a new 21 year lease in certain circumstances, and sought comment from the current leaseholders, the Peaceful Bay Progress Association and the wider public. (Resolution No. 160621).

New Lease Format

Shire Officers took the opportunity to convert the lease into a format consistent with other Shire leases, and include provisions relating to the State’s Coastal Planning Policy (SPP2.6).

All other provisions remained the same as the current lease which expires in 2031.

Freeholding the Leasehold Area

The subject of one of the submissions was a suggestion that the Shire should be considering freeholding the leasehold area.

This was investigated in 2014, when the Shire commissioned a *Pre-Normalisation Feasibility Study* to explore the merits of converting the leasehold lots at Peaceful Bay to freehold, either as green title or strata title.

On 30 September 2014, Council resolved as follows;

“That with respect to the Peaceful Bay Holiday Cottages Leasehold, Council resolve as follows;

- 1. That Council note that the lessees are currently of a clear majority view (approximately three quarters against) that they do not wish for the Council to pursue freehold or strata for the leases on their behalf at this time and that accordingly Council not proceed with implementation of the conversion of the properties to another form of tenure.*
- 2. That notwithstanding part 1, the Council remains concerned for the impact on both human health and the environment, due to the lack of a suitable sewerage solution, combined with a high water table and small distribution area with short and long term human occupation of the cottages and the adjoining Caravan Park, and reiterates that the Council remains committed to a strategic imperative to implement Recommendation Numbers 39, 40 (excluding part a) at this time) & 41 on pages 24 & 25 of the adopted Local Planning Strategy (2011) particularly with respect to sewerage and water.*
- 3. That the Council note that the precinct is not on the interim Heritage Register of the Heritage Council of WA.*

4. *That as part of the implementation of Local Planning Scheme No. 4 and the review of all Local Planning Policies, Council agree to initiate a review of the Peaceful Bay Conservation Plan Development Guidelines (Town Planning Policy No. 35) to reflect that the social and heritage values are obtained from various matters pertaining to the character and nature of the development and not necessarily the current buildings themselves.*
5. *That it be a Policy of Council that for administrative advice and clarity that pursuant to clause 1.09 of the lease(s), that the holiday cottages may be utilised by the lessees, their families or other persons allowed by the lessee from time to time for holiday accommodation without the requirement for submitting an application for planning approval, subject to the length of stays being limited pursuant to Item 5 of the lease (the cottage shall not be occupied for any single consecutive period of THREE (3) months or combined period or several short term periods which in total are greater than SIX (6) months in any one Rental Year, without the prior written consent of the Lessor)."*

No progression on freeholding the lease area has been pursued since this resolution.

The current draft Local Planning Strategy endorsed by Council in September 2022 recognises the concerns raised in (2) above and reiterates the ongoing need for further investigation into reticulated water and waste-water services. However, in light of the many constraints around Peaceful Bay it only recommends further low key development and discounts any significant expansion.

Commercial Use of Holiday Cottages (The Premises)

On 30 September 2014, Council resolved as follows;

"That with respect to the Peaceful Bay Holiday Cottages Leasehold, Council resolve as follows;

5. *That it be a Policy of Council that for administrative advice and clarity that pursuant to clause 1.09 of the lease(s), that the holiday cottages may be utilised by the lessees, their families or other persons allowed by the lessee from time to time for holiday accommodation without the requirement for submitting an application for planning approval, subject to the length of stays being limited pursuant to Item 5 of the lease (the cottage shall not be occupied for any single consecutive period of THREE (3) months or combined period or several short term periods which in total are greater than SIX (6) months in any one Rental Year, without the prior written consent of the Lessor)."*

The Shire communicated the above resolution with all of the lessees and provided advice that the effect of part 5 was to allow the lessees to let their holiday cottages to a third person without planning approval.

This was deemed to provide written consent, as required under clause 4.01 of the lease, which would allow the lessee to use the premises in a way that was not consistent with the "permitted use".

In part 5 above, the words "*without the requirement for planning approval*", and the notice (letter) to all lessees of the amendment to the lease which states, "*that lessees may let their 'holiday cottage' to other persons (not just family and friends) without planning approval, such as is required with other 'holiday accommodation' in the Shire*", implies that the Council were providing permission to commercially let the premises.

The implication is there because under the Town Planning Scheme ('TPS'), planning consent is required if a property owner (or occupier) wishes to commercially rent out their property as a Holiday Home. Council do not, and did not, have authority to permit this use without the need for a planning application.

Shire officers have been informed that there are a few leasehold properties that are rented out as holiday accommodation for commercial gain that do not have planning consent, nor are they captured under the Shire's differential rating category "GRV – Holiday Purposes".

The Council now need to consider whether they wish to amend the draft lease to give effect to Part 5 of the 2014 Resolution by:

- a) Providing consent to sub-let, assign etc.; and
- b) Amending the Permitted Use to allow commercial letting.

If the Council were to permit commercial sub-letting, Ministerial approval would need to be obtained and lessees would need to apply for planning approval under the Town Planning Scheme (TPS) to legally operate a Holiday Home.

This ensures fairness and equity for all owners or occupiers of property in the Shire of Denmark seeking to derive income from their property (planning approval and the application of the appropriate rating category).

Consultation:

Draft Policy

The draft policy was advertised and 32 submissions were received. See Attachment 9.3.1c.

An overwhelming majority of submissions supported the draft policy.

Initial advice from the Minister for Lands is that they would have no objections to the policy however, suggested that consideration of the State's Coastal Planning Policy (SPP2.6) would need to be made if negotiating a new lease. This has been included in the draft lease as Special Condition 10.4 in the Reference Schedule.

Draft New Lease

During the public comment period, the lease was not advertised as the terms were identical to the current lease, however, a few leaseholders wanted to ensure that the intent of the 2014 Council Resolution was incorporated to allow the lessees to rent out their property commercially, without the need for planning approval.

At this point officers became aware of a letter provided to leaseholders by the Shire in 2014. It appears the intent of the letter was to clarify the Council resolution and that leaseholders were permitted to rent out their property for commercial gain.

Prior to writing this report, officers wanted to gauge the lessees support, or not, for the properties being let out commercially.

In September 2022, the Shire wrote to all lessees to obtain their views on the matter.

34 submissions were received. 15 agreed with commercial letting, 17 were against commercial letting and 2 did not feel strongly either way. See Attachment 9.3.1d for a schedule of the submissions.

Statutory Obligations:

LOCAL GOVERNMENT ACT 1995

Section 3.58 provides a local government the power to dispose (lease) land and details the methods and processes.

Regulation 30(2)(g) exempts the *leasing of residential property to a person* from disposal provisions detailed in s3.58.

The Council would need to comply with disposal requirements under s 3.58 for leasing out property for commercial purposes. This would require advertising the Shire's intention to lease, via private treaty, and consideration of any submissions.

Section 6.16(2)(d) permits a local government to impose a fee for receiving an application for approval.

Section 6.19 requires that any new fee be advertised and that the notice state the date that the fee will be effective from.

LAND ADMINISTRATION ACT 1997

Section 18 requires that Ministerial approval be obtained for any transactions involving Crown land. The Minister for Lands has indicated that he has no objections to the proposal however, consideration needs to be given to the fact that Peaceful Bay is recognised as a coastal erosion hotspot and there may be implications under the State's Coastal Planning Policy (SPP2.6).

The Minister for Lands has granted the Shire of Denmark Management Order for Reserve 24510 for the purpose of "Recreation, Camping Caravan Park and Holiday Cottages" only, with power to lease of up to 21 years.

Should the Council wish to continue to allow commercial holiday house letting in the leasehold area, Ministerial consent will need to be sought to ensure that the use of the land is consistent with the purpose of the reserve.

Policy Implications:

- *State Coastal Planning Policy (SPP2.6)* guides development in coastal areas.
- *The Ocean Beach and Peaceful Bay Coastal Hazard Risk Management and Adaptation Plan (2018)* evaluated the coastal hazards at Peaceful Bay using the methodology outlined in SPP2.6. The holiday cottage leasehold area was not identified as being at risk however, in accordance with the Minister's request, the new lease refers to SPP2.6.
- *Peaceful Bay Heritage Precinct Conservation Plan (2003).*

States that the cultural elements of Peaceful Bay include:

- Historic use of the settlement for holiday purposes
- The strong sense of community amongst holiday makers
- A desire to protect the unique qualities of the settlement;
- The self help ethic which has development many of the community facilities.
- *Town Planning Scheme Policy No. 35 – Peaceful Bay Conservation Plan Development Guidelines.*

Applies to the leasehold area and has the objective of ensuring that any future development is in keeping with the heritage value of the Peaceful Bay precinct as a relaxed, informal, low key holiday location. Provides guidance on the appropriate forms of development to ensure the character is maintained.

- The 2014 Council Resolution was converted into a Council Policy, *Peaceful Bay Holiday Cottages – Holiday Accommodation Use*. The policy would need to be repealed or amended, if the Council either chose to no longer permit lessees to commercially let their properties or impose some conditions on commercial activity.

- *Peaceful Bay Full Time Occupancy Approvals Policy* allows up to 20% (or 40 out of 203) of the leaseholds to occupy their premises 12 month each year, once their application has been approved by the Shire. The Council review the policy every five years and currently there are 18 approved leaseholds.
- The Shire’s *Housing Affordability Policy* includes an objective to increase the diversity of housing options which include decisions on the use of Shire owned properties. Allowing commercial letting of premises within the Peaceful Bay leasehold area could provide additional housing stock, even if it is only for the short term (up to six months per year) to alleviate the pressure on individuals and families who find themselves homeless.

The draft *Peaceful Bay Lease Renewal Policy* is attached (see Attachment 9.3.1a) and is intended to provide lessees to request a new 21 year lease, in certain circumstances.

Budget / Financial Implications:

The Peaceful Bay leaseholds pay annual rent and rates to the Shire and a market rent review is done every five years. The market valuations are based on “Residential Short Stay”.

Rent reviews are done every five years under the lease. The last market review was completed in 2020, and an amount equivalent to the Consumer Price Index (CPI) is applied each other year.

There are five different size sites. The 2020 rent review determined the following annual rents;

Number of sites	2020 annual rent/lease free
1	\$1,997.20
1	\$3,413.90
30	\$1,734.20
39	\$1,854.00
132	\$1,677.00

If the Council continue to allow commercial letting of the premises, it is recommended that a new market rent review is undertaken to take into consideration the commercial use of the property.

The Shire could obtain two valuations every five years, one for commercial use and one for residential use. This would be more administratively efficient and cost effective.

Rates

All of the properties are rated as Gross Rental Valuation (‘GRV’) and for the 2022/23 financial year, pay \$1,298.00 each.

If Council want to continue to allow the lessees to use the properties for commercial gain planning consent is obtained, the property should be rated as ‘GRV – Holiday Purposes’ to ensure fairness and equity with other owners or occupiers using their property as holiday accommodation within the Shire of Denmark local government area.

Should Council agree with this approach, consideration needs to be given to the fact that the lease (and the 2014 amendment) only permits the leased premises to be occupied six months of the year and no more than three consecutive months at a time. As opposed to Holiday Homes in other areas of Denmark, where the ratepayer is permitted to let their premises out 12 months of the year. Council may wish to investigate the possibility of introducing a new differential rate that is applicable only to the Peaceful Bay leasehold area

(for properties that are commercially let), given that the lessees ability to earn income from the property is only for six months of the year.

Draft Policy

It is proposed that the market review will remain in the current cycle (next review 2025), regardless of when the lease commences. This is to retain administrative efficiency and keep costs down.

Most of the income from rates and rent is absorbed into the Shire's general revenue. However, there is a portion that is transferred annually into the Peaceful Bay Reserve. The purpose of the reserve is for the funds to be used for future requirements, including those linked to the Asset Management Plan. The amount transferred annually to reserves is aligned with those planned / forecast in the Ten Year Long-Term Financial Plan.

If a new lease is offered, then the market rent at that time would be applied to the new lease.

Any costs associated with a new lease will be the responsibility of the lessee.

Application Fee

It is proposed that the Council introduce an application fee of \$200 to cover administration costs for a lessee applying for a new 21 year lease, under the *Peaceful Bay Lease Renewal Policy*.

Commercial Use

Should Council continue to allow commercial use of the leased premises, then consideration must be made as to whether the "Residential Short Stay" valuation is adequate for the properties that are being used for commercial purposes. Informal advice from a licensed valuer is that commercialising the properties would likely increase the annual market rent if revalued accordingly.

The average price for three separate leasehold properties being advertised online for holiday accommodation (at the time of writing this report) is \$170 per night. For six months of the year this equates to approximately \$30,000 of income for the lessee, assuming 100% occupancy. It would be reasonable for the Shire to rent the premises for an amount consistent with its earning capacity.

The current lease and draft lease place the cost of rent reviews on the Shire.

It is recommended that the Shire obtain two valuations every five years, one that determines the commercial rent, and a second that determines the residential rent of properties. This would remove the administrative burden of having to obtain individual valuations at a time when planning consent was obtained, and then having to keep track of when individual properties are to be revalued.

Strategic & Corporate Plan Implications:

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

Denmark 2027

L5.0 Our Local Government

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

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.

Corporate Business Plan

Nil

Sustainability Implications:

➤ **Governance:**

Draft Policy

Officers have considered the administration burden if the *Peaceful Bay Lease Renewal Policy* is adopted, and implemented, and do not consider it too onerous. While officers would assess the initial application, put the matter before Council and arrange for the documents to be executed, the document preparation would be done externally, at the lessee's expense.

Draft Lease and Commercial Use

Permitting the lessees to use the premises for commercial holiday accommodation will require the following additional administration tasks.

- a) Assessment of planning application(s);
- b) Commissioning an additional valuation every five years based on commercial use.

➤ **Environmental:**

As noted in the background section of this report, the draft Local Planning Strategy recommends no further expansion of Peaceful Bay due to the significant challenges to development imposed through State Planning Policy post 2011. It should be noted that in lieu of further significant expansion of Peaceful Bay, it is highly unlikely that sufficient capital will be raised to facilitate the development of reticulated waste water or other improvements to services.

Changes to the current occupation levels should be approached with caution as it is unknown to officers if or when intensified use will result in a public health hazard as a result of failed septic systems.

The *Pre-Normalisation Feasibility Study* notes that:

1. Individual potable water supplies are provided by rooftop catchments, supplemented by a non-potable water supply provided by the Shire from an underground bore.
2. Effluent disposal is by way of septic tanks which are, in places, of questionable suitability given high water tables.
3. Power is provided by Western Power but has little expansion capacity.

In theory, the current commercial arrangement, via the 2014 resolution, does not place any great pressures on these systems because occupation of the properties is still restricted to six months of the year. In reality, officers are aware that many of the properties, used only for residential holiday home, are not occupied for six months of the year and commercial letting could see occupation increase.

Both permanent residential occupation and commercial use could result in an increase pressure on the water and waste-water systems. For this reason, officers recommend that the number of permissible commercial holiday home approvals be capped, as is the case with permanent occupancy numbers.

The number of full time occupants is capped at 20% (or 40 out of 203) leasehold properties. Currently there are 18 approved full time occupants. Officers recommend that this number

be reduced to 10% (or 20 out of 203) and the same ratio be applied to commercial holiday homes approvals.

It is believed that this will help reduce the pressure on septic tank (underground sewerage) and any potential issues with the high water table in winter. The non-potable water is tested ten times per in accordance with the Shire’s licence conditions, imposed by the Department of Water & Environmental Regulation.

➤ **Economic:**

Additional holiday accommodation, particularly during peak tourist times when existing accommodation providers are booked out, could benefit the local economy.

While the Peaceful Bay Caravan Park operators have not been consulted directly, officers are aware that they have been aware that some of the lessees have been renting out their properties commercially, and the Shire has never received any complaints. There were a couple of submissions that mentioned during peak tourist times, the caravan park is at capacity so the leasehold area provides important additional accommodation for people.

Another economic consideration is that during non-peak tourist times, the additional option for holiday accommodation at Peaceful Bay could be in direct competition with other commercial holiday accommodation providers. Capping the number of approval holiday homes in Peaceful Bay would help reduce any real or perceived competition.

➤ **Social:**

Some of the submissions raised concerns that commercially letting out the leasehold premises to “strangers” could potentially change the character of the area, invite anti-social behaviour and disturbance to other lessees.

However, some submissions noted that having their property occupied more often, could help retain a sense of “community”, ensure that their properties are looked after all year round and enable more visitors to experience what Peaceful Bay has to offer.

➤ **Risk:**

The risk identified below is in relation to the Officer Recommendation.

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 enabling commercial use of the premises will increase the occupancy of the leasehold area at any one time and place pressure on infrastructure and services.	Possible (3)	Minor (2)	Moderate (5-9)	Inadequate Asset Management	Manage by placing a cap on the number of permanent occupants and the number of properties that can operate commercial accommodation.
Environmental: That increased permanent occupation and/or increased holiday use as a result of commercialisation could increase pressure on septic systems to the point of failure.	Possible (3)	Moderate (3)	Moderate (5-9)	Inadequate Natural Environ.Man agement Practices	Manage by controlling intensive use.

Comment:Draft Policy

The main reasons behind the request for new 21-year leases are as follows;

1. As the expiry date of the leases draws closer the value of leaseholds reduces accordingly. At the moment, lessees can only sell what remains on the lease term (eg. 9 years) and prospective purchasers are, generally, less inclined to pay the same as they would for a lease which would provide them with 21 years of security, and make their financial investment more worthwhile.
2. Lessees who want to make any capital investment in their property may seek some commitment from the Shire that they will be able to enjoy any improvements into the longer term. Similarly, financial institutions generally require a certain number of years of tenure as security for any loans.

Officers are recommending that an application fee be introduced to cover administration costs. The *Local Government Act 1995* requires an intention to impose a fee be advertised that the notice include the date that the fee will be imposed. For this reason, the officer recommends that the policy only be effective from the date that the fee will be imposed.

Draft Lease

The draft lease (see Attachment 9.3.1b) is based on the same terms as the previous lease including the termination clauses, meaning that even if Council are providing new 21-year leases, the Shire will have the right to terminate any of the leases under certain circumstances.

Clause 7 does not include the right for lessees to assign, sub-let, hire, rent part with possession of or dispose of the premises, or any part thereof, without the prior written consent of the Shire's Chief Executive Officer and the Minister for Lands.

Whilst the permitted use of the premises is for "holiday cottage", clause 7 does not permit the lessee to hire or rent the premises.

As detailed above, in 2014 the Council resolved to permit the lessees to let their premises out commercially without the need for planning approval. Should Council wish to incorporate this into the new draft lease, it will need to be amended accordingly.

It is recommended that the Council request the Chief Executive Officer first obtain Ministerial consent for commercial use of the leases and, if granted, amend the lease accordingly to allow the activity.

Administration, Resources and Costs

From an administrative perspective, having different lease expiry dates could require additional human resources, more so in the future when the new leases start coming due again.

The Shire has a process to handle requests for lease assignments. A similar process would be implemented for new leases, including a property inspection and Ministerial consent.

It is intended that all associated costs will be paid by the lessee or applicant (purchaser).

Commercial Use

If Council wants to continue allowing commercial use of the properties, then the administrative burden could be greater depending upon the way Council would like to manage the process moving forward. This is discussed below.

Commercial Holiday Accommodation (see also the background section of this report)

The Shire is aware that there are a few leasehold properties at Peaceful Bay that are hired out as holiday accommodation for commercial gain. This was as a result of a Council resolution and a notice (letter) received from the Shire in 2014, stating that they could do so without planning approval. They are still required to comply with the lease in terms of the property not being occupied for any single consecutive period of three months, 'or combined period or several short-term periods which in total are greater than six months in any one rental year'.

Under the current arrangement (as per the 2014 resolution), lessees do not believe they require planning consent (which they do under the TPS), the annual rent is calculated on 'Residential Short Stay' (not commercial use) and they are not required to pay the applicable 'GRV – Holiday Home' differential rate.

Planning Implications

Existing development approvals for the leasehold area have been approved for a 'single house'. Existing approvals do not include 'holiday home' approval as defined in the TPS. For the leasehold areas to be let under a short-term accommodation the 'holiday home' use class would apply.

It is a requirement under the TPS that all holiday homes require planning approval to ensure, amongst other things, that the use class is suitable for the zone. Holiday home applications are also subject to Council policy, and it is commonplace for a range of necessary conditions to be imposed on any approval of this nature.

It is the officers view that the 2014 Council resolution was ultra vires.

The Shire's policy framework for holiday homes requires (amongst other things):

- Public advertising for comment as part of assessment;
- Two parking bays;
- Building Code of Australia requires emergency lighting and a fire blanket;
- A Bushfire Emergency Evacuation Plan (BEEP). It should be noted that the Peaceful Bay area is known to have access (and evacuation) issues, as there is only one road in and out.

Continuing to allow commercial use

If Council decide to continue to allow commercial use, officers recommend that:

1. Ministerial consent be sought, and if granted,
2. The Shire obtain a market rent valuation for the entire Peaceful Bay leasehold area based on the commercial use of the premises.
3. The draft lease be amended to permit commercial use.
4. The lessee be required to apply for planning consent in order to legally operate a commercial holiday home, and for existing operations, Council waive the requirement to pay a retrospective planning application fee.
5. The applicable rating category be applied to premises that are operating as a commercial Holiday Home.
6. Council amend the *Peaceful Bay Full Time Occupancy Approvals Policy* to reduce the number of approvals to 10% (or 20 out of 203) of leaseholder properties.
7. Council amend the *Peaceful Bay Holiday Cottages – Holiday Accommodation Use Policy* to:
 - a. The number of approved commercial holiday homes be no more than 10% (or 20 out of 203) leasehold properties;
 - b. Incorporate the requirement that lessees must have planning consent;

- c. Note that the annual rent will be based on commercial use; and
- d. Note that commercial use for holiday home may require the lessee to pay a higher rate in the dollar for the Rates.

OFFICER POSITION AND RECOMMENDATION

Housing Stock

It is acknowledged that the availability of additional housing stock, even short term, could be beneficial for Denmark residents given the current housing shortage however, with the average cost being \$170 per night (based on commercial holiday accommodation rates) would potentially be unaffordable for many. This is not to say, that a lessee couldn't offer more affordable rates for residential tenancy.

Even if only a short-term option (no longer than three consecutive months), it could provide a prospective sub-tenant some time to find a more permanent housing solution.

Sub-letting would require Ministerial approval.

Property (Lease) Value

Since the 2014 resolution, there could be some purchasers who have relied on the consent to commercially rent out their premises. The ability to gain income from the property would likely have been an attractive benefit to ownership and, there is a possibility that some lessees are using the income to offset any expenses associated with premises and/or its purchase.

This is of concern and needs to be carefully considered should Council wish to no longer allow the properties to be rented out commercially, as the decision could have financial implications on some of the lessees.

Recommendations

The officer recommendations are based on the following principles:

1. Proposing a balance between commercial and residential use at Peaceful Bay, both for environmental reasons and to reduce any significant impacts on the character and amenity of the area;
2. Ensuring that the Minister approves the commercial use of the land;
3. Applying the same, consistent process and legal requirements on all holiday homes being operated within the Shire of Denmark.
4. Applying the same rate in the dollar on all holiday homes being operated within the Shire of Denmark, for fairness and equity.
5. Streamlining administrative processes to lessen any impact on Shire resources.

Voting Requirements:

Absolute majority required to impose a fee.

COUNCIL RESOLUTION & OFFICER RECOMMENDATION	ITEM 9.3.1 a)
MOVED: CR GEARON	SECONDED: CR GIBSON
That with respect to the Peaceful Bay leasehold area, located within Shire Managed Reserve 24510, Council:	
1. NOTES the submissions received;	
2. REQUEST the Chief Executive Officer to:	
a) Seek Ministerial consent, and if granted:	
i. obtain a market rent valuation for the entire Peaceful Bay leasehold area based on the commercial use of the premises, to be applied only to any	

- leasehold properties that obtain planning consent to operate a holiday home.
 - ii. Amend the draft lease (in Attachment 9.3.1b) to permit commercial use.
 - iii. Inform all lessees that they are required to apply for planning approval to legally operate a commercial holiday home, and for existing operations, Council have agreed to waive the requirement to pay a retrospective planning application fee.
 - iv. Ensure that the applicable rating category be applied to premises that are approved to operate as a commercial Holiday Home.
3. DELEGATES to the Chief Executive Officer the power to:
 - a) ADVERTISE the Shire’s intention to dispose of property via lease, in accordance with s 3.58 of the Local Government Act 1995, with a lessee who wishes to use the property as a commercial Holiday Home; and
 - b) CONSIDER any submissions received during the advertising period.
 4. CONDITIONS the delegation provided in part 3 above, so that if any submissions against the disposal are received, the matter be brought to Council for determination.
 5. AMEND the *Peaceful Bay Full Time Occupancy Approvals Policy* to reduce the number of approvals to 10% (or 20 out of 203) of leaseholder properties.
 6. AMEND the *Peaceful Bay Holiday Cottages – Holiday Accommodation Use Policy* to:
 - a) Cap the number of approved commercial holiday homes be no more than 10% (or 20 out of 203) leasehold properties;
 - b) Incorporate the requirement that lessees must have planning consent;
 - c) Note that the annual rent will be based on commercial use; and
 - d) Note that commercial use for holiday home may require the lessee to pay a higher rate in the dollar for the Rates.

AMENDMENT

MOVED: CR DEVENPORT

SECONDED: CR CLARKE

That part 5 be deleted.

CARRIED: 4/3

Res: 121122

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

FOR: Cr Devenport, Cr Carman, Cr Clarke and Cr Lewis.

AGAINST: Cr Gearon, Cr Gibson and Cr Campbell.

COUNCIL RESOLUTION

MOVED: CR LEWIS

SECONDED: CR GEARON

That Standing Orders be suspended.

CARRIED: 7/0

Res: 131122

COUNCIL RESOLUTION

MOVED: CR GEARON

SECONDED: CR LEWIS

That Standing Orders be resumed.

CARRIED: 7/0

Res: 141122

AMENDED MOTION

That with respect to the Peaceful Bay leasehold area, located within Shire Managed Reserve 24510, Council:

1. NOTES the submissions received;
2. REQUEST the Chief Executive Officer to:
 - a) Seek Ministerial consent, and if granted:
 - i. obtain a market rent valuation for the entire Peaceful Bay leasehold area based on the commercial use of the premises, to be applied only to any leasehold properties that obtain planning consent to operate a holiday home.
 - ii. Amend the draft lease (in Attachment 9.3.1b) to permit commercial use.

- iii. Inform all lessees that they are required to apply for planning approval to legally operate a commercial holiday home, and for existing operations, Council have agreed to waive the requirement to pay a retrospective planning application fee.
 - iv. Ensure that the applicable rating category be applied to premises that are approved to operate as a commercial Holiday Home.
3. DELEGATES to the Chief Executive Officer the power to:
 - a) ADVERTISE the Shire’s intention to dispose of property via lease, in accordance with s 3.58 of the Local Government Act 1995, with a lessee who wishes to use the property as a commercial Holiday Home; and
 - b) CONSIDER any submissions received during the advertising period.
 4. CONDITIONS the delegation provided in part 3 above, so that if any submissions against the disposal are received, the matter be brought to Council for determination.
 5. AMEND the *Peaceful Bay Holiday Cottages – Holiday Accommodation Use Policy* to:
 - a) Cap the number of approved commercial holiday homes be no more than 10% (or 20 out of 203) leasehold properties;
 - b) Incorporate the requirement that lessees must have planning consent;
 - c) Note that the annual rent will be based on commercial use; and
 - d) Note that commercial use for holiday home may require the lessee to pay a higher rate in the dollar for the Rates.
- THE AMENDED MOTION BECAME THE SUBSTANTIVE MOTION WHICH WAS PUT AND CARRIED: 4/3 Res: 151122
- Pursuant to Council Policy P040134 all Councillors’ votes on the above resolution are recorded as follows;*
- FOR: Cr Devenport, Cr Carman, Cr Clarke and Cr Lewis.*
- AGAINST: Cr Gearon, Cr Gibson and Cr Campbell.*

REASONS FOR CHANGE

Council preferred to retain the number of permissible full time occupants at 20% (or 40 out of 203 leasehold properties).

COUNCIL RESOLUTION & OFFICER RECOMMENDATION	ITEM 9.3.1 b)
MOVED: CR GIBSON	SECONDED: CR DEVENPORT
That Council:	
<ol style="list-style-type: none"> 1. ADOPT the Peaceful Bay Lease Renewal Policy, as per Attachment 9.3.1a; 2. CREATE a “Peaceful Bay Lease Application Fee” of \$200; 3. ADVERTISE its intention to impose the new fee and note the date that the fee will be imposed; and 4. PERMIT applications under the new policy only from the date that the application fee is imposed. 	
CARRIED BY AN ABSOLUTE MAJORITY: 7/0	Res: 161122

The Shire President moved back to Item 9.2.1 on the Agenda.

9.3.2 LEASE WITH TELSTRA - PREMISES FOR CARMARTHEN FIRE SHED

File Ref:	LEA.12
Applicant / Proponent:	Telstra Corporation Limited
Subject Land / Locality:	Lot 1 on Diagram 27184
Disclosure of Officer Interest:	Nil
Date:	24 October 2022
Author:	Claire Thompson, Governance Coordinator
Authorising Officer:	David Schober, Chief Executive Officer
Attachments:	9.3.1a - Current Lease and terms of new lease 9.3.1b - Heads of Agreement for new lease

Summary:

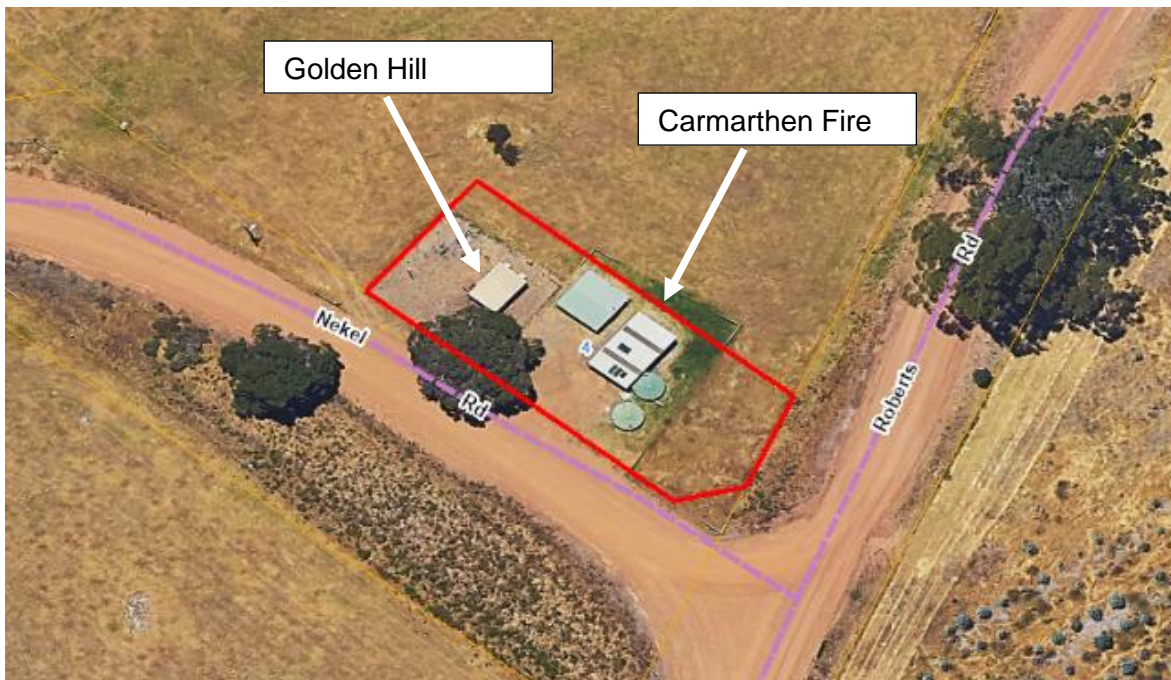
A new lease for the land on which the Carmarthen Fire Shed stands is proposed and this report seeks Council’s approval to enter into a new term with Telstra Corporation Limited.

Background:

The Shire entered into a 21 year lease with Telstra in 1999 in order to secure land for the Carmarthen Fire Shed used by the Carmarthen Volunteer Bush Fire Brigade.

The Shire has continued to occupy the land since the lease expiry on 2 December 2020, as a monthly tenant.

The land is owned freehold by the Australian Telecommunications Commission. Telstra have telecommunications exchange equipment on the site, ‘Golden Hill Exchange’.



ABOVE: Lot 1 on Diagram 27184, No. 4 Nekel Road, Scotsdale (image from Landgate website)

Consultation:

Nil

Statutory Obligations:

Nil

Policy Implications:

There are no policy implications.

Budget / Financial Implications:

The current lease fee is \$100 per annum.

The new lease fee would be \$200 per annum (plus GST), increased by 5% each anniversary date.

Strategic & Corporate Plan Implications:

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

Denmark 2027

L5.0 Our Local Government

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

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

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

Sustainability Implications:➤ **Sustainability:**

Nil

➤ **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 Carmarthen Volunteer Bush Fire Brigade occupy the buildings on site which they use for their brigade training and headquarters.

The terms and conditions of the lease will be the same as per the current lease (see Attachment 9.3.2a).

The Heads of Agreement detailing the key provisions is attached. (see Attachment 9.3.2b).

Telstra have advised that they no longer offer long term leases but were prepared to offer four years, with a further four year option.

Voting Requirements:

Simple majority.

COUNCIL RESOLUTION & OFFICER RECOMMENDATION	ITEM 9.3.2
MOVED: CR CLARKE	SECONDED: CR CAMPBELL
That Council agree to enter into a new lease with Telstra Corporation Limited for a portion of Lot 1 on Diagram 27184 in accordance with the Heads of Agreement in Attachment 9.3.2b, noting that the terms and conditions of the lease will be the same as the current lease in Attachment 9.3.2a.	
CARRIED: 8/0	Res: 171122

9.3.3 DENMARK WOODTURNERS INC. LEASE

File Ref:	LEA.54
Applicant / Proponent:	Denmark Woodturners Inc.
Subject Land / Locality:	Portion of Lot 501 on Deposited Plan 61023 73 South Coast Highway, Denmark
Disclosure of Officer Interest:	Nil
Date:	18 October 2022
Author:	Claire Thompson, Governance Coordinator
Authorising Officer:	David Schober, Chief Executive Officer
Attachments:	9.3.3 - Draft Lease

Summary:

Council is asked to approve a new lease between the Shire of Denmark and the Denmark Woodturners Incorporated for the building located at 73 South Coast Highway, Denmark.

Background:

In October 2020, Council entered into a short-term lease with the Denmark Woodturners Inc. ('Woodturners').

The reason behind a short lease term, was to align it with the term of a lease between the Shire and the Denmark Chamber of Commerce ('DCC') for the Denmark Visitor Centre.

In September 2021, Council agreed to enter into a three-year lease with the DCC. Subsequently, the Woodturners have requested a new lease term equal to that of the DCC.

Consultation:

Councillors have previously been briefed on the proposed new lease at an informal meeting.

Statutory Obligations:

LOCAL GOVERNMENT ACT 1995

Section 3.58 – a local government may dispose of property, including to lease.

LOCAL GOVERNMENT (FUNCTIONS & GENERAL) REGULATIONS 1996

Regulation 30(2)(b) – leasing of land to a body whose objects are charitable, benevolent, recreational, sporting or other like nature, and the members of which are not entitled to receive any pecuniary profit from the transaction, are exempt from disposal provisions under s 3.58.

Policy Implications:

Policy P110102 – Leasing of Land and/or Buildings to Community Groups relates. The items that specifically relate to this proposal are:

1. There be a signed lease.
2. Desire for lessees to be incorporated, but not essential.
3. Rate exemption be offered.

4. Have differing rentals discounted to market valuation depending upon the following factors;
 - a) To what degree the property is utilised for charitable, not for profit or sporting purposes;
 - b) The ability of the lessee to derive income from use of the property including sub-leases, rental hire and the presence of a liquor license;
 - c) The strategic value of the land in the short term to Council;
 - d) To what degree if any that the use is competing with commercial enterprise;
5. Costs of outgoings to be met by the lessee.

Budget / Financial Implications:

Under the current lease arrangement, the Denmark Woodturners Inc. pay \$1.00 per annum (peppercorn). Officers are recommending that this remains the consideration in the new lease.

Out of 28 community group leases, the following three pay \$5.00 annually. All 28 currently have their rates waived by the Council each year.

- Peaceful Bay Sea Rescue Group lease commenced 2003.
- Denmark Country Club lease commenced 1994.
- Denmark Scouts lease commenced 2002.

The attached lease recommends that Council consider waiving the rates each year.

As with most community owned buildings, the Shire pays for the building insurance. The lessee is required to have their own public liability and insure their own contents, members, stock etc.

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

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.

L5.1 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.

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.

➤ **Governance:**

Community groups that lease community buildings are required to maintain them and keep them in good repair throughout the term of the lease. This provides a benefit to the Shire by transferring the responsibility, and cost, from the lessor to the lessee.

➤ **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 Denmark Woodturners Inc. have 29 members and have created a space for like minded craftspeople to engage and interact with one another. The shop has proven to be quite popular with visitors as it showcases locally made products and the Woodturners Committee is well structured to continue managing their activities, and the building, into the future.

➤ **Risk:**

Nil

Comment/Conclusion:

The Woodturners have a number of future aspirations including converting the storage shed (behind the Visitor Centre) into a workshop to encourage new and diverse members, adding an additional element to their association.

This would allow them to diversify their membership and host demonstration days for potential new members and/or young people. They have been in conversation with the Denmark Agricultural College and provide an exhibition / demonstration each year at the College’s annual open day.

Their members are keen to engage more with youth to encourage intergenerational interaction for their members and pass on their knowledge of woodcraft.

Officers are recommending that Council approve the attached draft lease for a term commencing from the date of Ministerial Consent to the 30 November 2024, being the expiry date of the Denmark Chamber of Commerce lease.

The draft lease attached contains the same provisions as the current lease.

Voting Requirements:

Simple majority.

COUNCIL RESOLUTION & OFFICER RECOMMENDATION	ITEM 9.3.3
MOVED: CR PHILLIPS	SECONDED: CR LEWIS
That with respect to the lease between the Shire of Denmark and the Denmark Woodturners Inc. for a portion of Lot 501 on Deposited Plan 61023, Reserve 48198, Council;	
<ol style="list-style-type: none"> 1. APPROVE the draft lease, as per Attachment 9.3.3 and 2. AUTHORISE the Chief Executive Officer and Shire President to execute the lease, subject to obtaining Ministerial Approval, in accordance with section 18 of the Land Administration Act 1997. 	
CARRIED: 8/0	Res: 181122

9.3.4 DELEGATIONS REVIEW 2022

File Ref:	Delegations Register
Applicant / Proponent:	Not applicable
Subject Land / Locality:	Not applicable
Disclosure of Officer Interest:	Nil
Date:	25 October 2022
Author:	Claire Thompson, Governance Coordinator
Authorising Officer:	David Schober, Chief Executive Officer
Attachments:	9.3.4 - Delegations

Summary:

Council is required to review its delegations each year.

Background:

The delegations were last reviewed in December 2021.

Consultation:

Shire Executive Team and the Governance Coordinator.

Statutory Obligations:

LOCAL GOVERNMENT ACT 1995

Section 5.46 requires that delegations must be reviewed at least once every financial year by the delegator.

Relevant sections providing a local government the power to delegate under other statutes is contained within each delegation (see Attachment 9.3.3).

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:

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:

➤ **Governance:**

Delegations provide mechanisms to enable the day to day business of the Shire to be handled administratively in a timely and efficient manner. Alternatively, all decisions made under delegation would need to be considered formally by the Council. This could have

timing implications, potentially reduce customer satisfaction of the Shire’s ability to make efficient, consistent decisions.

➤ **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 from Council to the CEO, and the sub-delegations from the CEO to other employees are providing sufficient guidance for the administration to perform local government functions and powers efficiently and effectively.

Officers are not recommending any changes.

Voting Requirements:

Absolute majority.

COUNCIL RESOLUTION & OFFICER RECOMMENDATION	ITEM 9.3.4
MOVED: CR GIBSON	SECONDED: CR CARMAN
That following a review of the delegations contained in Attachment 9.3.4, Council RENEW each delegation until the next review period.	
CARRIED BY AN ABSOLUTE MAJORITY: 8/0	Res: 191122

9.3.5 NEW LEASE – OCEAN BEACH TELSTRA EXCHANGE

File Ref:	LEA.46
Applicant / Proponent:	Telstra Corporation Limited
Subject Land / Locality:	Lot 8171 on Deposited Plan 30137
Disclosure of Officer Interest:	Nil
Date:	1 November 2022
Author:	Claire Thompson, Governance Coordinator
Authorising Officer:	David Schober, Chief Executive Officer
Attachments:	9.3.5 - Draft Lease

Summary:

This report seeks Council’s approval to enter into a new lease with Telstra Corporation limited for the land on which the Ocean Beach Telecommunications Exchange is located.

Background:

The Shire entered into a 10 year lease with Telstra Corporation Limited in 2003 at their request to use the land for a telecommunications exchange. In 2013, the lessee exercised the further term option and the lease was extended for a further 10 year term.

The lease is due to expire in 2023 and Telstra have requested a new lease commencing 1 January 2023.



ABOVE: Lot 8171 on Deposited Plan 30137 (No. 466 Ocean Beach Road, Ocean Beach)

Consultation:

Nil

Statutory Obligations:

Nil

Policy Implications:

There are no policy implications.

Budget / Financial Implications:

The current lease fee is \$647 per annum.

A lease for the 2023 has been negotiated with the lessee and is proposed to be \$1,000 (plus GST) per annum.

Strategic & Corporate Plan Implications:

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

Denmark 2027

L5.0 Our Local Government

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

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

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

Sustainability Implications:

➤ **Sustainability:**

Nil

➤ **Governance:**

The exchange is important as it provides the community telecommunication services.

➤ **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 terms and conditions of the new lease are the same as the current lease (see Attachment 9.3.5).

During negotiations, Telstra informed the Shire that they have never paid local government rates, even though the lease requires them to. It appears that in 2016, a Shire officer noticed the anomaly, flagged the assessment record in the Shire’s rate system as “non-rateable” and creating a memo to investigate it prior to the next financial year. This was never done so that record has been “non-rateable” ever since.

The new lease includes the requirement that rates be paid however, Telstra have requested that Council consider waiving the rates. Should the Council wish to do so, it can be done by exercising the power under s 6.47 of the Local Government Act 1995.

Officers have not recommended waiving the rates as the use and the lessee do not constitute a category that would be defined in the Local Government Act 1995 as generating an exemption (see s 5.23).

Voting Requirements:

Simple majority.

COUNCIL RESOLUTION & OFFICER RECOMMENDATION	ITEM 9.3.5
MOVED: CR GIBSON	SECONDED: CR DEVENPORT
That Council agree to enter into a new lease with Telstra Corporation Limited for the whole of Lot 8171 on Deposited Plan 30137, on the terms provided in the draft lease (Attachment 9.3.5), subject to the Minister’s approval.	
CARRIED: 8/0	Res: 201122

10. COMMITTEE REPORTS AND RECOMMENDATIONS

10.1 BUSH FIRE ADVISORY COMMITTEE – MINUTES AND RECOMMENDATION – 27 OCT 2022

File Ref:	COMM.BFAC
Applicant / Proponent:	Bush Fire Advisory Committee
Subject Land / Locality:	Not applicable
Disclosure of Officer Interest:	Nil
Date:	15 November 2022
Author:	Renee Wiggins, Manager Community Services
Authorising Officer:	Gina McPharlin, Director Corporate & Community
Attachments:	10.1a – Bush Fire Advisory Committee Minutes 27 October 2022 10.1b – Policy P050111 Spending Authority for Chief & Deputy Chief Bush Fire Control Officer

Summary:

Council is requested to receive the Minutes from the Bush Fire Advisory Committee and approve a reviewed and updated policy.

Background:

The Bush Fire Advisory Committee (BFAC) met on 27 October 2022 and considered proposed changes to policy P050111 Spending Authority for Chief & Deputy Chief Bush Fire Control Officer.

The BFAC resolved as follows:

“Recommend that Council review P050111 to increase the limit of the Chief Bush Fire Control Officer or in his absence the Deputy Chief Bush Fire Control Officer to engage contractors or incur expenses from \$2,000 per incident. up to \$5,000 per incident on behalf of Council for the use of combating and extinguishing a wildfire, and,

Section 4 be removed”

Consultation:

The Bush Fire Advisory Committee reviewed the Policy and recommended the amendment.

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.

Committee minutes are not required under legislation to be presented to Council. However, the Chief Executive Officer (CEO) has determined that, 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.

Policy Implications:

The Spending Authority for Chief & Deputy Chief Bush Fire Control Officer policy was last reviewed in 2017.

The Policy has been amended to reflect a reasonable increase in the event that the CBFCO is unable to contact the Community Emergency Services Coordinator, the Director Corporate and Community Services or the CEO to approve a spend during a Level 1 incident.

A copy of the draft amended policy is attached (see Attachment 10.1b).

Budget / Financial Implications:

Should expenditure occur in accordance with the policy, reimbursement would be made from the Council’s existing budget allocation for emergency services.

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.

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.
- L5.6 To seek two-way communication that is open and effective.

Sustainability Implications:

Sustainability Strategy

- 1. Health & Happiness
 - 1.4 *Support initiatives that create connected communities with key service areas.*
- 2. Equity & Local Economy
 - 2.2 *Support the community to promote a circular economy and buy local philosophy.*
- 3. 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:**

If the Chief Bush Fire Control Officer or the Deputy Chief Bush Fire Control Officer need to act quickly to mitigate or respond to an emergency fire event, the policy provides appropriate authorisation.

➤ **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:**

Acting quickly in an emergency situation could be critical in order to ensure public safety.

➤ **Risk:**

Nil

Comment/Conclusion:

The Author recommends that the Minutes be received by Council and the reviewed policy be approved. The policy has been amended to clarify the use and requirements for reimbursement.

Voting Requirements:

Simple majority.

COUNCIL RESOLUTION & OFFICER RECOMMENDATION	ITEM 10.1a)
MOVED: CR CAMPBELL	SECONDED: CR GIBSON
That Council RECEIVE the Bush Fire Advisory Committee Minutes for the meeting held on 27 October 2022 (Attachment 10.1a).	
CARRIED: 8/0	Res: 211122

COUNCIL RESOLUTION, COMMITTEE & OFFICER	ITEM 10.1b)
RECOMMENDATION	
MOVED: CR CAMPBELL	SECONDED: CR GIBSON
That Council APPROVES the updated <i>Spending Authority for Chief and Deputy Chief Bush Fire Control Officer Policy</i> , as per Attachment 10.1b.	
CARRIED: 8/0	Res: 221122

11. MATTERS BEHIND CLOSED DOORS

OFFICER RECOMMENDATION	ITEM 11
MOVED: CR GEARON	SECONDED: CR GIBSON
That Council move behind closed doors to consider Item 11.1, in accordance with s 5.23(2)(c) of the Local Government Act 1995, as the matter to be discussed deals with a contract which may be entered into.	
CARRIED: 8/0	Res: 231122

11.1 POTENTIAL DISPOSAL OF LOT 1 RIVERBEND LANE

File Ref:	A322
Applicant / Proponent:	Nil
Subject Land / Locality:	No. 23 (Lot 1) Riverbend Lane, Scotsdale
Disclosure of Officer Interest:	Nil
Date:	31 October 2022
Author:	David King, Deputy Chief Executive Officer
Authorising Officer:	David Schober, Chief Executive Officer
Attachments:	9.1.1a – September 2022 Acumentis Valuation 9.1.1b – October 2022 Opteon Valuation 9.1.1c – August 2021 Opteon Valuation

This item was confidential and has been provided to Councillors under separate cover.

COUNCIL RESOLUTION & OFFICER RECOMMENDATION	ITEM 11.1
MOVED: CR GIBSON	SECONDED: CR GEARON
That with respect to No. 23 (Lot 1) Riverbend Lane, Council AUTHORISE the Chief Executive Officer to advertise any intention to dispose, in accordance with s 3.58 of the Local Government Act 1995 subject to the conditions of negotiation contained within this report.	
AMENDMENT	
MOVED: CR LEWIS	SECONDED: CR CARMAN
That the minimum sale price be increased by \$62,500.	
CARRIED: 5/3	Res: 241122
<i>Pursuant to Council Policy P040134 all Councillors' votes on the above resolution are recorded as follows;</i>	
FOR:	<i>Cr Devenport, Cr Carman, Cr Phillips, Cr Gibson and Cr Lewis.</i>
AGAINST:	<i>Cr Gearon, Cr Clarke and Cr Campbell.</i>
AMENDED MOTION	
That with respect to No. 23 (Lot 1) Riverbend Lane, Council AUTHORISE the Chief Executive Officer to advertise any intention to dispose, in accordance with s 3.58 of the Local Government Act 1995 subject to the conditions of negotiation contained within this report, subject to the minimum sale price being increased by \$62,500.	

THE AMENDED MOTION BECAME THE SUBSTANTIVE MOTION WHICH WAS PUT AND CARRIED: 7/1 Res: 251122

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

FOR: *Cr Campbell, Cr Phillips, Cr Gibson, Cr Gearon, Cr Devenport, Cr Carman and Cr Lewis.*

AGAINST: *Cr Clarke.*

REASONS FOR CHANGE

Council increased the recommended minimum sale price in order to maximum the Shire's return for ratepayers.

COUNCIL RESOLUTION

MOVED: CR GIBSON SECONDED: CR GEARON

That the meeting resume in public.

CARRIED: 8/0 Res: 251122

No member of the public returned to the room and therefore the Shire President did not read aloud the resolution for Item 11.1.

12. NEW BUSINESS OF AN URGENT NATURE

Nil

13. CLOSURE OF MEETING

8.04pm – There being no further business to discuss the Shire President, Cr Gearon, 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.)