

SHIRE OF DENMARK

# Ordinary Council Meeting

# MINUTES

**28 MAY 2024**

HELD IN COUNCIL CHAMBERS, 953 SOUTH COAST HIGHWAY,  
DENMARK, ON TUESDAY, 28 MAY 2024.



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## DISCLAIMER

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

4.00pm - The Shire President, Cr Gibson, declared the meeting open and acknowledged the Bibbulmun and Minang people as the traditional custodians of the land on which the meeting was being held. Cr Gibson paid his respects to Elders past, present and emerging.

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

MEMBERS:

- Cr Kingsley Gibson (Shire President)
- Cr Jan Lewis (Deputy Shire President)
- Cr Clare Campbell
- Cr Donna Carman
- Cr Nathan Devenport
- Cr Jackie Ormsby
- Cr Janine Phillips
- Cr Aaron Wiggins
- Cr Dominic Youel

STAFF:

- David King (Chief Executive Officer)
- Kellie Jenkins (Executive Manager Corporate Services)
- Rob Westerberg (Director Infrastructure & Assets)
- Craig Pursey (Manager Development Services)
- Claire Thompson (Governance Coordinator)

ON APPROVED LEAVE(S) OF ABSENCE

Nil

ABSENT WITHOUT LEAVE

Nil

VISITORS

Nil

**3. DECLARATIONS OF INTEREST**

Name	Item No	Interest	Nature
Cr Carman	9.1.1	Impartiality	Employee of small IGA in town and live within a block of the park area, which is the subject of my amendment.

**4. ANNOUNCEMENTS BY THE PERSON PRESIDING**

Nil

**5. PUBLIC QUESTION TIME**

**5.1 RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE**

Nil

## 5.2 PUBLIC QUESTIONS

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

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

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

### Questions from the Public

#### 5.2.1 Katrina Hithersay – Item 9.1.1 – Local Planning Strategy (LPS)

As the owner of land identified in the draft LPS, Katrina thanked Shire Officers for working with her to resolve concerns she had in the advertised draft document.

#### 5.2.2 John Xanthis – Safety around Prawn Rock Channel

John spoke on behalf of the Wilson Inlet Restoration Group and expressed concerns about safety around Prawn Rock Channel when trucks were carting lime through the area from the lime pit. John urged Council to consider establishing an alternate route for the trucks.

*The Chief Executive Officer advised that a bypass road remains as a conceptual long term project. However, the road is not in the Shire's ten year Long Term Financial Plan at this time.*

#### 5.2.3 Ross Thornton – Item 9.1.1 – Local Planning Strategy (LPS)

Ross expressed some concerns about some of the proposals in the draft LPS, particularly around the service commercial zone, options for a new supermarket, and previous determinations by Council that the Shire Depot would be relocated to the established Industrial Area.

Ross noted that the LPS referred to the Churchill Road bridge as the second river crossing for evacuation purposes and indicated that the WA Planning Commission would require evidence to support this.

*The Shire President thanked Ross for his comments.*

*The Chief Executive Officer noted Ross' concerns and stated that Shire Officers had done a lot of work and from the administration's view the draft LPS contained sufficient evidence and detail. David said that should the WA Planning Commission disagree with any of the content then the Shire would work with them to resolve any issues.*

**5.2.4 Arthur Holmes – Item 9.1.1 – Local Planning Strategy (LPS)**

Arthur referred to the Shire's Sustainable Tourism Strategy and the draft LPS and queried at what point would the Shire apply the strategies to new development applications.

*The Chief Executive Officer advised that the draft LPS would be applied once it had been endorsed as the final document by the WA Planning Commission.*

**5.2.5 Helen Spencer – Item 9.1.1 – Local Planning Strategy (LPS)**

Helen spoke as the convenor of the Denmark Sustainable Tourism Action Group and thanked everyone who had been involved in redrafting the document to incorporate the Sustainable Tourism Strategy principles. Helen asked when the Local Planning Strategy would be incorporated into the Local Planning Scheme.

*The Manager Development Services responded that once the LPS was approved it would guide the development of a new Local Planning Scheme however, the timeframe was unknown. Craig added that the Shire are always required to use current adopted and endorsed strategies and scheme when assessing development applications.*

**5.2.6 Steve Birkbeck – Tourism & Item 8.1 Notice of Motion**

Steve stated that as a business owner, he wanted to speak on behalf of the tourism noting that many people and families were reliant on the local tourist industry. Steve referred to recent media coverage of a sign that had been erected implying that tourists were not welcome in Denmark. Steve asked who would speak on behalf of the tourism industry.

Steve expressed his support for Cr Lewis' Notice of Motion as there was a need for the State Government to commit to completing the project at Greens Pool.

*The Shire President stated that historically, different community organisations had spoken on behalf of the tourism industry and, currently, it was the Denmark Chamber of Commerce. However, ultimately it was the tourism operators that needed to speak for themselves.*

*Cr Gibson said that Council recognised the need to complete alternative transport access to William Bay and Greens Pool.*

**5.2.7 Cynthia Maclaine – Environmental Clearing & Development**

Cynthia expressed her sadness about the removal of trees to make way for development and noted that there was little in the LPS about preserving the environment.

*The Manager Development Services said that the draft LPS included a focus that any new development should ideally occur in existing cleared areas. Craig also noted that the Western Australian Local Government Association were investigating a policy that would enable local governments to influence retention of trees.*

**5.2.7 Stephanie Watts – Tourism**

Stephanie said that she hoped that Council was aware that recent concerns raised in the community about tourism were only representative of the views of a small minority of residents and ratepayers.

As a long time resident, Stephanie had witnessed a number of protests against various developments in the past noting that while progress can't always be controlled, change could always be managed.

As the owner of a local business, Stephanie highlighted the importance of embracing tourists because they supported local businesses. Stephanie noted that with greater tourist numbers came some difficulties such as parking however, it was important to try and seek solutions rather than limit growth or visitation.

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

Nil

**5.4 PRESENTATIONS, DEPUTATIONS & PETITIONS**

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

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

Nil.

**6. APPLICATIONS FOR FUTURE LEAVE OF ABSENCE**

**6.1 CR ORMSBY**

<b>COUNCIL RESOLUTION</b>	<b>ITEM 6.1</b>
MOVED: CR CARMAN	SECONDED: CR DEVENPORT
That Cr Ormsby be granted leave of absence from the 20 June 2024 to the 20 July 2024.	
CARRIED: 9/0	Res: 010524
TOTAL VOTES FOR: 9	
Cr Campbell, Cr Wiggins, Cr Youel, Cr Gibson, Cr Devenport, Cr Ormsby, Cr Carman, Cr Lewis and Cr Phillips.	
TOTAL VOTES AGAINST: 0	

**7. CONFIRMATION OF MINUTES**

**7.1 ORDINARY COUNCIL MEETING – 30 APRIL 2024**

<b>COUNCIL RESOLUTION &amp; OFFICER RECOMMENDATION</b>	<b>ITEM 7.1</b>
MOVED: CR WIGGINS	SECONDED: CR PHILLIPS
That the minutes of the Ordinary Meeting of Council held on the 30 April 2024 be CONFIRMED as a true and correct record of the proceedings.	
CARRIED: 9/0	Res: 020524
TOTAL VOTES FOR: 9	
Cr Campbell, Cr Wiggins, Cr Youel, Cr Gibson, Cr Devenport, Cr Ormsby, Cr Carman, Cr Lewis and Cr Phillips.	
TOTAL VOTES AGAINST: 0	

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

**8.1 CR LEWIS NOTICE OF MOTION – MANAGEMENT AND SUSTAINABILITY OF WILLIAM BAY NATIONAL PARK**

<b>File Ref:</b>	CR.3
<b>Applicant / Proponent:</b>	Not applicable
<b>Subject Land / Locality:</b>	William Bay National Park
<b>Disclosure of Officer Interest:</b>	Nil
<b>Date:</b>	16 May 2024
<b>Author:</b>	Cr Lewis
<b>Attachments:</b>	Nil

**VOTING REQUIREMENTS**

1. Simple majority.



**COUNCIL RESOLUTION & OFFICER RECOMMENDATION**

ITEM 8.1

MOVED: CR LEWIS

SECONDED: CR YOUEL

That Council REQUESTS the Chief Executive Officer to write to the Hon Reece Whitby MLA, Minister for Environment; Climate Action, and the Hon Rita Saffioti BBus MLA, Deputy Premier; Treasurer; Minister for Transport and Tourism, to discuss the management and sustainability of William Bay National Park.

The following messages are to be included:

The park is a cherished natural asset that attracts a significant number of visitors, especially during peak seasons. Tourism brings numerous benefits to our local shire, such as economic growth, job creation, and the promotion of cultural exchange. Nevertheless, it also presents challenges that need to be addressed to preserve the park’s environment.

Council acknowledges the work and commitment the Department of Biodiversity, Conservation and Attractions has shown to the park thus far, including the provision of improved infrastructure. However, with the increasing number of visitors and the State Government’s push for domestic tourism, it is crucial to consider the impact on the park’s ecosystem.

Our community is asking how the health of the National Park will be preserved going forward. We are seeking the department to provide information to the community and Council on the measures that are planned for the short and medium term to manage visitor numbers effectively. As the Shire is a key stakeholder, we ask that these measures align with our commitment to environmental protection and sustainable tourism.

We believe that a collaborative approach between the State Government and the Shire of Denmark can lead to innovative solutions that ensure the park remains a pristine and welcoming place for both residents and visitors.

CARRIED: 9/0

Res: 030524

TOTAL VOTES FOR: 9

Cr Campbell, Cr Wiggins, Cr Youel, Cr Gibson, Cr Devenport, Cr Ormsby, Cr Carman, Cr Lewis and Cr Phillips.

TOTAL VOTES AGAINST: 0

**CHIEF EXECUTIVE OFFICER COMMENT**

2. There are no financial, statutory or policy implications to the notice of motion.
3. There are no significant risks associated with the notice of motion.

**9. REPORTS OF OFFICERS**

**9.1 DEVELOPMENT SERVICES**

*Cr Carman declared an impartiality interest on the basis that she is employee of small IGA in town and lives within a block of the park area, which is the subject of her amendment.*

**9.1.1 OUTCOMES OF PUBLIC ADVERTISING AND ADOPTION OF FINAL LOCAL PLANNING STRATEGY**

<b>File Ref:</b>	PLN.46.20/21
<b>Applicant / Proponent:</b>	Not Applicable
<b>Subject Land / Locality:</b>	Shire wide
<b>Disclosure of Officer Interest:</b>	Reporting officer Will Hosken is the part owner of a property in Denmark that is affected by changes in residential density proposed in the Draft Strategy, an interest in common with all other landowners within an 800m walkable catchment of the Denmark Town Centre.
<b>Date:</b>	9 May 2024
<b>Author:</b>	Will Hosken, Town Planner; Emmet Blackwell, Strategic Town Planner
<b>Authorising Officer:</b>	David King, Chief Executive Officer
<b>Attachments:</b>	9.x.xa – Draft Local Planning Strategy (as publicly advertised) 9.x.xb – Proposed Schedule of Modifications 9.x.xc – Proposed Modifications – Part 3.2.5 (Tourism) 9.x.xd – Proposed Modifications – Parts 3.2.2 to 3.2.4 (Commercial & Industrial Land Uses) 9.x.xe – Schedule of Submissions

**IN BRIEF**

- Public consultation for the Draft Local Planning Strategy was completed between October 2023 and January 2024.
- Comments received have been assessed and the Draft Strategy reviewed, with a number of modifications proposed as a result.
- Endorsement of the proposed Strategy inclusive of these modifications is requested in order for the Strategy to be finalised.

**VOTING REQUIREMENTS**

1. Simple majority.

<b>COUNCIL RESOLUTION &amp; OFFICER RECOMMENDATION</b>	ITEM 9.1.1
MOVED: CR ORMSBY	SECONDED: CR YOUEL
That Council:	
<ol style="list-style-type: none"> <li>1. ENDORSE the Schedule of Submissions at Attachment 9.1.1e.</li> <li>2. ENDORSE the Draft Local Planning Strategy at Attachment 9.1.1a and the proposed modifications that are detailed in Attachments 9.1.1b, 9.1.1c and 9.1.1d.</li> <li>3. FORWARD the Draft Local Planning Strategy, proposed modifications and associated documents to the Western Australian Planning Commission requesting their endorsement.</li> </ol>	
<b>AMENDMENT</b>	
MOVED: CR CARMAN	SECONDED: CR WIGGINS
After the term “9.1.1d” in part 2 add the words “including an additional modification to the Draft Local Planning Strategy to designate the whole of Lot 228 (#2) Strickland Street Denmark for Public Use on the Strategy Maps”.	
LOST: 2/7	Res: 040524
TOTAL VOTES FOR: 2	
Cr Carman and Cr Wiggins.	
TOTAL VOTES AGAINST: 7	
Cr Campbell, Cr Youel, Cr Gibson, Cr Devenport, Cr Ormsby, Cr Lewis and Cr Phillips.	
THE ORIGINAL MOTION WAS THEN PUT AND CARRIED: 9/0	Res: 050524
TOTAL VOTES FOR: 9	
Cr Campbell, Cr Wiggins, Cr Youel, Cr Gibson, Cr Devenport, Cr Ormsby, Cr Carman, Cr Lewis and Cr Phillips.	
TOTAL VOTES AGAINST: 0	

**LOCATION**

2. The Local Planning Strategy provides direction for future land use across the whole of the Shire.
3. The most significant changes to land use proposed in the Strategy are within the Denmark townsite and surrounds, as the townsite will accommodate the majority of residential and commercial growth over the next 15 years.

**BACKGROUND**

4. A local planning strategy is a non-statutory document that details the preferred strategic direction for land use planning and future development outcomes. A local planning strategy sets out how future residential and commercial growth will be accommodated, how rural planning issues are to be addressed, the rationale for changes to the local

planning scheme, and how relevant state and regional planning policies will be implemented at a local level.

5. The Shire's previous Local Planning Strategy was adopted by the Council on 4 October 2011 and endorsed by the WAPC on 22 May 2012. A review of the LPS was initiated in 2019, the scope extended to the preparation of a new strategy, the project delayed due to resourcing constraints in 2020-21, and a comprehensive review and drafting process undertaken to prepare the Draft Local Planning Strategy 2022.
6. The Draft Strategy (Attachment 9.1.1a) proposed a vision for land use planning to "support the creation of a sustainable and resilient community, providing direction for the continual improvement in land use and development planning practice, and providing a framework for growth that protects and enhances Denmark's unique character and environment". The vision expressed in the Draft Strategy included a range of objectives that further articulate the community outcomes that it aims to achieve.
7. At the September 2022 Ordinary Council Meeting, Council resolved to refer the Draft Local Planning Strategy to the Western Australian Planning Commission (WAPC) for consent to commence public advertising.
8. On 18 July 2023 the WAPC's Statutory Planning Committee resolved to support progression of the Shire's Draft Local Planning Strategy to public advertising subject to a schedule of modifications.
9. On 15 August 2023 the Council noted the schedule of modifications directed by the WAPC and proposed responses by Shire officers. Shire officers subsequently incorporated these modifications into the Draft Strategy and prepared associated documents to aid the public consultation process.
10. Public advertising of the Draft Strategy occurred for a 60 day period between 23 October and 22 December 2023. Several requests to make late submissions were received from members of the public and State Government agencies, which were received up until 22 January 2024.
11. As a result of the feedback received during the public advertising process, advice received from State Government agencies and further review of the Draft Strategy a range of modifications are now proposed.

#### **DISCUSSION / OFFICER COMMENTS**

12. During the public advertising period 79 submissions were received from members of the public and 6 submissions were received from State Government agencies, with comments relating to a wide range of matters addressed in the Strategy.
13. Public submissions and State Government agency submissions are each responded to in the Schedule of Submissions (Attachment 9.1.1e). Matters raised in multiple submissions and/or with significant implications for the Strategy are summarised in this report.
14. Proposed modifications to the Draft Strategy are detailed in Attachment 9.1.1b. The proposed modifications respond to community feedback, submissions from government

agencies, and a range of typographical, mapping and alignment corrections proposed as a result of an in depth officer review.

### **Tourism**

15. The most common issue raised in public submissions was concern with the proposed designation of tourism precincts and/or concern that the Draft Strategy was too accommodating of new tourism development. Relating submissions expressed, in summary, that increasing tourist numbers have placed pressure on local services, housing, infrastructure and environment, and thereby affected the quality of life of residents.
16. The 2011 LPS provides little guidance as to the appropriate location/s for tourism development and the requirements that are to be met, and as part of preparing the Draft Strategy it was identified that a more strategic approach would be of benefit. The designation of tourism precincts in the Draft Strategy was intended to reduce the area within which a landowner-initiated proposal for rezoning to accommodate a tourist development of any significant size might be supported. This proposal was to work in concert with reducing the extent of tourism land uses that may be permitted within the Rural Zone generally.
17. The proposal to introduce tourism precincts has been misinterpreted in various ways and misinformation circulated within the community. This has included mistaken concerns that land would be rezoned by the Shire against the wishes of landowners, that tourism development would be a given, and that no detailed site-specific assessment would occur at subsequent stages of planning approval. Notwithstanding, it is acknowledged that the sentiment of community feedback received in relation to tourism reflects a desire for growth in tourist numbers and/or large scale tourism development to be very limited, and the identification of areas where tourism may be accommodated in the form of tourism precincts has been viewed as contrary to this.
18. In response, the Strategy's approach to tourism related matters has been reviewed by Shire officers in consultation with the Local Planning Strategy Working Group. It is proposed that the tourism component of the Draft Strategy (Part 3.2.5) is replaced in its entirety by a re-drafted text (Attachment 9.1.1c) that removes the previously identified tourism precincts and reflects the following approach:
  - Expanded discussion on the impacts associated with tourism, including the concept of 'carrying capacity'.
  - Proposing changes to the local planning framework to reduce the range of opportunities for the establishment of new tourist accommodation, including some of the tourism-related land uses that may currently be permitted in the Rural Zone that are intended to be removed when a new planning scheme is prepared.
  - Introducing a suite of assessment criteria that are to be applied to any tourism related rezoning, land use, or development proposal that the Shire receives in the future.
  - Identifying the portion of unrestricted occupancy units (no length of stay restriction) that may be permitted within the Tourism zone on a site by site basis (instead of on a precinct basis).

- Proposing a review of the Shire's local planning policy for holiday homes, with consideration given to limiting the areas where holiday homes may be supported, to reduce impacts on housing availability/ affordability.

19. This revised position aims to address key pressure points and to strike a balance between the negative and positive impacts of tourism that are experienced within our community, acknowledging that this will likely remain a subjective and debated topic.

### **Commercial Zone**

20. The Draft Strategy aims to maintain the primacy and integrity of the Denmark Town Centre by keeping shops and supermarkets within a consolidated main street, 'village' environment and avoiding the incursion of inappropriate land uses. The establishment of shops and supermarkets outside of the Town Centre would potentially have significant social and economic impacts.

21. The Draft Strategy proposed a variety of actions aimed at achieving this outcome, including restricting the development of shops and supermarkets on land to the west of Short Street and Millar Street by changing the land use from 'commercial' to 'service commercial'.

22. Although the Strategy does not forecast the need for a new supermarket on the basis of the population growth during the next 15 years, it is understood that there is both significant latent demand (ie. past population growth that has not been met by the expansion of services) and a seasonal population that may support investment in new and/or expanded supermarkets in the near term. Officers therefore recommend that the Strategy maintains an opportunity for the potential development of a supermarket as this is a key commercial service to our community, and a significant component of trade leakage.

23. Feedback received has indicated that the constraints and risks associated with assembling and developing a sufficiently sized land parcel in the Denmark Town Centre to accommodate a new or expanded supermarket are significant, and the Draft Strategy's approach may therefore not sufficiently enable the development of a supermarket within the next 15 years.

24. Acknowledging that this may not be feasible within close proximity to the centre of town, a position on the periphery may need to be supported. Lot 50 (#82-90) South Coast Hwy is the only undeveloped, unconstrained and sufficiently sized landholding within a reasonable distance to the Denmark Town Centre that is capable of accommodating a major supermarket development. Proposed modifications to the Strategy therefore seek to retain the ability for a supermarket to be developed on Lot 50 (#82-90) South Coast Hwy, acknowledging that there are sufficient alternatives to Lot 50 to accommodate potential service commercial land uses (eg. showrooms and bulky goods retailing).

25. Other than allowing for the development of a supermarket, it is recommended that the Strategy maintain support for the existing main street 'village' precinct and avoid the potential undesirable social and economic impacts that would result from the fragmentation of commercial land uses. It is proposed that the Strategy does not support the establishment of any shop or supermarket land uses on other commercial

lots to the west of Short Street and Millar Street, identifies the need for improved connectivity between Lot 50 and the existing main street 'village' precinct, and recommends initiatives to maintain and enhance the economic and social vitality of the precinct.

26. Proposed modifications to the Draft Strategy relating to commercial, service commercial and industrial land uses are detailed in Attachment 9.1.1d.

### **Service Commercial & Industrial**

27. Proposed modifications to the Draft Strategy supporting commercial land uses along South Coast Hwy will correspondingly reduce service commercial land availability. This includes the availability of development sites for larger businesses, which the Draft Strategy had proposed Lot 50 could accommodate.
28. In response it is proposed to modify the Draft Strategy to designate the Denmark Light Industrial Area (LIA) as 'service commercial'. Compared to the 'light industrial' designation in the Draft Strategy this will provide a wider range of business opportunities and provide stronger commercial impetus for the transition of the LIA to land uses more compatible with its surrounds.
29. The consolidation and uplift of the LIA is recommended over the establishment of an entirely new service commercial area. The existing LIA has opportunities for expansion, major development sites, and for the potential extension of a reticulated sewerage service to the area.
30. Changes to the LIA will be enabled by the availability of land within the East Denmark Industrial Estate (EDIE), which will provide opportunities for businesses to relocate. Although the initial stages of land release in the EDIE have been sold, the estate is expected to extend to the south.
31. The Draft Strategy broadly identified the EDIE for 'industrial' purposes without acknowledging the transition of land uses that has formed part of previous planning for the southern portion of this area. Consistent with feedback received through submissions it is proposed to modify the Strategy to better reflect this transition.

### **Denmark River Crossings / Bypass Road**

32. The Denmark River can currently be crossed by bridges at the South Coast Hwy and Churchill Rd. Several submissions assert that a third road bridge over the Denmark River is needed to provide alternative access in an emergency, particularly due to the seasonal peaks in visitor numbers.
33. The Draft Strategy takes a position consistent with previous Council decisions, that:
- Based on anticipated traffic and freight volumes an additional bridge is not expected to be required during the life of this Strategy, and it is therefore not appropriate to identify the location of a potential future bridge at this time.
  - Further improvements to the existing road network may provide more cost-effective outcomes in the short to medium term.

- As a means of supplementing the regional road network, any potential future investigations into a new bridge should be led by the State.

The Draft Strategy also identifies several local road connections that would improve the emergency access available to the neighbourhoods they service.

34. A submission was also received from Main Roads discussing the potential for a bypass road to accommodate heavy haulage traffic movements and the need to preserve land for this purpose. The Draft Strategy was prepared in consideration of preliminary advice received from Main Roads, which suggested that there was no need for a bypass and that heavy haulage traffic was not increasing.
35. The Draft Strategy did not recommend identifying a bypass road for the following reasons:
- To date the Shire is not aware of any quantifiable information which suggests the need for a heavy haulage bypass, or any expected or proposed land use change (in the Strategy or elsewhere) that would result in an increase heavy haulage traffic through the Denmark townsite.
  - There is no reasonably practical opportunity to identify land for a bypass, with each potential option constrained, and no commitment from the State Government to fund the acquisition of private land if it was reserved in the local planning framework.
  - The East Denmark Industrial Estate is located on the Albany side of Denmark and is unlikely to cause an increase in heavy haulage traffic through the Denmark townsite. Nornalup-Tindale Rd provides an option for improving regional connectivity in the event that any major industry is established to the west of the Denmark townsite.
  - The diversion of passing traffic away from the Denmark Town Centre could potentially have substantial social and economic impacts, while the construction of a bypass road could potentially have significant environmental impacts.
36. Based on the information available, no modifications to the position on roads and access that was adopted in the Draft Strategy is proposed as a result of the submissions received.

#### **Urban Growth – Greenfield Housing Targets**

37. Two submissions commented on the housing diversity targets for greenfield residential development areas that were identified in the Draft Strategy.
38. As a result of this feedback, it is proposed to modify the wording of the relating actions in the Strategy to provide more flexibility and responsiveness. While it is important to retain targets that provide direction for achieving housing diversity, it is acknowledged that not all development sites are the same and that facilitating the development of housing supply that is generally consistent with the intent of these targets is a crucial component of addressing housing availability and affordability.

#### **Urban Growth – Lot 56 (#165) Ocean Beach Rd**



39. Lot 56 (#165) Ocean Beach Rd was identified in the 2011 LPS as having the potential to be developed for residential housing. This designation was removed from the Draft Strategy as part of reducing the overall extent of land identified for urban expansion, a reflection of the Draft Strategy's intent to prioritise consolidation over sprawl and the over-abundance of urban growth land identified in the 2011 LPS.
40. A submission was received from the owners of Lot 56 requesting that the property be identified for potential residential development, as per the 2011 LPS.
41. Any future residential development in this general area will be required by State Government policy to be supported by a reticulated sewerage service. The development of infrastructure to provide this service is costly and it is expected that this will need to be coordinated across multiple landholdings for any residential development to be financially viable. Lot 56 sits at the lowest point in surrounding area and is therefore the ideal location for a wastewater pump station, a critical component of this infrastructure. This is identified in the *Denmark Regional Land Supply Study (2017)*.
42. Reflecting the landowner's interest and the potential role of this site in enabling the development of services to the wider area, it is proposed to modify the Draft Strategy to identify Lot 56 for potential future residential development.

#### **Visual Landscape Values**

43. Feedback was received from the officers of the Department of Planning, Lands & Heritage (DPLH) following a peer review of the parts of the Strategy discussing and providing direction for the protection of visual landscape values (including the informing Visual Landscape Evaluation report).
44. As a result, a number of modifications reflecting this feedback are proposed. This includes identifying an additional area of land in the Kentdale locality for inclusion in the proposed 'Special Control Area – Visual Landscape Protection'.

#### **Bushfire Protection**

45. Feedback was received from the Department of Fire & Emergency Services (DFES) seeking more information as to how bushfire protection was considered, and the direction provided for urban growth areas.
46. Proposed modifications include more specific detail and recommendations for each urban growth area to provide clarity on how bushfire protection has been considered, noting that subsequent stages of planning will require more detailed site assessment before rezoning or subdivision can be supported.

#### **Next Steps**

47. The Council is now requested to consider the Schedule of Submissions (with proposed responses) and proposed modifications to the Draft Strategy. If endorsed, the Shire will forward the Draft Strategy and all associated documents to the WA Planning Commission (WAPC) requesting their assessment and endorsement.
48. Once the Local Planning Strategy is finalised the direction it provides will be implemented through the preparation of a new Local Planning Scheme, Denmark Town

Centre Masterplan, review of Local Planning Policies and preparation of other informing studies.

### **CONSULTATION AND EXTERNAL ADVICE**

49. The public consultation undertaken and analysed in support of the preparation and review of the Local Planning Strategy has been extensive, and significant dialogue with the community has occurred.
50. The Draft Strategy was developed to reflect the outcomes of preliminary consultation undertaken between July and October 2020, during which time the Shire received 8 written submissions, 26 completed surveys, and an estimated 80-100 attendees at four community workshops ('Conversation Cafes') held in Denmark (2), Nornalup and Peaceful Bay. A Preliminary Consultation Report was prepared to summarise the consultation process and key findings.
51. In July 2021 an in-person LPS community update event was presented in Denmark and targeted feedback sought on several key issues under consideration, including housing diversity and density, preserving landscapes and views, tourism precincts, sustainability, and local/ regional commercial services, with attendance of less than 10 community members. The same questions were put on the Your Denmark LPS website in an online survey, with 43 responses received, providing insight into community perceptions of these topic areas.
52. Following endorsement of the Draft Strategy for advertising by the WA Planning Commission, public consultation occurred for a 60 day period between 23 October and 22 December 2023. Several requests to make late submissions were received from members of the public and State Government agencies, and submissions were received up until 22 January 2024.
53. Information about the Draft Strategy was provided to the community through the following communication channels and platforms:
  - The Shire's general and Your Denmark websites;
  - Newspaper advertisements in both the Denmark Bulletin and Walpole Weekly;
  - Shire of Denmark media release;
  - Shire social media posts (Facebook);
  - Shire 'Denmark Direct' monthly e-newsletter; and
  - Direct letters to:
    - State government agencies, surrounding local governments, and servicing authorities;
    - Local community organisations;
    - LPS website subscribers;
    - Previous submitters during the preliminary consultation phase;
    - Local developers and builders; and
    - Landowners of properties likely to be directly impacted by changes proposed under the Draft Strategy.
54. A copy of the Draft Strategy and associated documents were made available on the Your Denmark website, in hard copy at the Shire's administration offices and Denmark Library, or upon request, including the

- Draft Local Planning Strategy 2022;
  - 2011 Local Planning Strategy;
  - Technical reports (Bushfire Hazard Level Assessment, Visual Landscape Evaluation, 2018 Denmark Traffic Evacuation Management Study);
  - Preliminary consultation report;
  - Seven flyers summarising key themes and proposals from the Draft Strategy (Overview, Community/ Urban Growth, Housing, Rural Land, Economy and Employment, Environment, Infrastructure)
  - Responses to frequently asked questions;
  - Submission/ survey form (submit online or hard copy).
55. Contact details (phone and email) were provided for the Shire's Strategic Planner to enable community members and stakeholders to ask specific or detailed questions, and a significant number of phone and in-person meetings took place.
56. 79 submissions on the Draft Strategy were received from members of the public and 6 submissions were received from State Government agencies. Submissions and proposed responses are detailed in Attachment 9.1.1e, and substantial or recurring matters discussed in the 'Discussion/ Officer Comment' section of this report.
57. All submitters have been notified in writing of this report being included on the Council's meeting agenda and will also be advised in writing of the outcome of the Council's decision on this matter.
58. Although modifications to the Draft Strategy have been proposed, there is seen to be clear and consistent alignment between these modifications and the community feedback received, and modifications tend to reduce the degree to which the Strategy departs from the 2011 LPS. As a result, there is not seen to be a need or value in any further public consultation occurring, and the Regulations do not provide for the Shire to initiate any additional consultation at this stage of the process.
59. The preparation of the Draft Strategy, issues raised during public consultation and proposed modifications to the Strategy have been discussed and guided by the Local Planning Strategy Working Group, including representation of the Council by Cr Gibson and Cr Lewis (from inception), Cr Bowley (to September 2021) and Cr Carman (from October 2023).
60. Feedback provided to the Shire as part of consultation on the Community Strategic Plan (Our Future 2033), Sustainable Tourism Strategy and Sustainability Strategy has also been considered as part of the preparation and review of the Local Planning Strategy.

#### **STATUTORY / LEGAL IMPLICATIONS**

61. The need for a local planning strategy and the process for preparing a strategy is outlined in the *Planning and Development Act 2005*, *Planning and Development (Local Planning Schemes) Regulations 2015* (the Regulations) and the Western Australian

Planning Commission's (WAPC) Local Planning Strategy Guidelines. The Regulations require the preparation of a local planning strategy where a local planning scheme is to be prepared, and detail that a local planning strategy must:

- Be prepared in a manner and form approved by the WAPC.
- Set out the long-term planning directions for the local government.
- Apply any State or regional planning policy that is relevant to the strategy.
- Provide the rationale for any zoning or classification of land under the local planning scheme.

62. Community consultation has been undertaken in accordance with the Regulations and substantially exceeded these requirements, including completion of a 60 day consultation period as directed by the WAPC.

63. The preparation of the Draft Strategy has been undertaken in accordance with the requirements of the Regulations. In accordance with Cl. 14(1) of the Regulations the Shire has reviewed the Draft Strategy following public consultation. In accordance with Cl. 14(2) the Council is now requested to consider the submissions received and the modifications proposed, and may elect to support the Strategy with or without modification.

64. Following the Council's decision, in accordance with Cl. 14(3) the Shire will forward to the WAPC:

- A copy of the advertised Draft Local Planning Strategy;
- A schedule of submissions received; and,
- Particulars of any proposed modifications to the advertised Draft Local Planning Strategy.

65. Once submitted, the Regulations provide the WAPC with 60 days to assess the Strategy and:

- a) endorse the strategy without modification; or
- b) endorse the strategy with some or all of the modifications proposed by the local government; or
- c) require the local government to modify the strategy in the manner specified by the Commission before the strategy is resubmitted to the Commission for endorsement; or
- d) refuse to endorse the strategy.

66. Once endorsed by the WAPC the final Local Planning Strategy will come into effect and the 2011 LPS will be revoked. A public notice of the adoption of a new Local Planning Strategy will be published by the Shire.

## **STRATEGIC / POLICY IMPLICATIONS**

67. The Draft Local Planning Strategy is consistent with the following objectives of the Strategic Community Plan 'Our Future 2033' and translates these aims into land use planning outcomes:

### **Environmental conservation and protection**

- We want protection of wild, untouched places that set Denmark apart.

The Draft Local Planning Strategy has been prepared to be consistent with the Shire's Sustainability Strategy and Action Plan. It also contains a range of actions intended to strengthen environmental standards and protections across the Shire and manage the environmental impact of all new development.

### **Economic Development**

- We want a more vibrant CBD and to attract new industry to Denmark.

The Draft Local Planning Strategy aims to provide adequate Commercial and Industrial zones and land area to meet projected future demand, and proposes a range of actions and initiatives to strategically enhance and activate Denmark's Town Centre.

### **Housing availability and affordability**

- We want more low-cost residential housing for rent and purchase.

The Draft Local Planning Strategy contains a wide range of actions that seek to increase flexibility for those seeking to subdivide smaller residential lots and build smaller format dwellings, to encourage a more affordable and diverse housing stock.

### **Engagement and decision-making**

- We want decisions that reflect majority community sentiment.

Preparation of the Local Planning Strategy has been informed by extensive community consultation, with a wide range of feedback received at each stage of the process. Modifications to the Draft Strategy have been proposed as a result of community feedback received.

68. The Draft Local Planning Strategy was prepared in alignment with the Sustainable Tourism Strategy (2021-25) and assumed a number of the planning-related actions proposed in the Draft Governance and Leadership Action Plan.

Modifications to the Draft Local Planning Strategy relating to tourism that have been proposed on the basis of community feedback received depart from the Draft Governance and Leadership Action Plan, but are still considered to be consistent with the intent of the Sustainable Tourism Strategy and more closely aligned with the community feedback received during its preparation.

## **FINANCIAL IMPLICATIONS**

69. The Local Planning Strategy provides direction for subsequent changes the local planning framework to provide statutory effect for its intent. The implementation of the Strategy will be achieved through the preparation of a new Local Planning Scheme, Denmark Town Centre Masterplan, review of Local Planning Policies and preparation of other informing studies. It is expected that this work will occur over time in a staged manner utilising existing staff resources; however, in the event that a need for additional or external assistance is identified this will be presented for the Council's consideration as part of the annual budget process.

## **OTHER IMPLICATIONS**

### **Environmental**

70. Ecological sustainability has been identified as a priority in the Local Planning Strategy reflecting the Strategic Community Plan, Sustainability Strategy and feedback received during preliminary consultation. The Local Planning Strategy attempts to balance inherent tensions between environmental, social, cultural and economic values, identifying strategies and actions that represent a compromise between competing interests. The Local Planning Strategy represents a substantial advancement in promoting sustainability through land use planning when compared to the 2011 LPS.

### **Economic**

71. The Local Planning Strategy aims to identify the community's preferred direction for economic growth and development, and to facilitate these outcomes through the local planning framework. This includes providing opportunities for the development of commercial services for our community over the next 15 years.

### **Social**

72. Within its scope, the Local Planning Strategy aims to address relevant social issues that can be influenced by the local planning framework such as housing development, provision for community services and infrastructure, and avoiding undesirable land use conflicts.

## **RISK MANAGEMENT**

73. A risk assessment has been undertaken per the Shire's Risk Management Governance Framework, and no risks have been identified in relation to the officer recommendation or the report (endorsement and referral of the Local Planning Strategy to the WA Planning Commission).

**9.2 CORPORATE SERVICES**

**9.2.1 FINANCIAL STATEMENTS FOR THE PERIOD ENDED 30 APRIL 2024**

<b>File Ref:</b>	FIN.1
<b>Applicant / Proponent:</b>	Not applicable
<b>Subject Land / Locality:</b>	Not applicable
<b>Disclosure of Officer Interest:</b>	Nil
<b>Date:</b>	13 May 2024
<b>Author:</b>	Scott Sewell, Financial Accountant
<b>Authorising Officer:</b>	Kellie Jenkins, Executive Manager Corporate Services
<b>Attachments:</b>	9.2.1 – April 2024 Monthly Financial Report

**IN BRIEF**

- Under the Local Government Financial Management Regulations, a local government is to prepare, monthly, 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 April 2024 has been prepared and is attached.
- In addition, the Shire provides Council with a monthly investment register to ensure the investment portfolio complies with the Shire’s Investment Policy.

**VOTING REQUIREMENTS**

1. Simple Majority

<b>COUNCIL RESOLUTION &amp; OFFICER RECOMMENDATION</b>	<b>ITEM 9.2.1</b>
MOVED: CR PHILLIPS	SECONDED: CR CAMPBELL
That Council RECEIVE the Financial Statements for the period ending 30 April 2024, incorporating the Statement of Financial Activity and other supporting documentation, as per Attachment 9.2.1.	
CARRIED: 9/0	Res: 060524
TOTAL VOTES FOR: 9 Cr Campbell, Cr Wiggins, Cr Youel, Cr Gibson, Cr Devenport, Cr Ormsby, Cr Carman, Cr Lewis and Cr Phillips.	
TOTAL VOTES AGAINST: 0	

**LOCATION**

2. Nil

**BACKGROUND**

3. To meet statutory reporting obligations, the Monthly Financial Report provides a snapshot of the Shire’s year-to-date financial performance. The report includes the following:
  - Statement of Financial Activity by Nature or Type;
  - Statement of Financial Activity by Program;
  - Explanation of Material Variances;
  - Net Current Funding Position;
  - Receivables;
  - Capital Acquisitions;
  - Cash Backed Reserve Balances;
  - Loan Schedule;
  - Investment Register; and
  - Cash and Investments Summary.
  
4. 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. For the 2023-2024 financial year, under Resolution 030823, Council adopted the monthly reporting variance 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.
  
5. Pursuant to the Shire’s Investment Policy, an investment report and investment register are to be provided to Council monthly, detailing the investment portfolio in terms of performance and counterparty percentage exposure of total portfolio.

**DISCUSSION / OFFICER COMMENTS**

6. The Statement of Financial Activity for April 2024 indicates a closing funding surplus of \$3,463,082. The adopted budget for the year ended 30 June 2024 (as amended) is premised on a zero-year end closing funding position. Operating income is \$304,806 higher than the year-to-date budget. This increase is primarily attributed to additional revenue from fees and charges, including Recreation Centre activities, Parry Beach camping fees, Standpipe water fees, and lime sales. Operating expenditure is \$314,234 lower than the year-to-date budget. This reduction primarily results from cost savings due to vacant employee positions currently in the recruitment process. There have been adjustments in the expected timing for undertaking capital works. (Refer to Note 4 within the attachment for further details).
  
7. A summary of the financial position for April 2024 is detailed in the table below:

	<b>Amended Annual Budget</b>	<b>YTD Budget (a)</b>	<b>YTD Actual (b)</b>	<b>Var. \$ (b)-(a)</b>	<b>Var. % (b)-(a)/(a)</b>
	\$	\$	\$	\$	%
<b>Opening Funding Surplus / (Deficit)</b>	<b>1,883,689</b>	<b>1,883,689</b>	<b>1,883,689</b>	<b>0</b>	<b>0%</b>
<b>Revenue</b>					



Operating revenue	14,407,234	13,966,073	14,270,879	304,806	2%
Capital revenue, grants and contributions	7,970,853	2,842,396	2,853,405	11,009	0%
	<b>22,378,087</b>	<b>16,808,469</b>	<b>17,124,284</b>	<b>315,815</b>	
<b>Expenditure</b>					
Operating Expenditure	-18,854,691	-15,232,337	-14,918,103	314,234	2%
Capital Expenditure	-10,820,504	-6,497,635	-5,122,025	1,375,610	21%
	<b>-29,675,195</b>	<b>-21,729,972</b>	<b>-20,040,127</b>	<b>1,689,845</b>	
Funding balance adjustments	5,413,419	4,529,380	4,495,236	-34,144	-1%
<b>Closing Funding Surplus / (Deficit)</b>	<b>0</b>	<b>1,491,565</b>	<b>3,463,082</b>	<b>1,971,517</b>	<b>132%</b>

**OTHER INFORMATION**

- In the 2023-2024 financial year, several significant projects within the capital works program, including the Denmark Surf Club Precinct Redevelopment and the Solar Energy Project, will not be completed to meet the adopted/amended budget expectation by 30 June 2024. Consequently, this will impact the budget allocation for the intended funding sources and affect the year end closing position as initially defined in both the adopted budget and the mid-year budget review. Additionally, adjustments to operating revenue and expenditure trends since the adoption of the mid-year budget review will be considered. The outstanding costs associated with any incomplete capital projects and their relevant funding sources will be captured during the budget adoption process for the 2024-2025 financial year.

**INVESTMENT REPORT**

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

10. As at 30 April 2024, total cash funds held (including trust funds) totals \$7,311,104.

11. Summary – Investment Register

- Municipal Funds total \$2,955,590
- Shire Trust Funds total \$850
- Reserve Funds (restricted) invested, total \$4,354,664
- Municipal Funds (unrestricted) invested, total \$1,665,631

12. The official Reserve Bank of Australia's (RBA) cash rate currently sits at 4.35% which was set at the Reserve Bank Board meeting held on 7 November 2023. No further adjustments to the official cash rate have occurred at the time of writing this report.

### **CONSULTATION AND EXTERNAL ADVICE**

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

### **STATUTORY / LEGAL IMPLICATIONS**

#### **Local Government (Financial Management) Regulations 1996**

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

#### **The Local Government Act 1995**

15. Section 6.14.

#### **The Trustees Act 1962**

16. Part III Investments.

#### **The Local Government (Financial Management) Regulations 1996**

17. Reg. 19, 28 and 49; and The Australian Accounting Standards, sets out the statutory conditions under which Council funds may be invested.

### **STRATEGIC / POLICY IMPLICATIONS**

18. Nil.

### **FINANCIAL IMPLICATIONS**

19. The Shire's 2023/2024 Annual Budget provides a set of parameters that guides the Shire's financial practices.
20. Any financial implications or trends are detailed within the context of this report.

### **OTHER IMPLICATIONS**

#### **Environmental**

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

#### **Economic**

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

#### **Social**

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

**RISK MANAGEMENT**

24. A risk assessment has been undertaken per the Shire’s Risk Management Governance Framework, and no risks have been identified in relation to the officer recommendation or the report.

**9.2.2 PAYMENT OF ACCOUNTS FOR THE PERIOD ENDING 30 APRIL 2024**

<b>File Ref:</b>	FIN.1
<b>Applicant / Proponent:</b>	Not applicable
<b>Subject Land / Locality:</b>	Not applicable
<b>Disclosure of Officer Interest:</b>	Nil
<b>Date:</b>	13 April 2024
<b>Author:</b>	Kelly Schroeter, Senior Finance Officer
<b>Authorising Officer:</b>	Kellie Jenkins, Executive Manager Corporate Services
<b>Attachments:</b>	9.2.2 – Payment of Accounts - April 2024

**IN BRIEF**

- To advise Council of payments made for the period 1 April to 30 April 2024.

**VOTING REQUIREMENTS**

1. Simple majority.

<b>COUNCIL RESOLUTION &amp; OFFICER RECOMMENDATION</b>	<b>ITEM 9.2.2</b>
MOVED: CR WIGGINS	SECONDED: CR CAMPBELL
That Council RECEIVE the payment of accounts totalling \$2,515,195.41 for the month of April 2024, as per Attachment 9.2.2.	
CARRIED: 9/0	Res: 070524
TOTAL VOTES FOR: 9 Cr Campbell, Cr Wiggins, Cr Youel, Cr Gibson, Cr Devenport, Cr Ormsby, Cr Carman, Cr Lewis and Cr Phillips.	
TOTAL VOTES AGAINST: 0	

**LOCATION**

2. Not applicable.

**BACKGROUND**

3. Nil.

**DISCUSSION / OFFICER COMMENTS**

4. Nil.

**CONSULTATION AND EXTERNAL ADVICE**

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

**STATUTORY / LEGAL IMPLICATIONS****Local Government (Financial Management) Regulations 1996**

6. Regulation 13.

**STRATEGIC / POLICY IMPLICATIONS**

7. Nil

**FINANCIAL IMPLICATIONS**

8. Nil.

**OTHER IMPLICATIONS****Environmental**

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

**Economic**

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

**Social**

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

**RISK MANAGEMENT**

12. A risk assessment has been undertaken per the Shire's Risk Management Governance Framework, and no risks have been identified in relation to the officer recommendation or the report.

**9.3 GOVERNANCE**

**9.3.1 LEASES OF PORTIONS OF LOT 300, CORNER OF SOUTH COAST HIGHWAY AND DENMARK-MOUNT BARKER ROAD – DENMARK CONCRETE, SOIL SOLUTIONS AND DE CAMPO TRANSPORT**

<b>File Ref:</b>	LEA.10, LEA.18 and LEA.52
<b>Applicant / Proponent:</b>	1. Denmark Concrete Pty Ltd 2. Soil Solutions Pty Ltd 3. De Campo Transport Pty Ltd Portions of Lot 300 on Deposited Plan 46811
<b>Subject Land / Locality:</b>	1. 832 South Coast Highway, Denmark 2. 13 Denmark-Mount Barker Road, Denmark 3. 9 Denmark-Mount Barker Road, Denmark
<b>Disclosure of Officer Interest:</b>	Nil
<b>Date:</b>	16 May 2024
<b>Author:</b>	Claire Thompson, Governance Coordinator
<b>Authorising Officer:</b>	David King, Chief Executive Officer 9.3.1a – draft Denmark Concrete Lease 9.3.1b – draft Soil Solutions Lease
<b>Attachments:</b>	9.3.1c – draft De Campo Transport Lease 9.3.1d – Market Rent Valuations ( <b>confidential for councillors</b> )

**IN BRIEF**

- Council is asked to approve new leases for the current tenants of portions of Lot 300 on Deposited Plan 46811.
- Should Council agree to the leases, the disposals are required to advertised for public comment.

**VOTING REQUIREMENTS**

1. Simple majority.

<b>COUNCIL RESOLUTION &amp; OFFICER RECOMMENDATION</b>	<b>ITEM 9.3.1a</b>
MOVED: CR PHILLIPS	SECONDED: CR CARMAN
<p>That with respect to a portion of Lot 300 on Deposited Plan 46811, being 8,100m<sup>2</sup>, Council:</p> <ol style="list-style-type: none"> <li>1. AGREE to enter into a new lease with Denmark Concrete Pty Ltd, as per Attachment 9.3.1a; and</li> <li>2. ADVERTISE the intended disposal as per statutory requirements; and</li> <li>3. AUTHORISE the Chief Executive Officer and the Shire President to execute the lease, should there be no adverse submissions received or third party interest in the property, noting that should this not be the case, the submissions and/or interest will be brought back to Council for consideration.</li> </ol>	
CARRIED: 9/0	Res: 080524
<p>TOTAL VOTES FOR: 9                  Cr Campbell, Cr Wiggins, Cr Youel, Cr Gibson, Cr Devenport, Cr Ormsby, Cr Carman, Cr Lewis and Cr Phillips.</p>	
<p>TOTAL VOTES AGAINST: 0</p>	

<b>COUNCIL RESOLUTION &amp; OFFICER RECOMMENDATION</b>	<b>ITEM 9.3.1b</b>
MOVED: CR CARMAN	SECONDED: CR YOEUL
<p>That with respect to a portion of Lot 300 on Deposited Plan 46811, being 9,804m<sup>2</sup>, Council:</p> <ol style="list-style-type: none"> <li>1. AGREE to enter into a new lease with Soil Solutions Pty Ltd, as per Attachment 9.3.1b; and</li> <li>2. ADVERTISE the intended disposal as per statutory requirements; and</li> <li>3. AUTHORISE the Chief Executive Officer and the Shire President to execute the lease, should there be no adverse submissions received or third party interest in the property, noting that should this not be the case, the submissions and/or interest will be brought back to Council for consideration.</li> </ol>	
CARRIED: 9/0	Res: 090524
<p>TOTAL VOTES FOR: 9                  Cr Campbell, Cr Wiggins, Cr Youel, Cr Gibson, Cr Devenport, Cr Ormsby, Cr Carman, Cr Lewis and Cr Phillips.</p>	
<p>TOTAL VOTES AGAINST: 0</p>	

**COUNCIL RESOLUTION & OFFICER RECOMMENDATION**

ITEM 9.3.1c

MOVED: CR PHILLIPS

SECONDED: CR ORMSBY

That with respect to a portion of Lot 300 on Deposited Plan 46811, being 7,600m<sup>2</sup>, Council:

1. AGREE to enter into a new lease with De Campo Transport Pty Ltd, as per Attachment 9.3.1c; and
2. ADVERTISE the intended disposal as per statutory requirements; and
3. AUTHORISE the Chief Executive Officer and the Shire President to execute the lease, should there be no adverse submissions received or third party interest in the property, noting that should this not be the case, the submissions and/or interest will be brought back to Council for consideration.

CARRIED: 9/0

Res: 100524

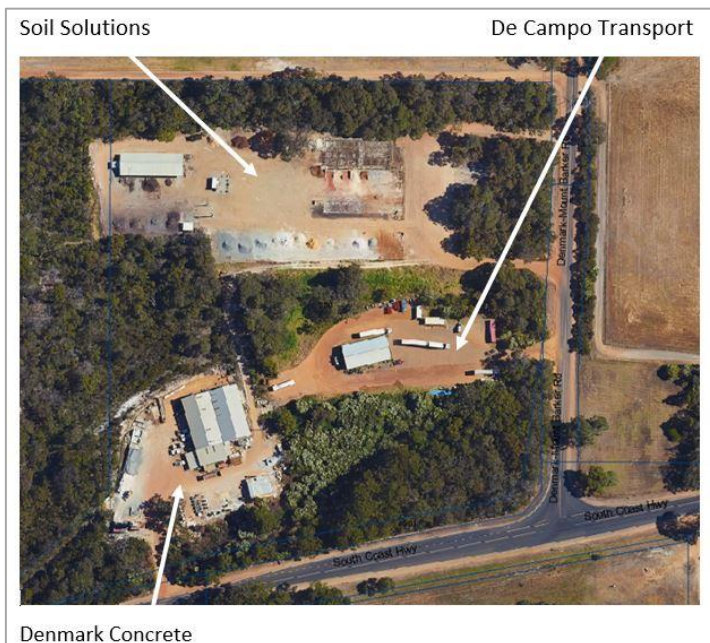
TOTAL VOTES FOR: 9

Cr Campbell, Cr Wiggins, Cr Youel, Cr Gibson, Cr Devenport, Cr Ormsby, Cr Carman, Cr Lewis and Cr Phillips.

TOTAL VOTES AGAINST: 0

**LOCATION**

2. There are three commercial leases on portions of Lot 300 on DP46811, the general location of each is shown in the diagram below.



**Figure 1 - Tenants of Lot 300 on DP46811**

3. Denmark Concrete Pty Ltd – located at 832 South Coast Highway, Denmark. Leased area is 8,100m<sup>2</sup>, delineated in red on the aerial below.



Figure 2 - Denmark Concrete lease area.

4. Soil Solutions Pty Ltd – located at 832 South Coast Highway, Denmark. Leased area is 9,804m<sup>2</sup>, delineated in the survey plan below.

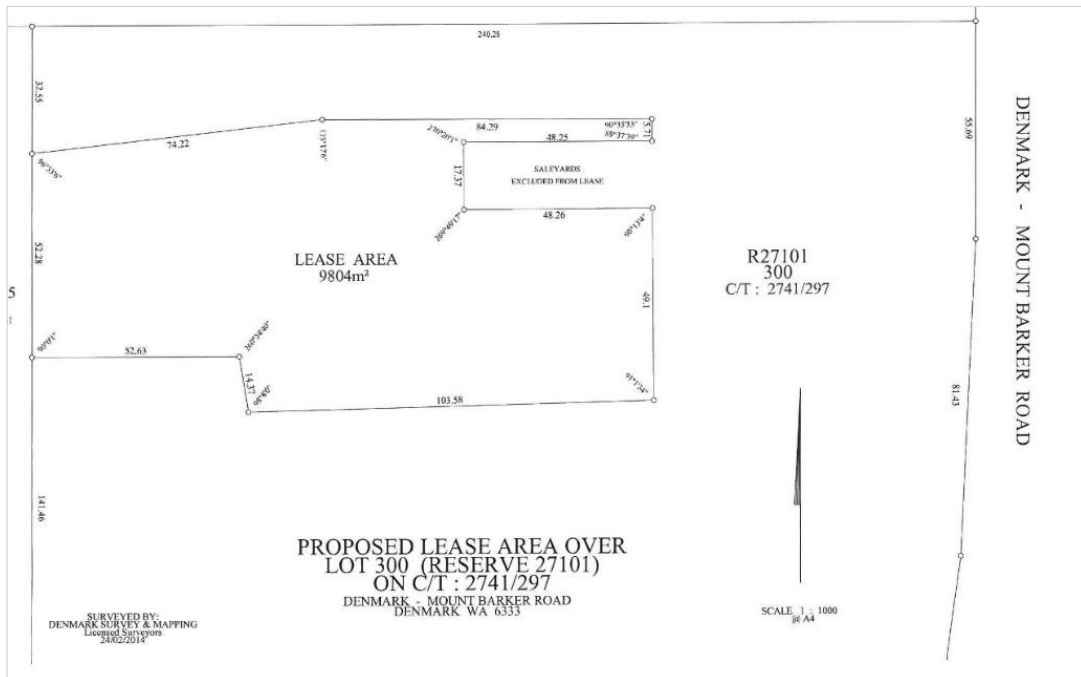


Figure 3 – Soil Solutions lease area.



5. De Campo Transport Pty Ltd – located at 9 Denmark-Mount Barker Road, Denmark. Leased area is 7,600m<sup>2</sup>, delineated in red on the aerial below.



Figure 4 - De Campo Transport lease area.

**BACKGROUND**

6. Denmark Concrete Pty Ltd – have sub-let a portion of the 8,100m<sup>2</sup> since 2015, and purchased the lease from the former Lessee in 2020. Denmark Concrete currently sub-let a portion of the leased premises to MCC Contractors.
7. De Campo Transport Pty Ltd – purchased the lease, and transport business, from Denmark Haulage in 2021. Denmark Haulage have occupied the lease area since 1998.
8. Soil Solutions Pty Ltd – have been leasing the site since 2014.
9. All of the leases expired in March 2024 and the tenants have continued occupancy on a monthly basis.

**DISCUSSION / OFFICER COMMENTS**

10. All three businesses have expressed a desire to enter into a lease.
11. The terms of the attached draft leases for Soil Solutions and De Campo Transport are the same as they are currently.
12. The Special Condition in Denmark Concrete’s draft lease has been modified to a remove the specific reference to MCC Contractors. This will enable the tenant to sub-let to any business during the term of the lease, providing that the conditions are met, and they obtain approval from the Shire beforehand.

**CONSULTATION AND EXTERNAL ADVICE**

13. Should Council agree to the new leases, the disposals will be advertised, calling for public submissions on the intended disposals, in accordance with statutory requirements.

**STATUTORY / LEGAL IMPLICATIONS**

**Local Government Act 1995**

- 14. Section 3.58 – relates to disposal of property, including to lease.
- 15. Section 3.58(3) and (4) – details the requirements to dispose other than by public auction or public tender.

**STRATEGIC / POLICY IMPLICATIONS**

- 16. Lot 300 was purchased by the Shire from the State Government in 2011.
- 17. The 2011 Local Planning Strategy (LPS) suggested a review of the potential development of Lot 300 for use as a service commercial estate. Currently, Lot 300 is designated as Public Use under the Shire’s Town Planning Scheme 3 (TPS3) but is leased to three industrial/commercial businesses, effectively supplementing the industrial land supply due to historical shortages.
- 18. Through the LPS process, the investigation into the possible development of Lot 300 revealed conflicts between the desired commercial visibility and the impacts on visual amenity, as well as the need to preserve remnant vegetation.
- 19. Considering the projected demand for service commercial floor space and the objective to consolidate and encourage land use changes in the Local Industrial Area (LIA), the LPS has decided not to proceed with the development of a Service Commercial Park on Lot 300. Instead, the relocation of the current lessees to the East Denmark Industrial Estate is recommended for the future, recognising Lot 300's potential as a future Shire depot or other public use as indicated in the Draft LPS. However, due to the ongoing scarcity of service commercial and industrial land, this relocation is not considered immediate.
- 20. Given these factors, Lot 300 is deemed a strategic asset, and thus, capping the lease term at five years is deemed prudent.

**FINANCIAL IMPLICATIONS**

- 21. Independent Market Valuations for the three leases were obtained in April 2024 and have been provided to councillors as a confidential attachment to this report.
- 22. The last valuation was done in 2020 and CPI has been applied each year thereafter. The current market rent and rates for the properties are as follows:

Tenant	2023/2024 Rates	2023/2024 Rent (ex GST)	New Rental Valuation (ex GST)
Denmark Concrete	\$3,338.00	\$26,077.31	\$34,500.00
Soil Solutions	\$3,629.70	\$36,620.84	\$41,500.00
De Campo Transport	\$2,405.95	\$20,972.18	\$26,000.00

**OTHER IMPLICATIONS**

**Environmental**

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

**Economic**

24. Each of the existing tenants operate commercial businesses that have employees. Two of the tenants have previously indicated that, at this point in time, it would be financially detrimental for them to relocate.

**Social**

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

**RISK MANAGEMENT**

26. A risk assessment has been undertaken per the Shire's Risk Management Governance Framework, and no risks have been identified in relation to the officer recommendation or the report.

**9.4 COMMUNITY SERVICES**

Nil

**9.5 INFRASTRUCTURE SERVICES**

Nil

**10. MATTERS BEHIND CLOSED DOORS**

Nil

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

Nil

**12. CLOSURE OF MEETING**

*5.36pm – The Shire President declared the meeting closed.*

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

Signed: \_\_\_\_\_  
*David King – 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.)*