

SHIRE OF DENMARK

Ordinary Council Meeting

AGENDA

29 OCTOBER 2024

TO BE HELD IN COUNCIL CHAMBERS, 953 SOUTH COAST
HIGHWAY, DENMARK, ON TUESDAY, 29 OCTOBER 2024,
COMMENCING AT 4.00PM.



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1. DECLARATION OF OPENING/ANNOUNCEMENT OF VISITORS

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 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)
- Claire Thompson (Governance Coordinator)
- Kristie Buss (Executive Support Officer)

ON APPROVED LEAVE(S) OF ABSENCE

ABSENT WITHOUT LEAVE

- Cr Jackie Ormsby

VISITORS

3. DECLARATIONS OF INTEREST

Name	Item No	Interest	Nature

4. ANNOUNCEMENTS BY THE PERSON PRESIDING

5. PUBLIC QUESTION TIME

5.1 RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE

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

5.3 QUESTIONS BY MEMBERS OF WHICH DUE NOTICE HAS BEEN GIVEN

Nil

5.4 PRESENTATIONS, DEPUTATIONS & PETITIONS

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

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

Nil.

6. APPLICATIONS FOR FUTURE LEAVE OF ABSENCE

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

6.1 CR ORMSBY

OFFICER RECOMMENDATION	ITEM 6.1
That Cr Ormsby be granted leave of absence from the 1 st to the 30 th November 2024, inclusive.	

7. CONFIRMATION OF MINUTES

7.1 ORDINARY COUNCIL MEETING – 24 SEPTEMBER 2024

OFFICER RECOMMENDATION ITEM 7.1

That the minutes of the Ordinary Meeting of Council held on the 24 September 2024 be CONFIRMED as a true and correct record of the proceedings.

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

Nil

9. REPORTS OF OFFICERS

9.1 DEVELOPMENT SERVICES

Nil

9.2 CORPORATE SERVICES

9.2.1 FINANCIAL STATEMENTS FOR THE PERIOD ENDED 30 SEPTEMBER 2024

File Ref:	FIN.66.2024/25
Applicant / Proponent:	Not Applicable
Subject Land / Locality:	Not applicable
Disclosure of Officer Interest:	Nil
Date:	11 October 2024
Author:	Scott Sewell, Financial Accountant
Authorising Officer:	Kellie Jenkins, Executive Manager Corporate Services
Attachments:	9.2.1 – September 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 of Denmark’s (Shire) financial performance in relation to its adopted budget.
- The Shire’s Statement of Financial Activity for the period ending 30 September 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.

OFFICER RECOMMENDATION ITEM 9.2.1

That Council RECEIVE the Financial Activity Statements for the period ending 30 September 2024, incorporating the Statement of Financial Activity and other supporting documentation, as per Attachment 9.2.1.

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;
 - 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 2024/2025 financial year, under Resolution 090724, Council adopted the monthly reporting variance of 10% or greater 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 September 2024 shows a closing funding surplus of \$10,218,916. The adopted budget for the year ended 30 June 2025 is premised on a zero-year end closing funding position. Operating income exceeds the budget by \$34,186, and Operating expenses are \$1,246,384 below budget. The main factors contributing to these variances are detailed in Note 1 – Major Variances within the attachment.
7. Notably, depreciation expense for all asset classes has not been calculated for this reporting period. Depreciation expense will be applied for the 2024/2025 financial year once the annual audit of the financial accounts for the year ending 30 June 2024 is completed.

8. A summary of the financial position for September 2024 is detailed in the table below:

	Amended Annual Budget	YTD Budget (a)	YTD Actual (b)	Var. \$ (b)-(a)	Var. % (b)- (a)/(a)
	\$	\$	\$	\$	%
Opening Funding Surplus / (Deficit)	1,201,040	1,201,040	1,199,252	-1,788	0%
Revenue					
Operating revenue	15,018,031	11,984,416	12,018,602	34,186	0%
Capital revenue, grants and contributions	8,060,336	1,032,084	1,052,113	20,029	2%
	23,078,367	13,016,500	13,070,714	54,214	
Expenditure					
Operating Expenditure	-19,185,881	-4,485,431	-3,239,047	1,246,384	28%
Capital Expenditure	-10,412,707	-964,261	-811,674	152,587	16%
	-29,598,588	- 5,449,692	-4,050,721	1,398,971	
Funding balance adjustments	5,319,181	1,356,423	-330	-1,356,753	-100%
Closing Funding Surplus / (Deficit)	0	10,124,271	10,218,916	94,645	0.93%

OTHER INFORMATION

9. Operating Grants & Contributions Revenue is lower than budget, primarily due to the funding distribution from the WA (Western Australian) Local Government Grants Commission. Factors such as pre-release of funding, a prior year error in payment calculation, and changes to the distribution mechanism and formula are expected to reduce the Shire’s revenue from this source in the 2024/2025 financial year and beyond. Management is currently reviewing this matter, and it is anticipated that more information will be available to fully assess the impact by the mid-year budget review, which will be presented to Council in February 2025.

INVESTMENT REPORT

10. 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 provides details of investment income earned against budget, whilst confirming compliance of the portfolio with legislative and policy limits.

11. As at 30 September 2024, total cash funds held (including trust funds) totals \$11,897,659.

12. Summary – Cash and Investments

- Municipal Funds total \$7,234,759
- Shire Trust Funds total \$850
- Reserve Funds (restricted) invested, total \$4,662,050
- Municipal Funds (unrestricted) invested, total \$5,253,723

13. 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

14. 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

15. Regulation 34 (1-5) outlines the requirements for financial activity statements.
16. Regulation 19, 28 and 49; and The Australian Accounting Standards, sets out the statutory conditions under which Council funds may be invested.

The Local Government Act 1995

17. Section 6.8, Local government is not to incur expenditure from its municipal fund for additional purposes unless the expenditure is authorised in advance by Council resolution.
18. Section 6.14 outlines the power to invest for local governments.

The Trustees Act 1962

19. Part III Investments covers the investment powers and responsibilities of trustees.

STRATEGIC / POLICY IMPLICATIONS

20. Nil.

FINANCIAL IMPLICATIONS

21. The Shire's 2024/2025 Annual Budget provides a set of parameters that guides the Shire's financial practices.
22. Any financial implications or trends are detailed within the context of this report.

OTHER IMPLICATIONS

Environmental

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

Economic

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

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.

9.2.2 PAYMENT OF ACCOUNTS FOR THE PERIOD ENDING 30 SEPTEMBER 2024

File Ref:	FIN.1
Applicant / Proponent:	Not applicable
Subject Land / Locality:	Not applicable
Disclosure of Officer Interest:	Nil
Date:	9 October 2024
Author:	Kelly Schroeter, Senior Finance Officer
Authorising Officer:	Kellie Jenkins, Executive Manager Corporate Services
Attachments:	9.2.2 – Payment of Accounts – September 2024

IN BRIEF

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

VOTING REQUIREMENTS

1. Simple majority.

OFFICER RECOMMENDATION	ITEM 9.2.2
That Council RECEIVE the payment of accounts totalling \$1,522,499.38 for the month of September 2024, as per Attachment 9.2.2.	

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 DENMARK LIONS CLUB DRAFT LEASE

File Ref:	LEA.62
Applicant / Proponent:	Denmark Lions Club Inc.
Subject Land / Locality:	Part of Lot 952 on Deposited Plan 39348 No. 2 Inlet Drive, Denmark
Disclosure of Officer Interest:	Nil
Date:	11 October 2024
Author:	Claire Thompson, Governance Coordinator David King, Chief Executive Officer
Authorising Officer:	David King, Chief Executive Officer
Attachments:	9.3.1a – Draft Lease 9.3.1b – Historical Railway Station Precinct Concept Plan (2024) 9.3.1c – Shed Development Application Drawings

IN BRIEF

- Council to consider the terms of a draft lease between the Shire and the Denmark Lions Club.

VOTING REQUIREMENTS

1. Simple majority.

<p>OFFICER RECOMMENDATION</p> <p>That Council:</p> <ol style="list-style-type: none"> 1. AGREE to enter into a twenty one (21) year lease with the Denmark Lions Club Incorporated, on the terms contained in the draft lease at Attachment 9.3.1a, subject to Ministerial Consent; 2. WAIVE the Rates payable for the pro-rate financial period from the lease commencement date to 30 June 2025; 3. ENDORSE the contribution of stormwater pipes and gravel, valued at \$2,500, to assist with access to the leased site. 	<p>ITEM 9.3.1</p>
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LOCATION

2. Part of Lot 952 on Deposited Plan 39348, No. 2 Inlet Drive, Denmark.
3. The proposed lease area is 2,757m² and is shown in Appendix 1 of the draft lease (Attachment 9.3.1a).

BACKGROUND

4. At the meeting held on 27 August 2024, Council agreed to lease an area to the Denmark Lions Club and requested the Chief Executive Officer (CEO) to negotiate a draft lease.

DISCUSSION / OFFICER COMMENTS

Denmark Lions

5. The Denmark Lions Club were established in 1974 and currently have 16 members.
6. The Club has adopted *The International Association of Lions Clubs* Constitution which states the follow purposes of Lions Clubs:
 - To create and foster a spirit of understanding among the peoples of the world.
 - To promote the principles of good government and good citizenship.
 - To take an active interest in the civic, cultural, social and moral welfare of the community.
 - To unite the clubs in the bonds of friendship, good fellowship and mutual understanding.
 - To provide a forum for the open discussion of all matters of public interest: provided, however, that partisan politics and sectarian religion shall not be debated by club members.

- To encourage service-minded people to serve their community without personal financial reward, and to encourage efficiency and promote high ethical standards in commerce, industry, professions, public works and private endeavours.

Lease Terms

7. A 21 year lease is recommended. The Policy section of this report discusses this further.
8. The draft lease is for the premises (land only). Any infrastructure or development on the premises will be the property of the Lions.
9. The draft lease stipulates a peppercorn (\$1) annual lease fee.

Lease Area

10. The new Denmark Lions Club lease area is currently vegetated but consists of mature weeds. South Coast Bushcare Services, who manage weed control in the reserve, have been consulted and are supportive of the removal of these weeds.
11. The lease area is consistent with the Historical Railway Station Precinct Concept Plan adopted by Council in August 2024. It provides for the relocation of the Denmark Lions Club Shed (Shed), the construction of a new club facility including suitable areas for parking and effluent disposal. The Concept Plan is attached as 9.3.1b.

Shed Relocation and Services

12. The Kwoorabup Nature School (KNS) lease requires the relocation of the shed, which involves:
 - Development application documentation and certified building licence application.
 - The construction of a new slab.
 - Relocation of the superstructure and fit out.
 - Connection to electrical supply.
13. A Development Application (DA) is currently being processed for the relocation of the Shed, as detailed in Attachment 9.3.1c. The drawing reflects the location pegged out on site by the Lions. A preliminary review suggests no planning issues with the location.
14. Once a DA is approved, a building licence will be required prior to construction.
15. Regarding the electrical supply, KNS is responsible for extending the existing service from their current lease and sub-metering it to the Lions. This approach is similar to the electrical distribution for other leaseholders in the reserve. For example, the Denmark Machinery Restoration Group lease is also sub-metered from the KNS lease supply. Although this work has not been formally quoted, it is expected to cost less than \$10,000.
16. Officers understand that the Lions prefer a separate supply fed from a new sub main connected to the site's main grid connection point. This approach is similar to the current arrangement for the Men's Shed but is significantly more expensive due to the 300 meter cable installation along the Rail Trail. While this infrastructure would provide long term benefits by future proofing the proposed Lions lease site, it is not essential for the Shed relocation alone. The estimated cost for this work is \$27,500 excluding GST.

17. The KNS has offered \$10,000 including GST to 'buy out' their responsibility for the electrical connection. Officers consider this a reasonable proposition, allowing the Lions to use the money to contribute to an upgraded service or other service provisions (such as water) if deemed appropriate. Accepting this offer will not preclude the Lions from installing electrical service to the existing connection point outlined in P15.
18. Officers do not consider it reasonable to expect the KNS to contribute to additional services, a crossover, or other access to the new shed. This is because the original draft concept had the shed located in an accessible area, and it would be unfair to place any greater expectation on the KNS beyond the assumptions forming the agreement.

Site access

19. Officers recommend the Shire contribute stormwater pipes and gravel, valued at \$2,500, to assist with access to the leased site. This includes delivering 40 cubic meters of gravel and 7.2 meters of suitable concrete stormwater pipe. Whilst the Shire is not obliged to contribute to the development, this recommendation aligns with Regulation 15 of the *Local Government (Uniform Local Provisions) Regulations 1996*, which allows landowners to claim 50% of crossover costs under certain circumstances.

CONSULTATION AND EXTERNAL ADVICE

20. The Historical Railway Station Precinct Concept Plan, adopted in August 2024, underwent extensive consultation with key stakeholders and the broader community. The Concept Plan included a proposed lease area for the Denmark Lions Club, and no adverse comments were received.
21. Denmark Lions have informally agreed to the terms of the lease.

STATUTORY / LEGAL IMPLICATIONS

Local Government Act 1995

22. Section 3.58 – Council has the power to dispose of property, including to lease.

Local Government (Functions & General) Regulations 1996

23. Regulation 30(2)(b) – the lease is exempt from disposal provisions as the lease will be to a body whose objects are charitable and the members are not entitled or permitted to receive any pecuniary profit from the body's transactions.

Local Government (Uniform Local Provisions) Regulations 1996

24. Regulation 15 - allows landowners to claim 50% of crossover costs under certain circumstances.

Land Administration Act 1997

25. Section 18 – requires that the Minister's consent is required for any use associated with crown land reserves.

STRATEGIC / POLICY IMPLICATIONS

Property Management Policy

26. The Property Management Policy indicates a standard community lease term of 10 years. However, the policy provides discretion in circumstances that fall outside its usual

considerations. The 10 year term is intended to ensure the sustainable use of Shire assets, as most community leases involve Shire owned buildings.

- 27. In this case, the Lions will own all of the built infrastructure on the site and propose to invest a significant amount of capital in developing a new club facility. A longer lease term is required to secure proposed financial investment. Given these specific factors, officers consider a 21 year lease appropriate, consistent with the Denmark Men’s Shed lease, which operates under the same conditions.

Historical Railway Station Precinct Concept Plan

- 28. The lease area aligns with the Historical Railway Station Precinct Concept Plan adopted by Council in August 2024.

FINANCIAL IMPLICATIONS

- 29. In accordance with Council Policy:
 - a) The lease is deemed a ‘Community Lease’ for which the rent is \$1.00 (ex GST) per annum; and
 - b) Council will consider waiving the rates each year.
- 30. Officers recommend waiving the Rates for the pro-rata period from the lease commencement date to 30 June 2025.
- 31. The cost of the contribution for access can be managed though the operational budget and does not require an amendment.

OTHER IMPLICATIONS

Environmental

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

Economic

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

Social

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

RISK MANAGEMENT

- 35. 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.

9.3.2 SOUTH COAST ALLIANCE INC. 2025 MEMBER NOMINATION

File Ref: SCA
Applicant / Proponent: Not applicable

Subject Land / Locality:	Not applicable
Disclosure of Officer Interest:	Nil
Date:	16 September 2024
Author:	Claire Thompson, Governance Coordinator
Authorising Officer:	David King, Chief Executive Officer
Attachments:	9.3.2 - Membership Policy

IN BRIEF

- Council needs to nominate an additional Elected Member to represent the Shire of Denmark on the South Coast Alliance Inc. Executive Committee in 2025.

VOTING REQUIREMENTS

1. Simple majority.

OFFICER RECOMMENDATION	ITEM 9.3.2
That Council NOMINATE _____ as the additional Elected Member representative for the South Coast Alliance Inc. Executive Committee.	

LOCATION

2. Not applicable.

BACKGROUND

3. The South Coast Alliance ('SCA') is an incorporated body of elected members from the City of Albany and the Shire's of Denmark, Plantagenet and Jerramungup.
4. SCA was initially established to further shared tourism and economic development initiatives however, its focus more recently has been climate change, housing and provision of State Government services such as power and water.
5. Future shared projects and/or objectives will be determined by the SCA Committee in 2025.

DISCUSSION / OFFICER COMMENTS

6. The SCA members are all elected members from the four local governments.
7. The SCA Executive Committee has 12 ordinary members, four (4) of whom hold the offices of Chair, Deputy Chair, Secretary and Treasurer.
8. Each local government can nominate three (3) SCA members to the SCA Executive Committee. In accordance with the Membership Policy (see Attachment 9.3.2), the Shire President and the Deputy Shire President are automatically on the Committee.
9. Cr Clare Campbell was the Shire of Denmark's additional elected member in 2024.
10. An elected member who is nominated by the Council will be required to formally lodge their application with the SCA pursuant to the Rules of Association. The nomination

must be received by the SCA at least 28 days prior to the Annual General Meeting, which is scheduled for the 6 December 2024.

CONSULTATION AND EXTERNAL ADVICE

- 11. 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

- 12. The Rules of Association require that an Annual General Meeting is held to appoint the committee members and office bearers for the ensuring 12 months.

STRATEGIC / POLICY IMPLICATIONS

- 13. The SCA Membership Policy relates.

FINANCIAL IMPLICATIONS

- 14. Costs associated with hosting meetings and meeting attendance can be accommodated with the Council's adopted 2024/25 Budget.
- 15. The 2024/25 Council Budget does not include any contribution to the SCA.

OTHER IMPLICATIONS

Environmental

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

Economic

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

Social

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

RISK MANAGEMENT

- 19. 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.

9.3.3 FENCING LOCAL LAW - UNDERTAKINGS

File Ref:	LEG.1 and ICR24994885
Applicant / Proponent:	Not applicable
Subject Land / Locality:	Not applicable
Disclosure of Officer Interest:	Nil

Date: 16 September 2024
Author: Claire Thompson, Governance Coordinator
Authorising Officer: David King, Chief Executive Officer
Attachments: 9.3.3 – Fencing Local Law (2024)

IN BRIEF

- The Joint Standing Committee on Delegated Legislation (‘JSCDL’) have requested that Council commit to two undertakings in relation to the recently adopted Fencing Local Law.

VOTING REQUIREMENTS

1. Simple majority.

OFFICER RECOMMENDATION	ITEM 9.3.3
<p>That Council RESPOND to the Joint Standing Committee on Delegated Legislation that it agrees to provide the following undertakings:</p> <ol style="list-style-type: none"> 1. When the local law is next reviewed and amended, correct the typographical errors in clauses 5.3(3)(a) and 6.2(3). 2. Not enforce the local law to the contrary before it is emended in accordance with undertaking 1. 3. Ensure all consequential amendments arising from the undertakings will be made. 4. Where the local law is made publicly available by the Shire, whether in hard copy or electronic form, ensure that it is accompanied by a copy of the undertaking. 	

LOCATION

2. Not applicable.

BACKGROUND

3. In June 2024 Council resolved to make the Fencing Local Law.
4. The local law, together with an Explanatory Memorandum was sent to the JSCDL for approval.
5. The local law was gazetted on 5 July 2024.

DISCUSSION / OFFICER COMMENTS

6. The JSCDL have responded requesting that Council agree to provide two undertakings with respect to the wording of clauses 5.3(2)(a) and 6.2(3), which contain typographical errors.
7. Clause 5.3(3)(a) states:

5.3 *Electrified fencing for security*

(3) A licence to have and use an electrified fence for the purpose of security shall not be issued –

(a) on a residential lot or a special residential lot or that portion of a fence adjoining a residential lot or special residential lot;

Requested corrected wording should read:

(a) on a residential lot or a special residential lot or that portion of a fence adjoining a residential lot or special residential lot;

8. Clause 6.2(3) states:

6.2 Determination of an application

(3) In determining whether to issue a licence, an authorised person may consider, in addition to any other matter authorised to consider, whether the construction or retention of the fence would have an adversely affect land or impact on –

(a) the safe or convenient use of any land;

(b) the safety or convenience of any person; or

(c) the visual amenity of the streetscape or neighbouring properties.

Requested corrected wording should read:

(3) In determining whether to issue a licence, an authorised person may consider, in addition to any other matter authorised to consider, whether the construction or retention of the fence would adversely affect land or impact on –

(a) the safe or convenient use of any land;

(b) the safety or convenience of any person; or

(c) the visual amenity of the streetscape or neighbouring properties.

9. Council is requested to agree to correct the errors when the local law is next reviewed or amended. Clauses 5.3(3)(a) and 6.2(3) are not to be enforced until they are amended, which will not adversely affect the administration’s application of the local law.

CONSULTATION AND EXTERNAL ADVICE

10. 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

11. Council is required to comply with orders from the JSCDL.

STRATEGIC / POLICY IMPLICATIONS

12. Nil

FINANCIAL IMPLICATIONS

13. Nil

OTHER IMPLICATIONS

Environmental

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

Economic

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

Social

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

RISK MANAGEMENT

17. 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.

9.3.4 LOCAL GOVERNMENT ELECTIONS – WALGA ADVOCACY POSITIONS

File Ref:	GOV.32
Applicant / Proponent:	Not applicable
Subject Land / Locality:	Not applicable
Disclosure of Officer Interest:	Nil
Date:	10 October 2024
Author:	Claire Thompson, Governance Coordinator
Authorising Officer:	David King, Chief Executive Officer
Attachments:	Nil

IN BRIEF

- The Western Australian Local Government Association ('WALGA') are requesting that all WA local governments provide a Council decision on WALGA's advocacy positions as they relate to Local Government Elections.

VOTING REQUIREMENTS

1. Simple majority.

OFFICER RECOMMENDATION	ITEM 9.3.4
<p>That the Shire of Denmark Council recommends that WALGA adopt the following Local Government Election Advocacy Positions:</p> <ol style="list-style-type: none"> 1. PARTICIPATION – The sector supports voluntary voting at Local Government elections. 2. TERMS OF OFFICE – The sector continues to support four-year terms with a two year spill. 3. VOTING METHODS – The sector supports First Past the Post (FPTP) as the preferred voting method for general elections. If Optional Preferential Voting (OPV) remains as the primary method of voting, the sector supports the removal of the ‘proportional’ part of the voting method for general elections. 4. INTERNAL ELECTIONS – The sector supports First Past the Post (FPTP) as the preferred voting method for all internal elections. 5. VOTING ACCESSIBILITY – The sector supports the option to hold general elections through electronic voting, and postal voting and in-person voting. 6. METHOD OF ELECTION OR MAYOR – Return to previous legislated provisions – all classes of local governments can decide, by absolute majority, the method for electing their Mayor or President. 	

LOCATION

2. Not applicable.

BACKGROUND

3. The Local Government Amendment Act 2023 introduced a range of electoral reforms that came into effect prior to the 2023 Local Government ordinary elections:
 - the introduction of Optional Preferential Voting (OPV);
 - extending the election period to account for delays in postal services;
 - changes to the publication of information about candidates;
 - backfilling provisions for extraordinary vacancies after the 2023 election;
 - public election of the Mayor or President for larger Local Governments;
 - abolishing wards for smaller Local Governments; and
 - aligning the size of councils with the size of populations of each Local Government (change to representation)
4. Following requests from several Zone’s, WALGA undertook a comprehensive review and analysis of 5 ordinary election cycles up to and including the 2023 Local Government election against the backdrop of these legislative reforms. The review and report focused on postal elections conducted exclusively by the Western Australian Electoral Commission (WAEC), with the analysis finding evidence of the rising cost and a reduction in service of conducting Local Government elections in Western Australia.

DISCUSSION / OFFICER COMMENTS

5. The Elections Analysis Review and Report was presented to State Council 4 September 2024, with State Council supporting a review of WALGA’s Local Government Elections Advocacy Positions.
6. WALGA is requesting Councils consider the current and alternative Elections Advocacy Positions and provide a response back to WALGA for the December 2024 State Council meeting.
7. WALGA State Council current advocacy positions:
8. The following is a summary of WALGA’s current Advocacy Positions in relation to Local Government Elections.

Elections

<p>Position Statement</p>	<p>The Local Government sector supports:</p> <ol style="list-style-type: none"> 1. Four-year terms with a two year spill 2. Greater participation in Local Government elections 3. The option to hold elections through: <ul style="list-style-type: none"> • Online voting • Postal voting, and • In-person voting 4. Voting at Local Government elections to be voluntary 5. The first past the post method of counting votes <p>The Local Government sector opposes the introduction of preferential voting, however if ‘first past the post’ voting is not retained then optional preferential voting is preferred.</p>
<p>Background</p>	<p>The first past the post (FPTP) method is simple, allows an expression of the electorate’s wishes and does not encourage tickets and alliances to be formed to allocate preferences.</p>
<p>State Council Resolution</p>	<p>February 2022 – 312.1/2022 December 2020 – 142.6/2020 March 2019 – 06.3/2019 December 2017 – 121.6/2017 October 2008 – 427.5/2008</p>
<p>Supporting Documents</p>	<p>Advocacy Positions for a New Local Government Act WALGA submission: Local Government Reform Proposal (February 2022)</p>

Method of Election of Mayor

<p>Position Statement</p>	<p>Local Governments should determine whether their Mayor or President will be elected by the Council or elected by the community.</p>
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State Council Resolution	February 2022 – 312.1/2022 March 2019 – 06.3/2019 December 2017 – 121.6/2017
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Conduct of Postal Elections

Position Statement	The <i>Local Government Act 1995</i> should be amended to allow the Australian Electoral Commission (AEC) and any other third party provider including Local Governments to conduct postal elections.
Background	Currently, the WAEC has a legislatively enshrined monopoly on the conduct of postal elections that has not been tested by the market.
State Council Resolution	May 2023 – 452.2/2023 March 2019 – 06.3/2019 December 2017 – 121.6/2017 March 2012 – 24.2/2012

9. WALGA has requested the following advocacy positions to be considered by Councils:

Topic	Options for Consideration
PARTICIPATION	(a) The sector continues to support voluntary voting at Local Government elections. or (b) The sector supports compulsory voting at Local Government elections.
TERMS OF OFFICE	(a) The sector continues to support four-year terms with a two year spill. or (b) The sector supports four-year terms on an all in/all out basis.
VOTING METHODS	(a) The sector supports First Past the Post (FPTP) as the preferred voting method for general elections. If Optional Preferential Voting (OPV) remains as the primary method of voting, the sector supports the removal of the

	<p>‘proportional’ part of the voting method for general elections.</p> <p>or</p> <p>(b) The sector supports Optional Preferential Voting as the preferred voting method for general elections.</p>
INTERNAL ELECTIONS	<p>(a) The sector supports First Past the Post (FPTP) as the preferred voting method for all internal elections.</p> <p>or</p> <p>(b) The sector supports Optional Preferential Voting (OPV) as the preferred voting method.</p>
VOTING ACCESSIBILITY	<p>The sector supports the option to hold general elections through:</p> <p>(a) Electronic voting; and/or</p> <p>(b) Postal Voting; and/or</p> <p>(c) In-Person voting.</p>
METHOD OF ELECTION OF MAYOR	<p>The sector supports:</p> <p>(a) As per the current legislation with no change – Class 1 and 2 local governments directly elect the Mayor or President (election by electors method), with regulations preventing a change in this method.</p> <p>or</p> <p>(b) Return to previous legislated provisions – all classes of local governments can decide, by absolute majority, the method for electing their Mayor or President.</p> <p>or</p> <p>(c) Apply current provisions to all Bands of Local Governments – apply the election by electors method to all classes of local government.</p>

- The Chief Executive Officer and the Governance Coordinator have provided a recommendation however, Council can choose to accept the Officer Recommendation or provide an alternative motion, or amendment.

CONSULTATION AND EXTERNAL ADVICE

11. 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

12. Nil

STRATEGIC / POLICY IMPLICATIONS

13. Nil

FINANCIAL IMPLICATIONS

14. Nil

OTHER IMPLICATIONS

Environmental

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

Economic

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

Social

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

RISK MANAGEMENT

18. 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.

9.3.5 DRAFT WASTE LOCAL LAW – FINAL ADOPTION

File Ref:	LEG.1
Applicant / Proponent:	Not applicable
Subject Land / Locality:	Not applicable
Disclosure of Officer Interest:	Nil
Date:	11 October 2024
Author:	Niel Mitchell, Strettle Pty Ltd, Consultant Claire Thompson, Governance Coordinator
Authorising Officer:	David King, Chief Executive Officer
Attachments:	9.3.5a – Proposed Waste Local Law 9.3.5b – Submission

IN BRIEF

- Consideration of the final adoption of a draft Waste Local Law in accordance with the *Local Government Act 1995* section 3.12 and *Waste Avoidance and Resource Recovery Act 2007* section 61.
- The purpose of this report –
 - to allow the presiding person to give notice to the meeting of the final adoption making a new local law, in accordance with the requirements of the *Local Government Act 1995*;
 - to authorise the submission of the approved document for consent of the Department CEO in accordance with the *Waste Avoidance and Resource Recovery Act 2007* section 61(1);
 - undertake all subsequent actions in accordance with the *Local Government Act* section 3.12.

VOTING REQUIREMENTS

1. Absolute majority.

OFFICER RECOMMENDATION	ITEM 9.3.5
<p>That Council:</p> <ol style="list-style-type: none"> 1. RESOLVES to make the <i>Waste Local Law 2024</i> as per the attached draft (Attachment 9.3.5), incorporating the corrections needed; 2. AUTHORISE the Shire President and Chief Executive Officer to sign and affix the Common Seal to the local law; 3. AUTHORISE the Chief Executive Officer to: <ol style="list-style-type: none"> a) OBTAIN the consent of the CEO of Department of Water and Environmental Regulation; b) PUBLISH the local law in the Government Gazette and provide copies of the local law to the Minister for Local Government and Minister for the Environment; and c) FORWARD a copy of the Gazetted local law, Explanatory Memoranda and associated documentation to the Parliamentary Joint Standing Committee on Delegated Legislation. 	

LOCATION

2. Whole of Shire of Denmark local government district.

BACKGROUND

3. The development of the draft Waste Local Law originally commenced in December 2022, but since extensive changes were required, was initiated again in May 2024.
4. The proposed Waste Local Law was authorised for public comment at the June 2024 ordinary Council meeting.

DISCUSSION / OFFICER COMMENTS

5. The purpose and effect of the local law is as follows:
 - Purpose – to regulate the collection, disposal and storage of waste and recyclable materials,
 - Effect – to control the collection, disposal and storage of waste and recyclable materials for the benefit and health of the community and protection of the environment;
6. Public notice of the proposed local law was given by four methods as required by legislation, with notices placed on the Shire’s website (mandatory), all official Shire notice boards, social media and local newspaper.

7. At the close of the statutory public comment period, one public submission had been received (see Attachment 9.3.5). This submission made several suggestions, however, changes to the text are not recommended for the following reasons:
 - (a) as the text is now approved by Department of Water and Environmental Regulation ('DWER'), only requiring the formal consent of the CEO of DWER, the possibility of acceptance of any variation away from the model text is remote;
 - (b) some suggestions can be addressed through a policy, or if needed to be enforceable, by a determination made under clause 1.6 of the local law, this being a method acceptable to DWER;
 - (c) some suggestions would require contractual change with the service providers, and appropriate recipients of the recyclables. Without a recipient for additional recyclables to what is being collected now, costs are likely to increase due to the necessity of sorting out unacceptable materials, or else the whole load of recyclables being re-directed to landfill.
8. The DWER was advised of the redrafted local law on 16 July 2024, and a response was received on 10 October 2024.
9. The DWER advised of several minor changes, none of which altered the intent of the provision amended nor placed additional obligations on the community. Accordingly, it is considered that the amendments are not of a significant nature that requires re-advertising.
10. The Department for Local Government, Sport and Cultural Industries was also advised on 16 July 2024, but no response was received.
11. Once formally adopted by Council –
 - 1) the local law must be submitted to the CEO of DWER for formal consent in accordance with the *Waste Avoidance and Resource Recovery Act 2007* section 61(1);
 - 2) only after consent form CEO of DWER is received, is the local law to be published in the Government Gazette;
 - 3) local public notice given of the adoption of the local law (separate to previous advertising of proposals);
 - 4) signed copies are to be sent to Minister for Local Government and Minister for the Environment; and
 - 5) copy sent to the Parliamentary Joint Standing Committee on Delegated Legislation ('JSCDL') together with other required documentation, within 10 days of publication in the Government Gazette, and completion of other statutory requirements.

12. Please note –

- disallowance of the local law may be made by Parliament, and could take some time depending on sitting days,
- if a provision is not considered to be critical, the JSCDL may require an undertaking from Council to make an amendment to the local law,
- the local law takes effect on the day stipulated in the local law, generally 14 days after publication in the Government Gazette.

CONSULTATION AND EXTERNAL ADVICE

13. Community consultation has been undertaken in accordance with legislation.
14. Relevant Shire Officers, Department of Water and Environmental Regulation, and the WA Local Government Association were consulted and provided input into the development of the revised draft local law.
15. One submission was received from a member of the public. This has been discussed in the discussion / comment section of this report.

STATUTORY / LEGAL IMPLICATIONS**Local Government Act 1995**

16. Section 3.12 – Procedure for making local laws.
17. Section 3.13 – Significant changes require recommencement of proposal.
18. Section 3.14 – Unless otherwise provided for, local laws come into effect 14 days after Gazettal.
19. Section 3.15 – local public notice of the final adopted local to be given.

Interpretations Act 1984 –

20. Section 42(2) – after publication in the Government Gazette, Parliament may disallow within 14 sitting days of receipt.

Waste and Resources Recovery Act 2007

21. Section 61(1) – a local government may make a local law if the departmental CEO consents.

STRATEGIC / POLICY IMPLICATIONS

22. Nil

FINANCIAL IMPLICATIONS

23. The cost of publication in the *Government Gazette* and of public advertising can be accommodated within the Council existing budget.

OTHER IMPLICATIONS**Environmental**

24. One of the stated effects of the local law is to benefit the health of the community and protection of the environment. The local law provides the Shire with a regulatory

framework to manage compliance with waste disposal requirements with the local government district.

Economic

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

Social

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

RISK MANAGEMENT

- 27. 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.

9.3.6 DOG AREAS POLICY REVIEW

File Ref:	ADMIN.2
Applicant / Proponent:	Not Applicable
Subject Land / Locality:	Shire of Denmark Local Government District
Disclosure of Officer Interest:	Nil
Date:	14 October 2024
Author:	David King, Chief Executive Officer
Authorising Officer:	David King, Chief Executive Officer
Attachments:	9.3.6 – draft Dog Policy

IN BRIEF

- The Dog Areas Policy has been reviewed by Officers and minor alterations are proposed to incorporate the new stair access from the Ocean Beach lookout, and address management issues relating to the Prawn Rock Channel area.

VOTING REQUIREMENTS

- 1. Absolute majority.

OFFICER RECOMMENDATION	ITEM 9.3.6
That Council AMEND the Dog Policy as per Attachment 9.3.6 and require the next review prior to October 2026.	

LOCATION

- 2. Shire of Denmark Local Government district.

BACKGROUND

3. The Shire of Denmark is responsible for enforcement of the Dog Act and Council has the power to designate prohibited areas, exercise areas and rural leashing areas for dogs within the local government district.
4. The following table outlines the history of the Dog Policy.

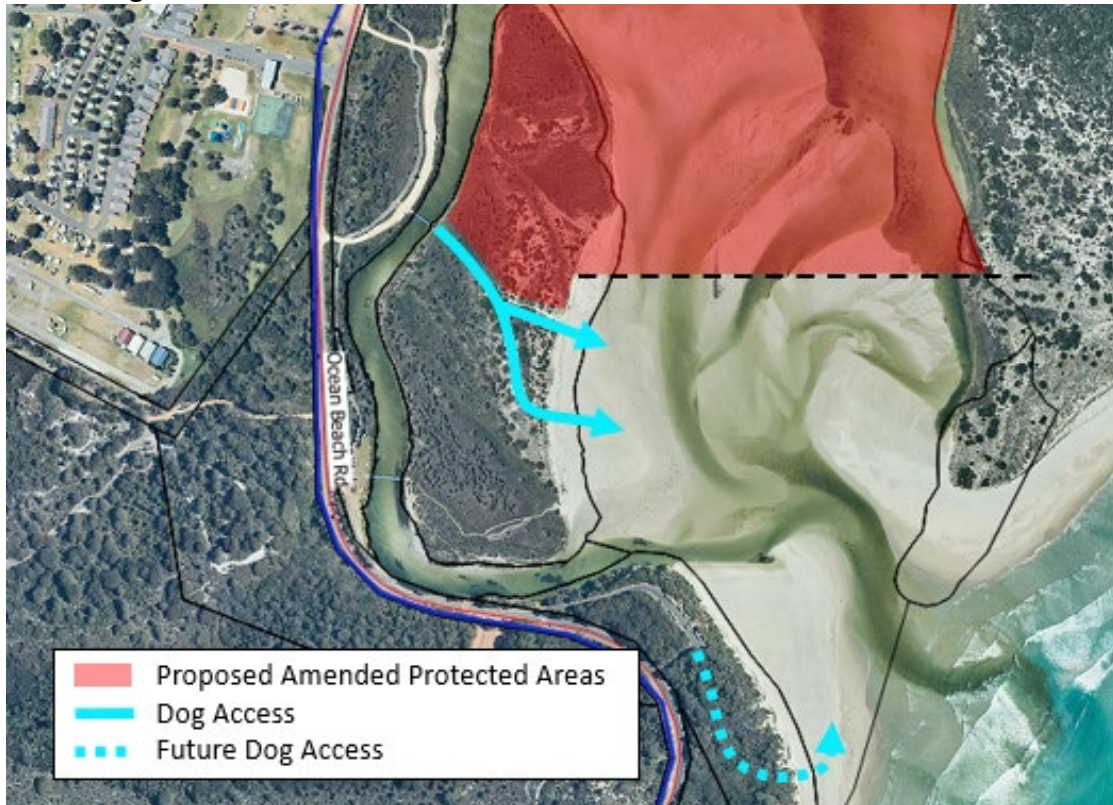
Resolution	Changes	Comment
November 2014 (Res 131114)	First adopted Policy.	This was following a change to the Dog Act in 2013 which created provisions for the local government to specify areas for dogs. Prior to 2013, this was incorporated into the Shire of Denmark’s Dogs Local Law.
February 2017 (Res 110217)	Minor amendments to Reserve naming	
May 2021 (Res 060521)	Updated for simplicity and to align with the requirements of the Dog Act. Major Review of areas across the district.	Included public consultation on dog areas. Included a resolution over conflict on the Prawn Rock Channel sand flats relating to a discrepancy between the dog exercise areas and temporary bird fencing.
March 2022 (Res 050322)	Minor amendments to policy review period	Included the requirement for a biennial review. The resolution also requested a review prior to July 2023 including further consultation.
June 2022 (Res 050322)	Minor amendments to align the dog areas at Prawn Rock Channel with the Bird Sanctuary determination.	A major review in 2026 is proposed.

DISCUSSION / OFFICER COMMENTS

Amendment to include new stair access

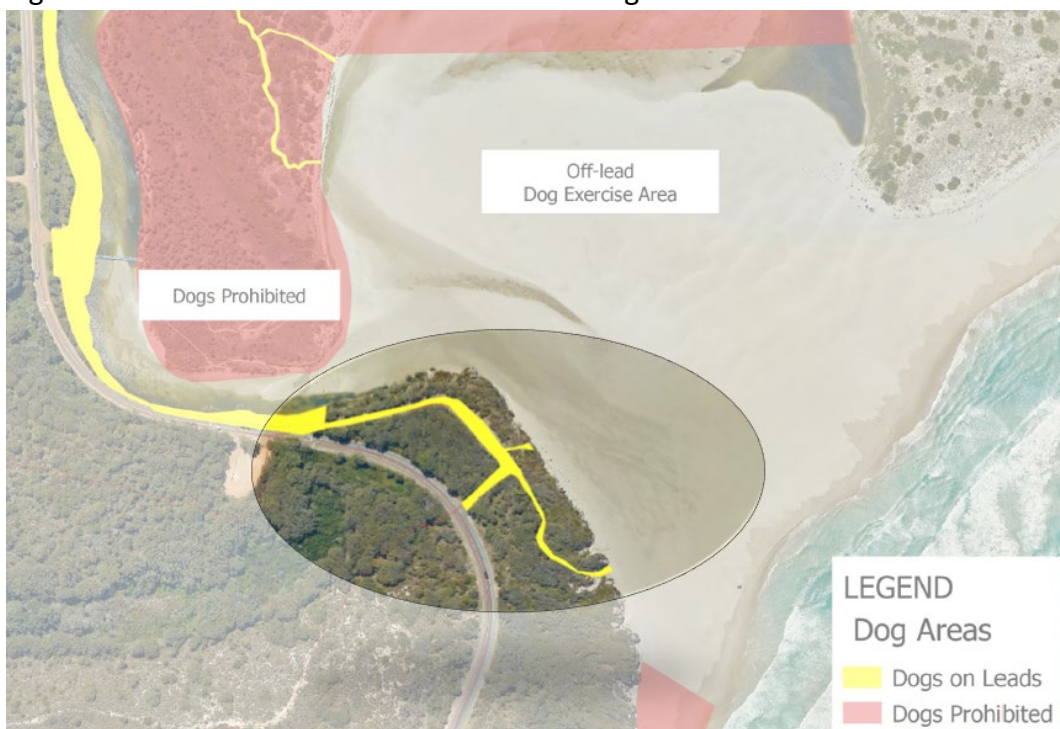
5. As part of the consideration in March 2022 and the final Determination (under the Shire’s Property Local Law) for a Bird Sanctuary in June 2022, it was proposed that an additional access from the Ocean Beach lookout would be installed as Figure 1.

Figure 1 – Extract from 21 June 2022 Ordinary Council Meeting Item 9.1.1 showing future dog access.



6. The stair access has since been completed and so it is necessary to update the Dog Policy to align with this.
7. It is appropriate that this should be on lead access similar to the other paths used to access the off-leash exercise area. Figure 2 shows the proposed change.

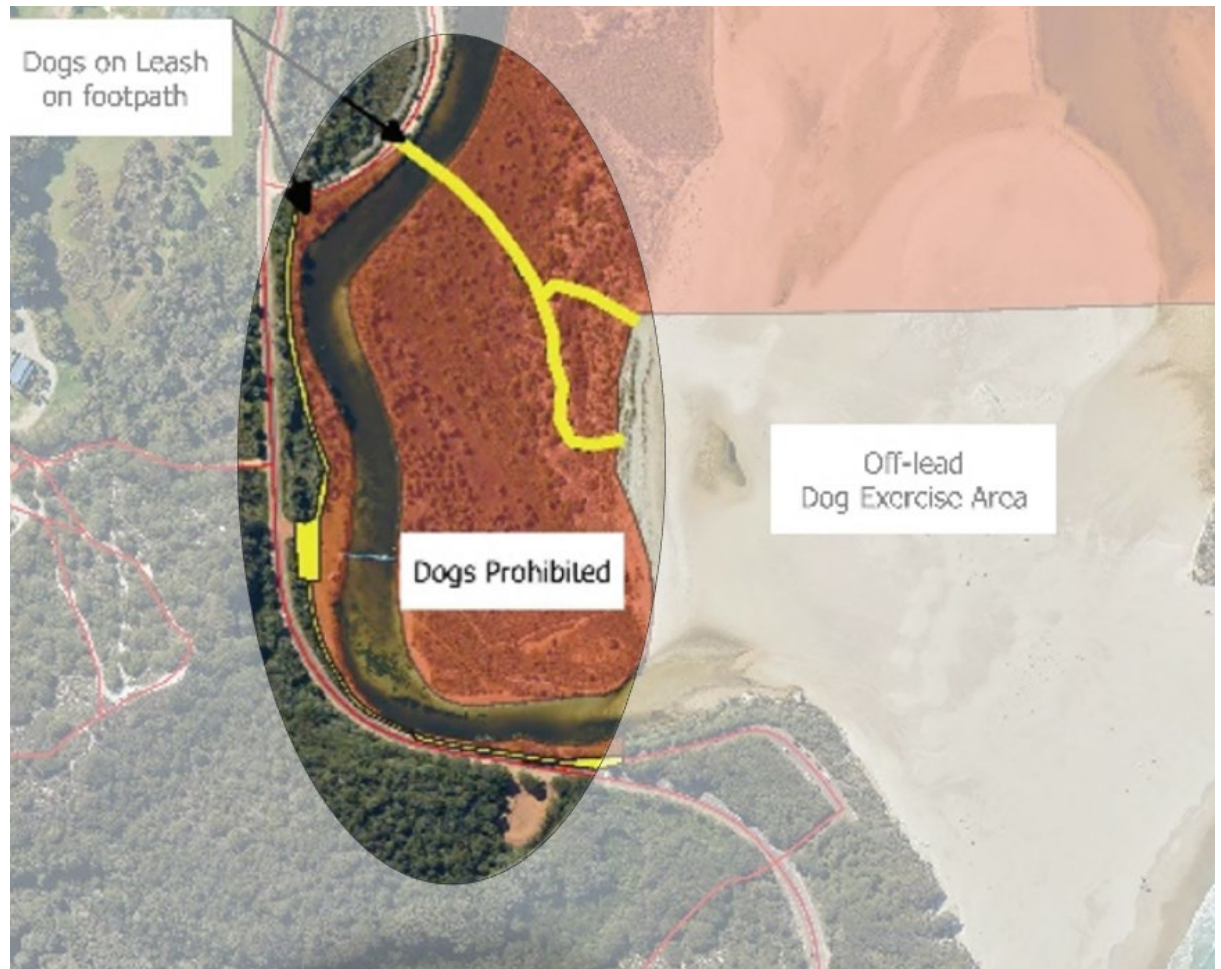
Figure 2- Extract from Attachment 9.3.6 showing on leash access



Amendments for practical management and implementation

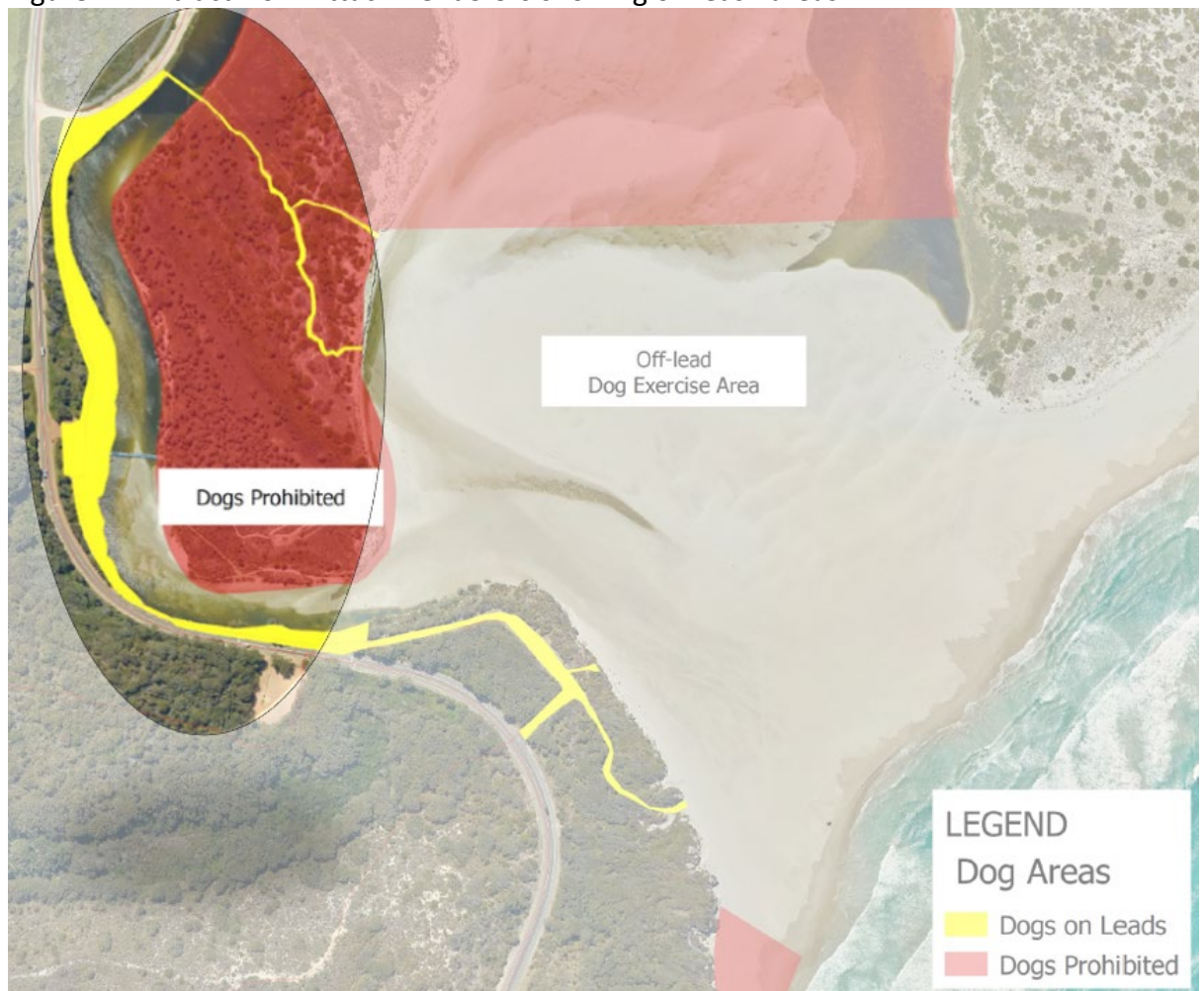
8. The current policy essentially prescribes that the dual use path is on leash but that all adjacent areas of grass are prohibited as shown in Figure 3. This is difficult to sign and challenging to communicate.

Figure 3 – Extract from current Dog Policy



9. As it is not reasonable to prohibit dogs from the dual use path, it is proposed that the areas are all made on leash for consistency and ease of management and communication. This is shown in Figure 4.
10. Officers’ observations over the last two years are that this change is consistent with how the areas is currently being used and accepted by the community. The Shire has received no complaints from the public regarding dogs on leash within the grassed areas adjacent to the dual use path.

Figure 4 – Extract from Attachment 9.3.6 showing on leash areas.



Major Review

11. It is recommended that the next major review is undertaken in 24 months time. This is due to several significant changes and ongoing developments in the area. Firstly, there have been numerous changes in the use of the areas, which have altered the patterns of both general recreational and dog walking activities. These changes necessitate a period of observation to understand their full impact before any comprehensive policy review can be effectively conducted.
12. Secondly, is the ongoing construction at Ocean Beach. This construction and any associated impacts on dog exercise and leash areas are largely unknown at this stage . The current increased congestion at the Prawn Rock Channel area could lead to temporary changes in behaviour and usage patterns that may not reflect the long-term situation. Therefore, it is prudent to wait until the construction is completed and the area has stabilised before conducting a thorough review.
13. Lastly, the new stairs that have been installed are now being used as the major access point to Ocean Beach. This new access route is likely to influence the flow of visitors and their dogs, potentially altering the areas where dogs are most frequently present. Observing how these changes settle over time will provide more accurate data on the policy's impact and effectiveness.

14. Furthermore, the Bird Sanctuary, which is only two years old, appears to be operating well. However, it is still relatively new, and its long-term success and interaction with other users, including dog owners, needs to be monitored. Allowing more time will enable a better understanding of these dynamics.
15. In summary, deferring a major review of the Dog Policy for 24 months allows for the completion of ongoing developments and provides a more stable and accurate basis for assessing the policy's effectiveness. This approach ensures that any revisions to the policy will be well-informed and reflective of the actual conditions and needs of the area.

CONSULTATION AND EXTERNAL ADVICE

16. 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 Act 1995

17. Section 2.7(2)(b) – Council is to determine the local governments policies.

Dog Act 1976

18. Section 31(2B)(3A) and (3B) - enables local governments to specify dog exercise , places where dogs are prohibited and rural leashing areas
19. Section 31(3C) - Local Government must give local public notice for a period of 28 days of its intention to so specify dog areas. There is no requirement for the Council to call for submissions or consider any comments that may be received. The notice is to allow the public sufficient time to become familiar with the changes.

STRATEGIC / POLICY IMPLICATIONS

Dog Areas Policy

20. This report proposes changes to the Dog Policy to incorporate modified on and off lead areas around Prawn Rock Channel and Ocean Beach.
21. The maps for Lights Beach, Ocean Beach and Peaceful Bay are updated with the latest imagery and format.

FINANCIAL IMPLICATIONS

22. The cost of advertising the policy can be incorporated in the current Budget.

OTHER IMPLICATIONS

Environmental

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

Economic

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

Social

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

RISK MANAGEMENT

- 26. Risk Table

Risk	Risk based on history and with existing controls			Proposed Treatment/Control
	Likelihood	Consequence	Risk Rating	
Reputational: That the community is upset with the minor changes on the grass areas of Prawn Rock Channel.	Possible (3)	Minor (2)	Medium (6)	No treatment required. Feedback will be monitored.

9.3.7 MOUNT HALLOWELL RESERVE MANAGEMENT PLAN

File Ref: REM.39
Applicant / Proponent: Not Applicable
Subject Land / Locality: R 46618
Disclosure of Officer Interest: Nil
Date: 26 September 2024
Author: Yvette Caruso, Sustainability Officer
Authorising Officer: Robert Westerberg, Director Infrastructure and Assets
Attachments: 9.3.7a – Scope of Works
 9.3.7b – Community Engagement Plan
 9.3.7c – Extract from Bushland Reserve Weeds Strategy (2024)
 9.3.7d – RfQ Assessment Matrix (**Confidential**)

IN BRIEF

- The Shire is updating the Management Plan for Mount Hallowell Reserve as part of the agreed projects in the 2024-2028 Corporate Business Plan.
- Due to the public interest in this project this report requests Council endorse the scope of works, a consultation plan and preferred consultant to undertake the works.

VOTING REQUIREMENTS

1. Simple majority.

<p>OFFICER RECOMMENDATION</p> <p>That Council:</p> <ol style="list-style-type: none"> 1. ENDORSE the scope of works as per attachment 9.3.7a 2. ENDORSE the community engagement plan as per attachment 9.3.7b 3. ENDORSE the preferred consultant, Aurora Environmental to undertake the scope of works. 4. NOTE the over budget expenditure and request the Chief Executive Officer to make adjustments in the mid year budget review. 	<p>ITEM 9.3.7</p>
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LOCATION

2. Mount Hallowell Reserve (Reserve 46618) is an A Class Reserve vested in the Shire of Denmark with the designated purpose of ‘Conservation & Recreation’. The reserve totals an area of over 532 hectares situated approximately 5km south of the Denmark township with easy access from Ocean Beach Road.

BACKGROUND

General

3. Mount Hallowell Reserve is one of thirteen A class reserves vested in the Shire due to high conservation and community value. An A class classification affords the greatest degree of protection for reserves of Crown land created under the Lands Administration Act (1997).
4. An overview of the reserve is provided in Attachment 9.3.7c.
5. Current recreational use of the reserve includes hiking, with the Bibbulmun Track traversing in an east-west direction through its centre, as well as unsanctioned informal mountain bike trail establishment and use, primarily situated on the lower slopes in the south-eastern section of the reserve. Other recreational activities such as rock climbing and guided tours also occur on the reserve.
6. The high conservation and community value of Mount Hallowell Reserve as an A class reserve requires the local management authority to prepare and provide a management plan which considers all detail in relation to conservation, environmental and heritage issues relevant to the development, management and use of the reserve.
7. The Mount Hallowell Management Plan (2008) is now overdue for review, with a recommended review period of ten years.

Trails Development History

8. Mountain bike trails have been discussed on Mount Hallowell since 2019.
9. The Great Southern Regional Trails Master Plan (2020-2029) initially identified Mount Hallowell Reserve as a priority site for developing a mountain biking (MTB) trail network within a 3-5 year timeframe. This recommendation was based on a multi-criteria assessment that considered factors such as proximity to town, trail accessibility, existing recreational infrastructure, and high visitation. The proposed trail network was contingent upon environmental and heritage assessments and appropriate community consultation, aiming to have minimal adverse environmental impact by excluding the core conservation zone of Mount Hallowell.
10. In the Great Southern Regional Mountain Bike Strategy (2021), a proposal for a small cross-country trail network was identified on the lower south-eastern slopes of Mount Hallowell. This plan aimed to utilise existing informal mountain bike trails while avoiding development on the core environmental and heritage values of the reserve. Community consultation revealed strong support for this initiative, with over 75% of respondents in favour of a new trail network on Mount Hallowell Reserve and 69% supporting the formalisation of MTB trails in the identified south-eastern lower slopes.
11. As the concept plan developed, the design expanded the project area to the west to enable a larger trail network of up to 10km of cross-country MTB trails with an upper, middle and lower portion to cater for all MTB skill levels.
12. As a result of this expansion, community consultation undertaken in 2022 on the Mount Hallowell Trails Concept Plan was extensive, generating a high level of interest (561 respondents) with 68% of the community expressing their opposition to the proposal citing primarily environmental, amenity impacts (traffic, parking, noise), and conflicting use resulting in potential safety concerns.
13. Following the community consultation process, Council resolved at its October 2022 meeting to progress development of an alternative MTB trail project plan at Turner Rd reserve and a trail network at Berridge Park, whilst continuing the 8-stage process for a trail network at Mount Hallowell with explicit exclusion of trail development in the core of the reserve, which is consistent with the supportive consultation for the Great Southern Regional Mountain Bike Strategy (2021).
14. Additional information can be found contained within item 9.1.1 of the ordinary Council Meeting on the 18 October 2024.
15. Subsequent to the Council resolution of October 2022, officers have requested that a future review of the Great Southern Regional Trails Master Plan should replace Mount Hallowell with Turner Road as the priority trail network site.

DISCUSSION / OFFICER COMMENTS

Changing Social and Environmental Factors.

16. Since 2008, the environment has undergone significant changes, driven by various factors including climate change, population growth, and evolving recreational trends.

17. Global average temperatures have increased, with the last decade being the warmest on record. This rise in temperature, coupled with reduced rainfall in many regions, has significantly impacted the resilience of vegetation. Drought conditions have become more frequent, stressing plant life and reducing biodiversity.
18. Continuation of invasive plant species and animals continue to increase additional stress on native ecosystems. Weeds can outcompete native vegetation for resources, while invasive fauna can disrupt local food chains and habitats.
19. The population of Denmark has increased 32.7% since 2008 (2008 - 2023), leading to more urbanisation. In addition, tourism has increased 151% (333,000 to 843,000 visitor nights) in a similar period. This adds pressure to natural areas as the community and visitors have an expectation to be able to visit and enjoy that natural environment and is a significant drawback for Denmark.
20. There has been a significant rise in outdoor and adventure sports. For instance, mountain biking has seen a surge in participation since 2008, leading to increased use of natural trails and parks. This trend, while promoting physical activity and appreciation for nature, also necessitates careful management to prevent environmental degradation.
21. Since 2020, a number of strategies have identified Mount Hallowell as a location for trail infrastructure. These are highlighted in the strategic section of this report and are supportive of Trails in Mount Hallowell to varying degrees. However, there is a level of conflict with the current Management Plan for the reserve where recommendations seek to rationalise trails across Mount Hallowell.

Scope

22. Noting the changing environmental and social factors, there is a need for the review to make objective assessments of both the environment and recreation on Mount Hallowell for the management period. A key component of the review is the assessment of opportunities and constraints for both the environment and recreation.
23. The project entails a review of the existing Mount Hallowell Reserve Management Plan (2008) and development of a revised updated Mount Hallowell Management Plan document with management recommendations over a ten-year timeframe.
24. The update of the Plan intends to:
 - review and audit the 2008 plan's management actions
 - review the background information and undertake a literature review
 - Map all existing tracks and trails across the reserve
 - re-define the management goals consistent with the reserve purpose of 'Conservation and Recreation'
 - update management actions relevant to management goals, opportunities and constraints for both conservation and recreation.
25. The project will require input from a specialist consultant team comprised of the following professional disciplines as a minimum:
 - Environmental management

- Land use planning
- Community engagement facilitation
- Landscape architecture / Concept planning
- GIS mapping specialists

26. Project deliverables include:

- Project outline / project milestones
- Progress report(s)
- Stakeholder engagement and Community findings report
- Management Plan 2008 Actions Audit Report
- Mount Hallowell Reserve Management Plan (Draft & Final Draft) in editable format (Word doc. A4 portrait)
- Maps provided additional to within the plan provided in separate PDF documents
- Spatial data created for purposes of plan (shapefiles or geopackages)
- Financial report(s)
- Completion report

Project Delivery Roles

27. Project Control Group (PCG) - (referred to in this plan as Project Control Group or PCG) is to be established to function at an operational level to be comprised of representatives from Shire and the consultant. Shire of Denmark officer representatives will liaise with the consultant to ensure they have everything they need to deliver a successful engagement and document writing process. It is not appropriate to have stakeholders or community as part of this group as it is operational and must remain impartial.
28. Consultant – The consultant will deliver the community engagement, provide their expert advice, and will write the draft management plan.
29. Shire – Shire of Denmark staff, will provide specialist advice and comment on project deliverables in the areas of planning, trail management, environmental management, infrastructure maintenance, engineering and compliance.
30. Stakeholders/Community - Stakeholders and the community form a vital part of the project delivery. A comprehensive community engagement plan has been developed to ensure that input, data and advice is captured and considered throughout the process.

CONSULTATION AND EXTERNAL ADVICE

31. A comprehensive community engagement plan is provided as Attachment 9.3.7b

STATUTORY / LEGAL IMPLICATIONS

Land Administration Act 1997

32. Section 49 requires that a reserve must be developed in accordance with a management plan if the plan has been approved by the Minister. If the revised management plan differs from the existing plan, it will require the Minister's approval.

STRATEGIC / POLICY IMPLICATIONS

Our Future (2033)

- 33. The review and update of the revised Mount Hallowell Reserve Management Plan is consistent with the Shire’s Community Strategic Plan: Our Future (2033) which identifies environmental conservation and protection as one of three primary Shire service deliveries and lists the Mount Hallowell Reserve Management Plan as a key existing plan to turn our vision into action by operating as environmental custodians for the future.

Corporate Business Plan 2024-2028

- 34. Identifies the review of the Mount Hallowell Management Plan to occur in 2024/25.

Shire’s Sustainability Strategy (2021-2031)

- 35. The Shire’s Sustainability Strategy (2021-2031) supports the premise of protecting and enhancing our natural systems with a key Land and Nature objective to 4.1 “Implement responsible and sustainable practices through policy development and land-use planning.”

Mount Hallowell Management Plan 2008

- 36. The Mount Hallowell Management Plan 2008 recommends a review of the entire Plan with community consultation every ten-year period.

FINANCIAL IMPLICATIONS

- 37. Attachment 9.3.7d provides an analysis of the submission received to undertake the works for this project.
- 38. The allowed budget for these works is \$25,000 and therefore an additional allocation of \$12,000 is required to complete the scope of works as presented.
- 39. It is proposed that this shortfall is addressed in the mid-year budget review and will be funded through a transfer from reserves or by other project underspends.

OTHER IMPLICATIONS

Environmental/Economic/Social

- 40. Revision, adoption and subsequent implementation of the resultant Mount Hallowell Reserve Management Plan will provide for a defined strategic direction for operational management, and will ensure ongoing maintenance, protection and enhancement of the economic infrastructure, socio-cultural and environmental values of the Mount Hallowell Reserve.

RISK MANAGEMENT

- 41. Risk Table

Risk	Risk based on history and with existing controls	Proposed Treatment/Control
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	Likelihood	Consequence	Risk Rating	
Reputational: That the community is dissatisfied with the scope of works	3	2	6	Risk acceptable. All key decisions to be made public and determined at Ordinary Council Meetings

9.4 COMMUNITY SERVICES

9.4.1 BUSH FIRE BRIGADE AND STATE EMERGENCY SERVICE SHED AGREEMENTS

File Ref:	AGR.4
Applicant / Proponent:	Not applicable
Subject Land / Locality:	Various
Disclosure of Officer Interest:	Nil
Date:	15 October 2024
Author:	David King, Chief Executive Officer
Authorising Officer:	David King, Chief Executive Officer
Attachments:	9.4.1 – Example 2010 Agreement

IN BRIEF

- At the September Bush Fire Advisory Committee (BFAC) meeting a recommendation was made to update the property agreements with the brigades. This report considers that recommendation.
- This report includes reference to the same type of agreement with the Denmark State Emergency Service (SES).

VOTING REQUIREMENTS

1. Simple majority.

COMMITTEE RECOMMENDATION	ITEM 9.4.1
That the agreements be updated to clearly define Brigade and Council responsibilities over their sites. This is consistent with current Council action to create standard agreements over groups using Shire facilities	

OFFICER RECOMMENDATION	ITEM 9.4.1
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That Council REQUEST the Chief Executive Officer to review and update the 2010 Agreements for the Volunteer Bush Fire Brigades and the Denmark State Emergency Service, to define the respective parties' responsibilities in relation to occupation and use.

LOCATION

2. Volunteer Bush Fire Brigade shed locations and the SES's shed.

BACKGROUND

3. The Agreements were put into place in 2010 and prescribe the various responsibilities of the Shire, the brigades and the SES. An example is provided as Attachment 9.4.1.

DISCUSSION

4. The Policy section of this report explains that the property management policy does not apply in this instance due to the nature of the entity of a Bush Fire Brigade.
5. However, it is entirely appropriate and reasonable to outline the roles and responsibilities with regards to the Bush Fire Brigade sites. The simplest way to do this is to update and renew the existing Agreements. This allows for the Shire to ensure consistency in the terms of responsibility whilst allowing identification spatially of the areas that are concerned.
6. An Officer Recommendation has been provided which includes the intent of the BFAC recommendation and reference to the Denmark SES Shed.

CONSULTATION AND EXTERNAL ADVICE

7. This matter was considered at the September BFAC meeting and resolved as per the recommendation unanimously.

STATUTORY / LEGAL IMPLICATIONS

8. The land on which the brigades and the SES sheds are located are crown land reserves managed by the Shire under Management Order provided by the Minister for Lands.
9. The agreements are non-binding however, the legal standing can vary depending on its content, wording and the intentions of the parties involved.

STRATEGIC / POLICY IMPLICATIONS

Property Management Policy

10. Council resolved to adopt a property management policy in August 2024. As part of the consultation for this Policy this matter was raised relating to certainty of occupancy for brigades.
11. It was determined that the Policy does not apply to BFB facilities as these are Shire operational facilities operated by entities created by the Shire. This is very different to a community group lease.
12. As a result, the final policy scope omitted Bush Fire Sheds from the Policy. Whilst the Policy does not apply in this instance and no formal agreement is necessary, Officers

understand that the agreements can provide some clear guidelines for volunteers around responsibilities for use, maintenance, insurance and expenses.

FINANCIAL IMPLICATIONS

- 13. Nil

OTHER IMPLICATIONS

Environmental

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

Economic

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

Social

- 16. There are no known significant social implications relating to the report or officer recommendation.

RISK MANAGEMENT

- 17. 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.

9.5 INFRASTRUCTURE SERVICES

Nil

10. MATTERS BEHIND CLOSED DOORS

OFFICER RECOMMENDATION	ITEM 10
That the meeting move behind closed doors to deal with Item 10.1 in accordance with section 5.23(2)(b) as it deals with the personal affairs of a person	

10.1 CHIEF EXECUTIVE OFFICER ANNUAL PERFORMANCE REVIEW 2024

File Ref:	Personnel File
Applicant / Proponent:	Not applicable
Subject Land / Locality:	Not applicable
Disclosure of Officer Interest:	The Author is a direct employee of the CEO. The Authorising Officer is the subject of this report.
Date:	16 October 2024
Author:	Claire Thompson, Governance Coordinator
Authorising Officer:	David King, Chief Executive Officer
Attachments:	10.1a – Summary Report (confidential)

10.1b – Standards for CEO Recruitment, Performance
and Termination Policy

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

11. NEW BUSINESS OF AN URGENT NATURE

Nil

12. CLOSURE OF MEETING