



MINUTES OF ORDINARY COUNCIL MEETING 26 MAY 2021

Held on

Wednesday 26 May 2021

Commencing at 5.00pm

Shire of Donnybrook Balingup Council Chambers, Donnybrook

Ben Rose
Chief Executive Officer

28 May 2021

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SHIRE OF DONNYBROOK BALINGUP
MINUTES OF ORDINARY COUNCIL MEETING

Held at the Council Chambers
Wednesday 26 May 2021 at 5.00pm

1 DECLARATION OF OPENING / ANNOUNCEMENT OF VISITORS

Shire President – Acknowledgment of Country

The Shire President acknowledged the traditional custodians of the land, the Wardandi People of the Noongar Nation, paying respects to Elders, past, present and emerging.

The Shire President declared the meeting open at 5.00pm and welcomed the public gallery.

Shire President - Public Notification of Recording of Meetings

The Shire President advised that the meeting is being digitally recorded to assist with minute taking in accordance with Council Policy 1.25. The Shire President further stated the following:

If you do not give permission for your participation to be recorded, please indicate this at the meeting. Members are reminded that no other visual or audio recording of this meeting by any other means is allowed without the permission of the Chairperson.

2 ATTENDANCE

MEMBERS PRESENT

COUNCILLORS	STAFF
Cr Brian Piesse (President)	Ben Rose – Chief Executive Officer
Cr Jackie Massey (Deputy President)	Steve Potter – Director Operations
Cr Shane Atherton	Paul Breman – Director Corporate and Community
Cr Anita Lindemann	Jaimee Earl – Minute Taker
Cr Anne Mitchell	
Cr Chaz Newman	
Cr Chris Smith	
Cr Leanne Wringe	

PUBLIC GALLERY

23 members of the public were in attendance.

2.1 APOLOGIES

Nil.

2.2 APPROVED LEAVE OF ABSENCE

Nil.

2.3 APPLICATION FOR A LEAVE OF ABSENCE

Nil.

3 ANNOUNCEMENTS FROM PRESIDING MEMBER

The Shire President acknowledged the recent passing of former Councillor and active community member, Dr Chrissy Sharp and requested the Council and public gallery observe a few moments of silence in recognition of her contribution to the Shire, South West and Western Australia.

4 DECLARATION OF INTEREST

Division 6: Sub-Division 1 of the *Local Government Act 1995*. Care should be taken by all Councillors to ensure that a financial/impartiality interest is declared and that they refrain from voting on any matter, which is considered to come within the ambit of the Act.

Cr Mitchell declared an impartiality interest in item 8.1 Donnybrook Well Aged Units as her mother lives in one of the units. Cr Mitchell will remain in the Chamber for the duration of the discussion and vote on the matter.

Cr Smith declared a financial interest in item 8.1 – Donnybrook Well Aged Units, as he does work at the units. Cr Smith will leave the Chamber for the duration of the discussion and vote on the matter.

Cr Smith declared a financial interest in item 9.1.1 Petition – Request for the Sealing of Farley Road, Paynedale, as he works for many people on Farley Road. Cr Smith will leave the Chamber for the duration of the discussion and vote on the matter.

Cr Massey declared an impartiality interest in item 9.1.2 Balingup Townscape Committee – Proposed 2021/22 Projects as she is a member of the Balingup Progress Association. Cr Massey will remain in the Chamber for the duration of the discussion and vote on the matter.

Cr Smith declared a financial interest in item 12.1.2 – Confidential – RFT 02/2021 Management of Balingup Waste Transfer Station as he does work for the current contractor. Cr Smith will leave the Chamber for the duration of the discussion and vote on the matter.

Cr Wringe declared an impartiality interest in item 12.1.2 Confidential – RFT 02/2021 Management of Balingup Waste Transfer Station as she is the friend of one of the contract proprietors. Cr Wringe will remain in the Chamber for the duration of the discussion and vote on the matter.

5 PUBLIC QUESTION TIME

5.1 RESPONSES TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE

Nil.

5.2 PUBLIC QUESTION TIME

Public questions received prior to meeting:

Mr Shane Atherton

1. *Given the unsubstantiated community scuttlebutt relating to a claimed unauthorised transfer of reserves in the Shire's 2019-20 Annual Accounts, would the Chief Executive Officer or Executive Manager Corporate and Community as previously advised, re-assure the community that the 2019-20 Annual Accounts as audited by the Office of Auditor General (OAG) are factual, and correct?*

Paul Breman, Director Corporate and Community provided a powerpoint presentation explaining the reserve transfer in question. (See presentation attached at **Attachment 5.2(1)**).

2. *On the basis that the Shire's 2019-20 Annual Accounts are as audited and published (refer question 1), what legal case (action) could be taken against those individuals in the community who knowingly persist with an unsubstantiated proposition that the Shire has misrepresented the truth in terms of the handling of Reserves in 2019-20 Accounts?*

Chief Executive Officer Response

The Shire could seek advice through the WA Local Government Association regarding options available to it. It is not our intention or preference to seek to pursue legal action and spend ratepayers funds in doing so.

Public questions received at the meeting:

Keshena Nourish

I have been told that part of the money however transferred was raised by donations made to the Apple Fun Park? Is that the case?

Shire President Response

This transfer was advertised as required under the Local Government Act. Money that has been collected from the Apple Fun Park donations has been transferred to the Apple Fun Park reserve,

Tony Scaffidi

Given 90% of ratepayers are against the restaurant in the Goods Shed – why did Councillors agree to that when they represent the ratepayers?

Chief Executive Officer Response

Resourcing the Interpretive Centre component with Shire resources was estimated to cost \$140-150,000 per annum which equates to 3% in rates. The Executive and Council decided to advertise for expressions of interest for a food and beverage operator to manage the Interpretive Centre and enable the Shire to collect revenue from rent and offset the costs. This concept has been in the public domain for about two years.

Tony Scaffidi

I received a letter from the Shire's Environmental Officer on 12 May 2019 regarding management of rabbits in Irishtown with the Biosecurity Group. Nothing has been done – why has this not been rectified?

Shire President Response

Biosecurity groups are not part of Shire and our responsibilities differ – the Shire has no jurisdiction over them, they are governed by Department of Primary Industries and Regional Development. It is the Biosecurity group's responsibility to deal with land owners on such issues.

Chief Executive Officer Response

We are aware of the issue but I am unsure of the status of this particular instance. I will follow up on the arrangements made with the Environmental Officer at the time and will work with the Leschenault Biosecurity Group.

Kevin Johns

Regarding the funds transfer mentioned in the powerpoint presentation earlier – was there a requirement for it to be advertised?

Director Corporate and Community Response

No, I don't believe so.

Kevin Johns

When will plans for the Apple Fun Park be available to the general public?

Chief Executive Officer Response

Images are available on the Shire website. With the support of the Council, I can make more detailed plans (layout, elevations) available in the next week or two.

Lui Tuia

There was an advertisement in the West Australian and Preston Press – under the terms how much per annum will be going into the Tuia Lodge Lease and capital expenditure out of the \$7.6 million?

Chief Executive Officer Response

The lease agreement is confidential and we would be breaching confidentiality if we released that information.

Lui Tuia

Collie, Harvey and Wattle Hill all granted use and rent of their facilities to Southern Care. After a year it was handballed back. Have you considered an escape clause in the deal with Hall and Prior over the management of Tuia Lodge?

Shire President Response

These negotiations are confidential, however, the community can be assured that the Shire has engaged in appropriate commercial and legal advice.

Lui Tuia

Can you confirm the total amount in the Tuia Lodge RAD account?

Director Corporate and Community Response

There is about \$4.5 million – I will confirm the exact amount via email.

Shane Sercombe

Regarding the reserve transfer referred to in the presentation tonight, were they identified as invalid and unlike any other in local government?

Director Corporate and Community Response

I explained to Council at the mid year budget review that this transfer was unspecified and an unusual transaction as it had no specific purpose when put into the reserve. We were not required to advertise the change in purpose because no purpose was put in. The remainder of these funds were put towards the COVID Reserve. Neither the Office of Auditor General nor the Department of Local Government, Sport and Cultural Industries have raised this as a matter for discussion with the Shire.

Shane Sercombe

For clarity, can you confirm that you identified the transfer as invalid at the time?

Director Corporate and Community Response

I cannot recall any other words used other than how I am explaining it right now. I explained it fully to Council at the time – in April 2020.

Keshena Nourish

Would an auditor have been able to see if the Apple Fun Park Reserve funds were donated funds?

Shire President Response

This reserve transfer was advertised as per the Local Government Act. It was a basic advertisement advising of the existing and proposed purposes. The funds were used in project funding application for the Heritage Goods Shed Interpretive Centre and Station Square – as the Federal Government sees the Apple Fun Park and Town Centre Revitalisation Project as one project.

Director Corporate and Community Response

Auditors do not look at the source of the funds, just review the process for approving, budgeting and change of purpose.

Keshena Nourish

Did you receive my submission last Wednesday regarding the Goods Shed – when can I expect an answer?

Shire President

It's not far away.

John Wringe

Regarding Minninup Cottages and Langley Villas, in the event of the sale of these units – what would be done with the proceeds?

Chief Executive Officer Response

This relates to an item on tonight's agenda and as such the decision has not yet been made. The process with the Department of Communities is likely to take many months and the consideration of treatment for any surplus funds has not been entertained yet.

John Wringe

Are Councillors aware of the history of the beginnings of putting the units together? If not they should avail themselves.

Shire President Response

This discussion has not yet commenced – at this stage we have been asked to provide a response to the Department of Communities, as per our contractual obligations.

Shane Sercombe

Regarding the reserve transfers in 2019/20 identified during the mid year budget review, did the CEO ever answer a list of questions by Council?

Chief Executive Officer Response

During a period of a lot of questions, I do not recall which list of questions you're referring to specifically. I'd be happy to consider any questions you have.

Shane Sercombe

They were regarding reserve transfers?

Chief Executive Officer Response

Yes, I recall the correspondence now, and yes I responded in a variety of ways.

Kevin Johns

The Apple Fun Park comprehensive playground inspection report in 2019 reported 80% of equipment required basic maintenance. Why is the Shire only retaining 25%?

Chief Executive Officer Response

The Shire has secured \$1.5M in Federal funding via the Building Better Regions Fund, which will fund an entire refurbishment of the park. That funding can only be expended on the Fun Park, not other parks. Approximately 25% of equipment is being reused on-site. The remaining equipment will be stored off-site for a decision at a later time.

Kevin Johns

Was a cost analysis done on maintenance of the equipment?

Shire President Response

The Federal Government offered to regenerate the Apple Fun Park to stay at the top in terms of parks in the South West. The offer was not based on maintenance alone. We have the money to stay in front of surrounding Councils moving to copy the park and have the chance to reinvest into one of our iconic tourist attractions.

Kevin Johns

There is \$100,000 in the Apple Fun Park reserve – why was this not spent on maintenance and upkeep?

Chief Executive Officer Response

There was approximately \$99,000 in the Apple Fun Park reserve account. Maintenance and minor asset renewal for the Park was allocated from another account and costs on average \$100,000 per annum; about \$1.3M over the last 13 or so years. Community donations go into the reserve account. The first few years there was \$20-25,000 income from the donations, however now approximately \$3,000 per year. When the facility is renewed it is expected this will increase again for a period of time.

Shane Sercombe

The Shire received legal advice regarding defamation in November last year. Why was this legal advice withheld from Council for 10 weeks and not revealed until after the CEO contract renewal?

Shire President

This is an unsubstantiated claim. I did not withhold any information from Council – it was dealt with when it was received. It took some time to get the advice.

Director Corporate and Community Response

The CEO removed himself from this process and nominated me to undertake the process of seeking legal advice, which I did with the Shire President. I cannot recall the date the advice was received – while being extremely busy working on the Long Term Financial Plan which was the highest priority, finalising the audit and planning the annual elector's meeting, I had to write an item for Council to consider. Any delay, if there was such, was in relation to priorities and substantial workload. There was no circumstance of the CEO or Shire President raising timing of the report with me and I would not have been influenced by that in any case.

Shane Sercombe

Can you confirm that the Apple Fun Park coin spinner states that all funds are used to maintain and improve the Apple Fun Park?

Chief Executive Officer Response

Yes, I'm aware that the signage states this, or something very similar. The reserve has accumulated approximately \$99,000 over 13 years from donations. The Shire spends about \$100,000 a year on maintenance of the park. Whether the funds come from the reserve account or other accounts, the money has been spent on maintenance of the park.

Kevin Johns

Last week's Special Council Meeting discussed the proposed lease of the Goods Shed. What is the net amount of rent collected per annum?

Shire President Response

This is a confidential matter and we are not in a position to divulge information regarding the proposed contract with the prospective tenants. Remember we are saving money as the tenant will be looking after the Interpretive Centre component of the Goods Shed.

Chief Executive Officer Response

The lease includes a rent component and a separate vendor finance component to reimburse for the kitchen fit out – so there will be two separate sources of revenue.

Kevin Johns

Will the tenant be paying outgoings?

Chief Executive Officer Response

Again, this information is confidential, however, based on other commercial leases, it would be unusual if it did not include outgoings, including Shire rates.

Kevin Johns

On 9 April 2020 I sent an email to the Shire regarding incomplete footpaths, lack of signage and other issues along Collins Street. On 14 April 2020 I received a response advising Main Roads WA (MRWA) is responsible for this. Has the Shire done anything in the last 12 months?

Director Operations Response

With the revitalisation of the Goods Shed precinct, we can introduce measures to control speed and safe pedestrian crossings, particularly with the pump track also. Collins Street is a heavy haulage bypass road so this requires work with MRWA. Once the precinct is complete this will follow shortly thereafter.

Chief Executive Officer Response

As part of the Road Safety Commission 40 km/hr trial along South Western Highway, MRWA modelling regarding speeds along Collins Street was also looked at, however the Road Safety Commission and MRWA were not supportive of the trial along this street. The Shire expects to receive funding to resurface and re line-mark Collins Street in the next 6-18 months time and hopefully this can incorporate signage, parking etc.

Shane Sercombe

Can the Shire President confirm he did not receive legal advice until late January 2021 when the rest of Council received it?

Shire President Response

I cannot confirm. I was a party to the response. Mr Breman communicated with the lawyers and presented a paper to Council once he had undertaken the task.

Shane Sercombe

You felt legal advice was not relevant to the CEO contract that was due to be renewed?

Shire President Response

The advice did not incriminate the CEO and was not relevant to the contract renewal.

Shane Sercombe

Are you able to release the legal advice from confidential?

Chief Executive Officer Response

I will research whether that is possible and will need to make the decision wisely regarding potential implications.

Shane Sercombe

How many resolutions adopted over the last 12 months have not been released from confidential?

Chief Executive Officer Response

All of the Shire's Council Meeting Minutes are available via the Shire's website; you are welcome to review these for yourself to determine which have been kept as confidential.

Keshena Nourish

Is the \$1.5 million funding received for the Apple Fun Park the only money being spent on the project or is the Shire contributing additional funds?

Chief Executive Officer Response

The Federal grant is the only funding allocation to the project, the Shire is not contributing funding towards the refurbishment works.

6 PRESENTATIONS

Nil.

6.1 PETITIONS

Nil.

6.2 PRESENTATIONS

Nil.

6.3 DEPUTATIONS

Nil.

ADOPTION BY EXCEPTION

COUNCIL RESOLUTION 76/21

Moved Cr Lindemann

Seconded Cr Massey

That the following items be adopted ‘en bloc’:

- 7.1 Minutes Ordinary Meeting of Council – 28 April 2021**
- 7.2 Minutes Aged Care Community Reference Group – 29 April 2021**
- 7.3 Minutes Bush Fire Advisory Committee Meeting – 12 May 2021**
- 9.1.3 Request to Close Hinde Street Road Reserve (Unconstructed), Yabberup**
- 9.1.4 Request to Receive Spoil from Main Roads Project – Thompson’s Hill**
- 9.2.2 Monthly Financial Report – March 2021**
- 9.2.3 Monthly Financial Report – April 2021**
- 9.2.4 Establishment of New Reserve Accounts – Aged and Community Housing**
- 12.1.1 Confidential – RFT 01/2021 – Road Sweeping and Pit Pipe Cleaning**
- 12.1.3 Confidential – Donnybrook Transit Park**

CARRIED 8/0

7 CONFIRMATION OF MINUTES

7.1 ORDINARY MEETING OF COUNCIL – 28 APRIL 2021

Minutes of the Ordinary Meeting of Council held 28 April 2021 are attached (*attachment 7.1(1)*).

EXECUTIVE RECOMMENDATION

That the Minutes from the Ordinary Meeting of Council held 28 April 2021 be confirmed as a true and accurate record.

COUNCIL RESOLUTION 77/21

Moved Cr Lindemann Seconded Cr Massey

That the Minutes from the Ordinary Meeting of Council held 28 April 2021 be confirmed as a true and accurate record.

CARRIED 8/0 by En Bloc Resolution

7.2 AGED CARE COMMUNITY REFERENCE GROUP – 29 APRIL 2021

Minutes of the Aged Care Community Reference Group Meeting held 29 April 2021 are attached (*attachment 7.2(1)*).

EXECUTIVE RECOMMENDATION

That the Minutes from the Aged Care Community Reference Group Meeting held 29 April 2021 be received.

COUNCIL RESOLUTION 78/21

Moved Cr Lindemann Seconded Cr Massey

That the Minutes from the Aged Care Community Reference Group Meeting held 29 April 2021 be received.

CARRIED 8/0 by En Bloc Resolution

7.3 BUSH FIRE ADVISORY COMMITTEE MEETING – 12 MAY 2021

Minutes of the Bush Fire Advisory Committee Meeting held 12 May 2021 are attached (*attachment 7.3(1)*).

EXECUTIVE RECOMMENDATION

That the Minutes from the Bush Fire Advisory Committee Meeting held 12 May 2021 be received.

COUNCIL RESOLUTION 79/21

Moved Cr Lindemann

Seconded Cr Massey

That the Minutes from the Bush Fire Advisory Committee Meeting held 12 May 2021 be received.

CARRIED 8/0 by En Bloc Resolution

8 REPORTS OF COMMITTEES

8.1 DONNYBROOK WELL AGED UNITS

Location	Shire of Donnybrook Balingup
Applicant	Shire of Donnybrook Balingup
File Reference	CSV23
Author	Paul Breman, Director Corporate and Community
Responsible Manager	Paul Breman, Director Corporate and Community
Attachments	8.1(1) 7.0 JV Agreements
Voting Requirements	Simple Majority

Committee Recommendation
<p>That Council instruct the Chief Executive Officer to advise the Department of Communities that the Council seeks to enter negotiations with the Department of Communities to consider the future operation of all units at Minninup Cottages (122 South West Highway, Donnybrook) and all units at Langley Villas (142 South West Highway, Donnybrook) in accordance with the following clause:</p> <ol style="list-style-type: none"> 1. 7.1(e) of the Joint Venture agreements being that the Department of Communities purchase the Shire’s equitable interest in the Joint Venture properties, and in addition units 1-4 Minninup Cottages at the current market value and transfer proprietorship of the land to the Department of Communities; or. 2. 7.1(f) of the joint venture agreements being to sell the Joint Venture properties, and in addition, units 1-4 Minninup Cottages at their Current Market Value and divide the proceeds of the sale between the Parties based on each Party’s percentage of equitable Interest in the Joint Venture, providing 100% of the net proceeds from the sale of units 1-4 Minninup Cottages is returned to the Shire of Donnybrook Balingup.

STRATEGIC ALIGNMENT

The following outcome from the Corporate Business Plan relate to this proposal:

Outcome:	3.3	A safe and healthy community environment for all ages
Strategy:	3.3.1	Promote ‘ageing in place’
Action:	3.3.1.2	Review aged care services administered by the Shire

EXECUTIVE SUMMARY

The Aged Care Reference Group at its 29 April 2021 meeting considered a report relating to the future operations of the Shire managed Well Aged Units at Minninup Cottages and Langley Villas and recommended:

That Council instruct the Chief Executive Officer to advise the Department of Communities that the Council seeks to enter negotiations with the Department of Communities to consider the future operation of all units at Minninup Cottages (122 South West Highway, Donnybrook) and all units at Langley Villas (142 South West Highway, Donnybrook) in accordance with the following clause:

1. 7.1(e) of the Joint Venture agreements being that the Department of Communities purchase the Shire’s equitable interest in the Joint Venture properties, and in addition units 1-4 Minninup Cottages at the current market value and transfer proprietorship of the land to the Department of Communities; or.
2. 7.1(f) of the joint venture agreements being to sell the Joint Venture properties, and in addition, units 1-4 Minninup Cottages at their Current Market Value and divide the proceeds of the sale between the Parties based on each Party’s percentage of equitable Interest in the Joint Venture, providing 100% of the net proceeds from the sale of units 1-4 Minninup Cottages is returned to the Shire of Donnybrook Balingup.

BACKGROUND

The Shire operates the accommodation at Minninup Cottages (122 South West Hwy) and Langley Villas (142 South West Hwy) Donnybrook, collectively known as the Well-Aged/affordable accommodation Units.

The ownership and operating status of the accommodation units are set out below:

Name	Units	JV Ownership		JV Contract Term		
		Shire	State	Start	Term	Finish
Minninup	1,2,3 & 4	100%	0	N/A	N/A	N/A
Minninup	5,6,7 & 8	34.48%	65.52%	06/03/1997	25 Years	06/03/2022
Minninup	9 ,10,11 & 12	15.20%	84.80%	06/03/1997	25 Years	06/03/2022
Langley	1,2,3,4,5 & 6	23.42%	76.58%	05/01/2001	25 Years	05/01/2026
Langley	7,8 & 9	23.42%	76.58%	15/01/2001	25 Years	15/01/2026

The units were predominately constructed under five Joint Venture (JV) agreements with Homeswest (now the Department of Communities). Only units 1 to 4 Minninup Cottages are wholly owned by the Shire of Donnybrook Balingup.

The contract term of the JV agreements for units 5-8 and 9-12 Minninup Cottages terminate on 6 March 2022. The relevant JV agreements set out the following actions on expiry of the contract term as follows:

- 7.1 *At least six months before the expiration of the Term, but not earlier than 18 months before the expiration of the Term, the Parties shall agree to one of the following courses of action:*

- a) *To enter into a new joint venture agreement between the Parties on new terms and conditions with a view to continuing the Project;*
- b) *To extend the Term of the existing Agreement for a further period as agreed between the Parties;*
- c) *To assign or transfer the Organisation's Interest in the Joint Venture Property to another organisation or party which agrees to be bound by all the terms and conditions of this agreement for the new term or is willing to negotiate a new Joint Venture agreement with Homeswest;*
- d) *The Organisation to buy out Homeswest's equitable Interest in the Joint Venture at its Current Market Value;*
- e) *Homeswest to purchase the Organisation's equitable Interests in the Joint Venture Property at its Current Market Value, and thereby transfer proprietorship of the Land to Homeswest;*
- f) *To sell the Joint Venture Property at its Current Market Value and divide the proceeds of the sale between the Parties based on each Party's percentage equitable Interest in the Joint Venture as identified in Item 3 of the Schedule.*

The JV agreements for the two groups of units at Langley Villas also have similar expiry of term clauses to those contained in the Minninup JV agreements

Contact has been made with the relevant Officers at the Department of Communities and they have requested that the Council consider the termination clauses in the JV agreements and advise the Department its preferred action.

The Shire engaged Ansell Strategic to deliver a report (previously made available to the reference group) making recommendations on the future of Aged Care Services and accommodation in the District. The outcome of that review was a recommendation that the Shire should consider exiting from the delivery of aged care services. In relation to accommodation, the Ansell report (page 98) recommended the following:

'We also recommend that the Shire continues to own and manage the village in the first instance. The complexities associated with the Retirement Villages Act 1992 and joint venture arrangements with the State Government Housing Authority make transition of operations more challenging. The arrangements could be reviewed in time with the selected operator of Tuia Lodge. There are likely to be synergies between the retirement and aged care services that could be facilitated through the Reference Group (see below). In any event, this decision is likely to be less material on overall operations for the Shire.'

In relation to the operation of Tuia Lodge, the Aged Care Community Reference Group (ACCRG) recommended to the Council that Tuia Lodge be outsourced, and the Council resolved to undertake this process. At the time of making this recommendation to the Council, the ACCRG were aware the scope of the reference group was not concluded, and it remained to consider the future operation of Preston Retirement Village as well as Minninup Cottages and Langley Villas.

FINANCIAL IMPLICATIONS

As of 30th June 2020, the balance of the surplus funds relating to the Joint venture properties was as follows:

Property	Units	JV Ownership		Surplus Balance 30 June 2020
		Shire	State	
Minninup	1,2,3 & 4	100%	0	\$56,545
Minninup	5,6,7 & 8	34.48%	65.52%	\$150,785
Minninup	9 ,10,11 & 12	15.20%	84.80%	\$243,531
Langley	1,2,3,4,5 & 6	23.42%	76.58%	\$339,703
Langley	7,8 & 9	23.42%	76.58%	\$199,811
Total				\$990,375

Based on the ownership percentages relevant to the joint venture properties plus units 1-4 Minninup, the total amount of surplus balances as of 30th June 2020, to which the Shire is presently entitled was \$271,907

POLICY COMPLIANCE

Nil

STATUTORY COMPLIANCE

Nil

CONSULTATION

Nil

OFFICER COMMENT/CONCLUSION

The work in negotiating an outcome that results in Tuia Lodge being operated by another licenced provider, with the Shire leasing the land and building to that provider, is still in progress. Work continues documenting the commercial terms negotiated to date and the preferred new operator is undertaking due diligence prior to any public announcement and publication of the details of the transaction.

During the negotiations with the preferred new operator (Hall and Prior), they were requested to consider involvement in the future operation of PRV and the Well-aged units as part of their overall strategy for Aged Care services in Donnybrook. Although the preferred operator has not categorically rejected the future of this proposal, it was obvious from the discussions that activities on the scale of PRV and the Well-Aged units are not part of the overall portfolio planning for Donnybrook. Based on discussions, it is suggested the Shire should consider the potential for alternative opportunities for the future of both the PRV and Well Aged units.

Please see the attached schedule with comments on the impact of each of the courses of action as set out under 7.0 of the JV agreements (attachment 8.1.1).

To deal with only the termination of the JV agreements in relation to Minninup Cottages without also considering the future of the adjacent Langley Villas, even though the Langley JV agreements still have some years to run, would be short sighted. If the Department of Communities was willing to consider a bundled approach to all the JV agreements, this would seem to be the best outcome.

The practical course of action available to the Shire to exit operation of the units and still maintain the service to the community would be to:

7.1(e) request the State to purchase the Shire's equitable interest in all the well-aged units including units 1 to 4 (wholly owned by the Shire) at agreed market value resulting in the Department of Communities operating all units at Minninup and Langley on the same basis as is undertaken by the Shire; or

7.1(f) Seek approval from the Department of Communities to jointly sell all JV units and add into the sale the units wholly owned by the Shire, to achieve the transfer to another entity whose objects and charter align with the ongoing delivery of affordable accommodation.

If the JV units were sold to the State, it would trigger clause 8.7 and 8.8 of the agreements in that:

8.7 Any surplus income accumulated by the Organisation (Shire) from the management and operation of the Units may be used, subject to the approval of Homeswest, as cash contributions towards further low-income rental housing projects, improvements or upgrades to existing Joint Venture Units or other purposes agreed in writing by Homeswest.

8.8 Where no agreed purpose can be found for the use of surplus income as referred to be Clause 8.7 or the Guidelines, then such surplus is to be divided proportionately between Homeswest and the Organisation (Shire) based on each Parties percentage equitable Interest in the Joint Venture as identified in Item 3 of the Schedule.

OUTCOME OF MEETING

Cr Mitchell declared an impartiality interest in the item and remained in the Chamber for the duration of the discussion and vote on the matter.

Cr Smith declared a financial interest in the item and left the Chamber at 6.18pm.

EXECUTIVE RECOMMENDATION

Moved Cr Lindemann

Seconded Cr Atherton

That Council instruct the Chief Executive Officer to advise the Department of Communities that the Council seeks to enter negotiations with the Department of Communities to consider the future operation of all units at Minnipup Cottages (122 South West Highway, Donnybrook) and all units at Langley Villas (142 South West Highway, Donnybrook) in accordance with the following clause:

1. 7.1(e) of the Joint Venture agreements being that the Department of Communities purchase the Shire's equitable interest in the Joint Venture properties, and in addition units 1-4 Minnipup Cottages at the current market value and transfer proprietorship of the land to the Department of Communities; or
2. 7.1(f) of the joint venture agreements being to sell the Joint Venture properties, and in addition, units 1-4 Minnipup Cottages at their Current Market Value and divide the proceeds of the sale between the Parties based on each Party's percentage of equitable Interest in the Joint Venture, providing 100% of the net proceeds from the sale of units 1-4 Minnipup Cottages is returned to the Shire of Donnybrook Balingup.

AMENDMENT

Moved Cr Massey

Seconded Cr Atherton

That Council instruct the Chief Executive Officer to advise the Department of Communities that the Council seeks to enter discussion with the Department of Communities to consider the future operation of all units at Minnipup Cottages (122 South West Highway, Donnybrook) and all units at Langley Villas (142 South West Highway, Donnybrook) in accordance with the following clause:

- ~~1. 7.1(e) of the Joint Venture agreements being that the Department of Communities purchase the Shire's equitable interest in the Joint Venture properties, and in addition units 1-4 Minnipup Cottages at the current market value and transfer proprietorship of the land to the Department of Communities; or.~~
- ~~2. 7.1(f) of the joint venture agreements being to sell the Joint Venture properties, and in addition, units 1-4 Minnipup Cottages at their Current Market Value and divide the proceeds of the sale between the Parties based on each Party's percentage of equitable Interest in the Joint Venture, providing 100% of the net proceeds from the sale of units 1-4 Minnipup Cottages is returned to the Shire of Donnybrook Balingup.~~

CARRIED 7/0

COUNCIL RESOLUTION 80/21

Moved Cr Lindemann

Seconded Cr Atherton

That Council instruct the Chief Executive Officer to advise the Department of Communities that the Council seeks to enter discussion with the Department of Communities to consider the future operation of all units at Minnipup Cottages (122 South West Highway, Donnybrook) and all units at Langley Villas (142 South West Highway, Donnybrook).

CARRIED 7/0

9 REPORTS OF OFFICERS

9.1 DIRECTOR OPERATIONS

9.1.1 PETITION – REQUEST FOR THE SEALING OF FARLEY ROAD, PAYNE DALE

Location	Paynedale
Applicant	Petitioners
File Reference	CNL 16
Author	Damien Morgan, Manager Works and Services
Responsible Manager	Damien Morgan, Manager Works and Services
Attachments	9.1.1(1) Farley Road Petition 9.1.1(2) Unsealed Roads Upgrade Plan
Voting Requirements	Simple Majority

Recommendation
<p>That Council:</p> <ol style="list-style-type: none"> 1. Formally acknowledges the petition presented to Council at the Ordinary Council Meeting in March 2021 requesting the sealing of the gravel section of Farley Road, Paynedale; 2. Advises the petitioners that a formal assessment of Farley Road has been undertaken by the Shire in accordance with the criteria contained in Council’s “Unsealed Roads Upgrade Plan”; 3. Advises the petitioners that the formal assessment has determined that the proposal does not achieve a ranking that would warrant the upgrading of the gravel section of Farley Road to a sealed standard; 4. Advises the petitioners that Farley Road will continue to be maintained by the Shire as a gravel road; 5. Instructs the Chief Executive Officer to install an appropriate advanced warning sign prior to the end of the existing seal on Farley Road outlining that “gravel road surface conditions change often”.

STRATEGIC ALIGNMENT

The following outcomes from the Corporate Business Plan relate to this proposal:

Outcome	4.1	A strategically focused, open and accountable local government.
Strategy	4.1.2	Continue to enhance communication and transparency
Action	4.1.2.1	Ongoing meaningful communication and engagement with residents, ratepayers and stakeholders.

EXECUTIVE SUMMARY

Council has received a petition requesting it to consider the early sealing of the remaining 3km gravel section of Farley Road, Paynedale.

The prioritisation for upgrading of gravel roads to a sealed standard in the Shire is based on the Shire of Donnybrook Balingup “*Unsealed Roads Upgrade Plan*” (URUP, Attachment 9.1.1(2)).

Assessment of Farley Road in accordance with the URUP, indicates that it does not meet the criteria to warrant inclusion within existing gravel road upgrading programs.

BACKGROUND

Presentation of Petition

Council at the March 2021 Ordinary Council Meeting received a petition (refer attachment 9.1.1(1)) presented by Mr Wayne Hammond containing the following wording:

To: The Shire President and Shire of Donnybrook Councillors assembled.

We the undersigned being the residents of Farley Road respectfully request the Donnybrook Balingup Shire Council to consider the early sealing of the remaining 3km of gravel and dirt road.

Based on information provided by the petitioners, the petition contains approximately 372 signatures. It is noted that a significant proportion of signatures are from individuals based outside of the Shire.

Council has previously been requested to consider requests to seal Farley Road on a number of occasions as follows:

- June 2016 meeting (petition containing 318 signatures);
- March 2011 meeting;
- March 2010 meeting;
- March 2008 meeting;
- April 2007 meeting.

Previously, the matter was referred for further consideration through the preparation of annual budgets.

FINANCIAL IMPLICATIONS

The upgrading of gravel roads to a sealed standard represents a significant cost for which the Shire has limited funds.

In order to deal with requests of this nature and establish an objective process for decision-making, Council developed the URUP in 2019 to enable the limited Shire funds to be directed to the highest priority projects based on established criteria.

POLICY COMPLIANCE

Shire of Donnybrook Balingup, Engineering Policy – 4.28 “*Request for Upgrades or Expansions of Council Assets*”, provides guidance on Council’s process in considering external requests for the construction of a new, or upgrade to an existing, infrastructure asset (including roads).

This Policy indicates that Council may consider a request for an upgrade for works not considered a priority, subject to an external contribution towards the cost.

Council will only consider these requests if the following criteria is met:

- Property owner/s are proposing to contribute at least 50% of the cost of the upgrades.
- The standard of the upgrade or expansion to the Shire’s satisfaction.
- Works are completed by the Shire or a contractor approved by the Shire.
- The property owner/s must agree to the above points in writing prior to the request being presented to Council for endorsement.
- Council endorsement will outline the programing and Council’s contribution to the works. Typically, the works will be programmed in the following financial year and Council’s contribution is typically limited to \$50,000.
- If the works are to be completed by the Shire, works will only commence once the Shire has received the full private contribution.

It is noted that there has not been any proposal of this type and therefore it is understood that the petitioners are requesting the Shire to fully fund any works.

STATUTORY COMPLIANCE

Dealing with a Petition

The provisions relevant to receiving and dealing with a petition are outlined under Clause 6.10 of the Shire of *Donnybrook Balingup Meeting Procedures Local Law 2017* (Local Law).

Section 1 of the clause outlines the form a petition should take with Sections 2 and 3 outlining how a petition should be dealt with as follows:

6.10 Petitions

- (1) A petition is to—
 - a) be addressed to the President;
 - b) be made by electors of the district;
 - c) state the request on each page of the petition;
 - d) contain the name, address and signature of each elector making the request, and the date each elector signed;

- e) contain a summary of the reasons for the request; and
 - f) state the name of the person to whom, and an address at which, notice to the petitioners can be given.
- (2) Upon receiving a petition, the local government is to submit the petition to the relevant officer to be included in his or her deliberations and report on the matter that is the subject of the petition, subject to subclause (3).
 - (3) At any meeting, the Council is not to vote on any matter that is the subject of a petition presented to that meeting, unless—
 - a) the matter is the subject of a report included in the agenda; and
 - b) the Council has considered the issues raised in the petition.

As per the Local Law, petitioners are required to be electors of the district and date the petition when they sign. It is noted that a number of petitioners were not local residents, and a number did not include the date of signing as required, however this does not have a significant bearing on the recommendations of Staff.

CONSULTATION

Public consultation was undertaken in the development of the Shire's *Unsealed Roads Upgrade Plan* applicable to this petition request.

OFFICER COMMENT/CONCLUSION

The Works and Services section has developed the following documents in recent years due to regularly receiving request from the public for the upgrade or expansion of assets:

- Pathways and Trails Expansion Strategy 2018, and
- Unsealed Roads Upgrade Plan 2019

Expectations of the public regarding the level of service provided by the Shire's road and path networks are constantly increasing. Unsealed roads are often seen as being unacceptable, due to concerns such as dust nuisance, corrugations, loose material, environmental issues and safety.

The URUP was developed in response to a Council request to develop a suitable process for determination and validation of the highest priority unsealed roads for upgrading.

The total length of the Shire's road network is approximately 680km, with 290km of sealed roads and 390km of unsealed roads. The unsealed road network generally comprises of roads which provide a variety of functions and typically experience daily traffic volumes of between 10 and 150 vehicles per day.

The assessment and prioritisation process was developed taking into account a range of road characteristics and function criteria. Each road is assessed against these criteria and scored, a weighting applied to each score relevant to the road's importance, and the weighted scores added to provide an overall score for the road. The roads are then ranked in order of overall

scores. This process was refined through several iterations and trial assessments of selected roads of varying hierarchy.

Assessment of the Shire’s unsealed road network has been undertaken for approximately 65km of a total of 390km of unsealed roads, generally focusing on higher order roads considered likely to achieve a higher score. Assessment of the remainder of the unsealed roads is progressively being undertaken, as resources permit. In addition, assessments are undertaken on an ad-hoc basis in response to requests received, such as that the subject of this report.

Below is the current works program developed from this process.

Road Name	Start SLK	End SLK	Length (m)	Total Score	Recommendation for Funding	2020	2021	2022	2023	2024
Southampton Road	6510	7780	1270	53	Seek External Funding					
Southampton Road	8040	8620	580	49	Seek External Funding					
Southampton Road	8620	8960	340	49	Seek External Funding					
Newlands Road	400	2440	2040	48	Yes - Council Funding					
Ryalls Road	0	2460	2460	48	Yes - Council Funding					
Greenbushes Road	1620	2930	1310	46	Seek External Funding					
Newlands Road	2440	3140	700	45	Yes - Council Funding					
Ryalls Road	6750	10700	3950	45	No					
Southampton Road	9170	10240	1070	44	Seek External Funding					
Greenbushes Road	11000	12660	1660	43	No					
Ryalls Road	3970	6750	2780	43	No					
				18,160						

1. This is an indicative program only and is subject to change.
2. The first year of this indicative program will be submitted annually to Council for inclusion in the Works Program.
3. The top 10 ranked projects will be reviewed annually and, if required, modified to reflect any changes in the road network.

It is noted that the roads contained in the above table have numerous sections that will require further consideration for sealing beyond the existing program. By way of some examples Southampton Rd has six separate sections and Greenbushes Rd has eight separate sections. Depending on available funding some of these ‘sections’ may be staged over several years.

In response to the recent petition, Staff have undertaken a further review of Farley Road based on the URUP criteria. This review has identified that Farley Road is not a high priority gravel road for sealing and is unlikely to achieve a ranking above the already identified roads that form part of the existing program and/or those already identified for further consideration in future years beyond 2024 that achieve a higher score.

It is recommended that Farley Road continue to be maintained as a gravel road by the Shire, with the installation of warning signage like the below for drivers not familiar with gravel road surfaces.



Cr Smith declared an interest in the item and remained out of the Chamber following the previous item.

COUNCIL RESOLUTION 81/21

Moved Cr Wringe Seconded Cr Lindemann

That Council:

- 1. Formally acknowledges the petition presented to Council at the Ordinary Council Meeting in March 2021 requesting the sealing of the gravel section of Farley Road, Paynedale;**
- 2. Advises the petitioners that a formal assessment of Farley Road has been undertaken by the Shire in accordance with the criteria contained in Council’s *“Unsealed Roads Upgrade Plan”*;**
- 3. Advises the petitioners that the formal assessment has determined that the proposal does not achieve a ranking that would warrant the upgrading of the gravel section of Farley Road to a sealed standard;**
- 4. Advises the petitioners that Farley Road will continue to be maintained by the Shire as a gravel road;**
- 5. Instructs the Chief Executive Officer to install an appropriate advanced warning sign prior to the end of the existing seal on Farley Road outlining that “gravel road surface conditions change often”.**

CARRIED 7/0

Cr Smith returned to the Chamber at 6.41pm.

9.1.2 BALINGUP TOWNSCAPE COMMITTEE – PROPOSED 2021/22 PROJECTS

Location	Shire of Donnybrook Balingup
Applicant	Shire of Donnybrook Balingup
File Reference	FNC08/6
Author	Steve Potter, Director Operations
Responsible Officer	Steve Potter, Director Operations
Attachments	Nil
Voting Requirements	Simple majority

Recommendation
<p>That, subject to Balingup Progress Association approval, Council:</p> <ol style="list-style-type: none"> 1. Provides preliminary support for the following proposed Balingup Townscape Committee projects; <ol style="list-style-type: none"> 1.1 Installation of five steel stencil cut-outs at the northern entry to the Balingup townsite representing five of the town icons (Small Farm Field Day, Telling Tales, Medieval Carnival, Art Affair and the Golden Valley Tree Park); 1.2 Replacing the banners on the existing poles at the northern entry to the Balingup townsite; 1.3 Installing solar lighting over the existing picnic table adjacent to the Balingup Brook; 1.4 Installing a canoe launch platform in the Balingup Brook; 1.5 Replacement seedlings for planter boxes / baskets. 2. Instructs the Chief Executive Officer to make provision for \$11,500 in the draft 2021/22 Annual Budget for Balingup Townscape Activities; 3. Advises the Balingup Townscape Committee that approved projects will be confirmed through the Annual Budget and further written advice will be provided in this regard.

STRATEGIC ALIGNMENT

The following outcomes from the Strategic Community Plan relate to this proposal:

Outcome:	3.2	Well supported community groups and facilities
Strategy:	3.2.2	Encourage and support volunteers and community organisations
Action:	3.2.2.2	Provide support for community organisations

EXECUTIVE SUMMARY

In accordance with Council's recently adopted Community Townscape Policy and associated Operational Procedure, the Balingup Townscape Committee has made an application for proposed projects for the 2021/22 financial year.

It is recommended that Council provides its preliminary support for the proposed projects, for inclusion and further consideration in the draft 2021/22 Annual Budget.

BACKGROUND

At the April Ordinary Council meeting, Council resolved to adopt a new Council Policy (Community Townscape Activities) to guide the allocation of Shire funds and provide appropriate oversight to community driven townscape projects.

The adopted Policy was accompanied by an Operational Procedure which outlined the process for making application for new projects, which requires that the relevant community group outline in an application their proposed works for the following financial year. Such proposals are to be presented to Council for consideration for inclusion in the draft Budget.

The Balingup Townscape Committee has submitted its proposals for the 2021/22 financial year which are summarised below:

Project 1: Northern Entry Statement (Steel Stencil Cutouts x 5)

Estimated Cost: \$3,505

Description:

Cut out stencils representing Small Farm Field Day, Golden Valley Tree Park, Telling Tales, Art Affair and Medieval Carnival. Standing in front of a Colorbond back drop approximately 2-3 metres back from the adjoining fence. Each one set at a diagonal spacing from each other 6-7 metres apart.

Project 2: Banner Project

Estimated Cost: \$4,000

Description:

Replace the six double sided steel banners on the existing banner poles. Each side will depict a community organisation in town: "This is Balingup."

Project 3: Solar Lighting

Estimated Cost: \$2,500

Description:

Installation of a pole containing a solar light next to the picnic table beside the Balingup Brook near the weir.

Project 4: Canoe Launch Platform

Estimated Cost: \$1,000

Description:

Erect a platform made of limestone blocks as a stable area to launch a canoe into the Balingup Brook downstream from the road bridge on Birdwood Avenue near the car park.

Project 5: Seedlings for Planter Boxes / Hanging Baskets

Estimated Cost: \$500

Description: To be used on various planter boxes and hanging baskets in the town.

It is noted that the BTS was requested to propose its projects in order of preference and therefore if Council is of the opinion that a reduced amount of funds should be allocated, it is recommended that the lower order projects be removed first. This does not include 'Project 5' (seedlings) which is considered by the BTC to be a necessity each year.

FINANCIAL IMPLICATIONS

Council will need to determine the extent it wishes to deliver townscape projects through its Annual Budget.

It is noted that the current Budget contains the following allocations for townscape activities:

- Kirup/Mullalyup Townscape Works (\$2,000)
- Donnybrook Townscape Works (\$5,000)
- Balingup Townscape Works (\$5,000)

The allocated amount was reduced in 2021/22 in response to a constrained Budget arising from the COVID situation, however, has been higher in previous years. By way of comparison, in 2018/19 the Balingup Townscape Committee was granted \$32,000 for townscape activities.

Cl. 5.1.4 of the Shire's new Policy (Community Townscape Activities), states:

“Council will endeavour to achieve a balanced approach to allocating funds between Balingup and Donnybrook, with Kirup to receive an amount equivalent to 50% of the amount allocated to the two larger towns, however all final allocations are at the absolute discretion of Council.”

Council will therefore need to consider the implications of approving \$11,500 of funding for the BTS as requested, as this would potentially mean that \$11,500 and \$5,750 would need to be allocated to the Donnybrook and Kirup townsites respectively in the 2021/22 Budget.

When compared to the current year's allocation, this collectively would represent an overall increase of \$16,750 to the current allocation if Cl. 5.1.4 were to be strictly adhered to.

POLICY COMPLIANCE

Council Policy – *Community Townscape Activities*

STATUTORY COMPLIANCE

Projects will need to obtain any relevant approvals, with further advice to be provided to the BTC once more detail is established.

CONSULTATION

Consultation has been undertaken with the BTC throughout the application process.

OFFICER COMMENT / CONCLUSION

Under the new Policy and Operational Procedures, townscape groups are required to submit applications in March of each year, with a report to be presented to the May OCM. However, as Council only adopted the Policy at the April Council meeting there has been limited time for the BTC to prepare its application to enable a report to be prepared to be presented at the May OCM.

The result of this is that there is possibly some room for improvement in terms of the detail contained in the application, particularly in terms of diagrams and/or plans demonstrating what is being proposed. Shire staff have found the BTC to be very cooperative as new processes have been developed recently and it is anticipated that with additional time and ongoing collaboration between the Shire and the BTC, that the standard of applications will improve in future years.

In light of the above, Staff are confident that the nature of the proposed projects is consistent with the intent of the new Policy and are suitable for delivery by the BTC. Once further details are known, there may be the need for additional approvals from agencies such as Main Roads WA, however Staff are confident that this can be worked through between the Shire and the BTC at the appropriate time.

In terms of the funds being requested by the BTC, Staff consider this to be reasonable based on previous allocations and the current financial climate and therefore recommends that Council provides its preliminary support.

Cr Massey declared an impartiality interest in the item and remained in the Chamber for the duration of the discussion and vote on the matter.

COUNCIL RESOLUTION 82/21

Moved Cr Atherton Seconded Cr Newman

That, subject to Balingup Progress Association approval, Council:

- 1. Provides preliminary support for the following proposed Balingup Townscape Committee projects;**
 - 1.1 Installation of five steel stencil cut-outs at the northern entry to the Balingup townsite representing five of the town icons (Small Farm Field Day, Telling Tales, Medieval Carnival, Art Affair and the Golden Valley Tree Park);**
 - 1.2 Replacing the banners on the existing poles at the northern entry to the Balingup townsite;**
 - 1.3 Installing solar lighting over the existing picnic table adjacent to the Balingup Brook;**
 - 1.4 Installing a canoe launch platform in the Balingup Brook;**
 - 1.5 Replacement seedlings for planter boxes / baskets.**
- 2. Instructs the Chief Executive Officer to make provision for \$11,500 in the draft 2021/22 Annual Budget for Balingup Townscape Activities;**
- 3. Advises the Balingup Townscape Committee that approved projects will be confirmed through the Annual Budget and further written advice will be provided in this regard.**

CARRIED 8/0

9.1.3 REQUEST TO CLOSE HINDE STREET ROAD RESERVE (UNCONSTRUCTED), YABBERUP

Location	Hinde Street, Yabberup
Applicant	Nick and Kylie Williams
File Reference	A5357
Author	Kira Strange, Principal Planner
Responsible Manager	Steve Potter, Director Operations
Attachments	Attachment 9.1.3(1) – Location Plan Attachment 9.1.3(2) – Formal Request to Close Road Attachment 9.1.3(3) – Preliminary Written Advice
Voting Requirements	Simple Majority

Recommendation
<p>That Council:</p> <p>1. Pursuant to Section 58 of the <i>Land Administration Act 1997</i> resolves to:</p> <p>1.1 Advertise the proposed closure of the unconstructed road reserve historically known as ‘Hinde Street’ in Yabberup, as depicted by Attachment 9.1.3(1);</p> <p>1.2 Authorise the Chief Executive Officer to request the Minister for Lands to close the road subject to:</p> <p>1.2.1 No objections being received by the general public, surrounding landowners and/or relevant external agencies as a result of advertising; and</p> <p>1.2.2 All associated costs with the request being borne by the relevant applicant/landowner.</p>

STRATEGIC ALIGNMENT

The following outcomes from the Corporate Business Plan relate to this proposal:

- Outcome 2.1. An attractive and maintained built environment
- Strategy 2.1.2. Provide effective and efficient regulatory services
- Action 2.1.2.2 Provide efficient and effective building services

EXECUTIVE SUMMARY

The Shire has received a request to close an unconstructed road reserve for the purposes of private acquisition by an adjoining landowner.

Road closure requests are administered by the Local Government in accordance with the *Land Administration Act 1997* (LAA) and *Land Administration Regulations 1998* (LAR) then forwarded to the Minister for Lands for approval.

The Shire has completed a preliminary review of the request where no significant issues were identified.

It is recommended that the request be administered in accordance with the LAA and LAR, including appropriate advertising, and forwarded to the Minister for Lands for approval subject to no further issues and/or objections being identified.

BACKGROUND

On 30 March 2021, the Shire received a preliminary request to close the portion of road historically known as Hinde Street, Yabberup. The road reserve, totaling 5,284m², is currently unconstructed and is not identified within the Shire's Works and Services program for future construction.

Following the preliminary investigation and provision of written feedback (Attachment 9.1.3 (3)), the Shire received a formal request to close the subject portion of road on 28 April 2021.

The request has been made by the adjacent landowner of Lot 40 (10) Jones Street, Yabberup, for the purposes of private acquisition and amalgamation with their property. A location plan of the subject road reserve parcel is illustrated in Attachment 9.1.3(1).

FINANCIAL IMPLICATIONS

There are no financial implications for Council. The applicant has paid the relevant fees including:

- Part 1: Written Planning Advice – Preliminary investigation and feedback (\$73.00)
- Part 2: Formal Request to Close Road (\$750.00 plus associated costs to be determined)

In addition, the applicant has provided written confirmation in accepting responsibility of all associated costs as required by the Local Government and/or the Department of Planning, Lands and Heritage (DPLH) such as advertising, surveying, plan/document preparation, etc. (see Attachment 9.1.3 (2))

POLICY COMPLIANCE

Local Planning Policy 9.9 Road Closure (LPP 9.9) outlines the following parameters relevant to a request of this nature:

1. *Council will not support the closure of any gazetted public road which has any possibility whatsoever of being utilised. There is a general presumption against the closing of roads.*
2. *Council will, however, consider the closure of a gazetted road where it will have no impact upon legal practical access to any property and will result primarily in the rationalisation of land and roads within the Shire.*

3. *In the event that Council supports the closure of a road the proponent will be liable for all costs involved with the road closure.*

A preliminary review of the proposal confirms that the request meets the requirements of LPP 9.9 and can be considered by Council.

STATUTORY COMPLIANCE

A request to the Minister for Lands to formally close a road is to be made in accordance with Section 58 of the *Land Administration Act 1997* including the requirement to advertise the closure for a period of no less than 35 days.

For the purposes of preparing a request under the LAA, the Local Government must also adhere to the requirements of Regulation 9 of the *Land Administration Regulations 1998*.

In summary, the request to the Minister must be accompanied by:

- A written, in-principle agreement from the landowner/applicant to purchase the land identified for closure;
- Plans of the location of the road and portion to be closed;
- A copy of the Council Resolution(s) to initiate and support the proposed closure;
- A copy of the public advertisement/notification (required for a period of no less than 35 days);
- Copies of any submission(s) received during the public/advertisement period;
- The local government's assessment of the comments received; and
- Any other relevant information.

CONSULTATION

In accordance with the LAA, the proposed road closure will be advertised to the general public in a newspaper circulating the district with comments invited for a period of no less than 35 days. In addition, letter notifications will be provided to surrounding landowners inviting direct comment on the proposed closure.

It is noted that if the landowner of Lot 61 expresses an interest in purchasing a portion of the adjacent road, this can be considered by the DPLH in conjunction with the current applicant. Ultimately however, this does not impact the administrative process of closing the road reserve as it only relates to the final tenure and boundary arrangement as determined at a later stage by the DPLH.

During the preliminary review of the request (Part 1), a Dial Before You Dig enquiry resulted in two agencies identifying assets within the location: Western Power and Telstra. In this regard, the proposed road closure will be referred to relevant external agencies including but not limited to:

- Western Power;
- Telstra;
- Water Corporation;
- Main Roads Western Australia;
- Western Australian Planning Commission;
- Department of Mines, Industry Regulation and Safety;
- Department of Biodiversity, Conservation and Attractions;

- Department of Water and Environmental Regulation; and
- Department of Fire and Emergency Services.

OFFICER COMMENT/CONCLUSION

Road reserves are allocated Crown Land and generally under the care and control of the local government (except for main roads under the care and control of Main Roads WA).

In order for landowners/applicants to purchase a portion of road (whether unconstructed or not) the actual road reserve parcel needs to be formally closed. In order to do this, the Local Government (at the request of the landowner/applicant) has to administer the request under the LAA and LAR and formally request the Minister for Lands to close the road.

A preliminary assessment of the proposed road closure indicates the following:

- The subject road reserve is unconstructed;
- The Shire's Works and Services team have advised that there are no current or future plans for the construction of a road within this road reserve;
- The road reserve adjoins the Donnybrook Boyup Brook Road which is a Main Roads WA controlled road;
- Lot 40 currently has legal access to their property by way of an easement over Lot 61 and 60 connecting to Jones Street; and
- Lot 61 has direct access to Donnybrook Boyup Brook Road.

A full copy of the preliminary assessment provided to the applicant is available in Attachment 9.1.3(3).

It is unlikely that this road reserve will be utilised, nor will it impact current legal access provisions to surrounding properties. In addition, the applicant has agreed to all associated costs with the request. In this regard, the proposed road closure complies with LPP 9.9 and can be supported by Council subject to no objections being received by external agencies and/or the general public.

It is therefore recommended that Council resolve in accordance with the Officer's recommendation.

COUNCIL RESOLUTION 83/21

Moved Cr Lindemann

Seconded Cr Massey

That Council:

1. Pursuant to Section 58 of the *Land Administration Act 1997* resolves to:

1.1 Advertise the proposed closure of the unconstructed road reserve historically known as 'Hinde Street' in Yabberup, as depicted by Attachment 9.1.3(1);

1.2 Authorise the Chief Executive Officer to request the Minister for Lands to close the road subject to:

- 1.2.1 No objections being received by the general public, surrounding landowners and/or relevant external agencies as a result of advertising; and**
- 1.2.2 All associated costs with the request being borne by the relevant applicant/landowner.**

CARRIED 8/0 by En Bloc Resolution

9.1.4 REQUEST TO RECEIVE SPOIL FROM MAIN ROADS PROJECT – THOMPSON’S HILL

Location	Donnybrook Waste Management Facility
Applicant	Main Roads WA
File Reference	HLT 09/2
Author	Steve Potter, Director Operations
Responsible Manager	Steve Potter, Director Operations
Attachments	Nil
Voting Requirements	Simple Majority

Recommendation
<p>That Council:</p> <ol style="list-style-type: none"> 1. Authorises the storage of soil material from the Main Roads WA Thompson’s Hill road construction project at the Donnybrook Waste Management Facility for future use in rehabilitation activities and the construction of hard stand areas for Shire use; 2. Authorises the storage of any additional soil material unable to be catered for at the Donnybrook Waste Management Facility at the Shire Depot (Reserve 19996) at the discretion of the Chief Executive Officer; 3. Authorises a one-off Shire contribution of \$50,000 from A/C 160140 (Infrastructure – Donnybrook Refuse Site) to be paid to Main Roads WA towards the cost of transporting the material from Thompson’s Hill to the Donnybrook Waste Management Facility; 4. Allocates \$100,000 in the 2021/22 draft Annual Budget for works associated with managing the soil material to be sourced from the Waste Management Reserve; 5. Instructs the Chief Executive Officer to undertake public notification of the increased heavy haulage activity, with specific regard to the landowners along the intended transport route.

STRATEGIC ALIGNMENT

The following outcomes from the Strategic Community Plan relate to this proposal:

Outcome	2	Respect for our heritage, natural and built environment
Strategy	2.4	Efficient and effective waste management
Action	2.4.1	Undertake efficient waste management services

EXECUTIVE SUMMARY

The Shire has been in discussions with Main Roads WA (MRWA) for an extended period with regard to a significant road project which is currently under construction on South Western Highway, Brookhampton (Thompson's Hill). The nature of the discussions have focused on the potential for MRWA to dispose of excess soil material resulting from the project on Shire land and the Donnybrook Waste Management Facility (DWMF) was identified as a possible site, due to the availability of land and the need for the Shire to cap and rehabilitate the landfill at some point in the future.

Whilst at times, it has been unclear as to whether the material would be forthcoming, the Shire has recently been advised that MRWA is in a position to commit the material, however, has requested that the Shire make a contribution towards the cost of carting it to the identified site.

It is recommended that Council authorises the storage of the soil material at the DWMF and approves a contribution of \$50,000 towards the cost of cartage.

BACKGROUND

Discussions between the Shire and MRWA have been ongoing since 2019, when the Thompson's Hill road project was still in the planning phase.

MRWA have recently re-engaged with the Shire on this matter and are keen to commence cartage in the near future (subject to Council approval). It is understood there is approximately 140,000m³ of material available, of which approximately 80,000m³ is estimated to be required for the future capping of the DWMF landfill.

Additional material (if available) will provide an opportunity to level off sloping ground on the adjacent land to the landfill, to provide a useable area for the Shire to store materials (pipes, gravel etc.) in the future and establish services such as green waste processing and recycling areas associated with the future use of the site as a transfer station.

It is noted that the Shire has currently engaged a consultant to revise the Landfill Closure Management Plan (LCMP) for the DWMF. The LCMP will detail the final landform for the landfill component and provide an indicative estimate of how many years the landfill may have until it reaches capacity. In addition, it will outline capping and other rehabilitation requirements, which will enable accurate estimates of the total amount of soil material required. This may result in an amended estimate to the amount required for the capping depending on the final footprint of the landfill area and therefore it has been suggested an amount of 91,000m³ should be delivered to the DWMF.

In terms of numbers, MRWA has advised that the following would likely apply to deliver 91,000m³ material to the DWMF.

- 5 road trains operating approximately 12 hours / day;
- 30m³ per load;
- Each road train completing 1.26 loads per hour;
- 48 minute travel turnaround;
- 1893m³ delivered per day;
- Estimated 48 days to deliver 91,000m³.

FINANCIAL IMPLICATIONS

As part of discussions MRWA have requested the Shire make a contribution towards the cartage costs of transporting the material to the DWMF. Whilst the request was originally for \$126,000 (representing 50% of the cartage costs), officers have advised MRWA that the recommendation to Council will be for a one-off lump sum contribution of \$50,000. As the Shire was aware that the soil material from MRWA may become available in this financial year, suitable provision was made in the 2020/21 Budget for costs associated with receiving the material and therefore this has been provided for. It is noted that if the Shire was to purchase 91,000m³ at market rates this would equate to \$1,183,000 (based on a rate of \$13/m³).

It is noted that whilst the availability of the soil represents a windfall to the Shire, it will require the allocation of additional funds to manage the material and the recommended contribution to MRWA takes this additional cost into account. The material will be 'paddock dumped' at the DWMF site and therefore the Shire will need to have its own machinery / contractors available at appropriate times to disperse, level and/or compact the material and it is recommended that adequate funds be made available in the draft 2021/22 Budget for this to continue into next financial year.

POLICY COMPLIANCE

Nil.

STATUTORY COMPLIANCE

Nil.

CONSULTATION

The cartage of the material to the DWMF will utilise the use of heavy haulage semi-trailers, which will access through a portion of the Donnybrook townsite via Marmion Street and Emerald Street and will directly pass the front of approximately 30 residential properties. It is noted that this route is a designated heavy haulage route which is administered by MRWA and therefore the road is both designed and intended to be used for the proposed purpose. However, it is considered appropriate for the Shire to undertake notification by direct letter to residents, to ensure they are suitably informed of the anticipated temporary increase in heavy haulage vehicle traffic. In addition, other public notification to the wider community will occur via social media and the Preston Press.

OFFICER COMMENT/CONCLUSION

The opportunity to access the excess soil material from MRWA emanating from the Thompson's Hill road construction project is an important one for the Shire, given its future obligations to cap and rehabilitate the landfill facility. In addition, additional soil material at the site will enable currently sloping land to be levelled and therefore made useable for a variety of Shire and waste management purposes associated with the likely future use of the site as a transfer station.

Whilst the cartage of the material to site may have a short-term impact on a limited number of local residents, the long-term benefits and cost savings associated with the future rehabilitation

of the landfill, suggest that Council should support the proposal as outlined in the Officer recommendation.

COUNCIL RESOLUTION 84/21

Moved Cr Lindemann

Seconded Cr Massey

That Council:

- 1. Authorises the storage of soil material from the Main Roads WA Thompson’s Hill road construction project at the Donnybrook Waste Management Facility for future use in rehabilitation activities and the construction of hard stand areas for Shire use;**
- 2. Authorises the storage of any additional soil material unable to be catered for at the Donnybrook Waste Management Facility at the Shire Depot (Reserve 19996) at the discretion of the Chief Executive Officer;**
- 3. Authorises a one-off Shire contribution of \$50,000 from A/C 160140 (Infrastructure – Donnybrook Refuse Site) to be paid to Main Roads WA towards the cost of transporting the material from Thompson’s Hill to the Donnybrook Waste Management Facility;**
- 4. Allocates \$100,000 in the 2021/22 draft Annual Budget for works associated with managing the soil material to be sourced from the Waste Management Reserve;**
- 5. Instructs the Chief Executive Officer to undertake public notification of the increased heavy haulage activity, with specific regard to the landowners along the intended transport route.**

CARRIED 8/0 by En Bloc Resolution

9.2 DIRECTOR CORPORATE AND COMMUNITY

9.2.1 ACCOUNTS FOR PAYMENT

The Schedule of Accounts Paid (*attachment 9.2.1(1)*) under Delegation (No 3.1) is presented to Council for information.

9.2.2 MONTHLY FINANCIAL REPORT – MARCH 2021

The Monthly Financial Report for March 2021 is attached (*attachment 9.2.2(1)*).

At its meeting held 28 April 2021, Council resolved as follows:

COUNCIL RESOLUTION 46/21

That item 9.2.2 Monthly Financial Report – March 2021 be removed from en bloc and presented to the May 2021 Ordinary Council Meeting.

EXECUTIVE RECOMMENDATION

That the monthly financial report for the period ended March 2021 be received.

COUNCIL RESOLUTION 85/21

Moved Cr Lindemann Seconded Cr Massey

That the monthly financial report for the period ended March 2021 be received.

CARRIED 8/0 by En Bloc Resolution

9.2.3 MONTHLY FINANCIAL REPORT – APRIL 2021

The Monthly Financial Report for April 2021 is attached (*attachment 9.2.3(1)*).

EXECUTIVE RECOMMENDATION

That the monthly financial report for the period ended April 2021 be received.

COUNCIL RESOLUTION 86/21

Moved Cr Lindemann Seconded Cr Massey

That the monthly financial report for the period ended April 2021 be received.

CARRIED 8/0 by En Bloc Resolution

9.2.4 ESTABLISHMENT OF NEW RESERVE ACCOUNTS – AGED AND COMMUNITY HOUSING

Location	Shire of Donnybrook Balingup
Applicant	Shire of Donnybrook Balingup
File Reference	NA
Author	Stuart Eaton - Finance Projects
Responsible Manager	Paul Breman – Executive Manager Corporate and Community Services
Attachments	Nil
Voting Requirements	Absolute Majority

Recommendation
<p>That Council</p> <p>a) Establishes the following Reserve Accounts in accordance with s6.11 of the Local Government Act 1995 from 1 July 2021:</p> <ol style="list-style-type: none"> 1. Preston Village Deferred Management Fee Reserve Purpose: Established to accumulate Preston Village Deferred Management Fees. 2. Preston Village Reserve Fund Contribution Reserve Purpose: To accumulate the Preston Village Reserve Contribution for purposes prescribed within the Residence Contracts 3. Minninup Cottages 1-4 Surplus Reserve Purpose: To accumulate surplus income of units 1-4 for the purposes of unit maintenance, renewal and upgrades 4. Minninup Cottages 5-8 Surplus Reserve Purpose: To accumulate surplus income of units 5-8 for purposes prescribed in the Joint Venture Agreement 5. Minninup Cottages 9-12 Surplus Reserve Purpose: To accumulate surplus income of units 9-12 for purposes prescribed in the Joint Venture Agreement 6. Langley Villas 1-6 Surplus Reserve Purpose: To accumulate surplus income of units 1-6 for purposes prescribed in the Joint Venture Agreement

7. Langley Villas 7-9 Surplus Reserve

Purpose: To accumulate surplus income of units 7-9 for purposes prescribed in the Joint Venture Agreement

8. Minninup Cottages 5-8 Long Term Maintenance Reserve

Purpose: To accumulate funds for units 5-8 prescribed under the Joint Venture Agreement for the purposes of property maintenance

9. Minninup Cottages 9-12 Long Term Maintenance Reserve

Purpose: To accumulate funds for units 9-12 prescribed under the Joint Venture Agreement for the purposes of property maintenance

10. Langley Villas 1-6 Long Term Maintenance Reserve

Purpose: To accumulate funds for units 1-6 prescribed under the Joint Venture Agreement for the purposes of property maintenance

11. Langley Villas 7-9 Long Term Maintenance Reserve

Purpose: To accumulate funds for units 7-9 prescribed under the Joint Venture Agreement for the purposes of property maintenance

- b) Authorises the transfer of the relevant balances as at 1st July 2021 relating to the obligations under the Joint Venture Agreements for Minninup Cottages and Langley Villas and the amounts relating to the operation of the Preston Retirement Village from the Aged Housing Reserve account the to the relevant new Reserve accounts (as above).**

STRATEGIC ALIGNMENT

Not Applicable

EXECUTIVE SUMMARY

Council has historically held reserve fund monies relating to aged and community housing in a single reserve account.

Reserve Name: Aged Housing Reserve.

Purpose: Established to manage funds from aged housing schemes for the upgrade of Council managed aged housing facilities

Within this single Aged Housing Reserve, it is identified there are twelve separate purposes for which monies are held.

It is recommended that in the interest of better transparency, control, and compliance relating to these separate monies, individual reserve accounts be established and separately maintained.

Management records have been historically maintained identifying separate grouping of these monies. Monies will be reallocated from the current Aged Housing Reserve into the new accounts.

BACKGROUND

Council currently manages four aged and community housing facilities.

1. Tuia Lodge
Operational management is intended to be transferred to a private aged care provider from 1 July 2021.
2. Preston Village
Operated by the Shire of Donnybrook Balingup under the Retirement Villages Act 1992.
3. Minninup Cottages
Part operated by the Shire of Donnybrook Balingup under Joint Venture Agreement with Department of Communities.
4. Langley Villas
Operated by the Shire of Donnybrook Balingup under Joint Venture Agreement with Department of Communities.

The operations of these facilities have necessitated the setting aside monies for use in future financial years. The purposes and obligations relating to setting aside these monies differ and fall into three categories.

- a) Discretionary
- b) Required under residence agreement.
- c) Required under legal agreement.

Reserve Name	Setting Aside Monies
1. Tuia Lodge	Discretionary
2. Preston Village Deferred Management Fee Reserve	Discretionary
3. Preston Village Reserve Fund Contribution Reserve	Required under residence agreement
4. Minninup Cottages 1-4 Surplus Reserve	Discretionary
5. Minninup Cottages 5-8 Surplus Reserve	Required under legal agreement
6. Minninup Cottages 9-12 Surplus Reserve	Required under legal agreement
7. Langley Villas 1-6 Surplus Reserve	Required under legal agreement
8. Langley Villas 7-9 Surplus Reserve	Required under legal agreement
9. Minninup Cottages 5-8 Long Term Maintenance Reserve	Required under legal agreement
10. Minninup Cottages 9-12 Long Term Maintenance Reserve	Required under legal agreement

11.	Langley Villas 1-6 Long Term Maintenance Reserve	Required under legal agreement
12.	Langley Villas 7-9 Long Term Maintenance Reserve	Required under legal agreement

FINANCIAL IMPLICATIONS

As at 31 March 2021 \$1,191,126.06 is set aside in the Aged Housing Reserve and disaggregated as follows.

1.	Tuia Lodge	2,047.45
2.	Preston Village Exit Deferred Management Fee Reserve	165,858.18
3.	Preston Village Reserve Fund Contribution Reserve	16,555.24
4.	Minninup Cottages 1-4 Surplus Reserve	56,737.57
5.	Minninup Cottages 5-8 Surplus Reserve	151,298.29
6.	Minninup Cottages 9-12 Surplus Reserve	244,360.07
7.	Langley Villas 1-6 Surplus Reserve	340,859.18
8.	Langley Villas 7-9 Surplus Reserve	200,490.86
9.	Minninup Cottages 5-8 Long Term Maintenance Reserve	3,668.71
10.	Minninup Cottages 9-12 Long Term Maintenance Reserve	2,627.83
11.	Langley Villas 1-6 Long Term Maintenance Reserve	6,622.68
12.	Langley Villas 7-9 Long Term Maintenance Reserve	0.00
		\$1,191,126.06

POLICY COMPLIANCE

Not applicable

STATUTORY COMPLIANCE

Establishment of reserve accounts is in accordance with s6.11 of the Local Government Act 1995 (the Act).

Redistribution of funds from the current single “Aged Housing Reserve” into the new reserve accounts are deemed to trigger the change of purpose provisions under s6.11 of the act. The process for disclosing the change of purpose will be by way of disclosure in the 2021/22 Annual Budget per s6.11(3)(a) of the act.

Local Government Act 1995

6.11. Reserve accounts

- (1) *Subject to subsection (5), where a local government wishes to set aside money for use for a purpose in a future financial year, it is to establish and maintain a reserve account for each such purpose.*
- (2) *Subject to subsection (3), before a local government —*
 - (a) *changes* the purpose of a reserve account; or*
 - (b) *uses* the money in a reserve account for another purpose,*

it must give one month's local public notice of the proposed change of purpose or proposed use.

** Absolute majority required.*

- (3) *A local government is not required to give local public notice under subsection (2) —
 - (a) where the change of purpose or of proposed use of money has been disclosed in the annual budget of the local government for that financial year;
or
 - (b) in such other circumstances as are prescribed.*
- (4) *A change of purpose of, or use of money in, a reserve account is to be disclosed in the annual financial report for the year in which the change occurs.*
- (5) *Regulations may prescribe the circumstances and the manner in which a local government may set aside money for use for a purpose in a future financial year without the requirement to establish and maintain a reserve account.*

CONSULTATION

Not Applicable.

OFFICER COMMENT/CONCLUSION

Disaggregation of the single Aged Housing Reserve that is currently in use, is recommended to improve transparency, internal controls and compliance relating to managing differing monetary obligations of Council's facilities.

The Shire historically transferred any operating surplus of Tuia Lodge into the "Aged Housing Reserve", this was used to offset any future operating deficits. As of drafting this report \$2,047 is held. Operational management of Tuia Lodge is currently being transferred to a third-party provider however there is likely to be a need to hold a sum in reserve pending any financial obligations relating to the transfer of operations. After the successful transfer of operations at Tuia Lodge this Reserve account may be discontinued subject to the future approval of the Council.

COUNCIL RESOLUTION 87/21

Moved Cr Lindemann

Seconded Cr Massey

That Council

a) Establishes the following Reserve Accounts in accordance with s6.11 of the Local Government Act 1995 from 1 July 2021:

1. Preston Village Deferred Management Fee Reserve

Purpose: Established to accumulate Preston Village Deferred Management Fees.

2. Preston Village Reserve Fund Contribution Reserve

Purpose: To accumulate the Preston Village Reserve Contribution for purposes prescribed within the Residence Contracts

3. Minninup Cottages 1-4 Surplus Reserve

Purpose: To accumulate surplus income of units 1-4 for the purposes of unit maintenance, renewal and upgrades

4. Minninup Cottages 5-8 Surplus Reserve

Purpose: To accumulate surplus income of units 5-8 for purposes prescribed in the Joint Venture Agreement

5. Minninup Cottages 9-12 Surplus Reserve

Purpose: To accumulate surplus income of units 9-12 for purposes prescribed in the Joint Venture Agreement

6. Langley Villas 1-6 Surplus Reserve

Purpose: To accumulate surplus income of units 1-6 for purposes prescribed in the Joint Venture Agreement

7. Langley Villas 7-9 Surplus Reserve

Purpose: To accumulate surplus income of units 7-9 for purposes prescribed in the Joint Venture Agreement

8. Minninup Cottages 5-8 Long Term Maintenance Reserve

Purpose: To accumulate funds for units 5-8 prescribed under the Joint Venture Agreement for the purposes of property maintenance

9. Minninup Cottages 9-12 Long Term Maintenance Reserve

Purpose: To accumulate funds for units 9-12 prescribed under the Joint Venture Agreement for the purposes of property maintenance

10. Langley Villas 1-6 Long Term Maintenance Reserve

Purpose: To accumulate funds for units 1-6 prescribed under the Joint Venture Agreement for the purposes of property maintenance

11. Langley Villas 7-9 Long Term Maintenance Reserve

Purpose: To accumulate funds for units 7-9 prescribed under the Joint Venture Agreement for the purposes of property maintenance

- b) Authorises the transfer of the relevant balances as at 1st July 2021 relating to the obligations under the Joint Venture Agreements for Minnip Cottages and Langley Villas and the amounts relating to the operation of the Preston Retirement Village from the Aged Housing Reserve account to the relevant new Reserve accounts (as above).**

CARRIED 8/0 by En Bloc Resolution

9.2.5 GLEN MERVYN DAM OPEN WATER SWIM EVENT

Location	Glen Mervyn Dam
Applicant	Swimming WA: Western Australian Swimming Association Inc
File Reference	NA
Author	James Jarvis, Manager Community Development
Responsible Manager	Paul Breman, Director Corporate and Community
Attachments	9.2.5(1) Proposal: Glen Mervyn Dam Open Water Swim
Voting Requirements	Simple Majority

Recommendation
<p>That Council instruct the Chief Executive Officer to:</p> <ol style="list-style-type: none"> 1. Include in the draft 2021/22 Budget an amount of \$10,000 as a contribution to the Glen Mervyn Dam Open Water Swim event to be delivered by Swimming WA during the 2021/22 financial year. 2. Write to Swimming WA and confirm the Shire of Donnybrook-Balingup will commit to partnering with Swimming WA over three years starting in November 2021 and concluding in November 2023. 3. In preparation of any funding agreements between the Shire and Swimming WA, the Chief Executive Officer is instructed to include minimum performance targets for Swimming WA in the delivery of the event/s.

STRATEGIC ALIGNMENT

The following outcomes from the Corporate Business Plan relate to this proposal:

Outcome	1	A strong, diverse and resilient economy
Strategy	1.3	An attractive visitor and tourist destination
Action	1.3.1	Actively promote the district as an attractive destination
Outcome	3	A healthy, safe and inclusive community
Strategy	3.1	An engaged and supportive community
Action	3.1.1	Facilitate, encourage and support a diverse range of festivals, community events, arts and cultural activities

EXECUTIVE SUMMARY

Swimming WA is the peak body for swimming in WA and they are seeking to expand their Open Water Series in the South West to Glen Mervyn Dam. Swimming WA are requesting the Shire of Donnybrook Balingup to provide a contribution of \$10,000 per annum for three years for an event to be delivered annually in November from 2021 to 2023.

BACKGROUND

Swimming WA approached the Shire seeking support to include an Open Water Swim event as part of the Shire's event calendar. This included an opportunity to activate the Glen Mervyn Dam as a tourism asset beyond the established camping facilities already available for visitors at the location.

In February 2020, Josh McCleery, Events Coordinator at Swimming WA, visited Glen Mervyn Dam with the Shire's Manager Community Development, prior to presenting to Council's February 2020 Concept Forum. Following the presentation, the Chief Executive Officer invited Swimming WA to provide a proposal prior to the March Ordinary Council Meeting (OCM).

The declaration of a State of Emergency by the Western Australian government due to the COVID-19 pandemic resulted in the paper being withdrawn from the March 2020 OCM agenda. The event was postponed.

With the relaxation of COVID-19 restrictions on the Western Australian community, the event proposal has been reviewed and presented again for consideration.

The proposal titled Open Water Swimming Event Proposal: Glen Mervyn Dam Open Water Swim (OWS) is attached (Attachment 9.2.5(1)).

Swimming WA (SWA) was founded in 1902 and is the peak body for swimming in Western Australia. SWA is a not-for-profit organisation representing 85 clubs and over 12,300 members in Western Australia with nearly 58% who are regional members.

The SWA proposal outlines the linkage with other OWS events in the South West and the direct link, through marketing and visibility, to increased visitors to the Shire.

SWA are proposing to run the Glen Mervyn Dam OWS in mid-November, or early December 2021 and are seeking the Shire's commitment for three years at \$10,000 per annum as a contribution to running the event. By the third event in 2023, SWA aims to attract 600 visitors to the Shire staying for two days and one night.

The Glen Mervyn Dam has been identified as an ideal location to run the event due to its natural viewing areas and water depth. The 2021 event is expected to commence at 8:00am and conclude with medal presentations and speeches by 10:00am.

Based on previous OWS events in similar locations, SWA assert their events' environmental impact are low, they manage all event logistics, and will seek support from the local community through volunteer and event participation.

The Shire of Donnybrook Balingup, together with the Shire of Collie and DBCA, are in discussions with the State in relation to funding of eco-tourism visitor facility upgrades at Glen Mervyn Dam. Recent correspondence from the Premier to the Chief Executive Officer and Shire President advises that funding for this initiative will be considered through the State Budget process this year.

FINANCIAL IMPLICATIONS

A comprehensive proposed budget has been submitted as part of the OWS proposal. SWA are proposing that the Shire sponsor the event with the following commitment:

Year	Amount
2021/22	\$10,000
2022/23	\$10,000
2023/24	\$10,000

The financial loss forecast by SWA in the first two years' is part of SWA's commitment to initiate and sustain the event. SWA will seek the Shire's support to identify other potential sponsors, including the Shire of Collie and local businesses.

POLICY COMPLIANCE

Shire of Donnybrook-Balingup Tourism Policy requires the involvement of the Visitor's Centre's in tourism development.

STATUTORY COMPLIANCE

Nil.

CONSULTATION

In April 2021, The Manager Community Development re-contacted Josh McCleery, Events Coordinator at Swimming WA, to determine if there was still an interest to deliver an Open Swim Event at Glen Mervyn Dam. Positive confirmation was received and an updated proposal provided.

The Manager Community Development has assisted SWA's Event Coordinator to explore the event delivery logistics and connect with Council.

Yabberup Community Association's Promote Preston sub-committee have been informally briefed and have expressed interest in assisting with the event.

Discussions have commenced with Donnybrook Recreation Centre Manager to incorporate community visibility of the November 2021 event as part of the Centre's Swim Program.

An initial informal approach has occurred with the Shire of Collie's Event's Manager to determine if there was interest in partnering on event promotion and delivery. The initial approach was positively received.

OFFICER COMMENT / CONCLUSION

The Glen Mervyn Dam OWS proposal presents a good value, low risk tourism development opportunity that activates an attractive part of our Shire in partnership with community, business and tourism stakeholders. SWA have indicated that OWS events delivered in other South West locations have provided a good return on their investment. SWA have asserted that the inclusion of Glen Mervyn Dam to their events calendar is expected to generate similar returns around publicity, marketing and visitor numbers.

COUNCIL RESOLUTION 88/21

Moved Cr Lindemann

Seconded Cr Atherton

That Council instruct the Chief Executive Officer to:

- 1. Include in the draft 2021/22 Budget an amount of \$10,000 as a contribution to the Glen Mervyn Dam Open Water Swim event to be delivered by Swimming WA during the 2021/22 financial year.**
- 2. Subject to adoption in the 2021/22 Budget, the Chief Executive Officer write to Swimming WA and confirm the Shire of Donnybrook-Balingup will commit to partnering with Swimming WA over three years starting in November 2021 and concluding in November 2023.**
- 3. In preparation of any funding agreements between the Shire and Swimming WA, the Chief Executive Officer is instructed to include minimum performance targets for Swimming WA in the delivery of the event/s.**

CARRIED 7/1

9.3 CHIEF EXECUTIVE OFFICER

Nil.

10 ELECTED MEMBER MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

10.1 COUNCILLOR

Nil.

11 NEW BUSINESS OF AN URGENT NATURE INTRODUCED BY DECISION OF THE MEETING

Nil.

12 MEETINGS CLOSED TO THE PUBLIC

12.1 MATTERS FOR WHICH THE MEETING MAY BE CLOSED

12.1.1 CONFIDENTIAL – RFT 01/2021 – ROAD SWEEPING AND PIT PIPE CLEANING

This report is confidential in accordance with Section 5.23(c) of the *Local Government Act 1995*, which permits the meeting to be closed to the public.

(c) a contract entered into, or which may be entered into, by the local government and which relates to a matter to be discussed at the meeting

12.1.2 CONFIDENTIAL - RFT 02/2021 – MANAGEMENT OF BALINGUP WASTE TRANSFER STATION

This report is confidential in accordance with Section 5.23(c) of the *Local Government Act 1995*, which permits the meeting to be closed to the public.

(c) a contract entered into, or which may be entered into, by the local government and which relates to a matter to be discussed at the meeting

12.1.3 CONFIDENTIAL - DONNYBROOK TRANSIT PARK

This report is confidential in accordance with Section 5.23(c) of the *Local Government Act 1995*, which permits the meeting to be closed to the public.

(c) a contract entered into, or which may be entered into, by the local government and which relates to a matter to be discussed at the meeting

RECOMMENDATION

That the meeting be closed in accordance with section 5.23(2) of the Local Government Act 1995 to discuss the following confidential items:

- 12.1.1 **CONFIDENTIAL – RFT 01/2021 – ROAD SWEEPING AND PIT PIPE CLEANING**
- 12.1.2 **CONFIDENTIAL - RFT 02/2021 – MANAGEMENT OF BALINGUP WASTE TRANSFER STATION**
- 12.1.3 **CONFIDENTIAL - DONNYBROOK TRANSIT PARK**

COUNCIL RESOLUTION 89/21

Moved Cr Newman Seconded Cr Mitchell

That the meeting be closed in accordance with section 5.23(2) of the Local Government Act 1995 to discuss the following confidential items:

- 12.1.1 **CONFIDENTIAL – RFT 01/2021 – ROAD SWEEPING AND PIT PIPE CLEANING**
- 12.1.2 **CONFIDENTIAL - RFT 02/2021 – MANAGEMENT OF BALINGUP WASTE TRANSFER STATION**
- 12.1.3 **CONFIDENTIAL - DONNYBROOK TRANSIT PARK**

CARRIED 8/0

The meeting was closed to the public at 7.04pm.

Cr Massey, Cr Lindemann and the Chief Executive Officer left the Chamber at 7.04pm and returned at 7.07pm.

COUNCIL RESOLUTION 93/21

Moved Cr Lindemann Seconded Cr Mitchell

That the meeting be re-opened to the public.

CARRIED 8/0

The meeting was re-opened to the public at 7.50pm.

12.2 PUBLIC READING OF RESOLUTIONS THAT MAY BE MADE PUBLIC

RESOLUTION 90/21

That Council:

- 1. Awards the contract for RFT 01/2021 – Road Sweeping and Pipe/Pit Cleaning, to Veolia Environmental Services (Australia) Pty Ltd, for the price and rates offered, for a period of three (3) years in accordance with the tender documentation.*
- 2. Instructs the Chief Executive Officer to publish this Council decision in the minutes of the 26 May 2021 Ordinary Meeting of Council.*

RESOLUTION 91/21

That Council:

- 1. Awards the contract for RFT 02/2021 – Management of Balingup Waste Transfer Station, to Hastie Waste Pty Ltd, for the price offered, for a period of two (2) years (with a two year option at the discretion of the Shire of Donnybrook Balingup) in accordance with the tender documentation.*
- 2. Instructs the Chief Executive Officer to publish this Council decision in the minutes of the 26 May 2021 Ordinary Meeting of Council.*
- 3. Instructs the Chief Executive Officer to review Health Policy 6.6 (Balingup Waste Transfer Station) to clarify the intent of the facility and the types of waste that can be received, with a further report to be brought back to Council for consideration by August 2021.*
- 4. Instruct the Chief Executive Officer to bring a proposal by June 2022 to Council considering the future of the Shire’s waste management facilities.*

RESOLUTION 92/21

That Council endorses the recommendations outlined in the Confidential Report.

13 CLOSURE

The Shire President advised that the Ordinary Council Meeting will be held on 23 June 2021 commencing at 5.00pm in the Shire of Donnybrook Balingup Council Chamber.

The Shire President declared the meeting closed at 7.53pm.

These Minutes were confirmed by the Council as a true and accurate record at the Ordinary Council Meeting held 23 June 2021.



Cr Brian Pjesse
SHIRE PRESIDENT