

## **ORDINARY MEETING OF COUNCIL MINUTES**

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held on

**Wednesday 23 October 2019**

Commencing at 5.00pm

Balingup Hall, Balingup

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A handwritten signature in black ink, appearing to read "Ben Rose".

**Ben Rose**  
**Chief Executive Officer**

**Friday 25 October 2019**

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**SHIRE OF DONNYBROOK BALINGUP**  
**ORDINARY COUNCIL MEETING**

Held at the Balingup Hall  
Wednesday, 23 October 5.00pm

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

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The Shire Present declared the meeting open at 5:03pm and welcomed the public gallery.

### **Acknowledgment of Country**

We acknowledge the Traditional Custodians of this land, the Noongar people, pay our respects to Elders past, present and emerging.

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## **2 ATTENDANCE**

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### **MEMBERS PRESENT**

<b>COUNCILLORS</b>	<b>STAFF</b>
Cr Piesse (President)	Ben Rose – Chief Executive Officer
Cr Massey (Deputy Shire President)	Steve Potter – Executive Manager Operations
Cr Atherton	Alan Thornton – Manager Corporate Services
Cr Lindemann	Damien Morgan – Manager Works and Services
Cr Mitchell	Bob Wallin – Manager Development Services
Cr Newman	Maureen Keegan – Manager Executive Services
Cr Sercombe	Stuart Eaton - Finance and Projects
Cr Smith	
Cr Wringe	

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### **PUBLIC GALLERY**

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30 people approximate.

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#### **2.1 APOLOGIES**

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Nil.

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#### **2.2 APPROVED LEAVE OF ABSENCE**

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Nil.

### **2.3 APPLICATION FOR A LEAVE OF ABSENCE**

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Cr Newman requested a leave of absence for the Ordinary Council Meeting 27 November 2019.

#### **COUNCIL DECISION 149/19**

**Moved: Cr Mitchell      Seconded: Cr Wringe**

**That Cr Newman be granted a leave of absence for the Ordinary Council Meeting 27 November 2019.**

**Carried 9/0**

Cr Wringe requested a leave of absence for the Ordinary Council Meeting 27 November 2019.

#### **COUNCIL DECISION 150/19**

**Moved: Cr Lindemann      Seconded: Cr Mitchell**

**That Cr Wringe be granted a leave of absence for the Ordinary Council Meeting 27 November 2019.**

Cr Massey requested a leave of absence for the Ordinary Council Meeting 18 December 2019.

#### **COUNCIL DECISION 151/19**

**Moved: Cr Atherton      Seconded: Cr Mitchell**

**Cr Massey be granted a leave of absence for the Ordinary Council Meeting 18 December 2019.**

**Carried 9/0**

### **3 ANNOUNCEMENTS FROM PRESIDING MEMBER**

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Cr Piesse welcomed the new Councillors to their first meeting of Council and introduced them to the gallery.

### **4 DECLARATION OF INTEREST**

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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 Atherton declared a Financial Interest in confidential item *13.1.3 Write off of Rates A4949 Lot 9501 Kelly Street Donnybrook*, as he is the exclusive real estate agent for the dale of this property which has an unconditional offer agreed. Cr Atherton will leave the Chamber and note vote on this item.

Cr Newman declared an impartiality interest in item *9.1.3 Audit and Risk Management Committee – Membership Appointment* as Mr Ian Telfer is my direct manager at WAPRES. Cr Newman will remain in the Chamber and voted on this item.

### **5 PUBLIC QUESTION TIME**

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#### **5.1 RESPONSES TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE**

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Nil.

## 5.2 PUBLIC QUESTION TIME

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Pamela and Mark Ucich  
22 Langridge Road  
Brookhampton

1. *We question the distance you have quoted from the venue to our property. We believe the distance from the music stage (Main Stage) to our house is 997 metres. This is the measurement we have ascertained from Google maps. After all the music stage is where the sound will be coming from.*

The distances measured were from the Shire's mapping system, Synergy. I would expect that measurements would vary based on the exact location of the pointer on the source of the amplified sound to the exact location on the location receiving the sound. Both measurements identified the property as potentially having some level of impact.

2. *We note that the maximum number of fee paying patrons is 300. Do children also have to pay and if not, does the 300 include the number of children? Because this would substantially alter the demographics.*

Minors are excluded from the event - 300 is for adults only.

3. *We welcome that it is an alcohol free event: is it also drug free?*

The event would be marketed as alcohol and drug free.

Actions identified in the Risk Management Plan include

- Promoted as drug and alcohol free event.
- Security in place to monitor patrons and refuse entry.
- Volunteer staff briefed on expectations and procedures.
- Local police will be contacted to arrest offenders.

4. *With regard to condition 2.3, what would you say would constitute an "unexpected incident"? We feel this is a cop-out to just extend the music. How hard it is to turn off music.!!*

This is a standard condition in the Department of Environment and Regulation Regulation 18 template document – it is very rarely used. It covers situations when a **significant** issue occurs which affects the program of an event an example would be when an headline artist is delayed due to a late flight arrival. Although this is not expected for the Blissfest 2020 event, the department recommends that the condition remain in the approval.

5. *My question for the organisers will be; if the Base component of the music is audible (apparently it cannot be measured), would the organisers be prepared to turn it down. Apart from the music going all night this was one of the most annoying aspects of the previous event. The continual monotonous beat.*

The base level or C weighted sound can be measured, however prescribed levels are not contained within the Noise Regulations. The Regulation 18 approval process allows for inclusion of conditions which the approving authority considers appropriate. This approval has a condition, 2.2(1) limiting the level of 'C' weighted sound.

The propose approval requires adjustment of the C weighted sound should it be above the set level. Further, the Noise Management Plan also provides details of how complaints will be received and dealt with. See also recently submitted Flow Chart.

Mr Fred Mills  
Balingup Progress Association

1. *When will the proposed speed limit reduction through Balingup commence?*

The Shire is currently advocating the reduction through Safer Main Roads will the planned date being June 2020.

2. *Speed limit signage on Nannup Road requires upgrading?*

The Manager Works and Services will liaise with Main Roads to have the signage upgraded.

Mr Mike King  
587 Radiata Road, Balingup

1. *At the May Ordinary Council Meeting the CEO was directed to develop a project planning framework to be presented to Council at the October 2019 meeting. Has due process been carried out in relation to this resolution of Council and the Project Planning Framework be presented as per resolution 59/19?*

The Working Group has put forward a recommendation to Council as contained in the report at 9.1.4.

2. *Item 9.1.4 refers to a Risk Assessment and the findings of High and Catastrophic. What has the Shire put in place to mitigate these risks.*

The risk rating refers to all buildings being evaluated at once, as the Shire will not review all building at once this risk is reduced.

Ms Carol Proctor  
Local Resident Balingup

1. *Given (as noted in the agenda report prepared by Council staff) that a similar event held at this location earlier this year did NOT adhere to the provisions of the agreement (which we understand were similar to the provision for the proposed Blissfest) and it was a huge imposition on local residents' amenity and peace and quiet over several days with a high level of dissatisfaction reported to Council including about the constant background noise and noise level, does Council consider it best practice in consultation and communication with its ratepayers for the Shire Officer to contact affected landowners this time only AFTER recommending that Council approve the event?*

The Environmental Health Officer contacted affected land owners by telephone prior to the reporting being written, and via email after the report was published.



Ms Therese Dignam  
Local Resident Balingup

1. *Can Council please explain the following planning issues in relation the proposed Blissfest and other similar future events?*

a) *What criteria was applied to determine the figure of 300 maximum attendees, and will that be the maximum number of people for any future event held at the site?*

Events are based on a case by case basis.

b) *What sort of zoning or planning approval has been granted for camping in an area zoned rural and is this an ongoing approval? and*

Zoning Planning and Events are dealt with separately.

c) *Are there any limitations, season and/or per annum on the number of similar events over several days, including those with camping?*

Should there be continuous events, zoning and planning applications would be required.

Ms Wendy Kurz  
Balingup Resident

1. *Given that we as neighbours and friends are all very concerned about the likely catastrophic fire conditions this fire season with early dry warm conditions, and with Council and fire authorities asking landowners to prepare their properties and themselves to exercise extreme vigilance. How can Council justify approving such a frivolous and high-fire-risk event in the PEAK of the fire season in a closely settled area surrounded by State forest and private bushland and putting at risk our lives, including those of our local volunteer bush fire brigade members, our properties and livestock and our native fauna?*

Condition 1.17 of the report recommendation states:

*“Fire-fighting equipment must be supplied in accordance with the BCA or as recommended by the Department of Fire and Emergency Services. The equipment is to be maintained in accordance with AS 1851 and must be provided at all locations where open fires are permitted. This includes all gas cooking appliances.”*

2. *What would happen on a total fire ban day – would the event be cancelled?*

The organisers of the event would need to comply with the Chief Bushfire Control Officers advice on the day.

Mr Simon McGuinness

1. *Is the Shire retaining any equity in the Bridge Street Land.*  
The details of this project are considered confidential at this time.
2. *Item 9.1.4 is this a way to hide what Council is really planning for Council buildings in particular Newlands Hall?*

No decision on any Shire owned building has been made by Council.

## **6 PRESENTATIONS**

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### **6.1 PETITIONS**

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Nil

### **6.2 PRESENTATIONS**

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Nil

### **6.3 DEPUTATIONS**

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Mr Hardisty – Berry Delightful  
Ms Jenny de Garis – Balingup Progress Association

### **6.4 DELEGATES REPORTS**

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Nil

## **COUNCIL DECISION 152/19 (Procedural Motion)**

**Moved: Cr Lindemann                      Seconded: Cr Atherton**

**That Clause 5.5 of the Meeting Procedures Adoption by Exception be suspended to deal with each item separately..**

**Carried 9/0**

## **7 CONFIRMATION OF MINUTES**

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### **7.1 ORDINARY MEETING OF COUNCIL – 25 SEPTEMBER 2019**

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Minutes of the Ordinary Meeting of Council held 25 September 2019 are attached (*attachment 7.1*).

#### **COUNCIL DECISION 153/19 (Executive Recommendation)**

**Moved: Cr Lindemann    Seconded: Cr Wringe**

**That the Minutes from the Ordinary Meeting of Council held 25 September 2019 be confirmed as a true and accurate record.**

**Carried 9/0**

### **7.2 LOCAL EMERGENCY MANAGEMENT COMMITTEE MEETING – 17 SEPTEMBER 2019**

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Minutes of the Local Emergency Management Committee Meeting are attached (*attachment 7.2*).

#### **COUNCIL DECISION 154/19 (Executive Recommendation)**

**Moved: Cr Mitchell    Seconded: Cr Massey**

**That the Minutes from the Local Emergency Management Committee Meeting held 17 September 2019 be received.**

**Carried 9/0**

## **8 REPORTS OF COMMITTEES**

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Nil.

## **9 REPORTS OF OFFICERS**

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### **9.1 MANAGER CORPORATE SERVICES**

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#### **9.1.1 ACCOUNTS FOR PAYMENT**

The Schedule of Accounts Paid (attachment 9.1.1(1)) under Delegation (No 3.1) is presented to Council for information.

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#### **9.1.2 MONTHLY FINANCIAL REPORT – 31 AUGUST 2019**

The Monthly Financial Report (9.1.2(1)) for the period ending 31 August is received by Council.

#### **COUNCIL DECISION 155/19 (Executive Recommendation)**

**Moved: Cr Atherton      Seconded: Cr Mitchell**

**That the monthly financial report for the period ended 31 August 2019 be received.**

**Carried 9/0**

### 9.1.3 AUDIT AND RISK MANAGEMENT COMMITTEE - MEMBERSHIP APPOINTMENT

<b>File Reference</b>	FNC02
<b>Author</b>	Alan Thornton, Manager Corporate Services
<b>Attachments</b>	9.1.3(1) - EOI Mr Ian Telfer 9.1.3(2) - EOI Ms Carly Anderson 9.1.3(3) – Terms of Reference
<b>Voting Requirements</b>	Absolute Majority
<b>Executive Summary</b>	Due to membership ceasing on 19 October 2019 in line with the local government election, external and Councillor members need to be appointed to the Committee.

#### STRATEGIC ALIGNMENT

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

<b>Outcome</b>	<b>Strategy</b>	<b>Action</b>
4.1 – A strategically focussed, open and accountable local government	4.1.1 – Provide Accountable and Strategic Leadership	4.1.1.3 – Review Council, Committee and Working Group governance structures and meeting programs

#### BACKGROUND

At the ordinary Council meeting on 26 September 2018 Council resolved to reduce the size of the Audit Committee to 5 members consisting of the Deputy Shire President, 2 Elected Members and 2 community representatives who are not elected members of the Council.

At the ordinary Council meeting on 26 June 2019, Council resolved the following:

*That Council:*

1. *Appoints Mr Ian Telfer and Ms Carly Anderson as Independent Members of the Shire of Donnybrook Balingup Audit Committee.*
2. *Authorises the CEO to advise the nominees of Council's decision.*
3. *Appoints the following Elected Members to the Shire of Donnybrook Balingup Audit Committee:*
  - 1.1 *Deputy President – Cr Leanne Wringe*
  - 1.2 *Cr Anne Mitchell*
  - 1.3 *Cr Fred Mills*

**CARRIED 9/0 ABSOLUTE MAJORITY VOTE ATTAINED**

Subject to Council's decision, advertising was undertaken seeking Expressions of Interest in the April 2019 Preston Press. No applications or enquiries were received. As a result the CEO directly contacted specific community members who had either previously expressed an interest and/or had the relevant qualifications and experience to fulfill the requirements of the role. Nominations were received via email from Mr Ian Telfer and Ms. Carly Anderson (attachment 9.1.3(1&2)).

Ms Carly Anderson and Mr Ian Telfer have been contacted and have confirmed they would like to continue their membership on the Audit and Risk Management Committee.

## **DETAILS**

The Local Government Act 1995 requires that all Local Governments establish an Audit and Risk Management Committee. An Audit and Risk Management Committee plays a key role in assisting a local government to fulfil its governance and oversight responsibilities in relation to financial reporting, internal control structure, risk management systems, legislative compliance, ethical accountability and the internal and external audit functions.

### Establishment of the Audit Committee

The Local Government Act 1995 and Local Government (Audit) Regulations 1996 provide that:

In relation to the establishment of an Audit Committee:

- (a) Each local government is to establish an Audit Committee consisting of three or more persons to exercise the powers and discharge the duties conferred on it;
- (b) Members of the Committee are to be appointed by an absolute majority decision of Council. At least three of the members are to be elected members;
- (c) The CEO is not to be a member of the committee and may not nominate a person to be a member of the committee or have a person to represent him or her as a member of the committee;
- (d) An employee is not to be a member of the Committee;
- (e) The only powers and duties that can be delegated to a committee are any of the powers and duties of the local government under Part 7 of the Act; that is, those relating to audit. The Committee cannot on-delegate the powers and duties delegated to it;
- (f) An Audit Committee with a member who is a person who is not an Elected Members can be delegated powers and referred to in (e); and
- (g) A decision of the Committee is to be made by simple majority.

## **FINANCIAL IMPLICATIONS**

Not Applicable.

## **POLICY COMPLIANCE**

Not Applicable.

## **STATUTORY COMPLIANCE**

*Local Government Act 1995*

*Local Government (Audit) Regulations 1996*

## **CONCLUSION**

Council officers consider that the nominees are suitably qualified to fulfill the requirements of the role, and therefore recommend their appointment to the Committee.

## **COUNCIL DECISION 156/19**

**Moved: Cr Lindemann      Seconded: Cr Wringe**

**Suspend standing orders to nominate 3 Council Members**

## **COUNCIL DECISION 157/19 (Executive Recommendation)**

**Moved: Cr Wringe      Seconded: Cr Lindemann**

**That Council:**

- 1. Re-appoints Mr. Ian Telfer and Mrs. Carly Anderson as Independent Members of the Shire of Donnybrook Balingup Audit and Risk Management Committee.**
- 2. Appoints the following Elected Members to the Shire of Donnybrook Balingup Audit and Risk Management Committee:**
  - 2.1 Cr Newman**
  - 2.2 Cr Wringe**
  - 2.3 Cr Massey**

**Carried 9/0 Absolute Majority vote maintained**

**COUNCIL DECISION 158/19**

**Moved: Cr Lindemann    Seconded: Cr Smith**

**Resume standing orders.**



### 9.1.4 BUILDING ASSET PORTFOLIO REVIEW

<b>File Reference</b>	BLG 01
<b>Author</b>	Stuart Eaton, Finance Officer (Special Projects)
<b>Attachments</b>	9.1.4(1) - Risk Assessment – Building Portfolio Review
<b>Voting Requirements</b>	Simple Majority
<b>Executive Summary</b>	To direct the Chief Executive Officer to develop a process for Council to review the Shire’s building portfolio.

### STRATEGIC ALIGNMENT

Outcome	Strategy	Action
4.1 – A strategically focussed, open and accountable local government	4.1.1 – Provide Accountable and Strategic Leadership	4.1.1.1– Review service delivery methodologies for Shire services and implement improvements where appropriate

### BACKGROUND

In 2010, the Integrated Planning and Reporting (IPR) Framework and Guidelines were introduced in Western Australia (WA) as part of the State Government’s Local Government Reform Program. All local governments were required to have their first suite of IPR documents in place by 1 July 2013.

Officers are progressively refining and contemporising the Shire’s Integrated Planning and Reporting Framework to improve the long term financial sustainability of the Shire of Donnybrook Balingup.

This framework will provide greater integration of plans and become the driver for the Annual Budget.

A suite of financial planning systems are being developed and implemented that will:

- a) Accurately demonstrate the Shire’s capability to deliver services and manage its asset portfolio that can sustain our community into the future.
- b) Accurately determine the real cost of managing the Shire’s asset portfolio.
- c) Accurately determine the real cost of delivering services to the community.
- d) Accurately determine the real contribution residents and users should make to the cost of services & facilities.

In 2018/19 an Asset Management Plan for the Shire’s building portfolio was developed and presented to Council for inaugural adoption at the Ordinary Meeting of Council held 24 April 2019. The Asset Management Plan identified approximately 145 separate building structures with combined replacement value of \$45m.

At its subsequent ordinary meeting on 22 May 2019 Council resolved;

**COUNCIL RESOLUTION 59/19**

*That Council:*

1. *Directs the Chief Executive Officer to develop a project planning framework to be presented to Council for consideration during October 2019 (or prior), that will plan for the review of the Shire's building portfolio. At a minimum, the review is to consider Shire buildings in the context of:*

*1.1 Not required or suitable for the delivery of services.*

*1.2 Uneconomical to maintain and/or operate.*

*1.3 Duplicating service delivery.*

*1.4 Underutilised / redundant.*

2. *Appoints the following two Councillors to a Working Group with the Chief Executive Officer (or delegated representative) to develop a project planning framework for presentation to the Council for consideration, prior to any work on a review commencing:*

*2.1 Councillor Atherton; and*

*2.1 Councillor Wringe.*

The Working Group has considered Resolution 59/19 and has developed the recommended action contained in this report.

**DETAILS**

The recommendation developed by the Working Group is influenced by the 'Building Asset Portfolio Review Risk Assessment' (attachment 9.1.4(1)).

The Building Asset Portfolio Review Risk Assessment was developed by the Working Group against the 'Shire of Donnybrook Balingup Risk Assessment and Acceptance Criteria' for a blanket review of Council's entire building portfolio assessing buildings;

1.1 Not required or suitable for the delivery of services.

1.2 Uneconomical to maintain and/or operate.

1.3 Duplicating service delivery.

1.4 Underutilised / redundant.

The Building Asset Portfolio Review Risk Assessment resulted in two identified material risk areas.

Consequence:	Service Interruption Risk
Assessed Risk:	High
Comments	The process of a complete review will likely incur significant public consultation and engagement requirements upon the organisation. For involved officers and business units, it is expected to lead to service level interruptions that result in backlogs.

Consequence:	Reputation Risk
Assessed Risk:	Extreme
Comments	A process of reviewing the building portfolio with the intent of rationalisation is expected to generate widespread community concern that is expected to lead to adverse community trust. Due to the geographical extent of the building portfolio. It is expected that the process of a blanket review will result in broad adverse community response of significance.

Under the ‘Donnybrook Balingup Risk Assessment and Acceptance Criteria’, risk rankings set out the following risk acceptance and management authority level.

Risk Rank	Responsibility
High:	Director / CEO
Extreme:	CEO / Council

## CONSULTATION

The recommendation has been developed by the Council appointed Working Group consisting of Cr Wringe, Cr Atherton and officers.

## FINANCIAL IMPLICATIONS

No anticipated financial implications are assessed at this point.

## POLICY COMPLIANCE

The recommendation has been developed with reference to Policy 2.45 Organisational Risk Management.

## STATUTORY COMPLIANCE

Not Applicable

## CONCLUSION

It is considered by the Working Group that a blanket review of the entire building portfolio (aside from any actual decisions on rationalising buildings) will create material risks to the Shire, as follows:

1. Reputation
  - a. The diverse locations of the building portfolio leads to a large percentage of the community being in geographical proximity to buildings that will be subject to a review. This is considered to give greater cause for potential widespread dissatisfaction with the Shire if the community believes a review will lead to withdrawal of services.
  - b. The diverse social use (and social ownership) of the building portfolio leads to a large percentage of the community having a direct or indirect association with buildings that will be subject to a review. This is considered to give greater cause for potential widespread dissatisfaction with the Shire if the community believes a review will lead to withdrawal of services.
  
2. Service Interruption
  - a. A blanket review is expected to utilise considerable organisational resources over a prolonged period of time. This is primarily due to;
    - i. The likely level of community scrutiny and potential dissatisfaction that a blanket review will generate. The review is anticipated to require significant proactive and reactive management by Management and Councillors throughout the process.
    - ii. The level of community engagement that is anticipated as being required due to the widespread 'social ownership' of community buildings.

In order to mitigate the identified risks, it is recommended that building reviews are conducted periodically rather than as a blanket review.

1. Establish trigger situations that cause for the initiation of a review. For example;
  - a. An assessment is initiated when identified renewal or expansion works on a facility exceeds a determined % of its replacement value.
  - b. An assessment is initiated when major expansion works are planned for facilities. An enlarged scope of works can be considered in order to co-locate users from other facilities within a determined catchment area.
  
2. Develop a building non replacement plan supported by ceasing building replacement insurance cover for the identified buildings.

**COUNCIL DECISION 159/19  
(Executive Recommendation)**

**Moved: Cr Newman      Seconded: Cr Atherton**

**That Council:**

- 1. Direct the Chief Executive Officer to develop a draft policy that:**
  - 1.1 Guides the review and potential rationalisation of Shire owned buildings.**
  - 1.2 Includes a risk management strategy/framework (which may include insurance coverage) for all Shire buildings.**
  - 1.3 Includes a framework for consideration of quantitative and qualitative merits (for the broadest community benefit) of each Shire owned building.**
  - 1.4 Is presented to the April 2020 Ordinary Meeting of Council for consideration for adoption.**

**Carried 6/3**

## **9.2 *MANAGER WORKS AND SERVICES***

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Nil.

### 9.3 **MANAGER DEVELOPMENT SERVICES**

#### 9.3.1 **REQUEST TO APPROVE TWO CHALETS AT LOT 3 GERDE VIEW, LOWDEN**

<b>Location</b>	Lot 3 Gerde View, Lowden
<b>Applicant</b>	A Better You Lifestyle Pty Ltd
<b>File Reference</b>	A5182
<b>Author</b>	Bob Wallin (Manager Development Services)
<b>Attachments</b>	9.3.1(1) - Location Plan 9.3.1(2) a & b - Site Plan 9.3.1(3) - Extract of DFES Fire Prone Mapping 9.3.1(4) - DFES Response
<b>Voting Requirements</b>	Simple Majority
<b>Executive Summary</b>	<ul style="list-style-type: none"> <li>• Recommend that Council approve the establishment of two chalet structures at Lot 3 Gerde View, Lowden.</li> <li>• The key issue relates to the acceptability of the Bushfire Management Plan and its ability to satisfy State Planning Policy 3.7 and associated Guidelines.</li> <li>• The specific points in dispute relate to achieving a secondary emergency access and water supply which require application of performance principles.</li> </ul>

#### **STRATEGIC ALIGNMENT**

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

Outcome	Strategy	Actions
1.1 A diverse, prosperous economy, supporting local business and population growth	1.1.1 Promote, maintain and diversify investment in the district	1.1.1.2. Represent the district's interests with key stakeholders.
1.3 An attractive visitor and tourist destination	1.3.1 Actively promote the district as an attractive destination	1.3.1.3. Continue to support local and regional tourism bodies and initiatives

#### **BACKGROUND**

A Council decision is required as the Chief Executive Officer has no delegation to determine planning applications where there are potential controversial components.

The proposal is to erect two “chalets” at Lot 3 Gerde View, Lowden (subject land) (Attachment 9.3.1 (1)). The proposed development consists of site earthworks, access construction, two prefabricated accommodation buildings and a 180 000 litre water tank. The buildings will be constructed off site and transported to the site (Attachment 9.3.1 (2a) – site and building plan).

The subject land is zoned “General Agriculture” under Local Planning Scheme 7 (LPS7) and is surrounded by similar zoned land on all boundaries. Access to the property is via the end of a cul-de-sac (Gerde View) which is 500m in length and connects to Ferguson Road. The property is essentially cleared grazing land with vegetation being clustered in the north western corner and in a linear corridor running from the western boundary to the east in the southern third of the land. There is also a tree line running along the northern and majority of the eastern boundary. Improvements on the property include two established dams, a 110 000 litre water tank and a small shed.

The proposed use of “Chalet” is listed as an “A” (Discretionary) use in the Land Use Table of LPS7. The “A” designation required advertising prior to exercising any discretion to support. LPS7 defines “Chalet” as follows:

*“means an individual self-contained unit usually comprising cooking facilities, ensuite, living area and one or more bedrooms designed to accommodate short-stay guests, forming part of a tourism facility.”*

Portions of the subject land is identified as “Bushfire Prone” on Department of Fire and Emergency (DFES) Mapping (Attachment 9.3.1(3)) and the proposed “Chalets” are proposed to be located within this area. This triggers application of State Planning Policy 3.7 Planning in Bushfire Prone Areas (December 2015) (SPP3.7). SPP3.7 is supported by Guidelines for Planning in Bushfire Prone Areas (Guidelines). SPP3.7 and the Guidelines identify requirements necessary to support planning applications. In this case, the proposed land use falls under the category of a “vulnerable land use” which includes “holiday accommodation” or “chalets”.

Section 6.6.1 of SPP3.7 requires planning applications for vulnerable land uses to be supported by a Bushfire Management Plan (BMP) and this requires joint endorsement by the Shire and DFES. The Guidelines set out two methods for assessing proposals – “acceptable solutions” and “performance principle based solutions”.

The chalets are located within a BushFire Attack Level (BAL) contour of 19 and that buildings will be designed to comply with BAL19 standards.

DFES has raised concerns regarding two elements of the Guidelines as follows:

Element 3: Vehicular Access			
Acceptable Solutions		Explanatory Notes (summary)	Issue
A3.1 Two Access routes	Two different vehicular access routes are provided both of which connect to the public road network, provide safe access and egress to two different destinations and are available to all residents/the public at all times and under all weather conditions.	It is necessary that the public have two safe access options leading to two different destinations.  Two way access should be provided as a public road, however, where this cannot be achieved an emergency access way may be considered.	Two way access is located at the end of cul-de-sac (see below)



		<p>Cul-de-sac roads to have a maximum length of 200m</p> <p>Emergency access way's to have a maximum length of 600m</p> <p>A battleaxe leg to have a maximum length of 500m</p>	<p>Cul-de-sac has a length of approximately 500m</p>
<b>Element 4: Water</b>			
A4.3 Individual lots within non-reticulated areas	Single lots above 500 square metres need a dedicated static water supply on the lots that has the effective capacity of 10, 000 litres.	n/a	DFES does not believe a reliable water source is provided. However, a 180 000 litre tank is proposed to be provided in addition to the existing 110 000 litre tank

The applicant has requested that performance principles be applied which are intended to achieve the intent of the “Acceptable Solutions” above. The performance principles are as follows:

<b>Element 3: Vehicular Access</b>	
<b>Performance Principle</b>	
P3	The internal layout, design and construction of public and private vehicular access and egress in the subdivision/development allow emergency and other vehicles to move though it easily and safely at all times.
<b>Element 4: Water</b>	
P4	The subdivision, development or land use is provided with a permanent and secure water supply that is sufficient for firefighting purposes.

## DETAILS

In respect to Element 3: Vehicular Access, the proposal is located at the end of a 500m cul-de-sac (Gerde View) which connects to Ferguson Road which provides two way access. A maximum length of 200m is required in the Acceptable Solutions.

In relation to determining the acceptableness of vehicular access, applying the performance principles, the following needs to be considered:

- a) the *Bushfire Planning and Policy Review 22 January 2019* (Policy Review). This Policy Review includes Recommendation 9 which seeks to amend SPP 3.7 and Guidelines “to adopt a broader landscape risk assessment”. Section 4.3.3 of the Policy Review relates to tourism and nature based land uses and outlines alternative options such as refuge buildings or refuge open spaces to shelter in place as a last resort. The site includes a significant area located outside the “Bushfire Prone Land”. This includes two areas of approximately 12 hectares each with dimensions of approximately 200m x 200m. On this basis, it is reasonable to conclude that there is a safe refuge space to shelter in a place of last resort.
- b) There is potential to relocate the chalets 200m to be outside the “Bushfire Prone Land”. If relocated, there would be no trigger to apply SPP3.7 and consider vehicular access arrangements. Relocating the chalets 200m has no impact on the Element 3 vehicular access.
- c) One of the key policy objectives of SPP 3.7 is to “preserve life” and the proposal can provide a safe refuge open space area on the site.

Given the context of the proposal described above when combined with the limited scale, it is reasonable to conclude that the proposed access arrangements are suitable.

In respect to Element 4: Water, there is an existing 110 000 litre water tank and a 180 000 litre water tank proposed and will be approximately 120m from the nearest chalet. The existing 110 000 litre tank will remain full at all times and maintained as a reserve water supply. The pump system servicing the tanks is completely off-grid and powered via solar panels and a 20kw battery storage. The pump system includes manual override to maintain a continue water supply when required.

On this basis, it is the Shire’s position that the proposal complies with the Acceptable Solution Element 4, A4.3 Element of the Guidelines.

## **CONSULTATION**

The proposal has been advertised with a letter drop to surrounding landowners. One submission has been received raising the following concerns:

- a) increased fire risk by guests having bonfires, driving on dry paddocks, lighting candles or cigarette butts;
- b) pets, particularly dogs worrying sheep and other stock on the paddocks next to the proposed chalets;
- c) guests being allowed to shoot and hunt on the property;
- d) noise and traffic increase if guests are allowed to ride on dirt bikes etc unsupervised; and
- e) the initial proposal is for two chalets but potential to increase to five or six which will increase concerns.

The submission concludes that they are not opposed to the development, but would like assurance that quest activities would be limited and would not include shooting, hunting, dogs and dirt bikes and that appropriate fire management and traffic control is in place.

In considering this submission, the following points may assist:

- a) the nearest dwelling is approximately 350m from the proposed chalet sites, with the next nearest dwelling being 900m;
- b) potential plans for expansion will require a separate planning application and will require assessment separately when (and if) submitted; and
- c) all guests will be required to obey traffic rules and have regard to fire management controls that apply within the Shire.

It is reasonable to place planning controls to limit activity that does not cause disturbance to neighbouring properties and their expectations to have quiet enjoyment of their land.

## **FINANCIAL IMPLICATIONS**

Nil

## **POLICY COMPLIANCE**

SPP 3.7 and Guidelines form part of the State Planning Framework and provides the foundation for land use planning to address bushfire risk management in Western Australia.

The proposal requires preparation of a BMP with the Guidelines providing details on what is to be addressed in the BMP.

## **STATUTORY COMPLIANCE**

Clause 4.36 of Local Planning Scheme 7 provides guidance on the assessment of chalets. This includes the need to consider and ensure limited impact on rural production activities on the site and adjoining properties and limiting the number of chalets to a maximum of six.

Clause 67 of the *Planning and Development (Local Planning Schemes) Regulations 2015* details matters to be considered by local governments when making a planning decision. This includes the need to have regard to any State Planning Policy (ie: SPP 3.7).

## **CONCLUSION**

The acceptability of this proposal hinges on the issue of bushfire compliance.

The proposal relates to a tourist activity where the structures could be in a different part of the property and technically remove the need for a BMP or at the very least, a BMP that requires joint approval by DFES and the Shire.

DFES in assessing the BMP has taken a strict interpretation of SPP 3.7 and does not seek to entertain assessment against performance principles as allowed and intended in the Guidelines.

A recent Policy Review makes a distinction between tourist activity and other habitable land uses. This approach is guided by understanding that one of the key objectives of SPP 3.7 is to preserve life and with small scale tourist land uses the occupants are unlikely to “stay and defend” and leave earlier. Further, the Policy Review describes alternatives to providing a

secondary emergency access, including the provision of a safe place on site which can be provided in this case.

Given the above, it is recommended that the proposal be approved subject to conditions.

### **Amendment to the Advice Notes**

**Moved: Cr Wringe      Seconded: Cr Atherton**

- 6      In respect to Condition 1.1 it will be necessary to ensure that all guests are aware of restrictions that apply in relation to fire management **to promote compliance during occupation.****

**Carried 9/0**

### **COUNCIL DECISION 160/19 (Executive Recommendation)**

**Moved: Cr Wringe      Seconded: Cr Lindemann**

**That Council:**

- 1.      Grants development approval for two chalets, access and a water tank at Lot 3 Gerde View, Lowden in accordance with the approved plans, subject to the following conditions:**
  - 1.1      The obligations of the Fire Management Plan being implemented prior to occupation and maintained at all times to the satisfaction of the Shire of Donnybrook Balingup.**
  - 1.2      The access network being constructed and maintained to the satisfaction of the Shire of Donnybrook Balingup.**
  - 1.3      An on-site refuge space being provided and made accessible to the satisfaction of the Shire of Donnybrook Balingup.**
  - 1.4      A Notification pursuant to section 70A of the Transfer of Land Act is to be registered on the Certificate of Title for the property, within 28 days of the date of this approval, advising prospective purchasers of the conditions of development approval and the requirements of the Bushfire Management Plan.**
  - 1.5      No disturbance to occur to adversely impact on the quiet enjoyment of adjoining properties in the locality in terms of noise, dust, odour and light.**
  - 1.6      All guests to be provided with information regarding controls and restrictions that apply during the fire season including restricted burning and prohibited burning periods.**

## ADVICE NOTES

1. **If the development the subject of this approval is not substantially commenced within 2 years, or another period specified in the approval after the date of the determination, the approval will lapse and be of no further effect.**
2. **Where an approval has so lapsed, no development must be carried out without the further approval of the local government having first been sought and obtained.**
3. **If an applicant or owner is aggrieved by this determination there is a right of review by the State Administrative Tribunal in accordance with the Planning and Development Act 2005 Part 14. An application must be made within 28 days of the determination.**
4. **An application for a Building Permit to construct the development hereby permitted is required to be submitted and approved by the local government prior to any construction works commencing on-site in relation to this determination.**
5. **In respect of Condition 1.5, the use of recreational vehicles such as trail/quad bikes by patrons and shooting on the property is not supported. Further, all dogs and pets shall be suitably contained within the property.**
6. **In respect to Condition 1.1 it will be necessary to ensure that all guests are aware of restrictions that apply in relation to fire management **to promote compliance during occupation.****

**Carried 9/0**

**9.3.2 REQUEST TO GRANT FINAL APPROVAL FOR AMENDMENT 12 TO LOCAL PLANNING SCHEME NO. 7 – LOT 151 BENTLEY ROAD, DONNYBROOK**

<b>Location</b>	Lot 151 Bentley Road, Donnybrook
<b>Applicant</b>	Civil Technology
<b>File Reference</b>	TP17 AMD 12
<b>Author</b>	Bob Wallin (Manager Development Services)
<b>Attachments</b>	9.3.2(1) - Location Plan 9.3.2(2) - Proposed Concept Sketch 9.3.2(3) - Extract Local Planning Strategy 9.3.2(4) - Wider subdivision context 9.3.2(5) - Schedule of Submissions 9.3.2(6) - Schedule of Modifications
<b>Voting Requirements</b>	Simple Majority
<b>Executive Summary</b>	<ul style="list-style-type: none"> <li>Final approval is recommended to amend Local Planning Scheme 7.</li> <li>The proposal is to rezone Lot 151 Bentley Road, Donnybrook from “General Agriculture” with a Development Investigation Area overlay to “Residential R5” with a Structure Plan overlay.</li> <li>The proposal is generally consistent with the established planning framework that identifies the land as having potential for residential development.</li> </ul>

**STRATEGIC ALIGNMENT**

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

<b>Outcome</b>	<b>Strategy</b>	<b>Actions</b>
1.1 A diverse, prosperous economy, supporting local business and population growth	1.1.1 Promote, maintain and diversify investment in the district	1.1.1.4 Actively partner in regional growth planning partnerships and projects
1.2 Available land for residential, industrial and commercial development	1.2.1 Support and promote appropriate development of land within the district	1.2.1.1 Attract, promote and facilitate land development within the district

**BACKGROUND**

The proposal is to amend the Shire’s Local Planning Scheme 7 (LPS7) by rezoning Lot 151 Bentley Road, Donnybrook from “General Agriculture” with a “Development Investigation Area 5” (DIA5) overlay to “Residential” with a density coding of R5 and including a Structure Plan overlay (Attachment 9.3.2(1) - location plan).

Council at its 22 May 2019 Ordinary Council Meeting resolved to initiate and advertise the amendment for public and government agency comment.

This item is now presented to Council as a formal resolution is required to make a recommendation to the Western Australian Planning Commission (WAPC). Council has three options available, which are to recommend:

- a) final approval;
- b) final approval subject to modifications; or
- c) withhold or not proceed.

The amendment is supported by a subdivision concept plan (Attachment 9.3.2 (2)) which shows indicative road layouts and lot sizes.

The Shire's long term vision for the site is articulated in the Shire's Local Planning Strategy which identifies the land as "Residential Investigation" (Attachment 9.3.2(3)).

DIA5 of LPS7 identifies a land use expectation for the site as "Residential" with Schedule 13 listing matters to be addressed in a structure plan, including:

- Lot sizes between 2000m<sup>2</sup> and 4000m<sup>2</sup>;
- Public Open Space (POS) provision;
- Landscaping and vegetation plan;
- Effluent disposal and servicing;
- Buffers for agricultural land;
- Protection of native vegetation; and
- Fire management.

In creating residential lots, the zoning of land through the amendment process represents the first step in a wider set of processes. In this instance, the proposed rezoning amendment will establish the planning framework to guide a structure planning process by inserting text into Schedule 11 Structure Plan Areas of LPS7. A future structure plan document will then address finer level design and servicing matters. Structure plans are assessed through a separate process that includes advertising, a Council recommendation and a final decision by the WAPC. Once the structure plan process has been concluded, a subdivision application is required. The subdivision application process will enable all the provisions of LPS7 and the structure plan to be implemented prior to new lots being created and made available for market.

This amendment falls under the category as a "Standard Amendment". The process for standard amendments includes the following steps:

- Step 1) Council resolve to initiate the amendment;
- Step 2) Council resolve to advertise the amendment
- Step 3) Council refers amendment to EPA for environmental assessment.
- Step 4) advertise amendment to the public and government agencies;
- Step 5) Council to consider submissions and make a recommendation for final approval;
- Step 6) The Western Australian Planning Commission (WAPC) makes a recommendation to Minister for Planning;
- Step 7) Minister for Planning grants final approval; and
- Step 8) Amendment gazetted and becomes law.

This proposal is presented to Council for a decision on Step 5.

## **DETAILS**

The proposed amendment is consistent with the strategic vision for the site. Attachment 9.3.2(4) shows how the site design can be integrated and coordinated with a design for the wider DIA5 area.

## **CONSULTATION**

The amendment has been advertised in accordance with the Standard Amendment process as detailed in the *Planning and Development (Local Planning Schemes) Regulations 2015* (Regulations). Advertising has included a notice in the local paper, letter mail out to local nearby landowners and government/servicing agencies.

A total of ten submissions have been received, consisting of two from local residents and eight from government agencies. Attachment 9.3.2(5) provides details of the submissions and suggested responses.

In summary, the key issues raised relate to:

- a) loss of rural land and adverse impacts on rural landscape amenity;
- b) Potential for unsafe traffic conditions;
- c) potential impacts on the local water environment;
- d) lack of public advertising;
- e) need for additional study to establish suitability for on-site effluent disposal
- f) need for the concept designs to improve protection of black cockatoo habitat trees; and
- g) fire management concerns regarding secondary access and use of culs-de-sac.

These points are addressed in the Schedule of Submissions (Attachment 9.3.2(5)), however, the key points to consider are:

- a) The proposed zoning is consistent with the strategic direction identified in the Shire's Local Planning Strategy and re-enforced in LPS7 by the inclusion of the site as a Development Investigation Area; and
- b) Details associated with design and servicing will be required to be addressed at the structure plan stage. At this juncture, the concept sketch provided is to assist with understanding a potential subdivision outcome. The structure planning process will enable the design to be refined based on the findings of more detailed investigations, studies and direction provided during further consultation at future stages.

Attachment 9.3.2 (6) provides a proposed schedule of modifications to address matters raised during advertising.

## **FINANCIAL IMPLICATIONS**

The required assessment fee of \$2750 has been received.



## **POLICY COMPLIANCE**

Not applicable.

## **STATUTORY COMPLIANCE**

Part 5 of the *Planning and Development Act 2005* outlines the processes and requirements for amending local planning schemes. This includes Section 81 that details the need for an Environmental Decision by the EPA prior to formal public advertising starting. The EPA's decision was obtained prior to public advertising starting.

Part 5 of the Regulations - Amending local planning scheme Division 2 details processing and advertising requirements for Standard Amendments. The amendment has been advertised in accordance with the Regulations.

## **CONCLUSION**

The proposal is consistent with the strategic intent identified for the land and contains a suitable level of detail to progress the amendment. Future structure planning will address detailed design and servicing matters prior to subdivision being considered.

The consultation period has raised a number of issues and it is suggested that the amendment document be amended to incorporate changes to address these points.

It is recommended that final approval be granted subject to modifications.

## **COUNCIL DECISION 161/19 (Executive Recommendation)**

**Moved: Cr Atherton**

**Seconded: Cr Sercombe**

**That Council resolve to:**

- 1) Recommend to the Western Australian Planning Commission that Amendment 12 to Local Planning Scheme 7 proposing to rezone Lot 151 Bentley Street, Donnybrook from "General Agriculture" to "Residential R5" and identifying the land in a Structure Plan area, be granted final approval, subject to modifications listed in the Attachment 6 – Schedule of Modifications;**
- 2) The amendment being processed as a "Standard Amendment" as defined in the *Planning and Development (Local Planning Schemes) Regulations 2015*;**
- 3) Determine the submissions in accordance with Attachment 5 – Schedule of Submissions; and**
- 4) Require the Chief Executive Officer to undertake such tasks necessary to implement 1 and 3 above.**

**Carried 9/0**

### 9.3.3 REQUEST TO APPROVE A SHED AT LOT 15 SOUTH WESTERN HIGHWAY, NEWLANDS

<b>Location</b>	Lot 15 South Western Highway, Newlands
<b>Applicant</b>	Outdoor World Bunbury
<b>File Reference</b>	A4909
<b>Author</b>	Bob Wallin (Manager Development Services)
<b>Attachments</b>	Attachment 9.3.3 (1) - Location Plan Attachment 9.3.3 (2) - Site Plan Attachment 9.3.3 (3) - Photos of locality
<b>Voting Requirements</b>	Simple Majority
<b>Executive Summary</b>	Recommend that Council approve the erection of a shed at Lot 15 South Western Highway, Newlands which is zoned “Rural Small Holdings” The proposal requires a variation to Local Planning Policy 9.4 relating to outbuilding control as there is no existing or approved dwelling. The proposed outbuilding is minor in scale and reflects the establish character of land within the Rural Small Holdings zone.

#### STRATEGIC ALIGNMENT

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

<b>Outcome</b>	<b>Strategy</b>	<b>Actions</b>
1.2 Available land for residential, industrial and commercial development	Support and promote appropriate development of land within the district	1.2.1.1 Attract, promote and facilitate land development initiatives within the district

#### BACKGROUND

A Council decision is required as the Chief Executive Officer has no delegation to determine planning applications where a variation to Local Planning Policy is required. In this instance, Council’s Local Planning Policy 9.4 (LPP 9.4) requires a dwelling or a building permit to construct a dwelling being in place prior to erecting a shed. This proposal is to erect a shed without a dwelling being constructed first.

The proposal is to erect a shed at Lot 15 South Western Highway, Newlands (subject land) (Attachment 9.3.3 (1) – Location Plan). The proposed shed has a floor area of 63m<sup>2</sup> (9m x 7m) with a wall height of 3m.

The subject land sits on the southern edge of a “Rural Small Holdings” precinct under Local Planning Scheme 7 (LPS7) and is framed by “agricultural” land on all other sides (Attachment 9.3.3 (2)). Vehicular access to the property is from the south-eastern corner of the subject land that is serviced by a gravel track set within a local road reserve.

The subject land has an area of 4269m<sup>2</sup>, is cleared of vegetation and has slope that falls way from the South Western Highway. The subject land is screened from the South Western

Highway by a line of mature trees and when combined with the land’s slope, limits visual intrusion of structures from the public realm. The site contains an existing shed and a sea container. Both these existing structures do not have planning approval.

The “Rural Small Holding” zone applies to a limited and discrete area within the Shire (see Attachment 9.3.3(2)), consisting of a total of 12 lots, with one being vacant. The “Rural Small Holdings” zone was introduced by LPS7 in September 2014 with the land previously being zoned “General Farming” under Town Planning Scheme 4. This historic zoning allowed sheds to be erected without the need for a dwelling. The immediately surrounding lots to the north and east contain sheds without dwellings being in place (Attachment 9.3.3 (3)).

## DETAILS

The proposed shed complies with setback requirements under LPS7 as shown in the following table:

Setback requirements	Required	Proposed
Front	20m	30m
Side and rear	10m	22.4m and 13.6m

The proposal represents a low key development that reflects the established character of the locality and is consistent with the objectives of the Rural Small Holdings zone and clause 4.17 of LPS7 that relates to achieving harmony in built form outcomes.

LPP 9.4 provides guidance on controlling outbuilding development. The intent of LPP 9.4 is to two-fold, being to:

- a) control the size and scale of outbuildings so that they do not dominate the local landscape; and
- b) ensure that outbuildings are ancillary to the main building (dwelling) on the site.

In respect to a) above, LPP 9.4 establishes maximum outbuilding floor areas and wall heights. The proposed shed complies with these as shown in the following table.

Outbuilding requirements	Required	Proposed
Maximum floor area	180m <sup>2</sup>	63m <sup>2</sup>
Maximum wall height	3.5m	3m

In respect to b) above, it is noted that this part of the policy is primarily directed towards Rural Residential development where there is wide scale potential for sheds to dominate the landscape in an area identified for low density residential lifestyle living. The Rural Residential zone applies to significant tracts of land within the Shire with clusters around the townsites of Donnybrook and Balingup. This issue is a minor concern in the context of the “Rural Small Holdings” zone on the basis that:

- a) there is only one vacant Rural Small Holdings zoned lot (limited potential for adverse precedent);
- b) the zone is confined to a small area (total of 3.6ha within entire Shire);
- c) it is limited 12 lots in total; and
- d) a significant number of lots already have sheds without an associated dwelling.

Given that there is only one vacant lot within the Rural Small Holdings zoning, there is very limited potential for establishing a precedent, noting that this has already been established to some degree on the two abutting properties.

In relation to the existing shed and sea container, these can be addressed separately through retrospective applications or through removal. There is potential to provide the applicant with advice in the decision letter on how to resolve these items.

## **CONSULTATION**

The proposal does not require public consultation under LPS7. Main Roads Western Australia raises no objections to the proposed in relation to impacts on the South Western Highway.

## **FINANCIAL IMPLICATIONS**

Nil

## **POLICY COMPLIANCE**

LPP 9.4 provides guidance on outbuilding controls. A variation is required in relation to allowing an outbuilding to be erected without a dwelling being approved or constructed on site.

## **STATUTORY COMPLIANCE**

LPS7 provides details on the purpose, objectives, policies and development standards that apply to the Rural Small Holdings zone. The following clauses are significant:

- a) Clause 3.4.1 which defines the purpose to provide for rural lifestyle opportunities and associated small scale agricultural production;
- b) Clause 3.4.2 lists several objectives, with the key relevant objective to encourage the opportunity for a range of rural and semi-rural pursuits;
- c) Clause 4.53 provides details on the policies and development standards that apply to the Rural Small Holdings zone. The Policy objective for the zone is to support small low key development; and
- d) Clause 4.17 requires developments to be in harmony with the established character of the locality in terms of external appearance, material selection, dimensions and proportions and landscaping.

The proposal is consistent with the intent of these clauses.

Clause 67 of the *Planning and Development (Local Planning Schemes) Regulations 2015* details matters to be considered by local governments when making a planning decision. This includes the need to have regard to:

- Any local planning policy;
- Compatibility of the development with its setting including its relationship to adjoining properties in the locality, considering likely impacts in terms of bulk, height, scale, orientation and appearance;
- The amenity of the locality, including environmental impacts, character and social;
- The adequacy of access; and

- The history of the site.

The proposal is of a limited scale consistent with the established built form outcomes in the locality and does not generate any concerns in relation to the above points with the exception to the first dot point which has been addressed above.

## **CONCLUSION**

Approval is recommended.

**COUNCIL DECISION 162/19  
(Executive Recommendation)**

**Moved: Cr Wringe                      Seconded: Cr Lindemann**

**That Council grants development approval for an outbuilding at Lot 15 South Western Highway, Newlands in accordance with the approved plans, subject to the following conditions:**

- 1.1    The development hereby permitted must be substantially commenced within two (2) years from the date of this decision letter.**
- 1.2    The approved plans form part of this approval and the development hereby approved must at all times be consistent with the approved plans.**
- 1.3    The outbuilding is not to be used for habitable purposes.**

**ADVICE NOTES**

- 1.    If the development the subject of this approval is not substantially commenced within 2 years, or another period specified in the approval after the date of the determination, the approval will lapse and be of no further effect.**
- 2.    Where an approval has so lapsed, no development must be carried out without the further approval of the local government having first been sought and obtained.**
- 3.    If an applicant or owner is aggrieved by this determination there is a right of review by the State Administrative Tribunal in accordance with the Planning and Development Act 2005 Part 14. An application must be made within 28 days of the determination.**
- 4.    An application for a Building Permit to construct the development hereby permitted is required to be submitted and approved by the local government prior to any construction works commencing on-site in relation to this determination.**
- 5.    The applicant is advised that the existing shed and sea container do not have a planning approval or a valid building permit. It is requested that the applicant liaise with the Manager Development Services regarding measures to formalize arrangements. In respect to the sea container, it is advised that the Shire does not support the storage of sea containers in this locality and that it will be necessary to remove this structure.**

**Carried 9/0**

**9.3.4 PROPOSED WEEKEND EVENT, BLISSFEST 2020, AT LOT 287 (19503) SOUTH WESTERN HIGHWAY, BROOKHAMPTON FROM MID-DAY 20 FEBRUARY 2020 TO MID-DAY 23 FEBRUARY 2020**

<b>Location</b>	Lot 287 (19503) South Western Highway, Brookhampton
<b>Applicant</b>	The Liberators International / Soul Fusion Australia
<b>File Reference</b>	A1975
<b>Author</b>	Elaine Clucas
<b>Attachments</b>	Attachment 9.3.4(1) - Report on activities associated with Camp Doogs Event at The Berry Delightful 5-7 April 2019 Attachment 9.3.4(2) - Blissfest 2020 Noise Management Plan Version 1:27/9/19 Attachment 9.3.4(3) - Proposed Runsheet & Schedule of Events Blissfest 2020 Attachment 9.3.4(4) - Required notification area map Attachment 9.3.4(5) - Letter of Support 19481 SW Highway
<b>Voting Requirements</b>	Simple Majority
<b>Executive Summary</b>	The purpose of this report is to seek Council consent to authorise the Chief Executive Officer to approve the Event Blissfest 2020, for up to 300 patrons at The Berry Delightful, Lot 287 (19503) South Western Highway, Brookhampton subject to relevant conditions.

**STRATEGIC ALIGNMENT**

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

<b>Outcome</b>	<b>Strategy</b>	<b>Actions</b>
1.3 An attractive visitor and tourist destination	1.3.1 Actively promote the district as an attractive destination	1.3.1.4 Support and promote local tourism Events and attractions
2.1 An active and maintained built environment	2.1.2 Provide effective and efficient regulatory services	2.1.2.1 Provide efficient and effective health services
3.1 An engaged, supportive and inclusive community	3.1.1 Facilitate, encourage and support a diverse range of festivals, community Events, arts and cultural activity	3.1.1.2. Continue to encourage and support community-led Events

**BACKGROUND**

The Shire is in receipt of an Event Application Form from the Liberators International / Soul Fusion Australia to hold a weekend Event, Blissfest 2020, for up to 300 patrons at The Berry Delightful, Lot 287 (19503) South Western Highway, Brookhampton.

Event approval is required under the *Health (Public Buildings) Regulations 1992*. As some components of the Event are likely to exceed the assigned noise levels of the *Environmental*

*Protection (Noise) Regulations 1997*, an application under Regulation 18 of the Regulations for a non-complying Event has also been submitted.

The venue for the Event, The Berry Delightful, is a registered food business with the Shire under the *Food Act 2008*.

The noise Regulations provide delegated authority to the CEO of a local government to approve an Event which has associated noise emissions which would exceed the assigned levels however, there is a contentious element to the proposal that justifies a higher level of decision making.

The venue hosted an Event earlier this year which resulted in four complaints from neighbouring properties. Two complainants subsequently raised their concerns at the Ordinary Meeting of Council held 24 April 2019.

The purpose of this report is to seek Council consent to authorise the Chief Executive Officer to approve the Event subject to relevant conditions.

## **DETAILS**

### Event Venue

The proposed Event venue is The Berry Delightful, a food business registered with the Shire under the *Food Act 2008*. The venue is located at Lot 287 (19503) South Western Highway, Brookhampton and focuses on special Events including weddings and boutique music performances.

### Event Owner

The Event owner is The Liberators International / Soul Fusion Australia (<https://www.theliberators.org/>) a global not for profit group based in Perth whose mission is;

*‘To involve people in participatory acts of freedom that allow us to see that beyond our differences there is love and humanity’.*

Information gained from The Liberators website shows a following of 140,547 on their Facebook page and numerous Events profiled on U-tube with in excess of 500,000 views. The ‘Train passengers sing over the rainbow’ Event has in excess of 20 million views.

### Event Demographic

The proposed Event demographic is a three day, two night camping Event including yoga & mindfulness, dance and recreational activities. The proposed Event is family friendly, alcohol free and would have fire restrictions. The maximum number of tickets available for purchase is limited to 300 patrons with approximately 50 volunteers required on site at various stages of the Event.

### Relevant history

The Berry Delightful hosted an Event earlier this year which resulted in four complaints from neighbouring properties. Two complainants subsequently raised their concerns at the Ordinary Meeting of Council held 24 April 2019. A full report on this matter is at attachment 9.3.4(1).



## Legislative framework

### ***Health (Miscellaneous Provisions) Act 1911***

### ***Health (Public Buildings) Regulations 1992***

The approval of Events delegated to Local Government under the *Health (Miscellaneous Provisions) Act 1911* (Act) which provides opportunity to set conditions to ensure the public health and safety of patrons is addressed.

Supporting the Act is the *Health (Public Buildings) Regulations 1992* which provide a greater level of detail related to specific requirements of any approval. For the Blissfest 2020 event conditions relating to the following areas would be applied;

- Maximum number of people in attendance at one time
- Compliance with the BCA
- Certification of electrical compliance
- Parameters around entry and exit points
- Toilet facilities
- Fire precautions
- Evacuation Plans
- Lighting

For parameters outside those listed in the Regulations, Part VI of the Act allows the approving authority to impose additional conditions as it deems appropriate.

#### *177. Approval*

*An approval referred to in section 176 shall be in writing and may be issued subject to such conditions as may be specified in the approval including a condition limiting the time for which the approval is valid.*

Under the Act conditions relating to the following would be applied;

- Public liability insurance with a minimum cover of \$10,000,000
- Provision and operation of entertainment activities
- Traffic Management
- Crowd control
- Provision of first-aid
- Provision of free drinking water
- Waste management
- Event emergency cancellation

### ***Environmental Protection Act 1986***

### ***Environmental Protection (Noise) Regulations 1997***

Noise is an 'emission' and deemed to be pollution, although a health issue, it is dealt separately from health legislation via the Environmental Protection Act 1986 (Act);

### **3A. Terms used relating to pollution and environmental harm**

(1) *In this Act —*

**pollution** means *direct or indirect alteration of the environment —*

- (a) *to its detriment or degradation; or*
- (b) *to the detriment of an environmental value; or*
- (c) *of a prescribed kind,*  
*that involves an emission.*

Supporting the Act are the *Environmental Protection (Noise) Regulations 1997*. The Noise Regulations set noise limits which have been carefully designed to ensure that noise from other premises is kept to acceptable levels, At the same time they are flexible enough to allow for reasonable economic, cultural and social activity to occur.

The Noise Regulations determine acceptable noise levels (assigned noise levels) based on;

- the use of the area (residential, commercial, industrial, proximity to major roads),
- the time of the day and day of the week, and
- the characteristics of the noise (presence of impulsiveness, tonality or modulation).

In recognising that ‘special cases’ exist, the Noise Regulations include provision for approval by a local government to exceed the assigned noise levels subject to conditions. Examples of these special cases include agriculture, bellringing, blasting, construction noise, equipment used on residential premises, outdoor concerts and community activities. Should the conditions of approval be breached, compliance reverts to the assigned noise levels.

The Chief Executive Officer of a Local Government (CEO) is a person delegated under section 20 of the *Environmental Protection Act 1986* with authority to approve an Event if he/she is satisfied that in accordance with Regulation 18(3) the Event:

1. *‘is likely to result in the emission of noise in contravention of the standard prescribed under regulation 7; and*
2. *would lose its character or usefulness if it were required to comply with that standard.’*

In accordance with Regulation 18(11):

*‘The CEO is not to approve the holding of more than 2 approved Events in or at a particular venue in any period of 12 consecutive months unless the CEO is satisfied that the majority of occupiers on whom the noise emissions will impact have no objection to the holding of the additional Events’.*

For the Blissfest 2020 event, noise conditions relating to the following areas would be applied;

- Starting and finishing times
- Approved Timeframes
- Sound level limits
- Unexpected incident

- Installation of Jewel (Main) and Lake (Minor) Stage public address system
- Monitoring of sound levels
- Control of sound levels
- Complaint response service
- Noise management plan
- Monitoring and compliance reporting

### **Food Act 2008**

The provision of food to the public is governed by the Food Act 2008, this includes permanent and temporary locations. Whilst The Berry Delightful has a food business registered with the Shire, temporary food vendors also require approval to trade within the Shire's boundaries.

For the Blissfest 2020 event, food handling conditions relating to the following areas would be applied;

- Registered Food Businesses only
- Food safety
- Waste management

### **Caravan Parks and Camping Grounds Regulations 1997**

The regulation of caravanning and camping is delegated to local government under the *Caravan Parks and Camping Grounds Regulations 1997*. Section 11 of the Regulations provides exemptions for camping on private land as follows;

- (1) *A person may camp —*
- (a) *for up to 3 nights in any period of 28 consecutive days on land which he or she owns or has a legal right to occupy, and may camp for longer than 3 nights on such land if he or she has written approval under subregulation (2) and is complying with that approval;*

and further,

- (2) *Written approval may be given for a person to camp on land referred to in subregulation (1)(a) for a period specified in the approval which is longer than 3 nights —*
- (a) *by the local government of the district where the land is situated, if such approval will not result in the land being camped on for longer than 3 months in any period of 12 months;*

This application involves camping over four nights for Event organisers and volunteers therefore a Temporary Camping Permit will be required.

In addition to public health parameters noted above, for the Blissfest 2020 event, camping conditions relating to the following areas would be applied;

- Movement of vehicles
- Security

## **CONSULTATION**

A Shire officer has met and spoken with both the Venue Manager of The Berry Delightful and a representative of the Event Organiser, The Liberators International / Soul Fusion Australia.

Discussions have been frank regarding the Shire's concerns relating to the potential for noise to impact on nearby noise sensitive premises and as a result comprehensive supporting information has been submitted relating to proposed noise control.

Written support has been provided to the Shire from the closest noise sensitive premises, 19481 South Western Highway Brookhampton, approximately 200m from the main stage (Attachment 9.3.4(5)).

The table below details the five other properties which may have some level of impact, the distance from the Event venue all within 1500 meters of the stage.

Property address	Distance from Event venue (meters)
19587 South Western Highway, Brookhampton	1333
5 Tassone Road, Upper Capel	689
19527 South Western Highway, Brookhampton ( to the rear of the stage)	401
19450 South Western Highway, Upper Capel	502
22 Langridge Road Brookhampton	1019

Contact has been made by a Shire officer with all property owners listed in the table above. Guarded support was given subject to strict controls, monitored by the Shire.

One of the complainants from the Camp Doogs event has significant concerns regarding the proposal.

## **FINANCIAL IMPLICATIONS**

Application fees would be applied as per the Shire's Fees and Charges 2019/20  
Human Resources – cost of staff monitoring the Event out of hours.

## **POLICY COMPLIANCE**

Nil

## **STATUTORY COMPLIANCE**

*Health (Miscellaneous Provisions) Act 1911*  
*Health (Public Buildings) Regulations 1992*  
*Environmental Protection Act 1986*  
*Environmental Protection (Noise) Regulations 1997*  
*Food Act 2008*  
*Caravan Park and Camping Grounds Regulations 1995*  
*Shire of Donnybrook-Balingup Health Local Laws 1999*  
*Animals, Environment and Nuisance Local Law 2017*

## **CONCLUSION**

Although this application has a significantly different demographic to the previous weekend Event, in light of concerns raised from neighbouring properties following the April Event it is prudent to rigorously review the applications.

The Event organiser, The Liberators International / Soul Fusion Australia, have a strong background in running Events both in Perth and globally. Running an Event which had potential to be intrusive to neighbouring properties would be contradictory to The Liberators Mission and Vision.

The applicant has provided a comprehensive Noise Management Plan and the proposed Runsheet indicates most of the Event will sit within the assigned noise levels. The proposed Friday and Saturday night finish times are not supported. The Regulation 18 application for a non-complying Event covers the time frames in which, subject to weather conditions, noise may exceed the assigned levels.

Conditions imposed under the *Health (Public Buildings) Regulations 1992*, *Food Act 2008* and *Caravan Park and Camping Grounds Regulations 1997* are standard for this type of Event.

Inspections are carried out prior to, during and post the Event by an Authorised Person from the Shire to ensure compliance with set conditions.

The opportunity to host a Liberators Event would bring significant global awareness to the district. Appropriate management of the Event combined with compliance monitoring by the Shire can ensure the amenity of surrounding neighbours is protected throughout the Event process.

## **AMENDMENT TO THE MOTION**

**Moved: Cr Sercombe      Seconded: Cr Atherton**

### **Additional Clause**

**1.32 All grass to be mowed where it expected vehicles will traverse and park.**

**Carried 9/0**

## **AMENDMENT TO THE MOTION**

**Moved Cr Wringe      Seconded: Cr Atherton**

### **Additional Clause**

**1.33 The perimeter of the footprint of the event area to consist of bare mineral earth as a firebreak**

**Carried 9/0**

## **AMENDMENT TO THE MOTION**

**Moved: Cr Massey      Seconded: Cr Newman**

**Addition to an existing clause (f) and inclusion of a new clause (h).**

- (f) The procedures for dealing with noise related complaints made to the complaint response service; **and including the requirement of close neighbours to be informed of the advisability of complaining at the time****
- (h) a minimum frequency of noise readings to be conducted twice on the Saturday evening.**

**Carried 9/0**

## **AMENDMENT TO THE MOTION**

**Moved: Cr Piesse      Seconded: Cr Lindemann**

### **Additional Clause**

**6. Encourages the Applicant and Venue Owner to enable and manage separable waste on the site (for appropriate disposal at approved facilities), as follows:**

- a. General waste**
- b. Recyclable waste**
- c. Green waste**

**Carried 9/0**

**COUNCIL DECISION 163/19  
EXECUTIVE RECOMMENDATION**

**That Council:**

**Moved: Cr Lindemann    Seconded: Cr Wringe**

- 1. Authorises the Chief Executive Officer to approve under the *Health (Public Buildings) Regulations 1992* The Liberators International / Soul Fusion Australia to hold a weekend Event, Blissfest 2020, for up to 300 patrons at The Berry Delightful, Lot 287 (19503) South Western Highway, Brookhampton from mid-day 20 February 2020 to mid-day 23 February 2020 subject to the following conditions:**
  - 1.1. Maximum number of patrons within the Event area (as per site map) at any one time is not to exceed 300 persons.**
  - 1.2. An Emergency Evacuation Plan is to be submitted to the satisfaction of the Shire of Donnybrook Balingup.**
  - 1.3. Proof of public liability insurance with a minimum cover of \$10,000,000 is to be submitted seven days prior to the Event.**
  - 1.4. All temporary structures (including inflatable structures) greater than 20m<sup>2</sup> must be approved by the Shire of Donnybrook Balingup Building Services. Approvals are subject to independent engineer certification provided at the completion of construction, prior to the Event.**
  - 1.5. Amusement rides must comply with AS 3533.**
  - 1.6. Proof of work-safe accreditation and latest maintenance checks/log books for all amusement rides must be provided to the Shire's Principal Environmental Health Officer at least seven days prior to the Event.**
  - 1.7. All temporary electrical installations must be certified by a licensed electrical contractor. A Form 5 - *Certification of Electrical Compliance* must be completed by the electrical contractor at the completion of installation. All electrical installations must comply with the Supply Authority or Office of Energy Safety requirements AS 3000, AS 3002 plus any special requirements of the *Health (Public Buildings) Regulations 1997***
    - All electrical outlets must be protected by a residual current device**
    - All power leads and extension cords must be tested and tagged within the past 6 months in accordance with AS 3760**
    - Temporary electrical leads must be flexible cables. Thermoplastic-sheathed cables are not permitted.**

- **Leads must not be placed on the ground in trafficable areas.**
  - **Cord junctions shall not be exposed to the weather or placed in damp situations.**
- 1.8. Sufficient emergency lighting must be provided for the entire Event site.**
  - 1.9. All entrances and exits are to be clearly signposted. (Please ensure that signage is placed higher than the fence line so that it is visible to patrons)**
  - 1.10. A minimum of 2 emergency exits (accessible to patrons) must be located around the perimeter of the Event site in accordance with the submitted plan.**
  - 1.11. Exits must be open spaces or gates hung to swing in the direction of egress and must be unlocked at all times any part of the Event site is occupied by patrons.**
  - 1.12. Exits must be attended at all times by crowd controllers who are easily identifiable to the public.**
  - 1.13. Paths of travel to exits must be kept clear of obstructions.**
  - 1.14. All entertainment activities are to be set-up and manned in a manner which ensures participant and public safety at all times.**
  - 1.15. Entry and exit pathways for emergency vehicles are to be identified and kept clear at all times. The pathways should be identified on the site plan and noted at pre Event briefings.**
  - 1.16. An assembly point in case of emergency must be determined. The Shire of Donnybrook Balingup is to be notified of the assembly point prior to the Event. It should also be identified in the Emergency Evacuation Plan.**
  - 1.17. Fire-fighting equipment must be supplied in accordance with the BCA or as recommended by the Department of Fire and Emergency Services. The equipment is to be maintained in accordance with AS 1851 and must be provided at all locations where open fires are permitted. This includes all gas cooking appliances.**
  - 1.18. There is to be no vehicle parking on the South Western Highway roadside at any time.**
  - 1.19. Crowd control persons/marshals/volunteers are required to wear a uniform which easily identifies them to patrons of the Event.**
  - 1.20. All crowd control persons/marshals/volunteers are to attend a briefing prior to commencement of their shift.**



- 1.21. A first-aid post is required, personnel are to hold current first-aid qualifications from an accredited training provider.
- 1.22. At all times the dam is available for use by patrons, a suitably qualified life guard is to be in attendance.
- 1.23. The first-aid post is to be constructed so that patients have privacy when being treated.
- 1.24. Event organisers are to liaise with first-aid to ensure supplies are available for patrons at the Event. (eg sunscreen, water).
- 1.25. Signage indicating location of free potable water stations is to be placed in highly visible locations.
- 1.26. The minimum sanitary facilities to be provided are as follows (based on 300 patrons);

Unisex		Disabled (unisex)		Showers
WC	Hand basin	WC	Hand basin	Unisex
6	6	1	1	2

- 1.27. Sanitary facilities are to be maintained in a clean and workable condition at all times and illuminated at night.
- 1.28. Sanitary facilities for the disabled are to be located in areas appropriate for persons with a disability to access and illuminated after 6.30pm.
- 1.29. All waste is to be managed and removed from the site as soon as practicable after the Event.
- 1.30. A person from the Event management must be contactable at all times by the local government and police prior to and during the Event. The person must be responsible for the Event and have the authority to order the venue to be closed or evacuated in an emergency.
- 1.31. Patrons must be informed prior to the Event, through advertisements or in leaflets accompanying tickets, of any special conditions or arrangements for the Event such as camping, traffic and parking, smoking, alcohol and fire restrictions.
- 1.32. All grass to be mowed where it expected vehicles will traverse and park.

**1.33. The perimeter of the footprint of the event area to consist of bare mineral earth as a firebreak.**

**2. Authorises the Chief Executive Officer to approve under the Environmental Protection (Noise) Regulations 1997 The Liberators International / Soul Fusion Australia to hold a weekend Event, Blissfest 2020, for up to 300 patrons at The Berry Delightful, Lot 287 (19503) South Western Highway, Brookhampton from mid-day 20 February 2020 to mid-day 23 February 2020 subject to the following conditions:**

**2.1 Subject to Condition 2.3, the approved start and finish times for noise which is likely to be in contravention of the standards prescribed under Regulation 7 of the *Environmental Protection (Noise) Regulations 1997* are as follows.**

<b>Date</b>	<b>Start time</b>	<b>Finish time</b>
<b>21 February 2020</b>	<b>1900 hours</b>	<b>2230 hours</b>
<b>22 February 2020</b>	<b>1500 hours</b>	<b>2400 hours midnight</b>

**2.2 (i) Subject to Condition 1.2 (ii) the sound level at any noise sensitive premises during the approved timeframes of the Event resulting from performances at the Event, shall not exceed –**

**$L_{Aeq}$ , 1min level of 65 dB(A); or**

**$L_{Ceq}$ , 1min level of 75 dB(C),**

**where  $L_{Aeq}$ , 1min and  $L_{Ceq}$ , 1min are average values taken over 1 minute, whose level contains the same energy as the fluctuating noise during that period.**

**(ii) The sound levels specified in Condition 2.2 (i) above may be exceeded for up to 10% of the one-minute periods between the approved hours, but shall not be exceeded by more than 3 dB(A) or 3 dB(C).**

**2.3. The finishing times specified in Condition 2.1 may be extended to not later than 11.00pm on Friday 21 February and 00.30am Sunday 23 February 2020, provided that -**

- (a) it is not reasonable and practicable to comply with the finishing time because an unexpected incident occurs during the Event;**
- (b) an inspector from the Shire of Donnybrook Balingup is advised of the unexpected incident as soon as is practicable after The Liberators International / Soul Fusion Australia becomes aware of the occurrence of the unexpected incident; and**
- (c) the CEO is notified in writing of the circumstances surrounding the unexpected incident within 7 days of the Event.**

- 2.4**
- (i) The public address systems for both stages at the Event shall be located immediately at the front of the stage, with the public address system facing south-west.**
  - (ii) The front-of-house loudspeakers of the public address system for the main stage shall be installed so as to direct sound downwards towards the audience.**
  - (iii) Amplification of sound is not permitted in any other location.**
- 2.5\*** **Monitoring of sound levels shall be undertaken at the mixing desk and five locations external to the venue at timeframes indicated on the Run Sheet submitted 1 October 2019 (Attachment 9.3.4(3)) or as directed by an inspector from the Shire of Donnybrook Balingup.**
- 2.6\*** **The locations of the external sites are (subject to change in line with weather conditions on the days).**
- (i) 19481 South Western Highway, Brookhampton**
  - (ii) 19527 South Western Highway, Brookhampton**
  - (iii) 19587 South Western Highway, Brookhampton**
  - (iv) 5 Tassone Road, Upper Capel**
  - (v) 22 Langridge Road, Brookhampton**
  - (vi) 19450 South Western Highway, Upper Capel**
- 2.7** **For the purposes of Condition 2.5, the readings of sound levels recorded by the monitoring equipment shall be taken to the nearest 0.1dB, and shall be taken to have exceeded the sound levels referred to in Condition 2.2 if those levels are exceeded.**
- 2.8\*** **The Liberators International / Soul Fusion Australia shall provide the names and contact telephone numbers of two persons who represent The Liberators International / Soul Fusion Australia and who shall be present and contactable during the course of the Event by the Shire of Donnybrook Balingup if required. The names and contact telephone numbers of those persons shall be provided to the Shire’s Environmental Health Services by no later than 5pm on Thursday 13 February 2020.**
- 2.9\***
- (i) The Liberators International / Soul Fusion Australia shall provide a complaint response service for persons who wish to lodge complaints regarding noise from activities associated with the Event.**
  - (ii) The complaint response service shall comprise a telephone service with at least two lines that can always be answered in person by an operator. An answering machine response is not acceptable.**
  - (iii) The complaint response service shall be attended at all times during the Event.**
  - (v) The Liberators International / Soul Fusion Australia shall compile and forward a report detailing all calls received by the complaint response service to the Shire’s Environmental Health Services by no later than 5pm Tuesday 3 March 2020. The report should contain the caller’s full name, address, telephone number (where those details are provided by the caller) the specific nature of the complaint and**

date and time of the call.

(vi) Notice of the starting and completion times for the Event and the establishment of the complaint response service, its telephone number(s) and the times of operation, shall be publicised not later than Wednesday 5 February 2020 by means of a flyer distributed to all noise sensitive premises in the area shown shaded on the attached map (Attachment 9.3.4(4)).

**2.10\*** The Liberators International / Soul Fusion Australia shall submit a final Noise Management Plan to the Shire's Environmental Health Services by no later than 5pm on Friday 13 December 2019. The Noise Management Plan shall include but is not limited to the following:

- (a) the procedure on how the approval holder intends to manage the Event to comply with the sound levels limits listed in Condition 2.2 (i) and (ii) of this approval;
- (b) the arrangements for the monitoring of sound levels in accordance with Conditions 2.5, 2.6 and 2.7;
- (c) the procedure for communicating the monitored sound levels between The Liberators International / Soul Fusion Australia and the Shire of Donnybrook Balingup inspectors while the Event is underway;
- (d) the target sound level limit at the mixing desk for the stage;
- (e) the procedures for dealing with exceedances of the sound level limits specified in Condition 2.2 (i) and (ii) while the Event is underway;
- (f) the procedures for dealing with noise related complaints made to the complaint response service; **and including the requirement of close neighbours** to be informed of the advisability of complaining at the time.
- (g) the venue layout in a suitable plan.
- (h) **a minimum frequency of noise readings to be conducted twice on the Saturday evening.**

**2.11\*** The Liberators International / Soul Fusion Australia is to provide a report of the full results of the monitoring, required by Conditions 2.5, 2.6 and 2.7. The report shall be delivered to the Shire's Environmental Health Services by not later than 5.00 pm on Tuesday 4 March 2020.

**NOTE:** Conditions denoted \* are designated as ancillary conditions for the purposes of Regulation 19A of the *Environmental Protection (Noise) Regulations 1997*.

- 3. Authorises the Chief Executive Officer to approve under the *Food Act 2008* The Liberators International / Soul Fusion Australia to hold a weekend Event, Blissfest 2020, for up to 300 patrons at The Berry Delightful, Lot 287 (19503) South Western Highway, Brookhampton from mid-day 20 February 2020 to mid-day 23 February 2020 subject to the following conditions:**
- 3.1 The provision of food to patrons is to be carried out in accordance with the *Food Act 2008*.**  
**Note: Any variation to these standard requirements must be agreed to prior to the Event. Stalls which do not comply with agreed conditions will not be allowed to operate.**
- 3.2 The Event organiser shall provide a list of food vendors trading at the Event to the Shire’s Principal Environmental Health Officer at least seven days prior to the Event.**
- 3.3 A food business based in a local government other than the Shire of Donnybrook Balingup must provide a copy of their Certificate of Registration issued by the local authority from which they are based in accordance with section 110 of the *Food Act 2008*.**
- 3.4 Providers of food and beverage must ensure waste is managed at all times and removed as soon as practicable after the Event.**
- 3.5 All food stalls are to be provided with adequate waste disposal facilities.**
- 3.6 All food stalls are to have access to hand wash facilities, should any stall be preparing food, hand wash facilities must include warm water.**
- 4. Authorises the Chief Executive Officer to approve under the *Caravan Park and Camping Grounds Regulations 1997*, The Liberators International / Soul Fusion Australia to hold a weekend Event, Blissfest 2020, for up to 300 patrons at The Berry Delightful, Lot 287 (19503) South Western Highway, Brookhampton from mid-day 20 February 2020 to mid-day 23 February 2020 subject to the following conditions:**
- 4.1 Provision is to be made in camping areas to ensure traffic slow down/cease movement measures are in place to ensure there is no conflict between vehicles and campers – in particular persons who may be sleeping in swags external to fixed structures.**
- 4.2 Security is to be provided in the carpark and camping areas. Attention is to be focussed on vehicle movement which is to be kept to a minimum.**
- 5. Authorises the Chief Executive Officer to modify conditions should circumstances associated with the event require change.**

- 6. Encourages the Applicant and Venue Owner to enable and manage separable waste on the site (for appropriate disposal at approved facilities), as follows:**
- a. General waste**
  - b. Recyclable waste**
  - c. Green waste**

**Carried 7/2**

Cr Atherton foreshadowed an alternate motion to seek further information in relation to entertainment (list acts and genre) prior to a Council decision being made.

**9.4 STRATEGIC BUILT PROJECTS AND ASSETS**

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Nil.

**9.5 EXECUTIVE MANAGER OPERATIONS**

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Nil.



## 9.6 MANAGER AGED CARE SERVICES

### 9.6.1 TUIA LODGE QUARTERLY REPORT - QUARTER ONE 2019/20

<b>File Reference</b>	CSV 01/2
<b>Author</b>	Bob Lowther – Manager Aged Care Services
<b>Attachments</b>	9.6.1(1) - Tuia Lodge Q1 Report 2019/20
<b>Voting Requirements</b>	Simple majority
<b>Executive Summary</b>	It is recommended that the Tuia Lodge Quarterly report for Quarter 1 2019/20 be received by Council

### STRATEGIC ALIGNMENT

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

Outcome	Strategy	Actions
4.2 A respected professional and trusted organisation.	2.1.1 4.2.1 Effective and efficient operation and service provision.	4.2.1.4 Demonstrate sound financial planning and management, including revenue/expenditure review and revenue diversification strategies and long term financial planning

### BACKGROUND

At its Ordinary Meeting on 23 August 2017 Council resolved to:

- 1) *Direct the Chief Executive Officer to prepare a quarterly report on an ongoing basis, regarding the management and operations of the Tuia Lodge Aged Care facility, with sufficient detail to ensure Elected Members can fulfil their individual obligations associated with the Shire of Donnybrook Balingup being the ‘Approved Provider’ for the facility.*
- 2) *That the report for each quarter, be presented at the next Ordinary Council meeting:*

The above resolution has been implemented and it is recommended the reports continue to be presented to Council on a quarterly basis.

### DETAILS

This report covers quarter one (1) of the 2019/20 financial year. Comprehensive details including an Executive Summary, Residential Data, Employee Statistics, Occupational Safety and Health, Maintenance and Finance, are provided for Council’s information at attachment 9.6.1(1).

### CONSULTATION

Not applicable

## **FINANCIAL IMPLICATIONS**

In accordance with 2019/20 Budget allocations

## **POLICY COMPLIANCE**

Not applicable

## **STATUTORY COMPLIANCE**

*Aged Care Act 1997*

## **CONCLUSION**

It is recommended that the Tuia Lodge Report for the first quarter of 2019/20 be received by Council.

## **COUNCIL DECISION 164/19 (Executive Recommendation)**

**Moved: Cr Atherton      Seconded: Cr Smith**

**That Council receive the Tuia Lodge Quarterly Report for July – September 2019.**

**Carried 9/0**

## 9.7 CHIEF EXECUTIVE OFFICER

### 9.7.1 DRAFT COUNCIL POLICY – COUNCIL MEMBER INDUCTION, TRAINING AND PROFESSIONAL DEVELOPMENT

<b>File Reference</b>	ADM 11/4
<b>Author</b>	Loren Clifford, Corporate Planning and Governance Officer
<b>Attachments</b>	9.7.1(1) - Council Policy - Council Member Induction, Training and Professional Development 9.7.1(2) - Training Cost Matrix
<b>Voting Requirements</b>	Simple Majority
<b>Executive Summary</b>	The purpose of this report is to seek Council endorsement of the proposed new Policy.

### STRATEGIC ALIGNMENT

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

Outcome	Strategy	Actions
4.2 A respected, professional and trusted organisation	4.2.1 Effective and efficient operations and service provision	4.2.1.1 Maintain effective and efficient policies, planning, operating procedures and practices
4.2 A respected, professional and trusted organisation	4.2.1 Effective and efficient operations and service provision	4.2.2.3 promote a constructive and accountable workplace and Council culture

### BACKGROUND

The Western Australian Local Government Act Review has addressed a number of key areas requiring reform, including universal training for Council Members. Presently the Shire does not have a formal policy that addresses Council Member training as the current practice is to review the training and conferences required each year as part of the annual budget process.

### DETAILS

A 'Council Member Induction, Training and Professional Development Policy' has been developed that provides a framework for the formulation of the annual Training and Development Plan that will include inductions, mandatory Council Member training and professional development opportunities for Council Members.

An overview of the Policy is outlined below.

## **Candidate Inductions**

Candidate Inductions are free and provided (online) by the Department of Local Government, Sport and Cultural Industries.

## **Council Member Training and Professional Development**

Western Australian Local Government Association (WALGA) training offers a range of Nationally-Accredited Elected Member professional development courses that have been designed to provide the essential knowledge and skills to support Council Members to perform their role as defined in the *Local Government Act 1995*. This training has been broken up into three stages.

### **Stage One (Five Modules) - mandatory**

All Council Members will commence this training within 12 months of being elected, unless an exemption applies. The training is expected to take approximately 5 days over the course of a year. After completion of the training and assessments for this stage Council Members will gain the LGASS00002 Elected Member Skill Set qualification;

- Understanding Local Government;
- Conflicts of Interest;
- Serving on Council;
- Understanding Financial Reports and Budgets; and
- Meeting Procedures.

The training is valid for five years so a Council Member will only be required to undertake the training upon re-election each term.

### **Stage Two (Four Modules) - optional**

Stage Two of WALGAs Learning Development Pathway builds upon the learning achieved in Stage One. Stage Two training includes pre-requisite training for Stage Three;

- Effective Community Leadership;
- Dealing with Conflict;
- Integrated Strategic Planning – Essentials; and
- Planning Practices – Essentials.

### **Stage Three (Four Modules) - optional**

Completion of training and assessment activities from all three Stages of WALGAs Learning and Development Pathway, will result in the achievement of the 52756WA Diploma of Local Government (Elected Member) qualification;

- Planning Practices – Advanced;
- CEO Performance Appraisals;

- Integrated Strategic Planning – Policy; and
- Infrastructure Asset Management.

### Time Frame and Budget Allowance

It is proposed that the training be split over the four-year term to allow for time and budget constraints. See the training table in figure 1.

Term	Year 1	Year 2	Year 3	Year 4
Stage 1 (5 modules)				
Stage 2 (3 Modules)				
Stage 2 (1 Module)				
Stage 3 (2 Modules)				
Stage 3 (2 Modules)				

Figure 1 - Training table split over Councillor term

### Training Costs

WALGA conducts courses either face to face at their West Leederville office or self-paced eLearning online which offers the flexibility of three months to complete the training. See the training costs in figure 2.

Stage 1 - Council Member Essentials			
Module	Face to face	eLearning	Duration (Hours)
Understanding Local Government	N/A	\$ 195.00	2
Conflicts of Interest	N/A	\$ 195.00	2
Serving on Council	\$ 900.00	\$ 195.00	14
Understanding Financial Reports and Budgets	\$ 475.00	\$ 195.00	7
Meeting Procedures	\$ 475.00	\$ 195.00	7
Stage 2			
Effective Community Leadership	\$ 475.00	N/A	7
Dealing with Conflict	\$ 525.00	N/A	7
Integrated Strategic Planning - Essentials	\$ 525.00	N/A	7
Planning Practices - Essentials	\$ 525.00	N/A	7
Stage 3			
Planning Practices - Advanced	\$ 525.00	N/A	7
CEO Performance Appraisals	\$ 525.00	N/A	7
Integrated Strategic Planning - Policy	\$ 525.00	N/A	7
Infrastructure Asset Management	\$ 525.00	N/A	7

Figure 2 - Training Costs and Duration

### Training Requests

Requests are to be submitted and approved by the CEO as per the policy.

### Reporting Requirements

On completion of any Council funded professional development the Council Member is expected to submit a report to Council as per the policy.

The Chief Executive Officer is to compile a report listing each Council Member and the training completed in that financial year which will be published on the Shire of Donnybrook Balingup's website and in the annual report.

### **Review Frequency**

The policy must be reviewed after each ordinary election to take into account the needs and skill sets of the new Council Members.

### **CONSULTATION**

Not applicable.

### **FINANCIAL IMPLICATIONS**

The 2019/2020 budget for Councillor Training is \$10,000, another \$4,000 will need to be allocated during the midyear budget review to allow for the training requirements as set out in the proposed Council Policy.

### **POLICY COMPLIANCE**

Not applicable.

### **STATUTORY COMPLIANCE**

*Local Government Act 1995 (section 2.7(2)(b))*

### **CONCLUSION**

It is recommended that Council adopt the new Council Policy.

### **COUNCIL DECISION 165/19 (Executive Recommendation)**

**Moved: Cr Atherton**

**Seconded: Cr Wringe**

**That Council, pursuant to section 2.7(2)(b) of the Local Government Act 1995, adopt the new Council Policy EM/CP- 1- Council Member Induction, Training and Professional Development as provided at Attachment 9.7.1(1).**

**Carried 9/0**

## 9.7.2 APPOINTMENT OF WALGA SW ZONE DELEGATE REPRESENTATIVES

<b>File Reference</b>	-
<b>Author</b>	Ben Rose – Chief Executive Officer
<b>Attachments</b>	Nil
<b>Voting Requirements</b>	Simple Majority
<b>Executive Summary</b>	The purpose of this report is to recommend the Shire President at the WALGA SW Zone delegate and the Deputy Shire President as a deputy delegate.

### STRATEGIC ALIGNMENT

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

<b>Outcome</b>	<b>Strategy</b>	<b>Actions</b>
1.1 A diverse, prosperous economy, supporting local business and population growth.	1.1.1 Promote, maintain and diversify investment	1.1.1.2 Represent the district's interests with key stakeholders.

### BACKGROUND

At each 2 year cycle of Local Government Elections the appointment of a Council Delegate and Deputy Delegate to the WALGA South West Zone is required. Previous delegates has been the Shire President and Deputy Shire President.

### DETAILS

Correspondence received from WALGA requests Councils elect/appoint Elected Member delegates and deputy delegates to the Zone and to notify WALGA of Councils decision no later than 8 November 2019.

WALGA's Zones, as the first item of business at the November meeting, will elect State Councillors, Deputy State Councillors, Zone Chair and Zone Deputy Chair.

A Chronological overview of the process is detailed below:

- Local Government elections occur on 19 October 2019.
- Member Councils to elect / appoint their Zone Delegates and to advise WALGA as soon as possible but preferably by 9am, Friday 8 November 2019.
- For the purpose of electing their representatives and deputy representatives to the WALGA State Council, Zones are required to hold these elections at their November 2019 meeting.
- Zones to advise WALGA, in writing, of their elected State Council representative and deputy representative immediately following the 2019 November Zone meeting.

- State Councillor Induction Session – morning of 4 December 2019.
- New State Council will take office at the Ordinary Meeting of State Council on 4 December 2019.
- The position of President and Deputy President of WALGA, will be elected at the March 2020 State Council Meeting.

## **CONSULTATION**

Not applicable.

## **FINANCIAL IMPLICATIONS**

Nil

## **POLICY COMPLIANCE**

Not applicable.

## **STATUTORY COMPLIANCE**

Not applicable.

## **CONCLUSION**

The Shire President and Deputy Shire President were the delegate and deputy delegate for the period 2017-2019, it is recommended Council endorse the same for 2019-2021.

## **COUNCIL DECISION 166/19 (Executive Recommendation)**

**Moved: Cr Wringe                      Seconded: Cr Atherton**

**That Council appoints the Shire President as Delegate to the WALGA SW Zone and Deputy Shire President as the Proxy Delegate to the WALGA SW Zone.**

**Carried 9/0**



### 9.7.3 DEVELOPMENT ASSESSMENT PANELS – LOCAL GOVERNMENT NOMINATIONS

<b>File Reference</b>	DEP61A
<b>Author</b>	Ben Rose – Chief Executive Officer
<b>Attachments</b>	9.7.3(1) – Nomination form
<b>Voting Requirements</b>	Simple Majority
<b>Executive Summary</b>	The purpose of this report is to nominate two (2) Councillors as members of the Development Assessment Panels and two (2) alternate Members.

#### STRATEGIC ALIGNMENT

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

<b>Outcome</b>	<b>Strategy</b>	<b>Actions</b>
1.1 A diverse, prosperous economy, supporting local business and population growth.	1.1.1 Promote, maintain and diversify investment	1.1.1.2 Represent the district's interests with key stakeholders.

#### BACKGROUND

Development Assessment Panels (DAP) were originally established by the Minister for Planning on 1 July 2011 to determine development applications that meet a certain threshold value. Each DAP comprises of five members, three specialist members and two local government members. All current local government DAP members were appointed on the 26 July 2018, for a term ending 26 January 2020.

Council at its Ordinary Council Meeting 25 October 2017 nominated:

- Cr Tan and Cr Wringe as Southern Joint Development Assessment Panel Local Members; and
- Cr Mills and Cr Tan as Southern Joint Development Assessment Panel Alternative Members.

The election 19 October 2019 will result in a change of elected members as Cr Tan and Cr Mills did not stand for re-election. On this basis, it will be necessary to nominate replacement members for appointment by the Minister for Planning.

Regulation 24 of the *Planning and Development (Development Assessment Panels) Regulations 2011* requires Council to nominate, as soon as possible following the elections, four elected Council members to sit as DAP members.

All local government councils are requested to provide nominations for local government members by Friday 8 November 2019.

## **DETAILS**

Since the inception of the DAP the Shire has not received any applications that have required referral/determination by a DAP.

There are two situations when an application is referred to a DAP. These are:

- A mandatory application. This is a planning application that has an estimated value of \$10 million or more;
- An optional application. This is a planning application that has an estimated value of \$2 million or more and the applicant has elected for the application to be referred to the DAP.

Since the inception of the DAP in 2011, the Shire has not received any applications that have required referral/determination by a DAP.

Further information pertaining to the DAP and member participation can be accessed at <https://www.dplh.wa.gov.au/daps>

## **CONSULTATION**

Not applicable.

## **FINANCIAL IMPLICATIONS**

Nil

## **POLICY COMPLIANCE**

Not applicable.

## **STATUTORY COMPLIANCE**

*Regulation 26 of the Planning and Development (Development Assessment Panels) Regulations 2011.*

## **CONCLUSION**

*Under Regulation 24 of the Planning and Development (Development Assessment Panels) Regulations 2011 Council is required to nominate, as soon as possible following the elections, four elected Council members to sit as DAP members.*

All local government councils are requested to provide nominations by Friday 8 November 2019.

**COUNCIL DECISION 167/19**

**Moved: Cr Lindemann                      Seconded: Cr Wringe**

**Suspend standing orders to nominate Council representatives**

**COUNCIL DECISION 168/19  
(Executive Recommendation)**

**Moved: Cr Lindemann      Seconded: Cr Wringe**

**That Council:**

- 1) Nominate the following two elected members as Southern Joint Development Assessment Panel Local Members;**
  - **Cr Lindemann**
  - **Cr Sercombe**
  
- 2) Nominate the following two elected members as Southern Joint Development Assessment Panel Alternate Members:**
  - **Cr Newman**
  - **Cr Wringe**

**Carried 9/0**

**COUNCIL DECISION 169/19**

**Moved: Cr Lindemann                      Seconded: Cr Massey**

**Resume standing orders**

**Carried 9/0**

## **10 ELECTED MEMBER MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN**

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Nil.

## **11 QUESTIONS FROM MEMBERS**

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## **12 NEW BUSINESS OF AN URGENT NATURE INTRODUCED BY DECISION OF THE MEETING**

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## **13 MEETINGS CLOSED TO THE PUBLIC**

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### ***13.1 MATTERS FOR WHICH THE MEETING MAY BE CLOSED***

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The following confidential reports and recommendations have been distributed separately and are not for circulation:

#### **13.1.1 CONFIDENTIAL – RFQ 228 – SUPPLY OF BITUMINOUS PRODUCTS 2019/20**

This report is confidential in accordance with Section 5.23 of the *Local Government Act 1995*, which permits the meeting to be closed to the public for business relating to the following:

(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.

#### **13.1.2 CONFIDENTIAL – RFQ 230 – WIN, CRUSH AND STOCKPILE GRAVEL MATERIAL**

This report is confidential in accordance with Section 5.23 of the *Local Government Act 1995*, which permits the meeting to be closed to the public for business relating to the following:

(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.

#### **13.1.3 CONFIDENTIAL – WRITE OFF RATES – A4949 LOT 9501 KELLY STREET, DONNYBROOK**

This report is confidential in accordance with Section 5.23 of the *Local Government Act 1995*, which permits the meeting to be closed to the public for business relating to the following:

(b) the personal affairs of any person

**13.1.4 CONFIDENTIAL – UNIT 9 PRESTON RETIREMENT VILLAGE**

This report is confidential in accordance with Section 5.23 of the *Local Government Act 1995*, which permits the meeting to be closed to the public for business relating to the following:

(b) the personal affairs of any person

**13.1.5 CONFIDENTIAL – UNIT 11 PRESTON RETIREMENT VILLAGE**

This report is confidential in accordance with Section 5.23 of the *Local Government Act 1995*, which permits the meeting to be closed to the public for business relating to the following:

(b) the personal affairs of any person

**COUNCIL DECISION 170/19  
(Executive Recommendation)**

**Moved: Cr Wringe                      Seconded: Cr Mitchell**

**That the meeting be closed to the public in accordance with section 5.23(2) of the *Local Government Act 1995* to discuss confidential item 13.1.7**

**Carried 9/0**

**COUNCIL DECISION 171/19  
(Executive Recommendation)**

**Moved: Cr Wringe                      Seconded: Cr Massey**

**That the meeting be re-opened to the public at 7:59pm.**

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**13.2 PUBLIC READING OF RESOLUTIONS THAT MAY BE MADE PUBLIC**

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Nil.

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**14 CLOSURE**

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The Shire President to advise that the next Ordinary Council Meeting will be held on 27 November 2019 commencing at 5.00pm in the Shire of Donnybrook Balingup Council Chamber. 8:00pm

<b>These Minutes were confirmed by the Council as a true and accurate record at the Ordinary Council Meeting held on 27 November 2019</b>		
		
<b>Shire President</b>		<b>Presiding Member</b>