



# Notice of Ordinary Council Meeting

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TO:

**ALL COUNCILLORS**

To be held on

Wednesday, 17 December 2014

Commencing at 5.00pm

Council Chambers

Cnr Bentley and Collins Streets, Donnybrook WA 6239

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**John Attwood**  
**Chief Executive Officer**

**11 December 2014**

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## ORDINARY COUNCIL MEETING AGENDA

17 December 2014

### TABLE OF CONTENTS

PUBLIC GALLERY .....	5
1 APOLOGIES.....	5
2 PUBLIC QUESTION TIME .....	5
3 APPLICATION FOR LEAVE OF ABSENCE.....	6
4 DECLARATION OF FINANCIAL/IMPARTIALITY INTEREST .....	6
5 PETITIONS/DEPUTATIONS/PRESENTATIONS.....	6
6 LATE ITEMS.....	6
7 CONFIRMATION OF MINUTES.....	6
7.1 Ordinary Council Meeting – 26 November 2014 .....	6
8 ELECTED MEMBERS MOTIONS .....	7
<b>8.1.1 SUBJECT: CLEANING OF PUBLIC AMENITIES .....</b>	<b>7</b>
9 MINUTES OF PREVIOUS MEETINGS .....	8
9.1 Committee Minutes.....	8
10 REPORTS OF COMMITTEES .....	9
10.1 Bushfire Advisory Committee Meeting – 30 October 2014 .....	9
<b>10.1.1 SUBJECT: APPLICATION FOR UPPER BALINGUP BUSHFIRE BRIGADE FORMATION .....</b>	<b>9</b>
<b>10.1.2 SUBJECT: SHIRE OF DONNYBROOK-BALINGUP BUSH FIRE RESPONSE PLAN.....</b>	<b>12</b>
10.2 Local Emergency Management Committee Meeting – 2 December 2014.....	14
<b>10.2.1 SUBJECT: REVIEW OF THE RECOVERY ARRANGEMENTS.....</b>	<b>14</b>
10.3 Balingup Townscape Committee Meeting – 10 December 2014 .....	16
<b>10.3.1 SUBJECT: BALINGUP TOWNSITE MAINTENANCE ISSUES.....</b>	<b>16</b>

10.4	Donnybrook Townscape Committee Meeting – 10 December 2014.....	18
10.4.1	<b>SUBJECT: PROPOSED LOCAL DEVELOPMENT PLAN FOR COLLINS STREET COMMERCIAL PRECINCT .....</b>	<b>18</b>
10.4.2	<b>SUBJECT: PROPOSED SIGNAGE UPGRADING FOR DONNYBROOK ARBORETUM .....</b>	<b>20</b>
10.5	Audit Committee Meeting – 17 December 2014 .....	22
10.5.1	<b>SUBJECT: LOCAL GOVERNMENT (AUDIT) REGULATIONS 1996 – REGULATION 17 REVIEW .....</b>	<b>22</b>
11	REPORTS OF OFFICERS .....	24
11.1	Manager Finance and Administration.....	24
11.1.1	<b>ACCOUNTS FOR PAYMENT .....</b>	<b>24</b>
11.1.2	<b>SUBJECT: ORIGINS CENTRE (INCORPORATED SOCIETY) INC. REQUEST FOR RATE REDUCTION.....</b>	<b>25</b>
11.2	Manager Works & Services .....	28
11.3	Manager Development and Environmental Services.....	28
11.3.1	<b>SUBJECT: THE DONNYBROOK RECREATION CENTRE – MOISTURE INGRESS AND FLOOR REPAIRS .....</b>	<b>28</b>
11.4	Principal Planner .....	30
11.4.1	<b>SUBJECT: REQUEST FOR REDUCED REAR SETBACK TO 15M FOR DWELLING .....</b>	<b>30</b>
11.4.2	<b>SUBJECT: PLANNING APPLICATION FOR SHED RESULTING IN OUTBUILDINGS WITH A TOTAL AREA GREATER THAN 180M2. ...</b>	<b>39</b>
11.4.3	<b>SUBJECT: REQUEST TO PURCHASE ACCESS TO PUBLIC CAR PARK NEXT TO BALINGUP PACKING SHED.....</b>	<b>42</b>
11.4.4	<b>SUBJECT: RESOLUTION TO PREPARE OMNIBUS AMENDMENT TO LOCAL PLANNING SCHEME NO.7.....</b>	<b>46</b>
11.4.5	<b>SUBJECT: ADOPTION OF REVISED AND NEW LOCAL PLANNING POLICIES 2014.....</b>	<b>51</b>
11.4.6	<b>SUBJECT: DEVELOPING DONNYBROOK – CONSIDERATION FOR PUBLIC ADVERTISING.....</b>	<b>54</b>
11.4.7	<b>SUBJECT: PROPOSED EXPANSION OF “IGA” SHOPPING CENTRE TO INCLUDE A CAFÉ AND LIQUOR STORE .....</b>	<b>58</b>
11.5	Chief Executive Officer .....	60

11.5.1	<b>SUBJECT: RECALL ITEM – TERM OF CONTRACT FOR PROVISION OF RECYCLING PROCESSING SERVICES.....</b>	<b>60</b>
11.5.2	<b>SUBJECT: CONFIDENTIAL - AUSTRALIA DAY AWARDS.....</b>	<b>62</b>
11.5.3	<b>SUBJECT: CONFIDENTIAL - SALE OF LAND – LOT 23 (41) MACQUARIE STREET, NOGGERUP.....</b>	<b>62</b>
11.5.4	<b>SUBJECT: CONFIDENTIAL – ADMINISTRATION CENTRE REDEVELOPMENT .....</b>	<b>63</b>
12	<b>CLOSURE OF MEETING .....</b>	<b>63</b>

# SHIRE OF DONNYBROOK/BALINGUP

## ORDINARY COUNCIL MEETING AGENDA

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To be held in the Council Chambers on Wednesday, 26 November 2014 at 5.00pm

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### MEMBERS PRESENT

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#### COUNCILLORS

Cr Mitchell (Deputy)  
Cr Bailey  
Cr Crowley  
Cr Dawson  
Cr Duncan  
Cr King  
Cr Logiudice  
Cr McCabe

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#### STAFF

John Attwood – Chief Executive Officer  
Greg Harris – Manager Finance & Admin  
Mike Scott – Manager Works & Services  
Bob Wallin – Principal Planner  
Judy Franks – Executive Assistant  
Kate O’Keeffe – Executive Assistant

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### PUBLIC GALLERY

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#### 1 APOLOGIES

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Cr Dilley was granted a leave of absence at the Ordinary Council Meeting held on 26 November 2014.

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#### 2 PUBLIC QUESTION TIME

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Question Taken on Notice from the Ordinary Council Meeting held on 26 November 2014.

Helen Christensen

*There are 116 residents who access property via Jayes Road as well as the School Bus which completes twice-daily school runs. The road, especially the shoulders, has deteriorated. No work has been carried out on the shoulders for years, however recently a small amount of work was conducted but then stopped. Why is there not enough money in the budget to complete the works on Jayes Road this year?*

Council’s Response

Jayes Road was not included as a specific and budgeted road improvement project in the Council’s 2014/15 budget.

The work that has been conducted is part of the general Sealed Road Maintenance budget and was brought forward due to a safety assessment of the vegetation, shoulders and sight-lines on the corner where the work has occurred. Approximately \$4,000 has been spent on the work so far.



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## 8 ELECTED MEMBERS MOTIONS

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<b>8.1.1</b>	<b>SUBJECT:</b>	<b>CLEANING OF PUBLIC AMENITIES</b>
	<b>Location:</b>	<b>N/A</b>
	<b>Applicants:</b>	<b>Cr John Bailey</b>
	<b>Zone:</b>	<b>N/A</b>
	<b>File Ref:</b>	<b>CNL 34G</b>
	<b>Author:</b>	<b>John Attwood, CEO</b>
	<b>Report Date:</b>	<b>11 December 2014</b>
	<b>Attachments:</b>	<b>Nil</b>

Cr Bailey has proposed the following Notice of Motion:

### Notice of Motion

**Council review the method of cleaning public toilets throughout the Shire to see if savings could be achieved by using private contractors.**

### Cr Bailey Comment

A 1% increase in the budget is worth about \$37,000.00, if Councillors can find a way of reducing expenditure by \$111,000.00 then the rates increase for the 2014-2015 year could be 3% and not 6%. I'm not suggesting that this initiative alone would achieve 3% but it will help in lowering the rates. I believe it is costing the rate payers about \$38.00 per hour to have the toilets cleaned and some weekend work is costing around \$60.00 per hour.

I firmly believe using local residents as contractors would achieve a big saving on:

1. the hourly rate somewhere between \$20-25.00;
2. Less travelling time for cleaners;
3. Administration would be less; and
4. Locals could be called out if like the main street toilets in Donnybrook need extra cleaning as they often do.

I urge all Councillors to support this motion in my endeavour to reduce costs.

### Policy/Statutory/Voting Requirements

#### Policy

N/A

#### Statutory

N/A

#### Voting

Simple Majority

### CEO Comment

Council staff have undertaken an assessment of this issue, particularly weekend work, about 12 months ago. Given that the weekend cleaning staff were also required to empty Main Street and Reserves rubbish bins, major savings were not identified. Staff are amenable to

comparison against other contractors to ensure our staff are competitive in efficiency and price.

### **Cr Bailey's Notice of Motion**

**Moved: Cr**

**Seconded: Cr**

**Council review the method of cleaning public toilets throughout the Shire to see if savings could be achieved by using private contractors.**

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## **9 MINUTES OF PREVIOUS MEETINGS**

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### **9.1 *Committee Minutes***

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**Moved: Cr**

**Seconded: Cr**

**That the following Committee minutes be received:**

- **Bushfire Advisory Committee Meeting – 30 October 2014**
  - **Donnybrook Recreation Centre Advisory Committee Meeting – 19 November 2014**
  - **Local Emergency Management Committee Meeting – 2 December 2014**
  - **Community Awards and Grants Committee Meeting – 5 December 2014**
  - **Balingup Townscape Committee Meeting – 10 December 2014**
  - **Donnybrook Townscape Committee Meeting – 10 December 2014**
  - **Audit Committee Meeting – 17 December 2014**
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## 10 REPORTS OF COMMITTEES

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### 10.1 Bushfire Advisory Committee Meeting – 30 October 2014

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<b>10.1.1</b>	<b>SUBJECT:</b>	<b>APPLICATION FOR UPPER BALINGUP BUSHFIRE BRIGADE FORMATION</b>
	<b>Location:</b>	<b>Shire of Donnybrook-Balingup</b>
	<b>Applicants:</b>	<b>Balingup Bush Fire Brigade</b>
	<b>Zone:</b>	<b>N/A</b>
	<b>File Ref:</b>	<b>FRC 01</b>
	<b>Author:</b>	<b>L. Guthridge - Manager Development &amp; Environmental Services</b>
	<b>Report Date:</b>	<b>28 September 2014</b>
	<b>Attachments:</b>	<b>Nil</b>

#### Background

Application has been made to the Shire of Donnybrook-Balingup by the Balingup Bush Fire Brigade (BBFB) to split into two separate brigades, being the Balingup Town Bush Fire Brigade and the Upper Balingup Bush Fire Brigade.

In 2006 Council approved an amalgamation of the then Upper Balingup Bush Fire Brigade (UBBFB) and the Balingup Town Bush Fire Brigade following an application by both brigades to:

- Reduce administrative burden for the brigades;
- Allow flexibility in the use of Emergency Services Levy (ESL) funds; and
- Benefit from the perceived advantages in resource sharing.

As part of the amalgamation the UBBFB retained a Fire Control Officer (FCO), fire response vehicle and storage shed located at Prowse Road in Upper Balingup which operates under the auspices of the BBFB. This arrangement is currently in place.

#### Comment

The justification by the BBFB in their application for the creation of the new brigade area is summarised as follows:

- There is an increase in new residents in the Upper Balingup area to form and manage the UBBFB;
- ESL funding is now administered by local government and not at brigade level;
- The UBBFB has always retained its identity and equipment and continues to be a functional unit; and
- The formation of a new brigade will allow the upgrade of equipment and procurement of a second firefighting appliance more suited to the forest environment.

As part of consideration of this application Shire staff referred the proposal to the Department of Fire and Emergency Services (DFES) for comment, given that the ongoing distribution of ESL funds by local governments requires DFES approval. This is now called the Local Government Grant Scheme (LGGS).

In summary DFES has advised that:

- DFES is reviewing its State-wide Resources Replacement Program in how it will distribute the LGGS funding to local governments, based on the principles of standardising assets and reviewing suitability of assets commensurate with the level of risk faced by the community;
- If additional appliances or resources are requested by the Shire there will be a requirement for the application to comply with the risk to resources process. Issues that will need to be considered and addressed in putting forward a business case include known risks in the area, number of incidents and response times from existing resources; and
- DFES note that the BBFB has a new three bay facility and 3.4 Urban Tanker that can service the Upper Balingup area, along with appliances from other brigades within the Shire located in close proximity.

The Shire of Donnybrook-Balingup Bush Fire Response Plan (Plan) is reviewed annually through the Bushfire Advisory Committee and Council. Section 2.6 of the Plan states:

*“Amalgamations and Rationalisation*

*The recent amalgamation of some Brigades has reduced the number of Brigades from 16 to 11. It is imperative that Council continually reviews Brigade structure and that future amalgamations be kept under consideration.”*

The Plan supports amalgamations of brigades when there is an opportunity to more efficiently manage the number of brigades in terms of administrative effort and resources procurement, whilst still maintaining service levels.

Should the BBFB wish to improve the quality and number of fire response vehicles and improve facilities at the Prowse Road location in the Upper Balingup area, it can do this through the LGGS application process for the BBFB as per the practice since amalgamation of the two brigades in 2006.

Based on the information in this report, it is recommended that the formation of the UBBFB not be supported by the Shire.

However it is recommended that the requested additional needs of the BBFB for the Upper Balingup Prowse Road facilities be listed in the ten year replacement program of the Shire's Bush Fire Response Plan. Application can be made through the LGGS process where risk to resource justification and a business case will need to be provided as per DFES requirements. This will be included in the recommendation of the report elsewhere in the meeting agenda regarding the Plan.

## **Consultation**

Shire staff referred the proposal to the Department of Fire and Emergency Services for comment.

## **Policy/Statutory/Voting Implications**

### Policy

N/A

### Statutory

Part 2, Division 1, Section 2.1 of the Shire of Donnybrook Balingup *Bush Fire Brigades Local Law 2000* states:

- (1) The local government may establish a bush fire brigade for the purpose of carrying out normal brigade activities.
- (2) A bush fire brigade is established on the date of the local government's decision under subclause (1).

Voting

Simple Majority

**Risk Assessment (Optional)**

Not undertaken.

**Financial Implications**

Management of an additional brigade has financial implications for the Shire in terms of administrative functions, including the Local Government Grant Scheme.

**Strategic Implications**

Outcome 2.7 of the Shire's *Strategic Community Plan* "Improving Fire Prevention and Hazard Reduction facilities".

**Officer's Recommended Resolution**

**That Council not support the formation of the Upper Balingup Bush Fire Brigade as the proposal does not comply with the direction of the Shire of Donnybrook-Balingup Bush Fire Response Plan where further amalgamation of existing brigades should be considered.**

**Committee's Recommended Resolution**

**Moved: Cr**

**Seconded: Cr**

**That this matter be considered at the next meeting of the Bushfire Advisory Committee meeting to be held in April 2015.**

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<b>10.1.2</b>	<b>SUBJECT:</b>	<b>SHIRE OF DONNYBROOK-BALINGUP BUSH FIRE RESPONSE PLAN</b>
	<b>Location:</b>	<b>Shire of Donnybrook-Balingup</b>
	<b>Applicants:</b>	<b>N/A</b>
	<b>Zone:</b>	<b>N/A</b>
	<b>File Ref:</b>	<b>FRC 01</b>
	<b>Author:</b>	<b>L. Guthridge- Manager Development &amp; Environmental Services</b>
	<b>Report Date:</b>	<b>28 September 2014</b>
	<b>Attachments:</b>	<b>Nil</b>

## **Background**

Shire staff have undertaken the annual review of the Shire of Donnybrook-Balingup Bush Fire Response Plan (Plan).

## **Comment**

Elsewhere in the meeting agenda there is a report regarding a request from the Balingup Bush Fire Brigade for Council to consider the formation of a separate Upper Balingup Bush Fire Brigade. This request also included improvements to the Upper Balingup Prowse Road facilities and resources in terms of an upgrade of equipment and procurement of a second firefighting appliance more suited to the forest environment.

Notwithstanding the decision of Council to support or not support the formation of a new brigade, the additional resources identified to meet the needs of the brigade/s can be included in the ten year replacement program of the Shire's Bush Fire Response Plan. It is recommended that the Plan be modified as part of the 2014 review to reflect this.

There are several other modifications proposed to the Plan as part of the review as follows:

- Update the training status for each brigade;
- Reflect changes of government agency name changes, brigade membership call signs and personnel contact details;
- Update the schedule of existing equipment;
- Update the ten year replacement program;
- Update the register of building improvements.

## **Consultation**

The Balingup Bush Fire Brigade have identified the need for improvements to brigade resources for the Upper Balingup area as part of a request to Council.

## **Policy/Statutory/Voting Implications**

### Policy

N/A

### Statutory

*Bush Fires Act 1954.*

### Voting

Simple Majority

## **Risk Assessment (Optional)**

Not undertaken.

## **Financial Implications**

Changes to the ten year replacement program in the Shire's Bush Fire Response Plan will need to be budgeted for accordingly. This includes securing funding from the Local Government Grant Scheme in accordance with the application requirements of the Department of Fire and Emergency Services.

## **Strategic Implications**

Outcome 2.7 of the Shire's *Strategic Community Plan* "Improving Fire Prevention and Hazard Reduction facilities".

## **Officer's Recommended Resolution**

**That Council endorse the modifications proposed to the Shire of Donnybrook-Balingup Bush Fire Response Plan as follows:**

- 1) Update the training status for each brigade;**
- 2) Reflect changes of government agency name changes, brigade membership call signs and personnel contact details;**
- 3) Update the schedule of existing equipment;**
- 4) Update the ten year replacement program, including identified resources for Prowse Road Upper Balingup as identified by the Balingup Bush Fire Brigade;**
- 5) Update the register of building improvements.**

## **Committee's Recommended Resolution**

**Moved: Cr**

**Seconded: Cr**

**That Council endorse the modifications proposed to the Shire of Donnybrook-Balingup Bush Fire Response Plan as follows:**

- 1) Update the training status for each brigade;**
  - 2) Reflect changes of government agency name changes, brigade membership call signs and personnel contact details;**
  - 3) Update the schedule of existing equipment; and**
  - 4) Update the register of building improvements.**
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**10.2 Local Emergency Management Committee Meeting – 2 December 2014**

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<b>10.2.1</b>	<b>SUBJECT:</b>	<b>REVIEW OF THE RECOVERY ARRANGEMENTS</b>
	<b>Location:</b>	<b>Shire of Donnybrook-Balingup</b>
	<b>Applicants:</b>	<b>N/A</b>
	<b>Zone:</b>	<b>N/A</b>
	<b>File Ref:</b>	<b>CSV 20</b>
	<b>Author:</b>	<b>Leigh Guthridge – Manager Development and Environmental Services (<i>Bryanna Wright – Environmental Health Officer</i>)</b>
	<b>Report Date:</b>	<b>20 November 2014</b>
	<b>Attachments:</b>	<b>10.3.1 - Local Recovery Plan – Hard copy will be tabled at the meeting, and an electronic copy will be emailed to members.</b>

**Background**

The Shire of Donnybrook-Balingup’s Local Emergency Management Arrangements (LEMA) was prepared in 1997. Several updates have been undertaken since this time. The requirement for local governments to prepare and maintain LEMA is enshrined within the *Emergency Management Act 2005*.

The Local Emergency Management Arrangements are required to be reviewed every five years. Part E - Recovery Arrangements of the Shire’s LEMA was adopted in 2008. As such there is a requirement for the Shire to review and update this component of the LEMA.

The revised Recovery Arrangements has been renamed the Local Recovery Plan (LRP) to comply with contemporary nomenclature.

**Comment**

The Shire of Donnybrook-Balingup was awarded a grant through the State Emergency Management Committee (SEMC) ‘AWARE’ Program to review and update its LRP.

Mrs Bryanna Wright has been appointed to manage the review. Mrs Wright is a previous full-time employee of the Shire in the capacity of Principal Environmental Health Officer and continues to provide part time service to the Shire in this capacity.

By assigning this project to a Shire staff member, it will ensure that the skills and knowledge obtained in respect to recovery management is retained and the Shire can build capacity in this area. Mrs Wright will facilitate a workshop on the draft LRP at the LEMC meeting.

The methodology for the review was as follows:

- Undertaking a general administrative review of the Recovery Arrangements;
- Attend WALGA Emergency Management Training - Manage Recovery Activities for Local Government, which provided a foundation to increase knowledge of the Shire's recovery responsibilities under the *Emergency Management Act 2005*;
- Incorporation of best practice and lessons learnt from emergencies that have occurred elsewhere where recovery management was needed;

- Consultation with Shire staff of the draft LRP;
- Presentation of draft review of the LRP to LEMC; and
- Advertise the LRP with the Community.

The LRP is a comprehensive document which will be used in times of emergencies to guide personnel if recovery is required. The plan aims to prepare for, and coordinate, the process of supporting emergency-affected communities in reconstruction of the physical infrastructure as well as restoration of emotional, social, economic and physical wellbeing.

The focus of the LRP is to ensure that it is a working document that can be easily referred to. The revised plan includes the following tools (annexures to the LRP) that can be used in the event of an emergency;

- Response to Recovery Transition Handover
- Local Recovery Committee Action Checklist
- Local Recovery Coordinator Operational Checklist
- Organisation Responsibilities Reference List
- Impact Assessment - an inspection form used by Council staff
- Recovery Needs Assessment and Support Survey Form - to gain information from those members of the community who have been affected by the emergency
- Natural Disaster Relief and Recovery Arrangements Overview
- State Recovery Coordinating Committee Recovery Report (Emergency Situation)
- Operational Recovery Plan Guideline

It is recommended that Council endorse the draft LRP for the purposes of advertising to the Community.

The LRP now aligns with SEMC framework as it is based on best practice across national and international jurisdictions. This will be beneficial when the LRP is used in an operational capacity in the event of emergency that may arise.

## **Consultation**

A workshop has been held with Shire staff to obtain input into the LRP and gain insight into how the Shire operations might be affected by an emergency where impacts to the Community may involve recovery management.

Mr Vikram Cheema, Community Emergency Management Officer, SEMC Secretariat has also provided input into the draft LRP.

The recommendation to this report is to advertise the draft LRP to the Community prior to it being adopted by Council.

## **Policy/Statutory/Voting Implications**

### Statutory Implications

Local governments are required to prepare and maintain Local Emergency Management Arrangements in accordance with the *Emergency Management Act 2005*.

The Local Emergency Management Arrangements are required to be reviewed every five years to ensure that risks (that may change within this time) are assessed and treatment plans are reviewed accordingly.

#### Voting Implications

Simple majority

#### **Financial Implications**

The Shire obtained AWARE funding of \$15,535 (Ex-GST) in May 2014 to review its Local Recovery Plan. This project is fully funded by the AWARE program.

#### **Strategic Implications**

The Shire of Donnybrook-Balingup Community Strategic Plan states:

Outcome 3.4 – Maintain and Improve the Provision of Emergency Services.

#### **Officer's Recommended Resolution**

**That Council advertise the draft Local Recovery Plan – Part E of the Shire of Donnybrook-Balingup Local Emergency Management Arrangements for 28 days during February 2015.**

#### **Committee Recommended Resolution**

**Moved: Cr**

**Seconded: Cr**

**That Council advertise the draft Local Recovery Plan – Part E of the Shire of Donnybrook-Balingup Local Emergency Management Arrangements for 28 days during February 2015.**

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### ***10.3 Balingup Townscape Committee Meeting – 10 December 2014***

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<b>10.3.1</b>	<b>SUBJECT:</b>	<b>BALINGUP TOWNSITE MAINTENANCE ISSUES</b>
	<b>Location:</b>	<b>Balingup Townsite</b>
	<b>Applicants:</b>	<b>Shire Donnybrook-Balingup</b>
	<b>Zone:</b>	<b>N/A</b>
	<b>File Ref:</b>	<b>TP07/1</b>
	<b>Author:</b>	<b>Mike Scott, Manager Works &amp; Services</b>
	<b>Report Date:</b>	<b>5 August 2014</b>
	<b>Attachments:</b>	<b>10.3.1 – Maintenance Report</b>

#### **Background**

The Mgr Works and Services provided an update on Balingup maintenance items:



The order for Water Corp to install water meters at the RSL Memorial in the main street has been raised. This should be completed by the next meeting.

Requests for maintenance from BTC members:

Check the intersection of Balingup Grimwade Road and Walter Street for weed clearing affecting line-of-sight on the slope that can't be slashed.

Remove black wattle covering the tourist information sign at Lower Balingup (opposite Molyneux property)

Check for any salvageable timber from the Grimwade Road job for potential use on the proposed walk bridge in town.

Cr Bailey kindly offered to continue watering the new tree plantings to establish them over this summer.

Shire Environmental Officer (Debbie Brace) to cost soil testing of the area opposite the school where the trees are not progressing at an acceptable rate. A recommendation will be brought to the next BTC meeting.

Chair Christensen will write on behalf of the BTC requesting donation of treated pine poles from Vukelic Holdings Pty Ltd for use elsewhere in the town. Cr Bailey recommended these may be used as the platforms for solar path lighting or as tree protection frames.

W Ayers requested a review of who places doggy bags at set dog-approved locations around the town and could these be re-introduced.

W Ayers requested clarification of the naming of Jayes Road/ Jayes Street.

G McMullen requested the investigation of a convex mirror to assist with vehicle movements at the Walter Street (off Jayes Road) single lane bridge. Local traffic and visiting caravans converge at this point with the potential for incidents. Costs and implication will be presented to the next meeting.

P Hicks requested an investigation into the procedure for the establishment of a formal railway crossing and gazetted road from the Balingup/Nanup Road through the Village Green to move vehicles away from the fire station and alleviate congestion on South West Highway. Information will be reported back at the next meeting.



A draft Local Development Plan (LDP) has been prepared (Attachment 10.4.1).

The LDP consists of two parts - a map and text.

The LDP is intended to be a simple document for ease of use. The key driver for the LDP is to ensure that future development does not destroy existing qualities that add a unique flavour and appeal to the street.

The need for the LDP is triggered by Local Planning Scheme No.7 (LPS7) which provides increased development opportunities for landowners. It enables:

- a) potential for subdivision of lots down to 500m<sup>2</sup>; and
- b) potential for higher density residential development if combined with a commercial use (R60 – min lot size of 120m<sup>2</sup> average 150m<sup>2</sup>).

LPS7 enables the preparation of LDP's to guide the form and nature of development. This is to ensure that intended built form and streetscape outcomes match intended aspirations.

### **Comment**

The Commercial strip of land running along the western side of Collins Street generally falls within two distinct character types. The street block bound by Reserve and Station streets consists predominantly of weather board clad cottage style houses. The street block bound by Station and Bentley Street consists of an assortment of sheds with a strong underlying industrial theme.

In preparing this draft LDP, the following points were reflected on:

- 1) the unique character values that the weatherboard cottages bring to the local streetscape;
- 2) ways to retain/enhance existing positive features while providing workable redevelopment solutions;
- 3) potential for new development or “progress” to result in the ad-hoc erosion or wholesale destruction of the existing character without bringing any clear net benefit to the streetscape;
- 4) the limited scope of achieving a good quality urban form without a strategic or more holistic framework providing a guiding vision;
- 5) financial motivations that may lead to low quality intensive development;
- 6) potential for buildings to be robust and accommodate changes of uses over time;
- 7) impacts on landowners on the viability of starting new or redevelopment projects;
- 8) the format to ensure ease of understanding and implementation;
- 9) ways to promote a sense of harmony through common themes such as front landscaping treatments, fencing design, colours and materials; and
- 10) ways to coordinate and compliment wider Council projects along Collins Street.

The LDP requires public advertising and adoption as a Local Planning Policy before it can be enforced and used to assess against planning applications. LPS7 provides instructions on the requirements of preparing a Local Planning Policy.

It is suggested that advertising include a notice in the local paper and a mail drop to all properties directly impacted by the proposal.

## Policy/Statutory Implications

N/A

## Financial Implications

N/A

## Strategic Implications

Outcome 2.8 – Out townsites are attractive, well presented and maintained.

Outcome 1.3 – To increase the range and diversity of industries and businesses that provide a range of employment opportunities

## Committee's Recommended Resolution

**Moved:**

**Seconded:**

**That the Chief Executive Officer arrange for the Collins Street Local Development Plan to be advertised in accordance with Local Planning Policy NO.7 requirements.**

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<b>10.4.2</b>	<b>SUBJECT:</b>	<b>PROPOSED SIGNAGE UPGRADING FOR DONNYBROOK ARBORETUM</b>
	<b>Location:</b>	<b>Donnybrook</b>
	<b>Applicants:</b>	<b>N/A</b>
	<b>Reserve:</b>	<b>Parks and Recreation</b>
	<b>File Ref:</b>	<b>TP 07/2</b>
	<b>Author:</b>	<b>Bob Wallin (Principal Planner)</b>
	<b>Report Date:</b>	<b>1 December 2014</b>
	<b>Attachments:</b>	<b>Nil</b>

## Background

The Townscape Committee at its meeting 8<sup>th</sup> October 2014 resolved that:

*"...Subject to the receipt of further quotations that Council go back to the Donnybrook Tourism Association and Chamber of Commerce requesting a further contribution to update signage panels...."*

Additional quotes were obtained. The cheapest quote by local provider Covert Signs still remains at \$5200.00 inclusive of GST.

Letters requesting additional contributions have been sent out to the Tourism Association and Chamber of Commerce.

Both the Chamber of Commerce and the Tourism Association are willing to contribute an additional \$750.00 to cover proportional shares.

## **Comment**

Unless instructed otherwise by Council, staff will proceed to update the signs with the quoted price.

As part of the project the existing signs should be removed as soon as practical.

## **Policy/Statutory Implications**

N/A

## **Financial Implications**

There is a need for Council to budget for an additional \$750.00 proportional share to the signage costs. In addition, there is a need to consider an annual asset management budget of \$1500.00.

## **Strategic Implications**

Outcome 2.4 – Our heritage areas and localities are acknowledged.

Outcome 2.8 – Our townsites are attractive, well presented and maintained.

Outcome 3.5 – Our volunteers and community organisations are supported and acknowledged.

Outcome 4.7 – Maintain and enhance Shire assets.

## **Committee's Recommended Resolution**

**Moved: Cr**

**Seconded: Cr**

**The Committee resolve that the Chief Executive Officer:**

- 1) Take action to remove the existing signage as the sign is in a state of disrepair and does not project well on the Shire and the information provided out of date.**
  - 2) Allocate an additional \$750 towards the cost of the new signage.**
  - 3) Investigate the stability of the main structure prior to proceeding with the repair/upgrading project**
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**10.5 Audit Committee Meeting – 17 December 2014**

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<b>10.5.1</b>	<b>SUBJECT:</b>	<b>LOCAL GOVERNMENT (AUDIT) REGULATIONS 1996 – REGULATION 17 REVIEW</b>
	<b>Location:</b>	<b>Shire of Donnybrook-Balingup</b>
	<b>Applicants:</b>	<b>Administration</b>
	<b>Zone:</b>	<b>N/A</b>
	<b>File Ref:</b>	<b>ADM 24</b>
	<b>Author:</b>	<b>John Attwood, Chief Executive Officer (Greg Harris – Manager Finance &amp; Administration) &amp; Administration</b>
	<b>Report Date:</b>	<b>9 December 2014</b>
	<b>Attachments:</b>	<b>Refer Audit Agenda attachments</b>

### **Background**

On the 22<sup>nd</sup> October 2014 Council's Audit Committee received a report from the Acting Manager Development and Environmental Services providing a report on the Shire's progress in regard to organisational risk management.

The report also noted the provisions of Regulation 17 of the Local Government (Audit) Regulations 1996 which require the Chief Executive Officer to review the appropriateness and effectiveness of the local governments systems and procedures in relation to risk management, internal controls and legislative controls. This review is to be undertaken at least once in every two years with the results reported to the Council's Audit Committee.

To facilitate the above report Council made allowance within the 2014/15 budget to engage Council's Auditors to undertake the review on behalf of the Chief Executive Officer. The review was undertaken in November 2014 by AMD Chartered Accountants and the results of the report are now presented for the Audit Committee's consideration.

### **Comment**

Please refer to the following attachments which encompass the results of the review:

Attachment 10.5.1(1) – Letter to the CEO outlining;

1.0 Scope of Review

1.1 Terms of Reference – Risk Management

1.2 Terms of Reference – Internal Controls

1.3 Terms of Reference – Legislative Compliance

2.0 Findings and Recommendations arising from Review

3.0 Other Matters

Attachment 10.5.1(2) – Findings;

Appendix A – Risk Management

Appendix B – Internal Controls

Appendix C – Legislative Control

Attachment 2 provides outlines in detail the scope of the review and the matters reviewed during this process. The report details the findings from this review, the implications to Council in regard to the review plus a recommendation from AMD Chartered Accountants. The report also contains management comments in regard to the recommendations and the proposed action that will be taken to address the recommendations of the report.

It should be noted that the findings of the review have been reported on an exception basis and do not take into account areas where compliance was confirmed or where various appropriate internal controls were tested during the review and which were deemed to operate effectively.

The review has provided Council with a comprehensive assessment of the systems and processes of the Shire of Donnybrook-Balingup at the present time in regard to the focus areas of risk management, internal control and legislative compliance. The findings from the review will provide direction for the further enhancement of controls within the areas reviewed. These issues will be addressed by management in a systematic way over the next 12 to 18 months within the constraints of the available staffing and financial resources.

### **Consultation**

Considerable consultation occurred between the consultants, AMD Chartered Accountants, and Council staff during the onsite work undertaken by AMD.

### **Policy/Statutory/Voting Implications**

#### Policy

Shire Administration Policy 2.45 Organisational Risk Management

#### Statutory

Section 17 of the Local Government (Audit) Regulations 1996 states the following:

17. CEO to review certain systems and procedures
  - (1) The CEO is to review the appropriateness and effectiveness of a local government's systems and procedures in relation to —
    - (a) risk management; and
    - (b) internal control; and
    - (c) legislative compliance.
  - (2) The review may relate to any or all of the matters referred to in subregulation (1)(a), (b) and (c), but each of those matters is to be the subject of a review at least once every 2 calendar years.
  - (3) The CEO is to report to the audit committee the results of that review.

#### Voting

Simple Majority

### **Financial Implications**

Council's budget for the 2014/15 financial year provided a sufficient allocation for the conduct of the review.

It should however be noted that many of the recommendations and proposed actions outlined in the report will place future demands on internal staff resources. It may also be necessary to engage consultants to assist Council staff in addressing some of these issues. These requirements will be identified as staff work through the various recommendations and any additional budget requests will be submitted to Council through the normal budget approval process.

### **Strategic Implications**

#### Strategic Community Plan

- Strategy 4.3.3 – Ensure compliance with relevant legislation.
- Strategy 4.3.5 – Implement Risk Management.
- Strategy 4.5.2 – Maintain, review and ensure relevance of Council policies and laws.

### **Risk Assessment (Optional)**

The review as required by Regulation 17 of the Local Government (Audit) Regulations 1996 provides a comprehensive assessment of Council risk management controls and the framework in which they operate.

### **Officer's Recommended Resolution**

**Moved: Cr**

**Seconded: Cr**

**That Council receive the report on the appropriateness and effectiveness of the Shire of Donnybrook-Balingup's systems and procedures in relation to risk management, internal controls and legislative compliance.**

**That Council endorse the proposed actions to be undertaken by the Chief Executive Officer as outlined in the "management comment" section of the report.**

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## **11 REPORTS OF OFFICERS**

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### ***11.1 Manager Finance and Administration***

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#### **11.1.1 ACCOUNTS FOR PAYMENT**

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### **Council Decision (Officer's Recommended Resolution)**

**Moved: Cr**

**Seconded: Cr**

**That accounts authorised and paid under delegation No. 3.2 by the Chief Executive Officer represented by cheques EFT6613-EFT6677, 50832-50853 Trust EFT6618a, 3215-3222 totaling \$1,210,689.71 be confirmed for payment.**

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<b>11.1.2</b>	<b>SUBJECT:</b>	<b>ORIGINS CENTRE (INCORPORATED SOCIETY) INC. REQUEST FOR RATE REDUCTION</b>
	<b>Location:</b>	<b>Balingup</b>
	<b>Applicants:</b>	<b>Origins Centre (Incorporated Society) Inc.</b>
	<b>Zone:</b>	<b>Rural Residential</b>
	<b>File Ref:</b>	<b>A2557</b>
	<b>Author:</b>	<b>Greg Harris, Manager of Finance &amp; Administration (Kathy Linthorne, Rates Officer)</b>
	<b>Report Date:</b>	<b>24 November 2014</b>
	<b>Attachments:</b>	<b>Nil</b>

## **Background**

The Origins Centre (Incorporated Society) Inc. is the sole owner of Lot 193 Jayes Road and Lot 194, 64 Lukis Street, Balingup. The lots are adjoining and group rated as assessment A2557.

The Origins Centre has requested to be granted exemption on council rates.

Council previously considered a similar request from the group in 2009 and resolved as follows:

*“That the land situated at Lot 193 Jayes Road, Balingup and Lot 194 Lukis Street, Balingup owned by Origins Centre (Incorporated Society) Inc. is not exempt from Council rates in accordance with Section 6.26(2) of the Local Government Act”*

The Origins Centre own two properties. Lot 193 Jayes Road is used for the purposes of providing respite accommodation and mindfulness training. The second, adjoining property is at Lot 194 Lukis St Balingup which provides for longer retreats and courses, plus houses for the co-managers. It is primarily a teaching / training / study venue with residential accommodation.

The Origins Centre is a not-for-profit organisation supported entirely through donations and volunteering. All staff are volunteers and no charges are made for any of the services.

The Origins Centre (Incorporated Society) Inc is registered as a charity with the Australian Charities and Not-for-profits Commission (ACNC) under the sub-types two, three and four – entity with a purpose that is the advancement of education, entity with a purpose that is the advancement of religion and entity with purposes beneficial to the community.

The “Objects of Association” are –

“(a) To maintain, govern and make available, on a donation basis, the accommodation and facilities known as Origins Centre (Incorporated Society) Inc. at Lot 193 Jayes, Balingup, WA 6253. Origins Centre (Incorporated Society) Inc. is offered for retreat, respite, health and activities to individuals and groups that foster personal welfare and peaceful community. It is to be made available particularly to those from our region who are in need.

(b) To own and accept full responsibility for 'Coorain', a property at 64 Lukis Street, Balingup, WA, 6253, solely for the purpose of Buddhist study and retreat under the guidance of a presiding teacher.

(c) To ensure respectful, helpful and friendly dialogue between 'Coorain' and Origins Centre (Incorporated Society) Inc."

The Origins Centre (Incorporated Society) Inc. also holds a Charitable Collections License issued by the Government of Western Australia, Department of Commerce certifying that:

"In accordance with the provisions of the *Charitable Collections Act 1946*, a license has been granted to Origins Centre (Incorporated Society) Inc, a charitable organization, to collect money or goods for the objects of the organization being a charitable purpose"

### **Comment**

Section 6.26 (2) (d) & (g) of the Local Government Act 1995 provide for exemptions from Shire rates for properties used exclusively for religious or charitable purposes.

Section 6.26 (2) (d) and (g) states:

*The following land is not ratable land –*

*(d) land used or held exclusively by a religious body as a place of public worship or in relation to that worship, a place of residence of a minister of religion, a convent, nunnery or monastery, or occupied exclusively by a religious brotherhood or sisterhood;*

*(g) land used exclusively for charitable purposes*

To provide an exemption from rates under section 6.26(2)(d) Council would need to be satisfied that the land is being used or held exclusively in the manner described in this section of the Act. For example, ownership only of land by a religious body does not qualify for a rate exemption. The land must be used by the religious body as a place of worship or in relation to that worship, or as further defined in Section 6.26(2)(d) of the Act.

To provide an exemption under Section 6.26(2)(g) of the Local Government Act 1995 Council must determine that the land is being used exclusively for charitable purposes. Should Council so determine, the land will then be exempted from rates under this section of the Local Government Act 1995.

Whilst it is clear that the Origins Centre is a charitable organisation, Council must still determine that the land is being used exclusively for charitable purposes. When considering the previous application for rating exemption Council was unable to satisfy itself that the land was being used exclusively for charitable purposes. However the information provided with this application indicates that both Lot 193 Jayes Road and Lot 194 Lukis Street are being used exclusively for charitable purposes. Furthermore the Rules of Association and Registration through the Australian Charities and Not-for-Profit Commission (ACNC) confirm

that the activities of this group are solely for the advancement of religion and the advancement of education with the activities being conducted solely for charitable purposes.

In the event that Council is not satisfied that the land is being used exclusively for charitable purposes it should refuse the application. If Council determines that the request does not fall within the provisions of the Local Government Act 1995 Section 6.26 (2), then the organization could appeal the decision through the State Administrative Tribunal.

### **Consultation**

N/A

### **Policy/Statutory/Voting Implications**

The following sections of the Local Government Act 1995 relate to this application.

#### 6.26. Rateable land

(2) The following land is not rateable land —

(d) land used or held exclusively by a religious body as a place of public worship or in relation to that worship, a place of residence of a minister of religion, a convent, nunnery or monastery, or occupied exclusively by a religious brotherhood or sisterhood;

(g) land used exclusively for charitable purposes;

The officer's recommended resolution will require an Absolute Majority decision.

### **Financial Implications**

In the event that Council determines that Lot 194 Lukis Street, Balingup and Lot 193 Jayes Road, Balingup are eligible for exemption from Shire rates, Council will forego \$974.00 for the 2014/2015 financial year.

Rates: \$818.00  
Waste Management Levy: \$156.00

Emergency Service Levy charges of \$64.00, Refuse Collection charges of \$70.00 and Recycling Collection charges of \$55.00 will remain payable for the 2014/2015 financial year.

This will have a direct impact on the 2014/2015 budget as the rating income from this property has been included within the rating models for the current year.

### **Strategic Implications**

The exemption of this property from Shire rates has long term strategic implications as Council will still be providing the same level of service to this property.

Should other similar facilities be established within the Shire the same rating concessions may be requested.

## Officer's Recommended Resolution

**Moved: Cr**

**Seconded: Cr**

**That Council determines that the land situated at Lot 193 Jayes Road, Balingup and Lot 194 Lukis Street, Balingup owned by the Origins Centre (Incorporated Society) Inc is being used exclusively for charitable purposes and is therefore exempt from Council rates in accordance with Section 6.26(2) of the Local Government Act 1995, effective from 1<sup>st</sup> July 2014.**

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### **11.2 Manager Works & Services**

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Nil

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### **11.3 Manager Development and Environmental Services**

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<b>11.3.1</b>	<b>SUBJECT:</b>	<b>THE DONNYBROOK RECREATION CENTRE – MOISTURE INGRESS AND FLOOR REPAIRS</b>
	<b>Location:</b>	<b>Lot 549 Steere Street Donnybrook</b>
	<b>Applicants:</b>	<b>The Shire of Donnybrook-Balingup</b>
	<b>Zone:</b>	<b>Parks and Recreation</b>
	<b>File Ref:</b>	<b>PRO 01/9</b>
	<b>Author:</b>	<b>Leigh Guthridge – Manager Development and Environmental Services</b>
	<b>Report Date:</b>	<b>9 December 2014</b>
	<b>Attachment:</b>	<b>Nil</b>

## **Background**

The timber parquetry sports floor at Donnybrook Recreation Centre has indicators of unwanted moisture ingress to court number 2 adjoining the store room and external roller door. It is causing the parquetry floor to 'cup' and thus creating a safety hazard for users on the playing surface.

## **Comment**

This report seeks a Council resolution to modify the budget to provide funds to enable staff to investigate and resolve the moisture ingress issues prior to replacing sections of the damaged floor. It is proposed that Council approve up to \$10,000 for this purpose.

Once the moisture ingress issue is resolved a report will be presented to Council to authorise funds for the repairs to the floor once the cost of this is known.

It is proposed however that funds for the floor repairs be provided via the Country Local Government Funding of \$150,000 currently allocated for the roof replacement of the sports stadium. A variation with the Department Regional Development will also need to be sought at this time.

## **Consultation**

Nil

## **Policy/Statutory/Voting Implications**

### Voting

Absolute majority decision required for unbudgeted expenditure.

## **Financial Implications**

The recommendation authorises up to \$10,000 to be made available for the investigations and repair of the moisture ingress problem at the Donnybrook Recreation Centre to be accounted for during the mid-year review.

## **Strategic Implications**

The Shire of Donnybrook – Balingup Community Strategic Plan States:

Outcome 3.2: Quality community and recreational facilities that are well used by all ages and abilities.

## **Officer's Recommended Resolution**

**Moved: Cr**

**Seconded: Cr**

**That Council approve an additional \$10,000 to account 127220 – Recreation Centre Maintenance for the purposes of resolving moisture ingress into the sports stadium of the Donnybrook Recreation Centre.**

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**Absolute Majority Required**

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## **11.4 Principal Planner**

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<b>11.4.1</b>	<b>SUBJECT:</b>	<b>REQUEST FOR REDUCED REAR SETBACK TO 15M FOR DWELLING</b>
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<b>Location:</b>	<b>Lot 489 Upper Capel Road, Donnybrook</b>
<b>Applicants:</b>	<b>Mr Shane and Mrs Kristy O'Donald</b>
<b>Zone:</b>	<b>Priority Agriculture</b>
<b>File Ref:</b>	<b>A4744</b>
<b>Author:</b>	<b>Bob Wallin (Principal Planner)</b>
<b>Report Date:</b>	<b>20 November 2014</b>
<b>Attachments:</b>	<b>11.4.1(1) – Site Plan</b> <b>11.4.1(2) – Schedule of Submissions</b> <b>11.4.1(3) – Extract from Risk Table</b>

### **Background**

The applicant is seeking approval to construct a single dwelling at Lot 489 Upper Capel Road, Donnybrook with a 15m rear boundary setback (Attachment 11.4.1(1)).

The adjoining property contains an established vineyard and a cellar door/ function centre that will be opening to the public shortly.

The location has been selected with the intent to:

- a) Make the best use of relatively high land. A significant portion of the site is low lying with a creek line;
- b) Maximising the distance from Upper Capel Road;
- c) Maximise security. The site provides excellent view lines to seeing who is accessing the property. This is important to the applicant as they want to ensure the safety of the family;
- d) Maximise privacy from neighbouring properties;
- e) The ability to nestle into the backdrop of the existing timber area;
- f) Providing the best views and outlooks. The site will enjoy attractive vistas of trees and the creek line;
- g) Minimising intrusion into areas that have the best potential for future agricultural activity;
- h) Minimising the visual impacts on the landscape from the road; and
- i) Increasing the setbacks from the existing waterway.

In addition, the applicant considers there will be no material impacts/constraints imposed on the adjoining vineyard/function centre or enjoyment of the residence as:

- The prevailing breezes place the building outside areas of spray drift impact;
- The topography provides a physical bund that screens noise and potential for spray drift to cause a nuisance;
- Existing native vegetation on the hill provides a visual and spray drift screen.

The subject land is zoned “Priority Agriculture” under Local Planning Scheme No.7 which requires a minimum 30m rear setback. The underlying purpose of this requirement is to maximise separation distances from agricultural activities on adjoining properties. It is important to note that should an application be modified to comply with the 30m setback, there is no power to require a planning application or impose planning conditions.

## **Comment**

In forming an opinion on this proposal, it is important to be mindful of the following relevant considerations.

### Guidelines and Setbacks

There are a number of guidelines that apply to this proposal. These are:

- The EPA’s Guidelines for Separation Distances between Industrial and Sensitive Land Uses (June 2005)
- Environmental Management Guidelines for Vineyards 2011;
- Department of Health Guidelines for Separation of Agricultural and Residential Land Uses (August 2012)

The EPA’s Guidelines for Separation Distances between Industrial and Sensitive Land Uses (June 2005) provides a set of generic separation distances. It also provides a hierarchy of solutions which is:

- Avoidance of impacts
- Minimise impacts;
- Regulate impacts to acceptable levels.

A generic separation distance buffer of 500m is stated for vineyards based on impacts associated with gaseous, noise, dust and odour.

The industry based Environmental Management Guidelines for Vineyards 2011 highlight site selection criteria to optimise land use compatibility and the need to consider:

- Locating away from established or proposed residential or rural residential areas
- Ensuring suitable separation distances from water resources
- Acknowledging the farming practices will involve off site noise and light impacts.
- Spray drift of chemicals.

Commentary in this guideline highlights the following relevant points:

- Normal vineyard practices are likely to create noise that may exceed the background noise level and prove annoying to householders if residing too close to vineyards;
- Activity associated with spraying and harvesting occurs during the night to maximise the quality of harvest (grapes need to be as cool as possible when harvested) and maximise the efficiency of chemical use.
- Equipment uses strong lights

- Chemical spray drift can cause annoyance, irritation and/or burning. This could be from direct contact with eyes and skin or from clothes hanging on clothes lines.
- There is potential for chemicals and activities to disturb water bodies and sources. This may have implications for drinking water obtained from roof areas.

Research into the adjoining commercial vineyard operation has confirmed that a range of agrochemicals and fertilizers are applied to the vines and the surrounding area via spray.

This includes use of a wettable sulphur product (Thiovit Jet) that has an odour and will stain clothing. In addition, there are also a number of other products used that have higher levels of toxicity and annoyance factor. A number of the herbicide products have high toxicity levels and require special PPE when handling and applying. In terms of annoyance perspective, some of the foliar fertilisers products contain seaweed and fish extracts that have an extremely strong odour that lingers many days after application.

The Health Department's guidelines recommend a generic buffer distance of 500m which may be varied depending on chemicals used, method of application, the site, proposed land uses and adjacent or nearby use. Minimum requirements considered suitable by the Department of Health are 300m separation distance to control spray drift, dust, smoke and ash. Alternatively, a 40m separation distance can be used when a vegetative buffer has been adequately designed, implemented and maintained. Vegetation buffers need to:

- include a planted area with a minimum width of 20m;
- be densely spaced to ensure no gaps in the lower canopy;
- have furry/hairy foliage and vegetation;
- include a mix of species;
- have a mature height of at least twice the spray release height; and
- have a clear management arrangement.

Given the fall of the land (vineyard located on the high land) it will make it difficult to use a vegetated buffer on the applicant's land.

When considering how to apply these guidelines, it is helpful to have regard to Ivankovich and Shire of Harvey [2014] WASAT 155. This case investigated a conflict between horticultural land uses using ground based spraying of chemicals and a rural dwelling with a separation distance of 60m. The WASAT in determining this case made the following observations regarding the application of these guidelines:

- The EPA Guidance Statement expressly applies to only those proposals which are subject of an Environmental Impact Assessment (EIA) application. EIA's are by definition required when the proposal is generally of a larger scale. This particular proposal would not a proposal envisaged by the EIA process under the DP Act;
- The Guidance was prepared in 2005 with an expressly stated duration of five years (until June 2010). Given this lack of currency, the guidelines are by no means determinative;
- The DoH Guidelines expressly excludes buffer requirements where the potential land use conflict is between agricultural land use and a single residential dwelling located in land zoned Rural, Agricultural or the equivalent;



- The 300m separation distance is based on aerial spraying rather than ground based spraying;
- The Tribunal did not consider a minimum buffer of 300 metres as the starting point; and
- The DoH Guidelines are of great assistance insofar as it requires a single residential dwelling in a rural area to be regarded differently to a dwelling in a residential area.

In considering the WASAT's commentary, it is evident that it is not appropriate to rely solely on the guidelines to justify setback distances. However, it is noted that these guidelines only concentrate in matters associated with agricultural activity. There is another dimension to this case – the function centre activity. It is the combination of both these activities that need to be considered when establishing setbacks.

#### Local Planning Scheme No.7 (LPS7)

LPS7 provides guidance on matters to consider in relation to this application. The key relevant points to consider are:

- The objectives of the General Agriculture and Priority Agriculture zones which include:
  - Encouraging the protection of agricultural land resources;
  - Encourage the use of rural land for commercial agricultural production;
  - Protect the economic viability of the area;
  - Encourage value adding opportunities to agricultural products at source;
  - Support a wide variety of productive agricultural and rural activities;
  - Support sensible use and management of resources, and the proper direction and control of development.

The General Agriculture zone objectives have been included above to reflect the zoning of land immediately abutting the subject site.

- Clause 5.54.8 Development Standards. This establishes setback distances including a minimum rear setback of 30m. Provision is made for reducing this requirement subject to considering:
  - any alternative development sites on the property;
  - possible fire hazard;
  - environmental impacts;
  - effluent disposal;
  - visual impact; and
  - servicing/infrastructure.

It is worth noting that alternative development sites exist which are located further from fire hazard risk.

Given the proximity to a fire hazard, it is recommended that a Bush Fire Risk Assessment be undertaken to determine suitable building standards.

- Clause 5.54.8.5 states that the local government may require a greater setback to effectively manage buffers, environmental impacts and any other potential land use conflict which could arise in the opinion of Local Government.

Based on the advice received by Government Agencies and the scale and nature of the adjoining property, it may be reasonable to apply this clause.

- Clause 10.2 Matters to be considered by Council. This clause provides a detailed list of matters that Council is required to have regarded to in making a planning decision.

This includes:

- Aims and provisions of LPS7;
- Any approved Environmental Protection Policy;
- The compatibility of a use or development with its setting including the potential impact on the use and enjoyment of adjacent and nearby land;
- Any relevant submissions received on the application; and
- Suitability of the proposal due to bush fire risk.

### Risk Analysis

A risk analysis has been undertaken in accordance with Council Policy (Attachment 11.4.1(3)). The categories of interest fall under the headings of “compliance” and “reputation”.

Compliance risk is rated as High (10). This risk is considered reasonable subject to excellent controls, managed by senior management/executive and subject to monthly monitoring.

Reputational risk is also rated as High (10) and is considered reasonable to the same controls as stated above.

Alternatively, these risks can be significantly reduced to Council by:

- Requiring a notice on title formally advising of loss of local amenity and enjoyment of the land resulting from adjoining commercial vineyard activity; and/or
- Approving a dwelling in an alternative location with a greater setback.

One side effect of this alternative approach is that it opens up a financial risk resulting from a SAT appeal. This presents a Financial Risk rated as Moderate (5). This financial risk can be minimised by limiting or not using external legal or expert advice/support in defending a decision.

### Analysis of points raised in support by applicant

#### Traffic noise along Upper Capel Road

One of the key factors in choosing a site to the rear of the property is to escape from traffic noise. Data obtained from a traffic count taken by Council in front of the property between April and May 2014 shows:

- Average daily movements of 381 vehicles a day;
- Approximately 20% of vehicles were trucks;

- Movements are concentrated during the day with 85% occurring between the hours of 6am to 6pm.
- The quietest traffic times are between the hours of 8pm and 5am with an average of 17 vehicle movements being recorded (average of 1.8 vehicles per hour).

On the basis of this low traffic volume, this factor cannot be considered a sound justification for creating a greater street setback when considered by itself.

It is noted that it is during these quiet traffic times that farm equipment and machinery will be used (between 10pm and 5am). This increases the perceived noise due to the absence of background ambient sound levels.

#### Noise and lighting from vineyard and function centre

The function centre activity has potential to generate noise during events. The level of disturbance is likely to increase towards the evening as patrons due to a combination of “party mood” taking hold and reductions in background ambient sound levels during the evening and night.

Farm equipment is exempt from noise regulation requirements and is potentially significantly louder than standard vehicle equipment. It involves use of generators, lights and beepers. All these aspects step over the boundary from passive sounds into the harsher realm of noise disturbance.

The impacts of these factors is countered to a degree by the design layout of the house which places bed rooms and the alfresco area on the western elevation.

#### Mitigating impacts from spray drift

An analysis of prevailing winds between April and August has shown that the prevailing winds in the night and morning fluctuate between the seasons. However, the following observations are made regarding wind directions during likely spray times:

- Between April and May winds are mainly East or South Easterly;
- Between June and July winds are generally calm or easterly; and
- In August winds are mainly West or North Westerly.

The easterly direction provides potential to create spray drift issues. However, it is worth noting that the extent of this impact is reduced by the extensive stand of remnant vegetation.

As mentioned above, spray drift has potential to create issues ranging from cumulative health issues from chemicals settling on clothes and surfaces, including water catchments to aesthetic disturbances such as permeating odour.

#### Crime and safety

The design is to provide good passive surveillance and view lines to limit potential crime, disturbance and intrusion onto the property.

This design factor needs to be considered in an appropriate context to distil perceived risk from factual risk.

In this instance that data shows that Donnybrook (as an entire shire):

- has experienced 4 residential break ins since the start of the year; and

- The rate of break-ins is significantly lower than the SW and State average.

In addition to these low rates of crime, the setting back of the property may not in itself materially reduce crime risk. Building design and security features can play a more decisive role.

### Philosophical Principles

There are a few principles that have been raised by the applicant that need to be thought through.

The first is the question of fairness. It is the applicant's view that their choice of building location should not be dictated to by an adjoining properties activity and that there is a flavour of unfairness evident in this arrangement.

This point of contention needs to be framed within the wider established planning framework. The planning framework has considered this question and given a clear preference to protecting existing industries from intrusion of new sensitive land uses that may inhibit their ability to operate and expand. Revisiting the morality of this preference is beyond the scope of this application to consider and unlikely to result in any fruitful or practical change in position.

The second question is about how to assess the relative merits of differing views and opinions. It is the applicant's opinion that they are aware of the all the impacts of living in proximity to a commercial vineyard operation and willing to accept them. Other views supplied by Government Departments provide opinions that raise concerns regarding the potential scale and magnitude of the impacts the applicant may have to endure.

One way to resolve this conflict of views is to apply the Socratic method. This approach has a long proven track record and provides a way to establish the value of each opinion based on the level of expertise that they have to back their opinion.

In this instance, the opinions expressed by the government departments are based on professional expertise and experience in looking at these specific matters which is backed by guidelines and planning legislation. In applying the Socratic method, a lower value should be placed on the applicant's opinion on this matter.

### **Advertising**

The proposal has been advertised in accordance with Council policy which included a letter drop and referral to government agencies. Four submissions were received, consisting of three objections and one providing advice (Attachment 11.4.1(2)).

In summary, the points of objection relate to potential land use conflicts between the proposed new house and an established commercial scale vineyard and function centre. The conflict risk revolves around noise and health impacts.

### Summary of issues and Suggested Solutions

The point of contention relates to a setback distance. While this point is clearly defined, determining the correct and most appropriate setback distance is complicated by a wide range of facts, guidelines and competing points of view.

There are numerous guidelines recommending significant setbacks that have been formulated, using scientific observations, past experiences with land use conflict and focused on presenting ways to minimise these issues.

These guidelines are generic in nature and do not specifically accommodate the unique set of circumstances that relate to this case such as the natural topography, prevailing wind directions, vegetation and specific building design and orientation. Further, WASAT opinion is that the guidelines have not been designed or intended to be slavishly applied to cases of single rural dwellings.

LPS7 places limits on Council's ability to apply planning conditions. If a dwelling is set back a minimum of 30 metres there is no need to apply for a planning approval.

It is reasonable to assume that land use activity on the adjoining property will have adverse impacts on any dwelling located nearby. The stated optimism of the applicant that they are fully aware and readily accept impacts resulting from neighbouring activity needs to be viewed with a level of caution and scepticism. This is based on historical precedent. Much of Council staff time has been taken up to mediate between parties regarding complaints on similar matters. The risk of complaint is exacerbated by the high level of financial investment involved by both parties and their associated dreams and aspirations.

It is recommended that:

- a minimum setback of 30m be imposed with advise suggesting that an alternative location with an even greater setback be considered by the applicant;
- the applicant be advised and warned that there will be potential for noise, dust and odour disturbances resulting from neighbouring land use activity and that Council will advise any future purchaser of these constraints.

### **Policy/Statutory/Voting Implications**

Policy

N/A

Statutory

N/A

Voting

Simple Majority

### **Financial Implications**

N/A

### **Strategic Implications**

Outcome 1.3 – To increase the range and diversity of industries and businesses that provide a range of employment opportunities

Outcome 1.5 – Our rural lifestyle is maintained

Outcome 2.6 – Effective planning and management policies for our agricultural land and uses

Outcome 3.8 – Maintain a safe and friendly community environment

Outcome 4.3 – An open and accountable local government that is respected, professional and trusted.

## **Officer's Recommended Resolution**

**Moved: Cr Seconded: Cr**

**That Council approve the construction of a single rural dwelling at Lot 489 Upper Capel Road, Donnybrook subject to the following conditions:**

- 1. The development hereby permitted must be substantially commenced within two (2) years from the date of this decision letter.**
- 2. The approved plans form part of this approval and the development hereby approved must at all times be consistent with the approved plans with the exception of a minimum setback of 30m from the rear boundary as marked in red.**
- 3. Access to the dwelling must be provided via a verge crossover and an all-weather road with dimensions adequate to accommodate emergency vehicles.**
- 4. A bushfire risk assessment be undertaken to confirm applicable building standards.**

**Conditions to be met prior to occupation of development:**

- 5. Prior to occupation of development, the dwelling shall be connected to a potable water supply (either from an underground bore or well, or a minimum 120,000 litre storage tank).**
- 6. Prior to occupation of development, an approved effluent disposal system is to be installed to the satisfaction of the Shire's Principal Environmental Health Officer.**
- 7. Prior to occupation of development, internal vehicular access is constructed to a standard suitable for a 2 wheel drive vehicle in all weather conditions.**

### **ADVICE TO THE APPLICANT**

#### **Note 1:**

**If the applicant is aggrieved by this decision, as a result of approval or by a determination of refusal, there may be a right of review under the provisions of Part 14 of the Planning and Development Act 2005.**

**A review must be lodged with the State Administrative Tribunal, and must be lodged within 28 days of the decision being made by the local government.**

#### **Note 2:**

**An application for a building license to construct the development hereby permitted is required to be submitted and approved by the Shire prior to any works commencing on-site in relation to this determination.**

#### **Note 3:**

**If the development the subject of this approval is not substantially commenced within a period of 2 years, or such other period as specified in the approval after the date of the determination, the approval shall lapse and be of no further effect. Where an approval has so lapsed, no development shall be carried out without the further approval of the local government having first been sought and obtained.**

#### **Note 4:**

**The proposed location of the dwelling is in proximity to an established agriculture and tourism operation. Occupants may be subject to a range of**

impacts including noise, light, dust, odour and chemical spray drift. These impacts have the potential to pose health risks.

It is recommended that any rainwater collected at the property for potable purposes is adequately treated. It is almost impossible to completely protect rainwater collection from agricultural activities generating dust and spray drift, and unless adequately treated rainwater is not reliably safe to drink.

**Note 5:**

The applicant is advised that Council will inform any potential future purchasers or new owners of impacts resulting from the neighbouring land uses on local amenity and enjoyment of the land.

It is strongly suggested that prior to the applicant settling on a site that they liaise with the adjoining owner when vineyard spraying will occur and camp on the site to experience the activity and potential disturbance. It may also be possible for a sound system to be setup to assist in experiencing the potential noise and activity likely to result from activity at the function centre.

This approach will ensure that actual experiences are imbedded into the meaning of the words noise, dust, odour. This will ensure that there is time to review any decision before being too committed.

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<b>11.4.2</b>	<b>SUBJECT:</b>	<b>PLANNING APPLICATION FOR SHED RESULTING IN OUTBUILDINGS WITH A TOTAL AREA GREATER THAN 180M2.</b>
	<b>Location:</b>	<b>Lot 119 Hetherington Road, Argyle</b>
	<b>Applicants:</b>	<b>Mr Kane Bates</b>
	<b>Zone:</b>	<b>Rural Residential</b>
	<b>File Ref:</b>	<b>A3818</b>
	<b>Author:</b>	<b>Bob Wallin (Principal Planner)</b>
	<b>Report Date:</b>	<b>3 December 2014</b>
	<b>Attachments:</b>	<b>11.4.2 – Shed Plan</b>

## **Background**

The proposal is to construct a shed at Lot 119 (No.178) Hetherington Road, Argyle with dimensions of 18m x 13m (floor area of 234m<sup>2</sup>). The shed is proposed to be used to store cars, house a hoist for tinkering on vehicles and a caravan.

Town Planning Policy 9.4 Outbuilding Control outlines that outbuildings shall have a maximum combined floor area of 180m<sup>2</sup> for lots zoned Rural Residential.

The proposal requires Council's consideration as the total floor area of the outbuilding is greater than 180m<sup>2</sup> (234m<sup>2</sup> proposed).

## **Comment**

In assessing the suitability of this proposal, the following points should be considered:

- a) Boundary setbacks comply with the requirements of the Rural Residential zone which require a minimum setback of 10m (approximately 20m proposed) and approximately 80m from the street (required 15m).
- b) The southern boundary is heavily vegetated and any shed will not be visible from the adjoining property.
- c) The rear of the property is State Forest and the shed will be setback the required 100m. There is no impact from this point of view.
- d) The fall of the land when combined with the street setback, road alignments and elevations and the location of the existing house reduces the visual impact of the shed from the public realm (along Hetherington Street).
- e) The sheds floor area is 54m<sup>2</sup> above the policy. Given the configuration of the shed (its relatively wide 13m depth) the overall appearance presented to the street is of a scale and character consistent with nearby outbuildings on neighbouring properties.

When taking these above points into account, the proposed shed is considered to be reasonable and will not have undue adverse impacts on local amenity.

## **Policy/Statutory/Voting Implications**

### Policy

9.4 Outbuilding Control

This policy requires support to vary floor areas.

### Statutory

N/A

### Voting

Simple Majority

## **Financial Implications**

N/A

## **Strategic Implications**

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

Outcome 2.8 – Our town sites are attractive, well presented and maintained.



## Officer's Recommended Resolution

**Moved: Cr**

**Seconded: Cr**

**That the Council grant Planning consent for the erection of a shed at Lot 119 Hetherington Road, Argyle subject to the following conditions:**

- 1. The development hereby permitted must be substantially commenced within two (2) years from the date of this decision letter.**
- 2. The approved plans form part of this approval and the development hereby approved must at all times be consistent with the approved plans.**

### **ADVICE TO THE APPLICANT**

#### **Note 1:**

**If the applicant is aggrieved by this decision, as a result of approval or by a determination of refusal, there may be a right of review under the provisions of Part 14 of the *Planning and Development Act 2005*.**

**A review must be lodged with the State Administrative Tribunal, and must be lodged within 28 days of the decision being made by the local government.**

#### **Note 2:**

**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.**

#### **Note 3:**

**If the development the subject of this approval is not substantially commenced within a period of 2 years, or such other period as specified in the approval after the date of the determination, the approval shall lapse and be of no further effect. Where an approval has so lapsed, no development shall be carried out without the further approval of the local government having first been sought and obtained.**

#### **Note 4:**

**The applicant is advised that this approval does not include the use of the shed for any commercial business operation**

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<b>11.4.3</b>	<b>SUBJECT:</b>	<b>REQUEST TO PURCHASE ACCESS TO PUBLIC CAR PARK NEXT TO BALINGUP PACKING SHED</b>
	<b>Location:</b>	<b>Shire of Donnybrook - Balingup</b>
	<b>Applicants:</b>	<b>Mr Edgar Hawter, Mr and Mrs Spence</b>
	<b>Reserve:</b>	<b>Railway</b>
	<b>File Ref:</b>	<b>A3725</b>
	<b>Author:</b>	<b>Bob Wallin (Principal Planner)</b>
	<b>Report Date:</b>	<b>28 November 2014</b>
	<b>Attachments:</b>	<b>11.4.3(1) - Location Plan</b> <b>11.4.3(2) – Request for Council to Purchase Easement</b>

## **Background**

The owners of the Balingup Packing Shed have requested that Council purchase a strip of land that is presently used to access a public parking area located at the side of their property (Attachment 11.4.3(1)).

The constructed access presently runs at an angle over the adjoining Balingup Packing shed land. It's alignment does not fit exactly over the adjoining rail reserve (see Attachment 1 – area in red outline). The Rail Reserve is vested with the Public Transport Authority (PTA) and managed by Brookfield Rail. Council has a license over this rail reserve to use and occupy the land for purposes to the public benefit. This license expires in 2017.

Attachment 11.4.3(2) contains the request. In summary, the essence of the request is:

- The public car park is accessed from the South Western Highway through land in the ownership of the packing shed;
- The public car park is an asset to local businesses and well used;
- The packing shed land is the only legal access to the public car parking area;
- The issue has been ongoing and unresolved for 6 years and provides public liability issues with the number of vehicles/pedestrians crossing the site;
- The previous town planner advised to get a valuation for an easement over the land which Council can then purchase.

There is presently an informal access to the car park from Brockman Street. This informal access is very close to a disused rail crossing. Any formalising of access onto Brockman Street will require relocating the cross over away from the disused rail line.

## **Consultation**

Main Roads Western Australia (MRWA) and the Public Transport Authority (PTA) and Brookfield Rail have been consulted regarding opportunities to formalise access from Brockman Street.

Brookfield Rail has advised that the existing informal access should be removed. However, it deferred to MRWA for advice on what would be an acceptable separation distance for a cross over from the rail line.

MRWA has no objection to any proposed access subject to it being setback as far from the South Western Highway intersection as possible. It is suggested that a cross over location to Brockman Street be formalised to provide a level of certainty.

## Comment

Before coming to a decision on this request to purchase an easement, it will be helpful to have regard to the following points:

- 1) Planning approval for a fruit winery and retail shops was issued in June 2008 subject to conditions for the adjoining property (commonly known as the Balingup Packing Shed). The site has a total area of 1603m<sup>2</sup>. The existing building has a foot print of 578m<sup>2</sup>. The planning approval allowed for a staged extension, including an additional building foot print of 136m<sup>2</sup> for wine storage and additional internal floor areas using mezzanine levels.
- 2) In approving the planning application, the planning report makes the following observations:
  - a) The Town Planning Scheme required 10 bays (total) consisting of 4 for retail and 6 for warehouse.
  - b) There is a sufficient number of public off street parking facilities in proximity to the land to approve the development;
  - c) There is a lack of available space onsite to provide parking due to the majority of the area being taken up by the existing building;
  - d) The applicants discussed with Shire officers and Balingup Townscape Committee the possibility of using adjacent land directly south of the proposed development to provide additional public parking near the war memorial and for the rest of the town. Support was given for this initiative.
  - e) In lieu of providing suitable car parking on site, Officers were supportive of the applicant paying into a Town site Parking Fund set up for the Balingup Townsite.
  - f) In the interests of improving the amenity of the townsite and facilitating development, support was given to a reduced number of 4 bays.
- 3) Condition 5 of the planning approval states:

*“The applicant to provide a cash-in-lieu contribution for the shortfall of four (4) car parking bays at a cost of \$14,000 (calculated at a rate of \$3,500 per car parking bay). Such payment shall be paid to the Shire within 90 days of the retail portion of the development becoming occupied or commencing operations.”*

A cash-in-lieu payment for the car parking bays was received in July 2011.

- 4) Questions on insurance liability need to be considered in the proper context. Incidents between vehicles are resolved directly between drivers' insurance companies. Incidents between a vehicle and a pedestrian are covered through third party

- insurance. The ownership status of the land in which an incident occurs has no material bearing. The creation of an easement does not change liability.
- 5) There is a potential inconsistency in applying the logic provided by the adjoining landowner. If Council was to purchase an easement or portion of land for access, the same logic would also require the landowner to purchase an easement for that portion of access needed to accommodate turning and parking that is directly created by the Packing Shed development. This would ensure a consistent and fair approach to the matter if pursued.
  - 6) The original approval acknowledged that there was no space available for car parking bays on the site due to the size of the existing shed. It allowed car parking to be provided as an in-lieu financial contribution. In coming to this decision, it can be implied that the access from the highway would have been factored into this calculation at the time of approval. The alternative would have been that the shed structure be reduced to enable space for car parking bays and access to be contained on site. This alternative was not considered to represent the best urban design and land use outcome.
  - 7) There is no written documentation of discussions between the previous town planner and the landowners. Without this, it is difficult to establish rational behind the instructions provided. This point needs to be discounted and viewed in the context of the facts that clearly present themselves.
  - 8) The value stated for the land is \$16,360. While there is some question over the extent of the land that should be considered for an easement, there is a wider consideration that needs addressing first. That is, in establishing a dollar value, it is essential to factor in what is the highest and best use of the land. It is also important to distinguish between freehold land values and access easement values. The site is 125m<sup>2</sup> and has limited potential to accommodate a commercial business in itself. At best, the portion of land can provide access (as it presently does). On this basis, if Council is of a mind to pursue purchasing an easement, a second opinion is suggested to confirm the dollar value of the land.
  - 9) The crossover has been in place for some considerable time. It is not possible to establish how its location was surveyed or who was responsible for its alignment.
  - 10) There is potential for the landowner to legally close the cross over and stop it being used for access. Closure will reduce accessibility for Packing Shed's customers as well as that of customers of the wider town. The potential impact of any closure will also need to be viewed in the context of the proportion of traffic that uses this access leg to get to the public car parking area. While being the only formal access, it is not likely to be used by the majority of customers.
  - 11) There is potential to relocate the existing cross over onto Council reserved land immediately to the south. However, this will require the removal of attractive

landscaped areas immediately surrounding the war memorial. The consequences of following this option are not desirable or considered appropriate.

- 12) The extent to which provision of a public good (access to a public carpark) is solely the obligation and responsibility of the Local Government. In this case, the “public good” is a car park. The purpose of this car park is to directly benefit local businesses by providing customers with conveniently located parking spaces. This is important to a tourist focused town like Balingup which depends on passing traffic. While all businesses benefit from this parking and access, the greatest benefit is for the Packing Shed due to parking area funnelling pedestrian traffic along their front door. It is noted that historical definitions and responsibilities of providing a public good or service are eroding with private businesses and entrepreneurs now providing services once considered the domain and responsibility of public institutions. It is also evident that it is in the interest of businesses in Balingup to work together for a greater good and health of the business community. Working at odds to this principle will be to the overall detriment of the town.

#### Summary and Suggested Solution

The key issue in this request relates to the use of private land by the public to access a public car park.

If the true motivation of the landowners is to resolve access, then the obvious answer would be to investigate a land swap (boundary realignment) with the adjoining owner (PTA). This approach has the benefit of:

- a) Enabling the access leg to be contained under one lot with the balance of the public car parking area;
- b) Enabling the landowner to obtain an equal area of land in a location that has potentially more development potential or creates improved design opportunities for future expansion;
- c) Removes the need for Council to find money for an unbudgeted item; and
- d) Removes the burden on rate payers to fund an activity that will directly benefit only a limited few local businesses and result in no visible material change on the ground.

#### Voting

Simple Majority

#### **Financial Implications**

The proposed request requires a contribution of \$16,360 towards an easement to provide access to a public car park. There is presently no budget funding for this item.

#### **Strategic Implications**

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

Outcome 2.8 – Our townsites are attractive, well presented and maintained.

Outcome 3.8 – Maintain a safe and friendly community environment.

Outcome 4.9 – Improved long term planning and strategic management.



advertise, advertising and consideration for final approval. The steps require approval/endorsement by the Shire, Western Australian Planning Commission and the Minister for Planning.

### Summary of Document Format

A rezoning document contains three main parts. These are:

- 1) Resolution – this is the legal text showing what new words are to be inserted into or existing words deleted from the Local Planning Scheme text and/or describing map changes;
- 2) Report – this provides the background narrative to justify the proposed changes. This may include maps and concept sketches to explain the merits of the proposal; and
- 3) Amendment Map – this clearly shows the changes to the Local Planning Scheme Maps.

### **Comment**

The suggested changes to LPS7 are summarised under the following headings:

#### Signage for Community Events

Schedule 12 of LPS7 provides a list of advertisements that are exempt from requiring a planning approval. At present, there is no exemption for temporary signs relating to community events. This means that technically all temporary signs for community events require a planning approval.

It is recommended that Schedule 12 be modified to enable temporary signage for community events to be exempt from planning applications, subject to meeting specified criteria to control size, location and length of display.

The need for a planning approval for all temporary signage for community events is considered to be unreasonable on the grounds that:

- Its adds costs and administrative time delays for community event organisers;
- Temporary signage for such events provide a public information service and given their temporary nature do not present an ongoing streetscape amenity concern if properly located and displayed;
- The assessment requirement and process cannot add value or materially improve decision outcomes. Criteria for exemptions can cover all the key points that need to be considered in making any decision; and
- It provides a smoother level of Council service and assists in allowing community events to get on and run their events and concentrate on other more important matters essential to their running and success.

#### Improved Guidance for supporting rural residential subdivision below 2ha

LPS7 provides opportunities to allow re-subdivision of existing rural residential zoned land to a minimum of 1ha and in some exceptions to 5000m<sup>2</sup> (clause 5.52.3.1 of LPS7). This clause does not provide clear guidance on what criteria should be used to assess and defend decisions for lots below 2ha.

It is recommended that clause 5.52.3.1 be expanded to include a set of clear criteria to assist in assessing the merits of structure plans/subdivisions which proposed lots below 2ha.

It is also recommended that provisions be made to consider structure plans in two streams “minor” and “major” to improve efficiencies in processing and assessment.

Reducing the extent of the Public Purpose Reserve for Lot 13 Bentley Street, Donnybrook (site containing Soldiers’ Memorial Hall).

LPS7 reserves approximately half of Lot 13 and extends variously between 30m to 40m beyond the curtilage of the Soldier’s Memorial Hall (the Hall). The extent of this reserve is not defined by the heritage values of the Hall. The retention of the Public Purpose reserve as currently configured will have significant impacts on the urban design opportunities associated with any redevelopment of the “Old Depot” site.

It is recommended to zone the portion of Lot 13 Bentley Street, Donnybrook not directly associated with the Hall to Residential R30.

This recommended change reflects Council’s resolution at its meeting dated 26<sup>th</sup> November 2014.

Zoning Lot 4653 Ravenscliffe Road, Kirup “General Agriculture”

This parcel of land is held in private ownership and is presently identified on LPS7 Map 3 as being reserved for “State Forest”.

It is noted that this error was also contained in previous Town Planning Scheme No.4.

This error has caused the landowner problems in trying to finance a house of the land.

It is considered reasonable that this land be removed from the State Forest reservation.

Rezoning the Kirup Service Station site from “Residential” to “Commercial”

The Kirup Service Station site is located at Lot 116 South Western highway, Kirup and is zoned “Residential R10”. A “Service Station” is listed as an “X” (not permitted) use under this zone. Previously, TPS4 zoned the land “Urban” which allowed a wider range of uses, including “Service Station”.

While non-conforming use rights for this service station exist and there is still opportunity to extend this use, it is considered reasonable to rezone the land “Commercial” to acknowledge that the introduction of LPS7 inadvertently changed the rules applicable to the site.

Requiring a planning approval for single houses next to established Intensive Agricultural Businesses

LPS7 requires a 10m side and 30m rear setbacks in the General Rural and Priority Agriculture zone. If a single house on “Agricultural” zoned land complies with this requirement, no planning approval is required.



On sites that abutting existing commercial scale agricultural operations, there is potential to generate land use conflicts and disharmony between neighbours. This has previously resulted in significant outlays in Council resources for mediation and conflict resolution.

Clause 5.54.8.5 of LPS7 provides opportunities to Council to require a greater setback to effectively manage buffers, environmental impacts and other potential land use conflict. However, the power to trigger this requirement is only enforceable if a planning application is required in the first place.

Clause 10.2 defines when planning approvals are required or exempt. It is recommended that Clause 10.2 be modified to require planning approval for any habitable buildings that abut an established intensive agricultural activity. This then gives Council power to apply Clause 5.54.8.5.

This approach provides:

- Council with the power to assess and provide preventative approaches to land use conflict matters; and
- opportunities to require a greater setback, building design solutions or notices on title to make owners aware of impacts to their enjoyment of the land resulting from neighbouring activities in terms of dust, odour and noise.

#### Reviewing restrictions on constructing two houses on agricultural zoned land

Clause 5.54.9 states that Council shall not approve second dwellings for Agricultural zoned lots below 40ha. This requirement has been directed from the Department of Planning to:

- stop a second dwelling being used as a justification for subdivision;
- to ensure that dwellings do not take up or impede use of the land for agricultural purposes.

It is suggested that this requirement be reviewed to:

- enable second dwellings to be considered on lots 20ha or greater; and
- insert a clause clearly stating that the existence of a second dwelling is not a justification for supporting subdivision.

The 20ha size has been selected as it is of a size that is commonly used for intensive farming within the Shire and often of a scale used by family members. Further, by stating the fact of second dwellings not providing justification for subdivision directly answers concerns presented by the Department of Planning.

#### Replacing the “R5” code with “R20/30” for “Williams” land south of Meldene Estate

The R5 code does not provide the best potential land use outcome for this land given the potential to connect to reticulated sewer. Town Planning Scheme No.4 (TPS4) zoned the land Residential and did not specify a density coding. In these cases, TPS4 allowed for a default density coding of R10.

The proposal is consistent with the Local Planning Strategy which identifies the site as Residential. It will also provide a logical inclusion when considered in the context of Land Corporations project near the SES site.

The R20/30 coding enables a wider range of lot sizes and density of development to occur to better use urban infrastructure. It also provides scope to bring fully serviced “townsite” style lots onto the market and address the current shortage of lots available at present.

### **Policy/Statutory/Voting Implications**

#### Policy

N/A

#### Statutory

N/A

#### Voting

Absolute Majority

### **Financial Implications**

The amendment documents can be prepared in house with the support of consultants for preparing the scheme amendment maps. These maps form part of the legal document and Council does not have the mapping programs necessary to prepare plans to the legal standard. It is estimated that the preparation of these maps will be in the order of \$1000.00 to \$1,500.00.

There are also fees associated with the advertising process and publishing in the Government Gazette. It is estimated that the combined fees of these tasks will be approximately \$1,000.00.

### **Strategic Implications**

Outcome 1.5 – Our rural lifestyle is maintained

Outcome 2.6 – Effective planning and management policies for our agricultural land and uses.

Outcome 4.9 – Improved long term planning and strategic management.

### **Officer’s Recommended Resolution**

**Moved: Cr**

**Seconded: Cr**

**That Council:**

- 1) Resolve to require the Chief Executive Officer to prepare documentation for an omnibus amendment to:**
  - a. provide exemptions for temporary advertising for community events;**
  - b. provide guidance for supporting subdivision of Rural Residential lots below 2ha;**
  - c. include provisions to define minor and major modifications to structure plans;**

- d. reducing the extent of the Community Purpose Reserve for Lot 13 Bentley Street, Donnybrook;
- e. zoning Lot 4653 Ravenscliffe Road, Kirup “General Agriculture”;
- f. rezoning the Kirup Service Station site from “Residential” to “Commercial”;
- g. requiring planning approval for a single house for properties abutting established intensive agricultural activities;
- h. Reviewing Clause 5.54.6 to reduce the land requirements for Council to consider approving a second dwelling on Agricultural zoned land;
- i. Deleting the “R5” coding from the “Williams land” and replacing with R20/30; and
- j. Insert a clause stating that the existence of a second dwelling on Agricultural zoned land will not be considered a justification for subdivision.

2) Present the draft omnibus amendment document to Council for consideration to advertise.

<b>11.4.5</b>	<b>SUBJECT:</b>	<b>ADOPTION OF REVISED AND NEW LOCAL PLANNING POLICIES 2014</b>
	<b>Location:</b>	<b>Shire of Donnybrook - Balingup</b>
	<b>Applicants:</b>	<b>N/A</b>
	<b>Zone:</b>	<b>N/A</b>
	<b>File Ref:</b>	<b>TP/03</b>
	<b>Author:</b>	<b>Bob Wallin (Principal Planner)</b>
	<b>Report Date:</b>	<b>25 November 2014</b>
	<b>Attachments:</b>	<b>11.4.5- Agenda Item 11.4.2 from Ordinary Council Meeting held 22 October 2014</b>

### Background

Council at its meeting 22<sup>nd</sup> October 2014 resolved for the Chief Executive Officer to advertise Local Planning Policies in accordance with Part 2 of Local Planning Scheme No.7 (LPS7). Council resolved to advertise two new policies as well as reviewing existing policies to ensure consistency with LPS7.

Advertising has now been completed in accordance with this task, with public notices being made in the local paper (2 consecutive weeks), being made available at Council office and displayed on the Shire’s website.

No submissions were received during the advertising period.

It is not proposed to include proposed Local Planning Policy 9.23 Animal Husbandry – Intensive as part of this item. This Policy was referred to a number of Government Agencies for comment and no advice has been received to date.

It is proposed that this policy be addressed as a separate item when all relevant information and facts have been made available so an informed decision can be made.

## **Consultation**

Consultation has been undertaken in accordance with Clause 2.4 Procedure for making or amending a Local Planning Policy of LPS7.

No submissions have been received.

## **Comment**

A copy of the previous Council report has been provided for background on the nature of proposed changes and details considered (Attachment 11.4.5)

The revised policies have been advertised in accordance with the requirements of LPS7 and the text changes ensure consistency and relevance.

## Voting

Simple Majority

## **Financial Implications**

N/A

## **Strategic Implications**

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

Outcome 1.5 – Our rural lifestyle is maintained

Outcome 2.6 – Effective planning and management policies for our agricultural land and uses

Outcome 2.8 – Our townsites are attractive, well presented and maintained

Outcome 3.10 – The community has access to appropriate services and facilities to enhance their health and well-being

Outcome 4.9 – Improved long term planning and strategic management

## **Officer's Recommended Resolution**

**Moved: Cr**

**Seconded: Cr**

- 1. That the Council adopt the following revised policies consistent with the advertised changes:
    - a. Policy 9.1 Roadwork and Drainage Contribution;**
    - b. Policy 9.2 – Public Open Space Contribution from Rural Residential Rezoning;**
    - c. Policy 9.3 – Private Tree Plantations – Agroforestry;**
    - d. Policy 9.4 – Outbuilding Control;**
    - e. Policy 9.5 Bonding of Outstanding Works, Legal Agreements**
    - f. Policy 9.6 – Signage Policy;**
    - g. Policy 9.7 Interpretation (Extractive Industry);**
    - h. Policy 9.8 Stocking Rates;**
    - i. Policy 9.9 Chalet(s)/Chalet Development and Bed & Breakfast;**
    - j. Policy 9.10 Road Closure Policy;**
    - k. Policy 9.11 Relocation and Use of Second-Hand Dwellings;**
    - l. Policy 9.14 Community and Recreation Facilities Contribution;**
    - m. Policy 9.15 Commercial Vehicle Parking;**
    - n. Policy 9.16 Transportable Structures;**
    - o. Policy 9.17 Industrial and Commercial Development Control;**
    - p. Policy 9.18 – Residential Development Guidelines;**
    - q. Policy 9.19 – Memorial and Public Art Policy;**
    - r. 9.20 – Ancillary Accommodation Policy – Rural and Rural Residential Zones;**
    - s. 9.21 – Revised Balingup Special Character Area (SCA) Policy; and**
    - t. 9.22 – Advertising of Planning Proposals.****
  - 2. Revoke Policy 9.12 – Building Setbacks.**
  - 3. Adopt new Local Planning Policy 9.24 Waiving of Planning Application Fees.**
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<b>11.4.6</b>	<b>SUBJECT:</b>	<b>DEVELOPING DONNYBROOK – CONSIDERATION FOR PUBLIC ADVERTISING</b>
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<b>Location:</b>	<b>Shire of Donnybrook-Balingup</b>
<b>Applicants:</b>	<b>N/A</b>
<b>Zone:</b>	<b>N/A</b>
<b>File Ref:</b>	<b>TP 15</b>
<b>Author:</b>	<b>Bob Wallin (Principal Planner)</b>
<b>Report Date:</b>	<b>25 November 2014</b>
<b>Attachments:</b>	<b>11.4.6 – Draft Report - Growing Donnybrook - Balingup</b>

## **Background**

Council's support is required to progress the Developing Donnybrook project. Council approval is now being requested to publically advertise.

The Strategy is to develop a long term vision for the future development of the Shire. This Strategy is to look beyond the 10-15 year timeframe of the Local Planning Strategy.

At its heart, the Strategy is to work out what the Shire's population will be in 25 years and what level of housing, services and infrastructure will be needed to support this population. The Strategy is not intended to be a statutory document. However, it is important to be adopted by the Shire and relevant State agencies. This will guarantee support for the plan and assist in its implementation.

This Strategy provides Council with the opportunity for bold creative thinking. It is a perfect vehicle for Council to strategically guide the nature and direction of its future growth.

The Strategy is to be a living document, with reviews to report on progress and implementation of initiatives.

The project has been prepared in three stages which include:

### **Stage 1 – Vision Validation**

This stage includes an inception meeting with Council and working group, review of existing strategic directions and developing growth scenarios. Growth scenarios are established by viewing local drivers, population objectives, land use mix.

### **Stage 2 – Due Diligence and Gap Analysis**

This stage centres on data collection and analysis and result in the creation of themed maps. It will look at existing capacity and future needs for facilities and infrastructure based on population scenarios.

### **Stage 3 – Plans, Strategies, Actions and Implementation**

This stage will develop a strategic direction, initiatives and recommendations based on previous stage data.

Council resolved to establish a working group at its meeting 27<sup>th</sup> November 2014. The working group was to review and guide the preparation process. It has met at each of the three stages of the project. The working group at its meeting 12<sup>th</sup> November 2014 reviewed Stage 3 of the report and concluded that:

- A number of minor modifications be included to address factual points;

- Additional background commentary on commercial and recreational be added; and
- Present the report to Council for consideration when these changes have been completed.

## **Comment**

In summary, the report provides the following information:

### **Part 1 - Strategic Direction and Growth Scenarios**

- A comprehensive background on the established planning strategic frameworks and studies;
- Analysis of existing population and employment data;
- Identifying three growth scenarios with populations ranging from low (6200 to 7400) to high (13500 to 17000); and
- A break down in growth scenarios for the Donnybrook and Balingup townsites and the rest of the Shire.

### **Part 2 - Capacity Assessment**

- Analysis of opportunities and constraints for Donnybrook and Balingup townsites including reviews on
  - Topography;
  - vegetation and landscape;
  - land ownership (reserves);
  - water supply;
  - land use constraints (agricultural use and buffer areas);
  - bushfire hazards;
  - infill potential;
  - road infrastructure; and
  - rail
- Analysis of development areas under Local Planning Scheme No.7 and Local Planning Strategy including growth capacities;
- Identifying growth directions, including identifying new land areas according to land use types and densities and factoring in site specific commentary and indicative lot yields and population.

### **Part 3 - Growth Plan**

- Identifies potential implications for three identified growth scenarios
- Examples of strategic initiatives that can be pursued
- Identifies population thresholds or trigger points at which significant infrastructure and initiatives will be needed.

The plan is considered to meet the aspirations of the brief set for the consultant.

The plans contained in Part 3 provide a set of well-defined growth directions. It will provide a valuable tool in ensuring smart strategic thinking and will aid in creating well planned communities.

The areas identified represent logical extensions that factor in site constraints. It provides for a wide range of lifestyles that will enable the town to grow in a way that maintains and builds on the qualities that make the Shire an attractive place to life and prosper.

The plan provides a firm base on which to hang future more detailed structure planning initiatives and consider future land use development proposals in a more holistic and considered manner.

Historically, the preparation of maps has provided the creator with a powerful tool. This strategy has the potential to influence outcomes beyond the confines of the planning realm and assist in future negotiations with Government agencies and service providers.

Already, the data in this strategy has assisted in negotiations with Water Corporation in relating to extending sewerage infrastructure.

It is necessary to publically advertise the document. This is to ensure that it:

- Properly reflects the views and aspirations of the community;
- Gives the plan more legitimacy and status when used to justify decisions; and
- Provides government agencies are informed and provided opportunity to comment.

### **Policy/Statutory/Voting Implications**

#### Policy

N/A

#### Statutory

N/A

#### Voting

Simple Majority

### **Financial Implications**

N/A

### **Strategic Implications**

The preparation of a strategic town planning document is a key objective of the Shire's Strategic Community Plan.



## **Officer's Recommended Resolution**

**Moved: Cr**

**Seconded: Cr**

**That Council:**

- 1. Resolve to advertise the Developing Donnybrook Strategy for a period of no less than 42 days in accordance with Council policy commencing at the end of the school holiday period;**
  - 2. Resolve that the CEO arrange for public information sessions for informal questions and answers to be held in the Donnybrook and Balingup townsites;**
  - 3. Request submissions from:**
    - k. Department of Planning;**
    - l. Department of Water;**
    - m. Department of Agriculture;**
    - n. Department of Health;**
    - o. Water Corporation;**
    - p. Western Power;**
    - q. Department of Parks and Wildlife;**
    - r. Education Department;**
    - s. Heritage Council of Western Australia;**
    - t. Department of Aboriginal Affairs;**
    - u. Public Transport Authority;**
    - v. Department of Fire and Emergency Services;**
    - w. Department of Lands;**
    - x. Department of Mines and Petroleum;**
    - y. Main Roads Western Australia;**
    - z. Forrest Products Commission;**
    - aa. South West Development Commission; and Western Australian Tourism Commission.**
  - 4. Thank and acknowledge the input and efforts provided to date by the Working Group.**
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<b>11.4.7</b>	<b>SUBJECT:</b>	<b>PROPOSED EXPANSION OF “IGA” SHOPPING CENTRE TO INCLUDE A CAFÉ AND LIQUOR STORE</b>
	<b>Location:</b>	<b>Shire of Donnybrook-Balingup</b>
	<b>Applicants:</b>	<b>Highclere Pty Ltd</b>
	<b>Zone:</b>	<b>Commercial</b>
	<b>File Ref:</b>	<b>A4275</b>
	<b>Author:</b>	<b>Bob Wallin (Principal Planner)</b>
	<b>Report Date:</b>	<b>8 December 2014</b>
	<b>Attachments:</b>	<b>11.4.7 - Concept Plan</b>

## **Background**

Council has received a planning application for the expansion of the IGA shop. This proposal includes:

- a) A redesign of the car parking areas to improve presentation, legibility and safety;
- b) A café (84m<sup>2</sup>);
- c) Public toilets; and
- d) A new retail store with a floor area of 356m<sup>2</sup> (liquor store).

The existing supermarket will remain unchanged (Attachment 11.4.7).

The applicant has been involved in detailed discussion with Shire staff and Main Roads Western Australia (MRWA). The car park design and layout of the store reflects these discussions.

Given the important role this development plays, Council’s approval is requested to grant consent to advertise.

## **Comment**

### Land Use

Local Planning Scheme No.7 (LPS7) lists “Liquor Store” as a “D” (Discretionary) use. The café use falls under the use class of “fast food outlet” or “restaurant” which are both listed as “D” (Discretionary) uses.

### Design

To assist Council in assessing the design, it is necessary to look at three specific parts first and then consider the proposal as a holistic package. The following provides a summary of the design elements of the building, car parking arrangement and landscaping.

### Building

The building façade presented to the highway complies with Council’s Local Planning Policy 9.17 Industrial and Commercial Development Control. Specifically, the building:

- uses brick and glass;
- incorporates a roof design that breaks building bulk and monotony through use of a gable, vertical and horizontal stepping and inclusion of veranda’s/awnings to provide shaded pedestrian walkways;
- screening of loading bays and servicing areas from the main street (South Western Highway);

- presenting a clear and legible main entrance that includes extensive use of glazed areas; and
- Presenting a common theme in choice of materials to complement the existing building form.

### Car parking

LPS7 requires the following number of car bays:

- Restaurant - 1 bay per 4 patrons;
- Shop – 1 bay per 20m<sup>2</sup> GFA

The proposed restaurant caters for 50 patrons (requires 13 car bays). The shop includes the existing IGA supermarket (1215m<sup>2</sup>) plus liquor store (336m<sup>2</sup>). The total GFA is calculated at 1551m<sup>2</sup> requiring 78 car bays.

The total car parking bay required is 91 bays. The proposal provides 109 bays which includes 10 new staff bays located at the rear of the development.

The design of the car parking area has been the subject of discussion with Shire and MRWA. The design improves legibility and reduces potential for traffic conflicts onto the highway.

The design complies with development standards specified in LPS7 which requires separation of pedestrian and vehicle movements. The design also separates loading facilities from customer movements.

### Landscaping

TPS7 requires a minimum of 10% of the site for landscaping. It will be necessary for the applicant to confirm that this requirement is satisfied. However, the design and location of landscaping is well laid out and will create a vast improvement to the existing arrangement.

The landscaping in the car parking area will provide an attractive entrance to the shopping centre and will assist in creating a sense of arrival.

## **Advertising**

This proposal relates to a key landmark site to the Shire and will be of interest to the wider community. It is proposed to advertise the proposal with letter drops to landowners in the vicinity of the site, place a sign on site and notices in the local paper as well as details on the Shire's website.

## **Policy/Statutory/Voting Implications**

### Policy

The proposal satisfies the requirements of Local Planning Policy 9.17. Advertising will occur in accordance with Local Planning Policy 9.22 and Clause 9.7 of LPS7.

### Statutory

The proposal complies with the requirement of LPS7.

### Voting

Simple Majority

## Financial Implications

N/A

## Strategic Implications

Outcome 1.3 – To increase the range and diversity of industries and businesses that provide a range of employment opportunities

Outcome 1.7 - A well-used and efficient transport network

Outcome 2.8 - Our town sites are attractive, well presented and maintained

Age Friendly Community Study

Recommendation 16 – That the Shire of Donnybrook- Balingup liaises with the Donnybrook IGA to provide toilets and amenities

## Officer's Recommended Resolution

**Moved: Cr**

**Seconded: Cr**

**That Council:**

- 3) Resolve to advertise the proposed expansion of the existing supermarket at No.7 Sharp Street and No. 34, 36, 38, 40 and 42 South Western Highway, Donnybrook in accordance with clause 9.7 of Local Planning Scheme No.7 and Local Planning Policy No. 9.22;**
- 4) Delegate authority to the Chief Executive Officer to approve the application if no adverse responses are received during the advertising period.**

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### **11.5 Chief Executive Officer**

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<b>11.5.1</b>	<b>SUBJECT:</b>	<b>RECALL ITEM – TERM OF CONTRACT FOR PROVISION OF RECYCLING PROCESSING SERVICES</b>
	<b>Location:</b>	<b>Shire of Donnybrook - Balingup</b>
	<b>Applicants:</b>	<b>Western Australian Local Government Association</b>
	<b>Zone:</b>	<b>N/A</b>
	<b>File Ref:</b>	<b>HLT 07/3</b>
	<b>Author:</b>	<b>John Attwood – Chief Executive Officer (<i>Kate O’Keeffe, Executive Assistant</i>)</b>
	<b>Report Date:</b>	<b>9 December 2014</b>
	<b>Attachments:</b>	<b>Nil</b>

## Background

Council considered the confidential report - Term of Contract for Provision of Recycling Processing Services at the Ordinary Council meeting held on 12 February 2014.

## Comment

In accordance with the *Local Government Act 1995* Section 5.23 (2) (f) and Admin Regulations 4A the above report remained confidential as “a matter that if disclosed could be reasonably expected to impair the effectiveness of any lawful method or procedure for preventing, detecting, investigating or dealing with any contravention or possible contravention of the law”.

Once the information in the report is no longer sensitive the item is required, under the Act, to be included in the next occurring Council agenda.

This matter has now been finalised.

## Consultation

N/A

## Policy/Statutory/Voting Implications

### Policy

N/A

### Statutory

The *Local Government Act 1995* Section 5.23 (2) (f) and Admin Regulations 4A

### Voting

Simple Majority

## Financial Implications

N/A

## Strategic Implications

Outcome 4.3 of the Shire’s *Strategic Community Plan* states “an open and accountable local government that is respected, professional and trusted”.

## Officer’s Recommended Resolution

**Moved: Cr**

**Seconded: Cr**

**That the Council resolutions relating to the confidential report Term of Contract for the Provision of Recycling Processing Services be made public.**

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