



Ordinary Council Meeting Minutes

Held on

Wednesday, 25 March 2015

Commencing at 5.04pm

Council Chambers

Cnr Bentley and Collins Streets, Donnybrook WA 6239

A handwritten signature in blue ink, appearing to read "John Attwood".

John Attwood
Chief Executive Officer

31 March 2015

Disclaimer

The advice and information contained herein is given by and to the Council without liability or responsibility for its accuracy. Before placing any reliance on this advice or information, a written inquiry should be made to the Council giving entire reasons for seeking the advice or information and how it is proposed to be used.



ORDINARY COUNCIL MEETING MINUTES

25 March 2015

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SHIRE OF DONNYBROOK/BALINGUP

ORDINARY COUNCIL MEETING MINUTES

Held in the Council Chambers on Wednesday, 25 March 2015 at 5.04pm

MEMBERS PRESENT

COUNCILLORS

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

STAFF

John Attwood – Chief Executive Officer
Belinda Richards – A/Manager Finance & Admin
Mike Scott – Manager Works & Services
Leigh Guthridge – Manager Development and Environmental Services
Bob Wallin – Principal Planner
Kate O’Keeffe – Executive Assistant

PUBLIC GALLERY

| | |
|-------------------|-----------------|
| Peter Caccioppola | Adrian Jones |
| John Wringe | Fred Mills |
| Lui Tuia | Corinne Mellor |
| Kanella Hope | James Mellor |
| Clem Mitchell | Kerry Brennan |
| Shane O’Donnell | Debbie Pillage |
| Kristy O’Donnell | Peter Cotter |
| Trish Moore | Gerry Loveridge |
| E.B. Knight | Geoff Box |
| Megan Baldock | |

1 APOLOGIES

2 PUBLIC QUESTION TIME

Megan Baldock

On 27 February I delivered a 52-page document on issues at Tuia Lodge and requested that this be included in the Council Agenda. Why was it not included when protocol was followed?

Chief Executive Officer:

The information you provided in the document relates to staffing and management issues and legal opinion is being obtained for assessment. You will be advised once this assessment has been completed.

Trish Moore

I submitted documents on issues relating to Tuia Lodge and requested these items be raised at today's Council Meeting. Why is it not included in the agenda?

Chief Executive Officer:

The information you have provided has been referred to legal representation for assessment. You will be advised once this assessment has been completed.

Christopher Knight

I attended two meetings with the Tuia Board and requested minutes from these meetings however none were forthcoming. I believe I am entitled to a copy of the minutes and request copies be made available.

Chief Executive Officer

All parties were welcome to take notes at the meetings you refer to, no official minutes were required to be recorded.

3 APPLICATION FOR LEAVE OF ABSENCE

4 DECLARATION OF FINANCIAL/IMPARTIALITY INTEREST

Cr Dilley declared an interest affecting impartiality on item 6.1.1 – Noise Complaints – Gas Gun Use – Argyle, as he is a Commercial Orchardist and a gas gun user.

Cr King declared an interest affecting impartiality on item 11.5.1 – Waive Hire Fees – Balingup Small Farm Field Day, as he is a member of the Balingup Small Farm Field Day Committee.

5 PETITIONS/DEPUTATIONS/PRESENTATIONS

A petition with 92 signatures requesting the remaining unsealed section of Thomson Brook Road, Thomson Brook is bituminised was presented to Council by Cr Logiudice. The Petition reads:

We, the undersigned, are concerned citizens who urge the Shire of Donnybrook- Balingup to act now to seal the remaining length of unsealed road on Thomson Brook Road, Thomson Brook.

Council is required to decide whether:

1. The petition be accepted;
2. The petition not be accepted;
3. The petition be accepted and referred to Manager Works and Services for assessment and consideration in the 2015/16 Budget ;
4. The petition be accepted and dealt with by the full Council.

Council Decision

Moved: Cr Mitchell

Seconded: Cr King

That the petition be received and referred to Manager Works and Services for assessment and consideration in the 2015/16 Budget.

Carried 9/0

Ms Kanella Hope, Town Planner presented in relation to Agenda Item number 11.4.1 Request For Reconsideration of Reduced Rear Setback For Dwelling – presentation commenced 5.17pm, and concluded 5.22pm.

Mr Adrian Jones from Barton Jones Winery presented in relation to Agenda Item number 11.4.1 Request For Reconsideration of Reduced Rear Setback For Dwelling – presentation commenced 5.22pm, and concluded 5.36pm.

*** 5.38pm - Corinne Mellor, James Mellor, Kerry Brennan, Debbie Pillage, Peter Cotter, Trish Moore, Megan Baldock and E.B. Knight left the meeting***

6 LATE ITEMS

Council Decision

Moved: Cr Logiudice

Seconded: Cr Mitchell

That Council accept late agenda item number 12.1.1 – Noise Complaints – Gas Gun Use- Argyle.

Carried 9/0

7 CONFIRMATION OF MINUTES

7.1 Ordinary Council Meeting – 11 February 2015

Moved: Cr Dawson

Seconded: Cr McCabe

That the minutes of the ordinary meeting held on 11 February 2015 be confirmed as a true and accurate record subject to resolution Option 2 in Agenda Item 11.2.1 - Seeking Council Approval to Redirect funds to address ratepayers concerns on Campbell St, Balingup be amended to read:

“That Council approves a total budget allocation of \$25,000 for Campbell Street with a contribution of \$10,000 to be sourced from adjacent ratepayers in accordance with the Shire of Donnybrook-Balingup Policy 4.4 Bituminizing Roads on a Joint Basis with Adjoining Land Owners; and before work commences.

(The budget review will be edited to reflect this decision).

Carried 9/0

8 ELECTED MEMBERS MOTIONS

8.1.1 SUBJECT: JUSTIFICATION OF A 2015/16 RATE RISE LIMITED TO APPROXIMATELY 3% (IN LINE WITH 2014 CPI AND INFLATION AND PROJECTIONS FOR 2015/16)

| | |
|---------------------|--------------------------|
| Location: | N/A |
| Applicants: | Cr Mike King |
| Zone: | N/A |
| File Ref: | CNL 34H |
| Author: | John Attwood, CEO |
| Report Date: | 17 March 2015 |
| Attachments: | Nil |

Cr King has proposed the following Notice of Motion:

Notice of Motion:

The Donnybrook Balingup Council endorse a responsible and sustainable annual rate rise target which limits rate increases to approximately 3% in the 2015-2016 budget, with future rises to be reflective the WA economic situation and reflective of CPI, Inflation and average wage increases.

Cr King Comment

The Council has instructed the CEO to prepare Draft Budget options for 2015-2016, allowing increased rates of 3%, 4%, 5%, and 6%, and to detail what services might have to be

dropped to achieve say a 3% rate rise, rather than services provided at the ongoing 6% and higher rate rises which have been imposed over the last four years.

The Shire of Balingup Donnybrook rate increases over the last 4 years have been 6.0, 7.0, 6.7 and 6% respectively, or roughly double the CPI and rates of inflation during those years. In last year's budget discussions it was evident that a reduction of \$117,000, or roughly savings of 1% across the total Shire expenditure, would have allowed a rates increase of 3.0% (rather than the 6% increase last year).

Some elected members have suggested the rate rise for 2015/2016 be limited to 3-4%, which would reflect the economic situation in WA which in turn provides the basis of income for many shire ratepayers. Obviously a cut in Shire revenue, even if it is only 1% of revenue, will reflect in some services previously offered by the Shire being cut or curtailed. An explanation of which services are affected and how will necessarily be part of the discussion.

The reality of the WA economic situation is:-

- Federal and State Government revenues have fallen, and will continue to be below past revenues.
- CPI, Inflation and Average wage increases have been less than 3% over 2013-2015.
- There have been unprecedented redundancies across both Government and the private sectors. 1500 WA government redundancies (West Australian 3/12/14), 45 laid off by Griffin Coal (12/12/14), 5000 positions lost from Goldfields workforce of some 30,000 over 2014, 800 positions to be axed by Rio Tinto (28/2/15), 4000 positions made redundant by Worley Parsons over 2014(28/2/15), Woodside warning of further minesite cuts to their workforce(28/2/15), McMahon Contracting laying of 80 personnel (on 4/3/15), Alcoa putting 4000 workers on redundancy notice (9.3.15), and Water Corps announcement of 300 retrenchments from its W.A. workforce. Albeit that Iluka has announced the recommissioning of SR2 which will provide 150 positions, the trend is definitely towards greater unemployment, and as a result reduced cash in the economy.
- This at a time when unemployment is above 6.3%, record levels not seen for 12 years. On 5.3.15 the ABS announced that Australia's Economic Growth had slowed further in the September –December quarter. The RBA retained interest rates at 2.25%, and the Federal Government soften its stance on military pay increases and offered the military a 2% pay increase, including those serving in war zones overseas.
- Unemployment is currently at 6.3 to 6.4 %, the highest in 12 years, and this has not seen many of the announced impending redundancies implemented (Qantas, Toyota and Holden and flow on into support industries) Commentators are suggesting the rise in unemployment will probably continue. Already many of our ratepayers are regrettably affected by this contraction in the economy.
- The WA average private sector increase in wages was 2.0% in 2014, and an overall increase of 2.3% (when government wage rises were added to the private sector increases). In this period Shire salaries and wage increases generally ranged between 1-5%

Correspondents and journalists in reflecting public opinion have indicated a high level of frustration at general Shire rate rises in recent years, with statements in the West Australian such as:-

- Are WA Councils gouging their ratepayers?
- The only growth area in the WA Economy is the local government sector!

These are informed opinions only, but they indicate a level of frustration amongst ratepayers, and point out that levels of rate rises well above CPI, inflation and general wage rises are not sustainable indefinitely. Councils and their Shires must in the longer term operate within the constraints dictated by the economy.

To bring the Donnybrook Shire rates increases back to 3% in 2014-2015 would have required savings of approximately \$117,000 (or 1% savings over the annual Budget). This is not a big ask, and is essential to allow sustainability over the longer term.

I therefore request Council support of a target of approximately 3% rate rise in the 2015-2016 budget.

Policy/Statutory/Voting Requirements

Policy

N/A

Statutory

N/A

Voting

Simple Majority

CEO Comment

Council has endorsed a 10 year Long Term Financial Plan which provides for the level of service provided to the rate payers to remain at the current level. Any reduction in the proposed rate increase will require a corresponding reduction of budgets, maintenance and asset management goals in the Long Term Financial Plan. It is incumbent on Council to consider all of these scenarios prior to committing to the annual rate setting statement.

Council is subject to a number of cost increases, the same as the general public. Council is not immune to increases in insurance premiums, ESL Levies, water rates charges, electricity charges, sewerage rates, labour costs etc. In addition to this Council is also subject to reduction in grants from both the state and federal governments and exposed to cost shifting exercises (Cat Act, DAFWA, Cotton Bush). Council will assess all of these items including any proposed staff pay increases when adopting the budget. For instance, Council has committed to the Enterprise Bargaining Agreement and process formed in legislation that binds Council for an agreed increase for affected employees.

Cr King's Notice of Motion

Moved: Cr King

Seconded: Cr Bailey

The Donnybrook Balingup Council endorse a responsible and sustainable annual rate rise target which limits rate increases to approximately 3% in the 2015-2016 budget, with future rises to be reflective the WA economic situation and reflective of CPI, Inflation and average wage increases.

Procedural Motion

Moved: Cr Dawson

Seconded: Cr Crowley

That Cr King's Notice of Motion be deferred until the 2015/16 draft budget.

Carried 6/3

Cr Bailey requested his vote be recorded against the motion.

9 MINUTES OF PREVIOUS MEETINGS

9.1 *Committee Minutes*

Council Decision

Moved: Cr Mitchell

Seconded: Cr Bailey

That the following Committee minutes be received:

- **Balingup Community Advisory Committee Meeting – 10 February 2015**
- **Legislative Local Laws Committee Meeting – 3 March 2015**
- **Donnybrook-Balingup Road Safety Committee Meeting – 3 March 2015**
- **Local Emergency Management Committee Meeting – 11 March 2015**
- **Donnybrook Cultural Planning Committee Meeting – 12 March 2015**

Carried 9/0

10 REPORTS OF COMMITTEES

9.1 *Balingup Community Advisory Committee Meeting*

| | | |
|--------|---------------------|---|
| 10.1.1 | SUBJECT: | DEVELOPING DONNYBROOK - STAGE 3 PROJECT UPDATE |
| | Location: | Shire of Donnybrook-Balingup |
| | Applicants: | N/A |
| | Zone: | N/A |
| | File Ref: | TP 15 |
| | Author: | Bob Wallin (Principal Planner) |
| | Report Date: | 27 January 2015 |
| | Attachments: | Nil |

Background

The Balingup Community Advisory Committee at its meeting on 18 November 2014 resolved:

- “1) *note the progress of the report and be advised of Council’s decision and be provided with an opportunity to make comments during the advertising period;*
- 2) *request that the advertising period starts in February (after the finish of the end of year school holidays);*
- 3) *request that copies of the Strategy are provided once updated by the consultant.”*

Council at its ordinary meeting 17th December 2014 considered the Developing Donnybrook Strategy for advertising and resolved to:

- “1. *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:*
 - *Department of Planning;*
 - *Department of Water;*
 - *Department of Agriculture;*
 - *Department of Health;*
 - *Water Corporation;*
 - *Western Power;*
 - *Department of Parks and Wildlife;*
 - *Education Department;*
 - *Heritage Council of Western Australia;*
 - *Department of Aboriginal Affairs;*

- *Public Transport Authority;*
- *Department of Fire and Emergency Services;*
- *Department of Lands;*
- *Department of Mines and Petroleum;*
- *Main Roads Western Australia;*
- *Forrest Products Commission;*
- *South West Development Commission; and*
- *Western Australian Tourism Commission.*

4. *Thank and acknowledge the input and efforts provided to date by the Working Group.”*

Advertising starts on the 2nd February and closed on 15 March 2015. The strategy has been referred out to government agencies for comment.

A copy of the strategy has been provided for the committee to review (Attachment 5.2.1.1). An extract from the Council minutes has also been provided to provide background and assist in understanding the document (Attachment 5.2.1.2)

Council’s resolution includes the requirement to hold an informal public information session within Balingup. This Committee’s assistance would be appreciated in deciding on the best location and time to hold this event.

Policy/Statutory/Voting Implications

Policy

N/A

Statutory

N/A

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.

The recommendations provided by the Balingup Community Advisory Committee have been received by Council as advice purposes only.

Committee’s Recommendations

Option 1:

That the committee provide comments to the Chief Executive Officer prior to the 15th March 2015.

Option 2:

That the Committee acknowledge the content of the Growing Donnybrook-Balingup report and resolve not to make a submission.

10.2 Legislative (Local Laws) Committee

| | | |
|---------------|---------------------|---|
| 10.2.1 | SUBJECT: | REVIEW OF LOCAL LAWS |
| | Location: | SHIRE OF DONNYBROOK-BALINGUP |
| | Applicants: | SHIRE OF DONNYBROOK-BALINGUP |
| | Zone: | N/A |
| | File Ref: | CNL25 |
| | Author: | John Attwood – CEO (Lucy Bourne) |
| | Report Date: | 12 February 2015 |
| | Attachments: | NIL |

Background

Section 3.16 (1) of the Local Government Act 1995 (the Act), requires that within a period of 8 years from the day when a Local Law commenced or a report of a review of the local law was accepted under this section, as the case requires, a local government is to carry out a review of the local law to determine whether or not it considers that it should be repealed or amended.

Comment

Council has a number of local laws that, in accordance with the Local Government Act, are due to be reviewed in 2015, as follows:

- **Bush Fire Brigades**
- **Extractive Industries**
- **Fencing**
- **Health**
- **Miscellaneous Provision**
- **Property**
- **Thoroughfares (Activities) & Trading in Thoroughfares & Public Places**

Although not due until 2016, it is also proposed that the **Standing Orders Local Law** be reviewed this year, if time permits.

To comply with the Act it is recommended that Council adopt the following process:

- 1) State-wide public notice to be given inviting submissions on the review of the local law for a period of not less than 6 weeks (section 3.16(2) & 3.16(2a) of the *Local Government Act 1995*)
- 2) Following completion of the submission period, any submission received will be considered by Council officers and a report prepared and submitted to Council (section 3.16(3) of the *Local Government Act 1995*).
- 3) Council to consider the report to determine whether or not it considers that the local law should be repealed or amended (*absolute majority required*).
- 4) State-wide public notice to be provided
 - stating the title of the local law reviewed;
 - advising of its determination; and

- advising that copies of the report of the review may be inspected or obtained from the local government's office.

If the local law is to be amended or repealed, the process outlined in section 3.12 of the *Local Government Act 1995* is to be commenced as follows:

- 1) At the council meeting the presiding person is to give notice to the meeting of the purpose and effect of the proposed local law on the prescribed manner.
- 2) State wide and local public notice to be given inviting submissions on the proposed local law for a period not less than 6 weeks.
- 3) Copies of proposed local law, National Competition Policy form and public notice to be sent to the Minister for Local Government
- 4) After the last day for submissions, the local government is to consider any submissions made and may make the local law as proposed or make a local law that is not significantly different from what was proposed (*absolute majority required*)
- 5) After making the local law, council is to publish it in the Gazette and give a copy to the Minister.
- 6) State-wide public notice to be provided
 - stating the title of the local law reviewed;
 - summarising the purpose and effect of the local law
 - advising that copies of the local law may be inspected or obtained from the local government's office.

Consultation

Under the Local Government Act 1995, section 3.16, Council is to give State-wide public notice for not less than 6 weeks, stating its intension to review the local law and public submissions can be made during this time.

Policy/Statutory Implications

Local Government Act 1995 Section 3.16.

Financial Implications

Approximately \$1000 in advertising costs.

Strategic Implications

N/A

**Council Decision
(Committee’s Recommended Resolution)**

Moved: Cr Crowley

Seconded: Cr Duncan

That under the Local Government Act 1995, Section 3.16, Council give State-wide public notice for a period not less than 6 weeks that Council proposes to review the following local laws:

- **Bush Fire Brigades**
- **Extractive Industries**
- **Fencing**
- **Health**
- **Miscellaneous Provision**
- **Property**
- **Thoroughfares (Activities) & Trading in Thoroughfares & Public Places**
- **Standing Orders**

Carried 9/0

| | | |
|---------------|---------------------|--|
| 10.2.2 | SUBJECT: | CAT LOCAL LAW |
| | Location: | SHIRE OF DONNYBROOK-BALINGUP |
| | Applicants: | SHIRE OF DONNYBROOK-BALINGUP |
| | Zone: | N/A |
| | File Ref: | CNL25 |
| | Author: | John Attwood – CEO (<i>Lucy Bourne</i>) |
| | Report Date: | 18 February 2015 |
| | Attachments: | Nil |

Background

In 2007, the Shire of Donnybrook-Balingup introduced a local law pertaining to the welfare and keeping of Cats. This allowed Council to promote responsible cat ownership, reduce the nuisance to the community and damage to wild animals caused by cats. At the time no State legislation existed in relation to the keeping of cats.

The State Government introduced the *Cat Act 2011* and it took full effect in November 2013. The *Cat Act* and associated regulations provide a comprehensive general regulatory framework for the management of cats. It also provides local governments with the power to make local laws on a range of matters specific to their situation.

Council’s current Local Law needs to be re-written to ensure there are no inconsistencies between the local law and the *Cat Act 2011*, the *Cat Regulations 2012* and the *Cat (Uniform Local Provisions) Regulations 2013*. Furthermore, no duplication of provisions is permitted.

It was anticipated that a model local law would be provided to assist local governments to develop cat local laws. Instead, however, the Local Government Department published *Cat Local Law Guideline Notes* in July 2014.

Given that Council already has a local law, its options are to:

- 1 Repeal the *Keeping and Welfare of Cats Local Law* and depend entirely on the *Cat Act* for the management of cats in the Shire.
- 2 Repeal the local law and replace it with a new local law, designed to sit under the *Cat Act 2011*.

Consideration was given to maintaining but amending the existing local law, but this is not recommended, given the head of power (enabling legislation) has changed from the *Local Government Act* to the *Cat Act*.

Comment

Council staff have analysed the local law in relation to the *Cat Act* to identify the functions provided for in the local law which are not covered by the *Cat Act*.

The *Cat Act* provides the following key controls:

- Registration
- Micro-chipping
- Sterilisation
- Change of Ownership
- Management of Cats (power to issue notices, seize cats, requirement for approval to breed cats etc.)
- Enforcement.

The current Local Law provides the following additional controls:

- Limiting the number of cats that may be kept without a permit
- Cats creating a nuisance
- Specifying places where cats are prohibited absolutely
- Removing and impounding cats
- Keeping, transferring and disposing of cats kept at a cat management facility
- The establishment, maintenance, licensing, regulation, construction, record keeping and inspection of cat management facilities.

After considering the options and consulting with WALGA, the Joint Standing Committee on Delegated Legislation and the Department of Local Government, Council staff recommend that Council continues to have a local law, rather than depend solely on the *Cat Act 2011*.

A new Local Law has been drafted based on the *Keeping and Welfare of Cats Local Law 2007*, but with the following amendments:

- Any provisions that are inconsistent or in conflict with the *Cat Act* have been removed
- Any provisions covered by the *Cat Act* have been removed (duplication)
- Terminology has been updated where appropriate
- Formatting has been altered to suit current guidelines for developing local laws.

To comply with s.3.16 of the *Local Government Act* it is recommended that Council adopt the following process:

- 1) At a council meeting, the person presiding is to give notice to the meeting of the purpose and effect of the proposed new local law in the prescribed manner.
- 2) The local government is to give Statewide public notice stating that the local government proposes to make a new local law and that a copy of the proposed local law may be inspected or obtained from the Shire administration centre and that submissions are invited within a period of not less than six weeks (42 days) from the day the notice is given.
- 3) Following completion of the submission period, any submission received will be considered by Council officers and a report prepared and submitted to Council (section 3.16(3) of the *Local Government Act 1995*).
- 4) Council is then to consider this report and make the local law, either as proposed or with minor alterations if necessary (*absolute majority required*).
- 5) After making the new local law, the local government is to publish it in the Government Gazette, give a copy of it to the Minister and provide local public notice summarising the purpose and effect of the new local law and the day on which it comes into operation.

The Shire President read aloud the purpose and effect of the Cat Local Law:

The purpose of the proposed local law is to provide Council with measures in addition to those under the *Cat Act 2011* to control the keeping and welfare of cats.

The effect of this local law is to: -

- (a) Promote responsible cat ownership;
- (b) Reduce the nuisance to the community caused by cats;
- (c) Limit the damage to and the loss of wildlife caused by cats; and
- (d) Promote the welfare and safety of domestic cats.

Consultation

WALGA, Department of Local Government, Joint Standing Committee on Delegated Legislation.

Policy/Statutory/Voting/Implications

Statutory

Cat Act 2011

Cat Regulations 2012

Cat (Uniform Local Provisions) 2013

Local Government Act 1995 Section 3.16.

Voting

Absolute Majority

Financial Implications

Advertising and publication costs estimated to be about \$1,000.

Strategic Implications

Strategic Community Plan objective 3.8 – maintain a safe and friendly community environment.

Council Decision (Committee’s Recommended Resolution)

Moved: Cr Duncan

Seconded: Cr Mitchell

That a new local law, known as the Shire of Donnybrook-Balingup Cat Local Law is made under the powers conferred by the *Cat Act 2011*, and that -

State-wide and local public notice of the proposed *Cat Local Law 2015* be given as follows:

“The Shire of Donnybrook-Balingup proposes to make a new local law relating to the control of cats to replace the *Keeping and Welfare of Cats Local Law 2007*.

The purpose of the proposed local law is to provide Council with measures in addition to those under the *Cat Act 2011* to control the keeping and welfare of cats.

The effect of this local law is to:

- (a) Promote responsible cat ownership;**
- (b) Reduce the nuisance to the community caused by cats;**
- (c) Limit the damage to and the loss of wildlife caused by cats; and**
- (d) Promote the welfare and safety of domestic cats.**

A copy of the proposed new local law may be inspected at or obtained from the Shire Administration Centre, corner Collins & Bentley Streets, Donnybrook, between 8.30am and 4pm Monday to Friday, from the Shire website (www.donnybrook-balingup.wa.gov.au) or the Donnybrook and Balingup libraries.

Submissions about the proposed local law may be made to the Chief Executive Officer, Shire of Donnybrook-Balingup, Administration Building, Cnr Bentley and Collins Streets, PO Box 94, Donnybrook WA 6239, by Friday 5 June 2015.”

**Carried 9/0
By Absolute Majority**

10.3 Local Emergency Management Committee

| | | |
|---------------|---------------------|--|
| 10.3.1 | SUBJECT: | APPROVAL OF THE SHIRE OF DONNYBROOK–BALINGUP - LOCAL RECOVERY PLAN |
| | Location: | Shire of Donnybrook-Balingup |
| | Applicants: | N/A |
| | Zone: | N/A |
| | File Ref: | CSV 20 |
| | Author: | Leigh Guthridge – Manager Development and Environmental Services (<i>Bryanna Wright – Environmental Health Officer</i>) |
| | Report Date: | 3 March 2015 |
| | Attachments: | 10.3.1(1) – Draft Local Recovery Plan (to be emailed) 10.3.1(2) – Schedule of Submissions |

Background

Council at its December 2014 meeting resolved the following:

“That Council advertise the draft Local Recovery Plan - Part E of the Local Emergency Management Arrangements for 28 days during February 2015 and submissions received will be considered by the Local Emergency Management Committee and subsequently Council prior to the Local recovery Plan being adopted at a future meeting of Council.”

The Local Recovery Plan (LRP), Attachment 10.3.1(1), is a comprehensive document which can be used in times of emergencies to guide the Shire and recovery personnel to manage recovery operations. The plan aims to prepare for and coordinate the process of supporting emergency-affected communities including 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.

Comment

Advertising of the draft LRP was conducted by the Shire from 1 to 28 February 2015. During this advertising period, 3 submissions were received.

The submissions have been summarised in Attachment 10.3.1(2) with Officer Comment provided. Modifications to the LRP relating to spelling errors, punctuation, updating acronyms, and formatting etc. have been undertaken. The schedule of submissions also addresses comments from stakeholders that recommend changes to the draft LRP as advertised.

The LRP now aligns with the State Emergency Management Committee (SEMC) framework, as it is based on best practice across national and international jurisdictions and experiences from other recovery agencies. and lessons learnt etc. It will be beneficial to the Shire and recovery personnel when the LRP is used in an operational capacity after an emergency and where recovery is required.

Consultation

The Local Recovery Plan has been advertised to the wider community via:

- Placing an advert in the Donnybrook-Bridgetown Mail;
- Placing an advert in the Preston Press Community Newsletter;
- Placing a notice on the Shire office and Community Noticeboard in the main street of Donnybrook; and
- Placing a notice on Council's website.

A workshop was also held with Shire staff to obtain input into the LRP and gain insight into how Shire operations might be affected by an emergency, where impacts to the Community may involve recovery management. Mr Vikram Cheema, Community Emergency Management Officer and SEMC Secretariat also provided input into the draft plan at its compilation stage.

Policy/Statutory Implications/Voting requirements

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 All West Australians Reducing Emergencies (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.

Council Decision (Committee's Recommended Resolution)

Moved: Cr Mitchell

Seconded: Cr Dawson

That Council approve the amended “*Shire of Donnybrook-Balingup Local Recovery Plan*” dated 25 March 2015, as per Attachment 10.3.1.

Carried 9/0

| | | |
|---------------|---------------------|--|
| 10.3.2 | SUBJECT: | OTHER BUSINESS |
| | Location: | Shire of Donnybrook-Balingup |
| | Applicants: | N/A |
| | Zone: | N/A |
| | File Ref: | CSV 20 |
| | Author: | Leigh Guthridge – Manager Development and Environmental Services (<i>Bryanna Wright – Environmental Health Officer</i>) |
| | Report Date: | 3 March 2015 |
| | Attachments: | Nil |

Update Contacts List: See copy of contacts list (attached) from the Local Emergency Management Arrangements for review and updating.

Irishtown Fires: Discussion on any outstanding issues from an ISG and/or recovery perspective.

Roma Boucher:

- Anna Huxtable continues to act in a Perth based position and I have been extended to mid-August 2015, to allow for advertising of the position. Anna is acting in, which can't proceed at present because of the recruitment freeze. Hence, please include me on your mailing lists etc.
- I forwarded the 'Offer of Assistance' form to all Local Governments on 22nd January 2015. This resource has been developed by this Department
- In conjunction with Volunteering WA and the Adventist Development and Relief Agency (ADRA). It is suggested 50 copies are printed to light blue paper and be available in your Emergency Services Kit and/or with your Administration to be utilised

in an emergency event when unaffected persons make offers of goods, services, accommodation and other.

- Our staff have been activated recently for bushfires at Donnybrook and Waroona - assisting in welfare centres and we have attended ISG meetings for the Glen Iris and Collie fires. I also provided relief for 4 days for our Great Southern Assistant District Director and Emergency Services Officer attending the Operational Area Support Group (OASG), Incident Support Group (ISG), Recovery and Community meetings as well as leading a team of 6 Response team members from Dept of Child Protection and Family Services (CPFS) Perth, who can be deployed to anywhere in the State in an emergency. This enabled our Great Southern Staff to have a fatigue break, though there were contingency plans in place in the event bushfires reached Walpole and Quinninup which may have necessitated opening welfare centres at Denmark and Manjimup.
- I have recently attended the South West Local Government Emergency Management Alliance (SWLGEMA) and Conference sub-committee meeting and CPFS hosted the 1st quarter District Emergency Management Committee (DEMC) meetings at the Bunbury.
- During the Irishtown Fire activation CPFS had been approached by a person at the Community Debrief re the issue of transport for the vulnerable persons in an emergency activation. The scenario shared was a couple where the male had cancer; both were physically unable to turn on taps at their water tank or start pumps and the female not being able to get the male into the car to evacuate if necessary.

In response:

- Vik Cheema indicated this information needs to be brought to the ISG; assistance is available from the Police, Ambulance and Fire fighters can assist if required. Also, there is a clause in the Emergency Management Act to cover this.
- Leanne Northrop from Health advised they now have a portfolio of info, including persons in palliative care.

Council Decision - En Bloc Resolution No.1

Moved: Cr Logiudice

Seconded: Cr Crowley

That the resolutions from item 10.3.2 – Other Business, from the Local Emergency Management Committee meeting be moved en bloc.

Carried 9/0

Committee's Recommended Resolution

Moved: Cr

Seconded: Cr

That Council investigate and budget to procure adaptor cords for generator change-over for mobile phone tower in the Shire.

Council Decision

That Council refer procurement of adaptor cords to Telstra for generator change-over for mobile phone towers in the Shire.

Carried by en bloc resolution No.1

Council Decision

That Council staff investigate a ‘text message notification system’ for the residents of the Shire of Donnybrook-Balingup to provide advanced warnings of emergencies. Investigations to evaluate practicalities, cost benefit, and any other potential conflict with other warning and/or information service by other agencies.

Carried by en bloc resolution No.1

11 REPORTS OF OFFICERS

11.1 Manager Finance and Administration

11.1.1 ACCOUNTS FOR PAYMENT

**Council Decision
(Officer’s Recommended Resolution)**

Moved: Cr Duncan Seconded: Cr Mitchell

That accounts authorised and paid under delegation No. 3.2 by the Chief Executive Officer represented by cheques CCP3024 – CCP3045, EFT6986 – EFT7222, 50980 – 51077 Trust EFT6986a, EFT7132a, 3240 – 3248 totaling \$3,736,753.19 be confirmed for payment.

Carried 9/0

11.1.2 MONTHLY FINANCIAL REPORT

**Council Decision
(Officer’s Recommended Resolution)**

Moved: Cr King Seconded: Cr McCabe

That the monthly reports for the period ended 31 January 2015 be received.

Carried 9/0

11.1.3 SUBJECT: REALLOCATION OF SPECIAL PROJECT GRANTS FOR BRIDGEWORKS – AMENDMENT TO 2014/15 BUDGET

Location: Administration
Applicants: Administration
Zone: N/A
File Ref: DEP 52/3
Author: Greg Harris, Manager Finance & Administration (*Belinda Richards, A/Manager Finance and Administration*)
Report Date: 16 March 2015
Attachments: Nil

Background

Council’s budget for the 2014/15 year lists the following Bridgeworks jobs.

| | Project Description | Council 1/3rd contribution |
|---|---------------------------------|--|
| 1 | Bridge #4928A Preston Park Road | \$268,000 |
| 2 | Bridge #3616 Irishtown Road | \$ 88,000 |

Council receives funding through the WA Local Government Grants Commission representing one third cost of the proposed works. These funds are paid on a quarterly basis direct to Council. The remaining two thirds of the cost are funded through Main Roads WA.

Main Roads WA generally undertake the bridgeworks on behalf of Council and then invoices the Shire for its one-third contribution.

Advice has been received from Main Roads WA that these projects have been completed at below the cost estimate and therefore the Shire will be invoiced for less than its estimated one-third contribution it has received directly from the WA Local Government Grants Commission.

Main Roads WA have advised that in accordance with the WA Local Government Grants Commission guidelines the unspent funds shall remain with the Council to be utilized in a manner at the discretion of the Council. A budget adjustment will be required to reallocate these funds to another cost area.

In a previous financial year Council has also received funding of \$100,000 for Bridge #3643 on Trevena Road. This funding has been held in Council’s Roadworks Reserve. This project was not included in the 2014/15 budget as it was uncertain when the Bridgeworks would be completed. The works on this bridge have also been completed at less than the cost estimate and therefore unspent funds are available for reallocation on this project. The project will also need to be formally included within the 2014/15 budget.

Comment

Whilst Council has the discretion to utilise the unspent funds in any manner it chooses it is recommended that the funding remains allocated to Bridgeworks and is reallocated to Bridge Maintenance.

It is therefore recommended that the following budget adjustment is undertaken to reallocate these funds as described above.

| Job Number | GL Account | Description | Details | Income \$ | Expenditure \$ |
|---------------|------------|---------------------------------|---------------|------------|----------------|
| Bridge #4928A | 132000 | Preston Park Road | Reduce Exp. | | (67,795.83) |
| Bridge #3616 | 132000 | Irishtown Road | Reduce Exp. | | (23,750.30) |
| Bridge #3643 | 132000 | Trevena Road | Increase Exp. | | 100,000.00 |
| Bridge #3643 | 132000 | Trevena Road | Reduce Exp. | | (5,435.49) |
| | 133510 | Transfer from Roadworks Reserve | Increase Inc. | 100,000.00 | |
| Job M001 | 134500 | Bridge Mtce. | Increase Exp. | | 96,981.62 |

Consultation

N/A

Policy/Statutory/Voting Implications

Policy

N/A

Statutory

N/A

Voting

Absolute Majority Decision is required to amend the 2014/15 budget.

Risk Assessment

No formal risk management assessment has been done in respect to this agenda item as it relates to funding only for the identified projects.

Financial Implications

The proposed amendments to the budget will have no net impact on the final budget result as amendments to income match amendments to expenditure.

Strategic Implications

Outcome 1.7 - A well-used and efficient transport network

Outcome 4.2 – Maintain long term financial viability

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

Outcome 4.7 – Maintain and enhance Shire assets

**Council Decision
(Officer’s Recommended Resolution)**

Moved: Cr Dawson

Seconded: Cr Duncan

- 1. That Council amend the 2014/15 budget to reallocate unspent Bridge funding to Bridge Maintenance as detailed below:**

| Description | Details | GL Acct | Job No. | Amount |
|--------------------|--|----------------|----------------|----------------|
| Preston Park Rd | Reduce Expenditure | 132000 | Job 4928A | \$67,795.83 |
| Irishtown Rd | Reduce Expenditure | 132000 | Job 3616 | \$23,750.30 |
| Trevena Rd | Increase Expenditure | 132000 | Job 3643 | (\$100,000.00) |
| Trevena Rd | Reduce Expenditure | 132000 | Job 3643 | \$5,435.49 |
| | Increase Income (Transfer from Reserve) | 133510 | | \$100,000.00 |
| Bridge Maintenance | Increase Expenditure Bridge Maintenance | | Job M001 | (\$96,981.62) |

**Carried 9/0
By Absolute Majority**

*** 6.11pm – Belinda Richards, A/Manager Finance and Administration, left the meeting.*

11.2 Manager Works & Services

| | | |
|---------------|---------------------|--|
| 11.2.1 | SUBJECT: | Mungalup Road Upgrade Funding |
| | Location: | Mungalup Road |
| | Applicants: | Shire of Db-B/SWDC |
| | Zone: | N/A |
| | File Ref: | C1429 |
| | Author: | Mike Scott (Manager Works and Services) |
| | Report Date: | 25 March 2015 |
| | Attachments: | None |

Background

The South West Development Commission has worked with the Shire of Donnybrook-Balingup (the Shire) and state authorities to secure a Royalties for Regions Grant of \$1.7M through the Department of Regional Development to upgrade the 3.7 km unsealed section of Mungalup Road.

The Shire is required by the terms of the funding to formally accept the grant and authorise the Shire President and the CEO to endorse the agreement documentation.

Subsequent to this, the Council is required to delegate authority for initiating and delivering the project to the CEO, in accordance with and as defined by the Local Government Act 1995 and the Shire policies and procedures.

Comment

Mungalup Road is at the northern portion of the Shire and connects the Shire of Dardanup with the Shire of Collie, both of which have sealed and upgraded their portion of the road to the boundary utilising Regional Road Group funding.

There are no Shire ratepayers on its section of the road, which consists of undulating, non-conforming gravel construction.

Mungalup Road has significant potential as a tourist route that connects the Ferguson Valley wine and food district to jarrah forest hinterland. It is also becoming increasingly important as a commuting route to and from Collie. By anecdotal assessment, the majority of road users are likely to be from other areas rather than shire residents.

The Shire has limited capacity and little ratepayer interest in funding an upgrade to Mungalup Road from municipal funds and the road does not meet criteria for Regional Road Group funding support.

The Shire has minimal capacity to maintain Mungalup Road and receives seasonal complaints from road users, most of which are from other shires. It is currently listed for one summer and one winter maintenance grade depending on the Shires other priorities and funding availability.

The Shires of Dardanup and Collie have upgraded their sections of the road to an acceptable standard.

Much of the Donnybrook-Balingup section of the road goes through state forest. The state Department of Parks and Wildlife (DPAW) is very supportive of the project and has made a contribution of \$200,000 in readily available local gravel to expedite construction.

The Shire is required to make an in-kind contribution to the Project Management costs. These are nominated as \$100K over two financial years and are, together with the DPAW contribution of \$200K, in addition to the funding package of \$1.7M.

The Shire is not required to pay a cash component towards the \$2.0M project.

Consultation

Shire officers have worked with the South West Development Commission (SWDC) and Gayle Gray in particular. Through the SWDC, Ms. Gray has facilitated the application and the liaison with the many state government agencies required to form the support base from which the competitive approval process would stand the best chance of success.

The successful Mungalup Road Upgrade funding application was considered against a high number of worthy and competing regional and state applications and had to progress through several layers of assessment and scrutiny.

Shire officers have worked on this project for several years. Former Manager of Works and Services, Rick Miller initially provided a submission and costings for the job. His preliminary

work should be recognised in the successful (albeit escalated) grant that has now been realised.

Policy/Statutory/Voting Implications

Policy

This process conforms to Shire policies and procedures.

Statutory

It is a condition of the grant to undertake this formal acceptance process.

Voting

An absolute majority is required to change an adopted budget, as this grant will do.

Risk Assessment (Optional)

A risk assessment including an independent economic impact assessment was undertaken and forms part of the application for funding.

Financial Implications

This grant will add \$1.7M (in two \$850K instalments over 14/15FY and 15/16FY) to the adopted Long Term Financial Plan and the Forward Works Plan.

As part of the agreement, the Shire is required to provide project management resources of \$100K (over two financial years) to this project.

Strategic Implications

Outcome 1.7 - A well-used and efficient transport network

Outcome 4.2 – Maintain long term financial viability

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

Outcome 4.7 – Maintain and enhance Shire assets

Completion of this section of Mungalup Road fixes a long standing issue for the Shire as well as the adjoining shires of Dardanup and Collie.

The Shire's Works and Services Department has a plan to successfully manage the project within existing resources. The subsequent arrangement and officer deployment is primarily an operational matter designed to limit the impact on the Works and Services department's delivery of essential maintenance and other important capital projects, while delivering this project.

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

Moved: Cr Crowley

Seconded: Cr King

1. **The Council formally accepts the Royalties for Regions grant of \$1.7M and authorises the Shire President and the CEO to sign the agreement to utilize the funds to upgrade the 3.7km unsealed section of Mungalup Road.**
2. **The Council authorises the CEO with delegated authority to initiate, deliver and complete the project, and utilise Shire resources to meet the \$100,000 in-kind Project Management component (over two financial years from 2014/15 to 2015/16) required by the Financial Assistance Grant agreement; and to ensure compliance with the nominated project timeline and conditions.**
3. **The Council authorises the CEO to amend the approved 2014/15 FY budget through the addition of an income and expenditure item of \$850,000 for the Mungalup Road Upgrade Project.**

**Carried 9/0
By Absolute Majority**

| | | |
|---------------|---------------------|---|
| 11.2.2 | SUBJECT: | RFQ 153 Supply and Delivery of One (1) Motor Grader on basis of Trade-In of existing Motor Grader – DB 4517 Cat 120H |
| | Location: | Whole of Shire |
| | Applicants: | N/A |
| | Zone: | N/A |
| | File Ref: | TEN 06/2 |
| | Author: | MWS and SETO |
| | Report Date: | Feb 2015 |
| | Attachments: | Nil |

Background

In accordance with the Shire of Donnybrook-Balingup's adopted Plant Replacement Policy the Shire has budgeted in the 2014/2015 financial year to replace its existing Caterpillar 120H Tier II Motor Grader.

Comment

The WALGA Preferred Supplier System has been used to obtain quotes from four (4) suppliers of Motor Graders, these being Westrac Pty Ltd, CJD Equipment Pty Ltd, Hitachi Construction Machinery (Aust) and Komatsu Australia Pty Ltd.

Under the *Local Government (Functions and General) Regulations 1996*, a tender exemption applies to WALGA's Preferred Supply Panels. This means that Local Governments can purchase any value of goods or services from a preferred Supplier without going to Tender. RFQ 153 was advertised on December 2014 and closed on 23rd Jan 2015 through WALGA E-Quotes – Plant and Equipment – Contract No.C023-11.

Four (4) companies submitted four (4) quotes to replace the existing Motor Grader including trade changeover figures.

The quotations were evaluated with the following criteria:

| Description of Qualitative Criteria | Weighting |
|---|------------------|
| Optimum operating costs and re-sale value | 20% |
| Suitability of supplied plant and service package | 25% |
| Availability of backup support (inc rates) | 15% |
| Warranty/period – extended warranty details | 10% |
| Technical specifications | 10% |
| Operator comfort | 5% |
| Delivery timetable | 5% |
| Price and price basis | 10% |

The assessment matrix allows the quotations to be evaluated in an unbiased manner whereby the supplier with the highest overall points may be considered to be the most advantageous quotation. This is to be used as a guide only during the assessment and is not necessarily binding. Staff evaluated the quotes and an average score has been supplied

Shire staff evaluated the machinery from the supplied technical information, photos, internet, discussions with the various sales representatives, and by previous experience.

| Company | Komatsu Australia Pty Ltd | Hitachi Construction Machinery (Aust) | Westrac Pty Ltd | CJD Equipment Pty Ltd |
|-----------------------|---------------------------|---------------------------------------|-------------------|-----------------------|
| Make and Model | GD 555-5 | John Deere 670G | Caterpillar 120 M | Volvo G930 |
| Average Score | 81 | 75 | 88.5 | 72.5 |

The recommended new item of plant is a 2105 Model Caterpillar 120M. This machine conforms to all required specifications and has a number of added benefits for the Shire of Donnybrook-Balingup.

Operators were involved with the discussions and had the opportunity to inspect the Komatsu Range.

The Hitachi supplied John Deere 670G was discounted because it was in excess of the budget amount.

The CJD supplied Volvo G 930 and the Komatsu were both under the budget amount. Komatsu supplied GD555-5 price is approx. \$25,000 (ex GST) under the budget amount. The Westrac supplied Caterpillar 120M was under the budget amount and includes an estimated \$10,000 worth of product link supply, install, training, remote install and free monthly subscription.

Consultation

Plant Mechanic
Plant Operators
Company Representatives
WALGA
Works Supervisor
Engineering Technical Officers
Manager Works and Services

Policy/Statutory/Voting Implications

Policy

Adopted 10 year Plant Replacement Policy

Statutory

Local Government (Functions and General) Regulations 1996 Part 4 and Section 3.57 of the Local Government Act 1995.

Voting

Absolute Majority Required

Risk Assessment

Proposed new purchase includes live software monitoring of machine and pin map location of the product.

Financial Implications

Council has allocated \$256,000 (excluding GST) net changeover in its 2014/2015 Budget. The net changeover for this motor grader is \$249,000 (excluding GST) with extras supplied at no cost to the Shire.

Strategic Implications

Outcome 1.7 - A well-used and efficient transport network
Outcome 4.2 – Maintain long term financial viability
Outcome 4.3 – An open and accountable local government that is respected, professional and trusted
Outcome 4.7 – Maintain and enhance Shire assets

It is important to ensure that fleet is changed over at the optimal time whereby a suitable trade value is obtained while limiting the need to undertake significant maintenance on plant prior to trading. This ensures that the Shire keeps a modern, up-to-date fleet that is capable of undertaking the work required within the Shire of Donnybrook-Balingup.

This replacement is in accordance with Council's adopted 10 Year Plant Replacement Program

RFQ 153 - Grader Quote Analysis

Listed are items of comparison of machines offered:

| Specs requested | | Westrac | Hitachi | Hitachi | CJD | Komatsu |
|---|------------|--------------------|-------------------|--------------------|--------------------|------------------------|
| | | Cat 120M | JD 670G | JD 670GP | Volvo G930 | Kom GD555-5 |
| HP 100–120kw | Min | 103-138 | 116-145 | 116-145 | 115-145 | 118-144 |
| EPA Tier 2/EU Stage 2 | Req Min | Tier 3/EU Stage 3A | Tier 2/EU Stage 2 | Tier 3/EU Stage 3A | Tier 3/EU Stage 3A | Tier 3/EU Stage 3A |
| Engine capacity | Not stated | 6cyl 6.6 ltr | 6cyl 9.0 ltr | 6cyl 9.0 ltr | 6cyl 7.2 ltr | 6cyl 6.69 ltr |
| Tandem Drive | Req | Std | Std | Std | Std | Std |
| Transmission - Powershift with electronic shift | Req | Std | Std | Std | Std | Std – torque convertor |
| Gears 8 fwd 6 rev | Min | 8 Fwd 6 Rev | 8 Fwd 8 Rev | 8 Fwd 8 Rev | 11Fwd 6 Rev | 8 Fwd 4 Rev |
| Top road speed 45kph | Req | 45.7kph | 45.2 kph | 45.2 kph | 48.8 kph | 44.3 kph |
| Fuel Tank Capacity | Req | 341 ltr | 416 ltr | 416 ltr | 340 ltr | 416 ltr |
| *Fuel Consump | Not Req | 10 - 14 ltr/hr | Not stated | Not stated | 13 ltr/hr | 12.5 ltr/hr |
| Turbo timer | Req | Std | Std | Std | Std | std |
| Operating weight | Not stated | 20339 kg | 21228 kg | 212281kg | 19280 kg | 18120 kg |
| Blade 3660 min wide | Req | Std | Std | Std | Std | Std |
| Blade 610 high | Req | Std | Std | Std | Std | Std |

* Fuel Consump – These figures are only indicative average consumption and is subject to machine use. Most companies will not place fuel use in specs for this reason.

| | | | | | | |
|---|------------|---|---|------------------------------------|---|--|
| Hydraulic blade float controls | Req | Std | Std | Std | Std | Std |
| Industry Std controls | Req | Incl in levers | Incl in sticks | Incl in sticks and levers | Incl in sticks | Incl in sticks |
| Blade 3660 min wide | Req | Std | Std | Std | Std | Std |
| Blade 610 high | Req | Std | Std | Std | Std | Std |
| Hydraulic blade float controls | Req | Std | Std | Std | Std | Std |
| Industry Std controls | Req | Incl in levers | Incl in sticks | Incl in sticks and levers | Incl in sticks | Incl in sticks |
| Blade position capabilities | Req | Incl in levers | Std control | Push return to straight in lever | Incl in sticks | Incl in sticks |
| Grade Control | Not stated | Fitted with AccuGrade N/C Trimble ready | Not fitted to this machine – optional extra | Cross slope Grade Pro Topcon ready | Not quoted but estimate is \$23,000 extra | Topcon ready |
| Low profile cab with ROPS & FOPS | Req | Std | Std | Std | Std | Std |
| Sound levels comply to Worksafe req | Req | 70 dB(A) | 72 dB(A) | 72 dB(A) | 72 dB(A) | 74 dB (A) |
| Instruments, gauges, warning lights etc | Req | Gauge cluster and warning | Gauge cluster and warning | Gauge cluster and warning | Gauge cluster and warning | Gauge cluster and warning |
| Articulation and slope meter | Req | Artic – Auto return to centre AccuGrade - slope | Artic – Std Slope Meter | Artic – Std Grade Pro fitted | Artic – Std Bubble Slope meter | Artic - Artic – Std Bubble Slope meter Std |

| | | | | | | |
|---|-----------------|-------------------------|-------------------------|--------------------------|--------------------------|--------------------------|
| Integrated A/C | Req | Std | Std | Std | Std | Std |
| Tinted Windows | Req | Yes | Yes | Yes | Yes | Yes |
| Air suspension seat | Req | Comfort Series seat | Std | Std | Std | Std |
| HD seat covers | Req | Fitted | Fitted | Fitted | Fitted | Fitted |
| Amber flashing lights min one | Req | 2 x Beacon | 2 x Beacons | 2 x Beacons | 1 x Beacon | 2 x Beacons |
| Mirrors and windscreen washers | Req | Std | Std | Std | Std | Std |
| 1.5kg Ext fitted | Req | 1.5kg fitted | 2.5kg fitted | 2.5kg fitted | 1.5kg fitted | 1.0kg fitted |
| AM/FM radio | Req | Std | Std | Std | Std | Std |
| Rubber floor mats | Req | Not quoted | Not quoted | Not quoted | Not quoted | Not quoted |
| 12v adapter for two way radio | Req | Fitted | Not quoted | Not quoted | Fitted | Fitted |
| Personal Storage | Req | Std | Std | Std | Std | Std |
| External work lights to cab | Req | Std - 12 | Std – 10 | Std – 10 | Std | Std - 10 |
| Wheel/ lever controls | Not stated | Lever only controls | Wheel only controls | Wheel and lever controls | Wheel only controls | Wheel only control |
| Rear ripper & scarifier | Min 5 & 9 shank | 5 Ripper 9 Scarifier | 3 Ripper 9 Scarifier | 3 Ripper 9 Scarifier | 5 Rippers 9 Scarifier | 3 Rippers 9 Scarifier |
| 7 Pin outlet and draw bar | Req | Fitted | Fitted | Fitted | Fitted | Fitted |
| Air compressor and hose | Req | Std | Std | Std | Std | Std |
| Front mounted push block with tow hooks | Req | Std | Std | Std | Std | Std |

| | | | | | | |
|-----------------------------------|------------|---|--|--|--|--|
| Tyres – To state opt radials | Req | 14.00 x 24 16PR Radial Tyres | 17.5 R25 Radials | 17.5 R25 Radials | 14.00 x 24 Radials | 14.00 x 24 Radials |
| Spare tyre | Req | Spare tyre and rim - radial | Spare tyre and rim - radial | Spare tyre and rim - radial | Spare tyre and rim - radial | Spare tyre and rim - radial |
| Training of operators on delivery | Req | Sufficient to ensure operators are competent | Sufficient to ensure operators are competent | Sufficient to ensure operators are competent | Sufficient to ensure operators are competent | Sufficient to ensure operators are competent |
| All warranty details | Req | 12 Months Full Std 60 months/6000 hrs Powertrain/Hydraulics | 36/6000 Full Machine 48/8000 Power Train | 36/6000 Full Machine 48/8000 Power Train | 12/2500 Full Std 60/10000 Drive | 60/6000 Premium Warranty |
| Workshop manuals | Req | Std | Std | Std | Std | Std |
| Operators manual | Req | Std | Std | Std | Std | Std |
| Three sets of keys | Req | Supplied | Supplied | Supplied | Supplied | |
| Sign writing | Req | Std | Std | Std | Std | Std |
| External lockable tool box | Req | Std | Std in push block | Std in push block | Std | Std |
| Registration | Req | Provided | Provided | Provided | Provided | Provided |
| Machine Tracking | Not stated | Product Link – Live tracking included – free lifetime link to satellite – PLUS Retro fit to existing Cat Grader | JD Link- 3 years free connection | JD Link- 3 years free connection | JD Link- 3 years free connection | Included KOMTRAX Free subscription |

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

Moved: Cr Crowley

Seconded: Cr Dawson

That Council approves the purchase of the 2105 Model CAT 120M Grader from Westrac at the below budget changeover cost of \$249,000 out of the 2014/15 Budget allocation of \$256,000 and in accordance with Council's 10-year Plant Replacement Schedule.

**Carried 9/0
By Absolute Majority**

*** 6.18pm – Peter Caccioppola left the meeting.*

11.3 Manager Development and Environmental Services

| | | |
|---------------|---------------------|---|
| 11.3.1 | SUBJECT: | Application to Extend a Shed |
| | Location: | Egan Park – Lot 51 Reserve Street Donnybrook |
| | Applicants: | Donnybrook Men's Shed Inc |
| | Zone: | Parks and Recreation (Reservation) |
| | File Ref: | A162 |
| | Author: | Leigh Guthridge (Manager Development and Environmental Services) |
| | Report Date: | 16 March 2015 |
| | Attachments | Nil |

Background

(RSL) Donnybrook Men's Shed Inc. (Men's Shed) has made application to enclose the verandah area at one of the sheds the group utilises on the northern portion of Egan Park. This improvement will create an extra 27m² of enclosed shed space to support the group's operations.

Comment

The reasons why this application is brought before Council is as follows:

- The shed is located on Crown Land where the Shire has a management order for the purposes of recreation and therefore the Shire is the owner of all buildings on the reserve , including the shed; and
- There is an outstanding issue between Men's Shed and the Donnybrook Apple Festival Inc (DAF) of who is the rightful tenant of the shed.

Shire records show that the DAF successfully sought a grant via the Department of Commerce and Trade to construct a “Display Pavilion” (the shed) and subsequently obtained Council approval to construct the shed at Council’s ordinary September 1999 meeting.

Since construction of the shed DAF confirm that Men’s Shed sought permission via a verbal agreement from DAF to store timber in the shed on a temporary basis so as to complement Men’s Shed operations. A disagreement appears to have occurred when machinery was installed in the shed by Men’s Shed and locks were changed without permission of DAF. The DAF subsequently could not access the shed.

Since this time there has been an ongoing disagreement between both groups over who is the rightful user of the shed. The Shire has attempted to facilitate an amicable outcome for both parties with limited success and the issue remains in abeyance.

DAF have confirmed that it does not support the application on the grounds that it deems that the shed is an asset of the DAF and does not want the shed altered. DAF also state that it has an intention to reuse the shed if and when Men’s Shed vacate the premises.

The approval process associated with the shed improvements would normally be determined by shire staff via delegation, but given the outstanding issue with tenure of the shed, Council is advised to not grant approval to Men’s Shed for the application because it is apparent that tenure of the shed does not belong to Men’s Shed.

Consultation

The DAF was given the opportunity to comment on the proposal and confirmed that it does not support the application on the grounds that it deems that the shed is an asset of the DAF and does not want the shed altered in any way.

Policy/Statutory/Voting Implications

Voting

Simple Majority

Financial Implications

Nil

Strategic Implications

The Shire of Donnybrook – Balingup Strategic Community Plan states:

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

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

Moved: Cr Dawson

Seconded: Cr Crowley

- 1. That Council refuse the application from Donnybrook Men's Shed Inc. to undertake improvements to the shed located at Egan Park Lot 51 Reserve Street Donnybrook as Donnybrook Men's Shed are not the rightful tenant of the shed and the Donnybrook Apple Festival Inc, being the rightful tenant, do not support alterations to the shed.**
- 2. That the Shire continues to support Donnybrook Men's Shed Inc. and assist Donnybrook Men's Shed Inc. to investigate opportunities to obtain land and funding to construct a facility for its future needs by referring to the Parks and Reserves Committee.**

Carried 8/1

Note: Initial meetings/investigations etc. be referred to the Parks and Reserves Committee.

*** 6.23pm – Geoff Box and Gerry Loveridge left the meeting.*

11.4 Principal Planner

| | | |
|---------------|---------------------|---|
| 11.4.1 | SUBJECT: | REQUEST FOR RECONSIDERATION OF REDUCED REAR SETBACK FOR DWELLING |
| | Location: | Lot 489 Upper Capel Road, Donnybrook |
| | Applicants: | Mr Shane and Mrs Kristy O'Donald |
| | Zone: | Priority Agriculture |
| | File Ref: | A4744 |
| | Author: | Bob Wallin (Principal Planner) |
| | Report Date: | 20 November 2014 |
| | Attachments: | 11.4.1(1) – Revised Site Plan 11.4.1(2) – Previous Site Plan |

Background

Council, at its meeting 17th December 2015, resolved to approve a house with a 30m rear setback on the above land. The applicant has now requested a reconsideration of this decision and presented revised plans and additional information to support this request (see Attachment 11.4.1(1) – Revised Site Plan). A copy of the original plan has been provided to allow comparison (see Attachment 11.4.1(2) – Previous Site Plan).

Clause 10.9 of Local Planning Scheme No.7 (LPS7) provides applicants with the right to request a reconsideration of a decision. Clause 10.9 requires the Council to make a decision within 60 days. Council may:

- Refuse the request and re-affirm its original decision;
- Revoke its original decision and issue a new determination;

- c) Delete, amend or replace the condition or conditions subject of the request or add, amend or delete other conditions related to the request.

The reconsideration process does not extinguish a right of review with the State Administrative Tribunal (SAT). In summary, the revised plan proposes:

- a) To increase the rear setback of the main building to 22m (previously 15m);
- b) Provide landscaping buffering and placement of car parking and shed structures to screen the main residence from activity on the adjoining property;
- c) Orientate sensitive rooms (ie: bed rooms and informal living) away from the rear of the property.

The revised plan is also supported by a short report which justifies the plan as follows:

- a) No planning approval is required for a rear setback of at least 30m. A reduced setback of 22m is considered a reasonable compromise when factoring in topography and geology of the site;
- b) The siting of the home will not encroach into the more agriculturally viable parts of the site;
- c) The site requires minimal earthworks and is on higher ground away from the water course;
- d) The internal living areas of the building will be orientated away from the rear boundary. Bedrooms, informal living areas and courtyard will be located at the front of the home, away from noise or amenity impacts;
- e) The staggering of setbacks of the shed and garage will assist in screening development; and
- f) Agreement to undertake a fire risk assessment.

It is noted that the applicant does not agree to a notice being placed on title advising of the potential impacts arising from neighbouring horticultural and tourist activities. This view is supported by the claims that:

- a) It is overly zealous and may cause unfair and unnecessary difficulties if and when selling the property;
- b) Any diligent purchaser will review the town planning scheme requirements and appreciate the characteristics of the locality; and
- c) Issues such as spray drift and noise are already well regulated through other regulation.

Advertising

The application was referred out to the adjoining landowner who objects to the proposed location of the dwelling. In summary the points raised are:

- a) The adjoining commercial viticulture operation was originally established in 1978 and taken over by Barton Jones Wines in 1999.

- b) The site directly adjoins the western boundary of an active vineyard operation and raises risks associated with human bio-contamination from agricultural spray chemicals and ongoing noise disturbance.
- c) There is an annual 9 month growing season (August to April). During this time, there is active use of spraying, heavy agricultural machinery during the night.
- d) Moving the building an additional 8m does not change impacts;
- e) Barton Jones Wines proposed to develop additional grape vine planning on the south western boundary within the next 3 years. This will bring vines within 50m of the proposed dwelling further exposing residents to risk;
- f) Cellar door tasting and functions will be commencing soon in accordance with the planning approval issued for Barton Jones Wines. This will be open to the public throughout the week which will create noise and traffic into the evening up to 11.30pm. This activity will impact on the proposed new dwelling in terms of noise and light.
- g) The applicant and representatives have not discussed this proposal directly to confirm potential impacts and issues with the proposed location of the dwelling.
- h) Suggests that the applicant reconsider the location of the proposed dwelling and consider a site closer to the road to minimise adverse impacts from the vineyard and function centre.

These points re-affirm previous concerns raised when Council originally assessed this application.

Comment

The debate about setbacks is confined within the constraints set by LPS7. LPS7 allows dwellings to be constructed within 30m of the rear boundary as a right on Agricultural zoned land. This means that it is not possible to consider a setback greater than 30m that would be more helpful in reducing impacts from adjoining land use activity on the future inhabitants of the dwelling.

In terms of assessing the revised plan, additional research and different lines of reasoning have been undertaken. The following section provides a quick synopsis of two considerations. The first consideration relates to principles and the second relates to functional or practical outcomes.

The Principle behind the 30m rear boundary setback

LPS7 requires a 30m rear setback. Research into State Planning Policy and wider planning frameworks has not yielded any justification for a greater rear setback than side boundaries.

A review of other Town Planning Schemes within the South West shows that LPS7 is unique in its requirements.

A summary table is provided below showing standards applicable in other schemes.

| Shire | Setback requirements |
|---|---|
| Shire of Capel Town Planning Scheme No.7 | Rural Zone - 20m for all boundaries |
| Shire of Harvey Town Planning Scheme No.1 | Intensive Farming – 20m for all boundaries General Farming – 20m for all boundaries |
| Shire of Augusta Margaret River Town Planning Scheme No.1 | Priority and General Agriculture – 20m boundaries subject to including a 10m strip of heavily landscaped buffer to minimise spray drift Where no landscaped buffer is in place – 100m setback will apply |
| Shire of Dardanup Town Planning Scheme No.3 | General Farming – 20m for all boundaries |

It is clear that all other Town Planning Schemes require a flat 20m setback and do not differentiate between side and rear setback requirements.

To help evaluate the 30m setback requirement, it may be helpful to apply “Nietzsche’s Hammer”. In essence, this is about testing ideas and beliefs for their strength – like testing a brick for its structural integrity with a hammer.

To start, it is necessary to understand what the purpose of a setback is. It provides space and separation between buildings and land uses. The extent of a setback varies depending on the environment in which it applies and the intended outcomes. For instance, in “agricultural” areas, the setback is larger than “residential” areas to create a sense of space, reduce dominance of the built form and provide distance between land uses that may conflict with sensitive uses. On this, basis, it is clear that a greater setback requirement will apply for “Agricultural” land compared to “Residential” or “Urban” settings.

In higher density settings, there is also a more uniform rectangular lot structure and a logic that promotes a rear yard for privacy and recreation. Setbacks for rear and side boundaries are then defined according to specific built form outcomes with distances varying according to wall height, length, openings and function of intended rooms. This logic does not comfortably translate into an “Agricultural” setting. Further, agricultural lots are not uniform in size or configuration. In this case, the street frontage and “rear” boundary are longer than the “side” boundaries. This effectively turns a traditionally orientated block around by 90 degrees.

The logic of providing a 30m street setback in “Agricultural” areas is easily followed and can be justified in terms of preserving a “rural” landscape setting that is not dominated by houses. It also provides a level of privacy and separation from vehicular traffic. On this basis, it is fair to restrict focus to side and rear boundaries from now on.

It is difficult to explain why there is a need to differentiate requirements between side and rear boundaries. Side and rear boundaries effectively play the same role in an “agricultural” context. It is to provide space and distance to preserve privacy, create a sense of space and minimise potential for land use conflict. Accordingly, there is no anchoring logic to ground the case for a 30m rear setback and a 10m side setback.

If there is to be any debate about setbacks, it should be about what is a suitable setback - not arbitrarily specifying a setback distance based on the words “rear” and “side”.

In concluding, if Council supports a setback less than 30m, it will not be to the detriment of any planning principle per say. There is no strength behind the case of defining a different setback requirement between rear and side boundaries and it would therefore fail “Nietzsche’s Hammer” test.

Functional Considerations

After dispensing with concerns regarding planning principles, the last remaining question now revolves around what practical or functional outcomes will be achieved in requiring a 30m setback compared to 22m.

In this case, a greater setback will reduce impact risks associated with noise, spray drift and fire. However, it is not clear that there will be any practical difference if the setback was 22m. It is difficult to present a case that shows a scientifically measurable difference in experiences for future inhabitants of the building when measuring outcomes of setbacks (22m verses 30m).

Further, setbacks are only one of the available tools in reducing risk for land use conflict. Land use conflict is the key motivating factor in this case. In this instance, there are a number of other factors that can play a greater role in reducing land use conflict than setbacks alone. These are:

- Education. The current owners believe that they understand what living in an agricultural area will be like and have been advised of the likely impacts resulting from the adjoining property. Council will be able to inform future prospective purchasers of adjoining land use activities.
- Topographically and vegetation. The proposed dwelling will be at the foot of a hill that is heavily vegetated and will aid in creating a barrier to noise, light and spray drift;
- Building Design and orientation. The revised plan uses design solutions to create visual and physical barriers/buffers to minimise impacts from adjoining land use activity.

Summary and Conclusion

In summary:

- LPS7 requires a 30m rear setback and a 10m side setback for Agricultural zoned land. There is no clear justification for distinguishing between side and rear setbacks.
- A survey of other town planning schemes show a uniform requirement of 20m setbacks with no difference between boundaries;

- Reducing the setback from 30m to 22m will have no measurable beneficial outcomes in reducing impacts of spray drift, noise and odour.
- The combination of the sites topography, vegetation and the design and layout of the building and outdoor living areas play a greater role in reducing impacts from adjoining land use activity than that of setbacks.
- There is opportunity to advise future owners of potential impacts on residential amenity resulting from living in agricultural areas.

On this basis, it is recommended that the revised plan be approved.

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.

Cr McCabe spoke to revoke the consideration made at the Ordinary Council Meeting held on 17 December 2014 in order to consider the officer's recommended resolution to approve the revised plan to construct a house with a reduced rear setback of 22m.

Council Decision

Moved: Cr McCabe

Seconded: Cr Dawson

That Council consider to revoke the decision made at the Ordinary Council Meeting held on 17 December 2014 regarding agenda item 11.4.1 - Request For Reduced Rear Setback to 15m for Dwelling.

Carried 9/0

Council Decision

Moved: Cr McCabe

Seconded: Cr Bailey

That the resolution for Agenda Item 11.4.1 - Request For Reduced Rear Setback to 15m for Dwelling made at the Ordinary Council Meeting held on 17 December 2014 be revoked.

Carried 9/0

Council Decision

(Officer's Recommended Resolution)

Moved: Cr Dawson

Seconded: Cr Crowley

That Council reconsider the application and approve the revised plan to construct a single rural dwelling at Lot 489 Upper Capel Road, Donnybrook with a reduced rear setback of 22m 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. Access to the dwelling must be provided via a verge crossover and an all-weather road with dimensions adequate to accommodate emergency vehicles.**
- 3. A bushfire risk assessment be undertaken to confirm applicable building standards.**

Conditions to be met prior to occupation of development:

- 1. 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).**
- 2. 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.**
- 3. 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.

Note 6:

The applicant is advised that this is an agricultural area and that priority is given to promoting the continued agricultural activity of the locality and that there may be impacts on the enjoyment of the land resulting from this activity in terms of noise, dust, odour, light and vibration.

Carried 7/2

Note: Staff to investigate the process to include items of relevance on the 'Property Investment Report' through Landgate.

*** 6.46pm – Shane and Kristy O'Donnell, Clem Mitchell, Kanella Hope, Adrian Jones, Lui Tuia and John Wringe left the meeting.*

| | | |
|---------------|---------------------|--|
| 11.4.2 | SUBJECT: | REQUEST TO INITIATE AMENDMENT TO LOCAL PLANNING SCHEME NO.7 FOR LOT 102 SOUTH WESTERN HIGHWAY, DONNYBROOK |
| | Location: | Lot 102 South Western Highway, Donnybrook |
| | Applicants: | Mr Martin Richards |
| | Zone: | Residential R2.5/5 SCA8/SPA17 |
| | File Ref: | A233 |
| | Author: | Bob Wallin (Principal Planner) |
| | Report Date: | 6 March 2015 |
| | Attachments: | 11.4.2(1) – Subdivision Concept Plan 11.4.2(2) – Alternative Concept Sketch |

Background

Council at its meeting on 27th November 2013 recommended final approval to amend Town Planning Scheme No.4 to rezone Lot 102 South Western Highway, Donnybrook from “Intensive Farming” to “Special Residential”. Part of this recommendation was to remove the structure plan design from the amendment process as the design raised a number of significant concerns and resolving the issues would delay finalisation of Local Planning Scheme No.7 (LPS7).

The land is presently zoned Residential R2.5/5 with a Structure Plan and Special Control Area overlay. The Structure Plan overlay specifies a number of requirements to be addressed as part of the structure planning process.

The applicant has been reviewing structure planning design and undertaken further environmental investigations. As a result of these investigations, it is the applicant’s view that there is opportunity to explore potential for pockets of higher density development.

This initiation request seeks to change the density coding applying to the land from “R2.5/5” to “R10”. This change in coding will allow lots to have a minimum lot size of 1000m². The current zoning allows for a minimum lot size of 2000m².

The initiation request includes a “Subdivision Concept Plan”, a Black Cockatoo Assessment, and an updated land capability report. The Subdivision Concept Plan is shown in Attachment 11.4.2(1).

Discussion with the Department of Planning has indicated that it will be essential for the amendment and the structure plan to travel together. This will enable a meaningful understanding of intended outcomes of the re-coding and enable the public and government agencies to provide meaningful comments.

The rezoning process requires:

- a) Council to support an initiation request;
- b) Applicant to prepare formal documents for consideration for advertising;
- c) Council to review formal documents and consider granting consent to advertise;
- d) Undertaking advertising which includes referral to the EPA, notices in the paper and letter drops to nearby landowners (which will include Meldine Estate Residents)

- e) Considering submissions;
- f) Making a recommendation for Final Approval; and
- g) Referral to the Western Australian Planning Commission (WAPC) who will make a recommendation to the Minister for Planning.
- h) The Minister for Planning granting Final Approval; and
- i) Publishing document in Government Gazette.

The rezoning and structure planning process can run together in this process.

LPS7 Structure Plan Requirements

Schedule 15 of LPS7 sets out specific matters that the structure planning process and design is to address. These include:

- Survey for Black Cockatoo habitat and identifying areas, trees, tree hollows that require retention;
- Site contamination survey;
- Site survey to determine buffer widths and other design solutions to sensitive land uses and existing orchard operations;
- Fire management plan;
- Road network promoting a strong north/south linkage and place a lower status access role onto Orchard Court;
- Road design and provision of pedestrian and cyclist facilities to reflect Liveable Neighbourhood requirements;
- Upgrading the Marginata Drive and South Western Highway intersection and construction of the existing road reserve along the southern edge of land;
- Suitable water supply arrangements;
- Minimum lot sizes to be addressed to the satisfaction of agencies;
- Public open space to be suitably located to best meet the needs of residents and protect natural features;
- Strategic connections to adjacent Development Investigation Areas and Structure Plan areas;
- Provide larger lots to adjoin neighbouring land to increase buffer distances;
- A landscaping plan which addresses buffer planning and stormwater management.

It will be necessary for the rezoning and structure plan documents to demonstrate that these requirements have been satisfactorily addressed.

It is noted that the initiation request is supported by:

- a) Black Cockatoo Habitat Assessment; and
- b) Land Capability Assessment.

Black Cockatoo Assessment

The Black Cockatoo Habitat Assessment concludes that:

- 3.1ha of is covered in Jarrah-Marri woodland and a 2.0ha of old pasture regenerating with a range of native species. ;
- Remnant vegetation was inspected for signs of foraging, breeding or roosting by Black Cockatoos;
- A total of 10 trees (8 marri and 2 jarrah) over 500mm were identified. No signs of nesting was observed, however, these trees have potential to develop hollows suitable for breeding in the long term;
- Signs of recent feeding on seeds from marri fruit were observed at a number locations;
- A number of plant species were identified on the site which may provide sources of food; and
- Black cockatoos were heard and observed in bushland near to the study area during the survey;

The Environment Protection and Biodiversity Conservation (EPBC) Act requires referral where clearing of more than 1ha of quality Black Cockatoos foraging habitat. The proposal will require referral to the EPBC as more than 1ha of clearing is identified in the structure plan concept.

Land Capability Assessment

The assessment provided shows that there is capability to support lots of 1000m² with on-site effluent disposal.

Comment

Re-coding Request

The request seeks to introduce a flat code of R10. This potentially will allow for subdivision to occur over the entire site at a density of 1000m². This is not the intent of the applicant. However, it does leave opportunity for future landowners to subdivide. On this basis, it is suggested that support be given to introducing a split code of R5/10 that provides some protection against further ad-hoc infill contrary to the spirit of this initiative.

Proposed Structure Plan concept

To assist Council with making a decision on the initiation request, the applicant has provided a Subdivision Concept Plan (Attachment 11.4.2(1)).

The applicant describes the attributes of this plan as follows:

- Creating a north south road that meanders to enable:
 - Lots to enjoy a north-south orientation;
 - Provide a variety and interest in the developed form; and
 - Discourages speeding and through traffic and encourages walking and cycling;
- A POS link to enable pedestrian and cyclist permeability, while precluding the creation of a de-facto Donnybrook bypass via any road connections from future development of land to the south;

- Creation of two cul-de-sac roads to allow north south lot orientation;
- A buffer to the intensive agriculture land (orchard) to the west acknowledging the existence of remnant vegetation that will limit future orchard development;
- Transitioning of densities and creating pockets of higher density living; and
- Creating a POS reserve of over 2ha (well above 10% requirements).

Analysis of Design

This concept sketch has been provided essentially for information purposes and has no formal status at this point in the process. However, to help Council in forming an opinion on the design, the following commentary has been provided:

Public Open Space/links and interface

The general location of POS is reasonable and logical. However, the configuration, interface with lots, fire risk and use of pedestrian links needs further investigation. The design effectively creates a private setting for immediate residents to enjoy with limited direct frontage and points of access to the general public. This interface arrangement is not consistent with the principles of Liveable Neighbourhood which normally limit direct lot frontage to POS at 25%.

The use of pedestrian links can create issues associated with safety and maintenance and should not be encouraged. There is scope to provide a road interface for which provides for improved accessibility for visual outlooks, maintenance and opportunities for passive surveillance.

From a land sales point of view, lots abutting pedestrian access ways usually have lower values due to reduced privacy and perceptions of safety concern and crime.

Road Network

LPS7 requires:

“Road network promoting a strong north/south linkage and place a lower status access role onto Orchard Court.”

The proposed design does not achieve either of these stated requirements.

It is obvious that the design does not satisfy the role of providing a north-south linkage for vehicular movement. There is only a short pedestrian link to the west. This is contrary to the Liveable Neighbourhoods which promotes connectivity. There is future potential of land to the west to be developed for urban use. Orderly and proper planning would encourage the need to provide for vehicle connectivity. This is already reflected in Meldine Estate which provides a connection point.

The road network design will require modification to comply with the structure plan criteria set out in Schedule 15 of LPS7.

The plan reduces the role of Orchard Court from the previous design that originally formed part of Amendment 93. However, the alignment of the proposed north south road will still promote a relatively high order of traffic through Orchard Court. Given the meandering

alignment, Orchard Court will become a short cut for the western half of the land. This will create a traffic pattern that does not match the intended design and role of Orchard Court.

Orchard Court was a very contentious element in the previous rezoning process. Given this fact and the specific requirement detailed in Schedule 15, it is suggested that this design element be given some review.

At present, the design forces all traffic to run down the main north south road. This creates the very situation that the applicant is trying to stop. There are alternative design options available that can create loop roads to create quieter sections of road that can better distribute traffic movements.

Traffic Assessment

There is a need to undertake a traffic assessment to confirm that the proposed connections to Marginata Drive and Orchard Court will function suitably with the proposed lot yields.

Lot Densities and Design

Discussion with Department of Planning has indicated that there are no objections in principal to small lot sizes (below 2000m²). However, the design of some of the lots will need careful review. Specific attention should be given to battle-axe lots located at the end of the cul-de-sac at the western end of the site.

Resolving this design point can be addressed through a minor road change and re-orientation of lots.

Alternative Design to consider

An alternative design has been sketched to show how the land could be designed to better reflect the intent of the structure planning requirements set out in LPS7 (Attachment 11.4.2(2)).

The potential advantages of this design are:

- Improved setbacks/buffers to Orchard operations. There is scope to use vegetation in the road reserve and front setbacks to catch spray drift.
- Improved north south connectivity, reducing potential demand/impacts on Orchard Court (contentious community issue);
- Creating a more orderly road alignment (without significantly increasing extent of road construction);
- providing a north-south linkage;
- Improving public access and views to the open space and reducing fire risk (noting that end design/configuration is dependent on Environmental and fire management study outcomes);
- Cleaning up the design and utility of battle-axe lots in the south eastern corner.
- Creating improved drainage management opportunities along the western edge by introducing a road reserve that connects open space areas with drainage basins. There is potential for swales and basins to be constructed within the road reserve if required.

Summary and Conclusions

Discussion with the Department of Planning has made it clear that any rezoning will need to be supported by a structure plan. It is not appropriate to disconnect the process for a second time.

Increases in density can be supported based on the environmental studies provided. Further, the advertising process will provide scope for further testing of environmental studies by the Department of Health and EPA.

There are no fatal planning flaws in the amendment initiation request. However, it would be appropriate to give the applicant further advice on structure plan design issues prior to preparing formal amendment and structure planning documents.

Policy/Statutory/Voting Implications

Statutory LPS7

Clause 6.9 Structure Plan Areas (SCA8) which requires structure planning prior to subdivision.

Schedule 15 – Structure Plan Areas which details specific items that structure planning for this site needs to address Planning and Development Act (and regulations) which establishes the amendment process.

Voting

Simple Majority

Financial Implications

N/A

Strategic Implications

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

Outcome 1.1 – Continue to grow the Shire's population

Outcome 1.5 - - Our rural lifestyle is maintained

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

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

Moved: Cr Dawson

Seconded: Cr Logiudice

That Council

- 1) **Grant consent to initiate an amendment to re-code Lot 102 South Western Highway, Donnybrook from Residential "R2.5/5" to "R5/10";**
- 2) **Require all studies to be undertaken in accordance with Schedule 15 of Local Planning Scheme No.7 as well as undertaking a traffic study to confirm that the existing road network intersections will continue to function and provide a suitable level of service;**
- 3) **Require the applicant to demonstrate compliance of a structure plan design with the Environmental Protection and Biodiversity Conservation Act;**
- 4) **The "Subdivision Concept Plan" submitted be amended to address points made in relation to:**
 - a. **POS interface;**
 - b. **Identify areas of higher density;**
 - c. **North south road alignments and connections; and**
 - d. **Lot design.**
- 5) **Authorise the Chief Executive Officer to arrange advertising subject to the applicant satisfying points 2 to 4 above.**
- 6) **Advise the applicant that a structure plan fee of \$2750.00 and an amendment assessment fee of \$2750.00 will be required when submitting documents requesting consent to advertise.**

Carried 8/1

| | | |
|---------------|---------------------|---|
| 11.4.3 | SUBJECT: | APPLICATION FOR TRANSPORTABLE BUILDING AT LOT 27 (NO.8) SOUTH WESTERN HIGHWAY, DONNYBROOK. |
| | Location: | Lot 27 (No.8) South Western Highway, Donnybrook |
| | Applicants: | Dreaming Enterprises |
| | Zone: | Commercial |
| | File Ref: | A233 |
| | Author: | Bob Wallin (Principal Planner) |
| | Report Date: | 9 March 2015 |
| | Attachments | 11.4.3(1) – Building Plan 11.4.3(2) – Street Context in Design and Form. 11.4.3(3) - Street Context Analysis of Bulk and Scale |

Background

A planning application has been received for a “transportable” building to be used as a residence for Lot 27 (No.8) South Western Highway, Donnybrook (Attachment 11.4.3(1)).

The building is 4.5m wide and 13m long with an internal floor area of 58.5m² with a gabled roof structure. The building also includes two flat roof verandah structures that run on each side with a width of 3m.

The building has total height of 4.57m (measured from top of roof ridge line) with a wall height of 2.772m.

An application for a “donger” for this site was refused by Council at its meeting in October 2013. This decision was subject of an appeal to SAT which was dismissed.

This proposal represents an improvement on the previous design in terms of:

- a) Size;
- b) Potential to include a range of materials;
- c) Improved architectural features including a pitched roof form and gables;
- d) Incorporation of verandahs.

Notwithstanding the above, Local Planning Scheme No.7 (LPS7) contains a number of provisions relating to amenity. It is necessary to test this proposal against these provisions to ensure that the intent of LPS7 is satisfied. The key elements of these clauses are included as follows:

“5.17 General appearance of buildings and preservation of amenity

*Where, in the opinion of the local government, any proposed building or the erection of structures or carrying out of site works is out of harmony with existing buildings or the landscape of the locality **by virtue of the design and appearance** of the development, the colour or type of materials to be used on exposed surfaces, the **height, bulk and massing of any building**, the local government may refuse the application for planning approval. The refusal can be made notwithstanding that the*

application may otherwise comply with the provisions of the Scheme. The local government may place conditions on any planning approval granted for the proposed development to ensure that it will not have an adverse impact on the character of the area or the amenity and landscape quality of the locality.

In exercising its discretion under this clause, the local government shall have regard to the following when assessing any application for planning approval:

- (i) the external appearance of the building and any associated structures and landscaping;*
- (ii) the dimensions and proportions of the building or structure;*
- (iii) the materials used in the construction of the building taking into consideration texture, scale, shape and colour;*
- (iv) the effect of the building or works on nearby properties, and on the occupants of those buildings;*
- (v) the effect on the landscape and environment generally; and*
- (vi) any other matter which in the opinion of the local government is relevant to the amenity of the locality.”*

“10.2 (xv) the preservation of the amenity of the locality”

“Clause 10.2 (xvi) the relationship of the proposal to development on adjacent land or on other land in the locality including but not limited to, the likely effect on the height, bulk, scale, orientation and appearance of the proposal.”

Local Planning Policy 9.17 also provides some guidelines for Industrial and Commercial development with clause 6.1 stating:

... for development within the Commercial zone, the following requirements shall apply:

- A minimum enclosed floor area of 40m² for the primary building on the site;*
- Transportable or “donger” style structures will only be supported where they are ancillary to an established main building and where they are not visible or have very limited visibility from a public road or public place.”*

Concerns regarding compliance with these clauses have been raised with the applicant and alternative options have been presented. The applicant wants a decision based on the plan submitted.

Comment

The acceptableness or otherwise of this proposal hangs on the words “design and appearance”, “height”, “bulk” and “massing”.

In making a decision on these points, Council should be mindful of the following factors:

Streetscape in the immediate locality

In the immediate locality, there is a predominance of mid to late 20th century dwellings, which in some instances, have been repurposed for commercial activity. The exception to this theme is a purpose built colour bond clad building opposite the site that forms part of a wider commercial complex that is screened from the street.

While these buildings contain a wide range of qualities, they have as a rule, features and a scale or presence that will not be evident within the proposal.

The combined outcome of the design, height, bulk and massing of the building has potential to adversely impact on local amenity. In determining *Tempora Pty Ltd v Shire of Kalamunda* (1994), the Tribunal referred to a three part test for assessing the impact on amenity as follows:

- an objective assessment of the existing amenity;
- the manner in which the proposed use will affect the existing amenity; and
- the degree of impact on the locality.

It is possible to view the proposal as representing a substantially lower standard of building than the surrounding, in terms of scale, bulk and limited architectural features.

The proposal has a temporary “shack” like aesthetic that will be out of place and character with the immediate locality and if approved would signal to other landowners that this new lower standard of development is now acceptable.

Evolution of town planning framework

The planning framework has been evolving and applied consistently as new development occurs. It is noted that a number of historic commercial developments are evident within the town and that these developments were not assessed under the current policy and scheme requirements. And importantly, would unlikely be supported if assessed under the current town planning framework.

Where these older developments have arrived at the end of their economic and practical life, any redevelopment of these sites will need to comply with standards that apply at the time.

Council’s LPS7 represents the latest evolution in the planning framework for the shire and firmly stamps its mark on what development design standards are to apply.

Geneology of built form aesthetic

The proposed buildings form shows a strong ancestral design heritage with that of a traditional “donger”. The primary qualities of a “donger” are still evident in terms of:

- a) materials used;
- b) rectangular shape and dimensions;
- c) window and door treatments; and
- d) fixtures to attach to the land.

This building's form has evolved to include new secondary cosmetic changes which include the inclusion of a simple gable roof profile and verandah sections. However, the "donger" DNA is still evident. There is no hiding the building's design heritage which results in creating a built form that has limited architectural features and a diminutive scale and bulk.

Council's Local Planning Policy does not support "donger" or transportable style structures as the main building on a site. The reasoning behind this stance is that such buildings do not possess qualities that project a high standard of building design or presentation.

Thresholds for acceptability

This proposal is of a higher standard than the previously refused plan. The question for Council is to consider if the level of improvement is enough to move the decision along the spectrum from refusal to approval.

To answer this question, it is necessary to analyse the plan and establish to what extent it has addressed the requirements of LPS7 and what if anything could be done to move it towards a positive decision.

The key words to be mindful in this exercise are "design and appearance", "height", "bulk" and "massing". In making an assessment, it is essential to look at context and the relationship between the proposed building and existing buildings.

The following section is to provide specific analysis of how to assess these elements.

Design and Appearance

To assess the appropriateness of the design and appearance of the building, it is necessary to look at the architectural features common to existing buildings in the immediate locality. Existing buildings include elevations with vertical and horizontal stepping, variety of materials and complex roof forms (Attachments 11.4.3(2)).

These characteristics are absent in the proposed design. The proposed building is effectively a rectangular box with augmented side walls that form the profile of a pitched roof. The elevations are decorated to a minimum standard by windows and a sliding door.

The roof form includes a simplest of design elements and consists of two planes that provide a low roof pitch that terminates in gable ends. The verandah adds a further flat plane.

This is effectively one step from a flat skillion roof form and does not provide the variety of complex planes, angles, pitches, elevations and features evident in all surrounding roof forms in the immediate locality (Attachment 11.4.3(2)). It is like comparing a standard postage box with an origami swan. One has a complex artistic aesthetic form and one has a simple practical function.

While it may be possible to include architectural features to address this lack of detail and architectural design, it still leaves elements regarding height, bulk and massing unresolved. Any fine level details added without addressing height, bulk and massing will create the appearance of a delicate ornamental structure, with small fine grain features. This arrangement will contrast with existing buildings that possess larger, courser features.

Height, Bulk and Massing

The proposed building is diminutive when compared to existing buildings (Attachment 11.4.3(3)). This clearly shows that the proposed building is substantially smaller than anything in the immediate locality. The next smallest building is at least twice the size of the proposed and buildings immediately abutting are closer to four times the size.

The bulk and massing of the building is also hampered by the low pitch of the roof form which creates a building that is substantially lower than all surrounding existing buildings.

Summary and Conclusion

Based on the above analysis, the proposed building does not satisfy the requirements of LPS7 and the principles aspired to by Local Planning Policy 9.17.

The proposed building fails the criteria described in clause 5.17 and approval would create an undesirable precedent for similar developments to encroach into the town's Commercial zoned land to the detriment of local streetscape and amenity.

Policy/Statutory/Voting Implications

Policy

Local Planning Policy 9.17 Industrial and Commercial Development Control provide guidelines and standards that development is required to satisfy.

Statutory

Local Planning Scheme No.7 includes planning controls and standards applicable to Commercial zoned land.

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

Outcome 3.8 – Maintain a safe and friendly community environment

Outcome 3.9 – Existing community spirit and pride is maintained

Outcome 3.11 – Attract and retain young families.

An email was received from the applicant's consultant, Joe Algeri, Director of ALTUS Planning and Appeals at 4.45pm on Wednesday 25 March 2015. A copy was made available to the Councillors at the meeting. The email provided comment on agenda item 11.4.3 and urged Council to give careful consideration to the application.

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

Moved: Cr Dawson

Seconded: Cr Crowley

That Council

- 1) **Refuse to grant planning approval for the construction of a transportable dwelling at Lot 27 (No.8) South Western Highway, Donnybrook on the grounds that:**
 - a) **The proposed building is out of harmony with existing buildings in the locality by virtue of the design and appearance, height, bulk and massing.**
 - b) **The proposed building is contrary to the intent of Local Planning Policy No.9.17 which does not support “transportable” buildings in the Commercial zone which are visible from the public realm.**
 - c) **Approval will create an undesirable precedent for similar standards of development to occur in the Donnybrook townsite to the detriment of the local character and streetscapes.**

- 2) **Advise the applicant that there is a right of review under the provisions of Part 14 of the Planning and Development Act 2005 and that 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.**

Carried 7/2

| | | |
|---------------|---------------------|---|
| 11.4.4 | SUBJECT: | APPLICATION FOR EXTENDED TRADING PERMIT: CELLARBRATIONS AT DONNYBROOK. |
| | Location: | Lot 57 (No.68) South Western Highway, Donnybrook |
| | Applicants: | Cellarbrations at Donnybrook |
| | Zone: | Commercial |
| | File Ref: | A1418 |
| | Author: | Bob Wallin (Principal Planner) |
| | Report Date: | 9 March 2015 |
| | Attachments | 11.4.4 – Copy of Public Interest Assessment |

Background

The Department of Racing, Gaming and Liquor (RGL) has requested Council's comments for an extended trading permit. The application is to allow Cellarbrations at Donnybrook to trade on Sundays between 10am and 6pm.

Discussion with RGL has indicated that this application has been referred out for comments. The advertising process includes:

- A notice on-site;
- Letters being sent to all properties within 200m of the site; and
- General notices being sent to community groups, schools, hospitals and the Health Department.

The application is supported by a Public Interest Assessment (Attachment 11.4.4).

In summary, the key part of this assessment requires the applicant to explain why is this proposal in the public interest and how will it benefit the community.

In summary, it the applicant's view that this proposal is in the public interest as:

- Patrons needing to purchase take away liquor on Sunday either have to purchase from local pubs with inflated prices and a limited range or travel 35km to Bunbury stores;
- Tourists do not have access to a liquor store;
- Patrons request Sunday trading to improve service for:
 - Shift workers;
 - Friends visiting on Sunday;
 - Metro shops do;
 - Preference to shop local; and
 - More convenient.

The advertising process provides Council an opportunity to make a comment on this proposal.

Comment

In forming an opinion on this matter, it may assist to be mindful of the following.

History

There has been a liquor outlet in this location since 1976 (according to RGL records). Since this time, the town has expanded significantly.

Level of Service to the community

Local pubs already provide access to take away liquor. This proposal adds to the range and convenience of take away liquor on a Sunday. It is not appropriate to consider competition as a ground for objecting to the proposal.

It is noted that the Liquor outlet in Boyanup does not trade on Sundays, except during the Christmas period.

Town Planning Considerations

There are a number of town planning considerations that may be relevant. These relate to:

- Potential for antisocial behaviour/crime;

- Streetscape;
- Compatibility with other buildings, land uses; and
- Outlet density – cumulative impacts in relation to safety and vibrancy of the community.

In relation to these points, the proposal is to sell prepacked liquor for take away purposes during day light hours from an existing store in a commercial main street setting. The proposal is unlikely to generate any specific issues from a town planning perspective.

The additional trading hours are unlikely to directly create problems normally associated “entertainment precincts” to the locality such as litter, antisocial behaviour in the streets, noise and crime.

In terms of main street commercial activity, the opening of the store on Sunday’s will add to the vibrancy and activity of the street.

Moral Considerations

It is noted that communities can experience problems with alcohol availability and density of outlets such as:

- Physical abuse;
- Child abuse;
- Sexual behaviour;
- Impact on pricing;
- Motor vehicle crashes;
- Youth violence; and
- Cirrhosis deaths.

In assessing moral considerations, it may be helpful to view considerations by applying the “Harm Principle“. For instance, this approach considers that it may be acceptable to harm oneself as long as the person doing so is not harming others. This approach can be modified to preventing individuals from doing lasting, serious harm to themselves because no one exists in in isolation and harm done to oneself may also harm others.

It is clear that alcohol consumption can lead to individual harm and consequently harm the community as demonstrated by the above list.

However, in this case, the potential from trading on Sunday for this store is unlikely to have any measurable causative relation to these problems. For instance, it is difficult to justify that additional harm to the community will result from choosing to purchase take away alcohol from the local pub or bottle shop. The product is the same. The only difference is where alcohol is purchased and the range and price available.

Cumulative Impacts

The RGL requires each application to be considered individually. However, it is likely that another request from the IGA development will be submitted for Sunday Trading. This has the potential to increase the density of outlets.

If supporting, this application, it will be difficult to justify a different outcome for any future IGA proposal for extended Sunday trading. In considering this point, it may assist to note that:

- These proposals will only relate to Sunday trading during day light hours for take away consumption;
- Take away alcohol is already available other days of the week and already available from the local pubs; and
- A doubling of stores opening on Sunday's will not result in doubling of consumption and issues associated with consumption.

Policy/Statutory/Voting Implications

Policy

N/A

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 1.5 – Our rural lifestyle is maintained.

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

Outcome 3.8 – Maintain a safe and friendly community environment

Outcome 3.9 – Existing community spirit and pride is maintained

Outcome 3.11 – Attract and retain young families.

Council Decision

(Officer's Recommended Resolution)

Moved: Cr Dawson

Seconded: Cr Logiudice

That Council advise the Department of Racing, Gaming and Liquor that it raises no objections to Cellarbrations at Donnybrook to extend trading hours for Sundays between the hours of 10am and 6pm.

Carried 8/1

| | | |
|---------------|---------------------|---|
| 11.4.5 | SUBJECT: | PROPOSED RAC ELECTRIC HIGHWAY CHARGING STATION WITHIN DONNYBROOK TOWNSITE. |
| | Location: | Donnybrook Townsite |
| | Applicants: | RAC |
| | Zone: | N/A |
| | File Ref: | CSV25 |
| | Author: | Bob Wallin (Principal Planner) |
| | Report Date: | 18 February 2015 |
| | Attachments: | 11.4.5 – Existing Electric Highway Route |

Background

The Royal Automobile Club (RAC) is seeking to work with Local Governments in key locations in the South West to build an “RAC Electric Highway” from Perth to Augusta.

The concept is to establish a network of fast recharging facilities for electric vehicles at various towns along the route.

The RAC is seeking the support of Local Governments along the proposed route to provide suitable locations/land and access for the charging stations and the ongoing maintenance of the installations.

It is recommended that Council advise the RAC of its support for the concept and the installation of a charging station in Donnybrook.

Comment

The RAC has identified funding to facilitate the installation of charging stations at the key town sites from Perth to Augusta. The RAC will project-manage the installation of the infrastructure which would be RAC branded.

The support of Local Governments along the route is to provide suitable locations for the charging stations and to meet the operational and maintenance costs.

Typically electric vehicles can only travel 80-100km before requiring recharging. The recharging stations would enable vehicles to be recharged in approximately half an hour. It is suggested that the location of a charging station is important given the time required for the charging. The RAC see that there are opportunities for Local Governments to locate these facilities near their business centres which would encourage visiting electric car users to shop in the local community while recharging.

The cost of installation would vary from community to community depending on access to electricity. Indicative costs would be as follows:

| Details | Cost |
|-----------------------------|--------------------|
| 1 x DC Fast Charger | \$25,000.00 |
| 2x Level 2 AC charge points | \$5,000.00 |
| Installation works | \$15,000.00 |
| New transformer (if needed) | \$40,000.00 |
| Total | \$85,000.00 |

Donnybrook was not originally included in the “Electric Highway” but has been offered this opportunity as funding is available. The existing routes are shown in Attachment 1.

Costs of recharging a car

Advice from the RAC has indicated that the cost of recharging a vehicle is approximately \$5.00 per time. Local Governments could choose what they wished to charge for the service, however, the intent is to encourage use.

Some may choose to subsidise the service, others to cover costs or to charge a small premium to cover ongoing maintenance costs. Advice for a “card” operation is being investigated. Charges could be sold by businesses adjacent to a recharging point such as a coffee shop. This would further encourage shopping in the locality.

Long Term Vision

While there are presently limited numbers of electric cars in the community, there are many more hybrid electric cars which could also access recharging stations. The RAC advise that they see an opportunity to promote the use of more environmentally friendly electric cars in the similar way to the role they played in the early part of the 20th Century. At that time, one of their first roles was to promote refuelling stations (service stations).

Progress of recharging facilities elsewhere

The Shire of Harvey has progressed further into this project and discussion with them has indicated that:

- a) They are proposing to convert four existing carbays into 2 recharging stations. This is to provide space for a central recharging unit and easy car turning and access.
- b) The sites are centrally located and close to shops and public toilets;
- c) They are likely to charge to recover costs and maintenance. The method of charging is yet to be established.

Possible Sites for recharging stations

In terms of selecting a site, there are a number of existing car parking areas that can be considered. These include a site along Collins Street, the two main street parking areas, the RSL car park and Clifford Road.

In assessing which site is the most suitable, it will be helpful to consider:

- a) How easy it is to find;
- b) Proximity to public facilities (parks, toilets);
- c) Proximity to town shops (café's etc);
- d) Impacts on existing parking provision; and
- e) Accessibility.

It is not necessary to identify a location at this time. This information has been provided to start discussion for the next stage of the project if Council agrees to proceed with the project.

The RAC will provide the Shire with technical plans to assist with site selection.

Policy/Statutory/Voting Implications

Policy

N/A

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 1.4 – Improved access to the latest technology and communications

Outcome 1.7 – a well-used and efficient transport network

Outcome 2.5 – Increased use and access to alternative energy options and sustainable buildings and infrastructure. 2.8 – Our town sites are attractive, well presented and maintained.

Council Decision

(Officer's Recommended Resolution)

Moved: Cr Logiudice

Seconded: Cr Duncan

That Council

- 1) Advises the Royal Automobile Club (RAC) that it supports the concept of the "RAC Electric Highway" and is prepared to host an electric recharging station in Donnybrook subject to further advice on ongoing operational and maintenance costs being received; and**
- 2) Request the Chief Executive Officer to investigate site design, funding model, and specific locations for the installation of a recharging facility.**

Carried 9/0

| | | |
|---------------|---------------------|---|
| 11.4.6 | SUBJECT: | REQUEST TO ADOPT LOCAL DEVELOPMENT PLAN FOR COLLINS STREET COMMERCIAL PRECINCT |
| | Location: | Donnybrook |
| | Applicants: | N/A |
| | Zone: | Commercial |
| | File Ref: | TP 07/2 |
| | Author: | Bob Wallin (Principal Planner) |
| | Report Date: | 18 February 2015 |
| | Attachments: | 11.4.6(1) – Local Development Plan 11.4.6(2) – Schedule of Submission |

Background

Council at its meeting on 17th December 2014 resolved that:

“the Chief Executive Officer arrange for the Collins Street Local Development Plan to be advertised in accordance with Local Planning Scheme No.7 requirements”.

The Local Development Plan (LDP) consists of two parts - a map and text.

The LDP (Attachment 11.4.1(1)) 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 500m²; and
- b) potential for higher density residential development if combined with a commercial use (R60 – min lot size of 120m² average 150m²).

LPS7 enables the preparation of Local Development Plans (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 LDP will provide a way to ensure that future intensification and redevelopment of the locality will not be at the expense or destruction of the local character and amenity of the area.

It is recommended that the LDP be adopted by Council.

Consultation

The proposed Local Development Plan (LDP) is very localised in nature. A letter was posted to all affected landowners.

The submission period closed 13th February 2015 and one submission was received (Attachment 11.4.6(2)).

In the main, the submission does not directly relate to the LDP. However, it does raise potential to review LPS7 to remove the link between density bonuses and the need for a commercial land use.

This approach would provide an added incentive to retain the existing character houses which is the intended goal of the LDP. However, the LDP cannot override or conflict with the LPS7 on this point. To implement this point it will be necessary to amend LPS7 to add an additional clause relating specifically to the Commercial zoned land between Station and Reserve Streets. This can be done by way of an omnibus amendment at a future date.

Policy/Statutory Implications

Clause 6.12 Local Development Plans of LPS7 sets out the process and details which a Local Development Plan is to address. The proposal has been prepared and processes followed in accordance with this clause.

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

Council Decision (Officer's Recommended Resolution)

Moved: Cr Bailey

Seconded: Cr Duncan

The Council resolved to:

- 1) Approve the Local Development Plan in accordance with clause 6.12.4 of Local Planning Scheme No.7;**
- 2) Forward a copy of the Local Development Plan to the Western Australian Planning Commission in accordance with Clause 6.12.6 of Local Planning Scheme No.7.**

Carried 9/0

| | | |
|---------------|---------------------|--|
| 11.4.7 | SUBJECT: | PLANNING APPLICATION FOR SHED RESULTING IN OUTBUILDINGS WITH A TOTAL AREA GREATER THAN 90M². |
| | Location: | Lot 7 (No.134) South Western Highway, Donnybrook |
| | Applicants: | Sheds n Homes |
| | Zone: | Residential R30 |
| | File Ref: | A993 |
| | Author: | Bob Wallin (Principal Planner) |
| | Report Date: | 11 March 2014 |
| | Attachments: | 11.4.7(1) – Shed Plan 11.4.7(2) – Location Plan and Photos |

Background

The proposal is to construct a shed at the front of the property Lot 7 (No. 134) South Western Highway (Attachment 11.4.7(1)).

The new shed will have dimensions of 5m x 9m (floor area of 45m²). There is an existing carport outbuilding at the rear of the property with dimensions of 11.4m x 8.4m (floor area of 95.76m²). This creates a combined total floor area of 140.76m².

The new shed will be constructed of colourbond and will be setback 7m from the South Western Highway.

Town Planning Policy 9.4 Outbuilding Control outlines that outbuildings shall have a maximum combined floor area of 108m² for lots greater than 2000m². The subject land has a land area of approximately 2178m².

The proposal requires Council's consideration as the total floor area of the outbuildings is greater than 108m² (140.76m² proposed).

Advertising

The proposal has been advertised with adjoining landowners being contacted by letter. No submissions have been received.

Main Roads Western Australia raises no objection to the proposal and advises that no new cross overs will be supported onto the South Western Highway.

Comment

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

- a) Boundary setbacks comply with the requirements of the Residential Design Codes which require a minimum setback of 1.5m (minimum 2m proposed);

- b) The extent of the road frontage (approximately 46m). This frontage is more than double that of the immediate locality. Further, a number of lots in the immediate locality have frontages of 15m;
- c) The separation of the existing outbuilding which has very limited visibility from the street or side boundary where the proposed new shed is to be located;
- d) There is existing landscaped planting along the front and side boundary will effectively screen the bulk of the structure (see Attachment 11.4.7(2));
- e) The shed will not be visible from the street or other public visual receptor point;
- f) The relatively small scale of the new shed which by itself is not out of character with a traditional residential shed; and
- g) The position of the block in the street provides limited opportunities and sight lines to view the shed.

It is noted that the shed will be forward of the existing building line. However, a review of the site has indicated that there are limited alternative sites available. Any other site would need significant reworking of existing landscaping which would offset any benefit from increasing the setback.

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

The Land is zoned R30 which provides potential for further subdivision of the land. If the site was developed at this density, the built form impact would be greatly increased in comparison to that of the proposed shed.

Voting

Simple Majority

Financial Implications

N/A

Strategic Implications

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

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

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

Moved: Cr Dawson

Seconded: Cr Logiudice

That the Council grant Planning consent for the erection of a shed at Lot 7 (No. 134) South Western Highway, 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.**

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 Main Roads Western Australia will not support any additional cross overs onto the South Western Highway.

Carried 7/2

Agenda Item 11.4.8 was withdrawn prior to the commencement of the Ordinary Council Meeting.

| | | |
|---------------|---------------------|--|
| 11.4.8 | SUBJECT: | PLANNING APPLICATION FOR A SHED ON A VACANT RESIDENTIAL LOT |
| | Location: | Lot 59 (No.18) Moore Street, Balingup |
| | Applicants: | Mr and Mrs Mills |
| | Zone: | Residential R10 |
| | File Ref: | A4506 |
| | Author: | Bob Wallin (Principal Planner) |
| | Report Date: | 11 March 2014 |
| | Attachments: | 11.4.8 – Shed Plan |

Background

The proposal is to construct a shed/carport at Lot 59 (No.18) Moore Street, Balingup (Attachment 11.4.8).

The shed will have dimensions of 8m x 8m and will be joined to a car port 4m wide car port. The combined floor area will be 96m²) and will be setback towards the rear of the property. The lot has an area of 2529m² and is vacant. No approvals are in place to construct a residential building.

Town Planning Policy 9.4 Outbuilding states:

“No outbuilding shall be approved unless:

- 1. There is an existing dwelling constructed; or*
- 2. A building license has been issued for a dwelling.”*

Further clause 5.23 of Local Planning Scheme No.7 (LPS7) states:

“Planning approval will not be granted for any outbuildings on Residential, Rural Residential or Rural Smallholdings zoned lot that does not contain a residence unless otherwise approved by the local government.”

To support this application, the applicant advises that:

- They have recently moved from the East Kimberley and need to store personal effects which are currently stored in containers at a freight yard (very costly);
- They plan to travel for a time and then build on the block;
- There are no neighbours on either side of the lot. The lot fronts Moore Street which is an unmade road and adjoins a railway reserve. The reserve contains an abundance of trees, providing an effective screen from the highway;

Comment

In considering this matter, it is helpful to have regard to the following:

Intent of the Residential Zone

Clause 4.2 of LPS7 states that the purpose of the Residential zone is to:

“cater for the adequate provision of suitably located land in a varied urban residential environment to meet the needs of the community and to promote the amenity of residential areas. In particular, to provide for residential development at a range of densities with a variety of housing to meet the needs of different household types through the application of the Residential Design Codes.”

Objectives of the Residential Zone include:

- “(i) provide for a range of housing choice with a high level of amenity in residential area and which reflect the area’s rural character”*

- “(v) promote and safeguard the health, safety, convenience, general welfare and the amenity of residents and the residential area”.*

The construction of shed by itself does not meet the purpose or objectives of the Residential zone and does not promote the general welfare and amenity of the residential area.

Background intent behind LPS7 and Policy

The intent of clause 5.23 of LPS7 and Local Policy 9.4 is to preserve residential amenity and streetscape appeal. In approving outbuildings on vacant residential lots there is potential for residential areas to lose their aesthetic qualities and become de-facto industrial or storage areas. There is a very real prospect that local streetscapes could become littered with small outbuildings of different standards, sizes and condition, set within unmaintained landscaped settings.

While individual applications like this, may not by themselves create this effect, it is the potential cumulative impact. Once a precedent has been set, the planning objectives for the Shire and the decision making process is compromised. This trend is enhanced by decisions being made known and the public observing development activity. This signals to other landowners that this new lower standard of development is now acceptable. As similar proposals test and delve the lower limits of acceptability, points of contention are narrowed to finer and finer marginal points of difference. This makes it difficult to defend refusal decisions. A fitting analogy would be a death by a thousand cuts.

Analysis of other South West shire requirements

A review of other Shire’s requirements shows that:

| Shire | Requirements |
|----------------|---|
| Shire of Capel | No approval unless a residential building has substantially commenced (ie: pad in place) Enforced through legal agreement with owner and Local Planning Policy |

| | |
|-------------------|--|
| Shire of Harvey | No approval unless a residential building has substantially commenced (ie: pad in place) Enforced through local Planning Policy |
| Shire of Dardanup | No approval unless residential building has substantially commenced (ie: pad in place). Enforced through Local Planning Scheme and Policy. It is noted that this approach has now expanded to include rural living and small holding zoned land. |
| Shire of Denmark | No approval unless a residential building has substantially commenced (ie: pad in place) Enforced through legal agreement with owner and Local Planning Policy |

It is clear that there is a uniform approach in the South West for dealing with this issue. There is no clear benefit to be achieved in departing from this common approach.

Transient nature of building

The proposal is in theory only for a limited time. The stated intent is to construct a dwelling and live at the property at some point in the future. However, there is no assurance that this will occur. The intent may be stated, however, this does not always translate into action. There is nothing in place forcing a relationship between the erecting a shed and constructing a residential dwelling. It is important to note that it is not reasonable to impose a condition requiring the construction of a dwelling as part of this application.

Compromise between personal goals and public good

The proposal is justified in terms of providing a cheap, secure and convenient arrangement for the landowner. The benefits are internalised, while the negative externalities are distributed and borne by the wider public in terms of lower streetscape amenity and safety.

The proposal creates a precedent for further similar proposals to be considered that will be to the detriment of streetscape appeal, local amenity, public safety, local pride and desirability of living in the Shire.

Policy/Statutory/Voting Implications

Policy

9.4 Outbuilding Control

This policy does not support erection of outbuildings on residential land without a building license being in place first.

Statutory

The Land is zoned Residential and clause 4.2 clearly states the objectives and purpose of this zone which is to provide for a range of housing density mix and to promote and safe guard safety and amenity.

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 Council

- 1) **Refuse to grant planning approval for the construction of a shed at Lot 59 Moore Street, Balingup on the grounds that:**
 - a) **The proposed shed is inconsistent with the purpose and objectives of the Residential zone of Local Planning Scheme No.7.**
 - b) **The proposed building is contrary to the intent of Local Planning Policy No.9.4 which does not support constructing a shed on vacant residential land**
 - c) **Approval will create an undesirable precedent for similar standards of development to occur in the Residential zone to the detriment of local character and streetscapes.**
- 2) **Advise the applicant that there is a right of review under the provisions of Part 14 of the Planning and Development Act 2005 and that 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.**

| | | |
|---------------|---------------------|--|
| 11.4.9 | SUBJECT: | PROPOSED ERECTION OF A TOURISM SIGN AT APPLE FUN PARK |
| | Location: | Lot 597 Collins Street, Donnybrook |
| | Applicants: | Donnybrook Regional Tourism Association |
| | Reserve: | Public Purpose |
| | File Ref: | A4014 |
| | Author: | Bob Wallin (Principal Planner) |
| | Report Date: | 5 March 2015 |
| | Attachments: | 11.4.9 – Proposed Sign |

Background

The Donnybrook Regional Tourism Association has requested approval to erect a “Tourism” sign to be affixed to the toilet building at the Apple Fun Park (Attachment 11.4.9).

The “Apple Fun Park” is located on a Crown Reserve vested in the Shire for the purpose of “Recreation and Tourism”.

The proposed sign is 1.94m high with a width of 1.93m and constructed of aluminium. The graphics will consist of a map of the Donnybrook region with space set aside to show “sponsors and location of café’s, accommodation, attractions and wineries.

The proposal provides an ideal location for advertising and promoting local businesses and improving their chances of success in a competitive commercial environment. The site is well located for maximum exposure. By being affixed to an existing building, it will not visually intrude or impede accessibility.

Maintenance of the sign and potential risk of vandalism is minimal based on historical evidence and experience of the site. The park is well patronised, there is passive surveillance from nearby landowners and limited CCT coverage. All of these factors reduce the risk of vandalism.

Comment

In assessing the sign, the main element that requires deliberation relates to whether allowing commercial content is appropriate within a public reserve. In making a decision on this point, it is suggested that Council have regard to the following:

Local Planning Policy – 9.6 – Signage/Advertisement

This policy has the intent to provide a consistent approach to guiding signage that provides a positive image of the shire.

Clause 9.6.11 states “public open space reserves within the shire shall not be used for the erection of signage except for purposes as determined by Council.”

As a general rule, there is a presumption against the use of public park lands for commercial advertising which may be viewed as an unwanted intrusion into public park lands.

Local Planning Scheme No.7 (LPS7)

Part 3 of LPS7 relates to reserves. In making a decision on reserved land, Council is to have regard to “the ultimate purpose intended for the Reserve”.

The land is reserved “Public Purpose” under LPS7 and is vested with Council for the purpose of “Recreation and Tourism”. In considering the word “tourism”, understanding context is important. In this case, the word “tourism” needs to be framed within the context of a public reserve. Within this context, “tourism” usually relates to providing a public good such as the playground, public picnic areas and associated amenities. It does not logically follow that advertising of “tourism” associated with commercial enterprises such as café’s and wineries is consistent with the “ultimate purpose” intended for the reserve.

Public reserves traditionally provide a public place which is free for all to enjoy equally and funded from the public purse. These areas provide a public externality for the benefit of all and free of cost. Allowing intrusion of private commercial enterprises to “cash in” on these publically funded areas and privatise benefits is contrary to the intent of these reserves.

Precedent for advertising content

Approval of this sign will create a precedent and make it difficult to justify not supporting further intrusion of commercial advertising into other public reserves. This is the “slippery slope argument”. It is difficult to control and enforce consistency once started.

The simplest approach is to not permit private advertising within parks.

What is in it for the public?

There is no direct benefit to the local community by allowing advertising at this site. The only benefit would be from indirect trickle down flows from specific local businesses that may glean a small extra bit of business from the advertising.

The advertisers are not directly contributing to the reserve, the play grounds or any other public infrastructure. The advertising is likely to cover the cost of the sign.

Benefit to specific advertisers by association with a great public facility

The inclusion of “sponsor’s” may create the impression that these businesses were involved in the establishment and initial funding of the park and contribute towards its maintenance. This raises a moral issue for Council to consider; especially considering that local business/volunteers helped to establish the park.

Opportunity to consider these points strategically

Council’s Corporate Business Plan, Outcome 1.3.1 requires Council to prepare a “Tourism Strategy”. This strategy will enable tourism initiatives to be considered in a holistic setting rather than on an ad-hoc basis.

Policy/Statutory/Voting Implications

Policy

Local Planning Policy 9.6

Statutory

Part 3 of LPS7 relating to Reserved Land. Part 3 requires planning approval prior to starting works. Further, clause 3.4.2 requires Council to have regard to the ultimate purpose of the intended reserve.

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.

Council Decision

(Officer's Recommended Resolution)

Moved: Cr Dawson

Seconded: Cr Logiudice

That Council approve the erection of a sign on Lot 597 Collins Street, Donnybrook subject to:

- 1) The sign being modified to remove all commercial content to prevent commercial intrusions into a free facility located on public land.**
- 2) Advise the applicant that if they are aggrieved by this decision, 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.**

Carried 7/2

| | | |
|----------------|---------------------|---|
| 11.4.10 | SUBJECT: | ADOPTION OF NEW LOCAL PLANNING POLICY ANIMAL HUSBANDRY - INTENSIVE |
| | Location: | Shire of Donnybrook - Balingup |
| | Applicants: | N/A |
| | Zone: | N/A |
| | File Ref: | TP/03 |
| | Author: | Bob Wallin (Principal Planner) |
| | Report Date: | 5 February 2015 |
| | Attachments: | 11.4.10(1) - Schedule of Submissions 11.4.10(2) - Updated Policy |

Background

Council, at its meeting on 22nd 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). One of these policies was Local Planning Policy No 9.23 – Animal Husbandry – Intensive.

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.

Consultation

Four submissions were received during the advertising period. All were from government agencies (Attachment 11.4.10(1)).

In summary the points raised as summarised as follows:

Three of the submissions raised minor technical points relating to the following:

- Discharges (manure, urine and chemicals will comply with relevant guidelines;
- Adequate separation distances from remnant vegetation, wetlands and groundwater levels are addressed;
- Need to comply with provisions of the Health Act;
- Include a requirement for the preparation of an environmental management plan;
- Require applications to include details relating to the design and location of animal enclosures.

These points have been incorporated into policy and do not change the intent of the advertised policy.

The Department of Planning submission includes the need to reconsider the proposed definition based on concerns that it:

- conflicts with draft planning regulations;
- conflicts with the Local Planning Scheme and a policy cannot override a Local Planning Scheme; and
- defines the acceptableness of a land use based on the financial model that the use conducts its activity .

Comment

The points raised by the submissions are considered to be valid. The draft policy wording has been updated to reflect these requirements (see Attachment 11.4.10(2)).

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.

Council Decision

(Officer's Recommended Resolution)

Moved: Cr Mitchell

Seconded: Cr Logiudice

That Council adopt new Local Planning Policy No. 9.23 Animal Husbandry – Intensive.

Carried 9/0

| | | |
|----------------|-----------------|--|
| 11.4.11 | SUBJECT: | REQUEST TO CONTRIBUTE \$5,000 TOWARDS THE BLACKWOOD RIVER RECREATIONAL PRECINCT STUDY |
|----------------|-----------------|--|

| | |
|---------------------|---------------------------------------|
| Location: | “Blackwood River” Precinct |
| Applicants: | |
| Zone: | N/A |
| File Ref: | PWF 14P |
| Author: | Bob Wallin (Principal Planner) |
| Report Date: | 19 February 2015 |
| Attachments: | N/A |

Background

The Shire applied for a grant under the South West Community Chest Fund. This is a Royalties for Regions project and provides grants up to \$20,000.00.

The application was to carry out a feasibility study for a Blackwood River Recreational Precinct. The Shire was successful and has received funding for \$15,000.00

To be a successful application, it was necessary to include details of what the Shire was willing to commit to the project. In this instance, a financial contribution of \$5,000.00 was suggested.

Council's approval is requested to make provision in the 2014/15 Budget for a \$5,000.00 contribution.

Project Background

The project is intended to critically assess the viability of an outdoor focused tourism and recreation hub south of Balingup as part of the Blackwood River Valley.

The Blackwood River Valley is extensive and includes southern parts of the Shire of Donnybrook – Balingup and between Bridgetown and Nannup Shire boundaries. The locality provides exceptional wilderness landscape areas that shout potential. The locality perfectly placed for nature based tourism and recreational enjoyment for tourist and locals alike.

The locality logically extends and builds on a wider network of outdoor recreational facilities including bridle trails, mountain bike and hiking trails and camping and canoeing spots. There is potential to create a place to “experience the extraordinary”.

The project has potential to provide economic benefits and/or employment opportunities to a locality no longer dominated by a healthy farming economy.

The Feasibility Study will include:

- Consulting and Fact Finding;
- Identifying concept options;
- Creating a concept plan;
- Identifying funding opportunities;
- Cost benefit analysis; and
- Risk assessments.

The aim of the study will be to explore opportunities to:

- Enhance outdoor recreation experiences;
- Provide tourism attractions and opportunities for landowners; and
- Provide and enhance recreational linkages/facilities in the wider locality.

Comment

This study is consistent with the initiatives stated in the Corporate Business Plan. Specifically, strategies:

- 1.1.1 Develop and implement a marketing and investment attraction strategy;
- 1.3.1 Develop and implement a tourism development and promotion strategy;
- 3.2.1 Continue to provide a diverse range of quality, community and recreational facilities

This study will help towards achieving the goals of the Corporate Business Plan strategies and Council's 10 year plus Strategic Community Plan.

Consultation

Discussion has occurred with the Shire of Bridgetown and the Department of Parks and Wildlife.

Policy/Statutory/Voting Implications

Policy

N/A

Statutory

N/A

Voting

Absolute Majority

Financial Implications

N/A

Strategic Implications

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

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

Outcome 2.1 – Our river systems and natural environment are enhanced and improved;

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

Outcome 4.4 – To be strong advocates representing the Shire's interest.

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

Moved: Cr King

Seconded: Cr Bailey

That Council

- 1) Amend the 2014/2015 budget to include provision for expenditure of \$20,000 for the Blackwood River Recreational Precinct Study;**
- 2) Accept the grant of \$15,000 from the South West Community Chest Fund and amend the 2014/15 budget to provide for Council's contribution of \$5,000 towards the project; and**
- 3) Authorise the Chief Executive Officer to request quotes and engage a suitably qualified consultant to undertake the study.**

**Carried 7/2
By Absolute Majority**

| | | |
|----------------|---------------------|--|
| 11.4.12 | SUBJECT: | PROPOSED LOCAL PLANNING POLICY 9.25 – PLANNING FRAMEWORK FOR RURAL RESIDENTIAL INFILL SUBDIVISION |
| | Location: | Shire of Donnybrook-Balingup |
| | Applicants: | Administration |
| | Zone: | N/A |
| | File Ref: | ADM 11/3 |
| | Author: | Bob Wallin (Principal Planner) |
| | Report Date: | 10 February 2015 |
| | Attachments: | 11.4.12(1) Rural Residential Infill Strategy 11.4.12(2) Draft Policy |

Background

The Shire's Local Planning Scheme No.7 (LPS7) opens up opportunities to subdivide land within existing rural residential estates.

The purpose of this change is to allow existing Rural Residential land to be used more efficiently and enable more people to enjoy the lifestyle opportunities that Rural Residential lots present.

It is essential that subdivision of land occurs in a way that retains the desirable qualities and lifestyle benefits currently enjoyed. In short, to keep those qualities that attracted people to live here in the first place.

It is also important that subdivision does not create a general burden to the wider rates base and community.

To this end, a Rural Residential Infill Strategy has been prepared (Attachment 11.4.12(1)). It is intended that this strategy be implemented and reviewed by a Local Planning Policy (Attachment 11.4.12(2)).

Comment

The Strategy has the intent to provide background on the issues and local planning framework. It also contains an analysis on how to achieve desirable outcomes and define processes and requirements to be addressed during structure planning and subdivision stages.

The Strategy also provides an analysis of existing road and drainage infrastructure within the estates and calculates costs of works necessary to upgrade roads and infrastructure to meet the demands generated by infill.

The Local Planning Policy provides a list of criteria that needs to be addressed during the structure planning, subdivision and development stages. These criteria will assist landowners and Council in preparing and assessing applications.

Process for Progressing Strategy and Local Planning Policy

LPS7 sets out the process and requirements to progress a draft policy to an approved policy. This includes the need to:

- a) Publish a notice of the proposed policy once a week for 2 consecutive weeks in a newspaper circulating in the Scheme area;
- b) Enable submissions to be made for no less than 21 days from the date of notice;
- c) Publish the proposed policy in such a manner and carry out other consultation as the local government considers appropriate.

It is proposed to advertise both the strategy and the Local Planning Policy at the same time using the same process.

Policy/Statutory/Voting Implications

Policy

N/A

Statutory

Part 2 of Local Planning Scheme No.7 sets out the requirements and processes for the preparation and adoption of a Local Planning Policy. The requirements of LPS7 will be followed.

Voting

Simple Majority.

Financial Implications

Advertising costs in the local paper.

Strategic Implications

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

Outcome 1.5 - Our rural lifestyle is maintained

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

Outcome 3.9 – Existing community spirit and pride is maintained.

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

Council Decision (Officer’s Recommended Resolution)

Moved: Cr Bailey

Seconded: Cr Dawson

That Council advertise the proposed Rural Residential Infill Strategy and draft Policy in accordance with Part 2 of Local Planning Scheme No.7.

Carried 8/1

11.5 Chief Executive Officer

| | | |
|--------|---------------------|---|
| 11.5.1 | SUBJECT: | REQUEST TO WAIVE HIRE FEES – BALINGUP SMALL FARM FIELD DAY |
| | Location: | Balingup |
| | Applicants: | Balingup Small Farm Field Day Committee |
| | Reserve: | N/A |
| | File Ref: | TRS 01/3 |
| | Author: | John Attwood, CEO (<i>Kate O’Keeffe, Executive Assistant</i>) |
| | Report Date: | 11 March 2015 |
| | Attachments: | Nil |

Background

Council has received a request from the Balingup Small Farm Field Day Committee (BSFFDC) to waive the hire fees for the Balingup Oval and Balingup Halls at the 25th annual Small Farm Field Day, which will be held on 18 April 2015.

Comment

Council resolution from June 2003:

“That all local festivals and community events that charge an admission fee pay the budgeted rent for the reserve/facility used and Council determine the percentage of actual cost to be recouped.”

The Balingup Small Farm Field Day, celebrating 25 years of small farming this year, is a widely recognised and very well attended event that attracts valued favourable attention to the Shire in addition to providing an economic and social benefit to the community.

The BSFFDC is made up of volunteers and the Small Farm Field Day is dependent on voluntary community support.

The cost of hiring Balingup Oval and the Balingup Halls for this event is \$403.00.

Council was approached by BSFFDC to waive the Facility Hire Fees for the 2014 Small Farm Field Day. Council resolved at the Ordinary Council meeting held on 23 July 2014:

“That Council make a donation of \$397.00 to the Balingup Small Farm Field Day Committee for the hire of Balingup Oval and Balingup Halls for the 2014 Small Farm Field Day held on the 26th April 2014.”

It was recommended at that meeting that the BSFFDC apply to Council for funding under Administration 2.27 Community Grants Scheme – Minor Community Grants.

This application may be handled in a number of ways:

- Option 1: Waive the hire facility fees for the Balingup Oval and Halls;
- Option 2: Assess the Application as part of the Community Grant Scheme; (note: Assessment under the Community Grant Scheme would not deliver an outcome until Council adopts the budget in late August 2015 which may not be acceptable to the applicant);
- Option 3: Make a donation to the Small Farm Field Day Committee for the hire of the Balingup Oval and the Halls.

Consultation

N/A

Policy/Statutory/Voting Implications

Policy

Council resolution from June 2003:

“That all local festivals and community events that charge an admission fee pay the budgeted rent for the reserve/facility used and Council determine the percentage of actual cost to be recouped.”

Administration Policy 2.27 Community Grants Scheme

“The aim of the Community Grants Scheme is to offer groups operating within the Shire of Donnybrook-Balingup, the opportunity to access Council funds to initiate projects that will benefit the local community.

Minor Community Grants Scheme.

This scheme provides minor grants up to \$500. The grants are “one-off” for a specific purpose and do not necessarily require any matching funding.

\$2500 is allocated each year for the Minor Community Grants Scheme. (This is an indicative figure and is subject to variation by Council during budget deliberations.)

Statutory

N/A

Voting

Simple majority

Financial Implications

The cost of hiring Balingup Oval and the Balingup Halls is \$403.00.

Any waiver or concession would be allocated to Council’s Donations account number 102520.

A budget allowance of \$2,050 is provided for unspecified donations made by Council or under delegation by the CEO. Funds are available in the account to cover any concession or donation that may be provided by Council in respect to this application.

Strategic Implications

Outcome 3.6: Maintain and support a diverse range of festivals, community events, arts and cultural activities.

Council Decision

(Officer’s Recommended Resolution)

Moved: Cr Bailey

Seconded: Cr Logiudice

That Council make a donation of \$403.00 to the Balingup Small Farm Field Day Committee for the hire of Balingup Oval and Balingup Halls for the 2015 Small Farm Field Day to be held on 18 April 2015.

Carried 5/4

| | | |
|---------------|---------------------|--|
| 11.5.2 | SUBJECT: | LOCAL GOVERNMENT ORDINARY ELECTION 2015 |
| | Location: | Shire of Donnybrook-Balingup |
| | Applicants: | Western Australian Electoral Commission |
| | Reserve: | N/A |
| | File Ref: | CNL 09/1 |
| | Author: | John Attwood, CEO (<i>Kate O’Keeffe, Executive Assistant</i>) |
| | Report Date: | 11 March 2015 |
| | Attachments: | Nil |

Background

To assist with budget preparations, the Western Australian Electoral Commission (WAEC) has advised Council that the estimated cost for the next ordinary elections to be held on 17 October 2015 is \$22,000 including GST (the cost of the 2013 election was \$18,906), which has been based on the following assumptions:

- 4,150 electors;
- Response rate of approximately 45%
- 4 vacancies;
- Count to be conducted at the offices of the Shire of Donnybrook-Balingup;
- Appointment of a local Returning Officer; and
- Standard Australia Post delivery service to apply.

This cost estimate includes the proposed increase in the postage rate by Australia Post effective from 2 March 2015. An additional amount of \$290.50 will be incurred if Council decides to opt for Australia Post Priority Service for the lodgement of election packages.

Costs not incorporated in this estimate include:

- Non-statutory advertising (i.e. additional advertisements in community newspapers and promotional advertising);
- Any legal expenses other than those that are determined to be borne by the WAEC in a Court of Disputed Returns;
- One local government staff member to work in the polling place on election day;
- Any additional postage rate increase by Australia Post.

Comment

The Commission is required by the *Local Government Act 1995* to conduct local government elections on a full cost recovery basis and it should be noted that this is an estimate only and may vary depending on a range of factors including the cost of materials or number of replies received. The basis for the charges is all materials at cost and a margin on staff time only. Should a significant change in the figure become evident prior to or during the election Council will be advised as early as possible.

Although running costs of in-person elections are less than the WAEC model, they do place considerable burden on Council Staff and attract considerably less voter participation than postal voting elections.

The advantages of the postal voting system are:

- Separation of powers- the Chief Executive is not required to be the Returning Officer, therefore is not put into a position of possible conflict with prospective candidates.
- All queries and complaints relating to the election process are referred to the WAEC.
- Apart from preparation of the owners and occupiers roll, the processing of absent voting papers, and the issue of replacement voting packages, all election functions are handled by the WAEC.

For a number of years, Council has appointed the Electoral Commissioner to conduct postal elections. The postal voting system has run smoothly and has been effective in attracting relatively high voter participation (approximately 50%).

Consultation

N/A

Policy/Statutory/Noting Implications

Part 4 of the Local Government Act 1995 and the Local Government (Elections) Regulations 1997 give Council the option of conducting either postal or in person elections.

Voting implications - Absolute Majority

Financial Implications

Should Council resolve to conduct a postal election and the costs incurred reach the upper end of the estimated cost, budget provision of \$22,000 including GST will need to be made in the 2015/16 Financial Year budget.

Strategic Implications

A postal election will ensure that all enrolled electors will receive notification of the election.

**Council Decision
(Officer's Recommended Resolutions)**

Moved: Cr Duncan

Seconded: Cr Crowley

That Council declare in accordance with section 4.20 (4) of the Local Government Act 1995, the Electoral Commissioner to be responsible for the conduct of the 2015 ordinary elections together with any other elections or polls which may also be required.

**Carried 9/0
By Absolute Majority**

Moved: Cr Duncan

Seconded: Cr McCabe

That Council decide, in accordance with section 4.61 (2) of the Local Government Act 1995 that the method of conducting the election will be as a postal election.

**Carried 9/0
By Absolute Majority**

12 OTHER BUSINESS

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|---------------|---------------------|---|
| 12.1.1 | SUBJECT: | NOISE COMPLAINTS - GAS GUN USE - ARGYLE |
| | Location: | Shire of Donnybrook-Balingup |
| | Applicants: | Shire of Donnybrook-Balingup |
| | Zone: | N/A |
| | File Ref: | HLT 11 |
| | Author: | L Guthridge - Manager Development & Environmental Services |
| | Report Date: | 24 March 2015 |
| | Attachments: | Nil |

Background

Due to recent complaints being received by the Shire, the purpose of this report is to review the Shires position on how it will manage ongoing complaints from Mr James and Mrs Linda Brown (the Complainants) from noise impacts of gas gun use in the Argyle area.

The Shires existing position of managing this issue through an adopted Noise Management Plan (NMP) is not delivering the level of service and amenity the Complainants request. Bird damage pressures have gathered momentum in recent weeks in orchards and consequently growers have commenced using gas guns. Since Thursday 19th March 2015 multiple complaints have been received from the Complainants in respect to alleged non-compliance with the NMP.

Some of these allegations cannot be verified due to being post event. However Staff have been in the subject orchard on several occasions in the past week and some enforcement measures have been implemented as per the *Environmental Protection Act* (the Act).

The Complainants continue to advocate that the issue be managed by the Shire by enforcing the *Environmental Protection (Noise) Regulations 1997* (the *Regulations*) rather than by the NMP.

Comment

The evolution of this issue is summarised below:

- In 2009 following a high level of complaints around town sites in the Shire due to noise impacts from gas guns, the then Department of Environment Conservation (DEC) advised the Shire that the best method to manage this issue as a balance to all parties is the development of a NMP.
- The Shire developed a NMP in conjunction with identified stakeholders (working group) and undertook community consultation. The Shire adopted the NMP in October 2010.
- Due to the growing number of complaints from the Complainants a 'yellow brick' sound monitoring device supplied by the Department of Environment and Conservation (DEC) was placed at the Complainants residence at 924 Hurst Road Argyle and collected data in March/April 2012. It was envisaged that this would deliver a sound profile to determine the level that the NMP was being complied with, in addition to how this compared to the *Regulations*.

The results were limited as there was a lack of audio captured at the time by the Complainants. A summary of the findings from DEC at the time is provided below:

- *The NMP may represent an appropriate tool to manage impacts from gas guns;*
 - *The Regulations and the NMP do not effectively limit the number of impulsive events (gas gun blasts) that may occur within the bounds of the assigned levels of the regulations. Therefore exposure to prolonged and cumulative noise from gas guns whilst still complying with the regulations and the NMP may not necessarily deliver the level of amenity that some residents would like and/or are sensitised to the noise;*
 - *4% of the blasts recorded clearly exceed the assigned levels of the Regulations. The findings indicates that eliminating the non-compliant blasts (only being 4% of the total blasts analysed) may have limited benefit in terms of improving the level of amenity to a resident;*
 - *Frequency and number of blasts were 2% and 18% respectively more than what would be expected over the two days of the 21st and 22nd March 2012 using the parameters of the NMP. The number of blasts in the middle of the day on the 22 March was also apparent. DEC qualify the fact that other gas guns (possibly at a further distance along the 'Golden Mile') outside the 3-4 gas guns that were identified and analysed for the basis of this report may also have influenced these results.*
- Due to the lack of audio captured by the Complainants in 2012, the Shire arranged for another 'yellow brick' to be placed at the residence of 14 Argyle Road Argyle in April

2013 given that this residence is located in a similar location to that of the Complainants and any noise impacts from gas guns would therefore be similar to that of the Complainants.

The purpose of placing the 'yellow brick' in this precinct again was to obtain additional data (with audio) and develop a more representative pattern of the levels of compliance of the gas gun activity in this area against the *Regulations* and the NMP and from the results consider any further modifications to the NMP.

The placement of the 'yellow brick' was undertaken without the knowledge of the orchardists or the Complainants so as to eliminate any perception that the results were not representative of gas gun use patterns in the area.

- The Shire has subsequently modified the NMP on 3 occasions including September 2013 using data from the yellow brick in April 2013 to provide specific clauses to improve the amenity for the Complainants.
- The Department of Environment and Regulation (DER) organised for mediation between the Complainants, Growers Representatives, DER and the Shire where Knott Gunning Lawyers facilitated the forum in December 2013. The Mediator's report concluded that the NMP is the 'best option' to manage impacts from gas guns and recommended that further trials of acoustical barriers be undertaken. These trials have not occurred. The DER was the lead agency to conduct the trials.

Review of Options for Council

The difficulty and cost in Council managing this issue is well documented as there are many variables to contend with in relation to the management of noise specifically with 'impulsive noise' that is attributed with gas gun use.

Furthermore it is difficult to measure if the Shire is delivering tangible benefits to community for the amount of resources it places into managing this issue, in relation to planning and reviewing management strategies, surveillance, education, responding to complaints and enforcement. It should also be noted that the Shire does not possess a sound level meter that can be used for legal purposes due to changes in legislative requirements.

Measurement of how effective the NMP is to the community are restricted to the number of and outcome of complaints received from residents across the Shire and feedback from orchardists on practicalities of managing gas guns in accordance with the NMP. To date Shire staff report that the NMP has been an effective tool in managing gas gun use and resident amenity in other instances to date.

Building upon all the information to date on this issue, including the DER reports, the following options are available to Council:

1. Dissolve the NMP and the Shire enforce the *Environmental Protection (Noise) Regulations 1997* when a complaint is received and allocate sufficient additional resource accordingly.

2. Advise DER that the Shires Noise Management Plan is not delivering the service levels and amenity that is requested by Mr James and Mrs Linda Brown - owners of 924 Hurst Road Argyle, and that the Shire will not respond to any future complaints from this landowner due to the lack of staffing resources, expertise and equipment to apply the provisions of the *Environmental Protection (Noise) Regulations 1997*. However the NMP will remain in place for other areas which the Shire will continue to manage.
3. Dissolve the NMP and take the position that given the significant resources required to manage all noise issues from gas gun use in the Shire will not respond to complaints resulting from gas gun use and refer complainants to the DER, direct them to the *Best Practice Guidelines for Bird Scaring in Orchards, Noise and Threatened Species* and advise them of their rights to take action against the operator of a gas gun/s in accordance with Section 79 of the *Environmental Protection Act 1986*.
4. Increase its level of service for management of the NMP and compliance and allocate additional resources accordingly namely the employment of additional technical staff.

Proposed Management Strategy

Should the NMP remain in place as a method of managing gas gun noise issues the proposed management strategy remains the same as Council endorsed at its December 2012 meeting as follows:

- Staff will act on complaint only but continue to nurture the intent of the NMP where there is an expectation of self-regulation from the industry to avoid further constraints being imposed on orchardists through greater levels of enforcement from noise control agencies;
- Complaints are to be lodged in writing to the Shire CEO;
- Authorised officers will undertake random investigations of compliance with the NMP where there is a pattern of complaints compared to other areas;
- Sound monitoring equipment will be used to determine compliance with the Regulations if a consistent pattern of breaches of the NMP are confirmed noting that Officers will use discretion where appropriate to achieve positive outcomes for all parties; and
- Prior to staff monitoring noise levels from a complainant's residence, the complainant shall be obliging and respectful and allow Council staff to do their work without hindrance.

This strategy ensures that there is an effective use of Council resources and staff time, and it demonstrates fairness and transparency to all members of the community.

Conclusion

Notwithstanding that the report from DEC (December 2012) concludes "that a NMP may represent an appropriate approach to managing this issue" and that complaints are at present concentrated from one land owner, it remains that the Complainant state that they are suffering from health impacts and illness related to noise impacts from gas guns (as

medical certificates supplied). Further, the objective of the NMP appears to be not delivering a satisfactory amenity outcome for the Complainants situation.

It is also clear that that the modifications effected to the NMP in 2013 relating to increasing the buffer distance of a gas gun to the Complainant's residence to 400 metres as a means to control a greater level of compliance with the assigned noise levels as per the *Regulations* is not delivering the amenity outcomes that the Complainants are seeking.

The response or perception of an individual to a noise source can vary substantially between individuals and is subjective. There are many factors that can influence a perception such as attitude to the noise source, state of health, perceived level of control over the noise, perceived necessity for the noise, etc.

This is substantiated by the fact that the Complainants reside near an orchard where there are other householders and yet there is a disproportionate number of complaints received from the Complainants compared to other residences in the area.

As it appears the NMP has not delivered the level of service and amenity that the Complainants request, it is recommended that this issue between the two land owners be referred to DER to manage by using the provisions of the *Environmental Protection Act* and the *Regulations* if required.

Notwithstanding the above the Shire will still endorse the NMP for the balance of the Community as it has proven to me an effective tool in managing land use conflicts between growers and other landowners from time to time.

This action to refer the subject issue to DER will not penalise other orchardists in the Shire who have shown capacity to comply with the NMP including communicating with their neighbours to minimise land use conflict.

Consultation

Staff continually liaises with the Noise Regulation Branch of DER regarding this issue.

Policy/Statutory/Voting Implications

Statutory

The NMP contains provisions which state that if the NMP is not adhered to, the NMP will lapse for that orchardist and they will be expected to comply with the *Environmental Protection (Noise) Regulations 1997*.

Voting

Simple Majority

Financial Implications

Investigation of complaints regarding use of gas guns and the monitoring and review of the NMP takes considerable staff time and resources and causes overburden to existing staff workloads.

Based on diary entries and timesheets, over the 2011/2012 growing season Council staff (Manager Development & Environmental Services and Principal Environmental Health Officer) spent in excess of 100 hours on this issue. Other growing seasons have not been quantified but are expected to have used similar resources. This level of resourcing is considered disproportionate relative to the number of community members impacted.

If Council wants to increase its 'level of service' for noise management in respect to gas guns, it will need to provide additional resources and budget for this accordingly. Out of hours service is one area that the complainants believe that the Shire should lift its level of service. There will be financial, Occupational Health and Safety and logistical issues to be resolved with this option.

Strategic Implications

The Shire of Donnybrook-Balingup Strategic Community Plan states:

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

Outcome 3.10 – The community has access to appropriate services and facilities to enhance their health and wellbeing

Council Decision

(Officer's Recommended Resolution)

Moved: Cr Crowley

Seconded: Cr McCabe

- 1. That Council advise the Department of Environment and Regulation (DER) that the Noise Management Plan is not delivering the service levels and amenity that is required by Mr James and Mrs Linda Brown - owners of 924 Hurst Road Argyle and refer the complainants to DER for future management of this issue as the Shire of Donnybrook – Balingup does not have the resources, expertise and equipment to enforce the provisions of the *Environmental Protection Act* and associated Regulations of which the Complainants request.**
- 2. That the Shire of Donnybrook – Balingup will continue to manage other noise matters that arise from time to time within the Shire district including using the adopted Noise Management Plan when complaints are received.**

Carried 9/0

13 CLOSURE OF MEETING

The next Ordinary Council Meeting will be held on Wednesday, 22 April 2015 commencing at 5.00pm at the Council Chambers, Donnybrook.

The Shire President declared the meeting closed at 7.31pm.

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| These Minutes were confirmed by the Council as a true and accurate record at the Ordinary Council Meeting held on 22 April 2015. | | |
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| Shire President | | Presiding Member |