



# Ordinary Council Meeting

## Minutes

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Held on Wednesday, 16 December 2015

Commencing 5.16pm at the Donnybrook Town Hall

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

**John Attwood**  
Chief Executive Officer

**23 December 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.

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## ORDINARY COUNCIL MEETING MINUTES

16 December 2015

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# SHIRE OF DONNYBROOK-BALINGUP

## ORDINARY COUNCIL MEETING MINUTES

Held at the Donnybrook Town Hall  
Wednesday, 16 December 2015 at 5.16pm

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### MEMBERS PRESENT

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#### COUNCILLORS

Cr Logiudice (President)  
Cr Mills (Deputy)  
Cr Bailey  
Cr Crowley  
Cr Dilley  
Cr King  
Cr Mitchell  
Cr Tan  
Cr Van Der Heide

#### STAFF

John Attwood – Chief Executive Officer  
Greg Harris – Manager Finance and Administration  
Tim Shingles – A/ Principal Planner  
Damien Morgan – Manager Works and Services  
Kate O’Keeffe – Executive Assistant  
Lucy Bourne – Governance Officer  
Paul Robins – Senior Ranger

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### PUBLIC GALLERY

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Harry Orthjiel  
Mike Ramsay  
Linda McCabe  
Vinna Henderson  
Ruth Johnson  
Rod Jackson  
Margaret Terrace  
Steve Warner  
Nina Smith  
Sandra Cristaldi  
Gwen Combes  
Meryl Atherton  
Val Anderson  
Karen Farley  
Ray Bagley  
Lucille Piecce  
Stephen Chinnery  
Chris Gorman  
Rosie Licciardello  
Joe Betti  
Mary Bagley  
Jenny Smith  
Christina Jones

Sandra Scaffidi  
Sylvie Buchanan  
Bob Jennings  
Kevin Johnson  
Brian Piesse  
Dawn Jackson  
John Austin  
David Bleackley  
Erica Gibbons  
Bernie Dawson  
Lynita Kemp  
Betsy Clarson  
Brad Anderson  
Mike Wringe  
George McBrearty  
Gaye William  
Chris Knight  
Erica Bleakley  
Lois Marsh  
Barbara Carroll  
Bev Strang  
Helen Matthews  
Sue Attwood

Anne Margetts  
Wendy Mills  
Jean Jennings  
Muriel Morgan  
Megan Baldock  
Colin Sharp  
Keith Becc  
David Tuia  
Tina Cristaldi  
Jane Cox  
Graham Atherton  
Warren Clarkson  
Kate Bond  
Wendy Betts  
Rhonda McBrearty  
Dave William  
Alicia Keall  
Sam Cusato  
Robyn Hayward  
Leah Hewson  
John Wringe  
Ian Matthews  
Merle Hickman

Bruce Kemp	Elma Bewsher	David Bewsher
Sue Radford	Ian Kemp	David Jones
Marie Woodley	Mary Scaffidi	Elsie Woodley
Verelle Blee	Alan Blee	Jill Duncan
Alf Torrasi	Allan Reed	Simon McInnes
Steve Russell	Irene Russell	John Russell
Lui Tuia	Robyn Roberts	Noel Hickman
Marilyn Hickman	Gordon Farley	Robin Depiazzi
Des Depiazzi	Gil Langley	Mario Contarino
Lyanne Hennas	C Russell	Shawn Nelson
TP Curtis	AE Curtis	GE Johnson
Shane Atherton	Kayeleen Russell	Rayina Cole-Bucktin
Mal Crombie	Tricia Crombie	Kelsic Pottlaff
Steve Johnson	Christian Valenzuela	Peppi Cavallo

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## **1 APOLOGIES**

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Leigh Guthridge – Manager Development and Environmental Services

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## **2 PUBLIC QUESTION TIME**

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### **Questions Taken without notice at the Ordinary Council Meeting on 16 December 2015**

*Brian Piesse*

*Thank you President, and good afternoon to Councillors and ratepayers of the Shire of Donnybrook-Balingup. I refer to the motion moved at the Electors Meeting on 10 December 2015 and feel it important for Councillors to understand my credentials for moving the motion I did last Thursday, to show I am no slouch when it comes to governance. I was a member of the South West Development Commission for five years, served on the Risk and Audit Committee for the South West Development Commission; Kings Park Botanical Garden, a member of the Advisory Board for ECU, member of the Western Dairy Board - Corporate Governance Committee; and a member of the Australian Institute of Company Directors. What I want to say today is not something I have just made up.*

*I want to make sure Councillors understand quite clearly the intent of the motion. My question for you – if you don't do the honest thing and go to the people of the Shire of Donnybrook-Balingup and restore or regain your mandate to be the governing body, how will you demonstrate to these people that you will be able to hold this together for the next two years? And how will you restore harmony and integrity to the Donnybrook-Balingup Shire community?*

President

We are going to have to work through this. I don't know whether we will make a decision tonight or tomorrow, but the issue will be discussed tonight.

*Brian Piesse*

*If you don't make the honourable decision to go to the people you already have a vote of no confidence in this Council.*

President

I am aware of that. We will go through that as it stands.

*Marie Woodley*

*My question is to the Council. Do you concede that what is happening to Tuia Lodge also happened with HACCC? I would like to know what is next on your agenda? What are you going to aim at next?*

President

I don't believe there is an agenda, but if you come across problems or issues then Council is responsible to deal with them.

*Marie Woodley*

*You have already wrecked HACCC, now you are trying to wreck Tuia Lodge. What else is in your sights?*

President

We have nothing in our sights, I assure you.

*Marie Woodley*

*I don't believe you.*

*Elsie Woodley*

*My question is to do with a letter that was put in our letter boxes. In it, Cr Bailey states that no issues relating to Tuia Lodge have been resolved. My question is - what has the \$20k-\$25k been spent on?*

President

As discussed at the last meeting, the \$25,000 was spent on the investigation, one part for lawyers - the other part was with an Aged Care Consultant.

*Elsie Woodley*

*Are you still saying no issues have been resolved?*

President

Some issues have been resolved – they have been finalised as I understand it. Those outstanding will be addressed.

Jill Duncan

*Mr President and Councillors, my first question relates to your answer to my question of 25 November 2015 as recorded in tonight's agenda. The President answered "..... Cr. Mills is in the process of vacating the property."*

*I ask the President, is Cr. Mills now absolved from any breaches of Council policies and Code of Conduct because he has vacated the property? Are both Cr. Mills and Cr. Bailey now free of any accountability for their previous actions? Is this the standard of "ethical behaviour" we, as ratepayers and residents, can expect from some Councillors?*

President

This question will be taken on notice and responded to in writing.

Jill Duncan

*I'm just asking, are these Councillors no longer responsible for their actions under Councils Policies and Code of Conduct?*

President

If there is any action to be taken, then we will take it.

Jill Duncan

*My second question - I refer to the minutes of the Special Meeting held on 19 November 2015, including the stated purpose of the meeting as being "Tuia Lodge Transition and ongoing Management of Tuia Lodge".*

*I ask the President should Cr Bailey's foreshadowed motion have been presented prior to the meeting for inclusion in the agenda with appropriate background information for all Councillors? Was his motion considered pertinent to the stated purpose of the Special Meeting?*

*Or was this yet another example of the "backroom boys using their majority voting power to de-stabilise the Council?*

President

A foreshadowed motion may be put to Council with no notice.

Jill Duncan

*Cr. Mills publicly admitted on 25 November 2015 that he had recorded a meeting between himself, the President and members of the Tuia Lodge Board and that he had given prior notice of his intention to those present. Unfortunately, Cr Mills is the only one who has attested that he did indeed give prior notice. Assuming that this meeting related to a function of Council, have you made your record of the meeting available to be included in the Shire's record- keeping system as required under the State Records Act?*

President

It is up to Cr. Mills to make his record or transcript available to the Shire's Records.

The recording has not at this point in time been included in the Shire's record-keeping system. I'm not sure if there is any timeframe for doing this.

*Jill Duncan*

*Incidentally, and in the public interest, is Cr Mills recording this meeting?*

President

That question is out of order.

*Jill Duncan*

*My final question - With regards to the letter Cr Bailey distributed to some ratepayers and residents in the Shire - under whose authority did Cr Bailey act? Was Cr Bailey speaking on behalf of Council or a Council decision when he makes this statement in that letter?*

President

This question will be taken on notice for Cr Bailey to provide an answer.

*Mario Contarino*

*Jill Duncan has already raised the question I wanted to ask however I do want to say that Cr Mills was out of order when speaking to Mrs Duncan at the last meeting. Cr Mills should have been stopped.*

*Joe Betti*

*I have been involved with Aged Care since 1980 and have busted my gut for the last 30 years to help bring Tuia Lodge to where it is now. My question is Mr President, when are you going to have the new section of Tuia Lodge up and running? I visited Tuia Lodge today and the place is as flat as a tack.*

President

The Acting Manager is processing applications with the view of admitting new residents shortly. There is progress in that direction.

*Joe Betti*

*If she is progressing in that direction, it will be quite soon?*

President

It won't be until the end of January.

*CB Knight*

*Mr President and Councillors, was the original delegation of responsibilities to the Tuia Lodge Board (Committee) legal, to a group of volunteers not qualified and inexperienced in Aged Care Regulations and responsibilities and was it in the best interest of the residents and staff?*



President

The members of the Tuia Lodge Committee were appointed under the Local Government Act and provided delegation.

*CB Knight*

*So the Tuia Lodge Board, appointed under the Local Government Act and provided delegation, was legal?*

President

That is correct. It is legal and Council didn't delegate responsibility illegally.

*CB Knight*

*I now contend that the award Mr Tuia was given for Tuia Lodge was given out by the Over 50's magazine group based on commercial activities with seniors and subscribing to their magazine. Additionally I contend that this organisations award is not accredited by any Aged Care Government Agency. Will Council seek justification of the awards merits?*

President

I am not aware of the criteria involved with this award. If something is discovered it will be looked at.

*Lui Tuia*

*I wonder how far some people will stoop.*

President

That is out of order.

*Lui Tuia*

*Tuia Lodge was unaware of the Australasian Over 50's Housing Award program until this year. Tuia Lodge was up against 330 entrants including private institutions and other aged care organisations. Tuia Lodge was awarded the most outstanding regional care provider at the Awards ceremony. The respect from Council has been nil. Council is a disgrace, an absolute disgrace.*

*Tony Scaffidi*

*What a disgusting episode. I asked at the October Council Meeting and again at the November Council Meeting, were any new allegations raised or presented to Council that had not already been dealt with or considered before they moved the motion to dismiss the Board? And I was told that no new allegations had been made. What a load of rubbish.*

President

A majority of the Tuia Lodge allegations have been dealt with and some at this point in time have not been finalised. I did ask the CEO and he has advised that some of the allegations were still being followed up.

*Steve Russell*

*The issue is I'm sure John Attwood said at the last meeting that no new allegations had been raised. Cr Dilley referred to the summary of allegations at the electors meeting and said that the items had been dealt with but the document Cr Dilley referred to indicates that some of the items have not been finalised. As a community who do we believe?*

President

The summary of allegations has been reviewed. The allegations that have not been finalised are in the process of being addressed.

*Brian Piesse*

*Cr Bailey said at the last meeting that he heard there were other issues that haven't been addressed and haven't been made public. If there are what are they and why have they not been made public?*

President

The allegations have not been made public as Council is currently seeking legal opinion.

*Brian Piesse*

*Why then do the documents say that there are no new allegations?*

President

I will take that on board.

\*\* 5.43pm – Members from the Public Gallery left the meeting.

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### **3 APPLICATION FOR LEAVE OF ABSENCE**

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Nil

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### **4 DECLARATION OF FINANCIAL/IMPARTIALITY INTEREST**

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Cr Logiudice declared and interest affecting impartiality for Item 7.1 Business arising from the Special Council Meeting on 9 December 2015 as he is a Tuia Lodge Committee Member.

CEO, John Attwood declared and interest affecting impartiality for Item 7.1 Business arising from the Special Council Meeting on 9 December 2015 as he is a Tuia Lodge Committee Member.

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### **5 PETITIONS/DEPUTATIONS/PRESENTATIONS**

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Mr Antonio Scaffidi, property owner, has requested to present in relation to agenda item number 10.4.1 – *Request to Consider Revocation of Council Resolution for Item 11.4.3 From Ordinary Council Meeting 23rd September 2015*. The presentation commenced 5.44pm and concluded 5.50pm

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## **6 LATE ITEMS**

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### **Council Decision**

**Moved: Cr Dilley**

**Seconded: Cr Bailey**

**That late item 11.5.7 - Regional Tourism Development Strategy be received for Council consideration.**

**Carried 9/0**

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## **7 CONFIRMATION OF MINUTES**

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### **7.1 Ordinary Council Meetings**

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### **Council Decision**

**Moved: Cr Bailey**

**Seconded: Cr Crowley**

**That the minutes of the ordinary meeting held on 25<sup>th</sup> November 2015 be confirmed as a true and accurate record.**

**Carried 9/0**

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### **Council Decision**

**Moved: Cr Crowley**

**Seconded: Cr Bailey**

**That the minutes of the special meeting held on 9<sup>th</sup> December 2015, with the amendment of the answer to Mr Haygarth's question to 'Yes' be confirmed as a true and accurate record.**

**Carried 9/0**

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### **Business Arising**

#### Appointment of Consultants

Council resolved the motion to reinstate the existing Tuia Lodge Committee lay on the table. Subsequent to the meeting the President and CEO met with Mr Allan Reed to consider his offer to work on a voluntary basis, apart from reimbursement of minor expenses, to progress the transition of the committee from a management to a governance committee. His offer includes ensuring:

- All policies and procedures meet all legislative requirements. Policies would be reviewed at all levels (Board, Management, Staff Care, OH &S etc)
  - New policies and procedures are developed and implemented as/if/when required
  - The organisation managing Tuia Lodge be Incorporated as soon as is practicable.
  - The draft Constitution is approved to enable the above to be implemented (special attention being given to address the concerns relating to the Care facility)
-

remaining a community amenity in the future.)

- That the structure of the entity be carefully considered looking at not just the present but also the future.
- There be a smooth transition of Management to the Board of the Incorporated body when all documentation and approvals have been obtained.
- When the Board is Incorporated, as part of the transition process, the Board change from a Board of Management to a Board of Governance.

It would also include giving serious consideration to all proposals and recommendations outlined in the Agenda of the Special Council Meeting dated 9<sup>th</sup> December 2015.

This would be done in consultation with input from the Council, Tuia Lodge Board Members and the Staff of Tuia Lodge to ensure that all aspects and issues are addressed. The Staff being included gives them ownership of the process.

Mr Reed emphasised that if his offer is accepted, he will not work for the Council or the Board of Tuia Lodge; he will work with both groups to achieve the desired outcomes.

It is essential for full cooperation from all (the Council, Tuia Lodge Board Members and Staff), to achieve desired objectives and/or outcomes.

Mr Reed has had preliminary discussions with some Tuia Lodge Board members who would accept the resolution of Council from the 9<sup>th</sup> of December 2015 subject to minor amendments i.e. removal of the following words:

*'...with members agreeing to undertake the one-day Institute of Australia Company Director's Course...'* and include

*"On appointment to the Board, the newly appointed Board member shall within six (6) months of appointment have undertaken or have made arrangements to undertake the one-day Institute of Australia Company Director's Course' with any costs associated with attendance at the Course being met by the Board."*

Further to discussions with Mr Reed, who acknowledged that there may be a perceived interest due to a family connection with Mr Tuia's family, he has accepted the appointment of another community member to work with him on the project. Mr Marty Ladyman has indicated that he is keen to offer his experience to the process and has an extensive history of business management and qualifications. The following scope of works is proposed:

1. Prepare consultation process;
2. Prepare a communications plan;
3. Develop a risk management plan;
4. Develop and implement a management reporting regime, the KPI's etc;
5. Develop a governance framework including delegation of authority, policy on board appointments, induction process, policy on agenda and minute taking, measuring Board performance, separation of powers, succession planning, revise the staff Code of Conduct;
6. Review all policies and procedures to ensure compliance with all legislative

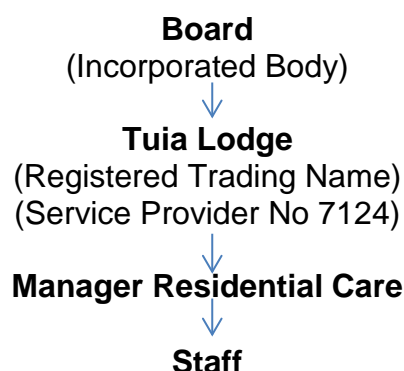
requirements. Policies to be reviewed at all levels (Board, Management, Staff Care, OH &S etc);

7. New policies and procedures are developed and implemented on an as needs basis;
8. At the completion of the review all processes, procedures and policies are in place for possible transfer to a new entity.

There are a few minor adjustments to the original motion in relation to timelines, visitation and assisting with Tuia Lodge building maintenance.

The intention is to work towards the proposed structure:

**Donnybrook-Balingup Aged Care Services Inc.** (suggested name)



Cr Logiudice advised that Ms Vivienne Burnham, Director Aged Care, Department of Health met with Council earlier today to discuss Councils responsibilities as the Approved Care Provider for Tuia Lodge. Ms Burnham has offered to hold a meeting with the Tuia Lodge Board Members and Council to advise the Board of Councils obligations under the Aged Care Act and provide suggestions for a way forward with the management of Tuia Lodge.

**Officer's Recommended Resolution**

**Moved: Cr Crowley**

**Seconded: Cr Dilley**

**That Mr Allan Reed and Mr Marty Ladyman be engaged to facilitate and manage a review of all policies, procedures and legislation requirements at Tuia Lodge on a no-fee basis apart from incidental office expenses (computer cartridges, paper etc.)**

**Lost 3/6**

Cr Mitchell requested the vote be recorded:

For	Against
Cr Crowley	Cr Bailey
Cr Dilley	Cr Mitchell
Cr Van Der Heide	Cr King
	Cr Logiudice
	Cr Mills
	Cr Tan

## Guidelines for Tuia Lodge Board

At the Ordinary Council Meeting on 16<sup>th</sup> December 2009 the following resolution was agreed by absolute majority:

*“That in accordance with the Local Government Act 1995 Section 5.8 Council endorse the following operating guidelines for the Donnybrook-Balingup Aged Care Board:*

- a) Administer all functions necessary at Tuia Lodge to ensure that the operations at Tuia Lodge are carried out in an efficient manner complying with all relevant legislation.*
- b) Prepare annual budgets for consideration and adoption by Council of Tuia Lodge, Langley Villas and Minninup Cottages. NOTE: Items of capital nature and items that are subject to tender requirements will require authorisation from Council.*
- c) Be responsible of the appointment and suspension of all staff in accordance with all relevant legislation and compliance with Human Resources Policy manual of the Shire of Donnybrook-Balingup, the Aged Care Standards and Accreditation Ageing Ltd.*
- d) Be responsible for the smooth operations of the functions of the well-aged units of both Langley Villas and Minninup Cottages, including letting rights, rent determinations and minor building maintenance.*
- e) Be responsible for assessing future needs of the aged community in the Shire particularly in housing and recommending those need to Council.”*

## **Policy/Statutory/Voting Requirements**

As this delegation is withdrawn it is considered appropriate that the motion is rescinded.

### Policy

N/A

### Statutory

Regulation 10 of the *Local Government (Administration) Regulations 1996* states:

### **Revoking or changing decisions made at council or committee meetings - S5.25(1)(e)**

- (1) If a decision has been made at a council or a committee meeting then any motion to revoke or change the decision must be supported:
  - (a) in the case where an attempt to revoke or change the decision had been made within the previous 3 months but had failed, by an absolute majority; or
  - (b) in any other case, by at least  $\frac{1}{3}$  of the number of offices (whether vacant or not) of members of the council or committee, inclusive of the mover.

- (1a) Notice of a motion to revoke or change a decision referred to in subregulation (1) is to be signed by members of the council or committee numbering at least  $\frac{1}{3}$  of the number of offices (whether vacant or not) of members of the council or committee, inclusive of the mover.
- (2) If a decision has been made at a council or a committee meeting then any decision to revoke or change the first-mentioned decision must be made —
  - (a) in the case where the decision to be revoked or changed was required to be made by an absolute majority or by a special majority, by that kind of majority; or
  - (b) in any other case, by an absolute majority.
- (3) This regulation does not apply to the change of a decision unless the effect of the change would be that the decision would be revoked or would become substantially different.

### Voting

#### Absolute Majority

In order for Council to rescind motion 9.4.6 from the Ordinary Council Meeting on 16 December 2009, the support of one third of Council is required in accordance with Local Government Administration Regulation 1996, Section 10(1a).

Cr Dilley referred to the meeting with Vivienne Burnham from the Department of Health held earlier today and requested that the motion to rescind be deferred to allow for further discussion to take place between Council, Tuia Lodge Board and the Department of Health.

### **Procedural Motion**

**Moved: Cr Dilley**

**Seconded: Cr Mills**

**That the motion to rescind be deferred to the February 2016 Ordinary Council Meeting to allow for Council to meet with Tuia Lodge Board and representative from the Department for Health during January 2016.**

**Carried 9/0**

## Revoking Motion

**Moved: Cr**

**Seconded: Cr**

**That the following resolution made at the Ordinary Council Meeting on the 16<sup>th</sup> December 2009 be rescinded:**

***“That in accordance with the Local Government Act 1995 Section 5.8 Council endorse the following operating guidelines for the Donnybrook-Balingup Aged Care Board:***

- e) Administer all functions necessary at Tuia Lodge to ensure that the operations at Tuia Lodge are carried out in an efficient manner complying with all relevant legislation.***
- f) Prepare annual budgets for consideration and adoption by Council of Tuia Lodge, Langley Villas and Minninup Cottages. NOTE: Items of capital nature and items that are subject to tender requirements will require authorisation from Council.***
- g) Be responsible of the appointment and suspension of all staff in accordance with all relevant legislation and compliance with Human Resources Policy manual of the Shire of Donnybrook-Balingup, the Aged Care Standards and Accreditation Ageing Ltd.***
- h) Be responsible for the smooth operations of the functions of the well-aged units of both Langley Villas and Minninup Cottages, including letting rights, rent determinations and minor building maintenance.***
- e) Be responsible for assessing future needs of the aged community in the Shire particularly in housing and recommending those need to Council.”***

**(Absolute Majority Required)**

Cr Dilley requested the following item be deferred to allow for further discussion to take place between Council, Tuia Lodge Board and the Department of Health.

## Procedural Motion

**Moved: Cr Mitchell**

**Seconded: Cr Bailey**

**That the motion to provide guidelines to the Donnybrook-Balingup Aged Care Board be deferred to the February 2016 Ordinary Council Meeting to allow for Council to meet with Tuia Lodge Board and representative from the Department for Health during January 2016.**

**Carried 9/0**



## Officer's Recommended Resolution

**Moved: Cr**

**Seconded: Cr**

**That Council provide the Donnybrook-Balingup Aged Care Board (Committee) the following operating guidelines:**

- **On appointment to the Board, the newly appointed Board member shall within six (6) months of appointment have undertaken or have made arrangements to undertake the one-day Institute of Australia Company Director's Course' with any costs associated with attendance at the Course being met by the Board.**
- **Administer all governance functions of the Donnybrook-Balingup Aged Care Board (Committee);**
- **Oversee the rental processes for Langley Villas and Minninup Cottages;**
- **Prepare annual budgets for consideration and adoption by Council for Tuia Lodge and the well aged units;**
- **Assess future needs of the Shire's aged community and providing input to Council;**
- **Assist with transition arrangements with the view of having the facility ready for handover to the incorporated body by 30 June 2016 or as soon as practicable thereafter in consultation with Council;**
- **Be strictly prohibited from direct involvement in any staff-related matter;**
- **Be strictly prohibited from involvement in any activity that relates to the direct care of residents of Tuia Lodge where direct care refers to activities ordinarily carried out by a qualified staff member (family members excepted) with Board providing advice when sought by Facility Manager;**
- **Be strictly prohibited from direct involvement with the management of Tuia Lodge operations however may assist with finalisation of the building extensions and minor maintenance at Tuia Lodge.**

**(Absolute Majority Required)**

The Donnybrook-Balingup Aged Care Board (Committee) have requested:

- that all HR matters be handled by Workwise Advisory Service and work towards resolution for all outstanding matters; and
- that Council place an advertisement seeking nominations for an additional two members of the Tuia Lodge Board; to be considered at the February 2016 Ordinary Council Meeting.

The minutes for the Electors meeting held on 10 December 2015 will be tabled at the February 2016 Ordinary Council Meeting. Council elected to defer the motion raised at the Electors meeting until the minutes are presented at the February 2016 meeting.

### **Procedural Motion**

**Moved: Cr Dilley**

**Seconded: Cr Mitchell**

**That the motion raised at the Electors Meeting on 10 December 2015 be deferred to the February 2016 Ordinary Council Meeting.**

**Carried 7/2**

### **Council Decision**

**Moved: Cr**

**Seconded: Cr**

**That the minutes of the electors meeting held on 10<sup>th</sup> December 2015 be confirmed as a true and accurate record.**

### **Business Arising**

The following motion was carried at the Annual Meeting of Electors held on 10<sup>th</sup> December 2015.

“That if a number of Councillors do not resign to bring on a fresh Council election then this Elector’s meeting supports a vote of no confidence in the full Council”.

The motion was passed by a majority of electors present with the exception of 7 electors that voted against the motion.

The Electors present requested that Council forward the motion passed to the Minister for Local Government and Communities.

### **Resolution from the Electors Meeting**

**Moved**

**Seconded**

**That in accordance with the wishes of the majority of elector’s present at the Annual Elector’s Meeting held on 10<sup>th</sup> December 2015 that Council write to the Minister for Local Government and Communities informing the Minister of the resolution passed at this meeting.**

**“That if a number of Councillors do not resign to bring on a fresh Council election then this Elector’s meeting supports a vote of no confidence in the full Council”.**

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## **8 ELECTED MEMBERS MOTIONS**

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Cr Bailey has proposed a notice of motion that, in compliance with Section 5.23 (2) of the Local Government Act 1995, will be handled during 11.6 - Confidential Items.

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## **9 MINUTES OF PREVIOUS MEETINGS**

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

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#### **Council Decision**

**Moved: Cr Tan**

**Seconded: Cr Van Der Heide**

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

- **Community Awards and Grants Committee Meeting – 3 December 2015**
- **Balingup Townscape Committee Meeting – 9 December 2015**
- **Donnybrook Townscape Committee Meeting – 9 December 2015**

**Carried 9/0**

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## **10 REPORTS OF COMMITTEES**

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### **10.1 *Donnybrook Townscape Committee***

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<b>10.1.1</b>	<b>SUBJECT:</b>	<b>PROPOSED MILL PARK DEVELOPMENT, KIRUP</b>
	<b>Location:</b>	<b>Reserve 46896, unmade road reserve, rail reserve and Lot 151 SW Highway, Kirup</b>
	<b>Applicant:</b>	<b>Kirup Progress Association Inc.</b>
	<b>Zone:</b>	<b>General Agriculture, Railway reserve</b>
	<b>File Ref:</b>	<b>TP07/3 A3617</b>
	<b>Author:</b>	<b>Tim Shingles (Contract Planner)</b>
	<b>Report Date:</b>	<b>20 November 2015</b>
	<b>Attachments:</b>	<b>10.1.1 – Mill Park Concept Plan</b>

#### **Background**

The Kirup Progress Association met with staff and Councillors at Mill Park on 1st September 2015 to discuss a concept plan for the improvement of Mill Park. The Association has now submitted a draft development concept plan which proposes improvements to provide an area for locals and visitors to enjoy recreational facilities in a safe environment (Attachment 7.1.1).

The Association seeks the Shire's support for the proposals as well as financial support and assistance with the provision of facilities and services.

## Comment

A Management Order has been issued in favour of the Shire in relation to Reserve 46896 for the purpose of Landscape Protection. Any use or development of the Reserve should be in accordance with the Reserve purpose.

The proposals include:

- Heritage and fitness trail through Reserve 46896, portion of Lot 151 and adjacent rail/road reserves.
- Direction and information signs
- Playground equipment
- Skateboard area
- Water feature
- Fencing, culverts
- Toilets.

A plan and legend are attached that indicate the draft proposals. No detailed costs are available at this time.

It is anticipated that the proposals will be staged and implemented over a number of years with initial stages achieved relatively quickly. The project will require the cooperation of a number of agencies e.g. Public Transport Authority (PTA).

Stage 1 includes a 555 metre trail (1.5m wide and 100mm deep) over Reserve 46896 and portion of Lot 151. Currently stockpiled gravel stabilised with cement supplied by the Shire) will be used to create the trail. Work would be carried out by Association members although some Shire assistance may be required e.g. to cart any additional required gravel.

The Association also seeks the inclusion of a toilet facility in the Shire's budget considerations for the coming financial year or the following year although no indication of the specification is available.

Where future stages of the trail cross the railway, the approval of PTA will be required, and the written agreement of owner of Lot 151 will be required where the trail enters that land for a short distance. The trail does not appear to impact on the Highway reserve therefore Main Roads WA comment may not be required.

As some improvement of the Park has already been carried out by the Association, formal advertising of the draft plan is not considered essential subject to the Association providing evidence that they have communicated their future plans for the Park to the Kirup community.

The submitted proposals are considered to be consistent with the Shire's objectives for the Reserve and the Reserve purpose at this time and may be generally supported subject to resolution of issues raised in relation to the proposed trail accessing land other than land managed by the Shire. Apart from achieving permission to access other land, the Shire

may need to accept public liability for facilities that are considered Shire managed but are on private property or Crown land managed by other agencies.

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

Where advertising is required, Local Planning Policy 9.22 and Local Planning Scheme No. 7 provide advertising requirements.

#### Voting

Simple Majority

### **Financial Implications**

The draft plan outlines a number of proposals that have potential future funding implications should it be implemented e.g. toilet facility ad Shire 'in kind' works/cartage.

### **Strategic Implications**

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

Outcome 2.4 - Our heritage areas and localities are acknowledged.

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

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

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

Outcome 3.9 - Existing community spirit and pride is maintained.

Outcome 4.1 - An informed, engaged and involved community that actively participates.

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

**Moved: Cr Bailey**

**Seconded: Cr Tan**

- 1. That Council resolve to support the objectives of the Kirup Progress Association in relation to Mill Park (Reserve 46896) in Kirup, including the proposals outlined in the draft concept sketch submitted on 27 October, 2015, subject to the following:**
  - a. Approval of a development application for the proposed development of recreation and other facilities in Mill Park.**
  - b. All land use and development being in accordance with the Reserve purpose, 'Landscape Protection'.**
  - c. Written approval of the Public Transport Authority prior to any land use or works being carried out in the Railway reserve adjacent to Mill Park.**
  - d. Written agreement of owner of Lot 151 South Western Highway prior**

- to any land use or works being carried out on Lot 151.
  - e. Adequate risk management assessment being carried out at each stage of development, particularly in relation to the installation of passive fitness equipment, skateboard facility and playground equipment.
  - f. Clarification of responsibility for public liability where Shire managed facilities are constructed on private property or Crown land managed by other agencies.
2. That Council include consideration of an appropriate toilet facility for Mill Park in its budget deliberations.

Carried 9/0

<b>10.1.2</b>	<b>SUBJECT:</b>	<b>Donnybrook Community Garden</b>
	<b>Location:</b>	<b>Railway Reserve – north of the CRC building (Old Station Master's House), SW Hwy, Donnybrook.</b>
	<b>Applicants:</b>	<b>Administration</b>
	<b>Zone:</b>	<b>N/A</b>
	<b>File Ref:</b>	<b>RES 02/1</b>
	<b>Author:</b>	<b>John Attwood, CEO (<i>Deb Vanallen, Community Development Officer-Team Leader</i>)</b>
	<b>Report Date:</b>	<b>4 December 2015</b>
	<b>Attachments:</b>	<b>Nil</b>

### Background

The concept of a Community Garden in Donnybrook has been discussed in broad terms throughout the community over many years. Donnybrook District High School, the Donnybrook Craft Group, the 1<sup>st</sup> Donnybrook Scout Group, the Donnybrook and Balingup Chamber of Commerce and numerous community members have raised the possibility.

Donnybrook Community Resource Centre (Donnybrook CRC) Management Committee and staff are keen to broaden the Centre's range of community projects. They are currently assessing a number of new projects/initiatives in consideration of each project's financial viability, overall community benefits, and the projects ability to assist the Donnybrook CRC meet the performance outcomes of the Department of Regional Development.

The concept of establishing a community garden was raised recently by the Donnybrook CRC in response to renewed community interest and the identification of a suitable grant. The Department of Local Government and Communities provides funding assistance for the establishment or development of community gardens in

Western Australian communities. \$100,000 is available each financial year, and new community gardens may apply for funding of up to \$20,000.

Cr Dawn Tan has made contact with the funding body which has encouraged the Donnybrook CRC to submit an application in the current round. The Department is aware that the project is in its infancy, however has indicated that if successful, the grant funds could be used for the following:

- garden feasibility, planning and design
- development of policies and manuals
- training, workshops and other events held at the community garden
- community engagement strategies and projects
- advertising and promotion, including signage
- building the capacity of the community garden sector and volunteers
- evaluation of an existing garden and its programs
- infrastructure (ie reticulation, fencing)
- consumable items such as soil, mulch, compost, etc.

### **Comment**

Community Gardens are becoming increasingly popular due to their potential to increase a sense of community ownership, identity and spirit. Community gardens bring people from a wide range of backgrounds together.

There is a growing body of research which suggests that community gardens can contribute to crime prevention in the community providing opportunities to meet neighbours and increase eyes on the street. Community gardens offer unique opportunities for multi-cultural interaction, and valuable inter-generational exposure to cultural traditions.

They also offer unique opportunities to teach our local youth about:

- where food comes from,
- basic business principles,
- the importance of community and stewardship,
- issues of environmental sustainability and,
- job and life skills.

Community gardening is a healthy, inexpensive activity for youth that can bring them closer to nature, and allow them to interact with each other in a socially meaningful and physically productive way.

Once established, many community gardens throughout Australia have demonstrated an ability to generate an income source which can contribute to the garden's ongoing operational costs. Both the Greenbushes Community Garden and the Bridgetown Community Garden are established to this level.

The health benefits of community gardens are numerous with studies showing that community gardeners and their children eat healthier diets than do non-gardening families. The benefits of Horticulture Therapy can be and are used to great advantage in community gardens.

If well maintained, community gardens can add beauty to the community and heighten people's awareness and appreciation for living things. Community gardens filter rainwater, helping to keep lakes, rivers, and groundwater clean. They restore oxygen to the air and help to reduce air pollution.

Community feedback from the business community also suggests that a Community Garden which is located in a visible location such as on the SW Hwy, Donnybrook, also has the potential to increase tourism by encouraging people to stop, stay and spend.

Cr Dawn Tan is drafting a grant application on behalf of the Donnybrook CRC. The application will be submitted to the Department of Local Government and Communities by the closing date of 17th December, 2015. A Donnybrook Community Garden working group has yet to be established, however it is envisaged that this will be done as part of the initial planning stage.

A number of potential sites are currently being considered including the grassed area directly north of the Donnybrook CRC building (Old Station Master's House) Railway Reserve, SW Hwy, Donnybrook. Other potential sites include a location adjoining the Preston River in order that the Garden can access water from the Preston River.

### **Consultation**

The Donnybrook Community Garden consultation is in its infancy. Several members of the Donnybrook CRC have discussed the concept with the Shire's Community Development Officers, and background information has been provided for consideration in preliminary planning of the garden and establishment of a committee.

Cr Dawn Tan has been working with the Donnybrook CRC, and significant community and local business support has been expressed for the proposal to establish a community garden in Donnybrook.

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

N/A

### **Financial Implications**

Nil

### **Strategic Implications**

Environment - Objective 2: To have a balanced respect for our heritage, natural and built environment.



Social - Objective 3: A healthy, safe and inclusive community enjoying a high quality of life.

**Officer's Recommended Resolution**

**Moved: Cr Mills**

**Seconded: Cr Tan**

**That Council supports the concept of a Community Garden by the Donnybrook Community Resource Centre.**

**Carried 8/1**

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**11 REPORTS OF OFFICERS**

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**11.1 *Manager Finance and Administration***

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**11.1.1 ACCOUNTS FOR PAYMENT**

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

**Moved: Cr Tan**

**Seconded: Cr Bailey**

**That accounts authorised and paid under delegation No. 3.2 by the Chief Executive Officer represented by cheques CCP3073-CCP3094, EFT8368a-EFT8679A, 51615-51658, DD20176, Trust: 3329 - 3333, EFT8598a totalling \$1,000,959.64 be confirmed for payment.**

**Carried 9/0**

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**11.1.2 MONTHLY FINANCIAL REPORT**

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

**Moved: Cr**

**Seconded: Cr**

**That the monthly reports for the period ended 31 October 2015, and 30 November 2015 received.**

**Carried 9/0**

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## **11.2 Manager Works & Services**

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Nil

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

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Nil

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## **11.4 Principal Planner**

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<b>11.4.1</b>	<b>SUBJECT:</b>	<b>REQUEST TO CONSIDER REVOCATION OF COUNCIL RESOLUTION FOR ITEM 11.4.3 FROM ORDINARY COUNCIL MEETING 25 NOVEMBER 2015.</b>
	<b>Location:</b>	<b>Lot 170 South Western Highway, Donnybrook</b>
	<b>Applicants:</b>	<b>Mr Antonio Scaffidi</b>
	<b>Zone:</b>	<b>Priority Agriculture</b>
	<b>File Ref:</b>	<b>TP 17</b>
	<b>Author:</b>	<b>Bob Wallin (Principal Planner)</b>
	<b>Report Date:</b>	<b>7 September 2015</b>
	<b>Attachments:</b>	<b>Attachment 11.4.1(1) – Previous Council Item</b> <b>Attachment 11.4.1(2) – Constraints to Building</b>

### **Background**

Council at its meeting on 25 November 2015 resolved to:

*“To refuse to initiate an amendment to rezoning Lot 170 South Western Highway, Donnybrook on the grounds that:*

- 1) The proposal is inconsistent with the strategic direction expressed in the Shire’s Local Planning Strategy and promotes expansion of industrial zoned land within the “Sandhills Industrial Estate” locality;*
- 2) Supporting industrial activity at such a prominent site at the entrance to town would be contrary to the principals of orderly and proper planning and will erode the streetscape appeal and landscape values of the locality;*
- 3) There is potential to create an undesirable precedent for further similar proposals to be promoted;*
- 4) The site has limited potential to accommodate industrial uses due to the physical constraints imposed by the lot in terms of area and configuration.*
- 5) There is potential for increased land use conflict; and*
- 6) The site contains an existing dwelling which is not a permitted use under the Light Industry zone.”*

A copy of the report is contained in Attachment 11.4.1(1).

The applicant has now requested that Council reconsider this item again. The applicant has been advised that there is a need to provide new additional information to help make a different recommendation. No new additional information has been provided.

In terms of process to rescind a Council resolution, the following applies:

- Step 1) Agree to consider rescinding. This requires a request in writing to be supported by the signatures of three Councillors;
- Step 2) Council to consider a motion to rescind;
- Step 3) If the motion to rescind is passed, Council can then consider a new resolution.

There is an opportunity for the applicant to seek direction from the Minister for Planning on this matter. Section 76 of the Planning and Development Act 2005 provides the Minister for Planning with the power to direct the local government to initiate and amendment to its Local Planning Scheme.

Discussion with the applicant indicates that he does not wish to exercise this right.

Should Council resolved to initiate a rezoning, the rezoning process involves the following key steps:

- Step 1 - Council to resolve to initiate an amendment to LPS7
- Step 2 - Applicant to prepare documents;
- Step 3 - Council to grant consent to advertise;
- Step 4 - Council to consider any submissions received during advertising and make recommendation for final approval
- Step 5 – Council to refer recommendation to WAPC
- Step 6 – WAPC to make recommendation for final approval
- Step 7 – Minister for Planning to grant final approval; and
- Step 8 – publication in Government Gazette.

This request is at the start of the process. The purpose of this initiation request is to work out if Council believes that the proposal is a good idea in general town planning terms. This then enables the applicant to proceed with some certainty before committing to the expense of preparing legal documents and preparing technical studies.

In considering this request, it may be helpful to consider the following points:

#### Planning Framework

There has been no change in the planning framework since the previous decision (23<sup>rd</sup> September 2015). The details of the planning considerations are detailed in the previous report (Attachment 1).

Please note that should Council resolve to initiate this rezoning, the WAPC and the Minister for Planning are still involved in the decision making process.

Any resolution to support this proposal needs to be on convincing town planning grounds. Without being grounded in clearly explained planning principles, the amendment has limited prospect of successfully reaching finalisation.

#### Potential for new business opportunities

Creating vibrant and attractive localities is one of the key goals of town planning. Having flourishing and successful businesses helps towards creating vibrant, attractive and successful towns.

Creating “new business” opportunities at the expense of local amenity and neighbours ability to enjoy their land is not the same thing as above. Local Planning Scheme No.7 (LPS7) and the Local Planning Strategy already identify areas for “light industrial activity”. These existing sites have been thought about in terms of land use conflict, accessibility, servicing and amenity.

Creating a new “Light Industrial” lot at this site cannot be thought of in isolation. It may create a new business opportunity. However, there are also costs to counter the potential “benefits” and the wider context needs to be included within the calculation. There is a good prospect that this proposal may benefit the applicant and upset a number of surrounding landowners. It cannot be reasoned that the overall outcome will necessarily be positive.

It is noted that worries about impacts on neighbours and their views could be confirmed or dismissed following any advertising process. It will then be a matter of balancing the merits and benefits enjoyed by one land owner against the established planning framework and aspirations and expectations of surrounding landowners.

#### Inability to sell land

The applicant has advised that he has not been able to find a buyer for the property. This is not a town planning matter. This is a reflection of market conditions. The market determines demand and price - the landowner determines supply. Town planning considerations are firmly anchored to considering:

- a) Build form design and streetscape impacts;
- b) Land use compatibility and potential for land use conflict; and
- c) Servicing capacity and impacts on infrastructure such as road networks, power supply....

The ability to sell land and find a buyer for a price that is acceptable to the seller is not a town planning consideration.

#### Building constraints

Should a rezoning be successful, it does not follow that “light industrial” development and use can occur. Attachment 2 shows the constraints that exist. The key ones are:

- a) Building setbacks;
- b) Restriction to one cross over (access point to the lot). This is a Main Roads Western Australia requirement;

- c) Ability to provide safe access through the site with appropriate site lines;
- d) ability to satisfy design requirements defined in LPS7 and Local Planning Policies.

Clause 5.17 of LPS7 requires new buildings to reflect existing development in the immediate locality in terms of building style, scale, bulk and material selection. Local Planning Policy 9.17 requires building facades addressing the street to contain a high level of architectural design. An standard industrial shed would unlikely be able to satisfy LPS7 and policy requirements.

The applicant has been provided with information regarding the design constraints. It was suggested that it would assist Council in making a decision by addressing these points. The applicant has declined to provide Council with additional information to assist in the decision making process.

#### Summary and Recommendation

There has been no change in the town planning framework for the locality. On this basis, it is recommended that Council resolve to not initiate the rezoning for the same reasons as before. However, should Council wish to initiate a rezoning, an alternative recommendation is also provided.

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

##### Statutory

The amendment process will need to follow the requirements and processes described in the Planning and Development Act 2005 and supporting (and recently gazetted Planning Regulations).

If supported, the amendment process would follow the path of a “complex amendment” as it reflects a departure from the strategic direction defined by the recently adopted Local Planning Strategy.

##### Voting

Simple Majority

#### **Financial Implications**

N/A. The applicant is responsible for preparing all documents and paying an application fee to cover administrative costs.

#### **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 town sites are attractive, well presented and maintained.

The officer drafted two recommendations for Council to consider.

Cr Bailey and Cr Mills were in support of the officer's alternate resolution to grant consent to initiate an amendment to rezone lot 170 South Western Highway from 'Priority Agriculture' to 'Light Industry'. In order for this motion to be considered the two previous resolutions, motion 11.4.3 made by Council on 23 September 2015 and motion 11.4.1 made by Council on 25 November 2015 would need to be rescinded. In accordance with Local Government Administration Regulation 1996, Section 10(1a), to rescind a motion requires the support of one third of Council. The motion was not put as support from one third of Council was not received.

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

**Moved: Cr Mitchell**

**Seconded: Cr King**

**That the Council resolve to refuse to initiate an amendment to rezoning Lot 170 South Western Highway, Donnybrook on the grounds that:**

- 1) The proposal is inconsistent with the strategic direction expressed in the Shire's Local Planning Strategy which promotes expansion of industrial zoned land within the "Sandhills Industrial Estate" locality;**
- 2) Supporting industrial activity at such a prominent site at the entrance to town would be contrary to the principals of orderly and proper planning and will erode the streetscape appeal and landscape values of the locality;**
- 3) There is potential to create an undesirable precedent for further similar proposals to be promoted;**
- 4) The site has limited potential to accommodate industrial uses due to the physical constraints imposed by the lot in terms of area and configuration.**
- 5) There is potential for increased land use conflict; and**
- 6) The site contains the existing dwelling which is not a permitted use under the Light Industry Zone.**

**Carried 7/2**

## Officer's Alternate Resolution

**Moved: Cr Bailey**

**Seconded: Cr Mills**

**That the Council resolve to:**

- 1. Grant consent to initiate an amendment to rezone Lot 170 South Western Highway, Donnybrook from "Priority Agriculture" to "Light Industry";**
- 2. Require the preparation of an amendment document to be prepared and presented to Council for consent to advertise;**
- 3. Require the amendment document to include a "Concept Plan" that shows how the land can logically accommodate light industrial development, addressing design points such as;**
  - i. Landscaping;**
  - ii. Setbacks;**
  - iii. Safe vehicular access to and from the site;**
  - iv. Building design outcomes consistent with clause 5.17 of LPS7 and Local Planning Policy 9.17; and**
- 4. Advise the applicant that an amendment assessment fee of \$2750.00 will be required when submitting documents requesting consent to advertise.**

In accordance with Local Government Administration Regulation 1996, Section 10(1a), to rescind a motion requires the support of one third of Council. The motion was not put as support from one third of Council was not received.

**\*\*6.30pm – Members from the Public Gallery left the meeting.**

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### **11.5 Chief Executive Officer**

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<b>11.5.1</b>	<b>SUBJECT:</b>	<b>BALINGUP COMMUNITY LIBRARY</b>
	<b>Location:</b>	<b>Shire of Donnybrook-Balingup</b>
	<b>Applicants:</b>	<b>Balingup Primary School</b>
	<b>Zone:</b>	<b>N/A</b>
	<b>File Ref:</b>	<b>PRO 02/4</b>
	<b>Author:</b>	<b>John Attwood - CEO (<i>Kate O'Keeffe</i>)</b>
	<b>Report Date:</b>	<b>7 December 2015</b>
	<b>Attachments:</b>	<b>Nil</b>

#### **Background**

The Balingup Primary School has written to Council seeking support for their proposal to relocate the Balingup Community Library to the Balingup Primary School in a similar arrangement to the Donnybrook District High/ Community Library.

The Balingup Library, located at Jayes Road, Balingup, currently has limited opening hours on Tuesday, Thursday and Saturday.

The advantages to the proposal include:

- Having school facilities being utilised more regularly;
- Greater interactions between the school and members of the local community;
- Convenient location – being a short distance from the local Post Office;
- Wider option of resources for both the school and community members- including physical and electronic; and
- While library opening times will not change in the short term there may be such a possibility in the future if and when extra services are required.

### **Comment**

The school has a vision to provide a broader option of services to benefit community:

- The local playgroup has been relocated to utilise school facilities;
- The school provides a 3year old Kindergarten service to local families;
- The School has supported a community member who provides a daycare service utilising some of the school facilities;
- The school arranged for the community nurse, who services the school, to deliver presentations to these groups outlining the services she can provide;
- The school is looking at other service providers who may be able to capture these young parents during these sessions.

The school has discussed their plans to relocate the library with the Balingup Progress Association, who have visited the school to assess the facilities currently available and are in support of the proposal.

The school would like to liaise and collaborate more widely with the community to be able to gauge support for the relocation of the local library from its current location to the school.

### **Consultation**

The school has obtained the support of the Balingup Progress Association and would like to undertake further consultation to gauge community support.

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

Simple majority

### **Financial Implications**

N/A



## Strategic Implications

- Outcome 3.2 - Quality community and recreational facilities that are well used by all ages and abilities.
- Outcome 3.10 - The community has access to appropriate services and facilities to enhance their health and well-being.

## Officer's Recommended Resolution

**Moved: Cr Bailey**

**Seconded: Cr Van Der Heide**

- 1. That Council support further investigation into the Balingup Primary School's proposal to relocate the Balingup Community Library to the Balingup Primary School.**

**Carried 8/1**

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<b>11.5.2</b>	<b>SUBJECT:</b>	<b>COUNCIL MEETINGS - 2016</b>
	<b>Location:</b>	<b>Shire of Donnybrook/Balingup</b>
	<b>Applicants:</b>	<b>Administration</b>
	<b>Zone:</b>	<b>N/A</b>
	<b>File Ref:</b>	<b>CNL 16</b>
	<b>Author:</b>	<b>J Attwood – CEO (<i>Kate O’Keeffe, Executive Assistant</i>)</b>
	<b>Report Date:</b>	<b>7 December 2015</b>
	<b>Attachments:</b>	<b>N/A</b>

## Background

Council currently conducts one ordinary meeting on the 4<sup>th</sup> Wednesday of each month commencing at 5.00pm, a process which was adopted on 19<sup>th</sup> December 2008.

Council also conducts regular forum sessions to keep Councillors abreast of current issues and to allow for informal discussion on matters of interest to Council.

## Comment

To allow Councillors and officers to be able to take extended leave if required over December/January it is proposed that no Ordinary Council meeting be held in January 2016.

To reduce the number of weeks between the December 2015 and February 2016 meeting it is proposed to bring the February meeting forward to the 10<sup>th</sup> February 2016.

Due to the large attendance at the October 2015 OCM in Balingup, the Balingup Progress Association have requested two meetings be held in Balingup each year.

Below are the suggested dates for the Ordinary Council Meetings for 2016. The April meeting falls within the school holidays and the December meeting will be held in the 3<sup>rd</sup> week.

**Dates**

Wednesday 10 February 2016  
Wednesday 23 March 2016  
Wednesday 27 April 2016 (in Balingup)  
Wednesday 25 May 2016  
Wednesday 22 June 2016  
Wednesday 27 July 2016  
Wednesday 24 August 2016  
Wednesday 28 September 2016  
Wednesday 26 October 2016 (in Balingup)  
Wednesday 23 November 2016  
Wednesday 21 December 2016 (3<sup>rd</sup> Wednesday)

The forums would be held on an as required basis, initiated by either Councillors or staff. Councillor's attendance at these forums would be optional and the duration of the forums would be less than two hours.

**Consultation**

N/A

**Policy/Statutory/Voting Implications**

Policy

Nil

Statutory

The Local Government Act, section 5.3 (2) provides:

*“Ordinary meetings are to be held not more than three months apart”.*

Voting

Simple Majority

**Financial Implications**

N/A

**Strategic Implications**

There will be no strategic implications, as Council will still conduct 11 ordinary meetings in 2016.

## **Officer's Recommended Resolution**

**Moved: Cr Dilley**

**Seconded: Cr Van Der Heide**

- 1 That the following dates for Ordinary Council meetings for 2016 be adopted.**

**Dates**

**Wednesday 10 February 2016**

**Wednesday 23 March 2016**

**Wednesday 27 April 2016 (in Kirup)**

**Wednesday 25 May 2016**

**Wednesday 22 June 2016**

**Wednesday 27 July 2016**

**Wednesday 24 August 2016**

**Wednesday 28 September 2016**

**Wednesday 26 October 2016 (in Balingup)**

**Wednesday 22 November 2016**

**Wednesday 21 December 2016 (3<sup>rd</sup> Wednesday)**

- 2 That monthly Council Meetings be held on the fourth Wednesday of each month with the exception of the February meeting which will be held on the second week of the month commencing at 5.00pm, and the December meeting which will be held on the third Wednesday of the month commencing at 5.00pm.**
- 3 That Council hold an Ordinary Council meeting in Kirup on 27 April 2016, and in Balingup on 26 October 2016.**

**Carried 8/1**

<b>11.5.3</b>	<b>SUBJECT:</b>	<b>LOCAL GOVERNMENT REPRESENTATIVE: SOUTH WEST DEVELOPMENT COMMISSION BOARD</b>
	<b>Location:</b>	<b>South West Region of Western Australia</b>
	<b>Applicants:</b>	<b>South West Development Commission</b>
	<b>Zone:</b>	<b>N/A</b>
	<b>File Ref:</b>	<b>DEP 28</b>
	<b>Author:</b>	<b>John Attwood – CEO (<i>Kate O’Keeffe, Executive Assistant</i>)</b>
	<b>Report Date:</b>	<b>7 December 2015</b>
	<b>Attachments:</b>	<b>11.5.2 (1) Nomination Form 11.5.2 (2) SWDC Board Charter</b>

### **Background**

Vacancies exist for a local government appointment to the South West Development Commission’s Board of Management. The current term for Mayor Ian Stubbs, City of Busselton, expired on 19<sup>th</sup> October 2015.

### **Comment**

The Commission’s role is to co-ordinate and promote economic development in the South West Region. Its aims include maximising job creation, broadening local economies, identifying the need for infrastructure services, providing information and advice to business and ensuring access to government services.

The 10 member board, which meets monthly, sets policy and makes decisions about a broad range of economic development projects and initiatives involving the Commission.

People nominated as prospective members should possess interest and knowledge relevant to regional communities. Relevant fields of involvement could include business and industry; employment, education and training; tourism and recreation.

Applicants will be assessed on their ability to make a significant contribution to a board of management to together with a demonstrated involvement in either the economic or social development of the region. The terms of appointment are for two and three years respectively. It is also important to note Board Members are required to represent the interest of the South West and not a particular locality.

A merit-based process will be used for selecting local government representatives to the Board. Nominations, including a Curriculum Vitae, should be submitted on the attached pro-forma by 5.00pm on Friday, 18 December 2015.

### **Consultation**

N/A

## Policy/Statutory/Voting Implications

Simple Majority

## Financial Implications

N/A

## Strategic Implications

N/A

No action was taken with this item.

## Officer's Recommended Resolution

**Moved: Cr**

**Seconded: Cr**

**For Council consideration; no nominations were put forward.**

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<b>11.5.4</b>	<b>SUBJECT:</b>	<b>APPOINTMENT OF PRINCIPAL ENVIRONMENTAL HEALTH OFFICER AS AUTHORISED PERSON UNDER VARIOUS ACTS AND REGULATIONS</b>
	<b>Location:</b>	<b>SHIRE OF DONNYBROOK-BALINGUP</b>
	<b>Applicants:</b>	<b>SHIRE OF DONNYBROOK-BALINGUP</b>
	<b>Zone:</b>	<b>N/A</b>
	<b>File Ref:</b>	<b>HLT 01/1</b>
	<b>Author:</b>	<b>John Attwood – Chief Executive Officer (Lucy Bourne, Governance Officer)</b>
	<b>Report Date:</b>	<b>8 December 2015</b>
	<b>Attachments:</b>	<b>Nil</b>

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## Background

Pursuant to the following Acts and Regulations, a local government shall, in writing appoint persons to exercise on behalf of the local government the powers conferred on an authorised person by those Acts and Regulations:

*Health Act 1911, Section 26*

To act as its deputy in carrying out the local government's functions under this Act.

*Caravan Parks & Camping Grounds Act 1995*

- Part 3, Section 17 (1)

For the purpose of enforcing the provisions of the Caravan Parks and Camping Grounds Act 1995 and Regulations 1997, pursuant to Part 3,

- Part 4, Section 23 (11)

*Caravan Parks & Camping Grounds Regulations 1997*

Section 17(1)

For the purposes of issuing an infringement notice for an alleged prescribed offence pursuant to Part 4, Section 23 (11).

For the purposes of carrying out the functions of the local government pursuant to Part 1 Regulation 6.

### **Comment**

Mr Jeff Somes has been appointed Principal Environmental Health Officer with the Shire of Donnybrook-Balingup from 14 December 2015 and needs to be appointed by Council as authorised persons under these Acts and Regulations.

### **Consultation**

N/A

### **Policy Implications**

N/A

### **Statutory Implications**

Authorisation is required under:

*Health Act 1911, Section 26*

*Caravan Parks & Camping Grounds Act 1995 - Part 3, Section 17 (1) and Part 4, Section 23 (11)*

*Caravan Parks & Camping Grounds Regulations 1997 – Regulation 6*

### **Voting Implications**

Simple majority

### **Financial Implications**

Cost of publishing notice in the WA Government Gazette – approximately \$150.

### **Strategic Implications**

Shire of Donnybrook-Balingup Strategic Community Plan states:

Outcome 3.8 – Maintain a safe and friendly community environment.

## Officer's Recommended Resolution

**Moved:** Cr Dilley

**Seconded:** Cr Crowley

- 1 That Jeff Some is appointed as authorised persons for the Shire of Donnybrook-Balingup, to administer the following Acts and Regulations -

*Health Act 1911, Section 26*

*Caravan Parks & Camping Grounds Act 1995 - Part 3, Section 17 (1) and Part 4, Section 23 (11)*

*Caravan Parks & Camping Grounds Regulations 1997 – Regulation 6*

- 2 That this appointment is published in the State Government Gazette.

Carried 9/0

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11.5.5	<b>SUBJECT:</b>	<b>REVIEW OF THE LOCAL GOVERNMENT (RULES OF CONDUCT) REGULATIONS 2007</b>
	<b>Location:</b>	N/A
	<b>Applicants:</b>	Department of Local Government & Communities
	<b>Zone:</b>	N/A
	<b>File Ref:</b>	DEP 20/3
	<b>Author:</b>	John Attwood, CEO ( <i>Lucy Bourne – Governance Officer</i> )
	<b>Report Date:</b>	8 December 2015
	<b>Attachments:</b>	NIL

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## Background

The Department of Local Government and Communities has commenced a review of the Local Government (Rules of Conduct) Regulations 2007 with the release of a consultation paper.

The Regulations, which provide a disciplinary framework to deal with minor breaches by local government councillors, are being reviewed in response to a range of concerns that have been raised by the sector.

## Comment

A consultation paper has been prepared which sets out findings from the review of the current process and proposes and number of regulatory and process amendments in response to those findings.

The proposals encompass four key elements:

- Amending the regulations to improve clarity and alignment with policy intent
- Improving guidance material and complaint documentation.
- Encouraging mediation and conciliation as an alternative to complaints about interpersonal disputes.
- Codifying Standards Panel procedures and practice, and simplifying reporting.

Council is encouraged to provide comments on the consultation paper, which can be found on the Department website at [www.dlgc.wa.gov.au](http://www.dlgc.wa.gov.au) . Submissions close on Friday 4 March 2016.

## **Consultation**

N/A

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

### Policy

N/A

### Statutory

*Local Government (Rules of Conduct) Regulations 2007*

### Voting

Simple majority

## **Financial Implications**

N/A

## **Strategic Implications**

Community Strategic Plan Outcome 4.3: An open and accountable local government that is respected, professional and trusted.

## **Officer's Recommended Resolution**

**Moved: Cr Crowley**

**Seconded: Cr Tan**

**That Council consider the proposed amendments to the *Local Government (Rules of Conduct) Regulations 2007* and provide any comments they may have prior to the Ordinary Council Meeting on 10 February 2016, to enable a submission from Council to be forwarded to the Department of Local Government and Communities.**

**Carried 9/0**



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<b>11.5.6</b>	<b>SUBJECT:</b>	<b>Review of the Shire's Community Grants, Sponsorships, Donations and Waiver of Fees</b>
	<b>Location:</b>	<b>Shire of Donnybrook-Balingup</b>
	<b>Applicants:</b>	<b>N/A</b>
	<b>Zone:</b>	<b>N/A</b>
	<b>File Ref:</b>	<b>FNC 08/6</b>
	<b>Author:</b>	<b>J Attwood (D Vanallen)</b>
	<b>Report Date:</b>	<b>7 Dec 2015</b>
	<b>Attachments:</b>	<b>11.5.6 - Draft Shire of Donnybrook - Balingup Community Funding Scheme</b>

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## **Background**

Members of the Community Grants and Awards Committee identified a need for a review and revision of the Community Grants Scheme to eliminate inconsistencies in the current policies, and ensure a more 'all encompassing' policy/scheme which would better service the needs of the community.

The review process has involved assessing the Shire's current Community Grants Guidelines & Policies, as well as a broader assessment which has incorporated the Shire's current procedure for assessing and granting funds for requests for sponsorship, donations and the waiver of fees.

In addition, the Community Development Officers conducted a comparative analysis of the community grants/donations/sponsorship/waiver of fees guidelines & policies of nine other Shires/Councils including:

- City of Busselton
- City of Bunbury
- City of Augusta Margaret River
- Shire of Nannup
- Shire of Bridgetown Greenbushes
- City of Stirling
- City of Vincent
- City of Swan
- City of Wanneroo

The staff assessed the data, and presented this information along with a series of recommendations to a Councillor briefing in May 2014.

The comparative analysis illustrated that Shires vary significantly in their approach to managing community grants, sponsorships, donations, and the waiver of fees. Several Shire's were in the process of reviewing/restructuring their own guidelines/policies, however a number of common themes were identified as a result of the comparative analysis:

- Although some of the larger Shire's currently conduct two rounds of community grant funding, there was an overwhelming recommendation to avoid more than one round of funding per year due mainly to the impact on staff resource and the administrative costs,

- All reinforced the need for clarity/consistency in the selection criteria/selection process,
- All reinforced the need for clarity/consistency in the assessment process,
- Shire's who indicated overall satisfaction with their own policy/guidelines, scheduled their process to co-incide with their respective Shire budget planning process.

Staff movement and other priority projects has delayed the review and revision of the Community Grants Scheme, however it is envisaged that the new Shire of Donnybrook Balingup Community Funding Scheme will be in place by the end of March, 2016.

### **Comment**

The attached draft Community Funding Scheme is a comprehensive policy/guideline document which seeks to incorporate funding areas currently covered by the Shire's Community Grants Guidelines/Policies, and other grants/donations made available by the Shire etc which are not currently covered under a Shire Policy. These include:

- Minor and Major Community Grants
- Minor and Major Event funding
- Arts Sponsorship/Grants
- Youth Grants
- Sponsorship requests
- Donations requests
- Waiver of fee requests
- Recurrent funding

The proposed Community Funding Scheme is best described in diagrammatical form and in the detail contained in the attached document, however, in line with the Shire's Strategic Community Plan, the Funding Scheme aims to build sustainable local communities, enhance the social wellbeing and development of the Shire of Donnybrook Balingup community.

The Funding Scheme welcomes submissions from individuals, community groups, not-for-profit and commercial organisations that are seeking support for projects, activities and events that address identified community needs. In doing this, the Funding Scheme assures the applicant that the Shire will work with the applicant to help build a sustainable community and improve the quality of life for people in our Shire. Applicants are expected to provide as much contribution as possible to their projects, activities and events.

*To be eligible for funding*, applicants must satisfy the following eligibility criteria, and the criteria set out in the relevant Funding Category Guidelines:

- Offer a project or activity within the Shire of Donnybrook Balingup's local government boundary, or if the applicant is an individual, they must be a resident of the Shire,
- Have completed and acquitted any project, activity or event for which Shire of Donnybrook Balingup funding was previously received,

- Have no outstanding debts to the Shire of Donnybrook Balingup,
- Undertake the project, activity or event for the benefit of the wider community; and
- Submit an application in accordance with the requirements outlined in the relevant Funding Category Guidelines on the prescribed Application Form.
- Applicants are eligible for a maximum of one grant per Funding Category per financial year, however it should be noted that the Shire has a limited budget and will endeavour to distribute funds equitably throughout the community.

*Applicants are ineligible for funding based on:*

- Projects that duplicate existing Shire of Donnybrook Balingup services and programs,
- Activities that are already covered by existing service agreements with the Shire of Donnybrook Balingup,
- Projects with a political or religious purpose only,
- Retrospective costs.

The attached draft Community Funding Scheme differs in a number of areas from the previous Policy/Guidelines and needs to be considered in full, however, the new scheme allows for funding to be granted as follows:

- Only applications for Major Community Grants and Major Event Funding will be assessed by the Community Grants and Awards Committee. Funding for projects or events totalling less than \$500 each - Minor Community Grants, Minor Event Sponsorship, Waiver of Fees, Donation and KidSport will be assessed by Shire Officers and approved by the CEO under delegated authority. This will allow the Shire to be more responsive to requests for minor requests for funding assistance, and aids in simplifying and streamlining the assessment process.
- To a commercial organisation such as True Grit,
- For unspecified event operating costs or annual PL insurance,
- For 'recurrent cost' e.g. unspecified event operating costs or annual PL insurance,

## **Consultation**

Members of the community have provided Shire Officers with feedback as part of their grant acquittal. A presentation outlining the purpose and aims of the revised Community Funding Scheme was presented to Councillors at a Workshop in April 2014. A number of recommendations were made. The attached draft Community Funding Scheme incorporates this feedback, in conjunction with the recommendations and advice gathered in the comparative analysis of nine other Shire's grant funding schemes.

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

### Policy/ Statutory

N/A

### Voting

Simple Majority.

## **Financial Implications**

The Shire will be required to make a financial commitment to the proposed Community Funding Scheme in the 2016/2017 budget. This commitment will be in line with the total level of support previously committed by the Shire to:

- Minor and Major Community Grants
- Event funding
- Arts Sponsorship/Grants
- Youth Grants
- Sponsorship requests
- Donations requests
- Waiver of fee requests
- Recurrent funding

## **Strategic Implications**

Outcome 1: A strong, diverse, resilient economy that is an attractive place to live, work and invest.

*AND*

Objective 4: A progressive, actively engaged community working in partnership to achieve our aspirations.

## **Officer's Recommended Resolution**

**Moved: Cr Crowley**

**Seconded: Cr Tan**

**That:**

- 1. Council receive the draft Community Funding Scheme,**
- 2. Councillors provide written feedback via email to the Community Development Officer – Team Leader by the end of January 2016,**
- 3. The Community Grants Committee meet in February 2016 to discuss the draft Community Funding Scheme, and consider feedback received from Councillors and Shire Officers,**
- 4. The Community Funding Scheme will be further revised, and a final draft Community Funding Scheme will be presented to the March, 2016 Council meeting for adoption,**
- 5. The Community Funding Scheme funding round will be advertised at the beginning of April, 2016, and close at the end of April, 2016. The Community Grants Committee will meet early May, 2016 to assess applications for funding for Major Community Grants and Major Event Funding with the view to the committee's recommendations being incorporated into the 2016/17 draft budget.**

**Carried 9/0**

## Officer's Recommended Resolution

**Moved: Cr Crowley**

**Seconded: Cr Tan**

**That the Meeting be closed to the public under the Local Government Act 1995 for:**

- **item 11.6.1 –Administration Centre Development, S5.23 (2)(c) a contract entered into, or which may be entered into, by the local government and which relates to a matter to be discussed at the meeting;**
- **Item 11.6.2 - Confidential – Australia Day Awards – S5.23 (2)(b) the personal affairs of any person;**
- **Item 11.6.3 – Additional Staff Requirements – Human Resources and Finance under S5.23 (2) (a) a matter affecting an employee or employees;**
- **Item 11.6.4 – Contract of Employment – CEO and item 11.6.5 - CEO Contract under S5.23 (2) (a) a matter affecting an employee or employees; (c) a contract entered into, or which may be entered into, by the local government and which relates to a matter to be discussed at the meeting; and (d) legal advice obtained, or which may be obtained, by the local government and which relates to a matter to be discussed at the meeting.**

**Carried 9/0**

\*\* 6.50pm - Meeting adjourned to move to the Council Chambers.  
Manager Works and Services, A/Principal Planner, Senior Ranger,  
Governance Officer and the remaining Public Gallery left the meeting.

\*\* 6.59pm – Meeting reconvened.

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## **11.6 Confidential Items**

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### **Council Decision**

**Moved: Cr Crowley**

**Seconded: Cr Tan**

**That confidential late item 11.6.6 - Tuia Lodge Cash Payments be received for Council consideration.**

**Carried 9/0**

**CONFIDENTIAL**

<b>11.6.6</b>	<b>SUBJECT:</b>	<b>TUIA LODGE CASH PAYMENTS</b>
	<b>Location:</b>	WA
	<b>Applicants:</b>	N/A
	<b>Zone:</b>	N/A
	<b>File Ref:</b>	CNL 16
	<b>Author:</b>	John Attwood, Chief Executive Officer
	<b>Report Date:</b>	15 December 2015
	<b>Attachments:</b>	Nil

**CONFIDENTIAL**

<b>11.6.1</b>	<b>SUBJECT:</b>	<b>ADMINISTRATION CENTRE REDEVELOPMENT</b>
	<b>Location:</b>	Cnr Collins & Bentley Street, Donnybrook
	<b>Applicants:</b>	Administration
	<b>Zone:</b>	Public Purpose
	<b>File Ref:</b>	FNC 08/12M
	<b>Author:</b>	John Attwood – CEO ( <i>Kate O’Keeffe</i> )
	<b>Report Date:</b>	8 December 2015
	<b>Attachment:</b>	Nil

**CONFIDENTIAL**

<b>11.6.2</b>	<b>SUBJECT:</b>	<b>AUSTRALIA DAY AWARDS</b>
	<b>Location:</b>	Shire of Donnybrook-Balingup
	<b>Applicants:</b>	Various
	<b>Zone:</b>	N/A
	<b>File Ref:</b>	CNL 02
	<b>Author:</b>	J Attwood (Deb Vanallen)
	<b>Report Date:</b>	28 November 2014
	<b>Attachments:</b>	11.5.2(1) Individual Nomination Forms 11.5.2(2) Guidelines and Selection Criteria 11.5.2(3) Previous Premier’s Australia Day Citizenship Award recipient list.

**CONFIDENTIAL**

<b>11.6.3</b>	<b>SUBJECT:</b>	<b>ADDITIONAL STAFF REQUIREMENTS – HUMAN RESOURCES AND FINANCE</b>
	<b>Location:</b>	Shire of Donnybrook/Balingup
	<b>Applicants:</b>	Administration
	<b>Zone:</b>	N/A
	<b>File Ref:</b>	PSN 12
	<b>Author:</b>	Greg Harris, Manager Finance & Administration
	<b>Report Date:</b>	9 December 2015

\*\* 7.40pm – Manager Finance and Administration left the meeting.

**CONFIDENTIAL**

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<b>11.6.4</b>	<b>SUBJECT:</b>	<b>CONTRACT OF EMPLOYMENT – CHIEF EXECUTIVE OFFICER</b>
	<b>Location:</b>	<b>N/A</b>
	<b>Applicants:</b>	<b>Administration</b>
	<b>Zone:</b>	<b>N/A</b>
	<b>File Ref:</b>	<b>EMP 3</b>
	<b>Author:</b>	<b>John Attwood – CEO (<i>Kate O’Keeffe, Executive Assistant</i>)</b>
	<b>Report Date:</b>	<b>9 November 2015</b>
	<b>Attachment:</b>	<b>11.6.4 – Contract of Employment</b>

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\*\* 7.55pm – Chief Executive Officer left the meeting.

\*\* 8.06pm – Cr Tan left the meeting and returned 8.08pm.

**CONFIDENTIAL**

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<b>11.6.5</b>	<b>SUBJECT:</b>	<b>CEO CONTRACT</b>
	<b>Location:</b>	<b>WA</b>
	<b>Applicants:</b>	<b>Cr Bailey</b>
	<b>Zone:</b>	<b>N/A</b>
	<b>File Ref:</b>	<b>CNL 34G</b>
	<b>Author:</b>	<b>John Attwood, CEO</b>
	<b>Report Date:</b>	<b>18 November 2015</b>
	<b>Attachments:</b>	<b>Nil</b>

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\*\* 8.33pm – Cr Mitchell left the meeting and returned 8.36pm.

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

**Moved: Cr Mills**

**Seconded: Cr Bailey**

**That**

- (a) In accordance with Section 5.23 (2) and Admin Regulations 4A the agenda items 11.6.1, 11.6.2, 11.6.3, 11.6.4, 11.6.5 and 11.6.6 remain confidential as sensitive information is detailed in the report.**
- (b) When the information in the report is not sensitive the item will be included in the next occurring council agenda.**

**Carried 9/0**

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

**Moved: Cr Mills**

**Seconded: Cr Bailey**

**That the meeting be reopened to the public.**

**Carried 9/0**

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**12 CLOSURE OF MEETING**

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The next Ordinary Council Meeting will be held on Wednesday, 10 February 2016 commencing at 5.00pm at the Council Chambers, Donnybrook.

The Shire President declared the meeting closed at 8.40pm

<b>These Minutes were confirmed by the Council as a true and accurate record at the Ordinary Council Meeting held on 10 February 2016.</b>		
<b>Shire President</b>		<b>Presiding Member</b>