



# Notice of Ordinary Council Meeting

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To All Councillors

To be held on Wednesday, 27 July 2016

Commencing 5.00pm at the Seniors Room  
Donnybrook Community Library  
Cnr Bentley and Emerald Street, Donnybrook

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

**Ben Rose**  
Chief Executive Officer

21 July 2016

## **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 AGENDA

27 July 2016

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# SHIRE OF DONNYBROOK-BALINGUP

## ORDINARY COUNCIL MEETING AGENDA

To be held at the Seniors Room, Donnybrook Community Library  
Wednesday, 27 July 2016 at 5.00pm

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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

Ben Rose – Chief Executive Officer  
Greg Harris – Manager Finance and Administration  
Bob Wallin – Principal Planner  
Damien Morgan – Manager Works and Services  
Leigh Guthridge – Manager Development and Environmental Services  
Kate O’Keeffe – Executive Assistant

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### PUBLIC GALLERY

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#### 1 APOLOGIES

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#### 2 PUBLIC QUESTION TIME

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#### Question taken on notice at the June 2016 Ordinary Council Meeting

*Megan Baldock*

*I was told by the HR Officer that I had to go through the Freedom of Information process to access my personal individual training records.*

CEO

This question was taken on notice and a response was provided in writing to Ms Baldock however as it is a staff-related matter the correspondence cannot be made public.

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#### 3 APPLICATION FOR LEAVE OF ABSENCE

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#### 4 DECLARATION OF FINANCIAL/IMPARTIALITY INTEREST

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**5 PETITIONS/DEPUTATIONS/PRESENTATIONS**

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Nil

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**6 LATE ITEMS**

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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**

**Seconded: Cr**

**That the minutes of the ordinary meeting held on 22 June 2016 and the Special Council Meeting held on 5 July 2016 be confirmed as a true and accurate record.**

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**8 DEFERRED ITEMS**

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**9 ELECTED MEMBERS MOTIONS**

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**10 MINUTES OF PREVIOUS MEETINGS**

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**10.1 *Committee Minutes***

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**Council Decision**

**Moved: Cr**

**Seconded: Cr**

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

- **Local Emergency Management Committee Meeting – 28 June 2016**
  - **Preston Village Project Management Team Meeting – 21 July 2016**
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## 11 REPORTS OF COMMITTEES

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### 11.1 Local Emergency Management Committee Meeting

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11.1.1	<b>SUBJECT:</b>	<b>ADOPTION OF THE LOCAL EMERGENCY MANAGEMENT COMMITTEE – TERMS OF REFERENCE</b>
	<b>Location:</b>	<b>Shire of Donnybrook-Balingup</b>
	<b>Applicant:</b>	<b>N/A</b>
	<b>Zone:</b>	<b>N/A</b>
	<b>File Ref:</b>	<b>CSV 20</b>
	<b>Author:</b>	<b>Leigh Guthridge – Manager Development and Environmental Services</b>
	<b>Report Date:</b>	<b>22 June 2016</b>
	<b>Attachments:</b>	<b>11.1.1 - Draft Terms of Reference</b>

#### Background

The Shire of Donnybrook-Balingup (The Shire) does not have terms of reference to support the meeting procedures of the Local Emergency Management Committee (LEMC).

The Terms of Reference establishes the agreed roles and functions of the LEMC, both collectively and for individual members. It is utilised by the LEMC and the Shire to ensure that the LEMC is governed responsibly.

#### Comment

A draft Terms of Reference has been developed to provide structure in the following areas:

- Objectives and responsibilities
- Membership and proxy arrangements
- Voting and quorum
- Meeting frequency and structure
- Agenda and minutes

Other modifications can be incorporated into the draft terms of reference before the terms of reference is presented to Council at its July 2016 ordinary meeting for adoption.

#### Consultation

The LEMC has reviewed and endorsed the draft Terms of Reference with a recommendation to Council for final approval.

#### Policy/Statutory/Voting Implications

##### Voting Implications

Simple majority

## **Financial Implications**

Nil

## **Strategic Implications**

Outcome 3.4 - Maintain and improve the provision of emergency services.

## **Committee's Recommended Resolution**

**Moved: Cr**

**Seconded: Cr**

**That Council adopt the Shire of Donnybrook-Balingup Local Emergency Management Arrangements Terms of Reference dated 27 July 2016.**

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## **12 REPORTS OF OFFICERS**

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### ***12.1 Manager Finance and Administration***

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#### **12.1.1 ACCOUNTS FOR PAYMENT**

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### **Council Decision**

**(Officer's Recommended Resolution)**

**Moved: Cr**

**Seconded: Cr**

**That accounts authorised and paid under delegation No. 3.2 by the Chief Executive Officer represented by cheques CCP3172-CCP3187, EFT9784a-EFT9966, 51983 – 52104, DD20953, Trust 3384-3401, and EFT9871a totalling \$1,961,177.98 be confirmed for payment.**

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The required road widenings, and road closure, are detailed on the draft deposited plan 409116 sheets 1 and 2 (refer attachment 12.2.1).

A copy of the Council's resolution with direct reference to Section 56 and 58 of the LAA 1997 is required by the Department of Lands to proceed with this process.

### **Consultation**

Shire staff has consulted with Department Parks and Wildlife and the Department of Lands in relation to this project.

### **Policy/Statutory Implications**

Section 56 of the LAA 1997.

Section 58 of the LAA 1997.

### **Voting Implications**

Simple majority

### **Financial Implications**

All costs to undertake the required task are funded out of the Road Project Budget.

### **Strategic Implications**

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

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.

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

**Moved: Cr**

**Seconded: Cr**

- 1. In accordance with Section 56 of the Land Administration Act (1997), Council endorse the road widenings as shown on the Draft Deposited Plan 409116, sheets 1 and 2, and for these portion to be dedicated as road reserve.**
- 2. That Council initiates road closure proceedings to close a portion of the Upper Capel Road Reserve as shown on the Draft Deposited Plan**

**409116, sheets 1 and 2, in accordance with Section 58 of the Land Administration Act 1997.**

- 3. That Council, subject to receiving no formal objections to the closure of a portion of the Upper Capel Road Reserve during the advertising period, resolves to request the Minister for Lands to close the portion of Upper Capel Road as shown on Draft Deposited Plan 409116, sheets 1 and 2.**
  - 4. That Council indemnifies the Department of Lands against any costs and claims associated with the road dedication and closure.**
  - 5. Authorise the Chief Executive Officer to implement items 1 to 4 above.**
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### **12.3 Manager Development and Environmental Services**

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Nil

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### **12.4 Principal Planner**

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<b>12.4.1</b>	<b>SUBJECT:</b>	<b>PLANNING APPLICATION FOR OVERSIZE SHED IN RESIDENTIAL ZONE</b>
	<b>Location:</b>	<b>Lot 119 (No.3) Kincaig Street, Donnybrook</b>
	<b>Applicants:</b>	<b>Mr G and Mrs Angela McCulloch</b>
	<b>Zone:</b>	<b>Residential</b>
	<b>File Ref:</b>	<b>A4820</b>
	<b>Author:</b>	<b>Bob Wallin (Principal Planner)</b>
	<b>Report Date:</b>	<b>5 July 2016</b>
	<b>Attachments:</b>	<b>12.4.1 – Site Plan</b>

#### **Background**

The proposal is for a 72m<sup>2</sup> shed at Lot 119 Kincaig Street, Donnybrook. The shed is to be located at the rear of an existing residence (see Attachment 12.4.1) and will have dimensions of 9m x 8m.

The land has an area of 936m<sup>2</sup> and zoned “Residential” with a density code of R30.

The proposed development requires Council approval as it varies from *Town Planning Policy 9.4 - Outbuilding Control*.

Town Planning Policy 9.4 outlines a maximum total outbuilding floor area of 70m<sup>2</sup> for lots below 1200m<sup>2</sup>. The Policy requires Council to approve any variation above the 70m<sup>2</sup> (72m<sup>2</sup> proposed).

### **Comment**

The proposal is for a very minor departure from Town Planning Policy 9.4. It will be difficult to observe any material difference between 70m<sup>2</sup> and 72m<sup>2</sup>. The proposed shed size reflects a standard shed design and it is expensive to redesign to make it 70m<sup>2</sup>.

The proposed variation is consistent with the changes proposed in Amendment 4 to Local Planning Scheme 7 (LPS7). This Amendment seeks to introduce scope for variations on floor areas of up to 10% subject to satisfying criteria. The proposal will comply with the requirements of expressed in Amendment 4.

### **Consultation**

The proposal has been advertised in accordance with Shire policy. No submissions have been received.

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

#### Policy

9.4 – Outbuilding Control. The proposal reflects a minor departure from the Policy.

#### Statutory

The land is zoned Residential under LPS7. Clause 10.2 of LPS7 outlines a range of matters to be considered by Council. The proposal does not raise any specific issues contained within Clause 10.2. Clause 5.17 of LPS7 requires Council to consider impacts of built form on the streetscape setting. The proposed shed does will not be out of character or scale in the locality when having regard to the local streetscape setting.

#### Voting

Simple Majority

### **Financial Implications**

N/A

### **Strategic Implications**

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

## Officer's Recommended Resolution

Moved: Cr

Seconded: Cr

That Council grant planning consent for a 72m<sup>2</sup> shed at Lot 119 Kincaig Street, Donnybrook subject to the following conditions:

### General 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.

<b>12.4.2</b>	<b>SUBJECT:</b>	<b>PROPOSED OMNIBUS AMENDMENT TO LOCAL PLANNING SCHEME NO.7</b>
	<b>Location:</b>	<b>Various</b>
	<b>Applicants:</b>	<b>N/A</b>
	<b>Zone/Reserve:</b>	<b>Various</b>
	<b>File Ref:</b>	<b>TP17 Amd4</b>
	<b>Author:</b>	<b>Bob Wallin (Principal Planner)</b>
	<b>Report Date:</b>	<b>5 July 2016</b>
	<b>Attachments:</b>	<b>12.4.2(1) - Draft Amendment report 12.4.2(2) - Schedule of Submissions</b>

### **Background**

Council, at the February 2016 Ordinary Meeting, resolved to advertise the above proposed amendment to Local Planning Scheme No.7. The advertising period has closed and Council is now required to make a recommendation for final approval (or otherwise).

This Amendment seeks to address a number of text changes to improve the effectiveness of Local Planning Scheme No.7 (LPS7) to control and guide town planning decisions.

The process for Amendments is broadly summarised in the following steps:

- Step 1) Council resolve to initiate the Amendment;
- Step 2) Council resolve to advertise the Amendment
- Step 3) Council to consider submissions and make a recommendation for final approval;
- Step 4) The WAPC makes a recommendation to Minister for Planning;
- Step 5) Minister for Planning grants final approval; and
- Step 6) Amendment gazetted and becomes part of Local Planning Scheme 7 (LPS7).

This Amendment is at Step 3.

In summary, the items considered in the proposed Amendment (Attachment 12.4.2(1)) are:

1. Inserting a new clause to enable R60 development to occur without the need for a commercial element for Commercial zoned land along Collins Street between Reserve and Station Streets, Donnybrook. This gives an improved incentive to retain and enhance existing character homes in this locality. This outcome is consistent with Council's adopted Local Area Plan for the locality.
2. Amend clause 5.54.8.1 to change the side and rear setback requirements to a uniform 20 metre standard for "Agricultural" zoned land. At present there are different setback requirements for rear and side boundaries. There is no easily explained rationale for this. The proposed change will ensure consistency with other Local Planning Schemes in the southwest.
3. Amend SU1 in Schedule 5 Special Use Zone by inserting additional conditions to control development such as defining maximum number of dwellings and specifying minimum development standards and controls that will apply. This relates to the "community" on the western edge of the Balingup townsite. The changes reflect Council's advice when making a decision for supporting an additional house at the

- “community”. These changes will assist in introducing regular controls and address points about fire safety and maximum building numbers.
4. Amending clause 5.52.3.1 to remove potential to create lots below one hectare within established Rural Residential zoned areas. This reflects a stance taken by Council when assessing a Structure Plan modification to create four lots of approximately 5,000m<sup>2</sup> each at Perseverance Boulevard, Argyle. The change sets a limit on infill lot size to ensure that the established character within existing areas is retained and not eroded by higher density infill densities.
  5. Amending Schedule 12 by inserting “moveable signs” (ie: shop front A frame signs) with associated criteria and maximum sizes. This eliminates the need for businesses to obtain a planning approval which usually costs as much as the sign itself. Criteria are set in place to ensure that safety and amenity will not suffer and enforcement of non-compliant signs can still occur.
  6. Amending clause 5.44.2 (iii) by deleting the words “6.9” and replacing with “6.11”. This is to fix a referencing error.
  7. Inserting a new clause 5.23.3 to add floor area limits and wall heights for outbuildings for “Residential” zoned land. This is to provide a higher level of certainty and consistency for shed size limits within the Residential zone.

## **Comment**

The key issue according to the public comments received relates to the removal of potential to create lots below 1 hectare in size. This matter is covered in the consultation section below.

While no public comment has been received on matters relating to the control of outbuildings in the “Residential” zone, this provides a good opportunity to fine tune the proposed provisions of the advertised Amendment document. The proposed provisions as they stand are inflexible. They provide specific floor area and wall height requirements with no room for any flexibility.

It is proposed that the wording of the provisions be changed to allow a 10% degree of flexibility on wall height and floor area. It is suggested that this variation would only apply when it can be shown that the structure will not be visible from the public realm or have very limited visibility and will be located behind existing building(s);

Another item that can be improved relates to moveable signs. A recent incident has highlighted the need to ensure signs are appropriately located and secured. It is suggested that additional criteria be added to moveable signs to enable exemption from planning approval.

## **Consultation**

The Environmental Protection Authority (EPA) determined that it was not necessary to provide any advice or recommendations.

The advertising period attracted 31 submissions. These consist of 22 objections from local landowners/residents and nine submissions from Government agencies of either no objections or suggesting minor changes. Attachment 12.4.2(2) provides a summary of the issues raised and suggested way of responding.

The key issue of objection related to the proposal to remove all potential to create lots below 1 hectare within existing Rural Residential zoned land.

In summary, the points raised relate to:

- a) Concern that this proposed Amendment to LPS7 stems from a select group of people in one small part of the Shire and that these views should not dictate how the Shire should view subdivision control within all the Shire's Rural Residential zoned land;
- b) Removal of potential subdivision rights that people may wish to make use of in the future; and
- c) Issues associated with amenity, established character and landscape values can be addressed through appropriate conditions and controls.

In trying to establish a position, it is helpful to look at the starting point. This part of the proposed Amendment was a response to a Structure Plan proposal that proposed to create four lots of approximately 5,000m<sup>2</sup> each. This was refused by the Shire (May 2015) and the Western Australian Planning Commission (WAPC). The applicant requested a review by the State Administrative Tribunal (SAT). SAT directed the WAPC to consider a revised proposal of three lots. This has been approved.

Previously, in February 2015, Council initiated an Omnibus Amendment which included new provisions to strengthen and further limit the circumstances in which subdivision below 1 hectare was considered to be acceptable. These changes were gazetted in March 2016.

The wording of clause 5.52.3.1 (iv) currently restrict lots below 1 hectare where:

- “(b) The topography, landscape or road alignments provide settings that lend themselves to creating attractive higher density nodes that do not materially erode the established rural residential character of the locality or increase the visibility of higher density built form on the streetscape;*
- (c) Supported by landscaping and building envelope plans providing clear direction on how additional built form will be screened and sensitively located to mitigate impacts of built form intrusion on the natural setting;*
- (d) supported by land capability assessments to confirm suitability to accommodate on-site effluent disposal.”*

This clause provides the statutory framework needed to stop any future infill subdivision below 1 hectare where it cannot clearly demonstrate how it will meet the criteria. It was

always intended to be used in exceptional circumstances and now this position is clearly expressed and can be consistently enforced.

It is clear that there is not a united position on this topic from the public perspective. Previously, some local residents strongly objected to a Structure Plan in Perseverance Boulevard. Now some residents strongly object to removing the very limited potential for creating lots below 1 hectare. It is noted that a number of the objections are in the form of a standard pro-forma.

In working out how to decide on this matter, it may help to think about the following points:

- 1) The town planning logic and intent of the LPS7 and the Shire's Local Planning Strategy. The Strategy seeks to promote infill development within existing urban settlements. This is to achieve more sustainable outcomes in terms of use of existing infrastructure and stopping the encroachment of new low density living onto agricultural areas. In noting this intent, this objective should not be pursued or promoted to the extent that it erodes or undermines the values and qualities of a locality.
- 2) There is a general level of acceptance that 1 hectare lots are acceptable and that creating lots of this size will not impact on amenity. The concern comes from taking the next step towards 5,000m<sup>2</sup>. This is considered by some to be a step to far.
- 3) The recent changes to controls introduced by Amendment No.1 provide clear criteria for when creating lots below 1 hectare is acceptable (as established through LPS7). In considering any application, it will be necessary for the applicant to demonstrate that lots and future development will not have any detrimental impacts on landscape or local amenity. Some may take the view that it is not possible to satisfy the criteria when creating lots below 1 hectare.
- 4) The ability of a decision to bring benefit to the most people. One of the founding principles of town planning is to promote maximum benefit to the most people where possible. In this case, subdivision below 1 hectare will benefit a limited few landowners. The costs (or externalities) will be spread and paid by a greater number surrounding landowners. There is a potential for an asymmetrical distribution of benefits in favour of a limited few landowners with costs being burdened on many.

In summary, there are very few lots within the Rural Residential zone that have potential to satisfy the existing criteria introduced by Amendment No.1. This means that the provisions have very limited potential to materially increase infill yields or achieve any real strategic planning outcomes. On the other hand, where proposed, such subdivisions have potential to upset the community. On this basis, it is suggested that the proposed changes to clause 5.5.52.3.1 (iv) as part of this proposed Amendment be supported.



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

### Policy

The proposed clauses relating to outbuildings will override and take precedence over existing criteria contained in Policy 9.4 Outbuilding Control. It will be necessary to review this policy.

Policy 9.6 Signage Policy provides details on signage criteria. The proposed clauses relating to mobile signs will take precedence over

### Statutory

Planning Regulations 2015 Division 3 details advertising requirements and processing requirements for Standard Amendments.

### Voting

Simple Majority

## **Financial Implications**

There are fees associated with publishing in the Government Gazette. It is estimated that the fees will be approximately \$250 to \$500.

## **Strategic Implications**

Outcome 1.5 – Our rural lifestyle is maintained.

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

Outcome 4.9 – Improved long term planning and strategic management.

## **Officer's Recommended Resolution**

**Moved: Cr**

**Seconded: Cr**

### **That Council:**

**1. Pursuant to the Planning and Development (Local Planning Schemes) Regulations 2015;**

**a. Determine the submissions in accordance with Schedule of Submissions (Attachment 1);**

**b. Recommend final approval for Amendment No. 4 to the Shire of Donnybrook-Balingup Local Planning Scheme No.7 subject to the changes contained in the Schedule of Modifications as follows:**

**1. Inserting a new clause as follows:**

***"5.23.3.4 Notwithstanding clause 5.23.3 above, outbuilding sizes may exceed requirements for floor area and wall height by a maximum of 10% subject to the outbuildings:***

***a) The structures being located behind an existing building;***

***b) Not being visible from the public realm or having a very limited visibility.”***

- 2. Amending clause 5 of point 3 by deleting the words “fire management plan” and replace with “bushfire management plan” and replacing the words “Fire and Emergency Services Authority of Western Australia” with “Department of Fire and Emergency Services”**
- 3. Amending point 5 by adding additional criteria as follows:**
  - (iv) being located to not impact of sight lines or access; and**
  - (v) being safely secured to prevent movement in storm events.**

- 2. Authorise the Chief Executive Officer to make arrangements necessary for the implementation of the above.**

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<b>12.4.3</b>	<b>SUBJECT:</b>	<b>PROPOSED AMENDMENT NO. 6 TO LOCAL PLANNING SCHEME NO.7</b>
	<b>Location:</b>	<b>Lot 1 Hurst Road, Argyle</b>
	<b>Applicants:</b>	<b>Kobus Nieuwoudt</b>
	<b>Zone:</b>	<b>General Agriculture</b>
	<b>File Ref:</b>	<b>TP17 Amd 6</b>
	<b>Author:</b>	<b>Bob Wallin (Principal Planner)</b>
	<b>Report Date:</b>	<b>28 June 2016</b>
	<b>Attachments:</b>	<b>12.4.3– Extract Concept Plan</b>

### **Background**

The proposal is a request to initiate an amendment to Local Planning Scheme No.7. The amendment seeks to change the zoning of Lot 1 Hurst Road, Argyle (Attachment 12.4.3) to “Rural Residential”.

Lot 1 Hurst Road, Argyle is zoned “General Agriculture” with a “Development Investigation Area” overlay (DIA2). DIA2 states that the land has a land use expectation of “Rural Residential”. DIA2 also includes a number of matters to be addressed in a structure plan. These include:

- Appropriate interface and road connections with adjoining rural residential development;
- Protection of native vegetation;
- Identification of building envelopes;
- Provision of safe access to the existing road network;
- Fire management plan; and
- Provision of an on-site buffer to adjoining agricultural land.

The amendment is considered to fit within the definition of a “standard amendment” of the Planning and Development (Local Planning Schemes) regulations 2015. This standard amendment process requires:

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

The amendment is presently at Steps 1 and 2, and is being presented to Council to make a decision to initiate and advertise.

The options for Council are to recommend:

- a) Support the amendment;
- b) Support the amendment with proposed modifications; or
- c) Not support the amendment.

In this case, the amendment also includes a subdivision/structure plan that shows the potential to create 3 lots (Attachment 12.4.3).

## **Comment**

The amendment is consistent with the broad strategic planning framework for the site. The strategic intent outlined in LPS7 and the Local Planning Strategy is that the site be considered for Rural Residential development. This general intent is consistent with the proposal.

In terms of detail, there are a number of points that need addressing. These are not fatal to the proposal and can be addressed prior to advertising and/or through the structure plan process.

Discussion with the applicant and Department of Planning has indicated that structure planning is to occur in a separate document. The applicant intends to lodge a structure plan proposal shortly.

In summary, points that need addressing include the need to:

- a) Remove the subdivision/structure plan concept from the amendment report. Details on design can be addressed through the structure planning process. It is noted that the structure plan document will need to show a:
  - staged subdivision layout. The proposal is to create 3 relatively large lots (approximately 6ha each). These lots have future subdivision potential. There is a

need to ensure that the proposed design will enable the orderly and logical future division of the land;

- future road connection between Hurst Road and Hetherington Road. DIA2 requires “appropriate interface and road connections with adjoining Rural Residential development”. The proposed design shows a “building envelope” in a location that prohibits the extension of Hetherington Road. The structure plan design needs to show how a future road connection to Hurst Road would work and align the proposed staged lot boundaries to allow this; and
  - building envelopes with setbacks and dimensions and areas,
- b) Include an Amendment Map page to show the changes proposed to the Scheme Map; and
- c) Include in the amendment report the need for notices to be placed on titles to acknowledge adjoining orchard activities. The report should include text to state that notices will be required to be imposed through the subdivision approval process.

### **Statutory Obligations**

Planning and Development (Local Planning Schemes) Regulations 2015 includes the following relevant sections:

- Part 5 – Amending Local Planning Scheme defines the processes and considerations for assessing and processing amendments.
- Schedule 2, part 4 – Structure Plans defines the processes and considerations for assessing and processing structure plans.
- 

The Amendment falls under the definition of a “Standard Amendment” contained in regulation 34)

### **Policy Implications**

N/A

### **Voting Requirements**

Simple Majority

### **Budget/Financial Implications**

An application fee of \$2,750.00 being paid prior to the advertising process starting.

### **Strategic Implications**

The proposal is consistent with the Local Planning Strategy which identifies the land as “Rural Residential Investigation”.

## Officer's Recommended Resolution

**Moved: CR**

**Seconded: Cr**

### That Council

- 1) **Resolve to initiate the amendment subject to receipt of a \$2,750.00 assessment fee;**
  - 2) **Grant advertising in accordance with the Planning and Development (Local Planning Schemes) Regulations 2015 subject to the document being modified to:**
    - a) **Removing the subdivision/structure plan concept from the amendment report text.**
    - b) **Include an Amendment Map page to show the changes proposed to the Scheme Map; and**
    - c) **Include in the amendment report the need for notices to be placed on titles and other measures to address potential land use conflicts with the adjoining land which contains orchards.**
  - 3) **Advise the applicant that future structure planning document will need to provide a:**
    - a) **Staged subdivision layout. The present proposal is to create 3 relatively large lots (approximately 6ha each). These lots have future subdivision potential. There is a need to ensure that the proposed design will enable the orderly and logical future division of the land;**
    - b) **Future road connection between Hurst Road and Hetherington Road. DIA2 requires "appropriate interface and road connections with adjoining Rural Residential development". The proposed design shows a "building envelope" in a location that prohibits the extension of Hetherington Road. The structure plan design needs to show how a future road connection to Hurst Road would work and align the proposed staged lot boundaries to allow this; and**
    - c) **Building envelopes with setbacks and dimensions and areas**
  - 4) **Require the Chief Executive Officer to undertake such tasks necessary to implement items 1 and 3 above.**
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## **12.5 Chief Executive Officer**

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<b>12.5.1</b>	<b>SUBJECT:</b>	<b>CODE OF CONDUCT REVIEW</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>ADM06</b>
	<b>Author:</b>	<b>Ben Rose – CEO (<i>Lucy Bourne - Governance Officer</i>)</b>
	<b>Report Date:</b>	<b>11 July 2016</b>
	<b>Attachments:</b>	<b>NIL</b>

### **Background**

The Code of Conduct is a set of guidelines that provide elected Council members and staff with an acceptable standard of professional conduct.

### **Comment**

In accordance with the *Local Government Act 1995* s5.103, Council has a Code of Conduct for elected members and staff. The Code of Conduct is reviewed annually to ensure it complies with the Act and any recent amendments to the Act.

The Code of Conduct has been reviewed and no changes are recommended.

### **Consultation**

Manager of Governance, WALGA.

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

Relevant provisions of the *Local Government Act 1995*, the *Local Government (Rules of Conduct) Regulations 2007* and the *Local Government (Administration) Regulations 1996*.

### **Financial Implications**

Nil

### **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**

**Seconded: Cr**

**That Council's Code of Conduct remains unchanged following a review of the document on 11 July 2016.**

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<b>12.5.2</b>	<b>SUBJECT:</b>	<b>WA LOCAL GOVERNMENT ASSOCIATION ANNUAL GENERAL MEETING</b>
	<b>Location:</b>	<b>Perth Convention Exhibition Centre, Perth</b>
	<b>Applicants:</b>	<b>Western Australian Local Government Association (WALGA)</b>
	<b>Zone:</b>	<b>N/A</b>
	<b>File Ref:</b>	<b>DEP 22/4D</b>
	<b>Author:</b>	<b>Ben Rose – CEO (Kate O’Keeffe, Executive Assistant)</b>
	<b>Report Date:</b>	<b>14 July 2016</b>
	<b>Attachments:</b>	<b>12.5.2 – Consideration of Motions</b>

### **Background**

Council has been provided with a copy of the agenda for the 2016 Annual General Meeting for the WA Local Government Association which will be held at the Local Government Convention on Wednesday, 3 August 2016 at the Perth Convention Exhibition Centre.

At the Ordinary Council Meeting held on 25 May 2016 Councillors Logiudice and Mills were nominated as voting delegates to represent Council at the Annual General Meeting.

### **Comment**

The following matters for decision will be considered:

#### *4.1 Amendments to the WALGA Constitution (01-001-01-0001)*

### **Special Majority Required**

#### *MOTION*

*That the WALGA Constitution be amended as follows:*

- 1. In Clause 5(7)(b) of the Constitution for “sub-clause 5(9)” read “sub-clause 5(11)”.*
- 2. Clause 10 (2) of the Constitution be amended with the last sentence to read: “The President shall exercise a casting vote only, in the event of there being an equality of votes in respect of a matter considered by the State Council but excluding an election held in accordance with Clause 16.”*
- 3. Clause 10 of the Constitution be amended by inserting as sub-clause (9): “(9) State Council shall adopt Standing Orders that will apply to all meetings.”*
- 4. Clause 14(4a) and Clause 20 of the Constitution be amended by inserting as sub-clause (h) and sub-clause (j), respectively: “is a Councillor of an Ordinary Member that has been peremptorily suspended under Section 8.15C (2)(c) of the Local Government Act 1995”*
- 5. Clause 16(2)(b) of the Constitution be amended to read: “(b) representatives are to vote on the matter by secret ballot.”*
- 6. Clause 17 of the Constitution be amended by inserting as sub-clause (5): “(5) Where the incumbent President seeks and is re-elected for a consecutive term, that person shall not hold office beyond two (2) full consecutive terms.”*

#### 4.2 Natural Disaster Recovery Support Funding (05-001-03-0029)

##### MOTION

*Request that WALGA State Council investigates the development and implementation of Natural Disaster Recovery Support Funding that will provide advice and financial support for Local Governments affected by the impacts of natural disasters that meet the Western Australia Natural Disaster and Recovery Arrangements (WANDRRA) criteria.*

#### 4.3 Non Operational Rail Corridors (05-009-03-0037)

##### MOTION

*That the Public Transport Authority and Brookfield Rail work with WALGA and any interested Local Governments in developing a policy and/or procedures in order to facilitate third party use of non-operational rail corridors, in particular uses that demonstrate a clear community benefit.*

#### 4.4 Planning Systems Review (05-047-01-0014)

##### MOTION

1. *Request the Western Australian Local Government Association to advocate for an independent review of decision making in the Western Australian Planning System, including the roles of local government, delegated authorities, Joint Development Assessment Panels and State Administrative Tribunal appeal processes that gives consideration to:*
  - 1.1 *How the aspirations or values of the community are incorporated into the decision making framework;*
  - 1.2 *Improvements to the statutory framework, including Local Planning Schemes, that would improve the transparency, certainty and consistency of the decision making process;*
  - 1.3 *Ensure that decision making occurs at appropriate levels that promotes good and efficient decisions for the community;*
  - 1.4 *Ensure that Local Governments have a third party right to present local community views to the State Administrative Tribunal;*
  - 1.5 *The erosion of the roles of Local Government in planning for their communities.*
2. *In the event that the State Government is unwilling to pursue an independent review of the decision-making process, request the Western Australian Local Government Association to engage with members and advocate for practical reforms that will ensure greater accountability, transparency and procedural fairness for ratepayers through the Joint Development Assessment Panel's decision making processes.*



#### 4.5 Abolitions of DAPS (05-047-01-0016)

##### MOTION

That WALGA:

1. *Advocates for the abolition of Development Assessment Panels (DAPs) on the basis that:*
  - 1.1. *DAPs by means of their majority unelected membership are not democratic bodies representing the ratepayers and accordingly do not reflect the aspirations or values of the community;*
  - 1.2. *DAPs represent a significant erosion of planning powers by elected representatives who have been given a mandate by ratepayers to make these decisions; and*
  - 1.3. *Previous decisions made by the Joint Development Assessment Panel have gone well beyond the purpose, intent and application of relevant Local Planning Scheme and Policies adopted by each local council; and*
2. *Advocates for consideration of the following reforms, in the event that DAPs remain in place, to ensure greater accountability, transparency and procedural fairness for ratepayers through the Panel's assessment and decision making processes:*
  - 2.1. *Abolishing the current opt-in mechanism which allows applicants to choose either elected Councils or the DAP as the decision maker in favour of a Ministerial call-in power for projects of state or regional significance, with a minimal value of \$20 million, as has been adopted in the eastern states;*
  - 2.2. *Requiring equal membership on the DAP between Local Government and Appointed Specialist members with an independent chair approved by both State and Local Governments;*
  - 2.3. *Requiring the DAP to set the meeting date for consideration of the development applications no later than five working days after the application being received to enable inclusion within the community consultation process;*
  - 2.4. *Requiring the DAP agenda and local government report and recommendation to be published no less than ten business days prior to the scheduled meeting date;*
  - 2.5. *Requiring a minimum of five business days between publishing the DAP agenda and the date by which ratepayers can make public presentations to the DAP, to provide more time to prepare a formal response;*
  - 2.6. *Mandating that respondents to the development application can nominate e-mail or Australia Post as their preferred contact method for information and requiring the local government to contact registered respondents throughout the process as deadlines are reached;*
  - 2.7. *Providing a public template for ratepayers to assist with the preparation of feedback as part of the Community consultation process;*
  - 2.8. *Requiring any changes to a development application between the community consultation period and final proposal for decision by the DAP to be published on the local government's website and to notify all respondents to the original community consultation of those changes;*
  - 2.9. *Removing the need for the local government to obtain the applicant's consent for further consultation or an extension of time to report the applicant's development proposal to a DAP meeting for determination; and*
  - 2.10. *Providing a Local Government aggrieved by a DAP decision a right of review at the State Administrative Tribunal.*
3. *Advise the Minister for Planning of its concerns with the actions and decisions of the Development Assessment Panels.*

#### 4.6 Introduction of Container Deposit Scheme (CDS) (05-050-02-0001)

**MOTION**

*That WALGA:*

- 1. Continue to actively advocate for the implementation of a Container Deposit Scheme in Western Australia; and*
- 2. Include the implementation of a Container Deposit Scheme in the Association's Election Platform.*

#### 4.7 Declared Pest Plant C3 Review by DAFWA (05-046-03-0015)

**MOTION**

*Request that WALGA lobby the Minister for Agriculture and Food WA to ensure that the Biosecurity and Agriculture Management Act 2007 (BAM Act) review results in the Act giving the Department of Agriculture and Food WA the responsibility to control, manage and facilitate the eradication of pest plants and weeds, including Cotton Bush, and that the Department be adequately funded to undertake eradication programs for all species that have the potential to negatively impact on the production of agriculture in Western Australia, including but not limited to Cotton Bush, wild dogs, cane toads, skeleton weed, Blackberry and Patterson's Curse.*

#### 4.8 Renewable Energy (05-028-04-0009)

**MOTION**

*That the Western Australian Local Government Association advocates for reforms to the parameters applied by the WA Government regarding generation of energy through renewable sources by local governments, either individually or in partnership with private sector specifically seeking a fixed feed in tariff for extended periods to enable effective business planning and funding arrangements.*

#### 4.9 Reducing Regulatory Burden on Local Government (05-099-03-0001)

**MOTION**

*That all new legislation, regulation or quasi-regulation imposed on Local Government be accompanied by an independent regulatory impact assessment including the opportunity for input from the Local Government sector.*

#### 4.10 Most Accessible Regional City in Australia Awards (01-006-04-0001)

**MOTION**

*That the Western Australian Local Government Association:*

- 1. Develop assessment criteria to formally recognise the contribution that Western Australian local governments are taking to promote and improve accessibility within their jurisdictions.*

2. *Conduct an annual awards process coinciding with Local Government Week to recognise local governments nominated for work undertaken in no. 1 above based on metropolitan, regional and remote categories.*
3. *Nominate the winning local government from each category for the National Awards for Local Government – Disability Access and Inclusion Awards conducted by the Department of Infrastructure and Regional Development.*

#### 4.11 Discussion Paper Excessive Force (01-003-02-0001)

##### **MOTION**

*That WALGA, recognising that a significant role of local government is to lobby and advocate to higher levels of government on matters of concern to local constituents, advocate to the State Government for a discussion paper to be prepared on the issue of decriminalising the use of excessive force by members of the public when such force is effected in the course of defending family and property from intruders.*

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

##### Policy

N/A

##### Statutory

N/A

##### Voting

A Special Majority is required for item 4.1. Decisions by special majority set out in Section 1.10 item (b) of the *Local Government Act 1995* states: “if there are not more than 11 offices of member of the council, the power can only be exercised by, or in accordance with, a decision of an absolute majority of the council.”

All of the other motions require a Simple Majority vote.

#### **Financial Implications**

N/A

#### **Strategic Implications**

N/A

### Officer's Recommended Resolution

**Moved: Cr**

**Seconded: Cr**

**That Council vote to support the following motion:**

#### **4.1 Amendments to the WALGA Constitution (01-001-01-0001)**

**That the WALGA Constitution be amended as follows:**

- 1. In Clause 5(7)(b) of the Constitution for  
“sub-clause 5(9)” read “sub-clause 5(11)”.**
- 2. Clause 10 (2) of the Constitution be amended with the last sentence to read:  
“The President shall exercise a casting vote only, in the event of there being an equality of votes in respect of a matter considered by the State Council but excluding an election held in accordance with Clause 16.”**
- 3. Clause 10 of the Constitution be amended by inserting as sub-clause (9):  
“(9) State Council shall adopt Standing Orders that will apply to all meetings.”**
- 4. Clause 14(4a) and Clause 20 of the Constitution be amended by inserting as sub-clause (h) and sub-clause (j), respectively:  
“is a Councillor of an Ordinary Member that has been peremptorily suspended under Section 8.15C (2)(c) of the Local Government Act 1995”**
- 5. Clause 16(2)(b) of the Constitution be amended to read:  
“(b) representatives are to vote on the matter by secret ballot.”**
- 6. Clause 17 of the Constitution be amended by inserting as sub-clause (5):  
“(5) Where the incumbent President seeks and is re-elected for a consecutive term, that person shall not hold office beyond two (2) full consecutive terms.”**

**Special Majority Required**

### Officer's Recommended Resolution

**Moved: Cr**

**Seconded: Cr**

**That Council vote as follows:**

- \_\_\_\_\_ for agenda item 4.2**
- \_\_\_\_\_ for agenda item 4.3**
- \_\_\_\_\_ for agenda item 4.4**
- \_\_\_\_\_ for agenda item 4.5**
- \_\_\_\_\_ for agenda item 4.6**
- \_\_\_\_\_ for agenda item 4.7**
- \_\_\_\_\_ for agenda item 4.8**
- \_\_\_\_\_ for agenda item 4.9**
- \_\_\_\_\_ for agenda item 4.10**
- \_\_\_\_\_ for agenda item 4.11**

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<b>12.5.3</b>	<b>SUBJECT:</b>	<b>2016 DONNYBROOK APPLE FESTIVAL – REFUND OF BOND ON THE HIRE OF EGAN PARK</b>
	<b>Location:</b>	<b>Egan Park, Donnybrook</b>
	<b>Applicants:</b>	<b>Administration</b>
	<b>Zone:</b>	<b>N/A</b>
	<b>File Ref:</b>	<b>TSR 01/1</b>
	<b>Author:</b>	<b>Ben Rose, CEO (<i>Deb Vanallen,</i> <i>Community Development Officer-Team Leader</i>)</b>
	<b>Report Date:</b>	<b>4 July, 2016</b>
	<b>Attachments:</b>	<b>12.5.3 - Donnybrook Apple Festival 2015/16 Profit &amp; Loss Accrual</b>

### **Background**

The Donnybrook Apple Festival is held annually on the Saturday and Sunday of the Easter weekend. It is one of the region's iconic, major events attracting on average between 5,000 - 10,000 visitors. The event has a long tradition within the region, being a major contributor to economic and tourism development.

This year's event was held at Egan Park, in Donnybrook on Saturday 26 and Sunday 27 March, 2016. The Festival celebrates all aspects of local produce and this year included live entertainment, wine tasting, specialty stalls, agricultural displays, sideshow alley and a parade.

### **Comment**

The 2016 Apple Festival event was adversely affected by extenuating weather conditions on Saturday 26th March, 2016. Heavy rainfall and lower than average temperatures were recorded during the day, and then again in the evening. These extenuating weather conditions had a number of adverse effects on the event.

Firstly, the heavy rain and cool temperatures resulted in greatly reduced attendances on the Saturday of the 2016 Apple Festival. This significantly reduced income from gate entry and has resulted in the event operating at a loss. A copy of the Donnybrook Apple Festival 2015/16 Profit and Loss Accrual Statement has been provided in Attachment 12.7.1.

In addition, the heavy rain resulted in the grass play field at Egan Park being extremely wet. Heavy machinery, large vehicles and marquees were set up on the oval surface in the week leading up to the event (according to the approved site plan). Despite the event organisers best efforts, unexpected damage to the oval surface resulted as the machinery and equipment was removed at the conclusion of the event on Sunday evening and Monday. The event organisers advised the Shire and Donnybrook Cricket Club of the damage immediately, and all three groups worked throughout the week to repair the oval

surface in preparation for a major cricket match which was scheduled at Egan Park on the following weekend.

The Shire held a standard bond (\$1,100 inc gst) on the hire of Egan Park for the Apple Festival event. This bond is held in trust until a post-event assessment is complete and any costs incurred by the Shire associated with rectification of the facility are known.

The Shire's Works and Services team incurred costs totalling \$1,836.14 which included labour, plant hire, materials and minor equipment replacement following the 2016 Apple Festival event. These costs exceed the value of the bond, however, due to the extenuating weather conditions, and the loss incurred by the event organising committee, it is recommended that the Shire refund \$550, being 50% of the bond held for Egan Park as a show of good will and support to the event.

### **Consultation**

The Donnybrook Apple Festival Committee liaised with Shire Officers throughout the planning of the event. On the Monday and then again on the Wednesday following the event, Shire Officers met with the Donnybrook Apple Festival Committee and the Donnybrook Cricket Club on site at Egan Park to assess the damage. A course of action was agreed in an effort to make good the damage, and repair the oval surface for the following weekend's 'WA Country Masters Cricket Champions game' – Fri 1 – Sunday 3 April, 2016. In the weeks that followed, further repair work was carried out on the reticulation and the oval surface and it became apparent that the cost of repairs incurred by the Shire would exceed the bond paid for Egan Park.

On 19 April, 2016, the Shire received a letter from the Donnybrook Apple Festival Committee advising of the Committee's regret for the damage caused to Egan Park as a result of the 2016 Apple Festival event. They expressed a resolve to maintain good relationships both with the Shire and the Donnybrook Cricket Club in planning future Apple Festival events. In doing so, the Committee made a \$2,000 donation to the Club as an act of good faith and to support cricket, particularly junior cricket in the community.

As is normal practice, the Shire withheld the bond until all costs incurred by the Shire following the event were known. Shire Officers have maintained regular contact with the Donnybrook Apple Festival Committee during this process. Approval to refund a bond is an internal Shire process. Shire Officers liaise between relevant departments, and once all information is available, a decision made on the bond refund, and the Finance and Administration Department process the bond refund.

The Apple Festival Committee have been advised that the matter of the bond paid for Egan Park for the 2016 Apple Festival event has been referred to the Chief Executive Officer.

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

### Policy

Shire Administration Policy 2.6 – Hiring of Council Halls states that ‘Users of any Council controlled building or facility are required to pay a bond, refundable upon clearance by authorised Council staff, provided that the building is left in a clean and hygienic condition and that all crockery and cutlery is clean and appropriately stored.’ This policy also pertains to the hire of reserves, and as specified in the Shires 2015/2016 fees and charges the bond for the hire of Egan Park is \$1,100.

### Statutory

Nil.

### Voting

Simple majority

## **Financial Implications**

Council to provide a 50% (\$550) refund of the bond paid by the Donnybrook Apple Festival Committee for the hire of Egan Park from the 2016/17 budget. The costs associated with rectification of the oval will be absorbed by the Shire as a show of good will to the event Committee.

## **Strategic Implications**

This resolution aligns with the Shire’s Strategic Plan:

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

## **Recommended Resolution**

**Moved: Cr**

**Seconded: Cr**

### **That:**

- 1. Due to the extenuating weather conditions on Saturday 26 March, 2016 which resulted in greatly reduced attendances and unexpected damage to the oval surface during the 2016 Apple Festival, Council will refund \$550, being 50% of the bond held on Egan Park, to the Donnybrook Apple Festival Committee.**
- 2. Council request the Chief Executive Officer to review the Standard Bond amounts for events at Shire grounds and facilities.**

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## **12.6 Recall Items**

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Nil

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

**Moved: Cr**

**Seconded: Cr**

**That the Meeting be closed to the public under the Local Government Act 1995 for item 12.7.1 – Unit 8 and Unit 13, Preston Retirement Village under Section 5.23 (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.**

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## **12.7 Confidential Items**

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<b>12.7.1</b>	<b>SUBJECT:</b>	<b>UNIT 8 AND UNIT 13, PRESTON RETIREMENT VILLAGE</b>
	<b>Location:</b>	<b>152 Sharp Street, Donnybrook</b>
	<b>Applicants:</b>	<b>Donnybrook-Balingup</b>
	<b>Zone:</b>	<b>Special Use Aged Person Accommodation</b>
	<b>File Ref:</b>	<b>CSV 01/9</b>
	<b>Author:</b>	<b>B Rose– CEO (Kate O’Keeffe, Executive Assistant)</b>
	<b>Report Date:</b>	<b>18 July 2016</b>

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

**Moved: Cr**

**Seconded: Cr**

**That**

- (a) In accordance with Section 5.23 (2) and Admin Regulations 4A, agenda item 12.7.1 remains 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.**
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**Council Decision  
(Officer’s Recommended Resolution)**

**Moved: Cr**

**Seconded: Cr**

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

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**13 CLOSURE OF MEETING**

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The Chairperson to advise that the next Ordinary Council Meeting will be held on Wednesday, 24 August 2016 commencing at 5.00pm in Donnybrook at a location to be advised.

The Shire President to declare the meeting closed at \_\_\_\_\_ pm.