



# Ordinary Council Meeting Minutes

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Held on Wednesday, 24 August 2016

Commencing at 5.03pm at the Function Room  
Donnybrook Recreation Centre  
Steere Street, Donnybrook

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

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

**31 August 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 MINUTES

24 AUGUST 2016

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# SHIRE OF DONNYBROOK-BALINGUP

## ORDINARY COUNCIL MEETING MINUTES

Held at the Function Room, Donnybrook Recreation Centre  
Wednesday, 24 August 2016 at 5.03pm

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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 Van Der Heide  
Cr Tan

#### 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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John Thomson  
Susan Learmonth  
Rosa Cavallo

Marie Woodley  
Megan Baldock  
Frank Cavallo

Gwendoline Nidd  
Christopher Knight

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### 1 APOLOGIES

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Nil

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### 2 PUBLIC QUESTION TIME

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

*Megan Baldock*

*The Commonwealth Health Department views Council as the Approved Provider; it’s very confusing, who do we take our issues to if we are not happy with how they are being handled by Senior Management?*

### Chief Executive Officer

The Shire of Donnybrook-Balingup is the Approved Provider and Council, as the governing body, oversees the running of Tuia Lodge through its Chief Executive Officer and is accountable for:

- decisions about the delivery of care and the financial management of subsidies and care recipients' fees and payments; and
- the delivery of care in line with the standards that are specified in the Aged Care Act and Aged Care Quality Standards

The Chief Executive Officer regularly reports to Council on the facility's strategic and compliance-related performance, and brings all items requiring Council decision to the Ordinary Council meeting.

The Chief Executive Officer and the Facility Manager are recognised as Key Personnel for Tuia Lodge. They are responsible for making executive decisions and overseeing the day-to-day operations of the facility. It is not the role of Council to engage in operational matters.

The Australian Aged Care Quality Agency conducts regular accreditation audits at the facility and are satisfied that the processes in place are compliant with the Aged Care Act and Aged Care Quality Standards.

Should a staff member become concerned about an operational issue that they think provides a risk to other staff or residents there are policies and procedures in place to record and track outcomes in an open and transparent manner. The process involves observing the chain of command:

1. Lodging the complaint with the Facility Manager; and
2. If not satisfied with the outcome, taking the complaint to the Chief Executive Officer.

If staff remain concerned about the quality of care or services being delivered at the facility, they are able to contact the Aged Care Complaints Commissioner.

### **Questions taken without notice at the August 2016 Ordinary Council Meeting**

*Susan Learmonth*

*With regards to the decision on the resumption of land at Lot 177 Trevena Road; will Council give consideration to:*

- a) Allocation of approximately 950 m2 of the existing road reserve joining Lot 177 to the property title;*
- b) The retention of the old bridge for a tourist attraction, walk way and a picnic area; and*
- c) The retention of the Blackbutt tree?*

Manager Works and Services

The resolution for Agenda Item 11.2.1- *Proposed Compulsory Acquisition of a Portion of Lot 177 Trevena Road* provides scope for the Chief Executive Officer to enter into negotiations with the landholder.

*CB Knight*

*I refer to the recent settlement involving a staff member convened by the Shire's Insurance Company. I believe one third of the total settlement came from a source separate to the Insurance Company?*

Chief Executive Officer

This is a staff related matter which is bound by legal obligations of confidentiality and cannot be responded to in this forum.

*CB Knight*

*I would like to know where the money for the settlement came from. Where would I seek this information from?*

President

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

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**3 APPLICATION FOR LEAVE OF ABSENCE**

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Cr Tan withdrew her request for a Leave of Absence from the August 2016 Ordinary Council Meeting.

Cr Van Der Heide requested a leave of absence from the Ordinary Council meeting scheduled for 28 September 2016.

**Moved: Cr Van Der Heide**

**Seconded: Cr Dilley**

**That Cr Van Der Heide be granted a leave of absence from the Ordinary Council meeting scheduled for 28 September 2016.**

**Carried 9/0**

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**4 DECLARATION OF FINANCIAL/IMPARTIALITY INTEREST**

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Nil

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**5 PETITIONS/DEPUTATIONS/PRESENTATIONS**

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Nil

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**6 LATE ITEMS**

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Nil

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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 Van Der Heide**

**Seconded: Cr Tan**

**That the minutes of the Ordinary Council meeting held on 27 July 2016 be confirmed as a true and accurate record.**

**Carried 9/0**

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**8 ELECTED MEMBERS MOTIONS**

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<b>8.1.1</b>	<b>SUBJECT:</b>	<b>MULTI-PURPOSE BUILDING – RAILWAY HERITAGE PRECINCT</b>
	<b>Location:</b>	<b>N/A</b>
	<b>Applicants:</b>	<b>Cr Steve Dilley</b>
	<b>Zone:</b>	<b>N/A</b>
	<b>File Ref:</b>	<b>CNL 34A</b>
	<b>Author:</b>	<b>Ben Rose CEO (<i>Lucy Bourne, Governance Officer</i>)</b>
	<b>Report Date:</b>	<b>11 August 2016</b>
	<b>Attachments:</b>	<b>Nil</b>

Cr Dilley lodged the following Notice of Motion with the President and Chief Executive Officer:

- 1. That Council suspend any further work on redeveloping or extending the current Shire Administration Building until after the State Election in March 2017;**
- 2. That Council rework the current WA Apple Discovery Centre design and concept plans to incorporate the Shire Administration Centre;**

- 3. That during the forthcoming State Election campaign, Council seeks a commitment from both the Government and Opposition, to fund the Discovery Centre/Museum, Community Resource Centre and Community Radio component of the proposed multi-purpose building; and**
- 4. That Council seek in-principle support from the WA Heritage Council and other relevant bodies for the construction of the proposed multi-purpose building, emphasising the strong historical nature of the project, including the restoration and utilisation of the Railway Goods Shed.**

### **Cr Dilley's Comment**

Council's recent decision to move the Council Chambers into the old Uniting Church and subdivide the existing Chambers for office space has removed the urgency to construct a new Administration Centre or extensions for the next two years. That decision now allows Council to take a step back and reassess the Shire's future administration needs without the pressure to act in haste.

Council's second Long Term Financial Plan (LTFP) has also identified that Shire debt will peak in 2019/20 at \$8.38m, and prior to that in 2017/18 the debt service coverage ratio falls to nearly three – a threshold where alarm bells will start to ring with State Treasury and the Department of Local Government, not to mention ratepayers!

The LTFP also identifies that of the \$2.8m budget for a new or extended administration centre, \$2.5m of that figure will be in the form of a loan. This is all but three times the size of the original loan required for the previous extension proposal and, like all debt, must be paid off - ultimately by ratepayers. The challenge for Council/Councillors is how will we pay that proposed \$2.5m off and in what timeframe?

For the past 5 years various Shire Planners have been working on structure plans for the intensive subdivision of the Old Depot site behind the Memorial Hall. The major stumbling block in fully developing this shire-owned land is the location of the current Donnybrook Museum, which needs to be relocated to maximise the lot yield and financial return to ratepayers. Council's purchase of the Uniting Church land in 2011 opens up the opportunity to develop a structure plan for the intensive subdivision and sale of lots between Emerald Street and Collins Street, with Victory Lane as the principal access road.

Council began working on the concept of a multi-purpose building with the Donnybrook Historical Society and Donnybrook Community Resource Centre (formerly Telecentre) in 2009. This commenced with a trip to the Greenbushes Discovery Centre and Manjimup, Pemberton and Northcliffe Telecentres and Museums. Initial concept plans were developed and further refined over the next few years with the inclusion of Donnybrook Community Radio who were, and still are, looking for a permanent home.

Donnybrook Community Resource Centre (CRC) still provides an important service to the community, but is currently under threat of closure as it tries to find a new purpose in a society where access to the internet is now freely available. An identified need and



potential lifeline opportunity is in the field of training; however a critical lack of space will prevent this from happening. A move to a new multi-purpose building will provide that lifeline.

The Donnybrook Museum is currently housed in a basic old shed and only opened to the public on an infrequent basis and usually by appointment. The current building displays only a fraction of the collection held by members of the Historical Society. Donnybrook has a rich 174 years of settlement history that should be proudly displayed so that the local community can appreciate where we have come from and the thousands of tourists that now visit the Fun Park can be educated about our past.

The concept of a WA Apple Discovery Centre was/is to promote what Donnybrook is famous for across WA, Australia and the world by telling the history of the apple industry's development right across the State. As part of a significant business plan that Council developed to apply for grant funding letters of support were sought and received from other apple growing local governments in the State. The rationale was/is to make the story one of regional significance and hence more attractive to grant funding bodies.

From an operational and accessibility perspective the logic of co-locating the Museum/Discovery Centre and Community Resource Centre together was for the CRC to provide passive surveillance over the historical displays and vastly improve the opening hours in a modern building with a central location. The emergence and inclusion of Donnybrook Community Radio was/is seen as another opportunity to add value to the multiple community uses of the building.

In December 2007 Council commissioned Taktics4 to undertake an independent assessment of potential sites for the construction of a new Shire Administration Centre. After a detailed analysis the site of the now proposed WA Apple Discovery Centre in the Railway Heritage Precinct rated the highest out of all sites including the current Administration Centre in Bentley St, Donnybrook.

Council now has a golden opportunity to redesign the multi-purpose building to incorporate the Shire Administration Centre and construct a new modern facility that will cater for future growth and be something that the community can be truly proud of.

The proposed \$2.5m loan that Council will need to raise to build a new administration centre could largely be paid off with land sales from a fully subdivided Old Depot site – if Council incorporates its Administration Centre into the multi-purpose building.

### **Chief Executive Officer's Comment**

A significant amount of work has been conducted over the past few years into the development of this proposal, albeit without the inclusion of the Shire Administration Centre. The proposal was close to becoming a reality when funding via the Country Local Government Fund (Royalties for Regions) was discontinued towards the end of 2012/13.

Since then, the Shire has considered making applications for funding to other funding sources, such as the Federal Government's National Stronger Regions Fund, but it was

difficult to align the proposal with the funding bodies' criterion. The inclusion of the Shire Administration Centre into the development would strengthen the project, boosting the 'value for money' proposition as well as strengthening partnerships between local government and the community.

In preparing either an 'unsolicited bid' or a formal funding application to Government (State or Federal), a robust Business Case is essential. The Business Case establishes the parameters of the proposal and evidences the cost-benefit ratios to be realised. It is strongly recommended that a Business Case be prepared, with assistance from external professionals to complete the document to a high standard. It is also recommended that the Business Case for a new multi-purpose centre, if approved for development by Council, is linked to the development opportunity associated with relocation of the existing Council Administration centre (and subdivision of the Emerald – Collins Street area more generally).

The recommendations of Councillor Dilley's Notice of Motion are supported by the Administration, with the addition of one recommendation to read:

"5. That Council instruct the Chief Executive Officer to prepare a Business Case in support of the proposed multi-use building."

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

#### Policy

Various town planning, finance and administration policies will relate to any future development, however, there are no policies which relate directly to the Shire Administration Building or preparation of Business Cases.

#### Statutory

Nil

#### Voting

Simple majority

### **Financial**

A professional Business Case is likely to cost in the order of \$20,000 - \$30,000 for this proposal.

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

**Moved: Cr Dilley**

**Seconded: Cr Crowley**

- 1. That Council suspend any further work on redeveloping or extending the current Shire Administration Building until after the State Election in March 2017;**
- 2. That Council rework the current WA Apple Discovery Centre design and concept plans to incorporate the Shire Administration Centre;**
- 3. That during the forthcoming State Election campaign, Council seeks a commitment from both the Government and Opposition, to fund the Discovery Centre/Museum, Community Resource Centre and Community Radio component of the proposed multi-purpose building; and**
- 4. That Council seek in-principle support from the WA Heritage Council and other relevant bodies for the construction of the proposed multi-purpose building, emphasising the strong historical nature of the project, including the restoration and utilisation of the Railway Goods Shed.**

Cr Dilley amended his motion by removing Item 1 and adding item 5 from the Officer's Recommended Resolution.

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

**Moved: Cr Dilley**

**Seconded: Cr Crowley**

- 2. That Council rework the current WA Apple Discovery Centre design and concept plans to incorporate the Shire Administration Centre;**
- 3. That during the forthcoming State Election campaign, Council seeks a commitment from both the Government and Opposition, to fund the Discovery Centre/Museum, Community Resource Centre and Community Radio component of the proposed multi-purpose building; and**
- 4. That Council seek in-principle support from the WA Heritage Council and other relevant bodies for the construction of the proposed multi-purpose building, emphasising the strong historical nature of the project, including the restoration and utilisation of the Railway Goods Shed.**
- 5. That Council instruct the Chief Executive Officer to prepare a Business Case in support of the proposed multi-use building incorporating Apple Discovery Centre and .**



3. That during the forthcoming State Election campaign, Council seeks a commitment from both the Government and Opposition, to fund the Discovery Centre/Museum, Community Resource Centre and Community Radio component of the proposed multi-purpose building;
4. That Council seek in-principle support from the WA Heritage Council and other relevant bodies for the construction of the proposed multi-purpose building, emphasising the strong historical nature of the project, including the restoration and utilisation of the Railway Goods Shed; and
5. That Council instruct the Chief Executive Officer to prepare a Business Case in support of the proposed multi-use building.

\*\*6.00pm – Rosa and Frank Cavallo arrived at the meeting.

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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 Bailey**

**Seconded: Cr Tan**

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

- **Balingup Townscape Committee Meeting – 10 August 2016**

**Carried 9/0**

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## 10 REPORTS OF COMMITTEES

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### 10.1 Balingup Townscape Committee

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10.1.1	<b>SUBJECT:</b>	<b>PLAQUES HONOURING VICTORIA CROSS, GEORGE CROSS RECIPIENTS ALONG WA HIGHWAYS</b>
	<b>Location:</b>	<b>Donnybrook, Kirup and Balingup</b>
	<b>Applicants:</b>	<b>Main Roads Western Australia</b>
	<b>Zone:</b>	<b>N/A</b>
	<b>File Ref:</b>	<b>TP 03</b>
	<b>Author:</b>	<b>Bob Wallin (Principal Planner)</b>
	<b>Report Date:</b>	<b>29 July 2016</b>
	<b>Attachments:</b>	<b>10.1.1(1) – Example of Plaque 10.1.1(2) – Identified Locations</b>

#### Background

Main Roads Western Australia (MRWA) has requested the Shire's support for establishing a "Commemoration Way" project to honour Western Australia's Victoria Cross and George Cross recipients.

The project is to establish a "remembrance driveway" with 19 plaques to be placed along Albany Highway and the South Western Highway, between Perth and Albany.

As part of this remembrance driveway, plaques are proposed to be located at Donnybrook Kirup and Balingup.

The plaques are intended to be placed in locations that visitors can see. An example of the plaque is provided in Attachment 10.1.1(1).

Each plaque is approximately 1 metre by 0.6 metres and will stand approximately 1 metre high.

The plaque will include a photo and tell a story of the bravery of the recipient and the sacrifices they made in battle.

The plaques will be provided and installed at no cost to the Shire. Maintenance of the plaques will be undertaken by the Department Veteran Affairs.

No specific sites have been identified. However, MRWA have identified some general areas that they believe will be suitable (Attachment 10.1.1(2)).

There is a tight time frame with the project needing to be completed and ready by 11 November, 2016.

#### Comment

The proposal forms part of wider trail network and may have potential to slightly increase tourism or at the least keep people in the towns longer. The only potential impact is a slight increase in maintenance around the signs.

### **Policy/Statutory Implications**

N/A

### **Financial Implications**

Nil

### **Strategic Implications**

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

Outcome 4.7 – Maintain and enhance Shire assets.

Outcome 3.6 – Existing community spirit and pride is maintained.

### **Council Decision**

#### **(Committee’s Recommended Resolution)**

**Moved: Cr Mills**

**Seconded: Cr Crowley**

#### **That Council**

- 1) Advise Main Roads WA that it supports the project to establish a “Remembrance Drive” with plaques at Balingup;**
- 2) Request that a concrete base be used for mounting the plaques to enable easy landscaping maintenance; and**
- 3) Advise Main Roads to liaise with the Balingup Townscape Committee when establishing locations for the plaques.**

**Carried 9/0**

Cr Mitchel requested Kirup Progress Association be consulted when establishing locations for the plaques.

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## **10.1.2. OTHER BUSINESS**

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### **Relocation of the 60km/hr Speed Signs**

Main Roads WA (MRWA) has conducted a site review and have determined that the current location of the speed zone and signage is appropriate and do not support the request to extend it further south.

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

**Moved: Cr Mills**

**Seconded: Cr Bailey**

**That Council write to Main Roads WA seeking agreement from them to attend a site meeting with Balingup Townscape Committee regarding extending the speed zone a further 200m to the south of Balingup.**

**Carried 8/1**

**Recreational Vehicle Signage**

Committee members wish to review the decision made by the Balingup Townscape Committee, at the February 2016 Committee meeting regarding recreational vehicle signage:

*“Recreational Vehicle Signage*

*The Committee discussed location options for the signage and instructed Manager Works and Services to liaise with Main Roads to erect the signs.”*

The signage was a part of the ‘Community Welcomes Recreational Vehicles’ signage program to encourage visitors to spend time in our towns and regions. The committee recommends the signage be installed on Hay Road, the Golf Course area, and on the stretch of road after the Lavender Farm.

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

**Moved: Cr Mills**

**Seconded: Cr Bailey**

**That the ‘Community Welcomes Recreational Vehicles’ signage be installed on the South Western Highway near the Shire boundary south of Balingup, near the intersection of Russells Road and South Western Highway and near the Lavender Farm on a straight section of the Balingup-Nannup Road, Balingup.**

**Carried 7/2**



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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 Dilley**

**Seconded: Cr Tan**

**That accounts authorised and paid under delegation No. 3.2 by the Chief Executive Officer represented by cheques CCP3188-CCP3189, EFT9874a-EFT10123 , DD21093, Trust 3402 - 3405, and EFT10046a totalling \$1,031,857.07 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 Tan**

**Seconded: Cr King**

**That the monthly report for the period ended 30 June 2016 be received.**

**Carried 9/0**

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## **11.2 Manager Works and Services**

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<b>11.2.1</b>	<b>SUBJECT:</b>	<b>PROPOSED COMPULSORY ACQUISITION OF A PORTION OF LOT 177 TREVENA ROAD.</b>
	<b>Location:</b>	<b>Trevena Road, Queenwood</b>
	<b>Applicants:</b>	<b>Shire of Donnybrook-Balingup</b>
	<b>Zone:</b>	<b>Trevena Road</b>
	<b>File Ref:</b>	<b>A39, RD 0045, BR3643A, PWF 16B</b>
	<b>Author:</b>	<b>Damien Morgan, Manager Work &amp; Services</b>
	<b>Report Date:</b>	<b>9 August 2016</b>
	<b>Attachments:</b>	<b>11.2.1 - Proposed Compulsory Acquisition Plan</b>

### **Background**

As part of the Shire of Donnybrook-Balingup project to replace the Trevena Road Bridge, road widenings are required to be obtained from three freehold properties of separate ownership.

To date, a negotiated outcome to acquire the road widening with one of the landowners has not been reached. To progress this important infrastructure project, it is proposed to formally request the Minister for Lands to enable compulsory acquisition of a portion of Lot 177.

### **Comment**

Negotiations for the required road widenings commenced with the impacted landowners in April 2016, with the acquisitions progressing well for two of the three road widenings required.

The owner of Lot 177 (Susan Learmonth), has expressed opposition to the project based on a number of reasons, in particular:

- A new modern bridge will impact on the rural amenity and character of the area;
- She considers the existing bridge to be structurally sound;
- Existing large trees will need to be removed to cater for the re-aligned bridge; and
- Concerns with an increase in heavy traffic use of Trevena Road.

Main Roads Western Australia (MRWA) undertake regular bridge inspections on Shire bridge assets, and has noted on previous detailed inspections that there are concerns with structural elements on both abutments of the Trevena Road bridge.

Planning for the replacement of this bridge has been in progress for a number of years, with MRWA and the Shire concerned that future detailed inspection are at high risk of identifying that load limits will need to be imposed.

The Shire was successful in receiving 50% funding of the \$1.5 million estimated cost to replace the existing Trevena Road Bridge (Bridge # 3643), through Round Two of the Federal Bridges Renewal Program. The remaining 50% of the project cost will be funded by MRWA.

Funding for the road approaches to the re-aligned bridge are proposed from Roads to Recovery funding, to be identified in the Shire's 2016/17 Budget.

Negotiations for the purchase of the required road widening from the owner of Lot 177 have been underway since April 2016, in accordance with Council policies. A number of written and verbal proposals have been presented to the owner for consideration, however these have not been accepted due mainly to the owner's objections to the project.

The required land for the road widening (refer attachment 11.2.1) is actually on the opposite side of the road to the main portion of Lot 177, and is currently utilised for farming activities by the adjoining land owner.

The Shire does not require the full area of Lot 177 on the western side of Trevena Road for the bridge project, however, it is generally accepted that the full area of Lot 177 on the western side of Trevena Road should be taken as it would leave an insufficient parcel of land to conduct any typical farming activity, plus access to the parcel would be difficult to achieve.

The Shire engaged Landgate to undertake a valuation on the portion of Lot 177 on the western side of Trevena Road, and has made a written offer to the owner, consistent with the recommendations of the valuation.

As the approved funding has timeframes to be satisfied for the delivery of the project, and negotiations to date with the landowner have not achieved an agreement for the purchase of the necessary land, staff recommends that Council proceed with the compulsory acquisition of the outlined portion of Lot 177, to ensure the integrity of the Shire's road network is maintained at minimal cost to ratepayers and community.

To undertake this process, Council needs to make formal application to the Minister for Lands in accordance with Part 9 of the *Land Administration Act 1997* (LAA 1997).

Council will also need to indemnify the Department of Lands and the Minister for Lands against any costs and claims arising from the compulsory acquisition of the land.

### **Consultation**

Consultation has taken place with the owner of Lot 177 and the Department of Lands in relation to this project.

### **Policy/Statutory Implications**

- Section 161; Section 168; Part 9 and Part 10 of the Land Administration Act (1997).
- Engineering Policy 4.3 – Values Offered for Land Resumption

## **Financial Implications**

All costs to undertake the required acquisition are to be 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.

Cr Bailey proposed an amendment to add Item 6 the resolution which was accepted into the motion.

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

**Moved: Cr Van Der Heide**

**Seconded: Cr Mitchell**

### **That Council**

- 1. Authorise the compulsory acquisition of a portion of Lot 177 Trevena Road for road widening as shown in yellow on the Land Acquisition Plan Number R1359-01, dated 17/5/2016;**
- 2. Requests the Minister for Lands to compulsorily acquire the outlined portion of land from Lot 177 Trevena Road, for the purpose of road widening, in accordance with Part 9 of the *Land Administration Act 1997*.**
- 3. Provide evidence to the Minister of Lands of negotiations for the road widening with the owner of Lot 177 Trevena Road.**
- 4. Indemnifies the Department of Lands and Minister for Lands against any costs and claims arising from the compulsory acquisition of the land at Lot 177 Trevena Road.**
- 5. Instructs the Chief Executive Officer to engage with the owner of Lot 177 Trevena Road, prior to any site works taking place, to identify potential actions to lessen the impact of the new bridge on the character and amenity of the locality.**
- 6. Instruct the Chief Executive Officer to negotiate with the owner of Lot 177 Trevena Road to seek approval for an amalgamation of residual road reserve back into Lot 177 Trevena Road.**

**Carried 8/1**

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<b>11.2.2</b>	<b>SUBJECT:</b>	<b>CREATION OF ROAD RESERVE ON MUNGALUP ROAD</b>
	<b>Location:</b>	<b>Shire of Donnybrook-Balingup</b>
	<b>Applicants:</b>	<b>Shire of Donnybrook-Balingup</b>
	<b>Zone:</b>	<b>Mungalup Road</b>
	<b>File Ref:</b>	<b>RD 0218 PWF 15B</b>
	<b>Author:</b>	<b>Damien Morgan, Manager Work &amp; Services</b>
	<b>Report Date:</b>	<b>12 July 2016</b>
	<b>Attachments:</b>	<b>11.2.2 - Proposed Road Reserve</b>

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### **Background**

Through the South West Development Commission, the Shire of Donnybrook-Balingup (the Shire) was successful in receiving funds for the upgrade on Mungalup Road to a sealed standard. These works are well progressed and are proposed to be completed during the 2016/17 financial year.

The constructed road is currently located in State Forest (Numbers 25 and 26), and requires the creation of road reserve over the constructed alignment to ensure the asset is located in land that the Shire is responsible for the management of. As part of this process, it is also proposed to close existing unutilised road reserve in the area, and amalgamate them back into the abutting State Forest, as the road reserves serves no benefit to the Shire and has potential to be a future liability risk if it remains the Shire's responsibility.

### **Comment**

The dedication and closure of a road is undertaken in accordance with sections 56 and 58 of the *Land Administration Act 1997* (the Act).

As part of the process to acquire the land for road purposes under the Act, the Shire is required to obtain Council's consent to the excision of the road reserve, and for these portions of land to be dedicated as road reserve.

Council's consent is also required for the road closure as per Section 58 of the Act. As part of the closure process the Shire is required to advertise the proposal for a period of at least 35 days. If no objections are received, a request will be made to the Minister to approve the proposal. If objections are received, the matter will be brought back to Council for further consideration.

The required road widenings, and road closure, are detailed on Attachment 11.2.2.

### **Consultation**

Consultation has taken place with the Department of Parks and Wildlife (DPaW), who are supportive of the creation of the road reserve over the constructed alignment to clearly identify management responsibilities, along with closing the unutilised road and amalgamating it with the adjoining state forest which is under the management of DPaW.

### **Policy/Statutory Implications**

- Section 56 of the Land Administration Act; and
- Section 58 of the Land Administration Act.

### **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.

### **Council Decision**

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

**Moved: Cr Dilley**

**Seconded: Cr Van Der Heide**

#### **That Council**

- 1. In accordance with Section 56 of the Land Administration Act (1997), Council endorse the excision of a road reserve over the recently constructed section of Mungalup Road from SLK 0 to SLK 3.73 on Plan DBK 1/2016 dated 12/08/2016, and for excised land to be dedicated as road reserve.**
- 2. Initiates road closure proceedings to close existing road reserve from SLK 1.13 to 2.12 Mungalup Road Reserve on Plan DBK 1/2016 in accordance with Section 58 of the Lands Administration Act 1997.**
- 3. Subject to receiving no formal objections to the closure of the road reserves during the advertised period, resolves to request the Minister for Lands to close the Road Reserve as indicated on Plan DBK 1/2016.**
- 4. 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.**

**Carried 9/0**

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

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Nil

\*\* 6.14 – Susan Learmonth left the meeting.

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### **11.4 Principal Planner**

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<b>11.4.1</b>	<b>SUBJECT:</b>	<b>PLAQUES HONOURING VICTORIA CROSS, GEORGE CROSS RECIPIENTS ALONG WA HIGHWAYS</b>
	<b>Location:</b>	<b>Donnybrook, Kirup and Balingup</b>
	<b>Applicants:</b>	<b>Main Roads Western Australia</b>
	<b>Zone:</b>	<b>N/A</b>
	<b>File Ref:</b>	<b>TP 03</b>
	<b>Author:</b>	<b>Bob Wallin (Principal Planner)</b>
	<b>Report Date:</b>	<b>29 July 2016</b>
	<b>Attachments:</b>	<b>See Attachment 10.1.1(1) Example of Plaque See Attachment 10.1.1(2) – Identified Locations</b>

#### **Background**

Main Roads Western Australia (MRWA) has requested the Shire’s support for establishing a “Commemoration Way” project to honour Western Australia’s Victoria Cross and George Cross recipients.

The aim of the project is to establish a “remembrance driveway” with 19 plaques to be placed along Albany Highway and the South Western Highway, between Perth and Albany.

As part of this remembrance driveway, plaques are proposed to be located at Donnybrook Kirup and Balingup.

The plaques are intended to be placed in locations that visitors can see. An example of the plaque is provided in Attachment 10.1.1(1).

Each plaque is approximately 1 metre by 0.6 metres and will stand approximately 1 metre high.

The plaque will include a photo and tell a story of the bravery of the recipient and the sacrifices they made in battle.

The plaques will be provided and installed at no cost to the Shire. Maintenance of the plaques will be undertaken by the Department Veteran Affairs. No specific sites have been





**11.5 Chief Executive Officer**

<b>11.5.1</b>	<b>SUBJECT:</b>	<b>CSRFF FUNDING - BALINGUP BOWLING AND CROQUET CLUB LIGHTING PROJECT AND DONNYBROOK TENNIS CLUB – COURT RESURFACING PROJECT</b>
	<b>Location:</b>	<b>Balingup Bowling &amp; Croquet Club, South West Hwy, Balingup. Donnybrook Tennis Club, Steere St, Donnybrook.</b>
	<b>Applicants:</b>	<b>Administration</b>
	<b>Zone:</b>	<b>N/A</b>
	<b>File Ref:</b>	<b>PRO 02/3</b>
	<b>Author:</b>	<b>Ben Rose, CEO (<i>Deb Vanallen, Community Development Officer-Team Leader</i>)</b>
	<b>Report Date:</b>	<b>12 August, 2016</b>
	<b>Attachments:</b>	<b>Nil</b>

**Background**

The purpose of the annual Community Sport and Recreation Facilities Fund (CSRFF) program is to provide State Government financial assistance to community groups and local government authorities to develop basic infrastructure for sport and recreation.

The CSRFF program aims to increase participation in sport and recreation, with an emphasis on physical activity, through rational development of sustainable, good quality, well-designed and well-utilised facilities.

The Department of Sport and Recreation administers the CSRFF program, and there are three types of CSRFF grants – small grants, annual grants and forward planning grants.

As a part of the assessment process each Council is required to priority rank the grant applications from their shire. Two groups from the Shire of Donnybrook-Balingup have submitted applications to the CSRFF program:

***Balingup Bowling and Croquet Club***

At the April 2016 meeting, Council assessed an application from the Balingup Bowling and Croquet Club for support to the Club to install lights on the bowling green.

**Council Resolution**

*“That Council:*

- 1. Identify the Balingup Bowling & Croquet Club lighting project in its Forward Capital Works Plan and Long Term Financial Plan;*
- 2. Provide ‘in principle’ support to the Balingup Bowling & Croquet Club lighting project proposal;*

3. *Support the Balingup Bowling & Croquet Club lighting project application to the Department of Sport and Recreation for funding support via the Department's CSRFF Grant Program (Small Grants).*
4. *That Council consider a financial contribution to the Balingup Bowling & Croquet Club of \$9,934 excl gst in the 2016/2017 Draft Budget."*

The Balingup Bowling & Croquet Club and Shire Officers have continued to liaise with the Department of Sport and Recreation on this project. The Club submitted their application to the Department in the current CSRFF round, which closes on 31 August, 2016, noting the Shire's commitment to the project. The Shire's financial contribution of \$10,671 including GST to the Balingup Bowling & Croquet Club is still being considered through the 2016/2017 Draft Budget.

### ***Donnybrook Tennis Club***

The Donnybrook Tennis Club advised the Shire early in April 2016 that they were working towards a number of upgrades and enhancements to the Club's facility infrastructure. These include further replacement and repairs to the fencing, and also resurfacing of the hard courts (4 x plexipave courts).

The Club submitted an application for funding to the Shire in April, 2016 as part of the Shire's annual Community Grants Funding – Major Community Grant program. They applied for \$2,000 towards replacement of internal fencing between the courts as they are rusted and sagging in some places and not the required height. The Community Awards and Grants Committee recommended funding for this project, and \$2,000 is being considered in the 2016/2017 Draft Budget.

The Donnybrook Tennis Club have continued to liaise with the Shire and the Department for Sport and Recreation on the court resurfacing project, and on 3 August, 2016 submitted an application to the Shire for CSRFF funding seeking a 1/3 contribution from the Shire towards the re-surfacing of the hard courts at Donnybrook Tennis Club.

### **Comment**

The Donnybrook Tennis Club CSRFF application is well prepared and researched. Junior membership numbers are at historically high levels, the local schools are using the courts regularly and the senior membership is strong. In the CSRFF application, the Club clearly demonstrates a need to resurface the courts, illustrating significant deterioration of the court surface.

The 4 x plexipave courts were last resurfaced in 2004. Tennis Australia (the national body for tennis) advise that a plexipave surface is expected to last between 8 – 10 years. The Donnybrook Tennis Club courts surface has lasted beyond its life expectancy.

The Club has received quotes for the resurfacing of the courts, and they are requesting a one third contribution from the Shire of Donnybrook Balingup.

The Club began preliminary planning for this project some time ago and have been liaising with the Shire and the Department for Sport and Recreation throughout this period.

In addition to the draft CSRFF application, the Club has supplied the following information in support of their application:

- Certificate of Incorporation
- One quote
- Maps and photographs illustrating the deterioration of the surface
- Income and Expenditure Report for the year ending June 2016
- Cash at Hand

***Donnybrook Tennis Club – Court Resurfacing***

<b>Funding Source</b>	<b>Incl gst</b>
Donnybrook Tennis Club	\$10,509.50
Department of Sport and Recreation - CSRFF	\$10,500.00
Shire of Donnybrook Balingup	\$10,500.00
<b>Total project costs</b>	<b>\$ 31,509.50</b>

The Donnybrook Tennis Club project is yet to be included in the Shire’s Forward Capital Works Plan and Long Term Financial Plan, nor has the Shire included funds for this project in the 2016/2017 Draft Budget.

As mentioned previously, the Balingup Bowling and Croquet Club began preliminary planning for the lighting project some time ago and have been liaising with the Shire, and the Department for Sport and Recreation throughout this period. Shire planning approval has been granted.

The Balingup Bowling and Croquet Club – Lighting project is included in the Shire’s Forward Capital Works Plan and Long Term Financial Plan, and funds for this project are included in the 2016/2017 Draft Budget.

***Balingup Bowling and Croquet Club - Lighting Installation***

<b>Funding Source</b>	<b>Incl gst</b>
Balingup Bowling and Croquet Club Club	\$10,671
Department of Sport and Recreation - CSRFF	\$10,671
Shire of Donnybrook Balingup	\$10,671
<b>Total project costs</b>	<b>\$ 32,015</b>

CSRFF applications must be assessed by local government staff and recommendations prepared for submission to the Department of Sport and Recreation. Each local government is required to rate and rank all applications they receive in order of priority. Council must endorse the recommendation.

Both projects will provide significant benefits to the community; however the Balingup Bowling and Croquet Club – Lighting project is project ready, with documented support from the Shire. The project is included in the Shire’s Forward Capital Works Plan and Long Term Financial Plan, and funds for this project are included in the 2016/2017 Draft Budget. Further discussions are required with the Donnybrook Tennis Club, with the view to recommending this project for inclusion in the Shire’s Forward Capital Works Plan and Long Term Financial Plan and in the 2017/18 Draft Budget. The Donnybrook Tennis Club

may be eligible for a development bonus from the Department for Sport and Recreation, enabling additional funding from the Department for Sport and Recreation, however this avenue has yet to be explored fully.

### **Consultation**

The Balingup Bowling and Croquet Club has consulted with the following groups:

- Club members
- Other groups/clubs affiliated with the Balingup and District Sports Association
- Balingup Progress Association
- Shire of Donnybrook Balingup
- Department for Sport and Recreation

The Donnybrook Tennis Club has consulted with the following groups:

- Club members
- Other groups/clubs affiliated with the Donnybrook Tennis Club
- Shire of Donnybrook Balingup
- Department for Sport and Recreation

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

#### Policy

- Financial assistance to Organisations and Clubs Policy 3.1.
- Council's maximum contribution is 33.33% subject to funds available in budget.

#### Statutory

Nil

#### Voting

Simple majority.

### **Financial Implications**

- Council is considering the inclusion of \$10,671 including GST in the 2016/17 Draft Budget for the Balingup Bowling & Croquet Club – Lighting Project.
- Council to consider the inclusion of \$10,500 including GST in the 2017/18 Draft Budget for Donnybrook Tennis Club – Court Resurfacing Project.

### **Strategic Implications**

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

**Council Decision  
(Recommended Resolution (Part A))**

**Moved: Cr Bailey**

**Seconded: Cr Van Der Heide**

**That Council**

- 1. Provide 'in principle' support to the Donnybrook Tennis Club – Court Resurfacing Project proposal;**
- 2. Identify the Donnybrook Tennis Club – Court Resurfacing Project in its Forward Capital Works Plan and Long Term Financial Plan, when next reviewed; and**
- 3. Consider a financial contribution to the Donnybrook Tennis Club – Court Resurfacing Project of \$10,500 in the 2017/2018 Draft Budget.**

**Carried 9/0**

**Council Decision  
(Recommended Resolution (Part B))**

**Moved: Cr King**

**Seconded: Cr Bailey**

**That Council advise the Department of Sport and Recreation that Council prioritises the applications submitted to the Community Sport and Recreation Facilities Fund (CSRFF) Grant Program in the following order:**

- 1. The Balingup Bowling and Croquet Club Lighting Project; and**
- 2. The Donnybrook Tennis Club – Court Resurfacing Project.**

**Carried 9/0**

**\*\* 6.16pm – Gwendoline Nidd, Megan Baldock and Christopher Knight left the meeting.**

<b>11.5.2</b>	<b>SUBJECT:</b>	<b>CAT LOCAL LAW 2016</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>CNL 25</b>
	<b>Author:</b>	<b>Ben Rose, CEO (<i>Lucy Bourne – Governance Officer</i>)</b>
	<b>Report Date:</b>	<b>18 August 2016</b>
	<b>Attachments:</b>	<b>NIL</b>

### Background

On 27 April 2016, Council resolved to make the Shire of Donnybrook-Balingup *Cat Local Law*. This local law was gazette on 27 May 2016 and was considered by the Joint Standing Committee on Delegated Legislation on 17 August 2016.

The Committee has concerns with Clause 3.2, which states that:

- 1 *The premises or a portion of the premises on which a cat is kept must be enclosed in a manner capable of confining cats.*
- 2 *The premises will be deemed not to be adequately enclosed if there is more than one escape of a cat from the premises.*

The Committee considers that Clause 3.2:

- Offends the Committee’s term of reference 10.6(a) in that it is not ‘within power’ of the *Cat Act 2011 (Cat Act)* or the *Local Government Act 1995* in that the clause is inconsistent with or repugnant to the *Cat Act*; and
- Offends the Committee’s term of reference 10.6(d) in that it contains matter that is not appropriate for subsidiary legislation.

The Committee requests that Council undertake to:

- Repeal clause 3.2 of the Local Law within 6 months;
- Not enforce clause 3.2 in a manner contrary to that undertaking
- Make all consequential amendments arising from the repeal;
- Provide the Committee with a copy of the minutes of the meeting at which the Council resolves to provide these undertakings; and
- Where the Local Law is made publicly available, whether in hard copy or electronic form, ensure that the law be accompanied by a copy of these undertakings.

### Comment

The reason this clause is deemed inappropriate is because the *Cat Act 2011* empowers the making of local laws requiring that in specified areas a portion of the premises on which a cat is kept must be enclosed in a manner capable of confining cats. Clause 3.2, by contrast, requires the confinement of cats to premises throughout the Shire as a whole. The Committee is of the view that such a provision represents a significant new step in policy not appropriate for delegated legislation and is inconsistent with the provisions in the *Cat Act* which contemplate cats being in public places.

The offending clause will be repealed in accordance with Section 3.12 of the *Local Government Act 1995*.

## Consultation

Council's intention to repeal the offending clause will be advertised for a period of not less than 6 weeks, in accordance with Section 3.12 of the Act.

## Policy/Statutory/Voting Implications

### Policy

Nil

### Statutory

*Shire of Donnybrook-Balingup Cat Local Law 2016*  
*Local Government Act 1995*

### Voting

Simple majority

## Financial Implications

The cost of advertising will be minimal as the proposed amendment (repeal) local law will be included with other advertising for amendment and/or new local laws resulting from this year's review of local laws.

## Strategic Implications

Nil

## Council Decision

### (Officer's Recommended Resolution)

**Moved: Cr Mitchell**

**Seconded: Cr Mills**

#### **That Council**

- 1. Repeal clause 3.2 of the Cat Local Law within 6 months of the date of this resolution;**
- 2. Not enforce clause 3.2 in a manner contrary to that undertaking;**
- 3. Make all consequential amendments arising from the repeal;**
- 4. Provide the Joint Standing Committee on Delegated Legislation with a copy of the minutes of the meeting at which the Council resolved to provide these undertakings; and**
- 5. Where the Local Law is made publicly available, whether in hard copy or electronic form, ensure that the law be accompanied by a copy of these undertakings.**

**Carried 8/1**

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<b>11.5.3</b>	<b>SUBJECT:</b>	<b>ACTIVITIES ON THOROUGHFARES AND TRADING IN THOROUGHFARES AND PUBLIC PLACES AMENDMENT LOCAL LAW 2016</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>CNL 25</b>
	<b>Author:</b>	<b>Ben Rose, CEO (<i>Lucy Bourne – Governance Officer</i>)</b>
	<b>Report Date:</b>	<b>18 August 2016</b>
	<b>Attachments:</b>	<b>Nil</b>

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### **Background**

On 23 March 2016, Council resolved to make a local law amending the existing *Activities on Thoroughfares and Trading in Thoroughfares and Public Places Local Law 2016*.

The amendment local law sought to amend the definition of ‘planning scheme’. However the principal local law did not contain a definition of ‘planning scheme’, only ‘town planning scheme’.

The Joint Standing Committee on Delegated Legislation has therefore asked Council to rectify the original local law by replacing ‘town planning scheme’ with ‘planning scheme’ within six months of 24 August 2016.

### **Comment**

The Committee notes that this error is of no consequence to the validity of the amending law, or the original law, but requires Council to make an undertaking to rectify it.

In order to do this, a new amendment local law will need to be made in accordance with the requirements of Section 3.12 of the Act.

### **Consultation**

The proposed amendment will be advertised for a period of six weeks and any submissions reported to Council, in accordance with Section 3.12 of the Act.

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

#### Policy

Nil



**Statutory**

*Shire of Donnybrook-Balingup Activities on Thoroughfares and Trading in Thoroughfares and Public Places Local Law 2000*

*Shire of Donnybrook-Balingup Activities on Thoroughfares and Trading in Thoroughfares and Public Places Amendment Local Law 2016*

*Local Government Act 1995*

**Voting**

Simple Majority

**Financial Implications**

The cost of advertising will be minimal as the proposed amendment local law will be included in other advertising to be done within the next two months as part of this year's review of local laws.

**Strategic Implications**

Nil

**Council Decision**

**(Officer's Recommended Resolution)**

**Moved: Cr Mitchell**

**Seconded: Cr Bailey**

**That Council undertakes to rectify its *Activities on Thoroughfares and Trading in Thoroughfares and Public Places Local Law*, by replacing 'town planning scheme' with 'planning scheme' in clause 1.2, within six months of this resolution.**

**Carried 9/0**

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**11.6 Recall Items**

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Nil

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**11.7 Confidential Items**

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Nil

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## 12 CLOSURE OF MEETING

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The Chairperson advised that the next Ordinary Council Meeting will be held on Wednesday, 28 September 2016 commencing at 5.00pm in Donnybrook at a location to be advised.

The Shire President declared the meeting closed at 6.17 pm.

<b>These Minutes were confirmed by the Council as a true and accurate record at the Ordinary Council Meeting held on 28 September 2016.</b>		
<b>Shire President</b>		<b>Presiding Member</b>