



Notice of Ordinary Council Meeting

To All Councillors

To be held on Wednesday, 28 September 2016

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

A handwritten signature in black ink, appearing to read 'BGR', followed by a long horizontal flourish.

Ben Rose
Chief Executive Officer

22 September 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.



ORDINARY COUNCIL MEETING AGENDA

28 SEPTEMBER 2016

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SHIRE OF DONNYBROOK-BALINGUP

ORDINARY COUNCIL MEETING AGENDA

To be held at the Seniors Room Donnybrook Community Library
Wednesday, 28 September 2016 at 5.00pm

MEMBERS PRESENT

COUNCILLORS

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

STAFF

Damien Morgan – A/Chief Executive Officer
Greg Harris – Manager Finance and Administration
Bob Wallin – Principal Planner
Leigh Guthridge – Manager Development and
Environmental Services
Lucy Bourne – Governance Officer

PUBLIC GALLERY

1 APOLOGIES

Ben Rose – Chief Executive Officer

Cr Van Der Heide has approved leave for the Ordinary Council Meeting of Council on 28 September 2016.

2 PUBLIC QUESTION TIME

Question taken on notice at the Ordinary Council Meeting on 24 August 2016:

CB Knight

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

Chief Executive Officer

The matter you are referring to is a staff related matter which is bound by a Deed of Settlement. Information pertaining to this matter is strictly confidential and disclosure of any information regarding this matter by either party would constitute a breach of the Deed of Settlement.

In this instance I cannot provide any further information on the question you have raised. I acknowledge that this is not the response you would have hoped for however it is the best I can offer within the bounds of my legal contractual obligations.

3 APPLICATION FOR LEAVE OF ABSENCE

Nil

4 DECLARATION OF FINANCIAL/IMPARTIALITY INTEREST

5 PETITIONS/DEPUTATIONS/PRESENTATIONS

Rob Richardson and Sherry Thomas from the Imagine Greater Wellington National Park have requested to present to Council on their proposal for an expanded Wellington National Park as the centre piece for world class sustainable ecotourism, with the potential to provide ongoing recreation, education, business and employment opportunities.

6 LATE ITEMS

Nil

7 CONFIRMATION OF MINUTES

7.1 *Ordinary Council Meetings*

Council Decision

Moved: Cr

Seconded: Cr

That the Minutes of the Ordinary Council meeting held on 24 August 2016 be confirmed as a true and accurate record.

8 ELECTED MEMBERS MOTIONS

Nil

9 MINUTES OF PREVIOUS MEETINGS

9.1 Committee Minutes

Council Decision

Moved: Cr

Seconded: Cr

That the following Committee minutes be received:

- Legislative (Local Laws) Committee Meeting – 6 September 2016
 - Donnybrook Townscape Committee Meeting – 14 September 2016
-

10 REPORTS OF COMMITTEES

10.1 Legislative (Local Laws) Committee

| | | |
|--------|---------------------|----------------------------------------------------------------|
| 10.1.1 | SUBJECT: | LOCAL LAW REVIEW |
| | Location: | SHIRE OF DONNYBROOK-BALINGUP |
| | Applicants: | SHIRE OF DONNYBROOK-BALINGUP |
| | Zone: | N/A |
| | File Ref: | CNL25 |
| | Author: | Ben Rose, CEO (<i>Lucy Bourne – Governance Officer</i>) |
| | Report Date: | 25 July 2016 |
| | Attachments: | 10.1.1 - Draft Amendment Dog Local Law |

Background

Section 3.16 (1) of the *Local Government Act 1995* (the Act), requires that within a period of 8 years from the day when a Local Law commenced (or was last reviewed), the local government is to review of the local law to determine whether or not it considers that it should be repealed or amended.

At the Ordinary Council Meeting of 27 April 2016, it was resolved to review the following local laws, all of which are due for review this year.

- Disposal of Refuse, Rubbish & Disused Material Local Law
- Cemeteries Local Law
- Dog local Law
- Parking & Parking Facilities
- Standing Orders

Comment

In accordance with the Act, Council's intention to review these local laws was advertised both state-wide and locally on 17 May 2016 and submissions invited up until 4pm on 22 July 2016.

Disposal of Refuse, Rubbish & Disused Material Local Law

No submissions received. It is recommended that this local law be repealed and its provisions included into the proposed *Animals, Environment and Nuisance Local Law* (see item 5.1.3).

Cemeteries Local Law

One submission was received regarding natural burials. The applicant asked if our cemetery local law could be amended to accommodate natural burials (body buried in a shroud or easily biodegradable coffin. There is no memorial, the grave is marked by GPS coordinates and trees or other vegetation are allowed to grow over the grave.

The introduction of natural burials would require setting aside a new area within the cemetery for this purpose, along with the associated community consultation and engagement, as well as the development of new policies and processes.

The local law would need to be amended – in particular the requirements for a coffin to be structurally sound and to bear the surname of the deceased person on a plate on the coffin's lid. Otherwise there is nothing in the local law that would prohibit a natural burial.

Shire staff contacted a Bunbury funeral director and the Bunbury Cemeteries Board (BCB) to gauge demand for natural burials. The funeral director had received no requests for a natural burial and the BCB had received one in the past 5-6 years.

It is recommended that the option of natural burials is considered by the Cemeteries Committee. As the process of gauging demand, developing a natural burials area and all the associated processes would take time, it is recommended that the local law is not changed until this has been done.

No changes recommended.

Dog Local Law

One submission was received relating to the Dog Local Law, calling for it to be strengthened, not weakened, in light of the number of dogs off leads in areas signposted as places where dogs must be on a lead, and increasing amounts of dog excreta around the town.

Matters such as dogs not being on a lead, dogs not wearing a collar, being in a place without consent and dog attacks are dealt with in the *Dog Act 1976*, not this local law. The issue of dog excreta in public places is covered in this local law and there is an opportunity to increase the penalty for this offence. The current modified penalty has not been adjusted since 2000.

Offences and penalties under the local law are currently:

| | Offence | Maximum Penalty \$ | Modified Penalty \$ |
|---|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------|----------------------------|
| 1 | Attempting to or causing the unauthorised release of a dog from a pound ; Interfering with any pound or vehicle used for the purpose of catching, holding or conveying dogs | 2,000 (dangerous dog) 1,000 (other) | 400 200 |
| 3 | Failing to provide means for effectively confining a dog | 2,000 (dangerous dog) 1,000 (other) | 200 50 |
| 4 | Failure to comply with conditions of a licence | 2000 (dangerous dog) 1,000 (other) | 200 100 |
| 5 | Dog excreting in a prohibited place | 200 | 40 |

Section 45A (3) of the *Dog Act 1976* stipulates that the modified penalty for an offence must not exceed 10% of the maximum penalty for that offence. Penalties 1 and 5 are inconsistent with this clause and are therefore not currently enforceable.

It is recommended that the maximum penalties for (1) are increased to \$4,000 for a dangerous dog and \$2,000 for another dog, and the modified penalties left unchanged. The modified penalties will then represent 10% of the maximum penalty and comply with the Dog Act.

It is recommended that the maximum penalty for (5) be increased to \$1,000, and the modified penalty increased to \$100. As well as meeting the requirements of the Dog Act, the penalties will be brought into line with those recommended in the WALGA model.

The amended penalties would be as follows:

| | Offence | Maximum Penalty \$ | Modified Penalty \$ |
|---|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------|----------------------------|
| 1 | Attempting to or causing the unauthorised release of a dog from a pound ; Interfering with any pound or vehicle used for the purpose of catching, holding or conveying dogs | 4,000 (dangerous dog) 2,000 (other) | 400 200 |
| 5 | Dog excreting in a prohibited place | 1,000 | 100 |

No other changes to the Dog Local Law are recommended. An Amendment Dog Local Law has been drafted and is attached (Attachment 10.1.1A).

Parking & Parking Facilities Local Law

No submissions received. No changes recommended.

Standing Orders Local Law

This local law continues to be under review. It will be the subject of discussion at the Councillor Concept Forum on 20 September, 2016.

When a Council resolves to amend any Local Law, then the process to do so must be undertaken in the same manner as the adoption of a new Local Law as required under s. 3.12 of the *Local Government Act 1995*. This section requires the presiding person to give notice to the meeting of the purpose and effect of the proposed local law in the prescribed manner – that is, the purpose and effect of each local law must be included in the agenda and minutes of the Council Meeting.

Consultation

Under Section 3.12 of the *Local Government Act 1995*, Council is to give State-wide public notice for not less than 6 weeks, stating its intention to amend the local laws and inviting public submissions to be made during this time.

Policy/Statutory/Voting Implications

Policy

N/A

Statutory

Local Government Act 1995, Section 3.12 (2) & (3)

Local Government Functions and General Regulations – Regulation 3

Dog Act 1976

Voting

Simple majority

Financial Implications

An appropriate budget line exists for the cost of giving public notice and advertising.

Strategic Implications

Shire of Donnybrook-Balingup Strategic Community Plan, Outcome 4.3. An open and accountable local government that is respected, professional and trusted.

Committee's Recommended Resolution

Moved: Cr

Seconded: Cr

- (1) That, following a review of local laws, no changes are made to the *Cemeteries Local Law* and the *Parking & Parking Facilities Local Law*.
- (2) That, pursuant to Section 3.12 of the *Local Government Act 1995*, Council give state-wide public notice for a period of not less than 6 weeks that it proposes to make the Dog Amendment Local Law 2016, as per Attachment 5.1.1.

The purpose of this local law is to amend the penalties within the Shire of Donnybrook-Balingup Dog Local Law 2000. The effect is to ensure the penalties comply with the Dog Act 1976 and are consistent with the offence.

| | | |
|--------|---------------------|-------------------------------------------------------------------------|
| 10.1.2 | SUBJECT: | WASTE LOCAL LAW |
| | Location: | SHIRE OF DONNYBROOK-BALINGUP |
| | Applicants: | SHIRE OF DONNYBROOK-BALINGUP |
| | Zone: | N/A |
| | File Ref: | CNL25 |
| | Author: | Ben Rose CEO (<i>Lucy Bourne – Governance Officer</i>) |
| | Report Date: | 25 July 2016 |
| | Attachments: | 10.1.2 - Draft Shire of Donnybrook-Balingup Waste Local Law 2016 |

Background

Since the introduction of the *Waste Avoidance and Resource Recovery (WARR) Act in 2007*, the management of household refuse has come under this Act, rather than the *Health Act 1911*. Transition arrangements have been in place allowing local governments to continue to use the refuse provisions in their Health Local Laws – however this will no longer be the case when the new Public Health Act is enforced (it received Royal Assent on 25/7/2016).

It is therefore recommended that a new Waste Local Law is introduced under the appropriate head of power – that is, the WARR Act.

Comment

Following the disallowance of a number of waste local laws by the Joint Standing Committee on Delegated Legislation, WALGA has developed a template Waste Local Law that addresses the committee's concerns and ensures consistency with the WARR Act.

The attached draft *Shire of Donnybrook-Balingup Waste Local Law 2016* is based on this template. Section 4.2 of the *Shire's Health Local Laws 1999* (Disposal of Refuse) will be revoked as part of the process of adopting this new local law.

The purpose of this local law is to provide for the regulation, control and management of waste and recycling collection services within the Shire. The effect of this local law is for the efficient and orderly separation and removal of general, recycling and organic waste from households in the Shire to minimise the impact on landfill.

Consultation

Under s. 3.12 of the *Local Government Act 1995*, Council is to give State-wide public notice for not less than 6 weeks, stating its intention to introduce a new local law and invite public submissions to be made during this time.

A copy of the draft Waste Local Law will also be sent to the Minister for Local Government and Communities and the Minister for the Environment for comment.

Policy/Statutory/Voting Implications

Policy

N/A

Statutory

- *Local Government Act 1995*, Section 3.12
- *Waste Avoidance and Resource Recovery Act 2007*, Section 64(2)
- *Local Government Functions and General Regulations* – Regulation 3
- *Health Local Laws 1999* Section 4.2 (Disposal of Refuse) will be revoked from the *Shire's Health Local Laws 1999* as part of the process of adopting the new *Shire of Donnybrook-Balingup Waste Local Law 2016*.

Voting

Simple majority

Financial Implications

An appropriate budget line exists for the cost of giving public notice and advertising.

Strategic Implications

Shire of Donnybrook-Balingup Strategic Community Plan, Outcome 4.3. An open and accountable local government that is respected, professional and trusted.

Committee's Recommended Resolution

Moved: Cr

Seconded: Cr

That Council give state-wide public notice for a period of not less than 6 weeks that it proposes to make the *Shire of Donnybrook-Balingup Waste Local Law 2016* (Attachment 5.1.2).

The purpose of this proposed local law is to provide for the regulation, control and management of waste and recycling collection services within the Shire. The effect of this local law is the efficient and orderly separation and removal of general, recycling and organic waste from households in the Shire to minimise the impact on landfill.

| | | |
|--------|---------------------|-----------------------------------------------------------------------------------------------------|
| 10.1.3 | SUBJECT: | ANIMALS, ENVIRONMENT AND NUISANCE LOCAL LAW |
| | Location: | SHIRE OF DONNYBROOK-BALINGUP |
| | Applicants: | SHIRE OF DONNYBROOK-BALINGUP |
| | Zone: | N/A |
| | File Ref: | CNL25 |
| | Author: | Ben Rose CEO (<i>Lucy Bourne – Governance Officer</i>) |
| | Report Date: | 25 July 2016 |
| | Attachments: | 10.1.3 – Draft Shire of Donnybrook-Balingup Animals, Environment and Nuisance Local Law 2016 |

Background

The purpose of this Draft Local laws is to shift a number of the provisions of the Shire's Health Local Laws from the *Health Act 1911* to the *Local Government Act 1995*. The *Public Health Act 2016*, which is now law, will repeal much of the outdated *Health Act 1911*. As part of the transition to the new Act, the *Health (Miscellaneous Provisions) Act 1911*, which enables local government to have Health Local Laws, will be repealed.

Included in this draft are a number of other provisions currently dealt with under the Local Government Act. By putting these into a local law they may be enforced with by way of modified penalties rather than via court action.

The provisions of two existing local laws – *Disposal of Refuse, Rubbish and Disused Materials Local Law*, and the *Miscellaneous Provisions Local Law* – are also contained in this proposed new local law and would be repealed if this is adopted.

Comment

This local law brings together all of the 'environment and nuisance' provisions under the one local law.

All of the provisions in this local law are based on pro-forma or 'model' local laws which have been vetted by the Joint Standing Committee on Delegated Legislation, so are likely to meet the Committee's approval.

Consultation

Under Section 3.12 of the *Local Government Act 1995*, Council is to give State-wide public notice for not less than 6 weeks, stating its intention to introduce a new local law and invite public submissions to be made during this time.

A copy of the draft Animals, Environment and Nuisance Local Law will also be sent to the Minister for Local Government and Communities, the Minister for Agriculture and the Minister for the Environment for comment.

Policy/Statutory/Voting Implications

Policy

N/A

Statutory

- *Health Act 1911*
- *Health (Miscellaneous Provisions) Act 1911*
- *Public Health Act 2016*
- *Local Government Act 1995, Section 3.12*
- *Disposal of Refuse, Rubbish and Disused Materials Local Law*
- *Miscellaneous Provisions Local Law*

Voting

Simple majority

Financial Implications

An appropriate budget line exists for the cost of giving public notice and advertising.

Strategic Implications

Shire of Donnybrook-Balingup Strategic Community Plan, Outcome 4.3. An open and accountable local government that is respected, professional and trusted.

Committee's Recommended Resolution

Moved: Cr

Seconded: Cr

That Council give state-wide public notice for a period of not less than 6 weeks that it proposes to make the *Shire of Donnybrook-Balingup Animals, Environment and Nuisance Local Law 2016* (Attachment 5.1.3).

The purpose of this Local Law is to provide for the regulation, control and management of animals and the prevention of environmental damage and nuisances within the District.

The effect of this local law is to establish the requirements with which any person keeping animals or undertaking activities that have the potential to have an impact on the environment or create a nuisance must comply.

| | | |
|---------------|---------------------|---------------------------------------------------------------|
| 10.1.4 | SUBJECT: | CAT LOCAL LAW 2016 |
| | Location: | SHIRE OF DONNYBROOK-BALINGUP |
| | Applicants: | SHIRE OF DONNYBROOK-BALINGUP |
| | Zone: | N/A |
| | File Ref: | CNL25 |
| | Author: | Ben Rose CEO (<i>Lucy Bourne – Governance Officer</i>) |
| | Report Date: | 23 August 2016 |
| | Attachments: | 10.1.4 Draft Cat Amendment Local Law |

Background

On 24 August 2016, Council resolved to repeal clause 3.2 of the Cat Local Law within six months of that date. This decision followed advice from the Joint Standing Committee on Delegated Legislation that the clause:-

- 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.

Comment

The clause can be repealed through an amendment local law, a draft of which has been attached. Council's intention to amend the Cat Local Law will then need to be advertised *statewide and submissions invited for a period of not less than six weeks*

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 *Local Government Act 1995*.

Policy/Statutory/Voting Implications

Policy

N/A

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

Committee's Recommended Resolution

Moved: Cr

Seconded: Cr

That Council give state-wide public notice for a period of not less than 6 weeks that it proposes to make the *Shire of Donnybrook-Balingup Cat Amendment Local Law 2016* (Attachment 5.1.4).

The purpose of this local law is to repeal clause 3.2 of the *Shire of Donnybrook-Balingup Cat Local Law 2016* and its effect is to ensure the local law is consistent with the *Cat Act 2011*.

| | | |
|---------------|---------------------|------------------------------------------------------------------------------------------------------------|
| 10.1.5 | SUBJECT: | ACTIVITIES ON THOROUGHFARES AND TRADING IN THOROUGHFARES & PUBLIC PLACES LOCAL LAW |
| | Location: | SHIRE OF DONNYBROOK-BALINGUP |
| | Applicants: | SHIRE OF DONNYBROOK-BALINGUP |
| | Zone: | N/A |
| | File Ref: | CNL25 |
| | Author: | Ben Rose CEO (<i>Lucy Bourne – Governance Officer</i>) |
| | Report Date: | 23 August 2016 |
| | Attachments: | 10.1.5 Draft Activities on Thoroughfares and Trading in Thoroughfares & Public Places Local Law |

Background

On 24 August 2016, Council resolved to amend the *Activities on Thoroughfares and Trading in Thoroughfares & Public Places Local Law*, following advice from the Joint Standing Committee on Delegated Legislation that there was a discrepancy between the definition of 'town planning scheme' in the principal local law, and the definition Council sought to amend in the 2016 amendment local law.

The amendment local law refers to a 'planning scheme'. However the principal local law did not contain a definition of 'planning scheme', only 'town planning scheme'.

While the Committee noted that this error is of no consequence to the validity of the amending law, or the original law, it requires Council to rectify the matter by introducing an amendment local law within six months of 24 August 2016.

Comment

The amendment local law replaces 'town planning scheme' with 'planning scheme' in clause 1.2. The amendment local law will need to be made in accordance with the requirements of Section 3.12 of the *Local Government Act 1995*.

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

N/A

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

Committee's Recommended Resolution

Moved: Cr

Seconded: Cr

That Council give state-wide public notice for a period of not less than 6 weeks that it proposes to make the *Shire of Donnybrook-Balingup Activities on Thoroughfares and Trading in Thoroughfares & Public Places Amendment Local Law 2017*.

The purpose of this local law is to replace the term 'town planning scheme' with 'planning scheme' in clause 1.2 of the principal local law. The effect is to rectify a discrepancy between terms in the principal local law and the 2016 amendment local law.

| | | |
|---------------|---------------------|---------------------------------------------------------------|
| 10.1.6 | SUBJECT: | BUSH FIRE BRIGADES LOCAL LAW |
| | Location: | SHIRE OF DONNYBROOK-BALINGUP |
| | Applicants: | SHIRE OF DONNYBROOK-BALINGUP |
| | Zone: | N/A |
| | File Ref: | CNL25 |
| | Author: | Ben Rose CEO (<i>Lucy Bourne – Governance Officer</i>) |
| | Report Date: | 23 August 2016 |
| | Attachments: | 10.1.6 Draft Bush Fire Brigades Amendment Local Law. |

Background:

Following a review of eight local laws during 2015, Council resolved in November 2015 to amend the Bush Fire Brigades Local Law. Before the process of introducing this amendment local law had been completed, it was noted that the draft amendment local law had not been sent to the Minister for Emergency Services, who administers the *Bush Fires Act 1954*.

This means going back in the process to the step at which the Minister for Emergency Services should have been notified, and re-advertising the proposed amendment local law state-wide for a period of not less than six weeks.

Comment

Although this omission came to light early in 2016, it was decided to wait and re-advertise the amendment local law at the same time as other proposed amendments to minimise the cost of advertising.

The amendments to this local law comprise changes to the names of the Department of Fire and Emergency Services and the inclusion of email as an acceptable method of conveying notices of meetings.

Consultation

Under Section 3.12 of the *Local Government Act 1995*, Council is to give State-wide public notice of its intention to introduce a Bushfire Brigades Amendment Local Law and to invite public submissions for a period of not less than 6 weeks.

Policy/Statutory/Voting Implications

Policy

N/A

Statutory

Local Government Act 1995, Section 3.12 (2) & (3)
Bush Fires Act 1954

Voting

Simple majority

Financial Implications

N/A

Strategic Implications

Nil

Committee's Recommended Resolution

Moved: Cr

Seconded: Cr

That under the Local Government Act 1995, Section 3.12, Council give state-wide public notice for a period of not less than 6 weeks that Council proposes to make the *Bush Fire Brigades Amendment Local Law 2016*.

The purpose of this amendment local law is to update the terms and provisions of the principal local law; its effect is to align the local law with changes in the law and operational practice.

10.2 Donnybrook Townscape Committee

| | | |
|---------------|---------------------|-------------------------------------------------------------------|
| 10.2.1 | SUBJECT: | REQUEST TO RELOCATE THE OLD DONNYBROOK SKATE PARK TO KIRUP |
| | Location: | Kirup |
| | Applicants: | Kirup Progress Association Committee |
| | Reserve: | 23890 |
| | File Ref: | A2928 |
| | Author: | Bob Wallin (Principal Planner) |
| | Report Date: | 7 July 2016 |
| | Attachments: | Nil |

Background

The Kirup Progress Association Committee at its meeting on 6 July 2016 resolved to request the Donnybrook Townscape Committee consider relocating the old skate park to Kirup.

The old skate park is presently located on basketball courts at the back of the Donnybrook Football Club (Reserve 23890 Steere Street, Donnybrook). The skate park consists of a few transportable ramps and bank/platform structures. It is noted that some of the ramps will require repair and base transition sections replaced.

Research of existing and similar facilities within the South West has indicated that skate parks require a minimum 20m x 25m smooth concrete surface.

Estimated costs for upgrading the existing structures, relocating and constructing a suitable base surface is approximately \$50,000.00.

Comment

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

- 1) There are currently insufficient funds in the Donnybrook Townscape budget to accommodate the proposal.
- 2) There is no identified site. Any selected site should include a number of key important attributes such as:
 - a. **Accessibility.** The site needs to be in a convenient location.
 - b. **Visibility.** The site needs to be visible and not hidden away. This reduces potential for anti-social behaviour.
 - c. **Distance from residents.** This is to reduce potential for noise complaints. It is noted that the ramps are of metal construction and the joins to the grounds and base produce noise. A sample of noise has indicated that a minimum separation distance from a residence should be at least 100m. This is based on noise levels and activity being limited to day light hours.
- 3) The degree of need and demand for the facility. In considering the allocation of limited public funds, priority is often given to projects that benefit the most people. It is likely that the Kirup town site has a limited population base which would use the facility. However, maximising benefit is not the only deciding factor in allocating funds to a project. There may be other decision drivers such as equity, sustainability or local community development.
- 4) The limited use of the existing skate park. The current facility is under used and is a poor duplication when matched against the new skate park at Egan Park. The proposal will enable the existing structures to be put to some use.
- 5) Quality of the structures. The structures are dated and provide limited scope for riders to excel and progress beyond the very basics. It is likely that they would not provide any long term or sustained interest from a skate boarding, bike or scooter perspective. However, the facility may provide a focal point for meetings.

In considering the above, there may be better and more economical ways of providing places for local residents to enjoy outdoor recreational activity. This could include incorporating the ramps as part of a bike "pump track". Pump tracks provide a fun off-road biking experience that requires limited earth working. This use of the ramps would eliminate the key cost of providing a concrete base (approximately \$30,000.00). It would also enable a facility that provides more room for creative thought and activity. The shift is just a focus on bikes and not skateboards and scooters. If such a proposal is considered desirable, it will be necessary to consider impacts on the Kirup maintenance budget.

Policy/Statutory Implications

N/A

Financial Implications

The relocation of the skate park would cost approximately \$50,000.00.

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.

Outcome 3.11 – Attract and retain young families.

Committee’s Recommended Resolution

Moved: Cr

Seconded: Cr

That Council

- 1) Advise the Kirup Progress Association that it does not have any available budget to relocate the transportable skate park to Kirup; and**
 - 2) Instruct the Chief Executive Officer to undertake research into other uses of the existing transportable skate park that could provide a fun recreational asset and recreational activity to Kirup such as a pump track and report back to the Kirup Progress Association Committee.**
-

| | | |
|---------------|---------------------|--------------------------------------------------------------------------------------------|
| 10.2.2 | SUBJECT: | LOADING BAY AND ACROD PARKING BETWEEN NO. 108-116 SOUTH WESTERN HIGHWAY, DONNYBROOK |
| | Location: | No. 108-116 South Western Highway, Donnybrook |
| | Applicants: | N/A |
| | Zone: | Commercial |
| | File Ref: | A378 |
| | Author: | Bob Wallin (Principal Planner) |
| | Report Date: | 8 September 2016 |
| | Attachments: | 10.2.2(1) – Location Plan 10.2.2(2) – Schedule of Submissions |

Background

The Shire has received a number of complaints from business operators/landowners at 108 – 116 South Western Highway (Attachment 5.1.2(1) – Location Plan).

The issue relates to servicing vehicle access. In the past, servicing vehicles used to run along the back of the properties. This was an informal arrangement and not legally enforceable through easements. Access along the rear of the properties is not possible at the moment.

An interim arrangement to allow access at the rear of the dentist through to the southern car park was trialled. This was not successful and caused disruption to the dentist. It was also difficult for vehicles to negotiate tight turn around areas.

Disharmony and discontentment has been rising between landowners/businesses with complaints and requests for involvement from Council to resolve issues. Staff have been trying to assist. To this end a design solution was prepared and circulated to landowners/businesses.

The solution proposed represents a compromised outcome but it was suggested as a way of improving relationships and the day to day functionality of the locality.

Comment

The ideal solution to this issue is for landowners to formalise and agree for servicing vehicle access along the rear of properties. This solution is something that local businesses and landowners will need to agree between themselves. It is not a solution that Council can enforce or require.

Consultation

All landowners/businesses have been provided copies of a proposed solution with background and given opportunity to meet with Shire staff and/or make a written submission.

Four submissions have been received (Attachment 5.1.2(2)). These submissions raise objections to various elements of the proposed idea.

On reviewing the feedback and acknowledging that this is really an issue for private landowners. On this basis it is suggested that Council step back and retreat from the issue.

The issue relates to relationships between private landowners and any solution needs to be prepared and resolved between private landowners.

Policy/Statutory Implications

N/A

Voting Implications

Simple Majority

Financial Implications

N/A

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.

Committee's Recommended Resolution

Moved: Cr

Seconded: Cr

The Committee recommend that Council

- 1) Advise landowners that issues of access and parking relating to 108 to 116 South Western Highway is not a Council matter and should be resolved through the civil process; and**
 - 2) Instruct the Chief Executive Officer to address matters relating to the Dental practice in a manner consistent with the leasing agreement.**
-

| | | |
|---------------|---------------------|---------------------------------------------------------------------------|
| 10.2.3 | SUBJECT: | DONNYBROOK MEN'S SHED INC. – SEEKING ALTERNATIVE PREMISES |
| | Location: | Shire of Donnybrook-Balingup |
| | Applicants: | Shire of Donnybrook-Balingup |
| | Zone: | N/A |
| | File Ref: | A162 |
| | Author: | Ben Rose (<i>Deb Vanallen - Community Development Team Leader</i>) |
| | Report Date: | 5 September, 2016 |
| | Attachments: | Nil |

Background

Council at its March 2015 Ordinary Meeting resolved in part the following:

"That the Shire continues to support Donnybrook Men's Shed Inc. and assist Donnybrook Men's Shed Inc. to investigate opportunities to obtain land and funding to construct a facility for its future needs."

Donnybrook Men's Shed Inc. (Men's Shed) currently utilise two sheds at Egan Park in Donnybrook. One of the sheds is the subject of dispute of tenure with the Donnybrook Apple Festival (DAF). DAF successfully sought a grant via the Department of Commerce and Trade to construct the shed in 1999 for its use.

Since this time there has been an ongoing disagreement between both groups over who is the rightful user of the shed. The Shire has attempted to facilitate an amicable outcome for both parties with limited success, and the issue remains in abeyance. The Donnybrook Apple Festival (DAF) Committee have advised Donnybrook Men's Shed Inc. that they wish to resume use of the Shed, thus requesting the Men's Shed vacate the building.

The Donnybrook Community Workshop Men in Sheds currently work from a shed adjoining the old Shire depot on Victory Lane. The tenure of this Shed is uncertain as the Shire is investigating development opportunities for the land in this area.

At the Ordinary Council meeting in September, 2015, Council authorised Shire Officers to investigate a number of issues in regard to a combined multi-purpose facility to accommodate the Donnybrook Men's Shed and the Donnybrook Community Workshop Men in Sheds.

In November, 2015 a combined letter of commitment for the Project was received from the Donnybrook Men's Shed and the Donnybrook Community Workshop (Menshed Inc.) outlining their intent to merge, and their commitment to work with the Shire on the development of a new facility.

Comment

Work on the tasks identified in the resolution at the September, 2015 Council meeting is progressing:

Multi-purpose men in Shed in Donnybrook

| TASK | CURRENT PROGRESS |
|----------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| The level of Shire commitment to this Project including land and/or financial resources | In June 2016 the Shire was successful in securing Regional Grants – Community Chest funding of \$6,313 to appoint a consultant to conduct a Project Plan for a new multi-purpose men in shed in Donnybrook. |
| Location for a new facility | A number of sites are currently being considered including: the old BMX track on Marmion Street, one bowling green (now vacant) at Donnybrook Country Club. |
| Preparation of concept plans based on operational requirements as confirmed by Donnybrook Men's Shed and the Donnybrook Community Workshop Men in Sheds. | Concept Plans for the new Donnybrook Men in Sheds facility were prepared in March 2016 by EcoAngle Design and Drafting. An estimate of cost on the Concept Plan was provided by BRC Building Solution - \$833,382 ex gst. |
| Short term and long term needs. | Consultant Iain Massey, Upland Consulting, is currently developing a Project Plan for a combined multi-purpose Donnybrook Men in Shed. The scope of this study will include short and long term needs for the relevant stakeholders. |
| Funding opportunities and budget planning. | Shire officers have held various discussions with the SWDC (Regional Grants Scheme) and Lotterywest regarding funding opportunities for a new multi-purpose Donnybrook Men in Sheds. The Western Australian Men's Shed Association (WAMSA) and the Australian Men's Shed Association (AMSA) have also been consulted in regard to this Project. The Consultant will also address funding opportunities as part of the Project Plan. |
| Commitment in providing funds and/or procuring funds by Donnybrook Men's Shed and the Donnybrook Community Workshop Men in Sheds for this project. | The Shire has allocated \$10,000 in the 2016/17 financial year to progress this Project. Major funding for this project will be assessed further as the Project progresses and external grant funding opportunities are identified. The Consultant will also address funding opportunities as part of the Project Plan. |

| TASK | CURRENT PROGRESS |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Equipment needs | The two men in shed groups have a significant amount of equipment which is in good working order. This equipment will be relocated to the new shed. |
| Insurances | To be addressed |
| Risks to the Shire for this Project | To be addressed |
| Servicing needs of the facility in terms of power, accessibility, size of building, amenities etc. | To be addressed |
| The Shire to assist Donnybrook Men's Shed and the Donnybrook Community Workshop Men in Sheds to apply for funding for the construction of a purpose-built facility once all the issues identified above have been evaluated. | The Shire was successful in securing Regional Grants – Community Chest funding of \$6,313 to appoint a consultant to conduct a Project Plan. Relevant funding bodies have been consulted about the Shire's plans to build a new multi-purpose Men in Shed in Donnybrook. |

Over the last few months, the Shire, in conjunction with the two men in sheds committee representatives, have met with the South West Development Commission (SWDC), LotteryWest, the Western Australian Men's Shed Association (WAMSA) and the Australian Men's Shed Association (AMSA). General advice has been sought with specific focus on viable sources of funding.

The major funding bodies, being SWDC and LotteryWest, have encouraged the Shire to further develop the concept of a multi-use facility and/or co-location by a number of community groups to a single site.

A number of other community groups/projects have been involved in discussions surrounding a new multi-purpose community facility in Donnybrook. The Donnybrook Community Garden, the Donnybrook Art & Craft Group and the Donnybrook Historical Car Club are working with the Shire in identifying a potential site/facility in which to meet and carry out their respective club/group activities.

The consultant, Iain Massey is currently developing a Project Plan which will:

- Identify the stakeholders
- Identify the need
- Complete a cost-benefit analysis
- Site selection based on public consultation
- Concept plans for the building
- Costings for the site works and head works

- Costings for the building
- Ongoing management and co-ordination of the Clubs and the building
- Develop a project timeline.

The Project Plan will be completed by the end of November 2016. It will enable Shire officers to assess and plan with the view to making recommendations to the Council on the viability of a new multi-purpose Men's Shed in Donnybrook at a later meeting of Council. It will also ensure that the Shire is in a stronger position to secure external grant funding if the project progresses further.

Consultation

Shire officers and the consultant, Iain Massey, have been liaising with representatives from Donnybrook Men's Shed and Donnybrook Community Workshop Men in Sheds in the development of the Project Plan.

The Shire is also working with the Donnybrook Community Garden, the Donnybrook Art & Craft Group and the Donnybrook Historical Car Club to identify a potential site/facility in which to meet and carry out their respective club/group activities. This may involve joint use or co-location on a site.

Further community consultation will take place when a preferred site is identified for the new multi-purpose men in shed facility.

Policy/Statutory/Voting Implications

Policy

N/A

Statutory

N/A

Voting

Simple Majority

Financial Implications

\$10,000 has been allocated in the 2016/2017 budget to progress planning for this Project. The Consultant fee of \$6,313.50 forms part of this budget allocation, and is fully offset by the grant.

Strategic Implications

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

Strategy 3.5.5 – Continue to support community organisations to seek external grant funding.

These statements in the Strategic Community Plan (SCP) confirm that the Shire will support a project of this nature (i.e. advocate and assist in procuring external fund etc.) however does not state that it will contribute financially to this project in terms of capital costs or provide Shire project management services for the construction of a new building. Providing additional support outside the scope of the SCP if supported by Council will need to be mandated via budget commitments accordingly.

Committee's Recommended Resolution

Moved: Cr

Seconded: Cr

That this information be received by Council.

| | | |
|--------|---------------------|----------------------------------------------------------------------------------|
| 10.2.4 | SUBJECT: | NOMINATION FOR COMMITTEE MEMBERSHIP OF THE DONNYBROOK TOWNSCAPE COMMITTEE |
| | Location: | Shire of Donnybrook-Balingup |
| | Applicants: | Mrs Marilyn Hickman |
| | Zone: | N/A |
| | File Ref: | TP 07/3 |
| | Author: | Ben Rose (<i>Kate O’Keeffe – Executive Assistant</i>) |
| | Report Date: | 13 September, 2016 |
| | Attachments: | Nil |

Background

A nomination for membership of the Donnybrook Townscape Committee has been received from Mrs Marilyn Hickman. Mrs Hickman indicated in her application that she has an interest in local history and tourism activities.

Comment

The Donnybrook Townscape Committee is comprised of four Councillors and two community members. One of the community positions is presently vacant.

Policy/Statutory/Voting Implications

Policy

N/A

Statutory

N/A

Voting

Simple Majority

Financial Implications

Nil

Strategic Implications

Outcome 4 – A progressive, actively engaged community working in partnership to achieve our aspirations.

Committee’s Recommended Resolution

Moved: Cr

Seconded: Cr

That the Donnybrook Townscape Committee recommends to Council that the vacant Community Member position on the Donnybrook Townscape Committee be locally advertised, with a closing date for applications being 14 days after the commencement of the advertising period.

10.2.5 SUBJECT: OTHER BUSINESS

10.2.5.1 Footpath to Meldene Estate

Works and Services have made application for funding of the design and construction of a path link to Meldene Estate (Attachment 10.2.5.1(1)), and the extension of the Bridge Street path (Attachment 10.2.5.1(2)). If the funding is successful construction would commence in the 2018/19 Financial Year.

10.2.5.2 NBN Cable

NBN Cable to Meldene Estate is currently being constructed in the existing road reserve at the rear of the Golf Course next to the SES building site.

10.2.5.3 Banners

The five banners at Ayers garden are rotten beyond repair and require replacement. In addition to this, four banner poles have been installed at the Victory Lane and South West Highway intersection and are ready for new banners.

Parks and Gardens would like to initially purchase nine Christmas themed banners and in the future seek funding from the Townscape Committee to purchase a range of festive banners to support events in Donnybrook such as the Apple Festival and Food and Wine Festival.

Parks and Gardens have requested quotes from Jigsaw in Busselton and a Bunbury supplier for Christmas themed banners made of durable weather-resistant fabric. The quotes are expected to be received prior to the September Townscape Meeting.

Committee's Recommended Resolution

Moved: Cr

Seconded: Cr

The Committee recommend that Council:

- 1. Receive Items 10.2.5.1, 10.2.5.2 and 10.2.5.3 of this Agenda;**
 - 2. Allocate up to \$5,000 from the 2016/17 Donnybrook Townscape Budget to purchase festive banners; and**
 - 3. Request the Chief Executive Officer to seek co-contributions towards the purchase of festive banners specific to events and activities coordinated by local business and community groups.**
-

Note: The 2016/17 Shire Budget has provision for the following allocations for Donnybrook Townscape Works:

- | | |
|--------------------------------------------|----------|
| • Information Bay Signage at the Arboretum | \$ 2,000 |
| • Recreational Vehicle Area Signage | \$ 1,000 |
| • Collins Street Traffic Calming | \$10,000 |
| • New Christmas Lights and Banners | \$10,000 |

10.2.5.4 Disabled Parking Bay

The Shire has received a request for the creation of a disabled parking bay in front of the CHC building in Donnybrook on the South Western Highway (Attachment 10.2.5.4). Staff support the proposal, and seek committee support for the implementation of the bay.

Committee's Recommended Resolution

Moved: Cr

Seconded: Cr

That the Committee recommend to Council that the existing parking bay in front of the CHC building on South Western Highway, Donnybrook be made a Disabled Parking Bay for public use with applicable permits.

11.2 Manager Works and Services

| | | |
|---------------|---------------------|---------------------------------------------------|
| 11.2.1 | SUBJECT: | STREET NAMING – CROSS ROAD, ARGYLE |
| | Location: | Lot 103 (25) Cross Road, Argyle |
| | Applicants: | Gregory Wayne & Glenys Margaret Franke |
| | Zone: | Rural |
| | File Ref: | WRK 12/2 |
| | Author: | Damien Morgan, Manager Works and Services |
| | Report Date: | 6 September 2016 |
| | Attachments: | 11.2.1 – Road Map |

Background

The owners of Lot 103 (25) Cross Road, Argyle have requested the Shire officially name Cross Road, as it is presently identified as an unnamed road reserve by Landgate. The owners of the property are concerned that if the road is not officially named through Landgate, it may lead to an undesirable situation in the event of an emergency (e.g. medical emergency).

Comment

Cross Road is situated off Argyle Road, and although has no official name registered with Landgate, has been named and signed as Cross Road in Shire records for a significant period of time.

A road reserve currently exists over the 400m long gravel access road that primarily services one property. The Franke's are the only residents who directly gain access to their property from this road, however, there are two other properties, plus crown land, which abuts the road reserve.

This road reserve is officially un-named by Landgate, and they identify the Franke's property as Lot 102 (25) Argyle Road. Within the Shire's rating system, the property is identified as 25 Cross Road.

The naming and renaming of streets and roads is subject to the approval of the Geographic Names Committee (Landgate) in accordance with their Policies, Standards and Guidelines.

From Shire staff enquiries to the Geographic Names Committee, it was outlined that there is no Cross Road, or similar road name within 50 km of the locality, and that a proposal by Council to officially name it Cross Road would likely be supported subject to consideration by the Geographic Names Committee.

The applicants have highlighted mail delivery, property addressing, and confusion for emergency services as reasons for officially naming the road as Cross Road.

Consultation

Staff has consulted with the Geographic Names Committee regarding the road reserves status, and on procedures for changing and naming of roads.

Adjoining properties to the road reserve have also been formally consulted, with no comments received during the consultation period.

Policy/Statutory/Voting Implications

Policy

Council has no policy on changing road names.

Statutory

N/A

Voting

Simple Majority

Financial Implications

The constructed section of this gravel road is identified within our Romans database and does have maintenance undertaken on the road when required.

The Shire will have some minor costs for the naming of the road reserve, however as the road already has a street name sign, these cost will only be of a very minor nature, and can be accommodated within our current operations budget.

There will also be small financial implication to the residents who own property on the road, to change title and address details.

Strategic Implications

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

Officer's Recommended Resolution

Moved: Cr

Seconded: Cr

That Council:

- 1. Endorse the naming of the road reserve situated off Argyle Road, Argyle to Cross Road, and request the Geographic Names Committee (Landgate) to formally consider for approval; and**
 - 2. Advise all impacted landowners of the change once endorsed by the Geographic Names Committee (Landgate).**
-

11.3 Manager Development and Environmental Services

| | | |
|---------------|---------------------|----------------------------------------------------------------------------------------------------------|
| 11.3.1 | SUBJECT: | PROPOSED COUNCIL CHAMBERS |
| | Location: | 51 (Lot 500) Collins Street Donnybrook |
| | Applicants: | Shire of Donnybrook-Balingup |
| | Zone: | Reserved for Civic Purposes |
| | File Ref: | PWF 16K |
| | Author: | Leigh Guthridge – Manager Development and Environmental Services |
| | Report Date: | 30 August 2016 |
| | Attachments: | 11.3.1(1) - Business Case 11.3.1(2) – Proposed Budget 11.3.1(3) – Gaant Chart |

At its March 2016 Ordinary Council Meeting, Council considered upgrading the Church adjoining the Shire's Shire Administration building; deciding not to proceed with the project and resolved the following:

"That Council:

- 1. Subject to availability Council conduct a trial of up to six months on holding meetings in the Seniors Room at the Donnybrook Community Library or other suitable facility;***
- 2. Relocate a section of the Donnybrook Administration into the existing Council Chamber;***
- 3. Allocate up to \$25,000 from the Building Reserve Fund to relocate a section of the Administration workforce into the Council Chamber."***

The reason for Council's decision to not progress with the project at that time was on the grounds that cost of upgrading the Church for use as a temporary Council Chambers would be likely to exceed the estimated budget and that alternative arrangements such as utilising existing meeting rooms within the community would be more cost effective."

Council took the precautionary approach of not committing to the project and therefore continue to hold Council meetings off site as less information was available at the time in terms of evaluation of the integrity of Church building, associated costs and opportunities to fund the works.

Comment

Further evaluation of providing a building for the purposes of a Council Chambers (and other Shire Administration meeting room requirements that is ancillary to the Shire Administration Centre) is being presented to Council in the form of a Project Management Plan (PMP) that is as per the Attachment.

The PMP presents the following options:

- Refurbish the Church;
- Continue to meet offsite for Council meetings indefinitely; and
- Provide transportable building for Council Chambers adjoining the Administration Centre

The PMP details:

- Deliverables and benefits;
- Risk analysis;
- Asset Management analysis;
- Consultation status and stakeholder analysis;
- Budget; and
- Timeline.

After evaluation of all three options, the PMP recommends upgrading the Old Church for use as the Council Chambers. Further due diligence will then be undertaken on redeveloping the Church.

Policy/Statutory/Voting Implications

Policy

N/A

Statutory

N/A

Voting

Simple Majority

Consultation

If Council resolves to renovate the Church for use as the Council Chambers, staff will arrange for advertising as per part 3 of the recommendation.

Financial Implications

The Shire has allocated up to \$150,000 in its 2016/2017 budget to provide a Council Chambers facility. The estimated cost of the Project is \$129,109.

The Shire has advised the Department of Regional Development that \$40,000 of the 2011/12 CLGF funding will be used to develop the site at 51 (Lot 500) Collins Street Donnybrook. This will offset the cost of the project.

Strategic Implications

The Shire of Donnybrook-Balingup Strategic Community Plan (SCP) nominates the 'Administration Centre Upgrade' project as a future major project/strategy.

Strategy 4.8.2 - Improve the Shire office accommodation for staff

Measures have been taken to address this strategy by converting the Chambers into additional office space. The need to plan for an alternative premise for Council Chambers is as a consequence of this action.

Officer's Recommended Resolution

Moved: Cr

Seconded: Cr

That Council

- 1. Upgrade the Old Uniting Church Building at 51 (500) Collins Street Donnybrook to provide a Council Chambers and ancillary meeting place.**
 - 2. Endorse the proposed Project Management Plan.**
 - 3. Authorise the Chief Executive Officer to seek planning and building approval to convert the Old Uniting Church to a Council Chambers at 51 (500) Collins Street, Donnybrook.**
 - 4. Provide public notice of the upcoming public works to re-furbish the Old Uniting Church as a Council Chambers and ancillary meeting place in the following sites:**
 - In the Donnybrook–Bridgetown Mail newspaper;**
 - On the Shire Website; and**
 - On the Shires Notice Boards**
 - 5. Continue to meet in alternative venues until completion of the refurbishment project.**
-

11.4 Principal Planner

| | | |
|---------------|---------------------|-----------------------------------------------------------------------------------------------------|
| 11.4.1 | SUBJECT: | REQUEST TO USE A SECTION OF UNCONSTRUCTED ROAD RESERVE FOR ACCESS |
| | Location: | Lot 1518 Grist Road, Donnybrook |
| | Applicants: | CA Vinci |
| | Zone: | General Agriculture |
| | File Ref: | A1335 |
| | Author: | Bob Wallin (Principal Planner) |
| | Report Date: | 29 August 2016 |
| | Attachments: | 11.4.1(1) – Location plan 11.4.1(2) – Extract from Donnybrook-Balingup Growth Plan |

Background

The Shire has received a request to construct an access along a section of road reserve abutting Lot 1518 Grist Road, Donnybrook (Attachment 1).

The owner of Lot 1518 Grist Road has requested approval to construct a “driveway” on the road reserve to access their proposed new dwelling.

A site visit with the owner has been undertaken to investigate the proposal.

The reasons presented for the request are:

- a) The land in the road reserve is not so steep; and
- b) The land in the road reserve is not as wet.

The section of road reserve is presently used by the adjoining landowner for grazing.

Comment

On viewing the site, it is not evident that there is any material difference in steepness or wetness of the land between the road reserve and the applicant’s property. While there may be some marginal differences in conditions, they are not material or insurmountable in the context of constructing an access.

The road reserve alignment adds some hidden complexities to the proposed new access way with relation to the need to:

- a) Remove mature trees at the crossover location and along sections of the alignment; and
- b) Relocate Telstra infrastructure.

It is noted that there are locations along the frontage of Lot 1518 Grist Road that do not require the removal of trees or relocating Telstra infrastructure.

In addition to these points, any access within the road reserve will need to be constructed to a minimum gravel road standard. This standard is well beyond that normally required for an internal access for a residential dwelling. Further, the access will need to be maintained and available for the public to use.

The applicant has expressed a willingness to cover construction and maintenance costs.

The proposal adds risks to Council in terms of insurance claims if an accident occurs on the road reserve as well as the need to monitor and enforce maintenance regimes. There is little in return for this effort from Council's perspective or no value for the wider ratepayer community.

In discussion with the applicant, a formal road closure option has been identified as a potential alternative solution.

Local road reserves are managed by the Shire and owned by the Crown. In this regard, the Minister for Lands would be required to approve the road closure prior to considering amalgamation into the adjoining land holdings.

Should the road closure proposal be supported, it is recommended that the road be closed and amalgamated into the adjoining property or properties, at the landowner(s) expense.

The road closure process takes time and requires public advertising.

In considering any road closure, it is desirable to look at the strategic value that the road reserve may have. In this context, it may be helpful to think about the Shire's Donnybrook-Balingup Growth Plan (Growth Plan). The Growth Plan indicates potential for urban expansion northwards along Kelly Road (see Attachment 2). It may be desirable to keep this road reserve as a future potential emergency access opportunity should any future urban expansion occur.

Consultation

If the road closure process is supported as the preferred option from Council, then it is necessary to advertise the proposal and follow Section 58 of the *Land Administration Act 1997*.

Neighbouring properties have been contacted by letter to seek informal advice on the proposal to construct an access/and or road closure.

One letter has been received objecting to the potential to close the road on the basis that it provides for emergency fire access.

Policy/Statutory/Voting implications

Policy

Council's adopted Road Closure Policy 9.10 outlines:

1. *Council will not support the closure of any gazetted public road which has any possibility whatsoever of being utilised. There is a general presumption against the closing of roads.*

2. *Council will however consider the closure of a gazetted road where it will have no impact upon legal practical access to any property and will result primarily in the rationalisation of land and roads within the Shire.*
3. *In the event that Council supports the closure of a road the proponent will be liable for all costs involved with the road closure.*

Statutory

Closure and disposal of road reserves are undertaken in accordance with the *Land Administration Act 1997*.

Voting

Simple Majority

Financial Implications

The closure of the road removes Shire obligations to maintain or develop sections of road reserve. No costs associated with road closures is the responsibility of the Shire.

Strategic Implications

N/A

Officer's Recommended Resolution

Moved: Cr

Seconded: Cr

That Council:

1. **Advise the owner of Lot 1518 Grist Road that it does not support any use of the unconstructed road reserve for private access.**
 2. **Advise the adjoining landowners that it is prepared to consider initiating a road closure for that section of road reserve abutting the wetsren boundary of Lot 1518 Grist Road in accordance with Section 58 of the *Land Administration Act 1997* subject to:**
 - (i) **The applicants submitting the road closure application fee**
 - (ii) **The applicants confirming in writing that all costs associated with the closure, amalgamation, and potential purchase will be at full cost to the applicants; and**
 - (iii) **The total cost of any service infrastructure relocation being at the cost of the applicants.**
 3. **Authorise the Chief Executive Officer to undertake tasks necessary to implement 1 and 2 above.**
-

11.5 Chief Executive Officer

| | | |
|---------------|---------------------|----------------------------------------------------------------|
| 11.5.1 | SUBJECT: | GRAFFITI VANDALISM ACT 2016 |
| | Location: | Shire of Donnybrook-Balingup |
| | Applicants: | Shire of Donnybrook-Balingup |
| | Zone: | N/A |
| | File Ref: | CNL 25 |
| | Author: | Ben Rose, CEO (<i>Lucy Bourne – Governance Officer</i>) |
| | Report Date: | 31 August 2016 |
| | Attachments: | NIL |

Background

The *Graffiti Vandalism Act 2016* (GV Act) comes into effect on 7 October 2016, having passed both Houses of Parliament on 30 June 2016.

The GV Act is a consolidated Act enabling police, public transit officers and the local government sector to deal with graffiti offences. The relevant powers of these agencies have been transferred from various Acts into the GV Act.

The GV Act

- creates a new offence of damaging property by graffiti and allows for the costs of cleaning graffiti to be awarded against the offender; and
- allows local governments to issue notices requiring the removal of graffiti and to enter properties under warrant to remove graffiti themselves.

As a consequence of the passage of the GV Act, the existing powers of local governments to remove graffiti within their districts have been deleted from Schedules 3.1 and 3.2 of the Local Government Act 1995 and transferred to the GV Act. Existing powers in the LG Act will remain in effect and enforceable until the GV Act is proclaimed on 7 October 2016.

Comment

A local government's powers in relation to the treatment of graffiti have not changed with the introduction of the GV Act. However, the GV Act requires that objections to notices issued under it are to be treated as though they were objections to the decision of a local government under Part 9 of the LG Act.

This means that objections must be lodged in the approved form, with approval being by the local government. The existing Form 4 in Schedule 1 of the *Local Government (Functions and General) Regulations 1996* (the Regulations) can be used provided the head of power, being section 22 of the GV Act, is included at the top and the form is approved by a council resolution.

Warrants executed under the GV Act must also be in an approved form. Local governments can use Form 6 of Schedule 1 to the Regulations for this purpose providing it is similarly

approved. Form 6 should also be amended to refer to the relevant head of power granted by section 29 of the GV Act.

A council decision is necessary to adopt Forms 4 and 6 as the approved forms for use under the GV Act. These must be modified to refer to the relevant sections of the GV Act as advised above. This should be done prior to 7 October 2016.

Consultation

N/A

Policy/Statutory/Voting Implications

Policy

N/A

Statutory

- *Graffiti Vandalism Act 2016*
- *Local Government Act 1995*
- *Local Government (Functions and General) Regulations*

Voting

Simple Majority

Financial Implications

N/A

Strategic Implications

Community Strategic Plan Outcome 2.8: Our town sites are attractive, well presented and maintained.

Officer's Recommended Resolution

Moved: Cr

Seconded: Cr

That Council adopt Forms 4 and 6 in Schedule 1 of the *Local Government (Functions and General) Regulations* as the approved forms for use under the *Graffiti Vandalism Act* and that, when used for this purpose, these forms will be modified to refer to section 29 of the *Graffiti Vandalism Act*.

| | | |
|---------------|---------------------|----------------------------------------------------------------------------------------------|
| 11.5.2 | SUBJECT: | APPOINTMENT OF RANGER AS AUTHORISED PERSON UNDER VARIOUS ACTS AND REGULATIONS |
| | Location: | SHIRE OF DONNYBROOK-BALINGUP |
| | Applicants: | SHIRE OF DONNYBROOK-BALINGUP |
| | Zone: | N/A |
| | File Ref: | RGR 02 |
| | Author: | Ben Rose – Chief Executive Officer (<i>Lucy Bourne, Governance Officer</i>) |
| | Report Date: | 13 September 2016 |
| | Attachments: | Nil |

Background

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

Local Government Act 1995, Part 9, Division 2 - issuing of infringement notices

Local Government Act 1995, Sections 9.13 and 9.15 – vehicle offences

Local Government Act 1995, Section 3.39 – power to remove and impound

Local Government (Miscellaneous Provisions) Act 1960, Part XX, Section 449 - Pound Keeper and Ranger

Dog Act 1976, Sections 29 (1) and 33E (1) – for the purposes of registering, seizing, impounding, detaining and destroying of dogs

Cat Act 2011 Section 48

Control of Vehicles (Off Road Area) Act 1978, Section 38

Litter Act 1979, Section 26

Bush Fires Act 1954

Caravan Parks and Camping Grounds Act 1995, Section 17

Local Government (Parking for People with Disabilities) Regulations 2014

Shire of Donnybrook-Balingup Local Laws and Regulations

Comment

Jess Cooper has been appointed Shared Ranger (between the Shires of Donnybrook-Balingup and Boyup Brook) as of 26 September 2016. She needs to be appointed by Council as an authorised person under these Acts and Regulations.

Consultation

N/A

Policy/Statutory/Voting Implications

Policy

N/A

Statutory

Authorisation is required under:

Local Government Act 1995, Part 9, Division 2

Local Government Act 1995, Sections 9.13 and 9.15

Local Government Act 1995, Section 3.39

Local Government (Miscellaneous Provisions) Act 1960, Part XX, Section 449

Dog Act 1976, Section 33E (1)

Cat Act 2011, Section 48

Control of Vehicles (Off Road Area) Act 1978, Section 38

Litter Act 1979, Section 26

Bush Fires Act 1954

Caravan Parks and Camping Grounds Act 1995, Section 17

Caravan Parks and Camping Grounds Regulations 1997, Regulation 6

Shire of Donnybrook-Balingup Local Laws and Regulations

Voting

Simple majority

Financial Implications

N/A

Strategic Implications

Shire of Donnybrook-Balingup Strategic Community Plan states:
Outcome 3.8 – Maintain a safe and friendly community environment.

Officer's Recommended Resolution

Moved: Cr Seconded: Cr

- 1 That Jessie Rose Cooper is appointed as an authorised person for the Shire of Donnybrook-Balingup, to administer the following Acts, Regulations and Local Laws -**

Local Government Act 1995, Part 9, Division 2

Local Government Act 1995, Sections 9.13 and 9.15

Local Government Act 1995, Section 3.39

Local Government (Miscellaneous Provisions) Act 1960, Part XX, Section 449 - Pound Keeper and Ranger

Dog Act 1976, Section 33E (1) – for the purposes of registering, seizing, impounding, detaining and destroying of dogs

Cat Act 2011, Section 48- for the purposes of registering, seizing, impounding, detaining and destroying of cats

Control of Vehicles (Off Road Area) Act 1978, Section 38

Litter Act 1979, Section 26

Bush Fires Act 1954

Caravan Parks and Camping Grounds Act 1995, Section 17

Caravan Parks and Camping Grounds Regulations 1997, Regulation 6

Shire of Donnybrook-Balingup Local Laws and Regulations

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

11.6 Recall Items

Nil

11.7 Confidential Items

Nil

12 CLOSURE OF MEETING

The Chairperson to advise that the next Ordinary Council Meeting will be held on Wednesday, 26 October 2016 commencing at 5.00pm in Donnybrook at a location to be advised.

The Chairperson to declare the meeting closed at _____ pm.