



Notice of Ordinary Council Meeting

To All Councillors

To be held on Wednesday, 26 October 2016

Commencing at 5.00pm

at the Balingup Recreation Centre
South Western Highway, Balingup

A handwritten signature in black ink, appearing to read 'Ben Rose', with a long horizontal flourish extending to the right.

Ben Rose
Chief Executive Officer

21 October 2016

Disclaimer

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ORDINARY COUNCIL MEETING AGENDA

26 October 2016

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SHIRE OF DONNYBROOK-BALINGUP

ORDINARY COUNCIL MEETING AGENDA

**To be held at the Balingup Recreation Centre
Wednesday, 26 October 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
Cr Van Der Heide

STAFF

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

PUBLIC GALLERY

1 APOLOGIES

2 PUBLIC QUESTION TIME

3 APPLICATION FOR LEAVE OF ABSENCE

4 DECLARATION OF FINANCIAL/IMPARTIALITY INTEREST

5 PETITIONS/DEPUTATIONS/PRESENTATIONS

Judith Foss has requested to present to Council on Agenda Item 11.2.1 - Bridge 5121 Rosedene Lane.

Melissa Haslam from Forest Industries Federation W.A Inc. has requested to present to Council on the potential impact the proposed expansion of the Greater Wellington National Park would have on the WA timber industry.

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 28 September 2016 be confirmed as a true and accurate record.

8 ELECTED MEMBERS MOTIONS

8.1.1	SUBJECT:	FORMATION OF A COMMITTEE FOR JOB CREATION IN THE SHIRE
	Location:	Shire of Donnybrook Balingup
	Applicants:	Cr Bailey
	Zone:	N/A
	File Ref:	CNL 34G
	Author:	Ben Rose, Chief Executive Officer
	Report Date:	18 October 2016
	Attachments:	Nil

Cr Bailey has proposed the following notice of motion:

That Councillors and the Chief Executive Officer form a committee with the sole purpose of creating 25 jobs within the Shire.

Cr Bailey's Comment

With businesses closing, a slowing economy, and a decreasing job market council must do everything we can to create jobs in the Private and Public sectors. We need jobs to retain our

population and to keep some of our young people in the Shire so hopefully in the longer term they will have the opportunity to raise their families in their home towns.

One of the biggest complaints from business and developers is the length of time it takes to sort through the red tape and obtain approvals, this is not only through Local Government but with State Government and agencies. Council needs to be proactive and support people who want to create jobs. We need to make it clear that the Shire is open for business and will take every opportunity to help create the type of jobs that fits with community expectations.

Chief Executive Officer's Comment

Improving employment opportunities within the Shire is identified as an important focus area in the Shire of Donnybrook Balingup Strategic Community Plan. Outcome 1.3 of the Strategic Community Plan identifies Council's commitment to increase the range and diversity of industries and businesses that provide a range of employment opportunities. Strategies to support this outcome include:

- Develop and implement a tourism development and promotion strategy;
- Develop and implement a marketing and investment attraction strategy;
- Assess opportunities to resource economic development initiatives;
- Support home business proposals through the planning approval process;
- Streamline planning and building approval processes to make it more attractive for existing, new and prospective business owners; and
- Support business organisations, industry groups and the Bunbury Small Business Centre.

Strategies designed to support Outcome 1.3 were identified by the Shire, including a public consultation process. The status of these strategies is reported to Council through the Corporate Business Planning process.

The Shire's tourism strategies are linked to the implementation of the Bunbury Wellington and Boyup Brook Regional Tourism Strategy, which is also an agenda item for consideration at this Ordinary Meeting of Council.

The Shire's efforts have also been concentrated on the development of residential land to promote employment within the local building industry and to encourage families to move and settle within the Shire. Complementing this, the Council has its own local preferred supplier panel as well as a policy on Regional Price Preference.

The Shire reviews the existing local planning policies on an annual basis and has prepared new policies designed to streamline the town planning process and support economic growth. The average time for processing applications has been reduced over the last few years. Staff always seek to assess applications with a mindset focused on how can this application be approved and if approved, ensuring that conditions are practical, realistic and relevant. In 2014, Local Planning Scheme No.7 (LPS7) was introduced. LPS7 provides a

high degree of flexibility of land use balanced with controls to ensure acceptable quality standards that benefits the entire community.

Much, if not most, of the Shire's operations involves local economic development (creation and retention of local employment). Establishment of a Council Committee with this same responsibility (i.e. creating and retaining jobs) is not likely to be an efficient or effective use of the Shire's resources. The sentiment of the proposal (i.e. creating tangible employment benefits locally) is, however, worthy of further consideration. In this regard, an alternative proposal for Council consideration is offered:

- Establish a Working Group of Councillors and staff to investigate options and opportunities for the creation and retention of jobs within the Shire. Establishing a Working Group, rather than a formal Committee, will enable investigation, discussion and exploration of ideas and opportunities outside of the normal strictures of the Committee format.
- The Working Group to present findings, opportunities and ideas to an Elected Member Concept Forum, with the potential for a future report to Council with specific recommendations. This fits within the Terms of Reference of the Elected Member Concept Forum.

Policy/Statutory/Voting Implications

Voting

Simple Majority

Financial Implications

There will be an administrative cost involved with supporting either a Committee or a Working Group.

Strategic Implications

Strategic Community Plan Outcome 1.3: To increase the range and diversity of industries and businesses that provide a range of employment opportunities.

Cr Bailey Recommended Resolution

Moved: Cr

Seconded: Cr

That Councillors and the Chief Executive Officer form a committee with the sole purpose of creating 25 jobs within the Shire.

CEO Recommended Resolution

Moved: Cr

Seconded: Cr

That Council:

1. **Establish a Working Group of Councillors and staff to investigate options and opportunities for the creation and retention of jobs within the Shire.**
 2. **The Working Group to comprise:**
 - a. **The Chief Executive Officer and nominated key staff;**
 - b. **Councillor_____;**
 - c. **Councillor_____;**
 - d. **Councillor_____;**
 - e. **Councillor_____;**
 3. **The Working Group to present findings, opportunities and ideas to an Elected Member Concept Forum.**
-

8.1.2	SUBJECT:	FORMATION OF A TUIA LODGE COMMUNICATION COMMITTEE
	Location:	Donnybrook
	Applicants:	Cr Bailey
	Zone:	N/A
	File Ref:	CNL 34G
	Author:	Ben Rose, Chief Executive Officer
	Report Date:	18 October 2016
	Attachments:	Nil

Cr Bailey has proposed the following notice of motion:

Councillors and the CEO form a committee with the sole purpose of preparing information on the Tuia Lodge issues to be released to the public. The information to be released will be passed by Council at the November Council meeting.

Cr Bailey's Comment

The rate payers elect the Council to look after their interests and have the right to know why the majority of Councillors voted to make changes to the way Council administered Tuia Lodge.

The community have a right to know:

1. The issues that lead to the action taken by the majority of Councillors.

2. The costs associated with the different issues.
3. Possible pending Legal action.
4. How Tuia Lodge is positioned.
5. What are the long-term possibilities for Tuia Lodge?

The information needs to be statements of fact.

Chief Executive Officer's Comment

Council, as the Approved Provider for Tuia Lodge, is responsible for overseeing the management of Tuia Lodge and maintaining compliance with the Federal Aged Care Act and Regulations.

It should be noted that the issues that led to changes to the administration of Tuia Lodge are linked to confidential reports and legal recommendations prepared for Council that cannot legally be disclosed to the general public. Having said that, and with accountability and transparency in mind, the community has the right to clarification on Council decisions.

The management and operations of Tuia Lodge has undergone significant transformation since November 2015 and many positive changes have been established. Focus should be on the positive improvements and Tuia Lodge's future as it strives to become a shining example of innovation and leadership in Residential Aged Care.

The formation of a Council committee comprising Tuia Lodge has previously been identified. Establishment of a 'Donnybrook-Balingup Health, Aged Care and Housing Committee' was considered at the May 2016 Ordinary Meeting of Council, however, at the time it was decided by Council to let the matter 'lay on the table' pending further review and consideration by the incoming CEO. This matter is due for re-presentation to Council for a decision later in 2016.

The Council presently has many established Committees and Advisory Groups (approximately 24) and the need for an additional specific Committee relating to the governance of Tuia Lodge will be a separate decision of Council later in the year. In this regard, it is recommended that, if approved for establishment by Council, the Tuia Lodge Communication Committee is given very clear:

- Terms of reference;
- Timeframes (i.e. a 'sunset date' to be de-commissioned once the terms of reference are fulfilled).

The appointment of a Council committee for communications in relation to Tuia Lodge could work to maintain positive relationships within the community and ensure an open and accountable local government.

Consultation

If established, the Terms of Reference for the proposed Tuia Lodge Communication Committee should include provisions for the extent of consultation with stakeholders.

Policy/Statutory/Voting Implications

Policy

Council Policy 1.15 Committee Membership: To ensure membership on Council Committees is fair and equitable and Committee appointments reflect desired skills required the following is applicable:

1. As a general rule, Council will advertise locally for all positions on Council Committees other than for Committees with Council members only.
2. Where Council is seeking particular expertise on a Committee, Council may resolve not to advertise and select and appoint members with appropriate skills.
3. Committee membership is for a two year term in line with the election cycle.

Statutory

Section 5.8 of the *Local Government Act 1995* empowers Council to establish committees of 3 or more persons to assist the Council in exercising its powers and discharging its duties, absolute majority is required to establish a committee.

Voting

Absolute Majority

Financial Implications

The financial implications of establishing a Tuia Lodge Communication Committee are likely to be accommodated within the existing budget constraints of the Shire.

Strategic Implications

Outcome 4: *Open and accountable local government*

The appointment of Council Committees will maintain positive relationships with the community and ensure open and accountable local government.

Elected Members Motion

Moved: Cr

Seconded: Cr

That Councillors and the CEO form a committee with the sole purpose of preparing information on the Tuia Lodge issues to be released to the public. the information to be released will be passed by Council at the November Council meeting.

10 REPORTS OF COMMITTEES

10.1 Local Emergency Management Committee

10.1.1	SUBJECT:	REVIEW OF THE LOCAL EMERGENCY MANAGEMENT ARRANGEMENTS
	Location:	Shire of Donnybrook-Balingup
	Applicants:	N/A
	Zone:	N/A
	File Ref:	PWF 16D
	Author:	Leigh Guthridge – Manager Development and Environmental Services
	Report Date:	25 September 2016
	Attachments:	Nil

Background

The Shire of Donnybrook-Balingup's Local Emergency Management Arrangements (LEMA) was prepared in 1997. Several updates have been undertaken since this time. The requirement for local governments to prepare and maintain LEMA is enshrined within the *Emergency Management Act 2005*.

The LEMA are required to be reviewed every five years with the last review being undertaken in 2011. The Shire has budgeted to undertake a review in the 2016/2017 financial year.

Comment

The Shire of Donnybrook-Balingup applied for funding and was subsequently awarded a grant through the State Emergency Management Committee (SEMC) 'AWARE' Program to review and update its LEMA.

Mrs Bryanna Wright has been appointed to manage the review. Mrs Wright successfully managed the review of the Local Recovery Arrangements in 2014/2015. Mrs Wright is an employee of the Shire by providing part time Environmental Health services.

By assigning this project to a Shire staff member, it will ensure that the skills and knowledge obtained in respect to emergency management is retained and the Shire can build capacity in this area. Mrs Wright will facilitate a workshop on the draft LEMA at a future LEMC meeting.

The methodology for the review is as follows:

- Undertaking a general administrative review of the LEMA;
- Where necessary attend WALGA Emergency Management Training;
- Incorporate best practice and lessons learnt from experiences of other local governments and emergency planning agencies;
- Undertake a review of risks as stated in the existing LEMA to ascertain if they are still valid and relevant;

- Consultation with Shire staff on the draft LEMA;
- Look for opportunities to build capacity within the Shire for emergency management planning and response;
- Align the LEMA with best practice as guided by SEMC; Policy framework;
- Present the draft review of the LEMA to LEMC; and
- Advertise the LEMA with the Community.

The LEMA is a tool used in planning and responding to emergencies and supports emergency affected communities in the reconstruction of the physical infrastructure as well as restoration of emotional, social, economic and physical wellbeing.

Consultation

Workshops are planned with Shire staff and the LEMC to obtain input into the review of the LEMA. It is intended that the draft LEMA be advertised to the Community prior to it being adopted by Council.

Policy/Statutory/Voting Implications

Statutory Implications

Local governments are required to prepare and maintain Local Emergency Management Arrangements in accordance with the *Emergency Management Act 2005*.

The Local Emergency Management Arrangements are required to be reviewed every five years to ensure that risks (that may change within this time) are assessed and treatment plans are reviewed accordingly.

Voting Implications

Simple majority

Financial Implications

The Shire obtained AWARE funding of \$20,000 (Ex-GST) in July 2016 to review its LEMA. This project is fully funded by the AWARE program.

Strategic Implications

Outcome 3.4 – Maintain and Improve the Provision of Emergency Services.

Committee's Recommended Resolution (Officer's Recommended Resolution)

Moved: Cr

Seconded: Cr

That Council commence the review the Shire of Donnybrook-Balingup Local Emergency Management Arrangements.

10.2 Balingup Townscape Committee

10.2.1	SUBJECT:	PLANNING APPLICATION FOR TWO SHOPS WITH 3M FRONT SETBACK AT LOT 2 (NO.33) SOUTH WESTERN HIGHWAY, BALINGUP
	Location:	Lot 2 South Western Highway, Balingup
	Applicants:	Mr John Bailey
	Zone:	Commercial
	File Ref:	A4527
	Author:	Bob Wallin (Principal Planner)
	Report Date:	11 October 2016
	Attachments:	10.2.1(1) – Site Plans 10.2.1(2) – Proposed Elevation

Background

The proposal is to relocate two small transportable buildings presently stored at the rear of the site to the street for use as future offices or shops. The parent lot of this site has been strata titled and contains an existing building. Site plans and proposed elevation are provided in Attachments 5.1.3(1) and (2).

Each proposed structure has an internal floor area of 24m² and a verandah of 1.5m x 6m. The structures have a rustic cottage aesthetic and will be beautified with weatherboard and corrugated iron cladding. A "cottage" style landscaping area is proposed in the front setback with each structure being accessed by a disabled ramp.

The applicant has requested this proposal be considered by the Balingup Townscape Committee to obtain the views of the committee.

It is not the role of this committee to make a planning decision. In this case, this decision will be made by Council. The purpose of presenting this item is to seek views on the Balingup Village Centre – Special Character Area (*Local Planning Policy 9.21*).

Balingup Village Centre – Special Character Area (Local Planning Policy No.9.21)

This policy includes the following relevant provisions:

"Ensure the character and 'village' atmosphere of the town is preserved, particularly in regard to development size, form, height and scale"

"Ensure compatibility with existing development, particularly in respect to building materials, shop front design, front setbacks, use of colour, application of advertising signage and location and form of fencing"

"Proposed commercial development shall have a nil setback from the front property boundary, except where otherwise endorsed by the Shire"

"Parking areas shall be located at the rear of the building where appropriate."

This proposal will require Council consideration because a front setback of 3m is proposed.

Comment

Before commenting on the specifics of this proposal, it is necessary to consider the wider process requirements.

The order of things – process is important

There is a reactive and ad-hoc approach to change and then there is an orderly process. Local Planning Scheme No.7 (LPS7) sets out the correct process for reviewing local planning policies. If the Committee is of the view that the policy is not appropriate and needs review and refinement, then it can request Council to review the policy. A review is publically advertised and considered for adoption by Council.

Alternatively, there is potential for discretion or departures from policies to be considered however this erodes the foundations of the policy and its effectiveness. If the Committee is of the view that this policy is no longer appropriate then it is suggested the Committee request Council review the policy rather than support a departure.

If the Committee wishes to review the policy, it will be necessary to provide clear Town Planning reasons and justification to support the review. In terms of forming an opinion on the specific element of the policy relating to setbacks, it may be helpful to consider the following.

The Role of Setbacks

Policy 9.21 states that commercial development **shall** have a nil setback from the front property boundary. Departure requires Council's approval.

The intent of the policy is to create a "village" atmosphere and to enhance the cultural and heritage values of the village centre. A general and strong theme running through most historical main streets is the absence of street setbacks. It is the up front and personal interactions with the building facades, combined with overhanging shade structures that create the flavours and feel of a traditional town centre or main street.

The nil setback is an important tool in achieving and enhancing these "historical" flavours. This approach is reflected in the Local Planning Policy's position.

A walk along the street block acknowledges the success in consistently applying a nil setback. It plays a vital role in creating the cosy pedestrian friendly space and it enables pedestrians to intimately view and explore shop frontages.

Conversely, creating street setbacks in commercial streets is a relatively modern initiative and their use is associated with the rise and dominance of the car and desires to express individual identity, freedom to move, space and privacy.

All these values are evident in modern box shopping centres and bulky goods ribbon developments. In these developments, functional efficiency dictates all design

considerations - often at the expense of attractive human scale streetscapes and town centres.

"Setbacks" create a distance and isolation that can break with the cosy rhythm of the street. The two existing developments immediately abutting the site have a nil setback. Further, a number of other nearby buildings also have verandahs that encroach into the public realm and provide a shady and sheltered pedestrian environment.

A 4.5m façade setback is at variance with all other buildings on the street block (see Attachment 1) and will potentially mark this proposed development as being different and at odds with the underlying streetscape theme.

Policy/Statutory Implications

Local Planning Policy No.9.21 - Balingup Village Centre – Special Character Area
Local Planning Scheme No.7

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.

Officer's Recommended Resolution

Moved: Cr

Seconded: Cr

The Committee recommend that Council supports Local Planning Policy 9.21 which requires a nil street setback.

Committee's Recommended Resolution

Moved: Cr

Seconded: Cr

The Committee supports the proposal with a setback as it fits with the existing fabric of the street while also acknowledging support to the overall principal of Local Planning Policy 9.21 which seeks to create a unique character for the townsite.

Justification: The proposed development is in keeping with the character and qualities of the Balingup main street environment and having no setback would restrict views and access to the tourist centre building.

10.3 Audit Committee

10.3.1	SUBJECT:	REVIEW OF FINANCIAL MANAGEMENT SYSTEMS
	Location:	Shire of Donnybrook / Balingup
	Applicants:	Administration
	Zone:	N/A
	File Ref:	FNC 02
	Author:	Ben Rose, Chief Executive Officer (<i>Greg Harris, Manager Finance & Administration</i>)
	Report Date:	7 October 2016
	Attachments:	10.3.1 – Letter and Report from AMD Chartered Accountants

Background

Section 5 of the Local Government Financial Management Regulations refers to the Financial Management Duties of the Chief Executive Officer and states the following:

“Financial Management duties of the Chief Executive Officer:

- (1) Efficient systems and procedures are to be established by the Chief Executive Officer of a local government –
 - (a) for the proper collection of all money owing to the local government;
 - (b) for the safe custody and security of all money collected or held by the local government;
 - (c) for the proper maintenance and security of the financial records of the local government (whether maintained in written form or by electronic or other means or process);
 - (d) to ensure proper accounting for municipal and trust –
 - (i) income received or receivable;
 - (ii) expenses paid or payable; and
 - (iii) assets and liabilities;
 - (e) to ensure proper authorisation for the incurring of liabilities and the making of payments;
 - (f) for the maintenance of payroll, stock control and costing records; and
 - (g) to assist in the preparation of budgets, budget reviews, accounts and reports required by the Act or these regulations.
- (2) The Chief Executive Officer is to –
 - (a) ensure that the resources of the local government are effectively and efficiently managed;
 - (b) assist the council to undertake reviews of fees and charges regularly (and not less than once in every financial year); and
 - (c) undertake reviews of the appropriateness and effectiveness of the financial management systems and procedures of the local government regularly (and

not less than once in every 4 financial years) and report to the local government the results of those reviews.”

The review of financial management systems was last conducted by the Chief Executive Officer in the 2011/12 year therefore it was necessary for the review to be carried out again in the 2015/16 year.

To assist the Chief Executive Officer to discharge his responsibilities and to ensure the independence of the review, Council’s auditors, AMD Chartered Accountants, were engaged to undertake a review of Council’s financial management systems and procedures and to prepare a report to the Chief Executive Officer on the outcome of the review.

Comment

The review of the financial management systems was conducted in conjunction with the interim audit between 30/5/2016 and 1/6/2016 by the audit staff of AMD Chartered Accountants.

A copy of the report provided by AMD Chartered Accountants to the Chief Executive Officer is attached (Attachment 5.1.1).

The report from AMD Chartered Accountants provides a number of findings and recommendations in regard to the following Financial Management Systems Review (FMSR) areas:

Appendix A – Collection of Council income;

Appendix B – Custody and security of money;

Appendix C – Maintenance and security of the financial records;

Appendix D – Accounting for municipal or trust transactions;

Appendix E – Authorisation for incurring liabilities and making payments;

Appendix F – Maintenance of payroll, stock control and costing records; and

Appendix G – Preparation of budgets, budget reviews, accounts and reports required by the Act or the regulations

In addition to the findings and recommendations, Shire management have provided comment in regard to each matter addressed. These comments provide and outline as to how it is proposed each matter will be addressed by Council staff.

Following the completion of the FMSR on the areas outlined within appendices A to G, AMD Chartered Accounts reported that in the context of Council’s overall operations and size they consider procedures and systems in place are adequate and have operated effectively from July 2015 to the date of their site visit, with the exception of the recommendations within their report.

On the basis of the results of the review undertaken by AMD Chartered Accountants it is my opinion that efficient systems and procedures have been established to fulfil the requirements of section 6.10 of the *Local Government Act 1995* and section 5 of the *Local Government (Financial Management) Regulations 1996*.

It is therefore recommended that Council receive this report on the outcome of the FMSR conducted in May/June 2016, noting the recommendations for improvements and proposed actions indicated by management in the report from AMD Chartered Accountants.

Consultation

N/A

Policy/Statutory/ Voting Implications

Statutory

Section 6.10 of the *Local Government Act 1995*

Section 5 of the *Local Government (Financial Management) Regulations 1996*.

Voting

Simple majority

Financial Implications

The review of Council's financial management systems is a statutory requirement under section 6.10 of the *Local Government Act 1995* and section 5 of the *Local Government (Financial Management) Regulations 1996*, as described in the background section of this report.

Provision for the Financial Management System review to be undertaken by AMD Chartered Accountants was included in the 2015/16 budget.

Strategic Implications

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

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

Moved: Cr

Seconded: Cr

That Council receive the report from the Chief Executive Officer outlining the review of the Shire of Donnybrook-Balingup's Financial Management Systems, noting the opinion of the Chief Executive Officer, supported by the report prepared by AMD Chartered Accountants, that Council has appropriate and effective financial management systems and procedures.

That Council receive the recommendations outlined in the report prepared by AMD Chartered Accountants and endorse the proposed actions indicated by Shire staff.

Chief Executive Officer's Recommended Resolution

Moved: Cr

Seconded: Cr

That a report on the progress of the recommendations identified in the financial management systems review be provided at each Audit Committee Meeting.

10.3.2	SUBJECT:	ORGANISATIONAL RISK MANAGEMENT – ACTION PLAN
	Location:	Shire of Donnybrook / Balingup
	Applicants:	Administration
	Zone:	N/A
	File Ref:	ADM 24
	Author:	Ben Rose, Chief Executive Officer (<i>Jeff Somes, Principal Environmental Health Officer</i>)
	Report Date:	5 October 2016
	Attachments:	10.3.2 – Organisational Risk Management Plan

Background

At an Audit Committee meeting held on 11 February 2016 Council endorsed the Shire's Organisational Risk Management Action Plan for the period July 2015 to December 2016. This plan addresses in a systematic way the recommendations of a comprehensive assessment of the Shire's system by AMD Chartered Accountants in November 2014.

The Plan outlines the following information:

- Recommendations from the November 2014 review categorised into three different focus areas; risk management, internal controls and legislative compliance.
- The task required to address each recommendation from the report.
- A proposed timeline.
- Responsible Officer/s.
- Details of Action to date.

One of the recommendations was to include a standing agenda item to the Audit Committee for risk reports to be tabled.

Following the previous Audit Committee meeting a number of actions have been completed including:

1. Development of a register of current Shire credit cardholders with all card holders now having signed a User Agreement drafted in accordance with Operational Guidelines;
2. The Policy Register has been reviewed to ensure all key policies are included;

3. The Shire's investment policy has been updated to reflect the minimum and maximum terms of investments as required by Regulation 19c of the *Local Government (Financial Management) Regulations 1996*.

In addition to the completed items several of the remaining recommendations have either been assessed and or progressed.

Comment

Committee members are asked to review and note the updated Action Plan.

Consultation

N/A

Policy/Statutory/ Voting Implications

Statutory

Regulation 17 of the Local Government (Audit) Regulations 1996 states the following:

"17. *Chief Executive Officer to review certain systems and procedures*

- (1) *The Chief Executive Officer is to review the appropriateness and effectiveness of a local government's systems and procedures in relation to —*
 - (a) *risk management; and*
 - (b) *internal control; and*
 - (c) *legislative compliance."*

Voting

Simple majority

Financial Implications

N/A

Strategic Implications

N/A

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

Moved: Cr

Seconded: Cr

That Council receive and note the updated Organisational Risk Management Action Plan for the period from July 2015 to December 2016.

10.4 Chief Executive Officer Review Committee

Under Section 5.23 of the *Local Government Act 1995* the recommended resolutions from this meeting will be discussed confidentially in agenda item 11.7.2.

10.5 Bushfire Advisory Committee

10.5.1	SUBJECT:	ADOPTION OF THE BUSHFIRE ADVISORY COMMITTEE TERMS OF REFERENCE
	Location:	Shire of Donnybrook-Balingup
	Applicants:	N/A
	Zone:	N/A
	File Ref:	CSV 20
	Author:	Leigh Guthridge – Manager Development and Environmental Services
	Report Date:	12 October 2016
	Attachments:	10.5.1 - Draft Terms of Reference

Background

The Shire of Donnybrook-Balingup (The Shire) currently does not have Terms of Reference to support the meeting procedures of the Bushfire Advisory Committee (BAC).

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

Comment

A draft Terms of Reference is attached and was developed from other local governments BAC's as a guide.

The draft terms of reference details the following for the BAC:

- Roles and Responsibilities
- Membership and proxy arrangements
- Voting and quorum
- Meeting frequency and structure
- Agenda and minutes

The terms of reference is an important tool for a Committee to establish the rules to ensure that structured decision making and recommendations are made for Council.

Consultation

Nil

Policy/Statutory/Voting Implications

Voting Implications

Simple majority

Financial Implications

Nil

Strategic Implications

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

Committee's Recommended Resolution (Officer's Recommended Resolution)

Moved: Cr

Seconded: Cr

That Council adopt the Shire of Donnybrook-Balingup Bushfire Advisory Committee Terms of Reference.

10.5.2

**SUBJECT: SHIRE OF DONNYBROOK-BALINGUP
BUSHFIRE RESPONSE PLAN**

Location: Shire of Donnybrook-Balingup

Applicants: N/A

Zone: N/A

File Ref: FRC 01

**Author: Leigh Guthridge- Manager Development &
Environmental Services**

Report Date: 12 October 2016

Attachments: Nil

Background

Shire staff has undertaken the annual review of the Shire of Donnybrook-Balingup Bushfire Response Plan (the Response Plan).

Comment

There are several modifications proposed to the Response Plan as part of the review as follows:

- Reflect the name change of the 'Upper Balingup Bushfire Brigade' to 'Munro Bushfire Brigade';
- Reflect changes of government agency name changes, brigade membership call signs and personnel contact details;
- Update the training status for each brigade;

- Vehicle condition updates;
- Update the schedule of existing equipment;
- Update the ten-year replacement program; and
- Update the register of building improvements.

Training Requirements

The Response Plan currently stipulates that the minimum training requirements for volunteer bushfire brigade members is:

- Induction
- AIMS Awareness
- Introduction to Fire Fighting
- Bushfire Fighter

The Department of Fire and Emergency Services (DFES) have added the Australasian Interagency Management System (AIMS) to Introduction to Fire Fighting and Bushfire Fighter as part of its requirement for bushfire training and have called it Volunteer Fire Fighter 1 (VFF1).

It is proposed that the Response Plan incorporate this training as a recommended requirement for members of a Volunteer Bushfire Brigade.

Consultation

Nil

Policy/Statutory/Voting Implications

Policy

N/A

Statutory

Bush Fires Act 1954.

Voting

Simple Majority

Financial Implications

Changes to the ten-year replacement program in the Shire's Bushfire Response Plan will need to be budgeted for accordingly. This includes securing funding from the Local Government Grant Scheme in accordance with the application requirements of the Department of Fire and Emergency Services.

11.1.2 MONTHLY FINANCIAL REPORT

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

Moved: Cr Seconded: Cr

That the monthly report for the period ended 31 August 2016 be received.

11.2 Manager Works and Services

11.2.1	SUBJECT:	BRIDGE 5121 ROSEDENE LANE
	Location:	Location 4176
	Applicants:	Nil
	Zone:	N/A
	File Ref:	BR 5121
	Author:	Manager Works and Services
	Report Date:	10 October 2016
	Attachments:	11.2.1 - Correspondence and Reports on Bridge 5121

Background

Bridge 5121 Rosedene Lane has an extensive history in relation to dispute of ownership. This bridge only directly services a single property being Lot 315, number 24 Rosedene Lane. The owner Mrs. Susan Walker is currently within the settlement process for the sale of this property, however this process has been placed on hold pending resolution of the advice received on 26 July 2016 from Main Roads Western Australia (MRWA) to the Shire that Bridge 5121 Rosedene Lane should be closed to traffic immediately unless emergency repairs are carried out to maintain the structure at its 13 tonne load rating.

Comment

Bridge structures built across the Preston River to properties on the northern side of the Donnybrook - Boyup Brook Road has been a contentious issue since the 1990's when the State Government made changes in the *Local Government Act 1995* in relation to reserve management and structures within reserves.

Bridge 5121 Rosedene Lane is one of 3 known structures of this type identified by MRWA as an asset under the ownership of the Shire of Donnybrook-Balingup unless otherwise determined.

The Shire and Council has regularly disputed MRWA advice that Bridge 5121 is our asset, however MRWA will not remove it from its bridge register until the ownership issue is resolved.

The Shire has previously been provided with a legal view that inherited river crossing structures outside the designated road reserve, particularly those that were never constructed to an acceptable standard like bridge 5121, could not become the responsibility of the Shire, at a large cost burden to ratepayers while servicing only one or two properties.

Council needs to be aware of a Shire letter back in 2003 by the Acting Chief Executive Officer, outlining that Bridge 5121 has been placed on our system for regular inspections and maintenance in line with our bridge maintenance program. The letter also goes on to clarify that bridge 5121 would be maintained at its current 13 tonne load limit by the Shire, and any upgrades or improvements would be the full responsibility of property owner of Wellington Location 315, (refer Attachment 11.2.1).

There was also mention around this time of creating an alternate access to a number of properties on the Northern side of the river that would bypass the need for this and similar bridge structures, however to the best of my knowledge and research this has never eventuated.

The Shire of Donnybrook-Balingup has utilised funds in the past to undertake works on Bridge 5121 to maintain its 13 tonne load rating, with the most recent being \$28,175.40 from our Bridge Maintenance Account in 2015.

These works were undertaken by the Shire on the understanding with the land owners and their lawyers that the works would be without prejudice to the Shire's position that it is not responsible for the ongoing maintenance of the bridge, and that the parties would enter into an arbitration process to resolve the ownership issue.

Since the works were completed, neither the Shire nor the land owners have progressed the agreement further, until the recent advice had been received from MRWA regarding closing bridge 5121 Rosedene Lane

Recent meetings and correspondence had between all parties including the perspective purchasers has not been able to achieve an agreed position.

All parties appear to agree that a fit for purpose replacement bridge is the preferred ultimate solution; however who owns and funds this still has divided opinions.

Subsequent advice from both the owner and purchasers representative's, request that the Council accept ongoing responsibility for the bridge in writing, consistent with the letter from the Acting Chief Executive Officer of the Shire of Donnybrook-Balingup dated 6 January 2003 to enable settlement to proceed.

Staff have advised the owners that based on the above there is high risk that Council may not support what is requested, resulting in the issue remaining un-resolved, and potentially needing to be resolved through courts.

To assist to have the matter resolved at the October Council meeting, the current owners are prepared to make a contribution towards a new bridge, up to 10% of the total cost (to a maximum of \$20,000), providing the Shire agrees in writing that they are responsible for maintaining the access to the property to a minimum 13 tonne standard until the new bridge is constructed.

This offer is more along the lines of discussions held with all parties, and is considered a more desired path to achieve a favourable outcome to all, subject to agreeing to terms that reduce the overall burden and financial risk to Council.

The above should also be based on the outcomes from the waterways assessment currently being undertaken by MRWA. This information should be available by the end of this month. If agreement cannot be achieved on the above it is recommended Council offer be based on the following:

That Council Agrees to undertake the Main Roads identified emergency repairs to Bridge 5121 Rosedene Lane for it to remain open with a 13 tonne load-rating subject to:

- The landowner of Lot 315 Rosedene Lane, establishing a lease agreement over Bridge 5121 with the Department of Lands to the satisfaction of the Chief Executive Officer, legally binding full responsibility for Bridge 5121 to the owners of Lot 315 Rosedene Lane.
- Bridge 5121 being eligible to receiving the MRWA emergency funding.
- The landowner of Lot 315 Rosedene Lane being advised that the current structure has exceeded its useful life and no further expenditure from the Shire will be spent on the existing structures maintenance.

It should be noted if the issue remains un-resolved, Council will need to consider MRWA advice in regard to closing the bridge, due to liability risk, however the risk of restricting the existing properties access for an indefinite timeframe will also need to be considered.

Consultation

Extensive consultation has occurred over a number of years with previous officers and owners regarding Bridge 5121.

MWS, Chief Executive Officer and the Shire President have been involved in recent discussions and correspondence with the owners, purchasers and their representatives.

Shire Staff have also been liaising with MRWA and bridge contractors regarding this issue.

Policy/Statutory/Voting Implications

Policy

The Shire of Donnybrook-Balingup's authority and policies only apply to the road reserve over which it has responsibility.

Statutory

The relevant section of the Local Government Act 1995 is s. 3.53.

S. 3.53 Control of certain unvested facilities

(1) In this section —

former section 300 means section 300 of the Local Government Act 1960 as in force before the commencement of this Act;

otherwise unvested facility means a thoroughfare, bridge, jetty, drain, or watercourse belonging to the Crown, the responsibility for controlling or managing which is not vested in any person other than under this section.

(2) A local government is responsible for controlling and managing every otherwise unvested facility within its district unless subsection (5) states that this section does not apply.

(3) If the facility is partially within each of 2 or more districts, it is to be controlled and managed as the local governments for the districts concerned agree or, if they do not agree, as the Minister directs.

(4) An agreement or direction under subsection (3) has effect according to its terms.

(5) This section does not apply if any person was, immediately before the commencement of this Act, responsible for controlling or managing then facility unless:

(a) the responsibility arose under the former section 300; or

(b) the Governor, by order, declares that the facility is to be controlled and managed under this section.

Voting

This endorsement requires a simple majority.

Financial Implications

Bridge 5121 is in a condition beyond its useful life. Significant maintenance works were undertaken by the Shire in mid-2015 to maintain the bridges 13 tonne load rating, however

rapid further deterioration of the structure has resulted in in the latest MRWA advice to close the bridge.

If the Shire accepts full responsibility for the asset, it will be responsible for its ongoing maintenance and replacement which will be of significant cost.

Strategic Implications

The Shire of Donnybrook-Balingup has accepted in the past advice that it is not responsible for unvested facilities that provide access and where the structures were inherited from the state in dilapidated or sub-standard condition, and by state enacted legislation which did not consider the cost implications to the local authority

Officer's Recommended Resolution

Moved: Cr

Seconded: Cr

That Council

- 1. Agrees to undertake the Main Roads identified emergency repairs to Bridge 5121 Rosedene Lane for it to remain open with a 13 tonne load-rating subject to:**
 - **The landowner of Lot 315 Rosedene Lane, establishing a lease agreement over Bridge 5121 with the Department of Lands to the satisfaction of the Chief Executive Officer, legally binding full responsibility for Bridge 5121 to the owners of Lot 315 Rosedene Lane.**
 - **Bridge 5121 being eligible to receiving the Main RoadsWA emergency funding.**
 - **The landowner of Lot 315 Rosedene Lane being advised that the current structure has exceeded it useful life and no further expenditure from the Shire will be spent on the existing structures maintenance.**
- 2. Instructs the Chief Executive Officer to close Bridge 5121 Rosedene Lane to public access if point 1 is not resolved to his satisfaction.**

11.3 Manager Development and Environmental Services

Nil

11.4 Principal Planner

11.4.1	SUBJECT:	PLANNING APPLICATION FOR TWO SHOPS WITH 3M FRONT SETBACK AT LOT 2 (No. 33) SOUTH WESTERN HIGHWAY, BALINGUP
	Location:	Lot 2 South Western Highway, Balingup
	Applicants:	Mr John Bailey
	Zone:	Commercial
	File Ref:	A4527
	Author:	Bob Wallin (Principal Planner)
	Report Date:	14 June 2016
	Attachments:	See Attachment 10.2.1(1) See Attachment 10.2.1(2)

Background

The proposal is to relocate two small transportable buildings presently stored at the rear of the site to the street for use as future office or shop. The parent lot of this site has been strata titled and contains an existing building.

Each proposed structure has an internal floor area of 24m² and a verandah of 1.5m x 6m. The structures have a rustic cottage aesthetic and will be beautified with weather board and corrugated walls. A "cottage" style landscaping area is proposed in the front setback with each structure being accessed by a disabled ramp (see Attachments 1 and 2).

Local Planning Scheme No.7 (LPS7)

There is two parts of this application. One relates to use and the other design. The land is zoned "Commercial" under LPS7. The "Commercial" zone lists the use of "Office" and "Shop" as "P" (Permitted) and "D" (Discretionary) respectively. These proposed uses are consistent with the intent of the "Commercial" zone and will not be out of character or create potential for land use conflict within their setting.

It is noted that one of the structures is now being used as a "Shop" without relevant approvals being in place .

In relation to design, LPS7 contains a number of provisions. It is necessary to test this proposal against these provisions to ensure that the intent of LPS7 is satisfied. The key elements of these clauses are included as follows:

"5.17 General appearance of buildings and preservation of amenity

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

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

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

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

"10.2 (xv) the preservation of the amenity of the locality"

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

Part 6 of the Deemed provisions (Local Planning Scheme Regulations 2015) relating to Local Development Plans (LDP). LDPs set out specific and detailed guidance for a future development. The intent of these plans is to ensure development occurs in an orderly and proper way.

There are also three relevant policies to consider. These are:

Policy No.9.21 - Balingup Village Centre – Special Character Area;

Policy No. 9.17 - Industrial and Commercial Development Control

Policy No. 9.16 – Transportable Structures

The relevant provisions and intent of these policies are detailed as follows:

Balingup Village Centre – Special Character Area (Local Planning Policy No.9.21)

This policy includes the following relevant provisions:

"Ensure the character and 'village' atmosphere of the town is preserved, particularly in regard to development size, form, height and scale"

“Ensure compatibility with existing development, particularly in respect to building materials, shop front design, front setbacks, use of colour, application of advertising signage and location and form of fencing”

“Proposed commercial development shall have a nil setback form the front property boundary, except where otherwise endorsed by the Shire”

“Parking areas shall be located at the rear of the building where appropriate.”

This proposal requires Council consideration because a front setback of 3m is proposed.

Industrial and Commercial Development Control (Local Planning Policy No. 9.17)

This policy has the intent to improve the quality of commercial development and encourage aesthetically attractive built forms and streetscapes.

This policy includes development guidelines that seek to:

- Encourage innovative and attractive building designs that are sensitive to the existing and intended surroundings;
- Facades visible to the street to maintain a high standard and include features such as:
 - Variety of materials, colours and treatments;
 - Incorporate architectural features including gables, porticos, verandahs;
 - Roof forms that includes points of interest; and
 - Stepping of vertical and horizontal elevations.
- Requires a minimum enclosed floor area of 40m² for the primary building of the site; and
- Transportable buildings will only be supported where they are ancillary to an established main building and where they are not visible or have very limited visibility from a public road or public place.

Transportable Structures (Local Planning Policy No. 9.16)

This policy has the objective to ensure that transportable structures are constructed and located in such a way as to minimise the impact on the amenity of the locality.

The policy requires structures to be of a high standard of repair.

The applicant proposes a 3m setback to achieve the following outcomes:

- Allows for a disable ramp to join the footpath;
- Allows for a garden area in front of the buildings to enhance the character of the area;
- Affords good visual exposure for the adjoining businesses to the south and north;
- The three most recent developments have setbacks; and
- The Balingup Townscape Committee supports a setback.

In relation to the last point, the Balingup Townscape Committee took the view that the proposal was in keeping with the character of the Balingup Townsite and that a setback with landscaping represented an acceptable outcome.

Comment

The acceptableness or otherwise of this proposal depends on forming views on the:

- a) design of the structures
- b) the principles of orderly and proper planning; and
- c) proposed setback.

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

The Role of Setbacks

Policy 9.21 states that commercial development **shall** have a nil setback from the front property boundary. Departure requires Council's approval.

The intent of the policy is to create a "village" atmosphere and to enhance the cultural and heritage values of the village centre. A general and strong theme running through most historical main streets is the absence of street setbacks. It is the up front and personal interactions with the building facades, combined with overhanging shade structures that create the flavours and feel of a traditional town centre or main street.

The nil setback is an important tool in achieving and enhancing these "historical" flavours. This approach is reflected in the Local Planning Policy's position.

A walk along the street block acknowledges the success in consistently applying a nil setback. It plays a vital role in creating the cosy pedestrian friendly space and it enables pedestrians to intimately view and explore shop frontages.

Conversely, creating street setbacks in commercial streets is a relatively modern initiative and their use is associated with the rise and dominance of the car and desires to express individual identity, freedom to move, space and privacy.

All these values are evident in modern box shopping centres and bulky goods ribbon developments. In these developments, functional efficiency dictates all design considerations - often at the expense of attractive human scale streetscapes and town centres.

"Setbacks" create a distance and isolation that can break with the cosy rhythm of the street. The two existing developments immediately abutting the site have a nil setback. Further, a number of other nearby buildings also have verandahs that encroach into the public realm and provide a shady and sheltered pedestrian environment.

A 4.5m façade setback is at variance with all other buildings on the street block (see Attachment 1) and will potentially mark this proposed development as being different and at odds with the underlying streetscape theme.

The role of landscaping

The setback is proposed to provide room for access ramps and landscaping. While landscaping can play a role in improving streetscape appeal, it should not be viewed as a substitute to providing an appropriate built form or at the expense of achieving wider streetscape objectives.

The removal of the setback does not preclude the possibility of incorporating landscaping. Landscaping can still be contained under the verandah in pots or wine barrels to project a cottage scale and theme more in line with the size of the development.

The proposed setback provides a landscaping area in the front that is equal to 75% of the building form (excluding the decking area under the verandah). This ratio of landscaping to building is potentially out of proportion. A general rule of thumb for proportions is that of the “golden rule” of 1 to 1.6. This is a classical rule of proportions applied from observations in nature and assists in interpreting what is aesthetically pleasing to the eye. The proposed ratio of landscaping to building does not match this ratio.

It is also worth considering the effectiveness of landscaping over time. Landscaping is only effective if well maintained. Otherwise, it can become unsightly and project a lack of community pride. Community pride can be tested by observing “verge quality” – think a pristine green front lawn verses a brown, un-kept, weed invested patchy lawn. Landscaping provides a simple and subconscious assessment on the feel of a place and can create value judgements on its inhabitants.

Incorporating private landscaping areas does not guarantee a quality outcome – there is a level of risk involved which is dependent on the aspirations and economic fortunes of tenants and landowners over time. Conversely, landscaping in the street verge is maintained to a uniform standard to a standard that the community is willing to fund and be satisfied with. There are existing street trees and planter boxes along this side of the street that help establish and enhance the landscape character of the town.

It is suggested that the proposal be modified to remove the setback. This will ensure that the hierarchy of streetscape objectives are applied in their proper order of priority and importance. In this case, the achievement of a nil setback will play a greater role in achieving improved streetscape outcomes for the whole street block than creating an area for private landscaping.

Building Design and Streetscape

In the immediate locality, on the street block, there is a mix of building styles and materials. However, some common themes include use of tin rooves, gables, awnings and verandahs. Facades of buildings provide narrow shop front treatments and fine level that break the continuity of long sections of wall and provide an intimate scale and cottage feel.

The other side of the street provides a different scale and style of development. It is characterised by discrete isolated buildings set in landscaped spaces with street setbacks.

In determining *Tempora Pty Ltd v Shire of Kalamunda (1994)*, the Tribunal referred to a three part test for assessing the impact on amenity as follows:

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

It may be possible to view that the proposed structures will have a slightly lower standard than the majority of the street. However, when considered as a complete package, they have potential to possess some of the same characteristics with the street block - specifically in terms of scale, bulk and architectural features. It needs to be acknowledged that an almost identical building already fronts the street and assimilates seamlessly with its immediate neighbours.

The proposed structures possess a small “cottage” or “doll’s house” character. The designs include timber and tin cladding, ornate wooden window fittings and gable roof forms, wooded decking supported by wooden balustrading and verandahs. These features and scale generally replicate and reflect the qualities of the surrounding street. Importantly, the structures do not possess the undesirable elements normally associated with transportable or donger structures. That is, an industrial appearance and design considerations dominated by security and utility efficiencies.

In this instance, the proposed building design cannot be described as being of a high standard. However, neither does a significant portion of the existing commercial buildings along the main street. This lack of quality is mitigated to some extent in the existing buildings by their tight packing to create continuous blocks of unbroken frontages.

Within this streetscape context, the proposed structures, when upgraded will not materially depart from the existing built form in terms of architectural style – when subject to upgrading improvements. A more important element to consider is about the setting. The structures will be relatively isolated.

Space and its impact on streetscapes

Streetscapes are not created by building form alone. An important part of any building is the “vacant space” around it. Spaces have an important role to play. This proposal is surrounded by vacant paved space. It is this space that provides unobstructed views and perspectives that accentuates the small scale of the buildings. It is this space that will mark the structures as being out of character with the majority of the eastern side of the street.

It is noted that the western side of the street contains a number of buildings framed by landscaped spaces. The isolated nature of these buildings is mitigated to some degree by the scale of these buildings.

Orderly and Proper Planning – site context

A key principle of town planning is to ensure that development does not occur in an uncoordinated or ad-hoc manner. In this case, the site already contains one building and this proposal will add two other buildings. All this activity and development is proposed in a vacuum - there is no overall plan or vision for the site. The buildings have no unifying features in terms of architectural design, materials, orientation, bulk, use or scale. Added to this, there is further scope for additional development to occur on the site.

There is a legitimate need for an overall plan to control and guide development for this site. This will ensure that development occurs in an orderly and proper way and that there is a unifying theme and flavour for the site. There is a very real possibility that if this is approved, it will set a precedent for an ungainly arrangement of structures and activities that will detract from the overall objectives of the townsite. This is the slippery slope argument. Once this stage is approved, how will it be possible to stop the next stage? This site has further development potential and this needs to be considered now - as part of this assessment process.

Without an overall plan for the site, it is difficult to support the current proposal as it will constrain future development options for a highly prominent site within the Balingup townsite.

Departures from Policy Position – Context and Location matter

In considering departures from a policy position, it is important to understand the intent of the policy and the impact and extent of supporting any departure. In this case, the policy requires new development to enhance the character of the locality. One way that this is expressed is through nil setbacks.

The other aspect of to think about when considering departures is the prominence of the site and the visibility of the departure. In this case, the proposal is in a very prominent location and approval will set a very visible precedent contrary to the intent of the established policy position. Approval to a setback will effectively undermine any ability to enforce the policy position. If setbacks are to be supported, it will require a complete review of the policy.

Departures are easier to justify and support if they have limited impact of the public realm - hidden away. In this case, the departure is highly visible and will be front and centre for all to see.

Opportunistic verses innovative treatments

LPS7 contains a number of objectives for the Commercial Zone. In summary, these include:

- encourage new development to achieve a high standard;
- protect, maintain and enhance where possible the visual and heritage elements of the town centre; and
- ensure that development conforms to any Local Planning Policy or Townscape Plan.

In this case, the proposal seeks a low cost and convenient option for the landowner. This is not the same as a good outcome for the Balingup townsite or community.

Vector of Development and Aspiration for Balingup Townsite Development

In May 2008, Council adopted a Local Planning Policy to guide future development within the Balingup Townsite. The intent of the policy is to protect and promote the towns "special character".

It is noted that there are a number of historical developments on the opposite side of the street with setbacks and landscaped settings. However, these were established prior to the policy position being set.

The policy includes the objective to guide future development in a manner that enhances the existing character. It is unclear if this proposal meets this objective when taking into account the prominent position of the site.

Consultation

The application has been advertised in accordance with Local Planning Policy. No submissions were received.

Summary and Conclusion

There are parts of this proposal that when viewed in isolation could comply with the planning framework for the locality. However, in reality, proposals are not viewed in segmented and isolated ways. They are viewed as complete holistic entities that fit and interact within a wider streetscape

In assessing this proposal, it is essential to take a step back and think about the site as a whole. This enables focus on the combined impacts of setbacks, building design, building scale, spacing and lack of an overall site layout for the site to be accounted for. It is this combination of factors that makes this proposal unacceptable.

An alternative resolution has been provided should Council wish to approve the application.

Policy/Statutory/Voting Implications

Policy

Policy No.9.21 - Balingup Village Centre – Special Character Area. This policy has the objective of creating a village character and promotes this through nil setbacks, locating car parking at the rear of buildings and the design of buildings.

Policy No. 9.17 - Industrial and Commercial Development Control. This policy has the intent to improve the quality of commercial development and encourage *aesthetically attractive built forms and streetscapes*

Policy No. 9.16 – Transportable Structures. This policy has the objective to ensure that transportable structures are constructed and located in such a way as to minimise the impact on the amenity of the locality.

Statutory

Clause 5.56 – Commercial Zone seeks to promote a high standard of design of buildings and car parking provision through the use of building materials and architectural styles to harmonise visually with nearby buildings.

Voting

Simple majority

Financial Implications

N/A

Strategic Implications

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

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

Outcome 3.9 – Existing community spirit and pride is maintained

Officer's Recommended Resolution

Moved: Cr

Seconded: Cr

That the Council refuse to grant Planning consent for the relocation to two transportable structures at Lot 2 (No.33) South Western Highway, Balingup on the grounds that:

- 1) The proposal is inconsistent with Local Planning Policy 9.21 which encourages development to enhance the existing character of the locality and requires a nil street setback.**
- 2) The development is inconsistent with orderly and proper planning.**
- 3) The development will have a detrimental impact upon the character of the locality.**
- 4) The development is an ad-hoc and inexpensive short term solution on a prominent site within the Balingup Townsite main street.**
- 5) The isolated setting of the structures highlights the limited scale, bulk and form of the development which runs contrary to the established streetscape setting.**
- 6) Approval would create an undesirable precedent for further ad-hoc development within the Balingup Townsite.**
- 7) The proposed structures design and site layout is contrary to the objectives and principles of the "Commercial" zone.**

ADVICE TO THE APPLICANT

Note 1: If the applicant is aggrieved by this decision, as a result of approval or by a determination of refusal, there may be a right of review under the provisions of Part 14 of the *Planning and Development Act 2005*.

A review must be lodged with the State Administrative Tribunal, and must be lodged within 28 days of the decision being made by the local government.

11.4.2	SUBJECT:	PROPOSED ROAD CLOSURE - PORTION OF BILLINGHURST ROAD, ARGYLE
	Location:	Lot 298 South Western Highway, Argyle
	Applicant:	Mr Chris Billingham
	Zone:	Rural
	File Ref:	A38
	Author:	Bob Wallin (Principal Planner)
	Report Date:	10 October 2016
	Attachments:	11.4.2 – Location Plan

Background

A request has been received from the owner of Lot 298 South Western Highway, Argyle to close a section of unconstructed road (Attachment 11.4.2).

The section of road abuts land reserved for "Railway" which contains an access track as well as railway infrastructure.

The section of "road reserve" has been maintained by the adjoining owner.

Comment

The section of road requested to be closed is unconstructed and terminates at the property boundary. It does not have potential to provide connectivity within the immediate or wider locality.

The proposed closure will not impact any other landowners.

Should the road closure proposal be supported it is recommended that the road be closed and amalgamated into the adjoining properties at the landowner's expense.

Consultation

It is necessary to advertise the proposed road closure. This is required under section 58 of the *Land Administration Act 1997*.

It will be necessary to seek comment from Main Roads Western Australia and the Public Transport Authority as part of the advertising process.

Policy/Statutory/Voting implications

Policy Implications:

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 utilized. 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 Implications:

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

Voting Implications:

Simple majority

Financial Implications

The closure of the road removes Shire obligations to maintain this section of road reserve. No costs associated with the closure will be the responsibility of the Shire.

Strategic Implications

N/A

Officer's Recommended Resolution

Moved: Cr

Seconded: Cr

That Council

1. Initiate road closure proceedings to close a section of "Billingham Road abutting Lot 298 South Western Highway, Argyle in accordance with Section 58 of the Land Administration Act 1997 subject to:
 - (i) Receipt of written confirmation from the applicants confirming their full responsibility for all costs associated with the closure, amalgamation, potential purchase, and service infrastructure relocation;
 - (ii) The applicants submit the \$750 Road Closure Application Fee;
2. Authorise the Chief Executive Officer to undertake tasks necessary to implement Point 1 above.

11.4.3	SUBJECT:	PROPOSED ROAD CLOSURE - PORTION OF THOMPSON BROOK ROAD, THOMPSON BROOK
	Location:	Thompson Brook Road, Thompson Brook
	Applicant:	Mr David Lonsdale
	Zone:	Rural
	File Ref:	A3700
	Author:	Bob Wallin (Principal Planner)
	Report Date:	21 September 2016
	Attachments:	11.4.3– Location Plan

Background

A request has been received from the owner of Lot 804 Thompson Brook Road, Thompson Brook to close a section of Short Street, Donnybrook (see Attachment 11.4.3). Lot 804 Thompson Brook Road contains the Saint Thomas Anglican Church which is listed on the Shire's Municipal Heritage Inventory.

The section of road has a reserve requested to be closed is approximately 83m long with depths varying between 10 metres to 27 metres (Attachment 11.4.3). The total road reserve width in this locality varies. It ranges from 30 to 50 metres. The proposed closure will not impact on the existing carriage way.

Comment

The section of road is used by the Shire as a laydown area. The site is also used as a school bus drop-off/turn around. If it is intended to retain the laydown area/bus turn-around it will be necessary to reduce the extent of the closure request.

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 properties at the landowner's expense.

Consultation

It is necessary to advertise the proposed road closure. This is required under section 58 of the *Land Administration Act 1997*.

Policy/Statutory/Voting implications

Policy Implications:

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 utilized. 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 Implications:

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

Voting Implications:

Simple Majority

Financial Implications

The closure of the road removes Shire obligations to maintain this section of road reserve. No costs associated with the closure will be the responsibility of the Shire.

Strategic Implications

N/A

Officer's Recommended Resolution

Moved: Cr

Seconded: Cr

That Council

1. **Initiate road closure proceedings to close a section of Thompson Brook Road Reserve, that does not impact on the "laydown area" or school bus turn-around abutting Lot 804 Thompson Brook Road, Thompson Brook in accordance with Section 58 of the Land Administration Act 1997 subject to:**
 - (i) **Receipt of written confirmation from the applicants confirming their full responsibility for all costs associated with the closure, amalgamation, potential purchase, and service infrastructure relocation; and**
 - (ii) **The applicants submitting the \$750 road closure application fee;**
2. **Authorise the Chief Executive Officer to undertake tasks necessary to implement Point 1 above.**

11.5 Chief Executive Officer

11.5.1	SUBJECT:	REGIONAL TOURISM DEVELOPMENT STRATEGY
	Location:	Shire of Donnybrook-Balingup
	Applicants:	Bunbury Wellington and Boyup Brook Regional Tourism Development Strategy
	Zone:	N/A
	File Ref:	CNL 15/A
	Author:	Ben Rose (<i>Deb Vanallen – Community Recreation Development Team Leader</i>)
	Report Date:	6 October 2016
	Attachments:	11.5.1(1) - MOU Between City of Bunbury and Bunbury Wellington Group of Councils, South West Development Commission, and Australia's South West for the Implementation of the Bunbury Wellington and Boyup Brook Regional Tourism Strategy 11.5.1(2) – Indicative Budget

Background

A Tourism Working Group (TWG) comprising representatives from the seven regional Local Governments, who represent the Bunbury Wellington Group of Councils (BWGC), was formed in late 2012 to discuss ways of working together to gain tourism momentum for the greater Bunbury and Wellington regions. The seven regional Local Governments include the