



# Notice of Ordinary Council Meeting

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To All Councillors

To be held on Wednesday, 21 December 2016

Commencing at 5.00pm

at the Seniors Room, Donnybrook Community Library  
Collins Street, Donnybrook

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

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

**16 December 2016**

## **Disclaimer**

The advice and information contained herein is given by and to the Council without liability or responsibility for its accuracy. Before placing any reliance on this advice or information, a written inquiry should be made to the Council giving entire reasons for seeking the advice or information and how it is proposed to be used.

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## ORDINARY MEETING OF COUNCIL AGENDA

21 December 2016

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# SHIRE OF DONNYBROOK-BALINGUP

## ORDINARY COUNCIL MEETING AGENDA

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To be held at the Seniors Room, Donnybrook Community Library  
Wednesday, 21 December 2016 at 5.00pm

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### MEMBERS PRESENT

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#### COUNCILLORS

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

#### STAFF

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

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### PUBLIC GALLERY

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#### 1 APOLOGIES

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Cr Mills (Approved Leave)

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#### 2 PUBLIC QUESTION TIME

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Questions taken on notice at the Ordinary Council Meeting on 23 November 2016:

*June Scott*

*Can the Shire take control of the governance of the Arboreta area? For example, in the past blue asbestos was used for signage at the Arboreta, how do we stop this happening?*

Chief Executive Officer

The Arboretum is located on Reserve 8979, South Western Highway, Donnybrook. The Shire of Donnybrook-Balingup has a 'Park Lands' management order over this reserve and is permitted to undertake land use activities in line with the intent of Park Lands. The allocation of resources and service delivery provided to the reserve is reviewed annually in line with Council budget deliberations.

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

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Cr Mills was granted a Leave of Absence for the December 2016 Ordinary Council Meeting at the Ordinary Council Meeting held on 23 November 2016.

Cr Tan has requested a Leave of Absence for the February 2017 Ordinary Council Meeting.

**Moved: Cr**

**Seconded: Cr**

**That Cr Tan be granted a leave of absence from the Council meeting scheduled for 8 February 2017.**

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

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In accordance with Section 34C(3a) of the *Local Government Administration Regulations 1996*, Tom Omond, Senior Technical Officer for the Shire of Donnybrook-Balingup disclosed an impartiality interest with regards to Agenda Item 11.2.1 - RFT 02/2016 – Traffic Management Services as Mr Omond was previously employed by one of the companies being recommended for the tender.

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

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Nil

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### **6 LATE ITEMS**

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Nil

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### **7 CONFIRMATION OF MINUTES**

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#### ***7.1 Ordinary Council Meetings***

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#### **Council Decision**

**Moved: Cr**

**Seconded: Cr**

**That the Minutes of the Ordinary Meeting of Council held on 23 November 2016 be confirmed as a true and accurate record.**

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## **8 ELECTED MEMBERS MOTIONS**

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<b>8.1.1</b>	<b>SUBJECT:</b>	<b>REVIEW OF COUNCIL POLICY 1.16 - GRATUITY PAYMENTS</b>
	<b>Location:</b>	<b>Shire of Donnybrook Balingup</b>
	<b>Applicants:</b>	<b>Cr King</b>
	<b>Zone:</b>	<b>N/A</b>
	<b>File Ref:</b>	<b>CNL 34H</b>
	<b>Author:</b>	<b>Ben Rose, Chief Executive Officer</b>
	<b>Report Date:</b>	<b>6 December 2016</b>
	<b>Attachments:</b>	<b>8.1.1 – Agenda Item 11.5.3 from October 2016 Ordinary Council Meeting</b>

Cr King has proposed the following Notice of Motion:

*That:*

- 1) The current Gratuity Policy be withdrawn, effective from 21 December 2016 (after due process to allow for staff feedback to be received). In the interim there be a hold on gratuity payments commencing 21 December 2016, until a final decision is made by Council whereupon applications during this period are considered in light of the new policy.
- 2) In recognition and appreciation of staff service in excess of 10 years that staff be given a long service award of up to \$500 (\$300 for 10 years' service – then a further \$20 per year up to a maximum of \$500 at 20 years' service) to be given as a cash payment, a gift or contribution for a going away party (to be at the discretion of the staff member) and that the award be given at the time the employee resigns from the Shire of Donnybrook-Balingup.
- 3) That, in accordance with the requirements of Council Policy 1.16, the Chief Executive Officer is requested to consult with all staff to seek feedback on Council's proposed amendments to this policy and that the results of this consultation be provided as a report to Council at its February 2017 Ordinary Meeting, along with a recommendation as to the final form and content of this policy, from the Chief Executive Officer.
- 4) It is intended that Elected Members and the Council will then consider the staff comments, and prepare any proposed amendments to the Gratuity Policy for presentation at the March Agenda briefing and the March OCM. The effective date of any such amendments would become the date they were carried (if carried) at the March OCM.

## Cr King's Comment

Council's Gratuity Policy (Attachment 8.1.1) established guidelines for the payment of gratuities on the retirement of employees who have given at least 10 years of continuous service to Council.

This policy was introduced on 11 June 2004, based on a pro-forma policy developed by the WA Local Government Association.

The policy takes into account the provisions of section 5.50 of the *Local Government Act 1995*, and Regulation 19A of the *Local Government (Administration) Regulations 1996*, which sets a maximum payment limit of \$5,000.

The gratuity amounts set out in Council's current Gratuity Policy appear to have been copied directly from the pro-forma policy, as follows:

Number of Years' Service	Amount of Gratuity
10 to a maximum of 15 Years Continuous Service	Up to a maximum of \$3,000.00
15 to a maximum of 20 Years Continuous Service	Up to a maximum of \$4,000.00
Above 20 Years' Service	Up to a maximum of \$5,000.00

All leaving gifts, cards and celebrations (regardless of the length of service) are paid for by colleagues.

Gratuity payments are not a feature of private enterprise employment. Here Long Service Leave entitlements are a statutory entitlement for each 7-10 year of continuous employment. In a few large companies for exceptional cases, perhaps the obligatory gold watch and some words of gratitude and encouragement to all staff at a morning tea are considered appropriate.

Councillors should be aware that Council is allocating ratepayers funds, and should be no more magnanimous or generous than Ratepayers would expect. In our locale I am not aware of any organisations (except for the Shire) which have any similar gratuity policy, let alone such a generous payment.

The WA Local Government Association developed a pro-forma policy in the early 2000's, which was apparently the genesis for the drafting of Donnybrook Balingup Council Gratuity Policy under the previous CEO, which was adopted by Council on 11 June 2004.

An examination of other local government policies shows significant variation in gratuity payment amounts and also the number of years' service required before an employee is eligible. Some Councils start from one year's service (whether as a gift or payment), and some provide a dollar figure per year of services. Donnybrook Balingup Council requires staff to have served at least 10 years, **the maximum payments are, by comparison, generous.**



WALGA has since updated and made minor changes to its pro-forma policy. It no longer suggests payment figures and does not prescribe a formula to calculate gratuity payments as this is at the discretion of each local government.

The gratuity payments are an unbudgeted Shire expenditure, not part of any employment condition, and subject to Council approval before payment. Over the 10 to 20 years employment period they amount to between 1.25 to 1.5 cents per hour worked, and as such are hardly an incentive to staff to continue employment. This could be better achieved within the normal employment seniority/conditions and payment schedules. Amendments to the current policy have been discussed with Councillors (Concept Forum 16.8.2016) and managers have been canvassed for their views.

While there were no objections in to reducing or abolishing the gratuity amounts, in principle, there was a view (perhaps from the managers meeting), that a 'sunset clause' should be adopted, whereby the current arrangements remain in place for staff appointed prior to October 2016.

Job mobility has increased significantly over the past two decades. (The current average tenure in a job is 3 years, 4 months - a voluntary turnover of about 15 per cent per year), so the number of employees eligible for a gratuity payment is likely to decrease.

However, there are employees within the organisation who are nearing retirement, who would be eligible for a gratuity payment and for whom a change in policy at this stage could be considered unfair.

In fact more of those employees now eligible for the "gratuity payments" commenced employment with the Shire before there was a Gratuity Policy, and the remainder are only entitled to a part gratuity. Should those employed before the gratuity policy was adopted in June 2004, be excluded from the payment, or only their employment since June 2004 be included in their gratuity calculation

Employees who are to commence in the future and not have access to the Gratuity arrangements, as will those who were employed before the 21 December 2016, are going to feel discriminated against.

No matter what decision is made on a Sunset clause, some employees will consider themselves disenfranchised.

The seemingly sensible decision is to abandon the policy as of the 21 December 2016, if this is what Council decides. No sunset clauses.

Another concern of staff was the ability for colleagues to give a long-serving staff member a 'send - off'. At present all farewell celebrations are generally funded entirely by staff, regardless of the employee's seniority or how many years' service they have given the Shire.

Staff send - offs are as important for those staying with the organisation as they are for those leaving it, and need not be subjective – i.e. based on performance as current gratuity

payments are. There is some support that staff send-off's are as important as gratuity payments.

As in private enterprise, a celebratory morning tea in recognition of outstanding service is probably adequate, and would be better received by the public. Council already funds Christmas parties and barbeques by department and a major staff Xmas party.

Long-service awards have also been suggested as a more appropriate way of retaining staff and rewarding service in these days of high job mobility. Those supporting this have suggested a long-service award mechanism could be considered as part of a future enterprise bargaining agreement.

This agenda item therefore recommends that the current policy is suspended on 21 December 2016, pending the staff review of the proposed amendments and presentation of comments in a report to Council, along with the Chief Executive Officer's recommendations.

When these comments and recommendations are available, Councillors or preferably the Council as a whole will consider these inputs, and a decision will be made to either continue/amend or revoke the current Gratuity Policy. It is proposed that an agenda item based on this decision would be presented at the March 2017 Ordinary Council Meeting.

The effective date for changes to the policy would be the date on which the agenda item was Carried (if this occurred).

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

Initiating a review (and potential amendments) to the Gratuity Policy was the subject of a Chief Executive Officer's report to the October 2016 Ordinary Council Meeting (attachment 8.1.1). The resolution of Council from the October 2016 Ordinary Meeting was then revoked by Council at its November 2016 Ordinary Meeting. Presently, there is no position of the Council on the topic, other than that the existing policy is still in application.

The recommendation of the Chief Executive Officer at the October 2016 Ordinary Meeting of Council (superseded by an alternative motion of Council) was, generally, to modify the Policy to implement a sunset date (taken from the date of final Council approval of the amended Policy) and to enable a gratuity payment of up to the value of \$75 per year, from a minimum of 10 years continuous service. It is recommended that this approach be endorsed by Council.

#### **Consultation**

The existing Gratuity Policy sets out the requirement for consultation with staff prior to a final recommendation to Council, as follows:

*"This policy may be varied or cancelled from time to time at the discretion of Chief Executive Officer after the endorsement by Council.*

*The Local Government is committed to taking reasonable action to ensure that any variation or cancellation to this policy is notified to all employees prior to the variation taking effect, including (but not limited to) notifying all employees via normal correspondence of the variation including the proposed reasons for such variation. All employees shall be given an opportunity to provide feedback regarding the variation and these shall be taken into consideration by Council prior to variation."*

In accordance with this consultation provision of the policy, it is expected that the following two elements are provided to staff during the consultation period:

- The general terms of the proposed variation; and
- The reason for the variation.

Both of these elements are captured in the Chief Executive Officer's recommendation.

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

- Local Government Act 1995, s.5.50
- Local Government (Administration) Regulations 1996
- Council Policy 1.16, Gratuity Payments Policy

### **Financial Implications**

Financial implication will be assessed following the consultation period with staff.

### **Strategic Implications**

Outcome 4.8 – Attract and retain staff

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

**Moved: Cr**

**Seconded: Cr**

**That:**

- 3) The current Gratuity Policy be withdrawn, effective from 21 December 2016 (after due process to allow for staff feedback to be received). In the interim there be a hold on gratuity payments commencing 21 December 2016, until a final decision is made by Council whereupon applications during this period are considered in light of the new policy.**
- 4) In recognition and appreciation of staff service in excess of 10 years that staff be given a long service award of up to \$500 (\$300 for 10 years' service – then a further \$20 per year up to a maximum of \$500 at 20 years' service) to be given as a cash payment, a gift or contribution for a going away party (to**

be at the discretion of the staff member) and that the award be given at the time the employee resigns from the Shire of Donnybrook-Balingup.

- 3) That, in accordance with the requirements of Council Policy 1.16, the Chief Executive Officer is requested to consult with all staff to seek feedback on Council's proposed amendments to this policy and that the results of this consultation be provided as a report to Council at its February 2017 Ordinary Meeting, along with a recommendation as to the final form and content of this policy, from the Chief Executive Officer.
- 4) It is intended that Elected Members and the Council will then consider the staff comments, and prepare any proposed amendments to the Gratuity Policy for presentation at the March Agenda briefing and the March OCM. The effective date of any such amendments would become the date they were carried (if carried) at the March OCM.

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#### Chief Executive Officer's Recommended Resolution

Moved: Cr

Seconded: Cr

- 1) Council advises the Chief Executive Officer that it's opening position for amendment to the current Council Policy 1.16 Gratuity Payments is as follows:
  - a) Council Policy 1.16 Gratuity Payments is amended to include a Sunset Clause whereby the present policy will apply only to staff appointed prior to Council's final adoption of the revised policy;
  - b) For staff appointed after Council's final adoption of the revised policy, the Shire will fund a farewell function and/or gift for staff who have completed 10 years or more of continuous service with the Shire, at the rate of \$75 per year of service.
- 2) Council advises the Chief Executive Officer that the reason for proposed variation to Council Policy 1.16 Gratuity Payments is for the contemporisation of the policy.
- 3) That, in accordance with the requirements of Council Policy 1.16 Gratuity Payments, the Chief Executive Officer is requested to consult with all staff to seek feedback on Council's proposed amendments to the policy and that the results of this consultation be provided to Council at its March 2017 Ordinary Meeting, along with a recommendation as to the final form and content of this policy, from the Chief Executive Officer.

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<b>8.1.2</b>	<b>SUBJECT:</b>	<b>FUNDING FOR INSTALLATION OF CCTV CAMERAS</b>
	<b>Location:</b>	<b>Donnybrook Town Centre</b>
	<b>Applicants:</b>	<b>Cr Van Der Heide</b>
	<b>Zone:</b>	<b>N/A</b>
	<b>File Ref:</b>	<b>CNL 34L</b>
	<b>Author:</b>	<b>Ben Rose, Chief Executive Officer</b>
	<b>Report Date:</b>	<b>8 December 2016</b>
	<b>Attachments:</b>	<b>Nil</b>

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Cr Van Der Heide has proposed the following notice of motion:

*That Council:*

- 1) Approve the allocation of \$41,508.00 from the Central Business District Reserve to the Donnybrook Central Business District area CCTV upgrade project;*
- 2) Instruct the Chief Executive Officer to commence implementation of the CCTV upgrade project, in accordance with the scope outlined in the approved Federal Government Safer Streets Programme Funding Agreement;*
- 3) Instruct the Chief Executive Officer to prepare a Shire Policy relating to the access, retention, use and disclosure of CCTV product, for review and endorsement by Council prior to the practical completion of the project.*

## **Background**

In January 2016, an Expression of Interest (EOI) was lodged with the Minister for Police, for funding in the amount of \$138,600.00 from the State CCTV Strategy Infrastructure Fund.

The State CCTV strategy criteria included the following key points:

- a) Camera locations to be determined by hotspot data, derived from WA Police incident reports for areas where designated 'offences against the person' occurred
- b) Camera locations were not prioritised for the purpose of asset protection
- c) CCTV infrastructure to meet the minimum requirements of ANZPAA's *Police Recommendations for CCTV Systems*

Redfish Technologies were contracted by the Shire to assess the current CCTV infrastructure and prepare supporting documentation for the grant, which included identifying camera locations within the hotspot areas as well as technical data on the camera and recording equipment required.

In February 2016, an additional grant funding opportunity was identified with the Federal Governments Safer Streets Programme. This programme directs funding to projects to install security related infrastructure such as CCTV in 'retail, entertainment and commercial precincts or public parks which have been identified as experiencing problems with criminal or anti-social behaviour' (Safer Streets Programme Guidelines for Funding).

Projects approved within this programme are required to be completed to the scope outlined in the application. The application submitted with the same scope as that submitted for funding with the State CCTV Strategy Infrastructure Fund.

In May 2016, the Shire received advice from the Minister that the EOI was 'Approved, pending available funding', indicating that while the application was viewed positively by the panel, there was insufficient funding available to immediately progress the proposal.

In June 2016, the Shire was advised that the Federal Government grant had been approved for the amount of \$97,092.00.

A request to the Minister for Police to re-consider the State CCTV funding application to achieve the balance of the funds required, resulted in advice that no funds are available.

### **Cr Van Der Heide's Comment**

The Shire's current CCTV infrastructure within the Donnybrook Central Business District (CBD) area is outdated and unreliable, primarily based on old analogue technology implemented since 2008.

Unfortunately, the Shire has invested limited funds in maintaining the infrastructure due to the complexities in combining old and new technologies and recording and retaining the vision, in addition to the significant cost associated with a complete overhaul.

Crime hotspot data supporting the funding applications demonstrated a need for CCTV which was accepted in both the successful and unsuccessful application. The areas identified include:

- a) Apple Fun Park
- b) CBD area near the Visitors Centre / Public car park and conveniences
- c) CBD area adjacent to the hotels

### **Apple Fun Park**

We proudly hold the mantle for having the largest free entry playground in Australia, in the Apple Fun Park. While it's difficult to place a definitive number on the persons utilising the facility, it's estimated to be in excess of 50,000 annually. It's a wonderful facility utilised by travelling families as a place to visit, used by families as a destination picnic outing and used by the local community for the enjoyment of our children. In the eight years since its construction, attendance rates have only increased.

It's unfortunate that the innocence of a children's playground is also easily accessible to those who have less than honourable intentions. Incidents in and around the facility over the past 2 years have highlighted this issue. Nothing abrogates the duty of parents and care-givers to watch their children; however CCTV is a visible crime prevention strategy as well as an essential investigative tool when incidents occur.

## **Visitors Centre / Public Car Park and Conveniences / Area Adjacent to the Hotels**

Main Roads traffic counter data indicates approximately 7,000 vehicles pass through the Central Business District area utilising South Western Highway each day, with significantly higher numbers experienced during peak periods such as school holidays, long weekends and during events including the Manjimup 15,000, Bridgetown Blues, Boyup Brook Country Music Festival, Apple Festival and True Grit.

While many people visit the Apple Fun Park, many others stop in the town centre to use the public convenience facilities, attend the visitors centre or the local shops.

This location is also where many of our children access school bus services to attend educational facilities in the greater Bunbury area.

### **Other Benefits**

1) While the intent of the grant funding was not a focus on asset protection, it's clear that cameras placed for the purpose of community safety will also serve that purpose. In the case of the Apple Fun Park, CCTV adds a deterrence factor in protecting the significant investment made by the generosity of individuals and businesses within this community.

2) The installation of public facing CCTV cameras is not designed to remove the responsibility of business owners, to invest in their own technology to reduce the incidence of crimes being committed on their businesses.

It is noted however, that CCTV cameras placed in the public domain have a flow-on deterrence effect for crimes perpetrated against private enterprise. While cameras may not be directed toward individual businesses, vision of the area can be crucial in deterring potential offenders or alternatively, identifying those responsible for crime.

Like most other regional towns, small businesses also experience the reality of the current economic downturn and it's recognised that some may not be in a position to invest in expensive crime prevention technology. This strategy also supports these local businesses.

3) The focus on public liability insurance and the increasingly litigious society in which we live, means that it is necessary to consider all relevant options in ensuring harm minimisation strategies are both relevant and effective. CCTV is a technology which ensures the Shire is well placed to consider public liability issues as they arise.

### **Using CBD Reserve funds:**

There is a demonstrated need for an urgent upgrade to the Shires CCTV infrastructure, highlighted by incidents which have occurred within the town.

In 2016, it's technology that is a necessity in the interests of community safety and crime prevention - particularly the safety of our young people as the most vulnerable in our community and reflected in Federal funding approval in the amount of almost \$100,000.00.

The intent of the CBD Reserve was to fund infrastructure required, following the town centre upgrade over 15 years ago. With the majority of funds for this project derived from a grant, contribution of ratepayers monies is a responsible approach to ensure the project is completed.

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

The introduction of effective CCTV infrastructure will benefit the *community* in the following ways:

- i) Increased Deterrent- CCTV systems are an excellent means to deter would-be offenders. Once they realise that their actions may be monitored or recorded, they may choose to reconsider committing an offence or leave the area altogether.
- ii) Increased Detection- CCTV systems provide avenues to detect offences that would otherwise go undetected and unreported to Police. Increased prosecution rates would ultimately result from strong detection methodology supplemented by the CCTV system.
- iii) Reduced Fear of Crime- members of the community will be safer in the knowledge that they are being monitored by a CCTV system thus improving the overall public opinion and confidence in the area. A positive reputation with visitors to the town would also increase and further tourism opportunities in the future.
- iv) Reduced Retail Theft- Offenders deliberately target businesses with poor or limited security in place. CCTV installation directly assists to combat these types of offences in addition to identified 'offences against the person'.
- v) Eliminate Fraudulent Insurance Claims- CCTV can protect people and businesses against the prospect of false litigation attempts.
- vi) Safer Working Environment, Staff Protection, Increased Professionalism – CCTV can be used as a training tool by organisations which utilise it within their operations. It can also provide protection to staff from allegations of misconduct and also ensure that workers comply with correct procedures in the course of their duties
- vii) The proposed camera locations will allow vehicles travelling in both directions along South Western Highway to be identified. Donnybrook is the 'gateway' to the lower south west region and all vehicles on this route pass through this 'choke point'. This identification point will have broader benefits for Police investigation and prosecution.

### **Voting Implications**

#### Voting

An Absolute Majority is required as per section 6.11 of the *Local Government Act 1995*

### **Financial Implications**

The balance of the CBD Development Reserve is currently \$47,569.44. The costs outlined in the CCTV grant proposal are estimates only. A small degree of variance should be accommodated for this project. In this regard it is recommended that an amount of up to (i.e. a maximum figure of) \$45,000 from the CBD Reserve Fund be approved for this project.



Presently we have received a grant of \$97,092 from the Commonwealth Government towards this project. The grant agreement requires commencement of works by May 2017. Failure to comply will result in a default of the funding terms; requiring 'handing back' of the full grant amount. Several attempts to secure State funding were not successful.

### **Strategic Implications**

Outcome 3.8 – Maintain a safe and friendly community environment

### **Cr Van Der Heide's Notice of Motion**

**Moved: Cr**

**Seconded: Cr**

**That Council:**

- 1) Approve the allocation of \$41,508.00 from the Central Business District Reserve to the Donnybrook Central Business District area CCTV upgrade project;**
- 2) Instruct the Chief Executive Officer to commence implementation of the CCTV upgrade project, in accordance with the scope outlined in the approved Federal Government Safer Streets Programme Funding Agreement;**
- 3) Instruct the Chief Executive Officer to prepare a Shire Policy relating to the access, retention, use and disclosure of CCTV product, for review and endorsement by Council prior to the practical completion of the project.**

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### **Chief Executive Officer's Recommended Resolution**

**Moved: Cr**

**Seconded: Cr**

**That Council:**

- 1) Approve the allocation of up to \$45,000.00 from the Central Business District Reserve to the Donnybrook Central Business District area CCTV upgrade project;**
  - 2) Instruct the Chief Executive Officer to commence implementation of the CCTV upgrade project, in accordance with the scope outlined in the approved Federal Government Safer Streets Programme Funding Agreement;**
  - 3) Instruct the Chief Executive Officer to prepare a Shire Policy relating to the access, retention, use and disclosure of CCTV product, for review and endorsement by Council prior to the practical completion of the project.**
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<b>8.1.3</b>	<b>SUBJECT:</b>	<b>REMOVAL OF INFRASTRUCTURE ON EASEMENTS C447064 AND C899678</b>
	<b>Location:</b>	<b>Shire of Donnybrook Balingup</b>
	<b>Applicants:</b>	<b>Cr Bailey</b>
	<b>Zone:</b>	<b>Commercial</b>
	<b>File Ref:</b>	<b>CNL 34G</b>
	<b>Author:</b>	<b>Ben Rose, Chief Executive Officer</b>
	<b>Report Date:</b>	<b>15 December 2016</b>
	<b>Attachments:</b>	<b>8.1.3 (1) - Email from Cr Bailey dated 15 December 2016</b> <b>8.1.3(2) – Easement Plan</b>

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Cr Bailey has proposed the following notice of motion:

**Council authorise staff to remove all infrastructure from the above two easements.**

### **Comment**

The five metre easement, C447064 is over land owned by the Shire, transferred to the Shire in March 2004. This easement gives a benefit to the owners of Lots 25 and 26, and is a burden on the Shires property.

The owners of lot 26 purchased the property with legal rights attached to the Freehold title, they were:

- C447064 Easement benefit over the five metre easement.
- C899678 Easement benefit over the nine metre easement.

Infrastructure build on the five metre easement benefits lot 25 but disadvantages Lot 26. Infrastructure build over the five metre easement blocks Legal access to the nine metre easement for the owners of Lot 26.

The rights granted by the Title to the owners of Lot 26 do not exist. To restore these rights all infrastructure needs to be removed from both easements.

Approval for the placement of this infrastructure was granted in August 2008. This is not a dispute between neighbours but a mistake by the people who approved the building of the infrastructure.

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

The land tenure arrangements (including easements burdening and benefitting different parties) for lots 25, 26 and 50 South Western Highway Donnybrook are somewhat complicated; as is establishing a clear timeline as to decisions taken under resolution of Council and/or via delegated authority of staff. It is clear, however, that there is a 5.0 metre

by 39.0 metre easement assigned for 'carriageway' purposes (which benefits lot 25 and lot 26 and burdens lot 50 owned by the Shire) which has Shire and private infrastructure located on it.

Prior to recommending or making any decisions on the matter, it is incumbent on the Chief Executive Officer (as the head of the Shire's Administration) to be informed as to the rights and responsibilities of all landowners (especially the Shire) in regard to the matter; this is likely to require legal advice. Once a more thorough understanding of the rights and responsibilities of all parties is attained, the full range of potential remedies (physical, legal or other) can be explored and acted upon.

Physical removal of the infrastructure (and reinstatement of the site) is presently an unbudgeted item within the 2016/17 Council Budget and would need specific consideration from Council (including an Absolute Majority decision) as to allocation of funding from an existing project/operation or Reserve Account. A costing for this work (removal of infrastructure and reinstatement of the site) has not been undertaken, however, preliminary estimates from Staff indicate the value would be well in excess of \$35,000.

The report/commentary supporting the Notice of Motion doesn't indicate that consultation has been undertaken with either the owners of lot 25 or lot 26. As the dual beneficiaries of the easement (C447064), removal of any infrastructure from that easement should include a detailed consultation period with both landowners. Additionally, as the easement equally benefits two separate parties (owners of lot 25 and lot 26), modification to the existing condition/s of the easement is likely to require approval from both parties (this will require legal advice). Presently, there is no approval from either party to change the condition/s of the easement alignment, despite the Notice of Motion.

I have undertaken multiple site inspections and discussions with the affected parties and believe that a constructive and cost effective solution to the benefit of all parties can be arrived at from a Shire Administration level, without the need to remove expensive infrastructure (at a substantial cost to ratepayers and the community), or to unnecessarily involve the Council in matters of operational detail. This will require the continuation of 'good will' (to permit the present situation to continue) from the landowners involved.

If the matter cannot be resolved to the satisfaction of the various landowners, then initiating the process to remove infrastructure and reinstate the site of the easement (C447064) could be commenced, as a last resort.

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

**Moved: Cr**

**Seconded: Cr**

**Council authorise staff to remove all infrastructure from the above two easements.**

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### **Chief Executive Officer's Recommended Resolution**

**Moved: Cr**

**Seconded: Cr**

**That Council instruct the Chief Executive Officer to continue to deal with the resolution of the matter of infrastructure built over easement C447064, within the limits of present delegations assigned to the Chief Executive Officer.**

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## **9 MINUTES OF PREVIOUS MEETINGS**

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

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#### **Council Decision**

**Moved: Cr**

**Seconded: Cr**

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

- **Donnybrook Recreation Centre Advisory Committee Meeting – 30 November 2016**
  - **Local Emergency Management Committee Meeting – 13 December 2016**
  - **Balingup Townscape Committee Meeting – 14 December 2016**
  - **Donnybrook Townscape Committee Meeting – 14 December 2016**
  - **Audit Committee Meeting – 21 December 2016**
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## 10 REPORTS OF COMMITTEES

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### 10. Donnybrook Townscape Committee

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10.1.1	<b>SUBJECT:</b>	<b>NOMINATION FOR COMMITTEE MEMBERSHIP OF THE DONNYBROOK TOWNSCAPE COMMITTEE</b>
	<b>Location:</b>	<b>Shire of Donnybrook Balingup</b>
	<b>Applicants:</b>	<b>Various</b>
	<b>Zone:</b>	<b>N/A</b>
	<b>File Ref:</b>	<b>TP 07/3</b>
	<b>Author:</b>	<b>Ben Rose (Kate O’Keeffe – Executive Assistant)</b>
	<b>Report Date:</b>	<b>6 December 2016</b>
	<b>Attachments:</b>	<b>10.1.1 – Nominations</b>

#### Background

The Donnybrook Townscape Committee makes recommendations to Council on creating and implementing improvements to the Donnybrook Central Business District area to encourage economic and tourism development.

The Donnybrook Townscape Committee is comprised of four Councillors and two community members. One of the community positions is presently vacant due to a resignation. At the Ordinary Council Meeting on 28 September 2016, Council resolved:

*“.... 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.”*

The vacancy was advertised on the Shire Website, Shire Noticeboards and the Donnybrook/Bridgetown Mail with the opportunity to nominate closing 4 November 2016. Applicants were required to provide relevant experience to support their nomination.

#### Comment

Five nominations were received:

Mrs Marilyn Hickman - Marilyn has an interest in local history and tourism activities

Ms Leanne Abas – Leanne has lived in Donnybrook for almost 10 years and is keen to be more involved in its growing future. Leanne is from a medical background as a rural General Practitioner and has been involved with committees related to both work and family interests, including School Parents and Friends, Scout Committee’s, up to more senior administrative roles including running a 10-doctor hospital in the Kimberley.

Mr Lee Pusey – Lee, a horticulturist with over forty years’ experience in this industry, has lived in the Donnybrook-Balingup Shire for over twenty years and has a good understanding

of the community and community needs. His children were raised here and he now looks after four foster children who are also developing strong links within the community. Lee is passionate about the region and would welcome the opportunity to be part of a group that has input into the further development of the Shire.

Mr Chaz Newman – Chaz has over 25 years' experience in working in the Natural Environment as a Forester, managing the Native Forest and Plantation operations. Chaz currently manages a team of 30 staff, and has a well-developed knowledge and a keen interest in landscape design.

Chaz and his wife have been a resident of Donnybrook for about 10 years and have a keen interest in the town and the way it presents to residents and visitors and would like to have greater involvement and input to the our Community.

Ms Victoria Coyne – Manager of the Donnybrook Community Resource Centre (CRC), Victoria's background is in business and education and includes qualifications in small business management and workplace training and assessment. As Manager of CRC, Victoria has a keen interest in the development of the town to suit the needs of the business and community. The CRC provides a range of community information and support services, IT access and resources, and business services. The centres services include internet and computer access, photocopying and office services, video conferencing facilities, office hotspot, employment/business/social events and training. The CRC also operates as a Centrelink access point, a source of government information and government hotspot.

Victoria's interest in nominating for the committee is to represent the CRC and provide a CRC perspective to committee discussions.

The Townscape Committee is required to make a recommendation from the nominations received for Council endorsement.

### **Consultation**

The vacancy was advertised on the Shire Website, Shire Noticeboards and the Donnybrook/Bridgetown Mail with the opportunity to nominate closing 4 November 2016. Applicants were required to provide relevant experience to support their nomination.

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

#### Policy

Shire Policy 1.15 – Committee Membership

#### 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**

- 1) The Donnybrook Townscape Committee recommends to Council that Community Membership to the Donnybrook Townscape Committee be increased to three (3) positions.
- 2) The Donnybrook Townscape Committee recommends the following Community Nominee's to Council:
  - Marilyn Hickman; and
  - Chaz Newman.

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<b>10.1.2</b>	<b>SUBJECT:</b>	<b>DONNYBROOK TOWN CENTRE TRAFFIC AND PEDESTRIAN STUDY FOR SOUTH WESTERN HIGHWAY</b>
	<b>Location:</b>	<b>Donnybrook Townsite</b>
	<b>Applicants:</b>	<b>Donnybrook Townscape Committee</b>
	<b>Zone:</b>	<b>N/A</b>
	<b>File Ref:</b>	<b>TP 07/3</b>
	<b>Author:</b>	<b>Damien Morgan, Manager Works and Services, and Bob Wallin Principal Planner</b>
	<b>Report Date:</b>	<b>16 December 2016</b>
	<b>Attachment:</b>	<b>10.1.2 – Correspondence from Fruit Barn</b>

### Background

Issues relating to traffic management, parking, and pedestrian movements on the South Western Highway within the Donnybrook Townsite have had increased focus during planning for projects by Main Roads WA (MRWA), the Shire, and private developments.

The need to undertake a study of the Shire's vision for how this area is to grow has been identified previously within the Shire of Donnybrook-Balingup Townsite Expansion Strategy – Dec 2008. The Study will need to consider:

- How to develop and accommodate growth
- Integration of domestic, heavy haulage, tourism traffic, and pedestrian functions, and;
- Address rationalisation of access points and provision of street parking.

## **Comment**

How growth, development and expansion of the Donnybrook townsite occurs in relation to traffic and pedestrian movements along South Western Highway is an ongoing issue for the Shire to manage.

The Shires development of Clifford Road early in the new millennium at the rear of properties along the South Western Highway is an example of a successful outcome achieved to address various traffic and pedestrian movement issues associated with the South Western Highway.

With MRWA planned works to renew the pavement on the South Western Highway between Noneycup Creek and Bridge Street, the issue of how parking and pedestrian movement can be accommodated within this section has become an issue of concern to many.

MRWA have previously advised the Shire and Donnybrook Townscape Committee (meeting held 14<sup>th</sup> October 2015) that their works are only for the renewal of the pavement within this section, and that they recommend the Shire develop concept plans of their vision for the streetscape in relations to:

- Intersection treatments with local government road
- Relocation of services
- Access requirements for properties fronting the highway
- Opportunities for on street parking
- Truck parking
- Pedestrian movements.

The plan will need to outline the Shire's Streetscape vision for the section of Highway within the townsite, and should be referred for endorsement by Council, MRWA and the WA Planning Commission.

Once endorsed by the various parties, this will place the Shire in a better position to secure external funding, plus ensure any MRWA, Shire, or private development is consistent with the plan.

It is recommended suitably qualified consultants be engaged to undertake the investigation consultation and concept process.

## **Consultation**

MRWA previously consulted with the Donnybrook Townscape Committee at its October 2015 meeting.

Shire officers have undertaken ongoing consultation with MRWA, business owners, ratepayers, and relevant internal staff.



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

### Policy

Consistent with Council policy.

### Voting

A simple majority is required.

## **Financial Implications**

If supported by Council funding, estimated \$20,000 up to \$40,000 will need to be identified in the 17/18 budget.

## **Strategic Implications**

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

- Outcome 1.7 – A well-used and efficient transport network
- Outcome 4.2 – Maintain long term financial viability
- Outcome 4.7 – Maintain and enhance Shire Assets

## **Committee’s Recommended Resolution**

Moved: Cr

Seconded: Cr

- 1) That Council consider an allocation within the 2017/18 Financial Year Budget of up to \$40,000 to engage a consultant to undertake consultation with relevant stakeholders and develop a Strategic Streetscape Plan for the length of the South Western Highway within the Donnybrook town site.
  - 2) That Council instruct the Chief Executive Officer to request Main Roads WA to work with the Shire’s Officers to design and construct a long vehicle parking bay/s adjacent to Lot 142 South Western Highway, Donnybrook, as part of the imminent South Western Highway renewal works in that locality.
  - 3) Design and delivery of the parking bay/s referenced in Recommendation 2, above, is to be consistent with those in the Donnybrook Town Centre.
  - 4) That Council instruct the Chief Executive Officer to negotiate with the owner of Lot 142 South Western Highway, Donnybrook, for a financial contribution by the owner towards the construction of the long vehicle parking bay/s and associated footpath.
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## 10.2 Audit Committee

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<b>10.2.1</b>	<b>SUBJECT:</b>	<b>2015/2016 ANNUAL FINANCIAL REPORT</b>
	<b>Location:</b>	<b>Shire of Donnybrook Balingup</b>
	<b>Applicants:</b>	<b>Administration</b>
	<b>Zone:</b>	<b>N/A</b>
	<b>File Ref:</b>	<b>FNC10/1</b>
	<b>Author:</b>	<b>Ben Rose – Chief Executive Officer (Greg Harris, Manager Finance and Administration)</b>
	<b>Report Date:</b>	<b>15 December 2016</b>
	<b>Attachments:</b>	<b>Nil</b>

### Background

The Annual Financial Report for the year ended 30 June 2016 has been prepared and was provided to Council's Auditors, AMD Chartered Accountants.

AMD Chartered Accountants have now audited the final accounts and the report to be presented includes any adjustments requested by the Auditors.

### Comment

A copy of the Annual Financial Report document is provided in Attachment 5.1.1 and an abridged version of the report is included within the Annual Report.

A full copy of the adopted Annual Financial report will be made available at the Shire Office and will also be placed on the Shire website.

Questions on the content of the report are welcome and may be directed to Council staff.

### Consultation

N/A

### Policy/Statutory/Voting Implications

#### Statutory

The *Local Government Act 1995* and the *Local Government (Financial Management) Regulations 1996* prescribe the form and content of the Annual Financial Report.

The report has been prepared to comply with all relevant Australian Accounting Standards applicable to local government.

#### Voting

Simple Majority

### Financial Implications

N/A

### Strategic Implications

- Outcome 4.2 – Maintain long term financial viability
- Outcome 4.3 – An open and accountable local government that is respected, professional and trusted.

### Officer's Recommended Resolution

**Moved: Cr**

**Seconded: Cr**

**That Council receive the Annual Financial Report for the year ended 30 June 2016.**

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<b>10.2.2</b>	<b>SUBJECT:</b>	<b>2015/2016 AUDITOR'S MANAGEMENT REPORT</b>
	<b>Location:</b>	<b>Shire of Donnybrook Balingup</b>
	<b>Applicants:</b>	<b>Administration</b>
	<b>Zone:</b>	<b>N/A</b>
	<b>File Ref:</b>	<b>FNC02</b>
	<b>Author:</b>	<b>Ben Rose – Chief Executive Officer (<i>Greg Harris, Manager Finance &amp; Administration</i>)</b>
	<b>Report Date:</b>	<b>14 December 2016</b>
	<b>Attachment:</b>	<b>Nil</b>

### Background

Council's Auditor's, AMD Chartered Accountants, completed on-site audit investigations between 21 and 23 November 2016.

AMD Chartered Accountants have issued a Management Report to the Shire President and a copy is provided to the Audit Committee.

The Auditor's Management Report contains the Auditor's observations and recommendations in respect to improvements that are considered necessary to improve the internal controls and financial management of Council.

Specifically the Auditor's Management Report contains commentary on the following:

- 1.0 Audit Approach
- 2.0 Assessment of Fraud and Error
- 3.0 Audit Adjustments
- 4.0 Accounting Policies

- 5.0 Commitments and Contingencies
- 6.0 Subsequent Events
- 7.0 Fair Value Re-assessment
- 8.0 Financial Ratio Performance Measures
- 9.0 Local Government Act Compliance Measures
- 10.0 Financial Management Systems Review Recommendations
- 11.0 Other Matters

### 2.0 Assessment of Fraud and Error

In addition to commentary on the Auditors assessment of fraud and error, which noted that the audit procedures did not identify any instances of suspected or actual fraud, the report provides extra commentary in relation to late discharge notices for registered care recipients at Tuia Lodge. As indicated in the report this matter is resolved as subsequent payment statements have included retrospective adjustments. No further significant adjustments are expected.

### 8.0 Financial Ratio Performance Measures

The report draws Council's attention to three financial ratios which indicate adverse trends based upon the Department of Local Government and Communities guidelines.

The ratios referred to are the Current Ratio; Operating Surplus Ratio; and the Asset Funding Renewal Ratio.

The current ratio varies depends upon the end of year current position as this is a simple ratio of current assets versus current liabilities. Whilst this ratio would ideally be greater than 1.0 the ratio result of 0.7148 does not indicate an adverse trend when viewed in isolation for a particular year.

The Operating Surplus Ratio and the Asset Funding Renewal Ratio are both ratios that should be addressed through a long term strategy. The Draft Long Term Financial Plan recently presented to Council attempts to address these ratios with the view to bridging the gap between the present ratio results and the target ratios set by the Department of Local Government and Communities.

### 10.0 Financial Management Systems Review Recommendations

The report notes that not all of the recommendations from the review conducted in June 2016 have been implemented. These recommendations have all been noted by management and will be addressed promptly within the limits of staff and Council resources.

The above matters need to be read in conjunction with the audit recommendations contained within Appendix 1 of the Auditor's Management Report.

**APPENDIX 1**  
**Audit Recommendations for the year ended 30 June 2016**

**GUIDANCE TO FINDINGS RATING / IMPLICATION**

*Findings identified during the final audit have been weighted in accordance with the following scale:*

*Significant: Those findings where there is potentially a significant risk to the entity should the finding not be addressed promptly.*

*Moderate: Those findings which are of sufficient concern to warrant action being taken by the entity as soon as possible.*

*Minor: Those findings that are not of primary concern however still warrant action being taken.*

**AUDIT FINDINGS**

**1. PUBLIC WORKS OVERHEAD**

***Finding Rating: Moderate***

We note public works overheads were under allocated by approximately 10% for the year ended 30 June 2016, as a result a journal of \$104,605 was required to be raised by management.

**Implication**

Risk that actual public works expenditure is not being correctly allocated to jobs during the year.

**Recommendation**

We recommend a review of public works allocations be undertaken at regular intervals during the year, with charge out rates adjusted as required.

**Management Comment**

Public Works allocations are reviewed monthly and form part of the monthly financial statements that are prepared for management. Minor adjustments were made to the Public Works recovery rate during the year.

As recommended it is intended to more closely monitor recovery rates during the 2016/17 year to minimise any over or under allocation as at year end.

## **2. NET CURRENT POSITION**

### **Finding Rating: Minor**

We note the surplus carried forward per the 30 June 2016 financial statements is \$371,831 whilst the surplus carried forward in the 30 June 2017 budget is \$635,858. The main reason for the variance is a re-classification was completed between land held for re-sale and the asset revaluation reserve after budget preparation.

*(Appendix 1 continued)*

### **Implication**

Incorrect net current asset position included within 30 June 2017 budget.

### **Recommendation**

We recommend a budget revision is completed in 2016/17 to reflect the adjusted net current asset position balance.

### **Management Comment**

A budget revision to correct the carried forward surplus in the 2016/17 Budget will be completed during the mid-year budget review.

## **3. AGED RATE DEBTORS**

### **Finding Rating: Minor**

Review of the aged rate debtor listing at 30 June 2016, and discussion with the Rates Officer indicate follow up action has not yet been taken in respect of ten rate assessments outstanding for greater than six months with a balance greater than \$1,000.

### **Implication**

Risk of material misstatement.

### **Recommendation**

Rate debtors should be reviewed and followed up on a regular basis, and when amounts are deemed uncollectable, amounts referred to the debt collector or written off.

### **Management Comment**

Comments noted. The Shire of Donnybrook Balingup's implemented Accounting Manual is a directive from the CEO which prescribes the protocols for rates recovery. Management will review the rates debtor listing on the basis of your comments.

### **Comment**

Unfortunately Council's Auditor, Mr Tim Partridge of AMD Chartered Accountants is unable to attend the Audit Committee Meeting on 21 December 2016 due to other commitments. An Audit Committee Meeting will however be held early in 2017 (February / March 2017) to review the results of the recently conducted Audit Regulation 17 review. Mr Partridge will be

invited to attend this meeting which will provide elected members with the opportunity to ask questions in regard to any financial, risk or governance matter.

### **Consultation**

N/A

### **Policy/Statutory Implications**

#### Statutory

Section 10 (4) of the *Local Government (Audit) Regulations 1996* state:

*“Where it is considered by the auditor to be appropriate to do so, the auditor is to prepare a management report to accompany the auditor’s report and to forward a copy of the management report to the persons specified in section 7.9 (1) with the auditor’s report”.*

Section 7.9 (1) identifies the relevant persons as:

- (a) the mayor or president;
- (b) the CEO of the local government; and
- (c) the Minister.

#### Voting

Simple Majority

### **Financial Implications**

As per the findings of the Auditor’s Management Report.

### **Strategic Implications**

- Outcome 4.2 – Maintain long term financial viability
- Outcome 4.3 – An open and accountable local government that is respected, professional and trusted.

### **Officer’s Recommended Resolution**

**Moved: Cr**

**Seconded: Cr**

- 1) That the Auditor’s Management Report for the year ended 30 June 2016 be received by Council and the recommendations of the auditor be noted; and**
  - 2) That the Chief Executive Officer prepare a report to the Minister for Local Government and Regional Development outlining the outcomes of the 2015/2016 year audit, in accordance with the requirements of section 7.12 (4) of the *Local Government Act 1995*.**
-

<b>10.2.3</b>	<b>SUBJECT:</b>	<b>2015/2016 AUDIT REPORT</b>
	<b>Location:</b>	<b>Shire of Donnybrook Balingup</b>
	<b>Applicants:</b>	<b>Administration</b>
	<b>Zone:</b>	<b>N/A</b>
	<b>File Ref:</b>	<b>FNC02</b>
	<b>Author:</b>	<b>Ben Rose – Chief Executive Officer (Greg Harris, Manager Finance &amp; Administration)</b>
	<b>Report Date:</b>	<b>15 December 2016</b>
	<b>Attachments:</b>	<b>Nil</b>

### **Background**

Council's Auditors, AMD Chartered Accountants, have completed their audit for the 2015/16 Financial Year and have issued their Audit Report.

The report provides the following "Opinion" and note in regard to "Statutory Compliance":

### **Opinion**

In our opinion, the financial report of the Shire of Donnybrook/Balingup:

- i. gives a true and fair view of the Shire of Donnybrook/Balingup's financial position as at 30 June 2016 and of its performance for the financial year ended 30 June 2016;
- ii. complies with Australian Accounting Standards; and
- iii. is prepared in accordance with the requirements of the *Local Government Act 1995* (as amended) and the *Local Government (Financial Management) Regulations 1996* (as amended).

### **Statutory Compliance**

In accordance with the *Local Government (Audit) Regulations 1996*, we also report that:

- i. There are no matters that in our opinion indicate significant adverse trends in the financial position or the financial management practices of the Shire.
- ii. There are no other matters indicating non-compliance with Part 6 of the *Local Government Act 1995* (as amended), the *Local Government (Financial Management) Regulations 1996* (as amended) or applicable financial controls of any other written law were noted during the course of our audit.
- iii. The asset consumption ratio and asset renewal funding ratios included in the annual financial report are supported by verifiable information and reasonable assumptions.
- iv. All necessary information and explanations were obtained by us.
- v. All audit procedures were satisfactorily completed during our audit.

### **Comment**

A full copy of the Auditor Report has been provided with this agenda.



## Consultation

N/A

## Policy/Statutory/Voting Implications

### Statutory

Section 7.2 of the *Local Government Act 1995* states:

*"The accounts and annual financial report of a local government for each financial year are required to be audited by an auditor appointed by the local government."*

Section 7.12A (3) of the *Local Government Act 1995* states:

*"A local government is to examine the report of the auditor prepared under section 7.9(1), and any report prepared under section 7.9(3) forwarded to it, and is to –*

- (a) determine if any matters raised by the report, or reports, require action to be taken by the local government; and*
- (b) ensure that appropriate action is taken in respect of those matters.*

### Voting

Simple Majority

## Financial Implications

N/A

## Strategic Implications

- Outcome 4.2 – Maintain long term financial viability
- Outcome 4.3 – An open and accountable local government that is respected, professional and trusted.

## Officer's Recommended Resolution

**Moved: Cr**

**Seconded: Cr**

**That the Audit Report for the Financial Year ending 30 June 2016 be received by Council.**

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The current Traffic Management Services contract expires in January 2017. A request for tender was advertised to establish a new panel contract, consisting of two (2) preferred contractors.

**Comment**

In accordance with the Shire of Donnybrook-Balingup Administration Policy – 2.26 “Purchasing and Tender Policy”, Staff called for suitably skilled contractors to provide an offer to undertake the works as defined within the advertised tender specifications.

The tender outlined that a contract for the provision of the defined service would be awarded for two (2) years, with an option of an additional one (1) year period to be negotiated, subject to ongoing performance and price.

Within the tender document, all applicants were advised that their offers would be assessed against the following criteria:

Compliance – Each tender was assessed on a Yes/No basis as to whether they had satisfied the following criteria within their offer:

Description of Compliance Criteria	Yes/No
(a) Compliance with the Specification contained in the Request.	Yes/No
(b) Compliance with the Conditions of Tendering - <b>Tender Offer.</b>	Yes/No
(c) Compliance with the Conditions of Tendering – <b>Price Schedule.</b>	Yes/No
(d) Compliance with the Conditions of Tendering – <b>Schedule of Plant.</b>	Yes/No
(e) Compliance with the Conditions of Tendering – <b>OS &amp; H Questionnaire.</b>	Yes/No

**Quantitative** – total 100% weighting as follows:

<b>Criteria</b>	<b>Weighting</b>
Price and Price Structure in accordance with Policy 2.21 (see below)	40%

**Qualitative** – total 100% weighting as follows:

<b>Description of Qualitative Criteria</b>	<b>Weighting</b>
a) Relevant Experience	10%
b) Key Personnel Skills & Experience	20%
c) Resources	20%
d) OH&S Compliance	10%

Council received submissions from eight applicants, all of which were compliant. Four tenders were received electronically with another four received via the tender box.

Tender submissions were then assessed against the defined compliance and qualitative criteria by the tender evaluation panel.

The final rankings of the tender assessment are outlined in confidential Attachment 11.2.1 - Appendix A "RFT 02/2016 – Traffic Management Services – Tender Assessment Matrix", along with a listing of the rates offered for various services.

Tenders were very competitive in terms of rates offered. All applicants demonstrated a high level of relevant experience, key personnel, resources and Occupational Health and Safety procedures. All applicants demonstrated they can meet the expectations of the Shire.

Due to the competitive rates offered, the evaluation panel recommends the number of contractors on the panel is increased from two to three. This offers the Shire greater flexibility if future demands increase or during an emergency if additional resource is required.

Increasing the number of contractors to three does not have any additional financial implications to the Council's budget.

As per Confidential Attachment 11.2.1, the assessment panel has determined that Allen's Traffic Management, CB Traffic Solutions and Earthmac tender submissions provide the best value for money when considered against the compliance and qualitative criteria of the tender specifications, along with the relevant Council Policies and references.

### **Consultation**

The tender was advertised from Tuesday, 8 November 2016 and closed on Thursday, 24 November 2016. Advertisements were placed in the West Australian and South West Times newspapers, along with the Shire's website.

### **Policy/Statutory Implications**

#### Statutory

The *Local Government Act 1995* and *Local Government (Functions and General) Regulations 1996* detail the requirements for local government tendering.

#### Policy

The tender process including assessment was undertaken in accordance with the Shire's Administration Policy 2.26 Purchasing and Tender.

The Shire's Administration Policy 2.21 - Regional Price Preference was given consideration in the assessment and applied to submitters eligible.

#### Voting

Absolute Majority

### **Financial Implications**

Traffic management costs have been allocated to each project which requires such services in the Annual Works Program. These costs are budgeted within the 2016/17 budget.

### **Strategic Implications**

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

- Outcome 1.7 - A well-used and efficient transport network
- Outcome 4.2 – Maintain long term financial viability
- Outcome 4.3 – An open and accountable Local Government that is respected, professional and trusted.
- Outcome 4.7 – Maintain and enhance Shire assets.

## Officer's Recommended Resolution

**Moved: Cr**

**Seconded: Cr**

**That:**

- 1) **Tender RFT 02/2016 – Traffic Management Services is awarded to Allen's Traffic Management, CB Traffic Solutions and Earthmac for the tendered rates for a period of two (2) years, with an optional one (1) year extension in accordance with the tender documentation; and**
- 2) **Council approve the Chief Executive Officer to prepare and execute relevant contracts and documentation, in accordance with Resolution 1 above.**

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

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<b>11.3.1</b>	<b>SUBJECT:</b>	<b>APPOINTMENT OF A RECOVERY COORDINATOR</b>
	<b>Location:</b>	<b>Shire of Donnybrook Balingup</b>
	<b>Applicants:</b>	<b>Mr John Attwood</b>
	<b>Zone:</b>	<b>N/A</b>
	<b>File Ref:</b>	<b>CSV 20</b>
	<b>Author:</b>	<b>Leigh Guthridge (Manager Development and Environmental Services)</b>
	<b>Report Date:</b>	<b>6 December 2016</b>
	<b>Attachment:</b>	<b>Nil</b>

#### **Background**

The Shire of Donnybrook–Balingup (the Shire) recently advertised for the position of a second (back up) Recovery Coordinator.

The Shire's Local Recovery Plan advocates appointing two Recovery Coordinators to provide adequate capacity and backup in a scenario where there is a protracted recovery following a disaster. Mr Leigh Guthridge – Manager Development and Environmental Services has already been appointed as the primary Recovery Coordinator.

#### **Comment**

At the conclusion of the advertising period, one nomination was received by Mr John Attwood. Mr Attwood has recently retired from the position of Chief Executive Officer from the Shire.

Mr Attwood has undertaken a number of training exercises in Emergency Management over many years with the Shire and has a broad knowledge of emergency services within the local

government context. Furthermore Mr Attwood has been involved directly in recovery situations following numerous bushfires and flood events throughout the Shire.

Given Mr Attwood's experience, skills and knowledge in this area the appointment would be a very good selection for this position.

### **Consultation**

The position was advertised in the Donnybrook-Bridgetown Mail and the Shire's website.

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

#### Statutory

Section 41(4) of *The Emergency Management Act 2005* states:

Local Emergency Management Arrangements must include a Recovery Plan and the nomination of a Recovery Coordinator.

#### Voting

Simple Majority

### **Financial Implications**

Recovery Coordinator Training is undertaken through WALGA Training Services at a cost of \$984.50. The Shire's 2016/17 Budget has allocated \$2,000 towards Recovery Coordinator Training. It is intended that Mr Attwood undertake this training as soon as it is available.

As this is a voluntary position, there are no direct wage costs to the Shire.

### **Strategic Implications**

The Shire of Donnybrook-Balingup Community Strategic Plan states:  
Outcome 3.4 Maintain and improve the provision of emergency services.

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

**Moved: Cr**

**Seconded: Cr**

**That Council appoint Mr John Attwood as a Recovery Coordinator for the Shire of Donnybrook-Balingup.**

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## 11.4 Principal Planner

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<b>11.4.1</b>	<b>SUBJECT:</b>	<b>REQUEST TO AMEND LOCAL PLANNING STRATEGY</b>
	<b>Location:</b>	<b>Lot 2280 Irishtown Road and Lot 6 Grist Road, Donnybrook</b>
	<b>Applicants:</b>	<b>Mr Kobus Nieuwoudt</b>
	<b>Zone/Reserve:</b>	<b>General Agriculture</b>
	<b>File Ref:</b>	<b>A3175/A3176</b>
	<b>Author:</b>	<b>Bob Wallin (Principal Planner)</b>
	<b>Report Date:</b>	<b>7 December 2016</b>
	<b>Attachments:</b>	<b>11.4.1(1) – Extract from Local Planning Strategy</b> <b>11.4.1(2) – Motivational Memorandum to Amend Local Planning Strategy</b>

### Background

This proposal is a request for Council to amend its Local Planning Strategy (LPS) by amending the maps to identify Lots 2280 Irishtown Road and Lot 6 Grist Road, Donnybrook as "Rural Residential" (presently General Agriculture). The details of the request can be viewed in Attachment 11.4.1(2).

The *Planning and Development (Local Planning Schemes) Regulations 2015* (The Regulations) define the processes and requirements for amending Local Planning Strategies. Regulation 17 states:

*"(1) A local planning strategy may be amended by an amendment to the strategy prepared by the relevant local government and endorsed by the Commission."*

The Regulations explain that the same processes to prepare a LPS apply for the LPD amendment process. This process requires:

- a) Shire to prepare document (or consultant prepare);
- b) Resolve to advertise document;
- c) Refer to Commission before advertising for approval to advertise;
- d) Advertise the document;
- e) Consider submissions received during advertising and support; support with modifications or not support the amendment; and
- f) Refer to Commission for endorsement.

This item is presented to Council for it to consider if it will agree to amend the LPS.

### Comment

The applicant has requested support to amend the LPS to identify those portions of Lot 6 and Lot 2280 not impacted by the 500m Donnybrook Stone SCA4 area on the basis that:



- The proposal will provide for rural residential development close to the Donnybrook townsite; without prejudicing the ability for the town to grow;
- The proposed land use is compatible with surrounding land uses;
- The proposal will protect and enhance the rural landscape;
- The land is not impacted by SCA4 (Donnybrook Stone);
- The proposal will not conflict with rural land use activity or reduce the primary production potential of adjoining or nearby land;
- Will not prejudice opportunities for urban expansion;
- Will maintain appropriate separation distances between sensitive land uses (dwellings) and agriculture;
- The land is capable of supporting rural residential land use;
- Will result in beneficial environmental outcomes;
- The site is predominantly cleared of vegetation;
- The site is not flood prone;
- The site is not an extreme bushfire risk; and
- The site is located in an area of flux and represents a logical inclusion.

In making a decision on this proposal, it is helpful to think about the following.

#### Why is there a strategy?

Before making any decision, it is important to understand “the why” behind having a strategy. With this understanding, it is easier to assess the merits of proposals.

Regulation 11 (2) defines the purpose of a LPS as follows:

*“A local planning strategy must –*

- (a) Set out the long-term planning directions for the local government; and*
- (b) Apply any State or regional planning policy that is relevant to the strategy; and*
- (c) Provide the rationale for any zoning or classification of land under the local planning scheme.”*

Informal discussion with the Department of Planning has advised that the Strategy is to provide strategic direction for a 10-15 year timeframe. Its purpose is to guide future amendments to the Local Planning Scheme (LPS7) and provide direction on how the settlement pattern and land use activity will evolve over time.

#### Constraints to free will

The Shire is not free to make any decision. The Shire does not have absolute free will in considering amendments. Decisions are limited by the defined boundaries imposed by town planning policies and principles. The Strategy is not able to run contrary to State or regional policy. All relevant policies must be considered.

In this case, the relevant policies are State Planning Policy 2.5 Land Use Planning in Rural Areas (SPP 2.5) and Development Control Policy 3.4 – Subdivision of Rural Land (DC 3.4).

DC 3.4 states that:

*“It is the policy of the WAPC that the subdivision of rural land for rural living land uses must be properly planned through the preparation and endorsement of strategies and schemes and be accordingly zoned in local planning schemes prior to subdivision.”*

The proposal seeks to follow a process that will comply with this requirement. The proposed procedure is correct. It is now a matter of deciding if the outcome is correct.

DC 3.4 includes a number of objectives that need to be considered. These are:

- a) Protect rural land from incompatible uses by requiring comprehensive planning for rural areas;
- b) Making land use decisions for rural land that supports existing and future primary production and protection of priority agricultural land particularly for the production of food;
- c) Promote sustainable settlement in and adjacent to existing urban areas;
- d) To protect and improve environmental, landscape and cultural assets; and
- e) Minimise land use conflicts.

The compatibility or otherwise of the proposal to these objectives will be discussed below.

SPP 2.5 states that “Rural living proposals on rural land may be supported where they comply with the objectives of this policy and meet requirements of this section”. The policy then lists 22 criteria. The key criteria of interest in this case are:

- a) Ensuring that the precinct will not conflict with rural land use activity or reduce the primary production potential of adjoining or nearby land;
- b) The extent of proposed rural living settlement based on existing land supply and take up and population projections; and
- c) The land is not subject to buffers from an adjoining land use.

In regard to these points, the merits of the proposal are less clear cut. There are presently a number of nearby and neighbouring properties used for “market gardening” or other productive agricultural activities. There are “Priority Agriculture” zoned land immediately to the west and south. Introducing sensitive rural living land uses in this locality may constrain current and or future agricultural activities.

In terms of demand for rural residential properties, the LPS and LPS7 have introduced potential to subdivide existing rural residential areas. This provides significant scope to increase the supply of rural residential style properties without looking to new areas.

It is noted that there has been limited uptake on this subdivision potential by landowners so far. This fact may change as existing vacant land is taken up and existing landowners see new opportunities.

Principles of the Strategy what is it trying to achieve

The strategy outlines some underlying strategic guiding principles for considering land use and settlement expansion. Section 5.3.8 outlines the following purpose of the zone as follows:

*“The purpose of the Rural Residential zone is to provide for low density residential development in a rural setting, which provides for an alternative residential lifestyle, which is consistent and compatible with adjacent land use activity, landscape and environmental attributes of the land.”*

The key words of interest here are “compatible with adjacent land use activity”. Council needs to be comfortable that the proposed sensitive “residential” use of the land is compatible with nearby agricultural activity.

Section 5.3.8 then outlines the strategy for the zone with the words:

*“The local government’s strategy is to:*

- *Contain rural residential development to areas zoned and allocated for that purpose (ie: Rural Residential Investigation) to manage the demand for the extension of infrastructure and services;*
- *Prevent the creation of new rural residential lots beyond those identified in the Strategy (ie: Rural Residential and Rural Residential Investigation areas) or in an adopted local planning scheme;....”*

The key word here is to “contain” rural residential development to existing identified areas. This proposal seeks to add an entirely new and isolated rural residential area. This clearly departs from the Strategy’s position. If the proposal is to be supported, there needs to be strong and sustainable reasons backing the new direction.

Is a departure a problem or is it the nature of the departure?

It has been established that the proposal is a departure from the established planning framework. The next step is to decide if this is a problem. The proposals inconsistency with the Strategy may not by itself be a sufficient reason to automatically object or refuse a proposal.

Decisions need to be anchored in sound town planning outcomes and supported by the steel of a strong and robust logic. In this case, it may be difficult to conclude that:

- a) the proposal can be considered to be a minor logical inclusion to the established lot size and land use in the locality;
- b) the proposal joins with existing Rural Residential areas;

- c) the proposal will not generate increased risk and potential for land use conflicts;
- d) there is strong and unsatisfied or unsatisfiable demand for blocks. There is significant opportunity for subdivision of existing Rural Residential zoned land;
- e) the proposal is of a limited scale and will not generate a precedent due to unique site specific and contextual circumstances. It is likely that there are other nearby properties that have similar or better cases for inclusion in Rural Residential zones based on proximity to services or town, land capability and setbacks from buffers and commercial orchard/market gardening activities.

When considering these facts, in combination with the intent of the strategy, it makes it difficult to support the proposal at this point in time.

#### There is a time and place....

Town planning does not occur within a static universe. Things change and evolve over time. A position taken today may not be appropriate or the best outcome in the future. It is important to understand this when looking at this proposal. The Strategy is relatively new (endorsed July 2014) and making a departure in the manner proposed will require a review of not only the colour on the map, but the underlying objectives stated and agreed by Council and the Commission.

It is suggested that it is not appropriate to make such a fundamental change at this early stage in the life of the Strategy. More time is required to see if the goals of the strategy are desirable and relevant and if it effective in creating good town planning outcomes.

#### Summary and Conclusion

At this point in time, the proposal represents a significant departure to the underlying principles of the LPS. Specifically, the intent to contain Rural Residential areas to that of existing identified zones and in some limited Development Investigation Areas that provide logical inclusions to these areas.

This proposal seeks to create a departure to this approach. It is suggested that it is too early to promote a departure without undertaking a more wholesale review of the area and intent of the zone. It is recommended that this issue and proposal would be best considered as part of a more comprehensive review of the strategy. The existing LPS is not formally due for review until 2020. However, there is opportunity to review the LPS at an earlier date as a way of incorporating outcomes and information resulting from the Developing Donnybrook Growth Plan project.

A comprehensive review process will allow Council to think about Rural Residential zoned land on a strategic scale, having regard to data obtained on subdivision and demand for land over the life of the strategy.

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

##### Policy

State Planning Policy 2.5 Land Use Planning in Rural Areas provides guidance on the process and criteria necessary to obtain support for new rural residential subdivision. It