



Ordinary Council Meeting Minutes

Held on Wednesday, 21 December 2016

Commencing at 5.03pm

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

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

3 January 2017

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ORDINARY MEETING OF COUNCIL
MINUTES

21 December 2016

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SHIRE OF DONNYBROOK-BALINGUP

ORDINARY COUNCIL MEETING MINUTES

**Held at the Seniors Room, Donnybrook Community Library
Wednesday, 21 December 2016 commencing at 5.03pm**

MEMBERS PRESENT

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

PUBLIC GALLERY

Jackie Massey
Philippa Attrens
Hugh Ness
Ross Brown
Geof Tame
Mia Manuel
Vivien Williamson
Pat Fox
Keira Barrett
Tony Plati

Alan George
Marian Offer
Fiona Richardson
Annie Williams
Frank Haygarth
Gary Smitherman
Maria Lucas
John Fox
Tony Scaffidi

Alan Walker
Leila Sentorio
Sherry Thomas
Marie Tame
Rob Lucas
Tarnya Box
Peter McCabe
June Scott
Luisa Dale

1 APOLOGIES

Cr Mills (Approved Leave)

2 PUBLIC QUESTION TIME

Question 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.

Question taken without notice

Sherry Thomas

Promote Preston has requested from the Minister for Forestry an immediate moratorium on logging in all of the Greater Wellington National Park proposed areas, including Arcadia, at least until the next state elections. To date we have posted 195 letters supporting the moratorium collected from local markets over the last few weeks plus 50 online letters and here is another 177 to be posted tomorrow. Obviously there is substantial support for our proposal and we ask the Shire if you will support our request for a moratorium too?

Chief Executive Officer

I will take your question on notice. The Donnybrook-Balingup Shire is currently undertaking a thorough consultative process with other Shires and the Department of Parks and Wildlife.

Sherry Thomas

If the logging goes ahead in Arcadia we will lose a vital part of our asset and associated job creation opportunities for at least the next 40 years.

Shire President

The Shire is undertaking a consultation process with other stakeholders.

Sherry Thomas

We are seeking support for a moratorium on logging.

Chief Executive Officer

This is not an agenda item for tonight's meeting, however, it may be considered at the February 2017 Ordinary Council Meeting if brought forward as an Elected Member's Motion.

Fiona Richardson

Promote Preston's proposal dovetails into the Bunbury Wellington and Boyup Brook Regional Tourism Plan and covers six of the twelve priorities identified in the community consultation, as we explained to Council at your October Ordinary Council Meeting. However, as far as we can see on the Bunbury Wellington and Boyup Brook Regional Tourism Plan, there is very little mention of Donnybrook and our area. We would like to know if the Shire has a Tourism Plan and if so, may we have a copy? Is there a Business Plan associated with the Tourism Plan?

Chief Executive Officer

The Bunbury Wellington Group of Councils and Boyup Brook have been working on a Regional Tourism Strategy and recently signed a Memorandum of Understanding on the

Strategy and supporting Business Plan. The documents will be loaded to the Shire's website soon, however a copy can be emailed to you in the interim.

Annie Williams

I am part-owner of Kirup Roadhouse. I was only notified two weeks prior to the project commencing of the decision to remove truck parking bays in Kirup. Does Kirup have the same laws and by-laws as the rest of the Shire of Donnybrook-Balingup?

Shire President

Yes.

Annie Williams

The project has installed 10-metre roadside parking restrictions in Kirup. The roadside parking restriction in Donnybrook is 7 metres and Balingup is 6 meters; will roadside parking be removed from these towns?

Manager Works and Services

There is no intention to remove roadside parking from these towns.

Annie Williams

I am the Secretary of Kirup Progress Association and we were not consulted about this project prior to its commencement. Will the person that lied to the Ordinary Council Meeting about this be stood down?

Chief Executive Officer

Your question is staff related and cannot be responded to in this forum.

Annie Williams

There have been no accidents in Kirup townsite but now with the installation of the raised curbing residents now have to back out onto the highway which could cause accidents.

Shire President

This was a Main Roads WA project, your question needs to be directed to them.

Chief Executive Officer

The project has been executed to Main Roads standards. The Shire contributed funding towards additional parking bays only.

Annie Williams

The Shire says it's a Main Roads responsibility while Main Roads say it's the Shire's problem. I just want answers.

President

It is a Main Roads project.

Annie Williams

Trucks now can't pull into the areas they used to along the South Western Highway. Truck parking has been reduced to one bay outside the Kirup Roadhouse.

Manager Works and Services

Multiple truck parking bays were installed as a part of this project.

Annie Williams

Community consultation for this project was limited.

Manager Works and Services

Main Roads WA consulted with the Kirup community during early September 2016 and the Shire carried out consultation during late September 2016.

Annie Williams

I only received correspondence and had a discussion two weeks prior to the project commencing. I did not receive correspondence from Main Roads WA.

Manager Works and Services

I have a copy of the correspondence from Main Roads WA and will provide you with a copy. Main Roads WA held other on-site meetings as well.

Annie Williams

Is the Shire going to do anything to remedy the truck parking situation? Two recommendations were given to the Shire President and Chief Executive Officer.

Shire President

The recommendations you suggested had safety implications.

Manager Works and Services

Main Roads WA undertook a safety assessment for the project.

Chief Executive Officer

Yes, I can approach Main Roads WA to see what can be done to ameliorate the truck parking bay issue at Kirup.

Annie Williams

We will have to close if the road trains are not able to stop in Kirup.

Shire President

Main Roads WA constructed the parking to comply with safety standards and to alleviate trucks parking in front of residents' houses. A number of changes were made by Main Roads WA in order to implement the best possible arrangements for the site.

Annie Williams

Kirup Roadhouse can only accommodate one road train and one standard semi-trailer now.

** 5.26pm – Annie Williams and Kirup representatives left the meeting.

3 APPLICATION FOR LEAVE OF ABSENCE

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 Bailey

Seconded: Cr King

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

Carried 8/0

4 DECLARATION OF FINANCIAL/IMPARTIALITY INTEREST

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. As item 11.2.1 was withdrawn prior to the meeting, the disclosure is no longer required.

Cr Van Der Heide declared an interest affecting impartiality with regards to agenda item 8.1.2 – Funding for Installation of CCTV cameras as he was involved (via WA Police) in the grant funding application process with the Shire.

Cr Tan declared an interest affecting impartiality with regards to agenda item 8.1.3 - Removal of Infrastructure on Easements C447064 and C899678 as she is the conveyancer for the owners of Lot 26, South Western Highway, Donnybrook.

Cr Dilley declared an interest affecting impartiality with regards to agenda item 8.1.3 - Removal of Infrastructure on Easements C447064 and C899678 as he is friends with both owners of Lot 25, South Western Highway, Donnybrook and employs one of their wives.

5 PETITIONS/DEPUTATIONS/PRESENTATIONS

Nil

6 LATE ITEMS

Nil

7 CONFIRMATION OF MINUTES

7.1 Ordinary Council Meetings

Council Decision

Moved: Cr Bailey

Seconded: Cr Tan

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

Carried 8/0

8 ELECTED MEMBERS MOTIONS

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

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-offs 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 King

Seconded: Cr Bailey

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.**

Lost 3/5

Council Decision

(Chief Executive Officer's Recommended Resolution)

Moved: Cr Van Der Heide

Seconded: Cr Crowley

- 1) Council advises the Chief Executive Officer that its 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.

Carried 8/0

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

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.**

Council Decision

(Chief Executive Officer's Recommended Resolution)

Moved: Cr Van Der Heide

Seconded: Cr Bailey

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.

**Carried 8/0
By Absolute Majority**

8.1.3	SUBJECT:	REMOVAL OF INFRASTRUCTURE ON EASEMENTS C447064 AND C899678
	Location:	Shire of Donnybrook Balingup
	Applicants:	Cr Bailey
	Zone:	Commercial
	File Ref:	CNL 34G
	Author:	Ben Rose, Chief Executive Officer
	Report Date:	15 December 2016
	Attachments:	8.1.3 (1) - Email from Cr Bailey dated 15 December 2016 8.1.3(2) – Easement Plan

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.

Chief Executive Officer’s Recommended Resolution

Moved: Cr Dilley

Seconded: Cr King

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.

Procedural Motion

Moved: Cr Van Der Heide

Seconded: Cr Crowley

Move to next item of business.

Lost 3/5

Council Decision

(Chief Executive Officer’s Recommended Resolution)

Moved: Cr Dilley

Seconded: Cr King

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.

Carried 8/0

9 MINUTES OF PREVIOUS MEETINGS

9.1 Committee Minutes

Council Decision

Moved: Cr Mitchell

Seconded: Cr Van Der Heide

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

Carried 8/0

10 REPORTS OF COMMITTEES

10. Donnybrook Townscape Committee

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

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

Absolute Majority

Financial Implications

Nil

Strategic Implications

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

** 6.13 pm – Tony Scaffidi left the meeting

Council Decision

(Committee's Recommended Resolution)

Moved: Cr Bailey

Seconded: Cr Mitchell

- 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.**

**Carried 8/0
By Absolute Majority**

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

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 14th 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 an 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 Dille

Seconded: Cr

contribution by the owner towards the construction of the long vehicle parking bay/s and associated footpath.

Lost 2/6

Council Decision – En Bloc Resolution 1

Moved: Cr Bailey

Seconded: Cr Mitchell

That the resolutions from item 10.2.1 Audit Committee Meeting of 21 December 2016 be moved en bloc.

Carried 8/0

10.2 Audit Committee

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

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.

Council Decision

(Officer's Recommended Resolution)

Moved: Cr Bailey

Seconded: Cr Mitchell

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

Carried by En Bloc Resolution 1

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

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

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.

Council Decision

(Officer's Recommended Resolution)

Moved: Cr Bailey

Seconded: Cr Mitchell

- 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*.

Carried by En Bloc Resolution 1

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

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.

Council Decision (Officer’s Recommended Resolution)

Moved: Cr Bailey

Seconded: Cr Mitchell

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

Carried by En Bloc Resolution 1

11 REPORTS OF OFFICERS

11.1 *Manager Finance and Administration*

11.1.1 ACCOUNTS FOR PAYMENT

For information: The following accounts have been authorised and paid under Delegation 3.2 by the Chief Executive Officer represented by cheques CCP3193-CCP3204, EFT10599 - EFT10749, 52299 – 52345, DD21458 – DD21458.7 Trust 3428 – 3437, and EFT10600a totalling \$1,238,371.23.

11.1.2 MONTHLY FINANCIAL REPORT

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

Moved: Cr Bailey

Seconded: Cr Crowley

That the monthly report for the period ended 31 October 2016 and 30 November 2016 be received.

Carried 8/0

11.2 *Manager Works and Services*

Item 'RFT 02/2016 – Traffic Management Services' was withdrawn from the Agenda by the Chief Executive Officer, to be presented at a later date.

11.3 *Manager Development and Environmental Services*

11.3.1	SUBJECT:	APPOINTMENT OF A RECOVERY COORDINATOR
	Location:	Shire of Donnybrook Balingup
	Applicants:	Mr John Attwood
	Zone:	N/A
	File Ref:	CSV 20
	Author:	Leigh Guthridge (Manager Development and Environmental Services)

Report Date: 6 December 2016
Attachment: Nil

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.

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

Moved: Cr Mitchell Seconded: Cr Dilley

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

Carried 5/3

11.4 Principal Planner

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

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 states that before subdivision can be considered, it is necessary for the land to be identified in a local planning strategy/local planning scheme. This proposal is seeking to follow the correct process for amending the LPS. The issue in this case does not relate to process; rather the content of the proposal itself.

Development Control Policy 3.4 Subdivision of Rural Land provides some information on this issues that need addressing relating to rural residential land. It is noted that this is not the core focus of the policy.

Statutory

Planning and Development (Local Planning Schemes) Regulations 2015 provides details on the processes and requirements for undertaking amendments to Local Planning Strategies and Local Planning Schemes.

Voting

Simple Majority

Financial Implications

If the proposal is supported, an assessment fee of \$5500.00 will be required for the amendment to the Local Planning Strategy and Local Planning Scheme. This fee is intended to cover assessment, advertising and gazettal fees associated with the amendment process.

Strategic Implications

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

- Outcome 1.5 – Our rural lifestyle is maintained.
- Outcome 2.6 – Effective planning and management policies for our agricultural land and uses

- Outcome 4.9 – Improved long term planning and strategic management.

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

Moved: Cr Dilley Seconded: Cr Crowley

That Council resolve to advise the applicant that it:

- 1) **Does not support amending the Local Planning Strategy to include Lot 6 Grist Road and Lot 2280 Irishtown Road, Donnybrook in the Rural Residential zone on the grounds that:**
 - a. **It represents a major departure from the intent of the Local Planning Strategy to contain rural residential land uses to existing identified areas;**
 - b. **The site is surrounded by existing market gardening activity and other potential uses that will create increased risk of land use conflict;**
 - c. **The site is isolated from other established Rural Residential zoned areas and will create an undesirable precedent to support other ad-hoc expansions of the Rural Residential zone; and**
 - d. **The Local Planning Strategy and Local Planning Scheme provide sufficient land to accommodate demand for rural residential activity by introducing subdivision opportunities for existing land.**

- 2) **Will consider this proposal for inclusion as part of any future review of the Local Planning Strategy.**

Carried 7/1

**** 6.45pm – Chief Executive Officer left the meeting and returned 6.47pm.**

11.4.2	SUBJECT:	PROPOSED AMENDMENT 6 TO LOCAL PLANNING SCHEME 7
	Location:	Lot 1 Hurst Road, Argyle
	Applicants:	Kobus Nieuwoudt
	Zone:	General Agriculture
	File Ref:	TP17, AMD 6
	Author:	Bob Wallin (Principal Planner)
	Report Date:	28 November 2016
	Attachments:	11.4.2(1) – Local Planning Scheme No.7 Amendment No.6 11.4.2(2) – Schedule of Submissions 11.4.2(3) – Schedule of Modifications

Background

Council, at the Ordinary Council Meeting held 27 July 2016, resolved to initiate Amendment 6 and advertise, subject to some minor changes. Amendment 6 proposes to change the Zoning of Lot 1 Hurst Road, Argyle (Attachment 11.4.2(1)) to “Rural Residential”.

The amendment has been advertised in accordance with the “Standard Amendment” process and Council is now required to make a recommendation to the Western Australian Planning Commission and Minister for Planning.

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

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

The rezoning process is separate to the structure planning process. The structure plan design and details will require separate consideration by Council. The structure plan process will also require its own public advertising,

Council has three options available in relation to the amendment. It can recommend to:

- a) Support final approval; or
- b) Support final approval subject to modifications; or
- c) Refuse or withhold final approval.

Comment

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

There is opportunity to address additional points of detail during any future structure planning process.

Consultation

The advertising process requires referral to the Environmental Protection Authority (EPA) and obtaining a decision on environmental factors prior to starting public advertising. The EPA determined that it was not necessary to provide any advice or recommendations.

The proposal has been publically advertised for a period of 42 days with the closing date ending on 22 November 2016. A total of 10 submissions were received. These consisted of eight from government agencies and two from the general public. A total of three submissions raised objections to the proposal. The remaining submissions provided technical advice or no comment. Attachment 11.4.2(2) provides a summary of the submissions and suggested advice on how to address points raised.

The following provides some detail on the key issues raised during the advertising process:

Buffer to Minimise Land Use Conflict

The Health Department's guidelines recommend a generic buffer distance of 500m which may be varied depending on chemicals used, method of application, the site, proposed land uses and adjacent or nearby use. Alternatively, a 40m separation distance can be used when a vegetative buffer has been adequately designed, implemented and maintained. Vegetation buffers need to:

- include a planted area with a minimum width of 20m;
- be densely spaced to ensure no gaps in the lower canopy;
- have furry/hairy foliage and vegetation;
- include a mix of species;
- have a mature height of at least twice the spray release height; and
- have a clear management arrangement.

The proposed building envelopes and vegetation on site will be able to satisfy the intent of the 40m buffer setbacks.

One of the key issues associated with orchards in the locality relates to the use of gas guns to protect produce from bird attack. The setback distances will not be able to fully mitigate impacts from gas guns. On this basis, it is recommended that notices be placed on certificates of title advising of the potential adverse impacts on local amenity and enjoyment of the land and in addition limiting the number of lots that can be created on the site through specific provisions in Schedule 2 of LPS7 could reduce land use conflicts arising from the proposed development.

Fire Management Plans

A Fire Management Plan (FMP) has been prepared. Advice received from agencies indicates that a number of elements to the plan require addressing to ensure consistency with the relevant policy framework.

It is recommended that the details of the FMP be updated prior to the amendment being finalised.

Habitat for Threatened Species

Concerns have been raised about loss of habitat for threatened species by the Department of Parks and Wildlife and the need to undertake a flora and fauna study.

Given that the vegetation contains habitat for threatened fauna communities it is considered reasonable to require a study. This will ensure that building envelopes, lot configurations and fire measures can be designed to minimise impacts of vegetation. Further, potential cumulative impacts from further infill subdivision can be avoided by limiting the scale and potential of subdivision through provisions in Schedule 2 of LPS7.

At present, there is potential for subdivision of Rural Residential zoned land to a minimum of 1 hectare. Schedule 2 of LPS7 provides potential to override this potential and add a higher level of control. In this case, limiting lot yield to a total of three lots will limit impacts on habitat.

Impacts on State Forest Managed Land

The Department of Parks and Wildlife raise a number of concerns about increasing the number of landowners in proximity to State-managed land. The concern is about increased complexity and costs associated with managing the land. This concern is amplified by potential to create 1 hectare lots within the Rural Residential zone.

In this case, there is potential to limit the scale and intensity of future subdivision through a provision in Schedule 2 of LPS7. Limiting future subdivision potential in this way is considered a reasonable response on the grounds that:

- It will only result in one potential additional landowner;
- There are already a significant number of Rural Residential landowners abutting the State-managed land; and
- There is no additional potential for new Rural Residential land in the locality based on the existing strategic vision outlined in the Shire's Local Planning Strategy.

Summary and Conclusion

The proposal is to rezone the land to allow future structure planning to occur for Rural Residential development. The proposal marries with the existing strategic vision for the locality in the Local Planning Strategy.

The site is heavily constrained due to fire risk, threatened community vegetation and adjoining commercial orchard activities.

It is recommended to recommend final approval subject to:

- a) Fire management issues being resolved;
- b) Vegetation studies being undertaken; and
- c) Controls added to limit future potential subdivision.

Statutory Obligations

- The *Planning and Development (Local Planning Schemes) Regulations 2015* includes the following relevant sections

- Part 5 – Amending Local Planning Scheme defines the processes and considerations for assessing and processing amendments.
- Schedule 2, part 4 – Structure Plans defines the processes and considerations for assessing and processing Structure Plans.
- The amendment falls under the definition of a “Standard Amendment” contained in regulation 34).

Policy Implications

Development Control Policy DC 3.4 – Subdivision of Rural Land. This policy supports creating Rural Residential subdivision where the land is identified in an approved Local Planning Strategy. This proposal is identified in an approved Local Planning Strategy.

Voting Requirements

Simple Majority

Budget/Financial Implications

The applicant provided an application fee of \$2,750.00 to cover staff time and advertising expenses.

Strategic Implications

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

Council Decision (Officer’s Recommended Resolution)

Moved: Cr Bailey

Seconded: Cr Dilley

That Council:

- 1) Grant final approval for Amendment 6 to Local Planning Scheme 7, subject to modifications contained in Attachment 3 - Schedule of Modifications;**
- 2) Determine submissions in accordance with Attachment 2 – Schedule of Submissions.**
- 3) Require the Chief Executive Officer to undertake such tasks necessary to implement items 1 and 2, above.**

Carried 8/0

11.4.3	SUBJECT:	REQUEST TO PURCHASE LOT 20 SPENCER STREET, BALINGUP
	Location:	Lot 20 Spencer Street, Balingup
	Applicants:	Vintage Home Town for Life Limited
	Zone:	Residential R10
	File Ref:	A439
	Author:	Bob Wallin (Principal Planner)
	Report Date:	11 November 2016
	Attachments:	11.4.3 – Letter from Vintage Homes

Background

During 1999, members of the Balingup community began discussing the best way to provide housing for elderly residents so they could remain within their community as they aged. With support from the Shire of Donnybrook-Balingup and the South West Development Commission, Vintage Home Town For Life Limited (Vintage Homes) was established and in 2005/06, three purpose-built cottages were constructed at the corner of Spencer Street and Jayes Road, Balingup.

This community-led development has been a success, with full occupancy since their construction 10 years ago. The Vintage Homes Board now wishes to build additional cottages to meet the needs of the community.

In 2009, the Shire purchased Lot 20 Spencer Street adjoining the Vintage Homes site for the purpose of community benefit. The property has remained undeveloped.

Vintage Homes have considered a number of funding options in discussion with Shire staff and lenders. This has included the following:

- a) Long term lease;
- b) Separate mortgage for land (to be paid out in event of closure of facility);
- c) Purchase of land at full commercial value;
- d) Purchase of land at subsidised value; and
- e) Gifting the land free of cost.

After detailed consideration, the only viable option for Vintage Homes, excluding gifting of the land, was to purchase the land at a subsidised value.

The land was originally purchased for \$240,000 in 2009. A recent informal valuation indicates that the land has a value of \$120,000.

A copy of Vintage Homes request is provided (Attachment 11.4.3). It is requested that Council consider the option to sell the land to Vintage Homes for \$50,000.

Comment

In considering this request, it may be helpful to consider the following issues:

Town Planning and Servicing Issues

The current zoning does not allow for four aged persons dwellings on the site. It is necessary to consider rezoning. A separate report to Council has been prepared on this matter. It is noted that the rezoning can progress separately and independently of any decision on this item. The rezoning will increase opportunities for the future development of the site for any civic venture that the Council may be interested in.

Servicing advice has been received from the Department of Health supporting on-site effluent disposal. The Shire's Principal Environmental Health Officer has inspected the site and is satisfied that on-site effluent disposal can be accommodated.

Strategic Vision

The provision of aged housing allows people to "age in place". This aligns with:

- the Shire's Strategic Community Plan;
- the South West Development Commission's Regional Blueprint;
- the recommendations of the Shire's Age-friendly Community Study; and
- The Department of Local Government and Communities "Seniors Strategic Planning Framework.

Allowing residents to "age in place" provides numerous social and economic benefits. Expanding the existing development would improve Vintage Homes overall viability as many overheads could be spread across more cottages.

The Vintage Homes Board has demonstrated its capacity to successfully operate an enterprise of this nature.

Administrative Sale Requirements

The Local Government Act 1995 requires all proposals to dispose of Shire-owned land to be publically advertised. This process also includes the need to obtain an independent valuation of the property. This process needs to be take place prior to Council formally agreeing to any sale.

The purpose of this requirement is to open up the process to market, public scrutiny and ensure transparency of the proposed land transaction.

Cost Vs Benefit

The proposal from Vintage Homes is for a subsidised sale of \$50,000. If it is estimated that the lot has a current market value of \$120,000, then there is a potential loss of \$70,000. This is one way of looking at the proposal. However, there is another.

For the already sunken cost of \$70,000, Council assists the community in gaining an additional four aged care units. Added to this, there are no ongoing costs or responsibilities associated with risk management, administration, maintenance and renewal.

For a "subsidy" of \$70,000, the community can realise four new aged housing units for the community's benefit. This equates to a cost of \$17,500 for each unit.

Timing of Service

The site has remained vacant since its purchase in 2009. There is no funding identified in the Shire's Long Term Financial Plan for developing the site.

This proposal will enable the site to be developed in the near term for the ongoing benefit of the community.

Statutory Obligations

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

- The current zoning of Residential R10 does not allow the construction of four dwellings on the site. The current zoning allows for one dwelling. There is a need to rezone the property should Council wish to proceed with this proposal.
- Part 5 – Amending Local Planning Scheme defines the processes and considerations for assessing and processing amendments.
- The amendment falls under the definition of a “Standard Amendment” contained in regulation 34).
- Section 3.58 of the *Local Government Act 1995*, the Shire of Donnybrook-Balingup requires public advertising for disposal of publically owned land as well as the need to obtain a land evaluation from a qualified professional. However, if Vintage Homes meet the criteria set out in Section 30.2(B) of the *Local Government (Functions and General) Regulations 1996* they would be considered to be an exempt disposition and excluded from the application of Section 3.58 of the *Local Government Act 1995*.

Policy Implications

- The Draft Country Sewerage Policy normally requires at least 1,000m² per dwelling unit where reticulated sewerage is unavailable. In this instance, advice from the Health Department Western Australia has indicated support for four units on the site.
- Shire Policy 9.21 – Balingup Village Centre – Special Character Area.

Voting Requirements

Absolute Majority

Budget/Financial Implications

The land was purchased in 2009 for \$240,000. The request is for selling the land for \$50,000. The current market value is estimated at \$120,000.

The land was purchased for future civic purposes to benefit the community. This proposal results in an outcome consistent with the intent of the original purchase.

The Shire will be in a position to earn rates from the property. Presently, the Shire receives rates of \$2,567.97 for the adjoining property managed by Vintage Homes.

Strategic Implications

- Outcome 3.1 – Improve and increase the range of aged care and disability services, facilities and housing.
- Outcome 3.10 – The community has access to appropriate services and facilities to enhance their health and well-being.
- Outcome 4.5 – Continue to provide quality local government services and facilities.

Council Decision

(Officer's Recommended Resolution)

Moved: Cr Bailey

Seconded: Cr King

That Council:

- 1) Instruct the Chief Executive officer to obtain a land valuation for Lot 20 Spencer Street, Balingup from a suitably qualified professional;
- 2) Seek public comment on the proposed sale for the value of \$50,000 in accordance with *Section 3.58 of the Local Government Act 1995*;
- 3) Instruct the Chief Executive Officer to investigate subsidised repurchasing rights for the subject lot (to the Shire's benefit), should Vintage Homes for Life Inc. seek to sell the property; and
- 4) Authorise the Chief Executive Officer to undertake such tasks necessary to implement items 1, 2 and 3 above and report back to Council.

Carried 8/0
By Absolute Majority

11.4.4	SUBJECT:	PROPOSED AMENDMENT 7 TO LOCAL PLANNING SCHEME 7
	Location:	Lot 20 Spencer Street, Balingup
	Applicants:	Vintage Home Town for Life Limited.
	Zone:	Residential R10
	File Ref:	TP17 AMD 7
	Author:	Bob Wallin (Principal Planner)
	Report Date:	22 July 2016
	Attachments:	11.4.4 - Draft Amendment 7

Background

The proposal is a request to initiate an amendment to Local Planning Scheme No.7 (LPS7). The amendment seeks to rezone Lot 20 Spencer Street, Balingup to "Special Use" (see Attachment 11.4.4).

The land was purchased by the Shire with the intent that it would be used for civic or public purposes. The site abuts another "Public Purpose CI" reserve which contains three aged

persons units managed and maintained by Vintage Home Town for Life Limited (Vintage Homes).

Council has received a number of deputations from Vintage Homes regarding the potential of the site being used to accommodate four aged care units.

One of the issues limiting this proposal as well as any other future proposals, is the current zoning of the land. The land is zoned “Residential” with a density coding of R10. This zoning and coding limits the opportunity of using the land for public or civic purposes.

This amendment proposes to ensure that LPS7 appropriately identifies the land so that future civic or aged accommodation can occur on the site.

The proposed Amendment is considered to fit within the definition of a “Standard Amendment” of the *Planning and Development (Local Planning Schemes) Regulations 2015*.

This standard amendment process requires:

- Step 1) Council resolve to initiate the Amendment;
- Step 2) Council resolve to advertise the Amendment;
- Step 3) Refer to the Environmental Protection Agency (EPA) for environmental assessment;
- Step 4) Advertise Amendment;
- Step 5) Council to consider submissions and make a recommendation for final approval;
- Step 6) The WA Planning Commission makes a recommendation to Minister for Planning;
- Step 7) Minister for Planning grants final approval; and
- Step 8) Amendment gazetted and becomes part of LPS7.

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

At this step, the options available to Council are to:

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

Comment

The proposed amendment is consistent with the broad strategic planning framework for the site. The proposal is consistent with the intent outlined in the Shire’s Strategic Community Plan, findings of the Aged Friendly Community Study and Local Planning Strategy. More detail on this is contained within the report section of Attachment 11.4.3.

It is noted that this proposal may assist with resolving some of the town planning issues currently constraining the aged persons units proposed by Vintage Homes. However, this amendment should be pursued, even if Council does not end up supporting the Vintage Homes proposal. Changing the zoning of the land ensures that the land can be used more effectively for the reasons it was purchased – for community or civic purposes.

Statutory Obligations

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

- Part 5 – Amending Local Planning Scheme defines the processes and considerations for assessing and processing amendments.
- The amendment falls under the definition of a “Standard Amendment” contained in regulation 34).

Policy Implications

- Shire Policy 9.21 – Balingup Village Centre – Special Character Area. This Policy relates to the site and will be applied during the development application stage
- Shire Policy 9.24 – Waiving of Planning Fees

Voting Requirements

Simple Majority

Budget/Financial Implications

An application fee of \$2,750.00 is normally required by the Shire for amendments. This is to cover costs associated with staff time, public advertising and printing in the government gazette.

In order to achieve Council's strategic objectives it is proposed that the fees be waived.

Strategic Implications

- Outcome 3.1 – Improve and increase the range of aged care and disability services, facilities and housing.
- Outcome 3.10 – The community has access to appropriate services and facilities to enhance their health and well-being.
- Outcome 4.5 – Continue to provide quality local government services and facilities.

Council Decision (Officer's Recommended Resolution)

Moved: Cr Dilley

Seconded: Cr King

That Council:

- 1) Resolve to initiate proposed Amendment 7 to rezone Lot 20 Spencer Street, Balingup to “Special Use” under Local Planning Scheme 7;**

- 2) **Instigate statutory advertising in accordance with the *Planning and Development (Local Planning Schemes) Regulations 2015*; and**
- 3) **Require the Chief Executive Officer to undertake such tasks necessary to implement items 1 and 2, above.**

Carried 8/0

11.4.5	SUBJECT:	PROPOSED AMENDMENT 8 TO LOCAL PLANNING SCHEME 7
	Location:	Lot 9504 (80) Kelly Street, Donnybrook
	Applicants:	Mr Kelvin Rising (Ridgeview Holdings)
	Zone:	Residential SCA8/SPA 15
	File Ref:	TP17, AMD 8
	Author:	Bob Wallin (Principal Planner)
	Report Date:	21 November 2016
	Attachments:	11.4.5 - Location Plan

Background

The proposal is a request to rezone Lot 9504 (No.80) Kelly Street from “Residential” to “Special Use 6 – Park Home Park”.

The land has an approved Structure Plan in place (Attachment 11.4.5). This includes the option to develop the site as a “Lifestyle Village”. This Structure Plan formed part of a rezoning proposal (Amendment 94 to Town Planning Scheme No.4 – adopted in March 2013).

Since this time, Local Planning Scheme 7 (LPS7) has been adopted with the land being zoned “Residential SCA8/SPA15”. This zoning requires compliance with the approved Structure Plan and its provisions.

This rezoning request is required as LPS7 does not permit the use of a “Lifestyle Village” under the “Residential” zoning.

A “Lifestyle Village” falls under the use class of “Park Home Park” under Table 1 of LPS7. This rezoning is intended to enable future development and land use consistent with that as proposed by the approved Structure Plan.

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

- Step 1) Council resolve to initiate the Amendment;
- Step 2) Council resolve to advertise the Amendment;
- Step 3) Refer to the Environmental Protection Authority (EPA) for environmental assessment;
- Step 4) Advertise amendment;

- Step 5) Council to consider submissions and make a recommendation for final approval;
- Step 6) The Western Australian Planning Commission (WAPC) makes a recommendation to Minister for Planning;
- Step 7) Minister for Planning grants final approval; and
- Step 8) Amendment gazetted and becomes part of LPS7.

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

At this step, the options available to Council are to:

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

Comment

The Amendment is consistent with the broad strategic planning framework for the locality – with specific identification for the use identified in the approved Structure Plan.

The proposed zoning designation “Special Use” fits with Planning Bulletin 49. Planning Bulletins are documents prepared by the WAPC to provide advice and direction on specific planning matters. This proposal is consistent with Planning Bulletin 49 direction and advice.

The rezoning process is separate to the assessment of specific site design outcomes. The rezoning will allow Council to assess future planning applications for a “Lifestyle Village”. This proposed amendment is seeking to bring consistency between the structure plan and LPS7.

Statutory Obligations

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

- Part 5 – Amending Local Planning Scheme defines the processes and considerations for assessing and processing amendments.
- The amendment falls under the definition of a “Standard Amendment” contained in regulation 34).

Policy Implications

N/A

Voting Requirements

Simple Majority

Budget/Financial Implications

An application fee of \$2,750.00 is required by the Shire for amendments. This is to cover costs associated with staff time, public advertising and printing in the government gazette.

Strategic Implications

- Outcome 3.1 – Improve and increase the range of aged care and disability services, facilities and housing.
- Outcome 3.10 – The community has access to appropriate services and facilities to enhance their health and well-being.

Council Decision (Officer’s Recommended Resolution)

Moved: Cr Bailey

Seconded: Cr Dilley

That Council resolve to initiate and advertise an amendment to rezone Lot 9504 (80) Kelly Street, Donnybrook from “Residential” to “Special Use”, subject to:

- 1) The amendment being processed as a “Standard Amendment” as defined in the *Planning and Development (Local Planning Schemes) Regulations 2015*;
- 2) Receiving an application fee of \$2,750.00;
- 3) Receiving amendment documents prepared by a suitably qualified professional that addresses all relevant planning considerations to the satisfaction of the Shire’s Chief Executive Officer; and
- 4) Require the Chief Executive Officer to undertake such tasks necessary to implement items 1 and 3, above.

Carried 7/1

11.4.6	SUBJECT:	APPLICATION FOR TRANSPORTABLE FOOD VAN AT LOT 56 SOUTH WESTERN HIGHWAY, DONNYBROOK
	Location:	Lot 56 (59) South Western Highway, Donnybrook
	Applicants:	Shane Watling
	Zone:	Commercial
	File Ref:	A34
	Author:	Bob Wallin (Principal Planner)
	Report Date:	29 November 2016
	Attachments	11.4.6(1) – Site Plan 11.4.6(2) – Schedule of Submissions

Background

A planning application has been received for a transportable food van to operate at the front of the old “Cubby House Café” building, located at Lot 56 South Western Highway, Donnybrook (Attachment 11.4.6(1)).

The land is zoned “Commercial” and the proposed use as a “Fast Food Outlet” is listed as “D” (Discretionary) in Local Planning Scheme 7 (LPS7). The land use is considered acceptable given the previous business use of the site.

The reason why this proposal is being presented to Council relates to the development form. The proposal is for the van to be permanently stored at the front of the building façade with temporary signage banners. The business is intended to operate between 11am and 8pm daily, but will be dependent on market demand. It is likely that the business will employ five people.

Comment

The following provides a summary of the relevant planning controls and policy guidance that applies to the proposal.

Local Planning Scheme No.7 (LPS7)

Clause 5.56.4 relates to development standards within the “Commercial” zone. It states:

- “(i) encourage a high standard of development...*
- (ii) promote areas for warehouses/showrooms, shops, offices and other commercial businesses which are safe, convenient and attractive for people and traders alike; and*
- (iii) encourage the use of building material and architectural styles which harmonise visually with nearby buildings.”*

“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.”

Local Planning Policy 9.17 also provides some guidelines for Industrial and Commercial development with clause 6.1 stating:

... for development within the Commercial zone, the following requirements shall apply:...

- ***transportable or “donger” style structures 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.”***

Local Planning Policy 9.16 provides guidance on 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.

In this case, the transportable structure will be front and centre in a very prominent and highly visible site at the southern entry to the Donnybrook townsite.

The acceptableness or otherwise of this proposal hangs on the words “transportable”, “design and appearance”, “height”, “bulk” and “massing”.

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

Streetscape in the immediate locality

In the immediate locality, there is a mix of building styles. There are a range of dwellings of various styles and ages and a commercial building abutting the site.

While these buildings contain a wide range of qualities, they project a sense of permanence. Further, the buildings all have a sense of belonging and consistency of design within their respective lot boundaries. This proposal seeks to add a transportable structure that juts forward of the established building line. The structure has a design, colour scheme and scale with no ability to match or blend in with the existing building behind it. The structure does not harmonise or mediate cohesively with the established built form or streetscape.

The combined outcome of the design, height, bulk and massing of the building has potential to adversely impact on local amenity. 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.

The proposal is for a temporary “shack” or “van” that will be out of place and character with the immediate locality and, if approved, would signal to other landowners that this new lower standard of development is now acceptable.

Evolution of Town Planning Framework

The planning framework has been evolving and applied consistently as new development occurs. It is noted that a number of historic commercial developments are evident within the town and that these developments were not assessed under the current policy and scheme requirements. And importantly, would unlikely be supported if assessed under the current town planning framework.

Where these older developments have arrived at the end of their economic and practical life, any redevelopment of these sites will need to comply with standards that apply at the time.

Council’s LPS7 represents the latest evolution in the planning framework for the shire and firmly stamps its mark on what development design standards are to apply.

Council’s Local Planning Policy does not support “transportable style” structures when visible from the street. The reasoning behind this stance is that such buildings do not possess qualities that project a high standard of building design or presentation. In this case, the structure will sit forward of the established building lines. Its colour scheme and design is to attract attention and stand out to draw passing traffic. It will do this at the expense of the established streetscape values and qualities.

Thresholds for Acceptability

To answer this question, it is necessary to analyse the plan and establish to what extent it has addressed the requirements of LPS7 and what, if anything, could be done to move it towards a positive decision.

The key words to be mindful in this exercise are “design and appearance”, “height”, “bulk” and “massing”. In making an assessment, it is essential to look at context and the relationship between the proposed building and existing buildings.

The following section is to provide specific analysis of how to assess these elements.

Design and Appearance

To assess the appropriateness of the design and appearance of the building, it is necessary to look at the architectural features common to existing buildings in the immediate locality. Existing buildings include elevations with vertical and horizontal stepping, variety of materials and complex roof forms.

These characteristics are absent in the proposed transportable structure. The proposed structure is effectively a rectangular box on wheels. The front elevation includes a shuttered front serving area that is open during business. The colour is bright, bold and uniform. The

proposed structure design is utilitarian in the extreme. It cannot be modified in any practical sense to complement the existing building or locality.

Consultation

The proposal has been advertised due to the need to vary policy standards. Five submissions of objections have been received (refer to Attachment 11.4.6(2) – Schedule of Submissions). The grounds for objection are summarised as:

- Concerns are raised about the food van attracting trucks, which would need to park on the street. This would create traffic safety issues;
- Use of a mobile facility on a permanent basis;
- Precedent for more mobile vans to set up along South Western Highway, lowering the standard of development.
- Prominent position of site at southern entrance to town

In considering these views the following may be helpful to think about:

Parking of Trucks

There is no truck parking in the locality. Should truck parking become an issue, there is opportunity to place signs and enforce compliance.

Mobile Facilities Vs Permanent Facilities

Mobile facilities are designed to be used at events and temporary venues. They are not intended to be stored or used in a fixed and permanent setting. Further, they are not intended to be “stored” in highly visible locations when not in use.

Mobile facilities offer flexibility and potential to provide colour and choice otherwise not available to a community or event. However, they are not noted for possessing a high architectural standard or quality. They are also not generally seen as a suitable way of providing a fixed base or realistic long term base for a business or built form outcome.

Such structures present a choice between built form quality and long term attractiveness of a town and that of a cheap way to test the market and offer services.

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.

The other aspect 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 – transportable structures to not be visible from the street or public realm. If supported at this site, it will be necessary to require a complete review of the policy.

Departures are easier to justify and support if they have limited impact on the public realm, i.e. hidden away. In this case, the departure is highly visible for all to see.

Precedent

The Local Planning Policy does not support transportable structures where they will be visible from the street or public realm. This proposal will be highly visible from the street. Approval to this proposal will set precedent for other similar-styled developments within the Shire. It will also make it significantly more difficult to defend against similar sized and utility driven structures such as sea containers and dongers from locating in highly visible sites in town. In isolation, the proposal may have limited and very localised impacts on amenity. However, a cumulative impact of similar applications over time will have a very real and significant potential to lower the streetscape and character of the town. This may lead to longer term reductions in business activity and investment in the town to the detriment of the wider community.

Summary

Based on the above analysis, the proposed building does not satisfy the requirements of LPS7 and the principles aspired to by Local Planning Policies 9.16 and 9.17

The proposed building fails the criteria described in clause 5.17 and objectives of the “Commercial” zone and approval would create an undesirable precedent for similar developments to encroach into the town’s Commercial zoned land to the detriment of local streetscape and amenity.

Possible Alternative Solutions

As stated above, there are a significant number of objections to the proposal. However, there are wider contexts and values that Council may wish to exercise and consider when making a decision on this proposal. There is a current focus about “being open for business” and providing opportunities for “job creation”. This focus needs to be tempered with preserving minimum standards of built form and not allow businesses to lower the overall built-form environment or to the detriment of existing businesses or the community.

If Council wishes to promote business on the site and limit the potential for precedent and adverse impacts on local amenity it could:

- a) Support the business subject to the van being located at the rear of the property (out of sight) and serve customers inside the existing shop or in an alfresco environment at the front of the building; or
- b) Provide a temporary approval to trial the business before the applicant decides to see if it is economical to establish a more permanent-style business within the Shire.

In considering these options, it is worth noting that there may be some impractical features of both alternative options. For instance:

- a) the Chicken Treat franchise may require significant external and internal fittings to the existing building to comply with presentation standards; and
- b) The applicant is not in the business of establishing a permanent shop front business but is set up to provide van-based fast food.

Policy/Statutory/Voting Implications

Policy

Local Planning Policy 9.17 Industrial and Commercial Development Control provide guidelines and standards that development is required to satisfy.

Statutory

Local Planning Scheme No.7 includes planning controls and standards applicable to Commercial zoned land.

Voting

Simple Majority

Financial Implications

N/A

Strategic Implications

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

- Outcome 1.5 – Our rural lifestyle is maintained.
- Outcome 2.8 – Our town sites are attractive, well presented and maintained.
- Outcome 3.8 – Maintain a safe and friendly community environment
- Outcome 3.9 – Existing community spirit and pride is maintained
- Outcome 3.11 – Attract and retain young families.

In the interest of encouraging new businesses to town, Cr Crowley proposed, and Cr Dilley agreed for point three to be added to the resolution.

Council Decision

(Officer's Recommended Resolution)

Moved: Cr Dilley

Seconded: Cr Crowley

That Council:

- 1) Refuse to grant planning approval for the location of mobile fast food business to be located at Lot 56 (59) South Western Highway, Donnybrook on the grounds that:**
 - a) The proposed building is out of harmony with existing buildings in the locality by virtue of the design and appearance, height, bulk and massing;**
 - b) The proposed building is contrary to the intent of Local Planning Policy 9.17 which does not support “transportable” buildings in the Commercial zone which are visible from the public realm.**

- c) **Approval will create an undesirable precedent for similar standards of development to occur in the Donnybrook townsite to the detriment of the local character and streetscapes.**
- 2) **Advise the applicant that there is a right of review under the provisions of Part 14 of the Planning and Development Act 2005 and that 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; and**
- 3) **The applicant being advised that the CEO will engage in further discussion to identify alternative opportunities.**

Carried 8/0

11.5 Chief Executive Officer

11.5.1	SUBJECT:	2015/16 ANNUAL REPORT
	Location:	Shire of Donnybrook Balingup
	Applicants:	Shire of Donnybrook Balingup
	Zone:	N/A
	File Ref:	FNC10/4
	Author:	Ben Rose - CEO (<i>Lucy Bourne – Governance Officer</i>)
	Report Date:	1 December 2016
	Attachments:	11.5.1 – Annual Report

Background

Council's Annual Report provides an overview of the operations of Council for the 2015/16 Financial Year.

Comment

The content of the report includes all statutory requirements, including the financial audit report, a condensed version of the financial report and information as to how Council has addressed its strategic objectives for the year under review. It also contains an overview of the Strategic Community Plan and Corporate Business Plan, major initiatives to commence or continue in the next financial year and progress towards the achievement of community outcomes established through the Strategic Community Plan. This meets (and exceeds to an intermediate or advanced standard) the Integrated Planning and Reporting requirements.

Once again, the report is shorter than annual reports were prior to 2012/13, and the format is more colourful. The reduction in pages has been achieved, in part, by providing a condensed version of the Annual Financial Report – a common practice among local governments. A complete copy of the Annual Financial Report will be made available to anyone requesting it. This is clearly stated in the Annual Report.

As with the past two years' reports, the savings achieved in paper (about 6 reams), photocopying costs and time have meant the report can be professionally printed within budget. Photographs, design and layout have all been done in-house.

The Annual Report will be presented to the Annual Elector's Meeting to be held at the Donnybrook Community Library on Wednesday 21 December 2016, commencing at 7.30pm.

Consultation

A Local Public Notice will be published in the Donnybrook-Bridgetown Mail on 6 and 13 December, and on notice boards, advising the public of the availability of the Annual Report and the date for the Annual Electors' Meeting.

Policy/Statutory/Voting Implications

The Annual Report includes all matters prescribed under the *Local Government Act 1995*. An Absolute Majority is required as per section 5.54 of the *Local Government Act 1995*.

Financial Implications

N/A

Strategic Implications

Outcome 4.3 An open and accountable local government that is respected, professional and trusted.

Council Decision

(Officer's Recommended Resolution)

Moved: Cr Bailey

Seconded: Cr King

That the Annual Report for the year ending 30 June 2016 be adopted and made available for inspection by the public.

**Carried 8/0
By Absolute Majority**

11.5.2	SUBJECT:	COUNCIL COMMITTEE – PROPOSED DONNYBROOK-BALINGUP HEALTH, AGED CARE AND HOUSING COMMITTEE
	Location:	Shire of Donnybrook Balingup
	Applicants:	N/A
	Zone:	N/A
	File Ref:	CNL 28
	Author:	Ben Rose – Chief Executive Officer (<i>Jeffery Shelley - Facility Manager</i>)
	Report Date:	9 November 2016

Attachments: 11.5.2 – Draft Terms of Reference

Background

The proposal to establish a 'Donnybrook-Balingup Health, Aged Care and Housing Committee' was first raised at the May 2016 Ordinary Meeting. The matter lay on the table at this meeting. Council requested a workshop on this proposal be conducted to further develop the scope. The workshop was held on Thursday, 1 December 2016.

The Australian Bureau of Statistics indicates that Donnybrook-Balingup's portion of aged population (55 years and over) is estimated at 34.8% (as at 30 June 2013). 16.7 % of this population are comprised of Baby Boomers that are in the age group approaching retirement and 18.1% are of retirement age. As the population ages more thought and planning needs to be given to ensure the proper services and facilities are available within the Shire to cater for this demographic.

Comment

A Committee comprised of people with diverse experience and a common interest in planning and developing the Shire's aged and health care services would assist Council in making sure the current and future decisions support the Shire's aging population.

If approval is given for the formation of this Committee draft Terms of Reference would be as follows:

To provide a forum to identify and discuss issues, and provide advice to Council on current, emerging, and future requirements regarding:

- Hospital and Allied Health Services: to identify issues which impact on the health care of the Shire's senior population;
- Aged housing requirements: including residential, well-aged, and frail aged housing to maintain sustainability and support future growth; and
- Reflect and support best practice opportunities for Tuia Lodge in all service areas.

Consultation

Consultation for members on the Committee would be required.

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 three or more persons to assist the Council in exercising its powers and discharging its duties, absolute majority is required to establish a committee.

Voting Implications

Absolute majority required.

Financial Implications

There will be an administrative cost to Council as formal agendas and minutes for the proposed Donnybrook-Balingup Health, Aged Care and Housing Committee will need to be prepared and staff will be required to attend meetings.

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.

Council Decision

(Officer’s Recommended Resolution)

Moved: Cr Mitchell

Seconded: Cr Tan

- 1) That approval be granted to form a “Donnybrook-Balingup Health, Aged Care and Housing Advisory Committee”.
- 2) That the attached Terms of Reference for the Donnybrook-Balingup Health, Aged Care and Housing Advisory Committee be endorsed by Council.
- 3) That Council instructs the Chief Executive Officer to seek nominations for the community member positions on the committee, as per Shire Policy 1.15.

**Carried 8/0
By Absolute Majority**

11.5.3	SUBJECT:	COUNCIL MEETINGS – 2017 CALENDAR YEAR
	Location:	Shire of Donnybrook Balingup
	Applicants:	Administration
	Zone:	N/A
	File Ref:	CNL 16
	Author:	Ben Rose – Chief Executive Officer (Kate O’Keeffe, Executive Assistant)

Report Date: 9 November 2016
Attachments: N/A

Background

Council currently conducts one ordinary meeting on the 4th Wednesday of each month commencing at 5.00pm, a process which was adopted on 19th December 2008.

Council also conducts regular forum sessions to keep Councillors abreast of current issues and to allow for informal discussion on matters of interest to Council.

Comment

To allow for Councillors and Officers to be able to take extended leave if required over December/January it is proposed that no Ordinary Council meeting be held in January 2017.

To cater for the Christmas holiday break and reduce the number of weeks between the December 2016 and February 2017 meeting it is proposed to:

- Bring the February meeting forward to the second Wednesday, being 8 February 2017; and
- Bring the December meeting forward to the third Wednesday, being 20 December 2017.

During 2016, the April meeting was held in Kirup and the October meeting was held in Balingup. Both meetings were well attended and it is proposed that this pattern continue.

Below are the suggested dates for the Ordinary Council Meetings for 2017. The September and December meetings fall within the school holidays.

Proposed Ordinary Council Meeting Dates:

1. Wednesday 8 February 2017 (2nd Wednesday)
2. Wednesday 22 March 2017
3. Wednesday 26 April 2017 (in Kirup)
4. Wednesday 24 May 2017
5. Wednesday 28 June 2017
6. Wednesday 26 July 2017
7. Wednesday 23 August 2017
8. Wednesday 27 September 2017
9. Wednesday 25 October 2017 (in Balingup)
10. Wednesday 22 November 2017
11. Wednesday 20 December 2017 (3rd Wednesday)

Councillor workshops would be held on an as required basis, initiated by either Councillors or staff. Councillor's attendance at these workshops would be optional and the duration of the workshops would be less than two hours.

Consultation

N/A

Policy/Statutory/Voting Implications

Statutory

The Local Government Act, section 5.3 (2) provides:

“Ordinary meetings are to be held not more than three months apart”.

Voting

Simple Majority

Financial Implications

N/A

Strategic Implications

There will be no strategic implications, as Council will still conduct eleven Ordinary Meetings in 2016.

Council Decision

(Officer’s Recommended Resolution)

Moved: Cr Bailey

Seconded: Cr Tan

1) That the following dates for Ordinary Council meetings for 2017 be adopted:

Wednesday, 8 February 2017 (2nd Wednesday)

Wednesday, 22 March 2017

Wednesday, 26 April 2017 (in Kirup)

Wednesday, 24 May 2017

Wednesday, 28 June 2017

Wednesday, 26 July 2017

Wednesday, 23 August 2017

Wednesday, 27 September 2017

Wednesday, 25 October 2017 (in Balingup)

Wednesday, 22 November 2017

Wednesday, 20 December 2017 (3rd Wednesday)

2) That monthly Council Meetings be held on the fourth Wednesday of each month with the exception of the February meeting which will be held on the second week of the month commencing at 5.00pm, and the December meeting which will be held on the third Wednesday of the month commencing at 5.00pm.

3) That Council hold one meeting in Kirup on 26 April 2017, and one meeting in Balingup on 25 October 2017.

Carried 8/0

11.5.4	SUBJECT:	STANDING ORDERS (MEETING PROCEDURES) LOCAL LAW
	Location:	SHIRE OF DONNYBROOK BALINGUP
	Applicants:	SHIRE OF DONNYBROOK BALINGUP
	Zone:	N/A
	File Ref:	CNL25
	Author:	Ben Rose, CEO (<i>Lucy Bourne – Governance Officer</i>)
	Report Date:	6 December 2016
	Attachments:	11.5.4 - Draft Meeting Procedures Local Law

Background

Council is required to review local laws every 8 years. Among the local laws reviewed during 2016 was the Standing Orders Local Law. Council's intention to review this local law was advertised both state-wide and locally in May 2016, with submissions invited over a six week period. None was received.

In June 2016, Council resolved to proceed with the review based introducing a new Standing Orders Local Law based on the WA Local Government Association (WALGA) model.

Comment

This process of reviewing this local law began in 2015. There was considerable discussion, including a Councillor workshop in March 2016, about whether to amend the existing *Standing Orders Local Law*, adopt a new local law based on the WALGA model, or do nothing. In June 2016, Council resolved to introduce a new local law based on the WALGA model.

In November 2016, the WALGA Manager of Governance, James McGovern presented a workshop for Councillors on aspects of the model local law, which is contemporary, tested and accords with training on meeting procedure provided for Councillors. The workshop highlighted some inconsistencies and gaps in the current Standing Orders Local Law and validated Council's decision to proceed with the WALGA template.

The new local law may be called the 'Standing Orders' Local Law, 'Meeting Procedures' Local Law, or 'Local Government (Council Meetings) Local Law'. It is recommended that the new local law be referred to as the *Shire of Donnybrook-Balingup Meeting Procedures Local Law* to avoid confusion with the previous local law and because it describes the law's function in simple, plain English.

To comply with the Act it is also recommended that Council adopt the following process:

- 1) At this council meeting the presiding person is to give notice to the meeting of the purpose and effect of the proposed local law on the prescribed manner.
- 2) State wide and local public notice will then be given inviting submissions on the proposed local law for a period not less than 6 weeks.
- 3) Copies of proposed local law and public notice will be sent to the Minister for Local Government.
- 4) After the last day for submissions, the local government is to consider any submissions made and may make the local law as proposed or make a local law that is not significantly different from what was proposed (*absolute majority required*).
- 5) After making the local law, council is to publish it in the Gazette and give a copy to the Minister.
- 6) State-wide public notice to be provided:
 - stating the title of the local law adopted;
 - summarising the purpose and effect of the local law
 - advising that copies of the local law may be inspected or obtained from the local government's office.

Consultation

WALGA.

Policy/Statutory Implications

Local Government Act 1995 Section 3.16.

Financial Implications

N/A

Strategic Implications

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

Council Decision

(Officer's Recommended Resolution)

Moved: Cr Van Der Heide

Seconded: Cr Tan

That Council:

- 1) **In accordance with Section 3.12 of the *Local Government Act 1995*, give state-wide public notice for a period of not less than six (6) weeks that it proposes to introduce the *Shire of Donnybrook-Balingup Meeting Procedures Local Law*, which will repeal and replace the *Shire of Donnybrook-Balingup Standing Orders Local Law 1999*;**
- 2) **Advises that the purpose of the *Shire of Donnybrook-Balingup Meeting Procedures Local Law* is to set out the procedures that apply to Council and**

Committee meetings and to supplement the requirements of the *Local Government Act 1995* relating to meetings; and

- 3) Advises that the effect of the *Shire of Donnybrook-Balingup Meeting Procedures Local Law* is to bring order and dignity to meetings and underpin the decision-making processes of Council.**

Carried 8/0

11.6 Recall Items

Nil

11.7 Confidential Items

Nil

12 CLOSURE OF MEETING

The Chairperson advised that the next Ordinary Council Meeting will be held on Wednesday, 8 February 2017 commencing at 5.00pm at the Seniors Room, Donnybrook Community Library, Emerald Street, Donnybrook.

The Chairperson declared the meeting closed at 7.05 pm.

These Minutes were confirmed by the Council as a true and accurate record at the Ordinary Council Meeting held on 8 February 2017.

Shire President		Presiding Member