



# Ordinary Council Meeting Agenda

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To all Councillors

To be held on Wednesday, 24 May 2017

Commencing at 5.00pm

In the Seniors' Room, Donnybrook Community Library

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**Benjamin (Ben) Rose**  
Chief Executive Officer

**19 May 2017**

## **Disclaimer**

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

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## ORDINARY COUNCIL MEETING AGENDA

24 May 2017

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# SHIRE OF DONNYBROOK BALINGUP

## ORDINARY COUNCIL MEETING AGENDA

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To be held in the Seniors' Room, Donnybrook Community Library  
Wednesday, 24 May 2017 commencing at 5.00pm

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### MEMBERS PRESENT

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#### COUNCILLORS

Cr Logiudice  
Cr Bailey  
Cr Crowley  
Cr Dilley  
Cr King  
Cr Mills  
Cr Mitchell  
Cr Tan  
Cr Van Der Heide

#### STAFF

B Rose – Chief Executive Officer  
G Harris – Manager Finance and Administration  
D Morgan – Manager Works and Services  
L Guthridge – Manager Development and Environmental Services  
B Wallin – Principal Planner

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### PUBLIC GALLERY

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#### 1 APOLOGIES

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#### 2 PUBLIC QUESTION TIME

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#### 3 APPLICATION FOR LEAVE OF ABSENCE

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#### 4 DECLARATION OF FINANCIAL / IMPARTIALITY INTEREST

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Division 6: Sub-Division 1 of the *Local Government Act 1995*. Care should be taken by all Councillors to ensure that a financial/impartiality interest is declared and that they refrain from voting on any matter, which is considered to come within the ambit of the Act.

Cr Dawn Tan declared an Interest Affecting Impartiality for item 11.1.1 - 2017/18 Community Grants Scheme as she is a member of the Community Resource Centre (Preston Press)

Cr King declared an Interest Affecting Impartiality for item 11.1.1 - 2017/18 Community Grants Scheme as he is a member of the Balingup District Tourism Association and Balingup Historical Group.

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## 5 PETITIONS / DEPUTATIONS / PRESENTATIONS

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Mr Giles Perryman, Consultant from ASK Waste Management, will provide a summary of the findings from the Economic Review – Waste Facility Future Options report (Agenda Item 11.3.1).

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## 6 PRESIDENT'S COMMUNICATIONS

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<b>Date</b>	<b>Meeting</b>	<b>Report</b>
1 May 2017	Meeting with CEO	Communications Meeting
8 May 2017	Meeting with CEO	Communications Meeting
8 May 2017	Meeting with CEO and Anissa Williams Tourism and Marketing Development Manager	Discuss Donnybrook Balingup Tourism opportunities / Bunbury Geographe Tourism Partnership.
11 May 2017	Official Opening of Mungalup Road	Onsite opening of Mungalup Road
12 May 2017	Meeting with CEO and Steven Cole, Consultant for Australian Institute of Company of Directors	Governance Review Debrief via Conference Call
16 May 2017	Meeting with CEO	Communications Meeting
18 May 2017	BWEA	May 2017 Meeting
19 May 2017	Meeting with Nola Marino and Mathias Corman, Federal Minister for Finance	Federal Budget Briefing

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## 7 LATE ITEMS

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Nil

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**8 CONFIRMATION OF MINUTES**

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**8.1 Ordinary Meetings of Council**

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**Council Decision**

**Moved: Cr**

**Seconded: Cr**

**That the Minutes of the Ordinary Meeting of Council held on 26 April 2017 be confirmed as a true and accurate record.**

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**9 ELECTED MEMBER'S MOTIONS**

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Nil

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**10 MINUTES OF PREVIOUS MEETINGS**

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**10.1 Committee Minutes**

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**Council Decision**

**Moved: Cr**

**Seconded: Cr**

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

- **Community Awards and Grants Committee Meeting – 10 May 2017**
  - **Preston Village Project Management Team Meeting – 11 May 2017**
  - **Waste Management Committee Meeting – 17 May 2017**
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**11 REPORTS OF COMMITTEES**

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**11.1 Community Awards and Grants Committee**

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Cr Dawn Tan declared an Interest Affecting Impartiality for item 11.1.1 - 2017/18 Community Grants Scheme as she is a member of the Community Resource Centre (Preston Press)

Cr King declared an Interest Affecting Impartiality for item 11.1.1 - 2017/18 Community Grants Scheme as he is a member of the Balingup District Tourism Association and Balingup Historical Group.

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<b>11.1.1</b>	<b>2017/18 COMMUNITY GRANTS SCHEME</b>
<b>Location:</b>	<b>Shire of Donnybrook Balingup</b>
<b>Applicants:</b>	<b>Various</b>
<b>Zone:</b>	<b>N/A</b>
<b>File Ref:</b>	<b>FNC 08/6</b>
<b>Author:</b>	<b>Ben Rose – Chief Executive Officer (<i>Deb Vanallen – Community Development Team Leader</i>)</b>
<b>Report Date:</b>	<b>1 May 2017</b>
<b>Attachments:</b>	<b>11.1.1 (1) Summary of Applications 2017/18 11.1.1 (2) Community Grant Funding Scheme Information Kit – Guidelines 11.1.1 (3) Assessment Forms 11.1.1 (4) Summary of Previous Community Grants</b>

### **Background**

The Shire’s Community Grants Funding Scheme was adopted by Council at the Ordinary Meeting on 23 March 2016. The aim in adopting a new set of guidelines was to eliminate inconsistencies which were identified in the previous policy, while ensuring a more all-encompassing policy/scheme which better serves the needs of the community.

The Community Grants Funding Scheme welcomes submissions from individuals, *community groups, not-for-profit and commercial organisations that are seeking support for projects, activities and events that address identified community needs.*

Full details of the Community Grants Funding Scheme are outlined in the Information Kit and Guidelines at Attachment 5.1.1(2). This document includes details of eligibility, ineligibility, how to apply and the assessment criteria which will be used. Application forms are also available for each funding category.

The new Community Grant Funding Scheme differs in a number of areas to the previous Community Grants Policy/Guidelines. Of significance is the timing/closing date for applications.

Under the new Community Grant Funding Scheme, applicants for Minor Community Grants, Minor Event Sponsorship, Waiver of Fees, Donations and KidSport can apply at any time throughout the year. These applications, up to a maximum of \$500, are now assessed internally throughout the year and approved/not approved by the Chief Executive Officer under delegated authority. This has enabled the Shire to be more responsive to requests for minor applications for funding assistance and aids in simplifying and streamlining the assessment process.

Requests for funding for Major Community Grants and Major Event Sponsorship Funding required applicants to apply as part of an annual funding round. This year's funding round opened in early March, 2017 and closed on 28 April, 2017. A number of groups requested an extension and applications were accepted up until 4.30pm on 1 May, 2017. The Grant Funding Information Kit, Guidelines and Application forms have been available for collection and download from the Shire's website and Shire officers have met with numerous groups to discuss projects.

### **Comment**

Several applications were received for Minor Community Grants, Minor Event Sponsorship, Waiver of Fees, Donations and KidSport. These will be assessed internally and approved / not approved by the Chief Executive Officer under delegated authority.

Applications are to be reviewed by the Community Grants and Awards Committee against the relevant Assessment Sheet (Attachment 5.1.1(3)). Officers have presented recommendations to the Committee within Attachment 5.1.1(1), to assist the Committee's decision making.

A total of ten Major Community Grants and Major Event Sponsorship Funding applications have been received for consideration in the 2017/2018 Budget. These consist of:

- Six applications for the Major Community Grants, totalling \$9,645.00.
- Four applications for the Major Event Sponsorship, totalling \$8,000.00.
- Recurrent funding applications.

An overview of the applications received is provided in Attachment 5.1.1(1). To date, three applications have been received for recurrent funding. It is anticipated that further recurrent funding applications will be received before the end of the financial year. These applications will be submitted to Council as part of the annual budget review process.

### **Consultation**

No external consultation is required for the recommendation-making process of the Committee.

### **Policy**

Shire of Donnybrook Balingup Community Grants Scheme Guidelines.

### **Statutory**

N/A

### **Voting Implications**

Simple majority.



### **Financial Implications**

- \$7,500 is allocated each year in the Major Community Grants pool
- \$7,500 is allocated each year in the Major Event Sponsorship pool
- \$3,000 is allocated each year in the Minor Community Grants pool
- \$3,000 is allocated each year in the Minor Event Sponsorship pool
- \$2,000 is allocated each year in Cash Donations
- \$2,000 is allocated each year in Non-cash donations and waiver of fees
- \$10,000 is available through the KidSport funding program

These are indicative figures only and are subject to variation by Council during Budget deliberations. Council may also consider incorporating a CPI increase in funds available to Community Grants.

### **Strategic Implications**

- Outcome 2 - The welfare needs of the community are met; and
- Outcome 9 - Community participation in recreation, leisure and cultural activities.

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

**Moved: Cr**

**Seconded: Cr**

**That the Community Grants Committee prioritises the applications received for the Community Grants Funding Scheme in accordance with Attachment 5.1.1(1) and submits these recommendations to Council for consideration for endorsement in the 2017/2018 financial year Budget.**

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**11.2 Preston Village Project Management Team**

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<b>11.2.1</b>	<b>UNIT 4 PRESTON RETIREMENT VILLAGE</b>
<b>Location:</b>	<b>152 Sharp Street, Donnybrook</b>
<b>Applicants:</b>	<b>Shire of Donnybrook Balingup</b>
<b>Zone:</b>	<b>Special Use Aged Person Accommodation</b>
<b>File Ref:</b>	<b>CSV 01/9</b>
<b>Author:</b>	<b>Ben Rose – Chief Executive Officer (Kate O’Keeffe - Executive Officer)</b>
<b>Report Date:</b>	<b>2 May 2017</b>
<b>Attachment</b>	<b>11.2.1 – Property Valuation Report for Unit 4 Preston Retirement Village</b>

**Background**

Unit 4 Preston Retirement Village has recently become vacant and is in the process of having minor refurbishments conducted in preparation for marketing. The unit comprises a 2008 built, two bedroom, one bathroom, brick and colorbond retirement villa with a single car garage located in the Preston Retirement Village. Mrs Morgan originally leased the unit as a new build in August 2008 for \$310,000.

**Comment**

Historically, Council have focussed on seeking a lease price that is both competitive with the market and a reflection or increase of previous unit leases to ensure the units maintain a good financial position. Below is a list of recent unit lease amounts at Preston Village:

- Unit 8 (built 2008) - \$308,000 – Settled 31 March 2017
- Unit 13 (built 2015) - \$312,000 – Settled 29 September 2016
- Unit 12 (built 2015) - \$315,000 - Settled 3 December 2015
- Unit 8 (built 2008) - \$305,000 - Settled 28 November 2014
- Unit 2 (built 2008) - \$285,000 - Settled 13 December 2013
- Unit 9 (built 2008) - \$285,000 - Settled 26 September 2013
- Unit 7 (built 2008) - \$285,000 - Settled 12 March 2013

The most recent leases within Preston Village have varied between \$308,000 and \$315,000. All units within the complex are of a similar size, layout and quality.

A property valuation for Unit 4 Preston Retirement Village was recently conducted by LMW South West. The Property Valuer considers the unit has a value range of \$305,000 to \$315,000 and has recommended the property be marketed at the mid-point value range of \$310,000. The Executor of Mrs Morgan’s Estate has agreed with this recommendation.

As Mrs Morgan was the first lessee to occupy Unit 4, there is no “value growth” sum incorporated into the original lease figure. Therefore, the original lease fee of \$310,000 represents the figure that is owed by the Council to the outgoing lessee, less accrued expenses relating to Amenities Fees, Reserve contributions and any outstanding operating costs.

Under the terms and conditions of the lease contract, Council has a period of up to three years, from the date that the lease ceased, to refund the amount owed to the outgoing lessee (i.e. the \$310,000 less accrued fees). However, once the property is re-leased, the proceeds from the lease, less fees accrued, will pass to the previous lessee. In the event that Council is unable to secure a new lessee at the original price of \$310,000 then the following options are available:

- 1) Continue to market the property until an offer of at least \$310,000 is received.
- 2) If an offer is received at less than \$310,000 Council may negotiate with the outgoing lessee’s Executors to obtain a loan forgiveness of the shortfall between the offer and the original lease of \$310,000.
- 3) Council could chose to accept a loss in order to ensure that the property continues to be occupied.

Given that the property valuation indicates that the property value is in the order of \$310,000 and that recent leases have been executed at a very similar figure, it is recommended that the unit be marketed at a minimum of \$310,000 and that Council remain firm on its price in order to maintain the value of the units within the complex. It is suggested that a starting price of \$315,000 would be appropriate. This will also ensure that the Estate of Mrs Morgan receives a fair return on her investment in the property.

Any agents fees incurred in the marketing of the property are payable by the outgoing lessee and the Shire has the option to market or not to market the property. Specific conditions apply within the contract in regard to these options.

### **Consultation**

LMW South West has provided a market valuation for the Project Team’s and Council’s consideration.

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

#### Policy

N/A

#### Statutory

*Retirement Villages Code Regulations 2015*

#### Voting

Simple Majority

### **Financial Implications**

Re-leasing of the property will enable accrued Amenities Fees and Reserve contributions to be realised in cash. These funds are usually transferred to Council's Aged Housing Reserve.

Marketing of the property with a firm price of at least \$310,000 and up to \$315,000 will ensure that neither the Estate of Mrs Morgan or the Shire will forego any funds as a result of the re-lease of the property.

### **Strategic Implications**

- Outcome 3.1 - Improve and increase the range of aged care and disability services, facilities and housing.
- Outcome 3.1.4 - Continue to manage well-aged facilities and assess opportunities for additional units.

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

**Moved: Cr**

**Seconded: Cr**

**That the Preston Village Project Management Team recommend to Council that Unit 4 Preston Retirement Village be marketed for lease with an asking price of \$315,000.**

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**11.3 Waste Management Committee Meeting**

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**11.3.1 ECONOMIC REVIEW: DONNYBROOK WASTE MANAGEMENT FACILITY – FUTURE OPTIONS**

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<b>Location:</b>	<b>Goodwood Road Donnybrook</b>
<b>Applicants:</b>	<b>Shire of Donnybrook Balingup</b>
<b>Zone:</b>	<b>State Forest</b>
<b>File Ref:</b>	<b>HLT 09/2</b>
<b>Author:</b>	<b>Leigh Guthridge – Manager Development and Environmental Services (Jeff Somes – Principal Environmental Health Officer)</b>
<b>Report Date:</b>	<b>4 May 2017</b>
<b>Attachment:</b>	<b>11.3.1 - ASK Waste Management – Economic Review - Waste Facility Future Options</b>

The purpose of this report is to:

1. Present the recommendations from the ASK Waste Management - *Economic Review - Waste Facility Future Options* (the Report) for options for the Shire for future waste management services, including disposal of waste received at the Donnybrook Waste Management Facility (DWMF).
2. Present a timeline for the implementation of the recommendations contained within the economic review.

**Background**

The Shire operates the DWMF situated at Goodwood Rd, Donnybrook as its landfill for waste generated within the Shire.

The DWMF receives a combination of municipal solid waste through:

- Public drop off;
- Municipal kerbside collection; and
- Commercial and demolition waste.

In the past 12 months it is estimated that 5,300 tonnes of waste was landfilled at the DWMF. The current working area of the landfill site is nearing capacity. Recent waste disposal improvements that have extended the longevity of the existing landfill area include:

- Introducing the organics bins service to 1,250 properties within the Shire and thereby diverting approximately 800 tonnes of organic waste per annum; and
- The use of a waste compactor vehicle at the DWMF to improve compaction of waste within the landfill area.

Based upon the final gradients, as stipulated in the facility's Landfill Closure Management Plan, it is estimated that there is approximately 1-2 years of void space remaining.

The Shire has obtained a conditional Works Approval from the Department of Environment and Regulation (DER) to construct an additional landfill cell on the adjoining cleared land. The volume of land filling capacity within the proposed 'new cell' is 72,500m<sup>3</sup>, with an anticipated life of 7 years.

The DER concluded, based upon the information provided in the Works Approval application, that the design of the new landfill area may present an unacceptable level of risk to groundwater unless engineering controls are imposed to mitigate that risk in line with Best Practice Environmental Management (BPEM) Guidelines.

Some of the regulatory controls imposed by the DER in the Works Approval include:

- A reduction in the size of the extension area by approximately 50% to reduce the risk of the landfill extending into the contact point of the Leederville aquifer.
- The installation of a geo-synthetic liner.
- The installation of two additional ground water monitoring bores.
- The base of the landfill cell graded to an impervious sump for leachate collection. The sump will be required to have a capacity to store leachates generated during a one-off extreme rainfall event (1 in 10yr, 72 hour events).
- Installation of an additional leachate monitoring and extraction bore to pump leachate to an impermeable (lined) leachate lagoon (Note: the physical constraints of the site mean that there is not available area to locate a suitably sized leachate lagoon).

Based on the anticipated capital, operational and whole of life costs of extending the landfill footprint (to meet environmental standards via the proposed engineering controls) it was prudent for the Shire to evaluate the costs of all options associated with disposing of waste before committing to the capital works of installing a new cell.

### **Comment**

ASK Waste Management was commissioned to undertake an economic review of the Shire's future waste disposal options and associated waste services. The Report details:

- Current waste management practices;
- Future disposal options available to the Shire;
- Conceptualised design criteria for landfill and transfer station options;
- Model inputs;
- Financial results;
- Social, economic and political assessment;
- Evaluation of outcomes; and
- Future funding options.

The Options for waste disposal examined include:

- Option 1a: DWMF extension Phase 1 – construction of the first of two landfill cells;
- Option 1b: DWMF extension Phase 2 – construction of both landfill cells;

- **Option 2a:** Construct a transfer station and dispose of waste at the Bunbury Harvey Regional Council (BHRC) landfill site as a customer;
- **Option 2b:** Construction of a transfer station and disposal of waste at the BHRC landfill site as a member Council; or
- **Option 2c:** Construction of a transfer station and disposal of waste at Banksia Road Dardanup (owned by Cleanaway) as a customer.

Based upon the modelling undertaken, ASK prepared total annualised costs for each scenario based upon operating the current standard of waste services in combination with the various options to enable comparisons to be undertaken.

The annualised cost and expected operational life, where applicable, of these options are summarised below:

<b>Option</b>	<b>Projected Annual Cost</b>	<b>Operational life based upon current volumes</b>
Current Costs – landfilling of the existing landfilling area to its maximum height and gradients	\$1,086,000	1 - 2 years
Option 1a: DWMF extension Phase 1	\$1,260,000	9 years
Option 1b: DWMF extension Phase 2	\$1,200,000	24 years
Option 2a: Transfer station and disposal of waste at the BHRC landfill site as a customer	\$1,210,000	N/A
Option 2b: Transfer station and disposal of waste at the BHRC landfill site as a member Council	\$1,180,000	N/A
Option 2c: Transfer station and disposal of waste at Banksia Road Dardanup (Cleanaway) as a customer	\$1,170,000	N/A

The Report and financial modelling recommends that when the existing landfill footprint reaches capacity that the Shire select option 2c, (transfer station and transport of waste to *Cleanaway*) as the preferred long term disposal option for the Shire based on whole of life costing and associated risks of developing a new cell that meets BPEM Guidelines.

It is noted that the costs of landfill disposal and transport that are incorporated into the financial modelling are based on advice that landfill owners/managers provided to ASK Waste Management at the time of compiling the Report. If the Shire accepts the recommendation to transfer waste to an alternative site it will need to test these prices through a tender process.

This option will increase the current waste management expenditure by approximately \$84,000 per annum.

#### Other Waste Management Issues – Fees and Services

Additional recommendations from the Report relating to fees, charges and services were provided with the view of increasing revenue and potentially reducing costs. These recommendations include:

Recommendation	Comment
<p>Limit tip passes to 52 x 240L tokens for residents with no kerbside collection service and introduce two bulk waste passes for all residents.</p>	<p>The current tip pass systems offers almost unlimited 'free' waste disposal to land owners who receive a tip pass. A limit of 52 x 240L passes will restrict the quantities of general household waste from homes without a kerbside service to the equivalent of a home with the kerbside service. The restrictions on volume will provide incentive to residents without a bin service to separate their recyclables.</p> <p>The introduction of a bulk pass system will enable residents to dispose of a reasonable volume of household junk each year for free. Each pass would equate to a 6 x 4 trailer or its equivalent.</p>
<p>Increase commercial gate fees by 40%, however, if tip pass changes impact on commercial waste revenue as expected only a 20% increase would be required.</p>	<p>The gate fees for commercial waste are currently below cost neutral, meaning commercial waste disposal is being subsidised by domestic ratepayers.</p>
<p>Increase the fee for the Shire's kerbside commercial waste service (240L MGB) by a minimum of \$40</p>	<p>The current commercial bin charge does not cover the full cost of collection and disposal. A \$40.00 increase per commercial bin is required to achieve cost neutral.</p> <p>The new price point should encourage commercial operators to increase their uptake of the recyclable and organic bin services.</p>
<p>Undertake a review of the operation of both the Donnybrook Waster Management Facility and the Balingup Transfer Station</p>	<p>This recommendation requires further investigation.</p>
<p>Review the opening hours of the Balingup Transfer Station</p>	<p>Balingup Transfer Stations is open for a total of 18 hours over 4 days each week. On average just 10 tonnes of waste material is received each week at the BS. There is scope to reduce the opening hours given the low volume of waste accepted.</p>
<p>Review the options of providing a kerbside collection for the whole Shire compared to the provision of the current drop-off services</p>	<p>This option would be problematic given the remoteness of many dwellings and the lack of suitable access for the waste vehicles.</p> <p>There is scope to further roll out the organics bin service to those residents within</p>



Recommendation	Comment
	rural/residential areas. The organics bin service will divert more waste from landfill stream. Such a service would provide residents an alternative means to reduce fuel loads around their homes during the summer period when burning is prohibited.
Improve the transparency of the fee structure for domestic services between kerbside collection and Waste Management Levy	The current kerbside collection fee covers the collection cost only and does not include the cost of the wastes' disposal. It is recommended that a single fee be developed covering the total cost (collection and disposal) which is separate to the Waste Management Levy which should fund the cost of operating the Shire's landfill and transfer station facilities.

### Regional Waste Facility

The Bunbury Wellington Group of Councils (BWGC) has been actively exploring the development of a Regional Waste Facility and in recent years and was successful in obtaining funding under the Council Local Government Fund – Regional Allocation to assist with the purchase of a site.

The planning for this is still in its infancy stage with feasibility for an appropriate site still progressing. It is expected that if a Regional Waste Facility is developed it will be many years before it will be available for use by local government. There is much more planning required addressing the political, regulatory, environmental and social requirements of developing a regional waste facility.

The potential delays in developing a Regional Waste Facility where the Shire may use the facility does not impact on the direction that the Shire takes now in transitioning from operating a landfill at the DWMF to transferring waste to an alternative landfill facility in the short to medium term. There are already sufficient approved land fill facilities in the Bunbury area that meet contemporary standards with capacity to take the Shires waste and offer competitive prices for disposal.

### Conclusion

Based upon the findings of the Report, ASK recommends that the Shire establish a transfer station at the DWMF once the existing landfill footprint reaches capacity and transport waste received at the DWMF to Cleanaway landfill facility at Banskia Road, Dardanup. However, the selection of which landfill facility will be determined by the cost of waste disposal and transport of waste after testing the market via a tender process.

It is proposed that moving in the direction of providing a transfer station at the DWMF be carried out in stages:

- From 1 July 2018, all putrescible waste collected via the kerbside collection service be directed away from the DWMF and the DWMF cease accepting commercial waste vehicles (i.e skip bins/tipper trucks) to prolong the capacity of the existing landfill area; and
- Develop the transfer station when the existing landfill space is exhausted at which time waste received from drop-off waste and municipal bin waste (Shire street bins) will be redirected off site.

The progressive transition will provide the Shire with the time to plan and budget to develop a modern transfer station facility to meet best practice and consult with the community.

It is also proposed that other recommendations relating to fees, charges and the level of service provided be adopted and implemented progressively as per the recommendation to this report.

### **Consultation**

Mr Tony Battersby – Chief Executive Officer of the Bunbury- Harvey Regional Council provided comment on the findings and recommendation of the report prepared by ASK Waste Management.

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

#### Policy

Shire of Donnybrook Balingup Environmental Health Policies: 6.6 - Balingup Waste Transfer Station

#### Statutory

*Environmental Protection Act 1986*

#### Voting

Simple majority

### **Financial Implications**

The cost of the Economic Review was \$25,300 (Ex – GST) and this project was budgeted and funded from the Donnybrook Waste Management Facility operations account.

### **Strategic Implications**

Outcome 2.2 – Efficient and effective waste management

Strategy 2.2.3 - Continue to provide waste management infrastructure to accommodate the waste management needs of the community.

## Officer's Recommended Resolution

**Moved: Cr**

**Seconded: Cr**

The Waste Management Committee recommend to Council that:

- 1) Council endorse the recommendations of the ASK Waste Management - Economic Review Waste Facility Future Options report dated March 2017.
- 2) When the existing landfill footprint reaches capacity that the Shire develop a transfer station and transport waste to an alternative landfill site as the preferred long term disposal option for the Shire of Donnybrook Balingup.
- 3) The Shire of Donnybrook Balingup seeks Tenders/Expression of Interest for an alternative landfill provider to provide a cost of waste disposal and transport of waste to their landfill facility.
- 4) Council implement the other recommendations relating to other waste services and fees as per the following time frames:

**From 1 July 2017:**

- Increase the commercial gate fee by up to 20%.
- Increase the general waste service charge (240L general waste bins) applied to commercial premises by a minimum of \$40.00 per bin to cover the actual incurred costs of waste disposal.
- Undertake a review of commercial premises to ensure that they are being levied for the correct number of bins.
- Consider implementation of the expansion (subject to obtaining funding through the Better Bins Program) of the organics bin service to residents in rural-residential areas from 1 July 2018.

**From 1 July 2018:**

- Refuse acceptance of waste from commercial vehicles at the Donnybrook Waste Management Facility including skip bins and tipper trucks.
- Amend the tip pass system for eligible residents to 52 x 240L tokens and four (4) bulk waste passes (6 x 4 trailer or the equivalent) for residents with no kerbside collection service and four (4) bulk waste passes for those with a kerbside collection service.
- Amend the fee structure for the kerbside charge and Waste Management Levy to reflect their respective costs of service addressing current cross subsidisation.
- Undertake a review of the Donnybrook Waste Management Facility and the Balingup Transfer Station to review the costs of contracting these services as compared to providing Shire staff for these services.
- Undertake a review the opening hours of the Balingup Transfer Station in view of providing a service which is more commensurate with its level of usage.

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

**Moved: Cr**

**Seconded: Cr**

**The Waste Management Committee recommend to Council that:**

- 1) Council endorse the recommendations of the ASK Waste Management - Economic Review Waste Facility Future Options report dated March 2017.**
- 2) When the existing landfill footprint reaches capacity, inclusive of the existing hardstand area, that the Shire develop a transfer station and transport waste to an alternative landfill site as the preferred long term disposal option for the Shire of Donnybrook Balingup.**
- 3) Council implement the other recommendations relating to other waste services and fees as per the following time frames:**

**From 1 July 2017:**

- Increase the commercial gate fee by up to 20%.**
- Increase the general waste service charge (240L general waste bins) applied to commercial premises by a minimum of \$40.00 per bin to cover the actual incurred costs of waste disposal.**
- Undertake a review of commercial premises to ensure that they are being levied for the correct number of bins.**
- Consider implementation of the expansion (subject to obtaining funding through the Better Bins Program) of the organics bin service to residents in rural-residential areas from 1 July 2018.**

**From 1 July 2018:**

- Refuse acceptance of commercial waste from outside the Shire of Donnybrook Balingup at the Donnybrook Waste Management Facility.**
  - Amend the tip pass system for eligible residents to 52 x 240L tokens and four (4) bulk waste passes (6 x 4 trailer or the equivalent) for residents with no kerbside collection service and four (4) bulk waste passes for those with a kerbside collection service.**
  - Amend the fee structure for the kerbside charge and Waste Management Levy to reflect their respective costs of service addressing current cross subsidisation.**
  - Undertake a review of the Donnybrook Waste Management Facility and the Balingup Transfer Station to review the costs of contracting these services as compared to providing Shire staff for these services.**
  - Undertake a review the opening hours of the Balingup Transfer Station in view of providing a service which is more commensurate with its level of usage.**
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**11.3.2 RECOMMENDATION TO THE BUNBURY WELLINGTON GROUP OF COUNCILS COUNTRY LOCAL GOVERNMENT FUNDING REGIONAL ALLOCATION**

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<b>Location:</b>	<b>Various</b>
<b>Applicants:</b>	<b>Shire of Donnybrook Balingup</b>
<b>Zone:</b>	<b>State Forest</b>
<b>File Ref:</b>	<b>HLT 09/2</b>
<b>Author:</b>	<b>Ben Rose – Chief Executive Officer</b>
<b>Report Date:</b>	<b>10 May 2017</b>
<b>Attachment:</b>	<b>11.3.2 – Confidential Discussion Paper</b>

**Background**

The Bunbury Wellington Group of Councils (BWGC) was formed in 1998 and consists of the following members:

- Shire of Capel
- Shire of Dardanup
- Shire of Collie
- Shire of Donnybrook-Balingup
- Shire of Harvey
- Shire of Boyup-Brook
- City of Bunbury

The group has been actively exploring the development of a Regional Waste Facility and in recent years, was successful in obtaining funding under the Council Local Government Fund – Regional Allocation to assist with the purchase of a site.

As an outcome of the decision of the Shire of Dardanup to go to public tender for the sale of the Banksia Road site, this is no longer an option to pursue.

There is a need to consider the implications in the longer term for the south west local governments in relation to waste management and the preferred approach to take to the next BWGC Meeting.

Detailed background regarding this project and options for submission to the next BWGC meeting are contained within the Confidential discussion paper (Attachment 7.1.2)

Contained with the South West Regional Blueprint is the following project:

**Sustainable energy supply** - Ensure there is access to sustainable, affordable energy supplies to support a growing region. The region is able to expand its economic and population base through the provision of adequate energy supplies and reliable distribution networks, and makes best possible use of renewable energy and provides an alternative source of fuel to coal as coal stocks deplete.

The South West has secure and sustainable energy supplies for a population of 500,000. All waste is recycled into energy production or alternative.

**Regional waste** - Build subregional waste facilities capable of recycling and managing waste to a forecast regional population of 500,000. All waste is recycled into energy production or alternative.

In order to progress the priorities outlined in the draft South West Regional Blueprint and to meet the short medium and long term requirements of local governments in the region and broader south west as it relates to waste management.

A Special Meeting of the BWGC will be convened in May and therefore, there is the requirement to have a preferred Council position that will be able to be presented to the meeting.

### **Comment**

The Bunbury Wellington Group of Councils (BWGC) has been actively exploring the development of a Regional Waste Facility and was successful in obtaining funding under the CLGF Regional Funding Round to assist with the purchase of a site.

As a member of the Bunbury Wellington Group of Councils, and given the work undertaken to date in relation to the development of a regional approach to waste management, it is considered appropriate for Council to consider and accept the preferred way forward.

As there are numerous matters within the attached paper and linkages to the priorities outlined in the draft South West Regional Blueprint there is a need for the group to consider how regional waste will be progressed.

In the event that the group of Councils is unsuccessful in continuing with a regional waste site, the short term implications will be the requirement to negotiate a commercial arrangement with a private provider or another local government. Whilst these costs can be met in the short to medium term, the lack of control over pricing in the longer term would be outside of the control of Council.

As the Group have secured funding via the CLGF this provides some scope for the group to consider alternative sites, however the deadline for this to occur is still relatively tight. As such, the group will need to consider how it wants to approach the funding and other associated matters.

## **Consultation**

This report serves to bring the matter to the attention of all elected members, prior to referral to the other local government in the BWGC and to provide some direction for the Mayor in representing the Council preferred position/direction.

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

### Voting

Simple majority

## **Financial Implications**

Funding for this project has been secured via the CLGF. BWGC are required to advise their decision by 31 May 2017 to avoid losing the funding allocation. The Grant funding is required to be spent by 31 December 2017 and any unspent funds refunded.

## **Strategic Implications**

Outcome 2.2 – Efficient and effective waste management

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

**Moved: Cr**

**Seconded: Cr**

- 1. That Council authorise the options proposed for the Country Local Government Funding Regional Allocation and South West Regional Waste Management Site to be submitted for consideration at the next Bunbury Wellington Group of Councils Meeting, with Option 1 being the preferred Council position, along with the two other recommendations contained in the report.**
  - 2. That in the event that there is no support for Option 1, the President be authorised to consider alternatives provided by the other Local Governments and support a position which will see a positive outcome for the Shire.**
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**12 REPORTS OF OFFICERS**

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***12.1 Manager Finance and Administration***

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**12.1.1 ACCOUNTS FOR PAYMENT**

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For information: The following accounts have been authorised and paid under Delegation 3.2 by the Chief Executive Officer represented by cheques CCP3235 - CCP3239, EFT11535–EFT11700a, 52508– 52556 DD21897 – DD21898, Trust 3477 - 3479, EFT11588A totalling \$1,295,841.85.

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**12.1.2 MONTHLY FINANCIAL REPORT**

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

**Moved: Cr**

**Seconded: Cr**

**That the monthly report for the period ended 31 March 2017 be received.**

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***12.2 Manager Works and Services***

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Nil

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***12.3 Manager Development and Environmental Services***

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Nil



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## **12.4 Principal Planner**

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<b>12.4.1</b>	<b>PROPOSED SALE OF LOT 20 SPENCER STREET, BALINGUP</b>
<b>Location:</b>	<b>Lot 20 Spencer Street, Balingup</b>
<b>Applicants:</b>	<b>Vintage Homes</b>
<b>Zone:</b>	<b>Residential R10</b>
<b>File Ref:</b>	<b>A439</b>
<b>Author:</b>	<b>Bob Wallin (Principal Planner)</b>
<b>Report Date:</b>	<b>28 March 2017</b>
<b>Attachments:</b>	<b>12.4.1(1) – Location Plan 12.4.1(2) – Property Valuation Report</b>

### **Background**

At its Ordinary Meeting on 21 December 2016 Council resolved to:

- “1) Obtain a land evaluation for Lot 20 Spencer Street, Balingup from a suitably qualified professional land valuator.
- 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.
- 3) Authorise the Chief Executive Officer to undertake such tasks necessary to implement items 1 and 2 above and report back to Council.”

The proposal has been advertised in accordance with Section 3.58 of the *Local Government Act 1995* and a valuation obtained from an appropriately qualified land valuer.

This item is now presented to Council for a decision regarding the sale of the property.

Attachment 12.4.1 provides a location plan for the Lot 20 Spencer Street, Balingup.

### **Comment**

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

#### Town Planning and Servicing issues

Town planning and servicing issues are being addressed through an amendment to Local Planning Scheme No.7 (LPS7). This amendment is presently with the Western Australian Planning Commission (WAPC). The WAPC will make a recommendation to the Minister for Planning.

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 aligns with:

- the Shire’s Community Strategic 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's overall viability as many overheads could be spread across more cottages.

The Vintage 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.

A valuation report has been received and values the land at \$90,000 including GST.

#### Cost Vs Benefit

The proposal is for a subsidised sale of \$50,000 plus GST (\$55,000 including GST). Based on the current market value of \$90,000, there is a potential loss of \$40,000. This is one way of looking at the proposal. However, there is another.

For the already sunk cost of \$40,000, 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 "donation" of \$40,000, Council can get four new aged units for the community's benefit. This equates to a cost of \$10,000 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.

#### **Consultation**

The proposal has been advertised in accordance with Section 3.58 of the *Local Government Act 1995*. The proposal was advertised twice in the local paper on 17 and 24 January 2017, and a letter drop to surrounding landowners was conducted.

No submissions were received.

### **Statutory Obligations**

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

The current zoning of Residential R10 only allows for one dwelling, not the construction of four dwellings on the site. This matter is being addressed by Amendment No.7 to LPS7. This is presently with the Western Australian Planning Commission with a recommendation for final approval

Part 5 – Amending Local Planning Scheme defines the processes and considerations for assessing and processing amendments.

Under 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 valuation from a qualified professional.

### **Policy Implications**

Draft Country Sewerage Policy. This policy normally requires at least 1,000m<sup>2</sup> 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.

### **Voting Requirements**

Simple majority.

### **Budget/Financial Implications**

The land was purchased in 2009 for \$240,000. The request is for selling the land for \$50,000 plus GST (\$55,000 including GST). The current market value is estimated at \$90,000 inclusive of GST.

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.

## Officer's Recommended Resolution

Moved: Cr

Seconded: Cr

That Council:

- 1) Authorise the Chief Executive Officer to dispose of Lot 20 Spencer Street, Balingup to Vintage Home Town for Life Limited for the value of \$50,000 plus GST (\$55,000 including GST);
  - 2) Instruct the Chief Executive Officer to prepare a contract, deed of agreement or other legally binding instrument to ensure the Shire has the ability to re-acquire Lot 20 Spencer Street, Balingup (either wholly or subdivided) in the future, on terms favourable to the Shire, should the Vintage Home Town for Life Limited venture not proceed;
  - 3) Authorise the Chief Executive Officer to undertake such tasks necessary to implement Resolutions 1 and 2 above.
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### 12.4.2 APPLICATION FOR RETROSPECTIVE APPROVAL OF FOUR FROST FANS

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<b>Location:</b>	<b>Lots 8189 and 18190 South Western Highway, Donnybrook</b>
<b>Applicants:</b>	<b>J Licciardello</b>
<b>Zone:</b>	<b>Priority Agriculture</b>
<b>File Ref:</b>	<b>A757</b>
<b>Author:</b>	<b>Bob Wallin (Principal Planner)</b>
<b>Report Date:</b>	<b>27 April 2017</b>
<b>Attachments</b>	<b>12.4.2(1) – Site Plan 12.4.2(2) – Details of Fans</b>

### Background

The applicant is seeking retrospective approval for four frost fans located on Lots 8189 and 18190 South Western Highway, Donnybrook (Attachment 12.4.2(1)).

Each fan consists of an encased diesel motor that powers a four blade fan mounted on a 10m high pole (Attachment 12.4.2(2)). The fans reduce frost damage to the avocado plantation by moving cold air away from the trees.

The fans are computer controlled and monitored through a central computer in Victoria and are only used when local conditions are likely to generate frosts that may damage the crops (i.e. zero degrees). The fans are monitored to ensure that they automatically turn off once the temperatures have moved above the potential for frost.

The fans were installed before the last season. Last season the fans ran over a period of 10 days with a combined time of 38.5 hours. During this season, the fans activated when the local conditions reached 0.5 degrees. The applicant has modified this proposal to activate when conditions reach zero degrees. If this arrangement was in place last season, the number of days the fans would have started would have been two, instead of ten.

An acoustic report prepared by the applicant shows that fans will exceed the assigned (allowable) noise levels at all times of the day for all dwellings within a 1 kilometre radius. There are four dwellings within a 1 kilometre radius. The nearest is approximately 170m from a fan.

### **Comment**

It is clear that the fans will not and cannot be made to comply with allowable noise requirements. However, noise levels are only one element within a wider range of considerations. In making a decision on this matter, it may be helpful to think about the following points:

#### Zoning

The land is zoned "Priority Agriculture" which has the intent to:

*"Provide for the sustainable use of high quality agricultural land, particularly where water resources exist... To provide for intensive agricultural and horticultural production, including orchards, market gardens and vineyard enterprises...."*

This proposal seeks to improve the viability of an orchard by changing production to what is currently a more profitable product; avocados.

#### Overall noise

Noise needs to be considered within a number of contexts. There is volume and then there is duration. At present, the land is primarily used for apple and pear production. The applicant is in the process of removing these trees which will mean the three gas guns on the property will no longer be operating. These guns can run a whole season between Christmas to June, for up to 12 hours a day with potential for three shots every 10 minutes. The frost fans will have potential to run for a few days for a limited time. This represents a significant reduction of local overall noise.

#### Normal community expectations and exceeding assigned noise levels

It is common for noise to exceed assigned levels. This is the case with lawn mowers, parties and the like. It is not the Shire's role to enforce and prosecute every case of non-compliance. Rather, it is about what can be considered reasonable to allow an activity to exceed assigned noise levels. In this case, there is potential for noise levels to exceed assigned levels a few nights of the year. It is noted that these events will occur on very still nights in the early morning. However, this activity is generally located in a low density "agricultural area". On this basis, it may be considered reasonable to make minor exceptions to noise limits to allow a commercial business to function.

### Ability to review decision

There is the ability to place a time limit on the planning approval. This provides Council with the ability to reconsider its decision in the future based on feedback and additional data.

### Precedent

Approval of frost fans will create a precedent for any similar future proposals. This could have adverse cumulative consequences for the locality. This potential impact could be reduced by introducing a new local planning policy to provide strategic guidance and controls for future frost fan proposals.

### **Consultation**

The proposal was advertised by mail drop locally with no submissions received. Further follow up contact was made by the Shire's Principal Environmental Health Officer to landowners within the 1km of the fans. One landowner expressed objection to the proposal. The grounds for the objection are that the noise affects sleep during the night. In addition to this, the objector stated that the applicant visited their house and was intimidating and suggested that they increase their home insulation.

It is suggested that the modified arrangement will reduce potential impacts on sleep and the removal of gas guns from the property will result in reduced noise impacts overall. Lastly, the suggested conditions provide a time limit enabling Council to review the proposal in 18 months.

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

#### Policy

There is presently no local planning policy that provides advice or controls in relation to frost fans. It is recommended that a new local planning policy be prepared to add a higher level of control and guidance for future proposals.

#### Statutory

Local Planning Scheme No.7 includes planning controls and standards applicable to "Priority Agriculture" zone as well as defining matters that Council can take into consideration when making a planning decision.

#### 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 3.9 – Existing community spirit and pride is maintained

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

**Moved: Cr**

**Seconded: Cr**

**That Council:**

- 1) Grant retrospective planning approval for four frost fans on Lots 8189 and 18190 South Western Highway, Donnybrook subject to the following conditions:**
    - a) The approval being valid for a period of 18 months from the date of the decision letter.**
    - b) The approved plans form part of this approval and the development hereby approved must at all times be consistent with the approved plans.**
    - c) The frost fans shall not be operated unless the ambient temperature is at or below zero degrees celcius, or as necessary for maintenance work.**
    - d) Maintenance work on the fans shall only be carried out between 7.00am and 10.00pm.**
    - e) An annual audit report be provided to the satisfaction of the Chief Executive Officer detailing the times and duration the frost fans are in use. The audit shall be provided by 30 November each year.**
  - 2) That Council instruct the Chief Executive Officer to prepare a local planning policy to provide controls and guidance on the use and location of frost fans within the Shire.**
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<b>12.4.3</b>	<b>PLANNING APPLICATION FOR A SHED AT LOT 11, BRIDGETOWN ROAD, BALINGUP</b>
<b>Location:</b>	<b>Lot 11 Bridgetown Road, Balingup</b>
<b>Applicants:</b>	<b>Mr Walter Michael Paul Norris</b>
<b>Zone:</b>	<b>Commercial</b>
<b>File Ref:</b>	<b>A4049</b>
<b>Author:</b>	<b>Bob Wallin (Principal Planner)</b>
<b>Report Date:</b>	<b>21 April 2017</b>
<b>Attachments:</b>	<b>12.4.3(1) – Site Plan</b> <b>12.4.3(2) – Proposed Elevation</b> <b>12.4.3(3) – Supporting Justification</b> <b>12.4.3(4) – Photo's of the Site Works</b>

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### **Background**

A proposal has been received to erect a shed at Lot 11 Bridgetown Road, Balingup for storage purposes (Attachment 12.4.3(1)). The shed will have a wall height of 4 metres and an internal floor area of 144m<sup>2</sup>. An additional 48m<sup>2</sup> will be undercover providing a verandah area along the street elevation. The front façade will consist of a blank wall with a cream colour above the verandah and a brown colour below. The roof will be coloured Manor Red and the side doors will be brown. Attachment 12.4.3(2) provides some indicative images of the shed.

Landscaping is proposed to consist of trees and small shrubs around the building. It is noted that some unauthorised earth works have started on the site (see Attachment 12.4.3(4)). It will be necessary to obtain a separate planning approval for this to ensure that the fill is clean and that the works do not impact on the flow of water during flood events.

The applicant has provided justification for the proposal and submitted an opinion stating the proposal meets the criteria of the established planning framework (Attachment 12.4.3(3)). This is one opinion. In this case, there is potential for many opinions and it is worth noting that not all opinions are equal or valid. Planning is often considered to apply subjective values and that it is difficult to find an objective perspective. One way of moving between subjective and objective views is to apply standards and test proposals against these standards. This provides scope to conceptually travel from unsubstantiated subjective opinions towards a more objective perspective. It is also worth noting that for a view point to have validity, it is often advantageous for a view to hold true for more than one person or a few people.

The proposal requires Council approval as there is potential to interpret inconsistencies with the established planning framework for the locality. Relevant extracts are detailed below.



### Local Planning Scheme No.7 (LPS7)

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

#### *"5.17 General appearance of buildings and preservation of amenity*

*Where, in the opinion of the local government, any proposed building or the erection of structures or carrying out of site works is out of harmony with existing buildings or the landscape of the locality **by virtue of the design and appearance** of the development, the colour or type of materials to be used on exposed surfaces, the **height, bulk and massing of any building**, the local government may refuse the application for planning approval. The refusal can be made notwithstanding that the application may otherwise comply with the provisions of the Scheme. The local government may place conditions on any planning approval granted for the proposed development to ensure that it will not have an adverse impact on the character of the area or the amenity and landscape quality of the locality.*

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

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

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

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

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

There are also two relevant policies to consider:

- Policy No.9.21 - Balingup Village Centre – Special Character Area;
- Policy No. 9.17 - Industrial and Commercial Development Control

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

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

This policy includes the following relevant provisions:

*“Ensure the character and ‘village’ atmosphere of the town is preserved, particularly in regard to development size, form, height and scale”*

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

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

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

This proposal requires Council consideration because it does not match the character of the locality.

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

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

This policy includes development guidelines that seek to:

- Encourage innovative and attractive building designs that are sensitive to the existing and intended surroundings; and
- Facades visible to the street to maintain a high standard and include features such as:
  - Variety of materials, colours and treatments;
  - Incorporate architectural features including gables, porticos, verandahs;
  - Roof forms that includes points of interest; and
  - Stepping of vertical and horizontal elevations.

The proposal technically meets the requirements outlined for facades visible to the street. However, it does not meet the intent of the policy to improve the quality of commercial development and encourage aesthetically attractive built forms and streetscape. In essence, the proposal is still for a shed and the shed presents a long, tall and bulky blank façade to the street.

In this case, if Council is to recommend refusal, this policy should not be used as a ground to justify the decision.

### **Comment**

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

- a) Design of the structures; and
- b) The principles of orderly and proper planning.

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

#### Building Design and Streetscape

In the immediate locality, on the street block, there is a mix of building styles and materials. However, the proposed shed does not match the existing in terms of scale and bulk. The proposed shed is of a scale that is significantly larger than the existing buildings. Added to this, the building façade does not include elements that break the bulk and monotony of the elevation such as windows or doors. The verandah does provide some relief to the vertical element of the façade. However, this single feature cannot be relied on to lift the streetscape presentation of the building as a whole. It is a start but far from a complete solution.

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

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

It is reasonable to state that the proposed new shed will be of a scale and bulk that is not reflected in the existing street. Adding a new shed to the property that already contains an old “character” shed has limited potential in creating a village atmosphere or attractive main street setting.

#### Sheds on a Main Street

In looking at the established planning framework, it is difficult to envision that the intent was ever to support large sheds along the front boundary in a town’s main street. In this instance, the applicant’s views about the proposal complying with the intent of the relevant policies cannot be realistically considered as robust or widely accepted.

If supported, this proposal would effectively create a precedent for supporting large sheds along the main street of Balingup.

#### Departures from Policy Position – Context and Location Matter

In considering departures from a policy position, it is important to understand the intent of the policy and the impact and extent of supporting any departure. In this case, the policy requires new development to enhance the character of the locality. One way that this is expressed is through use of front facades that incorporate features such as windows,

doors and other architectural features and points of interest. This proposal for this shed includes a verandah.

The other aspect of to think about when considering departures is the prominence of the site and the visibility of the departure. In this case, the proposal is in a very prominent location and approval will set a very visible precedent contrary to the intent of the established planning framework.

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

#### Vector of Development and Aspiration for Balingup Townsite Development

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

The policy includes the objective to guide future development in a manner that enhances the existing character. It is clear that this proposal does not meet this objective when taking into account the prominent position of the site.

#### Consistent Application of Policy

It is noted that the policies for the Balingup townscape have not been consistently applied or interpreted in the past. The most recent case was for two transportable shops on the main street. It is worth noting that this proposal is significantly different from the proposal for the two transportable shops in most respects, with specific emphasis to scale, bulk, materials, architectural features and use.

While it makes decisions harder to defend when a policy position has not been consistently applied, it does not logically follow that support should automatically be given to justify further and more comprehensive departures. Each application does require assessment on its own individual merit.

#### **Consultation**

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

It is noted that Main Roads Western Australia (MRWA) is in the design planning process for upgrading the road in the locality. If Council is of a mind to approve this application, it *will be necessary* to ensure that the shed is located in a position that will not impact on the design and function of the proposed road works.

#### Summary and Conclusion

In assessing this proposal, it is essential to take a step back and think about the site as a whole and its place within the townsite. It is also essential to think about what a main street environment should consist of – especially in the context of a town that sells itself on having a "village atmosphere" and "special character". This view is not just aspirational, it

is also backed by the established planning framework including LPS7 provisions and local policy guidance.

If supported, the proposal would effectively establish a precedent to support large scale sheds along any parcel of land within the main street of town.

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

#### Policy

Policy No.9.21 - Balingup Village Centre – Special Character Area. This policy has the objective of creating a village character. If Council supports this proposal, it should start the process for revoking the policy. For a policy to have any legitimate force and authority, it needs some level of consistent application. Approval of this proposal can be viewed as representing a fundamental shift and departure from the intent of the policy.

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

#### Statutory

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

Clause 5.17 provides guidance on development standards and the need to have regard to impacts on the established streetscape in terms of building size, bulk and style.

#### Voting

Simple majority.

### **Financial Implications**

N/A

### **Strategic Implications**

- Outcome 2.8 – Our town sites are attractive, well presented and maintained; and
- Outcome 3.9 – Existing community spirit and pride is maintained.



this application). Any variation to the maximum outbuilding area requires consideration by Council.

### **Comment**

#### Seriously Entertained Planning Document – Amendment 4 to LPS7 (Amendment 4)

Amendment 4 includes a proposal to limit variations to shed sizes to 90m<sup>2</sup>. It allows up to a 10% variation in some instances, including when it is not visible from the public realm.

The proposal will not be visible from the street. Amendment 4 is a seriously entertained planning proposal as it has been publicly advertised and recommended by Council for final approval. Amendment 4 is currently with the Western Australian Planning Commission (WAPC) for a recommendation to the Minister for Planning.

A seriously entertained planning proposal means that significant consideration is to be given to it when making a planning decision.

#### Bulk and scale

The policy is primarily set up to address oversize sheds. Sheds have a greater presence and bulk than regular buildings. This is due to the height of walls and absence of architectural features such as vertical and horizontal stepping and interest in façade elements. In this instance, the proposal is for an open sided carport. This structure does not create the same built form issues associated with oversize sheds.

#### Streetscape appeal

The carport will have limited visibility from the street due to setbacks, its location behind the existing dwelling and that it is an open sided structure in front of an existing shed. It will present no measurable difference in streetscape values.

#### Precedent

This proposal presents very limited scope for precedent. The proposal does not create the issues that the policy is seeking to address relating to bulk, massing and scale of oversized sheds on the landscape. In this case, the proposal has been caught up in the definition of an outbuilding.

### **Consultation**

Adjoining neighbours have been contacted by mail. No submissions have been received.

#### Summary and Conclusion

The proposal to erect a carport and join it to an existing shed will have limited adverse impact on local amenity.

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

#### Policy

9.4 Outbuilding Control - This policy requires support to vary combined floor areas.

Statutory

Local Planning Scheme 7 nominates the land as “Residential R10”.

Voting

Simple majority

**Financial Implications**

N/A

**Strategic Implications**

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

**Officer’s Recommended Resolution**

**Moved: Cr**

**Seconded: Cr**

**That Council grant planning consent to erect a car port at Lot 27 (No. 103) South Western Highway, Kirup subject to:**

- 1) The development hereby permitted must be substantially commenced within two (2) years from the date of the decision letter.**
- 2) The approved plans form part of the approval and the development hereby approved must at all times be consistent with the approved plans.**



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**12.4.5 PLANNING APPLICATION FOR A DIESEL DISPENSER,  
ABOVE GROUND DIESEL STORAGE TANK AND TURN  
AROUND AREA**

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<b>Location:</b>	<b>Lot 608 South Western Highway, Donnybrook</b>
<b>Applicants:</b>	<b>Mr Suman Dandu</b>
<b>Zone:</b>	<b>Commercial</b>
<b>File Ref:</b>	<b>A1130</b>
<b>Author:</b>	<b>Bob Wallin (Principal Planner)</b>
<b>Report Date:</b>	<b>4 May 2017</b>
<b>Attachments:</b>	<b>12.4.5(1) – Site Plan 12.4.5(2) – Proposed Elevation</b>

### **Background**

A proposal has been received to use an area that previously had a gas tank and dispenser at Lot 608 South Western Highway, Donnybrook (the Vibe) to install a new diesel dispenser and an above ground diesel storage tank.

The proposal is intended to use the existing concrete slab and existing stormwater infrastructure.

The proposal is intended to accommodate all activity on site. The site plan shows a turning circle that accommodates vehicles up to 9 metres in length. This assumes that vehicles will complete all manoeuvres within the lot boundary if they follow the intended path.

The proposed use is consistent with the "Commercial" zone under Local Planning Scheme No.7 (LPS7). The use "Service Station" is listed as a "D" (Discretionary) use. In this case, the use represents a minor change to how the existing business operates. This then confines further investigation into the "development" side of the proposal.

The issue in this case is that there is a history of patrons using the adjoining sites (Crown Reserve 47816 - vested in the Shire for "Tourist Purposes" and Reserve 47822 – vested with the Public Transport Authority for "Railway" - see Attachment 12.4.4(2)). It is noted that vehicles using these reserves also frequent other adjoining businesses – however, the majority are likely to visit the service station.

The activity generated by the adjoining and surrounding local businesses has resulted in poor amenity (dust in summer and flooding in winter) and damage to kerbing, crossovers and landscaping treatments on the reserves.

The issue with this application is determining the degree to which the proposal will generate the requirement to upgrade the adjoining reserves and the amount of upgrading required to the service station site itself.

It is the applicant's view that this proposal is just replacing an existing service with another (gas tank and dispenser with diesel tank and dispenser). Furthermore, the applicant advises:

- This is part of a wider staged development. They acknowledge that they may be required to rework/replace all the works that form part of this proposal if and when they redevelop the entire site;
- They ultimately want to work with the PTA/Brookfield Rail and the Shire to upgrade the surrounding land to improve amenity and access to the locality. However, they would like to get this part of the project completed as they understand that working through land tenure issues may take time;
- The proposal should not be burdened with conditions regarding stormwater management, construction of turn-around areas, pavements, lighting etc. on the basis that this is just replacing one form of dispenser with another (from gas to diesel); and
- the proposal is self-contained and no conditions should be necessary for upgrading the adjoining land at this stage.

These views and determining what conditions are reasonable will be explored in the comments section below.

### **Comment**

The issue regarding this proposal is about establishing what is reasonable to require and what is not. To do this, there are two distinct elements. One relates to the external impacts on the adjoining reserves and the other relates to internal standards to apply within the site.

To start with, it is proposed to look at the internal standards that should apply to the site itself.

### **Internal Site Conditions**

#### *Trafficable Surface*

At present, the turn-around area indicated on the Site Plan is partly sealed and partly gravelled. One of the key elements of a service station business is to provide fuel to vehicles. For success, it requires a high turnover of patrons. In short, the site will be subject to a very high frequency of vehicle use. On this basis, it is necessary for the driving surface to be sealed and drained appropriately. It is not reasonable to allow the use to occur without upgrading the existing surface of the site.

It is noted that the previous gas dispenser and infrastructure were orientated differently. The existing pavement reflects this alignment. It did not require or promote additional movements behind the dispenser or tank. This proposal promotes traffic movement onto the unsealed area.

#### *Potential for Contamination*

The applicant outlines that this proposal is a simple matter of replacing one dispenser with another and that it follows that it is not necessary to upgrade the drainage. This is not entirely accurate. It is true to the extent that one physical dispenser is being replaced with

another. However, the difference is in the fuel being dispensed and the implications that this generates. Gas does not have the same potential to contaminate the ground or the environment through storm-water conditions. On this basis, the applicant's view that the existing drainage and pavements infrastructure will not require upgrading is potentially misleading.

It is reasonable to require upgrading of the stormwater management systems to ensure that contamination of the site is controlled and diesel spillage is appropriately controlled.

### External Site Considerations

#### *Access Layout*

The application shows that movements and activity will be retained on site and not impact on adjoining land parcels. However, dispensers are designed to be accessed from both sides. Further, a significant number of vehicles have their filler cap located on the passenger side. This would make filling up inconvenient for these vehicles if they followed the traffic flow as indicated. It is very likely that many vehicles would pull up on the other side of the dispenser. To perform this task, the vehicles would encroach onto adjoining land.

This issue could be resolved by amending the location of the dispenser or by placing some sort of physical barrier on the boundary to discourage access onto the adjoining land.

#### *Staging and Transition*

The applicant has indicated that they are in the process of working up a plan for a comprehensive redevelopment of the site. The current proposal is intended to be a temporary solution to improve their capacity to supply diesel to customers. The current tank does not have the capacity needed for a consistent supply to customers.

Ideally, it would be desirable to know how this proposal will fit within a wider comprehensive concept. Drainage networks and pavement levels would then be designed to fit together like a jigsaw and work holistically. The current lodged plan does not show how it will all fit together. The applicant acknowledges this and has advised that they are willing to rework earth forms, replace drainage, and pavements in its entirety when a more comprehensive plan is required to be prepared and implemented.

In this context, it is not reasonable to require a comprehensive plan. The proposal shows an option for how the site could be developed. The applicant has advised that they are aware that any future comprehensive redevelopment may require the removal of the works undertaken as part of this application.

It is recommended that the applicant discuss at an early stage their ideas and vision for the site with Shire staff. This will enable concepts to be designed to take into account all relevant issues.

#### *Access and use of Adjoining Land*

The adjoining reserves (Attachment 12.4.4(2)) have and are being used informally for parking and access. This has been to the benefit of adjoining businesses. This activity has raised a number of issues such as:

- poor amenity due to dust or mud on the site and being dragged onto the highway;
- creating traffic safety issues due to turning vehicles not fitting within lanes; and
- damage to crossovers, kerbing and landscaping.

This has resulted in a privatisation of benefits and a socialisation of costs. This arrangement needs addressing so that the businesses benefiting contribute a reasonable amount towards the upkeep and improvement of the site.

#### *Land Tenure*

The Shire does not have the power to lease or sub lease Reserve 47816. The management order specifically states that the land is to be utilised for “tourist purposes only”. It further states that approval from the Minister for Lands is to be obtained prior to any lease or sublease being entered into.

This arrangement lawfully prohibits Council from allowing non tourist use of the site or leasing at this stage. Under the current wording, it is not a reasonable interpretation of “tourist purposes” to include access or parking to service adjoining businesses.

The options available to Council are:

- a) Continue to allow the informal access and use of Reserve 47816;
- b) Continue to allow the informal access and use of Reserve 47816 and seek amendments to the management and vesting of the reserve to allow a wider range of use and activity on the site;
- c) Stop use of the reserve; and/or
- d) Stop interim use of the reserve and seek amendments to the management and vesting of the reserve to allow a wider range of use and activity on the site.

In this instance, it is suggested that the best way to resolve this issue, in the context of this application would be to:

- a) Require the applicant to erect a physical boarder along their boundary to separate direct use of the reserve from the business activity. This may include soft landscaping, a low open fence or a combination of the two; and
- b) Seek approval to amend the vesting order to allow a uses beyond “tourism”. This may include “car parking”.

The suggested solution still enables the area to be used informally in the interim by removing direct access and activity associated with the service station while setting up the correct framework for a future comprehensive and strategic plan for the site.

#### **Consultation**

Main Roads Western Australia and the Public Transport Authority raise no objections to the proposal. Brookfield Rail has not provided comment.