



# Ordinary Council Meeting Minutes

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Held on Wednesday, 23 August 2017

Commencing at 5.00pm

In the Seniors' Room, Donnybrook Community Library

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

**29 August 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 MINUTES  
23 AUGUST 2017  
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# SHIRE OF DONNYBROOK BALINGUP

## ORDINARY COUNCIL MEETING MINUTES

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Held in the Seniors' Room, Donnybrook Community Library  
Wednesday, 23 August 2017 commencing at 5.01pm

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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  
K O'Keeffe – Executive Assistant

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### PUBLIC GALLERY

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Lucille Piesse  
Justin Rosman  
Romaine McGuire  
Thomas Omond  
Ian Kemp  
Steve Russell

Brian Piesse  
Trish McCourt  
Grahaem Johnson  
Leanne Wringe  
Chris Sharp  
Brad Anderson

Shan Rosman  
Sue Hoskins  
June Scott  
Sue Radford  
Tony Scaffidi  
Jacquie Lynch

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### 1 APOLOGIES

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Nil

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### 2 PUBLIC QUESTION TIME

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#### Public Questions Taken with Notice Prior to the August 2017 Ordinary Meeting:

*Brian Piesse*

*Please provide the operating profit or loss trading outcomes for the years ending 2015, 2016 and 2017 and the reserve balances relating to Tuia Lodge as shown on the balance sheet for the years ending 2015, 2016 and 2017?*

Chief Executive Officer

Final Cash (not Accounting) Operating Results are:

2015: (\$111,128.16) Deficit

2016: (\$251,172.35) Deficit

2017: \$202,664 Surplus (estimated)

\*\* The above figures do not include full cost recovery of internal Shire administration costs

Tuia Lodge Reserves (including leave provision reserves):

2015: \$906,690

2016: \$43,735

2017: \$86,500 (estimated)

*Brian Piesse*

*What is the budgeted/forecast operating profit or loss for the year ending 2018?*

Chief Executive Officer

The 2017/18 Shire Budget (inclusive of Tuia Lodge) has not yet been adopted and therefore the budgeted 2017/18 year-end position has not been resolved by Council.

*Brian Piesse*

*Based on the trading position of the past three years and the forecast for 2017-18 can Council give an assurance that Tuia Lodge will remain a viable and sustainable iconic community owned and operated entity, offering high quality aged care?*

Chief Executive Officer

This question cannot be answered by the Council until the Council has a related Motion on its Agenda and a resolution as to that Motion. Opinions of individual Councillors may (quite validly) be expressed on the matter, however, until there is a Council resolution on the topic, the Council cannot provide a definitive response.

*Brian Piesse*

*Has Council held any discussions with or made enquiries to any corporation/entity operating in the aged care space, relating to the future ownership and/or operation of Tuia Lodge; and if so on what basis were such discussions or enquiries made?*

Chief Executive Officer

No, with the exception of preliminary investigations into transitioning the outgoing Tuia Lodge Board into an incorporated organisation.

### **Public Questions taken without notice at the August 2017 Ordinary Meeting:**

*Brian Piesse*

*Given the operating losses for the year 2015-2017 including the operating surplus predicted for 2017 shows a cumulative loss of \$159k, why have cumulative reserves over the same period been reduced from \$907k to an estimated \$86.5k. In other words, where has the net draw down from reserves of an estimated \$820k been utilised in accounting terms. Those outside Council would also like to know how the forecast of a \$203k surplus in 2016/17 was achieved?*

Manager Finance and Administration

The major part of the draw down from Reserves related to the capital expansion project which increased the Tuia Lodge from a 26 bed facility to a 40 bed facility. Some Reserve

funds were also utilised to cover operational losses for the 2015/16 and 2014/15 financial years.

The forecast surplus of \$203K has been achieved by greater economies of scale with a larger facility, significant management input and efforts to maximise revenues through the ACFI system and other revenue streams.

*Brian Piesse*

What is the projected forecast/budgeted operating outcome in the year 2018/19. While I understand the final budget for 2018/19 is yet to be ratified by Council, I would have thought the current budget would already had a forecast number included in it which would be indicative of the likely outcome in 2018/19? Furthermore, I note in the proposed motion by Councillor King to be dealt with at this meeting (refer pages 11-13) he claims, and I quote, “Tuia Lodge has attained a stable financial status, with a forecast operating budget for 2017/18.” Therefore, I ask again what is the forecast 2018/19 operating outcome or is the 2017/18 outcome a one-off? Without transparency, I suggest the reference by Councillor King to a “stable financial status” is almost meaningless is at a point in time and may not reflect ongoing operational surpluses?

Manager Finance and Administration

With greater economies of scale, close and careful management and ongoing efforts to maximise revenues and control expenditure, Tuia Lodge can operate as a financially viable facility.

*Brian Piesse*

*Regardless of the answer to my previous supplementary question, when will Council be able to provide, using the written words in their response, a definite statement as to the ownership and operational future of Tuia Lodge?*

Chief Executive Officer

The matter of ownership and operational future of Tuia Lodge is not a matter for consideration presently before the Council. However, Council has indicated, via its Corporate Business Plan 2017-2022 that it intends to more closely investigate service delivery for all of its aged care and accommodation services and assets (i.e. not looking at Tuia Lodge in isolation) later in the 2017/18 financial year. This due diligence / investigation process will aid the Council’s strategic decision making in relation to Tuia Lodge.

*Brian Piesse*

*My last question related to any third party discussions relating to the future ownership and operation of Tuia Lodge. The literal translation of the word “any” as used in my question and was intended to mean any discussions, informal or formal, by Council collectively, the President and/or individual Councillors or any Senior Executive employed by Council or any external person or organisation engaged by Council or Council Management to make enquiries on their behalf. Therefore, Mr President, I ask you to confirm for the record, the answer given relating to the question as initially asked and further expanded on in my supplementary explanation this evening, is correct in every respect?*

Shire President

I speak for myself when stating I have not engaged in discussion with any entity or persons.

*Brian Piesse*

*My question relates to when the administration of Tuia Lodge became a public issue of note. Has anyone had discussions with the view of selling or outsourcing the management of the asset?*

Shire President

I confirm we have not engaged in conversation with any entities on this matter however your enquiry will be taken on notice and responded to in writing.

*Brian Piesse*

*What happened to the \$900k reserve?*

Manager Finance and Administration

The bulk of the Reserve was used on the Capital Works project at Tuia Lodge. Some of the reserve also supported operational losses. The Shire's Municipal Fund carried a loss from Tuia Lodge of \$110k which will be repaid from the 2016/17 year. Council has received a draft copy of the 2017/18 draft Budget which projects a positive result for the 2017/18 financial year. There are a number of issues that Council is still working through including making a decision in regard to the extent that it will subsidise activity based costing for administration overheads within the accounts of Tuia Lodge.

*Brian Piesse*

*I find it interesting Cr King's Notice of Motion is going to Council when the budget is not finalised. If the running of Tuia Lodge has stabilised how did the \$200k loss happen?*

Chief Executive Officer

The operating deficit for the 2015/16 financial year can be partially attributed to the construction program during that time, as well as operational challenges attributed to the change in management during this period. The operating surplus result predicted for 2016/17 can be attributed to the expansion of an additional 14 rooms for the facility.

*Brian Piesse*

*For transparency of information will my questions relating to Tuia Lodge's financial position be public knowledge prior to Election Day on 21 October 2017?*

Manager Finance and Administration

For clarification of the Elected Members and the public gallery, the Shire is obliged, under the Aged Care Act, to prepare and submit financial statements on Tuia Lodge's activities by 31 October 2017.

*Brian Piesse*

*That's after the election. The financial information should be made publicly available prior to the election date.*

Shire President

The information will be made publicly available as time permits.

Chief Executive Officer

The Shire's Annual Budget will include the estimated Revenue and Expenditure for Tuia Lodge, as well as the 2016/17 year-end financial status. The Budget is expected to be available in the next few weeks, prior to the local government election.

*June Scott*

*I refer to the Main Roads work at the northern entrance near the historic Anchor and Hope building and ask that the signage for the Noneycup Creek be re-instated please?*

Chief Executive Officer

The Shire will request Main Roads WA to reinstall the signage.

*June Scott*

*There is a noticeable increase in graffiti in the central town area, including the laneway, the bin on Wagyl Walk Trail and the State Heritage listed Goods Shed. It appears internally in the goods shed things have been smashed and graffitied. Externally, the building is being further assisted to degrade with tin lifted, damage to corrugated sheeting, etc.*

*There was a project removed from the Donnybrook Townscape that had the ability to engage community with artwork. Can this project be re-instated as no information was provided at the meeting of the background for the project and the supplier's additional commitment to work with community with the artwork side of installation to engage with community groups possibly this could be the graffiti artists?*

*Also, the supplier would assist with the grant funding application. This option was not utilised.*

Chief Executive Officer

This question will be taken on notice and a written response will be provided.

*Steve Russell*

*I refer to the Rate Payers meeting where it was advised that operations at Tuia Lodge were tracking well however a forecasted \$260k loss does not support this. It seems strange to be voting on Cr Kings Notice of Motion when the forecast is a loss.*

Shire President

Tuia Lodge continues to improve and be self-sufficient.

*Steve Russell*

*Cr Van Der Heide's Notice of Motion raises concerns about running the facility. This combined with Cr Dilley's comments it appears Councillors are privy to information that is not publicly known.*

Shire President

Councillors receive internal reports on a range of matters dealt with by the Shire.



*Graeme Johnson*

*I refer to the confidential item that has been removed from tonight's agenda. This problem has been going on for ten years. I have a solution which I have provided in writing to each Councillor tonight and I ask for a reply from Council on this matter.*

Shire President

The Chief Executive Officer will respond to you in writing.

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

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Cr Dilley has requested a leave of absence from the Council meeting scheduled for 27 September 2017.

#### **Council Decision**

**Moved: Cr Mills**

**Seconded: Cr Tan**

**That Cr Dilley be granted a leave of absence from the Council meeting scheduled for 27 September 2017.**

**Carried 9/0**

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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.

Nil.

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

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\*\* 5.26pm – The Chief Executive Officer left the meeting and returned at 5.27pm.

Mr Justin Rosman presented to Council on Agenda Item 12.4.1 – Planning Application for a shed at Lot 802 Perseverance Boulevard, Argyle. The presentation commenced at 5.26pm and concluded at 5.30pm.

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## 6 PRESIDENT’S COMMUNICATIONS

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Date	Meeting	Report
21 July 2017	Meeting with CEO	Communications Meeting
25 July 2017	Meeting with Angus Taylor, Assistant Minister for Cities and Digital Transformation and Federal Member, Nola Marino	Focus of discussion was around City Deals with focus on regional centres, Building better regions fund, Funding for regional infrastructure.
27 July 2017	Meeting with Craig Holland, Maker & Co	Bunbury Wellington Economic Alliance (BWEA) and Bunbury Geographe Growth Plan
1 August 2017	WALGA Meeting	Mayors and Presidents Policy Forum
7 August 2017	BWEA / Bunbury Geographe Growth Plan	Working Group Meeting
8 August 2017	Meeting with CEO	Communications Meeting
11 August 2017	Meeting with CEO	Communications Meeting
11 August 2017	City of Bunbury	Mayors Sundowner
14 August 2017	Bunbury Wellington Group of Councils	CLGF funding, discuss way forward for the Regional Waste Facility
17 August 2017	BWEA Meeting	Monthly Meeting

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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 Dilley**

**Seconded: Cr Bailey**

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

**Carried 9/0**

**8.2 Special Meetings of Council**

**Council Decision**

**Moved: Cr Mills**

**Seconded: Cr Bailey**

**That the Minutes of the Special Meeting of Council held on 8 August 2017 be confirmed as a true and accurate record, subject to the resolution for item 6.1.3 – Presentation of the 2017/18 Draft Budget being recorded as lapsed.**

**Carried 9/0**

**9 ELECTED MEMBER’S MOTIONS**

**9.1 Cr Van Der Heide: Notice of Motion**

**9.1.1 NOTICE OF MOTION: TUIA LODGE QUARTERLY REPORT**

**Location: Shire of Donnybrook Balingup**  
**Applicants: N/A**  
**Zone: N/A**  
**File Ref: CNL 34L**  
**Author: Cr Ryan Van Der Heide**  
**Report Date: 17 August 2017**  
**Attachments: Nil**

Cr Van Der Heide has proposed the following Notice of Motion:

**‘That Council direct the Chief Executive Officer to:**

- 1) Prepare a quarterly report on an ongoing basis, regarding the management and operations of the Tuia Lodge Aged Care facility, with sufficient detail to ensure Elected Members can fulfil their individual obligations associated with the Shire of Donnybrook Balingup being the ‘Approved Provider’ for the facility.**
- 2) Present the report for each quarter at the next ordinary Council meeting:**

<b>REPORT</b>	<b>ORDINARY COUNCIL MEETING</b>
<b>July 1 – September 30</b>	<b>October 2017</b>
<b>October 1 – December 31</b>	<b>February 2018</b>
<b>February 1 – March 31</b>	<b>April 2018</b>
<b>April 1 – June 30</b>	<b>July 2018’</b>

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

The Shire of Donnybrook Balingup are the 'Approved Provider' of the Tuia Lodge Aged Care facility, within the provisions of the Aged Care Act 1997. The Act clearly articulates multiple financial and management responsibilities of the Approved Provider. While the Chief Executive Officer is employed by Council and assumes the responsibility for the management of the facility, the obligations of the 'Approved Provider' cannot be apportioned to another party. As such, it is essential that Elected Members are provided sufficient information to ensure their obligations as representatives of the 'Approved Provider', are being met.

## **Council Decision (Notice of Motion)**

**Moved: Cr Van Der Heide**

**Seconded: Cr Tan**

- 1) That Council direct the Chief Executive Officer to prepare a quarterly report on an ongoing basis, regarding the management and operations of the Tuia Lodge Aged Care facility, with sufficient detail to ensure Elected Members can fulfil their individual obligations associated with the Shire of Donnybrook Balingup being the 'Approved Provider' for the facility.**
- 2) That the report for each quarter, be presented at the next ordinary Council meeting:**

<b>REPORT</b>	<b>ORDINARY COUNCIL MEETING</b>
<b>July 1 – September 30</b>	<b>October 2017</b>
<b>October 1 – December 31</b>	<b>February 2018</b>
<b>January 1 – March 31</b>	<b>April 2018</b>
<b>April 1 – June 30</b>	<b>July 2018</b>

**Carried 9/0**

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**9.1.2 NOTICE OF MOTION: TUIA LODGE KEY PERSONNEL**

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<b>Location:</b>	<b>Shire of Donnybrook Balingup</b>
<b>Applicants:</b>	<b>N/A</b>
<b>Zone:</b>	<b>N/A</b>
<b>File Ref:</b>	<b>CNL 34L</b>
<b>Author:</b>	<b>Cr Ryan Van Der Heide</b>
<b>Report Date:</b>	<b>17 August 2017</b>
<b>Attachments:</b>	<b>Nil</b>

Cr Van Der Heide has proposed the following Notice of Motion:

**‘That Council direct the Chief Executive Officer to seek appropriate qualified advice to determine whether Shire Councillors are ‘Key Personnel’ for the Tuia Lodge Aged Care facility, within the definition of the Aged Care Act 1997.’**

**Cr Van Der Heide’s Comment**

The Aged Care Act 1997 provides the definition of the term ‘Key Personnel’:

**AGED CARE ACT 1997 - SECT 8.3A**

**Meaning of key personnel**

- (1) For the purposes of this Act, each of the following is one of the **key personnel** of an entity at a particular time:
  - (a) a member of the group of persons who is responsible for the executive decisions of the entity at that time
  - (b) any other person who has authority or responsibility for (or significant influence over) planning, directing or controlling the activities of the entity at that time;
  - (c) if, at that time, the entity conducts an \* aged care service:
    - (i) any person who is responsible for the nursing services provided by the service; and
    - (ii) any person who is responsible for the day-to-day operations of the service;  
  
whether or not the person is employed by the entity;
  - (d) if, at that time, the entity proposes to conduct an aged care service:
    - (i) any person who is likely to be responsible for the nursing services to be provided by the service; and

- (ii) any person who is likely to be responsible for the day-to-day operations of the service;

whether or not the person is employed by the entity.

- (2) Without limiting paragraph (1)(a), a reference in that paragraph to a person who is responsible for the executive decisions of an entity includes:
  - (a) where the entity is a body corporate that is incorporated, or taken to be incorporated, under the Corporations Act 2001 --a director of the body corporate for the purposes of that Act; and
  - (b) in any other case--a member of the entity's governing body.
- (3) A person referred to in subparagraph (1)(c)(i) or (1)(d)(i) must hold a recognised qualification in nursing.

As the Approved Provider, the Shire of Donnybrook Balingup has significant input into the operations of Tuia Lodge, particularly in relation to its financial management and could therefore be considered responsible for the executive decisions of the entity.

This motion sets out to clarify Elected Members obligations, to ensure they fulfil their obligations as representatives of the Approved Provider.

### **Council Decision (Notice of Motion)**

**Moved: Cr Van Der Heide**

**Seconded: Cr Bailey**

**That Council direct the Chief Executive Officer to seek appropriate qualified advice to determine whether Shire Councillors are 'Key Personnel' for the Tuia Lodge Aged Care facility, within the definition of the Aged Care Act 1997.**

**Carried 8/1**

Cr Crowley requested the vote be recorded

<b>For</b>	<b>Against</b>
Cr Logiudice	Cr Crowley
Cr Bailey	
Cr Dilley	
Cr King	
Cr Mills	
Cr Mitchell	
Cr Tan	
Cr Van Der Heide	

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## **9.2 Cr King: Notice of Motion**

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<b>9.2.1</b>	<b>NOTICE OF MOTION: RECOGNITION OF TUIA LODGE'S RETURN TO FULL ACCREDITATION UNTIL JANUARY 2020</b>
<b>Location:</b>	<b>Tuia Lodge, 30 Allnutt Street, Donnybrook</b>
<b>Applicants:</b>	<b>N/A</b>
<b>Zone:</b>	<b>N/A</b>
<b>File Ref:</b>	<b>CNL 34H</b>
<b>Author:</b>	<b>Cr Mike King</b>
<b>Report Date:</b>	<b>17 August 2017</b>
<b>Attachments:</b>	<b>9.2.1(1) – Minutes from the Special Council Meeting on 19 November 2015</b> <b>9.2.1(2) – Minutes from the Public Meeting Held on 13 January 2016</b> <b>9.2.1(3) – Press Release on Tuia Lodge from late January 2016</b>

Cr King has proposed the following Notice of Motion:

**'That Council:**

- 1) Acknowledge that Tuia Lodge has received accreditation renewal to January 2020, after the last two Aged Care Quality Agency assessments in October 2016 found all outcomes had been met. Accreditation details are publicly available on [www.aacqa.gov.au](http://www.aacqa.gov.au).**
- 2) Acknowledge that Tuia Lodge has attained a stable financial status, with the forecast operating budget for 2017/18 being in surplus.**
- 3) Instruct the CEO to convey the recognition and thanks of Council for the extraordinary dedication and commitment of Shire and Tuia Lodge staff and volunteers in improving the quality of care and delivery of services at Tuia Lodge over the last 18 months, in lifting the ACFI status, and in attaining all assessment outcomes in October 2016.'**

### **Cr King's Comment**

In November 2015 after some 12 months of persistent and sustained concerns raised by many Tuia Lodge staff, which the Donnybrook-Balingup Shire Council (DBSC) made continuous efforts (including legal advice and approaches to industry) to address without success, the Shire reluctantly took the difficult decision to withdraw the delegated authority of the Tuia Lodge Committee (the Board), to allow the Council to fully review and assess the management, operations and future direction of Tuia Lodge.

Details of the reasons for the Council's decision are fully outlined in the following documents:-

1. The Minutes of the Special Council meeting on 19 November 2015.
2. The report by former Shire President Bruce Hearman (presented at a Public Meeting convened by the former Tuia Lodge Board in January 2016 – see minutes by B. Piesse), on his observations of a previous meeting between Aged Care representatives from the Commonwealth Department of Public Health, Councillors and members of the Tuia Lodge Board.
3. A Shire of Donnybrook Balingup press release in late January 2016 entitled Tuia Lodge

In early January the Federal Department of Health through the Australian Aged Care Quality Agency advised that in the most recent audits conducted in the latter months of 2015, five areas of compliance had not been met, and a “Certificate of Non Compliance” was issued to the Council requiring action to be taken to address these areas of deficiency. Of major concern was that if accreditation status compliance was not achieved by March 2016, then Tuia Lodge might be sanctioned, which would require the employment of a “Nurse Advisor”, and restrictions on new resident intakes, which would result in additional expenditure estimated in the range \$0.5-1.0 million.

Since this period outstanding input and effort by Shire staff and Tuia Lodge management and staff have seen the requirement for “sanctioned status” and the appointment of a nurse advisor avoided. There has been a gradual ramp up of the number of aged clients serviced by Tuia Lodge, and the upgrading of sections of the facility, staff training and many of the operating procedures and processes.

After a challenging 18 months the Shire (as Approved Provider) has reported stable and sustainable management and operations at Tuia Lodge, and a balanced budget for activities in the coming 2017/18 financial year.

The current occupancy is 36-38 residents. These residents are attended by a permanent staff of three management personnel, 2 registered and 3 enrolled nurses, 6 supervisors, 12 permanent and 8 casual carers, a part time occupational therapist, a part time physiotherapist and 2 occupational therapy assistants, and 6 miscellaneous employees (gardeners, cleaners, and laundry staff).

In October 2016, Tuia Lodge received accreditation renewal to January 2020, after the last two Aged Care Quality Agency assessments found all outcomes had been met. Accreditation details are publicly available on [www.aacqa.gov.au](http://www.aacqa.gov.au).

All staff are required to complete mandatory skills training in 7 major care areas, and many other regular training sessions are available to them. Rigorous documentation of clinical care has enabled ACFI funding per resident to be significantly increased, assisting in providing and financing the provision of skilled staff and an increased training regime.



Council wishes to thank the Tuia Lodge and Shire staff and volunteers for their dedication and commitment to the residents of Tuia Lodge, to continuous improvement of all aspects of the facility and to improving the quality of care and the delivery of services at Tuia Lodge.

### **Notice of Motion**

**Moved: Cr King**

**Seconded: Cr Tan**

**That Council:**

- 1) Acknowledge that Tuia Lodge has received accreditation renewal to January 2020, after the last two Aged Care Quality Agency assessments in October 2016 found all outcomes had been met. Accreditation details are publicly available on [www.aacqa.gov.au](http://www.aacqa.gov.au).**
- 2) Acknowledge that Tuia Lodge has attained a stable financial status, with the forecast operating budget for 2017/18 being in surplus.**
- 3) Instruct the CEO to convey the recognition and thanks of Council for the extraordinary dedication and commitment of Shire and Tuia Lodge staff and volunteers in improving the quality of care and delivery of services at Tuia Lodge over the last 18 months, in lifting the ACFI status, and in attaining all assessment outcomes in October 2016.**

Cr King proposed to amend the motion to remove point two. Cr Tan supported the amendment.

### **Notice of Motion**

**Moved: Cr King**

**Seconded: Cr Tan**

**That Council:**

- 1) Acknowledge that Tuia Lodge has received accreditation renewal to January 2020, after the last two Aged Care Quality Agency assessments in October 2016 found all outcomes had been met. Accreditation details are publicly available on [www.aacqa.gov.au](http://www.aacqa.gov.au).**
- 2) Instruct the CEO to convey the recognition and thanks of Council for the extraordinary dedication and commitment of Shire and Tuia Lodge staff and volunteers in improving the quality of care and delivery of services at Tuia Lodge over the last 18 months, in lifting the ACFI status, and in attaining all assessment outcomes in October 2016.**

Cr Dilley moved to amend point 1 of the motion to include “Like a number of times previously” at the beginning of the sentence.

### **Council Decision**

**Moved: Cr Dilley**

**Seconded: Cr Crowley**

**That the motion be amended as follows:**

- 1) Like a number of times previously, acknowledge that Tuia Lodge has received accreditation renewal to January 2020, after the last two Aged Care Quality Agency assessments in October 2016 found all outcomes had been met. Accreditation details are publicly available on [www.aacqa.gov.au](http://www.aacqa.gov.au).**
- 2) Instruct the CEO to convey the recognition and thanks of Council for the extraordinary dedication and commitment of Shire and Tuia Lodge staff and volunteers in improving the quality of care and delivery of services at Tuia Lodge over the last 18 months, in lifting the ACFI status, and in attaining all assessment outcomes in October 2016.**

**Lost 2/7**

\*\* 6.04pm - Cr Van Der Heide left the meeting

### **Council Decision**

**Moved Cr King**

**Seconded Cr Tan**

**That Council:**

- 1) Acknowledge that Tuia Lodge has received accreditation renewal to January 2020, after the last two Aged Care Quality Agency assessments in October 2016 found all outcomes had been met. Accreditation details are publicly available on [www.aacqa.gov.au](http://www.aacqa.gov.au).**
- 2) Instruct the CEO to convey the recognition and thanks of Council for the extraordinary dedication and commitment of Shire and Tuia Lodge staff and volunteers in improving the quality of care and delivery of services at Tuia Lodge over the last 18 months, in lifting the ACFI status, and in attaining all assessment outcomes in October 2016.**

**Carried 6/2**

\*\* 6.05pm - Cr Van Der Heide returned.

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### **9.3 Cr Dilley: Notice of Motion**

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#### **9.3.1 NOTICE OF MOTION: PUBLIC RELEASE OF A SUMMARY OF THE INTERNAL GOVERNANCE REVIEW REPORT**

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<b>Location:</b>	<b>Shire of Donnybrook Balingup</b>
<b>Applicants:</b>	<b>N/A</b>
<b>Zone:</b>	<b>N/A</b>
<b>File Ref:</b>	<b>CNL 34A</b>
<b>Author:</b>	<b>Cr Steve Dilley</b>
<b>Report Date:</b>	<b>17 August 2017</b>
<b>Attachments:</b>	<b>Nil</b>

Cr Dilley has proposed the following Notice of Motion:

**‘That within seven days, and subject to written approval from the Australian Institute of Company Directors, Council make available to the public, a summary of the Internal Governance Review report recently compiled by the Australian Institute of Company Directors. Prior to the public release of the summary, any distinctions between participant responses are amended, so that the individual and group anonymity of respondents is protected.’**

#### **Cr Dilley’s Comment**

At its February 2017 Ordinary Meeting, Council resolved to participate in the Department of Local Government (DLGC), Governance Review Program. The DLGC engaged the Australian Institute of Company Directors (AICD) to conduct the Governance Review Program for local councils who wished to participate.

The review approach taken with councils was one of self-assessment through an online survey. Local governments were asked to reflect on and assess, the maturity of their council’s governance arrangements in key areas, such as:

- The role of the Council;
- The Council’s role in strategy and risk;
- Council size, composition and skills;
- The role of the President;
- The relationship between the Council and management;
- Council culture and dynamics;
- Effective use of Council meetings;
- Council meeting papers;
- Information coming to the Council;
- Committees;
- Integrity (confidentiality/conflicts of interest);
- Induction and professional development;
- Performance focus; and
- Continuous improvement.

The confidential survey associated with the Program was conducted during March 2017, with a total of seventeen respondents from two groups completing the survey.

On 26 May 2017, the Program Facilitator (Mr Stephen Cole) presented the findings of the survey and conducted a workshop with Elected Members (six Elected Members present), in order to assist Elected Members to identify next steps or possible actions to improve the performance of the Council. During the three hour presentation and workshop, next steps and possible actions could not be identified or agreed.

On 28 June 2017, Council received and acknowledged the results of the Shire of Donnybrook-Balingup Governance Review Report but were unable to give the CEO any instructions on how to assist Council to improve its performance.

In twelve and a half years on Council, eight of those as Shire President, I have seen how effective Council can be when Councillors and Management work together as a team to achieve good outcomes for ratepayers and I have seen how bad Council can be when there is mistrust between Councillors and between Management, which is where we are now.

It was not surprising to see the dysfunction and factionalism in the responses from one group in the Governance Report however more alarming were the responses and even lower performance scores from the other participating group.

Whilst the online survey that the seventeen respondents participated in was undertaken on a confidential basis, their individual and group anonymity can be protected by simple amendments to the final Governance Review report and appendices by either changing text and colour coding and/or referring to the two groups within the report as 'Group A' and 'Group B'.

Despite the damning report, Council has failed to show any leadership or initiative to address its performance issues - therefore only ratepayers can do it. Ratepayers deserve much better performance from their Council and have a right to know well before they vote for the October 21st Local Government Elections just how dysfunctional and abysmal their Council is.

Our Strategic Community Plan identifies one of the key governance outcomes for the Shire is to have a local government that is respected, professional and trusted; both the Administration and the Council.

Our Strategic Community plan also identifies another key governance outcome for the Shire is to be a strategically focussed, open and accountable local Government.

In the interests of transparency and those two strategic governance goals I urge Councillors to support the resolution.

**Council Decision  
(Notice of Motion)**

**Moved: Cr Dilley**

**Seconded: Cr Crowley**

**That within seven days, and subject to written approval from the Australian Institute of Company Directors, Council make available to the public, a summary of the Internal Governance Review report recently compiled by the Australian Institute of Company Directors. Prior to the public release of the summary, any distinctions between participant responses are amended, so that the individual and group anonymity of respondents is protected.**

**Lost 2/7**

**Cr King requested the vote be recorded**

<b>For</b>	<b>Against</b>
Cr Dilley	Cr Logiudice
Cr Crowley	Cr Bailey
	Cr King
	Cr Mills
	Cr Mitchell
	Cr Tan
	Cr Van Der Heide

**\*\*6.16pm – The Principal Planner left the meeting and returned at 6.18pm.**

**Foreshadowed Motion**

**Moved: Cr Bailey**

**Seconded: Cr Mills**

- 1) Council instruct the Chief Executive Officer to write to the Australian Institute of Company Directors seeking approval to release the entire internal Governance Report to the public.**
- 2) If approved the Chief Executive Officer will place the entire report before the Council at the September Council meeting for Council approval to release the report to the public.**
- 3) Council further instructs the Chief Executive Officer to place before Council at the September Council Meeting the entire report on the Heath Check of the Organisation with the idea of releasing this document to the public.**

Cr Bailey and Cr Mills agreed to remove the third paragraph from the resolution as it does not relate to an agenda item being presented to the August 2017 Ordinary Meeting.

**Council Decision  
(Foreshadowed Motion)**

**Moved: Cr Bailey**

**Seconded: Cr Mills**

- 1) Council instruct the Chief Executive Officer to write to the Australian Institute of Company Directors seeking approval to release the entire internal Governance Report to the public.
- 2) If approved the Chief Executive Officer will place the entire report before the Council at the September Council meeting for Council approval to release the report to the public.

**Lost/3/6**

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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 Dilley**

**Seconded: Cr Tan**

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

- **Balingup Townscape Committee Meeting – 9 August 2017**
- **Donnybrook Townscape Committee Meeting – 9 August 2017**

**Carried 9/0**

**\*\*6.36pm – The Chief Executive Officer left the meeting.**

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**11 REPORTS OF COMMITTEES**

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**11.1 Donnybrook Townscape Committee**

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**11.1.1 PUBLIC TRANSPORT AUTHORITY/SHIRE RESERVE AND VIBE SITE**

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The Reserve on the corner of Victory Lane and South Western Highway is becoming a hazard with flooding and creating a poor entry statement to the main part of town. Also, there is a need to ensure that the oversized bay out the front of the Vibe is not used by standard vehicles. An amended sign is proposed to indicate that the bay is set aside for trucks and caravans (or oversized vehicles only).

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

**Moved: Cr Dilley**

**Seconded: Cr Bailey**

**The Donnybrook Townscape Committee recommends that Council:**

- 1) Consult with Vibe Service Station and Main Roads WA on the proposal to change the sign located on the South Western Highway, in front of the Vibe Service Station from ¼ hour parking limit to signage specifically identifying the area as parking for oversized vehicles.**
- 2) Instruct the Chief Executive Officer to implement 1 above.**

**Carried 9/0**

\*\* 6.38pm – The Chief Executive Officer returned.

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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 CCP3246-CCP3251, EFT121499a–EFT11303, 52648– 52689, DD22145 – DD22146, Trust 3511- 3522, and EFT12302b, totalling \$1,219,373.10.

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**12.1.2 MONTHLY FINANCIAL REPORT**

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**Officer’s Recommended Resolution**

**Moved: Cr Tan**

**Seconded: Cr King**

**That the monthly report for the period ended 30 June 2017 be received.**

**Carried 9/0**

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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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#### **12.4.1 PLANNING APPLICATION FOR A SHED AT LOT 802 PERSEVERANCE BOULEVARDE, ARGYLE**

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<b>Location:</b>	<b>Lot 802 Perseverance Boulevard, Argyle</b>
<b>Applicants:</b>	<b>Mr Justin Rosman</b>
<b>Zone:</b>	<b>Rural Residential</b>
<b>File Ref:</b>	<b>A4488</b>
<b>Author:</b>	<b>Bob Wallin (Principal Planner)</b>
<b>Report Date:</b>	<b>4 July 2017</b>
<b>Attachments:</b>	<b>12.4.1(1) – Site Plan 12.4.1(2) – Floor Plan</b>

#### **Background**

An application has been received to erect a shed at Lot 802 Perseverance Blvd, Argyle (Attachment 12.4.1(1)). The shed will have a wall height of 5.5m and a floor area of 15 metres x 15 metres (225m<sup>2</sup>). There will also be an open sided lean-to element of 4 metres x 15 metres (60m<sup>2</sup>)(Attachment 12.4.1(2)).

The proposal is presented to Council for a decision as it greater than the policy requirements of 180m<sup>2</sup> and wall height of 3.5 metres.

#### 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:

Clause 3.3 outlines the purpose and objectives of the Rural Residential zone. The relevant clauses are:

*“3.3.1 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.”*

*“3.3.2 (iv) maintain the rural character of the locality, maintain a high level of residential amenity and minimise disturbance to the landscape through appropriate construction of buildings and structures, clearing, earthworks and access roads...”*



- (xi) *Discourage or prohibit development not compatible with the predominantly rural nature and residential amenity of the zone. “*

**“4.17 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.”*

Clause 67 of the deemed provisions of local planning schemes outlines matters to be considered by local government. These include:

- “(m) the compatibility of the development with its setting including the relationship of the development to development on adjoining land or on other land in the locality including, but not limited to, the likely effect of the height, bulk, scale, orientation and appearance of the development”*

Planning guidance is provided in Local Planning Policy 9.4 – Outbuilding Control.

The relevant provisions and intent of this policy is detailed as follows:

Clause 9.4(2)a) Outbuilding Area Controls defines maximum outbuilding areas of 180m<sup>2</sup> and a wall height of 3.5m for land zoned Rural Residential.

Clause 9.4(2)b) states that:

*“Council may however consider an increase beyond 180m<sup>2</sup> subject to the submission of an application for planning consent which addresses the following:*

- *impact on vistas;*
- *impact on existing vegetation;*
- *location and density of development;*
- *stormwater disposal; and*
- *purpose of shed size.”*

The applicant has advised that the shed size is needed to:

- securely store classic cars and enable restoration;
- provide workshop space;
- accommodate farm equipment (tractor, slasher etc);
- storage for boat; and
- the wall height is required to provide a mezzanine floor for additional storage.

The applicant has contacted the neighbour who raises no objections to the proposal.

### **Comment**

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

- a) design of the structures; and
- b) 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 amenity

In the immediate locality, there is a mix of building styles and materials. However, the proposed shed is of a design and bulk that is larger than surrounding. In particular, the wall height is two metres above the required height. This represents a 36% variation on requirements.

The additional wall height, when considered in combination with the floor area variation of 20% (45m<sup>2</sup>), the result will be a structure having a bulk far larger than a structure with a 3.5 metre wall height.

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

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

It is reasonable to state that the proposed new shed will be of a scale and bulk that is not reflected in the existing street.

It is possible to significantly reduce the impact of bulk by reducing the wall height to 3.5 metres consistent with Council Policy. This reduction, when considered in combination with the setbacks proposed will increase the potential for the development to be less imposing on the established streetscape setting.

#### Departures from Policy Position

In considering departures from a policy position, it is important to weigh up the intent of the policy and the extent of any departure proposed. In this case, the policy sets a maximum floor area and wall height (180m<sup>2</sup> and 3.5m wall height). The intent is to limit the impact of sheds on the streetscape setting. The policy does provide some room for flexibility and departures. However, in this case, the departures are significant (proposal exceeds floor area by 45m<sup>2</sup> and height by 2m). This will set an undesirable precedent for other shed developments within the Rural Residential zone.

#### Consistent application of policy

Policies are easier to regulate and defend if consistently applied.

#### Setbacks

Impacts on streetscape are limited to some extent by distances from Perseverance Boulevard and Gemmell Road (106m and 97m respectively). A setback of approximately 40m will be achieved from Bendall Road which is of gravel construction and has low traffic volumes.

These setbacks are well in excess of the minimum 15m setback roads for road frontages and could play a material role in reducing impacts on local streetscape amenity.

#### Potential for Landscaping

There is scope to provide screening landscaping to reduce the potential dominance of the structure on the streetscape. There are already a number of trees along the boundaries. Additional planting and construction of a landscaped earth bund in appropriate locations can further reduce potential impacts of bulk and visibility from public roads.

#### **Consultation**

The application does not require advertising. However, the applicant has advised that the neighbour has no objections to the proposal.

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

##### Policy

Policy 9.4 – Outbuilding Control. This proposal requires Council to make a decision as it requires a departure from the stated standards.

##### Statutory

Clause 3.3 of Local Planning Scheme No.7 (LPS7) outlines 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.

Clause 4.17 of Local Planning Scheme No.7 (LPS7) 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
- Outcome 3.9 – Existing community spirit and pride is maintained

\*\* 6.40pm – Ian Kemp and Sue Radford left the meeting.

Cr Van Der Heide seconded the motion subject to the wall height in point three of the resolution being amended from 3.5 metres to 4.3 metres. Cr Bailey supported the amendment.

**Council Decision**

**(Officer's Recommended Resolution)**

**Moved: Cr Bailey**

**Seconded: Cr Van Der Heide**

**That Council grant planning consent for a shed at Lot 802 Perseverance Boulevard, Argyle subject to the following conditions:**

- 1) The development hereby permitted must be substantially commenced within two (2) years from the date of this decision letter.**
- 2) The approved plans form part of this approval and the development hereby approved must at all times be consistent with the approved plans as marked in red.**
- 3) The wall height being restricted to a maximum of 3.5 metres.**
- 4) The floor area being restricted to a maximum of 225m<sup>2</sup>.**
- 5) A landscaping plan being prepared and implemented to the satisfaction of the Shire of Donnybrook Balingup.**

Cr Van Der Heide proposed an amendment that condition 3 be modified to 4.3 metres, instead of 3.5 metres. Cr Bailey agreed with the amendment.

**Council Decision  
(Amended Resolution)**

**Moved: Cr Bailey**

**Seconded: Cr Van Der Heide**

**That Council grant planning consent for a shed at Lot 802 Perseverance Boulevard, Argyle subject to the following conditions:**

- 1) The development hereby permitted must be substantially commenced within two (2) years from the date of this decision letter.**
- 2) The approved plans form part of this approval and the development hereby approved must at all times be consistent with the approved plans as marked in red.**
- 3) The wall height being restricted to a maximum of 4.3 metres.**
- 4) The floor area being restricted to a maximum of 225m<sup>2</sup>.**
- 5) A landscaping plan being prepared and implemented to the satisfaction of the Shire of Donnybrook Balingup.**

**Carried 9/0**

\*\* 6.42pm – Steve Russell and Justin and Shan Rosman left the meeting.

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**12.4.2**

**RV FRIENDLY TOWN PROPOSAL**

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<b>Location:</b>	<b>Shire of Donnybrook Balingup</b>
<b>Applicants:</b>	<b>Donnybrook Regional Tourism Association</b>
<b>Zone:</b>	<b>N/A</b>
<b>File Ref:</b>	<b>TRS 07</b>
<b>Author:</b>	<b>Bob Wallin (Principal Planner)</b>
<b>Report Date:</b>	<b>9 August 2017</b>
<b>Attachments:</b>	<b>12.4.2 – Correspondence from Donnybrook Regional Tourism Association</b>

**Background**

The Donnybrook Regional Tourism Association (Tourism Association) has expressed interest in having Donnybrook townsite provide a dedicated site for overnight use by Recreational Vehicles (RV's). This will enable the Shire to become registered as an official 'RV Friendly Town'. Attachment 12.4.2 provides details of the request and reasons to support such an idea, from the Tourism Association.

The RV Friendly Town initiative is driven by the Campervan and Motorhome Club of Australia (CMCA). The CMCA has over 70,000 members. The CMCA promotes the economic advantages to small towns providing RV tourists specific amenities.

The Shire is party to the Bunbury Wellington and Boyup Brook Regional Tourism Development Strategy 2015-2019 (the Strategy). The Strategy was unanimously supported by Council at its October 2016 Ordinary Meeting, along with a joint Memorandum of Understanding with other south-west Local Governments and a financial commitment of \$5,000 per year (for three years) towards a Regional Tourism and Marketing Manager position (initially hosted by the City of Bunbury).

The Strategy defines ‘regionally significant priorities’ to further tourism development as an increasingly key pillar of economic development in the region. One of the identified ‘regionally significant priorities’ is to:

*“develop RV Friendly sites within close proximity to regional towns, create an RV trail (scenic route) between towns, linked to popular sites, wineries-eateries, trails and forest-nature sites”.*

### Comment

To qualify for the RV Friendly Town status, it is necessary to provide the following:

- Provision of appropriate parking within the town centre, with access to a general shopping area for groceries and fresh produce;
- Provision of short term, low cost overnight parking (24/48 hours) for self-contained recreational vehicles, as close as possible to the CBD;
- Access to potable water; and
- Access to a free dump point at an appropriate location.

The Donnybrook townsite can comply with all these requirements with limited effort. The following table provides a brief summary of how the town complies (or can be compliant) with the criteria of the RV Friendly Town initiative:

Criteria	Response
Provision of appropriate parking within the town centre, with access to a general shopping area for groceries and fresh produce	Oversize vehicle parking is already available at points within the Donnybrook townsite.
Provision of short term low cost overnight parking (24/48 hours) for self-contained recreational vehicles, as close as possible to the CBD	The Donnybrook Transit Park provides 10 van sites plus 20 camping sites. This facility provides public toilets, shower facilities, laundry, outdoor kitchen, power, potable water and dump site.  Fees can be considered low cost. A

Criteria	Response
	powered site is \$31 a night and \$25 for an unpowered site. A seniors discount is also available
Access to potable water	Potable water is available at the Donnybrook Transit Park.
Access to a free dump point at an appropriate location	A free dump point is provided at the Donnybrook Transit Park.

The only element that may require any attention would be to identify a specific area within the Donnybrook Transit Park to be dedicated for RV's. Advice received from the existing Donnybrook Transit Park manager shows that the facility averages 30% occupancy over the year. The rate of occupancy has shown a gradual increase in demand over the last 5 years (since statistics have been kept). RV's account for approximately 10 to 20 percent of the total facility users.

Discussion with the Donnybrook Transit Park manager indicates that camping bays 4 and 5 (unpowered sites) could be identified for RV use. These sites could be available for \$25 a night. It should be noted that this does not imply that RV's will only be restricted to these sites. It just implies that these two sites are dedicated for RV use.

On the basis that the proposal is unlikely to result in any significant financial burden, there may be some marginal benefit in Donnybrook being marketed as part of the RV Friendly Town network.

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

Policy

N/A

Statutory

N/A

Voting

Simple majority

### **Financial Implications**

If supported, there is potential for an increase in maintenance costs and loss of revenue from transit park facilities.

### **Strategic Implications**

Support for the tourism sector is a key pillar of the Shire's recently adopted Corporate Business Plan 2017 – 2021.





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## 12.5 Chief Executive Officer

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### 12.5.1 CODE OF CONDUCT REVIEW

<b>Location:</b>	<b>Shire of Donnybrook Balingup</b>
<b>Applicants:</b>	<b>Shire of Donnybrook Balingup</b>
<b>Zone:</b>	<b>N/A</b>
<b>File Ref:</b>	<b>ADM06</b>
<b>Author:</b>	<b>Ben Rose – CEO (<i>Lucy Bourne - Governance Officer</i>)</b>
<b>Report Date:</b>	<b>31 July 2017</b>
<b>Attachments:</b>	<b>12.5.1(1) – Revised Code of Conduct 12.5.1(2) – Track Changes Code of Conduct</b>

#### Background

The Code of Conduct (the Code) is a set of rules that provide Elected Members, Committee Members and Employees with an acceptable and expected standard of professional conduct.

#### Comment

In accordance with section 5.103 of the *Local Government Act 1995* (the Act), Council has a Code for Elected Members and Employees. The Code is reviewed annually to ensure it complies with the Act and any recent amendments to the Act.

Elected Members were invited (21 July, 2017) to comment on the Code and suggest changes; comments and suggestions were received from one Elected Member (Councillor Mitchell), as follows.

Section	Councillor Comment (summarised)	Administration Response
General	Inconsistent use of terminology for Elected Members and Staff.	Acknowledged. Consistent terminology now applied in revised version.
Gift Provisions	Provisions unclear in relation to gifts from direct family/spouses.	These situations are provided for within the relevant Act and Regulations – the Code defers to the Act and Regulations in these instances.
Dress Standard	Dress standards for Elected Members and Staff should be the same.	Acknowledged and included in revised version.
Communication and Public Relations	Individual Elected Member disagreement, in public, with a Council decision/s should be permitted (in a respectful manner)	The Code (as revised) does not preclude this.
	There should be provisions to prevent revisiting of previous decisions of the	The Standing Orders (and Act) address this matter.

Section	Councillor Comment (summarised)	Administration Response
	Council.	
Elected Member – Staff Relationships	Only information pertinent to current Council business should be sought by Elected Members from staff.	The Act and Shire Policies address this matter.
Travel expenses	Caution should be exercised in claiming travel expenses where multi-purpose trips are undertaken (i.e. a mix of Council and personal business).	Acknowledged.

The Code has been reviewed by the Administration, with assistance and input from the WA Local Government Association (WALGA). A number of changes are recommended; these changes more closely align the Code with the current WALGA model and include changes as per the Councillor feedback acknowledged in the table, above.

On recommendation from WALGA, numerous administrative modifications have been recommended; these modifications do not change the tenets of the Code, they merely contemporise it and ensure the Code covers all the matters required of it in the various Regulations under the Act. A ‘track changes’ version of the Code, as well as the reviewed and recommended version of the Code, are attached for Council consideration.

### Consultation

Elected Members, staff and the WALGA Manager of Governance (Mr James McGovern).

### Policy/Statutory/Voting Implications

Policy  
N/A

#### Statutory

Relevant provisions of the *Local Government Act 1995*, the *Local Government (Rules of Conduct) Regulations 2007* and the *Local Government (Administration) Regulations 1996*.

#### Voting

Simple majority

### Financial Implications

Nil

### Strategic Implications

The recently adopted Corporate Business Plan 2017-21 sets out the following actions:

Effective and efficient operations and service	4.2.1.1	Maintain effective and efficient policies, planning, operating procedures and practices
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Cultural Industries) recommended minor alterations and edits to reflect best practice drafting practices.

Elected Members and staff were also given the opportunity to comment on the earlier draft and a number of alterations resulted, as follows:

- The circumstances under which the Local Law will be applied to committee meetings have been clarified. Only where committees have delegated powers (there are none presently) or where the Council, by specific resolution requires it, will the provisions of this local law be applied to the committee meeting.
- The timeframe for receiving Elected Members' notices of motion has been made specific at 14 days prior to the meeting. This removes any ambiguity that presently exists in relation to lodging of notices of motion from the date/time of publication of the agenda (which can vary from meeting to meeting).
- The timeframe to identify items related to the adoption by exception resolution provision has been clarified.
- Where Council resolves to close a meeting to members of the public, in addition to the Members, the CEO and any officer specified by the Presiding Member, the CEO's delegate/s may also remain in the room.
- An exception has been added to the requirement to turn off mobile telephones and other electronic communications devices to allow them to remain on when required for emergency use.
- Members wishing to speak shall be asked to rise (unless unable to because of sickness or disability) to address the Council. This is consistent with the current Standing Orders Local Law.

Given that the attached Local Law is not significantly different from that which was proposed, it is recommended that Council adopt the Meeting Procedures Local Law (absolute majority decision required).

After making the Local Law, Council is to publish it in the Government Gazette and provide a copy to the Minister. State-wide public notice is then to be provided stating the title of the Local Law adopted; summarising the purpose and effect of the Local Law and advising that copies of the Local Law may be inspected or obtained from the local government's office.

It is planned that the new Local Law will come into effect in October 2017 to coincide with the first Ordinary Council Meeting following the 2017 local government election. Training can be made available for Elected Members and staff.

## **Consultation**

Notice of the proposed local law was provided in accordance with section 3.12 of the *Local Government Act 1995*, with submissions invited over a six week period. The Local Law was sent to the Minister for Local Government for review by the Department of Local Government.

## Policy/Statutory/ Voting Implications

### Policy

N/A

### Statutory

Section 3.12 of the *Local Government Act 1995* sets out the procedure for making a local law.

### Voting

An absolute majority decision is required under Section 3.16 of the *Local Government Act 1995*.

## Financial Implications

The cost of gazettal has been factored into the 2017/18 Budget.

## Strategic Implications

The recently adopted Corporate Business Plan 2017-21 sets out the following actions:

Effective and efficient operations and service provision	4.2.1.1	Maintain effective and efficient policies, planning, operating procedures and practices
	4.2.1.2	Seek a high level of legislative compliance and effective internal controls
Provide a positive, professional culture	4.2.2.3	Promote a constructive and accountable workplace and Council culture

## Council Decision

### (Officer's Recommended Resolution)

**Moved: Cr Crowley**

**Seconded: Cr Tan**

**That Council adopt the attached *Shire of Donnybrook Balingup Meeting Procedures Local Law 2017*. This local law will repeal and replace the *Shire of Donnybrook Balingup Standing Orders Local Law 1999*.**

**The purpose of this 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.**

**The effect of this local law is to bring order and dignity to meetings and underpin the decision-making processes.**

**Chief Executive Officer to coordinate so that the Local Law takes effect from the first Ordinary Meeting of Council in October 2017.**

**Carried 9/0  
By Absolute Majority**

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**12.5.3**

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**CARETAKER POLICY**

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<b>Location:</b>	<b>Shire of Donnybrook Balingup</b>
<b>Applicants:</b>	<b>Shire Administration</b>
<b>Zone:</b>	<b>N/A</b>
<b>File Ref:</b>	<b>CAL 06/2</b>
<b>Author:</b>	<b>Ben Rose, Chief Executive Officer (<i>Lucy Bourne, Governance Officer</i>)</b>
<b>Report Date:</b>	<b>7 August 2017</b>
<b>Attachments:</b>	<b>12.5.3 - Draft Council Policy 1.27 – Caretaker Policy</b>

### **Background**

The Department of Local Government, Sport and Cultural Industries recommend the adoption of caretaker conventions to be applied to local governments during the local election period, through the adoption of a Caretaker Policy. A draft Caretaker Policy (the Policy) has been prepared for Council's consideration.

The objectives of the Policy are to:

- ensure Council avoids making major decisions prior to an election that would unreasonably bind an incoming Council;
- prevent the use of public resources in ways that could be seen as advantageous or disadvantageous to members seeking re-election or new candidates; and
- Recognise the requirement for the Shire administration to act impartially in relation to all candidates.

### **Comment**

A Caretaker Policy provides more transparency around major decisions being made by Council in the lead up to a local election. Caretaker period policies can help to protect both the reputation of a local government's Administration and its Elected Members.

The attached draft Policy covers:

- decisions made by the Council;
- materials published by the local government;
- attendance and participation in functions and events;
- use of the local government's resources; and
- Access to information held by the local government.

If adopted, the caretaker period would take effect from the close of nominations on 14 September 2017 until 6pm on Election Day, 21 October 2017.

There are provisions in the policy for Council to make major decisions in emergency situations during the Caretaker Period.

## Consultation

Department of Local Government, Sport and Cultural Industries.

## Policy/Statutory/Voting Implications

### Policy

A new Policy will be, if approved, included in the Council section of the Policy Manual.

### Statutory

*Local Government Act 1995, s2.7(2)(b)* – The Council determines the local government's policies.

### Voting

Simple Majority

## Financial Implications

There are no budget or long-term financial implications for this policy.

## Strategic Implications

The recently adopted Corporate Business Plan 2017-21 sets out the following actions:

Effective and efficient operations and service provision	4.2.1.1	Maintain effective and efficient policies, planning, operating procedures and practices
	4.2.1.2	Seek a high level of legislative compliance and effective internal controls
Provide a positive, professional culture	4.2.2.3	Promote a constructive and accountable workplace and Council culture

## Council Decision

### (Officer's Recommended Resolution)

**Moved: Cr Mitchell**

**Seconded: Cr Bailey**

**That Council adopt the attached Council Policy 1.27 – Caretaker Policy.**

**Carried 9/0**

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<b>12.5.4</b>	<b>ELECTED MEMBER - STAFF CONTACT POLICY 1.20</b>
<b>Location:</b>	<b>Shire of Donnybrook Balingup</b>
<b>Applicants:</b>	<b>Shire of Donnybrook Balingup</b>
<b>Zone:</b>	<b>N/A</b>
<b>File Ref:</b>	<b>ADM11/3</b>
<b>Author:</b>	<b>Ben Rose – Chief Executive Officer</b>
<b>Report Date:</b>	<b>10 August 2017</b>
<b>Attachments:</b>	<b>12.5.4(1) Existing Staff Councillor Contact Policy</b> <b>12.5.4(2) Reviewed Staff Councillor Contact Policy</b>

## **Background**

The Shire of Donnybrook Balingup introduced its Councillor – Staff Contact Policy 1.20 (the Policy) on 26 June 2013 and the Policy was most recently reviewed on 26 April 2016. The required annual review of the Shire’s Code of Conduct (also part of this Ordinary Council Meeting Agenda) has given rise to the review of this Policy, as there are inter-related provisions.

## **Comment**

The existing Policy includes information which is:

- Irrelevant or immaterial to the subject of Staff and Elected Member contact (e.g. works requests processes, project definition processes); and
- Procedural in nature (e.g. how Elected Members are to be ‘received’ at the Administration Office).

In this regard, the Policy has been reduced and refined, with clarity provided in relation to the Elected Member – Staff contact provisions.

## **Consultation**

Nil.

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

### Policy

Review of the Shire’s Policies is recommended on a recurring basis.

### Statutory

The Policy aligns with, and builds on, the provisions of the *Local Government Act 1995* and Regulations, enabling and guiding Elected Member contact with Staff.

### Voting

Simple Majority.



## Financial Implications

Nil.

## Strategic Implications

The recently adopted Corporate Business Plan 2017-21 sets out the following actions:

Effective and efficient operations and service provision	4.2.1.1	Maintain effective and efficient policies, planning, operating procedures and practices
	4.2.1.2	Seek a high level of legislative compliance and effective internal controls
Provide a positive, professional culture	4.2.2.3	Promote a constructive and accountable workplace and Council culture

## Council Decision (Officer's Recommended Resolution)

**Moved: Cr Mitchell**

**Seconded: Cr Dilley**

**That Council adopt Council Policy 1.20 – Elected Member-Staff Contact subject to the inclusion of 'Councillors must include the Chief Executive Officer and Councillor group when emailing members of the Shire administration'.**

**Carried 9/0**

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### 12.5.5 REVIEW OF COMMITTEES

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<b>Location:</b>	<b>Shire of Donnybrook Balingup</b>
<b>Applicants:</b>	<b>Shire of Donnybrook Balingup</b>
<b>Zone:</b>	<b>N/A</b>
<b>File Ref:</b>	<b>ADM06</b>
<b>Author:</b>	<b>Ben Rose – Chief Executive Officer (<i>Lucy Bourne – Governance Officer</i>)</b>
<b>Report Date:</b>	<b>4 August 2017</b>
<b>Attachments:</b>	<b>NIL</b>

## Background

The Shire of Donnybrook Balingup currently has 22 committees. The majority of these are Council Committees, comprising both Elected Members and community representatives. The Audit Committee is made up of all Councillors while the Upper Preston Cemetery Advisory Committee, for example, is made up only of community representatives. Some meet regularly, others as required. There are approximately 25-30 committee meetings a year.

It is recommended that the number of committees be reviewed to achieve efficiency and effectiveness benefits.

### **Comment**

Committees provide significant assistance to Council by allowing community input and detailed discussion to occur outside of the formal Council Meeting process. Committees typically make a recommendation to Council for a decision.

The high number of committee meetings requires a substantial time commitment from Elected Members, staff and Committee Members, with each meeting requiring agenda preparation and distribution, minutes, room set-up and staff (and Committee Member) attendance.

There is an opportunity to rationalise the number of committees, while maintaining community involvement, and increasing efficiencies. One option, for example, would be to group the functions of the committee meetings according to the four pillars of the Strategic Community Plan – (Economy, Built and Natural Environment, Community and Leadership). Councils that have gone through a similar review process (e.g. Bunbury and Joondalup) have eight committees.

If Council agrees to a review of committees, it is envisaged that investigation and engagement could occur during September 2017. A proposed new committee structure could then be ready for consideration by Council following the 2017 local government elections, and the process to establish new committees could then proceed as normal.

### **Consultation**

Elected Member, staff and local government sector consultation is recommended to review and refine any committee structures.

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

#### Policy

Council Policy 1.15 – Committee Membership

#### Statutory

The *Local Government Act 1995* (and other related legislation) mandates the existence of a certain Committee's (e.g. Audit Committee, CEO Review Committee), Local Emergency Management Committee etc).

#### Voting

Simple Majority.

### **Financial Implications**

Depending on the extent of the review, cost savings may result, without impacting levels of community engagement.

## Strategic Implications

The recently adopted Corporate Business Plan 2017 – 2021 sets the requirement to review committee structures, as follows.

Provide accountable and strategic leadership	4.1.1.3	Review Council, Committee and Working Group governance structures and meeting programs
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## Council Decision (Officer's Recommended Resolution)

**Moved: Cr Bailey**

**Seconded: Cr Van Der Heide**

**That Council instruct the Chief Executive Officer to conduct a review of Committees and present findings and recommendations to the October 2017 Ordinary Meeting of Council.**

**Carried 9/0**

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### 12.5.6 EXPRESSION OF INTEREST - BUNBURY GEOGRAPHE TOURISM PARTNERSHIP (BGTP) WORKING GROUP

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<b>Location:</b>	<b>Shire of Donnybrook Balingup</b>
<b>Applicants:</b>	<b>Administration</b>
<b>Zone:</b>	<b>N/A</b>
<b>File Ref:</b>	<b>TRS 09</b>
<b>Author:</b>	<b>Ben Rose, Chief Executive Officer (<i>Deb Vanallen, Community Development - Team Leader</i>)</b>
<b>Report Date:</b>	<b>2 August, 2017</b>
<b>Attachments:</b>	<b>12.5.6(1) - Expressions of Interest - Tourism Advisory Working Group 12.5.6(2) - Tourism Advisory Working Group Terms of Reference</b>

## Background

In recognition of the important role that tourism industry operators play in the development of tourism, the Bunbury Geographe Tourism Partnership (BGTP) Steering Committee, which includes the Chief Executive Officer's from the Shires of Boyup Brook, Capel, Collie, Dardanup, Donnybrook Balingup, Harvey and the City of Bunbury, are each progressing the appointment of a local representative to join the Working Group which will provide advice to the Steering Committee on tourism development and marketing in the region.

This is an opportunity for local tourism operators throughout the region to have direct input into the Bunbury Geographe Tourism Partnership decision making process.

The formation of a Working Group is aligned with the Memorandum of Understanding (MoU), signed in December 2016 (and to operate for three years), which outlines the key priorities for the implementation of the Bunbury Wellington and Boyup Brook Regional Tourism Strategy. It is intended that after the initial agreed period of three years, the responsibilities and management of regional tourism will be transitioned to an independent body or corporation to be determined in the course of the three year term of the MoU.

### **Comment**

The Shire of Donnybrook Balingup has called for Expressions of Interest (EOI) for a representative to join the Bunbury Geographe Tourism Working Group (TAWG).

The functions of the TAWG are outlined in the attached Terms of Reference and include:

- Representing the Bunbury Geographe tourism industry;
- Providing advice and recommendations to the Steering Committee and the Tourism Marketing and Development Manager (TMDM) relating to tourism and its development and future in the region;
- Assisting the TMDM to deliver projects relating to the Bunbury Wellington and Boyup Brook Tourism Strategy Regional Marketing and Action Plans;
- Encouraging industry and operator involvement in BGTP activities; and
- Raising community awareness of the value and benefits of tourism.

The TAWG is anticipated to meet at least six times per year, with membership including tourism and local government representatives. Sitting fees do not apply.

### **Consultation**

The Shire of Donnybrook Balingup's EOI process opened on 18 July 2017. The EOI was advertised on the Shire website and notices were posted on community notice boards throughout the Shire. Full details were also emailed to both the Donnybrook Regional Tourism Association/Donnybrook Visitors Centre and the Balingup and District Tourism Association/Balingup Visitors Centre. Both Associations forwarded the details to their membership

The EOI period closed at 5pm on Monday 31 July 2017 with one expression of interest being received.

Mr Wayne Hammond expressed an interest in joining the Bunbury Geographe Tourism Working Group. Mr Hammond has a wealth of relevant experience making him eligible for the position. In summary:

- Mr Hammond has lived and worked in the Bunbury Geographe region for over 25 years in a variety of roles.

- Mr Hammond purchased a property in Donnybrook on the banks of the Capel River in 1991 and over time developed a successful winery (Oakway Estate Winery);
- Has held a number of roles promoting wine and tourism for the region. He is currently the Treasurer and Geographe Representative on the board of Australia's South West (ASW). ASW is the peak regional tourism organisation for the south west of WA encompassing Albany to Harvey, Collie to Margaret River and includes the Bunbury Geographe region. This role gives him insight into the workings and relationships of local, regional, state and federal tourism bodies. The role has also enabled Mr Hammond to gain an understanding of the role of the State funded development commissions of the Great Southern and South West.
- Locally, Mr Hammond has been involved with the Donnybrook Food and Wine Fest, Stars on Preston, Crush Festival and many of the other local markets and festivals.
- He is also an active member of the Donnybrook Regional Tourism Association.

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

#### Policy

N/A

#### Statutory

N/A

#### Voting

Simple Majority.

### **Financial Implications**

The appointment of a representative to the Bunbury Geographe Tourism Working Group will not require the Shire to make any further financial commitment beyond that which was agreed in the Memorandum of Understanding, as approved by Council in 2016.

### **Strategic Implications**

The recently adopted Corporate Business Plan includes a major focus on tourism initiatives, including the following:

Actively promote the district as an attractive destination	1.3.1.1	Implement regional tourism and marketing objectives
	1.3.1.2	Develop and implement a local tourism and visitors development and promotion strategy
	1.3.1.3	Continue to support local and regional tourism bodies and initiatives
	1.3.1.4	Support and promote local tourism events and attractions

- |                                                      |         |                                                                                                                                                       |
|------------------------------------------------------|---------|-------------------------------------------------------------------------------------------------------------------------------------------------------|
| Provide, develop and maintain visitor infrastructure | 1.3.2.1 | Develop visitor and tourism infrastructure in line with the local tourism and visitors development and promotion strategy, within allocated resources |
|                                                      | 1.3.2.2 | Continue to seek funding to develop tourism infrastructure                                                                                            |
|                                                      | 1.3.2.3 | Promote townsites through town entries and main thoroughfare treatments                                                                               |

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

**Moved: Cr Dilley**

**Seconded: Cr King**

**That Council approve the appointment of Mr Wayne Hammond as the Shire of Donnybrook Balingup representative on the Bunbury Geographe Tourism Working Group for a term commensurate with the operation of the Bunbury Geographe Tourism and Marketing Partnership Memorandum of Understanding.**

**Carried 9/0**

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**12.6 Recall Items**

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<b>12.6.1</b>	<b>RFT 03/2017 – REPAIRS, RESTORATION AND ADAPTION OF THE OLD UNITING CHURCH</b>
	<b>Location: Bentley/Egan Street, Donnybrook</b>
	<b>Applicants: Shire of Donnybrook Balingup</b>
	<b>Zone: Public Purpose</b>
	<b>File Ref: PWF 16K</b>
	<b>Author: Leigh Guthridge, Manager Development and Environmental Services</b>
	<b>Report Date: 21 July 2017</b>
	<b>Attachments: Nil</b>

**Background**

Council considered the confidential report – RFT 03/2017 – Repairs, Restoration and Adaption of the Old Uniting Church at the Ordinary Council meeting held on 26 July 2017.

**Comment**

In accordance with the *Local Government Act 1995* Section 5.23 (2)(c) and Administration Regulations 4A the above report remained confidential as “a contract entered into, or which may be entered into, by the local government and which relates to a matter to be

*discussed at the meeting.”*

Once the information in the report is no longer sensitive the item is required, under the Act, to be included in the next occurring Council Meeting Agenda.

This matter has now been finalised.

### **Consultation**

N/A

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

#### Statutory

Section 5.23(2)(c) of the *Local Government Act 1995*.

#### Voting

Simple majority.

### **Financial Implications**

Nil

### **Strategic Implications**

- Outcome 4.2 - A respected, professional and trusted organisation

### **Council Decision**

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

**Moved: Cr Tan**

**Seconded: Cr Mitchell**

**That the Council resolutions relating to the confidential report on RFT 03/2017 – Repairs, Restoration and Adaption of the Old Uniting Church be made public.**

**Carried 9/0**

Below is the resolution from the confidential report – RFT 03/2017 – Repairs, Restoration and Adaption of the Old Uniting Church at the Ordinary Council meeting held on 26 July 2017.

### ***“Council Decision***

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

***Moved: Cr Mitchell***

***Seconded: Cr Tan***

***That Council accept RFT 3/2017 - Repairs, Restoration and Adaption of the Old Uniting Church from BRC Building Solutions to a value of \$169,095 (excluding GST).***

***Carried 7/2  
By Absolute Majority”***

Confidential Item 12.7.1 – Bridge 5121 Rosedene Lane was withdrawn prior to the commencement of the Ordinary meeting at the request of the Chief Executive Officer. The meeting remained open to the public.

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**12.7 Confidential Items**

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Nil.

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**13 CLOSURE OF MEETING**

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The Chairperson advised that the next Ordinary Council Meeting will be held on Wednesday, 27 September 2017 commencing at 5.00pm in the Seniors' Room, Donnybrook Community Library.

The Chairperson declared the meeting closed at 6.52pm.

<b>These Minutes were confirmed by the Council as a true and accurate record at the Ordinary Council Meeting held on 27 September 2017.</b>		
<b>Shire President</b>		<b>Presiding Member</b>