



Ordinary Council Meeting Minutes

Held on Wednesday, 26 July 2017

Commencing at 5.00pm

In the Seniors' Room, Donnybrook Community Library

Benjamin (Ben) Rose
Chief Executive Officer

27 July 2017

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ORDINARY COUNCIL MEETING MINUTES

26 July 2017

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SHIRE OF DONNYBROOK BALINGUP

ORDINARY COUNCIL MEETING MINUTES

Held in the Seniors' Room, Donnybrook Community Library
Wednesday 26 July 2017 commencing at 5.00pm

MEMBERS PRESENT

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
K O'Keeffe – Executive Assistant

PUBLIC GALLERY

Emily Pink

Daniel Hay

Noelene King

1 APOLOGIES

B Wallin – Principal Planner

2 PUBLIC QUESTION TIME

** 5.01pm – Cr Bailey and Cr Mills arrived

Public Questions taken on notice at the June 2017 Ordinary Council Meeting:

Noelene King

1. *The increased number of clients and dedicated staff within Tuia Lodge currently?*

The current occupancy is 36 residents (35 permanent, 1 respite).

Permanent staff:

- Facility Manager
- Senior Administration Officer
- Finance Officer
- Part Time Maintenance/ Gardener
- 2 Registered Nurses
- 3 Enrolled Nurses
- 6 Supervisors

- 12 Permanent Carers
- 8 Casual Carers
- Part Time Occupational Therapist
- 2 Occupational Therapy Assistants
- Part Time Physiotherapist
- 5 Cleaners/ Laundry staff

Noelene King

2. *The present situation with respect to the Health Department audits which are conducted regularly?*

In October 2016, Tuia Lodge received accreditation renewal to January 2020.

Since October 2016, Tuia Lodge has had one unannounced visit and one announced visit (by the Aged Care Quality Agency), which is normal procedure in a 12 month period. Both of those visits were successful and all outcomes were met. All accreditation details are publicly available via the Australian Aged Care Quality Agency website (www.aacqa.gov.au).

Noelene King

3. *Some examples of the skills training now provided to care staff?*

All staff are required to complete an annual mandatory training program covering:

- Fire Safety and Evacuation;
- Residents' Rights;
- Food Safe;
- Infection Control;
- Occupational Health and Safety;
- Bullying and Harassment; and
- Manual Handling.

Regular training sessions are carried out on catheter care, managing diabetes, nutrition and hydration on an as-needs basis.

Specialised training in Palliative Care, Aged Care Funding Instrument, Dementia, Accreditation and Occupational Health and Safety is provided to staff carrying out these roles.

Noelene King

4. *Improved and increased level of Care qualifications within the staff at Tuia Lodge?*

All Clinical staff are registered with relevant qualifications suitable to the positions they hold:

- The Facility Manager is also a Registered Nurse;
- A qualified Occupational Therapist has been appointed; and
- A qualified Physiotherapist visits 2 days per week.

During 2017, 2 care staff completed their Certificate 3 qualification in Aged Care. Three more staff are in the process of completing the Certificate 3 qualification in Aged Care.

Noelene King

5. Is there any feedback sought from the clients about their present care and what are the results?

The Tuia Lodge and Shire staff are committed to continuous improvement to enhance the quality of care and delivery of services at Tuia Lodge. We actively seek feedback on the range of services provided to monitor and evaluate performance,

including Resident Satisfaction Surveys and Family Conferences. It is inappropriate to discuss the specifics of any resident or family feedback in a public forum.

Noelene King

6. Why does the Shire seem reluctant to communicate these improved activities to the general community via articles in the Preston Press which would also address some of the rumours?

The Shire communicates Tuia Lodge activities on a regular basis through various forms and outlets of media. There are a number of factors that influence this, including:

- Foremost, the Shire is cognisant that Tuia Lodge is home for its residents and their quiet enjoyment of their own home must be respected above all else. While it is understood that there is community interest in Tuia Lodge, media focus is not always in the residents' interests. The release of information in relation to Tuia Lodge must be very carefully considered in light of personal privacy obligations.
- During the past six months the local weekly newspaper has ceased publication.
- Unless print media space is purchased, it is up to the media organisation whether information is published. Not all media statements offered to media outlets have been taken-up
- The Shire and Tuia Lodge have no dedicated staff member for communications and the preparation of media statements has to be fitted around other workloads. The Lodge is developing a regular newsletter so information can be shared with residents and their families in way that is sensitive and respectful.

Public Question taken with notice prior to the July 2017 Ordinary Council Meeting:

Noelene King

The answers to my questions at last month's shire meeting in regard to Tuia Lodge reflect my positive experiences at Tuia Lodge recently. I would like to congratulate all councillors for supporting this new structure.

My question is could the recently released information and statistics in regard to Tuia Lodge be placed on the Shire Website and also the Donnybrook and Balingup Tourism websites?

As we are attracting an older population of residents wishing to move or stay here, the positive information on our aged facility would be a drawcard when researching infrastructure within the Shire.

Chief Executive Officer

The Shire engages a variety of methods to promote Tuia Lodge as an attractive place to reside, and work however we are very mindful of maintaining our resident's rights to privacy and quiet enjoyment.

The answers to your questions raised at the June 2017 Ordinary Council meeting appear in the Minutes which are publicly available on the Shire website.

The Shire website is linked to the 'My Aged Care' website which means that when families search for an aged care facility in this postcode they are provided with information about Tuia Lodge including the services available and accommodation costs. Interested parties can also access a link from this site to the Australian Aged Care Quality Agency for copies of the most recent accreditation reports for Tuia Lodge. There are numerous aged care websites which have Tuia Lodge listed online.

Separate to this, the Shire periodically submits articles to the local newspapers to celebrate significant events and milestones, where appropriate while maintaining privacy and quiet enjoyment.

The Tourism websites are not controlled by the Shire, this question should be directed to the relevant Local Tourism Organisations.

3 APPLICATION FOR LEAVE OF ABSENCE

Nil

4 DECLARATION OF FINANCIAL / IMPARTIALITY INTEREST

Nil

5 PETITIONS / DEPUTATIONS / PRESENTATIONS

Cr Logiudice welcomed [Emily Pink, Acquisition Manager from Telstra](#) and [Daniel Hay, Senior Planner from Visionstream](#), and invited them to make a presentation to Council on item 12.4.1 – Planning Application for a Telecommunications Tower at Lot 1 Boyup Brook Road, Lowden. The presentation commenced at 5.03pm and concluded at 5.11pm

** 5.04pm – Cr Dilley arrived.

** 5.11pm – Cr Van Der Heide left the meeting.

6 PRESIDENT’S COMMUNICATIONS

Date	Meeting	Report
23/06/2017	WALGA South West Zone Meeting	Scheduled monthly meeting
25/06/2017	RAC South West Presentation	Update of RAC Operations and Electric Highway. Update on Progress of electric vehicles.
04/07/2017	Communications Meeting	Weekly meeting.
08/07/2017	Lions Changeover Night	Presentation on behalf of Shire.
12/07/2017	Meeting with Ben, Capel Shire CEO Paul Sheedy and City of Bunbury Acting CEO Malcolm Osbourne	Discuss retention of the CLGF Regional Waste Site Funding
13/07/2017	Meeting with Federal Aged Care Minister Ken Wyatt, Ben and Anne Clifford A/Tuia Lodge Manager	Update on security of future funding, opportunities for future expansion, viability of small providers.
14/07/2017	Meeting with Alana MacTiernan’s Principal Policy Adviser Cole Thurley and Policy Adviser Julie-Ann Gray	Discussed the retention of the CLGF Regional Waste Site Funding
15/07/2017	Dedication for Alf Torrisi	Unveiling of a new picnic table dedicated to Alf Torrisi at the beginning of walk trail on Frost Road; a Donnybrook Lions and Shire Project.
17/07/2017	Meeting with Hon. Colin Tincknell, MLC Member for South West and Electorate Officer One Nation Party	General discussion seeking to understand the issues affecting the Shire and any requirements / support he may be able to provide in the future
17/07/2017	BWEA, Bunbury Geographe working group meeting	Meeting with consultants Maker & Co to implement the first stage of consultation

Date	Meeting	Report
		with BWEA Members for the proposed amalgamation of BWEA and the Bunbury Geographe group of Councils, Bunbury, Capel, Dardanup, Harvey, Donnybrook Balingup and Collie

7 LATE ITEMS

Nil

8 CONFIRMATION OF MINUTES

8.1 Ordinary Meetings of Council

Council Decision

Moved: Cr Mills

Seconded: Cr Mitchell

That the Minutes of the Ordinary Meeting of Council held on 28 June 2017 be confirmed as a true and accurate record.

Carried 8/0

** 5.13pm – Cr Van Der Heide returned.

9 ELECTED MEMBER’S MOTIONS

9.1.1 NOTICE OF MOTION: CONSTRUCTION OF UNITS 14-17, PRESTON RETIREMENT VILLAGE

Location: Shire of Donnybrook Balingup
Applicants: Cr Crowley
Zone: N/A
File Ref: CNL 34D
Author: Cr Crowley
Report Date: 20 July 2017
Attachments: Nil

Cr Crowley’s Notice of Motion

That Council:

- a) Support the construction of the remaining four units at Preston Retirement Village, in accordance with the contractual obligations related to the completion of the facility; and**

- b) Request the Chief Executive Officer to make the necessary arrangements to draw down a low interest loan of up to \$900,000 to facilitate the construction of the remaining four units at Preston Retirement Village.**

Cr Crowley's Comment

The construction of Preston Retirement Village was marketed as a 17 unit facility and construction commenced in 2005. It remains an unfinished project, pending completion of the remaining four units and associated. The holding cost of the current four blocks is approximately \$100,000 per block. Until the units are built and sold, this money will not be realised and subsequently utilised for other projects within the Shire.

As this is the completion of an ongoing project, a new business plan and scope should not be required. With plans already held by the Shire, it's understood additional castings and feedback from a quantity survey will be required to initiate the call for tenders,

As the Council already holds three firm expressions of interest to lease a unit within Preston Retirement Village, it is envisaged that the take-up rate in the sale of these units will be significantly quicker than experienced previously.

Chief Executive Officer's Comment

At a recent Concept Briefing session Council received a business proposal to complete construction of the remaining four (4) units at Preston Village within the 2017/18 financial year. There was general support for this project to proceed within the 2017/18 year subject to approval in the 2017/18 budget.

The (Preston Village) Village Scheme and Residency Lease upon which residents enter the Retirement Village includes a clause outlining the Basis for Lease.

Part A states:

"The lessor is building a retirement village named "Preston Village" at Lot 152 Sharp Street, Donnybrook in up to four development stages. The village will comprise 17 self-contained Residences, Community Facilities and Common Areas."

This document supports the proposition that Preston Village (and the individual units) have been marketed on this basis thereby indicating that Council has both a contractual and moral obligation to complete Preston Village to a 17 unit complex.

Whilst there will be interest costs relating to the take up of the loan (approximately \$27,000 per annum), the construction and subsequent leasing of the units will generate surplus income of approximately \$340,000 above construction costs which will enable Council to recoup costs relating to the provision of infrastructure within the development and past and present loan borrowing costs.

The finalisation of this project is supported through the Shire's recently Community Strategic Plan and subject to Council approval, will be included in the Shire's Corporate Business Plan (CBP).

Construction, funded entirely by loan, has been modelled into the Draft Long Term Financial Plan (LTFP) and will also be included in the Draft Annual Budget for the 2017/18 year. Council will be presented with the CBP and the LTFP for adoption at a Special Meeting of Council to be held on 8th August 2017. Council will also be considering, but not adopting, the Draft 2017/18 Budget at this meeting.

Cr Crowley's Notice of Motion

Moved: Cr

Seconded: Cr

That Council:

- a) Support the construction of the remaining four units at Preston Retirement Village, in accordance with the contractual obligations related to the completion of the facility; and**
- b) Request the Chief Executive Officer to make the necessary arrangements to draw down a low interest loan of up to \$900,000 to facilitate the construction of the remaining four units at Preston Retirement Village.**

Procedural Motion

Moved: Cr King

Seconded: Cr Bailey

That the item lay on the table.

Lost 3/6

(Council Decision)

Chief Executive Officer's Recommended Resolution

Moved: Cr Crowley

Seconded: Cr Mitchell

That Council:

- a) Support the construction of the remaining four units at Preston Retirement Village, in accordance with existing residency lease and contractual obligations related to the completion of the facility; and**
- b) Request the Chief Executive Officer to make provision within the 2017/18 Draft Budget to include the raising of an interest only loan of up to \$900,000 to facilitate the construction of the remaining four units at Preston Retirement Village.**

Carried 8/1

10 MINUTES OF PREVIOUS MEETINGS

10.1 Committee Minutes

Council Decision

Moved: Cr Tan

Seconded: Cr Van Der Heide

That the following Committee Minutes be received:

- **Preston Retirement Village Project Management Team Meeting – 20 July 2017**

Carried 9/0

11 REPORTS OF COMMITTEES

The report from the Preston Village Project Management Team Meeting will be dealt with behind closed doors.

12 REPORTS OF OFFICERS

12.1 Manager Finance and Administration

12.1.1 ACCOUNTS FOR PAYMENT

For information: The following accounts have been authorised and paid under Delegation 3.2 by the Chief Executive Officer represented by cheques CCP3243 - CCP3245, EFT11889–EFT112149, 52597– 52647, DD22043 – DD22044.8, Trust 3491-3510 and EFT12080a totalling \$2,091,418.18.

12.1.2 MONTHLY FINANCIAL REPORT

Council Decision

(Officer's Recommended Resolution)

Moved: Cr Dilley

Seconded: Cr Van Der Heide

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

Carried 9/0

12.2 Manager Works and Services

12.2.1	PATHWAYS AND TRAILS EXPANSION STRATEGY
Location:	Shire of Donnybrook Balingup
Applicants:	Shire of Donnybrook Balingup
Zone:	N/A
File Ref:	WRK 01/3
Author:	Damien Morgan, Manager Works and Services
Report Date:	11 July 2017
Attachments:	12.2.1 - Proposed Pathways and Trails Expansion Strategy

Background

The Pathways and Trails Expansion Strategy aims to provide a strategic direction for identifying, supporting, planning and developing new pathways and trails within the townships of Balingup, Donnybrook and Kirup. The previous Pathways and Trails Strategy 2009-2014 was adopted by Council at its Ordinary meeting on 27 May 2009 and has since expired.

Comment

Pathways and trails form an important part of the infrastructure of the Shire of Donnybrook Balingup.

To assist in identifying, supporting, planning and developing new pathways and trails, Officers have prepared the Pathways and Trails Expansion Strategy. The following areas are addressed in the strategy;

- Planning and Development
- Design
- Funding
- Access for all users
- Hierarchy definition and design standard for pathways and trails; Dual Use Path, Pedestrian Only Path and Trail
- Prioritisation of works using a criteria scoring system
- List of recommendations to facilitate the implementation of the Pathways and Trails Expansion Strategy

By adopting this strategy it provides a clear framework of how projects are assessed for consideration in future works programs.

Policy/Statutory/Voting Implications

Policy

N/A

Statutory

N/A

Voting

Simple majority

Financial Implications

The strategy recommends an annual minimum allocation of \$40,000 towards the construction of new pathways and trails. This is subject to review during draft budget considerations.

Strategic Implications

- Outcome 2.1.1 – Maintain, renew and improve infrastructure within allocated resources
- Outcome 3.3.3 – Support a safe, healthy and active community
- Outcome 4.1 – A strategically focussed, open and accountable local government
- Outcome 4.2 – A respected, professional and trusted organisation

Cr Bailey recommended the trails definition in the Pathways Hierarchy on page five of the proposed strategy resolution be modified from a minimum of 3 meters to 'a trail of suitable width'. Cr Mitchell and Cr Tan agreed to the amendment.

Officer's Recommended Resolution

Moved: Cr

Seconded: Cr

That Council resolve to adopt the Pathways and Trails Expansion Strategy.

Council Decision

Moved: Cr Mitchell

Seconded: Cr Tan

That Council resolve to adopt the Pathways and Trails Expansion Strategy subject to the design standard for a trail to be amended to 'a trail of a suitable width constructed from limestone, gravel or other natural materials'.

Carried 8/1

12.2.2

CONSIDERATION OF ENGINEERING POLICY MODIFICATIONS

Location:	Shire of Donnybrook Balingup
Applicants:	Shire of Donnybrook Balingup
Zone:	N/A
File Ref:	ADM 11/3
Author:	Damien Morgan, Manager Works and Services
Report Date:	10 July 2017
Attachments:	12.2.2(1) - Amended Engineering Policy 4.7 “Construction of Crossovers” 12.2.2(2) - New Engineering Policy 4.23 “Road Use Approval for Restricted Access Vehicles (RAVs) on Council’s Road Network”

Background

Engineering Policy 4.7 “Construction of Crossovers” and 4.14 “Road Use Approval for Permit Type Loads” were first adopted by Council in 1993. Although regular reviews are conducted, the last amendment to these policies was carried out in 2010.

Comment

A review of these documents has been completed and the following recommendations proposed:

- Amend the current *Engineering Policy 4.7 “Construction of Crossovers”* in order to align with industry best practice and more accurately reflect Schedule 9.1, Clause 7 of the *Local Government (Uniform Local Provisions) Regulations 1996*. The amended policy is provided as Attachment 12.2.2(1).
- Rescind the current *Engineering Policy 4.14 “Road Use Approval for Permit Type Loads”* as it does not comply with changes in the *Road Traffic (Vehicles) Act 2012* when granting road access to Restricted Access Vehicles (RAVs).
- Draft a new Engineering Policy *“Road Use Approval for Restricted Access Vehicles (RAVs) on Council’s Road Network”* to provide clear guidelines for operators of RAVs seeking approval to use Council’s road network. The new policy is provided as Attachment 12.2.2(2).

The endorsement of these recommendations will allow Shire Staff to administer these engineering requirements in accordance with the relevant Acts.

Policy/Statutory/Voting Implications

Policy

Engineering Policy 4.7 “Construction of Crossovers”

Engineering Policy 4.14 “Road Use Approval for Permit Type Loads”

Statutory

Local Government Act 1995

Local Government (Functions and General) Regulations 1996

Local Government (Uniform Local Provisions) Regulations 1996

Traffic (Vehicles) Act 2012

Voting

Simple majority

Financial Implications

Any changes in fees or charges will form part of the annual budget process.

Strategic Implications

- Outcome 2.1 – An attractive and maintained built environment.
- Outcome 4.1 – A strategically focused, open and accountable local government.

Council Decision

(Officer’s Recommended Resolution)

Moved: Cr Bailey

Seconded: Cr Dilley

That Council:

- 1) Adopt amended Engineering Policy - 4.7 Construction of Crossovers;**
- 2) Rescind Engineering Policy - 4.14 Road Use Approval for Permit Type Loads; and**
- 3) Adopt Engineering Policy - Road Use Approval for Restricted Access Vehicles (RAVs) on Council’s Road Network.**

Carried 9/0

12.3 Manager Development and Environmental Services

Nil

12.4 Principal Planner

12.4.1	PLANNING APPLICATION FOR TELECOMMUNICATIONS TOWER, AT LOT 1 (No. 310) BOYUP BROOK ROAD, LOWDEN
Location:	Lot 1 Boyup Brook road, Lowden
Applicants:	Telstra Corporation Ltd
Zone:	General Agriculture
File Ref:	A2227
Author:	Bob Wallin - Principal Planner
Report Date:	3 July 2017
Attachments:	12.4.1(1) – Site Plan 12.4.1(2) – Digital Images 12.4.1(3) – Summary of Submissions 12.4.1(4) – Alternative Sites Investigated

Background

An application has been received to erect a 40 metre telecommunications tower and install a stock proof fence at Lot 1 Boyup Brook Road, Lowden. This site is an existing Telstra compound and is a total of 135m² in area. Attachment 12.4.1(1) provides details of the site and design.

Attachment 12.4.2(2) provides a visual artist interpretation on how the facility will look from various reference points.

The land is zoned “General Agriculture” where the use “telecommunications” is listed as “D” (Discretionary). This means the use is not permitted unless Council uses discretion to approve the use.

This proposal is presented for Council decision as a number of submissions of objection were received during the advertising period.

The following is a summary of background information provided by the applicant:

- The proposal forms part of a Mobile Black Spot Program to expand mobile coverage in regional and remote Australia with a total overall investment of \$340 million by Telstra, the Federal Government and several State and Local Governments;
- A mobile telecommunications network is made up of multiple base stations covering a geographic area. They work by sending and receiving radio signals from their antennas to mobile phones and other mobile devices such as tablets, wireless dongles etc. Base stations are designed to provide service to the area immediately surrounding the base station and coverage can be up to several kilometres;
- As a general rule, the higher the antennas at a base station, the greater the range of coverage. The further a facility is located away from its technically optimum position,

the greater the compromise in service. This may result in coverage gaps and require additional or taller base stations to provide adequate service.

- A number of alternative sites were considered as part of this project. Attachment 12.4.1(4) outlines the logic and rationale used to determine Lot 1 Boyup Brook Road as the optimal site from the applicant's point of view.

The proposal forms part of a Mobile Black Spot program which is part of an Australia wide initiative to identify priority areas for mobile coverage. There are limited spots on this program. Only the top priority areas successfully attract funding. This proposal was one of the successful sites to be included in the program.

It should be noted that the Shire's Corporate Business Plan 2014 -2018 included strategy 1.4.3 which required the Shire to "*Lobby for more mobile phone towers and emergency service notifications*". This proposal aligns with this strategy. .

Comment

Local Planning Scheme No.7 (LPS7)

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

"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.”*

“4.54.8.1 Development in the General Agriculture zone shall conform to the following standards

- (i) *minimum Front Setback – 30 metres;*
- (ii) *minimum Side Setback – 20 metres;*
- (iii) *minimum Rear Setback – 20 metres...”*

Please note that Amendment 4 to LPS7 introduced a standard 20 metre setback for side and rear boundaries. This requirement is not yet shown on the Western Australian Planning Commission’s website as the amendment was gazetted on 4 July 2017.

Clause 67 of the deemed provisions for 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;...*
- (r) Suitability of the land for the development taking into account the possible risk to human health or safety;...*
- (i) The potential loss of any community service or benefit resulting from the development other than potential loss that may result from economic competition between new and existing businesses;...*
- (x) the impact of the development on the community as a whole notwithstanding the impact of the development on particular individuals;...*
- (y) Any submissions received on the application....”*

The acceptableness or otherwise of this proposal depends on forming views on how the proposal demonstrates consistency with the above provisions. The following outlines some of the points that Council should be mindful of when making a decision.

Building Design and Streetscape

The immediate locality is mainly characterised by open farm land with homesteads setback from the street. The proposed site of the tower has a telecommunication building and the adjoining property has a general store which is listed on the Shire’s Municipal Heritage Inventory. On the opposite side of the street there is a local rest stop with landscaping and picnic facilities. Attachment 12.4.1(2) provides some digitally enhanced imagery of the immediate locality including the proposed telecommunications tower.

The proposed telecommunications tower is of a scale that is significantly taller than the existing buildings.

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 telecommunications tower will be of a scale and design that is not reflected in the existing built form.

Setbacks

The land is zoned “General Agriculture”. This zone requires a minimum street setback of 30 metres. The application proposes a street setback of approximately 8 metres. It is noted that the existing infrastructure and adjoining general store are closer than 30 metres. These buildings and structures would have been established prior to the current planning controls being in place.

The purpose of the 30 metre street setback is to establish a “rural” flavour of open landscape vistas and minimise the intrusion of built form. In this case, it is noted that the existing immediate developments have significantly reduced setbacks. However, it does not immediately follow that a new 40 metre high structure should be added next to the street.

Possible Alternative Sites

At present, the proposal is being defined as a binary equation - it is either a tower in this location or no mobile coverage. It is a trade-off between local streetscape amenity and mobile coverage. There has been an attempt to widen the options with a number of alternative sites being investigated. This was an attempt to investigate how to provide a mobile service and maintain local amenity. Attachment 12.4.1(4) highlights the alternative sites investigated.

At first glance, it would appear that Candidate Sites C and E may have some potential. However, additional information provided by the applicant makes it clear that these Candidate Sites are impractical and unviable. Candidate Site E will require resolving land tenure issues that will make the project fail the funding project timeframes. Candidate Site C will require clearance and flora and fauna studies as well as extensive civil works. In addition to this added cost, the site is not well located to maximise coverage. Only 61 properties will benefit from a tower at Candidate Site C. The proposed site will service 83 properties.

Based on the data provided and opinions expressed by the applicant, it is not reasonable to consider alternative sites under the current Mobile Black Spot program. The decision for Council is to either support a tower in the location or have no mobile reception.

Separating “Use” and “Built Form”

Council in its deliberation may wish to undertake a thought experiment to separate “use” from “structure”. For instance, if the use “telecommunications” was removed from the equation and replaced with another use, for instance “art installation”, would the tower be

less or more acceptable? The built form will remain the same. However, the secondary quality of “use” will change. If the built form is unacceptable for uses other than a telecommunications tower, Council needs to be clear as to why a telecommunications tower is acceptable or more likely to be acceptable.

In this case, it might be possible to conclude that while the structure’s aesthetics remain unchanged, the “telecommunications use” offsets visual amenity values by a general improvement in communication services. There is a trade-off to be considered and Council needs to be clear if the trade-off results in a net improvement or loss.

Asymmetrical Distribution of Costs and Benefits

The trade-off between costs and benefits are not distributed evenly. The proposal will provide mobile coverage to many people in the locality as well as ensuring continuity of service for people travelling through the area. The benefits are widely spread, however, the costs are localised and disproportionately focused on a few adjoining landowners. The calculus of costs and benefits need to be weighed and acknowledged. In this case, if the tower does not proceed, there will likely be a hole in the network that will remain indefinitely. Over time, the consequences and disadvantages of having no coverage will multiply as more and more importance will be placed on having mobile communication coverage.

In a simple calculation of utility, the proposal would likely result in a net improvement in overall benefit to the community at the expense of a few landowners.

Blackspot Project Timeframe Constraints V Lifetime of Tower

The applicant has outlined that the Mobile Black Spot program funding has set specific timeframe constraints for the works to be completed. This timeframe constraint does not provide scope to consider Candidate Site E which contains a Fire Station. This site is reserved for the specific use of “Recreation and Parkland”. Under this reservation, the use “telecommunications” is not permissible. To change this, it will be necessary to amend the vesting order, which requires Ministerial approval, or excising portion of the reserve. Both options are lengthy and could take between 12 and 18 months.

In this instance, the decision being asked of Council is being defined by a Mobile Black Spot program timeframe. This may not be the correct way for framing the project or decision making process. The timeframes set, represents an artificially designed ethereal construct while the consequences on the built form are permanent. Candidate Site E would provide a significantly better amenity outcome. However, it is being discounted by a project timeframe.

Visibility and Prominence of Structure

Attachment 12.4.2(2) shows that there will be limited visual impact from western and eastern approaches to the site due to existing vegetation. This has potential to significantly limit visual impacts on the locality. The tower would only become highly prominent when parking at the store or using the rest stop area.

Consultation

The proposal has been advertised due to the potential contentious nature of the development and the need for setback variations. Attachment 12.4.1(3) provides a

summary of details and recommendations for responding to the issues raised. Three submissions were received with two raising objection and the third raising points for clarification.

Summary and Conclusion

The proposed site is the only viable site for a tower. The tower will have impacts on local amenity and would be contrary to provisions and intent of LPS7 if viewed strictly from a streetscape and built form perspective. However, the tower will ensure an ongoing mobile telecommunications service that benefits the wider locality. LPS7 provides Council with the power to consider the benefits resulting from the development and the impact of the development on the community as a whole notwithstanding the impact of the development on particular individuals.

Council, in making a decision, will need to decide which is more important:

- Local amenity; or
- Mobile coverage.

In analysing impacts on local amenity, weight needs to be given to how limited the visual impacts will be along Boyup Brook Road.

Policy/Statutory/Voting Implications

Policy

N/A

Statutory

Local Planning Scheme 7 contains a number of relevant clauses:

- 4.17 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.
- 4.54.8.1 provides details on setback standards. A variation on setback requirements is necessary.

Voting

Simple Majority

Financial Implications

N/A

Strategic Implications

- Outcome 1.3 - An attractive visitor and tourist destination
- Outcome 2.1 - An attractive and maintained built environment
- Outcome 2.2 - Respected heritage assets

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

Moved: Cr Dilley

Seconded: Cr Tan

That Council grant planning consent for a telecommunications tower at Lot 1 Boyup Brook Road, Lowden 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.**

Carried 9/0

****5.36pm – Emily Dent and Daniel Hay left the meeting.**

12.5 Chief Executive Officer

12.5.1

RELATED PARTY DISCLOSURE POLICY

Location:	Donnybrook Balingup
Applicants:	Shire Administration
Zone:	N/A
File Ref:	CNL 06/2
Author:	Ben Rose, CEO (<i>Lucy Bourne, Governance Officer</i>)
Report Date:	11 July 2017
Attachments:	12.5.1 - Draft Council Policy 1.28 – Related Party Disclosures

Background

The scope of Australian Accounting Standards Board Accounting Standard AASB124 (Related Party Disclosures) was amended in July 2015 to encompass not-for-profit entities including local governments. AASB124 now imposes a number of obligations on elected members and senior Shire staff (related parties) to disclose financial dealings with the Shire. These obligations come into effect for the 2016-17 financial year and the information is to be disclosed as a note within future Annual Financial Reports.

The primary objective of AASB124 is to ensure that an entity's financial statements contain disclosures that draw attention to the possibility that its financial position (i.e.: potential surplus/deficit) may have been affected by transactions with related parties.

This item proposes that Council endorse draft Policy 1.28, Related Party Disclosures.

Definitions

Definitions that relate to the commentary provided on this item are as follows.

Related Party - a person or entity that is related to the local government. Related parties include:

- Entities related to Council;
- Key Management Personnel;
- Close family members of Key Management Personnel; and
- Non-Council entities controlled or jointly controlled by Key Management Personnel or their close family members

Related Party Transaction - a transfer of resources, services or obligations between a reporting entity and a related party, regardless of whether a price is charged.

Key Management Personnel - people who have authority and responsibility for planning, directing and controlling the activities of the reporting entity and for local governments includes all Councillors and senior staff (Chief Executive Officer and Executive Managers).

Ordinary Citizen Transaction - an exchange that is made on terms and conditions no different to those applying to the general public which is unlikely to influence the decisions made by the users of the Shire's financial statements (for example a dog registration fee).

Comment

The changes to the *Australian Accounting Standards* mean that all Key Management Personnel will have to declare related party transactions, starting from the 2016/17 financial year.

The types of transactions that have to be disclosed include:

- Business transactions between the Shire and businesses owned by Key Management Personnel, their families or entities they control
- Outstanding balances or loans to KMPs, their families or entities they control.

They do not include Ordinary Citizen Transactions – such as paying rates or dog licences, where the terms offered to the above people are no different from those offered to the general public.

Individual financial details of related parties are not disclosed during the reporting process, and the transactions are presented as aggregated information in the financial reports. However, details of individual transactions provided by Key Management Personnel are likely to be audited.

The information collated and aggregated for the Annual Financial Report is obtained from a number of sources; however the most significant of these is the Related Party Declaration form. A copy of this was sent to Councillors in June. This form must be completed by annually, and is appended to draft Policy 1.28.

Consultation

Finance staff attended a workshop with Moore Stephens (WA) Pty Ltd in which the requirements and implications of the change in AASB124 were discussed. Moore Stephens also provided Guidance Notes that addressed future policy development. These are available to Councillors on request.

Policy/Statutory/Voting Implications

Policy

A new Policy will be 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

- Outcome 4.1 – A strategically-focused, open and accountable local government.

Cr Mitchell indicated the policy should also classify parents and step-parents as close family relationships.

Officer's Recommended Resolution

Moved: Cr

Seconded: Cr

That Council endorse draft Policy 1.28 – Related Party Disclosures.

Council Decision

Moved: Cr Mitchell

Seconded: Cr Tan

That Council endorse draft Policy 1.28 – Related Party Disclosures subject to the inclusion of parents and step parents into the definition within the policy.

Carried 9/0

12.6 Recall Items

12.6.1 NOTICE OF MOTION: SERVICE DELIVERY METHODOLOGY REVIEW

Location:	Shire of Donnybrook Balingup
Applicants:	Cr Bailey
Zone:	N/A
File Ref:	CNL 34G
Author:	Cr Bailey
Report Date:	22 June 2017
Attachments:	Nil

Background

Council considered the confidential report – Notice of Motion: Service Delivery Methodology Review at the Ordinary Council meeting held on 28 June 2017.

Comment

In accordance with the *Local Government Act 1995* Section 5.23 (2)(a) and Administration Regulations 4A the above report remained confidential as “a matter affecting an employee or employees.”

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)(a) 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 Dilley

Seconded: Cr Tan

That the Council resolutions relating to the confidential report on Notice of Motion: Service Delivery Methodology Review be made public.

Carried 8/1

***“Council Decision
(Chief Executive Officer's Recommended Resolution)***

Moved: Cr Dilley

Seconded: Cr Mitchell

That during deliberations on the 2017/18 Shire Budget, Council consider the funding and resourcing requirements to undertake a due diligence review of Tuia Lodge.

Carried 5/3”

Officer's Recommended Resolution

Moved: Cr Tan

Seconded: Cr Bailey

That the Meeting be closed to the public under the *Local Government Act 1995 (the Act)* for the following items:

- **12.7.1 – Donnybrook Medical Centre Lease under Section 5.23(2)(c) of the Act (*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*);**
- **12.7.2 – RFT 03/2017 Repairs, Restoration and Adaption of the Old Uniting Church under Section 5.23(2)(c) of the Act (*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*);**
- **12.7.3 – Unit 4, Preston Retirement Village under Section 5.23(2)© of the Act (*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*);**

Carried 9/0

**** 5.41pm - Noelene King left the meeting.**

12.7 Confidential Items

CONFIDENTIAL

12.7.1

DONNYBROOK MEDICAL CENTRE LEASE

Location: Bentley/Egan Street, Donnybrook
Applicants: N/A
Zone: Public Purposes – Hospital and Allied Purposes
File Ref: PRO 01/3A
Author: Ben Rose, Chief Executive Officer
Report Date: 11 July 2017

CONFIDENTIAL

12.7.2

RFT 03/2017 – REPAIRS, RESTORATION AND ADAPTION OF THE OLD UNITING CHURCH

Location: Bentley/Egan Street, Donnybrook
Applicants: Shire of Donnybrook Balingup
Zone: Public Purpose
File Ref: PWF 16K
Author: Leigh Guthridge, Manager Development and Environmental Services
Report Date: 21 July 2017

CONFIDENTIAL

12.7.3

UNIT 4 PRESTON RETIREMENT VILLAGE

Location: 10 Sharp Street, Donnybrook
Applicants: Donnybrook Balingup
Zone: Special Use Aged Person Accommodation
File Ref: CSV 01/9, PRO 1/31 4
Author: Ben Rose– Chief Executive (*Kate O’Keeffe, Executive Assistant*)
Report Date: 19 July 2016

** 6.22pm – Manager Works and Services left the meeting.

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

Moved: Cr Bailey

Seconded: Cr Tan

- 1) In accordance with Section 5.23(2) of the *Local Government Act 1995*, Agendas, Minutes and Council decisions in relation to items 12.7.1, 12.7.2 and 12.7.3 remain confidential; and
- 2) When Agendas, Minutes and Council decisions in relation to items 12.7.1, 12.7.2 and 12.7.3 are no longer subject to section 5.23(2) of the *Local Government Act 1995*, the item is to be included in the next occurring Council Meeting Agenda.

Carried 9/0

Officer’s Recommended Resolution

Moved: Cr Tan

Seconded: Cr King

That the meeting be re-opened to the public.

Carried 9/0

13 CLOSURE OF MEETING

The Chairperson advised that the next Ordinary Council Meeting will be held on Wednesday, 23 August 2017 commencing at 5.00pm in the Seniors’ Room, Donnybrook Community Library.

The Chairperson declared the meeting closed at 7.04pm.

These Minutes were confirmed by the Council as a true and accurate record at the Ordinary Council Meeting held on 23 August 2017.		
Shire President		Presiding Member